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Alternative report on the implementation of the UN Convention on the Elimination of Discrimination against Women (CEDAW)

-

Sri Lanka

“Women and Armed Conflict”

Berlin/Geneva, January 2011



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Violence against Women is one of the gravest human rights abuses and the worst form of discrimination. According to the Committee of the Convention on the Elimination of Discrimination against Women (CEDAW) gender-based violence is violence ‘directed against a woman because she is a woman or that affects women disproportionately’¹.

I. Introduction

Gender-based violence² against women has gained recognition under International law, in the jurisdictions of international courts and tribunals, in the Convention on the Elimination of Discrimination against Women (CEDAW)³ itself and under the Security Council’s effort to broaden their approaches to peace and security. But an intertwined approach is still lacking and a concerted and coherent response from the UN system is needed.⁴

Gender-based violence is constructive of gender-stereotypes and one of the worst forms of discrimination, yet it is still sidelined and rarely implemented comprehensively in UN strategies. With the four Security Council Resolutions on Women Peace and Security the Security Council made an important step in overcoming the disjuncture between the human rights and women rights system which continue to exist in parallel. We urge the CEDAW to implement the main approach of these resolutions and therefore to underscore CEDAW’s relevance to women affected by conflict and to urge a comprehensive women’s human rights system. As a caveat, it must not be forgotten that men and boys may also be subject to gender-based violence and their suffering should not be disregarded. Due to limited resources, however, this paper focuses on sexual violence perpetrated by men against women.⁵

We 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. It is beyond the scope of this report to come to a final conclusion. Rather, this is a tentative interpretation of UN Security Council Resolution 1820⁶ in the light of constant international jurisprudence that calls for a broader discussion of this topic on a comprehensive level within the international women’s human rights system.

All governments and legal authorities which fail to protect women and to discipline those found responsible for gender-based crimes are guilty of indemnity.⁷ Addressing this impunity raises the question of sexual violence, gender discrimination and patriarchal structures. SCRs

¹ CEDAW Committee, General Recommendation No. 19, UN Doc. A 47/38, 11th Session, 20 - 30 January 1992, (CEDAW Committee, General Recommendation No. 19) para. 6, UN Doc. A 47/38

² This report will mainly employ the term “gender-based violence” to refer to violence committed on the basis of a person’s sex or gender, as it is defined in General Recommendation No. 19. As sexual violence is a form of gender-based violence, both terms will be used interchangeably.

³ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the General Assembly in Resolution 34/180, December 18, 1979 and entered into force 3 September 1981.

⁴ UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström to the Special Session of the Human Rights Council on the Democratic Republic of the Congo, (UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, HRC Congo, 2010), 27 September 2010, [http://www.stoprapenow.org/uploads/features/HRC_27_September_2010_doc\[1\].pdf](http://www.stoprapenow.org/uploads/features/HRC_27_September_2010_doc[1].pdf), page 1.

⁵ As the possible causes of sexual violence against women is a delicate and extensive issue, this paper should not be considered conforming existing stereotypes according to which women are generally victimized. It is beyond the scope of this paper to include this significant discussion.

⁶ Security Council Resolution, S/RES/1820, 18 June 2008 (SCR 1820).

⁷ Chapter III.

1325⁸ and 1820, 1888⁹ and 1889¹⁰ oblige all countries to prevent sexual violence by military staff, and to hold them accountable for these crimes during conflicts.

CEDAW obliges State parties to provide information on the implementation of these resolutions and to ensure that these rights are realized by setting up adequate responses to women's needs and protection.¹¹ In the light of SCR 1820, CEDAW and the approach that sexualized violence in conflicts is foreseeable¹², we argue that Sri Lanka violated several Articles of CEDAW.¹³

II. Background

The decades-long conflict between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) intensified in early 2009. In the last few months of this conflict there were widespread allegations of massive human rights and international humanitarian law violations. Reports estimating the number of violations vary significantly. As of July 2010 there were still more than 320,000 Internally Displaced Persons (IDPs) in Sri Lanka.

Both the Sri Lankan government's military strategy to fight the LTTE in northern Sri Lanka and the LTTE's counterstrategy constitute violations of international law and standards. Other severe human rights violations amount to crimes against humanity (including: murder, extermination, deportation, severe deprivation of physical liberty, persecution and enforced disappearances, sexual violence). These grave breaches of international humanitarian law and the Geneva Convention constitute war crimes.

The intensification of armed conflict in 2009 and the continued militarization placed women's safety and security in jeopardy. It distinctively increased the vulnerability of women to violence.

However, the information available to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) is limited by its focus on the experiences of women living in the conflict-affected areas. The reporting Non Government Organizations (NGOs)¹⁴ rarely had access to the relevant information. Additionally, Sri Lanka's State Report does not include a sufficiently comprehensive analysis of gender-based violence and access to justice in the conflict affected areas. What is more, the CEDAW Committee has not demanded this information.¹⁵

⁸ Security Council Resolution, S/RES/1325, 31 October 2000 (SCR 1325).

⁹ Security Council Resolution, S/RES/1888, 30 September 2009 (SCR 1888).

¹⁰ Security Council Resolution, S/RES/1889, 5 October 2009 (SCR 1889).

¹¹ Chapter V.

¹² Chapter IV.

¹³ Chapter VI.

