

GUIDELINES ON BIAS AND ACCESS TO JUSTICE

ADDRESSING STIGMA OF CONFLICT RELATED SEXUAL VIOLENCE SURVIVORS



British
High Commission
Colombo



**Guidelines on Bias and
Access to Justice**

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Sexual Violence Survivors**

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1. Introduction

Stigma associated with Conflict Related Sexual Violence (CRSV) is part of a mutually reinforcing cycle that has overarching effects that last through generations. CRSV refers to any act of a sexual nature committed without consent, or any act that specifically targets a person's sexual function or organs, that is linked, directly or indirectly to a conflict. This link may be evident in the profile of the perpetrator (often affiliated with a State or non-State armed group, including a terrorist entity or network), the profile of the victim (who is frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or is targeted on the basis of actual or perceived sexual orientation and gender identity), the climate of impunity (which is generally associated with State collapse), cross-border consequences (such as displacement or trafficking in persons) and/ or violations of the provisions of a ceasefire agreement.¹ A broad definition of this nature has created space to recognize the diverse experiences of victim survivors of CRSV.

The stigma experienced by female victim survivors of CRSV is often an extension of the gendered inequalities, discriminatory practices and preconceived notions that pre-exist a conflict. Bias as a direct result of this paves way to the automatic preference of one over another, leaving behind CRSV victim survivors with little or no recourse.

The Guidelines on Bias recognizes the importance of creating a level playing field for CRSV victim survivors and of cultivating an environment in which policy makers, practitioners and other stakeholders take conscientious steps to ensure that justice is not denied nor delayed.

This briefing paper is divided into 4 parts.

1. An analysis of the causes and consequences of Bias as a result of stigma associated with CRSV
2. The nature of the international and domestic legal and policy framework concerning CRSV
3. The scope of the CEDAW General Recommendations No. 30 and No. 33
4. Victim survivor centered, gender sensitive recommendations and guidelines on bias to guide stakeholders to address bias associated with CRSV victim survivors

¹ Report of the UN Security Council S/2015/203; Report of the Secretary-General on Conflict Related Sexual Violence S/2017/249

2. The Nature of Bias and its Manifestations

2.1 Factors that create and perpetuate bias

The root causes of the stigmatization of women, who are victim survivors of CRSV, can be found at the heart of Sri Lankan society, as women are generally expected to conform to various societal standards. Patriarchy stamps women as vulnerable individuals, whose chastity ought to be protected in order to safeguard the honour and reputation of those connected to her. Any act of sexual violence directed at a woman is often understood as tainting her character, shifting the blame and shame from the perpetrator to the victim, leaving behind a social scar. These gendered societal imprints that pre-exist a conflict are exacerbated during and after a conflict due to its inherent complexities and acute imbalance of power.

In addition, intersecting factors like ethnicity/race, indigenous or minority status, socio-economic status and/or caste, language, religion or belief, political opinion, marital and/or maternal status, age, urban/rural location, health status, disability and property ownership tend to compound discrimination against women and make it more difficult for them to access justice.

A victim survivor of CRSV can be anyone. She can be a LTTE ex-combatant; a Sinhala military widow who is considered a bad omen in her community; a victim of sexual violence committed by a member/s of the Government armed forces or the LTTE; a journalist reporting on the war; a female head of household who tries to make ends meet and provide for her family; or a disabled woman. With each example, the intersecting factors concerned render a woman's experience different and more

complex, making her prone to stigmatization and bias within and outside her community.

2.2 Consequences of bias

Gender inequalities that create stigma and bias become the cause for the unequal treatment of a woman victim survivor of CRSV. She is denied equal access to opportunities in education and livelihoods; to reparation and information about the missing; to state benefits and services she is entitled to as a woman affected by the war; and to safe and secure living conditions.

It is evident that gender bias as a result of stigma associated with CRSV translates itself into practice in many ways: the failure to carry out an impartial, unbiased and gender sensitive investigation; failure to provide interpreters and adequate medical/psychosocial support; failure to question suspects and to hold perpetrators guilty for the crimes committed; penalization of victims for reporting cases; trivializing complaints by creating a hierarchy of which offences are more severe than others; re-stigmatization of women in courts and in the media are just a few of those instances.

In all such situations, a woman who is a victim survivor of CRSV is denied access to justice, which in turn affects her potential to participate as an equal in society and exercise her civil, political, economic, social and cultural rights.

“I never looked for a remedy due to fear. There is no possibility of receiving justice for what happened. The army has a lot of power and influence. No one challenges them. Therefore I constantly live in fear.”

