

Impact of Sri Lanka's economic crisis on LGBT+ population

Housing

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Policy brief

Background

Sri Lanka's economic crisis has been driving millions of people into poverty, jeopardising their fundamental rights and freedoms. The crisis was multi-dimensional and comprised food insecurity, a dire shortage of fuel and transport, loss of livelihoods, shortage of essential medicine and healthcare equipment. By July 2022, Sri Lanka owed more than 51bn US dollars (USD) to foreign lenders, while official foreign reserves dropped to USD 1.82 billion. The UN estimated that, in 2022, 5.7 million people needed humanitarian assistance, with 4.9 million – 22% of the population – being food insecure. According to UNICEF, families were already struggling from the pandemic, with 36% reporting reducing their food consumption, which doubled to 70% in 2022, as the economic crisis hit. Disenfranchised groups, such as women, children, and LGBT+ communities have been disproportionately affected by the crisis, while incidents of sexual and gender-based violence (SGBV) are reportedly increasing.¹

The crisis adversely affected the basic rights of Sri Lanka's LGBT+ population. During the crisis many LGBT+ people alongside many others lost their means of earning a living. An issue that is compounded for many LGBT+ people given the discrimination and exclusion they continue to face.

Objectives

The objective of this policy brief is to assess how Sri Lanka's political upheaval and economic crisis has exacerbated existing structural weaknesses and negatively impacted the housing rights of LGBT+ communities.

LGBT+ communities' access to justice and rights to remedy for human rights violations are cross-cutting themes.

¹<https://womensmajorgroup.org/feminist-collective-statement-on-the-sri-lankan-crisis/>

Methodology

This policy brief was based on literature and field data gathered with qualitative data analysis. The analysed literature covered reports produced by civil society organisations and media outlets on the economic crisis and its impact on LGBT+ communities in Sri Lanka. Further information was gathered through eight Focus Group Discussions (FGD) and eight Key Informant Interviews (KII) conducted across the country, with a representative sample of geographical areas and an intersectional representation across gender identities, sexual orientations, ethnicities, classes, and languages. The questions were open-ended, and participants' safety was protected with the utmost confidentiality. Informed consent was obtained before all discussions. The key issues identified in this paper are those that emerged from the interviews.

Human rights framework

Adequate housing is a human right, which states have a fundamental obligation to recognise, protect and fulfil. Article 11 of the International Convention on Economic Social and Cultural (ICESCR 1966) requires states to take appropriate steps to ensure the realisation of this right linking it to protection of the right to an adequate standard of living.

The UN Committee on Economic, Social, and Cultural Rights has underlined that the right to adequate housing should not be interpreted narrowly. Rather, it should be seen as the right to live somewhere in security, peace, and dignity. The characteristics of the right to adequate housing are clarified mainly in the Committee's general comments No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions. These freedoms include protection against forced evictions and the arbitrary destruction and demolition of one's home; the right to be free from arbitrary interference with one's home, privacy, and family; and the right to choose one's residence, to determine where to live and to freedom of movement.²

Sri Lanka ratified the ICESCR on June 11, 1980, and consequently has the obligation to "guarantee that the rights (...) will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."³

In Sri Lanka, the right to land and property is not a constitutionally guaranteed fundamental right. However, the Directive Principles of State Policy and Fundamental Duties of the Constitution indicates that the state should pledge to fulfil "*...the realisation by all citizens of an adequate standard of living for themselves and their families, including adequate food, clothing and housing, the continuous improvement of living conditions and the full enjoyment of leisure and social and cultural opportunities*" (27.2(c)).

² See https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf for further information on state responsibility and rights to housing. Accessed February 2023.

³ ICESCR 1966 Accessed February 2023

Despite Sri Lanka's obligations, the majority of the laws governing land or housing are not human rights compliant. The State Land Ordinance which governs 85% of the land in Sri Lanka was enacted in 1947, during the colonial period. The Rent Act which governs house renting enacted in 1976 is grossly inadequate for today's housing demands. These laws therefore need to be amended.

Major issues faced by LGBT+ communities during the crisis

Increased pressure to find own accommodation

The joint NGO submission to the Universal Periodic Review (UPR) in 2022 indicates that LGBT+ people are often subjected to domestic violence and therefore forced to leave homes.⁴ As interviews during the research for this brief revealed, during the economic crisis, some LGBT+ people faced increased emotional harassment from family members. Some felt the pressure to find alternative accommodation despite not having a regular income. Many of those interviewed expressed that even if family life had been without issue during the crisis, they were increasingly singled out because of their sexual orientation and/ or gender identity.