¹⁴ The Women and Media Collective, "Shadow Report Sri Lanka", 2010 (WMD), page 9: „The issue of impunity and weak enforcement of laws on violence against women especially in the conflict areas, para. 287 of the COs, have not received an adequate response from the MCD&WE and the NCW.3. Discussions have sometimes been held with women's groups and law enforcement authorities, but these discussions have not resulted in action to address impunity for gender based violence.“

¹⁵ CEDAW Committee combined fifth, sixth, and seventh periodic reports of State parties to the Committee on the Elimination of Discrimination against Women, Sri Lanka, CEDAW/C/LKA/5-7, 24 March 2010, (CEDAW periodic reports of state parties, 2010) paras. 21 and 22; The Committee demanded the monitoring of the behavior of the police and prosecutor regarding the impunity of perpetrators who committed sexual violence in general. Sri Lanka's government only refers to a general directive issued to the armed forces and to the police enabling the Human Rights Commission to monitor and secure fundamental rights of detainees. Sri Lanka does not,

The CEDAW Committee has instead focused its request for further information on sexual violence against female IDPs. It is also investigating whether a national policy or action plan is envisaged to address the resettlement and reintegration into society of IDPs, with special measures to address the concerns and needs of female ex-combatants or detainees.¹⁶ Moreover the CEDAW Committee is asking for explanations regarding the long delay in processing cases of domestic/sexual violence.¹⁷

Within the CEDAW Committee's 2010 request for further information only a small part is concerned with asking whether or not SCR 1325 and 1820 are operative and whether it is therefore implicit that the State include women in the implementation process. No remarks have been made about the previous and existing gender-based violence in conflict areas and in the so-called "rehabilitation centers". Such violence constitutes discrimination that seriously inhibits women's ability to access their rights and freedoms. The Committee's concluding observation of 2002 regarding mechanisms to protect women in conflict affected areas has not been applied to the recent conflict, in particular the events of early 2009. On the basis of the 2002 observations, it is clear that the Committee was already alarmed by the high and severe incidents of rape and sexual violence targeted against Tamil Women by police and security forces in the conflict areas.¹⁸

There are undoubtedly practical problems associated with measuring the evidence of gender-based violence in the conflict. There are few or no female police officers/investigators in the conflict areas and those who are there, often do not speak the language of the majority population in the area, Tamil.¹⁹

III. Gender-based violence as form of discrimination within the meaning of Art. 1 CEDAW

Sri Lanka signed the CEDAW on 17th July 1980 and ratified it on 5th October 1981. It signed the CEDAW Optional Protocol on 6th October 1999 and ratified it on 15th October 2002.

To advance women's rights in every country and in all circumstances, we have to understand the interlocked elements of women's subordination and how law can be used either to deny or grant women equality and freedom from violence.²⁰

CEDAW is directed against both public and private discrimination and calls for affirmative action.

Art. 1 CEDAW states:

"For the purposes of the present Convention, the term „discrimination against women“ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, social, cultural, civil or any other field."

therefore, refer to a certain strategy to prevent and end impunity for human rights abuses, especially for gender-based crimes

¹⁶ CEDAW Committee, Issues and Questions, CEDAW/C/LKA/Q/7, 2010, (CEDAW Committee, I&Q, 2010) para. 9, 28.

¹⁷ CEDAW Committee I&Q 2010, para. 6.

¹⁸ CEDAW Concluding Observations, Sri Lanka, Part of A/57/38, 2002, (CEDAW, Concluding Observations, 2002), para 286.

¹⁹ WMD, Shadow Report Sri Lanka, 2010, page 41.

²⁰ Susan Deller Ross, in: "Women's Human Rights. The International and Comparative Law Casebook", 2008 (Deller Ross, 2008), page 1.

The principle obligation of the State parties under Art. 2 CEDAW is:

“to condemn discrimination against women in all its forms, (...) and to pursue by all appropriate means and without delay a policy of eliminating discrimination against women”.

Therefore CEDAW is a comprehensive human rights instrument aimed at eliminating all forms of discrimination against women and is applicable in times of peace and in situations of armed conflicts.²¹

Although the CEDAW did not explicitly refer to violence against women in its original form, its General Recommendation No. 19 in 1992²² established the link between discrimination and gender-based violence.²³ CEDAW now recognizes gender-based violence which impairs or nullifies the human rights and fundamental freedoms of women, under general international law or under human rights conventions, as discrimination within the meaning of Art. 1 of the CEDAW. International Law treats gender-violence as a prosecutable crime against the physical and mental integrity of the victim. Through the jurisprudence of the ad hoc Tribunals of Rwanda (ICTR) and Former Yugoslavia (ICTY) and the promulgation of the Statute of the International Criminal Court, gender crimes²⁴ can now be prosecuted as war crimes, crimes against humanity, and the predicate acts of genocide.²⁵

General Recommendation No. 19 added the issue of violence against women and functions as an authoritative legal interpretation of CEDAW. Additionally, it reaffirms the redress of war-related gender-based violence, such as the human rights violation of gender discrimination²⁶ and also directly implements the “right to equal protection according to humanitarian norms in times of international and internal armed conflict.”²⁷

In this context, it has to be pointed out again that the pervasiveness of sexual violence impedes or deprives women and girls of the ability to exercise their human rights such as civil and political rights; economic, social and cultural rights.²⁸

²¹ CEDAW Committee, statement of the Committee on the Elimination of Discrimination against Women on the 10th anniversary of Security Council Resolution 1325 on “Women, Peace and Security, 46th session, 12-30 July 2010, New York, (CEDAW Committee, statement 1325, 2010)

http://www2.ohchr.org/english/bodies/cedaw/docs/Statement_SCR_1325.pdf.

²² CEDAW Committee, General Recommendation No. 19.

²³ CEDAW Committee, General Recommendation No. 19, para. 6: “The definition of discrimination includes gender-based violence, that is, violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty”.

²⁴ Articles 6, 7(1)(g), 7(1)(h), 7(1)(c), 7(2)(c) and 8(2)(b)(xxii), 8(2)(e)(vi) of the Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/, 17 July 1998, (Rome Statute).

²⁵ In the context of international criminal law, sexual violence is ostensibly a gender-neutral term that refers to violence of a sexual nature against either women or men, Anne-Marie Brouwer, „Supranational Criminal Prosecution of Sexual Violence“, 2005, (Brouwer, 2005) page 26.

²⁶ Report of the Secretary-General, In-depth study on all forms of violence against women, A/61/122/Add.1, 2006, (SG Report, 2006) paras. 31 ff.; Patricia Viseur Sellers, “The Prosecution of Sexual Violence in conflict: The Importance of Human Rights as Means of Interpretation”, available at OHCHR Womens’ Human Rights and Gender Section (WRGUS),

http://www2.ohchr.org/english/issues/women/docs/Paper_Prosecution_of_Sexual_Violence.pdf, (Viseur Sellers, OHCHR, WRGUS) page 28.

²⁷ CEDAW Committee, General Recommendation No. 19, para. 7 c).

