

Sri Lanka: Country Report

July 2020 (COI between 1 January 2020 and 19 May 2020)

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Explanatory Note

This report presents country of origin information (COI) on Sri Lanka between 1st January 2019 and 19th May 2020 on issues identified to be of relevance in refugee status determination for Sri Lankan nationals. Only COI that specifically referred to the distinct profile groups as per the Terms of Reference was included.

The COI presented is illustrative, but not exhaustive of the information available in the public domain, nor is it determinative of any individual human rights or asylum claim. All sources are publicly available and a direct hyperlink has been provided.

A list of sources and databases consulted is also provided in this report, to enable users to conduct further research and to conduct source assessments. Research focused on **events** from 1st January 2019 until 19th May 2020, particularly focusing on **events** after the November 2019 Presidential elections unless otherwise stated. Annual reports published in 2019 covering the situation in 2018 have therefore not been included, nor have sources that rely incidents or case files describing events occurring before 2019. All sources were accessed in May and June 2020. Government COI products which combine COI and policy guidance, such as *Country Policy and Information Notes* issued by the UK Home Office have not been included, but their Bibliography was consulted and included in the List of Sources. Excerpts from the Australian Department of Foreign Affairs and Trade (DFAT) have been included, but their ‘assessments’ have not. However, note that in our view, is it not always clear what are DFAT assessments, or what are summaries of COI.

Due to the historical nature of section *I.a Geographical Information, I.b. Brief Historical overview* and to provide contextual background to sections *V.e. Freedom of Religion* and *V.j. Treatment of ethnic minorities* sources outside of the time frame for this report have been included in these sections. The following reports which post-date the cut-off point have been included given that they address issues of relevance from this report:

- Amnesty International, [Sri Lanka: Health Concerns for detained blogger: Ramzy Razeek](#), 20 May 2020
- Omar Suleiman (Al Jazeera), [Like India, Sri Lanka is using coronavirus to stigmatise Muslims](#), 20 May 2020
- Tamil Guardian, [Sri Lankan navy assaults Tamil farmers in Jaffna](#), 21 May 2020
- Al Jazeera, [Sri Lanka stares at constitutional crisis as polls delayed](#), 22 May 2020
- Tamil Net, [SL Police blocks journalists covering SL Navy-led quarantine transportation](#), 25 May 2020
- Journalists for Democracy in Sri Lanka, [Latest Sri Lanka military promotions “reeks of brazen impunity”](#), 25 May 2020
- International Truth and Justice Project, [Press Release: Alleged Torturer heads Sri Lankan CID](#), 26 May 2020
- Sri Lanka Brief, [Though Sri Lanka has no Minister of Defence, President Rajapaksa takes over 6 more institutions under the Ministry](#), 26 May 2020
- Tamil Net, [Occupying Colombo resumes Sinhala colonisation in Batticaloa’s interior](#), 27 May 2020
- Tamil Guardian, [Checkpoints ramp up in Mullaitivu as Sri Lanka’s militarisation continues](#), 28 May 2020
- INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020
- Tamil Net, [SL Army’s 231 Brigade sexually abuses Tamil women in Batticaloa suburb](#), 30 May 2020
- Groundviews, [Sri Lanka: 10 Political mistakes that shouldn’t have been committed during the pandemic](#), 30 May 2020
- Journalists for Democracy in Sri Lanka, [Sri Lanka: Female human rights lawyer facing continuous death threats](#), 1 June 2020

This document is intended to be used as a tool to help to identify relevant COI and the COI referred to in this report can be considered by decision makers in assessing asylum applications and appeals. **This report is not a substitute for individualised case-specific research and therefore this document should not be submitted in isolation as evidence to refugee decision-making authorities.** Whilst every attempt has been made to ensure accuracy, the authors accept no responsibility for any errors included in this report.

Sources and Databases consulted

Not all of the sources listed here have been consulted for each issue addressed in the report. Additional sources to those individually listed were consulted via database searches. This non-exhaustive list is intended to assist in further case-specific research. To find out more about an organisation, view the 'About Us' tab of a source's website.

Databases

[Asylos's Research Notes](#) (subscription only)
European Asylum Support Office's (EASO) [COI Portal](#)
[European Country of Origin Information network \(ECOI\)](#)
[Google](#)
[Reliefweb \(Sri Lanka page\)](#)
[UNHCR RefWorld](#)

Media

[Al Jazeera](#)
[Asia Times](#)
[Ceylon Today \(Sri Lanka\)](#)
[Channel 4 News \(UK\)](#)
[Colombo Telegraph](#)
[Daily Mirror \(Sri Lanka\)](#)
[Daily News \(Sri Lanka\)](#)
[The Hindu](#)
[Inter Press Service](#)
[The New Humanitarian \(Sri Lanka\)](#)
[Sri Lanka Brief](#)
[Tamil Guardian](#)
[TamilNet](#)
[Thomson Reuters Foundation](#)
[Women and Media Collective](#)

Other sources

[28 Too Many \[FGM\]](#)
[76 Crimes \[LGBTI\]](#)
[Adayaalam Centre for Policy Research](#)
[Acid Survivors Foundation](#)
[Aegis Trust \[Genocide/mass atrocities\]](#)
[Alliance for Child Protection in Humanitarian Action](#)
[Amnesty International \(Sri Lanka page\)](#)
[Armed Conflict Location & Event Date Project \(ACLED\)](#)
[Article 19 \[Freedom of expression\]](#)
[Asian Centre for Human Rights](#)
[Asia Foundation](#)
[Asian Development Bank](#)
[Asian Human Rights Commission \(Sri Lanka page\)](#)
[Asian Legal Resource Centre \(Sri Lanka page\)](#)
[Asia Society \(Sri Lanka page\)](#)

[Assessment Capacities Project \(ACAPS\)](#)
[Association for the Prevention of Torture](#)
[Association of War Affected Women](#)
[Atlantic Council](#)
[Atlas of Torture](#)
[Australian Government's Department of Foreign Affairs and Trade Country Information Reports](#)
[Bar Association of Sri Lanka](#)
[Brookings Institution](#)
[Carnegie Endowment for International Peace](#)
[The Centre for Equality and Justice](#)
[Centre for Human Rights and Development](#)
[Centre for Policy Alternatives](#)
[Centre for Security Governance](#)
[Centre for Strategic and International Studies](#)
[Child Rights International Network](#)
[Child Soldiers World Index](#)
[Christian Solidarity Worldwide](#)
[The Christian Post](#)
[CHR. Michelsen Institute \(CMI\)](#)
[CIA World Factbook \(Sri Lanka page\)](#)
[Combatting Terrorism Center](#)
[Committee to Protect Journalists](#)
[Conciliation Resources](#)
[Council on Foreign Relations](#)
[Death Penalty Worldwide](#)
[Defence for Children](#)
[Displacement Tracking Matrix \(DTM\) \(Sri Lanka page\)](#)
[EASO's List of sources in its report 'Researching the situation of lesbian, gay, and bisexual persons \(LGBT\) in countries of origin'](#)
[Edge Media Network \[LGBTI\]](#)
[Education International](#)
[Eldis](#)
[Equal Rights Trust](#)
[Foreign Affairs \(published by Council on Foreign Relations\)](#)
[Forum Asia](#)
[Freedom from Torture](#)
[Freedom House](#)
[Free Media Movement](#)
[Frontline Defenders](#)
[The Fundamental Rights and Other Rights Organization of Sri Lanka](#)
[Fund for Peace – Fragile States Index 2019](#)
[Gay Star News](#)
[Global Centre for the Responsibility to Protect](#)
[Global Coalition to Prevent Education from Attack](#)
[Global Extremism Monitor](#)
[Global Gayz](#)
[Governance Social Development Humanitarian Conflict \(GSDRC\)](#)
[Groundviews.org](#)

[Hands off Cain](#)
[Hotham Mission Asylum Seeker Project](#)
[Hot Peach Pages \[Domestic Violence\]](#)
[Hudson Institute](#)
[Human Rights Commission of Sri Lanka](#)
[Human Rights Watch \(Sri Lanka page\)](#)
[Immigration and Refugee Board of Canada](#)
[INFORM](#)
[Institute for Economics & Peace – Global Peace Index 2019](#)
[Institute for War and Peace Reporting \(IWPR\)](#)
[Institute of Peace and Conflict Studies](#)
[Internal Displacement Monitoring Centre \(IDMC\)](#)
[International Alert](#)
[International Bar Association](#)
[International Centre for Prison Studies](#)
[International Commission of Jurists](#)
[International Commission on Missing Persons \(ICMP\)](#)
[International Committee of the Red Cross \(ICRC\)](#)
[International Crisis Group \(Sri Lanka page\)](#)
[International Federation for Human Rights](#)
[International Federation of Journalists](#)
[International Freedom of Expression Exchange](#)
[International Institute for Strategic Studies](#)
[International Lesbian, Gay, Bisexual and Trans and Intersex Association \(ILGA\)](#)
[The International Movement Against All Forms of Discrimination and Racism \(IMADR\)](#)
[International Refugee Rights Initiative](#)
[International Rehabilitation Council for Torture Victims](#)
[International Rescue Committee](#)
[International Truth & Justice Project Sri Lanka](#)
[IPI Global Observatory](#)
[The Jamestown Foundation](#)
[Journalists for Democracy in Sri Lanka](#)
[Kaleidoscope Trust \[LGBTI\]](#)
[Medecins Sans Frontieres](#)
[Minority Rights Group International](#)
[National Consortium for the Study of Terrorism and Responses to Terrorism \(START\) – Global Terrorism Database \(GTD\)](#)
[Oakland Institute](#)
[OECD’s Social Institutions & Gender Index](#)
[Open Society Foundations](#)
[Orchid Project \[FGM\]](#)
[Organization for Refuge, Asylum & Migration \(ORAM\) \[LGBTI\]](#)
[OutRight Action International \[LGBTI\]](#)
[Overseas Development Institute \(ODI\)](#)
[Oxfam](#)
[Peace Research Institute Oslo \(PRIO\)](#)
[Peace Women](#)
[Penal Reform International](#)

[Physicians for Human Rights](#)
[Pink News \[LGBTI\]](#)
[Refugees International](#)
[Reporters Without Borders](#)
[Right to Education](#)
[Right to Life Human Rights Centre](#)
[Saferworld](#)
[Save the Children](#)
[Search for Common Ground \(Sri Lanka page\)](#)
[Sexual Rights Initiative \[LGBTI\]](#)
[Small Arms Survey](#)
[Stockholm International Peace Research Institute \(sipri\)](#)
[SOGICA Database \[LGBT\]](#)
[South Asia Terrorism Portal \(SATP\)](#)
[Sri Lanka Campaign for Peace and Justice](#)
[Sri Lanka Ministry of Defense](#)
[Sri Lanka Office of Missing Persons](#)
[Tamil Youth Organisation - UK](#)
[Transparency International](#)
[UK Foreign & Commonwealth Office – Human Rights and Democracy Report 2019](#)
[University Teachers for Human Rights \(Jaffna\)](#)
[UN Children’s Fund \(UNICEF\)](#)
[UN Committee Against Torture](#)
[UN Committee on Economic, Social and Cultural Rights](#)
[UN Committee on the Elimination of Discrimination Against Women](#)
[UN Committee on Enforced Disappearances](#)
[UN Committee on the Rights of the Child](#)
[UN Development Programme \(UNDP\)](#)
[UN High Commissioner for Refugees \(UNHCR\) \(Sri Lanka country page\)](#)
[UN Human Rights Council](#)
[UN News Centre](#)
[UN Office for the Coordination of Humanitarian Affairs \(UNOCHA\)](#)
[UN Office of the High Commissioner for Human Rights \(OHCHR\)](#)
[UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict](#)
[UN Secretary General](#)
[UN Special Rapporteur on extrajudicial, summary or arbitrary executions](#)
[UN Special Rapporteur on extreme poverty and human rights](#)
[UN Special Rapporteur on freedom of religion or belief](#)
[UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism](#)
[UN Special Rapporteur on the Independence of Judges and Lawyers](#)
[UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression](#)
[UN Special Rapporteur on the right to education](#)
[UN Special Rapporteur on the sale of children, child prostitution and child pornography](#)
[UN Special Rapporteur on the situation of human rights defenders](#)
[UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment](#)
[UN Special Rapporteur on trafficking in persons, especially in women and children](#)

[UN Special Rapporteur on violence against women, its causes and consequences](#)

[United Nations Women](#)

[United States Congressional Research Service](#)

[United States Department of State \[Annual human rights report; annual religious report; annual child labour report; annual trafficking report; annual terrorism report\]](#)

[United States Institute of Peace](#)

[Watchlist on Children and Armed Conflict](#)

[World Organisation Against Torture \(OMCT\)](#)

[World Prison Brief](#)

[Women Living Under Muslim Laws](#)

[Women News Network \(WMN\)](#)

[Women's Refugee Commission](#)

[Women Under Siege Project](#)

[WorldWatch Monitor](#)

List of Acronyms

ACJU	All Ceylon Jamiyyathul Ulama
ACPR	Adayaalam Centre for Policy Research
AIG	Acting Inspector General
AIP	Alliance of Independent Professionals
ANFREI	Asian Network for Free Elections
ANNI	Asian NGO Network on National Human Rights Institutions
ASP	All Survivors Project Foundation
BBS	Bodu Bala Sena
CA	Ceasefire Agreement
CCD	Colombo Crime Division
CED	Committee on Enforced Disappearances
CEDAW	Convention for Elimination of All forms of Discrimination Against Women
CEFM	Child, early and forced marriage
CIABOC	Commission to Investigate Allegations of Bribery or Corruption
CID	Criminal Investigation Department
CMEV	Centre for Monitoring Election Violence
CNI	Chief of National Intelligence
CoA	Certificate of Absence
COG	Commonwealth Observer Group
CPA	Centre for Policy Alternatives
CPI	Corruption Perceptions Index
CPJ	Committee to Protect Journalists
CRC	Convention on Rights of the Child
CRSV	Conflict-related sexual violence
CSD	Civil Security Department
CSZ	Civilian Safety Zone
CTA	Counter Terrorism Act
CTF	Consultation Task Force on Reconciliation Mechanisms
CTID	Counter Terrorism Investigation Division
DFAT	(Australian) Department of Foreign Affairs and Trade
DIG	Deputy Inspector General
DMI	Director of Military Intelligence
ECDS	Early Childhood Development Standards
ECSL	Elections Commission of Sri Lanka
EOM	Election Observation Mission
ETD	Emergency Travel Document
FAS	Failed Asylum Seeker
FB	Facebook
FDI	Foreign Direct Investment
FGM/C	Female Genital Mutilation/Cutting
FHH	Female-headed households
FPA	Family Planning Association (Sri Lanka)
GCB	Global Corruption Barometer
GOSL	Government of Sri Lanka
HRC	Human Rights Council
HRCSL	Human Rights Commission of Sri Lanka

HRD	Human Rights Defender
HSZ	High Security Zone
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Commission of Jurists
ICPPG	International Centre for Prevention and Prosecution of Genocide
IDMC	Internal Displacement Monitoring Centre
IDP	Internally Displaced Person
IFCR	International Federation of Red Cross and Red Crescent Societies
IMRV-Bremen	International Human Rights Association (Germany)
ITAK	Ilankai Tamil Arasi Katchi
ITF	International Federation of Journalists
ITJP	International Truth and Justice Project
ISIS	Islamic State of Iraq and the Levant
JMI	Jamathe Millathe Ibrahim / Jammiyathul Millathu Ibrahim / Jamathei Millathy Ibraheem
JuD	Jamat-ud-Dawah
LeT	Lashkar-e-Tayyaba
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer and Intersex
LTTE	Liberation Tigers of Tamil Eelam
MMDA	Muslim Marriage and Divorce Act
MNG	Minority Rights Group
MNPEA	Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation
MP	Member of Parliament
MWCA	Ministry of Women and Child Affairs
NAHTTF	National Anti-Human Trafficking Task Force
NCEASL	National Christian Evangelical Alliance of Sri Lanka
NCPA	National Child Protection Authority (Sri Lanka)
NFZ	No Fire Zone
NGO	Non-governmental organisation
NHRAP	National Human Rights Action Plan (Sri Lanka)
NTJ	National Thawheed Jamaath / National Thowheed Jamath
OHCHR	Office of the United Nations High Commission for Human Rights
OISL	OHCHR Investigation on Sri Lanka
OMP	Office of Missing Persons
OPAC	Optional Protocol on the involvement of children in armed conflict
PEARL	People for Equality and Relief in Lanka
PSC	Parliament Select Committee
PTA	Prevention of Terrorism Act
RTI	Right to Information
SATP	South Asia Terrorism Portal
SCO	Select Committee of Parliament
SCRM	Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms
SEM	Swiss State Secretariat for Migration
SGBV	Sexual Gender Based Violence
SIS	State Intelligence Service
SJP	Samagi Jana Balawegaya
SLA	Sri Lankan Army
SLCERT	Sri Lanka Computer Emergency Readiness Team

SLFP	Sri Lanka Freedom Party
SLMM	Sri Lankan Monitoring Mission
SLRC	Sri Lanka Rupavahini Corporation
SLPP	Sri Lanka Podujana Peramuna [Sri Lanka's People's Front]
SLTJ	Sri Lanka Thowheed Jamath
STF	Special Task Force
TGTE	Transnational Government of Tamil Eelam
TID	Terrorism Investigation Division
TISL	Transparency International Sri Lanka
TNA	Tamil National Alliance
TNPF	Tamil National People's Front
TNTJ	Tamil Nadu Thowheed Jamath
UGC	University Grants Commission of Sri Lanka
UN	United Nations
UNFGG	United National Front for Good Governance
UNHCHR	Office of the United Nations High Commissioner for Human Rights
UNHCR	Office of the UN High Commissioner for Refugees
UNP	United National Party
UPFA	United People's Freedom Alliance
VPN	Virtual Private Network
WAS	Willayat as-Seylani
WATSAN	Water and Sanitation

I. Background Information

a. Geographical Information

i. Map of Sri Lanka

The CIA World Factbook outlined that Sri Lanka is an “island in the Indian Ocean, south of India”, located in Southern Asia.¹

The UN cartographic section produced a detailed map of Sri Lanka in March 2008, detailing the capital, towns, villages, provincial boundaries, roads, railroads and airports, which can be accessed [here](#).² This map has also been referenced in the September 2019 report by the International Crisis Group.³

ii. Ethnic Composition

For information on the treatment of ethnic minorities see [V.j. Treatment of Ethnic Minorities](#) and for the specific treatment of Tamils [V.j.ii. Persons of Tamil Ethnicity](#).

