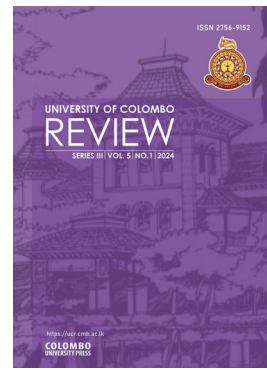


DOI: <https://doi.org/10.4038/ucr.v5i1.97>

University of Colombo Review (Series III),  
Vol.5, No.1, 2024



## **A legal empowerment approach to improving access to justice for victim-survivors of Sexual and Gender-based Violence**

**Michelle Handy**

Independent Researcher

### **ABSTRACT**

Sexual and Gender-based Violence (SGBV) is a prevailing problem in Sri Lanka and is a serious infringement of human rights. With the onset of the COVID-19 pandemic, there was a marked increase in the reporting of incidences of SGBV. Despite the critical need to address SGBV, the response of the criminal justice sector has been lackadaisical. The underdeveloped capacity of stakeholders within the criminal justice system results in victim-survivors of SGBV being revictimized throughout the criminal justice process. Victim-survivors are denied access to justice due to socio-cultural norms, the lack of legal awareness and complex administrative and legal procedures. Legal empowerment is a development concept that seeks to empower beneficiaries to not only know their rights but also develop their capacity and capability to exercise their rights. This article argues that a legal empowerment approach should be adopted in dealing with SGBV in order to ensure access to justice for victim-survivors of SGBV. The article further argues that in order to empower victim-survivors, legal empowerment activities must be undertaken at the individual, sub-national and national level wherein not only the victim-survivor but service providers of the criminal justice system are capacitated as well.


### **KEYWORDS:**

Legal empowerment, Sexual and Gender-based Violence, Human Rights, Criminal justice system, Access to justice

Suggested Citation: Handy, M (2024). A legal empowerment approach to improving access to justice for victim-survivors of Sexual and Gender-based Violence. *University of Colombo Review* (New Series III), 5(1), 50- 78

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✉ [mnhandy2796@gmail.com](mailto:mnhandy2796@gmail.com)

 <https://orcid.org/0009-0003-3052-0576>

## Introduction

Violence against women is widely prevalent in Sri Lanka. The substantial increase in reports of gender-based violence during the pandemic reveals how rape and domestic violence continue to be rampant in Sri Lankan society (UNFPA, 2020). Sexual harassment too remains common and widespread, particularly in public transport (UNFPA, 2018) and in the workplace (IFC, 2022). Even though men and women are equal under the law, women continue to be discriminated against in the economic, social and political spheres due to structural barriers and patriarchal social norms and stigmas (Kolundzija et.al., 2020; Sivakumar, 2021). Unequal power relationships wherein women are placed in a subordinate position is one of the root causes for Sexual and Gender-based Violence (SGBV), whilst on the other hand, SGBV serves as a means of perpetuating and maintaining unequal power dynamics between men and women (UNFPA, 2016; Women in Need, 2019a).

Despite the noted increase in SGBV, the police and judicial response to rape, domestic violence and SGBV incidents is inadequate and unresponsive to the needs of victim-survivors (U.S. Department of State, 2022; The Asia Foundation, 2021) as the system perpetuates patriarchal stereotypes and misconceptions, (Pinto-Jayawardena & Kirsty Anantarajah 2016) and is gender insensitive (Centre for Equality and Justice et al., 2022b). Furthermore, services to assist victim-survivors of SGBV such as crisis centers, legal aid, and counseling remain scarce across the country (de Mel & Samararatne, 2017).

This article argues in favor of adopting a legal empowerment approach to addressing SGBV in Sri Lanka. SGBV victim-survivors are often excluded from the criminal justice system which seriously impedes their access to justice (International Commission of Jurists, 2016). Legal empowerment is an approach which seeks to capacitate SGBV victim-survivors to use the legal and administrative process to exercise their rights. Moreover, legal empowerment approaches are cognizant of the need for concurrent capacity development of service providers, in order to ensure access to justice for SGBV victim-survivors.

The article primarily relies on secondary sources drawing on key reports by The Asia Foundation, Women in Need and the United Nations Development Program (UNDP) for their focus on Sri Lankan women's access to justice and the barriers they face. The article addresses the challenges that women face in accessing the criminal justice system particularly the police and the judiciary and also discusses the role that Community Service Organizations (CSOs), Community Based Organizations (CBOs) and Non-Governmental Organizations (NGOs) must play in addressing SGBV through legal empowerment. This article is limited in scope as it does not address conflict related SGBV nor cyber SGBV. This article first provides a brief overview of the incidence of SGBV in Sri Lanka. This section is in no way meant to be a comprehensive analysis of the situation or legal framework of SGBV in

Sri Lanka, but rather provides an outline of the international and domestic legal framework governing SGBV and an understanding of the prevailing problem. The article next discusses the factors that impede SGBV victim-survivors from accessing justice; and finally, analyzes the concept of legal empowerment and how it may be used to improve SGBV victim-survivors' access to justice.

### **A brief overview of SGBV in Sri Lanka**

SGBV refers to “any act that is perpetrated against a person’s will and is based on gender norms and unequal power relationships” and highlights the sexual violence component of gender-based violence, which is the most demeaning and degrading experience to the survivor (UNHCR, 2016, p.10). SGBV encompasses a wide range of actions, including physical, psychological, or sexual abuse motivated by gender and power differences (UNFPA, 2016). The foundation for SGBV comprises gender-centric social norms and behaviors that affect the inequality between men and women (Darj et al., 2017).

### ***Legislative framework***

Sri Lanka has ratified four international gender focused instruments<sup>1</sup> foremost of which is the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) and the Optional Protocol to the CEDAW, which pledged to protect women and girls from all forms of violence directed against them. Sri Lanka has also ratified the International Covenant on Civil and Political Rights and International Covenant of Economic, Social and Cultural Rights all of which recognize the equality of men and women and prohibit discrimination on the grounds of sex and gender. Article 15 of CEDAW provides that women and men must have equality before the law and benefit from equal protection of the law whilst Article 2 stipulates that State parties must take all appropriate measures to guarantee the substantive equality of men and women in all areas of life, including through the establishment of competent national tribunals and other public institutions, to ensure the effective protection of women against any act of discrimination. Article 3 of the Convention affirms the principle of equality when it requires State parties to take all appropriate measures for the full development and advancement of women in order to guarantee them equal rights with men. State parties also have an obligation to ensure that all women have access to education and information about their rights and the remedies that are available and how to gain access to them, and access to competent, gender-sensitive dispute resolution systems, as well as equal access to effective and timely remedies (United Nations Committee on the Elimination of Discrimination

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<sup>1</sup> The other instruments include the Universal Declaration of Human Rights, Vienna Declaration on the Elimination of Violence against Women (DEVAV), and the Beijing Declaration and Platform for Action.

against Women, 2015). Furthermore, SGBV and Gender-based Violence (GBV) have been recognized internationally as a serious violation of human rights (United Nations Committee on the Elimination of Discrimination against Women, 1992; UNGA, 1993). International Criminal Law has also recognized rape as a crime against humanity (Rome Statute of the International Criminal Court, section 7) which constitutes a form of torture as held in *Prosecutor v. Anto Furundžija* (ICTY Case No. IT-95-17-1).

Article 12 of the 1978 Constitution of Sri Lanka states that all persons are equal before the law and prohibits discrimination on the basis of sex and lays the normative framework for a human rights approach to addressing SGBV. The Supreme Court has drawn on CEDAW when deciding on violations of Article 12 of the constitution. In *Manohari Pelaketiya v Secretary, Ministry of Education* (SC/FR 76/2012, SC Minutes 28 Sept 2016) the court highlighted the obligation placed on the state by CEDAW to give effect to women's rights, and thereby declared that sexual harassment amounted to an infringement of the right to equality enjoyed by women. More recently in *Sri Lankan Airlines Limited v. P. R. S. E. Corea* (S.C. Appeal No. 91/2017, SC Minutes 02 Feb 2024) the Supreme Court highlighted that Sri Lanka has signed and ratified CEDAW without any reservation, and as such has an obligation to take all appropriate measures to eliminate discrimination against women in the field of employment. The Court further stated that state-owned enterprises must adopt a zero-tolerance policy towards any form of sexual harassment.

SGBV is covered by several pieces of legislation, foremost of which is the Penal Code which was amended in 1995 and 1998 incorporating provisions for criminal sanctions against perpetrators of SGBV<sup>2</sup>. The Prevention of Domestic Violence Act No. 34 of 2005 is a gender-neutral law which was enacted with the objective of protecting victims of domestic violence and the Assistance to and Protection of Victims of Crime and Witnesses Act No. 10 of 2023 provides further protections for victim-survivors of SGBV.

Whilst CEDAW has not been given effect by the enactment of a law, a number of non-justiciable mechanisms have been instituted to support the implementation of CEDAW such as the Sri Lanka Women's Charter adopted on March 3, 1993, which affirms the country's commitment to CEDAW and the Declaration on the Elimination of Violence against Women. There are also several non-justiciable national policy initiatives that seek to address SGBV such as the National Plan of Action to address Sexual and Gender-based Violence (NPoA 2016-2020), though this is due for renewal and revision.