²⁸ UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, HRC Congo, 2010, page 1; Viseur Sellers, OHCHR, WRGUS, page 4.

IV. Women and armed conflicts

1. Impact on Women

Armed conflict continues to have an overwhelming and destructive impact on women and girls.²⁹ Whilst men may be also targeted for sexual violence during conflict, it is an acknowledged fact that sexual violence primarily and disproportionately affects women.³⁰

Women experience war in multifaceted ways. Women are often targeted and suffer violations of International humanitarian law precisely because they are female. These violations include rape, forced prostitution, sexual slavery and forced impregnation.³¹

Incidents of violence against women in armed conflict have increased in recent years.³² It is clear that gender-based violence is used for many reasons, including as a form of torture, to inflict injury, to extract information, to degrade and intimidate and for ethnic-cleansing. But³³ according to empirical studies, women suffer a high percentage of human rights violations and, as sexual violence varies in form and degree, it is inevitable that gender-based violence against women does and will exist during armed conflict.³⁴

2. Four Security Council Resolutions on Women, Peace and Security

SCR 1325 on Women, Peace and Security reaffirmed its important predecessor, the 1995 Beijing Declaration and Platform for Action, which addressed the situation of women and girls in armed conflict and urged implementation of cooperate approaches to peace and security. It stated that “violation of human rights in situations of armed conflict and military occupation are violations of the fundamental principles of international human rights and humanitarian law as embodied in international human rights instruments in the Geneva Conventions of 1949 and the Additional Protocols thereto.”³⁵

Since SCR 1325, the Security Council has adopted three further resolutions on this subject; SCR 1820, 1888, 1889. This paper will focus on SCR 1325 and especially 1820.

²⁹ CEDAW Committee statement 1325, 2010.

³⁰ Brouwer, 2005, page 26.

³¹ Charlotte Lindsey, „The Impact of Armed Conflict on Women“, in: Durham/Gard, Listening to Silence: Women and War, 2005, (Lindsey, 2005) page 21.

³² UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, HRC Congo, 2010; Special Rapporteur on violence against Women, its causes and its consequences, Commission on the Status of Women 54th session, 03 March 2010, page 5
http://www.un.org/womenwatch/daw/beijing15/general_discussion/SPECIAL%20RAPPORTEUR%20ON%20VIOLENCE%20AGAINST%20WOMEN.pdf; Final Report of the Special Rapporteur on the Situation of Systematic Rape, Sexual Slavery and Slavery-like Practices During Periods of Armed Conflict, 50 UN ESCOR, UN Doc. E/CN.4/Sub.2/1998/13 (1998), and Update to the Final Report of the Special Rapporteur on the Situation of Systematic Rape, Sexual Slavery and Slavery-like Practices During Periods of Armed Conflict, 52 UN ESCOR, UN Doc. E/CN.4/Sub.2/2000/21/(2000); In eastern DRC at least 200,000 cases of sexual violence have been recorded since open hostilities began in 1996, Report of the Secretary General pursuant to SCR 1820, S/2009/362, p.5; Report of the Secretary General pursuant to SCR 1820, 15 July 2009, S/2009/362, pages 4, 5, 6; Report on the International Symposium on Sexual Violence and beyond, 21-23 June 2006, pages 10,14, http://www.unfpa.org/emergencies/symposium06/docs/final_report.pdf.

³³ Additionally, policies designed to prevent sexual violence in conflict zones are often informed by traditional gender roles that represent men as warriors and women as peacekeepers.

³⁴ CEDAW Committee statement 1325, 2010; Report of the Secretary-General pursuant to Security Council resolution 1820, S/2009/362; Beijing Declaration and Platform for Action, 15, September 1995, A/Conf. 177/20 (Beijing Declaration for Action, 1995) Section E, Women and Armed Conflict, para. 131-149; Elisabeth Jean Wood, “Sexual Violence during War: Towards an Understanding of Variation”, in: Ian Shapiro/Stathis Kalyvas/Tarek Masoud, “Order, Conflict, and Violence”, Cambridge, 2008, (Jean Wood, 2005) page 321-351.

³⁵ Beijing Declaration for Action, 1995, para. 133.

a) Security Council Resolution 1325

In 2000 the UN Security Council adopted its first Resolution on Women, Peace and Security - SCR 1325³⁶. It recognizes the

*“need to implement fully, international humanitarian and human rights law that protects the rights of women and girls during and after conflicts” and called “upon all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particular rape and other forms of sexual abuse”.*³⁷

For the first time, the Security Council addressed the disproportionate and unique impact of armed conflict on women, marking an international political recognition that women and gender are relevant to international peace and security.³⁸ The resolution promotes women’s participation in various peace and security processes such as peace negotiations, constitutional and electoral reforms and reconstruction and reintegration. It also reminded the international community of its obligations and responsibilities under international human rights treaties and international humanitarian law, including the Geneva conventions³⁹ and calls on the parties of an armed conflict to take appropriate measures to protect women and girls from gender-based violence.⁴⁰

b) Security Council Resolution 1820⁴¹

The obligation under international law of parties to a conflict to protect women in armed conflict was strengthened by SCR 1820. Within SCR 1820 the Security Council recognized that systematic sexual violence can significantly exacerbate situations of armed conflict when used as a tactic of war or as part of widespread or systematic attacks against civilian populations, and may impede the restoration of international peace and security.⁴²

Therefore, it demands that all parties to armed conflict immediately cease and desist from any and all forms of sexualized violence against civilians. The resolution notes that rape and other forms of sexual violence can constitute war crimes, crimes against humanity, or a constitutive act with respect to genocide and calls upon Member States to fulfill their obligations for prosecuting such violators.⁴³

Furthermore, sanctions against involved parties are mentioned and the resolution itself demands that all parties to armed conflict take appropriate measures to protect civilians, including women and girls, from all forms of sexual violence. These can include, “enforcing appropriate military disciplinary measures and upholding the principle of command responsibility, training troops on the categorical prohibition of all forms of sexual violence against civilians,

³⁶ SCR 1325.

³⁷ SCR 1325, Preamble and para. 10.

³⁸ CEDAW Committee, statement 1325, 2010.

