



## INSIDE JUSTICE:

# Enabling justice for victim survivors of sexual and gender-based violence

### *Notes for Legal Practitioners*

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sexual and gender-based violence*



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The Asia Foundation

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## Introduction

Sexual and gender-based violence is a major human rights concern with evidence of increasing incidence and widespread prevalence. Yet, it remains a hidden issue in Sri Lanka where only a small number of incidents are officially reported and barely any cases end up in convictions. Insensitive handling of cases and victims of domestic, sexual and gender-based violence can deter victims from accessing the formal justice sector as they come to anticipate bad experiences within the courtroom and fear the system. A culture of impunity is bred as a consequence of victims being too afraid to approach the formal justice sector with the interest of holding perpetrators accountable for crimes committed.

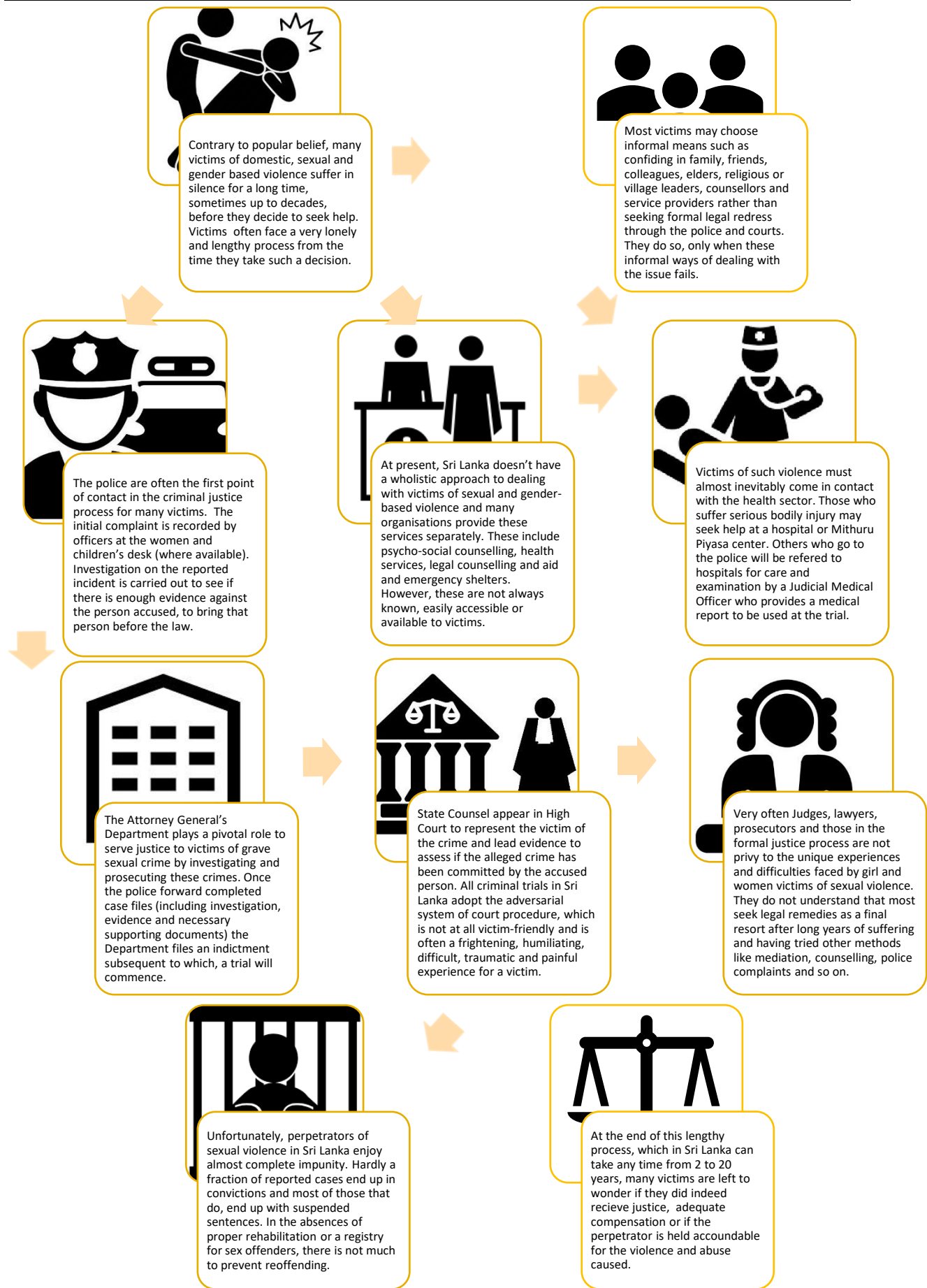
For victim survivors of domestic, sexual and gender-based violence, the justice sector with all its cogs, comes into motion once the violence has already taken place, and often once the victim survivor has made a decision to report the incident. In this process, victim survivors must deal with many actors: from the police to the judiciary or from investigation to sentencing; from counselling to legal aid and legal representation; from victim and witness protection to medico-legal and shelter services. While each of these actors must deal with the victim survivor only at one point, victim survivors must navigate through this entire system, within an intimidating sector, most often by themselves. This is especially difficult for victim survivors as the formal justice sector shows little understanding, coordination, commitment, or sensitivity to the experience and needs of women and girls who survive such violence.

While there was anecdotal evidence on how the formal justice sector responds to domestic, sexual and gender-based violence in Sri Lanka, there was little systematically documented information to understand the issues, challenges and limitations faced by the formal justice sector itself when handling these cases. There was also little information on the best practices and positive examples followed by the sector when handling such cases. Research shows that when legal professionals including Judges, lawyers, and prosecutors, medico-legal officers, court staff, counsellors, police and investigating officers, and others within the process are consulted, educated and sensitized on effectively responding to cases of domestic, sexual and gender-based violence, it could lead to a more responsive justice system, encourage victims to report, hold perpetrators accountable and influence positive social change. However, in Sri Lanka, these issues have low prioritization in the justice sector which leads to low awareness among legal practitioners and those in the sector.

Within this backdrop, the Inside Justice Project of The Asia Foundation in Sri Lanka, began an exploration of formal justice sector responses and practices when dealing with domestic, sexual and gender-based violence cases. This exploration was conducted during the period from 2016-2020. The main purpose of this was to explore if the formal justice sector and courts in Sri Lanka are safe and welcoming to victim survivors of these cases and use this information to promote sensitive justice sector responses. To this end, a wide range of individuals, organizations and institutions working on the prevention of and response to violence against women were consulted. Information was also obtained from research and literature; speaking to Judges, lawyers, prosecutors and service providers; observing court proceedings; reviewing case files and judgements and from hearing from victim survivors.

The findings documented through this process have been instrumental in providing a realistic picture of how victim survivors of domestic, sexual and gender-based violence are treated within the formal justice sector in Sri Lanka. Some of these findings have been consolidated in this brief document intended to bring these issues to the attention and understanding of legal practitioners and those with the authority and ability to make a difference in the justice process, to renew public faith in the justice process and thereby, ultimately influence positive social progress.