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<sup>2</sup> This included amendments to the definition of rape and statutory rape. The Amendments also introduced new offences such as procurement of any person for illicit sexual intercourse, anti-trafficking laws, criminalization of sexual violence, incest, and the prohibition of the publication of details which reveal the identity of victims of sexual crimes.

Despite the existence of a fairly strong legal and policy framework to address SGBV, albeit not without its shortcomings, the implementation of these laws has been lacking as is discussed later on in this article. Furthermore, the concurrent existence of a number of laws<sup>3</sup> with separate procedural aspects, wherein jurisdiction for the Prevention of Domestic Violence Act is vested with the Magistrates Courts and Penal offences with the High courts, has resulted in a confusing system that victim-survivors must navigate in order to access justice. All of this has resulted in the legal and policy framework failing to meet its full potential and failing to protect victim-survivors of SGBV.

### ***Incidence of SGBV***

Violence against women in Sri Lanka is a pervasive problem as one in every five women has experienced sexual and/or physical violence by an intimate partner in their lifetime; and one in four women have been subjected to physical or sexual violence at some point in their lives (Department of Census and Statistics, 2019). Furthermore, 17% of married women have experienced some form of domestic violence at the hands of their partner (Department of Census and Statistics et al., 2017) and more than 1 in 3 instances of female homicide are related to intimate partner violence (UNFPA, 2018). Studies have shown that violence against women may be correlated to alcohol and drug abuse (Jayasuriya et al., 2011), poverty (de Mel et al., 2013), childhood experience of violence of the perpetrator (Fulu et al., 2013), and societal attitudes (de Mel et al., 2013). Analysing social attitudes, a study by CARE International Sri Lanka (CARE) highlighted that there was a strong perception that it was sometimes acceptable to beat a woman and that women should tolerate violence to keep the family together (de Mel et al., 2013).

The outbreak of the COVID-19 pandemic further exacerbated incidents of SGBV in Sri Lanka, with the onset of a “shadow pandemic” reflecting a significant increase in incidences of domestic violence (Mlambo-Ngcuka, 2020; Centre for Equality and Justice, 2022a). The government introduced restrictions upon movement to curb the pandemic, which resulted in victim-survivors being unable to access support services such as police stations to report violence, legal aid from institutions such as the Legal Aid Commission or the Courts to enforce protection orders, and hospitals for medical care or counselling services (Centre for Equality and Justice, n.d.). The loss of employment and income along with the increased financial dependency of victim-survivors further aggravated domestic violence during the pandemic (Centre for Equality and Justice, n.d.).

<sup>3</sup> The Legal framework in Sri Lanka for the prevention of and punishment for acts of domestic violence is, mainly found within the Penal Code, the Criminal Procedure Code and the Prevention of Domestic Violence Act. The Sri Lanka Police and in the case of children The National Child Protection Authority assists inter-alia in the co-ordination and monitoring of action against abuse and violence.

## **Barriers to access to justice for victim-survivors of SGBV**

The UNDP defines access to justice as “the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards” (UNDP, 2005: 5). Target 16.3 of the Sustainable Development Goals calls on states to ensure equal access to justice for all. The General Recommendation No. 33 of the Committee on the Elimination of Discrimination against Women, recognises that access to justice for women is essential to the realisation of all the rights protected under CEDAW. The right to access to justice is multidimensional encompassing justiciability, availability, accessibility, good quality, the provision of remedies for victims and the accountability of justice systems (United Nations Committee on the Elimination of Discrimination against Women, 2015). Despite the above recognition of women’s right to access to justice, victim-survivors of SGBV continue to face challenges in accessing justice including discriminatory laws, patriarchal procedural and evidentiary requirements and practices, and a failure to systematically ensure that judicial mechanisms are physically, economically, socially and culturally accessible to all women (United Nations Committee on the Elimination of Discrimination against Women, 2015).

The legal and administrative process that SGBV victim-survivors must navigate in order to access justice has been described as labyrinthine and akin to a maze (Center for Equality and Justice, 2023; Labyrinth, n.d.). The Sri Lankan criminal justice system is crippled by many structural and procedural barriers that discourage SGBV victim-survivors from seeking legal redress such as the lack of support services, lengthy delays in securing justice, and the lack of information to victim-survivors about the legal processes which makes the pursuit of justice impractical and unpalatable for many victim-survivors (Centre for Policy Alternatives, 2020; Civil Society Collective in Sri Lanka, 2017). The next section examines some of the causes for the lack of access to formal justice by victim-survivors of SGBV, including legal barriers, procedural and administrative barriers and socio-economic and cultural barriers.

### ***Legal barriers***

#### ***Inadequate laws***

The law itself is in some instances a barrier. For example, the definition of rape in section 363 of the Penal Code is limited to penal-vaginal penetration to the exclusion of male victims, (A. A. Edirisinghe et al., 2017) non-consensual oral or anal penetration and penetration using objects (Centre for Equality and Justice, 2018). The restrictive definition also excludes violence in the context of same sex partners (Centre for Equality and Justice et al., 2022b). Section 363(a) further, fails to recognize marital rape as an offence except for when the spouses are judicially



separated.

The Penal Code section 365 criminalizes intercourse against the order of nature which is relied upon to criminalize homosexuality subjecting lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons to stigmatization, harassment and intimidation by the police (U.S. Department of State, 2022; Maduwage, 2020; Human Rights Watch, 2020; Thangarajah, n.d.). Section 399 of the Penal Code, which prohibits “cheating by personation,” is used by police to target transgender persons, while the Vagrants Ordinance No. 04 of 1841, contains overbroad and vague provisions that are used to target transgender women and sex workers (Human Rights Watch, 2023; International Commission of Jurists, 2021). Section 7 (1) (b) of the Ordinance is relied upon to harass such persons for engaging in acts of gross indecency, whilst section 2 and 3 criminalizes every person behaving in a ‘riotous, disorderly manner’, and punishes ‘common prostitutes’ who act in an indecent manner. As a result of such criminalization and overbroad language, LGBTQI+ persons and persons belonging to sexual minorities are reluctant to approach law enforcement authorities, thereby excluding them from the protections afforded by laws relating to rape, domestic violence and sexual harassment (International Commission of Jurists, 2021; Centre for Equality and Justice et al., 2022b).

The Prevention of Domestic Violence Act also has shortcomings wherein it does not create a criminal offense of domestic violence, but rather provides for victims of domestic violence to obtain protection orders against their assailants. Section 2(2) of the Act limits access to court to the aggrieved person themselves or a police officer on their behalf, thus, limiting the victim-survivors’ capacity to access court via proxy. This may cause considerable hardship to victim-survivors who are unable to be physically present in court due to economic hardship, injury and fear of facing their assailant (Centre for Policy Alternatives, 2020).

### ***Long delays in the court process***

Delays in the justice process which arise due to the heavy caseload of the courts (Ministry of Justice, Prison Affairs and Constitutional Reforms, 2022) is one of the main factors which discourage victim-survivors from accessing justice. The High Courts of Sri Lanka which has original jurisdiction over all major sexual violence crimes struggles with a backlog of cases which results in prolonged periods for cases to be litigated and concluded, and SGBV cases have been no exception. As of the 30th of June 2022, there were 1,094,912 cases pending before the courts of which 30,030 cases were pending before the High Courts (criminal) (Ministry of Justice, Prison Affairs and Constitutional Reforms, 2022). An analysis by the Center for Policy Alternatives, revealed that on average, SGBV cases take over ten years from the time of the incident for court proceedings to conclude (Centre for Policy Alternatives, 2020). The process for indictment by the State (filing of charges) can

take between 3 to 11 years, while the trial process before the High Court can take anywhere between 6 months to 14 years (Niriella, 2020).

The Evidence Ordinance No. 14 of 1895 section 155(4) specifically allows the introduction of evidence in rape cases which shows that ‘the prosecutrix was of generally immoral character’ as a result of which victim-survivors are subjected to traumatic and degrading cross-examinations in court which can lead to their revictimization (Centre for Equality and Justice et al., 2022b). This provision also institutionalizes victim-blaming (Women and Media Collective, 2021). These laws combined with a long trial process means that victim-survivors are compelled to relive their trauma when cases are finally taken up years after the incident (Centre for Policy Alternatives, 2020).

The Legal Aid Commission also has a large volume of pending cases<sup>4</sup> spread across 85 legal aid centers (Ministry of Justice, Prison Affairs and Constitutional Reforms, 2022), which is meant to function as a means of ensuring equal access to justice for all citizens regardless of economic standing. Although the Legal Aid Commission calls for a revenue report through the Grama Niladari (village officer) during judicial matters, it is not considered in litigation regarding maintenance, domestic violence, victims of crimes and children (Ministry of Justice, Prison Affairs and Constitutional Reforms, 2022). Despite these measures, few women access the Legal Aid Commission.<sup>5</sup>

### ***Inconsistency in implementation of the law***

Another key barrier that severely impedes SGBV victim-survivors access to justice is the inconsistency in the judicial system’s implementation of the law. This inconsistency on the part of the judiciary, and law enforcement authorities and other decision makers to correctly apply the requirements of the law often impedes victim-survivors access to justice (Asian Development Bank, 2009).

