

EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS



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Oral Statement to the Committee on the Elimination of Discrimination against Women 48th session, Geneva, 24 January 2011 Palais des Nations, Salle no. XVI

**Madam Chairperson,
Distinguished members of the Committee,
Ladies and Gentlemen,**

First of all I want to thank you for the opportunity to address the Committee.

My name is Anna von Gall and I am the coordinator of the gender and human rights program at the Berlin based European Center for Constitutional and Human Rights. ECCHR engages in innovative strategic litigation, using European, international, and national law to enforce human rights and to hold state and non-state actors accountable for egregious abuses. The gender and human rights program ECCHR looks for ways to pursue gender-specific proceedings in order to dismantle fixed gender stereotypes and the discrimination they facilitate.

During the 15th session of the Human Rights Council in Geneva ECCHR presented its Study „Criminal Accountability in Sri Lanka as of January 2009“. In this Study, ECCHR concludes that the parties to the conflict seriously violated international law. The Study is based on publicly available information about the alleged commission of crimes against humanity as well as war crimes during the last stage of the conflict. Throughout this study we faced significant practical problems connected with measuring evidence of gender-based violence.

For many years the international community has been monitoring the human rights situation in Sri Lanka, and has repeatedly expressed its concern in regard to the sexual violence perpetrated against women.

On the basis of the 2002 observations, the Committee was also alarmed at this stage by the high and severe incidents of rape and sexual violence targeted against Tamil Women by police and security forces in the conflict areas.¹ Inter alia there have been cell-phone videos from Mullaittivu, where soldiers appraised dead women and made lewd comments that strongly suggest that they had been sexually assaulted. Local NGO's reported sexual violence by armed forces, such as the rape of two women in Visvamadu, Kilinochchi on June 2010.² These and other patterns of sexual violence require further investigations. But such conflicted-related sexual violence, committed, ordered, or tolerated by state and non state actors, remains taboo and continues to go largely unpunished.

In December 2010 ECCHR submitted a report to the CEDAW Committee on the foreseeability of sexual violence in conflict in the case of Sri Lanka. The paper demands new legal methods of holding perpetrators accountable and calls for the UN to consider the use of sexual violence in conflicts as part of their approach to respecting strategy for respecting human (and women's) rights.

ECCHR argues that sexual violence is a foreseeable consequence of conflict in certain circumstances. The existence and legal denial of sexual violence as a crime is an expression of gender-based discrimination and patriarchal systems that need to be overcome.

Based on these arguments, the ECCHR submission requests that the Committee take Security Council Resolutions 1325, 1820, 1888 and 1890 and the new 1960 more closely into account when monitoring the implementation of the UN Convention on the Elimination of All Forms of Discrimination against Women. These resolutions oblige all countries to prevent sexual violence by its military staff, and to hold them accountable for these crimes during conflicts.

As Chair Naéla Gabr mentioned in her opening statement the Committee will consider the draft general recommendation on violence against women in armed conflict and post conflict situations during this session. We welcome this approach but further require the recognition of gender-based violence as a tactic of war and wish to highlight the persistent observation that sexual violence is a foreseeable consequence of conflicts under certain circumstances and is therefore preventable. We call

¹ CEDAW Concluding Observations, Sri Lanka, Part of A/57/38, 2002, (CEDAW, Concluding Observations, 2002), para 286.

² WMD, Shadow Report Sri Lanka, 2010 pages 39 ff.

on a tentative interpretation of UN Security Council Resolution 1820 and the followings in the light of constant international jurisprudence.

All governments and legal authorities which fail to protect women and to discipline those found responsible for gender-based crimes are guilty of indemnity. Addressing this impunity raises the question of sexual violence, gender discrimination and patriarchal structures.

Therefore we call on the CEDAW Committee to increase its recognition of rape as a tactic in conflict and to strengthen its approach for a broad and intertwined response to the impact of conflict on women and reaffirm Sri Lanka's obligation to report on the gender-based violence which takes place in conflict-affected areas and detention centers, to take adequate and effective measures to protect their civilians, and to investigate and prosecute gender-based crimes.

Thank you for your attention.

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