

COALITION FOR SEXUAL RIGHTS

JOINT UPR SUBMISSION

SRI LANKA

NOVEMBER 2012

JOINT STAKE HOLDER SUBMISSION TO THE UNIVERSAL PERIODIC REVIEW

CREA, EQUAL GROUND, THE SEXUAL RIGHTS INITIATIVE AND THE WOMEN'S SUPPORT GROUP

RECOMMENDATIONS

1.

- 1) Implement the Conclusions and Recommendations of the Report of the United Nations High Commissioner for Human Rights on Discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity
- 2) Implement the Concluding Observations of the CEDAW Committee
- 3) Repeal Section 365a of the Penal Code which criminalizes consensual same-sex activities in public and in private spaces.
- 4) Take measures to prevent the Vagrancy Ordinance from being arbitrarily used against transgendered persons
- 5) Take measures to prevent the Police from arbitrarily using section 399 of the Penal Code – with regard to ‘Cheating by Personation’ against transgendered persons.
- 6) Implement sex education in schools in accordance with the Guidelines for Comprehensive Sexuality Education
- 7) Amend Article 12 (2) of the constitution which deals with non-discrimination to include sexual orientation and gender identity.
- 8) Develop and implement uniform policies for the state sector and corporate sector to enshrine the principles of non-discrimination in the workplace, based on sexual orientation and gender identity.
- 9) To broaden the definition of sexual harassment to specifically refer to situations of harassment based on sexual orientation and gender identity.
- 10) To engage with organizations working with sexual minorities with a view to building policy and sensitivity with regard to issues faced by LBT people
- 11) Refer to the Yogyakarta Principles as a guide to assist in policy development.
- 12) Respect sexual and gender identities as ‘a fundamental but potentially mutable aspect of all human beings’. A definition of sexuality rights therefore should include the right of all persons to express their preferred sexual orientation and gender identity without fear of persecution.
- 13) Adopt measures to Protect the Right to Privacy as a constitutional guarantee

Issues faced by Lesbian Bisexual and Transgendered Persons in Sri Lanka.

METHODOLOGY

2. This report was researched, compiled and prepared by CREA¹, EQUAL GROUND², the Sexual Rights Initiative³ and the Women’s Support Group⁴ Sri Lanka. The organizations have been working closely with organizations and individuals identifying as lesbian bisexual and transgender in the area of human rights, law reform, advocacy, sexual health, protection from violence based on sexual orientation and gender identity. A consultative process has been adopted with regard to the preparation of this report, having received information from partners, community based organizations and individuals working in many parts of Sri Lanka. The report does not have any inputs from the North of Sri Lanka. The report also presents recommendations for the Government of Sri Lanka to protect, promote and fulfill all human rights of LBT people available under the Constitution of Sri Lanka and other national and international human rights laws. This report will focus on the challenges faced by Lesbian Bisexual and Transgendered Persons in Sri Lanka. It will not focus specifically on issues faced by Gay and bisexual men. The report will not focus on persons under the age of 18, unless expressly stated.

3. For the purpose of this report we will include both transgender men and women. The acronym ‘LBT’ will be used as an abbreviation for Lesbian, Bisexual and Transgender. This umbrella term is meant to include lesbians, bisexual women, transwomen (male-to-female transgender persons) and transmen (female-to-male transgender persons). Members of LBT communities experience discrimination, violence and violations of their human rights on the basis of their sexual orientation, gender identity and/or gender expression.

CONTEXT AND BACKGROUND

4. Sri Lanka has ratified the following human rights treaties but is yet to make any special reference in law or policy to protecting the rights of persons belonging to sexual minorities

The International Convention on the Elimination of all forms of Racial Discrimination

The International Covenant on Economic Social and Cultural Rights

The International Covenant on Civil and Political Rights

The Convention on the Elimination of all forms of Discrimination against Women

The Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment

¹ Creating Resources for Empowerment in Action (CREA) is a feminist human rights organization based in New Delhi, India.