Economic hardships that led to forced eviction

Interviews revealed that during the COVID-19 pandemic and the severe economic crisis that followed, many LGBT+ people lost their means of earning a living - similar to many others in Sri Lanka's working class. Prior to the economic crisis, legal, social, and cultural discrimination forced many LGBT+ people to seek a livelihood in the informal economic sector, and since the crisis many LGBT+ people lost these jobs. The majority of the interviewees live in rented accommodation and often due to widespread discrimination and a lack of equality before the law, rent under precarious conditions. High inflation meant that most of people's earnings were spent on food, leaving many unable to pay rent. The precarious nature of the rent arrangements and the lack of adequate tenure often resulted in harassment and evictions with no means to seek legal support.

Lack of safe spaces for activists

During the "Struggle" (Aragalaya/Poraattum) a group of LGBT+ persons opened "Samanathmatha Piyasa" (Equality Shelter) at the protest site.⁵ It was, to some extent, a safe space for LGBT+ people. Many did not have safe places to go to after they were chased out of this space. The limited number of LGBT+-friendly safe houses run by NGOs didn't meet demand. Existing temporary housing measures already in place were forced to increase their security protocols given the threats from the Police and CID towards the activists involved in the protests. Many of the community members and allies who could take it upon themselves to provide temporary accommodation for leading LGBT+ activists.

⁴<https://www.upr-info.org/en/review/sri-lanka>

⁵<https://ceylontoday.lk/2022/06/24/aragalaya-pride-march-on-25-june/>

Lack of access to LGBT+-friendly accommodation

Interviews revealed that, during the crisis, many LGBT+ people tried to switch to more affordable places. Many were turned down due to continued prejudice. Gay, lesbian and bisexual people had to hide their sexuality to find accommodation. Transgender people faced more discrimination when seeking accommodation. The rules in many places violate rights to privacy. Several landlords refused to rent to LGBT+ people due to the fact that they did not have permanent or “reputed” jobs. Transgender persons compelled to leave home once they had begun to transition found it extremely difficult to find places to rent.

Exclusion from state/non-state services

Most of those interviewed were forced to leave their families and homes due to discrimination, violence and/ or harassment.⁶ Many migrated to cities to take advantage of greater opportunities and to live in relative anonymity. High real estate prices prevent many of them from owning their own places in cities. Many live in temporary accommodation, the result of which is that they are often not included in electoral registers. Absence from the register has, in turn, resulted in LGBT+ people being excluded from applying to any state housing schemes or grants. Some also had issues opening bank accounts due to not having a *Grama Niladhari* certificate. Some individuals who lived in temporary houses on lands that belonged to Colombo Municipal Council were forced to leave due to new construction projects, without being given the right to apply for similar housing schemes that were given to families on the electoral register.

Lack of access to legal or financial support against forced eviction

Many LGBT+ persons evicted for non-payment of rent stated that it was difficult for them to secure safe housing through NGOs, due to the fact that many LGBT+ NGOs in Colombo run low-budget safe-shelter facilities with limited spaces. Several NGOs have found it is difficult to maintain safe shelters without continuous funding. Meanwhile, LGBT+ persons are unable to go to the police or seek legal aid support against eviction due to fear of revictimisation. Many were temporarily staying at friends’ places while trying to find cheaper housing and, as a result, many participants reported that their quality of life had decreased during the crisis. Moreover, the majority of emergency support provided by LGBT+ NGOs was limited to food and dry rations, only a limited number of organisations provided partial financial support for rent.

⁶One Country, Many Arbitrary Laws, WFD, 2021

Recommendations

- a)** Provide immediate targeted measures to support all disenfranchised groups at risk due to the crisis, including LGBT+ persons.
- b)** Establish a mechanism through the Legal Aid Commission to provide necessary legal support against forced evictions.
- c)** Train law enforcement authorities on handling complaints by LGBT+ communities with confidentiality and fairness, including increased gender sensitivity training.
- d)** Take necessary steps to repeal 365 and 365A of the Penal Code of Sri Lanka, which criminalise same sex intimacy and lead to continued discrimination, prejudice and abuse.
- e)** In consultation with trans activists, develop and table a bill for legal gender recognition in Sri Lanka that's based on self-identification to allow trans and non-binary people to change their identification documents.

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