

Family Law and Practice in Sri Lanka: Women's Declaration

Suriya Women's Development Centre

The Women's Declaration on Family Law and Practice was officially submitted to Minister of Women and Child Affairs Saroja Savithri Paulraj, Minister of Justice and National Integration Harshana Nanayakkara, and Commissioner of the Human Rights Commission of Sri Lanka, Farzana Haniffa at the 'National Feminist Dialogue on Family Law and Legal Practices', held on 20 September 2025 in Colombo, with over 100 participants, including women survivors, activists, women's organisations, lawyers, academics, and policymakers.

This Declaration was prepared through a collective process grounded in survivors' lived realities and Suriya Women's Development Centre's long-standing work in the Eastern Province for over three decades. Dialogues with lawyers, women's groups, and activists and input from networks of service providers from across Sri Lanka since 2021, ensure that the Declaration carries perspectives beyond the East. The Declaration is online <https://taplink.cc/slfamilylaw> in Sinhala, Tamil, and English and open for endorsement by organisations and individuals in Sri Lanka.

Preamble

We, survivors, women-litigants, legal practitioners, and service providers in the family law system of Sri Lanka,

Recognising that the experiences of women with family law demonstrate the urgent need to dismantle discriminatory provisions, barriers of language, class hierarchies, and gender stereotypes to build a truly egalitarian legal system and deliver justice to all,

Recognising that women's economic justice, right to land, livelihoods and other resources, and right to financial and social security are contingent on a just, equitable, and accessible family law framework,

Recognising that family law and its implementation upholds entrenched social biases, gender stereotypes, imbalances of power, and a colonial legacy of systems

without accountability and impartiality, which in turn impedes the realisation of dignity and equality in the family,

Recognising that survivors are the experts of their realities and, along with their dependent children, are central to law and policy making on matters relating to the family and domestic violence,

Recognising that freedom of religion or belief, tradition, and customs have been used to discriminate against women in family laws and practices and must be countered and never be allowed to impinge on women's safety, freedom and agency,

Emphasising the vision for all women to have access to justice based on equality and non-discrimination, and to have the capacity to exercise a free choice as to the law and legal system which will govern their marriage and family relations,

Recognising equality in the family as directly contributing to equality in and development of society,

Recognising that numerous state-appointed bodies have repeatedly recommended reforms to family laws which have gone unheeded,

We hereby declare our commitment to and urge the upholding and implementation of the following principles, practices, and measures in the administration of family law in Sri Lanka:

I. Fundamental principles

1.1. Equality and non-discrimination

All persons, regardless of race, caste, religion, gender, ethnicity, ability, sexual orientation, socioeconomic status, or geography shall be treated equally before the law in all family matters. The principle of gender equality shall be paramount in all family law provisions and proceedings.

1.2. **Best interests of the child**

In all matters concerning children, their best interests shall be the primary consideration, superseding all other considerations, including practices justified as 'traditional' that may be detrimental to the child's welfare.

1.3. **Free and informed consent**

All laws and state institutions shall value and recognise the giving of free and informed consent and autonomy that every adult person has in taking decisions including in family matters and decisions relating to their bodily autonomy.

1.4. **Access to justice**

- (a) Every person shall have equal access to family law remedies and all available institutions of the state, including marriage registrars, courts and quazis, regardless of their economic status, with adequate provision for legal aid and support services.
- (b) State policies, laws and regulations, and circulars relating to family law matters shall be available in all languages in practice, other accessible forms, readily accessible to the public and strive to be in plain language so as to be easily accessible to any person.
- (c) As 'justice delayed is justice denied', survivors shall be provided with expedient resolution to legal issues so that they are able to move past legal disputes in a timely manner and proceed with their productive lives.

1.5. **Consultative and participatory law and policy making**

- (a) State institutions shall engage in consultative governance and ensure women's, especially marginalised women's, meaningful participation at every stage of the policy and law-making process, from agenda-setting and problem identification to implementation and evaluation.
- (b) True participatory governance requires redistributing decision-making power, creating mechanisms for women to set priorities, allocate resources, and hold institutions accountable for implementation. Effective participatory processes must actively include women

across lines of race, ethnicity, class, age, ability, sexual orientation, gender identity, religion, and geography, especially women who are multiply marginalised.

