



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

**Sixth periodic report submitted by Sri Lanka
under article 40 of the Covenant, due in 2017***

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1. The Committee considered the fifth periodic report submitted by Sri Lanka (CCPR/C/LKA/5) at its 3098th and 3099th meetings (CCPR/C/SR.3098 and 3099), held on 7th and 8th October 2014. At its 3126th meeting (CCPR/C/SR.3126), held on 27 October 2014, it adopted its concluding observations (CCPR/C/LKA/CO/5). Sri Lanka thereafter submitted an update in October 2015 to bring to the attention of the Committee the developments from January to October 2015, which positively impacted on the implementation of the provisions of the Covenant and served to address some of the concerns and recommendations of the Committee raised in its Concluding Observations of 27 October 2014. A further update detailing developments up to June 2016 was submitted in end June 2016.

2. The present report is structured and drafted in the form of responses to recommendations contained in the Committee's Concluding Observations (CCPR/C/LKA/CO/5). Only those documents considered most relevant to the Committee's recommendations are annexed to the present report. The Government of Sri Lanka (GOSL) is willing to provide the Committee, on request, any other document referred to in the report.

3. The GOSL's commitment and responsibility is towards its citizens, to promote human rights standards, legal practice and to uphold the rule of law, ensure the equal application of the law, and promote, protect and uphold human rights of all citizens. The GOSL envisions an equitable economic development in a reconciled, peaceful, stable and prosperous Sri Lanka. Despite the socio-political and cultural constraints and challenges that remain at the national and international levels, Sri Lanka is committed to fulfilling its obligations in accordance with the constitutional provisions of the country.

4. Sri Lanka has committed to fulfilling its agenda on reconciliation and transitional justice that is unprecedented. The GOSL has undertaken to implement a vast agenda in a very short time, to ensure non-recurrence of conflict. Upholding and fostering civil and political rights of all citizens form a pivotal pillar in the GOSL's reconciliation policy. Despite significant constraints and challenges, the commitment remains firm as it is recognized to be the duty of the State to all of its citizens, communities and most of all to the future generations to ensure that the foundation for a stable, peaceful, reconciled and prosperous society, is put in place.

5. The GOSL co-sponsored two resolutions before the United Nations Human Rights Council in 2015 and 2017. These resolutions set out Sri Lanka's broad commitments to promote reconciliation, improve the human rights situation in the country, and ensure accountability for alleged abuses of international human rights law and international humanitarian law during the armed conflict and address outstanding issues pertaining to the conflict. The constructive recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) form part of the substance of the resolutions. The LLRC report was also a core document in the formulation of the NHRAP 2017–2021. The resolutions specifically commit to the establishment of transitional justice mechanisms.

6. Sri Lanka established the Office for National Unity and Reconciliation (ONUR) as an agency to spearhead programmes to usher in unity and reconciliation in the country. ONUR developed a National Policy on Reconciliation through a one-year process of consultations with multiple stakeholders, and through revisiting previous national initiatives on reconciliation including the LLRC's report. The Policy provides direction to the process of reconciliation in the country, and steers all stakeholders working on reconciliation towards a coherent approach to national reconciliation. The policy was approved by the Cabinet of Ministers and was adopted in May 2017, consequent to a joint Cabinet Memorandum submitted by the President and the Minister of National Integration, Reconciliation and Official Languages. ONUR, in collaboration with state and private media, and through social media, has meanwhile commenced a nationwide media campaign to foster the vision of a plural and inclusive Sri Lanka.

7. In December 2015, the government established the SCRM under the Prime Minister's Office to ensure that the commitments under UN Human Rights Council Resolution 30/1 are met. The SCRM was tasked with facilitating implementation of the government's transitional justice mechanisms. It also provides support for the non-

recurrence agenda via ONUR. Since its establishment, SCRM has entered into partnerships with the UN Country Team to ensure that international best practices are adopted in the design of the reconciliation mechanisms in Sri Lanka. These partnerships include those with UNDP, OHCHR, IOM, UNICEF, and UN Women. A Peacebuilding Priority Plan was accordingly formulated to provide support to actionable areas in the government's reconciliation agenda.

8. In January 2016, the government appointed a Consultation Task Force (CTF) on processes relating to reconciliation and transitional justice. The CTF comprised civil society representatives and was assisted by a Committee of Experts, and a Representatives Committee, which connected the CTF to relevant stakeholders. The CTF carried out nationwide consultations and received over 7,000 submissions. Its final report was presented to the government in January 2017, and continues to be considered in the processes of preparing draft legislation to establish transitional justice mechanisms.

9. The government has taken steps to establish the reconciliation and transitional justice mechanisms committed to under Resolution 30/1. In August 2016, it enacted legislation to establish an Office on Missing Persons (OMP). On 12th September 2017, the President operationalised the OMP Act, No. 14 of 2016. The members of the OMP were appointed in February 2018, and have since commenced their work. In this respect, the Commissioners of the OMP have conducted regional outreach programmes in Jaffna, Killinochchi, Trincomalee, Mullaitivu, Matara and Mannar. Furthermore, four OMP Commissioners participated in a study tour of the Committee on Missing Persons in Cyprus (CMP), from 3rd to 5th July, as part of a delegation from Sri Lanka. The Commissioners held in-depth discussions with Members and scientists of the CMP. The OMP officials also visited ICMP in Hague on a learning and technical capacity building related visit.

10. The Office has also announced that it will be setting up twelve regional offices, eight in the North and the East and four in the rest of the country. The Office commenced receiving complaints from the public from late November 2018. The OMP has also moved to fund the excavations of a suspected mass grave site in Mannar. The grave site, currently under forensic excavation under the Sathosa building in Mannar, has revealed the skeletal remains of over 300 people, with examination of the remains still ongoing. A collection of samples for radio carbon dating from the skeletal remains unearthed at the mass grave was sent to the Beta Analytic lab in Florida, USA, in late January 2019.

11. An Act providing for the establishment of an Office for Reparations was approved by the Parliament in October 2018. The provisions in the new Act seek to facilitate the granting of relief, in monetary terms and otherwise, to victims of conflict, thus enabling them to rebuild their lives and contribute towards the development of their communities and the country. In order to operationalise the Office, the Constitutional Council called for nominations by way of advertisement to select Commissioners for the Office in early January 2019.

12. A Working Group comprising senior academics, government officials and transitional justice experts was appointed to draft legislation on a truth-seeking mechanism by considering the recommendations of the abovementioned CTF. The draft legal framework on the proposed truth seeking commission was presented to the Cabinet of Ministers for approval on 23 October 2018 is currently awaiting approval.

13. Developing the National Action Plan for the Protection and Promotion of Human Rights (NHRAP) for 2017–2021 and launching the Plan with the approval of the Cabinet of Ministers in November 2017, was a notable achievement of the GOSL. It is a comprehensive, ten chapter compilation of recommendations received from various treaty body mechanisms, Sri Lanka's Universal Periodic Review, and UN Special Procedures. A mechanism has been established to monitor the implementation of the recommendations in a meaningful manner. A multi-stakeholder approach was followed in drafting the plan and an inter-ministerial structure is formulated to constantly monitor the implementation of the action points during a timeline of Short, Medium and Long Term.

Replies to Principal Matters of Concern and Recommendations

Paragraphs 5 (a), (b) and (c): Constitutional, legal framework and independence of judiciary

14. The Nineteenth Amendment to the Constitution, which was certified on 15th May 2015, substantially repealed the Eighteenth Amendment to the Constitution in its entirety. The latter was widely seen as draconian, autocratic and anti-democratic. The Nineteenth Amendment provided that no person who has been twice elected to the office of President by the people, shall be qualified thereafter to be elected to such office by the people.

15. The Nineteenth Amendment also provided for the establishment of the Constitutional Council which further strengthened the appointment process with respect to the Election Commission, Judicial Service Commission, Public Service Commission, National Police Commission, Finance Commission, Human Rights Commission of Sri Lanka, the Commission to Investigate Allegations of Bribery and Corruption. Subsequent to the amendment, the appointment of the Chief Justice, the President of the Court of Appeal and every other judge of the Supreme Court and the Court of Appeal, and the members of the Judicial Services Commission shall be made subject to the approval of the Constitutional Council.

16. The Amendment also provided for the establishment of a National Procurement Commission, Delimitation Commission and the Audit Services Commission. The amendment ensures the independence of the Auditor General, the Inspector General of Police, the Parliamentary Commissioner for Administration (Ombudsman) and the Secretary General of Parliament. In effect, the amendment has set in place greater checks and balances among the three arms of the governance structure, namely the legislature, executive and judiciary, resulting in the reduction of certain executive powers vested in the Executive President.