# What does a victim survivor's journey towards justice look like?



## Why are victims of sexual violence reluctant to access formal justice?

As depicted above, victim survivors of domestic, sexual and gender-based violence must often face a very lonely and lengthy process, from the moment they decide to report their case to someone, to the moment they await the verdict to their case. To make matters worse, the informal and formal justice redress mechanisms along this journey are strewn with difficulties and challenges that she must navigate through. (This document referred to victims as ‘she/her’ as most domestic, sexual and gender-based violence in Sri Lanka is perpetrated against women and girls.) While there are laws, systems and processes in place from the police to the courts to ensure these victims get justice and that perpetrators of these crimes are punished, victims are still reluctant to seek legal redress till it is their last and only option. Understanding the reasons behind this will help in understanding victims of domestic, sexual and gender-based violence. Here are 10 reasons identified through research:

1. **Knowledge on rights, laws and support services:** Community level work across the country shows that many women and girls are not aware of their rights nor of the legal remedies available if these rights are violated. Violence and the use of force in intimate relationships is almost normalized in the absence of these topics in formal education curricula or structured awareness programs. Many women are also not aware that there are organizations which provide free services including counselling, shelter, legal and other support services. *Would you report if you didn't know about or understand what you were getting yourself into?*
2. **Internal fears and inhibitions:** Most victim survivors, especially of domestic violence, fear that reporting and seeking legal redress for the violence they face will destabilize their lives and the lives of their children. Without the realization that a family with violence is already a broken one, they fear being the cause of breaking the marriage and family and losing custody of their children if legal relief is sought. *Would you still report if you were afraid of what will happen to you and your children?*
3. **Social stigma and victim blaming:** Outdated socio-cultural norms, myths and misconceptions puts the onus on women to stay safe, to be patient and tolerant, to keep family disputes and violence within the private sphere, to believe that men and boys cannot help themselves and to remember that going to a courthouse brings dishonor to the family. Since society often places blame on the woman, many women fear the social repercussions of seeking legal redress. Having to explain the incident in detail from the police to the courts, also brings a feeling of shame to the victim. *Would you still report if you knew that you will be blamed for the violence you faced?*
4. **Retaliation and exacerbation of violence:** Victim survivors, especially of domestic violence, fear returning home after making a police complaint or seeking formal help due to possible retaliation from the perpetrator. They fear for their lives as the violence can exacerbate after a complaint through further threats, intimidation, assault and other forms of aggravated behavior. They also have little faith in adequate compensation or just sentencing. *Would you still report if you knew that you might face more violence, or the perpetrator may not be punished at the end of the process?*
5. **Economic dependency on the perpetrator:** For victims of domestic violence, the perpetrator is most often, her husband or intimate partner, on whom she is economically dependent. It is therefore difficult to leave the abusive home environment, if the victim has no alternate

accommodation, no source of income to provide for her children and lacks the economic resources to access lawyers and courts. *Would you still report if it meant complaining against the person providing for you?*

6. **Lack of adequate and accessible services:** Regional discrepancies in the adequacy, availability and accessibility of legal and support services for women victims can be seen in certain post-conflict areas and economically lagging regions in the country. These include but are not limited to the lack of adequate counselling and legal aid services, lack of victim shelters, insufficient resources and training for prompt action, lack of trained officers for interrogation and investigation, insufficient service providers in local languages and lack of adequate courts. Victim survivors may also first seek informal means such as confiding in family, friends, colleagues, elders, religious or village leaders, counsellors and service providers rather than seeking formal legal redress through the police and courts. *Would you still report if you had difficulty in reaching service providers?*
7. **Intimidation with the legal redressal process:** Many victims have no experience in accessing the police or courts and have negative perceptions of the law, courts and legal mechanisms and fear going to the court houses themselves or standing in the witness box and giving evidence. As there is no proper guidance through the legal redress process, many do not understand the process itself, what is required of them and what should be expected during the process. Many victims, especially child victims of sexual violence, are not prepared to share their stories using terminology and formality expected by the courts. *Would you still report if you were afraid of the system?*
8. **Gaps in the law:** Many victims who access services note that they face sexual violence including marital rape. However, they have no means of getting redress, legal or otherwise, as marital rape is not recognized as a criminal offence in Sri Lanka. Additionally, domestic, sexual and gender-based violence faced by sexual minorities does not get reported due to archaic laws that criminalize same sex relationships. Outdated laws also do not adequately capture technology facilitated cyber violence against women. *Would you still report if you knew that there is no law to protect you?*
9. **Delays in the justice process:** Public awareness of issues and delays in the formal justice process discourage victim survivors from seeking legal redress. There are many delays during pre-trial investigation such as in getting medico-legal and DNA reports. Delays in filing the required documents by the Attorney General's Department also contributes to long delays of justice as does prolonged time taken to conclude a trial and deliver the sentence or compensation. Some service providers and members of the police who are aware of these delays also discourage victims from initiating a legal process. *Would you still report if you knew that it would take more than a decade for you to get justice?*
10. **Negative experiences of other victim survivors:** Despite issues, many victim survivors do build up the courage to make complaints to the formal law enforcement authorities. Unfortunately, many of these women have a negative and frightening experience from their first point of contact with the formal legal redress process, which is the police, right up to the courts. Officers in these institutions often have patriarchal and outdated views, do not believe the accounts of abuse given by victims, think such stories are fabricated, do not recognize domestic violence as a violation of rights and often treat domestic violence complaints as an issue which should be settled in the private domain. *Would you still report if you knew that someone who did was shunned away?*

## Why should justice professionals care about violence against women?

While cases of domestic, sexual and gender-based violence keep increasing, the formal justice sector in Sri Lanka remains unresponsive to the lived realities, experience and needs of women and girls who survive such violence. Seemingly, the formal justice system from the police to the courts of law, often alienate the very people they are bound to protect. But why should justice sector professionals such as Judges, lawyers, prosecutors, court staff, legal aid providers, administrators of justice institutions and policy makers concern themselves with gender justice issues? Here are some reasons:

### **1. To fulfill a global and national development priority.**

Several national and international policy documents and development plans emphasize in some way or the other, the need to provide special provisions to ensure gender justice to women. Sri Lanka has thus identified the importance of addressing the disadvantages and discrimination that women face in accessing and benefiting from the formal justice process by either developing, signing or ratifying such documents. These commitments include the Sustainable Development Goals (2015), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Policy Framework and National Plan of Action to address Sexual and Gender Based Violence in Sri Lanka (2016) and the National Policy Framework Vistas of Prosperity and Splendour (2019). If those in the formal justice sector make an effort to address gender justice, it would strengthen the State's policy level commitments and assurances to tackle sexual and gender-based violence.

### **2. To bridge the gap between effective laws and poor implementation.**

The legislative framework to prevent and redress domestic, sexual and gender-based violence in Sri Lanka is strong. The Penal Code was amended in 1995 and 1998 to strengthen the criminal law in protecting the physical integrity of women (and children). These included amendments to rape laws and offences such as procurement of any person for illicit sexual intercourse, anti-trafficking laws, criminalization of sexual violence, recognition of incest as an offence, and the prohibition of the publication of details which reveal the identity of victims of sexual crimes. The Victim and Witness Protection legislation of 2015 secured further protection for victims of violence. The Prohibition of Ragging and Other Forms of Violence in Educational Institutions Act of 1998 also criminalizes sexual harassment, grievous hurt, hostage taking, unlawful confinement and ragging by any person within an educational institution. The Prevention of Domestic Violence Act of 2005 provides a civil remedy for persons subject to violence (including emotional abuse) by a family member where they may seek a protection or interim protection order. While these laws are in place, the flawed implementation of laws, coupled with discriminatory socio-cultural interpretations of the rights, roles and expected behavior of women, often deny women access to justice in the formal courts of law. Justice sector professionals have a responsibility to ensure that these laws are implemented in a manner that reaches those in need.