- (c) To this end, we reject processes that are tokenistic or seek women's input only to validate predetermined decisions and recognise that women and all others affected by these laws are significantly underrepresented in policy and law making.

II. Marriage and matrimonial relations

We recognise the profound inequality that is systemic, institutional, and structural in Sri Lanka's colonially constructed plural legal system governing marriage, divorce and matrimonial property. It is an inequality that is reflected within individuals, within families and within communities, manifesting in denying women authority, autonomy, agency and equal protection of the law. We declare that:

2.1. **A marriage law accessible to all**

All Sri Lankans shall have the right to choose to marry under the general law for marriages. The general marriage law and all personal laws governing marriages shall provide for equal access to enter into marriage and equal right to sign and participate in the formalities of the registration of the marriage.

2.2. **Minimum age of marriage**

The minimum age of marriage shall be 18 years for all persons, regardless of religious or customary law, with no exceptions for parental consent or judicial approval for underage marriages.

2.3. **Consent and capacity**

Free and informed consent of both parties is essential for a valid marriage. Forced marriages and marriages involving persons who are unable to provide free and informed consent shall be void.

2.4. **Recognise and respond to harmful conduct within marriages**

- (a) Oppressive conduct and harm caused to women and dependent children within a marriage shall be addressed with the provisions for appropriate court intervention including exclusion from the matrimonial

home, provision for custody and access of children, provision of maintenance for the spouse, provision of maintenance and education of children, and provision of money for the home. This recognises the way in which the imbalance of power and social stereotypes plays out between parties to a marriage and within the family.

- (b) Provide for the offence of marital rape by amending Section 363(a) of the Penal Code which excludes of rape by husband of wife except when judicially separated.
- (c) Provide for the offence of statutory rape without exceptions by removing the exclusion in Section 363(e) of the Penal Code that states that statutory rape will not be recognised in instances where ‘the woman is his wife who is over 12 years of age and is not judicially separated’.
- (d) All levels of state institutions, especially law enforcement will be specifically directed that no complaint of harm or violence shall be ignored or discouraged when made by a wife against a husband and shall be acknowledged, addressed, and remedied. Irrespective of marital relations all complaints must be duly recorded and the relevant procedures be followed

2.5. **Ensure equality for women in decision taking within marriage**

Women’s right to participate in decisions relating to education, travel, profession and occupation, bodily autonomy, sexual and reproductive health and family planning, to be free from violence (including marital rape), to be free from control and expectations of obedience, and to be the head of household on an equal basis must be provided for and promoted.

The practice of polygamy as permitted under the Muslim Marriage and Divorce Act has led to harm and discrimination of women and children and the practice must not be permitted to continue to be detrimental to women. If the practice is not abolished, women’s consent, in writing in the presence of a relevant legal authority, shall be made mandatory to the man entering into a polygamous marriage. All spouses and children shall be entitled to all rights outlined in the law without exception.

III. Divorce

3.1. **Mutual consent divorce**

The mutual decision of parties to a marriage shall be respected and provision shall be made for divorce by mutual consent. In recognition of power imbalances within a marriage relationship the law will ensure that rights in relation to custody of and access to children, allocation of ownership of property and maintenance after separation is fair, just, and considers the best interests of the children.

3.2. **No-fault divorce**

Provision shall be made for no-fault divorce based on irretrievable breakdown of a marriage.

3.3. **Equal access to divorce**

All persons shall have equal right to initiate divorce proceedings and shall be subject to equal procedural requirements and shall be treated fairly and equitably in the proceedings of any divorce application.

3.4. **Early dispute resolution**

Family mediation and counselling services by trained personnel shall be available to parties in a marriage relationship with the aim of managing acrimony, ill will, manipulation, harassment, and the use of children in causing hurt to one another. In the event parties choose to divorce, mediation services shall be available to facilitate fair and constructive discussions and reduce emotional and social hardships including through the provisions for shared parenting and maintenance.

