



[Sri Lanka]: NGO FOLLOW-UP REPORT	CERD/C/LKA/CO/10-17 (October 2016)
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Suggested grades by the civil society organization

- A:** The response of the government to the recommended measure is satisfactory.
- B:** The response of the government to the recommended measure is partially satisfactory.
- C:** The government has not taken any actions to implement the recommendation.
- D:** The government has taken actions that are contrary to the recommendation.

Paragraph 13: National human rights institution

13. Recalling its general recommendation No. 17 (1993) on the establishment of national institutions to facilitate the implementation of the Convention, the Committee recommends that the State party take immediate measures to bring the National Human Rights Institution into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and strengthen its mandate and provide it with adequate resources to fulfil its mandate effectively and independently. The Committee also recommends that the Institution continue to strengthen its public reporting and engagement with all sectors of civil society to ensure pluralistic representation, as required by the Paris Principles.

Suggested grade by the civil society organization

C

1. Any measures taken in accordance with the recommendation, and its effects

No specific measure has been taken to strengthen the Human Rights Commission of Sri Lanka (HRCSL) since the issuance of the concluding observations in August 2016.

2. Any measures taken that contradict the purposes of the recommendation

In January 2017, the HRCSL reported that the draft of a new National Action Plan for the Protection and Promotion of Human Rights (2017 – 2021) had not been shared with the Commission.¹

3. Current status of the problem (especially changes after the adoption of concluding observations)

Since the restoration of its independence in 2015, the HRCSL has actively addressed the country's human rights situation and participated in the considerations of the Government's periodic reports by UN human rights treaty bodies (the Committee against Torture in 2016 and the Committee on Economic, Social and Cultural Rights in

¹ Sri Lanka Mirror (21 January 2017), "National Action Plan on Human Rights not referred to HRCSL yet", <http://srilankamirror.com/news/1535-national-action-plan-on-human-rights-not-referred-to-hrcsl-yet>

2017). It has sent communications to the Government to share concerns and recommendations regarding individual cases, legislative developments and policy measures². However, it is unclear how and to what extent the Government takes into account the communications from the HRCSL. The UN High Commissioner for Human Rights also pointed out in February 2017 that the HRCSL's "potential in advising on legislative processes remain underutilized"³. Consequently, the recommendation was made to the Government to "[s]upport the Human Rights Commission, including by ensuring it receives adequate resources in order to fulfil its mandate to the fullest, including the review of legislation and draft legislation"⁴, which remains to be implemented at the date of this submission.

The current Constitutional reform process is an opportunity for the Government to strengthen the HRCSL. Although Act No. 21 of 1996 established the HRCSL, under the 19th Amendment to the 1978 Constitution members of the HRCSL can be appointed by the President based solely on a recommendation from the Constitutional Council. The Commission has called on the Government to ensure that a new Constitution recognises the body as constitutionally established with clear references to its power, functions, and the authorities' duty to implement its recommendations.⁵ In June 2017, the Committee on Economic, Social and Cultural Rights (CESCR) also issued a recommendation to the Government to recognise the HRCSL as an independent body under a new Constitution, increase its resources and expand the mandate.⁶

Paragraph 25: Situation of internally displaced persons

25. The Committee is concerned by the situation of internally displaced persons, a majority of whom belong to the Tamil, Moor and Muslim ethnic and ethno-religious minority groups, who continue to remain displaced and face challenging living conditions in camps and delays in reintegration into society. Once reintegrated, those communities also face challenges in access to basic services, employment and adequate housing. The Committee notes efforts by the State party to demine and release land, but is concerned by reports that land is also still being held by the military in the North and East (art. 5).

26. The Committee, acknowledging efforts undertaken so far, recommends that the State party step up efforts to address the challenges faced by internally displaced persons in terms of reintegration, including in gaining access to employment, housing and basic services and resolution of land claims, and that it hasten efforts to release land in the North and East to facilitate further resettlement. The Committee requests the State party continue to communicate with all affected communities with regard to efforts for resettlement, in a transparent manner, to avoid tensions.

