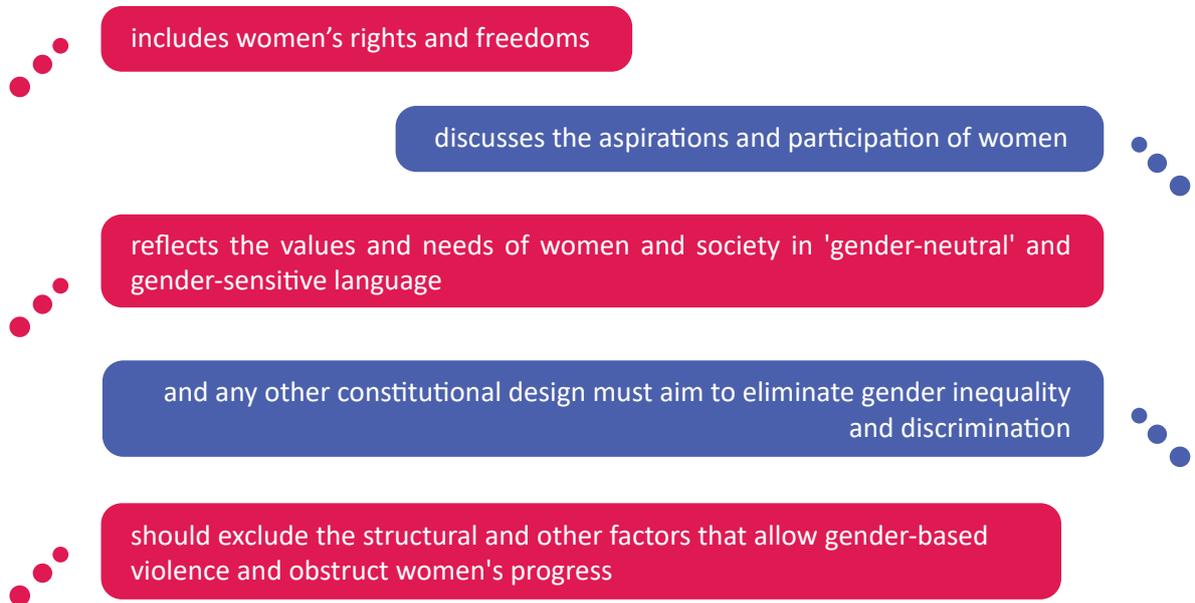
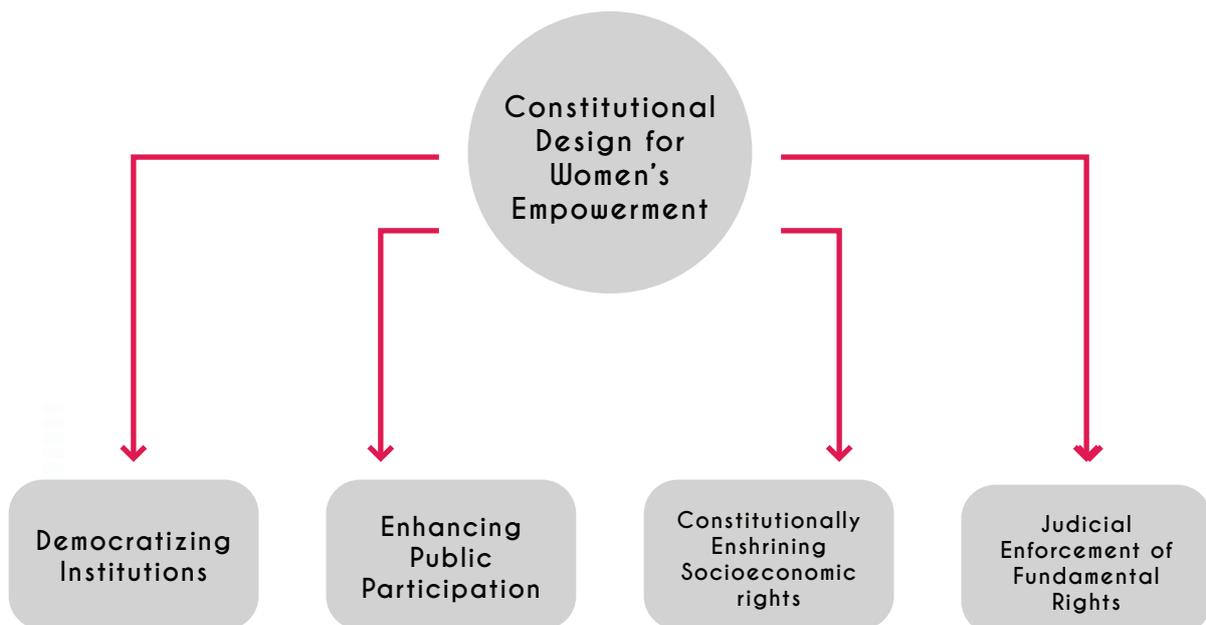


DESIGNING A GENDER-EQUAL CONSTITUTION THAT EMPOWERS WOMEN

A gender-equal constitution...