² EQUAL GROUND is a nonprofit organisation seeking human and political rights for the Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning (LGBTIQ) community of Sri Lanka. We are committed to creating a safe space for all LGBTIQ individuals and to providing opportunities for self help including mental well being, economic, social and political empowerment, access to health, education, housing and legal protection for the LGBTIQ community.

³ The Sexual Rights Initiative is a coalition including Action Canada for Population and Development (Canada), CREA (India) Federation for Women and Family Planning (Poland), Egyptian Initiative for Personal Rights (Egypt), Akahata (Argentina).

⁴ The WSG works to support a society free from discrimination and stigmatization for lesbians, bisexual women, and transgendered persons in which they may actively and positively contribute to all levels of society in Sri Lanka and globally.

Convention on the Rights of the Child

Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

5. In July 1999 when the Women's Support Group (WSG) announced its intention of holding a conference for lesbians, it was met with fierce public opposition. One of these protests came in the form of a Letter to the Editor published by The Island, which went so far as to advocate the rape of women attending the conference by a team of convicted rapists. The filing of a complaint against the newspaper instead led to the Press Council of Sri Lanka condemning lesbianism as "sadistic and salacious"⁵.
6. On 25 June 2010, the Daily Mirror in Sri Lanka carried a news article quoting Prime Minister D. M. Jayaratne as having said that "it is not wrong for the gay community to seek rights but we must know what exactly they want. They must communicate to us". In a letter dated 1 July 2010, the WSG and EQUAL GROUND responded to this news article by sending a written request for an appointment with the Prime Minister. However, to this date we have not received a response to our letter.
7. Sri Lanka was first reviewed in the second session of the UPR in May 2008. Apart from the submission of EQUAL GROUND⁶ the summary of stakeholder information⁷ expressly referred to some of the challenges faced by the Lesbian Gay Bisexual Transgender Intersex and Questioning community in Sri Lanka with reference to Human Rights, such as state sanctioned hate speech on the basis of sexual orientation, the use of the legal system to harass Human Rights Defenders working for LGBTIQ rights, impunity for crimes committed against LGBTIQ persons. There was also a reference to the denial of access to health services, education and employment and the ability to participate in social and public life. There was no specific mention however in the conclusions and/or recommendations and the voluntary pledges that were the outcome of the previous Universal Periodic Review with regard to the protection and promotion of the Rights of LBT individuals. Neither did any member state of the Human Rights Council praise, question or raise issues with regard to sexuality in their interventions with Sri Lanka. It can be inferred though that there was some expectation that the National Human Rights Action Plan which the Sri Lankan government committed to adopt would spell out some measures that could be taken with regard to this.

DEVELOPMENTS

UN DEVELOPMENTS

⁵ Fernando, M. (2008) 'Vagrant Voices', Himal South Asia, Vol. 21 (3), [Online] Available from: http://www.himalmag.com/Vagrant-voices_nw2138.html (accessed on 16 Nov 2010).

⁶ http://www.upr-info.org/IMG/pdf/EG_LKA_UPR_S2_2008_EqualGround_uprsubmission.pdf

⁷ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/127/09/PDF/G0812709.pdf?OpenElement>

8. We salute the commitment of the Secretary General to rally support for the decriminalization of homosexuality everywhere in the world. We welcome the work of the UN and OHCHR on Sexual Orientation and Gender Identities, and we are mindful of the Declaration on Human Rights, Sexual Orientation and Gender Identity, and the Report presented by the High Commissioner on discrimination against persons on the basis of their sexual orientation and/or gender.

