

**SHADOW REPORT PRESENTED
TO THE 86TH CEDAW
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List of Issues (LOI) - Sri Lanka

Submitted by

The Women and Media Collective and The Centre for Poverty Analysis¹

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We present this Shadow Report for consideration during the 86th Pre-Session of the Committee on the Elimination of Discrimination against Women (CEDAW) for its review of the State responses by Sri Lanka, as well as Sri Lanka's compliance with CEDAW and for consideration of the CEDAW Working Group compiling the list of issues to be raised with Sri Lanka.

The issues raised here were not included in the State Party's submission to CEDAW in April 2022² but are of critical importance in the context of the ongoing financial, debt and economic crisis in the country.

Background

Since 2020 Sri Lanka has been in sliding into a multidimensional economic crisis of unprecedented proportions. While weak financial management and a number of factors for over decades had been at play, critical and adverse policy decisions taken by the government between 2019 and 2022 pushed the country into a severe economic, social and political downturn that has impacted its population of 22 million.

In 2022 Sri Lanka's economy contracted by 10% resulting in unprecedented loss of incomes, food insecurity, scarcity in essential food and medicines leading to malnutrition and ill health and rapidly rising levels of poverty. It has been estimated that extreme poverty has doubled. Such levels of poverty have adverse effects that go well beyond the immediate impact and households trapped in such poverty can remain there for generations. This situation needs immediate redress through careful policy interventions.³

Policy Measures

Food Insecurity, Ban on Agrochemical fertilizers, Fuel Shortages, Household Income Poverty

In 2019, the newly elected government introduced changes to the country's tax policy with the resultant sharp decline of tax earnings and erosion of the tax base by 33.5%.⁴ (Please see below). This move exacerbated an already falling tax revenue and mounting international debt which the country had accumulated over the preceding years.

In 2021, another ill-advised policy decision to ban the import of agrochemical fertilizer for the agricultural sector as a means to curtail the outward flow of rapidly depleting foreign exchange reserves resulted in devastating the entire agricultural sector. For the first time in decades, Sri Lanka was pushed into a state of food insecurity as the major crops such as rice and vegetables repeatedly ended with poor harvests.⁵

²https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=CEDAW%2FC%2FLKA%2F9&Lang=en.

³ <https://groundviews.org/2022/12/15/delivering-economic-recovery-with-humane-and-equitable-development/>

⁴<https://publicfinance.lk/en/topics/erosion-of-the-tax-base-a-33-5-decline-in-registered-taxpayers-from-2019-to-2020-1638797962>.

⁵ OCHA. (2022). Sri Lanka Food Security Crisis: Humanitarian Needs and Priorities. reliefweb.int/report/sri-lanka/sri-lanka-food-security-crisis-humanitarian-needs-and-priorities-2022-june-sept-2022-ensita.

In 2022, lack of foreign reserves saw the government curtailing the import of fuel and enforcing restrictions in access to petrol, diesel, kerosene and domestic gas supply. Electricity supply was curtailed to households as well as businesses resulting in extended power cuts across the country.

The economic crisis in the two years 2021 to 2022 doubled the poverty rate from 13.1 to 25% (\$3.65 per capita).⁶

Cost of living increased in median poor households by 66.5% in comparison with 56.2% for the median non-poor households.⁷

It is estimated that 42% of households are now in poverty.⁸ This study, conducted by a research team from the University of Peradeniya, noted that by July 2022, average households' monthly income has decreased from Rs.76, 390 in 2021 to Rs.72,720 with inflation rising by 52% between January 2022 and July 2022.

Food inflation has increased by 60% while non-food inflation has increased by 45% in the same period. The steepest rise in poverty took place after January 2022.⁹

It is estimated that among those who are employed, real incomes have declined by 15% during this period.¹⁰

Impact on Women

This is an unprecedented crisis. Rapid and unforeseen contraction of economic growth has resulted in the unmatched escalating of inflation, income loss - in terms of both real income and money income and unparalleled increase in income poverty. Steep drops in income have resulted in diminishing quality of life that has disproportionately gendered repercussions for women.

The impact on agriculture following the ban on agrochemical fertilizers have pushed erstwhile farming families, including women farmers into severe economic hardship.

Women have borne the brunt of the scarcity of essential items such as domestic gas, fresh food and managing household welfare compounded by extended power outages.

The impact of the financial crisis has been severe on women as income earners and providers and as unpaid care workers. The impact on women headed households and on women's access to livelihoods have been critically adverse.

⁶ World Bank (2022). Sri Lanka Development Update: Protecting the Poor and Vulnerable in a Time of Crisis. p. ix. <http://thedocs.worldbank.org/en/doc/6c87e47ca3f08a4b13e67f79aec8fa3b-0310062022/original/Sri-Lanka-Development-Update-October-2022-final.pdf>.

⁷ World Bank (2022). Sri Lanka Development Update.