The Public Representations Commission reached out to Civil Society Organizations, interest groups, and individuals to hear their concerns and it engaged with the people on the elements they would like to see in the constitution. The report highlights 4 broad recommendations that promote women's rights and contributes to their empowerment.



01 Democratizing Public Institutions to Advance the Rights of Women

Public institutions must encourage inclusivity and women's participation and engagement.

a)



An autonomous and representative legislature with female representatives

b)



An accountable executive who is regulated by institutional checks and balances

c)



A Constitutional Court, to monitor unconstitutional actions by these institutions

d)



An independent public service such as a gender sensitive facilitator of women's rights, inquiring into systemic injustice and delays with a focus on marginalized groups

e)



Quotas in Provincial Councils and local government authorities to guarantee sufficient representation of women

f)



Independent Commissions to reform laws and practices that allow cultural and other discrimination against women

02 Enhancing Women's Participation in Governance



The female presence in governance is essential to give a voice to their rights and the challenges they face



Right to franchise with free and fair elections promote women's participation in governance and lets them choose the best representative to fight for their rights.



Equal access to political and public office lets women participate in decisions that affect them and the wider community.



Establishment of Grama Sabha/ Grama Rajya so that people, especially women can be direct participants in local governance to remedy malfunctioning bureaucratic governance.

03 Constitutional Enshrinement of Socioeconomic Rights to Empower Women

Enshrining social and economic rights within the constitution can assist in mainstreaming women's rights.



Legal Reform

- Establishment of an Anti-Discrimination Commission to address and monitor the right to substantive equality.
- Women's rights to be addressed in the constitution.



Equality in the Workplace & Livelihood

- The constitution should guarantee the right to work, employment, and livelihood for all genders.
- The State must provide the right to just and safe conditions of work. This should include equal rights to promotions and career advancement.



Equality and Health, Education, Family & Social Rights

- Food, water, housing, and social security should extend to welfare schemes that are efficient in providing social welfare support to families in need. Issues can be raised through class actions.
- Right to education with emphasis on encouraging the education of girl children.
- The right to health must include women's right to health which includes maternal, child, and reproductive health care.
- Examine the different personal laws, ethno-religious customs and practices that discriminate against women and are protected by Article 16 of the constitution.
- Constitutional protection of women's equal rights to shelter and ownership and other facets of property ownership and succession.
- The conditions of households should extend to the rights of senior citizens.
- Protection of rights of persons with disabilities.
- Rights of children and young people to be developed parallel to health care and education policies that focus on reproductive and sexual health services.



Environment and Sustainability

- Recognizing the women's role in preserving the environment and empowering women to protect their environment.
- Right to sustainable development and well-being.

04 Judicial Enforcement of Fundamental Rights

THE FOURTEEN RIGHTS OF CITIZENS

1. Freedom of thought, conscience and religion
2. Freedom from torture
3. Right to equality
4. Freedom from arbitrary arrest, detention and punishment
5. Freedom of speech
6. The freedom of peaceful assembly
7. The freedom of association
8. The freedom to form and join a trade union
9. Freedom of language and culture
10. Freedom of business / profession
11. Freedom of movement and the freedom to return to Sri Lanka
12. Right of access to information
13. Right to a lawyer
14. Right to state education and other state facilities

In order for a gender equal, rights-based jurisprudence to develop the judiciary must be open to expanding their interpretations of the scope of fundamental rights.

The jurisdiction for fundamental rights applications must expand and public interest litigation for class-action suits must be encouraged to create easier access to justice for women and marginalized groups.

a) Judicial Review of legislation through a Constitutional Court that is empowered to interpret the constitution and to assess the constitutionality of constitutional amendments, bills, and laws passed by parliament and the provincial councils is crucial.

b) Legal Aid with a specific mandate to assist women who seek to ensure their rights

c) Guidance from Directive Principles of State Policy to ensure accountability of the government; giving effect to these principles through the laws and policies that it frames, or at a minimum, not violating these principles through its laws and policies.

SUMMARY

Laws and policies must understand and embody the real-life experiences, constraints and challenges of women in order to improve their lives and livelihoods.

The constitution making process through the Public Representation Committee brought to the forefront several issues and well-considered recommendations for possible reforms.

Whenever the discourse around a new constitution or calls for reforms to make government stronger arises, the gender perspective is forgotten. This is absent in many policy and legislative reforms proposed and brought into effect and consequently has no impact on women's lives.

Women need to understand these setbacks and demand for a constitution that is gender equal and supports their aspirations.

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The government newly elected in 2020 is also calling for constitutional reform - a complete overhaul of the constitution to remove articles that control the power of the president.

They argue that only a president with unfettered powers can develop the country. The new constitution may remove or constrain the independent institutions, provincial councils and restrictions on dual citizens entering Parliament.

To date we have not heard how the new constitution will engage with and empower women.

Women must add their voice to this debate. They must have a clear focus and understand what constitutional changes that exclude a gender perspective will mean to them.