### **3. To renew public faith in the justice system.**

The public and most victims lack faith in the justice system, and with good reason. There are several issues that underpin this mistrust including track record of long delays from the time the case is reported to the time of the verdict; the burden of proof on survivors; the lack of sensitivity and tact among justice sector personnel in handling such cases; the belief that courts are predisposed to ignore or dismiss victims' claims and the re-victimization of victims by the justice system. Re-victimization occurs when women and girls are afraid or unable to access the justice system, when they are not treated with respect and concern by the justice system, when the justice system does not give them the assistance and support needed to rebuild their lives, and when the perpetrator goes unpunished. Many of these barriers are embedded in the attitudes, infrastructure, policies, and practices of the formal justice system. The formal



justice system must work to improve its response to victims so that victims will be confident that they will receive a fair hearing in court.

#### **4. To hold perpetrators accountable for their crimes.**

The formal justice sector bears the prime responsibility for ending impunity for violence against women and girls and has the duty to hold perpetrators of sexual and gender-based violence accountable through imprisonment, fines, or rehabilitation. It is the only system that can hold perpetrators accountable to the acts of violence and crime they have committed and enforce legal remedies. Unfortunately, in Sri Lanka only a fraction of reported cases of sexual and gender-based violence end up in conviction and most that do are given suspended sentences. The justice system can provide swift and sure punishment for acts of violence, and thereby convey the message to society that violence against women and girls is not acceptable and may even deter future acts of violence and encourage more reporting.

#### **5. To maintain the link in the chain of response to victims.**

Effectively responding to cases of domestic, sexual and gender-based violence requires the input, coordination and commitment among various sectors such as the health, education, social service, policing, justice, employment and media sectors. Many of these sectors have made strides in recent years to improve their knowledge, understanding and response to victim survivors of violence. Health worker sensitization, standard operating guidelines for police, educational programs, anti-sexual harassment policies, and awareness raising are just a few initiatives taken by these sectors. However, not much has changed within the justice sector apart from ad hoc attempts to raise awareness and sensitize the judiciary, prosecutors, and private Bar, no concerted effort has been made to mainstream sensitive responses to such violence in the formal justice sector or in formal legal education. There is still a dire need to recognize the flaws in the formal links of the justice chain and work with administrators of justice to provide redress and prevent sexual violence against women.

#### **6. To influence progressive social change.**

Response to, and redressal of domestic, sexual and gender-based violence against women in Sri Lanka is steeped in discourse that provides socio-cultural explanations which in many ways, justify and trivialize sexual violence against women and does not support the clear acceptance that the formal justice system has an important role to play in addressing such violence. These views are also held among many of those in the formal justice sector. However, transformational change in society can be achieved if all sectors continue to promote and work together towards gender equality through justice systems. Ensuring equal access to justice for all, equal treatment before the law, and treating sexual and gender-based violence and crime with the seriousness that it deserves, will no doubt create a significant change in society, beyond its justice system.

#### **7. To change the life of at least one person.**

Making the decision to report an incident of domestic, sexual or gender-based violence, is probably one of the hardest decisions a victim survivor of such violence must make. Officially reporting the incident means that she must disclose details that she would much rather forget, to strangers – strangers from the police, to medical personnel, to legal and justice sector personnel and many more strangers who will hear her story in court and sometimes in the media. A single act showing some sensitivity, understanding and acknowledgement to these difficulties by justice sector professionals can go a long way in helping victims of violence become survivors of violence.

## **What are some misconceptions that prevent justice for victim survivors of gender-based violence?**

Those within the formal justice sector such as Judges, lawyers, prosecutors and court staff come from diverse socio-economic, cultural, educational and political backgrounds. They come from a society ingrained with diverse perceptions, attitudes, biases and misconceptions that often deny, trivialize or stigmatize the experience of victim survivors. Unfortunately, these biases also find their way into the courtroom and sometimes, keep cases from getting there in the first place. Below are a few common misconceptions held by justice sector professionals in Sri Lanka in relation to domestic and sexual violence. The quotes reflect abridged perceptions of those consulted through the Inside Justice Project.

- ***“Girls have relationships with men and ultimately make false rape allegations”***

Many justice sector professionals including Judges and defense counsel are of the opinion that there is a high risk of fabricated cases and false reporting of domestic, sexual and gender-based violence for reasons such as revenge or financial gain. With little understanding of the reasons behind delayed reporting; consequences of the trauma and its impact on a victim’s ability to coherently or fully recount experience in court; apparent emotional numbness of some victims when relaying their cases; and difficulty faced by some victims to talk to male prosecutors/lawyers, most justice professionals view victims as not credible and this feeds into their misconceptions about the prevalence of false allegations. Such perceptions on fabricating sexual offences among professionals, place the victim in an extremely vulnerable situation to prove the case over and above ‘beyond reasonable doubt’ as required by the law.

- ***“There must be evidence of struggle to prove sexual violence”***

With little understanding of the nature of domestic and sexual violence, including emotional and psychological abuse; and tactics used by perpetrators (coercion, threat, intimidation, blackmail, duress and grooming), courts often stress the need for some type of evidence of struggle or corroboration of the victim survivor’s allegation. This misconception is explained in the *Report of the Leader of The Opposition’s Commission on the Prevention of Violence against Women and the Girl Child* (2014): “Although rape is rarely a public act, Judges have continued to be wary of convicting in the absence of corroboration by an independent witness. Thus, women victims of sexual violence are often required to meet evidentiary requirements not required of other victims of violence, and there is a prior discriminatory assumption that in cases involving sexual abuse a woman victim's evidence is unreliable.” Therefore, justice sector personnel continue to expect corroboration and evidence of struggle even though it was removed from the law of evidence.

- ***“Postponing cases are a normal and acceptable part of the court system”***

Long delays within the legal redress machinery from delays at the level of police investigation, the Attorney Generals Department and during trial, have become part of the formal justice process in Sri Lanka, including for sexual crimes. One of the main contributing factors to the delays during trial are serial hearings (trials conducted in installments, usually of one witness at a time, followed each time by a long postponement) among other inefficient court management practices. These delays further create a backlog of cases at all levels and have a detrimental effect on the victim survivor. While these delays maybe considered ‘normal’, they must not be acceptable. This is especially as the Judicial Services Commission issued directives in effect since November 1, 2016, to expedite and prioritize cases pending for more than 10 years in the District Courts and five years in Magistrates Courts to be disposed of within one year. These cases, once taken up for hearing are required to be taken up on a day-to-day basis with the recording evidence of witnesses during that period. While this directive will address the

issue of delays, it is difficult to gauge the extent to which the directives have been implemented since 2016 and if it has changed the attitudes of legal practitioners.

- ***“Family matters can be ‘settled’ out of court using informal means”***

Cases filed under the Prevention of Domestic Violence Act of 2005 are often frowned upon by legal professionals including Judges (some of whom have even informed court to not bring such cases before their bench or to not waste court’s time with such cases). This socio-cultural environment has promoted reports of sexual violence against women being relegated to informal and semi-formal justice systems such as mediation boards (described as family disputes) and practices of mediating and settling of such crimes at the first point of entry to the justice system, the police. Alternative dispute resolution systems and informal justice systems are therefore also being used in resolving domestic, sexual and gender-based conflicts and violence. However, the intention of the law remains unequivocal in its acceptance that crimes of sexual violence against women must be dealt with only by formal courts of law and not by alternative dispute resolution or informal means. The fact that alternatives are not provided for in the justice chain to deal with crimes of sexual violence is evidence of such a stance.