⁸ <https://groundviews.org/2022/10/26/red-lights-are-flashing-as-over-9-5-million-people-descend-into-poverty/>.

⁹ Groundviews (2022).

¹⁰ World Bank (2022) .Sri Lanka Development Update.

A regressive tax policy and increases in consumer tax such as VAT, has affected women disproportionately since women are those primarily responsible for household purchases of food, clothes, medicines and other essential commodities.

A recent study on the cost of employment for urban women found that 88% of a single female's earnings go on keeping her job.¹¹ Under these circumstances public services and safety nets that can buffer people both in the formal and informal sector, throughout their life cycle are essential.

The government's response in the face of financial constraints to cut down expenditure on nutrition programmes has resulted in a sharp increase in child malnutrition and malnutrition among women.¹²

A contributing factor to the economic crisis was the decline in remittances of overseas migrant workers, among whom approximately 50% are women. Overseas migrant worker remittances comprised incomes of 7.2% households¹³. In a move to increase foreign exchange remittances, in 2022 the government lifted restrictions imposed on women seeking overseas employment. The resultant surge in women and men seeking overseas employment following this change however, has not materialised in a significant increase in remittances overall constraining the economic security of thousands of households, directly affecting women who are tasked with ensuring the welfare of their families. The sharp increase in consumer products, shortages of essentials such as fuel, domestic gas, rice and other food items have been further compounded by lack of access to adequate incomes, rising unemployment and poverty experienced by women as income earners and as unpaid care workers.

In August 2022, UNFPA appealed for USD10.7 million to urgently meet the sexual and reproductive health needs, and protection needs, of women and girls including for life saving medicines, equipment, services and supplies for the clinical management of rape and domestic violence survivors.¹⁴

¹¹ Verite Research (2022). Costs of Doing a Job for Urban Women in Sri Lanka. veriteresearch.org/publication/costs-of-doing-a-job-for-urban-women-in-sri-lanka/

¹² <https://www.wfp.org/stories/how-wfp-assists-pregnant-women-amid-sri-lankas-economic-crisis>

¹³ World Bank (2022). Sri Lanka Development Update.

¹⁴ <https://news.un.org/en/story/2022/08/1124842>

Article 2 – Policy Measures

Social Protection

Sri Lanka has in place a targeted poverty alleviation programme and programmes to support vulnerable communities such as the elderly and persons with disabilities. However, in reality the current system is rife with political interference, mismanagement, inadequate targeting and graduating mechanisms resulting in excluding many deserving households while undeserving populations are included.¹⁵

The 2023 National Budget allocates Rs.635.7 billion under the rubric of Social Protection. However, details are provided for a total of Rs.187 billion of which Rs. 86.8 billion is for the targeted 1.7 million beneficiaries and among other categories, Rs. 8.3 billion for low-income disabled persons and Rs. 0.5 billion for nutritional supplement to children with acute malnutrition.¹⁶ These allocations do not appear to recognise the depth of the impact of inflation and falling incomes of households despite the fact that an estimated 6.3 million persons (3 in 10 persons) are food insecure.

While financing some of this budget will be sourced through grants, the rest will have to be sourced from taxes and redirecting revenue (for example 250 billion rupees from the social security levy tax)¹⁷. Thus, it reiterates the question whether this is adequate to cover people who are facing more hardship, over a period of time and will it be effectively channeled to the poor and indeed to women.

The government's current attempt to revise and improve the social protection system in terms of targeting and implementation has already faced some stumbling blocks in terms of the selection of indicators and criteria, data collection by divisional officers, and addressing grievances. It is also underspending on social protection according to the World Bank and needs to expand the coverage of social protection to meet the exigencies created by the financial crisis, particularly for women as the current targeting is ungenerous and does not meet the specific needs of women.

Recommendations

In addition, given the gendered differences in vulnerabilities and the inequalities that exist – gendered solutions are needed to ensure a balanced approach to social protection. It has been

¹⁵ <https://thedocs.worldbank.org/en/doc/6c87e47ca3f08a4b13e67f79aec8fa3b-0310062022/original/Sri-Lanka-Development-Update-October-2022-final.pdf>

¹⁶ <https://www.treasury.gov.lk/web/budget-highlights-2023/section/social%20protection>

¹⁷ <https://www.treasury.gov.lk/api/file/b3ecea56-e870-457d-87bc-0e123a666957>

highlighted that well-designed social protection systems can narrow gender gaps in poverty rates, enhance women's income security and access to personal income, and provide a lifeline for poor women, especially single mothers¹⁸. Women need support to access financial services and skills for enterprises, safe, convenient and hassle-free transport, information and access to nutritional food to meet the needs of the family.