The CIA World Factbook noted that the Sri Lankan population comprises the following ethnic groups: “Sinhalese 74.9%, Sri Lankan Tamil 11.2%, Sri Lankan Moors 9.2%, Indian Tamil 4.2%, other 0.5% (2012 est.)”.⁴

BBC news noted in August 2019 that “Ethnic and religious fault lines run deep in a multi-ethnic and multi-religious Sri Lanka. Muslims make up nearly 10% of Sri Lanka's 22 million people, who are predominantly Sinhalese Buddhists. About 12% of the population are Hindus, mostly from the ethnic Tamil minority, and 7% are Christians”.⁵

According to Minority Rights Group International:

There is a strong overlap between religion and ethnicity in Sri Lanka, with most of the Buddhist majority estimated in the 2012 Census belonging to the Sinhalese population. Similarly, most of the Hindu and Christian minorities are Tamil. The Muslim community is made up primarily of Sri Lankan Moors, Malays and smaller religious groups. Other religious minorities, including Parsis and Baha'i, are also present in the country in smaller numbers

According to the 2012 Census, the majority of the population are Sinhalese (74.9 per cent). Minority and indigenous groups include Sri Lankan Tamils (11.2 per cent), Indian Tamils (4.2 per cent), Sri Lankan Moors (9.3 per cent), Malays (0.2 per cent), Burghers (0.2 per cent), Sri Lankan Chetty (5,600), Bharatha (1,700) (2012 Census) and Wanniyala-Aetto (also known as Veddhas) (estimates suggest around 2,000, though they are not included in the official census). The distribution of the population varies greatly by region, however, with Sinhalese making up an estimated 95.0 per cent of the population in Southern Province, for example, but only 23.2 per cent in Eastern Province and just 3.0 per cent in Northern Province. By

¹ CIA World Factbook, [Sri Lanka: Geography](#), Page last updated: 20 May 2020 [Last viewed on 2 June 2020]

² See UN, Cartographic Section, [Sri Lanka](#), March 2008

³ See International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, Appendix A: map of Sri Lanka

⁴ CIA World Factbook, [Sri Lanka: Geography](#), Page last updated: 20 May 2020 [Last viewed on 2 June 2020]

⁵ BBC News, [Sri Lanka's Muslims 'demonised' after Easter bombings](#), 13 August 2019

contrast, Indian Tamils are concentrated in Central and Uva Provinces while a large number of Sri Lankan Moors reside in Eastern Province.⁶

The European Union Election Observation Mission noted with regards to the ethnic set-up in Sri Lanka in its report on the 2019 November Presidential election:

The largest ethnic minority groups are Tamils (15 per cent) and Sri Lankan Moors (nine per cent). Some 70 per cent of the population are Buddhist, 13 per cent Hindu, ten per cent Muslim and around seven per cent Christian, most of them Roman Catholic. There is a substantial overlap between religion and ethnicity, with most of the Buddhist majority belonging to the Sinhalese population. Most of the Hindu and Christian minorities are Tamil. The Muslim community is made up primarily of Sri Lankan Moors, Malays and smaller religious groups, with a significant proportion living in the north and east. Most are Sunni Muslims.⁷

The following maps may provide useful reference points:

- Undated map detailing major ethnic and religious groups provided by the Commonwealth of Australia and published by the Australian Department of Foreign Affairs and Trade⁸;
- Undated map detailing majority ethnic groups by area, published by the National Geographic in 2016⁹;
- 1974 Map detailing the ethnolinguistic groups and religions published by Global Security¹⁰;
- 1976 Map detailing ethnic communities and religions published by the University of Texas¹¹.

b. Brief Historical Overview

i. Civil War (1983-2009)

BBC News provided the following timeline for the years 1983-2009 on its 'Sri Lanka profile' webpage:

Ethnic tensions [...]

1983 - 13 soldiers killed in LTTE ambush, sparking anti-Tamil riots leading to the deaths of several hundred Tamils. Start of what Tigers call "First Eelam War".

Civil war intensifies

1985 - First attempt at peace talks between government and LTTE fails.

1987 - Government forces push LTTE back into northern city of Jaffna. Government signs accords creating new councils for Tamil areas in north and east and reaches agreement with India on deployment of Indian peace-keeping force.

1990 - Indian troops leave after getting bogged down in fighting in north. Violence between Sri Lankan army and separatists escalates. "Second Eelam War" begins.

Thousands of Muslims are expelled from northern areas by the LTTE.

⁶ Minority Rights Group International, [Minority and indigenous peoples](#), Updated March 2018

⁷ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XIV. *Participation of ethnic and religious minorities*, p. 40

⁸ See Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Map*, p. 1

⁹ See National Geographic, [Can Sri Lanka Hold On to Its Fragile Peace?](#), November 2016

¹⁰ See Global Security, [Sri Lanka Map Ethnic- 1974](#), undated [Last accessed: 2 June 2020]

¹¹ University of Texas, [Sri Lanka Ethnic communities and religions, Population density, Land use and economic activity\) 1976](#), undated

1991 - LTTE implicated in assassination of Indian premier Rajiv Gandhi in southern India.

War and diplomacy

1993 - President Premadasa killed in LTTE bomb attack.

1994 - President Chandrika Kumaratunga comes to power pledging to end war. Peace talks opened with LTTE.

1995 - "Third Eelam War" begins when rebels sink naval craft.

1995-2001 - War rages across north and east. Tigers bomb Sri Lanka's holiest Buddhist site. President Kumaratunga is wounded in a bomb attack. Suicide attack on the international airport destroys half the Sri Lankan Airlines fleet.

Peace moves

2002 February - Government and Tamil Tiger rebels sign a Norwegian-mediated ceasefire.

De-commissioning of weapons begins; the road linking the Jaffna peninsula with the rest of Sri Lanka reopens after 12 years; passenger flights to Jaffna resume. Government lifts ban on Tamil Tigers. Rebels drop demand for separate state.

2003 - Tigers pull out of talks. Ceasefire holds.

2003 May - Country's worst-ever floods leave more than 200 people dead and drive some 4,000 people from their homes.

2004 March - Renegade Tamil Tiger commander, known as Karuna, leads split in rebel movement and goes underground with his supporters. Tiger offensive regains control of the east.

2004 December - More than 30,000 people are killed when a tsunami, massive waves generated by a powerful undersea earthquake, devastate coastal communities.

2005 June - Row over deal reached with Tamil Tiger rebels to share nearly \$3bn in tsunami aid among Sinhalese, Tamils and Muslims.

2005 August - State of emergency after foreign minister is killed by a suspected Tiger assassin.

2005 November - Mahinda Rajapaksa, prime minister at the time, wins presidential elections. Most Tamils in areas controlled by the Tamil Tigers do not vote.

Mounting violence

2006 April - A suicide bomber attacks the main military compound in Colombo, killing at least eight people. The military launch air strikes on Tamil Tiger targets.

2006 August - Tamil Tiger rebels and government forces resume fighting in the north-east in worst clashes since 2002 ceasefire. Government steadily drives Tamil Tigers out of eastern strongholds over following year.

2006 October - Peace talks fail in Geneva.

2008 January - Government pulls out of 2002 ceasefire agreement, launches massive offensive.

2008 July - Sri Lankan military says it has captured the important Tamil Tiger naval base of Vidattaltivu in the north.

2009 January - Government troops capture the northern town of Kilinochchi, held for ten years by the Tamil Tigers as their administrative headquarters. President Mahinda Rajapakse calls it an unparalleled victory and urges the rebels to surrender.

Tamil Tigers defeated

2009 May - Government declares Tamil Tigers defeated after army forces overrun last patch of rebel-held territory in the northeast. Military says rebel leader Velupillai Prabhakaran was killed in the fighting. Tamil Tiger statement says the group will lay down its arms.

2009 August - New Tamil Tiger leader Selvarasa Pathmanathan captured overseas by Sri Lankan authorities. First post-war local elections in north. Governing coalition wins in Jaffna, but in Vavuniya voters back candidates who supported Tamil Tigers.¹²

U.S. Congressional Research Service provided the following brief background with regards to the civil war and subsequent developments:

¹² BBC News, [Sri Lanka profile – Timeline](#), 18 November 2019

For 26 years, from 1983 to 2009, Tamil militant separatist group the Liberation Tigers of Tamil Eelam (LTTE) sought to establish a separate state or internal self-rule in the Tamil-dominated areas of Sri Lanka. Political, social, and economic development was constrained by the ethnic conflict and war between the government and the LTTE, which cost an estimated 70,000-130,000 lives. After a violent end to the civil war in May 2009, when the military crushed LTTE forces and precipitated a humanitarian emergency in Sri Lanka's Tamil-dominated north, attention turned to whether the government had the ability and intention to build a stable peace in Sri Lanka. Former President and current Prime Minister Mahinda Rajapaksa, elected in 2005, faced criticism for an allegedly insufficient response to reported war crimes by government forces, a nepotistic and ethnically biased government, increasing restrictions on media, and uneven economic development.¹³

The International Truth and Justice Project provided the following summary focusing on the human rights abuses perpetrated during the civil war?:

Sri Lanka's political conflict between majority Sinhalese and the numerically smaller Tamils grew into sporadic armed violence and then into a full-blown civil war in the late 1970s and early 1980s. The fighting was characterised by human rights violations, some of which have been categorised as war crimes and crimes against humanity, in which both Sri Lanka's military, police and special forces as well as Tamil rebel groups, primarily the Liberation Tigers of Tamil Eelam (LTTE), were perpetrators. Fighting came to an end with the military defeat of the LTTE by government troops on 18 May 2009 [...]
Fighting between Tamil rebels and the Sri Lanka military was known for its ferocity, as it was for serial atrocities against non-combatant civilians, on both sides. The Sri Lanka Government forces and the LTTE either deliberately targeted civilians or were not concerned enough to keep them safe from collateral damage.¹⁴

The report of the 'OHCHR [UN Office of the High Commissioner for Human Rights] Investigation on Sri Lanka (OISL)' provided the following historical and contextual overview of the pre-civil war years:

The Tamil New Tigers was formed in 1972 and became the Liberation Tigers of Tamil Eelam (LTTE) in 1976. Over the following decade it engaged in struggles against rival Tamil parties and militant organisations. After an LTTE attack in Jaffna, in July 1983, in which 13 government soldiers were killed, communal violence erupted across the country in what became known as "Black July". As many as 3,000 Tamils were killed, properties and businesses of Tamils were destroyed, and many fled Sinhalese-majority areas or subsequently left the country. A fully-fledged armed conflict developed between the Government and LTTE [...]

The LTTE developed as a ruthless and formidable military organisation, capable of holding large swathes of territory in the north and east, expelling Muslim and Sinhalese communities, and conducting assassinations and attacks on military and civilian targets in all parts of the island [...]

The LTTE exerted significant influence and control over Tamil communities in the North and East, as well as in the large Tamil diaspora, including through forced recruitment and extortion. Government forces and rival Tamil groups acting as paramilitaries were also responsible for grave human rights abuses, particularly arbitrary detention, torture and many thousands of enforced disappearances, during the different phases of the conflict over the next two decades [...]

Separately, Sri Lanka also faced another armed insurgency in the south by the Marxist Janatha Vimukthi Peramuna (JVP). A short insurrection in 1971 was quickly suppressed, but the JVP staged a second rebellion from 1987 in opposition to Indian intervention in the Tamil conflict, which lasted for several years. The JVP engaged in assassinations and attacks on military and civilian targets. The movement was

¹³ U.S. Congressional Research Service, [Sri Lanka](#), Updated 4 December 2019, *Civil War and Subsequent Political Developments*

¹⁴ International Truth and Justice Project, [Buried Wounds: Sri Lanka's Cluster Munition Victims](#), August 2019, *Introduction*, p. 7

bloodily suppressed in a counter-insurgency campaign marked by many thousands of extra-judicial killings and enforced disappearances.¹⁵

The same source further noted that as a response to these “overlapping violent movements” the Sri Lankan government declared:

a state of emergency in March 1971 under the Public Security Ordinance. This was followed by the introduction of emergency powers and draconian security legislation, such as the Prevention of Terrorism Act, first enacted for three years in 1979 and made permanent in 1982. This legislation provided a context for widespread arbitrary detention, torture and enforced disappearances. In addition, a powerful Executive Presidential system was introduced under the 1978 Constitution that has had a long-term impact on democracy and the rule of law [...]

A further effect was the failure to implement key provisions of the Indo-Lanka Peace Accord that had represented a landmark attempt to resolve the conflict in 1987, backed by the deployment of an Indian peacekeeping force. This led to the 13th Constitutional Amendment being passed in November 1987 that envisaged devolution of powers to a provincial level of government throughout the country. The Northern and Eastern Provinces were initially merged as one unit, reflecting Tamil aspirations but opposed by Sinhalese nationalists. The combined North Eastern Provincial Council (NEPC) was dissolved in 1990 when it put forward a resolution that was perceived by the Government as a unilateral declaration of independence [...]

While Provincial Councils continued to function in other parts of the country, the Northern and Eastern Provinces were then governed directly from Colombo.¹⁶

Minority Rights Group International noted that with the re-election of Prime Minister J.R. Jayewardene in October 1982 “the situation for minorities hit a new low during his period. Festering tension amongst minorities, particularly the Tamils over continuous marginalisation and human rights abuses led to increasing militant attacks against state targets. State-backed attacks against Tamils in the capital city Colombo and in other urban areas in July 1983 resulted in thousands of killings and several hundred thousands displaced. This is seen as a turning point in the Sri Lankan conflict leading to a full blown out war between Tamil militant groups and the largely Sinhala Buddhist Sri Lankan army”.¹⁷

In late 1988 “Prime Minister Ranasinghe Premadasa was elected executive president [...] Premadasa also faced a southern uprising, led by the Marxist Janatha Vimukthi Peramuna (JVP), propelled by unemployment and rising social problems. His heavy-handed use of armed forces to crush the uprising resulted in thousands of killings and some 30,000 disappearances and is considered one of the blackest periods for human rights in the country’s post-independence history”.¹⁸

According to Minority Rights Group International:

The LTTE has also been responsible for large scale violations against minorities. The rebel group has been proscribed in several countries including the US, EU, UK and India mainly for its violent assaults on civilian targets including the common use of suicide bombers, which the Tigers are reputed to have pioneered.

¹⁵ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. *Contextual background, 1948-2001: From independence to the Ceasefire Agreement*, paras. 48-50

¹⁶ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. *Contextual background, 1948-2001: From independence to the Ceasefire Agreement*, paras. 51-53

¹⁷ Minority Rights Group International, [Background](#), Updated March 2018, *Economic upturn amidst increasing violence against minorities*

¹⁸ Minority Rights Group International, [Background](#), Updated March 2018, *Economic upturn amidst increasing violence against minorities*

Other large-scale human rights violations by the organization include child conscription, killing and torture of political opponents and 'ethnic cleansing' of Muslims from the north. In one of its most horrendous acts the Tigers in 1990 drove some 70,000 Muslims out of the north of Sri Lanka and many of them continue to remain in displaced camps. The Muslims have particularly been targeted by the Tigers, including through land grabbing, evictions, killings, torture, abductions and extortion. The rebels are also known for their lack of tolerance of Tamil political opponents.

In May 1993, President Premadasa was assassinated by a LTTE suicide bomber, and was succeeded by Dingiri Banda Wijetunga [...]

Ranil Wickremesinghe was appointed Prime Minister in 2001.¹⁹

In 2002 a Ceasefire Agreement (CFA) was signed, but by 2008 "the SLMM [Sri Lankan Monitoring Mission] had recorded 3,800 breaches of the ceasefire by the LTTE, and 350 by the Government" due to the "the LTTE and the paramilitaries engaged in a campaign of targeted killings against each other, as well as abductions and attacks on civilians, the Karuna Group [defected group from the original LTTE] acting with apparent collusion with the Government".²⁰ Moreover, the assassination of the Minister of Foreign Affairs, Lakshman Kadirgamar, in 2005, allegedly by the LTTE, "triggered increasingly hardline attitudes to the peace process and increased international isolation, leading to the proscription of the LTTE. A state of emergency was declared and new emergency regulations were introduced which gave the Secretary of Defence sweeping powers to order arrest and administrative detention, and the military and police to carry them out".²¹

The International Truth and Justice Project noted that the Ceasefire Agreement:

recognised three districts known as the Vanni in the Tamil-speaking North to be in the full control of the rebels. When fighting resumed in 2006, the Sri Lanka Government's objective was to capture that area, eliminate the LTTE as a politicomilitary organisation and complete the pacification of the civilian population living in the Vanni.

Since this objective could only be achieved with huge civilian casualties, the Sri Lanka Government ordered all international NGOs, including the UN, serving in the LTTE controlled Vanni to leave. Fighting that followed the withdrawal of iNGOs grossly violated norms of international humanitarian law. But in view of mounting international criticism, the Sri Lanka Government designated areas as No Fire Zones (NFZ) into which it said civilians living in the LTTE-controlled areas could flee to safety.²²

According to the report by OISL, "by mid-2006 the CFA had broken down significantly" and hostilities intensified again leading to the displacement of "at least 520,000 people in Sri Lanka [...] upwards of 300,000 following the renewed fighting" at the end of 2006, making it "one of the largest displacement crises in Asia in both absolute terms and in proportion to the population."²³

¹⁹ Minority Rights Group International, [Background](#), Updated March 2018, *Economic upturn amidst increasing violence against minorities*

²⁰ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. *Contextual background, 2002-2005: From ceasefire to intensification of hostilities, paras. 54, 56 and 59*

²¹ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. *Contextual background, 2002-2005: From ceasefire to intensification of hostilities, para. 61*

²² International Truth and Justice Project, [Buried Wounds: Sri Lanka's Cluster Munition Victims](#), August 2019, *Introduction, p. 7*

²³ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. *Contextual background, 2006-2008: Further intensification of hostilities, para. 76*

In 2008 the Sri Lankan government announced its withdrawal from the Ceasefire Agreement leading to the increase in insecurity and violence incidents, “including LTTE suicide attacks, both in the Vanni and in the South”.²⁴

The OSIL further described that in early 2009 “the Government unilaterally announced the successive establishment of three No Fire Zones (NFZs) inside LTTE areas, without agreement with the LTTE. Each was smaller and further east than its predecessor, coinciding with the retreat of the LTTE before the advancing SLA and the diminishing area of land under LTTE control. The Government’s strategy appears to have been to force the LTTE to retreat to the coast, and to try to split the bulk of the civilian population away from the main LTTE force. This period was marked by many alleged gross human rights violations and serious violations of international humanitarian law, such as attacks on civilians, restrictions on humanitarian assistance, forced recruitment of adults and children by the LTTE and coercive measures to stop civilians leaving the conflict area”.²⁵ For further details on this period, see the subsequent section [I.b.ii. Defeat of LTTE in 2009](#).

On 27 April 2009 the Sri Lankan government “announced that combat operations had reached their conclusion and that the security forces had been instructed ‘to end the use of heavy caliber guns, combat aircraft and aerial weapons which could cause civilian casualties’. However, the shelling did not stop, and may even have intensified according to some sources”.²⁶

The International Truth and Justice Project noted that “Fighting ended on 18 May 2009 with the death of the LTTE leader and other senior cadres. As the military closed in, the remaining LTTE cadres with about 300,000 civilians moved into the Sri Lanka Government-controlled area, where more brutality awaited them”.²⁷

For more detailed information on the Civil War years consult:

- UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, *Part 1, III. Contextual background, paras. 47-103*

ii. Defeat of LTTE in 2009

The report of the ‘OHCHR [UN Office of the High Commissioner for Human Rights] Investigation on Sri Lanka (OISL)’ provided the following historical and contextual overview of the year 2009:

By the end of January 2009, the LTTE was severely diminished as a fighting force. It lacked heavy weapons, ammunition and had to rely on new and ill-trained recruits to fill its ranks. The SLA [Sri Lankan Army] was reportedly much stronger in terms of mortars, artillery, multi-barrelled rocket launchers (MBRLs) and ammunition. Government forces also benefitted from complete air supremacy and aerial reconnaissance.