Tamil victim survivor from Batticaloa

3. The Legal and Policy Framework

Article 12 of the Constitution of Sri Lanka states that, all persons are equal before the law and are entitled to the equal protection of the law and that no citizen shall be discriminated on the basis of sex, among other prohibited grounds of discrimination. In practice, women are often subjected to gender based discrimination or violence at some point of their lives.

Resolution 30/1 of the UNHRC titled “Promoting reconciliation, accountability and human rights in Sri Lanka” adopted in 2015 recognizes the commitment of the Government to address issues involving sexual and gender-based violence within transitional justice mechanisms. Importantly, it recognizes that a credible justice process including judicial and prosecutorial institutions and mechanisms established to redress past abuses and violations, must be independent, impartial and transparent and led by individuals who will display the highest degree of professionalism, integrity and impartiality.

In keeping up with these commitments, the Policy Framework and National Plan of Action to address Sexual and Gender-based Violence [SGBV] in Sri Lanka (2016-2020) was approved by the Cabinet in June 2016 through a consultative process that attracted activists, experts and multiple stakeholders from the government, civil society, private sector and UN agencies. This provides a multisectoral framework to address SGBV and incorporates judicial and non-judicial measures in relation to transitional justice for war affected women, which fall into three broad categories namely- prevention, response and policy advocacy.

In October 2017, the Government launched the National Action Plan for the Protection and Promotion of Human Rights (2017-2021) [NHRAP], recognizing gender equality and women’s empowerment as priority

areas. The comprehensive set of goals with measures for implementation, which seek to ensure equality, equal access to opportunity and the freedom to enjoy and exercise one’s economic, civil, social and political rights, include the following goals which have a direct bearing on addressing stigma and bias associated with CRSV.

- Eliminate stereotypes that discriminate against women
- Create a gender sensitive justice system which ensures the protection of the rights of victims and the accountability of perpetrators
- Reduce violence against women and girl children through multisectoral interventions
- Protect the interests of women affected by the war, including female heads of households (FHH)
- Ensure state responsibility to provide for accountability for the missing and those who have disappeared and to provide remedies and redress to family members
- Strengthen institutional mechanisms and put personnel in place to tackle sexual exploitation and violence against war affected women including FHH
- Ensure the participation of women affected by the conflict in the transitional justice process
- Provide government services to military widows
- Reintegrate female ex-combatants
- Provide national policies on return, resettlement, reintegration and restitution to address the issue of protracted displacement in consultation with IDPs to ensure that policies and assistance responds to their gender needs

4. CEDAW General Recommendations

‘ Discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms, and gender-based violence, which particularly affect women, have an adverse impact on the ability of women to gain access to justice on an equal basis with men.’

Paragraph 8, General Recommendation No. 33

Women, Peace and Security continues to be a crucial component within the CEDAW framework and the Security Council Agenda and the protection and promotion of the rights of women in the context of a conflict has been extensively discussed by CEDAW, in General Recommendations No. 30 on women in conflict prevention, conflict and post-conflict situations and No. 33 on women’s access to justice.

4.1 General Recommendation No. 30

General Recommendation No. 30 recognizes the impact of conflict and women’s exclusion from conflict prevention efforts, post-conflict transition and reconstruction processes and aims to guide States parties to protect women’s human rights at all times by taking concerted efforts to advance substantive gender equality. While promoting accountability in terms of acts of sexual violence perpetrated by State actors,

it also requires State parties to regulate non-State actors, under the duty to protect by exercising due diligence to prevent, investigate, punish and ensure redress for the acts of private individuals or entities that impair the rights of women under the Convention. The General Recommendation acknowledges that sexual violence in conflict is a heightened form of discrimination that does not necessarily cease with the end of a conflict. In paragraph 38, it lays down the following recommendations, aimed at addressing the causes and consequences of CRSV.

