

RESTITUTION OF LAND AND PROPERTY AND ECONOMIC REINTEGRATION



Background

The loss of land, property and livelihoods has been one of the most recurring themes to emerge in conversations with women both directly and indirectly affected by the war. The extent of those losses has varied between among women from different ethnic groups. These are often stated in the context of the greater loss and trauma women have experienced with family members killed, disappeared or disabled. This has also placed extraordinary pressures for income generation upon women in patriarchal societies where breadwinners are male and women have been shunned for stepping out of their culturally defined roles.

The directly affected women from the North and East have lost everything and are unable to resume meaningful lives without a return of the basic requirement for recovery and reintegration – land and a place to live. Indirectly affected women from other parts of the country as well have, with the death or disablement of the family breadwinner, had to adapt to a new way of life as caregivers. Women's frequent and unequivocal desire for tangible returns are also a reflection of the desire for the less tangible needs – to return to that which is familiar to them because the land is also deeply connected to their way of life, social networks and choice of livelihood.

Across all ethnic groups, women were unequivocal and consistent in their demands for full restitution and the means to re-start their lives. These demands were made in the context of considerable economic difficulties that faced these women generally.

“Can you imagine the state of women in this country once she loses her husband and all the wealth with four young children?” -Tamil woman from Trincomalee

The biggest issue that faces the people of this area is the cost of living and economic issues. Children need more educational facilities and the youth especially need more job opportunities. These are the pertinent issues that need to be solved.

—
**Tamil women from
Nuwara Eliya**





Women's understanding of restitution expands across the transitional justice pillars.

Women repeatedly asked for an evaluation of their lossesⁱ, to be gained with proof and directly from those who lost. This desire for truth was also seen to be a part of the psychological healing that is needed if women are to benefit from the tangible gains of restitutionⁱⁱ.

Underlying these questions is a sense that women's losses have deliberately not been adequately documentedⁱⁱⁱ, or in fact been denied^{iv}, perhaps due to the inability to fulfil peoples' needs^v. Women, especially single women, have limited access to decisionmaking processes or opportunities for participation in public affairs compared to men. In both the directly and indirectly affected areas, women expressed a strong desire for a 'coming out' and authentication of information demonstrating the extent of their losses. It is clear that women believe this should be part of the reckoning that has been widely demanded of the government on all aspects of the war, and also a part of their desire to have their claims be seen as legitimate.

This desire for truth about loss is vital for there to also be justice and accountability. The loss of land and property is seen as a great injustice, and justice for the victims is not only in the prosecution for crimes but also in the identification of the real victims, the return of land, property and/or livelihoods to the rightful owners^{vi} or some other form of restitution^{vii}, and in acknowledging the duty to help victims including in the provision of services. Connected to this is the understanding that if the government does not enquire into and acknowledge the losses, then it cannot be held accountable for fully compensating for them or knowing what to give back. Many women emphasised the need to ensure that for restitution to be just it must also be adequate, unbiased, and commensurate with the losses. This view was also shared by Sinhala women who noted that the financial

payments they received were not adequate.

Women are seeking the truth:

- A full evaluation of their losses^{viii}
- With proof and testimonies directly from those who lost
- In mechanisms in which women's voices and experiences will be respected.

Why truth about loss is important:

- Women's losses have not been accounted for^{ix}
- Their losses or the extent of it have in fact been denied^x
- The government is seen as not committed to fulfilling victims' needs^{xi}
- Women are not in the government to influence its decisions on this issue so transparency in government decisionmaking is essential
- Reliable information is needed to demonstrate the extent of women's losses
- Only this way will women's claims be seen as legitimate and fair
- This accounting of material losses must be done as part of a full reckoning on all aspects of the war.
- It is a part of the psychological healing needed if women are to benefit from the tangible gains of restitution.^{xii}

While women from all ethnic groups shared this common desire that their losses be acknowledged and their demands legitimised, there are differences between them in how this is articulated. They underpin the differences between equal treatment and equal opportunity, between equal versus equitable compensation. In terms of losses there

are gradations, and the views of women touched on the sensitivities related to that^{xiii}. The particular situation of war widows was also highlighted by Tamil participants, mostly women^{xiv} who do not receive State support, as well as by wives of disabled soldiers^{xv} and other people disabled by war^{xvi}.

Thus a full and transparent accounting is necessary if acts of restitution are to contribute to a sense of deserved justice between ethnic groups. Conversations with women indicate that not only should the process be impartial and transparent but also be seen to be so by the primary beneficiaries^{xvii}. Absent that it is likely the ethics and intentions of such a process would be called into question and the desire for closure will not be achieved.