CEDAW

9. Sri Lanka has ratified the CEDAW convention in 1981 and its optional protocol by ascension in 2002. Sri Lanka presented its 5th 6th and 7th periodic review to the CEDAW committee on the 26th January 2011. The delegation expressed the governments continued commitment to CEDAW and addressed measures taken to promote women's rights such as the National Action Plan for the Protection and Promotion of Human Rights which has a chapter focused specifically on Women's Rights. The Women's Support Group presented a shadow report to the CEDAW committee on the status of Lesbian's Bisexual Women and Transgendered Persons in Sri Lanka. The CEDAW committee in its concluding observations recognized that the criminalization of same sex relationships results in women being completely excluded from legal protection and urged the state part to "Decriminalise sexual relationship between consenting adults of the same sex and abide by the obligation of non discrimination under the convention"⁸
10. The CEDAW committee also expressed concern about information received in respect of the use by the Police of the Vagrant's Ordinance of 1842 to arbitrarily arrest sex workers and urged the State Party to "ensure that the Police refrain from applying the provisions of the Vagrancy Ordinance to arrest sex workers on the street"⁹

NATIONAL HUMAN RIGHTS ACTION PLAN

11. The government of Sri Lanka in its previous submission to the Universal Periodic Review, committed to the formulation of a National Plan of Action for the Promotion and Protection of Human Rights in accordance with the Vienna Declaration and Programme of Action (1993). The said Plan of Action was prioritized by the Government as a key national priority and as one which would improve human rights promotion and protection in all areas. It was explained that it would set targets which would be achieved during the next five years (commencing 2009) and facilitate a holistic approach to human rights protection and promotion, and lead to greater cooperation between government and civil society.¹⁰ Though it was expected that the Plan would receive inputs from groups and individuals working in

⁸ CEDAW 4 Feb 2011, 48th Session CEDAW/C/LKA/CO/7 - <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-LKA-CO-7.pdf>

⁹ Ibid

¹⁰ National Report Submitted in accordance with Paragraph 15(a) of the annexe to the Human Rights Council Resolution 2008 – Sri Lanka - 5/12 May– A/HRC/WG.6/2/LKA/1 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/132/02/PDF/G0813202.pdf?OpenElement>

the area of Human Rights, none of the groups working on Sexual Rights were invited to be part of the drafting committee or consultations. The said report lacks any measures that protect the rights of groups and individuals belonging to sexual minorities. It was reported that previous drafts had provisions that would decriminalize homosexuality, but the President was unhappy when he found out about this provision.¹¹

CONSTITUTION OF SRI LANKA

12. The Constitution of Sri Lanka too in Chapter 3 spells out the fundamental rights of citizens. Within Article 12 (2) is enshrined the principle of Non- Discrimination. It reads as follows: “No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds”.
13. Regrettably this provision does not explicitly protect persons of diverse sexual orientation or gender identities from being discriminated against. It must be noted that de facto discrimination against all women can only be eliminated when the principles of nondiscrimination and equality are guaranteed without distinction on the basis of sex, gender identity, gender expression, or sexual orientation, among other factors.
14. Additionally, in other circumstances, aggrieved parties have recourse to the possibility of making an application before the Supreme Court, on the basis of their fundamental rights being violated. However since it has not been spelled out that sexual orientation and gender identity are a basis for the principle of non-discrimination to be upheld, LBT persons in Sri Lanka have no form of redress. The lack of protection of the right to equality and non discrimination for members of LBT communities in Sri Lanka leads to stigma and discrimination against them as well as to their being rendered invisible in the eyes of society and of the law. This factor plays a role in deterring lesbian, bisexual and transgendered people from reporting acts of discrimination, abuse and violence that they face to the relevant authorities. Sri Lanka’s National Human Rights Commission investigates complaints of human rights violations and thus is an important site of potential remedial action. However a scan of the Human Rights Commission’s Act will reveal that the enabling law restricts its scope to ‘fundamental rights’ alone—in short to those human rights that are entrenched in the Constitution and therefore justiciable. This leaves out all human rights which Sri Lanka has undertaken to respect, protect and fulfill under international law.¹² The Human Rights Commission Act also empowers the National Human Rights Commission to make recommendations to the Government on measures which should be taken to ensure that national laws and administrative practices are in accordance with international human rights norms and standards.¹³ However there has been no known initiative that has been taken by the Human Rights Commission towards striking down the discriminatory laws that affect sexual minorities.
15. With regard to women’s sports teams, there have been unofficial reports where women who are key players in the National team have lost their positions once it has been speculated that

¹¹ Sunday Times – 11 September 2011 MR Vetoes Gay Rights – <http://sundaytimes.lk/110911/Columns/cafe.html>

¹² Law and Society Trust (2010) *Sri Lanka Atrophy and Subversion of the Human Rights Commission*, ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia.