- (a) Prohibit all forms of gender-based violence by State and non-State actors including through legislation, policies and protocols;
- (b) Prevent, investigate and punish all forms of gender-based violence, in particular sexual violence perpetrated by State and non-State actors; and implement a policy of zero tolerance;
- (c) Ensure women’s and girls’ access to justice; adopt gender-sensitive investigative procedures to address sexual and gender-based violence; conduct gender-sensitive training and adopt codes of conduct and protocols for the police, the military, including peacekeepers; build the capacity of the judiciary, including in the context of transitional justice mechanisms to ensure their independence, impartiality and integrity;
- (d) Collect and standardize data collection methods on the incidence and prevalence of gender-based violence, in particular sexual violence in different settings and against different categories of women;

- (e) Allocate adequate resources and adopt effective measures to ensure that victims of gender-based violence, in particular sexual violence have access to comprehensive medical treatment, mental health care and psychosocial support;
- (f) Develop and disseminate standard operating procedures and referral pathways to link security actors with service providers on gender-based violence, including one-stop shops offering medical, legal and psychosocial services for sexual violence survivors, multipurpose community centers that link immediate assistance to economic and social empowerment and reintegration, and mobile clinics;
- (g) Invest in technical expertise and allocate resources to address the distinct needs of women and girls subject to violence, including the impact of sexual violence on their reproductive health.
- (h) Ensure that national responses include specific interventions linking and aligning the prevention and response to gender-based violence and HIV.

General Recommendation No. 30 goes on to recognize the duty that is incumbent upon all States parties to create and facilitate an environment in which access to justice for all victim survivors of violations of human rights in the context of the war, is assured. The recommendations provided in Paragraph 80, requires States parties to ensure a comprehensive approach to transitional justice that is gender sensitive and gender equal; one that combats impunity and enhances criminal accountability; a system with laws and procedures that prevent the re-victimization and re-stigmatization of

victim survivors. It calls on State parties to enhance women's access to justice by providing legal aid and effective and timely remedies by taking into account their needs and the nature of the violation.

4.2 General Recommendation No. 33

General Recommendation No. 33 expands on access to justice in detail and provides a variety of recommendations aimed at empowering women through the creation of an independent, impartial, credible and accessible justice system. It recognizes the fact that women in general are often faced with obstacles like discriminatory laws, gender stereotypes, intersecting or compounded discrimination, procedural and evidentiary requirements and practices and inaccessible judicial mechanisms that hinder their right of access to justice.

The General Recommendation identifies six interdependent components forming part of a gender equal justice system. They are, *justiciability* [unhindered access to justice and empowerment of women to access justice], *availability* [of courts and other judicial bodies, in rural and urban areas], *accessibility* [of justice systems that are affordable, accessible and adapted to the needs of women], *good quality* [of justice systems that comply with international standards of competence, independence and impartiality, that provide effective remedies within a gender sensitive and participatory framework], *provision for remedies* [that enable women to receive viable protection and meaningful redress] and *accountability* [through the monitoring of the functioning of justice systems].

The Committee provides a variety of recommendations to ensure equal access to justice and the independence, impartiality,

integrity and credibility of the judiciary. It emphasizes the need to create a justice system in which professionals handle cases in a gender sensitive manner, and are monitored through an oversight mechanism to ensure the proper functioning of the justice system. To guarantee fair judicial treatment of women, it necessitates the revision of rules of burden of proof to ensure equality between the parties and the implementation of mechanisms to ensure that evidentiary rules, investigations and other legal and quasi-judicial procedures are impartial and not influenced by gender stereotypes or prejudices.

The Committee recognizes that women whose rights have been violated are vulnerable to further victimization and therefore requires States parties to protect women complainants, witnesses and defendants against threats, harassment, sexual violence and stigmatization during and after legal proceedings and to take measures to protect their privacy and/or anonymity.

Sexual violence in conflict stigmatizes women in many ways and prevents them from accessing essential services. Therefore, the Committee recommends that justice access centers, which provide an array of legal and social services be established to reduce the number of steps that a woman has to take to access justice. Further, the Committee recommends that State parties mandate institutional reforms, repeal discriminatory legislation, provide legislation that are in accordance with international human rights standards and determine reparation measures in relation to cases of sexual violence in conflict.

Access to justice cannot be asserted on the long run if effective and adequate mechanisms are not set in place to audit

and review the independence and efficiency of the justice system and administrative bodies that have an effect on the realization of women's rights.

General Recommendation No. 33 identifies that the principle of equality before the law cannot be given effect to without abolishing laws, procedures, regulations, customs and practices that implicitly or explicitly discriminate against a woman and create impediments in the exercise of a woman's right of access to justice.

Gender stereotypes and biases that are latent in society have the potential to infiltrate a justice system. Preconceived notions and perceptions of gender, that can make a person ridicule a victim survivor at a village grocery shop, can very well be the same line of thinking that forms the mindset of a judge, prosecutor or law enforcement official in respect of a victim survivor of CRSV who comes before a court seeking justice. The Committee places a high degree of importance on education, awareness raising and capacity building on the overarching impacts of stereotypes and biases and requires state parties to take effective measures to educate the general public and the diverse State and non-State actors whose decisions have an impact on the everyday lives of victim survivors.

