

The Life I Used to Live

Realizing Reparations for Victim Survivors of
Sexual Violence in Sri Lanka



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Introduction

Sexual and gender based violence and harassment is entrenched and widespread in Sri Lanka. It is fuelled by a variety of factors ranging from gendered inequalities, prejudices, biases, lack of accountability, political will, access to justice and structural inadequacies to tackle the issue. What is witnessed on an everyday basis takes on a heightened form, especially in the context of a conflict, as witnessed during and after the Janatha Vimukthi Peramuna (JVP) insurrections in the South and the thirty-year war that ended in 2009.

Sexual violence in any form, in any context, conflict or non-conflict, leaves behind severe impressions in the mind, body and soul of a victim survivor, often reducing them to living lives of blame and shame for no wrongdoing of their own. The nature and severity of sexual violence is exacerbated when it is perpetrated in the context of a conflict, making repair almost impossible and re-traumatization inevitable. It is against this backdrop that the government seeks to establish an Office for Reparations as a Transitional Justice mechanism to ensure accountability and justice; to put an end to the climate of impunity; to assist victim survivors in their process of healing; to

restore their dignity and to enable them to live as equals in society.

Despite the government having taken numerous initiatives to support war affected communities in the aftermath of the war, it is evident that there has been little or no attention to Conflict Related Sexual Violence (CRSV) survivors, starting with actively reaching out to victim survivors of CRSV, who continue to suffer in silence as a result of the overarching effects of such horrific experiences.

The study that forms the basis of this briefing paper is the first known comprehensive and inclusive study of its kind in Sri Lanka, where the experiences of victim survivors, representatives and stakeholders and their diverse perspectives around reparations for CRSV were collated. It provides an array of recommendations on material and symbolic reparations and creative approaches that the government and other organizations may resort to when bringing about justice to war affected communities, focussing on CRSV victim survivors in particular. This briefing paper captures the essence of this study to further the discourse on reparations for CRSV victim survivors in Sri Lanka.

Nature of Conflict Related Sexual Violence (CRSV)

CRSV covers a broad range of experiences from sexual harassment to rape and in order to address the diverse needs of victim survivors, it is imperative to first acknowledge these diverse experiences as falling within a broad and inclusive definition of sexual violence. According to the definition of the World Health Organization, sexual violence entails *“any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or act to traffic, or otherwise directed at a person’s sexuality using coercion, by any person regardless of their relationship to the victim survivor, in any setting, including but not limited to home and work.”*

The UN Secretary General’s Guidance Note on Reparations for Conflict Related Sexual Violence (CRSV), defined CRSV as *‘incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself or that occur in other situations of concern such as in the context of political repression’*. The violence takes multiple forms such as *‘rape, forced pregnancy, forced sterilisation, forced abortion, forced prostitution, sexual exploitation, trafficking, sexual enslavement, forced circumcision, castration, forced nudity or any other form of sexual violence of comparable gravity’*.

The CRSV victim survivors who were consulted belong to the three major ethnic communities in Sri Lanka, who have lived through the war and include female and male victim survivors, IDPs, persons residing in border villages in the North Central Province, sex workers, girls subject to early marriage, persons affected during the JVP insurrections and military widows.

It is evident that sexual violence perpetrated in the context of a conflict cannot be limited to a particular point of time or place. The continuing nature of the conflict and its inherent complexities create circumstances that render persons more vulnerable to violence. According to the victim survivors who have been interviewed, sexual violence has been carried out while in detention as a form of torture or degrading treatment; during search operations, including against family members of suspected LTTE members, and at security check points that were transit points for military personnel; against sex workers who were either pushed into the profession due mainly to continuous sexual violence during the conflict context or where perpetrators were operating in a war context; in cases of early marriages taking place or exacerbated due to conflict; and/or as a form of exploitation in sexual bribes.