³⁹ SCR 1325, para. 09; UN High Commissioner on Human Rights Navanethem Pillay to the Seminar on “Women, Peace and Security: from resolution to action” Ten Years of Security Council Resolution 1325, Geneva, 15 September 2010, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10335&LangID=e>. (UN High Commissioner on Human Rights Pillay, SCR 1325, 2010).

⁴⁰ SCR 1325, Preamble and para. 9.

⁴¹ Nevertheless this resolution subsequent to SCR 1325 should be criticized on the ground that the Security Council seems to return to a victim paradigm unlike SCR 1325, which envisioned a more empowered role for women in conflict prevention and resolution. That said, it is clear that it is still valid to focus on the plight of women victims while also insisting that women should be included in all relevant decision making process around conflicts.

⁴² SCR 1820, para. 1.

⁴³ SCR 1820, para. 4.

and debunking myths that fuel sexual violence”.⁴⁴ It also can include vetting armed and security forces to take into account past actions of rape and other forms of sexual violence.

Therefore, SRC 1820 requires further practical implementation. Within the fight against sexual violence the resolution requires a broad approach which addresses the military, police, justice systems and local communities, both on an international and domestic policy level. It obliges states to guarantee that women and girls have equal protection under the law and equal access to justice. This includes debunking the myth that sexual violence has not occurred because it did not feature in official reports, but also the myth that rape is an unpreventable corollary of conflict.⁴⁵

c) Sexual violence as a tactic of war and the obligation to protect⁴⁶

In light of SCR 1820 and of consistent evidence of the pervasiveness of sexual violence during situations of armed conflict, general lawlessness and repression, it has to be taken into consideration that sexual violence is likely and foreseeable under certain circumstances⁴⁷. It is preventable, therefore, whenever it is planned and orchestrated as a tactic of war.⁴⁸ This seems to be especially true in situations where the common plan involves the detention of women by military or paramilitary forces. The remarks made by SCR 1820 and especially the link between sexual violence and tactics of war have to be taken into consideration when interpreting and implementing SCR 1820 to CEDAW.

This interpretation is supported by international jurisprudence. Certainly, SCR 1820 and international jurisprudence are intertwined.⁴⁹ The ad hoc Tribunal for Former Yugoslavia (ICTY) recognized a direct form of individual criminal liability which was derived from “committed” and is known as joint criminal enterprise (JCE). This approach, recognizing the foreseeability of sexual violence, provides a useful, lucid framework for joint liability, especially for perpetrators who are physically far removed from the locations of sexual assault crimes, including military and political leaders.⁵⁰

⁴⁴ SCR 1820, para. 3.

⁴⁵ Compare UN Special Representative on Sexual Violence in Conflict, Margot Wallström, “Ending Sexual Violence: Translating Promises into Practice” in: Women’s ENews, August 2010 – Issue 116, http://www.peacewomen.org/assets/file/Resources/NGO/vaw_augustnews_wallstrom_2010.pdf. (UN Special Representative on Sexual Violence in Conflict Wallström, Ending Sexual Violence, 2010)

⁴⁶ This is a tentative interpretation of SCR 1820, in the light of constant calls from international jurisprudence for a broader discussion on a comprehensive level within the international women’s human rights system. Controversial issues like the justification of interventions or the entrenchment of existing stereotypes must then be included.

⁴⁷ UN High Commissioner on Human Rights Pillay, SCR 1325, 2010, page 466; Beth van Schaack, “Obstacles on the Road to Gender Justice: The International Criminal Tribunal for Rwanda as Objects Lesson”, in: *Am. Univ. J. of Gender, Social Policy, & the Law*, 2009, van Schaack, 2009), page 388.

⁴⁸ UN Special Representative on Sexual Violence in Conflict Wallström to the Security Council, 14 October 2010, (<http://www.stoprapenow.org/uploads/advocacyresources/1288784415.pdf>), page 2.

⁴⁹ The UN Department of Peacekeeping Operations recently published a report which offers a comprehensive overview of the various ways that sexual violence in armed conflict can be interpreted and addressed under international law and seeks to address SCR 1820 and its request for “information on situations of armed conflicts, and analysis of the prevalence and trends of sexual violence in situations of armed conflict”. See UN Department of Peacekeeping Operations, “Review of sexual violence elements of the judgments of the International Criminal Tribunal for the former Yugoslavia, the International Criminal Tribunal for Rwanda, and the Special Court for Sierra Leone in the light of Security Council 1820”, 2009, http://www.unrol.org/files/32914_Review%20of%20the%20Sexual%20Violence%20Elements%20in%20the%20Light%20of%20the%20Security-Council%20resolution%201820.pdf. (UN Department for Peacekeeping Operations Report 2009)

⁵⁰ Visser Sellers, OHCHR, WRGUS, page 16.

For instance, in the Krstic case⁵¹ the ICTY stated that General Krstic was responsible for several cases of murders and rapes as “[T] here is no doubt that these crimes were the natural and foreseeable consequences of the ethnic cleaning campaign. [...] Given the circumstances at the time the plan was formed, General Krstic must have been aware an outbreak of these crimes would be inevitable given the lack of shelter, the density of the crowds, the vulnerable condition of the refugees, the presence of the regular and irregular military and paramilitary units in the area and the sheer lack of sufficient numbers of UN soldiers to provide protection”⁵².

That important decision ruled that sexual violence could be a foreseeable consequence of other war time violations, thereby reversing the gender discriminatory belief that wartime sexual abuse is an inevitable, isolated deviant conduct of soldiers whose abuses do not inure to their military superiors⁵³.

In the case Kvočka and three others, the ICTY⁵⁴ found it to be similarly inevitable that female detainees would be sexually assaulted while in the custody of “men with weapons who were often drunk, violent, and physically and mentally abusive and who were allowed to act with virtual impunity”⁵⁵. The Chamber found that even where such abuses were not inherent in the intended system of persecutory detention and ill treatment, it was nevertheless a natural and foreseeable consequence of the system

Further Colonel Blaskić’s⁵⁶ liability was based on superior responsibility. He was found guilty of war crimes on the basis that sexual violence was foreseeable when barracking his troops in a school where civilian women were located. He “could not have been unaware of the atmosphere of terror and rape which occurred at the school.”⁵⁷ In principle the trial chambers decision reaffirms that “gender-based violence, in particular rape, can be characterized as a foreseeable crime that military superiors are required to prevent or punish so as not to run foul of International humanitarian law and international criminal law”⁵⁸.