“When things like this happen we are treated like criminals, when we are the victims. What happened to us are crimes. It's unfair. This should change. We should have the ability to live normal lives in society. We deserve to be respected in society, because we are not criminals. The attitudes in society must change.”

**Sinhala victim survivor from
Anuradhapura**

5. Guidelines on Bias to address Stigma of Conflict Related Sexual Violence

“The society, culture or religion will not help the victim. They will always blame the women and they put pressure on women, they have to suffer a lot.”

Tamil victim survivor from Killinochchi

Stigma associated with CRSV can be a lasting or life threatening problem, but it is one that can be avoided if policymakers take concerted efforts to address the causes and consequences that fuel stigma against victim survivors of CRSV and their families. The Principles for Global Action to prevent and address Stigma associated with CRSV recognizes stigma as one perpetuated by gender identity, social instability, culture, power and societal inequalities. The survivor-centered recommendations and comprehensive Guidelines provide victim survivors, policy makers, practitioners and other stakeholders the means to end stigma associated with CRSV and enable the recovery and restitution of CRSV victim survivors.

The measures proposed to prevent and respond to stigma of CRSV is vital in addressing the biases that operate against victim survivors as a result of such stigma. The Guidelines on Bias to address Stigma of CRSV aims to encourage multiple stakeholders to take the initiative to act with responsibility, impartiality and independence, to enable victim survivors and their families to participate in society as equals.

5.1 Recommendations

“I cannot possibly explain how it feels like when four men walked into my home while I was asleep, pinched me in the thigh so that it would hurt me and woke me up. Although the injustice happened to me without my consent, the society and culture fails to accept the justice the victim deserves. My neighbours view me as a stigmatized and scarred individual.”

Tamil victim survivor from the North

The recommendations given below should be given effect to by all relevant stakeholders as part of a rights-based, victim-centered, comprehensive approach aimed at facilitating greater participation of victim survivors of CRSV in society and in enabling the free exercise and enjoyment of their economic, social, civil, political and cultural rights.

- 1. Multi-stakeholder engagement :**
Encourage dialogue among the various stakeholders on matters concerning the rights and lives of victim survivors of CRSV and the formulation of institutional reforms in countering bias. Create an environment that is receptive to change, in terms of attitudes and norms that institutionally feed gender based discrimination against CRSV victim survivors.
- 2. Law and policy reform:** Ensure that the substantive and procedural law is amended to prevent bias and discrimination against victim survivors of CRSV. Further, ensure that the law relating to victim survivors is in line with

Sri Lanka's international legal obligations. Reform laws and policies on the basis of investigative and inclusive studies that are reflective of the ground realities concerning these individuals.

3. **Training and education:** Provide means to counter bias that is latent within the system by initiating extensive and meaningful training and capacity building programs. This type of awareness is essential in every sector identified below, in order to ensure that victim survivors will experience little or no bias throughout their journey of recovery and reintegration.
4. **Resources and funding:** Provide the required resources and funding to the relevant stakeholders, to implement policies that are aimed at countering bias experienced by victim survivors.
5. **Accountability and supervision:** Create independent supervisory mechanisms for accountability and transparency in order to ensure that stakeholders carry out their duties conscientiously and impartially.
6. **Empowerment of victim survivors:** Support credible initiatives involving micro finance, stand-alone credit programs, and educational/vocational/technical/livelihood training programs which have the potential to increase women's independence and economic and social power. Provide short term and long term support to individuals and organizations who work with victim survivors of CRSV.
7. **Victim survivor centered support networks:** Encourage local/national networks that create a space for victim survivors to share their lived experiences. In knowing that there are others who have suffered a similar fate, a victim survivor of CRSV may be empowered to tackle the

biases and stigma that operates against her.

8. **Prevention:** Ensure that concerted efforts are taken to address the underlying causes of bias against CRSV victim survivors and make necessary interventions to protect the interests of those vulnerable to further violence and discrimination.
9. **Awareness:** Promote widespread dialogue concerning the social responsibility of creating inclusive communities; challenge gender stereotyping and inequalities by utilizing as many platforms as possible, to reach all stakeholders who have an impact on victim survivors of CRSV.

5.2 A Model to Counter Bias

“Earlier, I was living happily and peacefully with my husband and children. I felt a sense of fulfillment that we were returning to our homeland even after the war, displacement and the effects of war. We were slightly worried about the military when we resettled. As feared, they proved their brutality since the very second day of our resettlement. I couldn't find peace afterwards. It remains as a raw and unhealed wound in my life.”