A clear example of this is seen in relation to the application of the Prevention of Domestic Violence Act. Section 2(2) stipulates that the victim may petition the Magistrates Court in order to obtain a protection order, and section 7 empowers the court to continue with the inquiry in the absence of the respondent, provided that notice has been served on the respondent. However, it has been reported that some judges summon the respondent prior to granting interim relief orders (Center for Policy Alternatives, 2020). This is not a legal requirement as per the Act, and may place the victim-survivor at greater risk, thus defeating the very purpose of the Act (Women in Need, 2019a). Further, it has been reported that most cases of domestic violence are reported to mediation by the police, despite the existence of the Act (Ministry of Women and Child Affairs, 2016)

<sup>4</sup> Number of cases carried forward to 01<sup>st</sup> October in the year 2022 is 38,736.

<sup>5</sup> The Legal Aid Commission rendered their services to only 118 domestic violence cases during the period 01.01.2022 to 30.09.2022.



Similarly, by way of the 1995 Amendment to the Penal Code, an explanation was introduced to section 363 which provided that ‘evidence of resistance such as physical injuries to the body is not essential to prove that sexual intercourse took place without consent’ when prosecuting sexual offences. Despite the inclusion of the explanation, the courts are still reluctant to act on uncorroborated evidence of a victim-survivor, unless her evidence is convincing enough to act on even without corroboration as was held in *Sunil and another v Attorney General* ([1986] 1 Sri LR 230) and more recently in *Upali Senarathne v Attorney General* (CA 25/09 CAM 06 March 2014) and, *Gunewardena v Attorney General* (CA 378/2017 CAM 03 Sep 2019).

Furthermore, in Supreme Court reference 03/2008 it was held that courts are vested with the discretion in implementing the mandatory sentencing in the penal code for rape and statutory rape. As a result of which, courts are reported to permit out of court settlement of cases by payment of monies to the victim’s family and deliver suspended sentences for these offences (Civil Society Collective Sri Lanka, 2017). There have also been instances where the courts have either reduced or suspended sentences on the ground that the perpetrator had married the victim-survivor (*Ambagala Mudiyansele Samantha Sampath v Attorney-General* SC Appeal No 17/2013, SC Minutes 12 March 2015; Equality Now et al., 2021; Lawyers for Human Rights and Development, 2012).

Another challenge was the inadequate implementation of the previous Victim and Witness Protection Authority Act, due to the slow progress of investigating complaints made to the Authority, the lack of trained staff, and the lack of institutional independence given to the authority (Borham, 2019). It is still too early to determine, if the new Assistance to and Protection of Victims of Crime and Witnesses Act will face similar challenges.

Therefore, while there are some laws to protect victim-survivors of SGBV, their improper and inconsistent implementation often results in the deprivation of access to justice for victim-survivors of SGBV. As a result of the above, the general perception of women in relation to the legal system is that it does not adequately provide redress for SGBV faced by women. (Centre for Women’s Research, 2019).

### ***Procedural and administrative barriers***

The lack of adequate and accessible services is yet another barrier that SGBV victim-survivors must face. This is seen in terms of language barriers across the country where many police stations do not have an adequate number of Tamil-speaking officers present at the stations at all times (Centre for Equality and Justice et al., 2022b). This is observed even in predominantly Tamil speaking areas in the North and East of the country, where local police stations have very few Tamil speaking women police officers (Women in Need, 2019a; Trincomalee District

Women Network, 2023). If there is no Tamil speaking officer present, victim-survivors are asked to report back at a later date and time, which inconveniences the victim-survivor and may also result in the victim-survivor deciding against filing a complaint (Women's Action Network, 2016). Furthermore, this could impair the entire trial process if the original complaint is incorrectly recorded due to the recording officer's lack of proficiency in Tamil as the full information may not be recorded in the first complaint (FOKUS WOMEN, 2016). SGBV victim-survivor's language rights are also infringed when they are compelled to sign complaints written in a language that they do not understand (FOKUS WOMEN, 2016). The report by FOKUS WOMEN also noted that the emergency police hotline is operated primarily by Sinhala speaking officers, as a result of which, victim-survivors are compelled to report their emergency in Sinhala. The inability to do so, would exclude them from accessing emergency services. Furthermore, the court system does not have adequate translators and interpreters as a result of which, notices are served in a Sinhala resulting in Tamil victim-survivors missing their court dates and Tamil speaking victim-survivors are also more likely to make mistakes when cross examined due to a lack of proper interpretation (Centre for Equality and Justice et al., 2022b). As stated above, SGBV victim-survivors face obstacles from the very inception of legal proceedings as incomplete complaints create gaps in the case and the lack of interpretation services may adversely affect the outcome of the case.

The lack of qualified medico-legal experts and proper procedures creates another challenge that victim-survivors must circumvent. A victim-survivor of SGBV is referred for medico-legal examination by a judicial medical officer, however, Sri Lanka does not have an adequate number of qualified forensic medicine experts to conduct judicial medical examinations of SGBV victim-survivors (Equality Now et al., 2021). Given the significance placed on corroborative medical evidence by the courts, inaccurate medico-legal reports may negatively impact the final outcome of SGBV cases (Centre for Equality and Justice et al., 2022b). Some hospitals also lack the proper facilities to conduct medico-legal examinations as well as the necessary safeguards to protect the privacy of the victim-survivor (Centre for Equality and Justice et al., 2022b; Silva et al., 2022). Moreover, the number of safe shelter spaces for victim-survivors of sexual and gender-based violence is inadequate and existing shelters lack adequate resources (UNFPA, 2019).

As a result of the above described challenges SGBV victim-survivors are more likely to seek assistance from within their family and community, rather than through formal service providers such as the police, health care providers, counsellors, and other social services (Department of Census and Statistics, 2019).

## ***Socio-Cultural barriers***

### ***Lack of awareness***

At the very outset, one of the obstacles to SGBV victim-survivors exercising their rights is their lack of knowledge on the available laws, rights, and procedural processes (Centre for Equality and Justice, 2022b; Silva et al., 2022). SGBV victim-survivors lack awareness of the process that they must follow to avail themselves of their rights. Anecdotal evidence suggests that victim-survivors are even unaware of the organizations that they can approach for free support and services (Women in Need 2019a; The Asia Foundation, 2021). Arguably, this is a consequence of a weak education system which does not focus on public legal education, and thereby deprives marginalized groups of the information they need to protect their legal rights (Asian Development Bank, 2009). This inherently results in few women approaching the criminal justice system as many victim-survivors are unaware that they have rights that they can enforce.

### ***Social stigma and norms***

SGBV victim-survivors' access to justice is also impeded by social stigma (Asian Development Bank, 2009), wherein, such crimes are viewed as falling within the private sphere and therefore to be resolved within the confines of the home. Their plight is exacerbated by economic dependency on the perpetrator, especially in relation to intimate partner violence (Women in Need, 2019a).

The attitude and approach of some judges, court staff, family counselors and lawyers perpetuate outdated patriarchal stereotypes and assumptions. It has been reported that some judges are dismissive of SGBV victim-survivors, labeling their plight as private matters that should be resolved outside of court, whilst some lawyers are harsh and insensitive in their cross examination of victim-survivors (Women in Need, 2019a). Law enforcement personnel often view complaints relating to GBV and SGBV as being within the private sphere and therefore, prefer to mediate a reconciliation between the two parties regardless of the severity of the violence inflicted (The Asia Foundation, 2021; Trincomalee District Women Network, 2023). The continued perpetuation of patriarchal and familial beliefs by law enforcement and judicial officers results in SGBV victim-survivors being subjected to victim blaming and revictimization at every step of the legal process, and thereby discourages them from approaching the legal apparatus for relief.

In this way, the criminal justice process poses several challenges that victim-survivors must overcome. This impairs the right to access to justice for women and thereby, perpetuates their vulnerabilities and the violation of their equal rights.

## **Legal empowerment: A tool to enhance access to justice of SGBV victim-survivors**

### ***Defining legal empowerment***

The concept of “legal empowerment” is a development strategy founded on human rights (Golub, 2003) which focuses on rights enablement wherein those seeking justice are given the opportunities needed to overcome the bureaucratic and economic barriers that hinder their access to justice (Bruce et al., 2007). Legal empowerment envisages the law as a tool for individual development because it assumes that when individuals know their legal options to seeking remedies, they gain control over them (Golub, 2010). Legal empowerment relies on the concept of equal access and use of the law, derived from the Universal Declaration of Human Rights which states that “all human beings are born free and equal in dignity and rights” (Commission on Legal Empowerment of the Poor, 2008). There is, however, no concrete definition for legal empowerment. Legal empowerment has been defined by the Organization for Economic Co-operation and Development (OECD) and Open Society Foundation, (2016, p. 3) as “the ability of people to understand and use the law for themselves”, whilst Golub (2003, p. 3) defines it as “the use of legal services and related development activities to increase disadvantaged populations’ control over their lives”. Legal empowerment envisages that the law should work for everyone, defining and enforcing the rights and obligations of all (Commission on Legal Empowerment of the Poor, 2008). As such, in its broadest sense, it is the expansion of freedom of choice and action. For the purposes of this article, a definition similar to that adopted by the Asian Development Bank (2009, p. 10) is used; that is to say “the ability to use legal and administrative processes and structures to access resources, services, and opportunities in order to increase control over their lives.”