In addition to these judgments, Judge Chowhan in the Miltunovic Case⁵⁹ issued a partially dissenting opinion, in which he questioned the majority view on the foreseeability of sexual assault on Kosovo Albanian women by members of the joint criminal enterprise: “In a conflict like the one we are addressing, which involved able-bodied military and security forces acting pursuant to a common plan to use violence to remove large numbers of Kosovo Albanian civilians, including women, from their homes, prudence and common sense, as well as the past history of conflicts in the region, lead me to think that sexual assaults, like murders, were cer-

⁵¹ Prosecutor v. Krstic, Judgement, Case No. IT-98-33-T, 2 August 2001 (Krstic). Sexual violence formed a part of the basis of the conviction of Krstic for persecution as crime against humanity. He was the chief of staff and later commander of a Bosnian Serb army corps

⁵² Krstic, para. 615

⁵³ Visser Sellers, OHCHR, WRGUS, page 16.

⁵⁴ Prosecutor v. Kvočka et al., IT-98-30/1-T., 2 November 2001 (Kvočka). Three of the four Serb accused were convicted for crimes related to sexual violence, including rape, committed against civilian non-Serb women detained in camps in Bosnia Herzegovina.

⁵⁵ Kvočka, para 325-327.

⁵⁶ Prosecutor v. Blaskić, IT-95-14-T, 3 March 2000 (Blaskić). Findings referring to rape committed against civilians in Bosnia Herzegovina were made in the trial judgment. These findings did not relate to specific sexual-violence charges. They included findings on multiple rapes of Bosnian Muslims by Bosnian Croat forces in a village; multiple rapes of detained Bosnian Muslim women by Croatian forces and police; and a finding that the accused could not have been unaware of rapes at certain school.

⁵⁷ Blaskić, para. 732.

⁵⁸ Visser Sellers, OHCHR, WRGUS, page 17.

⁵⁹ Prosecutor v. Milutinović and 5 others, Case No. IT-05-87-T, Judgement Volumes 1 to 4, 26 February 2009 (Milutinović).

tainly foreseeable realities.”⁶⁰

Irrespective of the different explanations given for sexual violence – be it the individual’s satisfaction, social-cultural patriarchal stereotypes, a tactic of war, sanctions, a means of terrorizing or for ethnic-cleansing- it remains clear that gender-based violence against women in conflicts takes place. Where it is orchestrated as a tactic of war, it is a foreseeable and natural consequence that is therefore preventable. This notwithstanding, the role of the international community is not to supplant the Government as the primary protection and service provider but rather to support and, if necessary, call for the primary protection responsibility of the Government.⁶¹

Therefore, within the practical and expanded meaning of SCR 1820, parties to a conflict must take into consideration the foreseeability of gender-based violence in such circumstances, take appropriate measures to protect their civilians, and be aware of potential sanctions.

V. Impact of SCR 1820 to the CEDAW

We should reiterate that the information provided to the CEDAW Committee was limited through its focus on the experience of women living in conflict-affected areas. Therefore, the intersection between CEDAW and the SCR 1325 and 1820, and further more the Committee’s commitment to the spirit of these resolutions and their integral link with the CEDAW⁶² should be restated.

With SCR 1888 and 1889 the Security Council submitted a set of indicators for use at a global level to track the implementation of SRC 1325 and 1820 and demanded the development of national action plans about their efforts in implementing the SRC 1325. Nevertheless, Member states’ approach to implementing these resolutions remains limited.⁶³

The resolutions and the CEDAW are tools with which the gender equality agenda can be moved forward in conflict situations. SCR 1325 and 1820 help to broaden the scope of CEDAW application by clarifying its relevance for all parties in conflict. CEDAW, by comparison, provides concrete strategic guidance for actions to be taken as part of the broad commitments outlined in the two resolutions.⁶⁴

CEDAW and SCR 1325 and 1820 share a common agenda, particularly in relation the demand incumbent on security forces and systems to protect women and girls from gender-based violence, the protection of women and girls throughout the rule of law and the recognition of the distinctive burden of systematic discrimination.⁶⁵

It should be noted that the Committee recently:

“recalls its reporting guidelines under which State parties are required to provide information on the implementation of SCR 1325 whenever appropriate and reaffirms its resolve to

⁶⁰ Milutinovic, Dissenting opinion Judge Chowhan.

⁶¹ UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, HRC Congo, 2010, page 7.

⁶² CEDAW Committee, statement 1325, 2010.

⁶³ CEDAW Committee, statement 1325, 2010.

⁶⁴ UNIFEM, “CEDAW and Security Council Resolution 1325 – A quick guide“, 2006, (UNIFEM Report, 2006), page 4.

⁶⁵ Common Report of Women’s International league for Peace and Freedom, International Women’s Tribune Centre, International Women’s Rights Action Watch Asia Pacific, Movement of Indigenous WomenTz’ununija, Guatemala, „Thematic briefing on „Women and Armed Conflict“ between the CEDAW Committee and NGOs“, 43rd CEDAW Session, 21st January 2009.

*continue to address SCR 1325 in its constructive dialogue with State parties in the examination of their reports, in order to broaden and strengthen gender equality in the context of conflict.*⁶⁶

The CEDAW Committee further urged italic Myanmar to document:

*„cases of rape and sexual assault. (...) Such information, especially when it involves military and senior officials, would facilitate a better understanding of the situation. The State party should take due account of Security Council resolution 1325 (2000) on women, peace and security and Security Council resolution 1820 (2008) on sexual violence in armed conflict and it is encouraged to put in place an action plan for the full implementation of these resolutions, taking into account article 2, paragraph 1 of article 4, article 5 and articles 7 and 8 of the Convention.*⁶⁷

For too long the Security Council responded by saying that the subject of sexual violence did not fall within its jurisdiction and that wartime rape was not a question of international peace and security. However, the adoption of Resolution 1820 changes the foundation within which these issues are legally determined. Therefore we should now start to translate the international security policy laid down in Resolution 1820 into the terms of CEDAW regarding sexual violence, and hold governments responsible for discriminating against women in times of conflict.

