

13. 06. 2025

Harshana Nanayakkara Esq.
The Hon. Minister of Justice,
Ministry of Justice,
Hulftsdorp, Colombo 12.

Hon. Minister,

Submission in support of law reforms and strengthening of law enforcement processes to combat Sexual & Gender Based Violence & Domestic Violence

1. We the undersigned attorneys at law of Sri Lanka, and members of the civil society, wish to submit the following recommendations to the Hon. Minister of Justice, in the interest of mitigating and preventing Sexual & Gender Based Violence (SGBV) in Sri Lanka.
2. We wish to applaud the impressive manifesto of your Government, which includes *inter alia*, an unequivocal declaration that the goal of your Government “*is to create a society where women, who represent half of the country’s population, enjoy equal rights, free from physical, verbal and emotional violence*” and “*a safe world for Children*”, by *inter alia* the “*protection of children from abuse and all forms of violence*” [vide page 6 and 45- 46 of the NPP Policy Statement].
3. Guided by the above vision, your Government has placed priority in aligning the relevant domestic laws of the land with international laws and conventions and revising the domestic laws and procedures to guarantee protection from gender-based violence and harassment. Your Government further proposes the establishment of protection mechanisms, leading to the transformation of attitudes and institutional changes, and towards that end providing *inter alia*, social protection for women-headed families, single parent families and women affected by gender-based/intimate partner violence, and the establishment of mechanisms for social and psychological support for women affected by violence and abuse [vide page 13, 40 and 45 of the NPP Policy Statement].
4. The Hon. Member of Parliament of the NPP Government, Dr. Kausalya Ariyaratne in her maiden address to Parliament presented shocking statistics that demonstrate the extent of

SGBV and domestic violence in Sri Lanka. Noting that Sri Lanka is rated 92 out of 170 countries in the Gender Inequality Index, she presented statistics from Police records, revealing that in 2023 over 25,000 cases of Domestic Violence and 1865 cases of Rape had been reported, while during the period January to October 2024, over 1588 cases of Rape had been reported. The Hon. MP underscored that these statistics indicate only the reported numbers, while the larger majority of violence goes unreported.

5. Domestic violence is rampant and pervasive in Sri Lanka. The following statistics reported in the 'Women's Wellbeing Survey 2019', conducted by the Department of Census and Statistics clearly reflect the gravity of the situation faced by the women of Sri Lanka -
 - One in five (20.4%) ever-partnered women have experienced physical and/or sexual violence by an intimate partner in their lifetime;
 - Two in every five women had experienced some form of violence by a partner in their lifetime;
 - The violence reported included slapping, having objects thrown at them, being pushed, shoved or being hit with a fist, being kicked, dragged or beaten up, choked or burned, or being threatened with, or actually assaulted with a weapon;
 - 6.8% of the participants of the survey had been subject to sexual violence by a partner, which included coercion to have sexual intercourse or coercion to perform degrading or humiliating sexual acts.
6. Most shockingly, the United Nations Fund for Population Activities (UNFPA) Report titled "*Unnatural deaths of women and girls in Sri Lanka*" published in February 2018 reveals that more than one third of female deaths (from and out of 727 unnatural female deaths) were due to intimate partner violence. It was further reported that in 36% of such homicides, the alleged perpetrator was the spouse/lover/ex-lover, while in 21%, a blood relative.
7. It is important to note that most incidents of domestic violence endured by women, are at the hands of intimate partners, particularly in instances where women are often faced with vulnerability due to financial dependency on the partner/ spouse. As such, it is likely that domestic violence is grossly underreported in Sri Lanka. This is clearly evidenced by the 2016 report of the Department of Census and Statistics, which records that only 28% of

the women participants enduring domestic violence sought help from either the authorities or those known to them.