17. The Nineteenth Amendment introduced major reforms in terms of the powers of the Executive President. For instance, the power of the Executive President to dissolve parliament prior to the completion of its term is restricted under the Amendment. The Amendment prohibits such dissolution for a period of four and a half years from the first date on which a newly elected Parliament meets. This prohibition on the Executive President was upheld by the Supreme Court in S.C. (FR) 351/2018. The Amendment also re-introduced the two-term limit imposed on any one individual to hold the office of President. It also removed presidential immunity from suit. Article 35 of the Constitution now provides that any person may make an application under Article 126 of the Constitution against the Attorney General in respect of anything that is done or omitted to be done by the President in his official capacity.

18. The Human Rights Commission of Sri Lanka (HRCSL) was accredited with “A” status by the Global Alliance of National Human Rights Institutions, becoming the third country in South Asia to have reached that status (after India and Nepal). Since the enactment of the Nineteenth Amendment to the Constitution, the Government has ensured that the independence of the HRCSL is preserved at all times and that it is well-resourced to exercise its mandate. Also the Government has and continues to work in consultation with the Commission in matters relating to human rights. For example the GOSL consulted the HRCSL in the drafting as well as in the monitoring and evaluation of the National Human Rights Action Plan (2017–2021), the Universal Periodic Review as well as the current report. Furthermore, two important pieces of draft legislation, the Bill on the Rights of Persons with Disabilities and the Bill on the National Women’s Commission has been vetted by the HRCSL, exercising its mandate to advise the GOSL on draft legislation.

Constitutional Reform Process

19. The GOSL embarked on the process of formulating a new Constitution for Sri Lanka in January 2016, with an island wide public consultation process. Thereafter, a Framework Resolution was passed in Parliament in March 2016 whereby the House resolved to sit as a Constitutional Assembly for the purpose of drafting the new Constitution, and to set up a Steering Committee to handle the business of the Assembly.

Six Sub-Committees were also appointed under the Steering Committee to deliberate on the areas of Fundamental Rights, Judiciary, Law and Order, Public Finance, Public service and Centre-Periphery Relations. These six Sub-Committees presented their final reports to the Steering Committee in August/September 2016 and the reports were tabled in Parliament in November 2016.

20. Following consultations within the Steering Committee (which comprises representatives of all political parties represented in Parliament) on the reports of the Sub-Committees as well as the findings of the public consultation process, the Hon. Prime Minister presented the Interim Report of the Steering Committee to the Constitutional Assembly on 21st September 2017.

21. The Steering Committee, pursuant to its meetings held on 24th May 2018 and 25 October 2018, directed the Panel of Experts appointed to assist and advise the Constitutional Assembly and its Committees, to draft a working document based on which the Steering Committee would commence the next round of deliberations with a view to preparing a Final Report and a Draft Constitutional Proposal for Sri Lanka. In preparing this document, the Panel of Experts has been directed to consider the various positions of Political Parties as well as agreements reached within the Steering Committee, along with the debates of the Constitutional Assembly. The contents of the Sub-Committee Reports will also be considered when drafting provisions on the respective subject areas. This was presented to the Constitutional Assembly on 11 January 2019.

Paragraph 6: Views under the Optional Protocol

22. Sri Lanka is party to the First Optional Protocol to the Covenant and recognizes the competence of the Committee to receive and consider individual complaints under the ICCPR. The Supreme Court in *Nallaratnam Singarasa v. Attorney General*, SC Spl (LA) No.182/99 (2006), however, held:

The accession to the Optional Protocol in 1997 by the then President and Declaration made under article 1 is inconsistent with the provisions of the [Sri Lankan] Constitution...and is in excess of the power of the President as contained in article 33f) of the Constitution. The accession and declaration does not bind the Republic qua state and has no legal effect within the Republic.

23. The said judgment accordingly found that the ratification of the Optional Protocol was not explicitly approved by Parliament, and is therefore not legally binding. Yet the GOSL took a policy decision to acknowledge receipt of and consider new communications from the Committee. This decision was communicated to the Committee on 20th January 2016, and it was confirmed that the GOSL would consider future communications with a view to conveying a response or observation. Moreover, on 7th July 2016, the Prime Minister stated in Parliament that the GOSL “reconfirms the continued validity and applicability” of the Optional Protocol for Sri Lanka and is firmly committed to implement its provisions. The GOSL has therefore restored its practice of cooperating with the Committee in terms of article 4 (2) of the Optional Protocol i.e. to provide written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by Sri Lanka.

24. Meanwhile, the question of the legal effect of the *Nallaratnam Singarasa v. Attorney General* decision, in terms of Sri Lanka’s obligations under the Optional Protocol is under consideration in an ongoing matter before the Supreme Court of Sri Lanka.

Paragraph 7 (a), (b) and (c) and 8: Non-discrimination

25. Sri Lanka has included a policy commitment in its NHRAP to review all legislation with a view to ensure compliance with equality and non-discrimination provisions in the Constitution. Laws identified to be reformed in this regard include the Land Development Ordinance (LDO), No. 19 of 1935 (LDO) and the Muslim Marriage and Divorce Act (MMDA), No. 13 of 1951.

26. Draft amendments repealing gender-discriminatory provisions of the LDO in relation to succession, inheritance and joint ownership have been formulated and submitted

to the Cabinet of Ministers for approval. Once approval is obtained, the amendments will be tabled in Parliament for the purpose of enactment.

27. A special committee appointed by the Minister of Justice and headed by former Supreme Court Justice Saleem Marsoof has proposed relevant amendments to the MMDA. The report of the committee has now been submitted to the Ministry of Justice, and its recommendations are currently being studied with a view to reforming the MMDA, through policy and public level stakeholder consultations.

28. Article 12 of the Sri Lankan Constitution guarantees the right to equality and non-discrimination. In 2014, Sri Lanka clarified before the Committee that the scope of article 12 (1) of the Constitution guarantees equality to persons without exception. Moreover, Sri Lanka clarified before the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Economic, Social and Cultural Rights Committee that the prohibited grounds of discrimination under article 12 (2) of the Constitution are non-exhaustive, and discrimination on the grounds of sexual orientation is implicitly prohibited. Thus acts that deny equal protection of the law or discriminate on the grounds of sexual orientation are prohibited under the Sri Lankan Constitution. The Civil and Political Rights Chapter of the NHRAP has also included a policy commitment to review all penal legislation that are discriminatory in nature and ensure compliance with the international human rights standards.

29. Current deliberations with respect to constitutional reform include recommendations for the explicit prohibition of discrimination on the grounds of sexual orientation and is a policy priority. Both the Public Representations Committee on Constitutional Reform, which received over 3,000 public representations, and the Sub-Committee on Fundamental Rights, which made recommendations to the Parliamentary Steering Committee on Constitutional Reform, has recommended explicit constitutional guarantees of non-discrimination on the grounds of sexual orientation and gender identity. The Parliamentary Steering Committee chaired by the Prime Minister is currently in the process of considering these recommendations.

30. The Supreme Court of Sri Lanka has meanwhile made a recent pronouncement on Penal Code offences that may be applied to same sex sexual conduct. In SC Appeal 32/11 (2016), the Court acknowledged: “contemporary thinking, that consensual sex between adults should not be policed by the State nor should it be grounds for criminalization. “While acknowledging that such offences are part of Sri Lanka’s criminal law, the court held that imposing custodial sentences would be inappropriate in cases where the impugned acts were between consenting adults.

Paragraph 9: Violence against women

31. The GOSL has taken positive measures to protect and promote the rights of women. It ratified the Palermo Protocol to prevent, suppress and punish Trafficking in Persons, especially Women and Children on 15th June 2015. The Cabinet of Ministers also adopted the Strategic Plan on Trafficking of Persons submitted by the Ministry of Justice in February 2016. Moreover, the Strategic Plan to Monitor & Combat Human Trafficking 2015–2019, which was approved by the Cabinet of Ministers, aims to combat violence against women, and to combat the trafficking of women, children and men. Furthermore, on 12th January 2016, the GOSL endorsed the Declaration of the Commitment to End Sexual Violence in Conflict, recognising that prevention of sexual violence in conflict is critical to peace, security and sustainable development, and reiterated its commitment to ending impunity for such crimes. In this context, Sri Lanka remains committed to ending all forms of sexual violence in former-conflict zones. On 7th October 2015, the Jaffna High Court convicted four members of the security forces for the rape of a woman, and sexually harassing another woman in Visvamadu.

32. The GOSL adopted a National Action Plan on Gender Based Violence on 16th November 2016. The Plan is based on a Policy Framework that upholds human rights and gender equality. It adopts a three-pronged approach of prevention of sexual and gender-based violence (SGBV), intervention in situations of SGBV, and advocacy for policies and laws to combat and address SGBV. The Plan is implemented in eleven major sectors

including child affairs, disaster management, economic development, employment, education, foreign employment, health, justice and law reform, higher education and media. Notably, required funding for the overall implementation of the SGBV Action Plan was allocated in the 2018 government budget for each ministry.

