

Sometimes there is no Blood: Domestic Violence and Rape in Rural Sri Lanka



Ameena Hussein

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Two rural women
in Anuradhapura

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Ameena Hussein

Reprisal
by Rukmini Bhaya Nair

**I, who have never known
Violence, see at nights
This - the moon thugs
Finishing off a woman**

**Mostly she is eyes
Minus the other marks
That make up a face. And
Her sari, winding red, tears
Audibly.**

**All my childhood, I slept
With a knife tucked under
Two pillows, for safety. And
That crescent still glistens**

Maleficent.

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Finally and most importantly, we would like to thank all the women who spoke with us.

**For the women who spoke to us
with hope in their hearts and a belief in justice**

Introduction

Violence against women has only recently become an issue requiring international and national agitation. In 1979, when The Convention on the Elimination of Violence Against Women was ratified, it did not even contain a provision prohibiting rape and domestic violence. Violence was a taboo subject not meant for the august halls of the United Nations. By the 1990s there was a sea-change. Women from around the globe gathered at Vienna in 1993 to insist that the international community take effective action against violence. Within six months the General Assembly passed the Declaration on the Elimination of Violence Against Women, and the United Nations Commission on Human Rights created the post of United Nations Special Rapporteur on Violence Against Women. At Beijing in 1995, The World Conference on Women made violence the singular most important issue that requires concerted international action.

Developments in Sri Lanka paralleled the changes at the international level. When the issue of violence was first raised in the early 1980s, it was dismissed as an attempt by misguided "westernised" feminists to destroy family and society. Today it is the primary area of action both of NGOs as well as the government. The 1995 Penal Code amendments strengthened the government's attempt to deal with rape cases, and at the moment separate legislation on domestic violence is being considered. Violence against women during armed conflict is another area that is receiving sustained attention. Women's groups are now organised to push forward demands for women's freedom from violence.

Despite these measures, statistics and research on violence against women are hard to achieve. There is still no national survey on domestic violence or rape. Systematic gathering of data remains few and far between. Individual cases are dealt with by grassroots women's organisations, but research into the issues still lags behind. In this context, Ameena Hussein's book *Violence Against Women in Sri Lanka* is an important contribution to this area. It contains a succinct analysis of the legal framework as well as interviews with women and focus groups in three areas of the country. It attempts to understand how women victims suffer violence and cope with its implications. It also attempts to understand the institutional response of state and other institutions to the plight of these women. It paints a picture of neglect and obstacles that calls into question our traditional means of dealing with the problem. Women speak in their own words, and actual cases are posited next to a clear analysis of the problem and the methods of dealing with the issues. The book contains detailed recommendations that are necessary if we are to effectively deal with violence against women in Sri Lankan society.

Violence against women may never be eliminated. However, research may point towards understanding the causes and raising awareness about the consequences. It may help institutions of the state and civil society to be more sensitive to the issues and to be more creative in devising strategies to deal with the problem. Knowledge is power, and it is the means through which we realise whether we are relevant and effective. Ameena Hussein's book is a major effort in increasing that knowledge and raising awareness about the experience of violence. By being sensitive to the issues women face in their daily lives and by analysing the responses of institutions, it brings us closer to devising means and ends that will help us make Sri Lanka a less violent society.

Radhika Coomaraswamy

United Nations Special Rapporteur on Violence Against Women

Sometimes there is no Blood: Domestic Violence and Rape in Rural Sri Lanka

The powerless are responsible for creating change

Andrea Dworkin and Catherine MacKinnon

Introduction

Violence has always been an ugly word. It is a word that has pervaded the world from the beginning of history. It is a concept that has been legitimised, condemned, condoned, implemented, and resisted. No single population has an exclusive use of violence, and often the practitioners of violence find themselves victims at one time or the other during their lives.

For many centuries violence against women was not only unrecognised: it was quite often legitimised in some way or the other. Cultural practices, religious beliefs, and state laws are a few instances that have imposed violent practices or acts upon women. It is only recently that violence against women has even been recognised as an unnecessary evil. Ironically however, the family is quite often the first introduction that women have to the world of violence. Women have had to endure violence within the family, be it in the form of cultural practices or religious beliefs. The family, traditionally thought of as being a refuge for men and women when invaded by violence, becomes a place of suffering for women who suffer violence at the hands of their families.

Many international legal instruments dealing with human rights include in some form the protection of women from violence in their provisions. The Universal Declaration of Human Rights,¹ The International Covenant on Civil and Political Rights,² the International Covenant on Economic, Social and Cultural Rights,³ the Convention on the Elimination of All Forms of Discrimination against Women,⁴ and General Recommendation No. 19 which deals entirely with violence against women, are some of those in existence.⁵

This report is divided into five sections. Section one establishes the areas of violence that were covered in the research. It states the purpose of the research, the projected goals and definitions of categories of violence, and gives a description of the methodology that was used. Section two situates the subject of violence against women within a legal framework, both internationally and nationally. While briefly covering international legal instruments such as the Universal Declaration of Human Rights, the

¹ Articles 1,2,3 and 5 are examples.

² Article 2, Article 6.1, Article 7, Article 9.1 and Article 26, are examples.

³ Article 3, Article 7 are examples.

⁴ Article 1 is an example.

⁵ The specific areas discussed are traditional attitudes, customs and practices; all forms of traffic and exploitation or prostitution of women; violence and equality in employment; violence and health; rural women and family violence.

International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women, the national legal framework concentrates on the Penal Code and other legal enactments. Section three provides a description of the research areas, and sample of the field research. A qualitative analysis of the fieldwork done on violence against women over a period of four months is found in section four. And the final section presents the conclusions and recommendations for policy changes on violence against women.

Chapter 1

Purpose and Methodology of the Research

The violence-against-women project covers the areas of **domestic violence, marital rape, rape, incest, family violence and sexual assault**.⁶ Fieldwork was conducted in three designated areas. The areas chosen were Nuwara Eliya, Anuradhapura and Matara that represented the Central, North Central and Southern Provinces⁷; with these three areas we were able to cover a fair section of the rural population, including the plantation sector, and do an in-depth study covering interviews with the women who have experienced violence, the police, the judiciary, social workers, Grama Niladharis, members of the Samatha Mandalaya, doctors, clergymen, NGO's and midwives.

The purpose of the research was to guide effective policy formulation and improve service provision for women victims of violence in the future. We hoped to accomplish it by documenting the nature and effects of some forms of violence against women and the availability of assistance for those affected in selected contexts, namely: rural and plantation.

The goals of the research were:

1. To identify the forms of violence against women in the family and the community in selected populations.
2. To explore women's perceptions of violence and its effects on themselves and their families.
3. To identify and assess existing formal and informal sources of assistance for victims of violence against women.
4. To document women's experiences, both positive and negative.
5. To understand the material and attitudinal constraints on women attempting to protect themselves from violence.
6. To seek the views, attitudes and recommendations of community leaders, the judiciary, the police, doctors and social workers on the subject of violence against women.

⁶ See footnotes 30-38 for definitions of categories

⁷ We regret that due to resource constraints we were unable to undertake a truly national study on vaw. In particular we regret our inability to undertake research in the North and the East. We very much hope that this study will lead to such research being undertaken in conflict areas and amongst internally displaced populations.

Methodology of the field research

Field data was collected using semi-structured interviews with criminal justice agencies (police, courts); other state agencies (medical services,); and key informants (community leaders, NGO personnel, Grama Niladharis, Samatha Mandalaya). The interviews were used to assess procedures for formal and informal remedies, to explore individual, community and institutional attitudes towards violence against women, identify barriers and constraints, and invite respondents to suggest solutions.

In-depth semi-structured interviews were used with a purposive sample of women aged 15 years and over who had experienced one or more of the forms of violence. The women were identified by the local partner organisation and by the technique of snowballing⁸. These interviews enabled the researchers to develop case studies of each type of violence which illustrate the women's perceptions of the impact of violence on themselves and their families; their motivations and reactions; their evaluations of the assistance available to them; and their suggestions for action at both the community and state levels.

An essential pre-requisite was the presence of an organisation in the immediate area willing and able to identify local women affected by violence who would be willing to volunteer for the in-depth interviews. The partner organisation was also expected to be an active associate in making advance arrangements for the fieldwork, and if necessary, adapting the research instruments to meet local needs and conditions. Two rural areas and one plantation area were selected in consultation with activist organisations.

Letters were written to a number of NGO's in the identified areas, explaining the project and requesting assistance from them to conduct the research. Once responses were received, a preliminary trip was made by the co-ordinator of the project to introduce the project and assess the capacity of the NGO. A request was made to work with an employee of the NGO in the field so as to facilitate our entry into the community.

The Sinhala-Tamil Rural Women's Network (Sinhala Demala Gami Kantha Sammelanaya) was identified in Nuwara Eliya, **Women in Need (Kantha Pihita)** was identified in Matara, and in Anuradhapura we worked with **Kantha Sangvardhana Maha Sangamaya** in Thirappana and **Rajarata Apada Sahana Sevawa** in Anuradhapura town.⁹ Fieldwork was conducted over periods of five-eight days in the three locations. Semi-structured interview guides were designed to give women a certain level of control over the interview. Semi-structured interviews were also used to speak with community leaders, the police, members of the judiciary, doctors and social workers.

Fieldwork was conducted in Nuwara Eliya during the month of December 1998, in Anuradhapura during the month of February 1999 and Matara during the month of March 1999. Transcribing was undertaken immediately after each field trip. The interviews were conducted in either Tamil or Sinhalese.

⁸ Snowballing is where interviewees refer other women who have experienced violence to the researchers.

⁹ Due to the identified researcher at Rajarata Apada Sahana Sevawa (Rajarata Distress Relief Service) being in the last stages of pregnancy, we were unable to do much fieldwork with them. However, they did facilitate interviews with the Police, the Chairman of the Samatha Mandalaya and the Grama Niladhari in Anuradhapura.

The women were interviewed in a variety of locations, in the field researchers' van, in the agricultural field, in a forest, in their homes, in their friends' homes, in community centres, under trees, in paddy fields and in the WIN office in Matara. The women were given the choice of selecting a place that they felt comfortable in and one that would ensure a maximum of privacy and safety. All the interviews were tape-recorded after obtaining the permission of the women. The study was explained to the women by the researchers. The researchers also explained that the study would not give rise to immediate benefits, but would seek to change laws and policies in the long term. The researchers wanted to ensure that they did not raise unrealistic expectations or hopes with the women. After interviewing each woman, she was given a packet of Anchor or Lakspray milk as a token thank-you. Many of the women expressed thanks to the researchers for taking the trouble and time to come to them and speak with them. Some of them described feeling relief after the interview at having shared their experience with the researchers.

Chapter 2

The Law and Violence against Women

The Legal Framework at the International Level

Today, international human rights law has recognized the problems of gender inequality and violence against women. This has not always been so. As Henry Steiner states, "of the several blind spots in the development of the human rights movement from 1945 to the present, none is as striking as that movement's failure to give to the violation of women's (human) rights the attention, and in some respects, the priority that they require"¹⁰.

Through much of international legal history women have been invisible in the development and growth of modern international law. The Universal Declaration of Human Rights states in article 1 that "all human beings are born free and equal in dignity and rights". Article 2 states that "everyone is entitled to all the rights and freedoms set forth in this Declaration without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". Article 3 states that "everyone has the right to life, liberty and security of person". Article 5 states that "no-one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". This means that any form of violence against women which is seen as a threat to their life, liberty or security of person or which is torture or cruel, inhuman or degrading treatment is a violation of the international obligations of member states, and thus contrary to the principles of the Universal Declaration.

Other legal instruments such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights also prohibit violence against women. In times of war, the convention relating to the Protection of Civilian Persons in Time of War of 12 August 1949 states in article 27 that "women shall be especially protected against any attack on their honor, in particular against rape, enforced prostitution or any form of indecent assault". The most extensive instrument dealing exclusively with the rights of women is the Convention on the Elimination of All Forms of Discrimination against Women. It has been described as an international bill of rights for women as it sets out detailed information that aids in the recognition of discrimination against women and the measures that have to be taken in order to eliminate this discrimination.

General Recommendation No. 19 put forward in 1992 by the Committee on the Elimination of All Forms of Discrimination Against Women deals exclusively with violence against women, and categorically states that gender-based violence is a form of discrimination which prevents women from enjoying their rights and freedoms on a basis of equality with men. It further asks that State parties take this into consideration when

¹⁰ Steiner.H., & Alston.P., *International Human Rights in Context*, Oxford: Clarendon Press, 1996, p. 887.

reviewing their laws and policies. General Recommendation 19 argues that certain traditions, customs and practices where women are regarded as subordinate or as having stereotyped roles perpetuate various discriminatory practices, including violence and coercion, and that such prejudices and beliefs may be used to justify gender-based violence as a form of protection or control of women which result in women being deprived of the equal enjoyment of their human rights and fundamental freedoms. The General Recommendation also recognises that rural women are at special risk of violence because of the persistence of traditional attitudes in many rural communities, and it imposes an obligation on States to ensure that services for victims of violence are accessible to rural women, and that where necessary, special services should be provided for isolated communities.

The United Nations General Assembly in December 1993 passed by consensus a Declaration on the Elimination of Violence Against Women. The Declaration states in its preamble that:

- (1) Violence against women is an obstacle to the achievement of equality, development and peace...
- (2) Violence against women both violates and impairs or nullifies the enjoyment by women of human rights and fundamental freedoms...
- (3) Violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men.
- (4) Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position.
- (5) Violence against women in the family and society is pervasive and cuts across lines of income, class and culture.

In the UN Declaration, Violence against Women is defined as:

Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.¹¹

Violence against women shall be understood to encompass, but not be limited to, the following:¹²

- (a) Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence,

¹¹ Article 1 of the Declaration on the Elimination of violence against Women

¹² Article 2 of the Declaration on the Elimination of Violence against Women

marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

- (b) Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution.
- (c) Physical, sexual and psychological violence perpetrated or condoned by the state, wherever it occurs.

The Declaration calls upon states:

- (a) to enact appropriate laws and procedures to give women redress;
- (b) to develop national plans to eradicate violence against women;
- (c) to train judges, lawyers and policemen on problems of violence against women;
- (d) to set up assistance, counselling centres and social services for women victims of violence;
- (e) to construct education curricula to eliminate prejudices which may result in violence against women;
- (f) to collect statistics to make the problem of violence against women more visible.

International human rights norms and standards are an important yardstick by which national human rights standards and norms are measured. Therefore an examination of the national legal framework is imperative to determine state responses to violence against women.

Legal Framework at the National Level

The legal system of Sri Lanka dates from the colonial period and, therefore, understandably does not reflect current international human rights norms and standards. Since 1994 attempts have been made to rectify this anomaly. This section of the report will examine laws which have a direct impact on violence against women, such as the Penal Code, as well as other legal enactments which have an indirect impact on the socio-legal standing of women and thereby affect their power to determine their own destinies.

The Constitution and the principle of non-discrimination

Non-discrimination is a principle enshrined in the Constitution of Sri Lanka¹³. In particular, the fundamental rights chapter spells out a fundamental right to equality between women and men in terms of protection and enjoyment of human rights. Further, according to article 12 (2), discrimination on the grounds of sex, among other specified grounds, is prohibited, and thus constitutes a violation of fundamental rights. Additionally article 12 (4) recognizes a positive right to equality, and exempts from legal challenge executive action that bestows special advantages on women.

Since the constitution was amended in 1978, not a single case claiming discrimination on the grounds of sex as a violation of the fundamental right to equality has been brought before the Supreme Court. This is in contrast to the numerous cases that have been successfully brought under the fundamental rights chapter for employment discrimination. Women's rights activists record one instance in which a woman medical internee in the state health service challenged her suspension from internship, alleging that she had been penalized for making a police complaint of rape by a colleague. The case was settled out of court by the Ministry of Health. The suspension order was cancelled and the woman dropped her fundamental rights action when she obtained this relief.¹⁴

It has been pointed out that Article 12 (2) of the Constitution, the anti-discrimination clause, should be made more open-ended along the lines of the equivalent provision in CEDAW. The draft constitution put forward by the government includes amendments to the fundamental rights chapter, and would, if implemented, address some of these defects. The draft constitution states that a citizen shall not be discriminated against on grounds of sex, gender, marital status, maternity and parental status, among a specified number of other prohibitions. Yet activists are of the opinion that the clause falls short of accepted international norms, and call for compliance with CEDAW obligations.

Domestic Violence

129 incidents of murder were committed within the home during the year, with husbands allegedly responsible for 83 or 65%¹⁵

Although 291 incidents of crime against women in the private sphere were reported in the press only 11 resulted in sentences.¹⁶

The above figures clearly illustrate the magnitude of the problem. Domestic violence is another crime against women which has been relegated to the private sphere, and, therefore, to the back burner. Much lobbying by activists has now resulted in the issue

¹³ Article 12 (2)

¹⁴ Fernando Vs Director, General Medical Services, as reported in the *Daily News* of 3 July 1993

¹⁵ Women's Rights Watch 1999, p.13.

¹⁶ *Ibid.*

being given its due importance in the international human rights regime. Yet many countries, including Sri Lanka, are still reluctant to acknowledge the seriousness of the problem, let alone accept its existence.

Section 27 (12) of the Constitution of Sri Lanka (the Directive Principles of State Policy and Fundamental Duties, which are merely guidelines for policy formulation), says that the state shall recognize and protect the family as the basic unit of society. Is the state then to protect the family unit at the expense of the rights of women?

Radhika Coomaraswamy, the UN Special Rapporteur on Violence Against Women, defines domestic violence as

violence perpetrated in the domestic sphere, which targets women because of their role within that sphere, or violence which is intended to impact, directly and negatively on women within the domestic sphere.¹⁷ [96/53/28].

She defines family as "the site of intimate personal relationships" and opts for a subjective rather than an objective definition, which is indeed a better definition since it is more inclusive.

There is no specific legislation on domestic violence in Sri Lanka. Likewise there is no specific provision in the Penal Code that specifically criminalizes domestic violence as a distinct crime. Nonetheless, prosecution for domestic violence is possible under Section 310 (causing hurt) and Section 311 (causing grievous hurt) of the Penal Code. Redress is also available through Section 341 (criminal force) and Section 342 (assault). According to Section 311 grievous hurt can be caused by emasculation, permanent privation of the sight of either eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or permanent impairing of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of a bone or tooth, any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain or unable to follow his bodily pursuits.

Grievous hurt was expanded by the 1995 Penal Code amendments to include "cut or fracture of bone, cartilage or tooth, dislocation or subluxation of bone, joint or tooth, injury which endangers life, injury in consequence of which the opening of the thoracic, abdominal or cranial cavities is performed, and injury which causes the sufferer to be in severe bodily pain or unable to follow his ordinary pursuits for 20 days either because of the injury or any operation necessitated by the injury". The punishments for such offences are: one year for hurt; three years/fine for hurt with dangerous weapons or means; seven years /fine and whipping for grievous hurt; ten years/fine/whipping for grievous hurt by dangerous weapons or means. (Sections 314 to 317)

In addition, Section 341 (Criminal Force) and Section 342 (Assault) are also relevant in this context, both being punishable by imprisonment of up to three months and/or with fine of fifty rupees. Although the penal provisions are available to victims of domestic

¹⁷ Report of the Special Rapporteur on violence against women, its causes and consequences, Radhika Coomaraswamy, E/CN.4/ 1999/68, 10 March 1999, para 16.

violence, they are rarely used. Even when women do file complaints with the police, informal mechanisms of mediation are generally used in cases of domestic violence. Hence few prosecutions occur. Again, the fact that the 1995 amendments exclude victims subject to psychological abuse and also those who show only slight or momentary injuries resulting from domestic violence has been strongly criticized. Reports from these women are not considered serious enough to warrant criminal prosecution.

It also has to be noted that the 1995 amendments did not address the issue of violence against women (including but not necessarily confined to rape) whose marriages have irretrievably broken down, leading them to live separately without obtaining a judicial separation.

Though there have been calls for separate domestic violence legislation that would provide both criminal and civil remedies, some have expressed reservations about this idea. Those who support the enactment of special legislation point to the fact that domestic violence is a gender-specific crime that is committed in the private sphere, as a result of power imbalances between two people, and therefore warrants special legislation. They argue that separate legislation will not only create a support system but also enable victims to obtain a civil remedy. The advocates also point out that this would also result in the training of law enforcement officers and other judicial officers.

There are also those who are of the opinion that separate legislation will only lead to a conflict of interpretation and will lead to domestic violence crimes not being taken as seriously as crimes covered by the Penal Code, which in effect would eventuate in domestic violence being marginalised. This is a very valid point, especially since the police serve as gate-keepers to the criminal justice system. They state that effective enforcement of existing legislation is sufficient to combat the problem.

Gender bias, stereotyping and adherence to traditional views of women in the family underlie police interventions in domestic violence. In an effort to combat the insensitivity and gender bias of police, a special unit was established in 1993 at the Police Headquarters in Colombo devoted to violence against women and children. Subsequently, women and children's desks were set up at 33 police stations throughout the country. Their functioning has, however, been criticized by lawyers and activists as being understaffed by largely inadequately trained officers who have access to few material resources.¹⁸

Even if a woman decides to pursue the matter further and files a complaint with the police, her ordeal does not end. Women who file formal complaints must undergo medico-legal examinations. Reportedly, numerous problems in the procedures exist from both a medical and social perspective. Consultation rooms in state hospitals are inadequate and fail to provide a sensitive environment for victims, and in cases of rape where samples such as pubic hair and swabs from the vagina as well as the clothes of the victim have to be collected, the method of examination is devoid of any sensitivity to the mental trauma the victim has suffered. It is only when the medical reports, lab reports and police investigation reports are made available, which in many cases takes many months, that a case is filed in the lower courts. In cases where domestic violence is alleged, hospital

¹⁸ Centre for Women's Research (CENWOR), "Evaluation of Women's and Children's Desks in Police Stations" (1997).

staff routinely insist that the complainant bring a copy of the police report before they are admitted and examined.

When a complaint of domestic violence is made to the police, the police will take down the woman's complaint and set a date for both the husband and wife to appear before them for an informal inquiry. They hear both parties, and generally warn the offender not to repeat his action. If the woman is not willing to settle the matter with the police, the case may, depending on the facts of the case and the gravity of the injury, be referred to a mediation board. The offender may also be charged in the Magistrate's Court.

Complaints of domestic violence are referred to Mediation Boards under sec.6(1) and the Second Schedule of the Mediation Boards Act No. 72 of 1988. Accordingly any person can make an application to a board for the settlement of specific offences recognized by the Penal Code.¹⁹ Where the Mediation Board fails to bring about a settlement, then the case is referred to the Magistrate's Court. At present, it is the Magistrate's Court which is vested with jurisdiction to try these offences, and the police undertake the prosecution of criminal cases. The Attorney General's Department does not assume responsibility in these cases, and has no special department, desk or trained legal counsel to handle cases of domestic violence.