Suggested grade by the civil society organization

B

4. Any measures taken in accordance with the recommendation, and its effects

² Human Rights Commission of Sri Lanka, <http://hrcls.lk/english/category/news/>

³ A/HRC/34/20, paragraph 28

⁴ Ibid, paragraph 66 (d)

⁵ Human Rights Commission of Sri Lanka (May 2017), available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fNHS%2fLKA%2f27402&Lang=en

⁶ E/C.12/LKA/CO/5, paragraph 10

According to the Sri Lanka's Ministry of Defence and other sources, the following land releases and measures have been undertaken since the issuance of the CERD concluding observations in August 2016. These areas are all situated in the North.

1. October 31, 2016: 100 houses were given to IDPs in Keeramalai, Jaffa, Northern Province.⁷ This was Phase 1 of the project to provide shelter for 971 displaced families. On the same day, 454 acres of land in the Palaly Army Cantonment area were returned to the original owners.⁸
2. December 28: land ownership deeds were given to 370 beneficiaries from Katpagapuram and Pompeymadu villages, Vavuniya, Northern province.⁹
3. January 14, 2017: in Thyiddy, Jaffna 2 acres of the Oorani Fishing Anchor Point were returned to displaced fishermen.¹⁰
4. January 17: in Omanthai, Vavuniya 16 acres of land near the military camp were handed over to the District Secretary,¹¹ while the camp remained in the area¹².
5. March 4: in Pillakudieruppu, Mullaitivu, Northern Province 54 acres of land were returned to the original owners after a month of protests.¹³
6. March 10: 33 displaced families in Jaffna were provided new housing from the government's 'Nallinakkapuram' Housing Project.¹⁴
7. April 30: in Mullikulam, Mannar, Northern Province 100 acres were returned to the original owners.¹⁵
8. July 4: 54 acres were returned to about 190 families in Jaffna.¹⁶
9. July 19: in Keppapilavu, Mullaitivu 189 acres of land situated in the Security Force Headquarters - Mullaitivu (SFHQ-MLT) Army Cantonment premises were returned to the original owners.¹⁷

5. Any measures taken that contradict the purposes of the recommendation

⁷ Ministry of Defence, http://www.defence.lk/new.asp?fname=President_hands_over_houses_to_Jaffna_IDPs_20161101_02

⁸ Ibid

⁹ Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, http://resettlementmin.gov.lk/site/index.php?option=com_content&view=article&id=19&Itemid=6&lang=en

¹⁰ Tamil Guardian (14 January 2017), "Military professes to hand over Oorani Fishing Anchor Point but directs displaced fishermen to less suitable area",

<http://www.tamilguardian.com/content/military-professes-hand-over-oorani-fishing-anchor-point-directs-displaced-fishermen-less>

¹¹ Ministry of Defence, http://www.defence.lk/new.asp?fname=Omanthai_Camp_not_removed_Military_Spokesman_20170119_02

¹² Ceylon Today (19 January 2017), "Omanthai Camp not Moved – Army",

<http://www.ceylontoday.lk/print20170101CT20170331.php?id=13381>

¹³ Roar Reports (10 March 2017), "In Post-war Sri Lanka, Returning IDPs Face Fresh Challenges",

<https://roar.media/english/reports/reports/returning-idps-face-fresh-challenges-in-post-war-sri-lanka/>

¹⁴ Ministry of Defence,

http://www.defence.lk/new.asp?fname=Northern_displaced_families_get_new_houses_at_Nallinakkapuram_Housing_Project_2017_0313_02

¹⁵ Ibid, http://www.defence.lk/new.asp?fname=Navy_to_release_100_acres_of_land_for_the_Mullikulam_public_20170430_01

<http://www.tamilguardian.com/content/10-years-displacement-38-days-protest-mullikulam-villagers-return-home>

¹⁶ FIRSTPOST (4 July 2017), "Sri Lankan Army returns 54 acres land to 190 Tamil families, ends control over port",

<http://www.firstpost.com/world/sri-lankan-army-returns-54-acres-land-to-190-tamil-families-ends-control-over-port-3776079.html>

¹⁷ Ministry of Defence, http://www.defence.lk/new.asp?fname=189_acres_released_for_civilians_20170720_01

In January 2017, military officials stated that the land around the Nanthikadal Lagoon, Mullaitivu will not be returned, as the military continues to use the area.¹⁸ Its shores host a military-built luxury hotel.