The above definitions have as a common feature the belief that legal empowerment allows marginalized people to gain control over their lives. It is posited as a deliberate process which includes efforts to assert power, take charge of their lives and thereby ensure social services’ provision (Zimmerman and Zahniser, 1999). Extended to victim-survivors of SGBV, these definitions of legal empowerment recognise community-centred, conscious and continuous processes that are grounded in mutual respect, empathy and participation to ensure social justice. Legal empowerment initiatives, therefore, view women not just as victim-survivors but as advocates for change.

### ***What does legal empowerment entail ?***

Legal empowerment is viewed as a process as well as an end in itself. As a process, it involves building the capacities and capabilities of marginalized groups to control their lives through a combination of education and action (Golub, 2010).

As a goal, it involves the actual achievement of increased control over their lives (Bruce et al., 2007; Golub, 2010). Legal empowerment initiatives not only include the use of law, but frequently includes activities that are not inherently law-oriented such as livelihood development activities (Asian Development Bank, 2009). Legal empowerment acknowledges that access to justice can be granted by different mechanisms and is therefore not limited to access to courts (Macdonald, 2010). As such, legal empowerment includes strengthening the capacities of marginalized communities based on their needs, whilst also paying attention to all aspects of the judicial process (including non-justice sector actors such as Civil Society Organizations (CSOs)) both at the sub-national and national level (United Nations Development Programme, 2012).

There are four key elements of legal empowerment, namely; access to justice and the rule of law, property rights, labor rights, and business rights (Commission on Legal Empowerment of the Poor, 2008). This article analyses the first element of access to justice through a discussion of the following key elements of legal empowerment. First, legal empowerment at an individual level entails individuals gaining decision-making power by raising legal awareness; Second, at a community level, it entails the introduction of mechanisms to resolve individual problems through formal and informal support services and justice systems. Third, at the national level, it includes legal reform advocacy that focuses on the policy constraints that persist irrespective of progress in resolving individual cases (Asian Development Bank, 2009), particularly in relation to the judiciary.

### ***Legal empowerment as a tool to assist SGBV victims***

Legal empowerment initiatives have been largely successful in increasing rights consciousness among marginalized communities and equipping them with the necessary tools and skills to participate in legal processes (Asian Development Bank, 2000; Asian Development Bank, 2009). The Asian Development Bank tested the legal empowerment approach to improving access to justice for women and disadvantaged groups in three developing Asian countries, namely; Bangladesh, Indonesia and Pakistan. These projects explored the potential for legal empowerment to reduce poverty, improve governance, and promote more inclusive development—particularly for women. The initial results of these projects were positive (Asian Development Bank, 2009). Similarly, an analysis of the legal empowerment work in Sri Lanka supported by The Asia Foundation over a five-year period found that knowledge of the law and administrative procedures (either directly or through the help of someone else) strengthened beneficiaries' capacity in tackling or addressing a personal or common issue (United Nations Development Programme, 2012).

This article argues that similar success may be achieved by the adoption of a legal empowerment approach to ensure substantive and procedural access to justice

for SGBV victim-survivors in Sri Lanka. It proposes that the legal empowerment measures discussed below will better enable SGBV victim-survivors to navigate the complex legal system with confidence in order to exercise their rights. It argues in favor of the conceptualization of legal empowerment as capacitating SGBV victim-survivors to exercise their rights concurrently with capacitation of service providers. Therefore, legal empowerment activities must have a multi-pronged approach. In this regard, the article discusses legal empowerment at three levels; the individual level of the victim-survivor, the community and sub-national level, and the national level.

### ***Individual Level***

The United Nations Committee on the Elimination of Discrimination against Women in General Recommendation No. 33 recognises that women should have an actual and informed choice concerning the applicable law and the judicial forum within which they would prefer their claims to be heard. Legal empowerment at an individual level entails individuals gaining decision-making power by having access to information and resources, (Gramatikov and Porter, 2010). In this regard, service providers and CSOs are perceived as having the capacity to empower those who access the judicial system by explaining how to deal with legal situations and how to avoid further legal problems (Barendrecht, 2010). These efforts may include but are not limited to supporting individuals to seek redress for violations of their rights, building capacity to monitor and report human rights violations at the community level and increasing knowledge about rights (Goodwin and Maru, 2017).

As discussed above, the lack of legal awareness of victim-survivors regarding their rights, legal remedies and legal and administrative processes is one of the key barriers hindering their access to justice. Therefore, at the individual level, legal empowerment seeks to capacitate the individual to exercise their rights. It advocates for the development of decision-making power amongst women by improving access to information and resources.

Legal awareness programs seek to educate target audiences on their legal rights and obligations, the procedural structure of the legal system and the mechanisms that can be used to advance their rights (Asian Development Bank, 2009). As such, legal awareness and education is a prerequisite to the legal empowerment process (Bruce et al., 2007). Legal education and awareness for women, and SGBV victim-survivors will create an enabling environment for victim-survivors to seek remedies for the violence they have faced (Panday & Rabbani, 2017).

In order for legal awareness activities to be effective, legal information must be made readily accessible, in both national languages using simple terms and phrases suited for varying levels of literacy, and tailor-made to the population that it is meant to reach (Asian Development Bank, 2009). Several national level NGOs have



undertaken awareness campaigns, including social media campaigns, towards the achievement of this goal. This includes ‘2six4’, the personal safety mobile app developed by Women in Need (WIN) (Women in Need, 2019b), ‘Inside Justice’ by The Asia Foundation (TAF) (The Asia Foundation, n.d.), ‘Labyrinth /විකට්ඨය/ ගුහ්‍ර’ by Centre for Equality and Justice (CEJ) (Labyrinth, n.d.) and campaigns such as ‘Don’t Stay Silent in Sri Lanka’ (Centre for Equality and Justice, n.d.). However, such awareness programs alone cannot improve SGBV victim-survivors access to justice, without corresponding capacitation activities. Towards this, awareness needs to be raised not only on the existence of rights, but also on how to claim, defend and enforce those rights.

Victim-survivors should be provided with general information beyond the institution of legal proceedings, in order to facilitate the availability of further options for victim-survivors. They must be made aware of the processes that they must follow including which authorities to approach to initiate proceedings, which health sector authorities may offer assistance, and the processes required by the law. Such information will provide the victim-survivor the opportunity to understand the legal options available to them, and to control the extent to which they wish to pursue their legal options. It will also enable them to initiate legal and administrative proceedings on their own and play an active role in such proceedings or at the very least give them the confidence and knowledge required to approach the criminal justice system. For instance, this may include the provision of information to domestic violence victims that their complaint should be dealt with under the Prevention of Domestic Violence Act, instead of being referred for mediation. As such, legal awareness provision must include both awareness on the substantive matter of the law, the various administrative and legal remedies available and the procedural aspects of the law (de Meene & Rooij, 2011). Knowing that a law or regulation or administrative procedure exists to address a particular type of situation therefore, helps the individual to understand their experience as having legal dimensions with a legal or administrative solution (United Nations Development Programme, 2012).

In this regard, even the judiciary has a role to play in raising legal awareness. It is imperative that judgements of the apex courts be published both to the general public and the legal fraternity in summarized, simple terms and in both national languages. This may also serve to inform victim-survivors of their rights whilst simultaneously restoring their confidence in the judiciary.

CEDAW General Recommendation No. 33 also recommends that steps be taken to inform women of their eligibility for support, legal aid and social services that interface with justice systems. Making victim-survivors aware of the legal provisions concerning their grievances is only a preliminary step. It must be followed up with the provision of information on how victim-survivors may increase their agency through the acquisition of wealth or income, actual expansion of connections

and links, and actual increase in prestige (United Nations Development Programme, 2012). As such, legal empowerment efforts must also include activities to raise awareness on extra-legal services such as counselling, shelters and livelihood development opportunities.

### ***Community and sub-national level***

#### **Community level organizations**

The ability of a victim-survivor to access justice hinges on the capacity of government service providers and CSOs to respond effectively to the needs of the victim-survivors. Towards this, several CSOs and CBOs have undertaken work in regard to SGBV such as the Sarvodaya Kulagana Sansadaya (සර්වථේදය කුලගන සංසදය) which works on violence against women (Sarvodaya, n.d.), the Arunalu (අරුනළු) Women's Federation which operates a safe house (Global Communities, 2023), and the Trincomalee District Women's Network that works to capacitate government service providers (Global Communities, 2023) to name a few. At the national level Women in Need operates in 6 districts and operates an emergency hotline and emergency shelters (Women in Need, n.d.).

