

**JOINT CIVIL SOCIETY SUBMISSION TO THE UN UNIVERSAL PERIODIC  
REVIEW (SRI LANKA)**

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Submission by organizations and individuals<sup>1</sup>

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## **Introduction**

1. The present submission focuses on the last two years of the Mahinda Rajapaksa government (2013- 2014) and the commencement of the National Unity Government of President Maithripala Sirisena and Prime Minister Ranil Wickremesinghe since 2015. The years 2012-2014 witnessed continued authoritarianism, weakening of the rule of law, shrinking of space for human rights and dissent and the exacerbation of the culture of impunity. With the regime change of January 2015 and the formation of a government by the two main political parties on a platform of governance, some reforms took place<sup>2</sup> but surveillance, intimidation and militarization persist. Two years into this government, there is growing disillusionment regarding the slow rate of progress and the number of unimplemented promises. Continued attacks against religious minorities and the inability or unwillingness to hold perpetrators to account for rights violations have contributed to apprehension about the prevailing culture of impunity. Thus, whilst certain improvements are recorded in this document, attention is also drawn to the deep structural and protection issues requiring immediate attention.

## **Rule of Law**

2. Deterioration in the rule of law was evident during 2013 and 2014 due to the centralisation of power by the Executive, politicisation of independent institutions and the lack of investigation and prosecution into serious human rights abuses. With regime change in 2015, some of these trends were halted. Despite the promised reforms, progress has been slow.
3. The 18<sup>th</sup> amendment to the constitution, which further consolidated power in the Presidency and undermined the functioning of independent institutions, including the Human Rights Commission of Sri Lanka (HRCSL), was repealed in April 2015 by the 19<sup>th</sup> amendment and received near unanimous support in Parliament. Key highlights of the 19<sup>th</sup> amendment include the removal of the President's immunity for official acts,<sup>3</sup> reducing the President's power in relation to Parliament,<sup>4</sup> reintroducing term limits for the office of the President,<sup>5</sup> taking away the sole power of the President to make appointments to key independent institutions<sup>6</sup> and improving transparency in the law making process.<sup>7</sup> However, there are mixed results regarding the operation of the 19<sup>th</sup> amendment. Several concerns have been raised about the Constitutional Council particularly in relation to its composition<sup>8</sup>. Significant delays were evident with the appointment process and questions posed about the lack of transparency in its decision making process.<sup>9</sup>
4. The functioning of independent institutions has also seen mixed results -some commissions being assertive and challenging the decisions of the executive<sup>10</sup> whilst others being largely ineffective.<sup>11</sup> Furthermore, several independent commissions have been hampered by the delay in enacting enabling legislation.<sup>12</sup>
5. A major concern relating to the Independence of the Judiciary was the impeachment of former Chief Justice (Dr. Shirani Bandaranayake) by Parliament and the Executive.<sup>13</sup> This was done contrary to representation made by the then Government of Sri Lanka (GoSL) to the Human Rights Committee (CCPR).<sup>14</sup> Despite the change in government in

2015, no steps have been taken to bring in new legislation to provide for an impeachment process

which, protects the right of an accused judge to a fair hearing and provides adequate procedural safeguards.

6. The period 2013 – 2014 witnessed several appointments made to the Superior Courts of individuals who were perceived to be close to the Executive. With the appointment of the CC, there is a greater acceptance that the judicial appointments made since 2015 are individuals who are qualified and independent.
7. The Right to Information (RTI) was introduced as a constitutional right in 2015 and subsequently followed by enabling legislation. The law is now being operationalized. However concerns have been raised about the government's political will to release all information, and provide adequate funding for the functioning of the independent RTI commission.
8. Although there have been improvements in the law making process with more time available for citizens to raise concerns about laws and review of laws through the Parliamentary Oversight Committee process, there are concerns as to several legislative initiatives proposed by the GoSL including during 2015-2016.<sup>15</sup>
9. Despite several promises, parts of the 13<sup>th</sup> Amendment remain unimplemented, raising serious concerns about successive governments' commitment to constitutional governance.<sup>16</sup> There are also concerns as to whether the ambitious constitutional reform process undertaken by the GoSL can be achieved.<sup>17</sup>

### **Enforced Disappearances**

10. The second largest number of enforced disappearances in the world is reported from Sri Lanka<sup>18</sup> and with cases reported as recently as 2016.<sup>19</sup> Secret and illegal detention facilities were reported in Trincomalee and visited by the UNWGED.<sup>20</sup> The extensive use of enforced disappearance, lack of judicial accountability<sup>21</sup> and of decisive and sustained efforts to secure the truth, the absence of a comprehensive reparation programme and social, psychological and economic support for the victims have left profound wounds on society and a deep sense of mistrust among victims. Although several positive steps were taken by the GoSL to tackle the issue of disappearances,<sup>22</sup> there continues to be issues with implementation.<sup>23</sup> Despite the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance, there are delays with enacting domestic legislation.<sup>24</sup> The culture of impunity had become endemic among the police and security forces in Sri Lanka<sup>25</sup>. Slow progress by the GoSL on addressing the issues associated with enforced disappearances<sup>26</sup> resulted in protests across the Northern Province.

### **Extra judicial Killings**

11. Extra judicial killings (EJKs) that took place during 2012-2014 were not adequately investigated.<sup>27</sup> Custodial deaths continue to date (discussed in torture section). The response to cases of death in custody has been extremely slow<sup>28</sup>. In the past, Government

officials have attempted to justify extra judicial killings<sup>29</sup> or claimed suspects committed suicide or in one case drowned while trying to escape.<sup>30</sup> On 20<sup>th</sup> October 2016, two Jaffna university students were killed by Police Officers at a check- point, which created a furore. Immediate action was taken with the arrest of the perpetrators. Death in custody is investigated under chapter 33 of the Code of Criminal Procedure Code (CrPC) Act but certain elements of this chapter on investigations into sudden deaths are inadequate to investigate deaths in custody.<sup>31</sup> Police still continue to enjoy impunity in the reported 5 cases<sup>32</sup> of custodial death due to excessive use of force by police, which occurred between 2011 and 2015.<sup>33</sup> Furthermore, even though the report has been submitted to the government on the killing of 27 inmates of the Welikada prison, the perpetrators have yet to be brought to justice.<sup>34</sup>

## **Torture**

12. Although domestic legislation criminalizing torture and other cruel, inhuman or degrading treatment or punishment was enacted in 1994, only a handful of cases have been filed to date.<sup>35</sup> Despite some steps being taken to address torture,<sup>36</sup> it continues to be a challenge.<sup>37</sup> Torture inflicted during questioning by agents of the state has resulted in custodial deaths in Sri Lanka<sup>38</sup> with very limited action taken to curb this practice.<sup>39</sup> In fact, some proposed reform could further exacerbate the potential for custodial torture.<sup>40</sup> There are continuing allegations of delays and inertia from key actors including the Police and the Attorney General's Department in proceeding with cases.<sup>41</sup>
13. Furthermore, Magistrates fail to routinely observe basic internationally recognized standards of inquiring from suspects produced by the police as to whether they have been tortured.<sup>42</sup> Judicial Medical Officers (JMOs) have not adopted or adapted any part of internationally binding standards of the Istanbul Protocol toward documenting complaints of torture.<sup>43</sup> Prison overcrowding is an issue of concern in Sri Lanka<sup>44</sup> with information suggesting that torture is rampant, carried out both by prison officers and the inmates.<sup>45</sup> There appears to be little interest in pursuing strict disciplinary action even when there is a finding of torture in fundamental rights cases.<sup>46</sup> The lack of emphasis to prevent and punish mental torture is also troubling.<sup>47</sup>
14. The legal obligation of informing the HRCSL about those arrested, detained or transferred to a different place of detention under the Prevention of Terrorism Act (PTA)<sup>48</sup> has only been adhered to since May 2016.<sup>49</sup> The GoSL has promised to replace the PTA with a counterterrorism law, which is consistent with Sri Lanka's international obligations. Current reports are that the initial leaked draft of the proposed law, which was criticized by civil society<sup>50</sup> and in the media<sup>51</sup> for being far worse than its predecessor, is to be revised.

## **Detainees**

15. Despite the laps of over eight years since the end of the war and despite promises made in 2015 and continuous agitation for their release as of September 2016, there were approximately 200 Tamil detainees in Sri Lanka<sup>52</sup> and most of them are detained over a decade even without a proper charge<sup>53</sup>. Although some improvements have taken place over the past two years,<sup>54</sup> some major problems still remain. Recently a Sri Lankan High

Court found a Tamil woman who had been detained for more than 15 years in prison not guilty.<sup>55</sup> Furthermore, it was reported that detainees who have agreed to participate in the government's rehabilitation program for ex-combatants before their release are subjected to torture and sexual violence.<sup>56</sup> The GoSL has failed to provide a list of surrendees<sup>57</sup>, despite several assurances and requests.<sup>58</sup> The distinction between surrendees and detainees has been blurred over the past few years, further complicating the ability to ascertain the number of persons under each category and the legal process to be followed.<sup>59</sup>

### **Freedom of Association and Assembly**

16. Freedom of association and assembly were subject to severe threat under the previous regime.<sup>60</sup> With the election of the new Government in 2015, freedoms of association and assembly have attracted comparatively fewer restrictions but there continue to be challenges such as the violations of people's right to peaceful protest,<sup>61</sup> increase in the culture of fear and intimidation,<sup>62</sup> extreme scrutiny of civil society<sup>63</sup> and curtailment of unionization, which in turn affects the enjoyment of the said freedoms.
17. Court orders obtained by the Police have been used to curtail freedom of assembly<sup>64</sup> with media reports indicating proposals for the introduction of geographical limitations for protests.<sup>65</sup> In the context of continued militarization, the situation in the North and East is more repressive than other areas.<sup>66</sup>
18. Even though, workers in the Economic Processing Zones (EPZs) have been actively engaging in trade union activities and won numerous benefits, the GoSL discouraged trade union activities as a means to facilitate Foreign Direct Investment to the country.<sup>67</sup>

### **Freedom of Expression**

19. Since January 2015, there has been an improvement in the freedom of expression and media freedom.<sup>68</sup> However, despite important steps<sup>69</sup>, by the present government to improve the environment for dissent, attacks against journalists have continued with impunity.<sup>70</sup> Furthermore, there is a failure to address the impunity for crimes against journalists particularly those attacked and killed in the Northern and Eastern provinces.<sup>71</sup> Many cases of violent attacks, abduction and killing of journalists, as well as outright violence against media institutions, which were highlighted during the previous reporting cycle remain uninvestigated.<sup>72</sup> Although there were renewed efforts to investigate a few high profile cases relating to journalists<sup>73</sup>, progress appears to be limited and prospects of holding perpetrators to account remain bleak.<sup>74</sup>

### **Freedom of Religion**

20. Minority ethnic, religious and ethno-religious communities continue to face violence<sup>75</sup> the most serious of which was the violence in Aluthgama in June 2014 which resulted in 3 deaths, widespread injuries and large-scale property destruction.<sup>76</sup> The National Christian Evangelical Alliance of Sri Lanka (NCEASL) has recorded over 450 incidents of intolerance faced by Christian Evangelical communities from 2012—2017.<sup>77</sup> Similarly, within the same time period, the Secretariat for Muslims (SFM) recorded over

470 incidents perpetrated against Muslims; incidents including threats, attacks, attempted attacks, harassment, incitement, intimidation and violence.<sup>78</sup> Hindu places of worship have been subject to destruction, robbery, vandalism and in some cases, been replaced by Buddhist shrines including with the assistance of security forces.<sup>79</sup> There continues to be a weak response from the law enforcement officers for such offences including cases of serious violations.<sup>80</sup> Although a few steps have been taken<sup>81</sup> to ensure religious and racial harmony, impunity continues under the present government<sup>82</sup>, as it did under the previous regime.<sup>83</sup>

## **Women's Rights**

21. Despite Sri Lanka's international treaty obligations and commitments,<sup>84</sup> there are several laws and Constitutional provision<sup>85</sup> which, contains discriminatory provisions towards women.<sup>86</sup> Although the present government has taken a few steps to address this issue, many challenges remain.<sup>87</sup> For example, equal job opportunities and equal wages are denied for women.<sup>88</sup> In practice, discriminatory concepts such as 'head of the household' and a number of discriminatory policies<sup>89</sup> prevail.
22. When accessing services, women are also subjected to sexual exploitation and sexual bribery by various State officials<sup>90</sup> and impunity prevails for all forms of sexual violence.<sup>91</sup> Approximately 1,400 rape complaints resulted in 0 to 7 convictions per year (2009-2014).<sup>92</sup> Protections available under the Prevention of Domestic Violence Act are undermined by conservative<sup>93</sup> judicial interpretations<sup>94</sup>. Tamil speaking women face discriminatory practices including language barriers and stereotyping when they access justice, due to lack of Tamil speaking personnel.<sup>95</sup> The problems faced by conflict-affected women<sup>96</sup> and women ex-combatants<sup>97</sup> are not adequately addressed by the GoSL and they still suffer as vulnerable groups.<sup>98</sup> Muslim women are subject to various violations<sup>99</sup> and they are not protected by the Fundamental Rights in Constitution.<sup>100</sup> Health vulnerabilities exist for women, including the conflict affected, plantation workers, sex workers and LGBTIQ women who are denied access to adequate services. Sri Lankan Anti-Trafficking law conflates trafficking for sex exploitation and sex work, denying sex workers the right to choose this trade, and invoke the protection of the law in cases of violence and exploitation.<sup>101</sup> Women with disabilities (who count for 57% of persons living with disabilities) face greater risk of abuse.<sup>102</sup> Political participation of women in Sri Lanka continues to be a challenge.<sup>103</sup>

## **Rights of Migrant Workers**

23. Despite the revenue earned by migrant workers in 2015 being USD 6,980 Million<sup>104</sup>, many gaps exist in the rights and policy framework. For example, although Sri Lanka has signed the Convention on the Protection of the Rights of All Migrant Workers, there is no national enabling legislation.<sup>105</sup>
24. State party maintains declarations and reservations under articles 49, 54, 76 and 77<sup>106</sup> of the Convention that may impede the full enjoyment of the rights of migrant workers under the Convention. Although the convention provides the right to effective remedy, this has been ineffective.<sup>107</sup> Sri Lankan embassies in countries with a high percentage of Sri Lankan workers lack the capacity to deal with the needs of migrant workers. Women

migrant workers are particularly at risk of discrimination, abuse and exploitation.<sup>108</sup> Also, Sri Lanka fails to provide health care to migrant workers.

### **Rights of LGBTIQ Persons**

25. Sections 365<sup>109</sup>, 365A<sup>110</sup>, 399<sup>111</sup> of the Penal Code of Sri Lanka and the Vagrants Ordinance<sup>112</sup>, continue to be used to legitimize the mistreatment of LGTBTIQ persons by officials of the State<sup>113</sup> and also exclude the community from accessing state services<sup>114</sup>. The absence of mechanisms to address hate speech<sup>115</sup> and the dissemination homophobic/transphobic statements by government representatives<sup>116</sup> and by the media continue to uphold heteronormativity and strict gender roles. Of concern is that despite recommendations<sup>117</sup>, proposals in the draft National Human Rights Action Plan 2017-2022 to repeal S.365 and 365A and to ensure sexual orientation and gender identity equality were condemned<sup>118</sup> and removed<sup>119</sup>.

### **Rights of Persons with Disabilities**

26. Persons with Disabilities (PwD's) constitute 8.7%<sup>120</sup> of the total population. Although Sri Lanka is a state party to the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)<sup>121</sup>, it is yet to accede to the Optional Protocol. Although the existing Act<sup>122</sup> addresses some issues,<sup>123</sup> it lacks the required safeguards provided in the UNCRPD. Furthermore, there were obstacles in the process of drafting a new draft Disability Rights Bill (DRB 2006).<sup>124</sup>

27. The term 'disabled' is not mentioned in Article 12(2) of the Constitution<sup>125</sup> and persons with disabilities face enormous challenges in accessing justice,<sup>126</sup> in getting employment<sup>127</sup>, accessing information<sup>128</sup><sup>129</sup> and voting<sup>130</sup>. Accessibility standards are not properly implemented even within state institutions and buildings.<sup>131</sup> The existing Circular<sup>132</sup> for public sector employments and University Admission Guidelines<sup>133</sup> for selection of preferred study streams includes discriminatory clauses<sup>134</sup>. Furthermore, the political participation of disabled persons is low<sup>135</sup>.

### **Rights of Children**

28. Although Sri Lanka affirmed its determination and renewed its commitments towards the better implementation of children's rights<sup>136</sup>, significant challenges exist in achieving this. There are a significant number of cases of sexual abuse of children recorded during the previous<sup>137</sup> as well as the current regime.<sup>138</sup> Delay in addressing rape and abuse cases exacerbate the culture of impunity.