¹³ Section 10 (d) Human Rights Commission of Sri Lanka Act No. 21 of 1996

they are lesbians. In this sense, there is direct discrimination which impedes the full enjoyment of the right to equality by specific categories of women in Sri Lanka who face discrimination due to their sexual orientation and gender identity/expression.

16. Sri Lankan Lesbian Bisexual and Transgendered (LBT) persons reported significant social exclusion on the basis of their sexual orientation and gender identity. As reflected in The LGBT Stigma Index¹⁴, during the past 2 years, many participants reported they were excluded from social gatherings or activities (e.g. weddings, funerals, parties, clubs etc..) because of their sexual orientation and/or gender identity.
17. The stigma suffered by LGBT Sri Lankans extends beyond social exclusion, with many reporting having been verbally insulted, harassed and/or threatened due to their sexual orientation and/or gender identity. Discrimination suffered was frequently even more severe, with many reporting that they had been physically abused (harassed, threatened, assaulted, rape, battery), and others reporting that they had been subjected to emotional/psychological trauma or abuse. In both forms of severe abuse, LGBT persons suffering severe abuse reported that the abuse was because of their sexual orientation or gender identity.
18. The discrimination suffered by LGBT Sri Lankans also limits access to work, health services, and education.

PENAL CODE PROVISIONS

Gross Indecency

19. Section 365a¹⁵ of the Penal Code of Sri Lanka is understood as criminalizing consensual same-sex sexual activity even in private spaces. Homosexuality therefore is seen as a criminal offense. This provision discriminates against lesbian, bisexual and transgender men and women by denying them their right to life, right to equality and right to choice.
20. To date although there have been no convictions under this provision of the Penal Code, complaints have been received by police stations citing this provision. This criminalization paves the way for police and anti-gay groups to brand all lesbian, bisexual, transgendered persons as 'perverts' and criminals. The fear of being apprehended and identified as a person of non-heteronormative sexual behavior or practice leads to a cycle of silence by members of the LBT community, by their families and friends and by the society as a whole and makes them vulnerable to a range of abuses including extortion, intimidation, unlawful arrest and detention, harassment and torture.

¹⁴ Stigma Index for Sri Lankan LGBT People, EQUAL GROUND, 2012

¹⁵ Any person who, in public or private commits, or is a party to the commission of, or procures or attempts to procure the commission by any person of, any act of gross indecency with another person, shall be guilty of an offence, and shall be punished with imprisonment of either description, for a term which may extend to two years or with fine or with both and where the offence is committed by a person over eighteen years of age in respect of any person under sixteen years of age shall be punished with rigorous imprisonment for a term not less than ten years and not exceeding twenty years and with fine and shall also be ordered to pay compensation of an amount determined by court to the person in respect of whom the offence was committed for the injuries caused to such person."

21. Lesbians, Bisexual women and Transgendered persons often grapple with issues relating to identity. Having been socialized within a hetero-patriarchal society that only sanctions the expression of biologically dictated gender identities, non-conforming individuals often resort to suicide and self harm due to the harassment and humiliation they face. While there have been a number of newspaper reports of joint suicides by two women, at least on two occasions, suicide notes had been left behind expressing their inability to face a life of separation. In such cases, it can be concluded that the women committed suicide due to that fact that their same-sex relationship was not recognized by society.¹⁶
22. For example in a case recorded by EQUAL GROUND “Chandra is a 43 years old woman from Anuradhapura. Chandra identifies herself as lesbian and she was in relationship with Maala. But once their relationship was found out by her parents they locked her up and gave her in marriage to a man who was 8 years younger than her.”¹⁷
23. In a second recorded case non- heterosexual persons were using a public toilet in Colombo were harassed by policeman who demanded that they produce their ID. They were then taken to the police station and when asked why they were arrested they were scolded using derogatory terminology. Eventually they were put into the police jeep and taken to another area. These persons begged the police to let them go. The police then asked for money to release them.¹⁸

Cheating by Personation

24. Section 399 of the Penal Code is often used against transgendered persons. The Provision spells out that -

A person is said to "cheat by personation" if he cheats by pretending to be some other person or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation - the offence is committed whether the individual personated is a real or imaginary person.