The power imbalance between perpetrators and victim-survivors creates the need for external interventions to empower victim-survivors (Gramatikov & Porter, 2010). This power imbalance often places victim-survivors in a position of vulnerability and weakness wherein their complaints and issues are often dismissed or disregarded by service providers within the criminal justice system. To address this, one key strategy employed by legal empowerment initiatives is to form CBOs which increase the bargaining power of victim-survivors and act as a support mechanism for victim-survivors. CBOs allow for the pooling of limited resources to lobby and achieve results (Panday & Rabbani, 2017). Golub (2010) argues that group formation leads to legal empowerment of the people and the mainstreaming of such groups into society. Therefore, where physical, social or economic factors prevent individuals from defending their rights, community organizations encourage and equip victim-survivors to act (Asian Development Bank, 2009).

CBOs therefore, must be capacitated to work within their communities, to gain the trust of the communities within which they work and to take action on behalf of and support victim-survivors of SGBV. These CBOs may also act as a resource center for victim-survivors, providing them with information on support services as well as protection and prevention measures. Citizen-focused group efforts can have significant impact by allowing for more effective interaction with public officials and other stakeholders within the criminal justice system.

### Capacitating public officials

CEDAW General Recommendation No. 33 calls for increased awareness of the negative impact of stereotyping and gender bias and encourages advocacy to address stereotyping and gender bias in justice systems. It also recommends the provision of capacity-building programmes for judges, prosecutors, lawyers and law enforcement officials on discrimination against women. This recommendation recognises that service providers within the judicial system are instruments used by victim survivors to obtain access to justice. In the Sri Lankan context, these service providers include women development officers, the police, probation officers, government counsellors, judges, court staff and judicial-medical officers.

It is not only marginalised communities that lack information and find the criminal justice processes daunting; in many cases, even some public officials responsible for enforcing the law are not comfortable with navigating the maze of laws and procedures and will benefit from practical guidance (Asian Development Bank, 2009). As such, legal empowerment approaches recognize the futility of increasing the capacity of marginalized communities without a corresponding capacitation of the duty-bearers entrusted with the enforcement of rights in order to ensure effective service delivery and realization of the legal rights of marginalized communities (Asian Development Bank, 2009). The capacitation of marginalized communities without the corresponding capacitation of service providers only serves to further disempower such communities. The Sri Lankan criminal justice system provides an excellent example of this as demonstrated by duty-bearers such as judges, sometimes failing to correctly implement the law, inactivity and insensitivity of the police, the lack of medico-legal experts etc. (Women in Need, 2019a; Centre for Equality and Justice et al., 2022b; The Asia Foundation, 2021; Trincomalee District Women Network, 2023). In order to address this gap, legal empowerment seeks to provide public officials with information and practical guidance required to actively participate in the criminal justice system to uphold SGBV victim-survivors rights (Asian Development Bank, 2009).

The capacitation of individual and community level organizations as enumerated above, is only effective if support services are readily accessible and useable. In this regard, it has been found that the service coverage of communities at the divisional level was inadequate due to the uneven distribution and underutilization of public officials who have been trained to respond to victim-survivors of SGBV (UNFPA, 2019). The impact of this is multi-faceted, including slow responses from the police, an often-unresponsive emergency hotline, the lack of qualified medico-legal experts and the lack of qualified psychosocial resources and experts (Centre for Equality and Justice et al., 2022b). Furthermore, even where services are available, public officials frequently have inadequate knowledge, wherein they often do not have an adequate understanding of the steps to be followed or the legal or administrative

principles to apply, as well as inadequate resources (Asian Development Bank, 2009). Instead, such officials resort to adopting gender-insensitive approaches which often revictimizes victim-survivors (The Asia Foundation, 2019). For instance, judicial medical officers still resort to the “two finger test” despite the national guidelines for medico-legal examinations not prescribing the test (The College of Forensic Pathologists of Sri Lanka, 2014). The courts do rely on the findings of this traumatic and unscientific test when deciding SGBV cases, as the test is often used to declare rape victim-survivors as “habituated to sex” (Equality Now et al., 2021). Furthermore, the adoption of gender-insensitive approaches by service providers is problematic as public officials are often responsible for making formal decisions or exercising discretion when making judgements that affect the rights of victim-survivors. (Asian Development Bank, 2009). This is particularly evident in relation to the police, where they are often slow to respond or take action on SGBV cases or may even fail to file the complaint if the alleged perpetrator is from a powerful economic or political background (Equality Now et al., 2021). The police may also drop charges if the perpetrator enters into a compromise with the victim-survivors family or agrees to marry the victim-survivor, despite such settlements not being recognised by law (Centre for Equality and Justice et al., 2022b). As such, service providers must be capacitated to enable them to address the needs of SGBV victim-survivors in a gender sensitized, victim-survivor-centric, human rights-based manner.

Arguably, SGBV victim-survivors may be further disempowered if they are capacitated to exercise their rights but are unable to do so due to the lack of sensitization and patriarchal norms adhered to by service providers. Thus, the adoption of a human rights-based approach by service providers to SGBV requires that public officials as duty bearers, be accountable for respecting, protecting and fulfilling the human rights of SGBV victims (The European Commission, 2021). Towards this end, legal empowerment must also empower law enforcement agencies, public officials, service providers and first responders so that they may actively participate in the criminal justice process (Asian Development Bank, 2009), in a manner that serves the interests of SGBV victim-survivors. Such efforts must include the sensitization of public officials to change their patriarchal attitudes (Centre for Equality and Justice, n.d.) through compulsory gender sensitization, education on human rights standards, training female police officers and court interpreters to be gender-sensitive and bilingual, and training on the creation of conducive environments that protect the privacy of SGBV victim-survivors (Centre for Equality and Justice et al., 2022b). This is particularly important as a key challenge that victim-survivors face in accessing justice is revictimization throughout the criminal justice process.

## Legal aid services

In Sri Lanka, SGBV victim-survivors lack access to quality legal aid as the Legal Aid Commission is inundated with cases (Ministry of Justice, Prison Affairs and Constitutional Reforms, 2022) and rural communities have limited access to NGOs that offer free legal aid (UNDP et al., 2009; Jayasundere, 2016). Whilst legal aid does not address the underlying legal and administrative constraints that prevent women from enjoying their rights and accessing justice (Asian Development Bank, 2009), free or subsidized legal aid services empower victim-survivors to access the formal justice system despite their economic standing. In this regard, mechanisms must be developed to offer SGBV victim-survivors legal aid services.

In this context, legal aid clinics can be of service wherein, SGBV victim-survivors may be provided with introductory information on the legal options available to them and the processes they must follow in order to avail themselves of these options, to ensure that they are able to make an informed choice (UN Women et al., 2015). However, such initiatives are severely constrained by the depletion of funding for legal aid by international donors and the inability of non-governmental legal aid service providers to raise funds from international donors, and/or the State (Jayasundere, 2016). In response to this, the Asian Development Bank (2009) encourages the training of lay persons by legal service organizations who shall act as a community level paralegal. A similar approach may be adopted in Sri Lanka, wherein, community leaders who have obtained the trust of their communities may be trained on the law and referral mechanisms relating to SGBV, women's and children rights, human rights and family law, whilst also being capacitated to accompany victim-survivors when approaching law enforcement agencies and administrative offices. These paralegals must also be trained on how to provide effective counselling support services to community members. Such mechanisms have been successful in Pakistan where a noted women's right NGO runs a 45-day intensive paralegal training workshop whilst also encouraging paralegals to resolve matters through community-level interventions (UN Women, 2011). The training of community-based paralegals may be a cost-effective means to bridge the gaps in the provision of legal aid caused by limited funding (Asian Development Bank, 2009).

## **National level**

The capacitation of individual and community level organizations as enumerated above, would only be effective if adequate laws exist to meet the needs of victim-survivors (de Meene & Rooij, 2011). As previously discussed, there are instances in which women are not protected against the violation of their rights due to the inadequacy of the law. In such instances, there is an onus on the state to address prevailing short falls in the criminal justice system through legislative reform. Likewise, there is a responsibility on national level NGOs to lobby and advocate for structural change and law reform (Asian Development Bank, 2009).

Similarly, access to justice is hindered due to the weak implementation and application of existing laws which may be used to protect the rights of SGBV victims, such as the Prevention of Domestic Violence Act, the Penal Code and the Assistance to and Protection of Victims of Crime and Witnesses Act, as was discussed above. In order to address this, there needs to be significant improvement in the quality of formal legal and institutional decision-making. There must be efforts to capacitate the justice sector including “agencies and actors, both state and non-state, involved in the provision, management and oversight of justice” (Geneva Centre for Security Sector Governance, 2015, p.2). In the Sri Lankan context this would include the judiciary, police, legal fraternity, the legal aid commission and non-state bodies such as CSOs that provide justice-related services. Such capacitation is necessitated by the attitude adopted by certain judges who have found fault with women for seeking relief through the judicial system for private family matters, whilst on the other hand some judges have made referrals to family counsellors despite the victim presenting with severe physical abuse (The Asia Foundation, 2019). Similarly, some lawyers too adopt regressive approaches to SGBV cases, often trivializing the case and revictimizing the victim-survivor (Centre for Equality and Justice et al., 2022b). As such, efforts must include sensitizing the judiciary to gender issues, raising awareness on the procedural aspects and objectives of the law amongst lawyers and the wider justice sector, and training on victim-centered and human rights-based justice. At present, there have only been ad hoc attempts to sensitize the judiciary and the wider judicial sector (The Asia Foundation, 2021). In this regard, the Sri Lanka Judges Institute had conducted one residential training for judicial officers on Elimination of Gender Discrimination and Enhancing Women’s Access to Justice for the year ending 31.12.2022 (Sri Lanka Judges’ Institute, 2023). There is, therefore, a need to mainstream sensitization within the criminal justice system.