33. A Helpline has been launched to receive complaints of SGBV at the Ministry of Women and Child Affairs (MWCA). The Helpline received approximately 1,337 complaints in 2018. The Ministry proposes to build the capacity of officers involved in implementing the Helpline and the complaint centre, create awareness among stakeholders, and expand the services provided by the Helpline in the next three years. The MWCA also initiated a programme in 2016 to provide a mechanism to collect disaggregated data on SGBV against women. A pilot project was initiated at the Thimbirigasyaya Divisional Secretariat Division subsequent to training of Women's Development Officers (WDOs) and the police. The pilot project will be reviewed for further action or modifications.

34. The NHRAP 2017–2021 complements the SGBV Action Plan, and contains a series of action points aimed at addressing sexual violence as well as other forms of discrimination against women, through policy and law reform, institutional change and awareness. For example, the Women's Rights Chapter of the NHRAP includes the establishment of a special unit in the Attorney General's Department to expedite cases of sexual violence, the introduction of legislation to prohibit suspended sentences, and the enforcement of mandatory minimum sentences in respect of grave crimes, including violence against women.

35. In December 2016, the Cabinet approved a programme to mainstream gender at the ministerial level to implement Sri Lanka's commitments and obligations at the international and domestic levels. The programme included the establishment of focal points in each Ministry to ensure oversight, evaluation and follow up. Key areas of evaluation include promoting gender-based policies and practices to eliminate discrimination against women and girls, initiating and maintaining projects and programmes based on gender within the Ministries and the institutions affiliated to them, maintaining gender balance, implementing gender budgeting, and formulating programmes, systems and measures to minimize the occurrence of SGBV including establishing Committees of Inquiry regarding Sexual Harassment in the Workplace. Currently twelve Key Performance Indicators have been developed in collaboration with the Ministry of National Policies and Economic Affairs to facilitate obtaining funds from the Treasury for promoting gender programmes in these Ministries.

36. The establishment of Anti-Sexual Harassment Committees at all levels of State institutions (National, District and Divisional) has been included in the Gender Mainstreaming Ministerial Programme that was approved by the Cabinet of Ministers in December 2016. Furthermore, a Committee to address Sexual Harassment in Public Transportation was established in 2018. The Committee comprises members from government, civil society organisations and relevant stakeholders. An Action Plan has been developed by the Committee focusing on developing guidelines to eliminate sexual harassment in transportation.

37. The MWCA has established six shelters in Batticaloa, Mullativu, Jaffna, Rathnapura, Colombo and Meerigama to provide safety and protection for victims of SGBV and trafficking. Furthermore, the Cabinet of Ministers granted approval for "Guidelines for the maintenance of temporary shelters" in private premises to provide protection for women victims of violence with the assistance of the police, hospitals and NGOs.

38. Meanwhile, the MWCA established Committee (A Desk) chaired by the Additional Secretary of the Ministry in 2017 to specifically respond to and implement the recommendations and Concluding Observations of the CEDAW and the Committee on the Rights of the Child (CRC). The MWCA Committee is also charged with the collection of data and information through discussions with relevant Ministries, universities and civil society organisations, identification of legislation that discriminates against women for legal reform including personal laws, coordinating with other relevant ministries and departments to initiate action, and presenting issues to the Parliament Oversight Committee on Gender to lobby for reform.

39. The Prevention of Domestic Violence Act, No. 34 of 2005 provides a remedy in the form of protection orders in cases of domestic violence. Victims of domestic violence rely on this Act to obtain protection orders from perpetrators. Moreover, a group of experts has drafted amendments to the Act to further strengthen the legal response to domestic violence. The proposed amendments include expanding the categories of persons who can institute action on behalf of victims, especially children, removing the procedural burdens of filing an application by simplifying the application process, and ensuring access to interim and protection orders through reforms such as: granting interim orders ex-parte, granting protection orders ex parte, and considering past and continuing acts of violence in granting interim and protection orders.

40. The draft also addresses the monitoring of the protection orders. The draft amendments made to the Prevention of Domestic Violence Act have been approved by the Cabinet of Ministers, and is currently being scrutinized by the Legal Draftsman's Department.

41. A Cabinet memorandum seeking approval to amend section 363 (a) on marital rape was submitted by the Ministry of Justice & Prison Reforms, and the same is under review at present. A Special Committee, which was appointed by the then Hon. Minister of Justice headed by a Supreme Court judge and other committee members representing several institutions are reviewing the Code of Criminal Procedure and the Penal Code in order to identify areas to be amended to be in par with the best international standards.

42. A Draft Media Policy was presented to the Sectoral Committee on Gender on the 24th of May 2018. The Policy was initiated by the MWCA and Ministry of Mass Media and drafted by members from government, private media and civil society organisations. The objective of the Draft Media Policy is to ensure equality and non-discrimination in the portrayal of women and girls in media, to minimize and eliminate physical and mental abuse of women through the media, to minimize and eliminate the objectification of women in media, to highlight women's positive social and economic contribution to the country, to protect the family and children, and to ensure good practices and responsible reporting.

43. The MWCA is in the process of developing a policy for women, in collaboration with the University of Colombo, in order to guide the transformative shift required to make gender rights a reality by addressing women's issues in all its facets, capturing emerging challenges, and making women equal partners of sustainable development.

44. Moreover, to ensure the realisation, protection and promotion of the rights and freedoms guaranteed to women under the Constitution and other national legislation as well as obligations relating to women assumed by the State under CEDAW, the MWCA drafted a Bill on the Establishment of a Women's Commission in 2018. The Bill has been revised based on the comments made by the Attorney General, and action will be taken to obtain Cabinet approval for the amended Bill, which will thereafter be presented to Parliament.

45. The Local Authorities Elections (Amendment) Act, No. 16 of 2017 stipulates mandatory female representation in Local Authorities, and provides that not less than twenty five per cent of the total number of members in each local authority shall be women members. This Act has been fully operationalized, and is expected to contribute towards ensuring that women's issues, including SGBV, are taken up more frequently and systematically by Local Authorities.

46. Additionally, in 2017, the Cabinet of Ministers approved a 25 per cent quota for women in nominations at the Provincial Council Elections. The MWCA spearheaded the drafting process, and circulated draft guidelines for selecting potential female candidates to political parties in preparation for the upcoming Provincial Council Elections. Once feedback on the guidelines is received from the political parties, the guidelines will be revised and presented to the Minister of Women's and Child Affairs.

47. Since women head 23.4 percent of households in the North and East, in March 2015, the GOSL set up a National Committee on Female-Headed Households (FHHs) and a National Centre for FHHs in Kilinochchi. These Committees have enabled FHHs to integrate into the workforce and access sustainable livelihoods. In September 2016, the MWCA developed and submitted a Cabinet paper titled "National Plan for Women Headed

Households". This paper was approved by the Cabinet of Ministers in October 2016, and Rs. 19 million has been allocated for the implementation of the Action Plan. The Cabinet paper sought permission to formulate a three year national plan for FHH, covering six sectors: health and psychosocial support, livelihood development, support services systems, protection, social security and national level policy formulation and awareness raising. The Action Plan is currently being fine-tuned in collaboration with UNFPA and civil society. Furthermore, a cabinet paper was approved on 24th July 2018 to provide debt relief for loans obtained under micro finance loans schemes, by women who live in twelve districts affected by drought. This debt relief scheme aims to assist 70,000 women across these districts.

Paragraph 10: Abortion and maternal mortality

48. The Ministry of Justice submitted a Cabinet memorandum in 2017 to bring changes to the existing legal provisions to permit the medical termination of pregnancies in the specific circumstances of rape and incest, and in cases of foetal impairment. On the recommendations of the Cabinet of Ministers, the Ministry is currently taking steps to create awareness and initiate a public dialogue with relevant stakeholders, including religious leaders, to facilitate the adoption of the proposed amendments and to obtain their views.

Paragraph 11: Counter-terrorism

49. A process has been set in motion to repeal and replace the Prevention of Terrorism (Temporary provisions) Act no 48 of 1979 (PTA) with a Counter Terrorism Act (CTA) that would be in line with international human rights norms. Input received from a number of international organisations including the Office of the High Commissioner for Human Rights (OHCHR), the UN Counter Terrorism Executive Directorate (UNCTED), the United Nations Office on Drugs and Crime (UNODC), the International Committee of the Red Cross (ICRC), the European Union, and individual experts on counter terrorism and human rights, were considered in the process of formulating the draft Legal Framework of the Counter Terrorism Act (based on which the present Counter Terrorism Bill is developed). The Framework was also shared with the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, who visited Sri Lanka in July 2017 for his comments.

50. The draft framework of the CTA, which seeks to repeal and replace the current PTA was approved by the Cabinet of Ministers on 11th September 2018 and was gazetted on 21st September 2018. Upon the Bill being placed on the Order Paper of Parliament on 10th October, several petitions were filed by members of the public seeking a Supreme Court determination on the constitutionality of the Bill. The Supreme Court thereafter delivered its determination in November 2018, and has recommended that certain clauses in the Bill be revised to ensure consistency with the Constitution. Accordingly, the Bill is currently under review in the sectoral oversight committee on International Relations in the Parliament.