Whoever is convicted of this offence will have to face a punishment of imprisonment of either description for a term which may extend to three years, or with fine or with both.

25. There have been several cases of 'impersonation' and 'misrepresentation' brought to the courts in which women who have been 'disguised' as men have been 'discovered' and their

¹⁶ Lankadeepa, 24 August 2009; Divaina, 28 August 2009; Lankadeepa, 15 September 2009; Lankadeepa, 22 July 2005; Sunday Lankadeepa, 24 July 2005; Lankadeepa, 19 May 2005; Divaina, 23 August 2002; Lankadeepa, 23 August 2002; Lankadeepa, 5 November 2001.

¹⁷ STRUGGLING AGAINST HOMOPHOBIC Violence and Hate Crimes, EQUAL GROUND, 2011 – Case Study No 01 (<http://www.equal-ground.org/newweb/resouces.php>)

¹⁸ <http://www.youtube.com/watch?v=uGnw5KuELhk&feature=related>

'true sexual identity' exposed to the public. Similarly, transwomen have also been arrested for 'misleading the public.'¹⁹

VAGRANCY ORDINANCE

26. The Vagrancy Ordinance of 1842 remains in place and continues to give authorities the power to detain people who they consider to be loitering in public; this provision allows for arrest and prosecution of sex workers. The police have the power to determine and interpret the law, and many times the Vagrancy Ordinance is used to wrongfully detain transgendered people, and people of sexual minorities because they appear to look different. In most cases it is those of the lower socio economic status who are the most vulnerable to this form of harassment; women including transwomen are particularly vulnerable to sexual harassment, abuse and mistreatment while in Police custody.²⁰

HUMAN RIGHTS ON THE GROUND

Absence of Policy

Official documents

27. No official document gives a citizen the aspect of identifying as anything but male or female. This highlights an absence of policy with regard to the recognition of transgendered persons in Sri Lanka. Transgendered men and women in Sri Lanka are denied the right to recognition by the State due to the fact that there is no structured system which allows transgender men or women to alter the category of 'sex' on their Birth Certificate or National Identity Card. This has been left to the discretion of the medical practitioner who in effect, risks his license if he/she performs sex altering surgery on a client whose birth certificate notes his/her sex at birth. As there is no legal provision to change one's sex, people are advised to first change their birth certificates and only then go through with sex altering surgery; in effect putting the cart before the horse.

28. However, since there are loopholes in the system, on two occasions a transman and a transwoman managed to succeed in changing the sex noted in his/her identity card from female to male/male to female. Nevertheless, it should be noted that the overarching taboo on the subject in law, policy and practice, and the lack of State initiative to recognize the existence of LBT communities in Sri Lanka results in their exclusion from development programmes, for example. This absence and silence strengthens the vulnerability of members of LBT communities to stigma and discrimination, as well as to violence.

¹⁹ Lankadeepa, 'Boy Disguised as Girl since the age of 18' 31 August 2010; Lankadeepa, 'Woman disguised as a Male Army Officer married to a Woman following mobile phone love affair' 23 August 2010; Divaina, 'Women Disguised as Men (aka Tom Boys)' 17 May 2009; Lankadeepa, 'Person who had disguised himself as a man for 20 years becomes a woman at the police station' 3 January 2009; Lankadeepa, '16 year old nomadic/ gypsy girl, disguised as a man, arrested as a suspect for a murder case', 11 May 2005; Lankadeepa, 'Boy becomes Girl at Dambulla Temple' 10 March 2004; Lankadeepa, 'Female Corporal arrested on charges of giving fake ID to male army officer disguised as a female army officer', 18 January 2003; Sunday Lankadeepa, 'Case of Man Disguised as Woman' 20 July 2003.