Reportedly the Ministry of Justice is presently considering further amendments to the Criminal Procedure Code that would vest jurisdiction in the High Court in respect of all sexual offences, excluding sexual harassment. Yet the problem of inadequately trained counsel who are not equipped to handle strong prosecutions and use the law in a manner that empowers the woman victim remains.

Civil Remedies

The introduction of domestic violence legislation without prior amendment of the existing divorce laws will render any domestic violence legislation ineffective. Although legal mechanisms for separation and divorce on grounds of violence exist, they are not widely used by women because of the high level of stigma attached to divorce. Further, insensitive courts, insufficient alimony awards and the difficulty in enforcing maintenance orders compound women's alienation from the law and legal remedies.

A woman can apply for divorce on the grounds of (1) constructive malicious desertion, (2) adultery and (3) incurable impotence.²⁰ The concept of no-fault divorce does not exist in Sri Lankan law, which places an enormous burden on the party seeking divorce. Spousal abuse has been held to fall within the definition of constructive malicious desertion. In order to obtain a divorce on the grounds of constructive malicious desertion, a battered woman must establish that she was forced to leave the matrimonial home because of fear of harm to life and limb.

Judicial separation where spousal abuse is alleged is provided for by Sec. 608 of the Civil Procedure Code which makes it possible to obtain a judicial separation "on any ground on which by the law applicable to Ceylon such a separation may be granted . . ."

¹⁹ Section 6, Mediation Boards Act No 72 of 1988

²⁰ Section 19, The Marriages (General) Ordinance.

The case law, which has drawn from both Roman-Dutch and English Law principles, has provided for judicial separation in cases in which the plaintiff is able to show that further cohabitation with the defendant has become dangerous or intolerable; and that this state of affairs was brought about by the unlawful conduct of the defendant. Accordingly, cruelty, assault, sexual offences and other forms of domestic violence are grounds for judicial separation. All of these grounds must be proved by medical evidence, police reports, unbiased witnesses and/or reliable friends or relatives whom the victim has confided in.

A judicial separation may be converted to a divorce after the lapse of two years. The Civil Procedure Code states that "either spouse may after entering a decree of separation by a District Court, apply to the District Court by way of summary procedure for a decree of dissolution of marriage, and the court may upon being satisfied that the spouses have not resumed cohabitation enter judgement accordingly"²¹.

Rape

The pre-1995 law relating to rape was antiquated, and reform was long overdue. According to section 363 of the Penal Code, rape is sexual intercourse with a woman without her consent; or where her consent has been obtained by use of force, threats or intimidation; where she is judicially separated from the man; with her consent when her consent was obtained when she was of unsound mind, in a state of intoxication induced by drugs or alcohol; with her consent when the man knows he is not her husband and she is under the belief that she is married to him; with or without her consent when she is under 16 years except when she is his wife who is over 12 and not judicially separated from him. Penetration is sufficient to establish sexual intercourse and evidence of resistance on the part of the rape victim is not essential to prove that sexual intercourse took place without consent.

The 1995 Penal Code amendments made significant changes to the provisions regarding rape. The law requires that a person alleging rape prove the act (*actus reus*) and the intention (*mens rea*) beyond all reasonable doubt. In addition, prior to the amendments the person also had to prove that it was without her consent and *against her will*. This meant that the victim had to prove physical resistance to establish absence of consent. The absence of such evidence weakened the rape victim's case. The 1995 amendments specifically abolished this requirement. The explanation to the new section states that "evidence of resistance such as physical injuries to the body is not essential to prove that sexual intercourse took place without consent."

As a result of the Penal Code amendments, the age of statutory rape has been increased from 12 to 16 years; however, the age of 12 years has remained as far as statutory marital rape is concerned. The latter would apply only to Muslims since Muslim law permits marriages of twelve years and above. (Note: the minimum age of marriage in the Kandyan and General law is presently 18 years). Thus, the present legal position regarding rape with regard to a woman under 16 years could be summarized as follows; Sexual intercourse with:

²¹ Section 608 as amended by Act No 20 of 1977.

- (i) a girl under 12 years will constitute rape, regardless of consent;
- (ii) a girl under 16 years who is not a wife will constitute rape regardless of consent;
- (iii) a girl who is over 12 years and below 16 years would not be rape (and consent is irrelevant) unless the wife is judicially separated;
- (iv) a girl who is over 12 years and under 16 years but who is judicially separated will be rape whether there is consent or not;

The Penal Code amendments of 1995 for the first time recognized custodial rape and gang rape as particularly egregious forms of rape²². The section states that "where the offence of rape is committed by one or more persons in a group of persons, each persons in such a group committing or abetting the commission of such offence is deemed to have committed gang rape". According to the new section custodial rape is where a public officer or a person in authority takes advantage of his official position and commits rape on a woman in his official custody in a remand home, place of custody or institution, or a woman in hospital. Yet this provision is not as far reaching as in other countries. In India the evidentiary burden is shifted onto the authority to prove that rape did not take place. Although the measure may appear draconian in nature, the victim's lack of power and means vis-a-vis the institution renders it easier for the institution to contest a charge of rape. At the best of times rape is a hard crime to prove due to the corroboration rule; therefore, where an institution is concerned it would be in a better position to deal with evidentiary requirements.

The amendments also introduced enhanced punishments for crimes of sexual violence. According to the schedule of enhanced punishments in the amended laws, the minimum sentence for rape is seven years while the maximum is 20 years. A mandatory fine is imposed, and compensation is granted mandatorily, but the amount of the fine and the compensation is left to the discretion of the court.

In the case of aggravated rape (gang rape, custodial rape, rape of a minor, rape of a pregnant woman and rape of a physically or mentally disabled woman), the minimum sentence is 10 years while the maximum is 20 years. In the case of statutory rape, the minimum sentence is 15 years while the maximum sentence remains the same.

The government introduced the concept of marital rape in its initial proposals for amendments to the Penal Code in 1995. It, however, encountered opposition from the Muslim and Catholic lobbies which thwarted the government's efforts. In spite of the strong opposition the government did introduce marital rape between judicially separated spouses²³. The resultant change in the law was "so limited as to be superfluous" because women very rarely resort to judicial separation.²⁴ The principle that equates marriage

²² Section 364, Penal Code (Amendment) Act, No. 22 of 1995.

²³ Section 363 (a), Penal Code (Amendment) Act, No. 22 of 1995.

²⁴ As pointed out by an acknowledged academic and authority on gender law, Prof. Savitri Goonesekere, *Realizing Gender Equality through Law: Towards Change*, CENWOR, 1995 p. 33.

with unimpeded access to women's bodies and sexuality underlying the law remains intact even after the revisions to the Penal Code.

Lacunae still exist in the Penal Code. The definition of rape is confined to sexual intercourse and precludes insertion of objects or other forms of degrading treatment. In addition, the woman and the prosecution have to prove the absence of consent, and even past sexual history can be introduced into evidence. The corroboration rule is yet another stumbling block women face in proving rape.

While the formal law has been changed with regard to rape, problems in prosecuting rape cases are caused by rules of evidence. A recent case, which marks a watershed in the legal history of rape in the country, is the case of a well-known actor, Kamal Addararachchi, who was convicted for the rape of one of his female fans and sentenced to ten years RI²⁵. In this case, the Colombo High Court delivered a judgement that was strongly feminist in relation to the interpretation of rape and the manner in which consent could be inferred. It was pointed out that the mere fact that a woman consents to get into a man's car at night or go into his house does not carry with it the inference that she consents to sexual intercourse with him. To maintain such a position, it was stated, militates against the modern-day notions of gender equality and dignity.

According to the decision, a man may be held criminally responsible if he fails to ascertain sufficiently and strongly whether the woman does, in fact, consent to sexual intercourse. Interestingly, the judgement provoked protests by members of the public, most of whom were fans of Kamal Addararachchi, the convicted actor. Both women and men employed age-old arguments of victim-blaming, hypothesizing that she had "asked for it" by getting into the accused's car at night. The decision was criticized for what was seen as interpretation of rape in relation to "Western" notions of behavior antithetical to the conventional manner in which an "Eastern" woman should behave.

Sexual Harassment

The law on sexual harassment was introduced as part of the Penal Code amendments of 1995. Prior to 1995, the Sri Lankan law relating to sexual harassment was regulated by non-statute law, which had little effect in real terms. In a High Court case decided in 1994 (and presently on appeal to the Court of Appeal), a prosecution under the Bribery Act was upheld on the grounds that the accused had "solicited an unlawful gratification in soliciting sex from a woman employee in return for a transfer".²⁶ In a noteworthy judgement, the judge refused to accept the contention of counsel for the accused that the complainant was an untrustworthy witness, finding that "she was a young married woman...testifying about embarrassing circumstances ... and (that she had) embarked on a journey which many other women would dread to undertake". This case is an example of creative interpretation of an existing statute to combat violence against women.

²⁵ *Kamal Addararachchi v The Republic*, Case No. 7710/96, Decision of the High Court of the Western Province, 22 December 1997.

Republic of Sri Lanka vs. Abdul Rashak Kuthubdeen / B 839/93.

The 1995 amendments to the Penal Code introduced the offence of sexual harassment. (Section 345) as a replacement of the earlier offence of outraging the modesty of a woman.

The new section 345 provides that a person who

- (i) by assault or use of criminal force sexually harasses another person or
- (ii) by the use of words or actions causes sexual annoyance or harassment to another person commits the offence of sexual harassment.

The explanation to the section provides that unwelcome sexual advances by words or actions used by a person in authority, in a working place or any other place shall constitute sexual harassment. Sexual harassment is punishable by imprisonment up to five years and, based on the discretion of the court, a fine. Up to date, no prosecution has been initiated under Section 345.

Incest

The 1995 amendments also introduced the crime of incest to protect the interests of the girl-child. Section 364A states that whoever has sexual intercourse with another who stands in a relationship specified in the provisions commits the crime of incest. Consent is not a factor, and prosecution can be commenced only with the written consent of the Attorney General. The offender is liable to be imprisoned for a term not less than seven years and not more than twenty years.

Abortion

The 1999 UNFPA report states that 750 (illegal) abortions take place in a day in Colombo. Many of these are conducted under unsanitary and unsafe conditions and result in the death of the woman. Yet abortion continues to be illegal in Sri Lanka except in specified circumstances. Section 303 of the Penal Code creates the offence of abortion and states that abortions can take place only if it is "done in good faith" and for the purpose of "saving the life of the mother". The explanation to the section states that "a woman who causes herself to miscarry is within the meaning of this section".

A person conducting an abortion is liable to up to 7 years imprisonment, and one who causes death by an act done with intent to cause a miscarriage (abortion) is liable to be imprisoned for a maximum term of twenty years and a fine²⁷. Abortion is illegal even in cases of rape, incest or genetic disorder. As in the case of marital rape, the government sought to legalize abortion in cases of rape and incest in the 1995 amendments to the Penal Code, but the proposals were withdrawn due to the Muslim and Catholic lobbies.

²⁷ Section 305, Penal Code.

Women's Access to Justice

Numerous factors impact upon and limit women's access to justice in cases of violence against women. Although statistics are not disaggregated in terms of domestic violence in alleged cases of hurt or grievous hurt, advocates attest to low levels of reporting by victims of violence. Women's lack of reporting stems from both social and familial pressures and obstacles embedded in the criminal justice system.

Socially, women carry the burden of stigma for marital problems and divorce. In Sri Lanka there continue to be high levels of stigma attached to single women. Whether women choose not to marry and to live on their own, or whether they are divorced or widowed, single women are perceived to be more vulnerable to violence than their married sisters. They are also often perceived as "prostitutes" or "loose women" since they exist outside the traditional family structure. Such stigma is often validated by the justice system. The justice system has a gender bias that works against women victims of violence, and thereby legitimizes and entrenches social stereotypes about women and violence in cases of violence against women.

In such a setting, women's access to justice is hindered by spoken and unspoken social dictates. In many cases women do not view the criminal justice system as accessible. Even when they do perceive the police and/or courts to be accessible, they may have no desire to expose themselves and their families to public ridicule or scrutiny. Hence many women do not report the violence that is committed against them.

When women do wish to seek legal remedies, the costs associated with litigation are prohibitively high. Organizations such as Lawyers for Human Rights and Development and Women in Need do provide low-cost legal services to victims of violence against women. However, such organizations are vastly under-resourced and thus cannot meet the needs of victims of violence against women.

Legal delays serve as another impediment to women's access to justice. According to reports in the *Daily News* of 5th November 1989 and 23rd November 1990, two trials for rape had taken 12 years and eight years respectively. Recently, there has been an attempt to circumvent law delays in some highly publicized rape cases, such as the Krishanti Kumaraswamy case and the Rita John case, by appointing trials at bar to expedite the process. Trials at bar circumvent the normal summary proceeding at the magistrate's level.

Even when victims ultimately gain access to the courtroom, they often have to face a barrage of hostile questions by defence lawyers and, in many cases, unsympathetic judges. The victim's morality will be put under scrutiny, as will her attempts to resist or repel the attacker. Defense lawyers call upon a large repertoire of gender stereotypes to pursue their cases on behalf of the accused, and will portray women negatively as "bold", "motivated by revenge", "apt to exaggerate" or "hysterical". The woman may also be castigated for shaming her husband and/or wrecking the marriage by publicly exposing matters that are best kept behind closed doors. Thus women are twice victimized. First, by the perpetrator, and then by the criminal justice system.

Rarely are cases of domestic violence against women, punished with more than a light suspended sentence (on a plea of guilt being accepted), "binding the accused over for good behavior" or a small fine. In any case, substantive relief is not forthcoming. In the case of domestic violence, the victim often must return to her home, shamed rather than relieved, in most cases to suffer further battery from an enraged husband. Thus light sentences and the lack of serious punishment subject women to increased violence.

In the case of rape, the victim leaves the courtroom with her dignity and her reputation shattered. She is condemned as "weak", "helpless" and "ruined for life". It is not surprising that women prefer to travel to holy shrines and pray to the gods to alleviate their woes rather than seek justice from a legal system that does not respond to women victims of violence; and which instead functions on a set of assumptions and stereotypes that tend to either patronize or condemn victims of violence against women. Gender bias embedded deep within the judiciary also contributes to the existing misconceptions and myths and results in gender-insensitive judgments which operate in a detrimental manner that impedes the promotion and protection of the human rights of women. Common stereotypes in rape cases are:

- A woman who says no to sexual intercourse often means yes
- Provocative clothes are an invitation to sexual assault
- Women can be classified in two categories - virgins and whores. Virgins are rapeable, whereas whores (or women with a questionable sexual history) cannot be raped.

In cases of gender-based violence, the woman victim and the male offender are treated as equals in the courtroom, regardless of existing inequalities. For example, the testimony of a woman with regard to sexual offences committed against her is rarely believed on its own, without independent corroboration. This is due to judicial attitudes that insist on corroboration by a source other than the woman victim. (i.e.: the victim has to bring forward the testimony of an independent person to support her assertion that an act of rape had occurred). A 1996 case²⁸ held that this cautionary rule may be ignored so long as the jury is satisfied with the veracity of the evidence. Commentators have, however, pointed to the horrific facts of the case to explain the Court of Appeal's decision to make an exception to the general rule.

According to *Joseph vs June De Silva* 1990 2 SLLR 175 a woman must introduce independent evidence to challenge the man's oath when the man denies seduction. If not, said the judge "the man's oath must, under our law, be taken in preference to the woman's oath". In such a judicial environment, victims alleging domestic violence get short legal shrift.

In the above mentioned case for instance, the court cited an earlier case(*Karunasena Vs Republic of Sri Lanka* 1975/78 NLR 63) which had accepted that a court can convict an accused in a rape case on the basis of the testimony of the victim, and went on to decide that the woman's allegation of sexual intimacy had been proved. However, as Prof. Goonesekere has pointed out, "the judicial pronouncement on the significance of a woman's testimony on oath undermines the view that a woman's own evidence can be adequate evidence of sexual intimacy"²⁹. Proceedings in Parliament during the debates on the 1995 amendments to the Penal Code also illustrate the gender bias that fuels law

²⁸ *Punchibandunge Wijesinghe Rajaratne vs The Attorney General* CA 23/01/1996

²⁹ *Supra* n. 15 at p. 39.

making in Sri Lanka. A memo addressed to the Minister of Justice by a coalition of women's groups comprised of women who had been engaged in drafting the amendments proceedings in Parliament showed the extent to which the rationale behind the amendments had been misconceived. "The proceedings in Parliament, as reported in the press, suggest that the Penal Code amendments were approached as an effort to protect women as the weaker sex, in need of the same protection as minor children. Sri Lanka's international and constitutional commitments, recently recognized in the Women's Charter, suggest that women are recognized as citizens and equal partners of men in economic and social progress. Our understanding was that the amendments to the Penal Code were introduced by this government in recognition of those values ... Violence against women is recognized today as a serious infringement of the human rights of women. State intervention is meant to protect women against such infringement and is not a concession to the weakness of their sex."

The parliamentary debates on the passing of the amendments showed, therefore, a clear and obnoxiously patriarchal bias on the part of the speakers. When, in reference to marital rape and the watering down of the earlier amendment so as to make it applicable only to judicially separated spouses, parliamentarians in commending the Bill to the House at the end of the debate remarked that the final outcome "was a fair and reasonable compromise" (in the context of cultural differences that were said to preclude us from adopting the same absolutist stand as in the UK). There was, in effect, minimal recognition of the fact that the offence had been whittled down to a shadow of itself so as to be ineffective in actual practice. The entire debate was also characterized by the fact that the women MPs in the House played very little part in the formation of the debate, let alone contribute in a gender-sensitive manner. That the practical effect of these laws has been minimal comes as no great surprise, given the lackluster political will on both sides of the House in passing them in the first place.

It is thus evident that the Sri Lanka legal system has not responded to the needs of women in a sensitive manner. An examination of the system and the laws in place illustrate gender bias existent within the system and highlight the need for practical reform.

Chapter 3

Statistical Summary

Statistical Description of the Areas

Some statistics obtained from the Economic and Social Statistics of Sri Lanka (1995) for 1981, the last available year on the three areas studied, are:

	Anuradhapura		Nuwara Eliya		Matara	
Total Population:	587.8		522.2		644.2	
Urban	41.7	(7.1%)	37.9	(7.3%)	71.5	(11.1%)
Rural	544.6	(92.7%)	171.7	(32.9%)	552.6	(85.8%)
Estate	1.5	(0.2%)	312.7	(59.8%)	20.1	(3.1%)
 Buddhists		90.2%		35.4%		94.6%
Hindus		1.0%		55.6%		2.4%
Muslims		7.5%		3.0%		2.6%
Christians		1.2%		5.8%		0.4%
Others		0.1%		0.1%		0.0%
 Sinhalese		91.3%		35.9%		94.6%
Tamils(SL)		1.4%		13.5%		0.6%
Tamils (I)		0.1%		47.3%		2.2%
Moors		7.1%		2.8%		2.6%
Burghers		0.0%		0.1%		0.0%
Malays		0.0%		0.2%		0.0%
Other		0.1%		0.2%		0.0%

1993:	Anuradhapura		Nuwara Eliya		Matara	
Birth Rate		21.1		26.3		20.8
Death Rate		4.1		9.0		5.1
 Uni Admission: (for 92/93)		238		161		378

Sample of the field research

We spoke to a total of 62 women from the areas of Anuradhapura, Nuwara Eliya and Matara. Ten interviews were discarded from the final results, as they were not cases of violence against women that fit into our study. Forty-one service providers were interviewed as well. The service providers included the police, courts, doctors, Grama Niladharis, Samatha Mandalaya members, community leaders, religious leaders, and NGO personnel. The following is a breakdown of our sample of women.

Age

Under 15:	01
15-20:	02
21-25:	09
26-30:	11
31-35:	04
36-40:	07
41-45:	06
46-50:	03
51-55:	01
56-60:	01
Unknown:	07

Age at Marriage

Unmarried:	04
15-20:	20
21-25:	09
26-30:	03
31-35:	01
36-40:	03
Unknown:	12

Type of Marriage

Arranged: 17
Choice: 24

Mixed marriage: 3

Number of Children:

0:	05
1-2:	24
3-5:	17
Over 5:	02

Ethnicity

Sinhalese:	41
Tamil:	08
Muslim:	02

Religion

Buddhist:	40
Hindu:	08
Muslim:	02
Christian:	01

Education:

Advance Levels:	02
Ordinary Levels:	04

Some grade school:	06
None:	04
Unknown:	36

Having Own Income

Yes: 27
Sometime: 03

No: 09
Unknown: 13

Ownership of House

Wife: 17
Husband: 21

Location

Plantation: 12
Village: 39

Type of Violence

Domestic Violence ³⁰	25
Domestic Violence/Marital Rape ³¹	12
Domestic Violence/Family Violence ³²	02
Domestic Violence/Marital Rape/Family Violence	01
Domestic Violence/Sexual Assault ³³	01
Domestic Violence/Incest ³⁴	01
Domestic Violence/Marital Rape/Rape ³⁵	01
Rape/Family Violence	01
Incest	01
Rape by Boy Friend ³⁶	02
Rape	01
Rape of Child ³⁷	01
Family Violence	01
Sexual Harassment ³⁸ /Family Violence	01
Domestic Violence threats	01

³⁰ Domestic violence in this study was defined as physical violence inflicted by a spouse, common-law spouse, boyfriend, lover.

³¹ Marital rape in this study was defined as forced sexual intercourse by a husband, common-law spouse, estranged husband, estranged common-law spouse.

³² Family violence in this study was defined as physical violence inflicted by a parent, brothers, in-laws, grandparents, sons, grandsons, cousins, nieces and nephews.

³³ Sexual assault in this study was defined as any physical assault, other than rape carried out with sexual intent. This includes use of objects in a sexual manner, touching of sexual organs, forced kissing, touching breasts etc.

³⁴ Incest in this study was defined as sexual activity involving female child/woman and grandparents, father, brother, son.

³⁵ Rape in this study was defined as forced vaginal or anal sexual intercourse, either by threat of violence, actual violence, or through use of drugs to render unconsciousness.

³⁶ Rape by boyfriend in this study was defined as forced sexual intercourse by the boyfriend of the woman.

³⁷ Rape of child in this study was defined as forced sexual intercourse perpetrated on a female below the age of 15 years.

³⁸ Sexual harassment in this study was defined as behavior, speech or physically touching a woman which results in the woman feeling sexually victimized, intimidated, and frightened.

