

Reparations For Women In Sri Lanka:

What Stakeholders Say



Sri Lankan Context

Sri Lanka's ethnic conflict, spanning three decades, came to an end in May of 2009. Despite sporadic efforts by successive governments to address the grievances of victims of the conflict and other political unrest, a cohesive, effective and authentic process was never implemented. In 2015, a coalition government came into power on the platform of good governance, and soon after co-sponsored the UN resolution 30/1 that promised the implementation of a comprehensive Transitional Justice program. Among other reforms, this pledge committed to implement a Truth and Reconciliation Commission, an Office for Reparations, an Office on Missing Persons and an accountability mechanism to address the grave human rights and humanitarian violations experienced by victims. However, at the end of the coalition government's term in power, only the Office on Missing Persons and the Office for Reparations was created.

The Office for Reparations was established in 2018 amidst heated debates on the autonomy of the Office and the practicality of its mandate. Since its establishment, the Office has appointed 5 commissioners and is in the process of devising a reparations policy that would need the approval of the cabinet and parliament.

Defining Reparations

Reparations are an acknowledgment of harm. Reparations are not meant to put a monetary value on the harm and it is not feasible for reparations to fully solve the consequences of the violation. All reparations efforts must begin with this understanding as its foundation.

Reparations policies can take the form of individual reparations and collective reparations. Both forms of reparations aim to acknowledge and repair harms caused to victims. Individual and collective reparations can take the form of restitution, compensation, rehabilitation, symbolic acts, and guarantees of non-recurrence. Individual reparations can take the form of pension schemes, return of private land, and scholarships. Collective reparations can take the form of memorials, access to benefits with special consideration for victims, and changes in local government structures and systems.

The artwork in this publication were drawn by war-affected Sinhala, Tamil and Muslim women from the North and South

Whatever the form of reparation, the process by which it is carried out is equally important. Providing reparations to a large number of victims for violations that span three decades will be a complex process with heavy administrative burdens. It is vital that the reparation's office is able to implement a model that is comprehensive and practical.

Gender Considerations

During the ethnic conflict and other political unrest, grave violations were committed against women. Female ex-combatants continue to face social stigma and grapple with the psychological toll of the war. Whatever negative pre-existing conditions that women found themselves in, before the conflict, those have been exacerbated by the consequences of war. Women find themselves in a vulnerable position experiencing multiple layers of marginalisation. However, women have also shown the propensity to be resilient in these circumstances. They have engaged their community while asserting their agency in creative ways.

The Office for Reparations must take serious consideration of the status of women victims and carry out specific programs that will support them. Gender considerations cannot be tokenistic or standardized. Women's issues vary across districts and even across villages and towns in the same district.

Background to Interviews

The Center for Equality and Justice has undertaken a project that seeks to understand the viewpoints and opinions of stakeholders in relation to reparations. The Office for Reparations is currently devising a reparations policy that would shape the manner in which the Office will function and the types of reparations that it will provide. The focus of the interviews is to understand the stakeholder's thoughts, specifically, on how reparations affect women and how women could benefit from it. The analysis of the interviews and the input of the stakeholders will then be used for advocacy purposes.

Methodology

Phone interviews were conducted with ten stakeholders to understand their perspectives and recommendations regarding women and reparations. A key focus of the interviews was to understand the importance of reparations to women and their gendered impact. All interviewees were asked nine questions and follow up questions to understand their views better. The interview participants were selected based on their involvement with peacebuilding and community work while having a general understanding of reparations.

Participants

The ten participants were diverse in gender, ethnicity, profession and geographical location. Among the participants were lawyers, religious leaders, journalists, community activists, academics, and government employees. All participants were aware of the Office for Reparations and the transitional justice efforts that have been carried out since 2015 in Sri Lanka.

Reparations seen as holistic, transformative and sustainable

All participants had a good understanding of what reparations meant and how it aimed to address the challenges of the ethnic conflict and other civil and political unrest. While some resorted to the definitions carved out by the United Nations, others explained it in terms of how they understood it based on the needs of the community.