51. The administratively enforced de facto moratorium on new arrests under the PTA continues to be in operation. The number of persons held in executive (police) detention under the PTA as at 20 January 2019 was zero. There are 58 persons against whom charges have been framed under the PTA, and trials are ongoing. These persons remain in judicial custody pending the completion of their trials. Indictments are pending in the cases of three persons, and these persons are currently being held in judicial custody. Criminal investigations have been completed with respect to these cases, and the Attorney General is currently reviewing the Police reports in order to determine whether charges could be framed.

52. In May 2016, the HRCSL issued Directives to be followed by officers in arresting persons under the PTA to ensure the fundamental rights of persons arrested or detained and to ensure such persons are treated humanely. The GOSL remains committed to ensuring that the Directives of the HRCSL are complied if persons to be are arrested under the PTA. Meanwhile, on 17th June 2016, President Maithripala Sirisena, as the Commander-in-Chief of the Security Forces and the Minister of Defence, issued directions requiring the Security

Forces and the Police (i) to ensure that fundamental rights of persons arrested or detained are respected, and that such persons are treated humanely; and (ii) to assist and facilitate the HRCSL to exercise and perform its powers, functions and duties.

Paragraph 12: Former combatants

53. 12,185 ex-combatants, including 594 child combatants, who surrendered to or were captured by the Security Forces at the conclusion of the armed conflict in 2009, have undergone a rehabilitation programme for one year (upon the decree given by the Court as the case concluded) designed to assist reintegration into society. The strategies and activities for rehabilitation included improving their physical and mental state through spiritual, socio-physiological, personality and leadership training for six months, followed by six months of vocational and technical training.

54. Only one person currently (as at 20 January 2019) is undergoing rehabilitation at the Poonthottam Rehabilitation Centre and he too will be completing the programme by June 2019.

55. The Rehabilitation Authority of Sri Lanka has granted self-employment loans to 1,799 ex-combatants rehabilitated in 2012 and 2013. A sum of LKR 302 million was disbursed for this purpose. In 2017, 2,357 ex-combatants were assisted under this scheme to apply for loans, and 160 applicants were given loans worth LKR 32.6 million out of 1,085 who were recommended by the Rehabilitation of Persons, Properties and Industries Authority (REPPPIA). The approval of Cabinet of Ministers has also been granted to formulate a suitable mechanism to recruit 35 rehabilitated graduates under the Graduates Employment Scheme. The GOSL has also encouraged private companies to employ former combatants, with 100 immediate vacancies to be filled by the Sri Lanka Retailer's Association.

56. 212 out of 361 ex-combatants who sat for the General Certificate of Education Ordinary Level (GCE O/L) since the end of the conflict have passed the examination. Out of these 65 candidates were female ex-combatants. 37 ex-combatants meanwhile qualified to enter university following success at the GCE Advanced Level examinations. 29 of these candidates were females. Hence the process of reintegrating ex-combatants, including child ex-combatants, into society has seen notable progress. The GOSL has commenced the process to recruit the ex-combatants to the Civil Security Force.

Paragraph 13: Internally displaced persons

57. As of 30 September 2018, the Government had resettled 880,900 Internally Displaced Persons (IDPs) belonging to 256,799 families in the Northern and the Eastern Provinces. The number of persons remaining to be resettled is 2,216 persons belonging to 627 families in 25 IDP camps in Jaffna.

58. Meanwhile, 4,870 refugees of Sri Lankan origin have returned to Sri Lanka – mainly from India. A further 102,000 refugees of Sri Lankan origin remain in India.

59. The Ministry of, Rehabilitation, Resettlement, Northern Development and Hindu Religious Affairs has developed a National Policy on Durable Solutions for Displaced and Persons Affected by the conflict. The Policy received Cabinet approval on 27th August 2016. The Policy guarantees the rights of the displaced, and aims to promote measures to address their immediate, medium and long-term protection and assistance needs, with a view to facilitating durable solutions to their displacement. The Policy delineates the roles and responsibilities of relevant government institutions and their national and international partners, describes the challenges that must be addressed as a matter of urgency, sets out a process for monitoring the implementation of the Policy, and provides for redress through grievance mechanisms.

60. A major challenge faced by long-term IDPs and refugees is the risk of losing their land title to secondary occupiers due to “prescription” – i.e. the loss of legal entitlement to one's land due to the adverse possession of such land by another party over a period of ten years. Therefore, the law was amended, and the Prescription (Special Provisions) Act, No. 5 of 2016, which came into force on 26th April 2016, provides special legal provisions to

be made in respect of persons who were unable to pursue their rights in court for the recovery of any immovable property including land due to the conflict.

Land Release

61. The GOSL remains committed to expeditiously releasing private land to their original owners with a view to ensuring resettlement and resumption of livelihood activities. At the end of the armed conflict in May 2009, the Security Forces occupied 123,765 acres of land in the Northern and the Eastern Provinces, out of which 93,136 and 30,628 acres were State and private land respectively.

62. As at 31 December 2018, Government figures indicated that 46,321.5 acres (40,488.86 acres of State land and 5832.64 acres of private land) of land had been released between January 2015 and December 2018, including 5,797.01 acres of which 4,783 acres of State land and 1058.99 acres of private land in 2018 alone. On 21 January 2019, Government released a further 1203.77 acres of land, including 69.77 acres of private land and 1091.79 acres of agricultural land that was managed by Sri Lanka Army. This was due to the constant requests made by the public for military forces to refrain from engaging in civilian/agricultural activities. In addition, 39.25 acres of forest land in Addalachchena, Ampara has been released on 18 January 2019. However, Government plans in January 2019 indicated the need for the Security Forces to retain 28,284.41 acres, including 3,168.19 acres of private land.

63. In 2018, the GOSL initiated a high-level process to address administrative challenges encountered in releasing land occupied by the Security Forces to its original owners. For example, in January 2018, the GOSL tasked the Secretary to the President with convening regular meetings attended by all relevant governmental stakeholders to formulate a practical plan for the release and vesting of private land, monitoring the progress thereof, overseeing progress pertaining to resettlement related issues connected to land release, and addressing any difficulties that arise in the process.

64. Furthermore, in January 2018, the Ministry of Justice & Prison Reforms established five Special Mediation Boards on Land in Jaffna, Kilinochchi, Trincomalee, Batticaloa and Anuradhapura to expedite the acquisition processes relating to handing land back to their original owners. Plans are underway to establish more such Special Mediation Boards in the Mullaitivu, Vavuniya, Mannar and Ampara districts.

65. In February 2018, the SCRMM organised a Consultation on Land Restitution with participation of all key local stakeholders (i.e. the Ministry of Defence, Ministry of Resettlement, Ministry of Land Reforms, Forest Department, Rehabilitation of Persons Properties and Industries Authority, Commanders of the Security Forces – Northern and Eastern Provinces), representatives from World Bank, IOM, and international experts. The consultation provided a further opportunity for the GOSL to devise practical solutions with respect to expediting land release and resettlement.

66. A Presidential Task Force has been established pursuant to a Cabinet Decision taken in June 2018, under the chairmanship of the President with the participation of Cabinet Ministers, Secretaries to the Cabinet Ministries, Heads of Department and Commanders of the Tri-Forces to address the concerns and monitor the progress made in the Northern and the Eastern Provinces. This Task Force meets regularly.

Paragraph 14: Right to life

67. The NHRAP 2017–2021 includes a commitment to introduce appropriate reforms to explicitly recognise the right to life in the Sri Lankan Constitution. Moreover, the parliamentary Sub-Committee on Fundamental Rights has recommended the inclusion of the right to life in the fundamental rights chapter of the proposed Constitution.

68. In 2018, Sri Lanka voted in favour of the UN General Assembly's biennial Resolution on the Moratorium on the Use of the Death Penalty. In this Resolution, Sri Lanka, along with other countries who voted in favour, has called upon all UN members states "to progressively restrict the use of the death penalty" and "establish a moratorium on executions with a view to abolishing the death penalty". Sri Lanka has voted in favour of

the biennial Resolution on the Moratorium on the Death Penalty in the following years at the UN General Assembly: 2007, 2008, 2010, 2016 and 2018. In 2012, Sri Lanka abstained.

69. Following the establishment of the National Authority for the Protection of Victims of Crime and Witnesses in 2016, the provision of redress and services to victims and witnesses as per the Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 has commenced. The Policy and Programme Division, Legal Division and Operations Division of the Authority have been set up and are functional, while recruitment is ongoing for the Protection Division. The special Police Division set up under the Act is in operation since November 2016. Adequate resources have been allocated for the functioning of the Authority, with the GOSL allocating LKR 17 million and LKR 75 million to the Authority in 2017 and 2018 respectively. The Authority, in collaboration with the United Nations Development Programme, has also commenced capacity building programmes targeting all members of the Sri Lanka Police, judges, Child Care Officers and Judicial Medical Officers, with a view to ensure the effective implementation of the Act. The second phase of the programme would involve raising awareness among the public.