To conclude, we recall the CEDAW Committee's will to "emphasize the synergy which exists between the standards in the CEDAW Convention and those set out in SCR 1325 and 1820 and its will to reaffirm its determination to provide concrete strategic guidance to State parties for actions to be taken in the broad commitments outlined in SCR 1325."⁶⁸

Further, CEDAW intends to take more direct steps to end women's suffering in armed conflicts with the aim that they will no longer be treated as objects⁶⁹. Instead, all possibilities will be employed to make women equal subjects with men as intended in the CEDAW convention. With Recommendation No.19, the CEDAW⁷⁰ recognized that gender-based violence, which impairs or nullifies women's enjoyment of human rights and fundamental freedoms under general international law or under human rights law constitutes an act of discrimination in the sense of Art. 1 of the CEDAW which involves i.a. the right to equal protection from discrimination⁷¹. On those grounds, as well as on the grounds of SC resolution 1820, states have to comply with their obligation to refrain from using sexual violence and to prevent and punish sexual violence⁷² in "armed conflict, post-armed conflict settings and refugee and internally displaced settings, where women are at greater risk of being targeted for violence [...]"⁷³.

VI. Sri Lanka⁷⁴

There are undoubtedly practical problems associated with measuring evidence of gender-based violence in the conflict.

⁶⁶ CEDAW Committee, statement 1325, 2010.

⁶⁷ CEDAW Committee, Concluding observations - Myanmar, CEDAW/C/MMR/CO/3, 7 November 2008, para. 25.

⁶⁸ CEDAW Committee, statement 1325, 2010.

⁶⁹ Special Representative on Sexual Violence in Conflict Wallström, Ending Sexual Violence, 2010, page 3.

⁷⁰ See also Art. 21 (3) of the Rome Statute.

⁷¹ Compare Viseur Sellers, OHCHR, WRGUS, page 28.

⁷² Compare p. 3, Secretary General's Report pursuant to SC RES 1820, 15th July 2009; S/2009/362 and his report S/2009/277.

⁷³ Compare Viseur Sellers, OHCHR, WRGUS, page 30.

⁷⁴ See ECCHR, "Criminal Accountability in Sri Lanka – ECCHR Study", June 2010.

Relevant for this chapter are the events beginning in January 2009. Although the conflict started much earlier, this report will focus on the last five months. The conflict officially ceased on May 18th 2009 when the governing president Mahinda Rajapaksa announced the defeat of the LTTE and hence the end of the war.

1. Reliability of the sources

It must be noted that many sources are publicly available. The reliability of the respective sources, however, differs hugely. This study focuses on reports by some of the leading non-governmental organizations such as Human Rights Watch, International Crisis Group or Amnesty International. Further UN documents and two US State Department reports were also taken into consideration. Nevertheless, testimonies and evidence provided by other groups may hint at areas which require further investigations or provide indications of possible witnesses and events.⁷⁵ In sections where the study relies on those less credible sources, the authors investigate whether the information about the incidents described is correct, although international standards of cross-checking information and evidence were at times not possible.

2. Sexual Violence against women and girls

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. For example, see the violence and harassment levels allegedly perpetrated by armed forces in the return areas, such as the rape of two women in Visvamadu, Kili-nochchi on June 2010.⁷⁶

The Rehabilitation and Research Centre for Torture Victims (RCT) in Denmark sponsored a study on the use of torture by Sri Lankan law enforcement agents. The study showed evidence that sexual violence had been used against women by those enforcing law as a method of torture.⁷⁷ The study emphasized that cases of sexual abuses were “often not ‘discovered’ and reported, even by organizations or persons working at the local level, due to issues of fear, stigma, shame, etc.”⁷⁸ Tamil women and girls have historically been the targets of various forms of sexual assault following their arrest or detention at check points. Such assaults are justified on the grounds that they or their family members are suspected members of the Tamil insurgency.⁷⁹

In 2009, the U.S. State Department issued a report on the human rights situation in Sri Lanka, in which it stated that sexual violence was a “pervasive societal problem”. This shows that sexual violence and gender-based violence is a generalized issue in Sri Lanka. For instance, a U.S. report indicated that the Bureau for the Protection of Children and Women (BPCW) received 714 complaints of grave violent crimes and 2,391 minor crimes against women in 2009. It noted “reports that individual cases of gender-based violence perpetrated by members of the security forces occurred more frequently during the conflict”. It further indicated that, “according to the BPWC, 175 reported incidents of rape occurred through August, but reported incidences of rape were unreliable indicators of the degree of this problem, as most victims were unwilling to file reports.” Although other reports indicated that military officials

⁷⁵ For more information on Tamil diaspora please see International Crisis Group, ‘The Sri Lankan Tamil Diaspora After the LTTE’, (2010) *Asia Report N°186*.

⁷⁶ WMD, Shadow Report Sri Lanka, 2010 pages 39 ff.

⁷⁷ M. K. Andersen and B. Fernando, “The Phantom Limb: Failing Judicial Systems, Torture and Human Rights Work in Sri Lanka, A Study of Police Torture in Sri Lanka”, 2009, pages 48-49.

⁷⁸ Ibid, p. 10.