"I didn't live through the war. I left during the 83 riots. Now that I am back, I am in search of my identity... So, I think for me, it would mean having an understanding of who I am and how I belong here."

A Journalist

Some participants like the one who is quoted above were affected individuals themselves. They spoke of reparations in terms of what they were expecting for themselves. Reparations, while aiming to provide tangible remedies as acknowledgements of harm, is also considered as a transformative agent by some. Similar to the participant above, some considered reparations not just in terms of money or tangible goods and services, but also as a vehicle that will change attitudes and mindsets and transform the social realities of affected communities. This is in line with Pablo de Grieff's recommendations on reparations where transformation is a key aspect of it¹.

"It's an attempt to restore the honour and dignity of families, communities, and individuals."

A Local Government Official

An important point raised by many of the participants was the need for reparations to go beyond compensation and focus on aspects such as memorialization and acknowledgement. Another participant noted that it was a multi-faceted process.

"And it can't be just about compensation. It has to be about memorialization, about asking for forgiveness. Resources only cannot satisfy the victims."

A Practising Lawyer

"Reparations also mean making space for memorialization and remembering your loved ones. Whomever they may be."

A Practising Lawyer

¹ The Handbook of Reparations, Pablo de Grieff, 2006

"There has to be acknowledgement and explanations. That's very important."

A Community Activist

As seen above, quite a few of the participants felt the need for memorialization and symbolic acts that would acknowledge the harm and loss of the war and other unrests. This was also in criticism of previous efforts at providing money or other goods and considering it as the only form of reparations. What many of the participants indicated was that it needed to be a holistic process that considered the psychological, physical, and social needs of affected individuals and communities. A few of the participants also highlighted the importance of the state acknowledging the harm that was caused and seeking forgiveness from affected families.

The general understanding of reparations among the participants was that reparations aim to address a loss. They referred to the loss of lives, the loss of physical mobility, the loss of property, and the loss of financial and employment opportunities.

"For example, loss of education. That's a huge thing. So many people lost opportunities to have a good education because of the various political unrest we've had and the war. A girl I know wanted to be an engineer. But she had to leave her studies because of relocating so much during the war. Now she is old. She has no hope."

A Community Activist

"Then there's also loss of property. People don't even have enough money to build a house. What they get from the government is not enough. Whatever they had before must be restored."

A Journalist

Participants also commented, that reparations aimed to address these losses, need to be sustainable, authentic, and useful. Many felt that it could become a box-ticking exercise. They tended to measure the success of a reparations process by the state's thinking and effort behind compensating and addressing these losses.

"It's also important to consider the psychological toll. That's a violation of someone's human right, to have that much emotional trauma inflicted upon them."

A Community Activist

Linking reparations to justice and truth

The need for truth and information was also a key concern raised by a few of the participants.

"Definitely loss of families and missing persons. They need answers. People need to know the truth. People need information."

A Journalist

“And then there’s the right to the truth. So many people want to know the truth. The truth of what happened to their missing loved one. That’s vital to address through reparations.”

—
A Community Activist

The participants felt that reparations had to address the void in information and ‘truth’, among victims and the general public. Especially in terms of missing persons, the participants felt that it was pertinent that the State provides some answers

Rebuilding women’s lives through reparations

A serious concern raised by many participants was that whatever reparations are given to women; they cannot be ad-hoc. It had to be well thought out and address the myriad of needs that women have.

“There needs to be a special program for women that addresses the economic, social, and political aspects of their challenges.”

—
A Lawyer

“It has to be a holistic approach. You cannot give goats and chickens to solve deeper problems.”

—
A Lawyer

While some felt that compensation would help, they also felt that it needed to be realistic of the financial losses these women continue to face

“I don’t want to generalise, but for many of them, monetary compensation would help. But it has to be done properly. It has to be sustainable.”