- **The government must be encouraged to look at the gendered composition of its social protection, expand its coverage and public spending and increase social protection as a percentage of public spending.**
- **The State must be asked how it proposes to ensure a special targeting of women affected by the crisis in the context of the triple burden women must bear to deal with its impact.**
- **The Sri Lankan State must recognise the disproportionate gendered impact of policy directives in relation to social provisioning and be asked to respond on what measures are being taken to address the situation of women, including the situation of women farmers who are now significantly affected by adverse agriculture policies.**
- **The State must be asked how it intends to improve the collection of sex-disaggregated data to understand the extent to which social protection measures are reaching women.**
- **The State must be asked how its allocations for social protection will incorporate programmes for realistic nutritional support to women, pregnant women, elderly women and girl children.**
- **The State must respond comprehensively to the lived experiences of women from poor and 'new poor' such as from agricultural families, fisher families, urban and rural poor and lower middle-class households through renewed and re-conceptualised political economy requirements for operational measures to ensure relief is provided without delay.**
- **Since administration cost makes up almost 40% of the State's key social provisioning programme – Samurdi, the State party must be asked what measures will be taken to reduce these costs and what measures will be taken to deal with the politicization and corruption that besets Samurdi. It can be asked to consider digitalizing welfare payments.**

Regressive Taxation and Tax justice

The Sri Lankan government increased value-added-tax (VAT) to 15% in its budget for 2023. VAT has been raised incrementally since the onset of the economic crisis, hurting most those with the

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https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2015/UN_women-PolicyBrief01-MakingNationalSocialProtectionFloorsWorkForWomen-en.pdf

least purchasing power. Among those disproportionately affected are the most marginalized, and the poor. Households deeply affected by increasing VAT also include those most ravaged by the country's decades long war and those that are headed by women (approximately 20% of households). Since women are those primarily responsible for household purchases of food, clothes, medicines and other essential commodities, regressive consumer tax affects women disproportionately.

Irrespective of IMF conditionalities it is unconscionable that the burden of tax is passed onto the most vulnerable groups and women, in the midst of rising food inflation, scarcity, food insecurity, falling incomes and rising cost of basic utilities such as electricity and water (tariffs for which were also increased in 2022).

As the 2023 budget clearly demonstrates Sri Lanka continues with a clear imbalance between direct and indirect taxes. While indirect tax has increased direct tax has yet to increase sufficiently as corporate and wealth tax continue to be unacceptably low and tax evasion and avoidance are high and ill regulated. The illicit flight of money continues.

Recommendations

There are other possibilities of expanding fiscal space, in a manner that does not undermine women's rights using the obligation to the maximum resources available to fulfill the State's obligations to meet its commitments under the Convention on Economic, Social and Cultural Rights (CESCR) to fulfill economic, social and cultural rights of women.¹⁹ as recently prescribed by UN Women and the ILO,²⁰

This would include progressive taxation of wealth and business and stemming of illicit financial outflows to meet urgent revenue needs. This will allow the state to expand social security coverage as required by the IMF on social protection, health and education spending.

- **The Sri Lankan government must therefore be asked to reduce and restrict consumption based indirect tax and desist from using regressive taxation as a tool for domestic resource mobilization. It needs instead to increase progressive tax on investment, wealth and capital.**

Part of the problem of Sri Lanka's economic crisis was corruption and pillage including illicit outflows of funds and tax avoidance.

- **The State must be asked how it proposes to stem the outflow of taxable profits which can result in considerable and much needed revenue so that the maximum available**

¹⁹ UN Women and ILO, *Fiscal Space for Social Protection; A Handbook for Assessing Financing Options*, 2019.

²⁰ UN Women and ILO, *Fiscal Space for Social Protection; A Handbook for Assessing Financing Options*, 2019.

resources can be mobilized instead of disproportionately increasing the burden on the poor and marginalized, including women.²¹

²¹ <https://ssalanka.org/imf-debt-restructuring-resurgence-austerity-urgency-fiscal-justice-bhumika-muchhala/>.

Article 11 – Employment

GR on Unpaid Women Workers

GR on Rural Women

Women’s Access to Work and Social Protection

Sri Lanka’s female labor force participation (FLFP) rate stands at a low 32%²² The majority of women counted into the labour force are in the lower echelons of the labour market, where remuneration is low and for those in the informal sector, remuneration is irregular and employment conditions are mostly not regulated. Income shocks and crises affect FLFP in several ways: as other members of the household lose their livelihoods, women may be forced to engage in low paid work outside the home in order to make ends meet. In addition, women will have more demands on their time, illness of self and family members and the effort of making do with less, which will reduce the time available for paid work outside the home.

Formal sector women wage and salary earners face the problem of depreciation of the value of their earnings. For those in the informal sector this is compounded by job losses.

The transport and fuel crisis of 2022 urban workers also led to a loss of income for daily paid workers, many of whom were women in the lowest income categories, e.g. domestic workers.