²⁴ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, *III. Contextual background, 2006-2008: Further intensification of hostilities, para. 77*

²⁵ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, *III. Contextual background, January-May 2009: Final phase of the armed conflict, para. 87*

²⁶ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, *III. Contextual background, January-May 2009: Final phase of the armed conflict, para. 91*

²⁷ International Truth and Justice Project, [Buried Wounds: Sri Lanka’s Cluster Munition Victims](#), August 2019, *Introduction, p. 7*

Having lost their defence lines at Kilinochchi and Elephant Pass, the LTTE was apparently no longer able to hold ground against the SLA advance from the north, west and south, and engaged in a fighting withdrawal in an ever diminishing area with its back against the sea [...]

Between January and May 2009, the Government unilaterally announced the successive establishment of three No Fire Zones (NFZs) inside LTTE areas, without agreement with the LTTE. Each was smaller and further east than its predecessor, coinciding with the retreat of the LTTE before the advancing SLA and the diminishing area of land under LTTE control. The Government's strategy appears to have been to force the LTTE to retreat to the coast, and to try to split the bulk of the civilian population away from the main LTTE force. This period was marked by many alleged gross human rights violations and serious violations of international humanitarian law, such as attacks on civilians, restrictions on humanitarian assistance, forced recruitment of adults and children by the LTTE and coercive measures to stop civilians leaving the conflict area [...]

Throughout late January and early February, the SLA continued to advance eastwards along the A35. Heavy fighting continued as the SLA advanced towards Puthukkudiyiruppu (PTK) hospital. The shelling of the area in and around the first NFZ had become so intense with many casualties that the civilian population began to leave the area and head towards the Eastern coast, congregating on the barrier island to the south of Putumattalan [...]

On 12 February 2009, the Government designated a second NFZ, referred to officially as the Civilian Safety Zone (CSZ), in an area covering some 15 kilometres along the coast from Putumattalan in the north to Vellamullivaikkal in the south. Available information indicates that the civilians had no other option to move from the first NFZ towards parts of LTTE-controlled territory, and since there were reportedly no safe corridors to move away from the shelling or the LTTE positions, even if they had wanted to [...]

On 26 April, LTTE unilaterally declared a ceasefire, but this was rejected by the Government that instead sought a surrender [...]

On 8 May 2009, the Government announced the third and final NFZ, the small remaining central part of the former second NFZ, between Karayamullivaikkal and Vellamullivaikkal [...]

From 14 May [2009], senior LTTE cadres began to communicate their intent to surrender to several Sri Lankan and foreign intermediaries. On 15 May [2009], the LTTE began destroying their communications equipment. On 16 May [2009], the 58th and 59th Divisions of the SLA linked on the coastline. The 53rd Division continued to make its way south, along the Nanthi kadal lagoon. The remaining LTTE, including many of the top leaders and around 250 hard-core fighters, were locked into a small area of around three square kilometres at Vellamullivaikkal.²⁸

According to the same report, "final surrender of LTTE combatants, political cadres and remaining civilians and their fate in the hands of Government forces" occurred as follows:

The tens of thousands of civilians who survived the last phase of the conflict now passed into Government control. Among them were former LTTE leaders and combatants who either surrendered or were identified during an ongoing screening process and taken away. Thousands of former LTTE combatants or people suspected of links to the LTTE, including children, were held in various often opaque systems of detention and rehabilitation, and were only gradually released. Some reportedly remain in detention to this day. Others remain unaccounted for and may have been the victims of summary executions or enforced disappearances [...].²⁹

According to Minority Rights Group International:

²⁸ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. Contextual background, January-May 2009: Final phase of the armed conflict, paras. 86, 87, 89, 91, 92 and 94

²⁹ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. Contextual background, May 2009-November 2011: Post-armed conflict period, para. 95

[2009] however, proved to be pivotal as it saw the end of the country's 30-year conflict. Fighting between government forces and the LTTE movement reached a climax in the early part of 2009, as the government took over large areas of land that had been under rebel control. By February [2009], the LTTE was cornered in a tiny area of land in north-eastern Sri Lanka, where they were essentially holding over 200,000 ethnic Tamil civilians hostage. Despite the concentration of such a large number of civilians in the conflict zone, the Sri Lankan military continued to press on. Between February and May 2009, daily reports emerged in international media of dozens of civilian killings. The Sri Lankan government clamped down on media coverage, and media and local and international NGOs were restricted from entering the war-torn areas, making it difficult to verify information. The government maintained that only some 75,000 people were caught up in the fighting and vigorously denied reports that civilians were being killed. The Sri Lankan military unilaterally declared a no-fire zone and asked civilians to leave LTTE-controlled areas for their safety. However, beginning on 7 April 2009, the military shelled the zone, killing hundreds of civilians, including children.

The Sri Lankan President Mahinda Rajapaksa declared that the conflict had ended on 19 May 2009, following the killing of the LTTE's senior leadership, including its leader Vellupillai Prabhakaran. In most parts of the country, people thronged the streets, jubilant and celebrating the end to a conflict that had claimed more than 70,000 lives. In the north of the country, however, the situation for ethnic Tamils was alarming. International media reported that over 280,000 people, who had been trapped by the fighting for months without food and who were traumatized by the violence, had begun pouring into displaced camps. The displaced were held in makeshift closed camps that were severely overcrowded and lacking facilities. Food, water, shelter and sanitation were huge problems. Families were separated. Local and international NGOs and the media were given very limited access. There were reports of abductions, kidnappings, arbitrary arrests and torture from within the camps. Thousands of people were reportedly detained as suspected LTTE cadres.³⁰

For more detailed information on the defeat of the LTTE consult:

- UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, Part 1, III. Contextual background, January-May 2009: Final phase of the armed conflict (paras. 83-94) and May 2009-November 2011: Post-armed conflict period (paras. 95-103)

iii. Political Developments since 2009 till 2018

For detailed information on the Sri Lankan Constitutional Crisis of 2018, see [II.b. 2018 Constitutional Crisis](#).

BBC News provided the following Timeline on its 'Sri Lanka profile':

Rajapaksa re-elected

2010 January - President Mahinda Rajapaksa re-elected by a large margin.

2010 April - President Rajapaksa's ruling coalition wins landslide victory in parliamentary elections.

2010 September - Parliament approves a constitutional change allowing President Rajapaksa to seek unlimited number of terms.

2011 August - President Rajapaksa says his government will allow the expiry of state emergency laws which have been in place for most of the past 40 years.

2012 March - UN Human Rights Council adopts a resolution urging Sri Lanka to investigate war crimes allegedly committed during the final phase of the decades-long conflict with Tamil Tiger rebels. Sri Lanka says the move usurps its sovereignty.

³⁰ Minority Rights Group International, [Background](#), Updated March 2018, *The renewal of the conflict*

2012 May - Former army chief and opposition presidential candidate Sarath Fonseka is freed after two and a half years in jail, under terms banning him from running for public office for seven years.

2013 September - Tamil National Alliance opposition party wins first elections to semi-autonomous provincial council in the north, with 78% of the vote. Commonwealth observers say army intimidation compromised the vote's environment.

President Sirisena elected

2015 January - Maithripala Sirisena defeats Mahinda Rajapaksa in presidential election, pledging accountability over alleged atrocities during the civil war.

2015 September - Rajavaroatham Sampanthan becomes the first lawmaker from the ethnic Tamil minority in 32 years to lead the opposition in parliament.

2016 June - Government acknowledges for the first time that some 65,000 people are missing from its 26-year war with the Tamil Tiger rebels and a Marxist insurrection in 1971.

2017 January - Police clash with protesters demonstrating against a plan to evict villagers to make way for a mostly Chinese port and industrial zone near the port city of Hambantota.

2018 October - Constitutional crisis as President Sirisena replaces Prime Minister Ranil Wickramasinghe with former president Mahinda Rajapaksa, and suspends parliament.

2018 November-December - Constitutional Court rules that dissolution of parliament was illegal. Mahinda Rajapaksa fails to form a government that commands a parliamentary majority. Mr Wickramasinghe resumes office.³¹

According to Minority Rights Group International:

The Rajapaksa government (2005 – 2015) promoted Sinhala Buddhist nationalism as a means of garnering the support of the majority community while alienating the country's minorities. The regime's tenure was marked by human rights violations and repression of dissenting voices. However, the year 2015 marked significant political change with the opposition candidate Maithripala Sirisena being elected Executive President, defeating Rajapaksa in January [2015]. This was followed by the coalition United National Front for Good Governance (UNFGG) led by the United National Party, winning the parliamentary election with Ranil Wickremesinghe as Prime Minister. The election represented hope for change for many, including Sri Lanka's minorities.³²

According to the UN Office of the High Commissioner for Human Rights:

The presidential election of 8 January 2015 marked a watershed in the political environment in Sri Lanka. The common opposition candidate, Mathiripala Sirisena, defeated the incumbent President Mahinda Rajapaksa with the support of a broad coalition derived from all ethnic communities and spread over the ideological spectrum. A new Cabinet was formed with the former opposition leader, Ranil Wickremesinghe, as Prime Minister [...]

The manifesto of the new Government included a 100-day programme of constitutional reform and other measures, which culminated in the passage of the nineteenth amendment to the Constitution limiting the powers of the executive presidency, re-introduced limits to presidential terms and restored the Constitutional Council, which makes recommendations on appointments to the judiciary and independent commissions. The Chief Justice, who was controversially impeached in January 2013, was briefly reinstated before the senior-most judge on the bench was appointed as her successor [...]

Parliamentary elections were subsequently held on 17 August 2015. The United National Front for Good Governance, the coalition of parties that had governed since January 2015, won the largest number of seats, and a new Cabinet was formed on 4 September 2015.³³

³¹ BBC News, [Sri Lanka profile – Timeline](#), 18 November 2019

³² Minority Rights Group International, [Background](#), Updated March 2018, *Governance*

³³ UN Human Rights Council, [Comprehensive report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka](#), 28 September 2015, III. *Human rights and related developments*, paras. 11-13

The International Crisis Group stated in September 2019 that

[...] after an initial period of important reforms, hopes for Sirisena and the “national unity” coalition he led with Prime Minister Ranil Wickremesinghe have disappeared. As the country’s economy has sagged amid high external debt and large budget deficits and pledges to root out corruption have gone nowhere, the government’s popularity has waned. Most of the government’s key commitments made to the UN Human Rights Council in 2015 and the transitional justice agenda built on it remain unfulfilled. Extensive efforts to draft a new constitution have come to nothing, with Sirisena eventually calling to reverse the signature accomplishment of his own administration: the 2015 enactment of the 19th amendment, which diluted an overconcentration of presidential power. In October 2018, he tried to oust Prime Minister Ranil Wickremesinghe and replace him with the very man whose anti-democratic legacy Sirisena had campaigned against in 2015, Mahinda Rajapaksa.

Sirisena did not succeed in removing Wickremesinghe – whom the courts restored to his position in December 2018 – but his extra-constitutional manoeuvring shattered the already strained coalition between his Sri Lanka Freedom Party (SLFP) and Wickremesinghe's United National Party (UNP), leaving the latter to lead the government alone. Moreover, the increasingly heated political war between Sirisena and Wickremesinghe exacerbated bureaucratic infighting and dysfunction just as the country rounded the corner into 2019 – a presidential election year – facing daunting challenges. These included political polarisation, economic weakness, unhealed wounds from decades of civil war, and embittered relations between hard-line Sinhalese Buddhist nationalists and the Muslims they had been antagonising since 2011.³⁴

iv. Lessons Learnt and Reconciliation Commission (May 2010 – November 2011)

The report of the ‘OHCHR [UN Office of the High Commissioner for Human Rights] Investigation on Sri Lanka (OISL)’ noted that:

In May 2010, the Government appointed its own Lessons Learned and Reconciliation Commission (LLRC) “to investigate the facts and circumstances which led to the failure of the ceasefire agreement, the lessons that should be learnt from those events and the institutional, administrative and legislative measures which need to be taken in order to prevent any recurrence of such concerns in the future, and to promote further national unity and reconciliation among all communities.” The LLRC presented its report to the President on 15 November 2011 [...].³⁵

The Interim Recommendations published in 2010 by the Sri Lankan Lessons Learnt and Reconciliation Commission can be accessed [here](#), whilst the final report, published in November 2011, can be accessed [here](#).³⁶

The following sources are an illustrative selection of reactions to the methodology and findings of the Lessons Learnt and Reconciliation Commission’s final report:

- Amnesty International, [Sri Lanka: When will they get justice? Failures of Sri Lanka’s Lessons Learnt and Reconciliation Commission](#), 7 September 2011

³⁴ International Crisis Group, [After Sri Lanka’s Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, I. Introduction

³⁵ UN Human Rights Council, [Report of the OHCHR Investigation on Sri Lanka \(OISL\)](#), 16 September 2015, III. Contextual background, May 2009-November 2011: Post-armed conflict period, para. 103

³⁶ See [Report of the COMMISSION OF INQUIRY ON LESSONS LEARNT AND RECONCILIATION](#), November 2011

- Groundviews, [The Final Report of the Lessons Learnt and Reconciliation Commission: A Response](#), 1 November 2011
- International Crisis Group, [Statement on the Report of Sri Lanka's Lessons Learnt and Reconciliation Commission](#), 22 December 2011
- Human Rights Watch, [Sri Lanka: No Progress on Justice](#), 23 January 2012

In 2014 the UN High Commissioner for Human Rights established the 'OHCHR [UN Office of the High Commissioner for Human Rights] Investigation on Sri Lanka (OISL)', covering the timeframe under investigation from 21 February 2002 until 15 November 2011, and looking into "alleged serious violations and abuses of human rights and related crimes by both parties to the conflict".³⁷ The final report, the response by the Sri Lankan government and fact sheets focusing on specific sections of the report, all published in 2015, can be accessed [here](#).³⁸

c. Accountability for Crimes under International law During Civil War

i. Prosecutions for Conflict-Era Crimes from January 2019 to Present (May 2020)

The Human Rights Council resolutions 30/1 (2015)³⁹ and 34/1 (2017)⁴⁰ on 'Promoting reconciliation, accountability and human rights in Sri Lanka' were co-sponsored by the Government of Sri Lanka and adopted by consensus.⁴¹

In a February 2019 report, the UN High Commissioner for Human Rights reviewed the progress made by the Government of Sri Lanka between October 2015 and January 2019 in implementing resolution 30/1.⁴² The report noted with regards to criminal accountability that:

The Government has not announced any plan to create a special judicial mechanism, despite the commitment it implicitly undertook when it co-sponsored Human Rights Council resolution 30/1 and the recommendations contained therein. It has indeed denied the need for such a mechanism, particularly with respect to the involvement of foreign judges, despite abundant evidence that the ordinary criminal justice system is unable to deal with the nature of allegations and the complexity of crimes. Both the President and the Prime Minister have made statements denying the need of foreign assistance in this matter.

In 2015, the High Commissioner stated that, for accountability to be achieved in Sri Lanka, more than a domestic mechanism would be required [...] The lack of substantial progress in establishing criminal accountability for serious crimes in the past three years underscores the relevance of that assessment.

Moreover, claims that a domestic specialized process could suffice have not been accompanied by any serious attempt to establish one. No effort has been made to build the capacity required to conduct investigations, including forensic ones, or prosecutorial strategies, despite the repeated

³⁷ UN Human Rights Council, [OHCHR Investigation on Sri Lanka](#), Undated [Last accessed: 1 June 2020]

³⁸ See UN Human Rights Council, [OHCHR Investigation on Sri Lanka](#), Undated, *Documentation* [Last accessed: 1 June 2020]

³⁹ UN Human Rights Council, [Resolution 30/1 Promoting reconciliation, accountability and human rights in Sri Lanka](#), 29 September 2015

⁴⁰ UN Human Rights Council, [Resolution 34/1 Promoting reconciliation, accountability and human rights in Sri Lanka](#), 15 March 2017

⁴¹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, *para. 1*

⁴² See UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019

recommendations of the Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence.

The gravity of the cases that a specialized accountability mechanism must address cannot be underestimated. The gravity of the cases that a specialized accountability mechanism must address cannot be underestimated. On that point, the High Commissioner reiterates the principal findings of the investigation conducted by OHCHR in 2015, which demonstrated that there were reasonable grounds to believe that gross violations of international human rights law, serious violations of international humanitarian law and international crimes had been committed by all parties during the period under review; and that indeed, if established before a court of law, many of the allegations may, depending on the circumstances, amount to war crimes if a nexus were to be established with the armed conflict and/or crimes against humanity if committed as part of a widespread or systematic attack against a civilian population [...]

Since 2015, virtually no progress has been made in investigating or prosecuting domestically the large number of allegations of war crimes or crimes against humanity collected by OHCHR in its investigation, and particularly those relating to military operations at the end of the war.⁴³

The same source noted that “The criminal justice system has yet to demonstrate its capacity or willingness to address complex emblematic cases. This in turn raises questions about the capacity and will of the State to address impunity for serious violations of international humanitarian law and for gross violations and abuses of international human rights law, and has a negative impact on peoples’ trust in the justice system”.⁴⁴ The report goes on to describe the status of a number of ‘emblematic cases’ which it considers include “worrying instances of political interference in the judicial or investigative process, demonstrate the very limited progress made towards achieving accountability in Sri Lanka”.⁴⁵ It further stated that:

Concerns therefore remain regarding the State’s capacity and willingness to prosecute and punish perpetrators of serious crimes when they are linked to security forces or other positions of power. The advances that were made – in the form of arrests or new investigations – were possible thanks to the persistence and commitment of individual investigators despite political interference, patronage networks and a generally dysfunctional criminal justice system. The advances made were, however, often stymied or reversed by political interventions, as demonstrated by the above-mentioned case of the Chief of Defence Staff and the attempted transfer of Inspector Silva. [...]