70. The process of amending the Protection of Victims of Crime and Witnesses Act commenced in November 2017, with Parliament enacting an Amendment to the Act, which makes provision for facilitation of the leading of evidence through an audio-visual linkage from Sri Lankan Missions abroad. The guidelines on the practical application of the Amendment, formulated by the Attorney General, are also now in place. Meanwhile, with a view to further strengthening the provisions of the current Act, a Committee has been appointed by the Minister of Justice & Prison Reforms to conduct a review of the Act and propose amendments. The Committee is in the process of reviewing the Act in its entirety.

71. Meanwhile, the GOSL has taken positive measures to prosecute those involved in the intimidation of witnesses. On 24th May 2018, the Homagama Magistrate's Court convicted a prominent Buddhist clergyman for a period of one year, who was charged by the police with criminally intimidating Sandya Ekneligoda, the spouse of missing journalist Prageeth Ekneligoda in 2016. On 8th August 2018, the Court of Appeal found the same individual guilty of contempt of court, and sentenced him to rigorous imprisonment for a period of six years.

72. A Declaration of Peace was adopted by the GOSL on Independence Day in 2015, and since January 2015, the government introduced the practice of singing the national anthem in both national languages (Sinhala and Tamil).

73. The GOSL has taken steps to strengthen the framework for the provision of psychosocial care to war-affected communities. For example, ONUR has worked with consultant psychiatrists and psychologists to hold "training of trainers" workshops in the Northern Province. The workshops aim to train over 1,000 Development Officers in the provision of support to traumatized individuals in their respective communities.

Paragraph 15 (a) and (b): Enforced disappearances

74. Sri Lanka signed the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) on 10th December 2015, and ratified the Convention on 25th May 2016. The International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018, which incorporates the provisions of the Convention, was thereafter enacted by Parliament in March 2018. The Act criminalises enforced disappearance, and provides the families of victims with effective remedies to obtain compensation and to seek information on the whereabouts of victims. Since 2015, no case of enforced disappearance has been recorded.

75. The GOSL has taken positive measures to investigate disappearances in the past, and to ensure non-recurrence of disappearances in the future. It has made steady progress in investigating the disappearance of persons including journalist Prageeth Ekneligoda.

76. 12,341 cases relating to Sri Lanka have been reported to the Working Group on Enforced or Involuntary Disappearances, of which 6,591 have been clarified. Out of the remaining 5,750, the GOSL provided clarifications and information on a further 1,997 cases, which includes clarifications on 309 cases submitted by the GOSL in April 2016. The

process of investigating the cases referred by the Working Group and providing clarifications thereon was previously carried out by an inter-ministerial mechanism comprising the Ministry of Defence, Ministry of Foreign Affairs, the Attorney General's Department and other relevant agencies. With the establishment of the OMP with a mandate to address cases of persons reported missing, including in connection with the conflict, a decision was made to hand over this function to the OMP. Accordingly, the Ministry of Foreign Affairs has, through Sri Lanka's Permanent Mission in Geneva, obtained from the Working Group, full details pertaining to cases that remain to be clarified by Sri Lanka.

77. In many disappearance cases, the families of the disappeared believe that the person concerned is still living. In this context, in 2016, the government enacted an amendment to the Registration of Deaths (Temporary Provisions) Act, No. 16 of 2016, in order to issue Certificates of Absence in lieu of death certificates, which would enable the families of the disappeared to access the right to utilize land and withdraw funds from bank accounts belonging to the missing person. The issuance of certificates of absence to applicants has now commenced. By end June 2018, the Registrar General's Department had received 843 applications for certificates of absences, and had issued 652 certificates to applicants from the Ampara, Trincomalee, Batticaloa, Jaffna, Killinochchi, Mannar, Vavuniya, Mullaitivu, Gampaha and Moneragala districts.

Paragraph 16 (a), (b), (c), (d), (e) and (f): Prohibition of torture and ill-treatment

78. The Instrument of Accession to the Optional Protocol to the Convention Against Torture was deposited with the United Nations Headquarters on 5th December 2017 and entered into force for Sri Lanka on 4th January 2018. The HRCSL was designated as the National Preventive Mechanism under the Protocol. The Commission has sought from the UN Sub-Committee on Prevention of Torture the services of a technical expert to assist the Commission in establishing the necessary infrastructure required under the Optional Protocol. The Sub Committee on Prevention of Torture is scheduled to visit Sri Lanka from 31 March to 11 April, as a part of their Country visit.

79. The GOSL is cognizant of the continued challenges encountered with respect to combating torture in the country. It maintains a zero tolerance policy on torture. In this context, several positive developments have taken place since 2015.

80. The independence of the HRCSL and the National Police Commission has been strengthened, thereby enabling independent investigations into allegations of torture. The HRCSL is afforded the space and opportunity to accurately report on the human rights situation and, where appropriate, constructively engage the government on introducing necessary improvements. The current HRCSL's reporting on torture is a direct result of this renewed independence. Meanwhile, acting in terms of its constitutional mandate, the National Police Commission has set in motion a procedure to investigate complaints against Police officers through the Rules of Procedure for Public Complaints Investigation. The Commission gazetted the said procedure on 27th November 2017. Furthermore, the procedure to be followed and the relevant contact details have been posted on the National Police Commission website.

81. Victims have been provided with an international mechanism to seek redress in cases of torture. On 6th August 2016, Sri Lanka submitted a declaration under article 22 of the Convention Against Torture allowing the Committee Against Torture to receive and consider communications from or on behalf of individuals regarding violations of the provisions of the Convention. The GOSL has accordingly undertaken to cooperate with the Committee Against Torture, and implement its recommendations in accordance with the laws of the country.

82. Directives with respect to the arrest and detention of suspects under the PTA have been issued by the President, and the HRCSL to security forces and police in June and May 2016 respectively. They specifically include prohibitions on the practice of torture, thereby reinforcing the political will to investigate, prosecute and punish offenders under the Torture Act, No. 22 of 1994.

83. Human rights has been included as part of the training of personnel in the Security Forces and Police. The Kotalawala Defence University, where many military cadets pursue

degree programmes, teaches human rights as an important component of the academic programme. The concept of education or specific training on human rights has expanded from teaching and theoretical work to participating and contributing to work at the community level, thereby enabling students to put what they learn into practice. The HRCSL and ICRC have also conducted a number of training programmes for the military and the police on human rights and humanitarian law.

84. The Inspector General of Police has issued nine circulars directing police officers to issue receipts of arrests to the next of kin, display the rights of the detainees inside the police cells in all three languages. The circulars also highlight the procedure to be followed when the juvenile detainees are presented before the Court.

85. Since January 2015, there are three cases reported on custodial torture and 13 cases of custodial deaths. The Special Investigation Unit of the Sri Lanka Police has conducted the initial inquiry into all 16 cases, and out of the 13 cases of custodial deaths, disciplinary action has been taken against the perpetrators in seven cases. Moreover, judicial proceedings have been commenced against the perpetrators in five cases. Upon the initial inquiry, it has been noted that one incident of custodial death amounted to a case of self-defence. Out of the three cases of custodial torture, one case is ongoing at the Colombo Magistrates Court, and two cases are awaiting indictments at the Attorney General's Department.

86. A Committee on Prevention of Torture was established by the Ministry of Law & Order, and is tasked with monitoring progress made by relevant stakeholder institutions in enforcing the government's zero tolerance policy on torture. Meanwhile, the Committee decided to initiate investigations regarding cases under article 11 of the Constitution (which guarantees the freedom from torture, cruel and inhuman treatment or punishment) once the Supreme Court grants leave to proceed for such cases. It may also be noted that the Attorney General does not appear for state officials where the Supreme Court has granted leave to proceed in fundamental rights cases in which torture is alleged.

87. Since May 2017, there have been five fundamental rights cases in which the state was found to have violated the petitioners' rights under article 11. Moreover, steady progress has been made with respect to prosecuting perpetrators of torture under the Torture Act. In May 2017, the High Court of Jaffna convicted six police officers including the Officer in Charge of the Chunnakam Police Station, and sentenced them to ten years imprisonment.