8. The culture of violence and abuse interwoven into the fabric of Sri Lankan society is due to *inter alia*, the rife and pervasive nature of domestic violence, the continuing nature of administrative inaction, apathy and failure to design and implement preventative strategies, and a culture of impunity that has become the backdrop against which violence against women and children is being perpetuated, at an increasingly alarming rate. In 2023, 5550 cases relating to child abuse and 4312 cases relating to rape were pending in the Magistrates Courts, accounting for 33 percent of the total cases pending in the Magistrates Courts.¹ Out of nearly 130,000 reports of family disputes received annually by the Police, only 1% of cases result in a protection order.² At least in one case, despite a protection order being in place, a woman has been killed by her abusive husband³.
9. Thus, the above noted policies of Your Government are timely and will indeed prove to be crucial in combatting these crimes that have plagued the country for decades. And in those circumstances, we take this opportunity to submit the following proposals for your consideration.
10. While there are numerous and varied legislative and institutional reforms and measures required to duly address the issue of timely justice for victims of SGBV and domestic violence in the country, in appreciation of the extensive responsibility that you carry as Hon. Minister of Justice, in holding perhaps the most critical portfolio relevant to the lives of the citizens in the implementation of the Rule of Law, and consequently the gigantic volume of work you are burdened with, we have confined the proposals submitted herewith to the most urgent and essential issues.
11. The proposals submitted herewith are based on ground level experience of practicing attorneys in Sri Lanka, including senior counsel who have prosecuted egregious crimes both in Sri Lanka as well as at the international level.
12. For ease of perusal, we have summarized below the proposals, followed by a detailed explanation to demonstrate the necessity thereof.

¹ [*Shocking number of child abuse and rape cases overwhelm Lanka's Magistrates' Courts – The Island*](#)

² [*Violence kills over 350 Lankan women in past 4 years | Print Edition - The Sunday Times, Sri Lanka*](#)

³ [*Rights groups slam domestic violence-related service providers | The Morning*](#)

PROPOSALS

A. FAST TRACK INVESTIGATION & PROSECUTION OF SGBV

- I. Proposal I – Establishment of Specialized Fast-Track Courts to try SGBV;
- II. Proposal II – Abolish non-summary inquiries for all cases of SGBV;
- III. Proposal III – Establishment of Pre-Trial Chambers for all criminal courts;
- IV. Proposal IV – Adopt Measures to eliminate factors that significantly contribute towards laws delays

B. LAW & PROCEDURAL REFORM

- V. Proposal V - Amend the Penal Code to criminalize marital rape;
- VI. Proposal VI - Amend the Prevention of Domestic Violence Act No. 34 of 2005;
- VII. Proposal VII – Issue Regulations/ Circulars to the Sri Lanka Police to ensure that complaints of domestic violence are immediately recorded, investigated and action taken in terms of the law

A. FAST TRACKING INVESTIGATION & PROSECUTION OF SGBV

13. The following report published in the *Daily Financial Times* of 12th December 2020 reflects the appalling state of accountability relating to SGBV in the country:

Historically, Sri Lanka has a terrible track record when it comes to serving justice to victims of Gender-based Violence. Sri Lanka Police's Grave Crime Abstract for the Year 2015 reveals that the police have recorded 379 rape cases of women over 16 years of age, but 365 cases were pending, while zero convictions have taken place. When it comes to statutory rape (women under 16 years of age), while 1,654 cases have been recorded in 2015, 1,632 of them were still pending, and only one case has ended in a conviction. The same report for 2019 reveals that, unfortunately, the situation has not improved. While the police have recorded 289 rape cases of women over 16 years of age, 278 cases were still pending, with investigations pending for 223 of them. Again, no convictions have taken place. The report also shows that 1,490 statutory rape cases have been recorded, of which 1,472 are pending, and only one conviction has been made. Unsurprisingly, due to this situation, victims are hesitant to report instances of violence, as they have no faith in the justice system of protecting them and punishing the perpetrators. Anecdotal evidence shows that more often than not, reporting cases of violence only invites more violence from the abusers.

14. The above information reaffirms the age-old adage that “*justice delayed is justice denied*”. Inordinate delays in concluding criminal trials in Sri Lanka, particularly in respect of egregious crimes committed against women and children, have led to a sense of the prevalence of a *de facto* culture of impunity in respect of sexual violence.
15. Statistics indicated that approximately 1/3rd of cases of sexual offences in the High Courts are related to children, and the average time between the lodging of the original complaint and the completion of the trial in the High Court is a staggering 10 years. (The Child Protection Unit of the Attorney General's Department would be in a position to provide the updated figures on the above factors). Such inordinate delays in providing child victims access to justice are unacceptable. In addition to postponed justice, these delays can cost the affected child interruption or discontinuation of education, being considered an outcast in society, secondary victimization and re-traumatization by going through over 10 years of judicial processes.
16. A further result of inordinate delays in completion of criminal trials is the potential for the depletion and diminishing of the value of evidence. In particular, in cases of sexual

violence, extensive delays can cause victims reluctance to testify due to changes in his/her personal circumstances, or unwillingness to re-visit their trauma, after a long lapse of time.