- ***“Mandatory sentencing is too harsh for perpetrators of sexual violence”***

Conviction rates for sexual violence including rape and statutory rape have been extremely low in recent years and there have been several cases where a suspended sentence was passed on cases which carry a mandatory minimum sentence. The Lawyers for Human Rights and Development report, *Justice – Suspended. A Study of Suspended Sentences for Sexual Offenders* (2012) comments on the judicial practice of justifying suspended sentences for perpetrators of sexual violence against women thus trivializing the gravity of the issue. In 2000, a judgement of the High Court on rape where the conviction carried the maximum sentence was overturned by the Court of Appeal on grounds that the behavior of the accused did not amount to rape but was instead described as a “failure to behave as a cultured man” not warranting conviction for rape and the accused was thus acquitted of all charges (*Kamal Addararachchi V State* 2000 (3) Sri Lanka Law Reports 393). In 2008 the Supreme Court judgement (SC Ref 03/08 HC Anuradhapura case no 333/04) of an appeal from a High Court case upheld imposing a suspended sentence on a man convicted of statutory rape in lieu of the 10 year mandatory sentence that is carried in the Penal Code for statutory rape. Unfortunately, these judgements led to a prevalence of giving suspended sentences, confirming such misconceptions and further trivializing for crimes of sexual violence against women.

- ***“Civil society organizations exploit and profit from cases of domestic and sexual violence”***

Justice sector prejudices against civil society organizations (CSOs) are apparent where such organizations are rejected and affronted when they attempt to support justice sector institutions, file cases on behalf of victims and conduct other out-reach and awareness raising programs. However, over the years, CSOs in Sri Lanka have worked tirelessly to support legal, policy, and procedural changes to address domestic, sexual and gender-based violence. Activism by women’s organizations enabled amendments to the Penal Code (that set-in place stringent legal provisions for prosecuting sexual violence against women) and enabled a civil remedy through legislation on preventing domestic violence. CSOs contribute to multi-sectoral state-led plans, raising awareness, disseminating knowledge, and facilitating community action. The government often relies on CSOs to supplement its work on service provision to victim survivors of violence: to raise awareness, to document and conduct research and on reporting to diverse national and global fora. However, one area where CSO participation is low is in the formal justice sector due to prevailing negative attitudes.

## Are courts safe for women and child victims of violence?

Recent years have shown several progressive and positive steps towards understanding and addressing cases of domestic, sexual and gender-based violence within the formal justice sector. Yet, many negative and outdated attitudes, practices and processes also exist within the formal justice sector. The Inside Justice Project was able to capture some of these through the extensive research and documentation that was conducted during the almost five-year duration of the project. This research captured recent studies and literature; the experience of justice sector professionals including Judges, lawyers and prosecutors; observations of cases of domestic, sexual and gender-based violence; opinions of experts in the field; views of psycho-social and legal service providers to victims and narratives from victim survivors themselves. It was encouraging to note that despite the shortcomings and challenges within the sector, there were several features that show clear progress in the right direction in order to make courts safe for women and child victims of violence.



One of the most positive findings was that where there was **judicial commitment to case management - there was a significant improvement in the efficiency** in hearing and disposing cases of domestic and sexual violence. Some Judges play the role of case manager and take control in order to support the efficient administration of cases and take steps to manage delays. This was mainly seen when leading evidence with minors, short scheduling or scheduling of such cases on consecutive or regular trial dates and establishing goals for case backlog reduction. When victims were cross examined, some Judges were seen observing proceedings attentively. Some Judges also instructed lawyers to complete taking evidence of the witnesses who came from far away destinations. Judges were observed to be very strict with the lawyers on postponements in such cases unless there were exceptional causes which would warrant a postponement of a case. Some Judges focused on speedy disposal working beyond hours and took special interest in case management, setting targets for case disposal.



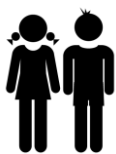
A significant finding on the treatment and response to victim survivors of domestic, sexual and gender-based violence within the court was that there was a positive response and experience of the whole process when there was **judicial sensitivity and interest as it trickled down through the judicial process**. Some Judges gave the victims time to speak, spoke with and gave a fair hearing to both parties, advised them, explained the applicable laws, showed empathy, were unbiased, got personally involved in leading evidence to ensure all the evidence was well presented, ensured the safety of the victim inside the court house and were knowledgeable enough to refer victim survivors to service providers (psycho-social counselling and shelters). These factors put the victims at ease in presenting their case and had a positive influence on the defendant's future conduct and served as a deterrent for repeated abuse. In such instances where Judges showed sensitivity, even some defense lawyers also took the cue and while looking after the interest of their clients, did not show signs of intimidation or harshness even during cross examination and did not unnecessarily insult or badger the victims. Court staff, although not actively involved in dealing with such cases, also carried out their tasks with interest and care, where Judges closely supervised post proceedings and made remarks from the Bench as to how the protection orders should be sent to the respondent forthwith; how the victim should get a copy of the same; and how the victim should inform the police or the courts if the conditions were breached.



One of the main findings was that several Judges presiding over domestic, sexual and gender-based violence against women and children from around the country were adopting measures to **hear cases in the Judge's chambers confidentially or away from the public eye**. If the victims were not comfortable to give evidence in front of others, such cases were taken in Judges' Chambers. Cases were also heard in Judges' Chambers if there were children involved. Some Judges also separate the domestic violence cases and take them up separately/in chambers allowing the victim to speak more comfortably than in open court. Others also allocated a date when they have less cases or a selected day of the week to hear cases of domestic, sexual and gender-based violence. Some Judges had introduced a special case management system to hear all the family matters including domestic violence and maintenance cases as well as sexual violence cases, for example, on Fridays. However, it was also noted that these measures were not institutionalized and depended mainly on each individual Judge and their personal experience, understanding and sensitivity to these issues. Where these measures were observed, victim's perspective and experience of the whole justice process also tended to be positive.



As many victims of domestic, sexual and gender-based violence enter the court room with little understanding of what is in store, it was positive to note that some lawyers and legal aid providers **took the time to prepare and guide the victim beforehand** on court procedure, dress code, what to expect, some of the terminology that will be used to describe the incident, attitudes of justice sector personnel she may encounter and other practices to reduce their fear and intimidation of the whole process. They carefully negotiate with the victim on how much of her story she wants to relay as most victims are not comfortable or willing to discuss every detail of the violence they have faced. These steps were observed only for civil or domestic violence related cases as unfortunately it is the practice of the prosecution (Attorney General) to not engage in prior consultation with the victims / witnesses before evidence is led in court. Unfortunately, it was also noted that some junior lawyers who appeared for the victims appeared unprepared and were unable to submit sufficient oral and written evidence due to incompetence and lack of required knowledge. Many seemed to be unaware of new laws, amendments to laws and new case law with the latest developments.