Victim survivors of CRSV have experienced sexual violence in different forms at different stages of their lives, making it impossible to limit the perpetrators to one specific group of people. They identified their perpetrators as members of (a) the armed forces (particularly the army and in some cases the navy, including deserters), (b) the Police including the Terrorist Investigation Division (TID) and the Special Task Force (STF), (c) Civil Defence Force, (d) the LTTE, (e) various government officials such as Grama Niladharis and officials at District Secretariat offices, (f) members of political parties such as the JVP, (g) their own family members, including spouse, or care takers, and finally, (h) civilians acting with impunity in the war context.

According to the testimonies of victim survivors, CRSV has been perpetrated at Army and Police detention centers, camps and check points, government displacement camps (IDP camps), in government office premises, the perpetrators' homes or temporary places of residence, victim survivors' own homes, as well as in lonely or secluded outdoor areas, such as forests or abandoned buildings.

The intersecting factors concerning the victim survivor, the profile of his/her perpetrator, the location and circumstances in which the sexual violence took place, as well as the ethnic and political dimensions of the conflict have complicated the process of healing, reporting and prosecution. Many victim survivors have had to endure unimaginable pain in the hands of persons who were responsible for their safety; by loved ones, people known to them or by complete strangers. Therefore, the questions that are often asked in tandem, why is CRSV so prevalent and why aren't

people taking steps to report these incidents to the relevant authorities, do not have simple answers.

Prevalence and Underreporting of CRSV

“
Many hide what happened to them due to cultural barriers or fear. But at least five out of hundred cases are being brought to the light.

”
- Victim representative from the North

Sexual violence is an attack on a person's dignity, self-respect and the right to be treated equally and humanely. The stigmatization that follows, brings with it various socio-cultural implications. The continued victim blaming and shaming, stigma and the societal obsession with virginity, chastity and manhood as being linked to cultural connotations of honor, compound the issue of underreporting.

Lapses in time, the experience being one that is extremely personal and sensitive in nature, the lack of faith in justice processes and the fear of reprisals prevent them from speaking about their experiences.

Continued militarization and surveillance in the North, sexual violence perpetrated at the hands of law enforcement officers, the inadequacy of the systems and structures that have been put in place to safeguard the interests of victim survivors and the perpetual state of impunity further contribute towards underreporting. Many victim survivors state

that they have been taken advantage of, solicited for sexual bribes or further abused or harassed, when they approached law enforcement officers or government officials to report the incident.

Fear of being re-traumatized when seeking assistance and redress, and lack of meaningful accountability for cases of this nature has also led to underreporting. The invasive cross examination processes involved with a court case around sexual violence, the nature in which mainstream media reports such experiences, the public scrutiny that is

directed at CRSV victim survivors and various other circumstances that don't create a safe space for reporting, also makes reporting cases of sexual violence the exception, rather than the norm.

Further, there have been instances in which law enforcement authorities have been reluctant and unwilling to record complaints of CRSV. The reputation that reporting of an incident is not going to lead to any inquiry and the careless nature in which cases have been previously handled make reporting less inviting.

Nature of Reparations

The right to reparations has been recognized in the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (General Assembly resolution 60/147, 16 Dec 2005):

“

Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of international human rights law or serious violations of international humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for acts or omissions which can be attributed to the State and constitute gross violations of international human rights law or serious violations of international humanitarian law.

”

Full and effective reparation includes the following forms of reparation:

1. **Restitution** [restore the victim, whenever possible, to the original situation before the gross violation of human rights];
 2. **Compensation** [provide for any economically assessable damage as appropriate and proportional to the gravity of the violation];
 3. **Rehabilitation** [provide medical and psychological care and legal and social services];
 4. **Satisfaction** [provide for measures such as, verification of the facts and full and public disclosure of the truth, public apologies, including acknowledgement of the facts and acceptance of responsibility, judicial and administrative sanctions against perpetrators, commemorations etc.] and
 5. **Guarantees of non-repetition** [provide for reform measures, including, prevention].
- Existing forms of reparation include attempts to provide reparations through the Rehabilitation of Persons, Properties and Industries Authority Act [REPPA], various Commissions of Inquiry and through ad hoc mechanisms. The REPPA in particular, does not make provision for a comprehensive scheme of reparations that takes into account the diverse needs of victim survivors. The heavy caseload, insufficient funds, limitations in terms of its mandated powers, difficulties in the application process and the lack of public awareness regarding REPPA has rendered the same, ineffective.