29. One of the other major issues is child labour, with almost 100,000 child workers in Sri Lanka.<sup>139</sup> Special Rehabilitation programme for children who live in conflict affected areas and were forcibly recruited as combatants is an issue.<sup>140</sup> Furthermore, Muslim Marriage and Divorce Act causes violations of rights of Muslim Children.<sup>141</sup> The rates of murder and/or abandonment of newborn infants are high in Sri Lanka.<sup>142</sup> Corporal punishment in the name of "discipline" still continues in homes, schools, childcare institutions and juvenile detention centers. Education for children with disabilities is insufficient.<sup>143</sup>

## **Transitional Justice**

30. Sri Lanka's transitional justice (TJ) commitments stem from both the LLRC Report's recommendations and the Human Rights Council Resolution 30/1 of 2015.<sup>144</sup> Although Sri Lanka undertook to expeditiously implement the National Action Plan on the LLRC recommendations in the previous UPR cycle<sup>145</sup>, many delays were evidenced, as with the implementation of Resolution 30/1.
31. In response to the LLRC's call for accountability<sup>146</sup>, several partisan fact finding entities<sup>147</sup> were appointed in order to investigate allegations of atrocities during the last stages of the armed conflict.<sup>148</sup> Subsequently, the GoSL appointed Paranagama Commission formally rejected the allegation that any 'system crimes' took place during the last stages of Sri Lanka's war, albeit through gross misapplication of the law of armed conflict.<sup>149</sup> Within the justice system, lower level officers have occasionally been tried for wartime atrocities under the regular criminal procedure<sup>150</sup>, with several being acquitted by predominantly Sinhalese speaking juries.<sup>151</sup> Although an *interim report* of the Commission's first mandate was submitted in August 2015, the Final Report remains unavailable despite an extension of the deadline for submission.<sup>152</sup>
32. In spite of Resolution 30/1 underscoring the importance of foreign participation in a future judicial mechanism, government personnel have retreated from their early espousal of a hybrid judicial mechanism.<sup>153</sup> They now back a complete exclusion of foreign judges<sup>154</sup> and the restriction of foreign participation technical assistance, only.<sup>155</sup>
33. According to the 2016 interim report of the Consultation Task Force (CTF) on Reconciliation Mechanisms, the Office on Missing Persons (OMP) Bill, which was passed in August 2016 was preceded by inadequate public consultations<sup>156</sup>, leading to a dearth in public information about the OMP and its powers/functions.<sup>157</sup> Measures to operationalize the Office have failed to materialize, despite the appointment of a Special Committee in September to monitor its formation<sup>158</sup> and a clear promise to operationalize it in January.<sup>159</sup> Currently, the government is taking steps to repeal provisions that are indispensable for the OMP's future success.<sup>160</sup> Despite this general negative trend, the submission of the Final CTF Report in January 2017<sup>161</sup>, lends hope that meaningful/widespread consultations have taken place in relation to the remaining transitional justice mechanisms. However, the process of establishing even the less controversial Truth Commission and Office for Reparations has been painstakingly slow.<sup>162</sup> No timeframe for the establishment of the Office on Reparations has been given<sup>163</sup> nor is there any mention of a comprehensive reparations package and policy, despite many past Commissions of Inquiry recommending compensation for victims of human rights violations.<sup>164</sup> Psychosocial support for victims continues to be a major issue that requires attention.<sup>165</sup>
34. Sri Lanka has also not adequately fulfilled its undertaking<sup>166</sup> to introduce effective security sector reforms. The government claims that the Ministry of Defense has issued directions to security sector personnel that violations of human rights will be punished.<sup>167</sup> However, no public records of these directions exist.<sup>168</sup> Furthermore, despite the enactment of a Victim and Witness Protection Act in March 2015<sup>169</sup>, fatal flaws in the substantive law<sup>170</sup> and problems in the Act's implementation<sup>171</sup> have hampered its overall



effectiveness. Finally, the GoSL is yet to publicly unveil a transitional justice strategy with timelines indicating how they plan to proceed with implementing their commitments.

### **Militarization**

35. Despite the GoSLs commitment to return land occupied by Military to their rightful owners and take meaningful steps towards ending military involvement in civilian activities<sup>172</sup>, a heavy military presence and incessant military involvement in civilian-commercial activities continues to hamper any return to normalcy in the country's North and East. Significant tracts of land continue to be occupied across the area. As at March 2017, close to 8000 acres of private and State land, in the three districts of Jaffna, Mullativu and Kilinochchi remain occupied by the security forces<sup>173</sup>, though exact figures of land occupation is unknown due to no comprehensive land mapping having taken place.<sup>174</sup> Senior civilian<sup>175</sup> and military officials<sup>176</sup> also remain highly defensive about demilitarization and land release when questioned with reports indicating that government entities are also a problem regarding land issues in the North and East.<sup>177</sup> At present, some lands are being released at a slow pace, albeit only due to continuous protests<sup>178</sup>. The slow pace is on account of ad-hoc orders of the Executive<sup>179</sup> and bureaucratic delays.
36. Military involvement in civilian-commercial activities continue unabated and on a large scale. The Civil Security Department, which is organized and run by the Sri Lankan army is involved in a number of civilian activities in the North such as agriculture, education, running of poultry farms, garment factories, shops and canteens.<sup>180</sup> The Sri Lankan army is directly involved in agricultural activities in Palaly<sup>181</sup>, whilst the military also has shops, canteens<sup>182</sup> and hotels<sup>183</sup> in various locations in the North and East.

### **Internally Displaced Persons**

37. The last four years have seen significant changes in the numbers of Internally Displaced Persons (IDPs). Nonetheless, there continue to be serious obstacles, particularly relating to omissions and failings by the State, that thwart the achievement of durable solutions for those affected by displacement, currently living within the country and outside. The GoSL recently adopted a new policy<sup>184</sup>, setting out a framework for acknowledging the problems relating to displacement and durable solutions but the lack of implementation of this policy has raised fears that this merely a façade to impress the international community rather than a real plan of action.
38. Accurate statistics on IDPs remains a contested issue.<sup>185</sup> One of the main obstacles thwarting the return of IDPs is the occupation of land by the military.<sup>186</sup> There is no public process for verifying military occupation of private and public land.<sup>187</sup> Northern Muslims who were forcibly expelled by the LTTE in 1990 have attempted to return but the process of return, reconstruction and reintegration has proved difficult.<sup>188</sup> In addition to the war displaced, there are other populations affected by displacement including development induced particularly in Colombo.<sup>189</sup>

## **Refugee Returnees**

39. The GoSL endorses policy to welcome refugee returnees<sup>190</sup> from India and other countries, however the pace of return remains slow due to several reasons including key gaps in the support services. A key area of concern is access to citizenship documentation.<sup>191</sup> Persons born in refugee camps are burdened with penalties (Rs.25,000/-) and late registration charges (Rs.5000/- + Rs.500/-) for obtaining citizenship documents.<sup>192</sup> Rehabilitation assistance for refugee returnees from the State is minimal particularly in relation to land, housing, livelihood, dry ration and basic subsistence<sup>193</sup>. As a result the vast majority of returnees face multiple challenges to reintegrate and to achieve a durable solution. Some refugee returnees cite a hostile GoSL administration at the district level but there have been some improvements. An empathetic humanitarian approach is essential as the protracted refugee situation of Sri Lankan Tamils is a complex one and therefore, requires deft handling to end the refugee status. There is also the need for the GoSL to play a more active role in facilitating return and more confidence building measures.<sup>194</sup> Furthermore, the GoSL and the Government of India (GoI) should develop a structured refugee return program.<sup>195</sup> This would mitigate challenges and risks refugee returnees face in attaining a durable solution and help mobilize resources.<sup>196</sup>

## **Asylum Seekers and Refugees in Sri Lanka**

40. Sri Lanka has not signed the 1951 Convention or its 1967 Protocol relating to the Status of Refugees, and there are no national procedures for refugee status determination. Instead, it engages in de facto deporting of many asylum seekers at the port of entry, without affording them an opportunity to present their case. This runs contrary to the principle of *non-refoulement*, a well-observed principle of customary international law. Asylum seekers who do manage to make it into the country face multiple challenges.<sup>197</sup> The lack of legal status within the country results in discrimination and vulnerabilities such as the inability to obtain gainful employment in order to secure minimal food security.<sup>198</sup> In addition, asylum seekers find it difficult to secure housing due to pressure on home owners not to rent, face discrimination while accessing state health services,<sup>199</sup> and despite Sri Lanka's international obligations and national standards<sup>200</sup> only able to access limited school facilities.<sup>201</sup>

## **Up-Country Tamils/ Malayaga Tamils**

41. A large part of this community, which lives and works on plantations face numerous problems including access to government services<sup>202</sup>. These plantation workers live in line rooms, which lack the most basic facilities.<sup>203</sup> Despite the housing project initiated by the GoSL, challenges remain including with legal ownership to land and housing.<sup>204</sup> There are serious concerns regarding the language rights<sup>205</sup> the right to education<sup>206</sup> and health services<sup>207</sup> of these communities. The wages paid to these workers remain comparatively very low<sup>208</sup> and their superannuation benefits are not properly paid.<sup>209</sup> As such, these communities remain among the most vulnerable in the country.

## **Economic Social and Cultural Rights**

42. Sri Lanka has failed to ensure the right to land and housing, creating problems and livelihood difficulties for people.<sup>210</sup> Even though the national housing policy was launched with Cabinet approval in 2014, it has not been properly implemented so far.<sup>211</sup> Although Sri Lanka ensures the right to work, trade and occupation as a Fundamental Right,<sup>212</sup> problems remain with the right to work such as extreme labor exploitation, workers rights, precarious working conditions and insufficient wages.<sup>213</sup>
43. Education in Sri Lanka is gradually commercialized and politicized, resulting in change in the quality of education.<sup>214</sup> Furthermore, the 2017 Budget shows a reduction in budgetary allocations clearly indicating that the issues regarding the health sector will be aggravated due to budgetary constraints.<sup>215</sup>

## **Language Rights**

44. According to the Law<sup>216</sup> Tamil and Sinhala are both official and national languages, but the ground reality is that Tamil is not used as an official language in many government institutions<sup>217</sup> and especially in the Police Stations of the Northern Province.<sup>218</sup> Lack of Tamil speaking staff in government institutions causes many difficulties to that minority and is a violation of their language rights.<sup>219</sup><sup>220</sup> In Sri Lanka not only the minority's language right is violated but also the language rights of majority are subject to violations.<sup>221</sup> A lack of a political will to implement the Language Rights Policy in Sri Lanka is one of the crucial reasons for the shortcomings in the implementation processes.
45. Although sign language is recognized as a language at policy level since 2010,<sup>222</sup> it is yet to be given any legal recognition. There is a dire shortage of sign language interpreters in Sri Lanka<sup>223</sup>, which violates the rights of the deaf community to express their views and receive information.

## **Rights of the indigenous people / Vadda Community**

46. Indigenous people face many challenges that affect their rights in Sri Lanka. Although they were given some special rights,<sup>224</sup> these rights are at risk due to migration, urbanization and development.<sup>225</sup> Their identity, rituals and ritualistic spaces and traditional livelihoods of Adivasi also known as Vadda community are undermined<sup>226</sup> and disregarded<sup>227</sup>. There has been a tendency to severely restrain their livelihoods and traditions and their rights<sup>228</sup> through national laws on protecting fauna and flora<sup>229</sup>. Forest areas have been declared as nature reserves and the *adivasis* are prohibited from freely entering those areas<sup>230</sup>. Due to the disregard of their identity and the discrimination, the Vadda community is forced to assimilate into other dominating cultures.<sup>231</sup> *Adivasi* children have been stigmatised<sup>232</sup> and ostracised<sup>233</sup> in mixed ethnicity schools such as in Ratugala leading to their exclusion and dropping out from the education system<sup>234</sup>. Although past governments have implemented ad-hoc programmes for the upliftment of *adivasis*, there is no comprehensive programme that begins from the needs and wellbeing of *adivasis* including their socio-economic independence and cultural identity<sup>235</sup>.

## **Human Rights Defenders**

47. Serious concerns were raised in relation to acts of intimidation and surveillance<sup>236</sup> directed against human rights defenders even though during the period of the present government attacks on HRDs have been reduced. During the period under review, there have been threats<sup>237</sup>, physical attacks<sup>238</sup>, arbitrarily arrests and detention<sup>239</sup> of human rights defenders (HRDs). This also included attacks on human rights meetings and protests.<sup>240</sup> As a result of continuous accusations of being traitors<sup>241</sup> and having links to the LTTE or pro-LTTE groups (both by the media and Government actors), the vulnerability of HRDs has increased<sup>242</sup>. There was no effective investigation of threats, intimidation and attacks against HRDs, and no alleged perpetrators connected to such incidents have been prosecuted.

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<sup>1</sup>Joint submission by the following individuals and organizations

### **Organizations**

1. Centre for Peace Studies
2. Centre for Policy Alternatives (C.P.A)
3. Community Education Centre (C.E.C)
4. Deshodaya
5. Disability Organizations Joint Front (D.O.J.F)
6. Diversity and Solidarity Trust
7. Eastern United Women Organisation (E.U.W.O)
8. Equal Ground
9. Families of Disappearances
10. Family Rehabilitation Centre
11. Federation of Eastern Muslim Civil Organisation
12. Free Media Movement
13. Human Development Organisation (HDO)
14. Human Rights First Aid Centre, Gampaha.

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15. Human Rights First Aid Centre, Hambantota.
  16. Human Rights First Aid Centre, Matara.
  17. International Center for Ethnic Studies
  18. International Movement Against All forms of Discrimination and Racism (IMADR)
  19. Janawabodaya
  20. Mannar Women's Development Federation
  21. Mother and Daughters of Lanka (MDL)
  22. Muslim Women's Development Trust, Puttalam.
  23. National Christian Council of Sri Lanka
  24. National Christian Evangelical Alliance (NCEASL)
  25. National Peace Council
  26. Organization for Elankai Refugee Rehabilitation (OfERRCeylon)
  27. Rights Now Collective for Democracy
  28. Right to Life Human Rights Center
  29. Rule of Law Forum
  30. Rural Development Foundation
  31. Rural Women's Front
  32. Samadanam
  33. Sarvodaya
  34. Social Development Service Foundation (S.D.S.F)
  35. South Asian Centre for Legal Studies (S.A.C.L.S)
  36. United Religious Initiative (URI)
  37. Uva Wellassa Women Organisation

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38. Videeye Wirodaya
  39. War Child Holland
  40. Women's Action Network
  41. Women's Centre
  42. Women's Political Academy (W.P.A)
  43. Young Out Here

**Individuals**

1. Ameer M. Faaiz
2. Anthony Vinoth
3. B.A.H.Fernando
4. Barbara Peiris
5. Buddhika Mendis
6. Deega Herath
7. Deekshya Illangasinghe
8. Deshakeerthi Dr.Muhammed Muzzammil Cader
9. Dhanushka Rajaratnam
10. Dr. Joe William
11. Dr. Y.L.M.Yoosuff
12. Dr.S.L.Riyas
13. H.L. Achala Piyumantha
14. Jayalal Anthony
15. Jeganathan Thatparan
16. Dr. Jehan Perera

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17. K.J. Brito Fernando
  18. Kasunjith Satanarachchi
  19. L.P.T.Chandrasiri
  20. Lahiru Perera
  21. M.A.C.Fathima Josinka
  22. M.Robord
  23. Maya Kalubowile
  24. Medhaka Fernando
  25. Mirak Raheem
  26. Mujeebur Rahman
  27. Nadeeshani Mahabandara
  28. P. Logeswary
  29. P.H.Hemalatha
  30. Padmini Weerasuriya
  31. Philip Dissanayake
  32. Pradeepa Sudarshani
  33. Prasanga Fernando
  34. R.G.Podimenike
  35. R.Rajkumar
  36. Raga Alphonsus
  37. Raja Senanayake
  38. Ranmalee Anemelagoda
  39. S.Yougendra

- 
40. Seetha Ranjanee
  41. Shantha D. Pathirana
  42. Shreen Abdul Saroor
  43. Sriyani Pathirage
  44. Sudarshana Gunawardana
  45. T.M. Imithiyar
  46. Tharanga L Patabad
  47. Thyagi Ruwanpathirana
  48. Viviyar Perera

<sup>2</sup> Such as the opening up of space for civil society and dissent, the establishment of independent oversight commissions, reintroduction of term limits for the presidency, return of some civilian lands by the military and Right to Information legislation-

<sup>3</sup> The President's official acts were specifically made subject to the Fundamental Rights jurisdiction. Section 7 of the 19<sup>th</sup> amendment to the Constitution of Sri Lanka.

<sup>4</sup> Section 17 of the 19<sup>th</sup> amendment which amended Article 70(1) of the Constitution

<sup>5</sup> Section 4 of the 19<sup>th</sup> amendment which amended Article 31(2) of the Constitution

<sup>6</sup> Section 7 of the 19<sup>th</sup> amendment which amended Article 35 of the Constitution

<sup>7</sup> Article 41.B. (1) of the Constitution of Sri Lanka. Furthermore, the President's term is reduced from six to five years and the two-term limit is restored. Parliament's term is also reduced to five years. Significantly, the President can no longer dissolve Parliament until the expiration of four and a half years of its term, unless it requests so by a resolution of a two-thirds majority. These provisions restrict presidential discretions and strengthen the separation of powers by establishing more or less fixed presidential and parliamentary terms. <http://www.constitutionnet.org/news/sri-lanka-nineteenth-amendment-constitution-start-finish>

<sup>8</sup> Both the domination of political actors (7 political actors vs the 3 non political appointees) and the inclusion of members of the Executive on the Constitutional Council.



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<sup>9</sup> Dr. Nihal Jayawickrama, ‘The Constitutional Council Fiasco’ [The Island, 6 February 2016] <[http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=139922](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=139922)> accessed 30 January 2017.

<sup>10</sup> The Human Rights Commission of Sri Lanka has been particularly assertive in carrying out its functions. See Hunter S Thompson, ‘Restriction of access to legal assistance’ [Ceylon Today, 1 October 2016] <<http://www.ceylontoday.lk/print20160701CT20161030.php?id=6476>> accessed 30 January 2017; Human Rights Commission of Sri Lanka, ‘Report of the Human Rights Commission to the Committee Against torture’, October 2016 available at <<http://hrsl.lk/english/wp-content/uploads/2016/11/Report-to-CAT-Committee-.pdf>> accessed 30 January 2017; ‘Sri Lanka Human Rights Commission investigates police action at student protest’ [ColomboPage, 5 November 2015] <[http://www.colombopage.com/archive\\_15B/Nov05\\_1446738286CH.php](http://www.colombopage.com/archive_15B/Nov05_1446738286CH.php)> accessed 30 January 2017

<sup>11</sup> Centre for Policy Alternatives, “Two Years In Government: A review of the pledges made in 2015 through the lens of constitutional reform, governance and transitional justice”, February 2017, <http://www.cpalanka.org/two-years-in-government-a-review-of-the-pledges-made-in-2015-through-the-lens-of-constitutional-reform-governance-and-transitional-justice/>

<sup>12</sup> No legislation has been brought to establish the National Audit Commission. See Ashanthi Warunasuriya and Amavasya Sirisena, ‘New National Audit bill: Boon or Bane?’ [The Sunday Leader, 17 July 2016] <<http://www.thesundayleader.lk/2016/07/17/new-national-audit-bill-boon-or-bane/>> accessed 30 January 2017.

<sup>13</sup> Disregarding the Supreme Court judgment and the Court of Appeal order as well as protests by the Bar Association of Sri Lanka and a broad cross section of civil society.

<sup>14</sup> The undertaking was that that any inquiring body which would investigate the allegations against a sitting judge would be subject to judicial review if such body “were to misdirect itself in law or breaches the rules of natural justice its decisions.” See UN Human Rights Committee (HRC), UN Human Rights Committee: Fourth Periodic Report, Sri Lanka, 18 October 2002, CCPR/C/LKA/2002/4, available at: <http://www.refworld.org/docid/3efb5b894.html> [accessed 15 December 2013] at Para 302.

<sup>15</sup> Several attempts were made to enact laws that sought to curtail fundamental rights including the freedom of expression and the rights of detainees through an opaque process. For more information, refer to statements issued by HRCSL, BASL and CPA regarding proposed legislation.