17. **Equal protection of the Law, constitutionally guaranteed to each individual in Sri Lanka under Article 12(1) of the Constitution, inherently casts a duty on the State to ensure that all victims of crime, as well as those accused of crime be afforded speedy disposal of the cases. The right to a speedy trial is an inalienable human right for both victim and accused.**

18. These circumstances, *inter alia* warrant urgent attention towards mitigating delays, and we respectfully submit the following proposals towards fast-tracking investigation and prosecution of SGBV.

I. Proposal I – Establishment of specialized ‘Fast-Track Courts’ to try SGBV

19. The in-depth analysis of the root causes of sexual violence in India, resulting from the 2012 infamous *Delhi* rape and murder case of ‘*Nirbhaya*’ (*Jyoti Singh*), led to the Indian law makers recognizing the need to expeditiously address the extensive laws delays in respect of cases relating to sexual violence. Consequently, five ‘Fast-Track Courts (FTCs)’ were established to try the crimes of sexual violence in India in the interest of expeditious adjudication of the cases.

20. While timely arrests, indictment and speedy trials of crimes deter further crime and advance non-recurrence, delays encourage commission of further crimes, since inordinate delays in law enforcement and judicial proceedings lead to notions of *de facto* impunity. During such delays, the accused party will likely be released on bail, which will further render the victims and witnesses vulnerable and embolden the perpetrators to commit further crimes.

21. For the aforesaid reasons, *inter alia*, the establishment and operation of fast-track courts to try egregious crimes relating to SGBV, whilst mitigating laws delays drastically, will act as a deterrent against such crimes. Prosecutors specially trained in the investigation and trial of sexual violence can be assigned to such courts, together with relevant supporting staff, including forensic experts, psychologists etc.

II. Proposal II – Abolish non-summary inquiries for all cases of SGBV

22. In terms of Chapter XV of the Code of Criminal Procedure Act No. 15 of 1979 (as amended), non-summary inquiries were meant to be a “*preliminary inquiry*” in respect of egregious crimes such as murder and rape, and for a magistrate to commit the accused to stand trial in the High Court based on the existence of *prima-facie* evidence to substantiate an indictment. Non-summary inquiries were not meant to be criminal trials proceeding into years of protracted litigation. The objective of a non-summary inquiry were to reduce the case load in the High Court by the elimination of cases sans *prima-facie* evidence to sustain a charge of murder or rape.
23. However, over time non-summary inquiries have taken the form and shape of lengthy full blown criminal trials, most proceeding into years of litigation before magistrate courts, with witnesses being subject to lengthy cross-examination. Thus, the prevalent practice of non-summary inquiries has rendered the objective of speedy disposal of cases redundant, and instead these inquiries significantly contribute towards inordinate delays in concluding the cases. In particular, since the Attorney General would in any event assess the evidence for the existence of *prima-facie* evidence prior to indictment, non-summary inquiries merely create an additional layer of process that delays, instead of expediting the legal proceedings.
24. Further, non-summary inquiries in fact benefit the defence than the prosecution, because quite apart from the procedural delays that they cause, which assist the accused party towards procrastination, multiple layers of examination and cross-examination of witnesses, invariably generate contradictions in the testimonies that inherently assist the defence, while potentially re-traumatizing the victims by compelling them to repeatedly testify under cross-examination of traumatic events.
25. It is due to the above reasons *inter alia*, that non-summary inquiries have been eliminated in respect of sexual violence against minors, rendering the crime of statutory rape directly indictable by the Attorney General.
26. For the aforesaid reasons *inter alia*, we respectfully propose the law be amended to abolish the requirement of non-summary inquiries in respect of SGBV for all victims of the crime regardless of age.

27. It is further proposed that SGBV be designated as crimes directly indictable by the Attorney General. This will drastically mitigate the delays involved at non-summary stage of cases.