On April 24th, gazette notification no. 2011/34 was signed by President Sirisena, which declared 40.030 hectares of land in the Musali division in the Mannar District as the Mavillu forest reserve under 3A of the Forest Conservation Ordinance.¹⁹ The new gazette has raised concerns that residents of Musal, many of whom are Muslims displaced in 1990, would lose their access to land that is necessary for housing and supporting their livelihood.²⁰ The gazette has been criticised for preventing the displaced Muslim community from returning to their original home in Mannar.

On April 24th, the Ministry of Defence convened a high-level meeting concerning the land in the East and North occupied by the armed forces.²¹ The meeting participants included the Minister of Prison Reforms, Resettlement, Rehabilitation and Hindu Religious Affairs D. M. Swaminathan, State Minister of Defence Ruwan Wijewardana, Defence Secretary Karunasena Hettiarachchi, the Navy Commander and police officials, the delegation of Northern and Eastern Provincial Parliamentarians and Provincial Council members.²² According to the report, the Defence Secretary requested that if the farmland run by the Civil Defence Force is returned to the Provincial Council, a system should be ready to pay salaries for the 11,000 people working on the farm who are currently paid by the Defence Ministry.²³

6. Current status of the problem (especially changes after the adoption of concluding observations)

While the government is making certain progress in returning the military-occupied land to civilian owners, its pace and methods are still concerning. About 42,000 IDPs still remain to be resettled.²⁴ Furthermore, much of the occupied land continues to be used for non-military purposes, such as luxury resorts, golf courses and other business activities that interfere with civilian activities.²⁵

A number of reports indicate that several areas of land have been released in difficult conditions. They are sometimes not suitable for cultivation, and in some cases it is impossible to rebuild livelihoods due to the damages caused by former stone quarries or overgrown plants.²⁶ Although government support is provided to clear the land and in preparation for resettlement, the support is insufficient to cover the necessary expenses such as filling holes in the land where stones and sand were removed.²⁷

The Oakland Institute identified eight major challenges for resettlement: 1) *Some of the released lands are stone lands and were used for stone mining before displacement;* 2) *Most of the released farming lands are totally*

¹⁸ Tamil Guardian (18 January 2017), "Nanthikadal lands won't be released by Sri Lankan army", <http://www.tamilguardian.com/content/nanthikadal-lands-wont-be-released-sri-lankan-army>

¹⁹ Ceylon Today (23 April 2017), "Muslims rage over Mannar land", <http://www.ceylontoday.lk/print20170401CT20170630.php?id=19622>

²⁰ Colombo Telegraph (26 April 2017), "Civil Society Urges The President To Revoke Musali Gazette", <https://www.colombotelegraph.com/index.php/civil-society-urges-the-president-to-revoke-musali-gazette>

²¹ Ministry of Defence, http://www.defence.lk/new.asp?fname=Meeting_on_release_of_North_and_East_land_held_at_the_Ministry_20170424_03

²² Ceylon Today (25 April 2017), "Top defence meeting", <http://www.ceylontoday.lk/print20170401CT20170630.php?id=19756>

²³ Ibid

²⁴ E/C.12/LKA/CO/5, paragraph 51

²⁵ The Oakland Institute (2017), "Justice Denied: A Reality Check on Resettlement, Demilitarization, and Reconciliation in Sri Lanka", page 6

²⁶ Ibid

²⁷ Ibid, page 12

overgrown like jungle and scrub bushes; 3) The landscape of most of the released lands has totally changed. Houses, milestones, and wells have been bulldozed. So, people have difficulties in identifying lands; 4) Some original roads have been closed and new roads have been built by the army, making access to the lands difficult; 5) There are still big army camps in the released areas, creating fear among people who do not want to live along such camps; 6) Infrastructures have to be rebuilt totally. Progress of rebuilding of infrastructure is very slow; 7) Resettled people are struggling to access clean water and decent shelter; and 8) Electricity, health, schooling and livelihood are other major issues in the resettled area.²⁸