Other Kinds of Violence

Economic Abuse ³⁹	19
Social Abuse ⁴⁰	10
Verbal/Emotional Abuse ⁴¹	27

When Violence began

Before Marriage	3
Immediately	8
After one month of marriage and before one year of marriage	6
After one year of marriage	2
After 2-5 Years of marriage	12
After more than 5 years of marriage	4

Frequency

Every day	2
Occasionally	21
Constant	9

Severity of Violence

Severe	16
Moderate	23

Violence during Pregnancy

Yes	21
No	8

Violence directed at Children

Yes	13
No	10
Violence witnessed by Children but not experienced	11

Medical assistance sought (traditional and non-traditional)

Yes	25
No	16

Police assistance sought

Yes	38
No	12

Support received from her family members:

Yes	35
No	5

Support received from his family members

Yes	09
No	25

Support received from neighbours

Yes	19
No	07

Support received from community leaders

Yes	10
No	08

Support received from Women's Organisations

Yes	10
No	13

³⁹ Economic abuse in this study was defined as the withholding of money, taking the wife's money, property etc.

⁴⁰ Social abuse in this study was defined as having control of the woman's movements, contact with the outside world, clothing etc.

⁴¹ Verbal and emotional abuse in this study was defined as psychological abuse perpetrated on the woman through abusive language, threats etc.

Perception of why the violence occurred

Dowry	5
Alcohol	32
Money	14
Adultery: (husband's)	16
(both)	01
Failure in wifely duties	03
No reason	09

Ever left husband/home

Temporarily	17
Permanently	06
Never	16

Suicide by women

Attempted	15
Thoughts	09
None	02

Current State of Marriage

Abandoned by husband	12
Separated from husband	13
Divorced from husband	04
Together	17
Widowed	01

Chapter 4

Results of the research

Identifying and documenting the forms of violence against women in the family and the community in selected populations.

For the purpose of this study domestic violence, marital rape, rape, incest, family violence and sexual assault⁴² were considered. Other kinds of violence which were experienced together with one or more of the above categories above were (1) economic abuse, defined as the withholding of money, taking the wife's money, property etc; (2) social abuse, which was defined as control of the woman's movements, contact with the outside world, clothing etc and (3) psychological abuse, defined as verbal and emotional abuse. Of those being looked at, domestic violence was found to be the most common form of violence against women⁴³.

Domestic Violence

Sometimes when I am feeding the baby [the lunch] gets late and the curry is on the fire, then he will come and hit the pot of rice on my head. If the tea doesn't have enough of sugar he comes and pours it on my face...I am very frightened of him. All the time I am frightened ... All men whether they are brothers or husbands hit women.

A United Nations report on violence against women in the family cites alcohol and drug abuse by the perpetrator; family history of violence; provocation by the woman; economic and social factors; and culture and structural inequality, as some of the reasons for the existence of violence in the home⁴⁴. In this study many of the women cited alcohol as being a primary cause for the violence, but in addition there were other problems like adultery, financial problems, dowry and failure to perform wifely duties that contributed to the violence. The inclination to co-relate alcohol and domestic violence seems inevitable; however, it was also apparent that these men and women led economically hard lives. Many of the women stated that their husbands drank because of the hard physical labour they were involved in during the day. Doctors told us that male estate

⁴² See footnotes 30-40 for definitions of the different categories.

⁴³ When reading the results and analysis of the study it should be kept in mind that this is a small sample, and generalisations on our findings cannot be made.

⁴⁴ Preliminary report submitted by the Special Rapporteur on Violence against Women. 994/45

labourers needed the alcohol at the end of the day. Alcohol was used by the men to forget their economic hardship. Alcohol was also used by the men to release impulses to violence on women brought upon by economic frustration. Therefore, it seems simplistic to link acts of violence against women with alcohol without looking at the other factors that also contribute towards the violence.

The women we interviewed have been beaten on their heads, legs, stomachs when pregnant, thrown, kicked, attacked with rods, knives, chairs, broomsticks, burnt with cigarette butts, had kerosene thrown over them and set alight, thrown against iron pipes, throttled, and bitten. They have endured marital rape, sexual humiliation, and forced to have sex in front of their children.

The frequency of violence in the cases of these women varied. In some instances domestic violence was portrayed by these women as a matter-of-fact event, "He [hits] but not daily. On a day he might hit me but the next day he won't do anything." In other instances it was torture, as in the case of a woman who was beaten and raped repeatedly by her husband on her wedding night. "First day we got married ... that night was really like a nightmare. If I had poison that very night I would have taken [it]. He thrashed and thrashed [me]".

Marriages of choice were common among the women, and of those there were some women who had experienced violence before marriage. They rationalised that they had continued with the relationship in the belief that the violence would cease after marriage. The most common reply however, was that the violence had started between 2-5 years after marriage. Most women experienced violence occasionally, though there were some who said they experienced constant violence, and there were two women who claimed they had experienced violence in their lives every day⁴⁵. The severity of violence ranged from severe to moderate, with most of the women experiencing moderate expressions of violence⁴⁶. Violence during pregnancy had been experienced by many of the women, and in some cases their children had also experienced the violence at home. One woman reflecting a sense of resignation to her situation says, "I can't say he beats me on the face or hands or on the legs. He beats me all over, with anything he lays his hands on." It was apparent that many of the women believed that violence was to be a part of their daily lives, be it at the hands of husbands, fathers or sons.

While many of the women had attempted to leave their husbands, we found that most of them came back. Lack of long-term familial, community or state support forced the women to return to the environment of violence. Patriarchal notions on the family and the role of women in society mythologize that women are at the core of the family, seeming to assign great respect and loyalty to them. However, this conditional support of women collapses if they challenge the subservient and limiting role assigned to them. State mechanisms ostensibly in place to address the solution of violence against women, like the Women and Children's police desk, Grama Niladharis and Samatha Mandalaya committees, ironically promote and encourage the woman to remain in a situation of violence under the guise of maintaining the stability of the family. It thus seems that the

⁴⁵ Occasional violence was defined as violence inflicted every few months; 'Constantly' was defined as violence inflicted every few weeks.

⁴⁶ Severe injury in the research project was defined as being injuries more severe than bruises and scratches.

stability of the Sri Lankan family lies squarely on the shoulders of the woman, whether it is harmful to her or not.

In subsequent sections we will illustrate the attitudes of state and community actors in the situation of violence against women.

Case study on domestic violence

Menike⁴⁷ was 27 years old when she spoke to us. Her mother had died when she was five years old and her father was left to look after his two daughters and two sons. Her father was very strict with her and would frequently assault her physically. As she got older and was given more household responsibilities, the assaults by her father increased. Several times he would threaten to kill her by making her drink insecticide if she served his food late. One time she attempted suicide by drinking insecticide, but for reasons she did not go into with us was prevented from dying.

Her father forcibly married her off at the age of 18. Unbeknown to her at the time of marriage, her husband had already been married to her sister's (relative) daughter. When her father told her that she must marry this man, she expressed her state of mind by saying "The moment a dog barks he does not bite", meaning that a barking dog may take his time to bite but eventually he does. Her father disregarded her fears and she was married to her husband when he came to her village with 12 of his relatives, as is the custom of the village. Her father was 65 years old at the time of her marriage. He died soon after.

Six months after marriage she gave birth to her eldest daughter. She took family planning injections for three years, and at the time of speaking with us she had three daughters, aged 9, 4 and 3½ years old. She lived with her family on her ancestral land in the house that was begun by her father for her and completed by them. Her brother and his wife lived in a nearby compound. She now lives in her husband's village after her house was sold. She traces the violence that her husband inflicts on her from the time of her youngest daughter's conception. Her husband had started drinking and selling alcohol. When he was drunk he would assault her both verbally and physically. After her father died she confided in her brother, who took her to the police station and made a complaint against her husband for selling liquor and the verbal and physical abuse committed against her. The police came to their house and informed her husband that he shouldn't be selling liquor in that village and that it would be better if he did not drink liquor as well. When the police left, her husband scolded her and her brother, and accused them of having sexual relations with each other.

When she was in hospital for her youngest daughter's confinement her husband informed her that he was going to sell the house. She begged and pleaded with him not to sell the house. That if he did, she would be left with nothing. That she was willing to worship him every day but to please refrain from selling the house. But he sold the house anyway. She heard that he had sold it for a sum of Rs. 3,000 but was only shown Rs. 2,800 by him with no explanation given by him for the missing sum of money. They subsequently went to live in his parents' village in a small house that was built for them

⁴⁷ Names of the women have been changed to ensure confidentiality.

by his parents. The house is now almost falling apart, and during rainy weather is impossible to live in due to severe leaking. Subsequently she discovered that he had sold some paddy land of hers for Rs. 10,000. She never saw any of that money as he had spent it on drinking.

After marriage Menike discovered that her husband ill-treated his first wife as well. She was informed of a letter written by him and in the first wife's possession, where he had promised to stop harassing and assaulting her. The letter was signed in the presence of two witnesses.

Menike's ill treatment at the hands of her husband became worse. He hit her with whatever came into his hand. She has been hit with a katti, mamotty, axe, and wooden poles. He has hit her on the back, spine, stomach and head, and even when she was pregnant. When she went for medical treatment to the doctor she lied to the doctor as to the causes of her bruises. She legitimised her avoidance of the truth by saying that it was very bad to talk against one's husband. He has now begun to hit the children. He has threatened to kill them, and the children are terrified of their father. He has even smashed the household bicycle in anger.

Each time Menike goes to the police station to complain, they advise the husband and the wife to live in peace and harmony. She has made complaints four times to the police. However, each time they are merely advised and sent back to their house. Menike says that the moment they leave the police station the abuse and assaults start once again. He accuses her of having sexual relations with all the policemen. He accuses her of having sexual relations with other men in the village when she goes to the river to bathe or goes to the jungle to collect firewood. She has thought about ending her life.

Her husband lost his job and now is too drunk to even sell liquor. He has become a day labourer. As their income is sporadic, they are lucky if they have two meals a day. Most often they are able to eat just once a day.

Menike's husband has often forced her to have sex with him. She cries and tries to escape, but most times it has not been possible to escape. He has forced sexual relations with her in front of the children as well.

Menike has left her husband once. She sought refuge at her aunt's home in a neighbouring village. When her husband came looking for her with her youngest child, the aunt advised him to stop verbally and physically abusing Menike. But it was of no avail. She now feels a sense of hopelessness at trying to run away. She explains it by saying that if she runs away he will hit her even more. She has threatened him with a legal separation, but he insists that he is her legal husband and she cannot get a separation from him.

Menike sees a better future for herself if she can be separated from her husband. She tells us that she could go anywhere, even abroad. She imagines a life without him that will be peaceful and where her children will not continue to suffer. Today Menike suffers from severe headaches due to the beatings. When she voices her wish to leave her husband, her children weep and wail and ask her not to leave them with their father. But, even her husband's parents have asked her to separate from their son and live somewhere else. For now, all Menike feels she can do is advise other women to get to know their future husband for at least five years before they commit to marriage. And she ends our interview by saying, "Now I hate the entire male community because of one man."

Rape

He threatened that he would live only with me and that he would follow [me] around. He did not allow me to live in peace. Wherever I [went] he [would] be there whenever I turned around. So I had no choice but to love him. He came and told my mother that he loved me and wanted to marry me. My mother objected to it. He said your parents are objecting, but I will go against them. And he forced me... He forced me and I came and told my mother that he had made me upset and I was going to take medicine [to kill myself] because all my dreams have been destroyed... [I was raped] on the road, when I was returning from work. It must have been around 6.30 pm... I was coming alone. I did not know he was there. It was 6.30 pm really late and I was alone. He caught me near the road where there were tea bushes and would not let me go. I yelled but he did not let me go. After that I don't know what happened. I came home and told my mother all what happened. There were people walking down there, but I was so ashamed as to my state and was wondering if I should take medicine [to kill myself] that I did not let others know.

In our sample we encountered six women who had been raped. One was the rape of a child. Two were raped by their boyfriends, One was raped by a neighbouring boy, and two women were subsequently married to their rapists.

We found that in our study of rural Sri Lanka the women define rape as breach of promise. Which means that in their minds sexual intercourse was undertaken only on the understanding that marriage was to follow it. If after some time or after getting pregnant the man didn't want to marry the woman, it was understood by the woman that he had raped her, for he had had sexual intercourse with her under false pretences. This understanding of rape was also found to be supported by the social workers who worked with the women. There were also some instances of revenge rapes. In these cases, men used rape to teach a lesson to the girl or her family for not having thought him good enough for her, or to prevent her from being given in marriage to someone else. Raping the woman was a way of ensuring that she could not marry anyone else, and thus the rapist used the stigma of rape to force the woman to marry him. Often these marriages ended in separation or with the husband abandoning the woman soon after the marriage. In some cases the woman agreed to marry the rapist out of fear that no one else would marry her. The authorities, such as the police and Samatha Mandalaya Board, operated under the same premise, and often forced or negotiated marriages between rapist and rape victim. The rapist most probably agreed to marry the woman in order to have the rape charges dropped against him. There have been instances where the rape victim has been ostracised and cut off from society and not received any community support for her plight.

Rape has been used as an instrument of control, as an instrument of war, as an instrument of revenge and as an instrument of torture. In countries like Sri Lanka where virginity is prized, an unmarried rape victim can face social ostracism and be victimised for life. The belief that "good women" cannot be raped and "she asked for it" serves to place the blame of the rape on the woman and reinforce a sense of helplessness on the

part of the victim and her family. In these situations, understandably, shame and stigma may force the rape victim to conceal the rape. The rapist in most cases is not brought to justice. Sri Lanka has no rape crisis centres, no shelters, no hotline. Very often the rape victim in her ignorance of how to react in such a situation has washed away any evidence of the rape, thus making it even more difficult to establish the rape. The police station, which is the first point of entry to accessing help for a rape victim, does not allow rape cases to be handled by the women's and children's desk. Frequently the rape victim has to undergo an arduous and emotionally brutal encounter at the hands of male policeman to establish the charge of rape. Rape victims who are admitted to hospital have no protection of confidentiality with regard to their case. They often end up in a bed in a general women's ward with their case discussed publicly with no consideration given to the rape victim.⁴⁸ In addition to all this, once a rape case is heard in a court of law, a rape victim's testimony needs to be corroborated. Understandably, a woman who has been raped is most reluctant to access the necessary sources in order to obtain help. Thus the complicated social and legal attitudes that govern rape seem to fail the rape victim and ensure that rapists and potential rapists get off with no repercussions for their crime.

Case study on rape

Fathima is a 32-year old woman with two children. She has lived in Hava Eliya all her life. When she was a young girl of 18 years, one of her brother's friends came to her house during the day; while her sister was at work and her sister's children were at school, and raped her. After two or three months she realised that she was pregnant and informed her family about the rape and the pregnancy. The boy denied all allegations of rape. Her family scolded her and wanted her to get rid of the baby. When she was six months pregnant, they left her at her sister-in-law's house until she had the baby. After she had the child she was advised by her family to give the baby away, but she refused. The boy who had raped her had at first agreed to register the child in his name but did not appear at the hospital. Three months after the birth the father of the child went away from the village. Fathima continued living with her family and working as a domestic to provide for herself and the child. When the child was nine years old the father of the child appeared back in the village and offered to marry her in a letter to her sisters. He was a Sinhalese boy who converted to Islam for the marriage. Soon after the marriage he began beating her. He became very possessive and suspicious of his wife and took to locking her in a room when he went out. He didn't drink much and used to take a little bit of ganja, but according to Fathima the beatings didn't seem to be related to his drug use. He would use an iron rod to beat her and abuse her any time of day. Two months after the marriage another child was conceived. One night when that child was five months old and Fathima was sleeping, in

⁴⁸ The researchers were taken to a general female ward in the Nuwara Eliya Hospital and shown a rape victim by a doctor who asked a nurse to fill them in with the details. The nurse proceeded to elaborate on the rape case publicly and had to be asked by the researchers to be briefed on the case in another room.

the early hours of the morning her husband came home and threw acid on her private parts. She awoke screaming and in pain and was rushed to the hospital by the neighbours. The doctors at the hospital asked her to file a case with the police against her husband. However, her husband who was working as a cook at the police station prevented the case from being filed by rousing the police officers against Fathima, saying she had a lover. The police taunted her and refused to file a case against her husband. She then went to get a divorce from her husband and approached the Muslim Quazi judge for a divorce. He dissuaded her from it by placating her that this was a minor family incident and forced a reconciliation between Fathima and her husband. Her acid injuries took about three months to heal, during which time she was helped by her sister who bought medication for her. Soon after the acid attack her husband abandoned her and disappeared. Her sister and brother approached the police once again, attempting to file a case on her behalf; however, the police taunted them saying that Fathima must have had a lover.

Fathima now lives with her niece and works as a daily housemaid in a bungalow. She manages to eke out a living for her two children and herself. She elaborates on the rape, saying the boy must have drugged her and she must have fallen asleep and then he raped her. She awoke to find him sleeping beside her and she realised what had happened.

Fathima explains that the only reason she married this man was because she felt that no one else would marry her and take care of her son. Thus, even though her sisters objected to her marriage, her fear of having to live alone for the rest of her life made her agree to the marriage. Today, she says that she will not take him back as she has realised that he could murder her and her children and no-one would be the wiser. She says that her husband also hit the children and expressed no love towards them. His violence, however, was only directed at Fathima and her two children; within the community he was popular and got along well with the others. Fathima's sisters were the only people who helped her, she didn't have access to any women's organisations as she worked the whole day and didn't have time to go to them. After we had spoken with her she expressed happiness at having shared her story with us, saying that she was happy that someone had asked questions about her life, which for much of the time she has to keep within herself for lack of community support towards her.

Incest

The younger child said "Amma there is something that I must tell you". She said that father [had] slept near the elder sister... The Police beat my husband severely. [My husband] denied having any immoral alliance with my daughter. The case was taken to courts. He was remanded for two and a half months. Then I bailed him out. The case is still going on. My daughter is still a virgin. Any immoral action has been done without harming her virginity. This happened due to my husband's

drunkenness... I can't think that his fatherly love for his child turned into something different... I asked her and blamed her as to why she did not tell me about her father's immoral advances... I blame the child too. She is fourteen now. She should have told me. Today some girls are mothers at 14. If the father made indecent advances she should have told me. So I think the child is to be blamed too... Whatever may have happened, we loved each other. Her father and I. She came in-between us. We fell apart and now everything is shattered... After I got very suspicious, I called my daughter and examined her. I felt that she had been used obscenely. I felt so. There was something not very pure about her. She was like a crushed flower. Maybe her virginity was not harmed but she had been tampered with. I felt so. Her body was not of the pure texture of a young girl.

There were two cases of incest in our sample. The case portrayed above is still going on. The woman admitted that she was suspicious of incest only because of neighbourhood whispers and her younger daughter's accusations. Both the father and the older girl, the supposed victim of incest, denied the allegations. The woman's feelings towards her daughter show how victimisation often occurs within the family. Responsibility, blame and shame are thrust upon the daughter instead of the father.

The second case was of incest happening in a house that experiences domestic violence. While the woman had gone to the police on domestic violence complaints, she kept the incest hidden from the police. She was disgusted and outraged at her husband's behaviour, and yet it appears that she felt she had no moral obligation to protect her daughter legally. For a short time she sent the daughter away and then together with her other children joined the daughter. Now she is contemplating rejoining her husband and taking her daughter with her. The daughter doesn't want to go. It is interesting to note that while both domestic violence and incest are perceived as shameful factors that occur within a family, incest seems to be more shameful and is thus made more invisible than domestic violence. While the woman had no compunctions in going to the police station to report domestic violence, she did not feel she could report the incest.

Case Study on Incest

I have three children. Recently my youngest son got fever and I was in hospital looking after him. My elder son and daughter were staying at home with their father. Before I left for the hospital I advised my husband not to drink when I am away. I told him since our daughter is at home to be very alert and stay only at home. That night he had hung some cloth across the windows and while my son was fast asleep he had gone to our daughter's bed. She had got scared. He had removed

all her clothes and put them aside and started kissing her naked body. She told me she did not shout even though she wanted to because her voice was not coming out of her body. When I came home from hospital she told me not to leave her alone in the house and go anywhere. She did not give me any reason. Much later she told me that her father was doing various things and then went on to tell me what happened. I got so disgusted. I did not ask him about the incident as he had threatened our daughter that he will kill her if she told me anything. If I have to go out of the house he uses that opportunity to stay naked in front of my daughter. When she gets ready to go to school in the morning and she is combing her hair in front of the mirror, he goes behind her and shows his nudity to her. If an outsider did all this I wouldn't have tolerated this at all. I would have killed him and killed myself for the sake of my child. My daughter is only 12 years. I did not go to the police about this as he had threatened to kill our daughter. It is not good for her if it is known that she was raped by the father. He didn't want me to do any work for him; he wanted our daughter to do everything. Once when I went to sleep in the afternoon because I was very tired I told my daughter if [her father] tries to be funny with her to trample my finger and I went to sleep. He had then made a kite for our son and sent him out to play and he had removed his sarong and was masturbating in front of the daughter. I woke up and saw this and felt very ashamed. I reprimanded him and he came and beat me. I told him that I have only one daughter and he has to behave like a man. He has to behave properly. My daughter then said that she cannot stay at home and she wanted to go to her grandmother's house. I didn't have any money with me to send her. Then she told me that she wanted to become a Bhikkhuni and take up robes. I left her at the Bhikkhuni temple. When I returned my husband wanted me to bring our daughter back home. He hit me. Our son then told me that if I don't take a decision to leave him, he will not come home. So I left him. But now I have been here for 8 months and he has come and got reconciled with me. We are going back to him and I am taking my daughter with me. I cannot say if the situation for my daughter will improve. She does not want to go. But no-one knows about this, not my parents, not my brothers, not the police. I am going back to take my house back. I have nowhere else to live. I have tried to commit suicide about three or four times. Once I tried to put a noose round my neck but I was not tall enough. I bear up because of my children.

Sexual Assault

That Maama isn't good. When I was there after about one year that maama came to my room in the night to harass me... He came to me as if going out [to the toilet]. I was asleep then. When he got onto the bed

I woke up... I couldn't do anything. I didn't have enough strength to shout. Besides there were visitors there that day. I banged my hand against the wall so hard I even hurt my arm.

The two instances of sexual assault found in our study was of a father-in-law (Maama) in one instance and a husband's friend in another instance. The husband's friend seemed to have made advances on the instructions of the husband, who had wanted to harass his wife. The woman was aware that he was acting on her husband's direction, and so was more angry with her husband than with the friend. The sexual assault by the father-in-law was hushed up by his wife [the victim's mother-in-law] who had realised what was happening and who requested that she keep it from her husband, their son. When she wrote a letter to her husband telling him about the incident, her in-laws arranged another marriage for their son and got him married off to someone else. Once again we see an instance where, when a woman tries to receive some justice in a situation where she has been wronged, in this case the woman writing to her husband and informing him of his father's behaviour, it is she who is penalised.