⁷⁹ CEDAW Committee, Concluding Observation, 2002, para. 28; Amnesty International, “Sri Lanka: Rape in Custody”, ASA 37/001/2002, 28 January 2002.

were willing to prosecute the offenders, the U.S. State Department emphasized that no information was provided regarding the prosecutions and that only a small number of victims had reported the assault.⁸⁰

The U.S. State Department also reported that human rights groups in northern districts had alleged that “the wives of men who had been killed as a result of the conflict often fell victim to prostitution because of their economic vulnerability” and the U.S. State Department reported that “trafficking in women for prostitution and forced labor also occurred.”⁸¹

3. Situation in the camps

The U.S. State Department reported that “there were allegations of crimes and sexual assaults inside the camps, both by outside persons and by other IDPs, but access was not allowed to independent observers to evaluate these reports or to determine if there was significant variation in the number of such crimes over the level expected for a non-refugee population of similar size.”⁸²

It was also reported to the University Teachers for Human Rights that “there are many stories within the camps of young girls being singled out – especially those with links – and taken away for questioning; and of their allegedly being sexually abused”, and that victims would not speak up until they were effectively protected. It was further reported to the University Teachers for Human Rights that “at Manik Farm, the CID comes in the night and makes a count of the children” and that “young women, who are ostensibly suspected of having received LTTE training, are taken away in ambulances at night and brought back in the morning.” The witness underlined the silence surrounding what happens to the women. The University Teachers for Human Rights also mentioned having seen “letters sent from Manik farm making very similar allegations about the treatment of ex-women LTTE cadres.”⁸³

The Observer also reported that “Tamil women interned after escaping the horrors of the civil war in Sri Lanka were sexually abused by their guards who traded sex for food”, and that “the Sri Lankan Government had confirmed to *The Observer* that it had received reports from United Nations agencies of physical and sexual abuse within the camps, but maintained that it had not been possible to substantiate the allegations.” *The Observer* provided the testimony of Kumar, mentioned above, who also reported on the wide-spread sexual abuses taking place in the camps. She said: "Sexual abuse is something that was a common thing, that I personally saw. In the visitor area relatives would be on the other side of the fence and we would be in the camp. Girls came to wait for their relatives and military officers would come and touch them, and that's something I saw. The girls usually didn't talk back to them, because they knew that in the camp if they talked anything could happen to them. It was quite open, everyone could see the military officers touching the girls. Tamil girls usually don't talk about sexual abuse, they won't open their mouths about it, but I heard the officers were giving the women money or food in return for sex. These people were desperate for everything." She also reported that people “have to bathe in an open area in front of others, which I find very uneasy. I stayed next to the police station, so every day I had a bath with the police officers looking at me, men and women. Everyone can see you when you are having a bath. So I would get up early in the morning about 3.30am, so it was dark."

⁸⁰ US Department of State, “Report to Congress on incidents during the recent conflict in Sri Lanka”, 2009.

⁸¹ Ibid.

⁸² Ibid.

⁸³ University Teachers for Human Rights, “Let Them Speak: Truth about Sri Lanka’s Victims of War”, 2009, page 142.

The Observer noted that although the Sri Lankan Government claims to be aware of allegations of sexual abuse and punishment of prisoners, it denies large-scale abuse. The newspaper reported the words of Rajiva Wijesinha, permanent secretary to the Ministry of Disaster Management and Human Rights, who admitted that "there was a lot of sex going on" inside the camp but claimed that most reports involved abuse by fellow detainees.⁸⁴

Sri Lanka Advocacy Group also reported that there had been credible reports of prostitution networks in the camps which function with the knowledge and involvement of Sri Lankan security forces. It reported the following: "Many women, with no other means of financial support, have found themselves forced into selling sex for money and supplies. The large number of female-headed households among those families being resettled raises additional protection concerns given that many are returning to isolated areas patrolled by large numbers of Sri Lankan police and military. There have also been regular reports from a variety of credible sources that significant numbers of women held in the camps have been raped or sexually assaulted. According to some sources, women have been removed from the camps with police and military assistance and then assaulted. According to others, former LTTE female fighters have been raped while held in detention centers. The women involved are reportedly too afraid to report the crimes. With levels of high fear and with no independent monitors allowed access to the camps, it has not been possible to confirm or disprove these allegations."⁸⁵

TamilNet also reported various acts of sexual violence in 2009. One incident concerned the hostage-taking of 130 females for sexual abuse according to a statement by Tamil National Alliance MP S. Gajendran Saturday, citing information he received from the inmates of internment camps and from his contacts in Vavuniyaa.⁸⁶ Another incident dealt with prostitution of Tamil women interned in at least one of the militarized camps for displaced people. The newspaper *The Australian* reported in July 2009: "it's been brought to the attention of senior government officials but no one seems to be doing anything about it", claimed an aid worker, who requested anonymity for fear of reprisal.⁸⁷ Aid workers told *The Australian* that officials at the internally displaced people's camp in Pulmoddai, a remote northeast region, are running a prostitution ring using women kept in the camp. Sri Lankan Foreign Minister Palitha Kohona described the claims as "absolute rubbish", but confirmed that the government was investigating the reports. "These (the military) are the guys who were winning the war - they could have raped every single woman on the way if they wanted to. Not one single woman was raped," Kohona told *The Australian*. "I am sure in a mass of people there may be individuals who want to make a quick buck one way or another, but you have to remember the tents are so close together you can't do anything without the entire neighborhood knowing. If you had a racket going, thousands of people would know about it." (...)⁸⁸

In May, Channel 4 managed to sneak a camera into one of these internment camps. The report showed the absolutely deplorable conditions under which civilians were being held. It showed the daily humiliation visited upon female prisoners who were forced to go naked before male guards and made allegations of rape and chronic food shortages in the camp.⁸⁹

⁸⁴ G. Chamberlain, "Sri Lanka guards "sexually abused girls" in Tamil refugee camp", in: *The Observer*, 20 December 2009.

⁸⁵ Sri Lanka Advocacy Network, *Aide Mémoire Human Rights in Sri Lanka*, February 2010, http://www.forum-menschenrechte.de/cms/upload/PDF/ab_02-2010/aide_memoires2010/AM_Sri_Lanka2010_oL.pdf.

⁸⁶ TamilNet, 'Grand scale murder, rape of screened civilians feared, TNA MP alerts', *TamilNet*, 14 February 2009, www.tamilnet.com/art.html?catid=13&artid=28413.

⁸⁷ *The Australian*, 'Tamil refugees forced into sex rackets', *The Australian*, 1 July 2009 (*The Australian*); TamilNet, 'Kohona: 'Victorious soldiers could have raped every single woman'', *TamilNet*, 3 July 2009, www.tamilnet.com/art.html?catid=13&artid=29705.

⁸⁸ *The Australian*; TamilNet.

⁸⁹ www.undispatch.com/node/8816.