At the lower end of the earnings distribution are domestic and office cleaners and helpers, who account for 2 percent and 3 percent respectively of all female employed individuals. Comparisons with living wage estimates and minimum wages indicate that domestic workers are paid less than the living wage, but more than the minimum wage, although the work is undoubtedly more precarious than many minimum wage jobs. Domestic workers have been excluded from coverage under the minimum wages act of 2016. Legal studies have recommended either that existing labour laws be expanded or amended to include domestic workers or that new legislation be drawn up to specifically include them.²³ [1] Although a news report in October 2022 stated steps would be taken to include them under the minimum wages act, no further action has been taken.

Those engaged in informal work, with no access to formal social protection or to collective representation such as in community-based societies, turn to informal systems of support and social insurance e.g. relying on friends and relatives and social networks, on the goodwill of employers and on informal savings and credit systems. It has already been observed that in the aftermath of COVID-19, more low-income families have run out of savings and have been coping with juggling three or more sources of funds – borrowing from networks and formal sources, pawning and selling assets, including productive assets²⁴. These are now inadequate and cannot tide over a long period of time, especially in the current context of the protracted economic crisis that Sri Lanka will face for the next few years.

Unpaid Care Work

²² Department of Census and Statistics. (2021). Labour Force Survey.

²³ de Silva, A., 2019. An Exploratory Study of Attitudes and Practices towards Domestic Workers in Sri Lanka. Colombo: International Centre for Ethnic Studies.

²⁴ <https://www.cepa.lk/publications/rapid-food-security-survey-report-july-2022/>

Sri Lanka carried out its first official survey of Time Use Survey in 2017 and revealed a deep gender divide in both participation in System of National Accounts (SNA) activities, where men vastly outnumbered women, and non-SNA activities, especially unpaid domestic services and unpaid caregiving services where women vastly outnumbered men.²⁵ It was estimated that women spent five hours per day on house work and three hours on cooking and 3 hours on childcare compared to one hour and 18 minutes and one hour and 36 minutes respectively by men. While this survey methodology had not focused on the simultaneous activities carried out by women on housework and childcare, among other activities, it is useful for policy makers to recognise the workload of women in households.

4.9 million Sri Lankans are engaged in unpaid care, 3.4 million of whom are women.⁷ More than 85 percent of total time spent in unpaid work is by women and they are the main caregivers of both young and elderly. The high burden of unpaid care work borne by women is likely to have been exacerbated during the economic crisis. Food and fuel shortages impinge on their ability to perform care duties, increasing the amount of time that women devote to unpaid care. The cooking fuel crisis which was characterized by months of unavailability of cooking gas was particularly difficult for middle income women and urban low income women who had to turn to other available options including electricity (also burdened by power cuts) and firewood (with rising prices of firewood in urban locations). While foraging is an option for rural women, this increases time costs.

The issue of recognising women's unpaid care work at present does not inform policy or programmes to bring about reducing and redistributing unpaid care work in the home or in employment. The government policy on Child Day Centres prepared in 2019 is a positive step.²⁶ However, budget allocations for these centres remain abysmally low, with approximately Rs. 100 per child, and there is as yet poor monitoring of centres in operation. The private sector child care centres charge fees that are out of reach of poor as well as low middle class households. Overall the provision of day care centres for children and for the elderly and for the care of persons with disabilities remain inadequate.

Women in Small Medium and Micro Enterprises

Small, medium and micro enterprise (SMME) development has been a strategy of successive governments to empower women economically. The economic crisis was/is characterised by fuel and foreign exchange shortages, embargoes on imports and increases in the prices of raw materials, and the resulting uncertainty, higher search costs, all of which have had a severe impact on profit margins and on the ability of entrepreneurs to honour contractual agreements. While these issues are common to both male and female entrepreneurs, women entrepreneurs tend to be affected more because of their smaller scale, smaller capital or savings stocks to help cushion losses, their limited access to credit, and limited financial and business networks. Women entrepreneurs also tend to hire more women workers, especially in segregated industries such as garments. Thus, the consequences of job and income losses are potentially greater among women employees (often informal employees) of female small, medium and micro enterprises. Women entrepreneurs and farmers struggling to stay afloat in the prevailing economic crisis also function as sole

²⁵ http://www.statistics.gov.lk/PressReleases/TUS_FinalReport_2017

²⁶ National Policy for Child Day Care Centres <https://childprotection.gov.lk/images/pdfs/acts-guidelines/National%20Day%20Care%20Center%20Policy-Final%20Draft%20April%202019-English.pdf>

breadwinners owing to their husbands losing their jobs or being unable to continue to operate their businesses.²⁷

Women who have obtained financial assistance and ventured in to micro, small and medium enterprises have been near decimated as a result of the on-going economic crisis.