III. Proposal III – Establishment of Pre-Trial Chambers

28. In the prevalent system all cases - those being called/mentioned for procedural steps as well as trials, inquiries and arguments, are taken up in the same court. Litigants and lawyers have to stay in court for the larger part of the day till the case is called. By the time trials or arguments are taken up for hearing, the greater part of the court day has been expended, and in many instances, some of the trials kept down for hearing get postponed due to lack of time. Additionally, the average case is postponed several times over procedural steps, and the substantive matters in the litigation are heard by the court after several court days, that would generally traverse well over several years.
29. Once trial commences, in numerous instances, attorneys take several days examining witnesses, or move for postponement to call the subsequent witnesses or secure documentation, and invariably even the substantive phase of litigation drags on for years.
30. In the above context, the establishment and effective operationalization of pre-trial chambers to conclude all pre-trial procedures, as well as strengthening the pre-trial procedures to ensure that they constructively assist towards expedience, is essential to mitigate delays.
31. The following measures are proposed in furtherance of the above objective -
- (i) By amendment to the Judicature Act/Code of Criminal Procedure as applicable, create pre-trial chambers, where all procedural steps are concluded, which will free the permanent judge of a court to take up trials or hear substantive matters. Newly appointed judges can be assigned to pre-trial chambers, which will in turn enable the new judges to familiarize themselves with the procedures. This system will save time not only of the judges but also for the litigants and lawyers.
 - (ii) Pre-trial chambers should deal with all procedural issues, including the following;
 - filing of B/Reports;
 - Issuance of court orders to advance investigations;
 - bail applications/ remand orders;

- filing of charges, indictments, court pleadings;
 - amendment of pleadings;
 - filing of lists of witnesses & exhibits/documents;
 - recording of admitted facts and facts in issue;
 - all other pre-trial procedural steps.
- (iii) No procedural step should be entertained by the trial judges, unless it relates to matters that could not have been anticipated or foreseen at the pre-trial stage.

32. By way of legislative amendments or issuance of rules of procedure or practice directions, strengthen and enhance pre-trial proceedings to be meaningful in expediting the trials. Towards this end it is proposed that at pre-trial stage, when filing lists of witnesses and documents/exhibits, parties can be called upon to provide synopses/summaries of the proposed testimony of the witnesses to be called, together with an estimation of the time required for examination-in-chief. At pre-trial proceedings, the pre-trial judge can in discussion with the attorney for the party, either confirm or amend the estimated time, to realistically reflect the time required to examine a witness as opposed to an exaggerated time that the party may request for allocation. Once the estimated time is finalized at the pre-trial stage, the trial judge must monitor that the parties strictly adhere to the allocated time for the witnesses. This will prevent attorneys wasting court time asking irrelevant questions from witnesses, and delaying conclusion of trials.

IV. Proposal IV – Adopt Measures to eliminate factors that significantly contribute towards laws delays

33. In Sri Lanka, postponement of court cases as a matter of course, appears to have become the norm. Litigants express shock at the manner in which court cases are postponed regularly, which result in extensive laws delays.

34. It is respectfully proposed that the Hon. Justice Minister considers seeking advice from their Lordships the Judges of the Supreme Court regarding the possibility of formulating relevant Rules governing the conduct and etiquette of attorneys to be incorporated in the Supreme Court Rules in respect of the following matters:

- (i) Requiring attorneys to take all reasonable steps to file pleadings on the date designated by court, and only in exceptional circumstances beyond the control of

the attorney, must an application for postponement be made and entertained by court;

- (ii) Requiring attorneys to take all reasonable steps to be prepared to conduct proceedings, and only in exceptional circumstances beyond the control of the attorney, must an application for postponement be made and entertained by court;
- (iii) Enumerating an exhaustive list of grounds upon which, a party to a litigation could make an application for postponement of a case fixed for trial, inquiry or argument before any court of law;
- (iv) Defining the term - "*personal grounds*" of counsel, based on which an attorney could move for postponement of a case. For example, illness of counsel, family related emergency, or such exigent circumstances beyond the control of counsel ought to be deemed "personal grounds" of counsel, which would warrant postponement of a court case;
- (v) Requiring attorneys moving for postponement on his/her "personal grounds" to inform the court, what the said "personal grounds" are;
- (vi) Prohibiting attorneys from moving for postponement on the ground that he/she is required to be in another court, even if such other court is the Supreme Court, except in exigent circumstances, where the attorney was compelled to accept the subsequent engagement to appear before the Supreme Court, based on the importance of the case in terms of preservation of life, limb or liberty of any individual or individuals or of national importance.