As discussed above, one of the barriers that impedes victim-survivors access to justice is the inconsistency in the judicial system’s application and implementation of the law. The failure on the part of the judiciary to correctly apply the requirements of the law consistently across all levels of the judicial structure, impedes access to justice (Asian Development Bank, 2009). For instance, some judges call for comprehensive medical evidence such as hospital admission details, hospital bills, prescriptions, doctor’s reports etc. to proceed with cases of domestic and sexual violence. As such, some judges are hesitant to issue interim protection orders when there is only emotional abuse in the absence of physical injuries despite the provisions of the Act (The Asia Foundation, 2021b). This may arise due to a lack of adequate professional training for judges or the lack of awareness of judges of the lower courts of progressive appellate cases that set precedents for the lower courts, thereby resulting in lower courts adopting inconsistent decisions (Asian Development Bank, 2009). Therefore, efforts must also be made by the state in cooperation with non-State



actors to ensure consistency in the standard of decision-making and decision-making criteria, across all levels of the judiciary and the state administrative apparatus. Consistency in implementing and applying the law will ensure that the law is correctly applied across all courts, thereby improving victim-survivors' confidence in the legal system. This includes that laws are enforced in accordance with the procedures set out in the Act, original objective and spirit of the law.

## Conclusion

The adoption of a legal empowerment approach to addressing SGBV in Sri Lanka, will ensure that all stakeholders in the criminal justice system are adequately capacitated to ensure effective legal remedies. Such efforts must seek to improve the legal awareness of individuals, capacitate service providers and advocate for legal and policy reform. As such, at the very least, legal empowerment activities may lead to SGBV victim-survivors having an increased awareness of their rights and legal protections, the skills to apply their legal knowledge, greater confidence in demanding for their rights and improved access to the legal system and public decision-making institutions.

## Conflict of interest

The author has no conflict of interest to disclose.

## References

- Ambagala Mudiyansele Samantha Sampath v Attorney-General* SC Appeal No 17/2013, SC Minutes 12 March 2015
- Asian Development Bank. (2000). An Overview of ADB's Law and Policy Reform Activities in 2000.*
- Asian Development Bank. (2009). Legal Empowerment for Women and Disadvantaged Group.* <https://www.adb.org/sites/default/files/publication/29170/legal-empowerment.pdf>
- Barendrecht, M. (2010). Legal Aid, Accessible Courts or Legal Information? Three Access to Justice Strategies Compared. *TISCO Working Paper Series on Civil Law and Conflict Resolution Systems* No. 010/2010. <http://ssrn.com/paper=1706825>.
- Beijing Declaration and Platform for Action 1995.
- Borham, M. (2019, February 24). Witness Protection Authority: Still faltering after three years. Sunday Observer. <https://archives1.sundayobserver.lk/2019/02/24/news-features/witness-protection-authority-still-faltering-after-three-years>
- Bruce, J. W, Garcia-Bolivar, O, Hanstad, T, Roth, M, Nielsen, R, Knox, A, & Schmidt, J. (2007). *Legal Empowerment of the Poor: From Concepts to Assessment.* [https://pdf.usaid.gov/pdf\\_docs/PNADM500.pdf](https://pdf.usaid.gov/pdf_docs/PNADM500.pdf)

- United Nations Committee on the Elimination of Discrimination against Women. (1993). *CEDAW General Recommendation No. 19: Violence against Women*. U.N. Doc. A/47/38. <https://www.legal-tools.org/doc/f8d998/pdf/&ved=2ahUKEwi4r8KY2dX>
- United Nations Committee on the Elimination of Discrimination against Women. (2015). *CEDAW General Recommendation No. 33 On Women's Access to Justice*. CEDAW/C/GC/33. <https://digitallibrary.un.org/record/807253?ln=en&v=pdf>
- Centre for Equality and Justice. (n.d.). *Statement On Government and Non-Government Responses to Domestic Violence During the Covid-19 Pandemic in Sri Lanka Identifying Gaps, Best Practices and Recommendations*. <https://cejsrilanka.org/wp-content/uploads/Statement-On-Government-And-Non-Government-Responses-To-Domestic-Violence-Digital.pdf>
- Centre for Equality and Justice. (2018). *Rape And Sexual Violence In Conflict: Definitions Under Domestic And International Law*. <https://cejsrilanka.org/wp-content/uploads/Rape-and-Sexual-Violence.pdf>
- Centre for Equality and Justice. (2022a). *Shadow Pandemic Lobby Document On Addressing Domestic Violence During The Pandemic*. <https://cejsrilanka.org/wp-content/uploads/Shadow-Pandemic-English-1.pdf>
- Centre for Equality and Justice. (2023). *LABYRINTH Navigating Response Mechanisms for Sexual and Gender Based Violence Project Report*. <https://cejsrilanka.org/wp-content/uploads/Labyrinth-Report.pdf>
- Centre for Equality and Justice., & Equality Now. (2022b). *Submission to the UN Universal Periodic Review Forty Second Session of the UPR Working Group of the Human Rights Council*. <https://equalitynow.storage.googleapis.com/wp-content/uploads/2022/07/13104622/Sri-Lanka-UPR-by-Equality-Now-and-Centre-for-Equality-and-Justice.docx.pdf>
- Centre for Policy Alternatives. (2020). *Legal Reform to Combat Sexual and Gender-Based Violence Part 1*. <https://www.cpalanka.org/wp-content/uploads/2020/11/Law-Reform-to-combat-SGBV-PART-1-General-Centre-for-Policy-Alternatives.pdf>
- Centre for Women's Research. (2019). *People's Development Justice Report on National Review and Monitoring of Sustainable Development Goals in Sri Lanka*. [https://apwld.org/wp-content/uploads/2020/07/CENWOR\\_Peoples-Development-Justice-Report.pdf](https://apwld.org/wp-content/uploads/2020/07/CENWOR_Peoples-Development-Justice-Report.pdf)
- Civil Society Collective in Sri Lanka. (2017). *Factsheet – UPR 2017 – Sri Lanka 3rd Cycle Universal Periodic Review*. [https://upr.info/sites/default/files/documents/2017-10/women\\_s\\_rights\\_factsheet\\_srilanka\\_2017.pdf](https://upr.info/sites/default/files/documents/2017-10/women_s_rights_factsheet_srilanka_2017.pdf)
- Commission on Legal Empowerment of the Poor UNDP. (2008). *Making the Law Work for Everyone (Vol. I), Report of the Commission on Legal Empowerment of the Poor*. <https://digitallibrary.un.org/record/633966?ln=en>

Constitution of the Democratic Socialist Republic of Sri Lanka 1978.

Convention for the Elimination of All Forms of Discrimination Against Women 1981.

Darj, E., Wijewardena, K., Lindmark, G., & Axemo, P. (2017). 'Even Though a Man Takes the Major Role, He Has No Right to Abuse: Future Male Leaders' Views on Gender-Based Violence in Sri Lanka. *Global Health Action*, 10(1), 1348692. <https://doi.org/10.1080/16549716.2017.1348692>

De Meene, I. van, & Rooij, B. van. (2011). *Access to justice and legal empowerment: Making the Poor Central in Legal Development Co-operation*. Leiden University Press.

De Mel, N., Peiris, P., & Gomez, S. (2013). Broadening gender: Why masculinities matter. CARE International Sri Lanka. [https://www.care.org/wp-content/uploads/2020/05/Broadening-Gender\\_Why-Masculinities-Matter.pdf](https://www.care.org/wp-content/uploads/2020/05/Broadening-Gender_Why-Masculinities-Matter.pdf)

De Mel, N., & Samararatne, D. (2017). The Law's Gender: Entanglements and Recursions — Three Stories from Sri Lanka. *On\_Culture*, (3). <https://doi.org/10.22029/oc.2017.1129>

Declaration on the Elimination of Violence against Women 1993.

Department of Census and Statistics, Ministry of National Policies and Economic Affairs, Ministry of Health, Nutrition and Indigenous Medicine. (2017). *Sri Lanka Demographic and Health Survey 2016*. <http://www.statistics.gov.lk/Resource/en/Health/DemographicAndHealthSurveyReport-2016-Contents.pdf>

Department of Census and Statistics. (2019). *Women's Wellbeing Survey - 2019 Findings from Sri Lanka's first dedicated National Survey on Violence against Women and Girls*. [http://www.statistics.gov.lk/Resource/reference/WWS\\_2019\\_Final\\_Report](http://www.statistics.gov.lk/Resource/reference/WWS_2019_Final_Report)

Edirisinghe, A. A. & Mudalige, N. K. K. (2017). Male Victimization in Rape- Case of Sri Lanka. *Proceedings of APIIT Business, Law & Technology Conference, Asia Pacific Institute of Information Technology* <https://www.conference.apiit.lk/pdf2/Law/LBAT201714.pdf>

Equality Now & Dignity Alliance International. (2021). *Sexual Violence in South Asia: Legal and Other Barriers to Justice for Survivors*. <https://www.equalitynow.org/ending-sexual-violence-in-south-asia/>

Evidence Ordinance No. 14 of 1895

FOKUS WOMEN. (2016). *Wither Justice the Language Barrier in Accessing the Criminal Justice System in Cases of Violence Against FHH in the North and East of Sri Lanka*.