How victim-survivors feel about reparation

“

The concept of reparations is like a dream to us. Especially because we can't be satisfied with apologies for the mental and physical suffering.

Especially for sexual violence-forgiveness and reparation is a joke... however much is paid, that humiliation will never be fully compensated for. But people are in need of money so they will still accept compensation. But the mental suffering because of the sexual violence cannot be erased.

”

Victim survivor from the South

Many of the victim survivors who have had to endure in silence and experience stigma and violence on a regular basis find reparations to be one that is unattainable and alienated from them. Some have become resistant to reparation, having found alternative coping mechanisms or are not hopeful of receiving any reparation due to their lack of faith in government institutions and consecutive government inaction.

A victim survivor from Anuradhapura who is no longer motivated to engage on this matter stated, *“There's so much I'd like to recommend to government, but I don't want to waste my breath.”*

Despite some victim survivors expressing hope for restitution, there are many others who feel that the nature of the crime is so grave that it is anyway impossible to fully reparate to a satisfactory level.

“

No matter what the government does, I won't get my husband and kids back.

”

– Victim from survivor Anuradhapura

“

“I don't think the LTTE or the State can do anything that would satisfy me.”

”

– Family member of a victim in Kebithigollawa

Certain victim survivors state that unlike other conflict related issues, sexual violence is an issue that is rarely dealt with. A victim survivor from Anuradhapura states, *“...But for sexual violence, I won't get any relief even by the time I die.”*

“

A lawyer goes on to state, “As far as I know victims of sexual violence have never received government assistance. They have received assistance for other forms of conflict related hardships like displacement for which they have been resettled and provided housing.”

”

Many victim survivors mention that their main concern is the lack of a comprehensive reparations scheme with services and benefits aimed at addressing the diverse needs of victim survivors. Victims went on to say that those seeking relief for this violence, *“just get hurt more”* and as a result have no inclination to seek any form of reparation.

“

I have to stand up for myself and develop my shop. That's the only way I'll find relief.

”

- Victim survivor from Anuradhapura.

“Society believes that I received a large sum as compensation, as redress for the injustice I faced. Only we know that we received no such thing whatsoever.”

—Victim survivor from Mullaithivu

Some victim survivors opine that the window to provide reparations is now closed given the lapse of time and/or they have developed a sense of pragmatism and willingness to move on.

“A victim survivor from Anuradhapura asked; ***“What’s the point in giving me anything now? Sorry, but I get mad when people even ask me that.”***

Another victim survivor from the same district mentions- ***“What happened to me happened. I want my daughter to not live in shock. Want to make sure my child doesn’t fall in the same situation as me. So to help me with that, please support me, also financially.”***

What victim-survivors want as reparations

Comprehensive policy on reparations

Victim survivors believe that a comprehensive victim-centered policy that is apolitical, with stringent and effective implementation and monitoring mechanisms that applies to all victim survivors equally, will help build trust and enable full and effective reparation.

A victim survivor from Anuradhapura placed emphasis on the implementation aspect in this manner - *“Even if there’s a government policy, there’s no point if it won’t be implemented.”*

Reparations must be sustainable, prompt and part of a larger process

The process of providing reparation must be continuous, sustainable and part of a long-term plan that benefits victim survivors. A victim representative from Batticaloa stated that, *“Short-term monetary compensation will not change their situation for the better. There should be a solution that they get a proper income permanently”.*

In assessing the nature of responsibility in respect of the crimes committed, victim survivors have varied opinions.

“Individuals cannot give anything continuously, right? So, the government should be the one to provide it.”

—Victim representative from Mullaithivu

“The compensation should be obtained from the offenders. We cannot expect the government to give the compensation, right? The government has a responsibility, yes. They should be able to bring justice that is perpetual and constant. They also should be able to make the offenders to give compensation to the victim. Then only the offenders will realise what the victim is going through. If they have assets, make the compensation from them. If they are getting a monthly salary, make the compensation from it.”