Women are also seeking justice and accountability:

- Loss of loved ones who were also breadwinners, having their land and property taken away from them is a great injustice
- Justice for the victims lies not only in the prosecution for crimes but also in government action:
- Recognising and identifying those who lost
- Acknowledging the duty to help those who lost and reaching out to them
- Acknowledging what the government needs to give back, and to be held accountable for doing so
- Safeguarding women from stigmatisation or intimidation for speaking out
- Instituting an impartial process for determining restitution so it is commensurate with the losses.
- Returning land, property and/or livelihoods to the rightful owners^{xviii}
- Providing some other form of restitution if such a return is not possible^{xix}
- Providing the support services needed so victims can resume their lives

There is a need to promote a common understanding on equal treatment and equal opportunity in restitution:

- In terms of losses there are gradations – these need to be acknowledged^{xx}
- There are differences in the experience of war between Tamil and Sinhalese women
- There are differences in entitlements – wives and families of soldiers receive pension and other benefits, those of Tamils do not.
- How to measure losses is important - not only should the process be impartial and transparent but also be seen to be so by the primary beneficiaries^{xxi}
- Some groups were and are especially vulnerable

and this should be taken into account in determining restitution^{xxii}

- War widows fending for themselves and their children without state support need special attention^{xxiii}
- People disabled by war need special attention
- So do the soldiers disabled by war, whose families' financial payments are inadequate^{xxiv} or not properly communicated^{xxv}

Women also expressed their desire for restitution and economic reintegration to take place in the context of broader changes to their circumstances. Such changes would ensure that women would not continue to be economically excluded from society, thus addressing a root cause of the war^{xxvi}. They would thereby also ensure non-recurrence, a final resolution for the remaining IDPs putting women on the path to permanent resettlement. This would entail institutional, programmatic and policy changes, most notably in the areas of employment, especially migration^{xxvii}, vocational training, financing^{xxviii}, access to legal aid^{xxix}, access to services^{xxx}, bi and trilingualism^{xxxi} and a cessation of land acquisition and occupation both by the military and other high ranking officials^{xxxii}.

These changes were also seen as an avenue to empowerment, of the most underprivileged (children, widows, disabled, elderly, poverty stricken)^{xxxiii} and of all war affected women generally. However such empowerment would not be possible without also addressing the patriarchal norms and structures within which these women live.^{xxxiv}

We lived in camps and I lost my husband to the war. My land has been claimed by the army. We cannot speak out against these injustices because we are intimidated. If we do, we have to face the consequences..."

-Muslim woman from Sammanthurai, Ampara-

Most of the women in the district were uneducated and from low income families. They did not receive or know how to claim their well-deserved benefits, such as Samurdhi payments, benefits meant for the war-affected and the tsunami-affected. The most disadvantaged are women. Those who deserve assistance from the Government don't receive it. The officials give them various excuses.

- Community leader from Ampara

Broader changes to women's circumstances are necessary:

- Restitution must lead to economic reintegration and a path to permanent resettlement
- It should take into account that war affected women are among the most economically excluded from society
- They include the most vulnerable: children, widows, disabled, elderly and people living in extreme poverty ^{xxxv}
- To ensure that their exclusion does not continue, the root causes of the war must be addressed ^{xxxvi}
- This includes recognising and removing the many social restrictions on women's freedom placed upon them by men within their societies as well, such as women's lack of: ^{xxxvii}
- Acceptance and safety in their choice of work and in their workplace
- Control over their financial resources
- Participation in decisionmaking, given that women lacked representation in the processes set up by the LLRC or Disappearances Commission
- Knowledge on women's rights and education generally so that women learn to break down stereotypes about gender roles in the family
- A supportive environment in which they could assert themselves.
- A final resolution for women who lost their possessions would mean changes to policies, institutions and programs in the areas of:
 - Land occupation and acquisition by the military and other high ranking officials; ^{xxxviii}
 - Employment, especially migration ^{xxxix}
 - Vocational training
 - Access to financing ^{xl}
 - Legal aid ^{xli}
 - Access to services such as health and education, especially for their children ^{xliv}
 - Bi- and trilingualism in the provision of services ^{xlvi}
- These broader changes must be an avenue to women's empowerment.

With respect to the need for institutional reforms in restitution processes, both Sinhala and Tamil women and men expressed concerns about or highlighted the role of the State machinery in the allocation of resources, and to do it on time. Such concerns covered the need for development activities that were beneficial to civil society and fair allocations of the budget :^{xlii}

Women's concerns focused on whether State institutions can be relied on to deliver institutional change:

- With a fair allocation of resources from the budget that is commensurate to the losses ^{xlii}
- In a timely fashion
- Facilitating the need for appropriate documentation ^{xliii}
- Ensuring that compensation would not be gained fraudulently through falsified information ^{xliiii}
- Without corruption and in processes where bribery would not be needed ^{xliii}
- Without funds, including donor funds, going to families, friends and followers^l of politicians
- Without decisions being compromised by political partisanship^{li}
- Through development activities that would be beneficial to civil society rather than politicians ^{lii}





Women's specific proposed changes for restitution in the context of promoting their empowerment and ensuring non-recurrence are included in the recommendations below.

The policy framework

In March 2016 the Ministry Of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs ("Ministry of Resettlement") produced the National Policy On Durable Solutions For Conflict-Affected Displacement. The Policy is comprehensive and meets international standards, takes into account gender considerations, was produced in consultation with affected communities and provides a roadmap for the government to address the restitution and reintegration needs of these women including through the establishment of structures.