Many returned land areas are located near military and naval bases which raise fear and security concerns among returnees, especially since many of them have been abused or intimidated by security personnel.²⁹ For instance, the Air Force’s camp remains in the area where the land was released on the 4th March in Mullativ (no. 5 above). The land in Jaffna that was returned on the 10th of March (no. 6 above) is also surrounded by military premises. Returnees in Mullativ (no. 5) reported that a number of houses released were severely damaged by the military - wells and crops like coconut trees were also damaged.³⁰ Fishermen report that the newly returned anchor point in Thyiddy (no. 4) is not usable for docking and launching fishing boats.³¹ Four pre-existing anchor points remain under military control, forcing fishermen to travel to the available point from their place of displacement.³²

Although the “National policy on durable solutions for conflict-affected displacement”³³ was approved by the Cabinet on August 16th, 2016, there is a lack of information and transparency regarding the implementation of the policy.

Paragraph 28: Situation of minority women in war-affected areas

28. While recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee emphasizes that women are particularly vulnerable to certain forms of racial discrimination, such as sexual violence during armed conflict. The Committee recommends that the State party take measures to ensure the protection of those women, post-conflict, and ensure that any victims of violations have access to complaint mechanisms and judicial remedies and that reported cases are investigated and suspected perpetrators are prosecuted. The Committee also recommends that the State party implement measures to assist women heads of households in gaining access to employment and basic services to improve their socioeconomic condition.

Suggested grade by the civil society organization	B
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7. Any measures taken in accordance with the recommendation, and its effects

²⁸ Ibid, page 10

²⁹ Ibid

³⁰ Roar Reports (10 March 2017), “In Post-war Sri Lanka, Returning IDPs Face Fresh Challenges”, <https://roar.media/english/reports/reports/returning-idps-face-fresh-challenges-in-post-war-sri-lanka/>

³¹ Tamil Guardian (14 January 2017), “Military professes to hand over Oorani Fishing Anchor Point but directs displaced fishermen to less suitable area”, <http://www.tamilguardian.com/content/military-professes-hand-over-oorani-fishing-anchor-point-directs-displaced-fishermen-less>

³² Ibid

³³ Available at: <https://reliefweb.int/report/sri-lanka/national-policy-durable-solutions-conflict-affected-displacement>

While it is necessary to carefully observe their effects, some key measures have been taken concerning minority women in war-affected areas.

On October 18th, 2016, the Sri Lankan Cabinet approved a cabinet paper (No. 16/1991/740/010) titled “National Plan for Women Headed Households” submitted by the Ministry of Women and Child Affairs.³⁴ The Ministry aims to implement it from 2017 to 2019. The Plan’s focus areas are as follows: 1) Health and psychosocial support; 2) Livelihoods and food security development; 3) Support services systems; 4) (Personal) Security; 5) Social protection; and 6) National level policy formulation and awareness raising at the community level. The Plan is currently being developed in consultation with the UN Gender Theme Group, specifically the UNFPA.³⁵ The draft Plan is available at the Ministry’s [website](#).³⁶

On November 16th, 2016, the “National Action Plan to address Sexual and Gender-based Violence (SGBV) in Sri Lanka” (2016 – 2020) was launched by the Ministry of Women and Child Affairs and the UN Development Programme (UNDP). The Plan covers nine areas: Child affairs; Disaster management; Economic development and employment; Education; Empowerment and prevention; Foreign employment; Health; Justice and law reform; and Media. The Plan is available at the UNDP’s [website](#).³⁷

On February 21st, 2017, the Cabinet approved a proposal to establish an independent National Commission on Women that also addresses the issue of sexual violence and exploitation of women, especially war widows.³⁸ It reportedly followed the recent statement made by former president Chandrika Kumaratunga, current Chairperson of the Office for National Unity and Reconciliation, who stated that the sexual exploitation of Tamil women by state officials is prevalent in post-war Sri Lanka.³⁹ At the date of this submission, the Commission has not yet been established.