The High Commissioner stresses that the risk of new violations increases when impunity for serious crimes continues unchecked. To date, Sri Lanka has failed to seize the opportunity provided by the Human Rights Council to establish a trustworthy domestic mechanism to address impunity or to show, by consistent progress in emblematic cases, that such a mechanism is not necessary.⁴⁶

Journalists for Democracy in Sri Lanka reported in January 2019 that “Details have emerged of senior Sri Lankan naval officers planning to harm the chief investigator and key witness in high profile cases of abduction, torture and extrajudicial killings”.⁴⁷ It further cited an official familiar with ongoing

⁴³ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 27-29

⁴⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 27-29

⁴⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 38

⁴⁶ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 49 and 51

⁴⁷ Journalists for Democracy in Sri Lanka, [Sri Lanka navy top brass in “sinister plot” against investigators and witness](#), 4 January 2019

investigations as stating that “This is a sinister plot to assassinate the investigator and key witness as credible evidence have emerged of those in topmost places in the navy being involved in mass crimes”.⁴⁸

In a May 2019 report the Centre for Policy Alternatives summarised that “Successive governments have promised investigations after numerous instances of human rights violations in Sri Lanka, both during the war and subsequently. Despite the long list of promises, limited legal action has been taken to apprehend, prosecute and hold alleged perpetrators to account. The few cases that have witnessed some legal action have devolved into long, drawn-out investigations, a few arrests and few steps are taken to indict and prosecute. Both the inability and the unwillingness to prosecute perpetrators has hindered progress towards accountability and ultimately contributed to a culture of impunity in Sri Lanka”.⁴⁹ The report then goes on to examine “seven emblematic cases to evaluate the levels of accountability in the prosecution of cases of human rights violations within Sri Lanka’s criminal justice system” and identifies a number of themes arising: culture of impunity; lack of or delays with prosecutions; lack of independent investigations; deficient victim and witness protection; evidence tampering, concealment and destruction; and political interference in investigation institutions”.⁵⁰

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms (SCRM) interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 replied to the question ‘If a person is giving evidence against the military, could they receive witness protection?’: “This was established in 2015. They can apply but the process takes around 14 days. There are low numbers of take-up for the witness protection scheme – possibly due to lack of awareness, but the facilities are there. Witness protection provides relief if there is a criminal or civil investigation ongoing. You cannot merely say ‘my life is in danger, I need protection’. The Tamil community are more likely to give evidence against security forces than Sinhalese, even though they were also affected by the war. White van abductions also affected the Sinhalese, but they did not come forward to complain. Muslims were affected by the LTTE in the East, but they don’t access remedies”.⁵¹

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “President Gotabaya Rajapaksa has set back efforts for accountability for war crimes”.⁵² The report further described that:

Rajapaksa’s lawyers went to court to dismiss all criminal and civil cases against him and his family. Those who have worked to investigate and prosecute war crimes are under attack. The head of Sri Lanka’s Criminal Investigation Department (CID) was reassigned to a junior position away from the head office in Colombo. The lead detective on many of the abduction and murder cases, in which Rajapaksa family members and military were accused, fled to Switzerland with his family due to threats to his life. In the meantime, national television channels in mid-November displayed the photos of other detectives

⁴⁸ Journalists for Democracy in Sri Lanka, [Sri Lanka navy top brass in “sinister plot” against investigators and witness](#), 4 January 2019

⁴⁹ Centre for Policy Alternatives, [The Need for Accountability in Sri Lanka’s Criminal Justice System: A Glance at Seven Emblematic Cases](#), March 2019, *Background*, p. 4

⁵⁰ Centre for Policy Alternatives, [The Need for Accountability in Sri Lanka’s Criminal Justice System: A Glance at Seven Emblematic Cases](#), March 2019, *Trends in Emblematic Cases*, p. 7-9

⁵¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019*, p. 33/34

⁵² Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p. 4

involved in the investigations of the family's crimes, accusing them of corruption and treason, after they were stripped of their personal security. A spokesman for the National Police Commission of Sri Lanka said on November 27, 2019, that they would decide in the next few weeks whether the investigations would continue on these landmark cases. President Gotabaya Rajapaksa imposed a blanket travel ban on more than 700 members of the Sri Lankan police unit that had been investigating the family corruption and murders.⁵³

The same source considered that "investigations of security forces committing human rights violations have been rare and ineffective" and provided the following examples:

There have been many cases of human rights abuses that continue not to be investigated. Some examples include:

- (1) the Welikada prison incident in 2012 where 27 inmates were allegedly executed,
- (2) the abduction of eleven youth from Colombo in 2008/2009 allegedly by the Navy,
- (3) the murder of Tamil politician Nadarajah Raviraj in 2006, and
- (4) the murder of Lasantha Wickrematunge, the editor of 'The Sunday Leader' in 2009. Both Sri Lankan military officials and politicians have publicly rebuked investigations of military officials for past human rights violations. There is also increasing intimidation of victims and witnesses who have come forward to take up cases against the military for abductions and killings. Landmark cases include the intimidation of Santhiya Eknaligoda, the wife of disappeared political cartoonist Prageeth Eknaligoda (as noted above, the chief investigator in that case fled to Switzerland after death threats, and a Swiss visa officer was allegedly abducted, detained and abused. Gnanasara Thero, the General Secretary of the Sinhalese Buddhist nationalist organization Bodu Bala Sena, (Buddhist Power Force or BBS) was imprisoned for contempt of court for threatening Santhiya Eknaligoda, but on May 24, 2019, Gnanasara received a presidential pardon from former President Maithripala Sirisena and was released from prison.⁵⁴

See subsequent section [I.C.i.a Official Pardons Since November 2019](#) for further examples.

In May 2019 Human Rights Watch also reported that "In Sri Lanka, several landmark cases of murder, disappearance and assault of journalists and human rights defenders between 2009 to 2015 are pending at various stages of investigation or trial. In a small step forward, in November [2018], indictments were filed against seven army intelligence officers in connection with the abduction of journalist Prageeth Eknaligoda back in 2009. Another breakthrough was in the case of attempted murder of former editor Upali Tennakoon. Nearly ten years on, an army officer was found to have been involved in the attack".⁵⁵

Amnesty International reported in its annual report covering events in 2019 that:

The government made limited progress in addressing impunity for crimes under international law committed during Sri Lanka's conflict. Government promises in 2015 to establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, had not been realized at the end of the year. The Attorney General's department filed hurried indictments in several key cases in advance of presidential elections in November, but the cases of many individuals who allegedly bore command responsibility for serious violations were not included. These cases included the enforced disappearance of journalist, Prageeth

⁵³ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p. 4

⁵⁴ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p. 4

⁵⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Overview*, p. 7

Eknaligoda, in 2010, and the extrajudicial executions at the Welikada prison, in 2012 which left 27 inmates dead.

In July, a magistrate in the north eastern town of Trincomalee acquitted 12 members of the police Special Task Force (STF) and a police officer due to “lack of evidence”. Witnesses in the case had been reluctant to testify due to inadequate witness protection measures and lack of faith in domestic courts. The defendants were accused of executing five ethnic Tamil students in 2006, known as the “Trinco Five” case. In July, the Attorney General decided to recommence investigations into the executions.⁵⁶

In August 2019 Human Rights Watch reported that “Sri Lankan authorities have failed to bring to justice those responsible for the execution-style killing of 17 aid workers 13 years ago”.⁵⁷ The same source further described that:

On August 4, 2006, alleged Sri Lankan security forces murdered local staff members from the Paris-based Action Contre La Faim (Action Against Hunger, ACF) at their compound in the town of Muttur, in eastern Trincomalee district. On June 13, 2019, Sri Lanka’s attorney general, Dappula de Livera, ordered police to speed up investigations into the ACF massacre, as well as the murder of newspaper editor Lasantha Wickrematunge on January 8, 2009, and two other high-profile criminal cases. De Livera said that he was singling out the four cases because delays had caused public distress. He ordered the acting police chief to report on progress. [...]

In July 2007, then-President Mahinda Rajapaksa established the Presidential Commission of Inquiry to investigate 16 major human rights cases, including the ACF case. Families of ACF workers who testified before the commission reported threats by security force personnel. The commission’s international monitors resigned in protest in 2008, citing grave problems with its investigations. The commission’s full report was not released until September 2015, and, while stating it had insufficient evidence to determine the perpetrators of the ACF killings, it effectively exonerated the army and navy in the massacre and indicated that LTTE forces or Muslim militia carried them out.⁵⁸

The U.S. Department of State report covering 2019 detailed that “In October the Court of Appeal acquitted four military personnel who were convicted and sentenced in 2015 to 30 years for the 2010 gang rape in Vishvamadhu. While the rape happened in 2010, the men remained free on bail and were not convicted and sentenced until 2015. The basis for the acquittal was that the accused were not properly identified by witnesses. The victim’s lawyers appealed the decision on November 20 [2019]”.

The International Advocacy Clinic also noted that “Several cases of assault, disappearance, and murder of journalists and human rights defenders between 2009 to 2015 are ongoing”. Furthermore:

Families of journalists so victimised have kept the struggles for justice alive, pointing to the significance of supporting and engaging family members of victimised journalists.

Just two weeks before of the presidential election on November 7, Cabinet of Ministers approved a proposal to compensate 78 journalists subjected to harassment and persecution during 2005-2015, with amounts ranging from Rs 200,000 to Rs 1.5million (USD1,000 – USD7,700). There was no time to implement this cabinet decision.

Ahimsa Wickrematunge, daughter of slain journalist Lasantha Wickrematunge, filed a lawsuit in the US against the former Defence Secretary Gotabaya Rajapaksa in April 2019. The lawsuit was filed seeking damages from Rajapaksa for instigating and authorising the extrajudicial killing of Lasantha Wickrematunge former editor of the Sunday Leader, killed in January 2009 while he was on his way to office.

⁵⁶ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

⁵⁷ Human Rights Watch, [Sri Lanka: No Progress in Prosecuting Aid Worker Massacre](#), 1 August 2019

⁵⁸ Human Rights Watch, [Sri Lanka: No Progress in Prosecuting Aid Worker Massacre](#), 1 August 2019

Although her case was dismissed by a district judge, a Federal Appeals Court in San Francisco later allowed her appeal against the decision of the district judge. In a brief order, the threejudge panel granted the daughter's request to dismiss her case as moot, because Gotabaya Rajapaksa is now president, but dismissed the case 'without prejudice', meaning the case can be brought back later. [...]

Just as Ahimsa Wickrematunge has become a crucial force in the struggle to obtain justice for her father, Sandya Eknaligoda, the wife of disappeared journalist Prageeth Eknaligoda has been engaged in a long struggle for justice for her husband. She has built a worldwide campaign for justice and accountability.

On November 7, the Attorney General filed indictments in the High Court against seven army intelligence officers in connection with the abduction of journalist Prageeth Eknaligoda. By this time, the AG had already filed indictments in the Homagama High Court against seven army intelligence officers attached to the Giritale Army camp. The charges were filed under section 102, 113 (A), 356 of the Penal Code in respect of conspiracy and abduction of journalist Prageeth Eknaligoda on or around August 27, 2009.

A major breakthrough was made in the probe into the assault on former editor Upali Tennakoon in early July 2019. Fingerprints found on Tennakoon's vehicle on the day of the assault were linked to an army officer accused of being involved in the attack. Upali Tennakoon was assaulted on January 23, 2009, in an apparent attempt to kill him by assailants on motor bikes. Both Tennakoon and his wife were injured during the attack.⁵⁹

The International Crisis Group stated in January 2020 that

The new government also quickly rolled back police investigations into a series of high-profile political killings and disappearances during the Mahinda Rajapaksa administration – many, according to detailed evidence submitted to courts, allegedly committed by military intelligence units at a time when Gotabaya was defence secretary. Courts have released suspects in virtually all of the so-called “emblematic cases” of serious human rights violations and political crimes. Within days of Gotabaya's election, the new government removed the lead police investigators' security details, transferred them to menial jobs, and denounced them as traitors. The most prominent investigator, Nishantha Silva, fled the country fearing for his safety. The government has launched a review of all prosecutions of Mahinda-era abuses, which the Rajapaksas and supporters have long called politically motivated, and announced a presidential commission to investigate police and other officials responsible for the alleged “witch hunt”. [...]

The current government's blanket denial of any violations by the military or police requiring investigation or prosecution has returned Sri Lanka to the hardline positions of 2009-10, rolling back even the modest recognition of government excesses found in the conclusions of the 2011 Lessons Learnt and Reconciliation Commission. The Justice Ministry has announced its intention to “review” the legislation establishing the Office of Missing Persons, one of two transitional justice institutions established by the previous government; many observers expect its powers will be restricted, or the office eliminated entirely.⁶⁰

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that “The authorities are yet to bring charges against any members of the security forces in relation to allegations of war crimes and crimes against humanity committed during the final stages of the war. During the 2019 Presidential election campaign, both Gotabaya Rajapaksa and opposition candidate Sajith Premadasa pledged to protect so-called ‘war heroes’ from prosecution, with the former also stating that he planned to release members of the armed forces “languishing in prison over false charges”.⁶¹

⁵⁹ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 75

⁶⁰ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

⁶¹ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota's Sri Lanka](#), February 2020, 8. *A process of accountability for abuses by all sides in the conflict*, p. 16

In a February 2020 report reviewing the progress made by the Government of Sri Lanka in implementing resolution 30/1, particularly during the period from January 2019 to January 2020, the UN High Commissioner for Human Rights summarised that “there has been minimal progress in the investigation and prosecution before the courts of the long-term emblematic cases highlighted in previous reports of the High Commissioner to the Human Rights Council. These cases involve victims from all communities in Sri Lanka [...]. While noting the current efforts of the Attorney-General to handle pending cases more efficiently, the absence of progress on these cases highlights the systemic impediments to accountability in the criminal justice system”.⁶²

The UN High Commissioner for Human Rights further documented that “on 9 January 2020, the Government appointed a new presidential commission to investigate alleged political victimization of public officials by the previous Government. On 22 January 2020, the Commission issued directives to the Attorney-General to suspend the prosecution of naval officers over the abduction for ransom of 11 youths in Colombo in 2008 and 2009. At time of writing, the Attorney-General had not complied with this order, asserting the independence of his office. Several officers responsible for the investigation of other high-profile cases have been transferred or deprived of their security details”.⁶³

The same source reported that “On 20 January 2020, a German court convicted a former member of the Liberation Tigers of Tamil Eelam for the assassination, in 2005, of former Sri Lankan Foreign Minister Lakshman Kadirgamar, and sentenced him to six years and 10 months in prison. The case highlights the importance of accountability for crimes committed by all parties, including in foreign jurisdictions”.⁶⁴

In a submission to the UN Human Rights Committee for its 128th March 2020 session, the All Survivors Project Foundation reported that “Impunity for sexual violence is widespread” and “There is no known case in which CRSV [conflict-related sexual violence] against men and boys has been prosecuted in Sri Lanka”.⁶⁵

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office since the presidential elections of November 2019 that:

Since taking office, there has been an increase in the rhetorical attacks on independent institutions and individuals who took the lead and were involved in investigations into financial crimes and human rights violations. Public criticism on investigators linked to key cases commenced soon after the Presidential elections, with some senior officials facing demotions, transfers and attacks in the media. Such trends do not bode well for other officials including those prosecuting and, in the judiciary, and it is likely the vilification will continue and possibly increasing in the lead up to Parliamentary Elections and beyond.

The undermining of institutions and individuals were also exacerbated by the release of the recording made by MP Ranjan Ramanayake which allegedly implicate several judges, investigators, politicians, media personalities and others. Whilst the recordings highlight deep structural problems and attempts by

⁶² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 21

⁶³ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 22

⁶⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 23

⁶⁵ All Survivors Project Foundation, [Sri Lanka: Submission to the UN Human Rights Committee 128th Session](#), 2-27 March 2020

a few individuals to pursue justice despite such obstacles, the tapes resulted in a fracas and were used by some politicians and media platforms to target individuals and institutions and undermine genuine processes investigating financial crimes and human rights abuses.⁶⁶

In an April 2020 article the Committee to Protect Journalists (CPJ) noted with regards to impunity that “Milinda Rajapaksha, former spokesperson for Gotabaya Rajapaksa (but no relation) ‘told CPJ it was unlikely the government would open new investigations into journalists who had been killed or gone missing, saying that the previous Sirisena government had made those promises, and failed to deliver, and it isn’t the responsibility of the new government to carry it forward’”.⁶⁷

a) Official Pardons Since November 2019

Amnesty International noted that “in October 2019, then Presidential hopeful Gotabaya Rajapaksa pledged that once in power, he would acquit and release ‘war heroes’ being held on ‘baseless’ charges”.⁶⁸

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that “Several high-profile murder cases involving Tamil victims, and police or military perpetrators, have resulted in acquittals or ‘discharges’ of the accused”.⁶⁹ This includes, for example:

the acquittal of six army officer suspects in relation to the 1996 Kumarapuram massacre, the acquittal of five men, three of whom were Sri Lankan Navy Intelligence officers, in relation to the 2006 assassination of TNA parliamentarian Nadaraja Raviraj, and the ‘discharge’ of thirteen defendants in the ‘Trinco Five’ case on the execution of five Tamil students in 2006. Most recently in October 2019, four soldiers were acquitted of the rape of a Tamil woman at Vishwamadu in 2010. They had been convicted in 2015 and sentenced to 25 years imprisonment after being identified by the victim.⁷⁰

In March 2020 Human Rights Watch reported that “Sri Lankan President Gotabaya Rajapaksa’s pardon of a soldier convicted of massacring eight civilians, including children, shows the administration’s disregard for justice for the worst abuses [...]. The conviction of former Sgt. Sunil Ratnayake had been one of the very few cases of security force personnel being criminally punished for civil war-era atrocities, despite the huge number of credible and extremely serious allegations. [...] Ratnayake, who was pardoned on March 26, 2020, was found guilty in 2015 of killing eight civilians, including a 5-year-old, at Mirusuvil, in northern Sri Lanka, in 2000. The bodies of the victims showed signs of torture. The conviction had been upheld by Sri Lanka’s court of appeal”.⁷¹ Similarly the International Commission of

⁶⁶ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Erosion of the Rule of Law*, p. 10

⁶⁷ Committee to Protect Journalists, [Sri Lankan journalists turn to self-censorship under Rajapaksas as hope for justice fades](#), 28 April 2020

⁶⁸ Amnesty International, [Amid Pandemic, Sri Lanka pardons soldier convicted of massacre](#), 30 April 2020

⁶⁹ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 9. *Uphold the rule of law and build confidence in the justice system*, p. 18

⁷⁰ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 9. *Uphold the rule of law and build confidence in the justice system*, p. 18

⁷¹ Human Rights Watch, [Sri Lanka: Justice Undone for Massacre Victims](#), 27 March 2020

Jurists noted that “the pardon cast serious doubt upon the Government’s commitment to accountability and the rule of law in Sri Lanka”.⁷²

Responding to Ratnayake’s pardon, the Adayaalam Centre for Policy Research noted that:

Ratnayake’s pardon comes at a time when the world is overwhelmed by the COVID-19 pandemic. This is no coincidence. The Sri Lankan Government has disproportionately militarised its response to the crisis and it is no wonder they would engage in other actions to be seen to be protecting the military in parallel. [...] For over a decade, Tamil victims of the Sri Lankan state’s crimes during and after the armed conflict have had their calls for justice fall on deaf ears, and endured the pain of seeing the perpetrators of atrocities valorised and promoted by the Sri Lankan government. Throughout this time, the Tamil community has repeatedly pointed to the deep and structural unwillingness within the Sri Lankan state to fairly and credibly prosecute atrocity crimes committed by the military.⁷³

The UN High Commissioner for Human Rights commented on the same case, stating that “The Presidential pardon is an affront to victims and yet another example of the failure of Sri Lanka to fulfil its international human rights obligations to provide meaningful accountability for war crimes, crimes against humanity and other gross violations of human rights. Victims of such violations and crimes have the right to a remedy. This includes equal and effective access to justice and reparation, and that perpetrators serve a punishment that is proportionate to the seriousness of their conduct. Pardoning one of the sole convicted perpetrators of atrocities committed during the Sri Lankan conflict further undermines the limited progress the country has made towards ending impunity for mass human rights abuse”.⁷⁴

Amnesty International stated that “Where accountability is so rare for serious human rights violations in Sri Lanka, the government’s arbitrary decision to release Sergeant Rathnayaka sends an extremely worrying message. It means that military perpetrators of horrific crimes, even if convicted through a court of law, will be pardoned and released”.⁷⁵ A further Amnesty International report provided further details of the case and the power to pardon.⁷⁶ The same source detailed further Presidential pardons:

Prior to Sergeant Sunil Rathnayaka, the Presidential power to pardon was most recently used by former President Maithripala Sirisena to release Buddhist monk Gnanasara Thero and Jude Shramantha Jayamaha. [...] Thero was sentenced to six years rigorous imprisonment in August 2018 for contempt of court over disrupting proceedings around the case of disappeared journalist Prageeth Eknaligoda. In the Eknaligoda case, members of the military officers are the accused. He received a Presidential pardon in May 2019, and walked free after only nine months in prison. Jayamaha was convicted by the High Court in 2006 with a 12-year sentence, but the Court of Appeal increased his sentence to a death in 2012 for the murder of a teenager in 2005.⁴² He had spent 13 years in prison when former President Sirisena pardoned him on 9 November 2019, during the last few days of his term as President. Both of these pardons are currently being challenged before the Supreme Court for frustrating “the power of the Judiciary to maintain its authority and uphold its dignity and the rule of law” as per the Constitution. To

⁷² International Commission of Jurists, [Sri Lanka: Presidential pardon of former Army officer for killing of Tamil civilians is unacceptable](#), 27 March 2020

⁷³ Adayaalam Centre for Policy Research, [Pardon of Ratnayake reinforces Sri Lanka’s Culture of Impunity for Military Crimes](#), 30 March 2020

⁷⁴ OHCHR, [Press briefing note on Sri Lanka](#), 27 March 2020

⁷⁵ Amnesty International, [Justice reversed for victims of the Mirusuvil massacre, Sri Lanka](#), 26 March 2020

⁷⁶ Amnesty International, [Amid Pandemic, Sri Lanka pardons soldier convicted of massacre](#), 30 April 2020

date, there is no clarity as to the rationale or criteria used by the President to determine which prisoners are afforded reprieve.⁷⁷

Reporting on Gnanasara's pardon, the Centre for Policy Alternatives noted in May 2019 that:

The pardon raises a number of very serious concerns. First, it legitimises the view that it is possible to act with contempt for the judiciary, be punished through a legitimate judicial process, and then enjoy impunity through a pardon granted on political considerations. The pardon specifically signals that some categories of citizens, such as the Buddhist clergy, can expect to enjoy preferential treatment when it comes to obeying the law. It also sets a dangerous precedent whereby properly tried, convicted and sentenced persons can be released on the whims of the President and government.