—Victim representative from Mullaithivu

Lapses in time have left many of the victim survivors behind and to ensure that justice is not denied nor delayed any further, a comprehensive reparations mechanism must strive to provide reparations promptly.

“
Compensation should happen fast. Victims shouldn't be asked to come multiple times to multiple places to be questioned for long periods. Need quick solutions.
”

– Victim survivor from Polonnaruwa

Reparations cannot operate in a vacuum aimed at addressing only one issue out of many. It must take into account the multiple sufferings experienced by victim survivors due to the conflict and approach each situation in a holistic manner.

“
The judgment of a court alone cannot be adequate for victims like me. Society's support is essential.
”

– Victim survivor from Mullaithivu

Confidentiality

Societal perceptions of virginity, chastity, manhood and worth are all put to test when a person experiences some form of sexual violence. In this context, confidentiality, both in personal and professional capacities, is of paramount importance when dealing with CRSV victim survivors. All relevant stakeholders must ensure that all matters concerning victim survivors of CRSV are dealt with in a confidential and discreet manner, to prevent re-stigmatization.

Victim representatives and psychosocial practitioners have expressed concerns of victim survivors regarding confidentiality in the following manner:

“
The children should not know about the monetary compensation her mother is getting when the whole community is affected by the conflict. That will create another issue in the family. Therefore, it should be done in a way that looks like the compensation is for the loss of education etc.
”

– Victim representative from Batticaloa

“
Their main expectation is to be free of the guilty feeling that they are burdened with, and to integrate with society. They are afraid of societal criticism (stigma). Mostly those living in poverty will be open to accepting reparations, but at the same time fear that accepting it would identify them as a victim. If reparations are provided in secret then it is acceptable. But, they would not like it to be publicized.
”

– Psychosocial practitioner

Interim reparations and support for family

Many victim survivors experience economic hardships and difficulties in sustaining their livelihoods, both as a result of sexual violence and/or the slow rate of progress, in terms of stability in the post conflict era. A victim representative from the North stated that, “There is a Ministry of Women and Child Affairs. They have district officers. The victims should be identified, and the interim reparation can be given through them. Even if it is not monetary

aid, at least they can give essential things to support the victims' livelihood."

The reparations policy must take into account the knock-on effects of sexual violence on the members of the victim survivors' family, both mentally and economically, when determining the nature of reparations that can be provided to ensure stability within the family unit.

"Enormous burden on families. Strain of knowing that your daughter has been violated or your wife has been raped- is huge."
-Stakeholder

"I've become dependent on my children to live. I don't want to trouble them though they help me. They have their own issues and own families"
- Victim survivor from Galle

Truth and acknowledgment

Truth seeking is an important form of reparation in a post conflict context, which creates the space for the acknowledgment of sexual violence perpetrated by individuals, especially State agents.

"Multiple testimonies of families who have testified in courts in multiple areas of the country- it's already out there. That should be acknowledged."
-Stakeholder

Dismissal of victim survivors' claims of CRSV immobilizes them at the outset itself, from

pursuing their claims and creates a state of impunity, where perpetrators are allowed to continue in positions of power, and potentially cause further harm.

"The first to abuse me was my uncle. Then the police officer. If they were both made to come to me and tell me why they did this to me, that would be good."
- Victim survivor from Puttalam

Official acknowledgment of CRSV, including sexual violence that was perpetrated by agents of the State, is crucial in enabling the process of reparation.

"The State is simply unwilling to talk about sexual violence in conflict because it thinks this will impact on the good image of their soldiers, who are supposed to be disciplined. The State thinks it will sabotage the reputation of the soldiers."
- Lawyer

Truth about the fate/whereabouts of missing persons

Some victim survivors wanted to know the truth about the fate and whereabouts of missing persons, discounting any other form of reparation they may potentially need, in respect of their experience of CRSV.

Land, housing and education

Reparation in the form of releasing land occupied by the military to the rightful owners, providing land to landless victim survivors, assisting victim survivors to build houses and empowering victim survivors through

education and employment opportunities, can pave the way towards enabling victim survivors to rebuild their lives. A female victim survivor from Anuradhapura, with a half-built house stated.