In August 2016 the Parliament adopted Sri Lanka's first Right to Information Act (RTI). The Act guarantees that every citizen shall have a right of access to information which is in the possession,



custody or control of a public authority, with some exceptions. While the provisions of the Act establishing the Office of Missing Persons would not be subject to the RTI, there are no such limitations on the duty of the government to gather and publicise information relating to the loss of land and property during the war. The provisions of this Act could therefore be used to empower women to demand full information about any documentation that may exist on land acquisition, property damages and methods and processes for restitution.

Matching government commitments with women's demands

Key points of the Policy reflect, and are strengthened by, the findings and recommendations of consultations with women and are highlighted below.

Recommendations:

Considering the views and experiences shared by women, their practical suggestions for change and the current policy environment applicable to their situation, the following recommendations are proposed.

- Government and civil society actors need to take immediate steps towards restitution and economic integration of war affected women in the context of transitional justice in Sri Lanka
- War affected women need to understand their rights. The responsibility of the State to realise those rights with respect to restitution and reintegration should be prioritised.
- The Ministry of Resettlement's Policy on Durable Solutions should be disseminated in all languages, both to the war affected population of IDPs as well as to Ministries, I/NGO service providers, intergovernmental agencies, policy makers and potential donors at national and international levels.
- A neutral and transparent process should be established for identifying those who should receive restitution, for determining the extent of their loss, and for ensuring entitlements go to those who



deserve it.^{liii} Women must play a leading role in such a process.^{liv}

- Establish and/or strengthen women's associations in decisionmaking processes at District, provincial and national levels, in forums where women's opinions will be respected, and through organizations that support victims; encourage women to become leaders.^{lv}
- Documentation should be finalised so that women could reinstate themselves, legally, with respect to entitlements, in a particular geographic area, and/or on their land.
- Infrastructure should be built to ensure the facilities necessary for livelihoods, but such development should be done with the participation of war affected women. This includes housing and land schemes, schools, hospitals, places of worship, transportation, waste disposal and ways to deal with the human elephant conflict.
- Employment opportunities should be provided that would provide decent incomes, including preferential hiring for public sector jobs, access to markets, and self employment support.
- Vocational training programs should be established or made more accessible to women so that they can learn employable skills, along with access to basic tools to start a business.
- Special loan facilities to help women get out of debt should be established.



- i. Ampara, Nuwara Eliya
- ii. Kandy, Nuwara Eliya, Hambantota
- iii. Ampara, Nuwara Eliya, Hambantota, Vavuniya, Mannar
- iv. Galle, Trincomalee, Hambantota, Puttalam
- v. Mannar Tamil group
- vi. Hambantota, Vavuniya, Trinco, Puttalam, Mannar
- vii. Hambantota
- viii. Ampara, Nuwara Eliya
- ix. Ampara, Nuwara Eliya, Hambantota, Vavuniya, Mannar
- x. Galle, Trincomalee, Hambantota, Puttalam
- xi. Mannar Tamil group
- xii. Kandy, Nuwara Eliya, Hambantota
- xiii. Ampara, Trincomalee, Vavuniya
- xiv. Ampara, Mannar, Kandy, Vavuniya, Galle
- xv. Hambantota, Puttalam
- xvi. Puttalam, Trinco, Vavuniya,
- xvii. Hambantota, Galle, Nuwara Eliya, Puttalam, Trinco, Vavuniya
- xviii. Hambantota, Vavuniya, Trinco, Puttalam, Mannar
- ix. Hambantota
- xx. Ampara, Trincomalee, Vavuniya
- xxi. Hambantota, Galle, Nuwara Eliya, Puttalam, Trinco, Vavuniya
- xxii. Ampara, Mannar, Kandy, Vavuniya, Galle
- xxiii. Puttalam, Trinco, Vavuniya,
- xxiv. Hambantota, Puttalam
- xxv. Galle
- xxvi. Ampara
- xxvii. Nuwara Eliya
- xxviii. Trinco, Vavuniya
- xxix. Hambantota,
- xxx. Hambantota, Trinco
- xxxi. All Districts
- xxxii. Ampara, Mannar
- xxxiii. Hambantota, Nuwara Eliya, Puttalam, Vavuniya, Kandy, Trincomalee
- xxxiv. All Districts
- xxxv. Hambantota, Nuwara Eliya, Puttalam, Vavuniya, Kandy, Trincomalee
- xxxvi. Ampara
- xxxvii. All Districts
- xxxviii. Ampara, Mannar
- xxxix. Nuwara Eliya
- xl. Trinco, Vavuniya
- xli. Hambantota, Ampara
- xlii. Hambantota, Trinco
- xliiii. All Districts
- xliv. Nuwara Eliya, Kandy, Trinco
- xlv. Ampara, Mannar
- xlvi. Ampara, Mannar
- xlvii. Ampara, Galle, Puttalam
- xlviii. Nuwara Eliya
- xlix. Vavuniya
- l. Ampara, Galle, Kandy, Vavuniya
- li. Kandy
- lii. Nuwara Eliya, Kandy, Trinco
- liii. Kandy
- liv. Nuwara Eliya
- lv. Trinco, Galle, Vavuniya

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