<sup>16</sup> “Sri Lanka will take measures for the effective implementation of the 13th Amendment to the Constitution” (Human Rights Council, Report of the Working Group on the Universal Periodic Review: Sri Lanka, 5 June 2008, para 103). The GOSL has stated on several occasions that it is committed to the full implementation of the 13<sup>th</sup> amendment and to even go beyond the existing scheme of devolution of power (references to 13+) See “Full implementation of 13th

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Amendment plus, MR tells Krishna”, The Daily Mirror, 17 January 2012, <http://www.dailymirror.lk/top-story/16141-full-implementation-of-13th-amendment-president-tells-krishna-.html> ; Anthony David and Nadia Fazlulhaq, “President again pledges 13 Plus to India”, The Sunday Times, 22 April 2012, [http://sundaytimes.lk/120422/News/nws\\_01.html](http://sundaytimes.lk/120422/News/nws_01.html) . But on other occasions the GOSL and members of the ruling party have expressed reservations on implementing provisions relating to the devolution of “police powers” and “land powers” Arthur Wamanan and Sandun Jayawardana, “Pluses and Minuses of 13 +”, The Nation, 22 January 2012, <http://www.nation.lk/edition/feature-viewpoint/item/1731-pluses-and-minuses-of-13-%20.html>

<sup>17</sup> <http://www.cpalanka.org/rebooting-the-constitutional-reform-process-a-civil-society-statement/>

<sup>18</sup> Report of the working group on enforced or involuntary disappearances on its mission to Sri Lanka. Accessed at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/63/PDF/G1614663.pdf?OpenElement>

<sup>19</sup>“Alarminglly, cases of abductions continue to be reported, with at least 10 cases reported between 30<sup>th</sup> March and 30<sup>th</sup> June in 2016. At least two of those who disappeared have not returned, despite complaints to the Police and Human Rights Commission. Some have been reported to have been found in Police or remand custody after being abducted

<sup>20</sup> For further information see <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/63/PDF/G1614663.pdf?OpenElement>

<sup>21</sup> Further, there was no even minimal progress on many cases, including well known cases of Tamils such as the journalist Ramachandran Subramaniam, Catholic Priest Fr. Jim Brown, and human rights activist Stephen Suntharaj, see: ‘Human Rights Situation in Sri Lanka: Aug 2015 to Aug 2016’, INFORMS Human Rights Documentation Centre, 2016 <https://ihrdc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf>

<sup>22</sup> Such as the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance (ICED) on 25<sup>th</sup> May 2016; the adoption of the policy on the issuance of certificates of absence; and the passing of the Office of Missing Persons (OMP) bill on 11<sup>th</sup> August, charged with the task of addressing the issue through searching and tracing of missing persons.

<sup>23</sup> Despite the OMP Act being enacted in August 2016, the office is yet to be established. Similarly, Certificates of Absences are yet to be issued

<sup>24</sup> The Bill for the Protection of All Persons from Enforced Disappearances was presented to Parliament on 7<sup>th</sup> of March 2017, See [http://documents.gov.lk/files/bill/2017/3/175-2017\\_E.pdf](http://documents.gov.lk/files/bill/2017/3/175-2017_E.pdf)

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<sup>25</sup> Many members of the police and security forces who had been perpetrating abductions, torture and enforced disappearances have a mindset that makes them feel they will not be made to face consequences of their misconduct. The new president continues say that no action will be taken against the security forces. “As long as I am the President of this country, I will not allow for any international courts, international judges and international organisations to interfere with the internal affairs of Sri Lanka and the judiciary,” (<https://www.colombotelegraph.com/index.php/as-long-as-i-am-the-president-no-international-participation-in-judicial-process-sirisena-declares/>). Sirisena’s declaration comes just after United Nations High Commissioner for Human Rights, Zeid Ra’ad Al Hussein underscored the importance of bringing in international judges, prosecutors, investigators and lawyers into the judicial mechanism to probe war crimes.

<sup>26</sup> Ruki Fernando, ‘Human Rights Situation in Sri Lanka: Aug 2015 to Aug 2016’, INFORM Human Rights Documentation Centre, 2016 <https://ihrdc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf>

<sup>27</sup> Three suspects were killed while they were under police custody. They were arrested in connection with the murder of a police officer and his wife. The explanation given by the police officers have been unacceptable. In 2014, Sandun Malinga was tortured and killed at Kandaketiya Police Station (<https://www.hrw.org/report/2015/10/23/we-live-constant-fear/lack-accountability-police-abuse-sri-lanka>) and 24 year old Subash Indika and 19 year old S.M.Kelum Subasinghe were shot dead by Police Officers (<http://srilankabrief.org/2014/08/sri-lanka-enforced-disappearances-and-extrajudicial-killings/>).

<sup>28</sup> In the case of Nimal Chandrasiri Dasanayake, 28, death occurred on 15th April 2012, and one of the complaints was made to the National Police Commission in July 2012 and to date there has been no information provided to the victim’s family as to what steps are being taken against the alleged perpetrators. This has compelled the family of the victim to pursue a writ action in 2015 against the National Police Commission (CA/WRIT/473/2015) asking simply that the complaint be investigated. The delay of over 3 years to commence an investigation is unacceptable.

<sup>29</sup> In 2014, Police Spokesman SSP Ajith Rohana said that hereafter police would use ‘necessary force’ as opposed to ‘minimum force’ in dealing with troublemakers. He said this to seemingly justify the recent killings of suspects in Police custody

<sup>30</sup> See Amnesty International report at <http://sangam.org/amnesty-sri-lanka-20152016/> . For example, in September 2016 a 30 year old person died in the Pussellawa Prison and though the Police said that this suspect committed suicide, estate workers protested stating their suspicions about the death.

<sup>31</sup> See joint alternative report submitted to the CAT committee by Sri Lanka NGO Collective in October 2016 ([http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT\\_CAT\\_CSS\\_LKA\\_25](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT_CAT_CSS_LKA_25)

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598 E.pdf ). This report states “presently discussions are on-going between the Ministry of Justice, JMOs and the AGs Department to change the investigation system of death in custody. The guidelines to investigate death in custody have not yet been amended so that death in custody can be investigated according to International standards namely the Minnesota Protocol and on the ICRC documents on investigating death in custody.”

<sup>32</sup> On 25 January 2012, Arachchige Ruckshan Dhanushka was beaten and later wounded with a knife by Police officers attached to the Hasalaka Police station. The victim died after admission to the hospital. On 03 February 2012 Sulaiman Nawfer was beaten to death by Police officers attached to the Akkaraipaththu Police Station. On 15 April 2012, Police officers attached to the Wadduwa Police station had arrested Nimal Chandrasiri Dasanayaka and beaten him resulting in chest injuries. He was pronounced dead on admission to hospital. On 09 June 2012 Police officers attached to the Ridigama Police station arrested Bodibanda regarding a complaint of domestic violence. Police allege to have found the victim dead in the cell by hanging using the victim’s own trouser. It is alleged that the victim was killed by the police. During a prison riot (Prison officers attached to Vavuniya Prison) allegedly initiated by the police, Ganeshan Nimalaruban (28 years) was severely beaten. It was reported that he died of a heart attack. The post-mortem report acknowledged physical trauma as one cause of death. On 16 August 2012 Kocgala Marakkalage Thushara Samanthilaka while in Police custody at Hungama Police Station is alleged to have jumped out of a moving Police jeep. He succumbed to injuries sustained. It has been alleged that he was pushed out of the moving vehicle. (Information obtained from the joint alternative report submitted to the CAT committee by Sri Lanka NGO Collective in October 2016, pg 28) For further incidents see [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT\\_CAT\\_CSS\\_LKA\\_25\\_598\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT_CAT_CSS_LKA_25_598_E.pdf)

<sup>33</sup> Magistrates do often make pronouncements on the cause of death of a person died in custody often based on the police reports alone. The bias towards the police is a characteristic of many of the magistrates and this often hampers a proper examination in to the cause of death under suspicious circumstances at police stations

<sup>34</sup> See <http://srilankabrief.org/2017/02/welikada-killings-report-tabled-and-pm-promises-to-bring-to-book-killers-of-27-prisoners/>

<sup>35</sup> Sri Lanka: Urgent need to prosecute security agents involved in torture (7<sup>th</sup> November 2011) <http://www.amnestyusa.org/news/news-item/sri-lanka-urgent-need-to-prosecute-security-agents-involved-in-torture> [During the first 14 years of the anti-torture legislation, only three prosecutions were reportedly made under the Special Investigation Unit of the police, which has since been sidelined. In 2008, the government said that in the previous four years, there had been 42 indictments against 90 people as a result of investigations into allegations of torture. An additional 31 torture cases were sent to the police to start action in the Magistrate’s Court. Most of these cases, however, never went to trial.] See also Consideration of Sri Lanka’s 5<sup>th</sup> Periodic Report under the UN Convention Against Torture, (15-16 November 2016) Response of the Government of Sri Lanka to the List of Issues raised by the UN Committee Against Torture, page 7 During the period 2012-October 2016, 17 cases have been filed under the Convention

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Against Torture (CAT) Act against 36 members of the Police. The number of cases concluded and the number of pending cases in respect of the above period are 9 and 8 respectively. Four members of the Police have been convicted under the CAT Act during the reporting period. The above number comprises two Police Officials convicted and sentenced to seven years imprisonment in case no 183/2007 heard before the Kandy High Court, and two Sub Inspectors of Police convicted and sentenced to seven years imprisonment in case number 182/2007 heard before the Badulla High Court.

<sup>36</sup> Sri Lankan Government recognized the competence of Torture Committee to receiving complaints from Individuals in August 2016. Sri Lankan Government recently passed the 19<sup>th</sup> Amendment which ensures the Independence of commissions including HRC in Sri Lanka and paves a way to prevent the torture. New legislation on witness and victim protection was enacted in 2015. Also National Authority for the Protection of Victims and Witnesses had been set up and under it the Police Victim and Witness Protection Division inaugurated in November 2016

<sup>37</sup> UNCAT report/ Juan Mendez' report

<sup>38</sup> There have been 28 deaths in custody documented by one non-governmental organization for the period from 2012 - 2016 under review. Death in custody is investigated under chapter 33 of the Code of Criminal Procedure Code (CrPC) Act. Certain elements of this chapter in the CPC on investigations into sudden deaths lack a proper system to investigate deaths in custody. See also Joint Alternative Report from the Sri Lankan NGO Collective to the Committee against Torture (13th October 2016), Annexure 1 which documents close to 100 cases of custodial torture and death from October 2012 to the end of 2015.

<sup>39</sup> In the case of Nimal Chandrasiri Dasanayake 28, death occurred on 15th April 2012, and one of the complaints was made to the National Police Commission in July 2012 and to date there has been no information provided to the victim's family as to what steps are being taken against the alleged perpetrators.

<sup>40</sup> Sri Lanka Human Rights Commission expresses 'deep' concern on proposed amendment to the Code of Criminal Procedure (March 16<sup>th</sup> 2017) [http://www.colombopage.com/archive\\_17A/Mar16\\_1489679835CH.php](http://www.colombopage.com/archive_17A/Mar16_1489679835CH.php) The HRCSL said in the Bill gazetted on 03 March, 2017, to amend the Code of Criminal Procedure (Special Provisions) Act, No. 2 of 2013 the Commission found some provisions in the Bill to be as problematic as the impugned provisions in the previous Bill gazetted on 12 August, 2016. The Commission pointed out that the bill while stating that the objective of the amendment is to provide for the right of an Attorney-at-Law to access a person in police custody (not the right of a detainee to access a lawyer), nevertheless limits the right of a lawyer to access a detainee held in a police station as such a right is granted "unless such access is prejudicial to the investigation being conducted". "It is not stipulated who decides on the matter nor does it set out objective criteria upon which such a determination would be made. There is also no right to appeal to a higher authority if access is refused," the HRCSL pointed out. The most recent proposed amendment above was preceded by a Bill in August 2016 which proposed to amend the Criminal Procedure Code, allowing a suspect access to his lawyers only after the suspect's statement has been recorded by the Police. See in

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this regard the Joint Alternative Report from the Sri Lankan NGO Collective to the Committee Against Torture (13<sup>th</sup> October 2016), paragraph 5.45

The Attorney General's Department, is responsible for criminal prosecution on behalf of the State in cases of torture under local legislation. It appears that the Department fails to consider if prosecution can also be pursued under Act No. 22 of 1994, for torture. Instead, only ordinary criminal law sanctions are pursued in terms of the penal code. In fact, an action was filed in the Court of Appeal of Sri Lanka (CA Writ No. 375/2015) against the Attorney General for not taking action under this law where there is clear evidence of allegations of torture. The local legislation against torture has thus become almost an inactive law, as State authorities have failed and continuously neglected to enforce the said legislation. In the aforesaid petition (CA Writ No. 375/2015) filed by one Kanda Udage Mallika against the Attorney General to compel him to take action under the Act No. 22 of 1994, the Court of Appeal, among other things, observed that the decision to pursue ordinary criminal sanctions was properly and completely within the discretion of the Attorney General. The case was dismissed. Further In a case before the Court of Appeal of Sri Lanka<sup>41</sup>, it was alarming to note that the Attorney General's Department made oral submissions to Court to the effect that criminal actions on torture are instituted only in instances when torture was alleged to have been used to extract information. This is a very narrow interpretation and there is no means by which to verify that whether this is an interpretation adopted by the Department towards all torture cases received

<sup>42</sup> Human Rights Watch, *'We Live in Constant Fear: Lack of Accountability for Police Abuse in Sri Lanka'* (23<sup>rd</sup> October 2015),  
[https://www.hrw.org/sites/default/files/report\\_pdf/srilanka1015\\_4up\\_0.pdf](https://www.hrw.org/sites/default/files/report_pdf/srilanka1015_4up_0.pdf)

“Too often, crime scenes are not properly investigated as police seek quick confessions through coercive means; detainees are not brought before a magistrate within 24 hours as required by law; and magistrates do not give serious consideration to allegations of mistreatment, including by ensuring that the detainee receives proper medical attention from a judicial medical officer (JMO).” (at page 02)

<sup>43</sup> There have been few complaints of JMOs colluding with the local police. As a result of JMO reports not being made available to the victim, the victim has to apply through Court to access such reports.

<sup>44</sup> In the prison of Vavuniya, the UN Special Rapporteur on Torture noted that there is only 0.6 square meters of space per prisoner available.

<sup>45</sup> In cases of torture within prisons the prison doctor cannot send a victim of torture to a JMO directly for examination, he has to obtain permission from the prison management, after which the respective case will be called up before the Magistrate and the Magistrate will be requested to make an order to the respective prison to present the prisoner to the JMO. In most instances, when the prison doctor recommends referring a victim to a JMO the prison does not give permission.

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<sup>46</sup> For example in SCFR 521/2012, Objections dated February 2014 filed by the Deputy Inspector of Police for Anuradhapura and Pollonnaruwa plainly states that it was decided not to pursue on ‘humanitarian grounds’ any investigation and disciplinary action against a police constable who was alleged to have committed torture.

<sup>47</sup> The legislation defines torture to include both physical and mental torture; however, no Sri Lankan case has so far been instituted on grounds of mental torture. It is also noteworthy that the current format of the Medico-Legal Form which documents the medical situation of any given torture victim does not provide for an assessment of the psychological impact of torture.

<sup>48</sup> Human Rights Commission of Sri Lanka Act No 21 of 1996, Where a person is arrested or detained under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 or a regulation made under the Public Security ordinance, (Chapter 10) it shall be the duty of the person making such arrest or order of detention, as the case may be, to forthwith and in any case, not later than forty –eight hours from the time of such arrest or detention, inform the Commission of such arrest or detention as the case may be and the place at which the person so arrested or detained is being held in custody or detention. Where a person so held in custody or detention is released or transferred to another place of detention, it shall be the duty of the person making the order for such release or transfer, as the case may be, to inform the Commission of such release or transfer, as the case may be, and in the case of a transfer, to inform the Commission of the location of the new place of detention

<sup>49</sup> Report of the Human Rights Commission to the Committee Against Torture Review Of The 5th Periodic Report Of Sri Lanka (October 2016) <http://hrsl.lk/english/wp-content/uploads/2016/11/Report-to-CAT-Committee-.pdf> at paragraph 21; The TID has been informing the Commission of those arrested under the PTA as per section 28 (1) of the Human Rights Commission Act. Since May 2016 transfers of detainees between places of detention has also been informed to the Commission.

<sup>50</sup> Letter by Civil Society to the government opposing the proposed counter terror law (ceylonnews, 11<sup>th</sup> November 2016) <http://www.ceylonnews.com/wp-content/uploads/2016/11/Letter-to-Govt-opposing-proposed-CT-law-11-Nov-2016-.pdf>

<sup>51</sup> Kishali Pinto-Jayawardena, Is this counter-terrorism in a far deadlier garb? (lankanewsweb, October 16, 2016) <http://lankanewsweb.net/featured/item/4382-is-this-counter-terrorism-in-a-far-deadlier-garb-kishali-pinto-jayawardena>

<sup>52</sup> The number of Political Prisoners is thought to exceed 200 people, though the number may be much higher. As the government is reluctant to produce a list of all those who are currently being held the number of Political Prisoners remains unclear. Taylor Dibbert, “Sri Lanka’s Tamil Political Prisoners: An abdication of Presidential Leadership” [THEWORLDPOST] <[http://www.huffingtonpost.com/taylor-dibbert/sri-lankas-tamil-politica\\_b\\_8801268.html](http://www.huffingtonpost.com/taylor-dibbert/sri-lankas-tamil-politica_b_8801268.html)> accessed 27 March 2017.



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<sup>53</sup> Under the Prevention of Terrorism Act a person can be arrested for unspecified “unlawful activities” without warrant and he can be detained for up to 18 months without producing the suspect before a court. Even under the PTA, pre-trial detention of individuals is limited to a maximum of 18 months. But the authorities have violated this provision by holding these prisoners in detention indefinitely. The government need not charge the person with an offence. Many PTA detainees have been held for years without charge, see: Human Rights Watch, ‘Sri Lanka Events of 2015’, World Report 2016 <<https://www.hrw.org/world-report/2016/country-chapters/sri-lanka>> accessed 27 March 2017.