“
Because my house was built half way I can at least stay there during the day, but I'm not satisfied because I don't have windows and doors so I have to sleep somewhere else at night.
”

“
We don't have an inch of land, no livelihood. Give us the opportunity to live a respectable life in society.
”

A victim survivor from Polonnaruwa

A mother of a victim survivor from Anuradhapura, highlighting the importance of a sound education states, *“Only when my child becomes a great man will my pain be eliminated.”*

Maintenance and pension

Victim survivors who alleged that the perpetrators of sexual violence were their partners requested maintenance from them and some others explored the possibility of being provided with compensation in the form of a pension.

“
Good if compensation is paid as a lump sum. But most useful will be a pension.
”

- Victim survivor from Polonnaruwa

Medical support

Victim survivors observed that medical support is the immediate form of relief that is most crucial following the violence. It is imperative to train medical practitioners and hospital staff to effectively handle cases of sexual violence to prevent any further violence and re-victimization. Trustworthiness and reliability of qualified doctors, doctor-patient confidentiality for this nature of treatment and allocation of doctors to patients on a long-term basis are also relevant in this regard.

“
There will be patients in the victim's family. They should be given with medical aid. For example, (victim)'s father is paralysed. It would be good if they help him with priority medical treatment.
”

- Victim representative from Mullaithivu

Psychosocial support

Provision of psychosocial care to victim survivors of sexual violence to address psychological trauma is as important as treating physical wounds. The lack of understanding concerning mental health, the stigmatization of persons who seek psychosocial help or the lack of awareness of possible outlets from which such help can be sought after, has prevented many of the victim survivors from addressing the mental trauma they experience. Creating credible government and non-government processes, through which psychosocial support is provided by experienced practitioners who are bound by good practices and rules of confidentiality, plays a vital role in the healing process.

“
I wish there was someone I can talk to in order to ease the pain, someone who can advise me.
”
- Victim survivor from Polonnaruwa

“
They smashed a bottle over her head. So, she was admitted to a hospital to receive treatment. It was an easily curable wound. But when you consider psychological trauma, it is not that easy. Mind is not that easily curable. She was forcefully raped not by a single man but by four men. Think about the psychological trauma it must have caused her.
”
- Victim representative

“
It is only when they come for counselling sessions can we identify them. Even then they will not reveal it outright. They will talk about it as having happened to a third person, they might have had a child as a result of the violation but they will tell everyone that the child is adopted. Such survivors who are unwilling or slow to admit to having been violated require more than the general 12 counselling sessions that we provide. They require a high amount of trust in order to open up.
”
- Psychosocial practitioner

Rehabilitation

As a result of the sexual violence that victim survivors have had to endure, some have become addicted to alcohol or other harmful substances. It is important that the government and non-government entities provide for and invest in facilities and mechanisms to rehabilitate such persons and to prevent

others from absorbing such lifestyles, by creating awareness.

“
Please help save my son from alcohol and stubbornness so he can lead a good family life
”
- Mother of a victim survivor from Anuradhapura

Relocation

Stigmatization and re-victimization of victim survivors exacerbate their trauma and therefore, victim survivors often seek economic assistance to relocate to places where they are afforded the opportunity to start life afresh.

“
All she wanted was to move out from her village at that time. As an organisation we supported her to move out of that village.
”
- Victim survivor from Batticaloa

Livelihoods and job security

To overcome difficulties in securing livelihoods and to have stable sources of income, victim survivors may be directed to skills development centers, vocational training institutes and job centers or be introduced to private sector jobs where the government can pay part of their salary.

“
Without ruining women further, and making them into shrines, we should have common job centres for women to create job opportunities for them.
”
- Wife of ex-combatant from Batticaloa

“
She wants a government job. She says she could not sit for the Advanced Level examinations because of the military. So the government is responsible. If she has a government job, she can be with her kids, because the kids are at a hostel now. She does not need to worry much if she has a secured job.”

- Victim survivor from Batticaloa

Government documentation

Many victim survivors raised the issue of not having birth and marriage registration certificates due to the war and they discussed the difficulties they face when registering children born as a result of sexual violence. The government needs to have a special process through which these children are registered.