—
A Community Activist

There also needs to be things like interest-free loans. The Indian housing scheme gave around 10 lakhs per family. The labour charges had to be borne by the family. This is very difficult for female-headed households.”

—
A Local Government Official

If the Office for Reparations were to compensate affected women or female-headed households they would need to take their existing economic condition into serious consideration. Many of the participants felt that tokenistic compensation efforts would not be beneficial to female victims. After more than a decade of waiting, they deserved sustainable and useful compensation packages. Some participants also talked about the infrastructure that existed in order to enable these women to make good use of the reparations provided to them.

“There is no point in providing employment opportunities if there is no infrastructure to help women sustain that.”

—
A Journalist

“When we talk about women we also have to talk about their children. Something also must be done to take care of these children.”

—
A Practising Lawyer

One participant felt that while providing employment opportunities for women was good, many women found it difficult to engage in full-time work while managing their households and taking care of children. She suggested that the government should also provide the necessary infrastructure such as daycare centers, allowances, and transport in order to effectively engage in employment opportunities. This also relates to the need for a holistic approach.

Battling insecurity, social stigma and cultural barriers

A key concern raised by almost all of the participants was the social stigma that women faced in their communities.

“There’s also so much communal stigma. Women can’t go out to work or work late. They already have lost so much; and then they have this added burden. Something needs to be done about that. On top of that, there are also religious constraints.”

A Journalist

Quite a few of the participants said that women were both extremely vulnerable during and after the conflict. Many of the social barriers and threats to women have been exacerbated by the war.

“They also need protection. Women are vulnerable to so many other threats.”

A Lawyer

Commenting on female heads of households, a couple of the participants felt that they especially faced a lot of social stigma due to not having a male presence in their families. As research has shown, women have been vulnerable to threats such as sexual assault, sexual bribery, harassment, and other forms of violence because of their vulnerable position in the community.²

“For instance, social stigma is a huge issue. Women who have lost their husbands face a lot of that. They are sometimes ostracised and treated badly. Reparations need to address those as well.”

A Practising Lawyer

Three of the participants commented on the cases of rape and other gender-based physical violence inflicted on women during the war. One participant felt that an important remedy for this would be the search for truth.

“There must have been so many cases of rape and other violence inflicted against women during these times. It is important that there is a search for the truth, that there is a search for the perpetrators. That’s the best thing you can do. To take perpetrators to court and convict them. I think this would be the most useful reparation for women. They have been through so much, there needs to be some form of justice.”

A Community Leader

² “A study on the Status of Female Heads of Households and their access to economic, social and cultural rights- Anuradhapura district”, Fokus Women, 2015

As mentioned by this participant, a general understanding of reparations in many communities, was that it was closely tied to justice. This is also reflected in the Consultations Task Force report published in 2016³.

Many victims felt reparations alone could not satisfy the losses of victims, that for it to be authentic it needed to be closely tied to forms of justice.

The need for psychological support

With the prevalence of violence against women, both during the conflict and after, a few of the participants felt the need for psychological support to be given especially to women.

"There is also a fear of reporting incidents of violence, so women need psychological support."

A Local Government Official

"They also need psychological help. The conflict has had a huge toll on them and they have very few opportunities to deal with it. They have to go about their lives and their burdens are heavy."

A Practising Lawyer

The overall need for psychological support for all victims was a concern raised by all participants. But for women especially, the need was amplified. One religious leader also felt that "Women have to regain their dignity in many forms". Psychological help, access

³ Consultation Task Force Report Vol. 1, 2016, p.98
<http://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf>

to sustainable employment, awareness to curb stigma would all contribute towards women regaining their dignity in their communities.

Creating spaces for open dialogue

Amid the overwhelming challenges that women face they must have enough spaces and opportunities to openly and safely talk about their experiences. When the interviewees were asked about this, all of them felt that nationwide women did not have enough opportunities to safely share their experiences of conflict and unrest.