4. Cases

TamilNet reported the following: “Sri Lanka Army (SLA) intelligence officers operating in the internment camps of Vanni have been allegedly involved in several rape cases during the past months. At least three cases of young victims, aged 14, 15 and 16, appeared in front of Vavuniyaa District Judge in October 2009. Sri Lanka Army soldiers have also raped a 14-year-old mentally retarded Tamil girl inside the Vavuniyaa hospital.”⁹⁰

There have been many alleged rapes in Zone-2 and Zone 3 internment camps. A 17-year-old girl was reportedly raped by the Sri Lanka Army intelligence official who alleged that the girl was a former LTTE under-age cadre and threatened that she would be taken to detention centre where LTTE cadres were kept imprisoned. She was later sent to detention centre. There are also two other girls aged 17 and 19, who have been raped by the Sri Lanka Army officers.

Evidences have come to light through primary and secondary sources and TamilNet refrains from revealing the sources due to security concerns.

In the month of July, injured Tamil girls admitted in the Padawiya hospital were taken for naked open-air bath by Sinhala nurses using hose pipes to the amusement of Sinhala soldiers watching it, according to an eyewitness.

Reports have also surfaced from several sources that an influential humanitarian worker attached to a global body has been making use of women, who have been struggling to find out the plight of their husbands detained by the Sri Lanka Army inside undeclared detention centres. ‘I was shocked to learn that there were also Tamils involved in rape cases with the support of the Sri Lanka Army intelligence personnel,’ an activist documenting the evidences told TamilNet on Monday. ‘We have three cases registered on this ‘influential’ international worker’.

In May, 2009, three dead bodies of young girls were located at the riverbed near the internment camp. The dead bodies were handed over to Vavuniyaa hospital. Eyewitnesses, who have seen the corpses, report that they identified bite marks and signs of sexual harassments.

Recently, when US State Secretary Hillary Clinton condemned use of sexual violence as a tactic of war, declared rape by soldiers as a war crime and indicted Sri Lanka engaging in such a crime in the ‘past’, Sri Lankan authorities responded angrily. Sri Lanka’s Prime Minister went so far as to personally attack the US State Secretary.

‘Everybody knows that it is not a past activity of Colombo, but an ongoing crime facilitated by the entire International Community to leave hundreds of thousands in the camps at the mercy of a hostile army,’ said an exiled Tamil activist who is documenting the rape cases.

‘Humanitarian workers who have authentic evidence for the crime and for the perpetrators of the crime in the island, challenge the IC on whether it can prove its credentials by taking action if evidences are provided to it,’ he further said.”⁹¹

5. The Law

From the reports and statements collected by human rights organizations as well as those in the media it can be inferred that sexual and gender violence took place in a widespread and systematic manner. These reported offences could constitute crimes against humanity and war crimes as laid down in Articles 7 and 8 of the Rome Statute. These articles also represent cus-

⁹⁰ TamilNet, ‘Credentials of IC challenged while widespread rape by SLA alleged in Vavuniyaa’, *TamilNet*, 24 November 2009, www.tamilnet.com/art.html?catid=79&artid=30672.

⁹¹ *Ibid.*

tomary international law. As such, their content is applicable to all states, regardless of whether the states did or did not ratify the Rome Statute.⁹²

As mentioned before, there have not been any substantial investigations so far. For several reasons it is difficult to ascertain the number of victims of gender and sexual violence and the concrete facts of the crimes. In addition to the threat and fear victims in general have to face, victims of gender and sexual violence- both male and female- are stigmatized by their own group. Rape, which continues to be frequently accepted as an inevitable consequence of war, is as a consequence rarely reported as a crime.

Despite these difficulties, some facts and testimonies have already been provided by witnesses to the sexual abuses that took place in the camps. Some of these reports concern sexual abuse by guards and officers who traded sex for food, others deal with rape by Sri Lankan Army officers. Girls and women in the camps were often forced to walk around naked or to bathe in front of the guards. Although the women did not talk about sexual abuse, it has been observed that military officers were touching women. One organization reported prostitution networks in the camps.

It is worth mentioning at this point that the ICTY *inter alia* was established after a comprehensive investigation of sexual violence carried out by a UN commission.⁹³ The commission concluded that while some cases were the result of the actions of individuals or small groups acting without orders, “many more cases seem to be part of an overall pattern. These patterns strongly suggest that a systematic rape and sexual assault policy exists, but this remains to be proved”.⁹⁴ The commission relied on the fact that a majority of the cases occurred against people in detention, that similar patterns of sexual violence occurred in non-contiguous areas, and that these often occurred simultaneously with military action or activity to displace certain civilian populations.

As mentioned before,⁹⁵ Sri Lanka did not report on gender-based violence which took place in conflict-affected areas and detention centers, nor did it take adequate and effective measures to protect its civilians, or to investigate and prosecute gender-based crimes

Therefore Sri Lanka might have violated Articles 2 (c), (d) CEDAW and the General Recommendation No. 19.

VII. Conclusion

In regard to the interpretation of SCR 1820, the intersection with CEDAW and the last case, these patterns of sexual violence require further investigations.

We do not suggest that the Government should be supplanted as the primary protection and service provider, but rather call for the primary protection responsibility of the Government.⁹⁶

We reiterate that gender-based violence exemplifies the human rights violation of gender discrimination within the meaning of CEDAW. And additionally, we remind State parties to take

⁹² For a detailed legal analysis, see: ECCHR, Criminal Accountability in Sri Lanka – ECCHR Study, June 2010, page 56 -89.

⁹³ Security Council, “Rape and Sexual Assault” in: Final Report of the United Nations Commission of Experts Established Pursuant to Security Council Resolution 780(1992), S/1994/674/Add.2, vol. V, 1994, annex IX.I.C.

⁹⁴ *ibid.* annex IX. “Conclusions”

⁹⁵ Chapter II.

⁹⁶ UN Special Representative of the Secretary-General on Sexual Violence in Conflict Margot Wallström, HRC Congo, 2010, page 7.

into consideration the foreseeability of sexual violence while fulfilling their CEDAW obligations.

At this point, we reaffirm Sri Lanka's obligation to report on the gender-based violence which took 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.

We also 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.

ECCHR submits these requirements to the CEDAW Committee which is due to consider Sri Lanka's combined fifth, sixth and seventh periodic report in January 2011.