Safe houses

Safe houses run by reliable entities, independent from law enforcement authorities, would be a facility that is particularly beneficial to victim survivors in the context of continuing militarization.

“
It would be good if there's a place to go and stay when we get into trouble. Don't let men in anywhere near it. I am yet to meet a man who is empathetic.”

-Victim survivor from Puttalam

Space to talk

Many victim survivors of CRSV suffer in silence, unable or unwilling to share their stories, due to the absence of an open and comforting space for discussion and collective healing. Creation of safe and comfortable

spaces that are not specifically labeled for sexually abused people and opportunities for greater interaction between persons who share similar experiences, provided by the government and non-government entities will contribute largely towards the healing process.

“
The women I have contacts/working with do not wish to discuss sexual violence issues openly. Also there are no opportunities or platforms to discuss this issue. It is always kept as a secret. Women are scared that their dignity and reputation will be damaged if they speak publicly. There is no guarantee that they will be treated respectfully after they open up.”

- Victim representative from Batticaloa

Empowerment

Many victim survivors highlight the need for victim empowerment, especially women empowerment, in order to enable victim survivors to live without having to depend on others.

“
We can't get fairness anywhere now because we are women. At the police, hospital or government authority. If we can feel empowered and strong that would be good.”

- Victim survivor from Polonnaruwa

Language and gender

Language and gender have an impact on the extent to which victim survivors would/could go to, when reporting their stories.

The availability of the services of Police officers competent in all three languages and recruitment of Tamil speaking female officers to the Police will create a suitable environment for victim survivors to narrate their stories and for such stories to be recorded in a language they understand.

Reparations for children and for mentally and/or physically disabled persons

Minors and persons with disability are considered more vulnerable to sexual violence and victimization, and therefore special measures need to be adopted for them to be able to access different forms of reparation.

Media

The portrayal of sexual violence in mainstream media has an impact on perpetuating or discouraging societal perceptions and biases that disadvantage victim survivors of CRSV. Responsible reporting of sexual violence is one that can be achieved through comprehensive capacity building of media personnel, by training and sensitizing them to follow ethics. A proper understanding of ethnic and gender dynamics, as well as the complexities of the war, is vital towards utilizing the media, both private and State, to promote reconciliation within the community.

Demilitarization and security sector reform

Reducing the military presence, limiting military- civilian engagement and redefining the role of the military and State intelligence to suit the post war setting are measures

that are imperative towards bringing normalcy into the lives of war affected communities and in preventing any further sexual violence.

Raising awareness and fighting stigma

Stigma, embarrassment, fear, shame and lack of self-esteem experienced by victim survivors of CRSV is prevalent in and perpetuated by society and in order to address this issue, it is vital to use media, education and any other platform to provide sex education, to create awareness and build capacity in society at large, and at schools, workplaces, government offices etc. to fight stigma. Creating a legal framework with procedures that enable victim survivors to seek redress with confidence, and laws and regulations aimed at increasing accountability, are priority areas that the government must focus on.

“
It is my own society, and my relations who have become a problem to me. From jests to cornering us, we are being discriminated by them. It is this situation that continues to affect us.

”
- Victim survivor from Mullaithivu

“
I have incurred this shame because I attempted to talk about the violence I faced. My society talks as if I am the one to blame. My children were born well before this incident. But a story that these children were born to the army personnel is also doing the rounds.

”
- Victim survivor from Mullaithivu

Non-recurrence

Inter-ethnic reconciliation, harmony and respect for human rights and equality is critical in preventing the repetition of sexual violence. Victim survivors' recommendations in this regard ranged from identifying and understanding perpetrator psychology around reasons that compel perpetrators to sexually abuse victim survivors and creating attitudinal change to documenting cases of sexual violence for public knowledge of its prevalence and impact (paying due attention to redacting identifiable victim survivor information).

Creating awareness around sexual violence and the effects that follow, changing attitudes and mindsets and reforming the law to treat all persons equally and according to the due process of the law is crucial in this regard. Furthermore, the political rhetoric concerning the war and the military and political culture that perpetuates the status quo to the detriment of certain groups of people must change, along with changes in State structures and institutional reforms. Building faith in the justice system comes through justice sector reforms. The government can also receive the support of the international community in building and monitoring transitional justice mechanisms.