Family Violence

Those brothers [in-law] seemed against us, then only they wanted to chase us out of the house... They told me to leave this place and hit me. This was after my mahattaya died. On one occasion I came home from work for lunch. There were three trees they were cutting down. When I asked them why, they said because they wanted the land and for me to go with my children. Then they all got together and hit me. Men and women. So I also threw a stone. Then all of them surrounded me and with the beatings they gave me I cracked my head and started bleeding. Then the workers took me to the police and then the police directed me to the hospital and I was admitted there.

We have had instances of family violence inflicted by the father of the woman and by the in-laws of the woman. Sometimes the violence inflicted was not physical; much of it was mental. Though for the analysis of this study we included only those instances of family violence that were physically inflicted, in the course of the stories many forms of family violence were revealed, including the withholding of food, harassment over property, withholding access to use a common toilet, scoldings for not being a good wife, encouragement given to the husband to leave his wife or marry another woman, etc. In Sri Lankan society, which focuses on the extended family rather than the nuclear family, family violence in all its forms, physical and mental, can be a constant source of unpleasantness for a woman. Should a woman defy the traditional roles assigned to her, she leaves herself vulnerable to expressions of displeasure from both her husband's family as well as her own. We came across many instances where a husband's family held the woman to constant ransom with threats of giving him in marriage to another woman, if she did not toe the line with them. Marriages in the village were authenticated by family consent and community knowledge rather than state registration. This meant that if a

family was displeased with the wife of a son they could exert enough pressure on him to leave her and contract another union with another woman they preferred. Many women who left their violent husbands to seek refuge with their own natal family found that after some time they had exhausted the hospitality and sympathy readily offered at the beginning. The desire for a woman to have a house she could call her own often motivated her to return to a home of violence with her husband rather than stay on as an unwanted guest in her parents' or siblings' home.

Marital Rape

His sister says that he needs to have sex three times a day and it is because I don't fulfil those necessities that he gets angry like that. So then I told his sister that if he wanted a wife just to have sex, he could have married a foreigner or can go to hotels and pay and get his necessities fulfilled. I told her that I am not there to fulfil his unnatural sexual appetite... He wants sexual comforts from me. I have to massage his sex organ. His sisters tell me that those are my duties as a wife... My duty is to massage his sex organ and be his sex partner... Both the mother and the sister tell him to force sex on me. They say it is my prime duty in marriage... A woman is taken by a man for sex and not to scrape coconuts. But I never let him force sex on me. I would rather die than succumb to such idiocy... His mother and his sisters say that people like a well-known politician lived such a healthy long life because he had a good sex life with many women. It is my duty to provide sex for him, massage his body and prepare hot water for him. I must have sex with him at least thrice a day. I have to be his servant for him to lead a comfortable healthy life... These were their ideas about marriage.

These were the words of one woman who refused to be raped within marriage despite the ideas emphatically conveyed by her mother-in-law and her sister-in-law about her duties in marriage and the advice given to their son and brother to force sex on her. The story, however, is not the same for all the women who report that they have been forced to have sex by their husbands. While on paper marital rape may seem clearcut and logical, practically it baffled the women as to what exactly their sexual rights were within marriage. The concept of saying no to their husband's sexual demands was alien and confusing to the women. Most of them had taken the stance of inevitability and, despite initially refusing or trying to fight off their husband, would give in subsequently. Some of them gave in for fear of waking up the children or the other inmates of the house. Other women had to endure other forced sex acts. The notion that marriage means sexual availability for the husband pervades our societies, and thus marital rape, regardless of the law, exists, there are no repercussions, and will continue to exist until the women themselves play an active role in exercising sexual will.

Excerpts from interviews highlighting incidents of marital rape

Case 1

I am a 26 year old woman. I got married just before my O Level exams. On my first night of marriage I was raped. That next morning I couldn't even walk properly he had troubled me so much that night. I wasn't given anything to eat. I was feeling so dizzy I asked for some water. He gave me some plain tea fearing that I would die. The police had come to our house for an inquiry regarding a murder that [my husband] was supposed to have committed. I told the male constables that I can't stay with him, that I want to separate from him, that I have already suffered too much. But the police said that I was too young to be separated from my husband and told me to stay with my husband. I also thought as I was deflowered I didn't have any choice so I went back to him. He raped me not only in the night but also during the day. He said he was going to buy batteries for the radio so that he can set the volume high and no-one will hear when he kills me. Then I left him. It's been ten years now since that happened.

Case 2

I am a 40 year old woman. I have three children. I had a proposed marriage. He beats me and abuses me in filth. I do not like to have physical relationships with him. But he forces it on me. I asked him if I was OK only for that? But he says it is his legal right and he has every right to do it. Because I am ashamed I keep quiet. I tell him not to have relations with me but he fulfils his desires and walks away. I tell him not to trouble me in the night because I come home tired after work and I want to sleep. I have told him to bring home some other woman to fulfil his desires. But he doesn't care. One night at two o'clock in the morning he wanted to have sex. I refused. He hit me. I left home and slept in a neighbour's house. He had been searching for me all night. He says he can do anything to me because of his marriage rights.

Case 3

I am about 26 years old. I married my sister's husband's brother. I got married at 19 years of age. He comes home drunk and I can't do anything or he will hit me. He throws me out of bed and then he removes my clothes. Then he throws water on me and starts spitting all over me. Then he tries to be with me. I don't say anything. I just keep quiet. Just letting him do anything else. Whether the children are asleep or not I have to remove all his clothes if he wants me to.

Women's perceptions of violence and its effects

Many of the women perceived alcohol as being a causative element in violence. Adultery and financial problems were also seen as contributing to the violence. Other reasons like dowry and failing in wifely duties were also cited by some women for the occurrence of violence. Some women said that there was absolutely no reason for the violence inflicted on them. If violence is perceived as an everyday and ordinary occurrence, then the women's general perceptions of the violence inflicted on them would also reflect the ordinariness of it. Even though every single village woman didn't experience violence in her life, the attitude towards violence against women was that it happened and it was common. One woman said, "To be frank there are a lot of people here who get battered by their husbands, but they don't come out with it." Some women expressed dismay that anyone should be made to go through it. "I think this should never happen to another person. Whether they take a person by choice or whether their parents find them someone, the life that I have led should never be theirs."

Many women also felt a sense of futility in dealing with the violence. In spite of their outrage, dismay or simple grief at having to go through it, there existed in some cases a sense of confusion as to whether this was part and parcel of a woman's lot. They questioned whether the violence was a legitimate social or religious burden that they had to go through precisely because of their being women.

A women we interviewed said that she would advise other women in similar situations, "We live under such difficult circumstances. That after we get married we mustn't leave our husbands. Whatever our problems we must bear it and live. We mustn't leave our husbands. Some days may be difficult, some days are easier. So I tell them however bad the arguments or the violence, I tell them they must try and bear it." Another woman said when explaining the violence, "What else but my karma of past birth. I have nothing else but to think that this is the result of bad karma. I have not done anything wrong in this life." This attitude, coupled with the advice commonly given by those initially accessed for help, whether they are family members, Grama Niladharis or police, ensure that the women remain in the cycle of violence. If we are to progress and help these women in any sort of way, not only do we have to educate the service providers on how to help the women but educate the women themselves that they don't have to take it!

The effect that violence had on the women most commonly took the form of psychosomatic symptoms. Headaches, refusal to eat, continual fear, and palpitations were common complaints among the women. One woman describes what happens to her when she sees her husband coming home. "My heart starts beating fast. Head starts aching. I feel a burning sensation in my body and head. I find it difficult to breathe."

Identification and assessment of existing formal and informal sources of assistance

The formal sources of assistance that women turned to with their complaints of violence were: (1) the police; (2) the hospitals (3) the judiciary (4) the Samatha Mandalaya and (5) the Grama Niladhari

(a) The Police

The role of the police is crucial in any attempt to combat violence against women. In Sri Lanka 33 women and children's police desks have been set up in 33 districts. They are structured to address minor crimes that come under the Minor Crimes Investigation Division. Family disputes, domestic violence, incest, sexual harassment and sexual assault are handled by the Women and Children's desks. Rape is considered a grave crime and is handled by the Crimes Investigation Division. There is at least one woman police constable who handles the Women and Children's desk; most often there are two women police constables (WPC's). The desks are generally located in the reception area with one room at the back of the police station allocated to the desk should the need for privacy arise. According to our field observations, all the complaints were taken down and questioning conducted in full view of other officers and the general public. A woman police constable attached to the Crimes Investigation Division is supposed to handle a rape victim. However, according to the researchers of this study, it is doubtful if that consideration is practised stringently.

The Women and Children's police desk in Nuwara Eliya has been in operation for six years. Training for the police who staff the desk is provided in Colombo, sometimes as frequently as every three or four months. The special desks deal with family disputes, sexual harassment cases and direct any rape cases that come to them towards the Criminal Investigation Bureau in the police station⁴⁹. They receive complaints in a common room and record the complaints in the Complaints Branch book. Most often female constables record the cases and speak with the complainants that come to the Women and Children's police desk. However, on occasion due to shortage of staff, male constables have had to record the complaints. The room situated at the back of the police station is utilised rarely. The general environment around these desks is that of noise, lack of privacy, crowds of civilians and chaos.⁵⁰

As the Women and Children's police desks deal primarily with family disputes, many domestic violence, sexual harassment and incest or sexual abuse cases are dealt with there. In extreme cases, if the woman has suffered great physical harm, the husband or male companion is remanded by the police, reportedly to instil a sense of fear in him. The maximum amount of time he can remain remanded is 24 hours, after which he is set free. In cases of both domestic violence and rape, a judicial medical report (Adikarana Vidya Poruma) must be filed. If the complainant has gone to the hospital first to treat her injuries, the hospital police post located at the hospital will file the judicial medical report. The report will then be sent to the police station for investigation.

According to the Women and Children's desk officer we interviewed, five or six domestic violence cases are reported each month, while five or six rape cases are reported each year, at the Nuwara Eliya Police Station.

⁴⁹ The Women's and Children's desk in Anuradhapura is at a separate location from the Anuradhapura police station. Thus rape victims who came to them first had to be redirected to the main police station.

⁵⁰ An exception is the Anuradhapura Women's and Children's desk, which was neat, orderly, clean and extremely quiet.

The researchers were told by the Women and Children's desk officer that the first duty of the police officer taking the complaint is to establish the veracity of the case. Sometimes in this process she undertakes to advise the couple. She speaks with both husband and wife alone and together. After establishing facts, the complainant is asked if she would like to return to her husband. In most cases she does. The police sub-inspector who spoke to us said that she personally tries to unite the husband and wife and maintain the family unit. "When families like that come to me, I personally try to unite them or settle the problem. To send one party to court and separate them, I think is a sin... I think it's an injustice we do to them. They may have children, then it's unfair by the children also to have one [parent] in one place and the other somewhere else. It creates problems [for] them." Alcoholism and extra-marital affairs were given by the police as common reasons for the occurrence of domestic violence.

For rape cases the veracity of the case has to be established as well. This is done by looking for signs of struggle, bruises, contusions, mud, blood etc. The police interrogate both the rape victim and the rapist. The behaviour of the victim is evaluated. "Normally a rape victim gets frightened and cries. [Sometimes] even before she comes here she tells somebody else ... if somebody comes and tells me she has been raped you can tell easily by the way that person behaves, how she tells [her story], whether she was actually raped or not. Now even if somebody threatens to kill you, if you are taken by force, you would definitely shout, or else you would cry out. We look for those things also." Conclusions of the medical exam that is conducted in the hospital are also taken into account. In addition, the clothes of the victim are taken for analysis.

The policewoman elaborated that in the case of rape, the victim goes through a double victimisation. Not only has she undergone the violation of her body but also in undergoing a court case she is subjected to the humiliation of her rape becoming public knowledge. The 'shame factor', as the policewoman called it, intensifies.

In public awareness campaigns undertaken by the police, women are advised to dress in a manner that would not attract unwanted attention towards them. "Sometimes we can see that certain women dress and behave in such a manner that they seem to incite men to such a state when they wear a dress or, let's say, a skirt - though it may be long, still we expose two thirds of [our body]. Even when they wear a blouse we can see that it's revealing around the chest in the front. So then, in a way, we tell [the men] indirectly to come to us. Even take our culture, we Sri Lankan women are used to dressing in a decent manner. Even men first judge us from the way we dress. That's their first impression of us. That's something I have noticed. Men also look at a woman who is half dressed with disrespect and contemptuously. They think they can lure her to do anything."

While responses from the Nuwara Eliya police station have been highlighted, the same attitudes were found in Anuradhapura and Matara. For example, in Matara, the advice given in domestic violence cases is mostly to the wife. "We told the wife, when the husband scolds, for her to keep quiet. Not to retort and talk back; when she reacts like that he gets more angry ... We also told her, when her husband is sober to explain to him kindly. To tell him that they have children and to live peacefully without quarrelling. To set an example to the children." The determination to keep the marriage intact at all costs is a constant theme in their dealings with domestic violence cases. "We have never asked

them to separate. You know we always try to bring two parties together. We followed a course on 'Crisis Management' where we were taught that in family disputes we will have to always try to bring the two parties together somehow. It is a must."

However, even the police realise the limitations of the Women and Children's desk. The police Inspector stationed at the Matara police station admits the inadequacy of the support system offered to the Women and Children's desk. He recommends that they should have more staff, and there should be a vehicle attached to that branch. This fact was also brought up in Anuradhapura where the sheer distance of villages from the police stations make it difficult for the women to make complaints. The police station in Thirappane had two foot bicycles and four mo-bikes and one jeep for the officer. The officer in charge at the Thirappane police station admitted that he would not feel comfortable sending a woman police constable to distant villages, as he would then be putting her safety at risk. Thus, in those instances, it would be a male constable who would be sent to investigate and register the complaint.

A handbill displayed at the Anuradhapura women and children's desk describes some reasons why women and children get molested.

1. The uncultured behaviour of girls
2. Poverty
3. Pride of women
4. The corrupt environment
5. Lack of education and illiteracy
6. Mental retardation
7. Feebleness of the woman
8. Breaking down of the family system
9. Mother working abroad and thus non-availability for protection
10. Unnecessary travelling and loitering on the part of women
11. Getting closer to the opposite sex
12. Indecent exposure of dress
13. Shyness
14. Having too much freedom

A cursory look at the list shows that the responsibility for not being raped or molested or sexually harassed or sexually abused rests squarely on the shoulders of the women.

The efficacy of the Women and Children's desks at police stations needs to be assessed. If their function is limited to minor crimes and if the cultural and personal biases are present in the advice they dispense, are they doing more harm than good?

The women we spoke with had varying opinions on the role of the police in each of their cases. Many of the women showed a reluctance to involve the police. If the women were able to use some influence and approach the police through a family member or friend who worked in the police force, she was more likely to have a more positive experience. In one case the victim was strongly advised by the police to leave her husband. In another, however, the woman had been encouraged by the police to be reconciled with her husband thirteen times. Sometimes women claimed that the police referred to them as prostitutes or loose women. According to one woman, "If they go to the police and make a complaint and if that gets to the ears of their husbands that will be

the end of their married life. Because of this, they are reluctant to go to the police... Even if they go, the police will not take necessary action and will not perform their official duties properly." The women claimed that the presence of female police constables did not guarantee that they would record their statements. According to one woman constable in Anuradhapura, "Sometimes we find that the husband has been gravely provoked by the wife and then hits her. From the abusive and unruly behaviour of the woman in the police station we have an idea of how life with her must be at home. A woman who has very little patience and who shouts down her husband in a quarrel between them can provoke him to acts of violence." Because of these attitudes which are conveyed to women, both verbally and non-verbally, women do not feel secure going to the police to file domestic violence or rape cases.

Hospital Police Post

Police posts are located within the premises of government hospitals. When a patient is admitted into the hospital under suspicious circumstances (unexplained bruises, stab wounds, head injuries, broken limbs etc) the hospital police post is informed of the admission. A policeman from the post records a statement from the admitted patient, which is directed to the minor complaints branch. Generally the hospital police post has a rotating staff of six people, four people during the day and two at night. These policemen are also required to do rounds in each ward which houses patients that have attempted suicide, or suffered domestic violence, assault, rape etc. Outpatients Department patients are also sent to the hospital post for a statement to be recorded before they can leave the hospital. The statements are handwritten and may go to four to six pages for each complaint. A copy is sent to the relevant station applicable to the patient's area and another copy is sent to the minor complaints register. Some hospital posts do not have any women constables, which means that rape cases that come into the hospital have to be dealt with initially by a male constable stationed at the hospital police post.

As seen in the beginning of this section, police attitudes towards women who have suffered violence cannot be described as gender-sensitive. The police post located within the hospital can be a hindrance to women who wish to access medical help for another reason as well. Some of the women interviewed by us admitted reluctance in seeking medical help for their injuries because of the hospital police post. The reason being that if the assault is recorded by the police, the perpetrator of the assault, in this case the husband, may be remanded. With family pressure to refrain from going to the police and thereby publicising what has hitherto been defined as private, a women who suffers from domestic violence may be forced to avoid seeking medical help because of the very institution set up within the hospital ostensibly to aid her, namely the hospital police post. Further, if attitudes of the police and legal consequences that arise are proving to deter women from seeking medical help, it is a problem that should be examined and rectified in order to assist the women who need these services effectively.

Medical Services

The women sought both traditional and non-traditional medical assistance. When women accessed medical services, most of them lied to the doctors as to the cause of the injury. For example, a woman whose husband had poured kerosene oil over her and lit the match that set her alight said, "Yes, I went to the doctor and lied to him saying that ... I had been reading a book in the lamplight and when I attempted to keep the book ... in my sleep, the lamp fell by accident and I got burnt." Women also lied to the veda mahattayas (practitioners of indigenous medicine) in their own villages. "I lied to [the veda mahattaya]. I told him I slipped and fell. I did not tell him that my husband assaulted me, but he did not believe me. He told me that it cannot be, the injuries were not from a fall. He knew that somebody had given me a big blow." Sometimes the institutional measures taken to protect women serve to inhibit them or their families from seeking medical help. The women are sometimes advised by their families not to go to hospital, as the assault would have to be recorded at the hospital police post and would result in an inquiry and possible remand for the husband. Culturally and socially, the importance of maintaining the marriage is reinforced time and again on the women. In some cases it is at the very cost of their lives or their children's lives that women hesitate to access the available medical facilities. One cannot blame them when the medical practitioners themselves hold attitudes that seem callous and inhuman. A plantation doctor in Nuwara Eliya says with a smile that domestic violence is a normal occurrence in the estates. He dismisses it by saying, "today they fight, tomorrow they get together again. Though they are estate people they don't want to betray their husbands," and emphasises the 'naturalness' of domestic violence in the tea estates. Another doctor expressed her frustration in dealing with victims of domestic violence. "They come with injuries. Some burn them ... all say it was suicide. Not only them, but even from the neighbours we can't get anything as [they] will all get together and say suicide or that they fell. So we can't get anything directly which says domestic violence." She explains their reticence in admitting to being victims of domestic violence as an inhibition reinforced through culture and tradition.

When a woman accesses the medical system after having suffered domestic violence, she is generally seen at the outpatients department where house officers or senior house officers will examine her. After treating her medically, they inform the District Medical Officer (DMO), the Judicial Medical Officer (JMO), and the police post located in the hospital. The police officers at the police post, who are supposed to have a woman police constable present, take the statement from the patient as well as from witnesses present. A judicial medical form is filled out and submitted to the police. The police then have to take the necessary action. There are no counselling services available to women. Rape victims who are generally brought in by the police, are admitted to a gynaecology ward for observation. A house officer or visiting gynaecological officer will conduct the examination together with a consultant when one is present. Vaginal swabs are taken with a female nurse or attendant present and the clothing of the victim is taken to be examined. On the lack of counselling services for rape victims the doctor says, "We have very few chances to do those kinds of things, the counselling part [I mean]". On parting with the

researchers the doctor expressed the need for counselling, and said it would be a great help if counsellors could be sent from Colombo.

A Judicial Medical Officer in Matara claimed that even though he has seen many cases of rape, he hasn't been summoned to court for a single case in the past five to six years. He believed that some of the cases were being forwarded to the Samatha Mandalaya for reconciliation and settlement. According to his estimate the average time lag between seeing a victim of rape and being summoned to court was six months.

The Judiciary

"Sometimes the men drink and hit their children and wife but I don't think it ... can be ... considered as domestic violence in the sense that we would see it in the West. We don't have such calculated acts here ... Just the spur of the moment a man may lose his temper and hit his wife and the matter ends there. There is no violence as such." That was said by a Matara lawyer sitting in the veranda of his chambers, a stone's throw from the courts. Together with his colleague he assured us of the adequacy of the existing laws and blamed the police for the weakness of the law. According to the law, when a complaint is made by a woman at a police station, she is sent to the hospital for treatment if there are injuries. The police file a case, and in the case of domestic violence, the case goes before the Mediation Board or Samatha Mandalaya. If a settlement is effected, the matter ends there. However, if it is not settled it proceeds to court. At that point the lawyers dealing with the case try to reach a settlement, either through the courts or outside.

As many of the women we spoke to had not yet approached the legal system it is difficult to evaluate the effectiveness of the system, and this very fact could be a reflection on the efficacy of the legal system. However some of the comments made by the lawyers themselves reveal the situation that the women would have to deal with if they did access the law. The lawyers' opinion of the police, which is generally the first place the women make the complaint, was extremely negative. An Anuradhapura lawyer claimed that the police never write the complaint properly and they are known to "cook up a story ... the police will write a lengthy report using filth and words she never used". She said that she would like to see the mandatory presence of a lawyer at the police station who would work within the police system. Another lawyer claims that it is impossible for the police to do their job properly as the police stations in remote towns are not staffed adequately. Yet another lawyer who runs a free legal aid commission in Anuradhapura says that most of the rape cases that come to him are incest cases. He believes ignorance of rights and the law perpetuates violence against women. Awareness programmes on violence against women, together with information on what should be done, where to go, what their rights are, etc should be conducted in remote villages. He is critical of the present legal system as it is time-consuming. According to the lawyers, a girl who may have been raped at 9 years old may only be called to give evidence when she is 26 years old. Some of the lawyers spoken with recommend special courts made up of retired judges who deal with violence against women cases, in order to circumvent the time lag. He is critical of judges who accept the occurrence of violence perpetrated against women as

normal. But the attitude of some of the lawyers themselves was no better. The denial of the existence of the problem of violence against women surfaced over and over.