Women's employment and livelihoods have been disproportionately affected as they are a significant proportion of those involved in micro, small and medium enterprises (MSMEs). Micro, Small and Medium Enterprises accounted for more than 75% of all businesses, provided 45% of all jobs and contributed 52% of the GDP in Sri Lanka.²⁸ Composing approximately 1.017 million enterprises that include 935,000 micro enterprises and 71,000 small enterprises, these make up approximately 99.7 % of the total non-agricultural sector establishments. They provide livelihood to nearly 2.23 million people, MSMEs have been severely affected by the recent tax revision, increased electricity, telephone and water tariffs and soaring inflation²⁹

In Sri Lanka more than 42% of businesses are informal and over 98% them are micro scale with a high percentage of female ownership³⁰. The micro and small businesses were also those that experienced more closures during COVID and continue to feel pressured due to the economic recession. Increasing prices and shortages in raw materials, higher fuel costs, lack of financial support are severely affecting recovery. Moreover 58% of workers are in informal jobs³¹, where salaries are not pegged to a dollar or standardized; they have little legal protection, and they have had to deal with less work days or unemployment. Again women face a higher probability of losing or giving up their jobs and as a result pushed to engage in more precarious work. Under the current austerity measures and increasing costs, women face a triple burden of earning income, performing unpaid care work and being exposed to greater levels of violence³. All of these increase stress and anxiety levels for women who are trying to make ends meet for their families.

Recommendations

The Sri Lankan government must recognise that it has not addressed the economic value of women's labour in the formal and informal sector and provide adequate financial support and quality services that would prevent the deterioration of livelihoods and standard of living.

- **The government must formulate measures to respond to the dire economic needs of women who are increasingly resorting to short term high cost means to obtain monies for household expenses such as pawning or taking high interest micro-credit loans.**

²⁷ <https://reliefweb.int/report/sri-lanka/harvesting-heart-face-economic-crisis-sri-lanka-women-farmers-remain-determined-produce-their-families-and-communities>

²⁸ <https://groundviews.org/2022/10/26/red-lights-are-flashing-as-over-9-5-million-people-descend-into-poverty/>.

²⁹ <https://groundviews.org/2022/10/26/red-lights-are-flashing-as-over-9-5-million-people-descend-into-poverty/>.

³⁰ Calculated based on the MSME Economic Indicators database, 2019.

³¹ <http://www.statistics.gov.lk/LabourForce/StaticalInformation/AnnualReports/2021>

- **There needs to be clear policy and regulations on micro-credit ventures that target women in poor and low middle-class households.**
- **The government must recognise the need for adequate budgetary allocations for setting up or upgrading affordable child care and elder care facilities in order that women's unpaid care work is reduced and they are able to undertake income earning work.**
- **The government can introduce specific budget lines to support and expand the types of public services or programs that significantly release households' unpaid care workload, recognize the contribution of carers through awareness-creation, build potential collaborations across government sectors and ensure that the needs of carers are addressed. These long-term strategies can assist in making care a national priority.**
- **The government must recognise the economic value of unpaid care work and include this in the formal national labour force statistics.**
- **A one-off Time Use Survey is not sufficient. It has to be followed with firm policy directives in the economic, social and educational areas that would facilitate better sharing of care work within homes, adequate paternity leave and foster concepts of gender equality.**
- **Domestic workers must be brought under the regulated wage system for minimum wages and be have the same rights as all workers.**

Article 12: Women’s Right to Health: Access to Medicines

Public health care and medical services are available free of charge in Sri Lanka and accounted for 95% of inpatient care and 50% of outpatient care in 2021³² and the country imports approximately 80% of its medicines and medical equipment.³³ However, government expenditure on health as a share of GDP decreased from 4.2% in 2000 to 3.8% in 2018.³⁴ In its concluding observations to Sri Lanka in 2017, the CESCR Committee expressed concern that “the public health-care system is characterized by a very low and decreasing expenditure as a percentage of GDP, regional disparities in healthcare infrastructure, long waiting lists for specialist care, high out-of-pocket health expenses, high prices of medicines and expensive private medical care.” This situation has now worsened considerably as the country deals with the fall out of the COVID 19 pandemic and the ongoing economic crisis that had ravaged its health infrastructure and resulted in critical shortages of life saving drugs and medical equipment. Yet, the 2023 budget approved in December 2022 allocated just SL Rupees 432,000 million for health services while the allocation for defense was a staggering SL Rs.539 billion.

In July 2022, the UN Office for the Coordination of Humanitarian Affairs cautioned, “There are 250 regular laboratory items and 600 complimentary items out of stock at national level... the system faces stockouts of essential medicines and supplies, both in the public and private sectors”.³⁵ In an appeal released in August 2022, the United Nations Population Fund (UNFPA) said there were “7 vital and 188 essential drugs out of stock” and warned that “another 163 drugs will go out of stock in the next 2-3 months”.³⁶

Medical professionals and the Government Medical Officers Association (GMOA) the trade union with the largest membership of medical professionals) made an appeal as early as April 2022, Sri Lankan doctors and citizens overseas and the international community for support to sustain patient care services in Sri Lanka. And the Ministry of Health (MoH) issued a directive ordering state hospitals to minimize and reschedule routine surgeries while prioritizing emergencies in order to preserve the available stocks. This has placed patients’ lives at risk.