Tamil victim survivor from the North

The model for understanding stigma provided in the document, Principles for Global Action: Preventing and Addressing Stigma Associated with Conflict Related Sexual Violence forms the foundation for these Guidelines. The Guidelines will make interventions in three operational levels, namely the structural level, community level

and interpersonal level. It is important to note that these Guidelines are by no means exhaustive in nature, and are simply a pathway set out to effectively counter bias experienced by victim survivors of CRSV at different operational stages.

“Initially the police didn’t cause any problems when the incident happened. But they got agitated once they started collecting the evidence and when those who were arrested asked for bail. But as time passed by, they tried to approach me with hatred. A Sinhala police officer who knows Tamil posted at Kilinochchi Police station once shouted at me that because of me, four of the perpetrators are going to be jailed for more than three years and that I am going to get more than twenty lakhs because of this. I didn’t reply or respond.”

Tamil victim survivor from the North

Structural level interventions aim to counter bias within the political and administrative environment, law and policy making processes, transitional justice mechanisms, judicial and law enforcement procedures and standards, processes and responses concerning victim survivors of CRSV.

Community level interventions aim to counter bias within communal environments, including civil society and media and to influence and change the discriminatory thought processes and value systems that perpetuate bias.

Interpersonal level interventions aim to counter bias experienced by victim survivors at the hands of their family members, peers, service providers and community members.

“Society thinks that we have bad characters and that we were raped because of a fault of our own. We are treated very badly. Our culture is to detest those who have been sexually violated. We don’t belong in this society. We are not even allowed to participate in cultural events. I lost a lot of people. My relatives said that I had ruined their reputation. I was ill treated by my own family members. I couldn’t go to any respectable place in the village. I had no social standing. No one wanted to have anything to do with me.”

Sinhala victim survivor from Polonnaruwa

The targeted audience of the Guidelines include (and is not limited to) a number of persons and institutions that may have a profound impact on the life of a victim survivor of CRSV. They include:

- Police and the Armed Forces
- Medical and Health professionals/ personnel
- Witnesses and first responders
- Lawyers, Prosecutors, Judges and Courts
- Government institutions and officials
- Service providers
- Private sector actors
- Media
- Civil society
- Places of worship and religious leaders
- Families/relatives/peers of a CRSV survivor
- Every individual who associates a survivor of CRSV and the community at large

“He raped me first. Then he asked his friend to rape me. He kicked me. Hit me. He said that women can’t be proud and refuse a man the way I did. I know this man very well. But I didn’t do anything. I didn’t go to tell anyone about it. I was afraid to go to the police because he was in the army. I was worried that he would come after me and my family. I didn’t seek justice. I was afraid. I was afraid of him and of facing the society.”

**Sinhala victim survivor from
Polonnaruwa**

5.3 International Best Practices

Sexual violence perpetrated in conflict and the stigmatization that follows is a global reality that has to be effectively dealt with by post conflict societies. Peace-building and reconciliation efforts must take adequate measures to ensure that justice is done, and that trauma and perceived dishonour experienced by ostracized victim survivors is addressed within a cohesive, gender sensitive and gender equal structure aimed at reintegrating these victim survivors of CRSV. With the increased use of sexual violence as a tactic of war, there has been heightened alarm and renewed interest in the area of stigma experienced by victim survivors of CRSV, within the UN system, international judicial mechanisms and among State and non-State actors.

The UN Secretary General in his report in 2017 observes that *‘shame and stigma are integral to the logic of sexual violence being employed as a tactic of war or terrorism: aggressors understand that this type of crime can turn victims into outcasts, thus unravelling the family and kinship ties that hold communities together’* and asserts that

‘the stigma of culpability rests squarely with the perpetrator.’

Specialized training materials have been formulated by the Department of Peacekeeping Operations/Department of Field Support of the UN to understand the relevance, challenges and organizational response to CRSV and to train commanders, staff, Military Experts on Missions and contingents on the role and responsibility of the Military Component in addressing CRSV challenges in a peacekeeping mission. Further, the United Nations Conflict-Related Sexual Violence Specialized Training Materials for Troop Contributing Countries provides an array of strategic measures to improve collective response to CRSV.