"No there isn't enough. They are slut-shamed. Women can't use words like 'sex' or 'sexuality'. They can't use words like rape. There's generally a backlash. Women face a lot of cultural constraints and they don't have enough freedom or opportunities to talk about the issues that affect them."

A Journalist

"But not always. And even if they share something, they can't often share every aspect of their experience. Some of it is seen as taboo. And they can't really delve deep into what happened to them which is unfortunate."

A Practising Lawyer

As the two participants shared above, even when women have opportunities to express themselves, it is often faced with cultural constraints where they need to censor themselves to speak of only what is acceptable. One participant even noted that while it was acceptable for women to talk about death,

The Southern perspective on reparations

bomb blasts, and physical loss, their communities did not find it acceptable when they shared about their experiences of rape or domestic violence. Similar to this another participant noted that while women may share some parts of their story, they may not feel safe or comfortable to share all parts of their story. This poses a serious problem for women and further highlights the need for psychological counselling and support.

“Some issues they are unable to talk about. Female ex-combatants are unwilling to talk about it. There’s a lot of stigma around them. There’s also a very real fear about consequences.”

A Local Government Officer

The fear of consequence is also another major factor for why women may not engage in spaces where they are able to share their experiences. While the opportunity may be a good one, the repercussions from the community, from their own family would have to be dealt for a long time. Here, again, participants indicate the need for changes in attitudes and mindsets along with reparations. They indicate that for reparations to be truly effective and sustainable it must be coupled with social change. If not, it would occur in a vacuum, and not have the transformative effect it so rightly hopes to have.

Another participant highlighted an issue in sharing experiences across ethnic and geographical lines.

“In the South, the problem is that some of these experiences happened so long ago that they don’t really talk about it anymore. But the pain is still there. This has also caused a rift between the two ethnicities. The women in the South may feel neglected. In the North and East, I feel, there is more space for women to come out and speak about their experiences.”

A Lawyer

The participant here raises an important point. Not only is it important for women to have opportunities to share their experiences, but it is also important to seek out women, who typically may not share their experiences. As the participant points out, women in the South whose experience dates back many years, may not feel the need to talk about it anymore. But it’s important that they do. The Office for Reparations should consider this as they continue consultations. This also relates to the void in information and dialogue. Opportunities for women to speak would mean the ability to understand not only the woman’s concern but also the concerns of children, the community, and the city or village as women have shown a great propensity to be socially engaged, especially during times of uncertainty and trouble.

“Women construct the community. If they suffer the entire community suffers. We have to be mindful of the contribution women make to society.”

A Practising Lawyer

Awareness on the Office for Reparations

"It has to be an authentic process. I think that's the most important thing. What they do has to be genuine, if not they can never win the trust of the people."

—
A Community Leader

Across the board, all participants felt that the key role of the Office was to carry out an authentic and genuine process. All of the participants felt that the only way this process was to be effective was if it was well thought out and if there was a genuine desire to address the harms that have been caused. A few of the participants also questioned the probability of any program being carried out by the Office, given the recent political changes. They felt it was futile to expect anything from the Office for Reparations.

Another key recommendation brought up by some of the participants was that the Office for Reparations should acknowledge the pain and grief that has been experienced by victims.

"Acknowledgement is key. Their needs to be an acknowledgement of the grief that has been experienced by these people. That should be one of its main roles. Then they should work towards repairing that grief."

—
A Journalist

Especially when victims and affected families are doubtful of the State's commitment and the ability of the Office to carry out its mandate, it is vital that the Office works towards winning the trust of the people by fulfilling one of the key facets of reparations; acknowledgement.

Many of the participants had to balance their concerns over the probability of the Office being able to carry out their mandate when sharing their views on what its role should be. Hence, much of their emphasis was in the process and the manner in which the Office should carry its work, as they felt that it was vital for the Office to first establish some trust and prove its credibility.

Gender considerations of a reparations policy

In relation to the Office's policy and women, one participant shared that it was important that the Office seek out victims.