<sup>54</sup> Under the new government some political prisoners have been released and few political prisoners have been allowed to leave jail on a conditional basis. Furthermore it should be noted that President Maithripala Sirisena has given a presidential pardon to the person who tried to assassinate him, see: President pardons a man who attempted to assassinate him” [Dailymirror, 8 January 2016] <<http://www.dailymirror.lk/102333/president-pardons-man-who-attempted-to-assas>> accessed 26 March 2017; See also: Taylor Dibbert, “Sri Lanka Should Finally Release Political Prisoners” [THEWORLDPOST] <[http://www.huffingtonpost.com/taylor-dibbert/sri-lanka-should-finally\\_b\\_9417618.html](http://www.huffingtonpost.com/taylor-dibbert/sri-lanka-should-finally_b_9417618.html)> Accessed 26 March 2017. See also: N.Sivathanan, “Tamil Political Prisoners in Sri Lanka- March 2013”, Sri Lanka Campaign for Peace and Justice, 2013, see: <<https://www.srilankacampaign.org/wp-content/uploads/2015/03/tamil-political-prisoners-in-sri-lanka-final.pdf>> accessed 27 March 2017.

<sup>55</sup> There could be many other prisoners who are not guilty and detained for nothing, see: Lionel Bopage, “Sri Lanka and Its Political Detainees” [Colombo Telegraph, 31 October 2015] <<https://www.colombotelegraph.com/index.php/sri-lanka-its-political-detainees/>> accessed 27 March 2017.

<sup>56</sup> See: Taylor Dibbert, “Tamil Political Prisoners in Sri Lanka: A Road to Nowhere” [LAWFARE, 11 September 2016] <<https://www.lawfareblog.com/tamil-political-prisoners-sri-lanka-road-nowhere>> accessed 27 March 2017. Particularly it was reported that Tamil prisoners have been subjected to inhuman punishments, see: Lanka News Web, “Plight of Tamil Political Prisoners” [Lanka News Web, 6 October 2016] <<http://lankanewsweb.net/news/item/4283-plight-of-tamil-political-prisoners>> accessed 27 March 2017.

<sup>57</sup> Surrendees is a term used by the state to refer to persons who were sent to government-run rehabilitation centres for alleged involvement with the LTTE. These persons have to be distinguished from detainees held at prisons and other detention centres such as Boosa. According to the State the surrendees are persons said to have surrendered to the armed forces or separated from the general IDP population.

<sup>58</sup> Ruki Fernando, ‘Human Rights Situation in Sri Lanka: Aug 2015 to Aug 2016’, INFORMS Human Rights Documentation Centre, 2016 <<https://ihrdc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf>> accessed 27 March 2017.



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<sup>59</sup> Individuals classed as Surrendeers were initially held under Emergency Regulations (ER) (Regulation 22 of Emergency (Miscellaneous Provisions and Powers) Regulation No. 01 of 2005 as amended on 12 September 2006) and following the lapse of the state of emergency are presently held under regulations issued under the Prevention of Terrorism Act (Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 - The Prevention of Terrorism (Surrendeers Care and Rehabilitation) Regulations No. 5 of 2011. The maximum period an individual can be held at a rehabilitation centre is 24 months). It is unclear under which law (if any) individuals in this category continue to be held in custody.

<sup>60</sup> The NGO Secretariat issued a circular to NGOs warning them to stop doing workshops for journalists; organizing training for journalists; and issuing press releases, Etc.

<sup>61</sup> There have been several instances of violent dispersal of protest by the police using excessive force, including tear gas and water cannons, and brutal assaults on students and justifying their actions as maintaining public order resulting in many injured and arrested. The illegality of these actions has been confirmed by the HRCSL investigation in 2015. For example, On August 31, 2016 & January 19, 2017 a protest march organized by the Inter-University Student Federation (IUSF) with the participation of state university medical students demanding the abolition of SAITM was dispersed by police using teargas and water cannon in Colombo and in early February this year, 21 Medical students were arrested while they engaged in a protest against SAITM. Also in Jaffna, hundreds of protesters were arrested as protests against rape and murder of teenaged School girl Vidya turned violent. But several of those arrested were not involved in violence. A senior Police officer used abusive language against an elderly woman who was protesting peacefully and trying to engage in a dialogue with the Police. The HNDE student protest was violently suppressed by the police on October 29, 2016. Further in Colombo, Civil and political activists were attacked by members of the pro-Rajapaksa fraction while they were distributing some leaflets at Nugegoda. Further the protest of the Hambantota Port workers was suppressed by the Navy(See:<http://newsfirst.lk/english/2016/12/just-court-issues-order-hambantota-port-employees-protest/156887>; <http://www.dailymirror.lk/article/Port-workers-protest-over-Hambantota-Port-deal-121800.html>; <http://dailynews.lk/2017/01/30/law-order/106157/twenty-five-hambantota-protestors-re-remanded-four-bailed-out> ) The police also charged civil society activists opposing the Port City Project(See. <http://hrsl.lk/english/wp-content/uploads/2015/12/Human-Rights-Commission-of-Sri-Lanka-Report-on-Police-Attack-to-HNDA-Students.pdf> ) .\

<sup>62</sup> There have been instances of intimidation resulting in a climate of fear to suppress the freedom of association and assembly. The practices of the security forces and the lack of accountability for past violations further contribute to this culture of fear and intimidation.

<sup>63</sup> The NGO Secretariat which functioned under the Ministry of Defence was moved to the Ministry of National Dialogue but there continues to be persistent scrutiny of NGO activity to bring NGOs under greater supervision of the state. Further civil society programmes and remembrance ceremonies, especially in the North and East, are still under surveillance through questioning, filming and recording details by the security forces and intelligent officers. Police

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interrogated organizers, participants and media at some events, compelled organizers to change value, and subjected remembrance events to heavy surveillance. Bus owners had also been intimidated not to transport people to such events. (See: “In Jaffna, journalists invited for a meeting to discuss resettlement were ejected from the meeting venue.” Inform, June 2015 <https://ihrdc.files.wordpress.com/2015/08/repression-of-dissent-in-sri-lanka-01-30june2015-english13aug2015.pdf>)

<sup>64</sup> In mid May 2015, Police obtained court orders to prevent remembrance events for Tamils killed during the War. Police also interrogated organizers, participants and media at some events, compelled organizers to change value, and subjected remembrance events to heavy surveillance.

<sup>65</sup> Recently Minister Sagala Ratnayake made a statement that Government will introduce new laws to allocate separate zones for protest.

<sup>66</sup> For example according to TNA politician P. Selvarajah, 15 people have been unlawfully arrested in Batticaloa alone since the new government came into power. See also <http://groundviews.org/2017/03/10/spiraling-incidents-of-military-intimidation-in-the-north-ruki-fernando/> ; <http://groundviews.org/2017/03/16/military-occupation-documenting-civilian-protests-and-the-struggle-of-the-newly-resettled/>

<sup>67</sup> The employers in EPZs have started hounding workers engaging in trade union activities, particularly in the Katunayake EPZ where workers engaging in setting up Trade Unions have been sacked. Industrial Disputes Act No.56 of 1999 stipulates collective bargaining mandatory by law if a trade union commands more than 40% of representative strength. Lately, the employers/factory management intimidates workers forcing them against setting up a TU.

<sup>68</sup> There are a large number of credible allegations against the previous regime relating to suppressing the freedom of expression and dissent. See Joint Civil Society Submission To The Un Universal Periodic Review (Sri Lanka) Second Cycle, 14th Session 2012, pp 8-9, [https://www.upr-info.org/sites/default/files/document/sri\\_lanka/session\\_14\\_-\\_october\\_2012/js1\\_upr\\_lka\\_s14\\_2012\\_jointsubmission1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/sri_lanka/session_14_-_october_2012/js1_upr_lka_s14_2012_jointsubmission1_e.pdf)

<sup>69</sup> For an example, restrictions imposed by the Rajapaksa regime on foreign journalists visiting Sri Lanka have also been removed and free access has been ensured. See also Daily Mirror, “SL moves up in 2016 World Press Freedom Index” , 21<sup>st</sup> April 2016, <http://www.dailymirror.lk/108465/SL-moves-up-in-World-Press-Freedom-Index>

<sup>70</sup> The Island “Navy chief goes berserk ... manhandles Island/Divaina correspondent at Hambantota Port”, 11<sup>th</sup> December 2016 , [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=157094](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=157094) ; Shatara Jayasinghe, “Journalist attacked within MC premises” , 14<sup>th</sup> June 2016, <http://www.dailymirror.lk/110907/Journalist-attacked-within-MC-premises>

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<sup>71</sup> See letter to President calling for investigations into killing and disappearance of journalists, <http://srilankabrief.org/2015/06/jaffna-press-club-calls-on-the-president-to-investigate-journalist-murders-and-missing-persons/>

<sup>72</sup> See Joint Civil Society Submission To The Un Universal Periodic Review (Sri Lanka) Second Cycle, 14th Session 2012, pp 8-9, [https://www.upr-info.org/sites/default/files/document/sri\\_lanka/session\\_14\\_-\\_october\\_2012/js1\\_upr\\_lka\\_s14\\_2012\\_jointsubmission1\\_e.pdf](https://www.upr-info.org/sites/default/files/document/sri_lanka/session_14_-_october_2012/js1_upr_lka_s14_2012_jointsubmission1_e.pdf)

<sup>73</sup> These include the high profile cases of Lasantha Wickramatunge, Prageeth Eknaligoda and Keith Noyahr are under the investigation. Investigations have revealed operation Military units to target journalists and dissenters with allegations and counter allegations of who controlled and/or gave instructions to such units. See AL Jazeera, “Ex-leader's brother 'led death squad' in Sri Lanka”, 20<sup>th</sup> March 2017, <http://www.aljazeera.com/news/2017/03/leader-brother-led-death-squad-sri-lanka-170320151120965.html>; Daily Mirror, “Gota rejects ‘Death Squad’ claims, 27<sup>th</sup> March 2017, <http://www.dailymirror.lk/article/Gota-rejects-Death-Squad-claims-126229.html> ; Financial Times, “Suspect in Keith Noyahr abduction once nominated for diplomatic post”, 6<sup>th</sup> March 2017, <http://www.ft.lk/article/601547/Suspect-in-Keith-Noyahr-abduction-once-nominated-for-diplomatic-post#sthash.WjOHRboN.dpuf>

<sup>74</sup> With regard to the disappearance of journalist Prageeth Eknaligoda in January 2010, all 13 suspects, including military intelligence personnel and two former cadres of the Liberation Tigers of Tamil Eelam (LTTE) arrested in August 2015, were granted bail following a recent controversial statement of President Maithripala Sirisena on the issue. The President had publicly stated that the suspects should be given the opportunity to seek bail. Also the magistrate has been transferred. Many important documents of the Military intelligence regarding the investigation have disappeared. Mrs. Ekneliyagoda stated that it is doubtful as to whether the remaining documents would be handed over to the CID by the military, see: <http://www.thesundayleader.lk/2016/11/20/political-interference-suspected-in-prageeths-case/>.

In terms of arrests of army intelligences, it is pathetic to notice that some pro-war groups are trying to socialize the ideology that this is a conspiracy of non-governmental organizations against these suspects who are war heroes. Further, the President Maithreepala Sirisena’s recent statement has fueled such ideology. The President implied that he is not willing to punish perpetrators according to the wish of non-governmental organizations.

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Moreover, the Army Intelligent Officers accused for abducting Prageeth Eknaligoda, were reinstated in their positions contrary to the Military Law.

<sup>75</sup> There is growing intolerance of minority religions. Since 2012, there has been an significant increase in dissemination of anti-Muslim propaganda through a range of public platforms, including social media.(See Samaratunge, S. and Hattotuwa, S., “Liking Violence: A Study of Hate Speech on Facebook in Sri Lanka”, Colombo, Centre for Policy Alternatives, 2014.) Sporadic acts of violence and discrimination targeting Islamic places of worship have been recorded from 2009 onwards by various sources, the most notable being the 2012 attack on the Masjidul Kairiya mosque in Dambulla by a large mob who claimed it had been illegally constructed on sacred Buddhist land. Following the violence, the then Prime Minister and Minister of Religious Affairs D.M. Jayarathne ordered the 50-year-old mosque to be relocated.(See Groundviews, ‘Deeds of Mosque in Dambulla’, 24 April 2012, retrieved 9 November 2016, <http://groundviews.org/2012/04/24/deed-of-mosque-in-dambulla-and-photos-of-damage-how-is-this-structure-illegal>) However, the worst incidents of violence targeting the Muslim community in recent years were the mob attack on the Masjid Deenul Islam mosque in Grandpass in 2013 and rioting centred around Aluthgama in 2014 – widely attributed to BBS instigation, through inflammatory anti-Muslim rhetoric uttered at a public rally just before violence erupted. The violence in Aluthgama left four dead, many injured and displaced, and significant property damage. (See Bastians, D., ‘Death toll rises to 4 in Aluthgama riots’, Daily Financial Times, 18 June 2014.) January 2016 saw the upsurge of a new Sinhala nationalist movement entitled *Sinha Le*. The ideology of the movement translated into acts of hate speech and aggression targeting the minority communities. As per reports in early January, some Muslim residents of the Nugegoda area in the district of Colombo found the words ‘Sinha Le’ spray-painted on the walls and gates of their homes. A sudden proliferation of ‘Sinha Le’ bumper stickers and graffiti appeared in Colombo and other areas. The movement also attracted a large following on social media. Particularly, the Muslim community have been specifically targeted by the movement.

<sup>76</sup> The Hindu, “3 dead, 80 injured in Sri Lanka clashes”, 16<sup>th</sup> June 2014, <http://www.thehindu.com/news/international/south-asia/3-dead-80-injured-in-sri-lanka-clashes/article6120466.ece> ; Law and Society Trust, “Where Have All The Neighbours Gone? Aluthgama Riots And Its Aftermath A Fact Finding Mission to Aluthgama, Dharga Town, Valipanna and Beruwela”, December 2014, [http://lawandsocietytrust.org/content\\_images/publications/documents/aluthgama%20report%20final.pdf](http://lawandsocietytrust.org/content_images/publications/documents/aluthgama%20report%20final.pdf)

<sup>77</sup> NCEASL Incident Reports 2013—2016, via <https://slchurchattacks.crowdmap.com>

<sup>78</sup> Following the election of the new government, the NCEASL recorded a total of 184 incidents, with the SFM recording over 141 incidents against Muslim the community. Though 2015 saw a decline in violent attacks perpetrated by Buddhist extremist groups such as the *Bodu Bala Sena* (BBS—Buddhist Power Force) and *Sinhala Ravaya*; incidents instigated or supported by local government officials continued. Additionally, over 60 reported incidents against Evangelical

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Christians have involved State officials, in either an implicit or active capacity. Notably, high-level law enforcement and government officials such as the Senior Superintendent of Police (SSP), the Assistant Superintendent of Police (ASP) and Divisional Secretaries have been directly involved in a number of incidents. (NCEASL Incident Report 2016, 29<sup>th</sup> February, NCEASL Incident Report 2015, 14<sup>th</sup> October, NCEASL Incident Report 2016, 10<sup>th</sup> January) Other incidents recorded against Christians include; arson, demolition of churches, damage to property, physical assault of clergy and church members causing serious injury, death threats, intimidation, discrimination, forced displacement and forced closure of churches.

<sup>79</sup> “Attacks on places of religious worship in post-war Sri Lanka”, Centre for Policy Alternatives, March 2013: <http://sangam.org/wp-content/uploads/2013/03/Attacks-on-Religious-Places-CPA-March-2013.pdf>; Adaderana, “Northern Governor defends building places of worship”, 19<sup>th</sup> August 2016, <http://www.adaderana.lk/news/36567/northern-governor-defends-building-places-of-worship>

<sup>80</sup> Law enforcement officials are often reluctant to take effective action against persons who infringe on the liberties of minority religious groups, as a result of undue influence and pressure exerted by local Buddhist monks, government officials and politicians. Protestant Christians have also been victims of false allegations and police officers have been known to compel Protestant Evangelical Christian pastors to discontinue religious worship activities. Furthermore, on one occasion an Officer-in Charge of the local police station coerced a pastor into signing a letter stating that no Christians would be buried in the local public cemetery. (NCEASL Incident Report 2016, 6<sup>th</sup> January ) As at February 2017, no persons have been prosecuted in relation to the attacks instigated by the extremist group BBS on the Muslim community in Aluthgama in June 2014. This attack killed four and injured 80. (See UN General Assembly, A/HRC/30/61, 28<sup>th</sup> September 2015, pg. 6)

<sup>81</sup> For an example three new ministries to handle religious affairs for the Muslim, Christian, and Hindu communities respectively have been created under the new government, see. ‘Religious Freedom: US commends Sirisena’s govt.’ [Daily Mirror, 1 May 2015] <<http://www.dailymirror.lk/70983/religious-freedom-us-commends-sirisena-s-govt>> accessed 13 February 2017; Sri Lankan National Anthem was sung in Tamil for the first time in 2016 at the day of independence, see: Azzam Ameen, ‘Sri Lankan anthem sung in Tamil for first time since 1949’ [BBC News, 4 February 2016] <http://www.bbc.com/news/world-asia-35495567> accessed 13 February 2017, and Fundamental Rights case was filed against singing of the national anthem in Tamil, see: ‘FR Against National Anthem Sung in Tamil: Fixed for Support on October 14’ [Colombo Telegraph, 4 September 2016] <https://www.colombotelegraph.com/index.php/fr-against-national-anthem-sung-in-tamil-fixed-for-support-on-october-14/> accessed 13 February 2017, but subsequently the Supreme court dismissed the FR petition and gave effect to the new government’s step towards reconciliation, see: Lakmal Sooriyagoda, ‘FR challenging singing of national anthem in Tamil dismissed’ [Daily News, 19 November 2016] <http://www.dailynews.lk/2016/11/19/law-order/99598> accessed 13 February 2017

<sup>82</sup> Emily Durhan, ‘The Freedom Chat Transcripts: Sri Lankan Human Rights Defender Ruki Fernando [Sampsoniya Way, 21 April 2015]

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<http://www.sampsoniaway.org/interviews/2015/04/21/the-freedom-chat-transcripts-sri-lankan-human-rights-defender-ruki-fernando/> accessed 16 February 2017

<sup>83</sup> Even though there were so many religious violations recorded during the period of 2012-2015 most of those incidents were not investigated and culture of impunity existed. For an example in July 2014, Sri Lanka faced the worst riot which can be identified as ‘‘Aluthgama Riot’’. This riot broke out immediately after the inflammatory remarks that told by an angry mob and four people were killed over a hundred Muslim-owned businesses destroyed in this incident. But the past government neglected to investigate this in a proper way, for more details see: Centre for Policy Alternatives, ‘Constitutional and Legal Framework Governing Religious Freedom and Related Issues’, July 2014 available at: <<http://f.cl.ly/items/3p120j1h072I1s3c2u3Q/Constitutional%20and%20Legal%20Framework%20Governing%20%20Religious%20Freedom%20and%20Relatd%20Issues.pdf>> accessed 15 February 2017; Gehan Gunatilleke, ‘Hate Speech in Sri Lanka: How a New Ban could Perpetuate Impunity’ [OHRH Blog, 11 January 2016] <<http://ohrh.law.ox.ac.uk/hate-speech-in-sri-lanka-how-a-new-ban-could-perpetuate-impunity/>> accessed 16 February 2017

<sup>84</sup> Sri Lanka is a state party to the Convention on the elimination of all forms of discrimination against women.