Second, the pardon comes amidst the ongoing and extremely tense situation in the country. It has been a mere week since extremist Sinhala Buddhist mobs instigated anti-Muslim riots across North Western Sri Lanka, resulting in the death of one Muslim man and the damage to a large number of Muslim residences, businesses and places of worship. Gnanasara Thero has played a documented role in the past as Secretary of the Bodu Bala Sena in expressing hate speech and inciting violence towards minority communities, particularly Muslim Sri Lankans. The pardon, however indirectly, represents a worrying endorsement of such anti-minority sentiment, and can only heighten the anxiety and fear being felt by Muslim Sri Lankans today.⁷⁸

In April 2020 Transparency International Sri Lanka (TISL) called "on the Presidential Secretariat to publicly disclose all relevant documents in the case of the presidential pardon afforded to the convict in the case of the Mirusuvil Massacre of December 2000. TISL is concerned that failure to do so could result in irreparable damage to the separation of powers between the executive and judiciary especially given that the conviction and sentencing in this case was upheld by a 5 member bench of the Supreme Court comprised of Justices Buvaneka Aluvihare, Nalin Perera, Sisira de Abrew, Priyantha Jayawardena and Murdhu Fernando in April 2019".⁷⁹ Furthermore, TISL Executive Director Asoka Obeyesekere said, "in two instances in the recent past, we have witnessed the powers of presidential pardon being exercised without the disclosure of the information to substantiate these pardons. This trend of executive action potentially subverting judicial process is very disturbing as it will cause the public to lose faith in the judiciary as the arbiters of justice under the law".⁸⁰

ii. Allegations of Corruption and Impunity for Conflict-Era Crimes

The Sri Lanka Campaign for Peace and Justice explained that:

Following a landmark international investigation, in September 2015 the United Nations released a major report on serious human rights violations committed during the final stages of the civil war and the surrounding period (2002-2011). The document, known as the 'OISL Report' was clear in its view that many of those violations – perpetrated by both government of Sri Lanka and LTTE ('Tamil Tiger') forces - could amount to war crimes and crimes against humanity if established in a court of law. It made a number of recommendations as to how Sri Lanka might begin to address these violations in order to lay the foundations for a sustainable peace.

⁷⁷ Amnesty International, [Amid Pandemic, Sri Lanka pardons soldier convicted of massacre](#), 30 April 2020

⁷⁸ Centre for Policy Alternatives, [CPA Statement on the Presidential Pardon of Gnanasara Thero](#), 24 May 2019

⁷⁹ Transparency International Sri Lanka, [Presidential Pardon – TISL Calls for Public Disclosure of Documents](#), 1 April 2020

⁸⁰ Transparency International Sri Lanka, [Presidential Pardon – TISL Calls for Public Disclosure of Documents](#), 1 April 2020

In response, the national unity government that came to power in Sri Lanka in 2015, acting through the UN Human Rights Council, made a series of promises to deal with the legacy of the war; promises that included establishing mechanisms capable of investigating serious human rights violations and holding perpetrators to account. Those were contained in Human Rights Council (HRC) Resolution 30/1.⁸¹

The UN Human Rights Council (HRC) resolutions 30/1 (2015)⁸² and 34/1 (2017)⁸³ on 'Promoting reconciliation, accountability and human rights in Sri Lanka' were co-sponsored by the Government of Sri Lanka and adopted by consensus.⁸⁴ In resolution 30/1 the Human Rights Council "made a number of comprehensive recommendations on the judicial and non-judicial measures necessary to advance accountability and reconciliation in Sri Lanka, and on strengthening the protection of human rights, democracy and the rule of law".⁸⁵ The Sri Lanka Campaign for Peace and Justice explained that "At the 34th session, and in light of the 'limited progress' on transitional justice (in the words of the former UN High Commissioner for Human Rights), the HRC adopted Resolution 34/1 – the effect of which was to 'roll over' the commitments contained within Resolution 30/1".⁸⁶

Amnesty International noted that "The government, in Resolution 30/1, committed to establishing four mechanisms, namely the Commission for Truth, Justice, Reconciliation and Non-Recurrence, the Office on Missing Persons, the Office for Reparations and a Judicial Mechanism with a special counsel".⁸⁷ The same source further noted that "In 2015 the government of Sri Lanka co-sponsored UNHRC resolution 30/1 on 'Promoting reconciliation, accountability and human rights in Sri Lanka'. In 2017 Sri Lanka received a two-year extension to implement its own commitments. At its fortieth session, the UNHRC adopted a new resolution on 21 March 2019 co-sponsored by the government of Sri Lanka, giving it a further two years to implement outstanding promises in full", known as resolution 40/1.⁸⁸

In a January 2019 report Amnesty International assessed that "In the last three years, progress has moved towards meeting some of these commitments, but as this briefing demonstrates, the pace has been slow, and the commitment to accountability for crimes committed during the war, one of the most important aspects of the Resolution 30/1, is absent. The glacial pace at which the Government of Sri Lanka is handling the transitional justice process is telling of the lack of genuine political will to ensure victims of the decades long civil war are provided with truth, justice, reparations and guarantees of non-recurrence".⁸⁹

⁸¹ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota's Sri Lanka](#), February 2020, *The Promise*, p. 3

⁸² UN Human Rights Council, [Resolution 30/1 Promoting reconciliation, accountability and human rights in Sri Lanka](#), 29 September 2015

⁸³ UN Human Rights Council, [Resolution 34/1 Promoting reconciliation, accountability and human rights in Sri Lanka](#), 15 March 2017

⁸⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, *para. 1*

⁸⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, *para. 4*

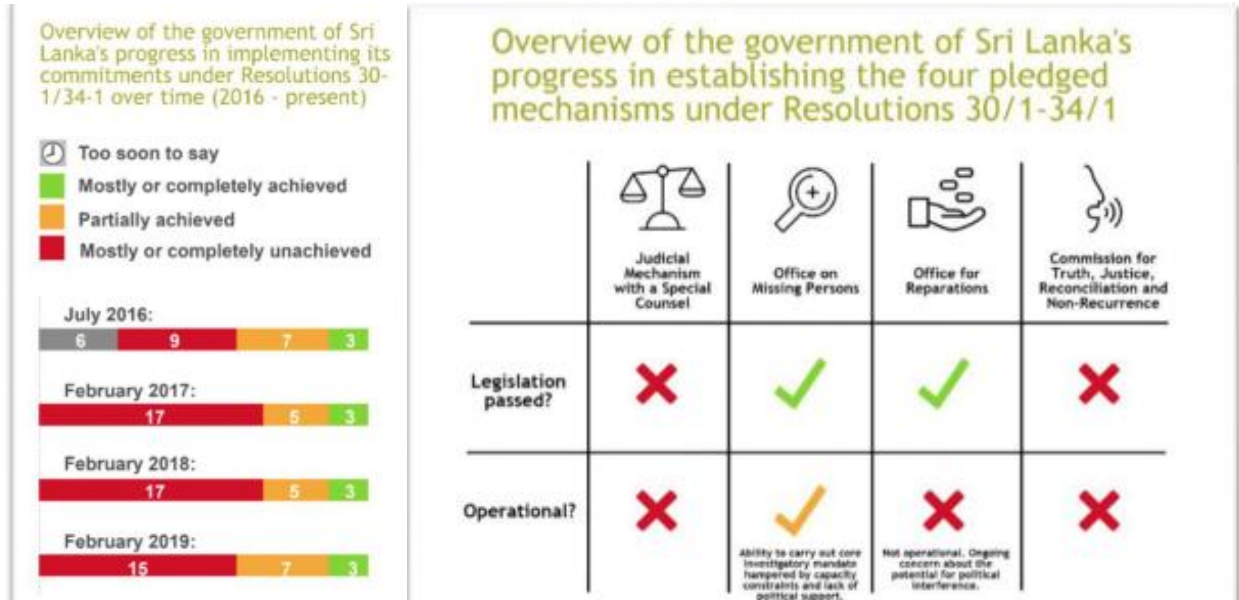
⁸⁶ Sri Lanka Campaign for Peace and Justice, [No will no way: Stalled efforts to deal with the past in Sri Lanka](#), February 2019

⁸⁷ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, *Executive Summary*, p. 4

⁸⁸ Amnesty International, [Sri Lanka: New Human Rights Council resolution must lead to faster progress](#), 21 March 2019

⁸⁹ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, *Introduction*, p. 7

The Sri Lanka Campaign for Peace and Justice provided a detailed analysis of the overall progress that had been made in establishing the four pledged transitional justice mechanisms as of February 2019 and provided the following infographics illustrating their assessment:⁹⁰



The report assessed that “Just one of the four key transitional justice mechanisms pledged has been operationalised. And, crucially, almost nothing has been done to tackle Sri Lanka’s deeply rooted culture of impunity, which lies at the heart of repeated cycles of mass violence in the country”.⁹¹

In February 2019 the International Commission of Jurists submitted a report to the UN High Commissioner for Human Rights which stated that “Almost ten years after Sri Lanka emerged from a period of conflict and massive human rights violations, the Government of Sri Lanka still has largely failed to implement its human rights obligations and commitments as reflected in Resolution 30/1. This failure particularly impacts women who were directly victimised by the war. Despite 80% of the displaced population being female and more than 23% of households now being led by women, issues of specific importance to women seldom get highlighted or addressed”.⁹²

The same source further considered that “The judicial mechanism to investigate violations of human rights and international humanitarian law has not been established. The President has publicly rejected the idea of foreign involvement in such a judicial mechanism, despite Sri Lanka having committed to such involvement in resolution 30/1. Although authorities have suggested the possibility of establishing

⁹⁰ Sri Lanka Campaign for Peace and Justice, [No will no way: Stalled efforts to deal with the past in Sri Lanka](#), February 2019, *The progress*, p. 3

⁹¹ Sri Lanka Campaign for Peace and Justice, [No will no way: Stalled efforts to deal with the past in Sri Lanka](#), February 2019, *The progress*, p. 3-4

⁹² International Commission of Jurists, [Written statement to the UN High Commissioner for Human Rights](#), 14 February 2019

a purely domestic judicial mechanism that will investigate allegations of violations of human rights, the Government has not even taken any steps towards this wholly inadequate measure”.⁹³

In its February 2019 report, the UN High Commissioner for Human Rights reviewed the progress made by the Government of Sri Lanka between October 2015 and January 2019 in implementing resolution 30/1.⁹⁴ The report noted with regards to progressing the transitional justice process that:

Although steps have been taken in institution-building (such as adoption of legislation, the recruitment and training of staff and the identification of office space) since 2017, they have yet to produce concrete benefits for individual rights holders (in the form of, for instance, the identification of missing persons, the provision of reparations and the issuance of court verdicts). Such slow progress in establishing meaningful transitional justice measures has engendered mistrust among victims and other stakeholders.

The political crisis at the end of 2018 further obstructed progress owing not only to the temporary paralysis of institutions but also because it generated fears that another Government might not embrace the reconciliation agenda. There were also concerns among key stakeholders that a return to power of the pre-2015 administration could have negative implications for their security and the human rights situation in general. In particular, during the crisis, the work of the Secretariat for Coordinating Reconciliation Mechanisms – the body mandated to lead and coordinate transitional justice efforts – was hampered, given that its Secretary-General had resigned on 30 October and a number of its staff contracts were terminated on 30 November. Some staff members were reportedly subjected to surveillance and threats within hours of the removal of Prime Minister Wickremesinghe. The Secretary General and staff resumed their work in late December. [...]

The national consultations on reconciliation mechanisms held in 2016 and the establishment of the Office on Missing Persons remain the two main achievements in the field of transitional justice since 2015.⁹⁵

In March 2019 Amnesty International reported that “The adoption of the draft UN Human Rights Council Resolution 40/L.1 is an important step in the pursuit of justice for the victims of alleged international crimes during Sri Lanka’s decades-long internal conflict. With this resolution the international community should actively engage with Sri Lanka towards faster progress on truth, justice, reparation, including guarantees of non-recurrence. It is disappointing, however, that the final text of the resolution failed to address Sri Lanka’s failure to meet its commitments to date. Despite the pledges made in Resolution 30/1, there continues to be impunity for violations of international human rights and humanitarian law. The absence of accountability and the slow progress on other fronts has disillusioned many victims’ groups and eroded hopes for the transitional justice process”.⁹⁶

Also in March 2019, Daily News Sri Lanka cited Verité Research as assessing that Sri Lanka had fulfilled six of the 36 commitments in Resolution 30/1.⁹⁷ It further described that “As at March 2019, the government has made ‘poor progress’ in fulfilling a majority of the commitments on human rights, accountability and reconciliation contained in Resolution 30/1. Most commitments saw no change in

⁹³ International Commission of Jurists, [Written statement to the UN High Commissioner for Human Rights](#), 14 February 2019

⁹⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019

⁹⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 15 and 16

⁹⁶ Amnesty International, [Sri Lanka: New Human Rights Council resolution must lead to faster progress](#), 21 March 2019

⁹⁷ Daily News, [Resolution 30/1: Four years on, 6/36 completed](#), 20 March 2019

implementation status over the past year, and four commitments have remained at ‘no progress’ since 2018”.⁹⁸

Amnesty International reported in its annual report covering events in 2019 that “Commitments to pursue truth, justice, reparations and guarantees of non-recurrence for international crimes and other serious human rights violations remained elusive for most victims of Sri Lanka’s decades-long conflict that ended in 2009”.⁹⁹ Furthermore “The proposed truth and reconciliation commission and a special court to ensure accountability through prosecutions were not established. Following the November presidential election, the new government distanced itself from the UNHRC process, saying that it is reviewing the resolutions and claiming that it is not bound by the commitments made by the previous government”.¹⁰⁰

In May 2019 Human Rights Watch reported that “ten years since the end of Sri Lanka’s brutal civil war, the government has failed to provide justice for the conflict’s many victims”.¹⁰¹ The same source further noted “The Sri Lankan government pledged to provide justice for wartime abuses and to take other measures to promote respect for human rights in a United Nations Human Rights Council resolution adopted in October 2015. While there has been some progress to address these commitments, there has been none to provide justice and accountability”.¹⁰²

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “A decade has passed since the end of Sri Lanka’s civil war, yet there is no functioning system for accountability for the families of the disappeared. The government’s 2015 UNHRC commitments for transitional justice mechanisms that would deliver truth and justice, reparations and accountability have gone unfulfilled. Constitutional reform measures were promised by the previous government as part of a power-sharing deal and were seen by the Tamil National Alliance (TNA) as guaranteeing non-recurrence of human rights violations, but these efforts have likewise been abandoned. Two months into his tenure, President Rajapaksa stands in violation of the 19th Amendment of the Constitution. There have also been rollbacks of measures to ensure checks and balances and independent commissions as guaranteed in the Constitution”.¹⁰³ The same source further explained with regards to access to effective remedies that:

A Working Group in Sri Lanka drafted legislation for a truth seeking commission, but Sri Lanka did not indicate its timeline of implementation and whether it was expected to pass. A human rights activist filed a Right to Information (RTI) application requesting all draft legislation related to the pledged transitional justice mechanisms. On September 3rd, 2019 (after 16 months of RTI hearings), she was told by the State Council for the Prime Minister’s office that the State could provide no information regarding any Truth Commission or Judicial Mechanism.¹⁰⁴

⁹⁸ Daily News, [Resolution 30/1: Four years on, 6/36 completed](#), 20 March 2019

⁹⁹ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

¹⁰⁰ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

¹⁰¹ Human Rights Watch, [Sri Lanka: Failed Pledges Mar 10 Years Since War’s End](#), 17 May 2019

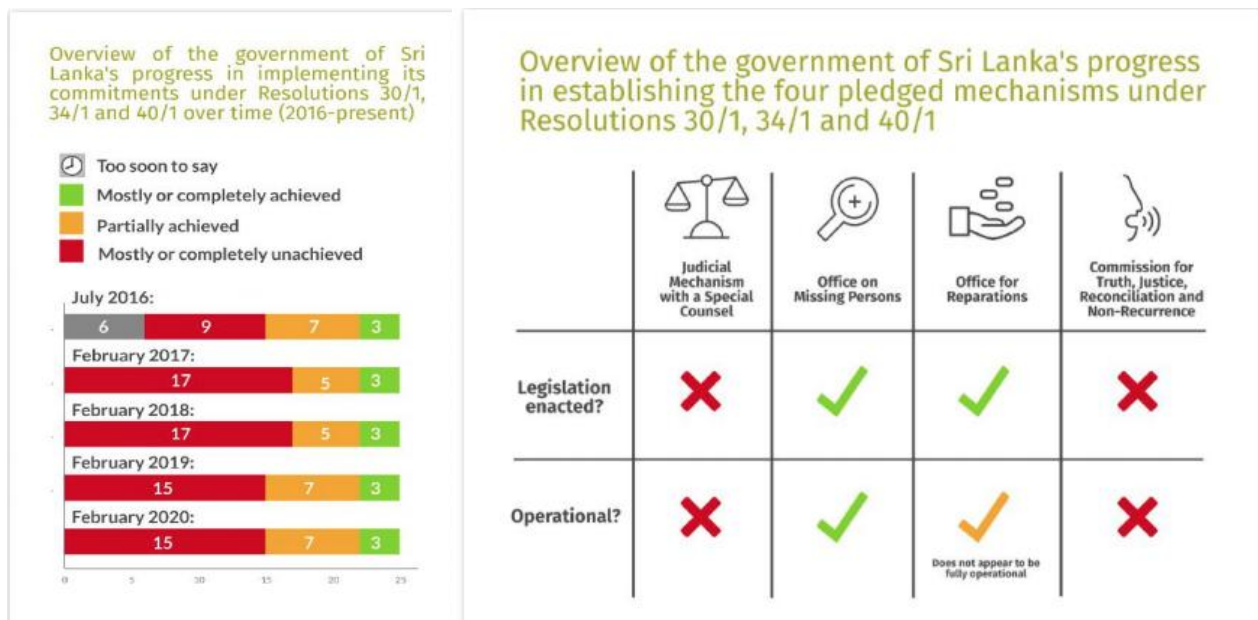
¹⁰² Human Rights Watch, [Sri Lanka: Failed Pledges Mar 10 Years Since War’s End](#), 17 May 2019