Paragraph 17: Detention

88. All suspects taken into custody in Sri Lanka are guaranteed the right to communicate with an attorney. Section 15 (2) of the recently enacted Enforced Disappearance Act guarantees to all persons deprived of liberty, the right to communicate with and be visited by his relatives, Attorney-at-law or any other person of their choice, subject only to the conditions established by written law. The current Code of Criminal Procedure Act, No. 15 of 1979 does not stipulate any restrictions on the right of a suspect to communicate with an Attorney-at-law. Thus a person has the right to access legal counsel immediately upon the deprivation of his or her liberty, i.e. arrest. Meanwhile, Regulations published in Gazette No. 1758/36 dated 18th May 2012 issued by the Inspector General of Police under section 55 of the Police Ordinance, No. 16 of 1865 entitles an attorney-at-law representing the interest of a suspect held in Police custody to meet with the Officer in Charge of the relevant Police station. Such an Attorney is entitled to ascertain the reasons for the arrest, and to make representation to the Police officer on behalf of the suspect.

89. The right of a suspect to see an Attorney-at-law immediately after an arrest is effectively safeguarded through the Enforced Disappearance Act, and the Police Regulations of 2012. Such access provides a general safeguard against ill treatment, as a suspect gains an opportunity to inform his or her Attorney if any ill treatment during the arrest or detention.

90. Section 15 (3) of the Enforced Disappearance Act stipulates that the HRCSL shall have access to the places where persons are deprived of liberty. Therefore, the Commission's authority to visit a place of detention is statutorily guaranteed. The

Commission is also mandated under section 11 (d) of the Human Rights Commission of Sri Lanka Act, No. 21 of 1996 to monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention.

91. The GOSL entered into an agreement with the ICRC on 7th June 2018 to inter alia ensure that the ICRC gains access to all detainees at all stages of their detention, and to places of detention, and to speak privately and freely to such detainees. This agreement is expected to strengthen independent monitoring of detention conditions, and to ensure further safeguards against ill treatment of persons held in custody.

92. Section 15 (4) of the Enforced Disappearance Act further obliges law enforcement authorities to “assure the compilation and maintenance of up-to-date official registers or records of persons deprived of liberty, which shall be promptly made available, upon request, to any judicial or other competent authority or institution authorized for that purpose by the law.” Such information shall contain: (1) the identity of the person deprived of liberty; (2) the date, time and place where the person was deprived of liberty and the identity of the authority that deprived the person of liberty; (3) the authority that ordered the deprivation of liberty and the grounds for the deprivation of liberty; (4) the authority responsible for supervising the deprivation of liberty; (5) the place of deprivation of liberty, the date and time of admission to the place of deprivation of liberty and the authority responsible for the place of deprivation of liberty; (6) information relating to the state of health of the person deprived of liberty; (7) in the event of death during the deprivation of liberty, the circumstances and cause of death and the destination of the remains; and (8) the date and time of release or transfer to another place of deprivation of liberty, the destination of the place of deprivation of liberty to which a person is transferred, and the authority responsible for the transfer.

Paragraph 18: Prison overcrowding

93. The Cabinet of Ministers approved the draft Prisons Administration Bill, which seeks to enhance the efficiency of the prisons system and mitigate the issue of prison overcrowding. Once reviewed by the Attorney General, the Bill will be forwarded to the Legal Draftsman’s Department for finalization.

94. A Task Force chaired by the Secretary to the Ministry of Justice & Prison Reforms on Judicial Causes for Prison Overcrowding was established in 2015. The Task Force meets regularly to address issues related to prison overcrowding. The ICRC provides technical assistance to this Task Force. The Task Force is considering the adoption of a policy pertaining to the payment of fines and the release of long-term prisoners. It is noted that the percentage of prison overcrowding has gradually decreased over the past six years. The prison congestion percentage, which was 486% in 2010, has now been brought down to 148%.

95. Moreover, the Community Based Correction system is implemented as an alternative form of punishment in lieu of imprisonment. In 2016, 14,085 offenders were rehabilitated under this system.

96. The GOSL has meanwhile taken steps to enhance the capacity of prisons through relocation of prisons to larger complexes, and through renovations. The Colombo Prison Complex and prisons in Galle, Matara, Trincomalee, Batticaloa, Kegalle, Negombo, Badulla, Jaffna, Bogambara and Tangalle are identified for relocation. Furthermore, the Wariyapola Remand Prison has been identified for renovations and improvement. The construction of the new prison in Angulukolapelessa has been completed and the inmates have been relocated.

Paragraph 19: Corporal punishment

97. Corporal punishment was previously administered under the Corporal Punishment Ordinance, No. 16 of 1889 and certain provisions in the Code of Criminal Procedure Act of 1979. This Ordinance was repealed by the Corporal Punishment (Repeal) Act, No. 23 of 2005, which prohibits corporal punishment as a form of punishment under the criminal justice system. Provisions in the Code of Criminal Procedure Act pertaining to corporal punishment were also repealed.

98. Strict instructions have been issued to schools through the Ministry of Education Circular No. 2001/11 dated 20th March 2001 to prohibit the use of corporal punishment to discipline school children. Circular No 11/2001 was later replaced by Circular No 17/2005 dated 11th May 2005. The new Circular highlights the obligations imposed on the State under the provisions of article 28 (2) of the Convention on the Rights of the Child, which provides that State parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's dignity. The said Circular was reissued in April 2016. Meanwhile, the National Child Protection Authority has produced and distributed a booklet on corporal punishment to all teachers. It also conducts awareness raising programmes for the general public. However, the GOSL notes that isolated incidents of corporal punishment prevail despite of the continuous monitoring by the Ministry of Education.

99. Awareness among the parents is also improving. Furthermore, discussions are ongoing to address these sporadic incidents of corporal punishment. Furthermore, a manual on a "Child Friendly Approach" has been issued to all the schools to provide guidance to teachers to address disciplinary and non-disciplinary issues of students in a non-violent and child-friendly manner. Student counselling is encouraged and promoted in all schools, and steps have been taken to train 1,039 teachers as counsellors in addition to recruiting 2,753 trained counsellors.

100. When complaints of corporal punishment or other degrading punishments are brought to the attention of the Ministry of Education, the Ministry takes appropriate action. Where necessary, disciplinary action is taken against those who have violated the Circular No. 17/2005. For instance, in the event of any grave violations of these Circulars, criminal proceedings may be instituted against the party concerned.

101. Corporal punishment is also being addressed as one of the three main focus areas in the Road Map of the "National Partnership to Ending Violence against Children" launched in 2018 by the MWCA. Sri Lanka has voluntarily committed to becoming one of the twelve Pathfinder Countries to the "Global Partnership to End Violence against Children". As a Pathfinder Country, Sri Lanka has pledged to develop and implement a new strategy in line with the SDG 2030 agenda in order to deliver the vision of a world where all children grow up free from violence and exploitation.

Paragraph 20: Trafficking in persons

102. Sri Lanka ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol) on 15th June 2015 and signed the Protocol against the Smuggling of Migrants by Land, Sea and Air on 13th December 2000. Following the signing of the United Nations Convention against Transnational Organized Crime (UNTOC), the GOSL enacted the Penal Code (Amendment) Act No 16 of 2006, which sought to amend legislation in line with the Palermo Protocol. Presently, the Penal Code is the main operative criminal law that is used to prosecute an offender for the commission of the offences of sex trafficking and forced labour. The Penal Code (Amendment) Act, No 16 of 2006 defines the offence of trafficking in persons in line with the definition contained in the Palermo Protocol, and criminalizes multiple forms of trafficking exploitation including forced or compulsory labour, slavery, servitude, organ removal, sexual exploitation, or any other act which constitute an offence under any law.

103. Moreover, the new section 358A of the Penal Code criminalises debt bondage or serfdom, forced or compulsory labour, slavery, and the recruitment of children for use in armed conflict. Meanwhile, section 63 (b) of the Sri Lanka Bureau of Foreign Employment Act, No. 21 of 1985 criminalises the use of "coercion, fraud or wilful misrepresentation" to induce a person to emigrate for the purpose of employment.

104. The GOSL enacted the following two pieces of legislation, during the current reporting period, thus contributing significantly to GOSL's efforts to combat human trafficking: (i) the Prevention of Crimes (Amendment) Act, No. 29 of 2017 made human trafficking a finger-printable offence. The Prevention of Crimes Ordinance provides that a person's fingerprint can be taken only if such person has committed a "crime" as defined in the Ordinance. Making human trafficking a finger-printable offence will not only expedite

the process of accurately identifying offenders, but will also contribute to maintaining accurate records on human trafficking in the database established at the CRD; and (ii) In November 2017, Section 31 (1) of the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015 was amended by enacting “Assistance to and Protection of Victims of crime and Witnesses (Amendment) Act, No. 27 of 2017”.

105. This amendment introduced provisions to record statements within and outside Sri Lanka. This amendment enables Sri Lankan nationals residing abroad to give evidence through Sri Lankan diplomatic missions overseas, which addresses the difficulties encountered by the Police in obtaining statements from victims who are outside Sri Lanka. It should be particularly noted that section 31 of Act No. 4 of 2015 provides for the recording of evidence or a statement of a victim or a witness, by securing such testimony or statement without his presence before a Court, Commission or law enforcement authority through technical means by which contemporaneous or near-contemporaneous audio-visual linkage between the Court, the Commission or the law enforcement authority and any other remote location within Sri Lanka on grounds of expediency or as a measure of protection to be afforded to a victim or witness, if it be in the best interest of justice and is found necessary.