Medical staff at different government facilities were also making appeals and patients were asked to purchase medicines, equipment and get tests done privately as hospitals had run out of essential stocks. As the financial crisis worsened and the rupee devalued medicines in the private sector also became prohibitively expensive.³⁷

³² Lalini Rajapaksa and others, Sri Lanka Health System Review, 5 July 2021, Health Systems in Transition, Volume 10, Number 1, World Health Organization Regional Office for South-East Asia, apo.who.int/publications/i/item/sri-lanka-health-system-review, p. 26.

³³ OCHA, Humanitarian Needs and Priorities – Sri Lanka Food Security Crisis. <https://www.amnesty.org/en/documents/asa37/6052/2022/en/>

³⁴ UNICEF Sri Lanka, Budget Brief – Health Sector. <https://www.amnesty.org/en/documents/asa37/6052/2022/en/>

³⁵ OCHA ROAP, “Sri Lanka multi-dimensional crisis situation report 1 - As of 15 July 2022”, available at reliefweb.int/report/sri-lanka/srilanka-multi-dimensional-crisis-situation-report-no-1-15-july-2022, p. 2.

³⁶ 58 United Nations Population Fund (UNFPA), Upholding the Dignity and Building Resilience of Women and Girls: UNFPA’s Response to the Economic Crisis, 1 August 2022, srilanka.unfpa.org/sites/default/files/pub-pdf/unfpasrilanka_appeal_010822_1.pdf, p. 3.

³⁷ <https://www.amnesty.org/en/documents/asa37/6052/2022/en/>

Women's health has been particularly affected. In the context of the fuel crisis, UNFPA noted the high risk to women and girls in labor due to shortages in fuel and limited transportation to hospitals.³⁸ In August 2022, the agency said the economic crisis had “far reaching consequences for women and girls health, rights and dignity” calling for the need to safeguard their access to life-saving healthcare services and support. Noting that “An estimated 215,000 Sri Lankan women are currently pregnant, according to data from the Sri Lankan Ministry of Health, including 11,000 adolescent girls, and around 145,000 women will deliver in the next six months”, UNFPA appealed for USD10.7 million to urgently meet the sexual and reproductive health needs, and protection needs, of women and girls including for life saving medicines, equipment, services and supplies for the clinical management of rape and domestic violence survivors.³⁹ As the crisis worsened, the Ministry of Health issued lists of medical equipment and drugs which were in shortage and was prioritizing needs that were most urgent. It was also seeking funds and humanitarian assistance to meet the shortages.⁴⁰

Import of Drugs

Sri Lanka imported USD 815 million worth of medicine in 2021. However, as the country's foreign exchange reserves dropped, funds available for exports diminished rapidly compromising the availability of many essential and life-saving drugs and medical equipment.

Three institutions - the Medical Supplies Division (MSD), the State Pharmaceutical Corporation (SPC) and the National Medicines Regulatory Authority (NMRA) are collectively responsible for the procurement and disbursement of pharmaceutical drugs and link with the MoH in these activities.

The GMOA has highlighted *poor decision making and management at the MoH* as the key reasons for the escalating shortages of lifesaving drugs and medical equipment in the state sector. Despite this escalating crisis, the Minister of Health continues to claim that the drug and equipment crisis it is not an issue of foreign exchange reserves, but rather one of lengthy procurement procedures and delays.⁴¹

Bidding documents for procurement of pharmaceuticals for the MoH issued by the SPC clearly states that “Procurement is mainly done by International Competitive Bidding and All Pharmaceutical products imported into Sri Lanka should be those registered with the National Medicines Regulatory Authority (NMRA). The NMRA quality tests all drugs before granting them registration for use, a process that takes many weeks.

Despite this, the Minister of Health is currently lobbying for Cabinet approval for award of unsolicited tenders to two private Indian pharmaceutical companies. Neither the companies nor

³⁸ See, for example, UN News, “Sri Lanka's economic crisis pushes health system to brink of collapse”, 17 August 2022, news.un.org/en/story/2022/08/1124842; UNFPA, Upholding the Dignity and Building Resilience of Women and Girls: UNFPA's Response to the Economic Crisis (previously cited), p. 4.

³⁹ <https://news.un.org/en/story/2022/08/1124842>.

⁴⁰ UN High Commissioner for Human Rights, Situation of human rights in Sri Lanka (previously cited), para. 10.

⁴¹ Sri Lanka health chief downplays drug shortage as doctors fret –Nikkei Asia - Kanika Gupta. August 13/2022 <https://asia.nikkei.com › Spotlight › Sri-Lanka-crisis › S.>

the drugs to be imported are registered with the NMRA.⁴² Cabinet has already granted approval for one supplier while the other is under consideration.