Fulu, E., Jewkes, R., Roselli, T., & Garcia-Moreno, C. (2013). Prevalence of and factors associated with male perpetration of intimate partner violence: findings from the UN Multi-country Cross-sectional Study on Men and Violence in

- Asia and the Pacific. *The Lancet. Global health*, 1(4), e187–e207. [https://doi.org/10.1016/S2214-109X\(13\)70074-3](https://doi.org/10.1016/S2214-109X(13)70074-3)
- Geneva Centre for Security Sector Governance. (2015). *The Justice Sector: Roles and Responsibilities in Good Security Sector Governance*. [https://www.dcaf.ch/sites/default/files/publications/documents/DCAF\\_BG\\_06\\_JusticeSector\\_nov2022.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/DCAF_BG_06_JusticeSector_nov2022.pdf)
- Goodwin, L., & Maru, V. (2017). What do we know about legal empowerment? Mapping the evidence. *Hague Journal on the Rule of Law* 9: 157–194
- Golub, S. (2003). Beyond Rule of Law Orthodoxy: The Legal Empowerment Alternative. *Rule of Law Series, Carnegie Endowment Working Papers*, 41(1)
- Golub, S. (2010). What is Legal Empowerment? An Introduction. *Legal Empowerment Working papers, International Development Law Organization (IDLO)* .
- Global Communities. (2023, 12 July). *Addressing Sexual and Gender-based Violence through Local Partnerships and Governance Systems: Lessons from Sri Lanka*. <https://globalcommunities.org/blog/addressing-sexual-and-gender-based-violence-through-local-partnerships-and-governance-systems-lessons-from-sri-lanka/>
- Gramatikov, M., & Porter, R. B. (2010). Yes, I can: Subjective legal empowerment - Tisco Working Paper Series on Civil Law and Conflict Resolution Systems. *Georgetown Journal on Poverty Law & Policy*, XVIII(2), 169. <https://doi.org/10.2139/ssrn.1685839>
- Gunewardena v Attorney General* (CA 378/2017, COA Minutes 03 Sep 2019).
- Human Rights Watch. (2020, October 20). *Sri Lanka: Forced Anal Exams in Homosexuality Prosecutions*. <https://www.hrw.org/news/2020/10/20/sri-lanka-forced-anal-exams-homosexuality-prosecutions>
- Human Rights Watch. (2023, January 20). *World Report 2023: Rights trends in Sri Lanka*. <https://www.hrw.org/world-report/2023/country-chapters/sri-lanka>
- IFC. (2022). *Business Case for Creating Respectful Workplaces in Sri Lanka*. <https://www.ifc.org/content/dam/ifc/doc/mgrt/sri-lanka-report-5th-sept.pdf>
- International Commission of Jurists. (2016). *Women's Access to Justice for Gender-Based Violence A Practitioners' Guide*. <https://www.icj.org/wp-content/uploads/2016/03/Universal-Womens-accesss-to-justice-Publications-Practitioners-Guide-Series-2016-ENG.pdf>
- International Commission of Jurists. (2021). *Sri Lanka's Vagrants Ordinance No. 4 of 1841: A Colonial Relic Long Overdue for Repeal a Briefing Paper*. <https://www.icj.org/wp-content/uploads/2022/01/Sri-Lanka-Briefing-Paper-A-Colonial-Relic-Long-Overdue-for-Repeal-2021-ENG.pdf>
- International Convention of Economic, Social and Cultural Rights 1976.
- International Convention on Civil and Political Rights 1966.
- Jayasundere, R. (2016). *Legal Aid In Sri Lanka The Past And The Present*,

- Challenges And Possibilities. *National Forum on Access to Justice organized by the Bar Association of Sri Lanka*. [https://www.academia.edu/29951063/LEGAL\\_AID\\_IN\\_SRI\\_LANKA\\_The\\_Past\\_and\\_the\\_Present\\_Challenges\\_and\\_Possibilities](https://www.academia.edu/29951063/LEGAL_AID_IN_SRI_LANKA_The_Past_and_the_Present_Challenges_and_Possibilities)
- Jayasuriya, V., Wijewardena, K., & Axemo, P. (2011). Intimate partner violence against women in the capital province of Sri Lanka: prevalence, risk factors, and help seeking. *Violence Against Women*. 2011 Aug;17(8):1086-102. <https://www.ncbi.nlm.nih.gov/pubmed/21890530>
- Kolundzija, Alana et.al. (2020). *USAID/Sri Lanka Gender and Social Inclusion Analysis*. USAID. [https://pdf.usaid.gov/pdf\\_docs/PA00WQ5R.pdf](https://pdf.usaid.gov/pdf_docs/PA00WQ5R.pdf)
- Labyrinth /විකල්පය/ ගිණි. (n.d.). *Posts* [Facebook page]. Facebook. Retrieved July 25, 2023, from [https://web.facebook.com/LabyrinthbyCEJ?\\_rdc=1&\\_rdr](https://web.facebook.com/LabyrinthbyCEJ?_rdc=1&_rdr)
- Lawyers for Human Rights and Development. (2012). *Justice Suspended? A Study on Suspended Sentences for Sexual Offences*. LHRD Colombo.
- United Nations General Assembly. (2009). *Legal Empowerment of the poor and eradication of poverty Report of the Secretary-General*. A/64/133. <https://www.un.org/esa/socdev/documents/reports/Legal%20empowerment%20of%20the%20poor.pdf>
- Maduwage, S. (2020, October 22). *Arrests and Harassment of LGBTIQ Persons*. Groundviews. <https://groundviews.org/2020/10/22/arrests-and-harassment-of-lgbtqi-persons/>
- Manohari Pelaketiya v Secretary, Ministry of Education* (SC/FR 76/2012, SC Minutes 28 Sept 2016)
- Ministry of Justice, Prison Affairs and Constitutional Reforms. (n.d.). *Annual Performance Report for the year 2021*. [https://www.moj.gov.lk/images/pdf/progress\\_report/2021/English.pdf](https://www.moj.gov.lk/images/pdf/progress_report/2021/English.pdf)
- Ministry of Women and Child Affairs. (2016). *Policy Framework and National Plan for Action to address Sexual and Gender Based Violence (SGBV) in Sri Lanka 2016 -2020*. <http://gbvforum.lk/rlibrary/document/SGBV%20National%20Action%20Plan.pdf>
- Mlambo-Ngcuka, P. (2020, April 6). *Violence against women and girls: The shadow pandemic*. UN Women – Headquarters. <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>
- Niriella, M. (2020). Inadequacy of Legal Protection for Rape Victims: Analysis of High Court Cases in Negombo Division of Sri Lanka. *Test Engineering and Management* 83,15343-15353. [https://www.researchgate.net/publication/342623471\\_Inadequacy\\_of\\_Legal\\_Protection\\_for\\_Rape\\_Victims\\_Analysis\\_of\\_High\\_Court\\_Cases\\_in\\_Negombo\\_Division\\_of\\_Sri\\_Lanka](https://www.researchgate.net/publication/342623471_Inadequacy_of_Legal_Protection_for_Rape_Victims_Analysis_of_High_Court_Cases_in_Negombo_Division_of_Sri_Lanka)



- Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women 1999.
- Organisation for Economic Coordination and Development & Open Society Foundation. (2016). *Leveraging the SDGs for Inclusive Growth: Delivering Access to Justice for All*. <https://www.oecd.org/gov/delivering-access-to-justice-for-all.pdf>
- Panday, P. K., & Rabbani, G. (2017). Do legal empowerment activities of NGOs reduce gender-based violence in Bangladesh?. *International Journal of Gender Studies in Developing Societies*, 2(1), 1-18. <https://doi.org/10.1504/ijgds.2017.10006462>
- Pinto-Jayawardena, K., & Anantarajah, K. (2016). A Crisis of ‘Legal Indeterminacy’ and State Impunity’. In Jayawardena, K. & Pinto-Jayawardena, K (Eds.), *The Search for Justice: The Sri Lanka Papers* (pp. 36-169). Zubaan.
- Prosecutor v. Anto Furundžija* (ICTY Case No. IT-95-17-1, Judgment (Trial Chamber), 10 December 1998
- Rome Statute of the International Criminal Court 1998
- Sarvodaya. (n.d.) *Sarvodaya Womens Movement*. <https://www.sarvodaya.org/sarvodaya-womens-movement-2/>
- Silva, T., Agampodi, T., Evans, M. Knipe, D., Rathnayake, A., & Rajapakse, T. (2022). Barriers To Help-Seeking from Healthcare Professionals Amongst Women Who Experience Domestic Violence - A Qualitative Study in Sri Lanka. *BMC Public Health* 22, 721 <https://doi.org/10.1186/s12889-022-13116-w>
- Sivakumar, K. (2021). *Gender Discriminatory Social Norms and Their Impact on Rights and Freedoms of Women Participatory Research*. Law and Society Trust and Chrysalis. <https://www.lstlanka.org/wp-content/uploads/2022/07/Doc1.pdf>
- Sri Lankan Airlines Limited v. P. R. S. E. Corea* (S.C. Appeal No. 91/2017, SC Minutes 02 Feb 2024)
- Sri Lanka Judges’ Institute. (2023). *Annual Report For The Year Ending 31.12.2022*. <https://www.parliament.lk/uploads/documents/paperspresented/1701405990004901.pdf>
- Sri Lanka Women’s Charter (March 3, 1993)
- Sunil and another v Attorney General* [1986] 1 Sri LR 230
- Supreme Court Reference 03/2008 (SC Minutes 15 Oct 2008)
- Thangarajah, P. (n.d.) *Strengthening of Legal Protection for LGBT in Sri Lanka: road to decriminalization Situation Analysis*. Equal Ground. <https://www.equal-ground.org/wp-content/uploads/Situation-Analysis.pdf>
- The Asia Foundation. (n.d.). *Inside justice: SGBV in Sri Lanka Archives*. <https://asiafoundation.org/tag/sgbv-justice-sector-sri-lanka/>



- The Asia Foundation. (2021a) *INSIDE JUSTICE: Enabling justice for victim survivors of sexual and gender-based violence Sharing of The Asia Foundation's Experiences*. [https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka\\_Inside-Justice-Learnings-Report\\_English.pdf](https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka_Inside-Justice-Learnings-Report_English.pdf)
- The Asia Foundation. (2021b) *INSIDE JUSTICE: Notes for Legal Practitioners*. [https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka\\_Inside-Justice-Notes-for-Legal-Practitioners\\_English.pdf](https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka_Inside-Justice-Notes-for-Legal-Practitioners_English.pdf)
- The Assistance to and Protection of Victims of Crime and Witnesses Act No. 10 of 2023
- The College of Forensic Pathologists of Sri Lanka. (2014). *The National Guidelines on Examination, Reporting, and Management of Sexually Abused Survivors for Medico Legal Purposes*. <http://www.medical.sjp.ac.lk/downloads/forensic-medicine/Medico%20Legal%20Purposes.pdf>
- The European Commission. (2021). *Towards a Gender Equal World: the EU Gender Action Plan III Taking forward the commitment to reducing inequalities: Human Rights Based Approach Toolbox*. [https://capacity4dev.europa.eu/library/human-rights-based-approach-hrba-toolbox\\_en](https://capacity4dev.europa.eu/library/human-rights-based-approach-hrba-toolbox_en)
- The Penal Code of Sri Lanka 1883
- The Prevention of Domestic Violence Act No. 34 of 2005
- Trincomalee District Women Network. (2023). *Advocacy Paper on Establishing a Special Judicial Process For Sexual Violations*. <https://srilankabrief.org/wp-content/uploads/2023/02/Final-Advocacy-Paper-TDWN-final-1.pdf>
- U. S. Department of State. (2022). *U.S. State Department Human Rights Reports. United States*. [https://www.state.gov/wp-content/uploads/2022/03/313615\\_SRI-LANKA-2021-HUMAN-RIGHTS-REPORT.pdf](https://www.state.gov/wp-content/uploads/2022/03/313615_SRI-LANKA-2021-HUMAN-RIGHTS-REPORT.pdf)
- UNFPA. (2016). *Violence Against Women Key Terminology – kNOwVAWdata*. <https://asiapacific.unfpa.org/sites/default/files/pub-pdf/kNOwVAWdata%20Key%20Terminology.pdf>
- UNFPA. (2018). *Does She Travel Safe? Report on Sexual Harassment in Public Transportation in Sri Lanka*. [https://srilanka.unfpa.org/sites/default/files/pub-pdf/Online\\_DoesSheTravelSafe\\_Report%2001032019-compressed\\_1.pdf](https://srilanka.unfpa.org/sites/default/files/pub-pdf/Online_DoesSheTravelSafe_Report%2001032019-compressed_1.pdf)
- UNFPA. (2019). *Mapping Of Social Services Sector for The Prevention and Response to Sexual and Gender Based Violence Affecting Women and Girls*. [https://srilanka.unfpa.org/sites/default/files/pub-pdf/unfpa\\_report\\_2021.01.05.pdf](https://srilanka.unfpa.org/sites/default/files/pub-pdf/unfpa_report_2021.01.05.pdf)
- UNFPA Sri Lanka. (2020, December 9). *Bringing the shadow pandemic to light*. <https://srilanka.unfpa.org/en/news/bringing-shadow-pandemic-light>
- UNGA. (1993). *Declaration on the Elimination of Violence against Women*. <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>

- UNHCR. (n.d.). *Sexual and gender-based violence (SGBV) prevention and response*. <https://emergency.unhcr.org/protection/protection-mechanisms/sexual-and-gender-based-violence-sgbv-prevention-and-response#:~:text=Sexual%20and%20gender%2Dbased%20violence,resources%20or%20access%20to%20services>
- UNHCR. (2016). *SGBV Prevention and Response Training Package*. <https://www.unhcr.org/us/sites/en-us/files/legacy-pdf/583577ed4.pdf>
- United Nations Development Programme. (2005). *Programming for Justice: Access for All a Practitioner's Guide to a Human Rights-Based Approach to Access to Justice*. [https://www.undp.org/sites/g/files/zskgke326/files/migration/asia\\_pacific\\_rbp/RBAP-DG-2005-Programming-for-Justice.pdf](https://www.undp.org/sites/g/files/zskgke326/files/migration/asia_pacific_rbp/RBAP-DG-2005-Programming-for-Justice.pdf)
- United Nations Development Programme & The Asia Foundation. (2009). *The Legal Aid Sector in Sri Lanka: Searching for Sustainable Solutions A Mapping of Legal Aid Services in Sri Lanka*. <https://www.undp.org/sites/g/files/zskgke326/files/migration/lk/Legal-Aid-Review-new-12.pdf>
- United Nations Development Programme. (2012). *Access to justice assessments in the Asia Pacific: A review of experiences and tools from the region United Nations Development Programme*. [https://www.globalprotectioncluster.org/sites/default/files/2022-09/2012.undp\\_a2j\\_assessments\\_asiapacific.pdf](https://www.globalprotectioncluster.org/sites/default/files/2022-09/2012.undp_a2j_assessments_asiapacific.pdf)
- Universal Declaration of Human Rights 1948.
- UN Women. (2011). *2011-2012 Progress of the World's Women in Pursuit of Justice*. <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2011/ProgressOfTheWorldsWomen-2011-en.pdf>
- UN Women, World Health Organization, United Nations Population Fund, United Nations Development Programme, United Nations Office on Drugs and Crime. (2015). *Essential Services Package for Women and Girls Subject to Violence*. <https://www.unwomen.org/en/digital-library/publications/2015/12/essential-services-package-for-women-and-girls-subject-to-violence>
- Upali Senarathne v Attorney General* (CA 25/09, COA Minutes 06 March 2014)
- Vagrants Ordinance No. 4 of 1841
- Women's Action Network. (2016). *Women's Access to Justice in The North and East of Sri Lanka*. [https://www.ecoi.net/en/file/local/1402157/1930\\_1497432878\\_int-cedaw-ngo-lka-25964-e.pdf](https://www.ecoi.net/en/file/local/1402157/1930_1497432878_int-cedaw-ngo-lka-25964-e.pdf)
- Women and Media Collective. (2021). *Legal Framework on Sexual Violence in Sri Lanka: The Need for Reforms*. [https://womenandmedia.org/wp-content/uploads/2021/11/FINAL-LAYOUT-POLICY-BRIEF\\_Legal-Framework-on-Sexual-Violence-in-Sri-Lanka-English.pdf](https://womenandmedia.org/wp-content/uploads/2021/11/FINAL-LAYOUT-POLICY-BRIEF_Legal-Framework-on-Sexual-Violence-in-Sri-Lanka-English.pdf)
- Women in Need. (2019a). *Why Accessing Justice is Challenging for Victims of Sexual and Gender Based Violence?*. [https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka\\_-Inside-Justice-Summary-Report.pdf](https://asiafoundation.org/wp-content/uploads/2021/09/Sri-Lanka_-Inside-Justice-Summary-Report.pdf)

- Women In Need. (2019b, February 9). *2SIX4 mobile app: Women in need*. WIN against violence. <https://www.winsl.net/2six4-mobile-app/>
- Women In Need. (n.d.) *Emergency Shelters*. <https://www.winsl.net/emergency-shelters/>
- Zimmerman, M. A., & Zahniser, J. H. (1991). Refinements of sphere-specific measures of perceived control: development of a socio-political control scale. *Journal of Community Psychology* 19: 189–204.