It was observed that Judges took **special attention and care when dealing with cases against minor children**. These cases ranged from grave sexual abuse, statutory rape and incest. Minor victims involved in these cases showed uneasiness and anxiety inside the courthouse and were reluctant to give evidence in open court. In such cases, some Judges took special measures to ensure the privacy of the minor: either taking the case in the Judge's chambers or asking irrelevant parties to leave the courthouse during the case proceedings. Some Judges instructed parties not to bring children of school-going age to court in the morning and deprive them of their studies, these cases were taken up in the afternoon. A genuine effort was made to finish taking evidence from children in one day without calling them repeatedly. Judges intervened when evidence was taken from the child victims to ensure the proper leading of evidence and to see the process is duly followed by the lawyers and the police. In a rare observation in cases of incest involving minors, one Judge had come up with a solution to help lead proper evidence, namely, by keeping the suspected family member in remand until the conclusion of the evidence of the child victim. However, these were exceptions and in most cases, there were no special mechanisms in order to reduce minor victims fear and anxiety, no child friendly environment in the courthouse or other facilities to ease the process for minor victims, thus creating a dilemma for even the sensitive Judges.



In most instances, cases and victims of domestic, sexual violence and gender-based violence were **treated like any other court case or person present**. There were only very few instances where sensitivity was shown to the vulnerability of victims of sexual violence, child victims of abuse, senior citizens or those with different mental and physical disabilities. In very few instances Judges gave instructions to lawyers to mention special needs when the motions are filed so that such cases will be given priority. The socio-economic and political landscape across Sri Lanka is as diverse as its geographical landscape and there are visible regional disparities in the availability and accessibility for services including legal services and access to courts, police stations and other support services such as shelters. As there is no single profile for victims of domestic, sexual and gender-based violence, it is unfortunate that courts do not consider factors such as age, sex, race, religion, nationality, (dis)ability, sexual orientation, gender identity, marital status, income/poverty levels, literacy and educational attainments and the intersections of these, and treat all victims as a homogeneous group.



One of the common findings from around the country was the **hostility of defense lawyers**, especially in Magistrate Courts, where they demean the character of the women victims in an attempt to justify the violence. Defense lawyers showed no sympathy towards the victims even with severe forms of physical abuse and imminent danger to their lives. Their tone was very harsh, intimidating and insulting, making submissions that women victims often make up and fabricate such stories of abuse and violence and ask irrelevant questions during cross examination. There were several instances where they make use of the sexual violence victim's (even child victims') reluctance to present evidence related to the incident and demand the release of the suspect based on this ground. It is unknown if this is due to their lack of awareness on re-traumatization and other issues faced by victims of sexual violence or if they are exploiting the situation for their own benefit. Judges usually do not intervene when the defense counsel are harsh or insult victims, but in instances where they do, defense counsel were seen to take a more refined approach.



It was unfortunate to note that most of those within the formal justice sector, **used personal – often outdated and patriarchal – views and subjective experiences to understand and navigate cases** of domestic and sexual violence. Women victims were often scrutinized and questioned on their appearance or choice of clothes. Some Judges were also noted to have made statements drawing on their own experiences, marriages and relationships to relate to and respond to cases of domestic violence. In a few instances, it was also noted that female Judges were unempathetic towards women's issues and were sometimes even hostile, finding fault with the women who sought relief and made comments in open court that private matters should not be brought to courts to be resolved. Family Counsellors did not appear to play a neutral role and are seen to have patriarchal and familial ideologies negative towards women. Family Counselors are appointed by the court and come under the purview of the Judicial Services Commission to mediate between parties and to find a solution that best fits all individuals involved and respond to referrals by Judges before such family disputes are taken up for trial. They were seen to forcefully settle disputes despite the existing evidence of severe violence against the victims, were often very harsh and rude towards the victims and did not demonstrate tact or sensitivity when dealing with cases especially related to matrimonial disputes, maintenance cases, child custody cases and issues of domestic violence.



There were several negative and insensitive observations noted during domestic violence and divorce cases, where some Judges had **not issued interim relief** even when there was evidence and other testimonies presented in courts making it manifestly clear that were severe forms of physical and emotional abuse. Instead, there was a practice of summoning the defendant prior to granting interim relief. In such cases, it was found that Judges are not inclined to give effect to provisions in the Prevention of Domestic Violence Act of 2005 (PDVA) and grant interim relief without the presence of perpetrator, defeating the very purpose of the PDVA that provides that upon receipt of an application for a protection order, the court is given the power to issue a protection order. In determining the need for issuing a protection order, the Judge is expected to consider the safety of the aggrieved person and need to prevent any further commission of such acts. Under the provisions of PDVA, a Magistrate is empowered to issue an interim protection order without the case being proved by the aggrieved party which would be valid for 14 days and can be extended for 12 months upon the evidence produced by the aggrieved party in courts. Most Judges also demand evidence to proceed with cases of domestic and sexual violence, requiring comprehensive medical evidence such as hospital admission details, hospital bills, prescriptions, doctor's reports and other such evidence. However, very often with cases of physical violence where victims have marks and bruises on their body, they do not even go to the doctor or hospital. In the off chance that victims go to the hospital, they may not divulge to the doctor that their injuries were caused by abuse. Judges are hesitant to issue interim relief when there is only emotional abuse in the absence of physical injuries whereas the PDVA has provided that protection orders can be obtained based on emotional abuse. While this reflects the intention of the legislature towards the safety of the victims affected by domestic violence, the practical application of it showed several drawbacks.



Research also looked at some of the **infrastructural facilities available in courts** and noted that there have been some facilities set in place to ensure sensitivity towards victims of sexual and gender-based violence. The National Child Protection Authority (NCPA) has initiated a video evidence mechanism for abused children. However, there were several practices and facilities that were quite traumatic for victim survivors. The identification parades faced by victims is one such example, where they are required to stand in front of several suspects whom they do not know and touch the perpetrator in order to evade doubt and make an identification. The general court environment is also not very conducive for victims to speak out – the courts are crowded with various matters being taken up and women and child victims of sexual violence feel uncomfortable to disclose the abuse they have been subjected to.



Many victims found **sentencing and compensation to be inadequate** to the violence and suffering they were subjected to. Judges in most domestic violence cases try to reconcile parties and make it their primary concern to 'fix' the family, the wellbeing of the women (and her children) becomes the secondary concern. Some Judges were also noted to develop a negative attitude towards women victims who do not want to come to a settlement and expect them to be satisfied with the negligible amount of maintenance that would be awarded. Some cases of sexual violence are so brutal and severe indicating that the men/perpetrators may suffer from some form of mental illness. Some Judges are not sensitized to identify that some of the violence is perpetrated by those with mental abnormalities and prevent them from ordering medical treatment or counselling to identify and help them with their issues. Although these are not explicitly noted in the law, Judges have the authority to request these. Suspended sentences given for sexual violence cases that carry a minimum mandatory sentence was another factor that shows that the formal justice sector does not treat such cases with the seriousness that they deserve.



One of the most common issues also noted were regarding the **post proceedings of a case with no proper follow up**. One such issues was on the implementation and execution of protection orders in domestic violence cases. Most often, the Court Registrar who is required to send such notices to the respondents, do not attend to it promptly or send a copy of these notices to the relevant police station. As a result, there were many reported incidents of non-compliance with protection orders where victims were harassed at their homes, on their commute, at their workplaces and at religious institutions. Another concern was on the lack of a systematic method of collecting maintenance and the lack of proper measures taken when payment of maintenance is evaded. Women face many difficulties as they must go to the court or the police station at an appointed time every month to collect the money, and in most instances, she is not notified in advance if there is no money to collect; or if the payments are made in lesser amounts than ordered; or if a respondent says he cannot pay because of unemployment. Regardless, women receiving maintenance must pay their lawyers an agreed-upon amount following maintenance collection and still have to make this payment even if they don't receive it.