Samatha Mandalaya

Samatha Mandalayas or Mediation Boards exist throughout the country. The Ministry of Justice appoints the members of the board. The function of the Samatha Mandalaya is to act as mediators in cases that have the potential to be settled out of court. There are two categories of offences that come to the Samatha Mandalaya - disputes and criminal offences. Disputes on roads, land matters and money matters are covered under disputes. Attacks with knives, assaults, breaking of teeth and other types of physical injuries come under criminal offences. Family disputes, land disputes and disputes among relatives are also dealt with by the Samatha Mandalaya. Murder, divorce, sexual harassment, and rape are not handled by the Samatha Mandalaya. The Samatha Mandalaya consists of a chairperson and members. The number of members in a Samatha Mandalaya board varies according to each area. The members represent a diverse group of the community. Some are political appointments. Ethnic and religious representatives are also included. Most of the members of the Samatha Mandalaya boards are men, though there are a few instances of women being members. The complaint is made in writing to the Samatha Mandalaya, after which the Board investigates the case and tries to negotiate a settlement. Generally the Samatha Mandalaya has four sessions per month. Each session lasts for two days. About 24 cases are conducted for each month.

The Chairman of the Samatha Mandalaya in Nuwara Eliya, who is also a doctor, elaborated on his views on the roles of husbands and wives, which influence the advice he dispenses in such cases of family disputes. "My wife doesn't work. She is a good housewife. Not a beauty queen, but a good mother, a good housewife. She had her shortcomings; we managed to sort things out. When a man comes after a hard day's work, the wife must think that the man is doing all this for her, to provide for her, give the protection and to look after her. At least I must be received with a smile. If as soon as he gets back if she comes with tales of woe or some such harangue, a long list of things to do or problems to solve, then it become irritating." The Chairman of the Samatha Mandalaya in Matara says that it is important to establish the truth in the cases of family disputes. "We don't believe the evidence given by the man is gospel truth. The woman realises the mistakes done by her and admits the shortcomings. When the husband complains that the wife was with another man, we at once do not condemn her [but we] think of the human side of the offence. We say it could happen. We do not at once say what he is saying is lies and what she is saying is the truth. We tell the husband to pardon her if it is so. We explain to the wife that the husband is an intelligent person and advise her not to get involved again. Then she will promise to be on good behaviour. We unite the two and send them away." The general consensus among the board is that it is very rare that they are unable to settle a dispute among husband and wife. The general causes of disputes between husbands and wives are financial problems, wife's reluctance to have sexual relations, husband withholding money from the wife etc. Despite rape not being under the jurisdiction of the Samatha Mandalaya, in Anuradhapura we were informed that the

Samatha Mandalaya did deal with rape cases. The President of the Anuradhapura Samatha Mandalaya explained that plenty of rape cases came to them and occurred, most often, because of alcohol. The solution to the problem of rape was dealt most often by inquiring "if both parties are willing to get married. We encourage them to go ahead. Because the insult and the bad name will come to the woman. What we do is send the woman to a doctor first, and if she is willing to get married to that person we let them do so, otherwise some women wants to get compensation from the rapist and we'll get this arranged." According to him the police and court system in Anuradhapura direct rape cases first to the Samatha Mandalaya Board, and then if a settlement is not reached, it proceeds back to them. While it seems reasonable to have a Samatha Mandalaya, which may have been conceived as a bridge for complainants before entering the complicated legal world, the inconsistent modus operandi and the reliance on the members' personal opinions and biases in solving the cases do not seem a viable and long-lasting solution.

Grama Niladhari

The Grama Niladhari or village headman is usually the first point of access within the formal sources of assistance that a woman goes to lodge a complaint of violence. The Grama Niladhari of Maankulama in the district of Anuradhapura believed that poverty and the illicit liquor trade were the cause of domestic violence and family disputes. This belief was supported by the Grama Niladharis in Matara and Anuradhapura as well. Despite his belief that violence against women was wrong and unnecessary and against the law, he did not believe that a woman who had suffered from violence at the hands of her husband should leave him. He as the Grama Niladhari advises them to remain together. Another Grama Niladhari who serves one of the boroughs of Anuradhapura town says that domestic violence has got worse in recent times. However, she qualifies her statement by saying, "It's a very inhuman thing to use violence on women. But in some cases it is acceptable ... As a woman, if I do something wrong I have to be punished. But without a reason I don't think it is acceptable...If a woman has done a mistake which [is] worth punishing. I think there's nothing wrong with it." The Grama Niladhari very often directs domestic disputes to the Samatha Mandalaya. However, if the previous quote represents the general attitude of Grama Niladharis towards victims of violence, it reflects a paucity of understanding and compassion that exists towards the women.

The following have been identified as informal sources of assistance the women resorted to: (1) Women's Organisations (2) family (3) neighbours (4) religious leaders.

Women's Organisations

All three areas had women's organisations that could be identified. The Sinhala-Tamil Rural Women's Network (Sinhala Demala Gami Kantha Sammelanaya) was based in Nuwara Eliya; Women in Need (Kantha Pihita) was based in Matara, and Kantha Sangvardhana Maha Sangamaya in Thirappana, Anuradhapura.

The Sinhala-Tamil Rural Women's Network was established with thirteen women, nine thousand rupees and some pawned jewellery. As its name suggests, its membership is composed of women from both communities, Sinhala and Tamil, as well as having Muslim women in its membership. It is run by a woman endowed with a strong personality called Vimali Karunarathna. Today, with independent funding and a membership of 28,560 women, it is one of the bigger women's organisation in rural Sri Lanka. Early this year, the whole organisation turned to politics and stood for election at the provincial level. They didn't win a single seat. The Sinhala-Tamil Rural Women's Network is involved in agricultural projects, economic projects like credit facilities, running pre-school programmes, awareness-raising AIDS programmes, and gender programmes.

In contrast the Kantha Sangvardhana Maha Sangamaya in Thirappana is established in the front section of a mud hut. The president of the organisation, Premalatha, had experience working with other women's organisations before she bought a share of this one. It is a very small organisation that exists on running small projects. While they do have a small bank loan scheme and hear problems of domestic violence, it seems to be run more on an ad hoc basis.

Women in Need or Kantha Pihita was opened two and a half years ago in Matara. This was a branch of an organisation based in Colombo that has been in existence for ten years. The Matara office, located in the heart of Matara town, serves Matara and other southern province towns and villages. It has two counsellors and recently hired a field officer and a clerk. Previously located in one room in the Sarvodaya building in Matara, it recently moved to its own office. Women in Need caters to the women of the community by offering counselling and assistance to women who come to them for help. They are also accessed by women who have property disputes and are directed towards the legal service available. They have clients who come to them with anxiety problems, property disputes, old age issues, rape cases, domestic violence issues, incest, sexual assault, sexual harassment etc. They have a lawyer who works every Saturday in their free legal clinic. Most of the clients come independently, having seen their advertisements in magazines or seen their posters. A few clients are recommended through the Women and Children's police desk.

While most of the women working in these organisations have consciously chosen to address and work with women's issues, the stance taken by some towards the issue of violence against women is disconcerting. Some of the women who work in these organisations believe that not only do women suffer from violence but they are violent as well. If a woman is unable to attack physically she will resort to verbal violence. This in turn provokes the man to be physically violent towards her. They believe that women have to be advised not to nag. A similar view seems to be held by one of the counsellors at Women in Need who said that domestic violence was aggravated because of suspicious and disrespectful wives: "... the wife does not respect the husband. She talks back to him and shouts at him. She suspects the husband too much. When he comes home after work, she sniffs at his clothes for any whiffs of perfume. She suspects him of seeing another woman if he dresses with care to go to work."

However, it should not be minimised that despite the existence of these seemingly negative views, organisations like the Sinhala-Tamil Rural Women's Network, Women in

Need and Kantha Sangvardhana Maha Sangamaya work towards empowering women towards financial independence, educate both men and women on rape and gender issues and uplift the role of women in the community. When evaluating the efficacy of women's organisations it is important to realise that they too hold value judgements that may or may not be supportive towards victims of domestic violence.

Family

"I did not tell my family members except my parents. They said, whatever problems arise a woman's place is with her husband. It is no use coming back home. What can you do with three children alone?" This encapsulates the response many women received when they turned to their families for help. Sometimes the women received blame from their husband's family as well for the situation. They have been accused of not being good wives, mothers and housekeepers. And there have been instances where the husband's family have either urged the woman to initiate a divorce or separation to save her life or taken her in and given her shelter. However, the majority of the women seem to receive help mostly from their own families despite the opinion they may hold of what should be done. Brothers, sisters, mothers and fathers have all opened their houses and given shelter, food and emotional support when the need has arisen. But it must not be forgotten that the support extended by these families is most often given grudgingly or through extreme necessity. The bottom line for the families of the victims of violence against women is the desire to prevent the breaking up of a family, erase the stigma of a rape, forget the trauma of a sexual assault, and ignore the occurrence of incest.

Neighbours

In the rural areas of Sri Lanka, villages form an extension of the family. Everyone is an akka, aiya, nangi and malli. Thus, when violence against women occurs in a family that belongs to the village, there is little room for secrecy or privacy. While neighbours have given shelter and emotional support to the victims of violence, it has not resulted in any long-term benefit. Sometimes while the woman is being beaten the neighbours run out and scold the husband and rescue her. But sooner or later the woman is expected to return to her home and continue as before. In the case of a rape victim in Nuwara Eliya, the community seems to have acted more harshly than in other violence-against-women cases. The rape victim elaborates that most of her friends "...are not with me anymore. They avoid me. I don't have the friends I had then; they have distanced themselves, because I am like ostracised from society. People don't like to associate with people like me, who has fallen into trouble." It is ironic that the only negative effect neighbours and the community have are mostly on the women themselves, while the rapists and abusers suffer no long-term social stigma at the hands of the community.

Religious Leaders

While almost all the religious leaders spoken with condemned violence against women, there was a measure of responsibility attached towards the women to maintain the family unit at all costs. A pastor advises the wives of his church to try to win over their errant husbands by kind means and cautions them against leaving their husbands, for then they would fall deeper into drinking. A Reverend Thero recites a poem about a woman 'clad in clothes up to the ankle, smiling without exposing teeth' by Thotagamuwe Sri Rahula Thero during the Kotte period that reflects his attitude towards the behaviour of women. He is of the opinion that by going to tuition classes, going to work, working in the agricultural fields, women are unable to stay at home and look after their children where they would be protected, and they are thus more vulnerable to instances of violence in their new roles. The Reverend Thero does not seem to want to address the issue that most of these women face violence within their homes rather than without.

Again and again we see that be it advice given by family members, neighbours, women's organisations or religious leaders, the responsibility for violence directed at women falls on the women. The women have either transgressed norms and mores of the community, or they have failed in their duty as wives or mothers. The violence is justified by whatever means necessary.

Documentation of the women's experiences both positive and negative: Case Studies

Case 1

A twenty-six year old woman works in the agricultural fields in the outskirts of Nuwara Eliya. It is a brisk December afternoon. Her reputation has dogged us for days. We have spent many days looking for her and today we seem to have found her. She is young-looking and looks quite ordinary. She tells us her story:

I got married at 19 years just after my Advanced levels. It was an arranged marriage and I gave birth to twins soon after. After marriage my Mahattaya did not allow me to work and we lived in his house. It is a small house that has two bedrooms, a front room and kitchen.

After I had been married for a mere two weeks, my nephew came to visit. My Mahattaya was away and so my mother and I cooked for my nephew and I sat with him and ate lunch. My Mahattaya came home drunk and fought with my mother saying that he did not want me to be with him as I was coming straight from my nephew's mat. After that fight my mother and I went home to my father. I lived with them for three months. After that I went back. Then his parents complained that the problems were because I hadn't conceived so after a year I conceived. By then he had already started hitting me. He would get drunk, or take drugs or tablets and hit me. He also hit me when I was pregnant. He would leave in the morning and when he came back home if he found a single stone in the rice he would hit me. He throws the food at me, the plate at me and then he hits me. He

frequently burns me with his cigarettes and once he poured kerosene oil over my body in preparation to burn me. I opened the door and ran. While he hits me I don't shout. I cover my stomach so that he hits the back mostly and just wait.

As I lived close to my in-laws' house, they knew what was happening but not my parents. My in-laws didn't want me to tell them anything, as they felt ashamed. But even though I did not tell my parents I used to go home to be with them frequently. The last time he hit me, quite severely and then I broke down and told my parents. They wouldn't even let him near me, but he promised them that he wouldn't harass me again and they let him take me back. He was only nice for about one month and then problems again. Again I went home and told my parents I am not going back to him. For seven years this went on. Even when I lived with him life was hell. One day when we didn't have any food in the house for three whole days, when I complained to him, he took a saucepan and shat in it and gave it to me to give the children to eat. He threw it on the bed, wiped himself with a blanket and went away. I didn't say anything. I didn't do anything. I was gripped with grief.

About four days before his death, we had bought a statue of Pathini. He took the statue in his hands and started shouting 'Are you Pattiniamma? Are you Pattiniamma?' Then he shouted 'This is your last day. You can't live with me again.' And started beating me with a pole. But while beating me he hurt himself and started bleeding. He used this blood and wrote on the wall 'Jayanthi can't stay in this house hereafter'. Then finally in the evening he went out and came home drunk. He chased me and the children out of the house. The two children were crying and I couldn't go anywhere. So I thought let him do anything and came back to the house. The children and I didn't eat but I fed him and he went to sleep after telling me not to come near the bed or he will chop me into four pieces. But after he had fallen asleep I took the children and went and slept in the same bed. The axe was under the bed. I saw that, but I thought let him do anything and slept. When he woke up around 9 in the night, he saw me and tried to hit me with the axe but missed me. I quickly jumped out of the bed and tried to open the door to run out of the room. Then while he was trying to run after me he tripped over the blanket and fell. The axe also fell. Then I took it and hit him back. I hit him twice. Then I got scared. I knew if he gets up that's the end of me. That is why I hit him twice. His head was drooping from the bed. Then I took the children from the bed while they were still asleep and went to the other room. I lit the lamp and left them there and went back to the other room and tried to lift his head. But he was bleeding too much. I got scared. I went to the other room and slept and only told the others in the morning. I asked them to tell my brother. Later the judge also came but I didn't tell them anything. Only after they took me to the police that I told them my story.

The police took my side from the beginning. I had made several entries at the police station before against him. He used to illtreat me sexually also. He would make me remove my clothes and stand in front of him. He would throw water on me and then try to be with me. I don't say anything. I let him do anything to me. He would come any time of day and even in front of the children force me to remove my clothes and wait. Then I have to remove all his clothes.

Even the people here know I am innocent, that is why they have taken me back into society and given me work like this. My husband even though he was born in a human body, he's in reality a demon. He would beat about 20 days a month. I run all the way to

my mother in law's about a mile away just to get away from him. About six months after my marriage after he tried to burn me with kerosene I thought of killing myself. There was a bottle of weedicide, and thought of drinking it. I kept it beside me and while I was making roti for his dinner he came and beat me. I went to the bed and drank the weedicide bottle and just managed to tell him that before I fell unconscious. Then he called some people and took me to hospital. My mother-in-law told me to tell the hospital that I drank the weedicide to see what it tasted like. So that's what I told them.

After that he wanted to divorce me. But his brother and sister said, "we have taken a proper wedding and brought her. We are not dogs or hens to do as you wish." And so we didn't get divorced. Later I heard that when I would go home he would bring other women into our own home and behaved like that. I never saw that but I heard it from other villagers. He has stabbed me with a knife before; he has hit me with a crowbar. All this he does when he is drunk.

We came from a well-off family. We had vehicles; we had our own fields. He wasted all our money. Now I have to work in other people's fields. Then, whatever queenly food I ate I wasn't happy. Now I feel as if I am in a heavenly kingdom. I have no problems now. Even if we have just rice and salt we eat and wait. No problems now.

He has even hit the children. One day when I was feeding them both he took the child by one leg and was going to dash him on the ground. Then another time he took the children when I was feeding them and trampled them. They started vomiting. I took them to the hospital but I didn't tell the doctor the truth. I lied to them.

The case is still going on. It's almost three years and five months. His family members were angry with me initially but they don't say anything because they know the truth. He was like this even before; they married him to me thinking he will get better. In prison they gave me good food. I got a lot of support from the head of police. He gave a call to the remand and said that I am a relative of his. To tell you the truth he is no relative but he knew my situation. I was treated well in prison but I had the pain of missing my children.

At the beginning the villagers ostracised me but now they are very nice to me. About what has happened I have this to say. I will never marry again in this life. I actually hate the whole race of men. That's what I have to say. I actually think what I did, I didn't do. The devil only took possession of me. To tell you the truth, I don't even kill a mosquito. So what I believe is that gods up there are looking after me. When I came to this place they said ghosts will throw me down the hill. But I have lived here all alone at first. I played a Pirith cassette. There are no ghosts. But if I see him in a dream the next day either me or my children will get a slight injury. All this suffering I have had is because of drunkenness. He used to take Madanamodaka (a drug that increases sexual appetite) and say that he is going to drink my blood.

Case 2

I am a forty-year-old woman. I have studied up to O Levels and am married with three children. I have a girl aged 19 years and two boys aged 17 and 13 years. My husband harasses me a lot. He abuses and quarrels with me for no fault of mine. He does not support us nor buy books for the children. There is unpleasantness in the home. He does

not carry the burden of the family nor support the family. He does not allow the children to study. So they have to go to neighbouring houses to study.

One time I found all this difficult to bear and I left the house and was away for three months living in an abandoned house. But my husband did not allow me to live there and I was forced to come back. My daughter gave up her studies and went off to Katunayake to work.

My husband drinks and abuses in filth. I am a seamstress and I support the family with the money I earn from sewing. Sometimes he chases us from the house and locks us out. So we go to neighbours' houses and spend the night. Because of this he couples me with the neighbouring men. He couples me with my own son. Neighbours are very sympathetic towards us. He does not like it that the neighbours are very kind and understand my situation.

These days he does not assault me much because the children are big and they jump in the middle and won't allow him to hit me. The children are big and strong. Even I am strong. Since I do not want my children to get involved in these fights, I go to a neighbouring house to avoid the quarrels. He abuses the neighbours for keeping us and accommodating us in the nights in their houses. We don't have clothes to wear. He takes the clothes, cuts them into pieces and hides them. He tears the school books of the children. I don't have enough money but somehow attend to my things with the little money I earn from sewing. I have not saved anything for myself.

Once I made a complaint to the Grama Niladarini and showed her how he has destroyed the clothes, books etc in the house. I made complaints to the police about the damage he is causing. Police got him down to the police station and advised him. Once he was retorting to the police and the police gave him two slaps, because he was not listening to them and arguing with them. The police told me that they cannot use the powers of a law court and referred the matter to a Mediation Board. They took our evidence and united us and sent us home. But this man does the same thing the moment he turns his back on the law officers. The police said it was impossible to reform this man and the best thing that I should do is to divorce him. Once I went to the Anuradhapura police station to get their advice. They told me that I am not the only woman who has problems like mine. They said there are women who face worse problems than mine. They advised us to live peacefully and sent us away. Things became worse after that. He cut the photographs in the house and destroyed them. He beat me with his hands and feet. When I complained to the Thirappane police the police beat him up. But I told the police not to beat him. How can I watch my husband being beaten by the police?

Once when he started harassing me, I told my man that I will leave home and I left. I stayed in an outsider's house. I got a loan from the society, bought a piece of land and put up a room. But I could not complete it. How can I? I should have money. This did not solve my problem. Now I sew pieces of cloth and earn money but my husband just waits.

Mine was a proposed marriage. His parents were known to my parents. His family members are very good. They never got involved in our family problem and also they never enquired about it. Once I went to them and cried and told them everything. Once I went to my parents and was in hiding. He went to my mother and asked her to patch it up. He believes that my parents have used charms to separate him from me, to give me in marriage to someone else. It is always my relations who come to my rescue. His people never come to help me.

Every Sinhala New Year I get beaten. There hasn't been a single new year that he has not quarrelled with me. We have never been happy on a New Year's day. I have spoken to various law-abiding people but no solution can be achieved. I cannot have a proper meal. I cannot cook peacefully.

We don't divorce because we have no money for a divorce case. Police have asked me to get a divorce as well. If I get a divorce he cannot harass me and if I get a separation I need not live in the house. I think I have to stay with him till I complete my house. I got a loan from the society; I have to put up the roof. I told my man not to harass me; I will complete my house and leave with the children. I cultivated the land. I built the well.

When I was expecting my second son he hit me on the stomach. He slapped me rupturing my eardrums. I went to hospital to get a medical report. One day he slapped me so hard I felt was getting engulfed in fire. My ears started making some sounds and there was unbearable pain. I went to hospital and they refused to admit me without a police report. I begged and pleaded with them to admit me to hospital, as I was feeling very sick. They called the Thirappane police and asked me to make a statement to the police. I stayed five days in the hospital. The doctor at the hospital told me that all these problems are due to my husband not having a job.

When he beats me I also get ready to hit back. I am strong enough to do it. But my children won't allow it. He abuses me in filth. I told him to kill me or else release me, divorce me or hand me over to my people.

When I see him coming home my heart starts beating fast. My head starts aching. I feel a burning sensation in my body and head. I find it difficult to breathe. The doctor at Galamune asked me whether I have family problems. He said not to think of them so much or I will become a mental patient.

I do not like to have physical relationships with him. But he forces it on me. I asked him if I was OK only for that. But he says it's his legal right and he has every right to do it. Because I am ashamed I keep quiet. I tell him not to have relations with me but he fulfils his desire and walks away. I tell him not to trouble me in the night because I come home tired after work and I want to sleep. I have told him to bring home some other woman to fulfil his desires. But he doesn't care. My children are big now and there should be a certain amount of privacy in what we do. One night at 2 am he wanted to have sex. I refused, he abused me and hit me and I lost an earring. My chain was broken in three pieces. I left the home and slept in a neighbour's house. He had been searching for me in the night. He says he can do anything because of marriage rights.

I get so angry at my situation sometimes. I work hard. I even work on Sundays when others don't work. I bring sewing home and work till late at night, now he removes parts from the sewing machine. Now I can't use it.

I can write a book on all my suffering. It is difficult to explain everything in words. I will tell other women that if they have the means to live, it's better to live alone rather than going through this type of suffering

Case 3

I am 45 years old. I am married and have four daughters. My husband left me after the last daughter was nine months and married someone else. From that time I have been attending

to this estate work. I've suffered a lot. I worked hard to earn my daily wages and bring up my children. When my children grew up they were able to go to school with my father's help. They studied and then my eldest daughter got a job in a private company.

I got my eldest daughter married after I saved money from going to Saudi. I worked as a housemaid. Then I returned and went again to Dubai. When I returned from Dubai I found out my father had died, my mother had died some time before. Now three of my daughters are married.