"Sometimes some people are left out during programs like this. That's why people are frustrated. It is important to identify those in the peripheries, those that don't necessarily stand out as victims, that have had some right violated. But we also have to ask how they will determine this; will a points system be used?"

—
A Community Leader

The same participant also felt that many women did not want to engage anymore. This meant that the Office would need to actively seek affected families and victims in order to be inclusive and comprehensive in its reach. Another participant emphasized the need for women to be in all levels of decision making within the Office. The participant mentioned that women's representation could not be tokenistic. Along with this, another participant mentioned that the composition of the Office needed to include individuals who had an understanding of the grassroot reality.

“Civil society needs to play a key role in the shaping of the Office and its work.”

A Religious Leader

Many of the participants also felt the Office needed to be a place that was safe and comfortable for victims to come and share their experiences. Especially women who have experienced rape and other forms of sexual violence needed to feel safe and secure in the Office and with the staff. As mentioned multiple times by the victims, because there exists a deficit of trust, it is the Office that must be active and take the initiative. One participant also mentioned that victims should not be treated as if they are being given handouts. The process of providing reparations was a responsibility of the State to affected individuals and not an act of charity.

Prioritization of women and their contribution to national healing

Three of the participants felt that women should be prioritized when receiving reparations. They supported this view by noting that women were some of the most vulnerable victims, along with children. Therefore, they needed to be prioritized when receiving reparations.

“Their social position is a vulnerable one and I think reparations should address that first. Women also have various other responsibilities and have to care for the entire family. I think if you address her issues first then that would have a positive effect on the rest of the family and community as well.”

A Religious Leader

“Yes, I think women should be prioritized. Women are more vulnerable. They need psychological help. They’ve experienced gender-based violence. They have to receive support faster.”

A Community Leader

One participant noted that women were integral to the composition of the community, and by prioritizing their needs it would have a positive effect on the entire community. Another participant mentioned that women have shown a better propensity to be more careful with resources, and hence it would be a wise investment to prioritize women.

“Yes. Women are the biggest victims. Many of them have lost property, they’ve lost husbands and sons, and they have also become sole caretakers of families. A feminization of poverty has occurred. There is also a low participation of women in the labour force. But women are better utilizers of resources. So, it’s important to prioritize them.”

A Government Official

The other participants, while acknowledging that women had suffered grave challenges, felt that victims should be prioritized based on their immediate need and the gravity of the violation.

“No one should be prioritized. It has to depend on the gravity of the issue. There needs to be a system that identifies the status of the victim. Through that process, automatically women will get prioritized.”

A Lawyer

One participant noted that it may turn out that women may make it to the top of the list through this. Another participant pointed out what was important was not the violation but the current social and economic status of the victim. It was important to take that into consideration when devising a reparations policy. It was quite clear that many of them felt that addressing women's challenges through reparations would have an overall positive effect on the entire community.

All participants, however, did not think that women should be prioritized based on their ethnicity.

"No, not at all. I think women across the country belonging to all ethnicities have suffered. It's important to address all of that. All communities have grievances."

An Academic

All of them felt very strongly that all affected women, despite ethnicity, geographical location and the amount of time that had passed since the violation, should receive reparations.

"But you have to admit that there were many Muslim and Sinhalese people who lived close to the Tamil community in the North, were also affected. In that sense, perhaps the communities, and women with the most amount of damage endured and the more pertinent needs should be considered first for reparations. But ultimately all women that have experienced political violence and the conflict should receive reparations."

A Religious Leader

One participant did note that this could be an "administrative nightmare", but it had to be attempted with that approach. Another participant noted that while no ethnicity should be prioritized, it may be that women of a certain ethnicity have more immediate needs.

"There are affected women in all ethnicities. It'll be good if they can help all women who were affected. But I suppose that would not be practical. Ideally if everyone can receive reparations that'll be good."