<sup>85</sup> Article 16 of the Constitution prohibits judicial review of legislation and supersedes the guarantees of equality and non-discrimination, including for women.

<sup>86</sup> Discriminatory provisions in the Penal Code relating to consensual same sex relations; Statutory rape (exemptions for Muslim married girls between the ages of 12- 16); Impersonation; criminalizing abortion; Provisions in the Land Development Ordinance and State Lands Ordinance that grant state land in single ownership, instead of joint or co ownership; Personal laws including the Muslim Personal Law and Thesawalamai; Vagrants Ordinance and Brothels Ordinance

<sup>87</sup> The government created a Female-headed household Centre in the North (Kilinochchi district) in 2015. However, in March 2016, a Ministry of Women Affairs official stated at a public meeting that Centre lacked proper staffing. The role of the Centre remains unclear, and there is no transparency or clear plan for programs; the government drafted a SGBV policy and National Action Plan, but it does not address increasing access to justice for war affected, marginalized and vulnerable women. The Plan also does not address the case backlog; long-term medical, psychosocial, compensatory, and rehabilitative support for victims; or special measures to protect particularly vulnerable women like sexually abused and raped women, female heads of households who are looking for their missing family members, female ex-cadres and war injured/physically challenged women; In 2016, the President instructed the security forces and Inspector General of Police on the prohibition of SGBV, torture, rape, and other human rights violations. But there is no monitoring mechanism to ensure the instructions are followed, and new violations have been reported since issuance; Women waited in long lines to engage with the government-mandated Consultation Task Force (CTF) on the proposed TJ mechanisms. The CTF adopted many of their recommendations on gender-sensitive practices and priorities.



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Instead of accepting the recommendations, government officials have made blanket denials discrediting the CTF report, undermining support for TJ processes.

<sup>88</sup> Female labour force participation is 34% and comprises 54% of the informal economy and denied protections of the formal sector. Equal pay for work of equal value is denied to women in all sectors.

<sup>89</sup> Women with children under the age of 5 are prohibited from migrating for overseas employment. And only women expecting to migrate for work have to provide a Family Background Report. State policies on livelihoods emphasise small and medium enterprise and micro credit and have not considered the creation of formal secure employment.

<sup>90</sup> Officials abuse their position and will extract sexual favors from women before providing services such as certification of residence and other various forms of government assistance (<http://srilankabrief.org/2017/02/ceadw-66-wan-raises-issues-related-to-womens-access-to-justice-in-n-e-of-sri-lanka/>)

<sup>91</sup> No measures have been taken to address suspended sentencing for rape, criminalizing of marital rape and backlog of rape cases.

<sup>92</sup> <http://srilankabrief.org/2017/02/sri-lanka-collective-oral-statement-by-womens-groups-at-ceadw-in-geneva/>

<sup>93</sup> Chulani Kodikara, “The prevention of domestic violence act and implementation problems” 5<sup>th</sup> January 2015, <http://womenandmedia.org/the-prevention-of-domestic-violence-act-and-implementation-problems/> “One lawyer interviewed expressed the view that the outcome of filing a case under the PDVA is impossible to predict and is contingent on the judge handling the case. A thread running through the narratives is the ambivalence about the PDVA among judges and police officers and the fact that not all judges involved in the judicial process see the Act in a positive light. Nor are they unanimous about the objectives of the Act. Many respondents were clear that judges bring their own personal biases to the decision making process undermining both the letter and the spirit of the law. These include fears that the act is undermining marriage and increasing the number of divorces, trivialisation and minimization of violence, and discourses about vengeful and spiteful wives who are jeopardising family harmony and unity. Some lawyers reported of judges openly expressing concern that women use the Act to get a protection order, when they are having extra-marital affairs and they want to get rid of their husbands so they can move in with their new lovers. It is possible that judicial discourses have drawn succor from political discourses about the Act which have questioned the cultural appropriateness of the act.”

<sup>94</sup> From 2014-2015 between the Batticaloa and Ampara districts there were 1024 domestic violence reports, 74 reported rapes and 139 child abuse reports. <http://srilankabrief.org/2017/02/ceadw-66-wan-raises-issues-related-to-womens-access-to-justice-in-n-e-of-sri-lanka/>

<sup>95</sup> *ibid*

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<sup>96</sup> 25% of families are female headed and many, especially the war affected continue to be marginalized, neglected and vulnerable to abuse and poverty. Militarization and the breakdown of the rule of law has impacted women's security, impeded access to livelihoods, land, including traditional use of common land, housing, and other resettlement assistance in the post-war context. Also the continued militarization and impunity create the backdrop for sexual and gender-based violence (SGBV) and human rights abuse of war-affected women. There is inadequate state provision of professional counseling, medical, psychosocial and rehabilitation services to women. Many women in the north and east lost important documents like birth certificates, land records, national ID cards, etc. during the war. Also, many got married during the war without legal documents (e.g., as teenagers to escape LTTE recruitment) and have struggled to obtain documents at government offices. Post-war, an increase in contract labor has led to unplanned pregnancies; when the men return to other districts, women struggle to get birth certificates for the children or get fathers to sign birth certificates. Within the legal framework, men are recognized as primary income earners, and women receive limited livelihood subsidies and land rights. This is particularly problematic for single women and female heads of households. Without necessary legal documents, women struggle to obtain housing grants, land, and available services.

<sup>97</sup> Female ex-combatants face difficulties reintegrating into their communities; remain under military surveillance; marginalized from employment and access to services; social stigma; disabilities due to battle field injuries, poor educational qualifications, poor mental stability and barriers to getting married.

<sup>98</sup> Female headed households, single women, internally displaced women, war widows, and former female combatants face structural barriers to justice and redress before the police and courts. Cases drag on for years with multiple hearings, re-traumatizing victims while state perpetrators are rarely charged, convicted, or dismissed from their posts.

<sup>99</sup> Muslim women and girls are second-class rights holders under Sri Lanka's Quazi court system and Muslim Marriage and Divorce Act (MMDA). Politicians consider problems faced by Muslim women and girls intra-community issues, not fundamental human rights concerns. There is no minimum age of marriage for Muslims, and the MMDA allows a male guardian to give the bride in marriage <https://drive.google.com/file/d/0Bzyi8GJfqXRHSEpYeVR5Nnp3dkU/view>

<sup>100</sup> Article 16(1) of the 1978 Constitution exempts the MMDA from guaranteed fundamental rights like non-discrimination. See <https://mplreforms.com/2017/03/12/muslim-womens-demands/>

<sup>101</sup> In Sri Lanka Shadow Report to the CEDAW submitted by Women and Media Collective, January 2017

<sup>102</sup> Policy making opportunities have not been created in ways that ensure the right of women with disabilities to make decisions. They are even not represented at the National Women Committee which indicated that they have been neglected from the decision making process. Women with Disabilities are exposed to multiple discrimination in their daily lives and vulnerable to unreported household discriminations and various physical harassments. Under



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the post war context, the trend is such that women with disabilities living in the North and East are subjected to greater levels of abuse.

<sup>103</sup> Women are under-represented in Parliament (<6%), Provincial Councils (<4%) and Local Government (<2%).

<sup>104</sup> See Institute for Policy Studies [talking economic], “Decrease in Remittances in 2015: Glitch or Beginning of the End?” 18<sup>th</sup> December 2016, <http://www.ips.lk/talkingeconomics/2016/12/18/decrease-in-remittances-in-2015-glitch-or-beginning-of-the-end/> ;Annual performance report 2015 Ministry of Foreign Employment. <https://www.parliament.lk/uploads/documents/paperspresented/performance-report-ministry-of-foreign-employment-2015.pdf>

<sup>105</sup> Sri Lanka is yet to adopt the Employment Migration Authority Act. The draft Sri Lanka Employment Migration Authority Act which was to come into force by February 2014 has not yet been enacted by the Parliament.

<sup>106</sup> 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider communications from States parties and individuals concerning violations of the rights established by the Convention.

<sup>107</sup> the lack of information and adequate legal counsel for migrant workers on their rights and the remedies available in the State party’s justice system; The ineffective handling of complaints and the lack of complaint management skills and gender sensitivity among SLBFE staff, especially in the regional offices; Complaints from poor and less articulate migrant workers and those who did not register before departure not being taken seriously or such migrant workers being denied assistance by the Sri Lanka Bureau of Foreign Employment; Some Sri Lankan migrant workers being forced by employers to sign documents stating that they were well treated in the destination State, most often in a foreign language, in order to be allowed to return to the State party, and the consequent refusal by the Sri Lanka Bureau of Foreign Employment to accept their complaints

<sup>108</sup> They receive wages that are under the minimum baseline, and are victims of fraudulent practices, excessive working hours and even illegal confinement by their employers. Sexual harassment, threats and intimidation against them are rampant.

<sup>109</sup> Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be punished with fine 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 injuries caused to such person.

<sup>110</sup> 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

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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.

<sup>111</sup> 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.

<sup>112</sup> Vagrants Ordinance, No.4 of 1841 (as amended)

<sup>113</sup> 'Sri Lankan Police Arrest a Lesbian Couple and Police Justifies Its Action' [Sri Lanka Brief, 22 January 2016] <http://srilankabrief.org/2016/01/sri-lankan-police-arrest-a-lesbian-couple-police-has-justified-the-arrest/> accessed 3 March 2017

<sup>114</sup> Harassment and discrimination of LGBT person in Sri Lanka have been widely documented, Human Rights Watch Not All Five Fingers Are the Same

[https://www.hrw.org/sites/default/files/report\\_pdf/srilanka0816web.pdf](https://www.hrw.org/sites/default/files/report_pdf/srilanka0816web.pdf)

Discrimination of Lesbians, Bisexual Women and Transgender Persons in Sri Lanka : Shadow Report submitted to the Presented to the 66th Session of the Committee for the Elimination of All Forms of Discrimination Against Women (CEDAW), 2017

<http://womenandmedia.org/wp-content/uploads/2017/02/WMC-LBT-SHADOW-REPORT-FINAL-20-JAN-2017.pdf>

Human Rights Violations Against Lesbian, Gay, Bisexual, and Transgender (LGBT) People in Sri Lanka: A Shadow Report Submitted for consideration at the 110th Session of the Human Rights Committee, 2014

[http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT\\_CCPR\\_ICO\\_LKA\\_15986\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT_CCPR_ICO_LKA_15986_E.pdf)

<sup>115</sup> <http://www.pinknews.co.uk/2016/05/10/sri-lankan-lgbt-activists-fear-attacks-as-thugs-vow-to-take-law-into-their-own-hands/>

<sup>116</sup> The JVP parliamentarian, Nalinda Jayatissa stated that "I am totally against Lesbian, Gay, Bisexual and Transsexual (LGBT) rights. This is not the need of the human being; further see: 'Homophobic Justice Minister Wijeyadasa Should Resign: Right Activists' [Colombo Telegraph, 22 January 2017] <https://www.colombotelegraph.com/index.php/homophobic-justice-minister-wijeyadasa-should-resign-right-activists/> accessed 3 March 2017

<sup>117</sup> Namely the recommendations made by the Parliamentary Subcommittee on Fundamental Rights <https://www.colombotelegraph.com/wp-content/uploads/2016/11/01-Fundamental-Rights-ste-1.pdf>; Public Representations Committee on Constitutional Reforms [http://english.constitutionalassembly.lk/images/pdf/PRC\\_1.pdf](http://english.constitutionalassembly.lk/images/pdf/PRC_1.pdf); and the Consultation Task Force on Reconciliation Mechanisms

[https://drive.google.com/open?id=0Bzl\\_GkvmvUNzM1ZKcENidk8zT0k](https://drive.google.com/open?id=0Bzl_GkvmvUNzM1ZKcENidk8zT0k)

<sup>118</sup> This also implies vehement opposition to the inclusion of a constitutional clause on equality to all Sri Lankan citizens, irrespective of their gender identity and/or sexual orientation.

Chamindra Weerawardena, 'Sri Lanka's LGBTIQ Equality Stalemate' [The Sunday Leader, 22

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January 2017] <http://www.thesundayleader.lk/2017/01/22/sri-lankas-lgbtiq-equality-stalemate/> accessed 2 March 2017 In other words, this cabinet decision, reached by a cabinet of ministers that describes itself as advocates of ‘yahapalanaya’ (good governance) does not recognise the fundamental rights of Sri Lankan citizens who are not heterosexual in terms of their sexual orientation

<sup>119</sup> <http://www.dailymirror.lk/article/Cabinet-rejects-moves-to-decriminalize-homosexuality-122311.html>

<sup>120</sup> Census of Population & Housing 2012, Department of Census and Statistics Sri Lanka (Page no 136). <http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/FinalReportE.pdf>

<sup>121</sup> Sri Lanka government has signed United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) on 30 March 2007 and ratified on 08 February 2016 after 10 years.

<sup>122</sup> Projection of the Rights of Persons with Disabilities Act, No No 28 of 1996 [http://socialemwelfare.gov.lk/web/images/content\\_image/pdf/legislation/act1996.pdf](http://socialemwelfare.gov.lk/web/images/content_image/pdf/legislation/act1996.pdf)

<sup>123</sup> Equality in recruitment for employment, admission to educational institutions and for physical accessibility to public places

<sup>124</sup> Disability Rights Bill (DRB 2006) was stagnated for almost 10 years, with more than five times amendments but never reached the parliament to be adopted as national law. However in 2016 re-drafted the DRB 2006 and was submitted to the Legal Draftsman Department, but it's coordination of implementation mechanism and monitoring mechanism are not in compliance with the Article 33 of the UNCRPD.

<sup>125</sup> The Sri Lankan constitution guarantees a citizen's right to equal protection and prohibits discrimination on grounds including race, religion, sex and language (Article 12).

<sup>126</sup> They feel difficulties when they seek legal redress as well as when required to give evidence before the law. Persons with disabilities experience multiple discriminations as and when they need to communicate within the courts system due to lack of alternate communication methods and mediums and when they need physical access to court premises in the process of seek justice. This difficulty is severe among the deaf or persons with hearing impairments as well as for persons with intellectual disabilities. Practical leasing facilities, land loans, ATM cards and life insurance were not offered to blind people. (2016/12/06-Daily Mirror)

<sup>127</sup> Even though persons with disabilities possess the required educational qualifications, sufficient numbers of persons with disabilities have not received employments due to their disability. The 3% quota for government employments is also not properly implemented. No initiatives were taken by the government to ensure private sector employments or to encourage employers to provide employments to PwDs

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<sup>128</sup> Although the government is duty bound to provide information using alternate communication means used by persons with disabilities, the respective special provisions are not available, causing the issue to be even more severe. Further, the lack of technical equipment and assistive devices such as braille printers and screen readers in public places continues to place obstacles. There is a dire shortage of sign language interpreters in Sri Lanka. At the moment only five sign language interpreters are available (Joint Alternative Report submission for the UPR of the Situation of Persons with Disabilities in Sri Lanka by Disability Organizations Joint Front, March 2017)

<sup>129</sup> Sri Lanka has ratified the Marrakesh Treaty that facilitate access to published works for persons who are blind, visually impaired, or otherwise print disabled. (Accessible at [https://www.wto.org/english/docs\\_e/legal\\_e/04-wto.pdf](https://www.wto.org/english/docs_e/legal_e/04-wto.pdf)) However, the Intellectual Properties Act No 36 of 2003. (Accessible at <https://www.gov.lk/elaws/wordpress/wp-content/uploads/2015/03/IntellectualPropertyActNo.36of2003Sectionsr.pdf>) has provisions for copyrights and preventing reproduction which has to be amended to made provisions in compliance with Marrakesh Treaty. (Joint Alternative Report submission for the UPR of the Situation of Persons with Disabilities in Sri Lanka by Disability Organizations Joint Front, March 2017)

<sup>130</sup> Such as physically inaccessible polling stations, lack of ballot papers in large fonts/braille paper, absence of trained polling agents. There are provisions to safeguard the voting rights of Persons with Disabilities. However, these provisions may violate the fundamental of universal franchise and democratic rights, especially secrecy when casting the vote and obstacles in accessing polling stations. ((Joint Alternative Report submission for the UPR of the Situation of Persons with Disabilities in Sri Lanka by Disability Organizations Joint Front, March 2017)

<sup>131</sup> Although there is a Supreme Court ruling to provide accessible facilities to new public buildings, none of the responsible government institutions have taken any action to fully implement it up to now. The National Council for Persons with Disabilities mandated to deal with which is the apex body of disability issues in Sri Lanka has not taken any measures to intervene or to take legal action against those who violate these regulations.

<sup>132</sup> Sri Lanka Public Administration Circular No. 27/1988, introduced 3% quota for PwDs when filling government employment. This circular was further elaborated by Public Administration Circular No. 01/99 dated 29 January 1999. [http://www.pubad.gov.lk/web/eservices/circulars/1999/E/01-1999\(e\).pdf](http://www.pubad.gov.lk/web/eservices/circulars/1999/E/01-1999(e).pdf)

<sup>133</sup> University Grant Commission of Sri Lanka Admission to Undergraduate Courses of the Universities (Academic Year 2015/2016) in Sri Lanka (Page no 130) [http://www.ugc.ac.lk/downloads/admissions/Handbook\\_2015\\_2016/ENGLISH%20HANDBOOK%202015-2016.pdf](http://www.ugc.ac.lk/downloads/admissions/Handbook_2015_2016/ENGLISH%20HANDBOOK%202015-2016.pdf).