When I married my husband he was 27 years old and I was 17 years old. He was doing business both here and in his hometown. It was a proposed marriage. We lived in a house built by my parents. There were four rooms, a kitchen and a veranda. I still live there with my youngest daughter. There is also a well.

My problems started with my husband when he started drinking a lot. He drinks and beats me. I have had so many injuries and had to go to the police and the courts. I was not keen to do that as I had grown-up daughters. I did not like it so I got divorced. I divorced him after he burnt me. He poured kerosene oil and lit the match. I screamed and put out the fire myself. I rolled on the ground and extinguished it. He was watching me from his hiding place. Yes. He watched till I burnt. So he had planned everything. When he poured the kerosene oil I just sat there and thought it doesn't matter if he lights the fire, this life is not worth living. But I really did not expect him to do it. Even when he struck the match I just waited. Others came and put out the fire and admitted me to the hospital. Everyone scolded him and said that I was going to die and they were going to hand him over to the police. The next day they all coached me on what to say as to how I got burnt. After that only I realised what a fool I had been. I had felt sorry for him and just let him be. I just thought let him live. He used to beat me everywhere. I escaped due to my good luck or my children's good fortune.

I was very young when all this first started. I was very scared. I was a fool then. After six or seven months of marriage he started drinking. When he is drunk I don't really talk to him. He just fights and beats me. I suffered, suffered and brought up my children. My children used to cry when he fights. He will come home around 9 or 10 at night when he finishes his business and drinks and returns home after watching a movie with friends. My children would never go to their father. Scared. All four of them.

At night also my husband is not that good. Nothing much. If you see my life, it is like that of one who has been cheated. Only now I have realised. Sometimes he behaved very roughly and uncivilised with me, especially when he takes drinks or ganja.

I never told anyone. Once I got divorced, I had a good friend whom I confided in. She was also in the same situation as me. My parents knew about the fights and beatings but they did not know about our life problems. My parents told me not to say anything. They told me to just wait. Nobody else helped me, only my parents. They looked after the children, food, clothes, schooling. My brother and sister also helped. His family said that I should just wait whatever he said or did. They too knew about the beatings. When I lived with them they would intervene and try to stop the beatings. They would scold him. Even when I go there now his brothers and sisters are nice. They are very sympathetic to me.

Once when I was married I had decided that to die was the only way out. What a life is this, it is better to die, I thought. When I saw my four children I asked what would be the plight of my children. I lived for them but now I have no problems.

I was 23 years old and my youngest daughter was nine months. I started reading storybooks called Alimarani and Buthuli, which came out a long long time ago. After reading these books I realised about life, women and their future. It was after this that I started hating it. I decided that I don't need such a husband.

When I went to get a divorce I did everything myself. I went to the Quazi and spoke my case alone and gave the letter. I alone decided on my case. The Quazi asked me to get back together but I cannot get back and live together. I told some of the incidents that happened to me to the Quazi.

I don't know any women's organisations. I don't move with a lot of people. In a month I used to get beaten about two or three times. I always have to expect that. He yells and scolds in filth. I scold him too. After some time I became less timid, so when he comes home drunk I am suffering no? So I scold. I do everything for his business.. After doing all that if he comes home drunk I get very angry. I generally don't hit back but during the last stages I hit him. That happened after he burnt me. When I returned from hospital and I was getting a little better, at this time when he hit me I hit him back. I could not take it any longer. I had decided to get a divorce by that time.

When I went to the doctor I lied to him saying that I fell and injured myself. For the burn injuries I said that I had been reading a book in the lamplight and when I attempted to keep the book, in my sleep the lamp fell by accident and I got burnt. The doctor wasn't suspicious. My neighbours knew the whole story but I went to the doctor alone.

I am shy to tell this but I will. One day he came home with a friend I do not know what they talked among themselves. Then the friend came near me in the kitchen. I screamed and hit the friend. That is when the fight became worse. My husband also behaves in the same way with other women.

When I went to the police they told me that I can't live with him. They advised me to work as a daily labourer and not live with my husband that he is a very bad man. The police scolded him and frightened him a lot.

I have never spoken to anyone else. This is the first time. Now people understand about women's lives. Those days they did not understand much. It is better for all to know about it as to what life is. It is also good to know how to lead a life.

I feel sorry for the women suffering in the same way. They are living a life of ignorance. Some women think that if they leave their husbands that they have no way of going on with their life. They feel scared about their future and their children's future. All that is not true. They can live. There are means of living. They can live. It all depends on our will power. I think of all these. Society will say things but we don't need that. We must think only about how we live.

Case 4

I am now 22 years old. I don't work. Before I used to go to school. I lived with my mother. My father died eight years ago and my mother does estate work to maintain us. When I used to go to school I would visit my brother's house. There I saw a boy. He is also from the same village as I am. He asked me to start an affair. I was 18 years old then. I didn't give my consent and only after three or four months of pestering that I agreed. I agreed because he would threaten to drink poison if I didn't start an affair with him.

After three months of having an affair one day we went for a funeral together. At the funeral he asked me to come to his Aachi's house. I don't know what happened but somehow I found myself at some place and then after that I wasn't conscious. Then when I regained consciousness a lot of things had happened. I realised that I had been victimised sexually. He had tied my mouth with a muffler band. When I regained consciousness I woke up like that. I was taken to that house around nine at night and woke up around seven in the morning. Then he took me to the house of one of his sisters. His sister initially gave consent but later withdrew it and asked me to go home. He promised to marry me but I refused. His sister insisted that we leave their place. They didn't give me any food or anything while I was there.

My mother and brother had gone to the police and the Mathurata police asked me what happened and I told them the truth. Then the police forced us to marry. Because the police were pestering and forcing him he married me. Then after we married since we couldn't stay at my place we went to his house. But we weren't welcome there. We stayed there for two days but they didn't give us any food and really illtreated me. His mother locked me in a room and troubled me. My brother came there and brought me home.

I asked him why he raped me and he said that because I had refused to start an affair with him earlier and he wanted to make him his. But now he has left me and married someone else. I agreed to marry him, since I was deflowered by him I couldn't go to another person, that was the reason I agreed to marry him. The police forced us to marry because they caught us on the road after we had left his sister's house.

His parents were against the marriage and later arranged another marriage for him. I have now filed a case to divorce him. Now I know that he married me because he was scared of the law but now I realise that all he ever wanted was to take revenge on me. When he deserted me, I went to the Ragala police, when they investigated he said he was willing to take me back but his parents refused because I am poor and not good enough for his family. They are rich, we are poor, so they didn't want me. So the only option was to file a divorce case. I thought he would come back to me, so I waited for two years but by then he had got married to someone else.

The police were very nice to me. There were female and male officers who both spoke to me. When I made my complaint it was done in a public place and the officers were very nice to me. I felt shy about telling them my complaint. I was isolated from society; even my brothers disowned me together with my other relatives.

When he first raped me I didn't go to the police because he said he did that to marry me. That's why I didn't make a complaint first. My lawyer is trying to get some sort of compensation for me. I didn't go to any women's organisation. At first I used to be very active in the village but after this I sort of withdrew from society. I feel ashamed. I feel sad, when my friends are in good positions and I am in a situation like this.

Now, I go to work in the vegetable beds. My family members can't help me. They are very hard up. At first they thought I had done wrong but now they know the truth and they pity me. When they were against me I thought of committing suicide but somehow managed to bear it all up. When I was missing my mother thought I was dead. He didn't do anything to my life of course, he didn't kill me but he destroyed me every other way. Most of my friends are not with me anymore. They avoid me. I don't have the friends I had then; they have distanced themselves, because I am like ostracised from society.

People don't like to associate with people like me who have fallen into trouble. I guess, even the society is like that. Even when I go into town I hardly go alone. I normally go with my mother. I think the death penalty should be mandatory for men like this, otherwise another girl might fall into the same pit.

Material and attitudinal constraints on women

A variety of reasons prevents most women from addressing violence. Social stigma, fear, shame, community and family disapproval, financial insecurity, fear of losing their children, negative attitudes and harassment at the hands of the police, Grama Niladharis, lawyers, and doctors, are some of the reasons. One woman who had experienced violence in her life and divorced her husband summed up her attitude by saying, "Some women think that if they leave their husbands they have no way of going on with their life. They feel scared about their future and their children's future. All that is not true. They can live ... there are means of living ... It all depends on our will power ... Society will say things, but we do not need that. We must think only about how we live."

Unfortunately her attitude is in the minority. Most of the women instead believe that shame, respect, economic dependence, family and community pressures and the presence of children encourage them to remain in a violent situation. The reason of staying for the sake of children was overwhelmingly cited by the women. "I think it is more respectable to live with one's husband than to live alone. For this reason I feel the children should not be affected in the future. They may ask where their father is." Or, as another woman said, "What would happen to the children then? What would their future be? The villagers would laugh. It's shameful." It is interesting to note that despite the emphasis on the family remaining together, many of the women had left their husbands, at least temporarily. Many of them had gone to police stations to make complaints.

However, the overwhelming social attitude that prevails, coupled with the experiences and advice they have had at the hands of the police, the Grama Niladharis and their families, to name a few, ensure that the women are almost conditioned to bear the severest forms of violence. If the mechanisms set forth to aid or alleviate their situation fail to do so, what else can a woman do but remain in the environment of violence?

Mention has to be made of the attitude towards suicide. Attempted suicide and thoughts about suicide were found present among many of the women of this study. For many of the women suicide was also a strategy that was resorted to prevent the violence or to bring public attention to the violence. However, it should be emphasised that it is a strategy of the helpless. For suicide is a form of violence inflicted on the self.

Views, attitudes and strategies

"I have pasted posters on walls saying 'a man who beats his wife is an idiot.' By pasting posters like that I tried to educate him." This was the strategy of a woman living in a village in Kattamurichaana in the Anuradhapura district. Another woman said, "Because I am strict and firm, he doesn't attempt to [force sexual relations with me]. Only with my consent he will have sex if at all. He doesn't have relations if I don't like." Some women

had resorted to strong positive measures to try to alleviate the situations they were placed in. Others used their children to prevent the violence. "The children if they are there they won't let him hit me, they hang on to me and cry ... So when the children are close around me they don't let him hit me,"

These are the strategies of the women themselves when faced with violence. One understands the self-reliant strategies of the women when comments from those in authority and those who purport to offer help to these women are reviewed. The Chairman of the Samatha Mandalaya in Anuradhapura commented on violence against women arising because of male domination, poverty and unchanneled sexual desires in young people. He also cited the war situation as being one that removed men from the home, leaving women alone. A woman Grama Niladhari pointed out that in some cases violence is acceptable. If a woman did something wrong she would have to be punished. A lawyer claims that men hit their wives, excusing it since it is not a calculated act and may have arisen with the man losing his temper and hitting his wife. The matter ends there. There is no violence as such. A social worker says that as males, like females, have sexual urges, if a man wants to engage in sexual intercourse with his wife "you may not be in the mood but if you know that you are not going to get pregnant by him, just give yourself up to him for that moment. Can't you make that sacrifice for him? However tired you are." A Police Officer claims that wives sometimes don't know their duties towards their husbands. A pastor advises the women to win their husbands over by kind means and cautions them not to abandon their husbands, as they would fall deeper into alcohol.

An observation made by the researchers was that most of the people in positions of authority were men, and as the situation of violence against women is mostly violence inflicted by men on women, it may be that the men in authority were themselves feeling threatened by the situation in general. This is only a small sample of what most of these women hear constantly. Of course, we have a few members of the community who address domestic violence in a positive and constructive manner; to dismiss their efforts would be an injustice on our part. We have met dedicated social workers, sympathetic women's police desk officers, compassionate doctors, and sensitive lawyers; however they are in the minority.

Chapter 5

Conclusion

This violence-against-women research study exposed the predicaments of women who experience violence against them. It, firstly, revealed the presence of violence in many women's lives. It also revealed that the measures established by the state and the community to address the issue of violence against women were either inadequate or flawed in their administration. It revealed the negative societal and community attitude towards victims of violence that often forces women to remain in an environment of violence. It revealed the vulnerability of victims of violence. But all is not negative. To say that nothing has changed positively regarding violence against women is to disregard the increased public awareness of violence in the lives of women, ignore the work of women activists and to dismiss the measures taken to prevent, address and eliminate it. For despite the progress being seemingly insufficient and in some cases appearing to fall behind, it is undeniable that women's demands have effected positive change.

We saw women take control of their lives, working through the avenues available, by either divorcing the violent husband or earning a living to support themselves and their children or attempting to achieve justice by accessing the legal system despite the many obstacles encountered.

This violence-against-women research also revealed the 'human' face of doing research on the field. Many of the women expressed great relief at having spoken to us. They thanked us. They touched us and held our hands. They gave us cups of tea and limejuice and invited us to their homes or their friends' homes. They introduced us to their children and invited us to come again. But the undeniable fact is that all these women believed we came to them because we cared. And that touched them.

I would like to conclude on a positive note. I would like to say that the fight against violence against women is making great progress. I would like to say that violence against women is something we will not have to worry about. Instead I will ask and answer a question. What do we have here? What we have is a system that reinforces the violence experienced by these women. A system that puts the onus of the blame squarely on a woman's shoulders. A system that advises them to sacrifice themselves for the greater good. What we have is a system that seems to fail a woman who has experienced violence against her.

Chapter 6

Recommendations

Legal reforms

"Feminist engagements with law can be seen as an effort to transform the meaning of equality, gender and gender difference....It is the process of engaging with law that may be best able to promote women's participation in decision making" ¹

Though the divide between formal equality (achieved through law reform), and substantive equality (achieved through the reconstruction of societal structures, perceptions and beliefs) is great, the introduction of legal reforms is an important step in the full realisation and exercise by women of their rights. The following section will put forward practical recommendations for change to the legal system.

Domestic Violence

"Legal responses and implementation is dependent on a recognition by governments and the particular society generally that domestic violence is intolerable." ²

Countries generally tend to take one of two approaches when formulating domestic violence legislation. One view states that the criminal law is ill-equipped to deal with domestic violence. This school of thought propagates a conciliatory/welfare approach and places emphasis on mediation and therapy rather than on incarceration and fines. The other approach views domestic violence as criminal conduct, conduct which should be treated no differently from such conduct in other contexts.

The best approach is a holistic one which is a combination of the two. It should combine the penal aspects of criminal law with the remedies of the civil law system and create new domestic violence legislation.

The conduct should be viewed as criminal, as to do anything else would lessen the severity of the act. On the other hand to focus on the criminality alone will not help find a lasting solution to the problem. The victim should be given protection by the law, yet at the same time both the offender and the victim should be given support (in the form of therapy, counselling etc).

¹ Kapur.R., Cossman.B., *Subversive Sites: Feminist Engagements with Law in India*, Sage Publications, New Delhi, p. 285.

² University of London, LSE for Change Programme.

It is recommended that:

- The state formulate a national plan of action to battle domestic violence.
- The divorce laws be amended to give equal rights to women to enable them to freely exercise their rights with regard to and within marriage. The recommendations of the Commission set up to evaluate divorce law by the Ministry of Justice be implemented.
- Existing legal remedies such as the breach of peace procedure and civil law injunctions be developed. These remedies can be strengthened and modified to be more effective in the context of domestic violence.
 - A remedy developed from a breach of peace procedure allows for a court order, obtained on the balance of probabilities, which protects the victim from further attacks³. Breach of the order is a criminal offence and the police can arrest without a warrant. The order is granted if it is shown that it is more probable than not that the person against whom the order is granted is liable to cause damage. The person need not be present in court for the order to be granted.
 - An injunction can be one of two varieties. It can be an order prohibiting the offender from molesting or harassing the victim or an order excluding or evicting the offender from a part or all of the matrimonial home or the area in which the home is situated. Injunctions usually contain provisions which allow the arrest of the offender without warrant for a breach of the order.
- Comprehensive domestic violence legislation that provides both civil and criminal remedies be enacted rather than introducing piecemeal reform. The legislation should be structured along the following lines recommended by the UN Special Rapporteur on Violence Against Women⁴ : (*See Annexure A*)
 - The definition of domestic violence should be as broad as possible, and compatible with international standards.
 - The relationships which come within ambit of the legislation must include former wives, live-in partners, girlfriends, female relatives and female household workers.
 - The criminal and civil procedure laws should be amended to remove any restrictions on women bringing suits against spouses and live-in partners.
 - The state should provide for victims, witnesses of domestic violence, family members and close associates of victims, state and private medical service providers to complain about incidents of domestic violence to the police or file action in court.

³ Connors.J., *Government Measures to Confront Violence Against Women*, University of London, 1992.

⁴ Report of the Special Rapporteur on Violence Against Women, Radhika Coomaraswamy, E/CN.4/1997/47, 12 February 1997, p.18.

- The state should ensure that police officers are gender-sensitized and respond to calls of domestic violence when the reporter states that violence is imminent or is in progress; where the reporter indicates that an order relative to domestic violence is in effect and is likely to be breached; and where the reporter indicates that domestic violence has previously occurred.
- The police should be educated with regard to the proper procedure to be followed in interviewing and handling the complaint.
- Police officers responding to calls of domestic violence should complete a domestic violence report which should be collated by the Department of Justice and (where applicable) the family court. The Department of Justice should report annually to the Ministry of Women's Affairs.
- Provision should be made for the issuing of ex-parte orders which may contain preliminary injunctions, restraining orders etc.
- Protection orders which operate to protect the victim, a relative or a person assisting the victim, from further violence or threat of violence should be issued independently, unaccompanied by an application for divorce or judicial separation.
- The Attorney-General should develop and adopt guidelines for officials prosecuting domestic violence cases.
- The victim's testimony should be sufficient for prosecution; no move to dismiss a complaint should be made solely on the grounds of uncorroborated evidence.
- Enhanced penalties should be included for repeat offences, aggravated assault and use of weapons.
- Clear sentencing guidelines should be established.
- The state should ensure the provision of emergency services which should include crisis-intervention centres, immediate medical attention and emergency legal counselling.
- The state should assist in the compulsive long-term rehabilitation of victims and abusers.
- The state should develop and execute training programs for police officials, judicial officers and counsellors.

Rape

"Rape is not merely a physical assault, it is destructive of the whole personality of the victim".

State of Punjab v Gurmit Singh

Although the 1995 amendments to the Penal Code abolished many antiquated provisions, the reforms, which were cautious in nature, do not go far enough. Many provisions, which preserve the patriarchal value system and biases, are still in existence. The government therefore needs to take progressive steps to ensure that the Sri Lankan legal system is sensitive to the plight and needs of women and adheres to international human rights norms and standards.

It is recommended that :

- The definition of rape be expanded to include acts other than sexual intercourse, which are equally degrading or offensive, such as oral sex or the insertion of objects into the genitalia. The Penal Code section on grave sexual abuse that includes insertion of objects etc either be incorporated into the rape section, or the term "rape" be done away with, and instead the definition is made broader following Canada's example i.e. introduce "sexual assault" - a term that encompasses a range of offences. (*See Annexure B*)
- The cautionary rule, requiring independent corroboration of the testimony of the woman victim (which is addressed by the judge to the jury) be withdrawn. It should be removed from the scope of judicial instruction through the adoption of legislation.
- The Canadian example in *R v Ewanchuk* which defined consent as "affirmatively communicating by words or conduct the woman's agreement to engage in sexual activity with the accused" should be followed. The court in this case rejected the notion of implied consent and said that the victim had to effectively say yes. It also stated that where the victim agrees to sexual activity because she honestly fears physical violence, the fear need not be reasonable nor communicated to the accused.
- Abortion laws be amended to allow women who wish to terminate pregnancies resulting from rape to do so.
- The Penal Code be amended to create an unconditional provision rendering marital rape an offence.
- The Penal Code be amended to render intercourse with a girl under sixteen years statutory rape regardless of the fact that the girl is the wife of the person, since girl children between the ages of twelve and sixteen are unprotected by the statutory rape provisions if their community allows marriage under the age of sixteen.
- Laws to encourage best treatment practices, i.e. laws which instruct those working with victims to treat them with sensitivity and compassion be enacted⁵.
- The state set up legal advocacy programmes to assist victims in lodging a complaint with the police through to the legal proceedings.

Ibid.

- Rape shield laws be enacted to protect women from hostile and abusive cross-examination and to limit the admissibility of evidence relating to the victim's past conduct with anyone but the defendant.
- The provision relating to custodial rape be amended to shift the burden of proof on to the authorities/institution, i.e. the authorities/institution will have to prove that the rape did not take place.

Sexual harassment

"It (sexual harassment) is a personal attack on women's minds and bodies, instilling fear and violating a woman's right to bodily integrity, education and freedom of movement. It is utilised as a powerful mechanisms of control and intimidation, through which women's subordinate social status is maintained."

Report of the Special Rapporteur on Violence Against Women, Radhika Coomaraswamy

Legal responses to sexual harassment take one of two approaches: countries such as India and Sri Lanka have criminalised the conduct while countries such as the United States of America and Australia allow women to seek redress under legislation pertaining to employment, such as gender discrimination or equal opportunity statutes. Legislation in countries such as Australia contains a broad definition of sexual harassment and make employers vicariously liable for the harassment of their employees. They also include provisions for education and dissemination to increase awareness about sexual harassment. The following recommendations are put forward to enhance the right of women to be free from sexual harassment.

It is recommended that:

- The current definition in the Penal Code be codified in clear and concise terms with guidelines, if necessary, as to what constitutes sexual harassment.
- In the area of sexual harassment in workplaces the guidelines set out by the Indian Supreme Court in Vishaka v State of Rajasthan are followed. (*See Annexure C*)
- Civil remedies which allow financial recourse to the victim be made available for sexual harassment in the workplace.
- Equal opportunity laws be enacted to put the onus on the employers to ensure that a work-environment free of sexual harassment is created. This law should also make employers duty bound to create an anti-sexual harassment policy and set up in-house structures to investigate complaints and discipline transgressors. The employer should also be made vicariously liable for the actions of the employee with regard to sexual harassment. Though this measure may appear draconian, it has been put in practice in countries such as Australia and has resulted in employers taking the issue of sexual harassment seriously.

Incest

Incest is an insidious crime that is an abuse of power and a betrayal of trust. The victims are most often girl children who are dependent on their abusers and therefore are powerless and in a vulnerable position. The 1995 amendments to the Penal Code in relation to incest were laudable, but further reform is required for the provisions to be fully effective.

- In most cases children whose parent/s are accused of incest are put in protective custody, i.e. jail, due to the lack of child shelters and foster homes. The state therefore needs to create child-friendly environments for the protection of child victims.
- Amendments to the Evidence Ordinance to enable evidence in camera and the use of pre-recorded evidence is recommended. This will help lessen the trauma experienced by the child.
- It is recommended that abortion be legalised in cases of pregnancy resulting from incest.
- It is recommended that proceedings in courts be informalised and made child-friendly in such cases.
- Medical personnel and others with a duty of care should be duty-bound to report any cases of incest they may come across to the police.
- Legal provisions should be introduced rendering family counselling and therapy compulsory.