²⁰ Daily Mirror 4 August 2011, Loitering Woman Remanded

Employment

29. With regard to the lack of policy on employment while some private workplaces may have non-discrimination policies in place, very often this fails to spell out non-discrimination in terms of sexual orientation and gender identity. In the state sector, non-discrimination policies either do not exist or are very rare. For example, the University of Colombo does not have a non-discrimination policy. In the corporate sector, the enactment of a policy on Sexual Harassment is left entirely to the discretion of the companies, and as such no formal uniform policy is adopted across the board. Even in cases where companies have taken steps to enact this policy the issues faced by LBT people are invisible and would have to be voiced through the position of being a woman.
30. Transgender persons have spoken of the reluctance of employers to offer them employment. In one case reported to the WSG, a transman had been dismissed from his employment after he had been 'discovered' by his employer.
31. Also with regard to State Security Forces, when the speculation of being lesbian is present, there has been a case where the woman has been intrusively questioned as to what sex acts she performs and consequently her due promotion has been delayed/withheld on "other grounds".

ACCESS TO HEALTHCARE

32. Criminalization renders lesbian, bisexual and transgender women and men vulnerable to a range of violations of their human rights to health. Not only are ad hoc devious clinics allowed to run programmes that "cure the addiction to homosexuality"²¹, there have been cases reported where members of these communities have been exploited and have faced abuse by unscrupulous health professionals who take advantage of the discriminatory laws that are in place. Although some higher level health care professionals have been trained on standards of confidentiality, there is little information available on whether lab technicians and assisting nurses and other minor staff are bound to protect the confidentiality of the patient concerned. For example, a woman whose husband tested positive to HIV/AIDS complained that lab technicians had revealed her HIV status to people in her home town who in turn destroyed her house.²²
33. There have been cases in which families seek assistance from mental healthcare providers to 'cure' persons who manifest 'non-normative tendencies' which results in forced institutionalization, forced psycho therapy, forced medication and even forced confinement. For instance one article²³ written by a consultant psychologist highlights the lack of awareness evident in even professional service providers. The article described homosexuality as the commonest sexual orientation disturbance, and arbitrarily placed it on the same scale as transvestism, voyeurism, fetishism and pedophilia.

²¹ Laktima 28 December 2008 Addiction to Homosexuality

²² Sri Lanka Plus (2008) I Can Tell a Married Woman [Online] Available at: <http://srilankaplus.blogspot.com/2008/04/i-can-tell-married-woman.html> (accessed on 15 December 2010)

²³ Perera R.A.R 15th February 2008, Treating alternative forms of sexual expression Island Newspaper

34. As the existence of transgendered persons in Sri Lankan society is not taken into consideration in designing healthcare, there is a lack of information on services such as sex reassignment operations by public health providers. In Sri Lanka, health services are provided by public hospitals free of charge or at subsidised rates. However, services on sex reassignment are not made available in these hospitals.

MEDIA

35. Homophobic and transphobic articles repeatedly appear in the media, especially the print media, including in some State owned newspapers and in newspapers that follow State policy. Announcers and Disc Jockeys on Radio Stations in addition to television talk shows quite often feature homophobic content. These references constitute a means by which society strengthens its resistance to recognition of LBT communities and continues to isolate, ridicule and justify acts of violence on members of the LBT communities. Complaints to the Press Complaints Commission have in most cases been unsuccessful.²⁴
36. Human Rights Defenders and other local and international officials have also been targeted by the media and publicly humiliated for their work and commitment in areas of sexual health and human rights.²⁵ These media references allege that “²⁶these individuals promote vices and aggressively promoted their ideology which has slowly started hitting the foundations of Sri Lankan society especially the family unit”.
37. Similarly, The Rivira, a Sinhala newspaper published a series of articles in its Sunday editions criticizing the work conducted by another LGBT organization in Sri Lanka. The articles maligned all LGBTIQ people and influenced tensions and violence towards the LGBTIQ community. Excerpts of these articles included quotes such as: “... ulterior motive of harming the cultural decencies and morality of Sri Lanka” likening LGBT persons to “mangy dogs who are involved in this dastardly low and heinous acts(homosexual sex).”
38. In one of the articles on the 11th September 2011, the organization was identified by name, their detailed address was also offered up and pictures of their field workers were clearly published. It also highlighted that parents needed to take extreme precautions to protect their sons, based on the notion that if a man is gay, he must necessarily be a pedophile too.²⁷