UN Women has been carrying out extensive work in the area of CRSV and many of the policy documents and publications address the complex root causes and consequences of sexual and gender based violence. The document *‘Practical, cultural and political roadblocks: A way forward for addressing the needs of conflict related sexual violence victims/survivors and their children’*, reiterates that the effects of stigma can be addressed only through a context specific, victim centered approach that understands the economic, political, social, cultural and religious obstacles. It identifies that *‘the social barriers that inhibit many survivors from reporting their experiences include stigma, fear of reprisals, and a lack of confidence in national institutions.’*¹¹ *Fear that they will not benefit from justice options also deters many survivors from reporting. The Global Study on the Implementation of United Nations Security Council Resolution 1325 found that women do not report violence in conflict predominantly because of the lack of easily accessible services or ways to report safely, receive help and be treated with dignity.’*

Cooperation between Civil Society Actors and Judicial Mechanisms in the Prosecution of Conflict Related Sexual Violence: Guiding Principles and Recommendations, has been formulated by the International Nuremburg Principles Academy to support the investigation and prosecution of conflict-related sexual violence by exploring the potential for effective cooperation between judicial mechanisms, both national and international, and civil society actors. Impartiality and independence has been identified as a core general principle of cooperation, whereby Courts (and prosecutors, where they operate independently of courts) and civil society actors are required not only to operate impartially and independently, but they must be seen to do so as well.

Guidelines for Investigating Conflict-Related Sexual and Gender based Violence against Men and Boys formulated by the Institute

for International Criminal Investigations in February 2016, provides comprehensive guidelines, through a nuanced approach to understanding the potential personal and structural biases that can affect information gatherers, service providers, researchers, authors and publishers of reports, judicial and law enforcement officers etc.

Guidelines for Medico-Legal Care for Victims of Sexual Violence formulated by the WHO recognizes the role of bias in service provision and provides a range of guidelines that are useful to medical and health professionals who provide care to victim survivors of CRSV and policy makers in charge of health services and transitional justice mechanisms.

Various entities have formulated mechanisms in diverse fields and ways to address bias and stigma related to sexual and gender based violence.

National Association of Women Judges in Uganda has been engaged in capacity building of judicial officers to use international instruments when deciding cases involving discrimination or violence against women. Training attempts to improve the capacity of judicial officers to detect bias and deliver gender sensitive judgments.

Women's Initiative for Gender Justice operates globally to ensure gender equality and justice for women and attempts to ensure that the ICC advances gender justice through its operations. It continues to carry out gender sensitizing training for ICC judges, prosecutors and staff to contextualize sexual violence in conflict within a broad and gendered perspective, and provide impartial and independent judgments where CRSV victim survivors are concerned.

Gender Equity Movement in Schools [GEMS] in India is an initiative that engages young adolescents on issues of gender and violence, by challenging long held societal gender roles and stereotypes. This gender program included in the curriculum aims to create attitudinal changes in support of equitable norms.

Latin American Model Protocol for the investigation of gender-related killings of women (femicide/feminicide) developed by the Regional Office for Central America of the United Nations High Commissioner for Human Rights (OHCHR) provides that ‘impartiality demands that judicial actions are not affected by prejudices or stereotypical notions about the attitudes, characteristics, or roles of the victims or defendants.’ The extensive analysis of standards in this regard obligates authorities ‘to start without delay, a serious, impartial and effective investigation using all available legal means, aimed at determining the truth and the pursuit, capture, prosecution and eventual punishment of all the perpetrators of the facts, especially when public officials are or may be involved.’

Cambodia’s II National Action Plan to Prevent Violence against Women (2014–2018) identifies primary prevention, legal protection and multisectoral services, formulation and implementation of laws and policies, capacity building and review monitoring and evaluation as priority areas of focus when addressing sexual violence perpetrated against women. Policies focus on creating awareness of gender equality through education and media.

Psychosocial support in Gender Based Violence (GBV) Prevention and Response Project is a partnership between UNFPA and the Centre for Mental Health & Counselling –Nepal entails activities such as building capacity of community psychosocial workers, providing clinical supervision, providing psychological and mental health services and trauma counseling to highly distressed victims.

Intervention with Microfinance for AIDS and Gender Equity (IMAGE) is a program in rural South Africa that targets women living in the poorest households and combines financial services with capacity building sessions on cultural beliefs, HIV prevention and gender norms.

5.4 Guidelines on Bias

“Victims who are affected by sexual violence like us, should be able to bring this to light and be able to access justice for what has happened. We should also make sure that this doesn’t happen again to someone else.”

Male victim survivor from Batticaloa

Bias is generated from a particular thought process that inherently places one at an advantage by giving rise to a thought process that disadvantages another. How do you counter a thought process like bias, that is so subjective, personal and implicit to a great extent, is a question that many would seek answers for.