Abortion

Women should have the right to have control over their bodies and to determine matters relating to their sexuality. Since the exercise of this right is also related to their reproductive rights and right to health it is recommended that:

- Abortion be decriminalised and the present provisions in the Penal Code be repealed. It is recommended that the laws relating to abortion are liberalised and brought in line with the United States Supreme Court decision in Roe v Wade, where it was ruled that prior to the end of the first trimester the attending physician is free to determine without regulation by the state whether in his medical judgement the pregnancy should be terminated.

Improving the response of formal Institutions

- **Police**
 - The police training college should include gender training in its curriculum, and the state should formulate guidelines for the police to help them in dealing with victims of violence.

- Women and children's units should be established in every police station.
- The existing women and children's desks should be expanded and given more resources and better training to enable active intervention in situations of violence against women.
- The social composition of the women police officers manning the desks should reflect the diversity of the local population in the area.
- The police stations should be located in safe and accessible areas, and the atmosphere at and surrounding the police stations should inspire confidence in women victims of violence.
- Special measures such as career incentives for those who choose to work in the women and children's units, to increase the profile of women's police stations within the police force should be undertaken.
- Women and children's desks should cooperate closely with non-governmental organisations and women's groups active in the field of violence against women.
- Police stations should be restructured in a more user-friendly manner with separate rooms for questioning and interviews, and female police officers should be made available for questioning victims, taking statements etc.
- Women's presence in the law enforcement sector should be increased through recruitment and promotion.
- Programs should be initiated to bring about attitudinal change amongst the police force, i.e. they should not always seek reconciliation.
- Gender-sensitive indicators should be integrated in all crime statistics to highlight the gendered nature of crime.

■ **The medical sector**

- Issues of violence against women should be incorporated into a national health policy
- Health workers and medical professionals should be made aware of their role in the campaign against violence-against-women.
- Specific protocols on gender violence should be developed, and should highlight the clinical profile of victims, referring systems, screening questions and legal information, and should ensure privacy and confidentiality
- Health care providers should be given specialised training that includes counselling, examining victims and collecting evidence for prosecution.

- Medical schools should incorporate gender-based violence as a topic in the curricula.
- Rehabilitation programmes for victims and offenders should be formulated. The programmes for offenders can be part of the court sentence.
- Intersectoral working groups comprising health care workers and medical professionals and representatives of local organisations active in the area of violence against women should be formed for sharing of information and coordination of efforts.
- Examination kits for cases of sexual violence should be developed.
- DNA testing should become a norm in the collection and use of forensic evidence. This would expedite the trial process and at the same time help make the case stronger.

■ The judiciary

- Since many judgements in cases of violence against women reflect gender bias, discrimination and a lack of understanding of the issue of violence against women, the judiciary too has to be sensitised with regard to gender issues. Awareness raising, in the form of seminars and courses, should be an essential part of judges' training. The judges' training institute should include gender sensitization courses as a part of its curricula.

General Recommendations

- At the state policy level, the legal, medical, health and education systems should coordinate their efforts to ensure the success of any national strategy.
- The state, in cooperation with non-governmental organisations, should establish shelters for women victims of violence.
- Programmes that assist women victims of violence in becoming financially independent, such as self-employment schemes, should be devised.
- A data base on the various forms of violence against women, its physical and psychological effects and the effectiveness of support services provided should be established.
- The education system should ensure that the curricula and teaching methods do not include gender stereotyping and biases.
- The media should promote positive images of gender roles and should dispel existing myths, misconceptions and biases.
- Legislation should be enacted to allow public interest litigation.

Interview Guide for Women Affected by Violence

Community Name: ----- Interview No: -----

Interview Location: -----

Interviewer: "My name is, and I am working for an organization that is studying women's lives. We are collecting information about women's safety to see what the main problems are, and if there might be ways of preventing these problems in the future. Unfortunately, we aren't able to assist with individual cases.

I understand that you have agreed to talk to us about your experiences. Is this correct?
Thank you for agreeing to do this.

I will be writing down what you say, but I am not writing your name. Our report will give the stories of many women like you, but it will not give anyone's real name. No-one else will know that you are the person that those things happened to, so I hope you will not feel embarrassed to talk about your personal life with me. Your views and experiences can help other women.

Do you have any questions?

May I begin by asking you a bit about yourself?"

Personal Information [*Interviewer: Do not read out headings.*]

Age

Marital status:

- ☐ Married
- ☐ Cohabiting
- ☐ Separated
- ☐ Divorced
- ☐ Widowed
- ☐ Never married

If married, duration of marriage:

If separated/ divorced/ widowed, how long since relationship ended

Number of children:

Age and sex: 1.

2.

3.

4.

5.

6.

7.

8.

Household composition (relationship to respondent of persons living in same house):

.....

.....

.....

.....

Educational level, respondent:

Educational level, husband:

Husband's age:

Economic Resources

Ownership of house: ☐ respondent
☐ husband
☐ both together
☐ other person
☐ rented

Type of housing:

Number of rooms:

Sources of household income:

respondent
husband
other

Control of respondent's income: ☐ self
☐ husband
☐ joint

Other assets of respondent: ☐ land
 ☐ savings
 ☐ other

Control of these: ☐ self
 ☐ husband
 ☐ joint

Social Support

Contact with own family (parents/ siblings/ other):
.....

Person(s) to discuss problems with:
.....
.....

Membership of women's groups:
.....
.....
.....

For Cases of Violence in the Family

Interviewer: "Could you tell me about the violence/bad treatment that you are facing (or have faced) in your family?"

If you don't mind, I'd like to start using the tape recorder now, so I can listen properly to what you have to say and write it down later. No-one else will be allowed to listen to this tape."

[Interviewer: Allow the informant to tell her story in her own way, without interrupting her, using your active listening skills. Tick off items on the checklist below as they occur in her story. When she has finished, go back and ask for information on the items not ticked, using open-ended questions.]

Checklist on Nature of the Incidents:

1. When violence began
2. Who are/were the perpetrators
3. Nature of the physical violence: e.g. hitting, kicking, punching etc
4. Nature of the injuries
5. Medical treatment sought/received
6. Weapons or implements used
7. Frequency: times per week/month/year
8. During pregnancy
9. Witnessed by children
10. Children also hit/maltreated
11. Other effects on children e.g. sleep disturbances, school problems
12. Regular pattern to the violence
13. Triggers, or apparent causes for the violence
14. Who else witnessed or knew
15. Sexual violence
16. Psychological violence eg. insults, shaming, blaming, controlling how she looks/where she goes/who she sees, etc

Checklist on Effects

1. Effects on respondent's emotional state (her feelings about herself, suicide, etc)
2. Effects on respondent's physical health e.g. sleep disturbances, chronic pains, headaches etc
3. Effects on respondent's behavior e.g. stays home, restricted social contacts, etc.

Checklist on Coping Strategies

1. Strategies for self-protection
2. Left home/ reasons for leaving/returning
3. How long before she told others/asked for help
3. Who was told first

Checklist on Formal and Informal Interventions

Experiences with:

1. Extended family
2. Community, including women's groups
3. Grama Niladhari
4. NGOs
5. Medical system
6. Police
7. Court system (prosecutors and magistrates)

Checklist on Respondent's Perceptions:

1. What was most helpful
2. What was most frustrating
3. Was the violence justified?
4. Advice for other women in same situation
5. Suggestions for improvements
6. Have experiences changed her
7. Reactions to today's interview

For Cases of Rape/Incest

Checklist on Nature of the Incident(s):

1. Age at which incident(s) occurred
2. Relationship to perpetrator(s)
3. Nature of assault
4. Weapons or implements used
5. Physical injuries, if any
6. Sexually transmitted diseases
7. Whether became pregnant; outcome of pregnancy
8. How long before she told anyone
9. Who was told
10. Reasons for telling/not telling

Checklist on Effects

1. Effects on respondent's emotional state (her feelings about herself, suicide, etc)
2. Effects on respondent's physical health e.g. sleep disturbances, chronic pains, headaches etc
3. Effects on respondent's behavior e.g. stays home, restricted social contacts, etc.

Checklist on Formal and Informal Interventions

Experiences with:

1. Extended family
2. Community, including women's organizations
3. Grama Niladhari
4. NGOs
5. Medical system
6. Police
7. Court system (prosecutors and magistrates)

Checklist on Respondent's Perceptions:

1. What was most helpful
2. What was most frustrating
3. Advice for other women in same situation
4. Suggestions for improvements
5. Have experiences changed her
6. Reactions to today's interview

For Cases of Sexual Harassment

Checklist on Nature of the Incidents:

1. When incidents began
2. Nature of harassment
3. Relationship to perpetrator(s)
4. How long harassment continued
5. Whether became pregnant; outcome of pregnancy
6. Threats made/ rewards offered
7. Who else knew, their attitudes and what they did

Checklist on Effects

1. Effects on respondent's emotional state (her feelings about herself, suicide, etc)
2. Effects on respondent's physical health e.g. sleep disturbances, chronic pains, headaches etc
3. Effects on respondent's behavior e.g. stays home, restricted social contacts, etc.

Checklist on Coping Strategies

1. Strategies for self-protection
2. How long before she told others/asked for help
3. Who was told first
4. Reasons for telling/not telling

Checklist on Formal and Informal Interventions

Experiences with:

1. Extended family
2. Community, including women's organizations
3. Grama Niladhari
4. NGOs
5. Medical system
6. Police
7. Court system (prosecutors and magistrates)

If sexual harassment was work-related, experiences with

8. Women co-workers
9. Union
10. Employer

If sexual harassment was education-related, experiences with

11. school principal, or university/ college authorities

Checklist on Respondent's Perceptions:

1. What was most helpful
2. What was most frustrating
3. Advice for other women in same situation
4. Suggestions for improvements
5. Have experiences changed her
6. Reactions to today's interview

Data Gathering Guidelines: Police

Introduce yourself and the purpose of the study.

Inform respondent of official support for the study.

Note respondent's name, position and rank.

Note the institution's name and location, and the interview date.

1. What are your areas of responsibility?
How long in this job?
Any special training in handling VAW cases?
2. What is the routine practice for reporting a case of family violence?
How quickly are women seen? Where do they have to wait?
Are they always seen by a woman officer? If not, why not?
How are these cases recorded? (Ask for copy of any forms)
Who lays the charges, the police or the victim?
3. What kinds of cases of family violence do you see here?
Statistics are available? (If not, get respondent's estimate)
What would you call a minor case/ serious case?
4. How do you deal with minor cases? serious cases?
e.g. suspect sent for/ cautioned/ beaten up/ arrested and detained
- victim assisted in obtaining medical report, or sent away to do it herself, etc.
- couple counseled/ husband counseled or warned / both sent for mediation etc.
What kind of advice do you give the victim? to the offender?
What happens if the victim wants to drop the charges?
5. What kinds of problems are involved in dealing with these cases?
How long do they normally take to resolve?
6. What is the routine practice for reporting a case of rape or sexual assault?
How quickly are the women seen? Where do they have to wait?
Are they always seen by a woman officer/ If not, why not?
How are these cases recorded? (Ask for a copy of the form)
Statistics are available? (If not, get respondent's estimate)
7. Where does the victim have to go for a medical examination?
How does she get there?
8. What are the problems in dealing with rape and sexual assault cases?
9. What facilities/equipment are available at the Women's Desk?
e.g. separate room or desk for dealing with VAW cases, and its location within the building (privacy and accessibility); sufficient chairs; availability of vehicle for follow-up or transportation to hospital.

10. How is the unit viewed by others at the station? Co-operation between Desk and other officers?
11. In your opinion, why do some women not report family violence or rape?
12. How could the services provided be improved?
13. Other comments and suggestions?

Conduct interviews with Women's Desk officer(s), other officers, station commander, and if possible, women using the service.

Research assistant to test system, and make own observations.

Data Gathering Guidelines: Prosecutors and Magistrates

Introduce yourself and the purpose of the study.

Inform respondent of official approval for the study.

Note respondent's name, position and job description.

Note the institution's name, location and the date of the interview.

1. What are your areas of responsibility?
How long in this job?
Any special training in handling VAW cases?
2. What is the routine practice for handling cases of family violence?
Any special forms used? (Ask for a copy)
3. What kinds of cases of family violence do you see here?
Statistics available? (If not, get respondent's estimate)
4. What kinds of problems are involved in dealing with cases of family violence?
5. What use is made of restraining orders? Do the police enforce them?
6. What forms of sentencing are used? What is most effective?
7. What use is made of civil remedies, e.g. judicial separation or divorce, maintenance orders, custody orders?
What are the problems with these?
8. What is the routine practice for dealing with cases of sexual assault or rape?
9. What forms are used ? (Ask for a copy).
Statistics available? (If not, get respondent's estimate).
10. What problems are there with obtaining medical evidence for rape cases?
11. In your opinion, why do some women not report family violence or rape?
12. How could services be improved?
13. Other comments or suggestions?

Observe the facilities, the atmosphere and the way any women present are treated.

Data Gathering Guidelines: Medical

Introduce yourself and the purpose of the study.

Inform respondent about official approval for the study.

Note respondent's name, position and job description.

Note the institution's name and location, and the interview date.

1. What are your areas of responsibility?
How long in this job?
Any special training in handling VAW cases?
2. What is the routine practice for dealing with cases of family violence?
How quickly are women seen? Where do they have to wait?
Are patients with physical injuries always asked about the cause?
How is reporting to police dealt with?
How are these cases recorded? (Ask for copy of any forms)
3. What kinds of family violence cases/injuries do you see here?
Statistics are available? (If not, get respondent's estimate)
4. Are there any particular problems in dealing with victims of family violence?
5. What is the routine practice for dealing with cases of rape?
Are physical examinations done with a female doctor/nurse present?
If not, why not?
What tests are done/ samples taken? Victim's clothing?
How long does the whole medical process take?
6. How are these cases recorded? (Ask for a copy of any forms)
Statistics available? (If not, get respondent's estimate)
7. What are the main problems in dealing with rape cases?
8. In your opinion, why do some women not report family violence or rape?
9. How could services be improved?
10. Other comments or suggestions?

Observe the facilities, the atmosphere, and how any women present are treated.

Data Gathering Guidelines: Key Informants

(e.g. women's leaders, elders, community leaders, religious leaders, school principals and teachers, NGO personnel, family planning providers, traditional healers, business persons, trade union leaders, Grama Niladhari and others, as applicable in each community)

Introduce yourself and the purpose of the study.

Inform respondent about official approval for the study.

Note respondent's name, and position in the community.

Note location and date of interview.

1. What kinds of violence against women happen in this community?
2. How often do these happen?
3. Do you see any of these as a serious problem?
4. Has the situation got worse/ better in recent years? In what way?
5. Are there any circumstances in which it is acceptable for a man to use violence on a woman?
6. Are there any circumstances in which it is not acceptable?
7. How does it affect the children if their mother is beaten by their father?
8. Who would help a woman who is beaten by her husband?
Support from local women's groups or NGOs?
Have you ever become involved?
9. What should a woman who is beaten by her husband do? Is it acceptable for her to leave him?
10. Why do women usually stay with violent husbands, or go back to them after a short time?
11. What should a woman who has been raped do?
12. What should a girl who has been raped by her brother, father or uncle do?
13. What would help reduce violence against women?
14. What would make it easier for women to get help?
15. Can anything be done in this community? Who could do it?

For interviews with Grama Niladhari and NGOs, also ask whether they have a system for dealing with cases of VAW, and if so, what is it?

COMMISSION ON HUMAN RIGHTS

Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Radhika Coomaraswamy, submitted in accordance with Commission on Human Rights Resolution 1995/85

A framework for model legislation on domestic violence*

Introduction

1. This framework for model legislation outlines important elements which are integral to comprehensive legislation on domestic violence. The objective of this model legislation is to serve as a drafting guide to legislatures and organisations committed to lobbying their legislatures for comprehensive legislation on domestic violence.

I. DECLARATION ON PURPOSE

2. The purpose of this legislation is to:
 - (a) comply with international standards sanctioning domestic violence.
 - (b) recognise that domestic violence is gender-specific violence directed against women, occurring within the family and within interpersonal relationships;
 - (c) recognise that domestic violence constitutes a serious crime against the individual and society which will not be excused or tolerated;
 - (d) establish specific legislation prohibiting violence against women within interpersonal and family relationships, protecting victims of such violence and preventing further violence;
 - (e) create a wide range of flexible and speedy remedies (including remedies under special domestic violence legislation, penal and civil remedies) to discourage domestic violence and harassment of women within interpersonal relationships and within the family, and protect women where such violence has taken place;

* E/CN. 4/1996/53/Add.2 (2.2.1996)

- (f) assure victims of domestic violence the maximum protection in cases ranging from physical and sexual to psychological violence;
- (g) establish departments, programmes, services, protocols and duties, including but not limited to shelters, counselling programmes and job-training programmes, to aid victims of domestic violence;
- (h) facilitate enforcement of the criminal laws by deterring and punishing violence against women within special interpersonal relationships;
 - (i) enumerate and provide by law comprehensive support services, including but not limited to:
 - (i) emergency services for victims of abuse and their families;
 - (ii) support programmes that meet the specific needs of victims of abuse and their families.
 - (iii) education, counselling and therapeutic programmes for the abuser and the victim;
 - (iv) programmes to assist in the prevention and elimination of domestic violence which includes raising public awareness and public education on the subject;
 - (j) expand the ability of law enforcement officers to assist victims and to enforce the law effectively in cases of domestic violence and to prevent further incidents of abuse;
 - (k) train judges to be aware of the issues relating to child custody, economic support and security for the victims in cases of domestic violence by establishing guidelines for protection orders and sentencing guidelines which do not trivialise domestic violence;
 - (l) provide for and train counsellors to support police, judges and the victims of domestic violence to rehabilitate perpetrators of domestic violence;
 - (m) develop a greater understanding within the community of the incidence and causes of domestic violence and encourage community participation in eradicating domestic violence.

II DEFINITIONS

3. It is urged that states adopt the broadest possible definitions of acts of domestic violence and relationships within which domestic violence occurs, bearing in mind that such violations are not as culture-specific as initially observed, since increasing migration flows are blurring distinctive cultural practices, formally or informally. Furthermore,

the broadest definitions should be adopted with a view to compatibility with international standards.

4. States are urged to enact comprehensive domestic violence legislation which integrates criminal and civil remedies rather than making marginal amendments to existing penal and civil laws.

A. Domestic Violence

5. Legislation shall clearly state that violence against women in the family and violence against women within intimate relationships constitute domestic violence.
6. The language of the law must be clear and unambiguous in protecting women victims from gender-specific violence within the family and intimate relationships. Domestic violence must be distinguished from infra-family violence and legislated for accordingly.

B. Relationships to be regulated

7. The relationship which comes within the purview of legislation on domestic violence must include: wives, live-in partners, former wives or partners, girl-friends (including girl-friends not living in the same house), female relatives (including but not restricted to sister, daughters, mothers) and female household workers.
8. States should not permit religious or cultural practices to form an impediment to offering all women this protection.
9. States should offer protection to non-national women and hold non-national men accountable to the same standards as men of their nationality.
10. There shall be no restrictions on women bringing suits against spouses or live-in partners. Evidence laws and criminal and civil procedure codes shall be amended to provide for such contingencies.

C. Acts of Domestic Violence

11. All acts of gender-based physical, psychological and sexual abuse by a family member against women in the family, ranging from simple assaults to aggravated physical battery, kidnapping, threats, intimidation, coercion, stalking, humiliating verbal abuse, forcible or unlawful entry, arson, destruction of property, sexual violence, marital rape, dowry or bride-price related violence, female genital mutilation, violence related to exploitation through prostitution, violence against household workers and attempts to commit such acts shall be termed "domestic violence".

III COMPLAINT MECHANISMS

12. The law shall provide for victims, witnesses of domestic violence, family members and close associates of victims, state and private medical service providers and domestic

violence assistance centres to complain of incidents of domestic violence to the police or file action in court.

A. Duties of police officers

13. The law shall provide that police officers shall respond to every request for assistance and protection in cases of alleged domestic violence.
14. Police officers shall not assign a lower priority to calls concerning alleged abuse by family and household members than to calls alleging similar abuse and violations by strangers.
15. Police shall respond at the scene of domestic violence when:
 - (a) the reporter indicates that violence is imminent or is in progress;
 - (b) the reporter indicates that an order relative to domestic violence is in effect and is likely to be breached;
 - (c) the reporter indicates that domestic violence has occurred previously.
16. The police shall respond promptly even where the reporter is not the victim of the violence but is a witness of the violence, a friend or relative of the victim, or is a health provider or professional working at a domestic violence assistance centre.
17. On receiving the complaint the police shall:
 - (a) interview the parties and witnesses, including children, in separate rooms to ensure an opportunity to speak freely;
 - (b) record the complaint in detail;
 - (c) advise the victim of her rights as outlined below;
 - (d) fill out and file a domestic violence report as provided for by the law;
 - (e) provide or arrange transport for the victim to the nearest hospital or medical facility for treatment, if it is required;
 - (f) provide or arrange transport for the victim and the victim's children or dependants to a safe place or shelter, if it is required;
 - (g) provide protection to the reporter of violence;
 - (h) arrange for the removal of the offender from the home and, if that is not possible and if the victim is in continuing danger, arrest the offender.

B. Alternative Complaint Procedure

18. The victim, witness or reporter may file a complaint alleging an act of domestic violence in the judicial division where;
 - (a) the offender resides;
 - (b) the victim resides;
 - (c) where the violence took place;
 - (d) where the victim is temporarily residing if she has left her residence to avoid further abuse.
19. The victim may file a complaint alleging an act of domestic violence with a state or private health facility, which shall direct it to the police in the judicial division where that health facility is located.
20. A relative, friend or person from whom the victim requests assistance may file a complaint alleging an act of domestic violence with the police, who shall investigate it accordingly.