<sup>134</sup> Students with disabilities are expected to study subjects as determined by the education authorities even if they dislike the subject stream. This is a violation of their right to higher education. University Grant Commission of Sri Lanka Admission to Undergraduate Courses of

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the Universities ((Joint Alternative Report submission for the UPR of the Situation of Persons with Disabilities in Sri Lanka by Disability Organizations Joint Front, March 2017. Academic Year 2015/2016) in Sri Lanka, Page no 130. (Accessible at

[http://www.ugc.ac.lk/downloads/admissions/Handbook\\_2015\\_2016/ENGLISH%20HANDBOOK%202015-2016.pdf](http://www.ugc.ac.lk/downloads/admissions/Handbook_2015_2016/ENGLISH%20HANDBOOK%202015-2016.pdf)

<sup>135</sup> There are hardly any representatives at local authorities, provincial councils or in Parliament mandated to represent disabled community. There are couple of individuals with disabilities who happened to be representatives of the main political parties elected to Provincial Councils but never represent the disabled community. In 2009/2010, one main political party nominated PwD's to the provincial council who are combat casualties released from the military elected as public representative in the Provincial Councils but never represent the mandate of disabled community. In 2015 couple of individuals elected to the parliament from main political parties but never represent the mandate of disabled community. ((Joint Alternative Report submission for the UPR of the Situation of Persons with Disabilities in Sri Lanka by Disability Organizations Joint Front, March 2017)

<sup>136</sup> Early marriage and early cohabitation affects girls more than boys and reflects gender biases and discriminatory attitudes in families and communities. Social values regarding the importance of maintaining a girl's chastity and respectability placed pressure on girls to falsify ages and register marriages or to consent to early cohabitation. These values were also reinforced by service providers including law enforcement officers. While reforms to the law and strengthening of law enforcement is necessary, adequate attention also needs to be paid to ensuring that sensitive, effective and accessible support services for victims of early marriage and statutory rape are in place. (Emerging concerns and child marriages in Sri Lanka. Professor Savithri Goonasekera and Dr Harinin Amarasuriya. [https://www.unicef.org/srilanka/2013\\_Child\\_Marriage\\_Case\\_Studies.pdf](https://www.unicef.org/srilanka/2013_Child_Marriage_Case_Studies.pdf)

<sup>137</sup> A government statement released in parliament in May said that of the 1,450 female rape cases reported in 2011, child rape accounted for 1,169. An October 2011 study of child abuse in Sri Lanka's north-central region showed that 30 percent of the cases were of female minors (below 15 years) having consensual sex with a male partner. The balance 70 percent of cases were attributed to the "strength, power and dominance of perpetrators who could be relatives, teachers or religious dignitaries. The trend of powerful people preying on minor girls is not confined to the north and east of the island country. The abduction and rape of a 13 year old girl by the son of a wealthy businessman in Anuradhapura. (January 2012); The rape of a 14 year old girl by the Chairperson of the Akuresa Pradeshiya Sabha and one of his relatives. (March 2012); The rape of a 13 year old girl by a member of the Tangalla Municipal Council along with 5 other persons. (June 2012); The rape of another 14 year old girl by the Chairperson of the Akuresa Pradeshiya Sabha over a period of two days at a guest house owned by him. (June 2012)<https://www.colombotelegraph.com/index.php/child-rape-on-the-rise-in-sri-lanka>/<https://www.colombotelegraph.com/index.php/womens-rights-group-on-sri-lankas-700-sexual-abuse-of-girls/>

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<sup>138</sup> (Seya sandwemi, Vidya, (Kilinochchi,paranthan 7 year old Girl, A 13-year-old girl who was studying at Vipulananda School) Dr. Deepika Attygalle says At least three children are abused daily. Sri Lanka is fast becoming a country where child rape cases are on the increase. According to reliable sources there are over 4,000 cases of child rape.

<sup>139</sup> Most 70.3 per cent- of 107, 259 children from 20,000 households surveyed last year were in the age group of 5 to 16 years, working in “elementary occupations” as “street vendors and mobile vendors, street services, domestic helpers, agricultural and related labour workers, labourers engaged in mining, construction, manufacturing, transport and related workers”

<sup>140</sup> The thirty year war in Sri Lanka’s Northern Province has had a severe psychological effect on the children there. (Dr.Daya Somasundaram, Professor of Psychiatry at the University of Jaffna ) About 500 children live in remand homes and rehabilitation centres in prisons. A study of medical students from the districts of the Wannu revealed that 63 percent had witnessed the unnatural death of a friend/ relative /family member; 67 percent had escaped from the jaws of death; 43 percent had witnessed killings of strangers; and 80 percent had been in the midst of armed combat. Further studies show that 57 percent of North’s children had a “functioning disorder” and 29 percent were “full” cases of Post-Traumatic Stress Disorder.

<sup>141</sup> As per to the Muslim Marriages and Divorce Act child marriage is allowed.

<sup>142</sup> Dumping of new born infants in public places such as in dustbins, drains and in shrubs by mothers have become a common practice these days owing mostly to the increase in the number of illegitimate pregnancies hitherto not witnessed before. Obviously mothers resort to this heinous crime for various reasons. Children born out of wedlock are shunned in our society.Mothers too are aware of the stigma attached giving birth to fatherless children. Statistics show that 206 children were abandoned by their mothers in 2011 and 26 children alone had been abandoned in January 2012 <http://archives.sundayobserver.lk/2012/04/01/sec04.asp>

Infant was found abandoned on the Mirigama railway track together with a bag containing the placenta and other membranous bi-products. Accessed through Infant abandoned on railway track <http://dailynews.lk/2017/01/18/local/105054/infant-abandoned-railway-track>; <http://www.hirunews.lk/89233/abandoned-infant-found-in-dodangoda>

<sup>143</sup> 29.1% of children with disabilities do not receive school education. This position falls short of state obligations under the CRPD. (LST report) The programs, vision, methodologies which were adopted and the updated modern technologies which were utilized are very weak. The government has neglected children with disabilities in early childhood development. Minimum facilities required for the concept of inclusive education accepted worldwide are not available in the schools system and the students with disabilities do not have the freedom to choose preferred subject streams in the higher education institutions. Lack of expertise and capacity to teach these children in both private and public education systems also cause for the insufficient level of disabled persons’ education.

<sup>144</sup> UN Human Rights Council, Promoting reconciliation, accountability and human rights in Sri Lanka, Resolution 30/1, 30th session, 1st October 2015, U.N. Doc. A/HRC/30/1 (hereinafter

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UNHRC, Resolution 30/1); LLRC, Report of the Commission of Inquiry on Lessons Learnt and Reconciliation, November 2011 (hereafter LLRC Report)

<sup>145</sup> See ‘Conclusions and/or Recommendations’ in the Report of the Working Group on the Universal Periodic Review, Sri Lanka, page 14

<sup>146</sup> The LLRC’s call for accountability, regarding incidents during the final stages of the war, was amplified in Resolution 30/1, which called for a wider and more structured accountability process within the country.

See in this regard LLRC Report, Para 9.9 (*While the Commission finds it difficult to determine the precise circumstances under which such incidents occurred (as described in Chapter 4 Section II above, vide paragraphs 4.106, 4.107, 4.109, 4.110, and 4.111) the material nevertheless points towards possible implication of the Security Forces for the resulting death or injury to civilians, even though this may not have been with an intent to cause harm. In these circumstances the Commission stresses that there is a duty on the part of the State to ascertain more fully, the circumstances under which such incidents could have occurred, and if such investigations disclose wrongful conduct, to prosecute and punish the wrong doers.*) ; See also Para 9.37 (*The Commission therefore recommends that action be taken to; a. Investigate the specific instances referred to in observation 4.359 vi. (a) and (b) and any reported cases of deliberate attacks on civilians. If investigations disclose the commission of any offences, appropriate legal action should be taken to prosecute/punish the offenders.*)

Compare with UNHRC, Resolution 30/1, Operative Paragraph 6 & 7

*.....notes with appreciation the proposal of the Government of Sri Lanka to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as applicable; affirms that a credible justice process should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality; and also affirms in this regard the importance of participation in a Sri Lankan judicial mechanism, including the special counsel’s office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators.*

*Encourages the Government of Sri Lanka to reform its domestic law to ensure that it can implement effectively its own commitments, the recommendations made in the report of the Lessons Learnt and Reconciliation Commission, as well as the recommendations of the report of the Office of the High Commissioner, including by allowing for, in a manner consistent with its international obligations, the trial and punishment of those most responsible for the full range of crimes under the general principles of law recognized by the community of nations relevant to violations and abuses of human rights and violations of international humanitarian law, including during the period covered by the Lessons Learnt and Reconciliation Commission.*

<sup>147</sup> Such as a Court of Inquiry and Board of Inquiry, constituted by the Sri Lankan Army were established,

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<sup>148</sup> The Court of Inquiry exonerated the armed forces of violations of IHL, despite obvious questions regarding the impartiality of the probe. See in this regard, LLRC Observations Cleared; Army Commander Hands Over Court of Inquiry Report to Secretary Defence <http://www.army.lk/news/llrc-observations-cleared-army-commander-hands-over-court-inquiry-report-secretary-defence> However the Board of Inquiry (BOI) which was constituted recommended the appointment of another BOI to investigate civilian deaths and injuries during the conflict's last stages, despite the Court of Inquiry's blanket exoneration of the armed forces from violations of IHL. (See in this regard, Full Report of the Army Board on LLRC Observations Released, paragraph 56 at [http://www.army.lk/docimages/image/LLRC\\_2013.pdf](http://www.army.lk/docimages/image/LLRC_2013.pdf) )

<sup>149</sup> This misapplication has been exposed and critiqued by legal experts in Sri Lanka. See in this regard Dr Isabelle Lassée, *The Last Stages of the War: Clarifying the Application of IHL* at <http://sacls.org/resources/publications/reports/the-last-stages-of-the-war>

<sup>150</sup> See more at: Niran Anketell, *Govt's Geneva Dilemma Why Sincerity Matters* (March 8<sup>th</sup> 2017) <http://www.dailymirror.lk/article/Govt-s-Geneva-Dilemma-Why-Sincerity-Matters-125060.html#sthash.Lz9zZ9ce.dpuf> *In contrast, Sri Lanka's regular criminal justice system has already tried dozens if not hundreds of low-ranking officers, most often trigger pullers, when information pertaining to human rights abuses came to light.*

<sup>151</sup> See Marisa De Siva, *'Justice Denied To Survivors Of The Kumarapuram Massacre Of '96'* (Sunday Leader, February 19<sup>th</sup> 2017) <http://www.thesundayleader.lk/2017/02/19/justice-denied-to-survivors-of-the-kumarapuram-massacre-of-96/> *On July 27th 2016, 20 years following the massacre, the remaining six (as two died whilst out on bail), former soldiers were acquitted, and exonerated of all charges, by an all-Sinhala jury at the Anuradhapura High Court. ; 'Raviraj Murder: Court acquitted five accused - Sumanthiran faults all-Sinhala jury'* (Asian Tribune, 25<sup>th</sup> December 2016) <http://www.asiantribune.com/node/89905> *TNA spokesman and fellow Member of Parliament M. A. Sumanthiran said the acquittal confirmed their fears that the victim could not expect a fair trial by a jury consisting only of those of the majority Sinhala-speaking community. "It became an 'us' (majority Sinhalese) versus 'them' (minority Tamils) issue and shows we were right to object to this jury, but our position was rejected by the judge," Sumanthiran told AFP. He said the court verdict underscored the need for independent international judicial experts to investigate allegations of war crimes during the 37-year-long Tamil separatist war which ended in May 2009.*

<sup>152</sup> Shanika Sriyananda, *Sirisena to get Paranagama Commission's final report on HR violations next week* (Daily Financial Times, 28<sup>th</sup> September 2015) <http://www.ft.lk/article/476189/Sirisena-to-get-Paranagama-Commission-s-final-report-on-HR-violations-next-week>

<sup>153</sup> Hybrid Court format by January 2017 – Mangala (Ceylon Today, July 7<sup>th</sup> 2016) <http://www.ceylontoday.lk/article20160701CT20161030.php?id=1216> *"If we don't have a specific specialist mechanism in the country, we do not see anything wrong with getting assistance from the international community to bridge that gap. There will be certain instances*



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*in which we might require international assistance. When President Sirisena spoke about this matter he only expressed an opinion about international judges. His views were supported by many who said that we have more than enough local resources that can be used instead of resorting to international assistance. On the other hand the Tamil National Alliance and several other groups are of the opinion that international judges are essential in this system to make it credible. **But we see alternative methods wedged between these two opposing views. We need not worry now. We are consulting all stakeholders at the moment regarding this matter. After that consultation process is finalized a proper mechanism that everyone can agree on will be implemented.**"*

<sup>154</sup> Minister Samaraweera - 'War Crimes Court', BBC Sinhala (11<sup>th</sup> July 2016), <<https://www.facebook.com/BBCSinhala/videos/vb.103678496456574/660326407458444/?type=2&theater> >. *"As mentioned in our election manifesto, we will be establishing a domestic accountability mechanism. We do not intend to bring foreign judges. The resolution only says 'foreign participation'. Where we do not have the expertise to conduct forensic investigations we will request foreign participation"* **President Sirisena** - Meera Sirinivasan, 'Need a judicial mechanism that has confidence of Tamils', The Hindu (11<sup>th</sup> November 2016), <<http://www.thehindu.com/opinion/op-ed/Need-a-judicial-mechanism-that-has-confidence-of-Tamils%E2%80%99/article16293468.ece>

*When we came to power, our judiciary was very weak. One of the reasons we appointed a Chief Justice from the minority community was to enhance confidence in the judicial system among the minorities. We have improved the quality of the judiciary and its independence and impartial nature. We can obtain advice from foreign judicial experts. **As per our constitutional provisions, there is no possibility of foreign judges participating in our judicial process or conducting cases. I don't have any mandate to act against constitutional provisions.** We have to create a judicial mechanism that has the fullest confidence of the people in the north"*

<sup>155</sup> Statement to Media by Mangala Samaraweera, Minister of Foreign Affairs on the occasion of the Official Visit of John Kerry, US Secretary of State to Sri Lanka (2<sup>nd</sup> May 2015) <http://mfa.gov.lk/index.php/en/media/media-releases/6062-statement-to-media-by-mangala-samaraweera-minister-of-foreign-affairs-on-the-occasion-of-the-official-visit-of-john-kerry-us-secretary-of-state-to-sri-lanka> *Ensuring accountability in the New Sri Lanka, will feature as a key component of the reconciliation process, and the architecture of a domestic accountability mechanism with international technical assistance as promised by our manifesto are now being planned.*

<sup>156</sup> Consultation Task Force on Reconciliation Mechanisms, Interim Report: The office on Missing Persons Bill and Issues concerning the missing, the Disappeared and the Surrendered (August 2016) page 9-10

<sup>157</sup> OMP: Fear due to lack of information- CTF (Daily Mirror, August 22<sup>nd</sup> 2016) <http://www.dailymirror.lk/114486/OMP-Fear-due-to-lack-of-information-CTF>

<sup>158</sup> Committee appointed to monitor the formation of Office on Missing Persons (Colombopage, September 17<sup>th</sup> 2016) [http://www.colombopage.com/archive\\_16B/Sep17\\_1474130718CH.php](http://www.colombopage.com/archive_16B/Sep17_1474130718CH.php)

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<sup>159</sup> Office of Missing Persons from Jan.1: Mangala (Daily Mirror, November 15<sup>th</sup> 2016) <http://www.dailymirror.lk/article/Office-of-Missing-Persons-from-Jan-Mangala-119131.html>

<sup>160</sup> Decisions Taken by the Cabinet of Ministers at its Meeting Held on 07-02-2017 (News.lk) <http://www.news.lk/cabinet-decusions/item/15847-decisions-taken-by-the-cabinet-of-ministers-at-its-meeting-held-on-07-02-2017> *The above act was passed in parliament on 23 August 2016. Proposals have been made to repeal its paragraph (a) of article 11 that authorizes the said office to enter into agreements with an individual or an organization in performing its tasks. Accordingly, the proposal made by Hon. Prime Minister Ranil Wickremesinghe, to instruct the Legal Draftsman to amend the said act, was approved by the Cabinet of Ministers.*

<sup>161</sup> CTF recommends at least one int'l judge to try war crimes (Daily Mirror, January 4<sup>th</sup> 2017) <http://www.dailymirror.lk/article/CTF-recommends-at-least-one-int-l-judge-to-try-war-crimes-121665.html>

<sup>162</sup> On February 28, 2017, the Foreign Minister promised to present the draft legislation on the Truth Commission within two months. Draft of Sri Lanka truth seeking commission within 2 months: FM to UNHRC (Lankabusinessonline, February 28<sup>th</sup> 2017) <http://www.lankabusinessonline.com/draft-of-sri-lanka-truth-seeking-commission-within-2-months-fm-to-unhrc/>

<sup>163</sup> 'Mangala outlines 'course correction' in Sweden' (Daily News, January 21<sup>st</sup> 2017) <http://dailynews.lk/2017/01/21/local/105301/mangala-outlines-%E2%80%99course-correction%E2%80%99-sweden>

<sup>164</sup> Bhavani Fonseka, Discussions Note : The Need for a Comprehensive Reparation Policy and Package (CPA, March 2015) <https://www.cpalanka.org/wp-content/uploads/2015/04/The-Need-for-a-Comprehensive-Reparations-Policy-and-Package1.pdf> at page 7

<sup>165</sup> For more information, refer to the CTF report

<sup>166</sup> UNHRC Resolution, Operative Paragraph 8 Also encourages the Government of Sri Lanka to introduce effective security sector reforms as part of its transitional justice process, which will help to enhance the reputation and professionalism of the military and include ensuring that no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights violations or abuses or violations of international humanitarian law, including members of the security and intelligence units; and also to increase training and incentives focused on the promotion and protection of human rights of all Sri Lankan

<sup>167</sup> Update to the Fifth Periodic Report submitted under Article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment CAT/C/LKA/5/Add.1, [http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT\\_CAT\\_ADD\\_LKA](http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT_CAT_ADD_LKA)

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24387 E.pdf>: Replies of Sri Lanka to the list of issues, CEDAW, CEDAW/C/LKA/Q/8/Add.1 Similarly, action was initiated by the Ministry of Defence to issue instructions to all branches of the security forces that violations of human rights including torture by military personnel will be punished. By a letter dated 18 March 2016, Commanders of all branches of the security forces have been directed by the Ministry of Defence to issue instructions to all Armed Forces personnel that strict action will be taken against human rights violations. The instructions have been issued by the Commanders of the Army on 30th March 2016, Air Force on 31st March 2016 and the Navy on the 16th of April 2016 consecutively

<sup>168</sup> The only public directives which exist are in relation to President Maithripala Sirisena, who in June 2016, publicly issued a series of new directives to the police and security forces to follow when arresting and detaining persons suspected of terrorism related offences. See in this regard ‘Lankan President issues new directives to police and armed forces on arrests under PTA’ (The ColomboPage June 19<sup>th</sup> 2017) < [http://www.colombopage.com/archive\\_16B/Jun19\\_1466353649CH.php](http://www.colombopage.com/archive_16B/Jun19_1466353649CH.php)

<sup>169</sup> The Assistance to and Protection of Victims of Crime and Witness Act No. 4 of 2015

<sup>170</sup> Aruni Jayakody, ‘Victim & Witness Protection The Need For Further Reform’ (South Asian Centre for Legal Studies, 2015)

<sup>171</sup> Kishali Pinto Jayawardena, ‘The ‘Scarlet Pimpernel’ Garb of Sri Lanka’s Elusive Witness Protection’ (March 8<sup>th</sup> 2017) <http://www.sundaytimes.lk/170305/columns/the-scarlet-pimpernel-garb-of-sri-lankas-elusive-witness-protection-authority-231511.html>

This itself was attendant with many peculiarities, such as when its Chairman, a former High Court judge resigned shortly after taking up the appointment. After struggling with other issues including an embarrassing lapse in the legal procedures relating to the appointment of its members, we were informed that the Witness Protection Authority had been ‘reconstituted’ late last year after a long lapse following enactment of the law. This was apparently ‘launched’ in January this year.