The 2021 Audit Report of the NMRA details multiple issues of poor management reflected as failure to adhere to standard procedures and regulations. The Sri Lanka Medical Association (SLMA) as the apex representation of medical professionals in the country early instituted a transparent mechanism to facilitate donations in cash and kind from overseas and local well-wishers. The donations were channeled inter alia, to the MoH for distribution on a need's basis to hospitals across the country. Anecdotal reports indicate that increasing awareness of the lack of transparency in disbursing donations by the Ministry has resulted in a diminishing of this support.

Sri Lanka has ratified a number of UN Conventions that require the State party to respect, protect and fulfil the right to health and this includes both CESCR and CEDAW. In its General Recommendation 24, CEDAW calls on the State to take all measures to the maximum extent of their available resources to ensure that women realise their rights to health care.⁴³ This includes access to sexual and reproductive health services for women and girls. It also cautions the State against relegating its obligations by resorting to private sector health services.⁴⁴ The State is obliged to realise the right to health by ensuring that health care facilities, goods and services are affordable, available in sufficient quantities and accessible to all without discrimination. This means that International human rights obligations must be met throughout any programme for economic reconstruction and despite any austerity measures undertaken. It also includes State responsibilities when such key public services such as health care is privatised. If such measures have an adverse impact on women they constitute indirect discrimination under article 1 of CEDAW.

Core Obligations

Under the CESCR, as affirmed in General Comment 14, the provision of essential medicines is core obligation of immediate effect or subject to progressive realisation. Among immediate obligations are those that must be realised as a matter of priority. These are obligations 'beneath which no state [ratifying the Convention] can be permitted to fall'.⁴⁵ These obligations include: ensuring access to health facilities, goods and services on a non-discriminatory basis, especially for marginalised groups; providing essential medicines; facilitating equitable distribution of health care systems; and adopting and implementing a national public health strategy and plan of action.⁴⁶ They also include the underlying determinants of health which requires ensuring equal access to adequate food; and ensuring access to basic shelter, housing, sanitation, and potable water. In its

⁴² *Sunday Times* (Sri Lanka) Articles. Health Minister bypasses President's orders on medicinal drug imports. <http://sundaytimes.pressreader.com> December 25, 2022.

⁴³ General recommendation No. 24: Article 12 of the Convention (women and health), available at : https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_4738_E.pdf

⁴⁴ *Ibid.*

⁴⁵ 'beneath which no state [party to the ICESCR] can be permitted to fall' 23 General Comment No. 14 (n 12) paras. 9 and 11; Nifosi-Sutton, I. (2022). Realising the Right to Health during the COVID-19 Pandemic, *Yearbook of International Disaster Law Online*, 3(1), 126-153. doi: https://doi.org/10.1163/26662531_00301_006

⁴⁶ ICESCR General Comment No. 14 (n 12) para. 43.

concluding observations the CESCR Committee has also reiterated that these core obligations are duties integral to the realization of the right to health and must be met even in times of resource constraints⁴⁷ or emergencies.⁴⁸

Recommendations

- **The State party must be asked how it proposes to assess the impacts of austerity measures on women’s access to adequate, accessible and affordable health care, including how it will continuously collect sex disaggregated data on access to healthcare facilities and services in urban and rural areas.**
- **The State party must be asked how it will ensure the allocation of sufficient public resources to the provision of adequate, accessible and affordable health care to women.**
- **The State party must be asked how it will ensure accessibility to adequate health care facilities, including information, counselling, reproductive healthcare services and an effective referral system in rural and urban areas.**
- **The State party must be asked how it will prevent corruption and ensure transparent and inclusive access to medicines, including medicines that have been procured through donations.**

The Financial Crisis and Negotiations with the IMF

In the aftermath of its debt default in April, 2022, Sri Lanka is currently pursuing negotiations with the IMF and reached a staff-level agreement based on a 48-month arrangement under its [Extended Fund Facility](#) (EFF) of about US\$2.9 billion in September 2022.

As has been its practice in similar situations the IMF insists on macroeconomic policy conditions, some of which have had demonstrably adverse impacts on women’s rights.

⁴⁷ CESCR, ‘Concluding observations on the second to the fifth periodic report of India’ (8 August 2008) E/C.12/ind/co/5, para. 45; ‘Concluding Observations on the initial report of South Africa’ (29 November 2018) E/C.12/zaf/co/1, paras. 18–19 (a), 63 and 64 (b) and (c); ‘Concluding Observations on the fourth periodic report of Ecuador’ (14 November 2019) E/C.12/ecu/co/4, paras. 5, 6 (b) and 46; Nifosi-Sutton, I. (2022). Realising the Right to Health during the COVID-19 Pandemic, *Yearbook of International Disaster Law Online*, 3(1), 126-153. doi: https://doi.org/10.1163/26662531_00301_006.