35. It is also respectfully proposed for the Hon. Justice Minister to consider discussion with the Judicial Service Commission regarding the possibility of formulation of a 'Practice Direction' addressed to the Judges of the original courts, enumerating the circumstances under which applications for postponement of cases can be entertained. This would be essential given that in the Magistrate's courts, police officers who prosecute offences regularly move for postponement to file charges, commence prosecution, conduct further trial etc. Therefore, a 'Practice Direction' to the Magistrates issued by the JSC as to the circumstances under which postponement of a case can be considered will contribute towards mitigation of laws delays.

36. It is proposed that the Hon. Justice Minister considers the possibility of adopting measures through legislative amendments, adoption of Rules in consultation with the Judiciary, to

require trials and inquiries to be taken up daily on consecutive dates, similar to jury trials, so that cases are concluded within a specific limited time period. Such a process will contribute towards advancement of justice on numerous fronts, inter alia,

- (i) Expeditious conclusion of the proceedings, and timely adjudication;
- (ii) The process of justice will be visible to the citizens. Currently, due to the lapse of time between court dates and the accused party remaining on bail during such time, freely moving at times even in the vicinity of the victim, there remains a notion of lack of accountability for crimes. Consequently, the citizen has lost faith in the justice system;
- (iii) The same judge will hear and conclude a case. Currently, due to the lapse of time between court dates, in a large number of cases, judges get promoted or transferred before the conclusion of the case, which contributes further to law's delays, requiring trials/ arguments *de novo* before the newly appointed judges;
- (iv) The same state counsel can commence and conclude a trial. Currently, due to the lapse of time between court dates, the state counsel who commences a prosecution rarely gets to conclude the trial, unless it is a jury trial or trial at bar. This severely impacts the quality of the prosecution since one case moving from hand to hand impacts the quality of the proceedings, and wastes the resources of the Attorney General's Department, where multiple state counsel end up studying the same case at different times;
- (v) The quality of the evidence can be retained. Currently, due to the inordinate delays and the lapse of time between court dates, the quality of evidence is significantly impacted.

B. LAW & PROCEDURAL REFORMS

37. While there are many revisions to substantive and procedural laws that can be contemplated in the interest of law reforms for effective law enforcement and judicial processes in respect of SGBV and domestic violence, this proposal identifies below the most urgent reforms required in the interest of protection of victims of domestic violence.

V. Proposal V – Amend the Penal Code to criminalize marital rape

38. In terms of section 363 (b) of the Penal Code, rape is committed where sexual intercourse occurs “*without her consent even where such woman is his wife and she is judicially separated from the*

man". As such, forcible intercourse with a woman who is still living with the man or who is '*de facto*' as opposed to judicially separated from the man, will not be considered as rape.

39. Such a narrow definition denies married women relief for one of the most common forms of domestic violence, and reinforces the belief that such acts are retained within a private sphere beyond state intervention.

40. Article 2(a) of the '*Declaration on the Elimination of All Forms of Violence against Women*' of 1993 defines violence against women in the private sphere in the following terms;

*"Violence against women shall be understood to encompass, but not be limited to, the following: Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, **marital rape**, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;" (emphasis added).*

41. Thus, leaving such egregious form of violence such as marital rape, commonly perpetrated against women regularly within the confines of purported "marriages", without penal consequences against perpetrators, is tantamount to a *carte blanche* to commit the crime with impunity.

42. For the aforesaid reasons, *inter alia*, we respectfully propose that the Penal Code be revised to criminalize marital rape, without qualification.

VI. Proposal VI – Amend the 'Prevention of Domestic Violence Act No. 34 of 2005'

43. The Prevention of Domestic Violence Act No. 34 of 2005 ("The Act") contains inherent gaps and issues, which must be addressed through amendments to make the law more effective in combating domestic violence.