¹⁰³ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Summary*

¹⁰⁴ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p. 3

In January 2020 Journalists for Democracy in Sri Lanka reported that “The new government of Sri Lanka has approved plans to design laws aimed at granting immunity to members of its intelligence services who have been accused of grave human rights violations. [...] The controversial legislation to be named as the ‘National Intelligence Act’ had been proposed by the president’s elder brother and State Minister for Defence Chamal Rajapaksa”.¹⁰⁵

In February 2020 the Sri Lanka Campaign for Peace and Justice provided a further detailed analysis of the overall progress that had been made in establishing the four pledged transitional justice mechanisms and provided the following infographics illustrating their assessment:¹⁰⁶



The same source further assessed that “Our findings paint a deeply troubling picture. Four and a half years since the adoption of Resolution 30/1, the overwhelming majority of the commitments made by the government of Sri Lanka remain either mostly or completely unachieved. Just one of the four key transitional justice mechanisms pledged has been fully operationalised. And, crucially, almost nothing has been done to tackle Sri Lanka’s deeply rooted culture of impunity, which lies at the heart of repeated cycles of mass violence in the country”.¹⁰⁷ Moreover, “Meanwhile, an effort to reverse some of the limited progress made by the previous regime appears to be well underway. The most concerning recent trends include a spike in intimidation and harassment against journalists and human rights defenders, a wave of attempts to interfere with investigations into serious human rights abuses, and the renewal of pledges by government officials to release convicted perpetrators. All of these trends, if left unchecked, are likely to increase the risk of further human rights violations and undermine Sri Lanka’s chances of building a sustainable peace”.¹⁰⁸

¹⁰⁵ Journalists for Democracy in Sri Lanka, [Sri Lanka to legalise impunity for intelligence officials](#), 20 January 2020

¹⁰⁶ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *The Promise*, p. 3

¹⁰⁷ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *The Promise*, p. 3-4

¹⁰⁸ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *Abandoned promises?*, p. 5

In a February 2020 report reviewing the progress made by the Government of Sri Lanka in implementing resolution 30/1, particularly during the period from January 2019 to January 2020, the UN High Commissioner for Human Rights summarised that “While some progress has been made since 2015 in promoting reconciliation, accountability and human rights in line with resolution 30/1, the inability of the Government to comprehensively address impunity and to reform institutions may cause the recurrence of human rights violations. The High Commissioner is concerned by various signs indicating a possible reversal of past commitments by the Government, which would set back the promotion of reconciliation, accountability and human rights, reduce civic space and erode important institutional safeguards”.¹⁰⁹

The same source further noted that “There has been no further progress towards the development of a more comprehensive truth and reconciliation commission. A conceptual framework was reportedly last submitted on 16 October 2018 to the former Cabinet, which decided to refer it for observations by the Ministry of Defence. There has also been no progress towards establishing a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law, as envisaged in resolution 30/1”.¹¹⁰

Moreover, the UN High Commissioner for Human Rights considered that “Very little action has been taken to remove individuals responsible for past violations, to dismantle structures and practices that have facilitated torture, enforced disappearance and extrajudicial killings, and to prevent their recurrence”.¹¹¹ Furthermore “The High Commissioner is concerned that the failure to ensure accountability for past violations and to undertake comprehensive security sector reforms to dismantle the structures that facilitated them means that the people of Sri Lanka, from all communities, have no guarantee that violations will not recur. Such failure alienates victims and their communities, instilling distrust in the State, and has the potential to fuel further cycles of violence”.¹¹²

The International Federation of Journalists noted that “In February 2020, Sri Lanka Government (GoSL) withdrew its co-sponsorship from Resolutions 30/1, 34/1, & 40/1 on Human Rights, Reconciliation, and Accountability in Sri Lanka at the 43rd session of the UNHRC”.¹¹³

In response, the Sri Lanka Campaign for Peace and Justice stated that “The government has expressed its contempt for the measures outlined in the resolution and we can expect that the limited progress made so far will be halted or even reversed. For some Tamil victims and war survivors struggling to obtain justice over the past decade, it is a move that is likely to be greeted with a combination of anger and despair. For many others, it is one which will simply serve to vindicate what they have long said:

¹⁰⁹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, *Summary*

¹¹⁰ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, *para. 20*

¹¹¹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, *para. 34*

¹¹² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, *para. 40*

¹¹³ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 68

that the Sri Lankan state is terminally incapable of acting of its own accord to address allegations of serious crimes by its own forces".¹¹⁴

Reporting on the withdrawal, the International Commission of Jurists (ICJ) noted that :

The Sri Lankan legal system and judicial institutions have for decades demonstrated a chronic inability to address systemic and entrenched impunity for crimes under international law perpetrated by the military and security forces. The new President's promises to protect the military from accountability, and senior command appointments of individuals credibly accused of crimes under international law, only deepen the concern. As the High Commissioner notes, the failure to deal comprehensively with impunity and to reform institutions may lead to more human rights violations.

The Tamil population have consistently and rightly rejected any reconciliation process that ignores justice and accountability, and it is obvious that no justice or accountability process that is left to domestic Sri Lankan institutions alone can be credible. The compromise national-international "hybrid" judicial accountability mechanism foreseen by resolution 30/1 already fell far short of what the situation actually warrants.

If the Government seeks now to abandon even that compromise, purely international processes, whether before the ICC or through creation of another international accountability mechanism by the Council, and the exercise of universal jurisdiction by other States, are the only remaining options for securing the justice required by international law and indispensable to any credible reconciliation process for Sri Lanka.¹¹⁵

In another article the ICJ noted that it was "deeply concerned that the Government's official refusal to implement the UN resolutions comes at a time when the human rights situation in Sri Lanka is rapidly deteriorating. It threatens to undermine even the meagre progress made over the past few years, which albeit slow and wholly insufficient, has been primarily due to the continued engagement of the Council, OHCHR and international community".¹¹⁶

Thyagi Ruwanpathirana, South Asia Researcher at Amnesty International stated "Sri Lanka's decision to go back on its commitments to the Human Rights Council requires a robust response by the Council, including steps towards the creation of an accountability mechanism to ensure the victims of the nearly three-decade long conflict get the justice that is owed to them. [...] Sri Lanka has a long history of failed domestic accountability mechanisms. Their successive failures have bitterly disappointed victims of human rights abuses and violations, many of whom have waited years for an outcome that has failed to materialize. They need an international mechanism that is both trusted and can be effective".¹¹⁷

Also see [*IV.c. Impunity and accountability for post-civil war state perpetrated human rights abuses.*](#)

¹¹⁴ Sri Lanka Campaign for Peace and Justice, [Time for international action on accountability in Sri Lanka](#), 3 March 2020

¹¹⁵ International Commission of Jurists, [Justice & accountability for crimes under international law in Sri Lanka](#), 28 February 2020

¹¹⁶ International Commission of Jurists, [Sri Lanka: Government's refusal to implement UN Resolutions strengthens case for international justice mechanisms](#), 27 February 2020

¹¹⁷ Amnesty International, [Sri Lanka: Withdrawal from UN commitments requires robust response by Human Rights Council](#), 27 February 2020

iii. Office of Missing Persons Investigations from May 2016 to Present (May 2020)

This section should be read alongside [V.c. Forcible Disappearances](#).

In a January 2019 report Amnesty International explained that “The establishment of the Office on Missing Persons (OMP) began with draft legislation being gazetted on 27 May 2016. However, the Bill was only signed by President Sirisena on 20 July 2017. After a considerable delay, commissioners for the OMP were given their letters of appointment for a 3-year period, on 28 February 2018. Additionally, the National Budget for 2018, made allocations for the establishment of the OMP. The Office finally began its operations on 13 March 2018 and its mandate included searching for and/or tracing missing persons, making recommendations to authorities in relation to incidence of missing persons, and protecting the rights and interests of missing persons and their relatives”.¹¹⁸

The website of the Ministry of National Integration and Reconciliation explains that the objective of the OMP is to ensure necessary measures are taken:

- to provide appropriate mechanisms for searching and tracing if Missing persons and to clarify the circumstances in which such persons went missing and their fate;
- to make recommendations to the relevant authorities towards reducing the incidents of ‘Missing Persons’.
- to protect the rights and interests of missing persons and their relatives as provided for in this Act;
- to identify proper avenues of redress to which such missing persons or their relatives may have recourse.¹¹⁹

It further notes that “The Ministry is in the process of collecting District wise information of missing persons to facilitate the OMP”.¹²⁰

The same Amnesty International report further described that:

The construction of the Bill was problematic from its inception in that none of the recommendations made by the CTF [Consultation Task Force] submissions were incorporated into the Act. The table in the CTF report titled ‘A Summary of Actions Recommended to Amend the OMP Bill’ demonstrates that recommendations such as amendments to the mandate, the preamble, and the structure were not incorporated into the Bill. The recommendations by the CTF on the inclusion of gender sensitization for staff, membership criteria, and security of tenure of members were also ignored in the legislation. The Act, once passed, went so far as to weaken Section 11 (a) of the Bill, which allowed the office to enter into agreements with foreign persons or organizations; the final version removed the mention of the word ‘foreign’. The CTF criticised this amendment and states that it “makes international involvement and assistance less explicit”. The Bill has also been criticized by Amnesty International, for not explicitly including a duty to “forward information indicating individual criminal responsibility to appropriate authorities for further criminal investigation”.

After six public outreach meetings across the country and meetings with families of the disappeared, the OMP delivered an interim report to President Maithripala Sirisena on the 5th September 2018. While the

¹¹⁸ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 3.2 *Office on Missing Persons*, p. 10

¹¹⁹ Ministry of National Integration and Reconciliation, [Office on Missing Persons \(OMP\)](#), undated website [accessed 4 June 2020]

¹²⁰ Ministry of National Integration and Reconciliation, [Office on Missing Persons \(OMP\)](#), undated website [accessed 4 June 2020]

report makes progressive, and self-reflective recommendations, highlighting the structural issues that may challenge prosecutions in cases of “disappearances”, it also mentions legislation that require reform, the administrative challenges and lack of support faced by the OMP. The report falls short of addressing concerns of victim groups, particularly the resistance to the commissioner Major General (Rtd) Mohanthy Peiris, and the lack of Tamil speakers, and victim representation. The appointment of Major General Peiris, an officer of the Sri Lankan Army has been met with criticism especially from victim groups as they feel it demonstrates the Government's insensitivity. Additionally, the formula used to arrive at the suggested monthly living allowance of Rs. 6,000 to immediate family members of disappeared individuals who have no permanent income has not been disclosed.¹²¹

Adayaalam Centre for Policy Research reported in January 2019 that:

The OMP fell short of many expectations that the families of the enforced disappearances, particularly the Tamil families, had and it did not satisfy their needs and aspirations. The OMP has a representative from the security sector – a former Director/Legal of the Sri Lanka army who served in that position during the last stages of the war in 2009. By its own mandate the OMP is limited to tracing the whereabouts of the victims and recommend for reparations. Provisions in the Act with regard to the need to refer the OMP's findings of a criminal nature to an appropriate investigative/prosecutorial body have been deemed discretionary. Given that the Government has taken no steps to appoint a Special Prosecutor as per resolution 30/1 there appear to be no prospects for accountability for enforced disappearances. The Government's prosecutorial arm, the Attorney General's Department continues to appear for alleged perpetrators of the crime of enforced disappearance in habeas corpus cases. The Government has failed to win the confidence of the victims in establishing this mechanism. The mothers of the disappeared for a long time now have been asking to release a list of all those who surrendered to the armed forces during the last few days of the war and all those who have been kept in detention since 1983. The President promised to release this list in June 2017 but there has been no progress whatsoever.¹²²

The Sri Lanka Campaign for Peace and Justice reported a similar situation and noted in February 2019 that “As a backdrop to these developments, recurring blanket statements by the President, Prime Minister and other Cabinet Ministers that all missing persons are to be presumed dead, and that there is no information about their whereabouts, have caused great distress among affected families. It is worth noting that, if true, the statements would imply official acceptance of mass extrajudicial killing in Sri Lanka”.¹²³

In February 2019 the International Commission of Jurists submitted a report to the UN High Commissioner for Human Rights which stated that:

The Government adopted the Office of Missing Persons Act in August 2016, but only established the Office of Missing Persons (OMP) in February 2018, more than a year later. The fact that the establishment of the OMP was delayed until a month before the Resolution was to be re-examined at the UNHRC has led to the perception that its creation was primarily an attempt by the Government to avoid criticism for failing to meet its commitments under the Resolution.

The establishment of this institution is especially important for women because those who escaped the war with their lives are predominantly female. These women are now heads of their households and must

¹²¹ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 3.2 Office on Missing Persons, p. 11

¹²² Adayaalam Centre for Policy Research, [Letter to UNHRC from Civil Society Organizations working in the North and East](#), 30 January 2019

¹²³ Sri Lanka Campaign for Peace and Justice, [No will no way: Stalled efforts to deal with the past in Sri Lanka](#), February 2019, 5. Establish an Office of Missing Persons, p. 11

navigate the complicated processes of seeking the fate and whereabouts of their family members while dealing with a myriad of other socioeconomic issues.

A core function of the OMP is to facilitate the provision of certificates of absence to family members of a missing person. A certificate of absence legally recognizes that a person is disappeared and allows the family to conduct transactions as though the person is dead. The family may then be able to access bank accounts of the disappeared person and receive social welfare benefits they are entitled to as next of kin. These certificates of absence are most especially important for women in the Northern Province whose husbands are missing. Under the Jaffna Matrimonial Rights and Inheritance Ordinance, married Tamil women cannot conduct transactions involving immovable property (e.g. land) they own without the written consent of their husbands. This expressly discriminatory legal provision compounded with the disappearance of their husbands prevents women from using their properties to resume their livelihoods and restore normality to their lives.

The ICJ has already received reports that many women are hesitant to apply for certificates of absence, fearing that once issued, the State may cease any effort to find the disappeared person on the basis that they have been deemed to have died. There is therefore a need for the OMP to spread awareness about the use and importance of these certificates, especially among women.¹²⁴

In a February 2019 report, the UN High Commissioner for Human Rights reviewed the progress made by the Government of Sri Lanka between October 2015 and January 2019 in implementing resolution 30/1. The report noted with regards to the Office of Missing Persons Investigations that:

As at December 2018, the Office was the only functioning transitional justice mechanism. It has conducted six consultations with stakeholders throughout the country and made progress towards establishing the 12 regional offices it plans to open. On 5 September 2018, it presented its first interim report.

The High Commissioner appreciates the significant efforts made by the Office on Missing Persons in consulting stakeholders and in identifying priorities in its report, and encourages it to continue to strengthen its capacities. The High Commissioner also highlights the importance of promptly delivering results when handling individual cases as the best way to gain the trust of victims, while acknowledging that victim tracing procedures require thorough assessments in multiple areas and therefore take time. The mandate of the Office as defined in Act No. 14 of the Office on Missing Persons (establishment, administration and discharge of functions) (2016) establishing it – to “provide appropriate mechanisms for

searching and tracing [...] missing persons, and to clarify the circumstances in which such persons went missing, and their fate” – gives hope to many Sri Lankans who lost their loved ones. Many, however, remain sceptical, such as the families of those who surrendered in the last days of the conflict, who believe that their relatives are either in custody and that no institution is required to release them or acknowledge their whereabouts, or that they have been killed, in which case they do not believe that the Office disposes of the means necessary to identify and prosecute perpetrators. In its report, the Office identified the provision of short-term relief to families of victims as the priority and recommended the measures to that end, while acknowledging that they do not amount to reparations.

The High Commissioner is convinced that the Office on Missing Persons, if fully operational, can play a crucial role in tracing individuals, identifying remains and reuniting families. Nonetheless, the lack of a comprehensive strategy and of outreach on the process to address the past has led some to question how the various transitional justice processes and mechanisms envisaged would interact.¹²⁵

¹²⁴ International Commission of Jurists, [Written statement to the UN High Commissioner for Human Rights](#), 14 February 2019

¹²⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 19-22

Human Rights Watch noted in its annual report covering 2019 that “The Office on Missing Persons (OMP) began work in 2018, recording over 14,000 cases, but made little progress in discovering their whereabouts. Relatives of the forcibly disappeared protested against the OMP, questioning its authority and independence”.¹²⁶

In a May 2019 article, Ruki Fernando, a local human rights activist was cited as stating that “the distrust [of the government] is understandable. Families have received few answers in dealing with government institutions in the past, and he says there has been a ‘lack of demonstrated progress’ from the missing persons office so far. ‘[The] OMP needs to win trust by actions and not words, primarily by progress in tracing [the] fate[s] and whereabouts of at least [a] few disappeared persons’”.¹²⁷

In September 2019 the Tamil Guardian reported that “Tamil families of the disappeared have been protesting for almost 1,000 days across the North-East, demanding action on investigating forcible disappearances and accountability for the crimes committed”.¹²⁸

Sri Lanka Brief noted in September 2019 that “The Government has recently announced that a monthly allowance of USD 33 will be given to families of the missing who hold a certificate of absence (CoA) as interim relief until the Office for Reparations decides on compensation. Family members of a person who has been missing for more than one year, whose disappearance is attributable to the conflict in the North and East or its aftermath, political unrest, civil disturbances, enforced disappearances, or who is a member of the armed forces or Police and is identified as missing in action, are entitled to obtain a certificate of absence. However, there is reluctance to obtain the certificate of absence due to the fear that the Government will gradually issue death certificates, and forget truth and accountability. Since the introduction of CoA, only 723 families have obtained them, though the OMP has recorded over 14,000 cases of disappearances from all districts”.¹²⁹

A September 2019 Report of the Working Group on Enforced or Involuntary Disappearances noted that:

The Working Group welcomes the establishment of the Office of Missing Persons (OMP), as well as information that it has a range of powers to obtain information and evidence relevant to its investigations, that three regional offices have been opened and several trilingual reports have been published. It also welcomes information according to which the OMP now has access to the records of past commissions of inquiry and hopes the cases can be promptly transferred and recorded in the OMP’s case load. The Working Group notes though that further steps are needed to fully meet the recommendations made in relation to the OMP. In particular, the Working Group is concerned at information that the OMP has faced hurdles, which have limited its ability to acquire the necessary resources and to recruit staff in a timely manner. It urges the Government to ensure the OMP is fully recognized by all state agencies as an independent commission, that staff recruitment can proceed promptly, that the technical complexity of the mandate is taken into account in staffing and recruiting regulations. Sufficient funds should be allocated and should not be vulnerable to being diverted. It also notes that some families remain skeptical of the Office and encourages further efforts to reach out to all affected families throughout the country, as well as those living abroad and hopes the further regional, sub-regional and mobile offices planned, as well as the psychosocial responsiveness strategy, can be

¹²⁶ Human Rights Watch, [World Report 2020 - Sri Lanka](#), 14 January 2020

¹²⁷ The New Humanitarian, [A decade on, distrust grows for families of Sri Lanka’s missing thousands](#), 20 May 2019