Finally, the research also showed that **justice delayed is indeed, justice denied**. The delay in justice was made evident through the judgements of completed cases which show an average time period of 10 -12 years between the date of petition and final verdict. Research revealed that one of the main reasons for this prolonged delay is the delay during stages of pre-investigation, investigation and prosecution. Despite the immense effort taken by the law enforcement authorities and the formal justice system to serve justice, practical challenges and barriers faced during each stage contributed to laws delays. The lengthy time lag between the incident of violence and the time of conviction has a negative bearing on the psychology of the victim. As a result, victims tend to withdraw their cases which leads to impunity on the part of the perpetrators and reluctance of future reporting on the part of victims. A victim survivor whose case went on for eight years noted that although the incident was grave, she could not remember the details of the incident when she was examined- in- chief seven years after the incident occurred and was disappointed that the suspects were still free. Another victim added that the judicial process for sexual violence cases is rather lengthy and strenuous for the victim and the process has a tendency to re-trigger the distress experienced during the incident. Many victim survivors lose hope in the judicial system due to the many delays and difficulties they face, leading them to wonder if they even received justice, in the event that their case reached a fair verdict.



## What do victim survivors of sexual violence expect?

One of the main learnings from the Inside Justice Project is that effectively responding to domestic, sexual and gender-based violence, especially by the formal justice sector, must understand victim perceptions and needs. Most victim survivors merely want to be safe from violence and believe that if perpetrators get strict punitive punishment along with some restorative justice for the victims, that would leave perpetrators accountable to their crimes, the justice sector accountable in and addressing these crimes, and the system be accountable to the victims who seek redresses. The following points help identify victim needs when providing victim-centric assistance.

1. **To be protected from further violence** – It is important take into consideration a victim's immediate surrounding environment and provide assistance to first remove the victim from the threat of further violence and to provide immediate medical attention and treatment if required.
2. **To be involved in the decision-making process** – It is important to carefully consult the victim to understand her views and ensure they are integrated into whatever decisions are being made on her behalf, be it legal assistance or otherwise.
3. **To be treated with respect** – It is important to treat the victim with dignity, validate her experience of the violence and help her feel confident and empowered to make future decisions regarding her life and wellbeing. Confidentiality is also an essential part of treating victims with respect. Yet, explain to the victim instances where you may have to breach her confidentiality if you will have to reveal some information regarding the incident in court.
4. **To receive practical, accurate, and detailed information** – Considering the state of mind she might be in, the victim will need to have clear and simple information and guidance on the options available to her and on the redressal process. This could include information on filing a case, gathering evidence, seeking medical assistance, going to court and accessing other resources.
5. **To receive timely assistance** – In order to receive proper and timely administration of the justice system and to ensure the safety of the victim, it is important to respond swiftly and refer the victim to medical services, legal processes and other assistive services.
6. **To receive access to resources and further assistance** – It is important to be knowledgeable on what other support services are available to victims such as counselling and healthcare services, information and awareness, financial assistance, shelter facilities, support groups and other services.
7. **To be assisted throughout the legal procedure** – A victim needs assistance in information devoid of legal jargon on the system and process she will have to navigate in order to get relief and justice. She may also need legal representation as well as emotional and pragmatic support at every stage of the court case / trial (pre-trial and post-trial included).
8. **To receive services that are sensitive to their special needs** – It is important to consider any special needs if the victim within the redressal and response process. Assistance may have to be customized based on factors such as disability, age, sexual orientation, gender identity, religion, cultural background, language, educational background and profession and the intersections of these.
9. **To be safe during the legal process** – It is important to ensure that victims who are subjected to violence feel protected and safe throughout the legal redressal process and have minimum or no contact with the perpetrator.
10. **To receive follow up assistance** – It is important for service providers to constantly follow up on the progress of victims and to monitor the status of the perpetrators. In the event that a perpetrator is to be released, the victim should be informed of the date and conditions in which they are being released.

## What practical things can you do as a justice sector professional?

Justice sector professionals are in a unique position to make a change in the formal justice system to ensure that victim survivors of domestic, sexual and gender-based violence receive justice and that perpetrators of these crimes are punished. Change can be challenging at individual and institutional levels and may likely be resisted. Yet, there are simple changes that can be made incrementally and at the individual level, which will no doubt have a ripple effect among justice professionals, the sector and within the community as a whole.

- ✓ **Inform yourself:** Many of those within the formal justice sector are often unaware of the prevalence of domestic, sexual and gender-based violence against women and girls; the mental, physical, social and economic impacts of violence against women; their own personal biases that they might be carrying into the courthouse; the various national policy documents to address the disadvantages and discrimination that women encounter in the formal justice system; and the local and international research and best practices for legal professionals when handling cases of domestic, sexual and gender-based violence. Having this knowledge would benefit in understanding these issues within the context and help devise responses. Make it your interest to learn about these issues and stay up to date with new developments.
- ✓ **Work with others:** There are many stakeholders and institutions in the response machinery in cases of domestic, sexual and gender-based violence with varying levels of gender sensitivity. Ensuring that justice sector interventions promote gender justice, requires a comprehensive and coordinated effort that goes beyond the justice sector to enlist the support and engagement of other sectors. Involve all stakeholders such as judicial and legal professionals, court staff, police, state counsel, organizations that provide legal assistance, women's organizations and civil society organizations as well as health and state sector institutions from the onset to provide coordinated, linked and continuous support services. This may also help minimize the number of times victims must have contact with the formal justice process and the number of interviews, statements and hearings they need to participate in.
- ✓ **Expedite the justice process:** As long delays and congestion in court often prevent women and girls who have been victims of violence from accessing justice, do everything in your power to expedite the process. The practice of scheduling a case hearing, for what is often only a small part of one day, creates long delays when hearings are postponed or adjourned for lack of time. Where possible, practice short scheduling and other practices of instruction for the court that require transition to scheduling of consecutive or regular trial dates and establish goals for case backlog reduction and processing times. Instituting temporary special measures to clear backlogs of these cases would also help expedite the process and ease the burden on the system.
- ✓ **Create a comfortable and safe environment in court:** Where possible, try to make the court environment less intimidating for vulnerable victims. This could be done by ensuring that there are separate, secure and comfortable waiting rooms in court; that Judges consider sitting at eye level with minor victims rather than on the bench; consider allowing an audio-visual recording of police interviews to be admitted as the evidence-in-chief of vulnerable witnesses; requesting to and clearing the courthouse of the public and media in sexual violence cases; providing witness protection and not disclosing the whereabouts of the witness and making sure that there is adequate instruction and time given for victims to address court in their own language and in consideration of any unique circumstances they may face.

## What positive things can you say to a victim of sexual violence?

To make sure she is free from further violence or the threat of it.

Do you need to go to a hospital or a health clinic?

To help her understand that you are available to help her in her need.

How can I assist you?

To give her the opportunity to compose herself and speak to you at her own pace and comfort.

Take your time and tell me in your own words.

To gain her trust and make her feel comfortable and confident to speak to you.

This conversation is strictly between us and nothing will be disclosed without your consent.

To reassure her that she did not provoke the violence and that she does not blame herself.

It is not your fault, no one deserves to be abused.

To realistically guide her through the available options and help her make an informed and independent decision.