The following comments made in respect of non-recurrence are diverse and consider various aspects of non-recurrence.

“Without trying to provide relief the state should focus on making sure it doesn't happen again.”

— Mother of victim survivor, Anuradhapura

“My praying is that this type of experiences should not be experienced by any other woman in this world.”

— Victim survivor from Hambantota

“More women should be employed as a form of non-recurrence.”

— Victim survivor from Polonnaruwa

“This will prevent the revenge taking mentality among different community people. With that there has to be a change in the education system too. The education system should have a syllabus on human rights and especially women's rights.”

— Victim representative from Batticaloa

Accountability

Successful convictions in cases of sexual violence in conflict are few and far between and victim survivors who seek redress through the justice process do so in the face of many challenges. Despite the lack of faith in the system, and the personal investment and sacrifices one must make to take that step, victim survivors believe that holding perpetrators accountable for their actions is one of the key forms of reparation, not only in pursuing justice for themselves, but also in preventing such perpetrators from continuing such violence. Given the nature of the crime, victims said that they “...didn't even know whom to approach for justice back then.”

However, some victim survivors spoke of the realities on the ground, in the context of the

war, and emphasized that most often than not, mere survival trumps any of these needs for reparation.

“
More than accountability I was worried for my life and my children's lives.”

—Victim survivor from Anuradhapura

The nature of investigation and prosecution is such that victim survivors are made to relive their traumatic experiences in a long drawn out court process. Given the sensitivity surrounding sexual violence, court processes, including investigations and prosecutions, must provide a safe and comfortable space in which victim survivors will be spared of re-victimization.

Moreover, victim survivors may find it difficult to produce evidence, especially in situations where there has been a considerable lapse of time or the sexual violence had taken place in circumstances within the control of the perpetrator. The court must take into consideration these issues before rejecting any application or penalizing the victim survivors for lack of evidence.

“
Sometimes it's hard to find the perpetrators. The army officer who raped me is now dead.”

—Victim survivor from Polonnaruwa

Use of technology and new investigative techniques to uncover evidence and educating judicial and law enforcement officers about sexual violence and gender based biases, can help better the situation.

A victim representative from the North expressed concerns regarding the entire judicial process that a victim survivor must go through: *“Now the case is moving to Colombo from Jaffna. I am not sure how it going to go there. The military is being heralded as war heroes there. Would the victim be able to stand up to that? For them, the military are the heroes who reclaimed the whole country. The victim should not be affected by this. That is my expectation... A judgment is given in her case, that judgment should remain constant. What if the judgment gets revoked by the Appeal Court?”*

Victim survivors experience many economic hardships and providing legal aid to pursue justice is the first step to consider when pursuing judicial reparations.

“
No money to even look after the child born out of sexual violence, let alone search for justice”

—Stakeholder

Suggestions by victim survivors include reforming sentencing, bail and witness protection laws, giving prompt punishments, enforcing the law properly, establishing a special, independent court to hear conflict related matters and state responsibility for violence perpetrated against victim survivors, either by commission or by omission.

While commenting on the importance of accountability in respect of CRSV, there were calls for the reform and effective implementation of the law.

“People’s stamina to pursue justice changes over time. Practical or pragmatic people just want to get on with their lives. On average it takes 10-20 years to get a case of rape concluded. Because of the lag of time- because of the nature of sexual violence cases- wanting to move on get over it, reparations differ. This has dynamics that are not present in other cases. If the case is old, would probably go for monetary compensation.”

–Stakeholder

“The government should properly implement the International Conventions concerning women’s rights which it has already signed. There should be no leniency for those convicted of sexual violence. The laws should be made stringent by applying life sentence, giving no means for the perpetrator to escape.”

- Victim survivor from Batticaloa

Many victim survivors of CRSV said that they sought “maximum punishment” for perpetrators, calling for death penalty or life imprisonment and they lobby for such punishment to be prompt.