¹²⁸ Tamil Guardian, [Relatives of disappeared demand answers and condemn Sri Lanka’s OMP](#), 16 September 2019

¹²⁹ Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, *OMP and the Office for Reparations*

promptly operationalised. It will also be important that the powers granted to the OMP are effectively implemented in practice.¹³⁰

A representative from the Northern province community interviewed by a UK Fact-Finding Mission in October 2019 stated that “Pre-2015 those who testified on cases about the disappeared were threatened and intimidated. 20 000 cases were referred, and 3-6 thousand people testified, some were openly intimidated pre-2015. Now, after the establishment of The Office of Missing Persons things are much better. There is still scrutiny but not as much as in the past”.¹³¹

The November 2019 report by the Australian Department of Foreign Affairs and Trade described that “The OMP has the power to investigate disappearances and trace missing persons, search detention centres, request information (including from the military) and summon people within Sri Lanka. The OMP does not have prosecutorial powers. The previous Presidential Commission to Investigate Complaints Regarding Missing Persons collected over 23,000 cases during its term from August 2013 to May 2016. The OMP has no time limit on its mandate, and is likely to take years to complete its work”.¹³²

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “After the presidential election, the Secretariat for Coordinating Reconciliation Mechanisms and the Office for National Unity and Reconciliation, the two bodies created to oversee the implementation of transitional government, have not been functioning effectively. Furthermore, the Office on Missing Persons and the Reparations Commission, which the newly elected Government placed under the Ministry of Justice, Human Rights and Legal Reforms, has recently come under additional threat: the Minister in charge (Hon. Nimal Siripala de Silva) expressed his displeasure at the creation of these two bodies”.¹³³ The same source further noted that:

The Government of Sri Lanka’s Office on Missing Persons and Office for Reparations needs to be strengthened. The Office on Missing Persons did not fully consider or did not respond to the input of families of the disappeared and the operationalization of the Office has been slow. Amnesty International noted in their January 2019 analysis of the OMP that “while the [Government’s OMP interim] report makes progressive and self-reflective recommendations ... it falls short in addressing concerns of victims groups.” The legislation to establish an Office for Reparations allows the Sri Lankan Cabinet and Parliament to intervene politically in the Office’s operations. Civil society was unable to raise these concerns to the Government during the intervening period of the bill to create the Office for Reparations. In April 2019, the Government reported that the Office intended to begin its operations after Commissioners were appointed and Rs.700 Million were allocated to its budget.¹³⁴

The Sri Lanka Campaign for Peace and Justice noted that “In February 2020, the OMP announced that it had begun the process of “consolidating a provisional list of missing and disappeared persons based on

¹³⁰ UN Human Rights Council, [Report of the Working Group on Enforced or Involuntary Disappearances](#), 10 September 2019, para. 6

¹³¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019, p. 53

¹³² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 2.46

¹³³ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Constitutional and Legal Framework; Right to an Effective Remedy (Article 2)*, p.2

¹³⁴ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p.4

information it has received”.¹³⁵ However, it also noted that “the OMP is now under threat, with indications from the current government that it plans to review its enabling legislation. While further details about the move are yet to be announced, the OMP has written to the President and other senior government figures to express the view that any amendments should be consistent with the needs and wishes of affected families, and should follow from consultations with them”.¹³⁶ The same source further noted that:

In January 2020, during a meeting with the UN Resident Coordinator in Sri Lanka, President Gotabaya Rajapaksa remarked that those reported missing since the end of the civil war are “actually dead,” stating that steps to be taken to issue death certificates to family members after “necessary investigations.” The remarks - which echo those of former Prime Minister Wickremesinghe that such individuals are to be presumed dead - have been described as “an affront” to the families of the disappeared; families who under Sri Lankan law have a right “to know the truth regarding the circumstances of an enforced disappearance.” They also raise serious concerns about the potentially pre-determined nature of any future inquiries under this government, and suggest that officials may seek to resist any investigations that could unearth criminal conduct by members of the Sri Lankan security forces (in whose custody thousands, mostly Tamils, are believed to have been forcibly disappeared).¹³⁷

The South Asia Terrorism Portal reported 23rd January 2020:

President Gotabaya Rajapaksa said necessary investigations would be conducted before a death certificate would be issued for thousands of people missing from the country’s three-decade long war, reports Colombo Page on January 24. Issuing a statement to clarify the certain International media reports which had said that President Gotabaya Rajapaksa had stated that 20,000 listed as missing are dead, the President’s Media Division said in all these reports however, the crucial detail that necessary investigations would be conducted before a death certificate would be issued had been wittingly or unwittingly omitted. “Most unfortunately, these news items are carrying a misquotation to the effect that President Rajapaksa as having “acknowledged” that over 20,000 disappeared are dead. For the record, he did not make any such acknowledgement and nor did he make a reference to a number as missing or dead,” the statement further emphasized.¹³⁸

In a February 2020 report the UN High Commissioner for Human Rights summarised that “With regard to the Office on Missing Persons and the Office for Reparations, despite the delays in implementation highlighted in previous reports, both institutions have achieved a considerable degree of development and have undertaken important initiatives”.¹³⁹ The same source further documented that:

In 2019, the Office on Missing Persons opened regional offices in Batticaloa, Jaffna, Mannar and Matara, and it recruited and trained permanent staff, including the victims and family support officers, who will be the first point of contact for family members. Importantly, the roll-out began in 2019 of a scheme for immediate relief for vulnerable families of missing persons who have obtained certificates of absence,

¹³⁵ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 5. *Establish an Office of Missing Persons*, p. 14

¹³⁶ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 5. *Establish an Office of Missing Persons*, p. 14

¹³⁷ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 5. *Establish an Office of Missing Persons*, p. 14

¹³⁸ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

¹³⁹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, *parag. 14*

with a budget allocation of 500 million Sri Lanka rupees (approximately 2.76 million United States dollars). This initiative has great significance for victims and their families and the timely disbursement of payments should be ensured. [...]

The Government has indicated that it may take a different approach to the issue of missing persons who may have been the victims of enforced disappearance during and after the conflict. This has created considerable distress and anxiety among victims and their families. In a statement on 24 January 2020, the President's Office clarified that "after the necessary investigations, steps would be taken to issue a death certificate and the necessary support for the families to rebuild their lives".

The High Commissioner appeals to the Government to take a more considered and comprehensive approach that ensures the investigation of these cases and provides justice and redress to victims and their families. This cannot be achieved through an expedited administrative and compensation process alone. As also highlighted by the Working Group on Enforced or Involuntary Disappearances, any comprehensive policy should address all the cases of enforced disappearance that took place in the country, regardless of the time of the disappearance and without any type of discrimination. A/HRC/33/51/Add.2, para. 65). Sri Lanka has now also ratified the International Convention for the Protection of All Persons from Enforced Disappearance. The High Commissioner urges the Government to safeguard and build upon the valuable work of the Office on Missing Persons, the Office for Reparations and the judiciary. As the Government seeks to bring closure to the issue of missing persons, it is critical that it provides adequate political support and resources to the Office on Missing Persons and the Office for Reparations to deliver concrete benefits for victims and their families, particularly in clarifying the fate of missing persons and providing reparations.¹⁴⁰

In a March 2020 article on the second anniversary of the establishment of the Office on Missing Persons, its Chairperson noted that "The recent decision by the Government to withdraw from co-sponsoring the United Nations Human Rights Council Resolutions have raised questions in the minds of the families as to whether their expectations regarding finding answers to the disappearances of their loved ones could be realised. The OMP observes that the need for a mechanism with a comprehensive mandate arises from the rights of Sri Lankans under domestic law, Sri Lanka's obligations under international law, the recommendations of past commissions of inquiry, the demands of the families, and the legal and moral obligation of the State towards its citizens whose loved ones have gone missing".¹⁴¹

II. Political Developments since 2018

a. Major Political Actors

i. Maithripala Sirisena

The BBC reported that "Maithripala Sirisena became Sri Lanka's president after a surprise victory in elections in January [2015]. He had been a close ally of his predecessor Mahinda Rajapaksa - until his unexpected announcement that he planned to run against him. Mr Rajapaksa's supporters were quick to label him a traitor. Mr Sirisena was one of the most powerful men in the Sri Lanka Freedom Party before he defected along with a number of other ruling party figures. Coming from a farming family in the

¹⁴⁰ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 15-19

¹⁴¹ Asian Human Rights Commission, [SRI LANKA: Second Anniversary of the establishment of the Office on Missing Persons](#), 5 March 2020

Sinhalese heartland, he appealed to the same demographic as Mr Rajapaksa. [...] Until November 2014 he was general secretary of the Sri Lanka Freedom Party and health minister”.¹⁴²

The International Crisis Group explained that:

Sirisena was elected president in January 2015 after he left then-president Mahinda Rajapaksa’s cabinet and challenged him with the backing of Wickremesinghe’s United National Party (UNP), a wide network of civil society groups, and a small number from Sirisena’s – and Rajapaksa’s – Sri Lanka Freedom Party (SLFP). Sirisena was elected on a platform of democratic renewal and reconciliation, and backed by an unusual coalition of Tamil, Muslim and more liberal Sinhalese voters. He promised to hold members of the Rajapaksa administration and family accountable for alleged corruption and assassinations, and to deliver justice for war crimes committed during the military campaign against the Tamil Tigers. He also pledged to end the executive powers of the presidency, which long have been criticised as anti-democratic and have contributed to Sri Lanka’s history of political instability and grave human rights abuses.¹⁴³

Amnesty International explained that Sirisena “was elected with substantial voter support from the North and East of Sri Lanka, which were the worst affected regions in the war. Later that year, a new coalition government was sworn in on an election platform that promised good governance. One of the key results of these commitments, was that the Government of Sri Lanka co-sponsored Human Rights Council Resolution 30/15 , (Resolution 30/1) on 1 October 2015 to demonstrate the coalitions’ support of human rights in Sri Lanka and its willingness to engage with the international community around it”.¹⁴⁴

Associated Press noted in October 2019 that “Sirisena’s election in 2015 elevated Sri Lanka’s status in the international community, which had shunned the country during the Rajapaksa administration over its human rights record. His alliance with [...] Prime Minister Ranil Wickremesinghe, whose party Sirisena had worked against throughout his political career, was seen as a new kind of political culture and something that other countries could emulate. But Sirisena took over the leadership of his previous party, the Sri Lanka Freedom Party, which Rajapaksa had led, against the wishes of his partners. As a result, many former members of the Rajapaksa government accused of corruption who opposed the policies of the Sirisena-Wickremesinghe alliance joined the Cabinet and began to have a bigger say in the government”.¹⁴⁵

A Congressional Research Service briefing explained that in January 2015 “Parliamentary elections later in 2015 led to the formation of a unity government supportive of Sirisena’s reform agenda, including efforts to reduce the authority of the executive presidency Sirisena’s governing coalition began to fracture after a poor performance in the February 2018 local elections, losing out to the newly-formed Sri Lanka Podujana Peramuna (SLPP) party, which capitalized on rising Sinhalese ethnic nationalism. In late 2018, Sirisena sparked a political crisis when he tried unsuccessfully to dismiss then-Prime Minister

¹⁴² BBC, [Profile: Sri Lanka's Maithripala Sirisena](#), 14 August 2015

¹⁴³ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018, II. An Unconstitutional Change of Power

¹⁴⁴ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, Introduction, p. 7

¹⁴⁵ Associated Press, [Sri Lanka's Sirisena exits, with reform promises unfulfilled](#), 8 October 2019

Wickremesinghe of the opposition United National Party (UNP), and replace him with Mahinda Rajapaksa”.¹⁴⁶

The International Crisis Group noted in an October 2018 report that:

Within months of taking office, Sirisena won parliamentary approval for the 19th amendment to the constitution, which weakened – but did not remove – the president’s executive powers, restored the independence of several government oversight bodies, and reimposed the two-term limit on the presidency, which Rajapaksa had lifted in 2010. In the August 2015 parliamentary elections, the UNP won a strong plurality of votes and formed a national unity government with the United People’s Freedom Alliance (UPFA), the coalition headed by Sirisena’s party.

The national unity government, headed jointly by Sirisena and Wickremesinghe, succeeded in restoring media freedoms and the independence of the police and judiciary, at least as compared to the situation under Rajapaksa. But its failure to improve the economy for most Sri Lankans, widely publicised reports of ongoing corruption by senior UNP [United National Party] figures – which they strenuously deny – and the lack of prosecutions for high-profile crimes committed during the Rajapaksa presidency have severely damaged its credibility as an engine of reform. The government has grown increasingly unpopular over the past year, as the population contends with rising oil prices and a falling rupee, and as Sirisena and Wickremesinghe have regularly and publicly reversed each other’s policies – notably on the economy and ethnic reconciliation.¹⁴⁷

For further information, see [II.b. 2018 Constitutional Crisis](#).

The Associated Press noted in October 2019 that “Sri Lankan President Maithripala Sirisena has decided not to seek reelection next month after failing to fulfill many of the promises of his first term”.¹⁴⁸

ii. Gotabaya Rajapaksa

A December 2019 Congressional Research Service briefing described that “Gotabaya Rajapaksa, [is] a former Secretary of Defense who is credited by many Sinhalese with playing a central role in defeating the Liberation Tigers of Tamil Eelam (LTTE) in 2009 and ending the country’s 26-year-long civil war”.¹⁴⁹

The International Commission of Jurists noted that “As Defence Secretary, Gotabaya was accused of ordering the killing of surrendering LTTE fighters, ordering strikes on civilians and hospitals, and authorizing attacks on human rights defenders”.¹⁵⁰ Reporters Without Borders noted that he is “Known as the ‘Terminator’ from his decade as defence secretary during his brother Mahinda’s two terms as president from 2005 to 2015 [...]. During his time as defence secretary, viewed by Sri Lankan journalists as a dark decade, ‘Gota’ reportedly oversaw the ‘white van commando,’ a team of special operatives that used white vans to abduct and murder journalists. At least 14 disappeared in this fashion”.¹⁵¹

¹⁴⁶ Congressional Research Service, [Sri Lanka](#), 4 December 2019

¹⁴⁷ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018, II. *An Unconstitutional Change of Power*

¹⁴⁸ Associated Press, [Sri Lanka’s Sirisena exits, with reform promises unfulfilled](#), 8 October 2019

¹⁴⁹ Congressional Research Service, [Sri Lanka](#), 4 December 2019

¹⁵⁰ International Commission of Jurists, [Sri Lanka must demonstrate respect for human rights and address impunity](#), 19 November 2019

¹⁵¹ Reporters Without Borders, [Sri Lanka](#), undated [accessed 29 May 2020]

The Congressional Research Service further noted that “Gotabaya Rajapaksa [...] was sworn in as Sri Lanka’s new president in November 2019. Gotabaya won the election with 52.3% of total votes, while his main political rival, Sajith Premedasa of the UNP [United National Party], received 42% of the vote. The Rajapaksas’ political base is expected to be further strengthened in 2020 when the SLPP [Sri Lanka’s People’s Front] is projected by observers to win a majority of seats in parliament. Gotabaya Rajapaksa campaigned heavily on a platform of national security, pledging to suppress Islamist extremism. His key base of support is the Sinhalese Buddhist majority. Most Tamils, who are largely Hindu or Christian, as well as most Muslims voted for his opponent. Former Prime Minister Ranil Wickremesinghe of the UNP announced his resignation following the election. This move opened the way for Gotabaya to select his brother as prime minister”.¹⁵²

The International Federation of Journalists noted that “National security and political stability were the key pledges made by retired Lieutenant Colonel Gotabaya Rajapaksa who contested the presidential election in November 2019. Having secured 52 per cent of the votes, President Rajapaksa was elected as the sixth executive president of the country. His campaign appealed largely to the Sinhala-Buddhist majority, and he secured over 60 per cent of the Sinhalese votes. Only 20 per cent of the Tamil and Muslim electorate voted for President Rajapaksa, pointing to the continued division based on identity and the unresolved conflict along ethnic lines”.¹⁵³

The Centre for Policy Alternatives reported that “The election of President Gotabaya Rajapaksa is a significant departure from previous elections as it was the first time an individual with no previous experience of elected political office was sworn in as President. This was also the first Presidential election where the mandate of the winner of 6,924,255 votes was received predominantly from the predominantly Southern Sinhala-majority electorate. The margin of over a million votes is an indicator of the massive support for President Rajapaksa who ran on a platform of security, stability and discipline and speaks to the deeply polarised post war context in Sri Lanka”.¹⁵⁴

The Congressional Research Service noted that “Many observers fear that Gotabaya’s election could lead to a return to nepotistic and authoritarian style government and an end to the limited democratic reforms and limited reconciliation measures with the ethnic Tamil community that occurred under former President Sirisena. reportedly seeking to repeal the 19th Amendment, a key reform of the previous government that curtails some of the powers of the president and makes the office more accountable to parliament. For the location of his swearing in ceremony, Gotabaya chose a sacred Buddhist shrine in the ancient capital of Anuradhapura. The shrine commemorates the defeat in 140 BC of King Elara, a Tamil Hindu king, by the Buddhist King Dutugemunu”.¹⁵⁵

Following his election, the International Commission of Jurists stated that “The election of Gotabaya Rajapaksa, after a highly polarizing campaign, has alarmed human rights defenders in Sri Lanka and

¹⁵² Congressional Research Service, [Sri Lanka](#), 4 December 2019

¹⁵³ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 68

¹⁵⁴ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Introduction*, p. 1

¹⁵⁵ Congressional Research Service, [Sri Lanka](#), 4 December 2019

abroad, who have little reason to believe that someone facing such serious allegations of perpetrating human rights violations can be relied upon to meet the country's obligations under international law".¹⁵⁶

Al Jazeera noted in November 2019 that "The 70-year-old leader popularly known as Gotabaya campaigned on the plank of security and economic revival. He has promised to fight corruption and make Sri Lanka safe seven months after deadly Easter Sunday attacks blamed on Muslim groups.[...] A former lieutenant colonel in the army, Rajapaksa plans to rebuild the security arms of the state, including its intelligence cells and surveillance networks that he says the outgoing administration dismantled under international pressure".¹⁵⁷ The same source further noted that "As president, he has offered voters technocratic, military-style governance led by professionals rather than politicians".¹⁵⁸

A November BBC article noted that:

Analysts feel that a Gotabaya presidency is likely to become a Rajapaksa family affair, and will bring Mahinda - who could not contest the 2019 election due to Sri Lanka's presidential term limits - back into the limelight.