C. Statement of the victim's rights

21. The purpose of the statement of the victim's rights is to acquaint the victim with the legal remedies available to her during the initial stage when she complains of an infringement of her legal rights. It also outlines the duties of the police and the judiciary in relation to the victim:
 - (a) The police officer shall communicate to the victim in a language understood by the victim, identifying himself or herself by name and badge number. The law requires that the police officer inform the victim of domestic violence that, if a crime is alleged to have been committed against her, the officer must either arrest the suspect immediately, persuade him to leave the household or remove him from the household.
 - (b) The officer must drive the victim, or help her find transport, to a medical facility to have her injuries attended to.
 - (c) If the victim wants to leave her residence, the officer must help her to find transport to a safe place or shelter.
 - (d) The officer shall take all reasonable steps to ensure that the victim and her dependants are safe.
 - (e) The officer must provide the victim with a written statement of the legal procedure available to her, in a language that she understands. The statement must indicate that

- (i) the law provides that the victim may seek an ex-parte restraining court order and/or a court prohibiting further abuse against the victim, her dependants, anyone in her household or anyone from whom she requests assistance and refuge;
- (ii) the restraining order and/or court order shall protect the victim's property or property held in common from destruction;
- (iii) the restraining order may order the offender to vacate the family home;
- (iv) in the event of the violence taking place during the night, at weekends or on public holidays, the victim must be informed of emergency relief measures to obtain a restraining order by calling the judge on duty;
- (v) the victim need not hire a lawyer to get an ex-parte restraining order or court order;
- (vi) the offices of the clerk of the court shall provide forms and non-legal assistance to persons seeking to proceed with ex-parte restraining orders or court orders. To obtain a court order, the victim must be advised to apply to the court in the prescribed district/jurisdiction;
- (vii) the police shall serve the ex-parte restraining order on the offender.

D. Domestic violence report

- 22. It shall be the duty of the police officer responding to a domestic violence call to complete a domestic violence report which shall be a part of the record. The report should be collated by the Department of Justice and (where applicable) the family court.
- 23. The domestic violence report shall be on a form prescribed by the police commissioner. It shall include but not be limited to:
 - (a) the relationship of the parties;
 - (b) the sex of the parties;
 - (c) information regarding the occupational and educational levels of the parties.
 - (d) the time and date the complaint was received;
 - (e) the time the officer began investigation of the complaint;
 - (f) whether children were involved and whether the domestic violence took place in the presence of children;
 - (g) the type and extent of the abuse;

- (h) the number and type of weapons used;
 - (i) the amount of time taken in handling the case and the actions taken by the officer;
 - (j) the effective date and terms of the order issued concerning the parties;
 - (k) any other data necessary for a complete analysis of all the circumstances relating to the alleged incident of domestic violence.
24. It shall be the duty of the police commissioner to compile and report annually to the Departments of Justice/Women's Affairs and Parliament all data collected from the domestic violence reports.
25. The annual report shall include but not be limited to:
- (a) the total number of reports received;
 - (b) the number of reports made by the victims of each sex;
 - (c) the number of reports investigated;
 - (d) the average time lapse in responding to each report;
 - (e) the type of police action taken in disposing of cases including the number of arrests.

IV DUTIES OF JUDICIAL OFFICERS

A. Ex-parte temporary restraining order

26. An ex parte order may be issued on the application of a victim of violence in circumstances where the defendant chooses not to appear in court or cannot be summoned because he is in hiding. An ex-parte order may contain a preliminary injunction against further violence and/or preventing the abuser/defendant from disturbing the victim/plaintiff's use of essential property, including the common home.
27. It is also recommended that a wider category of persons besides the victim of violence apply for a restraining order. It is conceivable that the victim may not be in a position to have access to the legal system. It is also conceivable that witnesses and persons offering assistance to the victim may also be in danger of violence.
28. Where a situation of grave danger exists to the life, health and well-being of the victim and she is unlikely to be safe until a court order is issued, the victim/plaintiff, a relative or welfare worker may apply to a judge or magistrate on duty to provide emergency relief, such as an ex-parte temporary restraining order to be issued against the abuser within 24 hours of violence occurring.

29. The ex-parte temporary restraining order may:

- (i) compel the offender to vacate the family home;
- (ii) regulate the offender's access to dependent children;
- (iii) restrain the offender from contacting the victim at work or other places frequented by the victim;
- (iv) compel the offender to pay the victim's medical bills;
- (v) restrict the unilateral disposal of joint assets;
- (vi) inform the victim and the offender that if the offender violates the restraining order, he may be arrested on the criminal charges brought against him;
- (vii) inform the victim that, notwithstanding the use of a restraining order under domestic violence legislation, she can request the prosecutor to file a criminal complaint against the offender;
- (viii) inform the victim that, notwithstanding the use of a restraining order under domestic violence legislation and application for criminal prosecution, she can initiate a civil process and sue for divorce, separation, damages or compensation;
- (ix) require each party to fulfil his/her continuing duty to inform the court at each proceeding for an order of protection at any civil litigation, proceeding in juvenile court and/or proceedings involving either party.

30. Emergency relief would include an ex-parte temporary restraining order, to remain in effect until a court order is issued but for not more than 10 days after the ex-parte temporary restraining order has been issued.

31. The plaintiff must be informed of the following:

- (a) that notwithstanding use of an ex-parte restraining order under domestic violence legislation, she can apply for a court order to protect her from further violence or for a renewal of the court order, and/or request the prosecutor to file a criminal complaint against the defendant;
- (b) that an application for an ex-parte restraining order in no way affects her access to other civil remedies such as the right to apply for a judicial separation, divorce or modification of the temporary restraining order,
- (c) that, on 24 hours' notice to the plaintiff, the defendant may move for a dissolution or modification of the temporary restraining order.

32. Non-compliance with an ex-parte restraining order shall result in prosecution for contempt of court proceedings, a fine and imprisonment.

B. Protection orders

33. Application for a protection order may be made by the victim, a relative, a welfare worker or person assisting the victim of domestic violence.
34. Application for protection orders may be made on the expiry of ex-parte restraining orders or independently of such restraining orders.
35. Protection orders may operate to protect the victim, a relative, a welfare worker or person assisting the victim of domestic violence from further violence or threats of violence.
36. Judges should be required to conduct hearings within 10 days of the complaint and application for a protection order.
37. Judges should uphold the provisions outlined in the victim's statement of rights.
38. The court order may provide any or all of the following relief:
- (a) restrain the offender/defendant from causing further violence to victim/plaintiff, her dependants, other relatives and persons who give her assistance from domestic abuse;
 - (b) instruct the defendant to vacate the family home, without in any way ruling on the ownership of such property;
 - (c) instruct the defendant to continue to pay the rent or mortgage or pay maintenance to the plaintiff and their common dependants;
 - (d) instruct the defendant to hand over the use of an automobile or other essential personal effects to the plaintiff;
 - (e) regulate the defendant's access to dependent children;
 - (f) restrain the defendant from contacting the plaintiff at work or other places frequented by the plaintiff;
 - (g) upon finding that the defendant's use or possession of a weapon poses a serious threat of harm to the plaintiff, prohibit the defendant from purchasing, using or possessing a firearm or any such weapon specified by the court;
 - (h) instruct the defendant to pay the plaintiff's medical bills, counselling fees or shelter fees;
 - (i) prohibit the unilateral disposition of joint assets;

- (j) inform the plaintiff and the defendant that, if the defendant violates the restraining order, he may be arrested with or without a warrant and criminal charges brought against him;
 - (k) inform the plaintiff that, notwithstanding the use of a restraining order under domestic violence legislation, she can request the prosecutor to file a criminal complaint against the defendant;
 - (l) inform the plaintiff that, notwithstanding the use of a restraining order under domestic violence legislation, she can activate the civil process and sue for divorce, separation, damages or compensation;
 - (m) conduct hearings in camera to protect the privacy of the parties.
39. The burden of proof in these proceedings is on the accused to demonstrate that such domestic violence did not take place.
 40. Judges should order dispatch of copies of all protection/restraining orders issued to the police zones where the plaintiff and those protected by the order reside, within 24 hours of the issuing order.
 41. Compliance with protection orders shall be monitored by the police and the courts. Violation of a protection order is a crime. Non-compliance shall result in a fine, contempt of court proceedings and imprisonment.
 42. Where the plaintiff files an affidavit that she does not have the funds to pay the costs of filing an ex-parte restraining order or a protection order, the orders shall be filed without the payment of fees.
 43. Mala fide and unjustified claims for a protection order may move the court to order the plaintiff to pay costs and damages to the defendant.

v CRIMINAL PROCEEDINGS

44. The prosecuting attorney or Attorney-General shall develop, adopt and put into effect written procedures for officials prosecuting crimes of domestic violence.
45. When a court dismisses criminal charges in a crime involving domestic violence, the specific reasons for dismissal must be recorded in the court file.
46. In criminal actions concerning domestic violence, the prosecuting attorney shall charge in the information sheet that the alleged act is one of domestic violence.
47. The victim's testimony shall be sufficient for prosecution. No move to dismiss a complaint shall be made solely on the grounds of uncorroborated evidence.

48. Upon conviction for a domestic violence offence, the judgement shall so indicate the results of the case.
49. During the trial phase, the defendant accused of domestic violence shall have no unsupervised contact with the plaintiff.
50. The issue of a restraining order or protection order may be introduced as a material fact in subsequent criminal proceedings.
51. Depending on the nature of the offence, and where a defendant is charged for the first time with a minor domestic violence offence and pleads guilty, a deferred sentence and counselling may be imposed, along with a protection order, provided that the consent of the victim is obtained.
52. Upon conviction of a defendant for a serious crime of domestic violence, the court may order a term of incarceration and counselling.
53. Enhanced penalties are recommended in case of domestic violence involving repeat offences, aggravated assault and the use of weapons.
54. Counselling shall not be recommended in lieu of a sentence in cases of aggravated assault.
55. Clear sentencing guidelines shall be established.

V CIVIL PROCEEDINGS

56. A protection order may be issued while civil proceedings for divorce, judicial separation or compensation are pending.
57. In these circumstances, protection orders may be issued in addition to and not in lieu of civil proceedings.
58. Protection orders and restraining orders may be issued independently, unaccompanied by an application for divorce or judicial separation.
59. The issuance of a restraining order or protection order may be introduced as a material fact in subsequent civil proceedings.

VI PROVISION OF SERVICES

A. Emergency Services

60. The state must provide emergency services which shall include:

- (i) seventy-two hour crisis intervention services;
- (ii) constant access and intake to services;
- (iii) immediate transportation from the victim's home to a medical centre, shelter or safe haven;
- (iv) immediate medical attention;
- (v) emergency legal counselling and referrals;
- (vi) confidential handling of all contacts with victims of domestic violence and their families;

B. Non-emergency services

61. States must provide non-emergency services which shall include:

- (a) delivery of services to assist in the long-term rehabilitation of victims of domestic violence through counselling, job training and referrals;
- (b) delivery of services to assist in the long-term rehabilitation of abusers through counselling;
- (c) programmes for domestic violence which are administered independently of welfare assistance programmes;
- (d) delivery of services in co-operation and co-ordination with public and private, state and local services and programmes;

C. Training of police officials

62. The police department shall establish and maintain an education and training programme for police officers to acquaint them with:

- (a) the nature, extent, causes and consequences of domestic violence;
- (b) the legal rights and remedies available to victims of domestic violence;
- (c) the services and facilities available to victims and abusers;
- (d) the legal duties imposed on police officers to make arrests and to offer protection and assistance;
- (e) techniques for handling incidents of domestic violence that minimize the likelihood of injury to the officer and promote the safety of the victim and her dependents.

63. Every police cadet should be trained to respond to domestic violence cases.
64. Special units should also be established where police officers receive intensive and specialized training to handle more complex cases.
65. Educators, psychologists and victims should participate in seminar programmes to sensitise the police.

D. Training of judicial officers

66. Provision shall be made to conduct on-going training programme for judicial officers on the handling of domestic violence cases. Training shall include guidelines on:
 - (i) the issuing of ex-parte restraining orders;
 - (ii) the issuing of protection orders;
 - (iii) guidance to be given to victims on available legal remedies;
 - (iv) sentencing guidelines.
67. Training shall include an initial course for a prescribed number of hours and an annual review for a prescribed number of hours.
68. Special family courts should also be established and the judiciary should be provided with intensive and specialized training to handle more complex cases.

E. Training of counsellors

69. States shall provide trained counsellors to support the police, judges, victims of domestic violence and perpetrators of violence.
70. The law shall mandate counselling programmes for perpetrators as a supplement to, and not as an alternative to, the criminal justice system.
71. Counselling programmes must be designed to:
 - (i) help the perpetrator take responsibility for his violence and make a commitment not to inflict further violence;
 - (ii) educate the perpetrator on the illegality of violence
72. Funding for counselling and perpetrator programmes should not be taken from resources assigned to victims of violence.

73. The law should provide but not mandate counselling for victims of violence. Counselling for victims of violence must be:

- (a) provided as a free service;
- (b) empowering to the victim and assist her in deciding on short-term and long-term strategies to protect herself from further violence and to restore the normality of her life.

SEXUAL ASSAULT: CANADIAN CRIMINAL CODE

The crime of sexual assault comprises an assault within any one of the definitions in section 265 (1) of the *Criminal Code*, which is committed in circumstances of a sexual nature, such that the sexual integrity of the victim is violated.

Section 265 (1) A person commits an assault when

- (a) without the consent of another person, he applies force intentionally on that other person, directly or indirectly;
 - (b) he attempts or threatens, by an act or a gesture, to apply force to another person, if he has, or causes that other person to believe on reasonable grounds that he has present ability to effect his purpose; or
 - (c) while openly wearing or carrying a weapon or an imitation thereof, he accosts or impedes another person or begs sexual favour.
- (2) This section applies to all forms of assault, including sexual assault, sexual assault with a weapon, threats to a third party or causing bodily harm and aggravated sexual assault.

VISHAKA v STATE OF RAJASTHAN

Guidelines

1. *Duty of the employer or other responsible persons in workplaces and other institutions:*

It shall be the duty of the employer or other responsible persons in workplaces or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment by taking all steps required.

2. *Definition*

For the purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- (a) physical contact and advances;
- (b) a demand or request for sexual favour;
- (c) sexually-coloured remarks;
- (d) showing pornography;
- (e) any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Where any of these acts is committed in circumstances whereunder the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work, whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise, such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory, for instance, when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work, including recruiting or promotion, or when it creates a hostile work environment or adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. *Preventive steps:*

All employers of persons in charge of workplaces, whether in the public or private sector, should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation, they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the workplace should be notified, published and circulated in appropriate ways.

- (b) The rules/regulations of government and public sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.
- (c) As regards private employers steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- (d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. *Criminal proceedings:*

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims, or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. *Disciplinary action:*

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. *Complaint mechanism:*

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organization for redress of the complaint made by the victim. Such complaint mechanism should ensure time-bound treatment of complaints.

7. *Complaints Committee:*

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its members should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government Department concerned of the complaints and action taken by them.

8. *Workers' initiative:*

Employees should be allowed to raise issues of sexual harassment at workers' meetings and in other appropriate forum and it should be affirmatively discussed in employer-employee meetings.

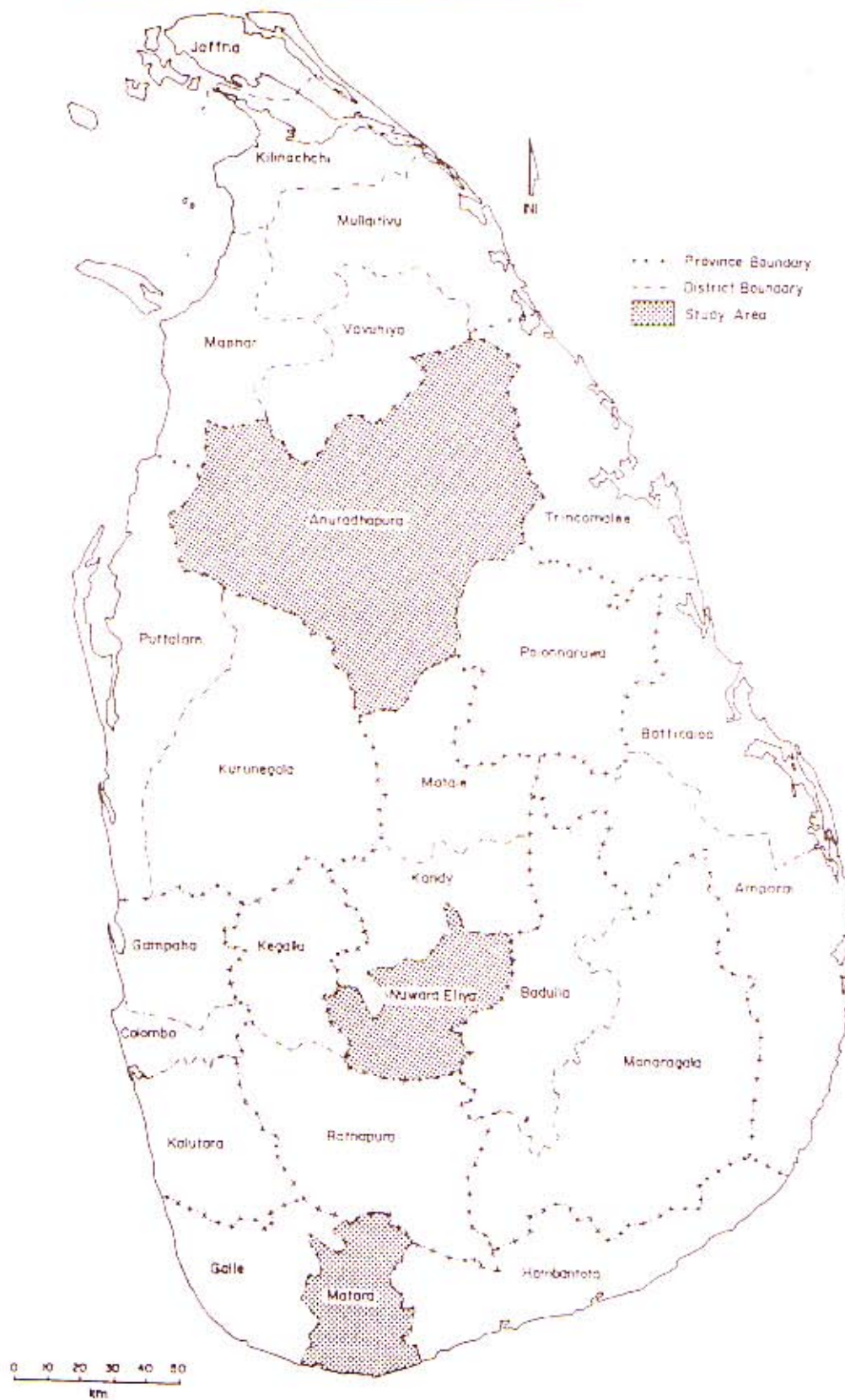
9. *Awareness:*

Awareness of the rights of female employees in this regard should be created, in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. *Third-party harassment:*

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person-in-charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

District Map of Sri Lanka showing Study Areas



Geographical Areas Covered in the Research Study

Anuradhapura

Thirappana
Kekirawa
Galkulama
Puliayankulama
Mawathawewa
Periyakulama
Pandikettuwewa
Sivalakulama
Gnanikulama
Galwaduvaagama
Orumaankulama
Maankulama
Pudukkulama
Karambaagama
Rambava
Kattamurichaana
Meewellava
Sandanangkulama

Matara

Nawimana
Polhena
Gandara
Parawahera
Kohawela
Kapugama
Welegoda
Raasandeniya
Polhena Interior
Madihawatta
Porawatte
Maathotagama
Perawatta

Nuwara Eliya

Estates

Brookfield Estate (Kandapola)
Oliphant Estate (Nuwara Eliya)

Mahacoodagalla Estate (High Forest, Mahacoodagalla)
Glendover Estate (Ragala)

Towns

Kandapola
Hava Eliya
Mahacoodgalla Forest
Jayalanka
Mihidipura
Shantipura
Bambarakelle
Lady Maccallum
Sanda Thenna



Nuwara Eliya Colony Houses



Women Activists



The Sinhala-Tamil Rural Women's Network



Estate Clinic



Tea Pluckers at the Weigh Station



Tea Pluckers' Line Homes



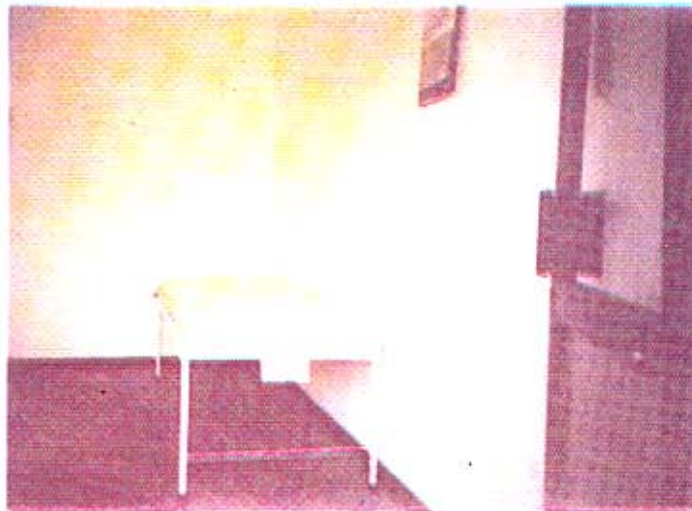
Matara Fishing Village



New "WIN" Offices



Old "WIN" Offices



JMO Examining Room



Matara Police Station



Matara Women Constables



Law Offices in Matara



Anuradhapura Interview, EE House



Kantha Sangvardhana Maha Sangamaya



Women & Police Desk



Paddy Field Interview



School Room Interview

Sometimes there is no Blood: Domestic Violence and Rape in Rural Sri Lanka

For years the efforts of women's rights activists to combat violence against women in Sri Lanka have been curtailed by the debilitating lack of information and awareness about the issue. *Sometimes there is no Blood: Domestic Violence and Rape in Rural Sri Lanka* addresses this lacuna and provides readers, both activists and others, with a comprehensive and thorough assessment of the situation and puts forward practical and feasible recommendations for change. The volume, which is based on extensive and comprehensive data gathered during research in rural Anuradhapura, Nuwara Eliya, Matara and Kandy, illustrates the widespread manifestations of violence against women in Sri Lanka. Hussein's work, through the presentation of hard-hitting and most often heart-wrenching evidence, stresses the urgency for legal reform, gender sensitizing and training.

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ICES

The International Centre for Ethnic Studies (ICES), Colombo Sri Lanka was established in 1982. Through its 24 years of existence, ICES has strived to evolve a model of historically sensitive theoretical and empirical research in ethnicity, social and political process. ICES, established as a non-profit organization chartered under Sri Lankan company law, is a non-governmental organization situated in Sri Lanka. The ICES commitment to diversity is reflected by its multi-ethnic Sri Lankan staff. The ICES Board of Directors, international in composition, reflects its strong international ties.

ICES's four broad objectives are :

- (a) the advancement of human rights;
- (b) the contribution towards national cohesion;
- (c) promotion of international peace;
- (d) contribution towards a more equitable development process

ICES organizes regular seminars, workshops, often collaborating with other institutions to conduct joint projects. It is continuing its work in the areas of comparative federalism; democratic transitions, regional cooperation and conflict resolution; Sri Lankan governance, South Asian comparative electoral process; ethnic conflicts, multiculturalism and modes of ethnic co-existence; and violence against women.