IV. Property rights and financial provision

Recognising the economic impact of discriminatory family laws and practices in marriage, unions and families and the failure to recognise unpaid care work in and between families, we declare that

4.1. **Women’s right to independent decision making on property**

The restriction to married women’s right to dispose and deal with their property under customary law such as the Matrimonial and Inheritance Rights (Jaffna) Ordinance (also known as Thesavamalai) must be reformed to ensure women’s independent rights over their property.

4.2. Matrimonial property

- (a) Equal and fair treatment in the division of matrimonial property (property acquired during marriage) shall be ensured, recognising both financial and non-financial contributions to the marriage, including homemaking, child-rearing and all other unpaid care work. Property given by the bride to the groom as a traditional practice at the time of marriage, such as dowry, and property belonging to the bride prior to marriage shall be exempted from such division and will belong to the wife.
- (b) Review and take appropriate measures including enacting law to eradicate the practice of dowry.

4.3. Maintenance and alimony

- (a) Provision for maintenance shall be based on the financial needs and resources of the parties and the standard of living throughout the duration of marriage.
- (b) Provision for alimony shall be based on the principles of fairness and justice, taking into consideration in each case the duration of the marriage, financial needs, resources and earning capacity of the parties, age and health of the parties, and contributions made to the marriage.

4.4. Matrimonial home

- (a) Rights of the financially vulnerable party and their dependents to occupy the matrimonial home shall be protected regardless of legal title.
- (b) Parties seeking to oust the other from the matrimonial home by non-payment of rent, mortgage, utilities and other necessary payments or by causing harassment shall be prevented from doing so.

4.5. Inheritance rights

Provide for equal inheritance for daughters and sons, and for the inheritance of widows.

V. Child custody and wellbeing

5.1. Custody principles

Child custody decisions, be it legal, physical or any component thereof, shall be based solely on the best interests of the child, considering:

- Physical, emotional, and psychological needs of the child
- Capacity of each parent to provide care
- Existing relationships and attachments
- Child's own wishes (age-appropriately considered)

5.3. Child maintenance

Non-custodial parents shall be obligated to provide financial support based on their income and the child's needs, with effective enforcement mechanisms in place.

5.4. Protection from harm and violence

Children shall be protected from all forms of harm, violence, abuse, and harmful traditional practices, with mandatory reporting requirements for professionals.

VI. Domestic violence and protection

In the context of it being 20 years since the enactment of the Prevention of Domestic Violence Act of 2005, and while it has been an important milestone in providing protection from domestic violence, the law and procedure has failed to develop in the face of continued efforts to undermine its authority, and as such it is urgently necessary that meaningful and effective reforms are brought to this law. We declare that:

6.1. Zero tolerance of domestic violence

Sri Lanka shall adopt a zero-tolerance approach to domestic violence in all its forms, including physical, sexual, psychological, and economic abuse. The law must recognise all forms of domestic violence experienced by aggrieved parties.

6.2. Protection orders

Immediate and effective protection orders shall be available to victims of domestic violence, with provisions for restraining orders, occupation orders for the family home, emergency protection orders, and recovery of personal property.

6.3. Support services

- (a) Comprehensive support services must be provided, including safe houses and shelter, transport costs, counselling and psychosocial support, and social services including guidance and support for

livelihood, and legal aid and representation to recover from experiences of domestic violence. Continue to consider women's organisations as partners in the provision of these services.

- (b) Support must be provided for children to retain stability in certain aspects of life such as school education, social relationships, and fulfilment of basic needs such as food and shelter.

6.4. Access to effective protection orders

- (a) Every person shall have equal access to protection from domestic violence, regardless of their race, caste, religion, gender, ethnicity, sexual orientation, or socio-economic status.
- (b) Judicial officers and law enforcement officials must be specifically trained to deliver effective and timely responses to complaints or applications for protection, and proceedings are non-judgmental (including refraining from victim blaming), prevent re-traumatisation, and effectively counter domestic violence.
- (c) Law and policy must ensure that adequate state resources are allocated for support services to victims of domestic violence.