Though bias is a manifestation of a particular world view that has been ingrained in peoples’ minds over time, it is one that can be countered, if concerted efforts are taken to prevent, respond to and challenge the propagation of gender biases in general. It is one that requires the genuine commitment of all relevant stakeholders working within a comprehensive framework set out to address bias directed against victim survivors of CRSV and it is in this context that the following Guidelines have been formulated.

1. Structural Level Interventions

- a. Recognize victimhood, by making a positive political commitment by the formal recognition of victim survivors of CRSV, instead of denying the crimes that were perpetuated against them in the context of the war.
- b. Provide a comprehensive and multisectoral national policy

framework or National Action Plan on addressing bias against victim survivors of CRSV, with the participation of all relevant line ministries and other stakeholders and ensure that short term and long term commitments are identified for more effective implementation.

- c. Ensure equitable representation of women in politics, higher levels of government institutions, the judiciary, law enforcement, armed forces and transitional justice processes to reinforce gender equality and sensitivity towards the needs of women and vulnerable communities.
- d. Take steps to ensure that all measures and mechanisms provided to address bias against CRSV victim survivors operate in Sinhala, Tamil and English, with facilities for interpreters and translators where necessary, to create greater inclusiveness.
- e. Ensure that the structural level interventions made are effective enough to build trust in the government institutions and those which provide services, in order to encourage victim survivors to reach out, report the crimes committed against them and freely access the services they are entitled to.
- f. Ensure that substantive laws, court procedures and traditions that explicitly or implicitly encourage discrimination and bias against women in general, and victim survivors of sexual violence in particular are reformed and are regularly reviewed to ensure that they comply with standards of fairness and impartiality.

- g. Provide special legal protection to victim survivors of sexual violence that has taken place in the context of the conflict by creating a judicial system that is equipped to carry out independent and effective investigations/prosecutions/trials.
- h. Ensure that the law relating to victim survivors of CRSV is in line with international legal obligations and the transitional justice framework adopted by Sri Lanka.
- i. Enhance victim and witness protection laws and direct resources and funding and/or partner with credible human rights organizations to provide short term or long term shelter, protection and support to victim survivors.
- j. Coordinate and/or partner with activists and local, national and international organizations that work with victim survivors of CRSV, to help them gain access to justice and receive actual data sets that could enable better policy making.
- k. Provide codes of conduct and comprehensive guidelines that bind law enforcement and prosecutorial officers to carry out thorough, independent, unbiased and effective investigations into acts of CRSV.
- l. Ensure that officers, both male and female, who deal with a victim's testimony and document statements are trained to do so accurately, in a language the victim understands or with the help of a translator or interpreter, in order to ensure that the statement so written is an accurate reflection of the lived experience.
- m. Establish temporary or permanent specialized units and/or teams within institutions, consisting of independent analysts, consultants, interpreters, translators and medical/psychosocial experts, to monitor the investigation of CRSV related cases and address potential cases of bias and discrimination.
- n. Recruit and train competent individuals, as research officers who will assist the investigation process by carrying out prior in depth research and analysis relating to CRSV for the purpose of information and evidence collection.
- o. Invest in awareness raising, training and capacity building of staff through well-coordinated and effective programs aimed at carrying out proper investigations. These programs should create awareness in different aspects. Programs must provide a broad understanding of the relevant substantive, procedural, evidentiary law and legal principles relating to CRSV and rules concerning non-discrimination, natural justice, equal and respectful treatment of victims, confidentiality, attitudes and demeanor when interviewing a victim etc. Training to create gender sensitivity must challenge gender stereotypes and address issues concerning the scale, causes, varied nature and consequences of CRSV and the effects of stigmatization that internalize feelings of shame. Officers must be trained and well equipped to make it easier for victim survivors/witnesses to disclose their experiences of CRSV and they must be trained to handle situations where there could potentially be opposition or blockades from the government,

- community or other stakeholder in the investigation of CRSV.
- p. Provide mechanisms and institutions to hold officers accountable for committing or attempting to commit sexual violence or take any stance that may even have the slightest appearance of bias and discrimination against victim survivors of CRSV.
 - q. Provide codes of conduct and ethics and enforceable rules that govern judges, prosecutors, lawyers, litigants, jurors and court officials; invest in awareness raising and capacity building programs to counter judicial biases against women in general, and victim survivors of CRSV in particular; and create accountability mechanisms to address cases of bias.
 - r. Establish a monitoring mechanism under the transitional justice framework in Sri Lanka, with the participation of local and international resource persons to ensure that all relevant stakeholders carry out their duties devoid of bias and discrimination in respect of victim survivors of CRSV.