⁴⁸ CESCR, ‘Concluding Observations on the second periodic report of Israel’ (26 June 2003) E/C.12/1/Add.90, para. 31; ‘Concluding Observations on the initial report of Mali’ (6 November 2018) E/C.12/mli/co/1, paras. 4–5 (a), 45 and 46 (a); Nifosi-Sutton, I. (2022). Realising the Right to Health during the COVID-19 Pandemic, *Yearbook of International Disaster Law Online*, 3(1), 126-153. doi: https://doi.org/10.1163/26662531_00301_006.

The IMF commenting on the crisis noted that “The economy is expected to contract by 8.7 percent in 2022” and that the “impact has been disproportionately borne by the poor and vulnerable”.⁴⁹ Noting the serious shortages in food, fuel, medicines and other essential goods, Amnesty International reviewing the crisis said that 11% of households reported “...their income had stopped and 62% of households said their income reduced”. They further noted that by July 2022, food inflation reached 90.9% on a yearly basis.⁵⁰ The economic crisis has affected women disproportionately.

The Macroeconomic Environment and Women’s Rights

In 2017, the UN High Level Panel on Women’s Economic Empowerment established that “Macroeconomic policies are crucial enablers of gender equality because they shape the overall economic environment for women’s economic empowerment.”⁵¹ As such, macroeconomic policy decisions must fall within the scope of review for the CEDAW Committee, especially in light of CEDAW’s recognition that “in situations of poverty, women have the least access to food, health, education, training, and opportunities for employment and other needs”.

A number of human rights mechanisms have recognised the specific and disproportionate impacts of austerity-driven policies, which include those imposed by the IMF, on women’s human rights.⁵² The disproportionate impact of austerity measures on women amounts to indirect discrimination under article 1 of the CEDAW Convention, as your Committee has noted.⁵³ In March 2019, as part of CEDAW’s list of issues for the review of Bosnia and Herzegovina, State party, was asked to “explain if there are any steps taken to assess the impact of the Reform Agenda on women’s

⁴⁹<https://www.imf.org/en/News/Articles/2022/09/01/pr22295-imf-reaches-staff-level-agreement-on-an-extended-fund-facility-arrangement-with-sri-lanka>.

⁵⁰ <https://www.amnesty.org/en/documents/asa37/6052/2022/en/>

⁵¹ UN High Level Panel on Women’s Economic Empowerment, *Taking action for transformational change on women’s economic empowerment*, 2017, p. 3.

⁵² Effects of foreign debt and other related financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, para. 24 to 56, A/73/179, 18 July 2018, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N18/229/04/PDF/N1822904.pdf?OpenElement>; Guiding principles on human rights impact assessments of economic reforms, para 8.1 to 8.4, A/HRC/40/57, 19 December 2018, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/443/52/PDF/G1844352.pdf?OpenElement>; Public debt, austerity measures and the International Covenant on Economic, Social and Cultural Rights, Statement by the Committee on Economic, Social and Cultural Rights, para. 2, E/C.12/2016/1, 22 July 2016, available at:

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=E%2fC.12%2f2016%2f1&Lang=en; Report of the Working Group on the issue of discrimination against women in law and in practice, para. 26 to 31, A/HRC/26/39, 1 April 2014, <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>

⁵³ Combined fifth and sixth periodic reports of Slovenia, CEDAW/C/SVN/CO/5-6, 24 November 2015, In its concluding observations to Slovenia the CEDAW Committee noted “with concern that austerity measures, adopted in an effort to stabilize public finances, have had a detrimental and disproportionate impact on women in many spheres of life”. Furthermore, the Committee noted the lack of targeted studies and evaluations to monitor the gender-specific effects of such measures recalling “that, even in times of fiscal constraints and economic crisis, special efforts must be made to respect women’s human rights, sustain and expand social investment and social protection and employ a gender-sensitive approach, giving priority to women in vulnerable situations”.

enjoyment of their rights,”⁵⁴ and in CEDAW General Recommendation 35 on gender-based violence against women, the Committee has stressed that austerity measures “further weaken the state responses” to gender-based violence.⁵⁵

Recommendations

- **UN Guiding Principles on Human Rights Impact Assessments of Economic Reform Programmes⁵⁶ should be used to assess the gendered impact of policy measures required by IMF conditionalities.**
- **The government should renegotiate alternate policy interventions, with the IMF, to redress gender inequalities surfaced by such an assessment.**
- **The government should meet the minimum standards of the indicative targets in the IMF programme on social protection, health and education spending.**
- **Women’s rights organizations and civil society groups have not been consulted in the decision-making process relating to the IMF programme, and macroeconomic policy-making as a whole is not transparent. The government should therefore be inclusive in consulting women and women’s rights groups in policy formulation.**

⁵⁴ List of issues and questions in relation to the sixth periodic report of Bosnia and Herzegovina, CEDAW/C/BIH/Q/6, 20 March 2019, paragraph 17

⁵⁵ CEDAW/C/GC/35, paragraph 7.

⁵⁶ Human Rights Council resolution 40/8, adopted on 21 March 2019.