“Punishments should be severe and should be more than what the victims suffer from the stigma of having faced sexual violence. It should be severe enough to make someone to think before committing such crimes.”

–Stakeholder

“For the injustice caused to me or any other woman of this nature, any perpetrator should be brought before the court and put in jail for the rest of the life and never should be given less than life imprisonment.”

–Victim survivor from Hambantota

“Wrong doers must be punished without discrimination. And promptly.”

– Victim survivor from Puttalam

“Expedite if possible because prolonging the agony is not fair.”

–Stakeholder

“When wrong doers are not punished because they are friends of the system, then those who look on also will repeat it because they have no fear. I can’t pursue punishment for what the army did. But, even when there isn’t a war those who do wrong must not be protected. Their crimes must be made public.”

A victim survivor from Puttalam

In essence, justice is the means by which repetition of sexual violence may be prevented.

“If the perpetrators are punished then that’s good. Then this won’t happen to someone else too.”

- Victim survivor from Polonnaruwa

Compensation

Many victim survivors were averse to the idea of compensation and lacked awareness concerning compensation as a form of reparation, one that can be pursued alongside accountability and non-recurrence. Given the fact that sexual violence is a violation of someone's body, many question how a monetary value may be decided as being a fitting form of reparation.

However, the idea was to consider compensation, not only in relation to the incident per se, but also the effects that follow, by taking into consideration the physical and mental harm, moral damage, lost opportunities and earnings a victim survivor has had to experience, as a mechanism to rebuild victim survivors' lives.

... sentenced the 4 persons to 22 years of imprisonment, and they were ordered to pay compensation amounting to 20 lakhs to me, the victim. To date, I have not received any compensation. As displaced persons, we were awarded the housing scheme. But no compensation in honour of this judgment has been made.

- Gang rape victim survivor from Mullaithivu

Apologies

Given the serious nature of the crime, a number of victim survivors felt very strongly against apologies. While some victim survivors were open to apologies as part of a bigger, holistic reparations scheme, most survivors opined that they were unable to forgive perpetrators

and completely rejected the idea of apologies as the violence had affected their honour and personal dignity.

What's happened to me isn't something I can forgive.

- Victim survivor from Anuradhapura

I feel strange about apologies for what happened to my child. You can't rape someone and ask for forgiveness.

- Mother of a victim survivor from Anuradhapura

There's no use of an apology for me. I lost everything in my youth. Only I know how much I suffered. I will never forgive them. If I ever come across them I'm going to cut them into pieces.

- Victim survivor from Galle

However, public apologies are part of a larger effort towards reconciliation that begins with the acknowledgement of wrong doing and the promise of non-repetition.

If there is an individual perpetrator, a public apology would be welcome, for e.g. in front of the GS. It gives a small sense of satisfaction. In situations where the perpetrator admits to the deed, the survivor may be willing to accept an apology. This of course would depend on the situation. The admission of guilt would be expected only from the perpetrator and it should not be immediate, an immediate admission might not be genuine. This admission will help the survivor reintegrate into society.

- Psychosocial worker

Memorialization

Memorialization forms an important part of the healing process and takes many forms such as cultural activities, artistic expression and social acknowledgement that enable victim survivors to regain dignity and trust in the social processes.

“Remembering those who have been affected by sexual violence is considered a stain on society.”

- Victim survivor from Batticaloa

“I have no faith in such things. Maybe it is a good tool for the next generation to be made aware of what happened and why it should not be repeated. Moreover, I cannot say it's wrong. It's a tool for psychological comfort. I don't like it personally. But it could be helpful to the victim's families.”

- Victim representative from the North

“I would very much like/support memorialisation initiatives for victims of sexual violence.”

- Victim survivor from Polonnaruwa

“That's a good idea... how many people have died? They're just forgotten. Not like that, if a memorial could be made on behalf of those children, that's a good thing. In vain, they did because of other peoples wrongs.”

-Victim survivor from Puttalam

“If someone can collate such incidents like this around Sri Lanka and make a book- then maybe their helplessness and pain can be understood by others.”

- Victim survivor from Polonnaruwa

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