2. Community Level Interventions

- a. Introduce comprehensive guidelines and protocols that bind mainstream media on ethical and responsible reporting of cases concerning sexual violence in general and CRSV in particular. These guidelines should ensure that media reports take the opportunity to educate and sensitize the public about the plight and rights of victim survivors of CRSV; avoid sensationalizing and normalizing SGBV; avoid using prominent placements, catchy phrases, photographs and extensive personal details with or without the informed consent, which can further endanger the lives of victim survivors; provide information concerning possible avenues to receive help and redress.
- b. Encourage and engage more people on social media platforms to addressing everyday sexism, gender based discrimination and harassment that could eventually lead to graver sexual offences that stigmatize women. Take positive measures to prevent the stigmatization, shaming and online bullying of victim survivors of CRSV or any other form of sexual violence.
- c. Support initiatives to carry out awareness campaigns, air documentaries and publish/telecast reports via media outlets and educate the masses about the nature of CRSV, its impacts on individuals and family units and the responsibility of communities to support them, instead of condoning the acts of perpetrators.
- d. Ensure that individuals and civil society organizations that work on matters concerning victim survivors of CRSV provide competent and reliable assistance and maintain professionalism in their interactions with victim survivors to prevent any further danger.
- e. Take all necessary measure to sensitize and educate children, youth and adults in schools, universities, vocational training institutes, work places etc., of the appalling nature of CRSV and the importance of creating an inclusive environment for victim survivors of CRSV or their loved

- ones, to reintegrate into society.
- f. Carry out educational and awareness campaigns through the relevant line ministries, government institutions, provincial level institutions, Local Authorities, District Secretariats and Grama Niladari divisions aimed at educating the general public on matters concerning CRSV. Invest in training and capacity building of these officers whom the victims have to interact with for various purposes.
 - g. Support initiatives to increase legal literacy of the public, especially victim survivors of CRSV, in order to educate them on possible avenues of legal redress to report cases of CRSV and of cases where individuals have been discriminated against.
 - h. Initiate and encourage interfaith dialogue with the participation of religious leaders about gender equality and non-discrimination between the sexes. Encourage religious leaders to use their platforms positively to influence thought processes and challenge discriminatory practices and value systems by taking a rights based approach in the interpretation of religious texts, in order to create a safe haven of inclusivity for victim survivors of CRSV.
- b. Ministries that provide essential services to victim survivors of CRSV should ensure that the staff is trained to deliver services without bias and set up mechanisms to mentor, supervise and regularly review best practices.
 - c. Encourage and/or partner with civil society organizations, interested foreign governments and other non-state actors to receive specialized assistance, donations, funding etc. to provide victim survivors with the services they need.
 - d. Establish free national helplines for victims/survivors to share their stories and recruit committed and reliable individuals, with relevant qualifications and experience in counseling, psychology and mental health related fields, to work flexible hours, to listen and respond to them as necessary.
 - e. Implement policies and create a positive dialogue concerning mental health. Ensure that CRSV victim survivors are provided emotional and psychosocial support to help them counter the psychological trauma and mental health issues they may not acknowledge openly.
 - f. Provide a comprehensive framework of guidelines or code of conduct that binds medical and health professionals/personnel, to ensure that victim survivors are not re-stigmatized at hospitals and clinics while receiving treatment; to make healthcare services accessible and effective and ensure privacy; to maintain a degree of confidentiality and professionalism when dealing with investigators and other service

3. Interpersonal Level Interventions

- a. Ensure that Ministries and local government bodies implement developmental policies concerning CRSV victim survivors and ensure safe access to all the services that they are entitled to.

providers; to create gender sensitivity and prevent discrimination of any kind; to ensure that those who have the responsibility to carry out judicial medical tests and submit reports do justice to the victim survivor by stating nothing but the truth.

- g. Initiate and invest in capacity building programs aimed at countering bias and challenging gender stereotypes and discrimination, for public officers like Grama Niladaris, District Secretaries, representatives in the Local Authorities and their staff. Set up mechanisms for accountability and strict supervision to ensure that these persons who are duty bound to serve the public, do not violate the rights of and re-stigmatize victim survivors of CRSV any further.
- h. Create awareness and educate the public, especially in areas where stigmatization of CRSV victims is rampant. Challenge gender bias and stigmatization of women who have been subjected to sexual violence in the context of the war.

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