44. The Act does not criminalize a new offence as "Domestic Violence", and instead identifies the underlying conduct as offences punishable under the Penal Code. Moreover, a perpetrator of domestic violence is not punished under the Act, and any punitive sanctions must be sought separately as offences punishable under the Penal Code. This requires a victim to make a second and separate complaint to the Police as a criminal complaint for

the underlying offence. This two tier requirement has resulted in the greater majority of offenders going unpunished and merely being confronted with non-punitive measures.

45. The law is also silent as to remedies in the form of compensation or relief for abuse already suffered. This detracts from the deterrent effect of retribution, which is essential for non-recurrence.
46. The objective of the Act is to provide protective measures to victims/ aggrieved persons of domestic violence. While it refers to the right of a victim to institute civil or criminal proceedings, in order to do so, the victim would have to pursue such recourses separately.
47. The absence of a parallel mechanism inherent in the law, to charge perpetrators, is a conspicuous lacuna in the legislative framework. This effectively results in the system imposing serious fatigue on victims of domestic violence, by requiring victims to pursue parallel legal actions. This predicament is exacerbated by the fact that battered women lack the resources, mental strength, and even the freedom of movement at times, to pursue one, let alone two legal actions, or even to make a complaint to the police.
48. In the above circumstances, in a greater majority of instances women and children are compelled to return to their abusers, due to pressure exerted by the police or their families, as well as a lack of practical support such as shelters and legal assistance and other assistance.
49. Given the above factors, we respectfully propose that the Prevention of Domestic Violence Act No. 34 of 2005 be amended to address the above gaps and issues
50. Amendments to the Act should incorporate parallel legal recourses leading to penal consequences against the perpetrator, which will be triggered by a singular complaint, without the victim having to pursue separate proceedings, as well as compensation to be paid to the victim by the offender.

NOTE

51. In addition to the proposed legal reforms addressed above, we also wish to draw your attention to a particularly difficult situation faced by victims of domestic violence - The lack of State-funded shelters and services represents a significant gap in the protection of

women and children, who are often financially dependent on their abusers and/or are from poverty-stricken backgrounds. They are likely to feel compelled to remain with their abusers, so as not to be rendered destitute, which gap was particularly conspicuous during the lockdowns during the Covid-19 pandemic.

VII. Proposal VII - Issue Regulations/ Circulars to the Sri Lanka Police to ensure that complaints of domestic violence are immediately recorded, investigated and action taken in terms of the law

52. Ground level experience of attorneys representing victims of domestic violence have revealed that failure and/or inaction on the part of the Sri Lanka Police to duly address cases of domestic violence, in patent violation of their statutory duties under the Criminal Procedure Code and the Police Ordinance, has significantly increased the gravity and frequency of domestic violence in the country. In this context, it is pertinent to note that even a public interest litigation has been filed in the Court of Appeal seeking a writ of mandamus against the Police to compel due implementation of the law in respect of domestic violence (C.A. Writ Application No. 147/22).
53. Victims of domestic violence as well as their lawyers have provided ample evidence that the Sri Lanka Police do not treat cases of domestic violence *en par* with other violent crimes, dismissing them *in limine* as “family disputes”. They are at times apathetic and hostile to victims, and effectively act as an impediment to battered women and children obtaining redress via legal and other avenues. In this context the statement of the UN Refugee Agency (UNHCR), which reports that gender-based violence is “not taken seriously” by authorities, and that law enforcement officers discount and disregard complaints made by victims, is pertinent.⁴
54. Irrefutable evidence that the Sri Lanka Police as a matter of policy treat cases of domestic violence as trivial, and encourage victims to go back to their homes and live with their abusers, is available on record. Senior Deputy Inspector General, Ajith Rohana, acting in his capacity as spokesman for the Sri Lanka Police in a public interview conducted on or about August 2021, stated that there is no inclination or intention on the part of the Sri

⁴ UNHRC Handbook for the Protection of Women & Girls, June 2006 - <https://emergency.unhcr.org/sites/default/files/UNHCR%20Handbook%20for%20the%20Protection%20of%20Women%20and%20Girls.pdf.pdf>

Lanka Police to proceed against what they deemed “slight” assaults, abuse or threats by a spouse. He went on to make the following shocking statement:

“Sometimes there might be a simple intimidation case. We do not proceed with these cases to court. We try to reconcile the matter. If we remand the person, the husband and wife will be separated, then what will happen to the children?”