106. The GOSL made efforts to increase the number of prosecutions during the reporting period. 28 indictments have been dispatched to High Courts during the last reporting period. Four indictments are under 360C while 24 are under 360A of the Penal Code. During this period, the GOSL was able to conclude six cases in the High Courts. The prosecutors were able to secure three convictions under section 360A (1) of the Penal Code. Three acquittals were reported, and from those, two are under sections 360A (1) and one is under section 360C.

107. The Ministry of Justice established a National Anti-Human Trafficking Task Force in 2010 to function as the national coordinating body to advise and monitor activities to be implemented in combating human trafficking in Sri Lanka. The Task Force aims to strengthen coordination among key government stakeholders, to increase prosecutions and to improve the protection of victims. It consists of representatives of all the government institutions that are recognized as responsible institutions in addressing trafficking in persons in the country, including the Ministry of Justice, the Attorney General’s Department, the Sri Lanka Police and the Sri Lanka Bureau of Foreign Employment.

108. Standard Operating Procedures were developed by the Task Force and the Department of Probation and Child Care, and launched in March 2015 to improve identification, referral and protection of victims of trafficking. The Task Force is currently planning to conduct awareness programmes for its stakeholders to help familiarise them with these procedures. The member institutions based on the institutions conduct awareness programmes to create awareness among the general public in combating human trafficking. Several programmes were conducted during the previous reporting period covering certain identified geographical areas. The National Anti-Human Trafficking Task Force (NAHTTF), which comprises several institutions, including the Ministry of Justice & Prison Reforms, launched a public information campaign to combat human trafficking from May 2017–January 2018. The campaign was funded by the Government of Australia and was implemented by the International Organisation for Migration (IOM) in collaboration with the Ministry of Justice and NAHTTF. The public information campaign comprised a media campaign and training for government officials as well as community members and community-based organisations.

109. Moreover, the Cabinet of Ministers approved the National Strategic Plan to Monitor and Combat Human Trafficking 2015–2019 on 3rd February 2016. The NAHTTF currently monitors the implementation of the Strategic Plan.

110. The MWCA has established a shelter for female victims of trafficking. Sri Lanka retained its tier 2 ranking for the second consecutive year according to the US State Department Trafficking in Persons (TIP) report 2018. Sri Lanka was upgraded to Tier 2 ranking from Tier 2 Watch List in 2017 in view of protective measures taken by the GOSL to combat trafficking in persons.

Paragraph 21: Freedom of expression and participation in the political process

111. The freedom of speech and expression including publication is guaranteed under article 14 (1) (a) of the Constitution. Moreover, the Nineteenth Amendment to the Constitution introduced a new fundamental right on the right of access to information. Under the new right, every citizen has the right to access any information as provided for by law, being information that is required for the exercise or protection of a citizen's right.

112. In August 2016, the government enacted the Right to Information Act, No. 12 of 2016 to substantiate the new fundamental right guaranteed under the Nineteenth Amendment, and to advance freedom of speech and expression, and media freedom. Under the Act, every public authority is obliged to appoint an Information Officer to provide information in its custody, possession or control to the public on request. This Act calls upon public authorities to proactively disclose information in order to advance a culture of openness. It also establishes an independent Right to Information Commission to receive and dispose of complaints from citizens. In a vast majority of the appeals heard, the information requested by the applicant has been provided.

113. Following a consultative process, the GOSL decided to replace the current Press Council Law, No. 5 of 1973 with more progressive legislation. In July 2016, work commenced on the drafting of an Independent News Media Regulation Act to replace the Press Council Law. The new law aims to introduce a more inclusive single system of regulation for print, broadcast and web-based media.

114. Accordingly, all media associations and stakeholders were invited for a consultation in late July 2016. A committee comprising media experts was thereafter appointed to formulate a basic draft law. The committee held six rounds of consultations during August and September 2016 and submitted a basic draft to the Prime Minister for observations. Cabinet approval was then obtained to conduct a public consultation process on a concept note based on the draft. Views of the public, civil society and other stakeholders were invited through newspaper advertisements and the website of the Government Information Department. Approximately 125 public comments were received. Moreover, a nation-wide consultation process was carried out at the district level, steered by the National Secretariat for Media Reforms. Following this consultative process, in July 2017, a Cabinet sub-committee was appointed to draft proposals for a new law. This sub-committee is yet to complete its work.

115. Law enforcement authorities are currently investigating past attacks on journalists. For example, the investigation into the murder of Lasantha Wickrematunge, chief editor of the Sunday Leader newspaper in 2009 has been reopened. In February 2017, several suspects were arrested in connection with the murder. New arrests, including the arrest of a retired senior Deputy Inspector General of Police, took place in 2018, and the investigation is in progress.

116. The GOSL has taken measures to prevent practices involving surveillance and intimidation of persons, including members of civil society, human rights defenders and journalists. With a view to encouraging the public to make formal complaints to law enforcement authorities in respect of any incident of surveillance or harassment, the Ministry of Law and Order, on 16th March 2018, issued a media statement in all three languages notifying the public of the mechanisms that are available to make a complaint regarding any incident of surveillance or harassment. These mechanisms include the Special Investigation Unit and the "Tell IGP" platform of the Sri Lanka Police, and the complaints mechanisms available under the HRCSL and the National Police Commission.

Paragraph 22: Freedom of assembly and freedom of association

117. The freedom of peaceful assembly, association and movement are respectively guaranteed by articles 14 (1) (b), (c) and (h) of the Constitution. Moreover, article 14 (1) (d) guarantees to all citizens the right to form and join trade unions.

118. The freedom of peaceful assembly was guaranteed to protests held by concerned citizens with respect to a number of public issues including sexual abuse of women and children, and the discovery of the truth regarding missing relatives. These protestors were

permitted to express their concerns in public and were often provided police protection. Since 2015, citizens have freely staged vigils on 19th May commemorating the grave loss of life due to the armed conflict that ended on the same date in 2009. Several student protests were meanwhile staged in the post-January 2015 period, mainly due to disagreement over education reforms, and particularly the licensing of private education institutions. The GOSL recognises the freedom of all citizens, including students, to peaceful assembly and association.

119. Restrictions with respect to the freedom of movement in Sri Lanka have been lifted on account of the discontinuation of a State of Emergency in August 2011. Any remaining restrictions relate to areas suspected of containing unexploded ordnance.

Paragraph 23: Rights of persons belonging to minorities

120. Freedom of religion has been an issue of focus during the post-armed conflict period in Sri Lanka due to allegations of inter-religious tensions in the country. The NHRAP 2017–2021 contains a firm commitment to enforce section 3 (1) of the ICCPR Act, No. 56 of 2007, which criminalises the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

121. The Cabinet of Ministers granted approval in June 2017 to establish District Level Reconciliation Committees with the aim of monitoring religious and ethnic tensions in the locality, and formulating a suitable strategy and approach to mediate problems.

122. Action has been taken to investigate attacks on religious minorities, with parallel measures aimed at compensating victims. Over one hundred persons were arrested following communal violence in the Kandy district in March 2018. Following completion of investigations, charges will be framed against perpetrators under the ICCPR Act. On 19th March 2018, the GOSL paid LKR 9.8 million in compensation to dozens of persons affected by the violence in Kandy. Those paid compensation thus far include 66 homeowners and 65 business owners. Furthermore, the Office for Reparations Act, No. 34 of 2018 provides that reparation can inter alia be sought in connection with political unrest or civil disturbances.

123. A Parliamentary Select Committee on Communal and Religious Harmony in Sri Lanka under the Chairmanship of the Speaker was appointed in September 2018. This committee undertakes the responsibility of conducting studies relevant to ensuring religious and national harmony in Sri Lanka, and making recommendations to Parliament based on the studies conducted.

124. The GOSL has also taken several proactive measures to prevent future occurrences of religious violence. Through a Circular issued in June 2017, the Inspector General of Police issued instructions to all 498 Officers in Charge of police stations to take immediate and appropriate action wherever incitement to violence is reported or occurs. The Circular also states that failure on the part of the Officer in Charge to take appropriate action would make him or her liable to be dealt with under the police disciplinary code. The Sri Lanka Police has meanwhile deployed a separate team to take action against persons engaged in the incitement of violence via social media.

125. Meanwhile, ONUR regularly conducts programmes to promote religious coexistence. It has identified geographic locations with particular vulnerabilities to inter-religious violence, and has conducted interactive training in conflict transformation in these areas. The training was supported by the United Nations Development Programme, and serves as an early warning system for religious violence. Over 12,000 persons, including Buddhist, Islamic, Hindu and Christian clergy, professionals, opinion leaders and public servants were trained.