<sup>172</sup> UNHRC Resolution, Operative Paragraph 10 Also welcomes the initial steps taken to return land, and encourages the Government of Sri Lanka to accelerate the return of land to its rightful civilian owners, and to undertake further efforts to tackle the considerable work that lies ahead in the areas of land use and ownership, in particular the ending of military involvement in civilian activities, the resumption of livelihoods and the restoration of normality to civilian life.....

<sup>173</sup> Parliamentary Debates (Hansard), Wednesday, 08th March, 2017, Statement of the Hon. Rajavaritham Sampanthan - Leader of the Opposition, page 281 “Now, I have done some work on this matter. I have inquired from people who are knowledgeable, who can give accurate information and the information I want to place on record now is something which cannot be contradicted. In the Jaffna District, in Valikamam North, 4,500 acres of private land are yet to be released, largely in Tellippalai area. In other areas in the Jaffna District, 750 acres of private land are yet to be released; 5,250 acres of private land are yet to be released in the Jaffna; all of which is private land. In Mullaitivu, Sir, 1,080 acres of state land have yet to be released; in

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Maritimepattu, 166.25 acres; in Puthukudiyiruppu, 371 acres; in Odduchuddan 108 acres; in Thunukkai, 425 acres where some part of it is forest; in Manthai East, 10 acres. In all, in Mullaitivu District, 1,080 acres of state land from which people were dispossessed have yet to be returned to the people. Beyond that, in Mullaitivu District, 773 acres of private land are yet to be released. In Maritimepattu, 708 acres; in Odduchudan, 45 acres; in Manthai East, 20 acres. That is private land and state land in Mullaitivu. Beyond that, the navy - the figures I gave early are lands in the occupation of the army- holds 404 acres of private land in the Maritimepattu Divisional Secretary's Division in Vattuvakal; police holds 22.5 acres of private land in Maritimepattu, Odduchuddan and Thunukkai. Those are the figures of the state land and private land held by the army, the navy and the police in the Mullaitivu District. In the Kilinochchi District, 400 acres of land are yet to be released, both state land and private land, in Kandavalai, 163 acres; in Poonakary, 101 acres; in Karachchi 79 land acres and in Palai, 71 acres. I have given you the extents of state land and private land that are being unjustifiably held by the army, the navy and the police in Jaffna District, in Mullaitivu District and in Kilinochchi District. Beyond that, there are lands being held by the armed forces in Mannar and Vavuniya”

<sup>174</sup> Centre for Policy Alternatives, Land Occupation in the Northern Province: A Commentary on Ground Realities and Recommendations for Reform, March 2016

<sup>175</sup> Govt. Says Not Afraid Of Tamil Protests, Declares Army Camps In North Won't Be Removed (colombotelegraph, 25 September 2016) <https://www.colombotelegraph.com/index.php/govt-says-not-afraid-of-tamil-protests-declares-army-camps-in-north-wont-be-removed/> State Minister of Defence Ruwan Wijewardene declared that, “We will not remove the Army Camps in the province.” He made this statement at an event in Rantambe today. Wijewardene also said that his Government was not afraid of such demonstrations. “They can shout all they want, but we reiterate that we will not remove the camps,” he said.

<sup>176</sup> Security forces: No more releasing of lands from Palaly cantonment’ (The Island, 11<sup>th</sup> September 2016) < [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=151905](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=151905)>The army would not return even an inch of the 4,419 acre land belonging to the Jaffna camp and Palaly Military cantonment, Jaffna Security Forces Commander Major General Mahesh Senanayake said

<sup>177</sup> Reports indicate to the role of several government entities such as the Forest Department, Wildlife Department, Mahaweli Authority being some who have exacerbated tensions and conflicts around land use and control in some areas in the North and East.

<sup>178</sup> Tamil protests to reclaim land persist in Sri Lanka (lankapage, March 2, 2017) [http://www.lankapage.com/NewsFiles17/Mar02\\_1488426452.php](http://www.lankapage.com/NewsFiles17/Mar02_1488426452.php) But protesters in Puthukkudiyiruppu and the nearby Keppapilavu, where 84 families were protesting, raise a more fundamental question - why does the army still hold people's land almost eight years after the war?

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<sup>179</sup> Sampanthan's fury Sri Lanka's Defence at the UN (Nation, March 4, 2017) <http://nation.lk/online/2017/03/04/sampanthans-fury-srilankans-defence-at-the-un.html> President Maithripala Sirisena last week agreed to give the lands back to the residents of Keppapilavu, Mullaitivu after a month-long protest. See also Parliamentary Debates (Hansard), Wednesday, 08th March, 2017, Statement of the Hon. Rajavaroatham Sampanthan - Leader of the Opposition, page 282 I am raising this question in Parliament today in regard to two particular matters, Valikamam North in Jaffna and Keppapalavu in Mullaitivu. I wrote to the President and I am thankful to the President. When the lands in Keppapulavu were not released by the air force and the lands in Puthukudiyiruppu were not released by the army, and in regard to the Kilinochchi Maha Vidyalaya land, when I met him with two of my Colleagues, Hon. M.A. Sumanthiran and Hon. Selvam Adaikkalanathan, the President was immediately willing to act, and in our presence, telephoned both the Army Commander and the Air Force Commander and directed that those lands be released in a day or two, which had been done, and I am thankful to him for that

<sup>180</sup> Centre for Monitoring Election Violence, Northern Provincial Council Election 2013 – Communiqué No 1 <https://cmev.files.wordpress.com/2013/09/northern-provincial-council-election-2013-e28093-communicuecc81-no-1.pdf> The National Home Guard Service was established as a Voluntary Service in the mid 1980's to protect the border/ threatened villages was re-structured to establish the Civil Security Department by Gazette notification No. 1462/20 dated 13th September 2006. The current role of the Civil Security Department (CSD) is as follows: • Agriculture Projects • Manufacturing of Bricks • Poultry Farms • Assisting the Department of Archaeology in restoring archaeological sites • Development of Roads and Towns • Conducting of Primary Schools/ Pre Schools. • Providing Security to Government Institutions (such as Courts, Banks, Wild Life Conservation etc.) • Functioning of Garment Factories and the Blacksmiths Workshop. • Training of Private Security Personnel. • Special Tasks given by the Ministry of Defence. Individuals recruited by the Civil Security Department are required to wear black t-shirts, black jeans/trousers and boots (“akin to army shoes”). Employees of the Civil Security Department are also said to undergo weapons training for the purpose of facilitating their transfer/secondment to the Police and Forest Departments, if necessary. [South Asian Centre for Regional Studies, Field Research, 3 March 2017]

<sup>181</sup> Palaly Farm to use new Water Sprinkling System, <http://www.army.lk/news/palaly-farm-use-new-sprinkling-water-system> The Army-maintained Palaly Farm, covering an extent of about 180 acres is to receive a boom when it is fully introduced to a time-saving sprinkler watering system. Most of the produce is transferred outside of the Northern Province without making it available to the local market. [South Asian Centre for Regional Studies, Field Research, 3 March 2017]

<sup>182</sup> The military has established shops/canteens the Paranthan-Mulathivu Road and also along the A9 road at Iyakkatchi, Poonahary, Puliyanukulam, Iranamadu, Kanagarayan Kulam, Murugandi, Aanaravu. Some of these commercial entities have ignored cultural sensibilities within the region, by selling meat within close proximity to Hindu Kovils. [South Asian Centre for Regional Studies, Field Research, 3 March 2017]



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<sup>183</sup> Tourism mega development in Sri Lanka results in Human Rights violations, (23<sup>rd</sup> June 2016) <https://groundviews.org/2015/06/23/tourism-mega-development-in-sri-lanka-results-in-human-rights-violations>

<sup>184</sup> The Policy was approved by the Cabinet of Ministers in August 2016. See “National Policy Framework for Durable Solutions on Persons Affected by Displacement due to the Conflict”, <http://reliefweb.int/report/sri-lanka/national-policy-durable-solutions-conflict-affected-displacement>

<sup>185</sup> Even while the current Government has proved more open to acknowledge displacement as opposed to de-recognising populations, there continues to be a confusion relating to definitions at the district level. Between 2014 and 2015 the official number of IDPs increased even while there have been IDPs who resettled in this period. Currently the last official figure stood at 43,607 but this statistic is disputed. Various communities such as the Northern Muslims and persons affected by military occupation contest these figures. A census of displaced and resettled populations is clearly required but no such plans have been announced. Such an initiative could address the issue of statistics and also identify the exact status of various communities from all three ethnic groups who were displaced from the Northern, Eastern and bordering districts and the obstacles that prevent them from achieving durable solutions.

<sup>186</sup> While the Government made a number of policy statements reiterating its commitment to release lands and a number of areas were released, the process has been gradual and there is no clarity in the process and has resulted in continuing hardships for numerous communities.

Studies have made clear that it is a problem concentrated in Jaffna, but found across the North and East. Occupation by other state agencies such as the Forest Department and Mahaveli Authority is also a problem confronting communities such as the villages of Ashraf Nagar and Raigamwella in Ampara who were displaced by state authorities after the war and still cannot return.

<sup>188</sup> The various problems faced by this population are in some ways similar to those of other communities experiencing intractable displacement, including a generation born and grown up in displacement are not recognised in terms of land allocation or as beneficiaries for state assistance such as family resettlement packages. Due to their protracted displacement they were not able to secure resources provided by the State, especially land. While many Northern Muslims desire to be registered in their place of origin as a voter, their application to register has sometimes been rejected on the grounds that they are not permanent residents. In particular the lack of support from district level officials and the Northern Provincial Council, dominated by Tamils, coupled with a lack of understanding and connection with the host Tamil community have constrained return.

<sup>189</sup> Such communities have in some cases been forcibly evicted and relocated elsewhere, resulting in deterioration in standards of living.

<sup>190</sup> While 11,000 refugees from Tamil Nadu have returned since the end of the war, the annual rate of return decreased in successive years but there has been an increase in the last two years.

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For instance the annual figures for UNHCR facilitated returns which accounts for a majority of refugee returnees from Tamil Nadu are 2011 – 1,728, 2012 – 1288, 2013 – 718, 2014 – 398, 2015 – 452, 2016 – 852.

<sup>191</sup> Documentation is key challenge, including essential documents such as birth certificates, identity cards and passports. The state should provide adequate and accessible consular services through the Sri Lankan Deputy High Commission in Chennai and diplomatic missions in relevant countries. Penalty fees and fines for applying for citizenship by 18 should be waived. Ensuring that educational and professional qualifications are recognized in Sri Lanka is a key problem for school children, graduates and diploma holders which makes it difficult for them to access educational facilities and employment opportunities. Employment, including access to key livelihood resources such as cultivable land, fishing equipment and other tools, is a significant concern.

<sup>192</sup> It is under unfortunate circumstances that refugee displacement takes place and, inevitably, the civil and legal documents are lost or inaccessible due to their vulnerability and extraordinary circumstances beyond their control. By virtue of determining the political status of refugees and those who were forcibly sent, GoSL should place them in an extra-ordinary circumstances and provide extra-ordinary support with essential documentation.

<sup>193</sup> Refugee returnees from India or other countries mostly come with very limited resources or no resources to restart their lives back in their places of origin. Therefore, the GoSL should prioritize refugee returnees in par with vulnerable population in Sri Lanka and develop extra-ordinary support mechanism to strengthen the reintegration of the returnees on the basis that they left the country due to unusual circumstances led by war.

<sup>194</sup> For instance re-commencing the ferry service so that refugees can bring more possessions from Tamil Nadu where some of them have lived for 20-30 years has been a long standing demand

<sup>195</sup> As of now refugees are returning through UNHCR's Voluntary repatriation program. This program doesn't have holistic support to enable successful reintegration of the returnees. In order to ensure a well-considered, safe, dignified voluntary and sustainable return, there is a need to develop a structured refugee return program backed up by a rehabilitation package. This support would enable families to get on to their feet in their place of origins.

<sup>196</sup> The GoI already provides welfare measures including monthly cash dole, ration materials, social security schemes, etc for the refugees living in the camps. There is a possibility that the GoI channel this (at least in the case for those that opt to return) to provide assistance packages.

<sup>197</sup> As of 31<sup>st</sup> December 2016, there are 576 asylum seekers comprising 298 cases registered with UNHCR in Sri Lanka, and 604 recognised refugees comprising 276 cases.

<sup>198</sup> This would contribute to the welfare of the refugee community; work involving skills and services that would be of benefit to the local economy.

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<sup>199</sup> Appreciating that the State is already extending health service to refugees and asylum seekers, it is recommended that an official position be adopted that all healthcare professionals are mandated to provide quality and courteous services to refugees and asylum seekers.

<sup>200</sup> Sri Lanka is a signatory to a number of international conventions that guarantee the right to education for all children. Moreover, the country's Constitution further enshrines the right of all persons to universal and equal access to education at all levels, and the law mandates the compulsory attendance at school for children between five to 14 years of age

<sup>201</sup> There are currently 106 children of Primary School age, of whom 46 are asylum-seekers and 60 are refugees. While refugee children have access to schooling through UNHCR's support, asylum-seeker children have no access to formal schooling. A further 167 children of Secondary School age, of whom 71 are asylum-seekers and 96 are refugees, do not have any access to formal schooling.

<sup>202</sup> Provision and quality of health, education, infrastructure and social welfare facilities available elsewhere For instance, estates are excluded from the remit of local government authorities under Section 33 of the Pradeshiya Sabha Act No. 15 of 1987, thereby removing any obligation of local authorities on them to deliver public services to estate communities.

<sup>203</sup> The people live in line rooms which were built during the colonial era. At the same time even these lines and the land space on which the lines stand are not given to their ownership. Also there are no separate sanitary facilities, no enough space, and the line rooms exist with the broken roofs. See also Zonal Task Forces on Reconciliation Mechanisms, Consolidated Report, p. 226-256, <http://www.scrm.gov.lk/documents-reports> and <http://www.cpalanka.org/estate-tamils-the-forgotten-4-2/>

<sup>204</sup> The GoSL has promised to take steps to provide land ownership and proper housing to plantation workers instead of their current confinement in line rooms. Facilities will be provided in schools for the children of plantation workers in the Badulla, Nuwara Eliya, Kandy, Matale and Kegalle Districts to have access to education in the Tamil medium up to university level including in Science. However, these promises are yet to be met. Furthermore despite government officials informed that the Meeriyabetha area was under the threat of landslide no action was taken to remove and resettle the people anywhere else. Finally, a landslide occurred in Meeriyabetha which resulted in large scale loss of life and property.

<sup>205</sup> The failure to appoint adequate Tamil officers in the government institutions in the areas of their predominance has made their condition pathetic. Further the teacher's training is not conducted in Tamil language except in Nuwara-Eliya. Also circulars are not sent in Tamil language in Hill country.

<sup>206</sup> Although the present government has made an allocation in the budget at national level, as far as the hill country areas are concerned, there are a few schools to teach science and equipped with residential facilities. For example 60% of the population in the Nuwara Eliya District is



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Tamil. But while there are only 7 School for them, there are 19 Sinhala medium schools (2013). This disparity is notable.

<sup>207</sup> The plantation medical health service should be upgraded to conform to National and International standards. Medical services are provided by the persons who are not qualified. Further, notably the children's and women's reproductive health aspect is backward. At present a vast majority of the plantation medical institutions are manned by Estate Medical Assistants, who sometimes perform as doctors. This has become a challenge to the national stream.

<sup>208</sup> Their daily wage is determined on the basis of collective agreement. Though in 2015, wages for Plantation Workers is increased as 730 rupees per day by the collective agreement, some of the Planation Companies have violated the agreement clauses and arbitrarily change the normal quantity of Tea than has to be plucked. Planation workers allege that government is totally ignorant on their problems and issues, see: <http://dailynews.lk/2016/11/19/local/99595>. It's very much in question whether the parties follow the corporate Social Responsibility or the Code of UN Global Compact. Plantation workers are the lowest paid as far as this country is concerned-receiving the lowest daily wage compared to their counterparts in the other sectors and even the non-formal sector workers. This has pushed them into eternal poverty.

<sup>209</sup> EPF and ETF payments are not properly paid in the estates, specifically in JEDB, SLSPC and Elkaduwa Plantation which are administered by the government, for last 12 years, see: 'Human Rights Situation in Sri Lanka: Aug 2015 to Aug 2016', INFORMS Human Rights Documentation Centre, 2016 <https://ihrcd.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf>

<sup>210</sup> Women still have issues in inheriting land; war widows in the North and the East are facing many issues with regard to land ownership due to Thesawalamai stipulations. The decisions and pledges of the government have still not been implemented to give back land to people in the North and East. Due to this issue livelihood of a large number of people are negatively affected. Despite the large scale environmental degradation that has been alerted by the environmental activists and the public outcry against construction due to severe damage to personal property, the government has been continuing with mega scale development projects such as the Colombo Port City and Uma Oya. There is no consistent due process for the government to follow in providing adequate, stable, qualitative, affordable, sustainable, environment friendly housing to the people who have lost their houses due to natural disasters, manmade disasters and development projects.

<sup>211</sup> National Housing Policy [www.costi.gov.lk/index.php/en/nationalhousingpolicymrdayananda](http://www.costi.gov.lk/index.php/en/nationalhousingpolicymrdayananda)

<sup>212</sup> Article 14(1) (g) of the Constitution

<sup>213</sup> The minimum wage of LKR 10,000 is often calculated including the budgetary relief allowance by the employers in the Economic Processing Zones. Those employed in the informal sector are deprived of the budgetary relief allowance. Workers in the Free Trade Zones have been demanding for a living wage from all the governments in power which has not been heeded

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so far. According to the Dept. of Census and Statistics, the average expenditure for a Sri Lankan household in year 2012/13 was LKR 41,444 and 58,930 for the urban sector; the average per capita income of the private sector including the Apparel Sector was LKR 11,819 and LKR 17,262 for the urban sector which indicated a glaring mismatch.