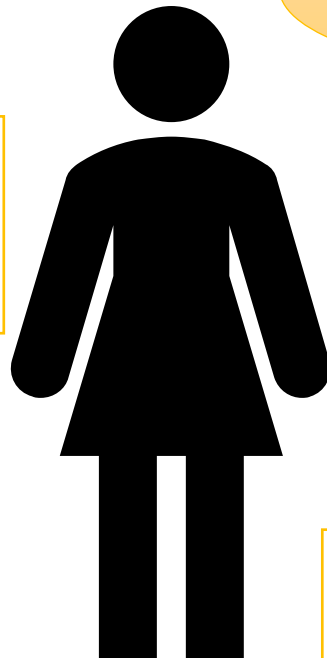
I can help you understand the options available to you at this time.

To refer the victim for further assistance such as medical, counselling or shelter.

I can refer you to some support services that will be able to help you.

To encourage the victim and her decisions.

We will try the best we can to get the justice you deserve.



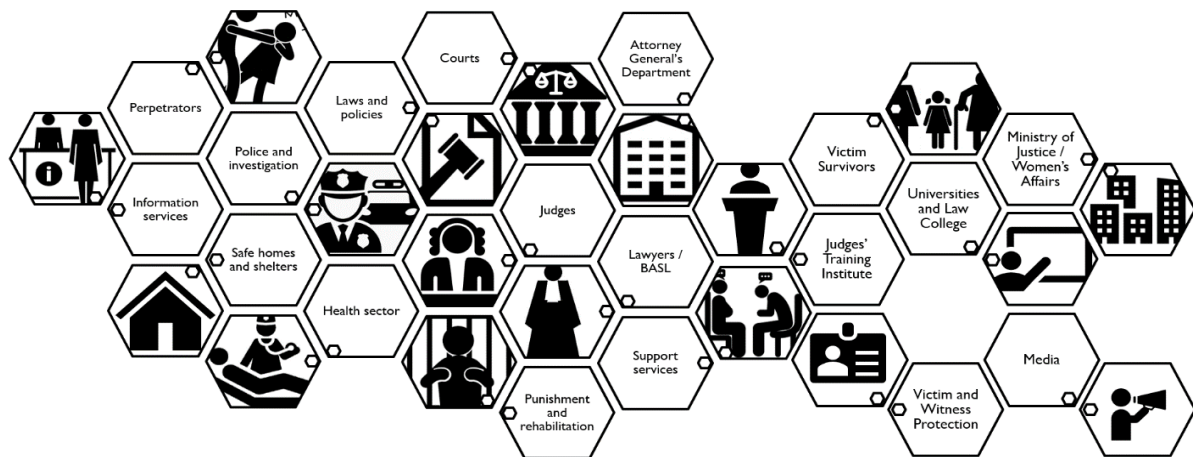
## What can Sri Lanka learn from around the world?

A brief look at some of the initiatives made by the justice sector of other countries in the region and around the world, show that there are many innovative ways to work towards a gender-just formal justice sector and gender sensitive legal professionals. As such, Sri Lanka does not have to ‘reinvent the wheel’, but, look at these initiatives, learn from them and apply them as appropriate to its local context. While the merits and effectiveness of some of these examples are not discussed, the following are some simple yet progressive examples for encouraging gender sensitivity in the formal justice sector – from the judiciary and beyond.

- 1) **Research:** Research studies have been conducted by justice sector stakeholders in various countries to identify the challenges women face when accessing justice. In addition, there are have also been needs assessments conducted to identify the challenges faced by the judiciary, private bars and formal justice systems in being gender sensitive. While these studies help understand practical obstacles, they also provide an opportunity to identify recommendations and best practices from within the justice sector itself. Such research can encapsulate information from Judges, lawyers, prosecutors, victim survivors, court staff, women human rights defenders, legal experts, civil society organizations and other stakeholders.
- 2) **Trainings:** Contextually specific training manuals to sensitize the judiciary and law enforcement officials on understanding and handling sexual and gender-based violence cases have been developed. These manuals are often guided by principles of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and look at, among other things, to address gender justice in the legal profession, the role of courts and Judges in ensuring equal justice to women and serve as a reference for the legal profession and law schools. Countries such as India, Nepal and several African nations have developed comprehensive training manuals and conduct continuous legal education for professionals including Judges, lawyers, prosecutors, court staff and legal aid providers.
- 3) **Guidelines:** Reference material and comprehensive guidelines for Judges including judicial bench books on violence against women have been developed by several countries (such as the one for Commonwealth East African countries of Kenya, Rwanda, Tanzania and Uganda) and act as a quick reference for judicial officers and enhance their ability to handle cases of violence against women within a human rights and gender perspective. Other guidelines have also been adopted from the Bangalore Principles of Judicial Conduct (a set of values that determine judicial behavior such as independence, impartiality, integrity, propriety, equality, competence and diligence) and provide guidance on recognizing and addressing stereotypes, myths and prejudice that often cloud cases of violence against women.
- 4) **Networks:** Various regional networks and bodies have also linked up and attempted to address gender justice and the justice sector responses to violence against women. Sharing common contextual issues and challengers, these networks have been able to identify common strengths and best practices and have acted as important forums for learning and sharing among judges and other justice professionals. The International Association of Women Judges (IAWJ) is an example of a non-profit, non-governmental organization with a global membership providing networking, support, judicial exchange and programming to advance equal justice for all.

- 5) **Colloquiums:** Regional colloquiums covering geographical areas with similar jurisprudence (such as Southeast Asia, South Asia, African judiciaries and Caribbean) have also been instrumental in identifying challenges faced by Judges and justice sector professionals and establishing how best to confront them; the role of justice professionals in identifying biases and promoting attitudinal change; the benefits of training programs and partnerships; and the important role of various formal and informal mechanisms of addressing gender justice.
- 6) **Champions:** Progressive Judges and legal professionals from over the world have taken up women's rights issues and have given judgements that have advanced gender justice. There have also been instances where there have been champions from within the judiciary – Judges themselves promoting the uptake of women's rights and gender issues. For example, a Ugandan Judge, Principal Judge Yorokamu Bamwine has advocated for a gender sensitive judiciary through regular training for judicial officers, the provision of services to women victims of violence, formal legal curriculum and training, appointed progressive and gender-sensitive judicial officers, and advocated to reconstruct court buildings to make them gender friendly.
- 7) **Awards:** Innovative initiatives to recognize and honor gender sensitive legal professionals including Judges, have also been established. The Gender Justice Awards awarded by the Philippine Commission on Women (PCW), Commission on Human Rights and Supreme Court to Outstanding Gender-Sensitive Judges and Justices in the Philippines is a notable attempt. The Gender Justice Uncovered Awards created by Women's Link Worldwide, is another example that attempts to highlight decisions or statements made in the context of a legal process by Judges, members of human rights committees, prosecutors, or ombudspersons which have a positive or negative impact on gender equality, women's rights and gender-based violence.
- 8) **Reform:** Many countries have reformed discriminatory laws and procedures by amending laws and introducing offences, revising criminal procedures, through case law and judicial precedent and improving evidentiary rules to reflect the realities faced by women and girl victims of gender-based violence. These measures have also helped reduce secondary victimization through formal justice institutions and processes. Examples include allowing in-camera evidence, criminalizing marital rape and removing the requirement for corroboration. Other countries such as the Philippines, Nepal and Mongolia have made reforms by incorporating international treatise (such as CEDAW) into their domestic laws and policies.
- 9) **Education:** Some countries are pushing for mainstreaming gender equality in formal legal education. They propose to do so through revising curricular and textbooks with gender sensitive language and content, overcoming gender stereotypes and prejudices in content, developing a gender sensitive approach among academic staff and students and ensuring that legal education looks beyond clinically explaining the law and also reflects the realities of the people it affects, especially in the case of violence against women and girls.
- 10) **Innovation:** Countries around the world continue to look for innovative and cost-effective ways to ensure gender sensitivity towards addressing the unique nature of victims of domestic, sexual and gender-based violence within the justice system. Such innovations could be through using modern technology and temporary special measures to clear the backlog and expedite such cases and establishing specialized domestic violence courts with positive results have been seen in Nepal, Brazil, Spain, and the United Kingdom (with proper guidance and training so as not to further marginalize or exacerbate victims vulnerability).