²⁴ Daily Mirror Editorial ‘A Tide Against The Natural’ 29 July 2010; Sunday Divaina ‘Women Disguised as Men’ 17 May 2009; Sunday Divaina, ‘Pudding Boarding, Sardine Boarding’ 2 May 2010; Sunday Divaina, Young Men Consuming the Forbidden Fruit’ 9 May 2010; Divaina, ‘Admitted to Male Ward due to Indistinguishable Clothing’ 17 August 2010; The Sunday Leader, ‘Karu will save us from Less-Be-Annes’, 15 August 1999; The Sunday Island, Letters to the Editor, ‘Lesbian Conference in Colombo?’ 20 August 1999;

²⁵ The Editorial, Daily Mirror, July 29,2010

²⁶ Ibid

²⁷ The Rivira 18th September 2011 (<http://www.rivira.lk/2011/09/18/janaindex.htm/> <http://www.rivira.lk/2011/09/18/vimarshana.htm> /The Rivira 09th October 2011/ <http://www.rivira.lk/2011/10/09/vimarshana.htm> The Rivira 30th October 2011/ <http://www.rivira.lk/2011/10/30/vimarshana.htm>

39. It must be mentioned here that there have been reports received that newspapers have rejected requests for the publication of paid advertisements which are sensitive to non discrimination of non-heteronormative persons.²⁸

EDUCATION

40. Sex education in schools is introduced above the age of 14years. However the lessons are structured in a very biological manner and are not in accordance with the Guidelines for Comprehensive Sexuality Education

ECONOMICAL AND SOCIAL BENEFITS

41. Some of the other areas in which LBT individuals have reported a lack of recognition help elaborate the impact of these laws
- a) Same-sex partners are denied the right to apply for housing loans due to the fact that their partnership is not afforded due recognition by the State;
 - b) In cases where same sex partners have attempted to rent properties for residence, potential landlords have been reluctant to rent out their premises;
 - c) Provident Funds (State Retirement Pension Fund) can only be accessed prior to retirement on grounds of marriage. This is discriminatory towards lesbian, bisexual and transgender men and women as they do not have an option for marriage;
 - d) Adoption of children or even official guardianship is not allowed for partners of same sex relationships;
 - e) A citizen of Sri Lanka is unable to pass on his/her citizenship to his /her same sex partner, and as a result it is not possible for LBT persons to enjoy the economic social and cultural rights that a family is entitled to.
 - f) Recognition of partnership when one of the parties dies intestate - even though partners of same sex relationships have over the years shared common spaces and resources, it is often the case that their shared property is determined as individual possession, so when one partner dies intestate the other is unable to claim this property.

VIOLENCE

42. The Criminalization of same sex relations has contributed to the invisibility of members of the community. Thus there is an absence of reported data on violence against LBT persons. This leads to further invisibility of the nature and forms of violence that affect lesbians, bisexual women and transgender persons.
43. Additionally, in cases of same-sex domestic violence, although the Prevention of Domestic Violence Act (PDVA) of 2005 allows the use of this Act for cohabiting persons, the intimacy between the two partners is not recognized since homosexuality is a criminal offense. In many cases therefore, this prevents same-sex couples in situations of domestic violence accessing the PDVA.

²⁸ EQUAL GROUND – Daily Mirror and Lankema English Newspapers, May 2011