55. The officer went on to state that “*unlike European countries, we have a culture, we have values, we have ethics,*” and as a result of such principles, “*under no circumstances*” would the Sri Lanka Police separate a married couple in the case of domestic abuse.

[Newspaper reports of the said interview has been pleaded with the court pleadings in CA Writ Application No. 147/22 referred to above].

56. The grave danger of failure on the part of the Police to take action as a general rule in such cases of abuse and violence, result in far more serious injuries, and possibly death, as perpetrators are emboldened by the culture of impunity engendered by the police, and the corresponding increase in vulnerability of women as an inevitable result of the same.

57. Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) mandates that state parties take appropriate measures to modify social and cultural patterns of conduct to eliminate prejudices and customary and all other practices which either stereotype or render inferior one sex. Therefore, an obligation is placed on the government of Sri Lanka, as party to CEDAW, to ensure that entrenched patterns and stereotypes that feed into the systematic discrimination and violence that women face, be eliminated.

58. Sri Lanka formulated the Women’s Charter setting out the state policy regarding women and reiterating obligations undertaken pursuant to international treaties. By Article 16, the State expressed its intention to take measures to prevent violence against women in the family, in its many manifestations, including rape, physical and mental abuse, and torture and cruel, inhuman or degrading treatment. The National Committee on Women (NWC) was established to monitor the progress in implementing the Charter. Subsequent to the Beijing Conference, the Ministry of Women’s Affairs drew up a National Action Plan (NPA) for women in Sri Lanka on the lines of Platform of Action for Women, recommending actions to eliminate violence against women. However, no significant

attempt was made to bring in legislative reform until the enactment of the Prevention of Domestic Violence Act.

59. However, the enactment of a law sans follow up rules, regulations and grass root level measures to ensure implementation thereof, would not achieve the purpose of the statute.

The value of the law is in its implementation.

60. Therefore, it is respectfully submitted that the Inspector General of Police be formally directed to issue circulars and directions to all Police stations to strictly comply with the provisions of the Code of Criminal Procedure Act No.15 of 1979 as amended, and the Police Ordinance, No.16 of 1865 as amended, in order to ensure that the Police immediately record complaints of domestic violence, that such complaints are duly and timely investigated, and efficiently and meaningfully prosecuted.

61. We thank you for consideration of these proposals, which are submitted in the very best interest of protection of women and children of Sri Lanka against violence. We trust you will take all necessary measures required to ensure their protection in your capacity as Minister of Justice.

We wish you the very best!

Sincerely,

Deshamanya Radhika Coomaraswamy

Former Chairperson of the Sri Lanka Human Rights Commission,
Former UN Special Rapporteur on Violence against Women,
Former UN Under Secretary General & Special Representative
for Children and Armed Conflict,
Former Member of the Constitutional Council of Sri Lanka

Ms. Dhara Wijayatilake, Attorney-at-Law,

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Dr. Dayani Panagoda, Attorney-at-Law

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Ms. Nillasi Liyanage, Attorney-at-Law

Lawyers of the Gender Justice Legal Network⁵

Ms. Sivagnanam Sharmiladarshini, Attorney-at-Law

Ms. Peshala Herath, Attorney-at-Law

Ms. Jerusha Thambiah, Attorney-at-Law

Copy:

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2. **Hon. Saroja Savithri Paulraj, Minister of Women & Child Affairs, Ministry of Women & Child Affairs, 5th Floor, Sethsiripaya Stage II, Battaramulla.**

⁵ The 'Gender Justice Legal Network' (GJLN) is a network of specialized Sri Lankan lawyers established in 2020 by Legal Action Worldwide (LAW), that has assisted over 950 victim-survivors of sexual and gender-based violence and child abuse through legal services and other essential services.

3. Hon. Dr. Kaushalya Ariyaratne, Member of Parliament, No. 12-4/1, Rohini Road, Colombo 06.
4. Ms. Ayesha Jinasena, Secretary to the Ministry of Justice, Ministry of Justice, Hulftsdorp, Colombo 12.