## Conclusion and way forward



Looking back over the recent years, Sri Lanka is seeing change and progress in terms of responding to and addressing domestic, sexual and gender-based violence against women and girls. Persistent policy makers are addressing gender-based violence as part of national development priorities. Organizations working on the ground have increased awareness on these issues among the community. Dedicated service providers have helped many women come forward with their stories and provided much needed mental, physical, economic and legal support. Police officers' timely and thorough investigations have led to faster processes. Progressive lawyers and Judges' practices and judgements have led to renewed faith in the justice process.

Yet, there are many challenges that still persist. Discriminatory socio-cultural perceptions and attitudes towards victims still continue. Victims still face hardships at the level of their community, police, courts and when seeking support. Perpetrators still enjoy impunity from their crimes, benefit from suspended sentences and get away with low compensation. Delays still exist within the legal redress machinery from delays at the level of police investigation, Attorney General's Department and during trial. In this context, seeking justice is still a difficult decision and an even harder journey for the victim survivor who is blamed for what occurred, re-victimized in the redress process and may not even receive due justice or compensation at the end of the whole process.

Unfortunately, the little work undertaken within the formal justice sector to address and reduce domestic, sexual and gender-based violence has largely been confined to work with law enforcement (Police) and not within the judiciary and lawyers. Over the years, the judiciary, prosecutors and lawyers have been the target of sporadic awareness and training sessions on how to sensitively respond to domestic, sexual and gender-based violence. However, these initiatives have been few and ad hoc in nature rather than being situated within a formal and strategic structure and approach. Thus, apart from infrequent attempts at raising awareness and sensitization among the judiciary, prosecutors and the private Bar, no concerted discussions have taken place to mainstream sensitive responses to violence against women in the formal justice sector. This lack of recognition and commitment is further evident in the way issues of sexual violence against women and judicial responsibility for redress and prevention are missing in formal legal education, training of Judges, prosecutors and lawyers. Gender sensitive approaches are also missing from the legal discourse that stems from the formal justice system. This continued insensitivity and inaction to address domestic, sexual and gender-based violence by the judicial sector has prevented victim survivors from reporting these incidences and seeking punitive and formal redress.

In Sri Lanka, women are overrepresented in law schools and institutions, however, they are very much underrepresented in the practice, at higher levels in the judiciary and within the policy level and other decision-making bodies. The justice sector itself might not be representative of the populations it serves; thus, it is useful to understand these nuances and if/how they impact the wider administration of justice. One of the main barriers to ensuring services (justice related or otherwise) for victims of domestic, sexual and gender-based violence, are negative and dated socio-cultural attitudes held by victims, justice sector professionals and the community; they prevent victims from reaching out for help and legal professionals from understanding the context and providing adequate and sensitized services. As a result, the community, where both victims and legal professionals belong, continue to perpetuate negative stereotypes, victim-blaming and the trivialization of violence against women.

In recent years, strong interest has been shown by the Government of Sri Lanka to improve the performance of the country's courts, and in particular, for major steps to be taken to reduce the extended delays prevalent in processing the majority of cases. This is evidenced by several recent initiatives taken and governmental support for improvement, based on the Ministry of Justice and the Judicial Services Commission, where the Bar Association of Sri Lanka has assumed a leading role in surveying the bar to determine the causes of delay and the views of practitioners toward resolving delays. In the current reform process where the focus is on the reduction of cases overall, it is of utmost importance to also ensure this for domestic, sexual and gender-based violence related cases so that all reported cases are comprehensively investigated, and perpetrators are dealt with according to the law.

While we are trying to address the same socio-cultural, institutional, and structural issues that delay and deny women and girls from justice, new challenges and issues continue to surface. Service providers speak of the changing nature and severity of domestic, sexual and gender-based violence against women. Issues like poverty and alcohol abuse that once were recognized as trigger factors are now taking the shape of new drugs and the sense of anonymity that online portals offer. Threats, violence and intimidation through digital and social media is increasing with rapid technological advancements and range from online bullying to extreme and revenge pornography, and lead to offline manifestations of violence. Other changes are also occurring in the changing nature of families and intimate relationships. Men and boys cannot be simply looked at as perpetrators to be punished or rehabilitated, but also as victims themselves and allies in making progressive change.

These changes and advancements in our social and technological fabric, are rapid. However, our understanding and the understanding of law enforcement, justice sector and other officials of these issues are slow, as is the response to address these. Laws, policies and response efforts remain unchanged or often reactive, short term and not very sustainable, making it difficult to address long-term issues and encourage a holistic response not just from the justice sector. How do we then prepare ourselves to deal with the challenges of the future when we are still in denial and ignorant about the violence and discrimination women and girls face around the world?

## About this publication

This publication documents findings of The Asia Foundation’s Inside Justice Project over the past four years. The preliminary work carried out from 2016 to 2017 under the project titled “Safe Court Observation Project” formed the basis of this work and was supported by The Asia Foundations Lotus Circle Fund. The next phase of this work titled “Ensuring Formal Justice Sector Responsibility and Accountability to Redress Sexual and Gender Based Violence (SGBV) against Women and Girls in Sri Lanka” was implemented from 2017 to 2021 with financial assistance from the European Union. Local partners, Women In Need and the Women and Media Collective were pivotal in the implementation of the project.

The Inside Justice Project itself was formulated in response to gaps, shortcomings, insensitivities and discrimination shown by the formal justice sector when dealing with incidents and cases of SGBV. The overall objective of the project was to redress SGBV against women and girls in Sri Lanka through access to just, fair, and sensitive judicial processes. The project took a multi-pronged approach to ensure accountability from above – where the formal justice system was to be held responsible and accountable for fair trial, due process, and gender sensitive and equitable access to justice, and accountability from below – where civil society was to be enabled and responsible for ensuring that justice is delivered to women and girl victims of SGBV.

The Asia Foundation has been working in Sri Lanka since 1954 to support long-term peace and prosperity in the country by strengthening institutions of governance and improving the environment for economic growth, security, and justice. While this publication specifically documents experiences around justice for women and girl victims of SGBV, it is also informed and substantiated by The Asia Foundation’s long history of work and partnership with the formal justice sector in Sri Lanka which has included support for the establishment of the Judge’s Institute, publication of a Judicial Bench Book and assistance for annual conferences of the Judge’s Association. The Asia Foundation also has a thirty-year long relationship with the Ministry of Justice and Mediation Boards Commission since its inception in 1988, by strengthening Alternate Dispute Resolution in Sri Lanka by expanding to new demands and innovation through technological advancements such as setting up of databases and websites. The Asia Foundation has also supported the Attorney General’s Department, the Legal Aid Commission of Sri Lanka and the Bar Association of Sri Lanka.

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