8. Any measures taken that contradict the purposes of the recommendation

9. Current status of the problem (especially changes after the adoption of concluding observations)

Although the Government of Sri Lanka promised to establish a commission for truth, justice, reconciliation and non-recurrence; offices of missing persons and for reparations; as well as a special court to investigate violations of international human rights and humanitarian law by co-sponsoring the Human Rights Council resolution 30/1⁴⁰ those institutions have not been set up. Although the President gazetted the Office on Missing Persons (OMP) in July 2017, it is not yet in place at the date of the submission. Therefore, conflict-related systematic human rights abuses against minority women remain unaddressed. It is estimated that approximately 40,000 women in the

³⁴ Office of the Cabinet of Ministers, Sri Lanka,

http://www.cabinetoffice.gov.lk/cab/index.php?option=com_content&view=article&id=16&Itemid=49&lang=en&dID=7146

³⁵ Colombo Page (15 August 2017), “UNFPA Sri Lanka raises awareness on the National action plan for women-headed households”,

http://www.colombopage.com/archive_17B/Aug15_1502778803CH.php

³⁶ <http://www.childwomenmin.gov.lk/English/downloads/national-action-plans/women-headed-household-s-%28draft%29>

³⁷ <http://www.lk.undp.org/content/srilanka/en/home/library/poverty/Policy-Framework-and-National-Plan-of-Action-to-address-SGBV-in-SriLanka.html>

³⁸ Colombo Page (22 February 2017), “Sri Lanka to establish National Commission to address increasing violence against women”,

http://www.colombopage.com/archive_17A/Feb22_1487779313CH.php

³⁹ The Star Online (22 February 2017), “Sri Lanka creates panel to stem sexual abuse of women”,

<http://www.thestar.com.my/news/regional/2017/02/22/sri-lanka-creates-panel-to-stem-sexual-abuse-of-women/>

⁴⁰ A/HRC/30/1

Northern Province and 50,000 women in the Eastern Province have become “war widows”, excluding wives of the disappeared.⁴¹ Many of them are Tamil women and were traumatised by the war, but the government has not provided them with any form of psychosocial care.⁴²

Minority women in war-affected areas continue to face obstacles in accessing employment, especially those previously engaged with the Liberation Tigers of Tamil Eelam (LTTE). International Movement Against All Forms of Discrimination and Racism (IMADR) interviewed a number of former female LTTE combatants in the North and East in July 2017. All the interviewees testified that the government had not provided them with employment assistance. Moreover, some of them left the LTTE before 2009 and did not undergo the rehabilitation process, therefore they are not entitled to the government’s support programmes for rehabilitees. They find it difficult to undertake a rehabilitation programme now, as many of them are the heads of household and fear that it may result in leaving their children alone at home without any protection. Additionally, the government’s post-war housing programmes put many of these women into debt, as they have had to cover the difference between the full cost and the government’s fund.⁴³ As a result, economic hardships remain common among female-headed households in the North and East. Many of them struggle to pay their debts while their access to employment and social services continues to be limited. When asked about the transitional justice process, the interviewees stressed that their immediate socio-economic needs must be a priority.

It is reported that many women in the North and East are still subject to sexual exploitation and gender-based violence due to the feminisation of poverty, the culture of impunity, structural and multiple forms of discrimination and combination of these factors.⁴⁴ They are asked to provide sexual favours to men in return for economic support or information on their disappeared family members.⁴⁵ Investigations into rape cases move slowly, suspects are released on bail and victims do not receive sufficient protection.⁴⁶ Moreover, there is the lack of public awareness on the Assistance to and Protection of Victims of Crimes and Witnesses Act enacted in 2015. Thus, many victims still fear reporting an incident of sexual violence to the police. It is hoped that the government’s new National Action Plan to address SGBV will tackle these systematic challenges.

⁴¹ International Crisis Group (ICG, 28 July 2017), “*Sri Lanka’s Conflict-Affected Women: Dealing with the Legacy of War*”, page 7

⁴² *Ibid*, page 8

⁴³ *Ibid*, page 9

⁴⁴ *Ibid*, page 10

⁴⁵ *Ibid*

⁴⁶ Women’s Action Network (August 2016), “*Women’s Access to Justice in the North and East of Sri Lanka: CEDAW Shadow Report*”, page 2-3