VII. Family law machinery

Recognising that Sri Lanka has failed to develop specific family courts and failed to develop an accessible, constructive, and inquisitorial approach in resolution of family law disputes, in family law procedures;

And recognising that Sri Lanka has not developed specialised judicial, legal, law enforcement, and support services for persons seeking remedies under family laws;

And recognising that delays in obtaining prompt and meaningful remedies have resulted in psychological harm, greater acrimony between parties and extended family, increased physical, emotional and financial insecurity for vulnerable parties, increased distress for children, increased duress to settle matters without fair distribution of property or payment of maintenance or alimony, we declare that:

7.1. Specialised family courts

- (a) Dedicated family courts with appropriate gender-sensitive, child-sensitive, and disability-sensitive infrastructure, trained

personnel, and child-friendly spaces and procedures shall be established in all judicial districts.

- (b) A judicial and administrative approach which does not focus on the direct confrontation between opposing lawyers or parties and instead responds to disputes by actively understanding both sides and finding out all necessary information, to be adopted in the designing of substantive and procedural aspects of family laws and inquiries into applications for protection from domestic violence.

7.2. Equal right to and equal representation in state service

- (a) Reform exclusions in law and practice that prevent women from holding public office or providing a state service including in laws such as the Muslim Marriage and Divorce Act of 1951.
- (b) Women survivors, litigants, lawyers and service providers' access to courts, administrative and executive institutions shall be unimpeded. Structural and practical barriers must be addressed, including restrictions on attire, lack of protection from interaction with perpetrators including during identification parades, lack of interpretation services, lack of creche facilities, and lack of sanitation facilities.

7.3. Legal aid

Free, accessible, and expedient legal aid shall be available for family law matters, particularly for cases involving domestic violence, child welfare, and financially disadvantaged parties.

7.4. Support services integration

Family courts shall integrate with social services, including childcare services, disability assistance, nutrition and livelihood guidance and support, health guidance and support, counselling services, guidance in education, employment and livelihood, child welfare officers and probation services.

7.5. Case management

Efficient case management systems shall ensure timely resolution of family disputes, with time limits for different categories of cases.

7.6. Training for lawyers and judges

Specialised training for judges and legal practitioners in family law, including gender sensitivity, child psychology, inquisitorial approaches to reduce acrimony and alternative dispute resolution methods shall be provided with a strong acknowledgement of the existing systemic injustice and violence. Trainings shall be done by experts who are well versed in this perspective

7.7. Family Law and Rights Commission

- (a) Establishment of a Family Law and Rights Commission which will serve as a complaints mechanism accessible to persons seeking remedies and justice within the family law system and are prevented from accessing or receiving such redress.
- (b) The Commission will especially monitor and intervene to address delays, non-acceptance of complaints or applications, insensitive, retraumatizing, overly burdensome conduct of state officials towards survivors and women litigants and their dependents.
- (c) The Commission will continuously review and recommend updates to family law provisions and institutional procedures and advise the state on improving justice within the family in line with international best practices and constitutional requirements.
- (d) Until such Commission is set up, the National Commission on Women to oversee monitoring and supporting the development of family law.

7.8. Data collection, review, reform

The National Commission on Women under the powers vested in it by the Women's Empowerment Act No. 37 of 2024 shall systematically collect and analyse statistics relating to family law and domestic violence

to be made publicly available, inform policy development and measure progress in ensuring the rights of women and children.

7.9. Review, reform and resource allocation

- (a) The National Commission on Women shall inform policy development and measure progress in ensuring the rights of women and children.
- (b) The Ministry of Women's Affairs, the Ministry of Justice of Sri Lanka and the Ministry of Public Security (overseeing law enforcement in Sri Lanka) shall endeavour to deliver gender equality in family law and prevention of domestic violence by ensuring that appropriate laws are reformed, participatory processes are adopted to review progress and respond and adequate resources are allocated from the national budget to deliver the above vision.

VIII. Public education and awareness

8.1. Legal literacy

Public education programs shall promote awareness of family law rights and responsibilities, particularly targeting women, children, and marginalised communities.

8.2. Professional education

Continuous professional development for lawyers, judges, court personnel, law enforcement, support service providers on evolving trends and family law principles and practices.

Conclusion

This declaration represents our collective commitment to a family law system that upholds human dignity, promotes equality, protects the vulnerable, and serves the best interests of families and children in Sri Lanka. We pledge to work together to implement these principles through legislative reform, judicial practice, and professional conduct.