<sup>214</sup> The issue of the South Asian Institute of Technology and Medicine (SAITM) a private establishment which has offered several intakes of students a ‘low quality’ medical degree without the approval of the Ministry of Health and Nutrition or the legal recognition of Sri Lanka Medical Council is still ongoing (Joint Statement on SAITM medical degree (2016), <https://drive.google.com/file/d/0B-5I1TzwvAHOMVVseFhJVmRZNXFvRHFSNk5mNG1Jcy1RVnA0/view> and the report of the committee appointed by the Minister of Health, <https://drive.google.com/file/d/0B-5I1TzwvAHOTmhGLW1ya0thc1YtMG0yZWFMc0R4YWthNUVZ/view>). On 31 January 2017, the appellate Court ordered the students of Medicine (MBBS) at the SAITM to be given a provisional registration. SLMC and the Government Medical Officers’ Association are against this court verdict on the basis of the inadequate quality of the training. Consequently, SLMC chairman has persisted that it will refrain from heeding the court ruling (Don’t recognise SAITM degree – SLMC, 13 Sep 2015, *Daily News*, <https://drive.google.com/file/d/0B-5I1TzwvAHOTmhGLW1ya0thc1YtMG0yZWFMc0R4YWthNUVZ/view> ). Currently, students of the 8 medical faculties affiliated to the state universities are boycotting lectures in protest of SAITM.

<sup>215</sup> Health budget slashed Rs.175B in 2016 down to Rs.160B in 2017, *Ceylon Today*, 27 Nov. 2016, <http://www.ceylontoday.lk/print20161101CT20161231.php?id=10070> and Education and Health in Budget 2016: Grand promises don’t bode well for governance, *the Daily Mirror*, 24 Nov. 2015, <http://www.dailymirror.lk/96727/education-and-health-in-budget-2016-grand-promises-don-t-bode-well-for-governance>. The public health sector has inadequate capacity, limited access to specialist treatment and inconsistent service standards. The availability of complex surgical procedures and specialist care in the public sector is limited to the National Hospital of Sri Lanka in Colombo, the capital, and a few other large hospitals in major cities and it has been mentioned in 2012 that Sri Lanka needed additional 14,000 doctors and 25,000 nurses to bring the health sector into International standard (Sri Lanka’s Health Care Challenges, *The Economist Intelligence Unit*, 24 Nov. 2014, <http://country.eiu.com/article.aspx?articleid=1502512534&Country=Sri%20Lanka&topic=Economy&subtopic=Forecast> and The State of Sri Lanka’s Health Care, *The Sunday Leader*, 10 Nov. 2012, <http://www.thesundayleader.lk/2012/11/10/the-state-of-sri-lankas-healthcare/> ). The waiting list for this type of care is usually very long. It has been recorded that in the future the expenditure for non communicable diseases (NCDs) and geriatric care for the increase in the aging population will be high and the current health system focused on maternal and child health care and fighting infectious diseases also needs to be reformed accordingly (Implications of Health Sector Reforms in Sri Lanka, *The Island*, 13 Dec., 2015, [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=136954](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=136954)); According to the Household Expenditure Survey (HIES) 2012/13, on average a household spends about Rs.1,564 a month which is 4% of the house hold budget

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(Burning Health Costs for the Poor in Sri Lanka, 18 Nov. 2016, *Daily News*, <http://dailynews.lk/2016/11/18/business/99410>).

<sup>216</sup> Article 18 of the Constitution as amended by 13<sup>th</sup> Amendment of the Constitution of Sri Lanka

<sup>217</sup> Though we have the accepted rule that all government institutions, particularly in bilingual areas, should have all sign boards, street name boards and official documents in all three languages, in practical this rule is ignored. For an example in the Colombo district Thimbirigasaya and Kotehena DS divisions are not implementing this rule and this causes inconvenience to the minority people in getting their most important certificates such as birth, death and marriage certificates in their own language, See Centre for Policy Alternatives, 'International Mother Language Day: A look at Language Rights in Sri Lanka', February 2016; Further in August 2015, agricultural research assistants were appointed to the North and among those over 90% are Sinhalese who are unable to fulfill the role of advising Tamil speaking farmers, see: Pearl, 'Withering-Hopes: Historic Window of Opportunity for Reconciliation will close if Sri Lanka fails to act on accountability and militarization', 2016 available at: <<http://pearlaction.org/wp-content/uploads/2016/04/Withering-Hopes-PEARL.pdf>> accessed 22 February 2017

<sup>218</sup> It is criticized that the police are just one agency that has badly failed in implementing the Official Languages Policy. A recent study by the Ministry of official Languages on bilingual officers in 13 public institutions across 25 districts found there were at least 2,223 vacancies. At least 1,349 of them were in the Police Department, see: Sandun Jayawardana, 'Lack of Bilingual Abilities Blocking Reconciliation: Consultation Task Force' [Sunday Times, 15 January 2017] <<http://www.sundaytimes.lk/170115/news/lack-of-bilingual-abilities-blocking-reconciliation-consultation-task-force-224982.html>> accessed 22 February 2017

<sup>219</sup> This is proved by the statement of Rita Izsak-Ndiaye, the UN Special Rapporteur on minority issues. At the conclusion of her official visit in 2016 she said that she was told that most state institutions across the country use only Sinhala in oral and written communications, See 'full statement by Rita Izsak Ndiaye, UN Special Rapporteur On Minority Issues at the conclusion of her official visit' available at <<http://lk.one.un.org/news/full-statement-by-rita-izsak-ndiaye-un-special-rapporteur-on-minority-issues-at-the-conclusion-of-her-official-visit/>> accessed 6 February 2017; Recently Arts Students Union of Jaffna University sent back the letter to the Northern Province Governor opposing the fact that it was written only in Sinhala. Jaffna University Students have noted in that letter that they could not understand the content of the letter and so they were sending it back, See 'Jaffna university students return governor's letter which was only in Sinhalese' [Asian mirror, 26 October 2016] <<http://www.asianmirror.lk/news/item/20025-jaffna-university-students-return-governor-s-letter-which-was-only-in-sinhalese-photos>> accessed 28 February 2016; Even though we have provisions in Law stating that summons should be sent to the defendants in the language of court, but if the defendant is not be able to understand the court's language the translations of the summons should be attached and sent with summons, the ground reality is that in the Eastern Province Tamil citizens receive summons only in Sinhala language without translations, See Centre for Policy Alternatives, 'International Mother Language Day: A look at Language Rights

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in Sri Lanka', February 2016 available at <https://sway.com/EmQSgCfzEsDQBUXO> accessed 29 January 2017; There were several incidences which reveal the inconveniences of Tamil people when they go to Police Stations. In Vavuniya, a young rape victim, who was in a shock after the traumatic incident, relied on her mother and asked her to lodge a complaint for her. When the mother went to the Police Station the Police Officer who had a very little knowledge in Tamil had reported the mother as the rape victim. This case was thrown out of Court due to the error in the statement; further in Kurunegala, a Court Official told one witness, who is a Tamil person, in Sinhala language to stay at the Court premises for the reason that he will be called again for queries. That witness understood it as that he will be summoned another day for the queries and he left the courts and subsequently he was arrested for contempt of court, see: Amalini De Sayrah 'Lost In Translation: Shortfalls in the implementation of Sri Lanka's official languages policy' [Groundviews, 20 February 2017] <http://groundviews.org/2017/02/20/lost-in-translation-shortfalls-in-the-implementation-of-sri-lankas-official-languages-policy/> accessed 22 February 2017

<sup>220</sup> In the surroundings of the Gall Face the instruction which alerts the risk of taking bath in some dangerous areas of sea are written in English, Sinhala and even in Chinese. But it is not written in Tamil. At the walking path near the Parliament a board displays "beware of crocodiles" message in Sinhala language only. This violates the language rights of Tamil people. Movement for Enforcement of National Language Policy (MENLP) wrote a letter to Speaker Karu Jayasuriya and requested to display the warning message in Tamil too to ensure the safety of people, see: 'MENLP urges "beware of crocodiles" Message in Tamil, English' [Onlanka, 9 January 2017] <<https://www.onlanka.com/news/menlp-urges-beware-of-crocodiles-message-in-tamil-english.html>> accessed 22 February 2017.

<sup>221</sup> In terms of Article 23(1) of our constitution all laws and subordinate legislation shall be enacted or made and published in Sinhala and Tamil, together with a translation thereof in English. But in reality laws are generally made in English and subsequently translated to Sinhala and Tamil. This process directly contradicts with the provision of constitution. Mr. Lionel Guruge, a language right activist, stated that he is personally aware of more than 260 laws that have not yet been translated to Sinhala or Tamil, thus making the process of its enactment wholly unconstitutional, See Lionel Guruge, 'Importance of Preserving Language Rights in Sri Lanka' [The Sunday Leader, 27 March 2016] <<http://www.thesundayleader.lk/2016/03/27/importance-of-preserving-language-rights-in-sri-lanka/>> accessed 29 January 2017; It should be noted that recently Dr. Gunadasa Amarasekera filed a FR application stating that his fundamental rights have been violated due to the lack of a Sinhala translation of the OISL report dated 16 September 2015, See 'Fundamental Rights application filed against GOSL by Dr. Gunadasa Amarasekera for failure to translate OISL report in Sinhala-Tamil language' [Lanka Web, 24 June 2016] <<http://www.lankaweb.com/news/items/2016/06/24/fundamental-rights-application-filed-against-gosl-by-dr-gunadasa-amarasekera-for-failure-to-translate-oisl-report-in-sinhala-tamil-language/>> accessed 29 January 2017

<sup>222</sup> Cabinet of Ministers has accepted Sign language as a recognized language in Sri Lanka in response to a cabinet paper submitted by Minister of Social Services on 23 September 2010. (Accessible at <http://www.ceylontoday.lk/print20160701CT20161030.php?id=4776>)

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<sup>223</sup> The dire shortage of sign language interpreters in Sri Lanka, at the present only five sign language interpreters are available, and they are not at all sufficient to provide services to the deaf community of Sri Lanka. (Accessible at [http://www.colombopage.com/archive\\_16B/Jul03\\_1467529399CH.php](http://www.colombopage.com/archive_16B/Jul03_1467529399CH.php))

<sup>224</sup> Ancestral heritage right, indigenous land right, indigenous intellectual property rights and etc. These rights are recognized by the United Nations Declaration on the Rights of Indigenous Peoples. Sri Lanka also cast its vote in favor for this declaration, but there are no local enactments to ensure these rights. (Rights of Indigenous people in Sri Lanka. Prasha Uthayakumar. ESCR e-newsletter. Issue 16, September 2015, Law and Society Trust)

<sup>225</sup> Under the Accelerated Mahaweli Development Scheme, in 1983 hundreds of Wanniyalaeto families were compelled to abandon their traditional forest habitat and livelihoods and to accept translocation and settlement onto government colonies. Rights of Indigenous people in Sri Lanka. Prasha Uthayakumar. ESCR e-newsletter. Issue 16, September 2015, Law and Society Trust)

<sup>226</sup> These tribal persons have suffered from depression and loss of confidence as a consequence of factors such as loss of land, loss of freedom of the forest and disappearance of ritual hunts. These factors are cited as the causes of their demoralization

<sup>227</sup> The Vedda community have explored potential avenues to achieve justice, including a court system that is completely alien to their own tradition of justice Rights of Indigenous people in Sri Lanka. Prasha Uthayakumar. ESCR e-newsletter. Issue 16, September 2015, Law and Society Trust

<sup>228</sup> They refused the opportunity to obtain Sri Lankan passports/travel documents because institutionally there is a failure to consider Vedda Community as citizens- they are considered "not real Sri Lankans" . –This leads to social injustice and increased vulnerabilities among these communities (Rights of Indigenous people in Sri Lanka. Prasha Uthayakumar. ESCR e-newsletter. Issue 16, September 2015, Law and Society Trust)

<sup>229</sup> The majority of the resettled Veddhas are economically backward, socially isolated, and politically marginalized. The Veddhas did not have the skills, means and knowledge needed to either adjust to the new situation (no knowledge of capital accumulation or savings, no familiarity with the monetary system of exchange, no longterm involvement in agriculture as a livelihood, lack of incentive for competitive tasks, etc.). <http://kataragama.org/research/wanniyalaeto.htm>

<sup>230</sup> Their livelihood has been hunting wild animals for consumption, acquiring bee's honey, yams, and fruits and *chena* (shifting) cultivation. All these activities are linked to the forest. By prohibiting their access to the forest all their economic activities are barred and those who do enter the forest are criminalised.. They are still prohibited from pursuing their ancestral livelihood and face harassment or arrest by wildlife officials if they are caught 'trespassing' outside of their tiny enclaves.( <http://www.srilankaecotourism.com/dambana.htm>)

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<sup>231</sup> Alternative Report for International Committee on ESCR 2017 and statement of the UN Special Rapporteur on Minority Issues, section 3.3, 20 Oct, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20709&LangID=E>

<sup>232</sup> Socio- Anthropological Research Project on Vedda Community in Sri Lanka By Premakumara De Silva Asitha G Punchihewa August 2011 [https://www.researchgate.net/profile/Asitha\\_Punchihewa/publication/235335142\\_Socio-\\_Anthropological\\_Research\\_Projecton\\_Vedda\\_Community\\_in\\_Sri\\_Lanka/links/09e41510fbd7b07c4000000.pdf](https://www.researchgate.net/profile/Asitha_Punchihewa/publication/235335142_Socio-_Anthropological_Research_Projecton_Vedda_Community_in_Sri_Lanka/links/09e41510fbd7b07c4000000.pdf)

<sup>233</sup> there are occasions where teachers discriminate against children of Vedda origin. [https://www.researchgate.net/profile/Asitha\\_Punchihewa/publication/235335142\\_Socio-\\_Anthropological\\_Research\\_Projecton\\_Vedda\\_Community\\_in\\_Sri\\_Lanka/links/09e41510fbd7b07c4000000.pdf](https://www.researchgate.net/profile/Asitha_Punchihewa/publication/235335142_Socio-_Anthropological_Research_Projecton_Vedda_Community_in_Sri_Lanka/links/09e41510fbd7b07c4000000.pdf)

<sup>234</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights, 2010

<sup>235</sup> Due to immigration and colonization, the Vedda community has lost their distinctive character because when they translocate from their native place to other government' allocated areas, they gradually adopt the other community cultures and practices (in dress, language and lifestyle). Today only a few remaining Wanniya-laeto still manage to preserve their cultural identity and traditional lifestyle despite relentless pressure from the surrounding dominant communities.

([http://lawandsocietytrust.org/content\\_images/publications/documents/indigenous%20people%20in%20sri%20lanka%20-report%20-%20issue%2016.pdf](http://lawandsocietytrust.org/content_images/publications/documents/indigenous%20people%20in%20sri%20lanka%20-report%20-%20issue%2016.pdf))

<sup>236</sup> HRDs have also been subjected to interrogation, surveillance and harassment by agents of the State. The surveillance is done in a friendly manner after the regime change. The armed personal dressed in civil come to venues where civil society programs are held and ask hotel manager/venue manager about details of the program held. This affects negatively for the victims. Also the venue/hotel managers are indirectly affected that they do not like to provide the same venue in future for NGO events. Incidents in this nature have been reported in programs held at Negambo, Ampara, Mannar and Batticaloa.

<sup>237</sup> On 1 October 2016 at the Bandaranayake international airport in Sri Lanka waiting to travel to London Mr Ruki Fernando was briefly detained and questioned in an unmarked office adjoining the immigration counters, by officers who didn't identify themselves. On 2nd October, a media report in Sinhalese mentioned that the Criminal Investigation Department (CID) had confirmed that he was using his work at University of York as an excuse to attend meetings of Tamil diaspora. Mauri Inoka Jayasena started a 24 hour protest at the Galle Face Green in Colombo, a public space close to the Presidential Secretariat Office, on 1st September 2016 to commemorate the 3<sup>rd</sup> anniversary of the abduction of her husband Madushka and also to show her protest against the inability of the state to bring justice to her husband's abduction. The Officer in Charge (OIC) of Fort (located in Colombo 1, covering the area where the protest was) Police station came informed the protestors who were with Mauri that details of everyone will be



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recorded for the purposes of informing the court. A police woman took personal details of the protestors between 4p.m and 5p.m. She did not explain reasons for her actions. On 2nd September 2016, Mauri went to the Hilton hotel with 4 other human rights defenders to attend a public lecture by Mr. Ban Ki-Moon, the UN Secretary General. A female police officers noted down the number of the car, which Mauri used to travel to Hilton hotel. The official website of Foreign Ministry of Sri Lanka mentioned that the lecture of the UN Secretary General was a 'public lecture'. However, the staff at the Hilton Hotel has refused her entry to the lecture, saying that the event is only for invitees. On 9th September 2016, two human rights defenders who were at the protest, Mr. Samal Vimukthi Hemachandra and Mr. Srinath Chaturanga, were given police message forms which asked them to attend an inquiry held at Fort Police Station on 14th September. The next day, Mauri was informed to appear at Fort Police station at 8 am on 14th of September, while another two protestors, journalist Mr. Ruwan Nelugolla and civil society activist Mr. Lakmal Ranabahu were also informed through their family members to appear at Fort Police station for an inquiry at 10 am on 14th of September.

On 16th May 2016, the Deputy Mayor of Negombo<sup>238</sup>, Mr. Dayan Lanza, threatened Mr. Freddy Gamage over the phone. On 2nd June 2016, Mr. Gamage went to cover a meeting of the Municipal Council of Negombo. On his way back to his car around 12:15 pm, he noticed two suspicious men wearing full-face helmets who were watching him. One of the men then attacked him on the head with a large wooden pole. Being chased by the attackers, he had to run back into the Municipal Council building. He was hospitalized for several days.

<sup>239</sup> Fr Parveen Mahesan and Ruki Fernando were arbitrarily arrested and detained by the TID in Kilinochchi on 16 March 2014. Arrest and detention of Nitharshana of Vishwamadu on 12 March 2014 and Balendran Jeyakumari of Dharmapuram, Kilinochchi and K Sharmila of Paalai Ottru, Trincomalee on 13 March the same year.

<sup>240</sup> Protest of HNDA students was attacked. 29th October 2015, near Town Hall in Colombo

<sup>241</sup> A protest was held at Nimalka Fernando's house on 27 March 2017 accusing her against the anti-Sri Lanka proposals which had been submitted to the UN Human Rights Council meeting held in Geneva last week - <http://www.dailymirror.lk/article/Say-no-to-anti-SL-proposals-WFJ-126227.html>

<sup>242</sup> In addition, HRDs have been systematically depreciated and their work disrupted, which has made the climate for engaging in human rights work both challenging and dangerous.