126. On 7th August 2018, the Inspector General of Police (IGP) and the Secretary General of the SCRMP signed a Memorandum of Understanding (MOU) to allocate funds to implement and run the project named “Refocusing of Community Policing Committees to promote National Unity and Reconciliation Dialogue”. The project aims to create a platform through Community Policing Committees (CPC) to communicate and receive information about the reconciliation agenda of the government and to start grassroots

national unity, co-existence and reconciliation dialogues to ensure communal and religious harmony.

127. On 8th August 2018, the Ministry of Finance and Mass Media launched a grassroots-based discussion platform for the public called “Ahanna” (listen) with the objective of facilitating discussions on the need for peace in the nation and address misconceptions pertaining to the government’s transitional justice and reconciliation agenda.

128. The GOSL has prioritised the implementation of the Official Language Policy of Sri Lanka, and the Ten Year National Plan for a Trilingual Sri Lanka. The implementation of this Policy and Plan is vital to promoting reconciliation in the country and to ensure meaningful access to state services. The GOSL has meanwhile taken several constructive steps towards achieving its targets with respect to language rights.

129. The government has launched platforms for public feedback and education. It established a Call Centre to receive public complaints. Since its establishment in 2012, the centre has received 150 to 200 calls per month, including complaints related to violations of the Official Languages Policy and other Language issues. The centres also received 30–35 complaints via social media. The website www.bashawa.lk was launched to enable translation services.

130. Model sites in selected municipal councils, urban councils, police stations, and general hospitals, and 72 Bilingual Facilitation Cells in bilingual districts and divisional secretariat divisions have been established to improve local service delivery. Officers attached to the Districts and Divisions are being trained in their second official language for facilitating translations at the community level. The first batch of such 120 National Integration Promotion Assistants (NIPA Officers) have completed their training, and the second batch will commence training shortly. These sites will be replicated in other locations. Measures are also being taken to ensure that every police station in the country has a bilingual officer on duty 24 hours of the day. Approximately 271 radio programmes have also been conducted for school children on language proficiency in encouraging bilingualism.

131. In the post conflict period, 2,153 Tamil speaking Police officers including 159 female officers were recruited from the Northern and the Eastern Provinces. Following the completion of training, they have been posted to the respective provinces. All documents in respect of police investigations are prepared in Tamil in the areas where the population is predominantly Tamil-speaking. Tamil-speaking officers have also been deployed to centralised investigation units such as the CID.

132. On 9th May 2017, the Cabinet of Ministers decided that all public and semi-government institutions as well as public places should display bilingual-trilingual sign boards for the guidance and convenience of the general public. Moreover, recent amendments to the National Medicines Regulatory Authority Act provide that pharmacists should dispense medicine and medical advice in the language preferred by the customer.

Other thematic issues

Security sector reform

133. As per article 4 of the Constitution, the subject of defence is reposed in the President as the Commander in Chief. Furthermore, decision-making with respect to “right-sizing” the security forces, and maintaining their strength would need to be taken by the legislature in terms of the Army, Navy and Air Force Acts.

134. The Ministry of Defence has called for views and observations with regard to security sector reforms from the security forces. A dialogue has meanwhile been initiated with the military since June 2016 on aspects related to reconciliation, transitional justice, and human rights. Moreover, proposed changes in the security sector were discussed at a seminar on Sustaining Peace in Sri Lanka by Mr. Pablo de Grieff, the UN Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence

during his visit to Sri Lanka in October 2017. Mr de Grieff discussed the matter of security sector reform with defence sector authorities during this visit.

Good governance

135. Since 2015, the GOSL has remained firmly committed to the advancement of good governance. The Convention Against Corruption was constitutionally recognised by the Nineteenth Amendment, making it the first international convention to be accorded such recognition. Meanwhile, the independence of the Commission to Investigate Allegation of Bribery or Corruption (CIABOC) was further strengthened.

136. The Cabinet of Ministers approved the drafting of the National Action Plan on Anti-corruption (NAP) in October 2017, understanding the necessity of having a comprehensive plan to be implemented by all agencies for a period of five years under the guidance of the Presidential Secretariat. CIABOC, as the lead agency, with the assistance of all relevant stakeholders, completed 26 island-wide public consultations with the participation of public officials, international consultants, members of the security forces, the private sector, lawyers, civil society organisations, media personnel, and the general public. The Cabinet of Ministers approved the finalised NAP on 05 February 2019 and will be launched shortly.

137. Meanwhile, the GoSL's commitment to enforcing the current law on anti-corruption was recently evidenced by the arrest of certain high ranking officials by CIABOC. The CIABOC was able to secure 64 convictions in the year 2018. This conviction rate is the highest in the entire history of CIABOC. A total number of 333 cases have been filed of which 102 cases have been filed before the Magistrate Court and 231 cases are before the High Court pending trial.

138. Considering the need to evolve the laws with recent developments and requirements, CIABOC sought the approval of the Cabinet of Ministers to review and bring necessary amendments to the Bribery Act, No. 11 of 1954. These proposed amendments vary from introducing private sector bribery and bribery of foreign public officials to criminalising "trading in influence". Cabinet approved the request in 2016, and the review of legislation is ongoing.

139. The Judicature Amendment Act, No. 9 of 2018 was enacted in May 2018 to address crimes of large-scale bribery and corruption. This Act allows the functioning of a "Permanent High Courts at Bar" sitting to hear and determine cases relating to a number of financial and economic offences. Two out of three such high courts were established in July and September 2018, and the hearings are ongoing.

Consultations, Dissemination and Follow-up

140. Several public consultations informed the process through which the content of this report was gathered and finalised. Such consultations took place largely in the context of formulating the National Report for the Universal Periodic Review process. The methodology adopted in the preparation of this report was twofold: first relevant government agencies gathered and synthesized information; second, public consultations with non-governmental stakeholders were held to seek their views and to address issues pertinent to civil society.

141. A draft of this report was published on the website of the Ministry of Foreign Affairs in all three languages for a period of two months, and circulated among civil society organisations for their feedback. Announcements were made via newspaper advertisements in English, Sinhala and Tamil to inform the public and civil society organisations on how to access the draft report and provide feedback. The report was also shared with the HRCSL for the purpose of obtaining its observations.

142. A public consultation, which was open to civil society organisations and the general public, was organised in collaboration with the National Peace Council in September 2018 with the participation of over 100 persons representing 18 districts of the country. The observations received from all line Ministries, the HRCSL, UN agencies and civil society actors were considered in the finalisation of this report.

143. Participants in public consultations acknowledged the improvements that had taken place in the overall human rights situation in Sri Lanka since January 2015. However, varied views were expressed with regard to the pace of progress, and the rate and frequency of the fulfilment of commitments made by the GOSL with respect to human rights.

144. Some of the key priorities highlighted during the public consultations include: expediting constitutional reforms and ensuring a strengthened fundamental rights chapter that provides for specific rights such as the right to life and non-discrimination based on sexual orientation and gender identity; progressive realisation of economic, social and cultural rights; the justiciability of human rights infringements by non-State actors; regional courts with jurisdiction to hear fundamental rights applications; effectively addressing the incidence of torture as well as undue delays in investigations, prosecutions and convictions in instances of torture; raising further public awareness on the application of RTI; ensuring justice for past violations of human rights, including attacks on journalists; establishing a network of community policing; improving the GOSL's communication strategy with regard to the achievements in the reconciliation agenda and steps taken to advance and protect rights; and considering the abolition of the death penalty.

145. The key priorities raised during the public consultations also extend to: preventing acts of violence and intimidation against religious and ethnic communities including taking prompt actions against elements within the State apparatus who allegedly have been involved in the recent outbreak of religious violence, ensuring effective prosecution and punishment of perpetrators of violations including hate speech, and the effective implementation of the ICCPR Act; overcoming specific challenges faced by women including discriminatory practices and legal provisions, increasing participation of women in politics; expediting prosecutions and convictions in cases of violence against women, women belonging to minority ethnic and religious groups, and women with disabilities; overcoming specific challenges faced by children and adolescents including homelessness and drug addiction; and providing extensive Tamil language training to government officials (including Police officers).

146. Priorities relevant to specific groups included: effectively implementing the Policy on Durable Solutions for the Displaced and Persons Affected by Conflict Displacement to address issues faced by returning IDPs and refugees with regard to land issues, livelihoods, employment, and the loss of documentation; introducing a comprehensive policy on asylum seekers and Stateless persons; making information available regarding composition, time durations, powers and functions of the committees appointed by the government; and providing further livelihood and health assistance to the estate sector.

147. The concerns raised during these consultations are reflected in this report to the extent possible. The GOSL appreciates the constructive feedback offered by those who participated in the consultations, and the contribution they consequently made in the preparation of this report. The GOSL is mindful of the challenges before it in the promotion and protection of human rights in Sri Lanka, and reaffirms its commitment to the full realisation of human rights of all its citizens in the country.