A Practising Lawyer

Any prioritization based on ethnicity will only lead to more distrust, bitterness and division.

"No matter what part of the country you're from, a loss is a loss; and I think everyone should be considered equally. Economically there may be a difference, so you can consider that. But not along ethnic lines."

A Community Leader

Many of the participants felt that providing reparations to women would have a positive impact on the overall reconciliation and healing of the country.

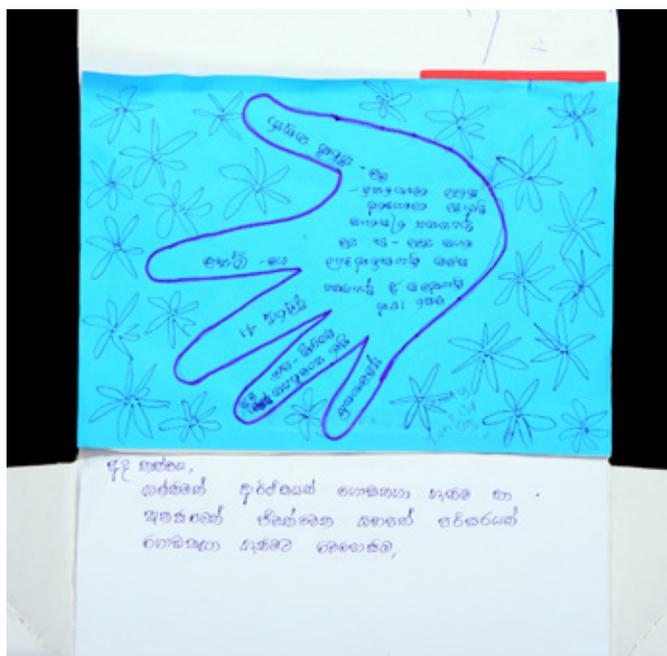
"Yes, most certainly. Without talking about women, you can't talk about reconciliation. It most certainly will help. But it has to be done right."

A Community Leader

A few of the participants felt that it would not have much of an effect unless reparations were provided purposefully and effectively. But they felt that reparations was only one part of it. Without justice, truth and accountability they did not feel it would have any effect on healing or reconciliation.

Stakeholders' Recommendations

- ✓ Set up Offices regionally, in order to reduce the gap between the community and the Office
- ✓ Carry out awareness programs about its mandate as not all communities are aware of the Office
- ✓ Avoid a language barrier. Victims should be able to share their stories in their mother tongue



- ✓ Staff should be well trained, sensitized and skilled
- ✓ Avoid being ad-hoc, and have a clear strategy and methodology when implementing reparations
- ✓ Create an effective system that breaks down the complex process of providing reparations to a large number of victims

- ✓ Create a safe environment for victims, especially women
- ✓ Provide women with sustainable and holistic reparations that consider the different aspects of their lives such as the economic, social and political
- ✓ Consider all women who have been affected and are eligible, across ethnicity and geographical locations
- ✓ Reparations must have strong links to truth and justice
- ✓ Memorialization must be an important component of reparations
- ✓ Civil society and government offices need to create more spaces for women to freely share their experience. More women, especially in the South, should be encouraged to share their experiences
- ✓ Psychological support must be provided to all victims and affected individuals
- ✓ Address social and cultural attitudes that continue to discriminate and oppress women and minority communities



Centre for Equality and Justice

325A1, Thimbirigasyaya Road, Colombo 05, Sri Lanka

Tel/Fax: +94 11 2055404, +94 11 2501457

www.cejsrilanka.org | srilanka.cej@gmail.com

 [/Centre-for-Equality-and-Justice](https://www.facebook.com/Centre-for-Equality-and-Justice)

 [/CEJ_SriLanka](https://twitter.com/CEJ_SriLanka)

 [/cej_srilanka](https://www.instagram.com/cej_srilanka)

 [/channel/CEJ Sri Lanka](https://www.youtube.com/channel/CEJ_Sri_Lanka)