The signs certainly seemed to be there. Although Gotabaya was the candidate, Sri Lanka watchers noted that Mahinda featured prominently during his brother's election campaigning - including in publicity material - and even answered questions at press conferences.¹⁵⁹

In November 2019 the Straits Times reported that "Corruption charges against Sri Lankan President Gotabaya Rajapaksa were dropped on [...] Nov 21 by a court, which handed his passport back as he acquired immunity from prosecution after being elected last weekend. Under Sri Lanka's Constitution, no court proceedings can be maintained against a serving president. However, action could be taken after he leaves office. The High Court had indicted Mr Rajapaksa in September last year on charges of siphoning 33 million rupees (\$251,100) in state funds to build a memorial for his parents".¹⁶⁰

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office there "are disturbing trends towards authoritarianism, militarization and securitization with a new brand of professionals directly loyal to the President playing an increasingly influential role in the policy direction of the present Government. This is also in a context where an aggressive line is being taken towards reconciliation and rights protection with incidents of cracking down on dissent, reverting back to the patriots vs traitors dichotomy and the initiation of a fresh assault on independent institutions. These are coupled with a bleak economic outlook of low growth, reduced FDIs [Foreign Direct Investment] and increasing debt".¹⁶¹

A May 2020 Carnegie Endowment for International Peace article described that "While [some] democratically elected leaders are now losing support through gross mismanagement of the pandemic,

¹⁵⁶ International Commission of Jurists, [Sri Lanka must demonstrate respect for human rights and address impunity](#), 19 November 2019

¹⁵⁷ Al Jazeera, [Gotabaya Rajapaksa sworn in as Sri Lanka's new president](#), 18 November 2019

¹⁵⁸ Al Jazeera, [Gotabaya Rajapaksa sworn in as Sri Lanka's new president](#), 18 November 2019

¹⁵⁹ BBC, [Gotabaya Rajapaksa: Sri Lanka's powerful new president](#), 25 November 2019

¹⁶⁰ Straits Times, [Corruption charges dropped as Gotabaya Rajapaksa has immunity as new Sri Lanka President](#), 21 November 2019

¹⁶¹ Centre for Policy Alternatives, [Sri Lanka's Recent Political Challenges & Prospects for the Future](#), March 2020, *Introduction*, p. 2

others are managing to consolidate their power in questionably democratic fashion. India, Israel, Poland, and Sri Lanka are apt examples”.¹⁶² The same source further noted that:

As the sociologist Ahilan Kadirgamar writes, the pandemic has allowed the government to reinforce “its push to mobilize majoritarian social forces, consolidate power, and forestall an economic crisis.” It has adopted a militarized response to the pandemic and initiated widespread anti-Muslim scapegoating. Rajapaksa is no stranger to exploiting identity politics for political gain—he honed many of these tactics when he served as defense secretary in the final phases of Sri Lanka’s brutal civil war.¹⁶³

For information of executive interference, see [II.e. Executive Interference and Political Appointments](#).

iii. Mahinda Rajapaksa

The BBC reported that Mahinda Rajapaksa “became the country's youngest ever parliamentarian in 1970 at the age of 24. He went on to become leader of the Sri Lanka Freedom Party, prime minister in 2004, and then president in 2005”.¹⁶⁴ A further BBC article noted that “His decade as president was dogged by allegations of serious human rights abuses, as well as claims - which he strenuously denies - that he was corrupt while in power. His critics say he presided over the indiscriminate shelling of civilians at the end of the war in 2009 and did little or nothing to stop the alleged rape and torture of Tamil civilians by the Sri Lankan security forces after it concluded. Supporters, however, argue he had to act firmly and decisively to defeat one of the world's most dangerous militant groups”.¹⁶⁵

Human Rights Watch summarised that “The UN, Human Rights Watch, and other human rights groups, and the media, found that under Mahinda Rajapaksa’s administration, the Sri Lankan army shelled civilians and hospitals, and raped and executed prisoners during the final months of the civil war against the separatist Liberation Tigers of Tamil Eelam (LTTE). The UN found repeatedly in its reports that some military abuses during the conflict amounted to war crimes and crimes against humanity. The previous Rajapaksa government was also implicated in numerous human rights violations, including arbitrary arrests, torture, enforced disappearances, and extrajudicial killings. In a number of cases, including the 2008 abduction of Keith Noyahr, the 2009 murder of Lasantha Wickrematunge, and the 2010 enforced disappearance of Prageeth Eknaligoda, evidence produced in court implicated military intelligence officers under the authority of Gotabaya Rajapaksa, as the defense secretary. There has been no final verdict in any of these cases”.¹⁶⁶

According to the BBC, “Mr Rajapaksa is a former lawyer who previously described himself on his website as ‘a rebel with a cause’. His core support is rural, conservative, Buddhist and dominated by the Sinhalese majority, boosted by his image as a folksy, back-slapping man of the masses. He has long been renowned as a cunning political operator. However, his career took a significant nosedive in 2015. He underestimated the level of support for his rival to the presidency, Maithripala Sirisena, in the January presidential vote and failed eight months later to secure political rehabilitation by winning the

¹⁶² Carnegie Endowment for International Peace, [What Democracy Will Fall Next?](#) 7 May 2020

¹⁶³ Carnegie Endowment for International Peace, [What Democracy Will Fall Next?](#) 7 May 2020

¹⁶⁴ BBC, [Profile: Mahinda Rajapaksa](#), 8 September 2010

¹⁶⁵ BBC, [Mahinda Rajapaksa: Sri Lanka's long-time leader back in seat of power](#), 21 November 2019

¹⁶⁶ Human Rights Watch, [Sri Lanka: Repeal Abusive Counterterrorism Law](#), 10 January 2020

premiership. But out in the cold, he began to rebuild. A new political party, filled with loyalists, emerged from the ashes and won a landslide victory in 2018's local elections".¹⁶⁷

The BBC further noted in November 2019 that "When long-time Sri Lankan leader Mahinda Rajapaksa was defeated in the presidential elections of January 2015, it looked like his years in power were over and the island nation was entering a new political era. His attempt to win an unprecedented third term - after changing the constitution to allow such a bid - had failed".¹⁶⁸ Moreover:

Mr Rajapaksa used his time as president to consolidate his position. The constitution was changed to allow him to serve a third term, and three brothers were awarded influential positions, leading to accusations that he was running the country like a family firm. The dynasty effectively controlled much of the national budget. He was also accused of condoning a crackdown on dissent, and his supporters are alleged to have been involved in the murder of journalists who were critical of the government, claims rejected by the authorities.¹⁶⁹

Furthermore, "In October 2018, as the country was gripped by a constitutional crisis, he was appointed prime minister. It was short-lived - he resigned the post just seven weeks later - but gave some hint of what was to come. Less than a year later, he was sworn in as interim prime minister".¹⁷⁰ For further information, see [II.b 2018 Constitutional Crisis](#).

Following his brother Gotabaya's Presidential election win in November 2019, Mahinda Rajapaksa was sworn in as Prime Minister.¹⁷¹ The Associated Press explained that "Ranil Wickremesinghe stepped down as prime minister [...] to clear the way for the president to form his government. Wickremesinghe said in a statement that he was quitting despite having a parliamentary majority, respecting the mandate Gotabaya Rajapaksa received in [the] presidential election".¹⁷²

According to Christian Solidarity Worldwide in a March 2020 article:

Prime Minister Mahinda Rajapaksa, has also illustrated close ties to Buddhist nationalist groups, like the BBS [Bodu Bala Sena]. During an address to senior Buddhists leaders at the Vibhajjavadi Dhamma Symposium and Maha Tripitaka Pooja on 4 January [2020], Mahinda stated that the defence of the Buddhist order is central to ensuring unity and the protection of religious freedom of Sri Lankans who profess other faiths. There are genuine concerns that the rhetoric employed by the Rajapaksa brothers will serve to embolden Buddhist extremists across Sri Lanka, to the detriment of religious minorities.¹⁷³

iv. Major General Shavendra Silva

Amnesty International reported in its annual report covering events in 2019 that "In August, Major General Shavendra Silva was appointed Army Commander after being promoted to Chief of Staff of the

¹⁶⁷ BBC, [Mahinda Rajapaksa: Sri Lanka's long-time leader back in seat of power](#), 21 November 2019

¹⁶⁸ BBC, [Mahinda Rajapaksa: Sri Lanka's long-time leader back in seat of power](#), 21 November 2019

¹⁶⁹ BBC, [Mahinda Rajapaksa: Sri Lanka's long-time leader back in seat of power](#), 21 November 2019

¹⁷⁰ BBC, [Mahinda Rajapaksa: Sri Lanka's long-time leader back in seat of power](#), 21 November 2019

¹⁷¹ Associated Press, [Ex-President Mahinda Rajapaksa sworn in Sri Lanka's new PM](#), 21 November 2019

¹⁷² Associated Press, [Ex-President Mahinda Rajapaksa sworn in Sri Lanka's new PM](#), 21 November 2019

¹⁷³ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Recent developments*

Army earlier in the year. In 2014, an investigation conducted by the Office of the UN High Commissioner for Human Rights (OHCHR) found evidence of his command responsibility in connection with serious human rights violations during the conflict”.¹⁷⁴

In response to his appointment, a group of UN experts expressed serious concern his appointment, noting that “The appointment of Lieutenant General Silva to the highest ranks in Sri Lanka’s Army, while facing allegations of this nature, is an affront to the victims and a harrowing sign of the perpetuation of impunity in the country, which risks undermining the trust of Sri Lankan society on state institutions and fuelling further destabilization”.¹⁷⁵

Human Rights Watch reported in September 2019 that “The United Nations took a stand against impunity for war crimes this week by announcing it will no longer accept non-essential Sri Lankan troops in peacekeeping missions. The reason for this unusual move is that Sri Lanka’s newly appointed army chief, Gen. Shavendra Silva, faces credible allegations of war crimes”.¹⁷⁶ It further considered that “Silva’s appointment has exposed the Sri Lankan army as one institutionally committed to impunity for grave abuses”.¹⁷⁷

On 14 February 2020, Silva was publicly designated by the U.S. State Department as barred from entry to the U.S. on the basis of being a foreign official about whom the Secretary has credible information indicating that he has “been involved, directly or indirectly, in [...] a gross violation of human rights.”¹⁷⁸

In April 2020 Human Rights Watch noted that “Sri Lanka’s inspector general has ordered police to arrest those who ‘criticize’ officials involved in the coronavirus response, or share ‘fake’ or ‘malicious’ messages about the pandemic”.¹⁷⁹ Furthermore “Sri Lankans’ concerns that their rights will be respected are particularly crucial since President Gotabaya Rajapaksa has assigned the army chief to lead Sri Lanka’s coronavirus response. Gen. Shavendra Silva, who heads the National Operation Centre for Prevention of COVID-19 Outbreak, faces credible allegations of war crimes during the final months of Sri Lanka’s long civil war. Ethnic Tamils, Muslims, and critics of the government, who have long borne the brunt of security force abuses, will be especially concerned that their civil and political rights will not be respected”.¹⁸⁰

The International Truth and Justice Project published a dossier on Shavendra Silva in January 2019.¹⁸¹

For further information on political appointments, see [II.e. Executive Interference and Political Appointments](#).

¹⁷⁴ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

¹⁷⁵ OHCHR news, [Sri Lanka: UN experts say army chief appointment is “affront to victims” of rights abuses](#), 27 August 2019

¹⁷⁶ Human Rights Watch, [UN Takes Strong Stand on Sri Lanka’s Army Chief](#), 26 September 2019

¹⁷⁷ Human Rights Watch, [UN Takes Strong Stand on Sri Lanka’s Army Chief](#), 26 September 2019

¹⁷⁸ Congressional Research Service, [FY2020 Foreign Operations Appropriations: Targeting Foreign Corruption and Human Rights Violations](#), 17 April 2020

¹⁷⁹ Human Rights Watch, [Sri Lanka Uses Pandemic to Curtail Free Expression](#), 3 April 2020

¹⁸⁰ Human Rights Watch, [Sri Lanka Uses Pandemic to Curtail Free Expression](#), 3 April 2020

¹⁸¹ International Truth and Justice Project, [Shavendra Silva, Chief of Army Staff, Sri Lanka](#), 29 January 2019

b. 2018 Constitutional Crisis

The International Crisis Group explained that “On 26 October, Sri Lanka’s President Maithripala Sirisena abruptly dismissed the prime minister, Ranil Wickremesinghe, and appointed controversial former President Mahinda Rajapaksa to the premier’s post, in a move that contravenes the constitution and threatens to destabilise the country”.¹⁸² The International Commission of Jurists described it as an “unexpected move” which followed “the withdrawal of the United People’s Freedom Alliance from the National Unity Government”.¹⁸³

The International Crisis Group, describing the background to the crisis, noted that under the national unity government, headed jointly by Sirisena and Wickremesinghe, they had “regularly and publicly reversed each other’s policies – notably on the economy and ethnic reconciliation. The president and the prime minister have never formed a strong working relationship. Each has taken steps to undermine the trust and respect of the other”.¹⁸⁴ Furthermore:

The divisions and mistrust between the two men grew sharper after elections in February 2018 when Rajapaksa’s newly formed Sri Lanka Podujana Peramuna (SLPP) won a large majority of local councils and humiliated both Sirisena’s and Wickremesinghe’s parties, which campaigned more against each other than against the SLPP. [...]

With the failure of a parliamentary no-confidence vote against Wickremesinghe in March, which Sirisena was widely believed to support – he made little secret of his desire to see the prime minister defeated – the president was known to be in discussions with Rajapaksa and the SLPP about a new governing coalition. Given Wickremesinghe’s ability to retain majority support in parliament, however, it seemed Sirisena would be forced to maintain the status quo until the presidential election due by November 2019. The timing and the procedure used to remove Wickremesinghe as prime minister on 26 October thus came as a surprise. [...] Sirisena’s decision on 27 October to suspend parliament for three weeks suggests that he and Rajapaksa do not believe that they have the votes yet to defeat Wickremesinghe in the legislature.¹⁸⁵

Amnesty International detailed that “The crisis resulted in violent outbreaks in Parliament, when MPs who were opposed to the installation of Mahinda Rajapaksa attempted to demonstrate their majority in Parliament. With courts having issued a temporary order preventing Mahinda Rajapaksa from holding office, and Parliament having cut the budget of the Prime Minister, the country seemed to have been at a political impasse”.¹⁸⁶ Similarly, International Crisis Group noted in October 2018 that “The power struggle now underway between Rajapaksa and Wickremesinghe has already turned violent, with the new prime minister’s supporters attempting to stop a recently ousted minister from entering his office and clashing with his security detail”.¹⁸⁷ Furthermore:

One person died and two others were wounded when pro-Rajapaksa crowds attempted to prevent the dismissed petroleum minister, Arjuna Ranatunga, from entering his ministry on 28 October and Ranatunga’s bodyguard opened fire (the bodyguard and Ranatunga have both been arrested in

¹⁸² International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018

¹⁸³ International Commission of Jurists, [Sri Lanka: government must respect Constitutional procedures and uphold commitments to human rights accountability](#), 30 October 2018

¹⁸⁴ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018

¹⁸⁵ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018

¹⁸⁶ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, *Introduction* p. 7

¹⁸⁷ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018

connection with the shooting). Crowds of government employees from pro-Rajapaksa unions forcibly occupied government TV stations after Wickremesinghe's dismissal.¹⁸⁸

Asia Society reported that "A defiant Wickremesinghe took refuge in the official prime minister's residence and indicated that he would only leave office if he lost majority support in parliament. In response, Sirisena suspended parliament to give Rajapaksa time to secure support and dissolved the cabinet, allowing Rajapaksa to form a new one that had little credibility".¹⁸⁹ It further noted that:

In the following week [after October 26], Wickremesinghe, a majority of parliamentarians, and much of the international community called on the president and speaker to reconvene parliament to determine whether Wickremesinghe continued to enjoy majority support. At first, Sirisena agreed — suggesting first that parliament would reconvene on November 5 and again on November 7 — but then changed his mind both times. Given this evidence of Sirisena's lack of good faith, [Chief Justice] Jayasuriya declared that the majority of parliament considered the president's moves "unconstitutional" and that Wickremesinghe was the legitimate prime minister until a parliamentary majority approved Sirisena's changes. Under pressure, Sirisena finally announced parliament would reconvene on November 14. Reports of problematic horse-trading, intimidation, and bribery surfaced right away, and individual parliamentarians received absurdly large offers of money to defect.¹⁹⁰

According to the Sri Lanka Brief, "Several Members of the Parliament (MPs) crossed over to the 'new governing coalition' while reports surfaced that this coalition attempted to bribe MPs with hundreds of millions of rupees to crossover".¹⁹¹ Freedom House noted that after the president then suspended Parliament, "his supporters began efforts to convince MPs who backed Wickremesinghe to change sides".¹⁹² However:

These efforts did not succeed. Wickremesinghe retained the support of his own party, the United National Party, as well as the main parties representing the Tamil and Muslim minorities. A total of 116 members of Sri Lanka's 225-seat Parliament wrote to the speaker and requested a vote to establish who commands the confidence of the body. The speaker subsequently wrote to the president, recognizing Wickremesinghe as prime minister, criticizing the suspension, and calling on Sirisena to summon Parliament immediately.¹⁹³

The UN High Commissioner for Human Rights noted "Mr. Wickremesinghe argued that President Sirisena had no constitutional power to dismiss him given that he still enjoyed the confidence of the parliament. Sri Lanka was left in an unprecedented situation, with two individuals claiming to be the legitimate Prime Minister".¹⁹⁴ The Asia Foundation explained that "The resulting crisis provoked unprecedented public protests and resistance, until a definitive decision by the Supreme Court compelled the quarreling political leaders to adhere to constitutional norms".¹⁹⁵

¹⁸⁸ International Crisis Group, [Sri Lanka: Stepping Back from a Constitutional Crisis](#), 31 October 2018, III. *The Risks Ahead*

¹⁸⁹ Asia Society, [A South Asian 'Game of Thrones:' Behind Sri Lanka's Political Crisis](#), 4 December 2018

¹⁹⁰ Asia Society, [A South Asian 'Game of Thrones:' Behind Sri Lanka's Political Crisis](#), 4 December 2018

¹⁹¹ Sri Lanka Brief, [Sri Lanka Briefing Notes, Issue No 14](#), February 2019, 2. *CONSTITUTIONAL COUP AND ITS POLITICAL IMPLICATIONS*, p. 5

¹⁹² Freedom House, [Sri Lanka's Democracy Hangs in the Balance after 'Coup Attempt'](#), 15 November 2018

¹⁹³ Freedom House, [Sri Lanka's Democracy Hangs in the Balance after 'Coup Attempt'](#), 15 November 2018

¹⁹⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 11

¹⁹⁵ Asia Foundation, [2019: The Year Ahead in Asia](#), 2 January 2019

Journalists for Democracy in Sri Lanka reported that “As soon as Rajapaksa was sworn in as PM [...], mobs stormed state media institutions and took over editorial and technical control”. It cited the parliament’s speaker as stating “You would also appreciate that the forcible takeovers, which have been reported at State Media institutions, has been seen as transcending a mere internal breakdown of law and order, and would have severely damaging international implications”.¹⁹⁶

Furthermore, “On 9 November 2018, President Sirisena dissolved the parliament and called parliamentary elections. On 13 November, the Supreme Court suspended the dissolution of the parliament, which reconvened on 14 November 2018 and passed two motions of no confidence against the Government of Mahinda Rajapaksa, amidst disruptions and violence among members of parliament. President Sirisena rejected the motions, citing procedural grounds”.¹⁹⁷

Foreign Affairs documented that “On November 14 [2018], a fight broke out in the Sri Lankan Parliament. When the Speaker tried to call a vote, a group of MPs heckled him and rushed the podium. A rival faction tried to push the hecklers back. Men traded punches. One brandished a knife. A lawmaker cut himself trying to steal the Speaker’s microphone and ended up in the hospital”.¹⁹⁸

Al Jazeera noted that “Sri Lanka's parliament descended into chaos with MPs swinging punches and throwing projectiles a day after legislators voted the prime minister out of office”.¹⁹⁹ Journalists for Democracy in Sri Lanka reported that “Chairs, heavy volumes and chilli powder dissolved in water were among projectiles thrown by Rajapaksa loyalists at anti Rajapaksa law makers. Several MPs who supported the no-confidence motion and policemen were injured”.²⁰⁰

The UN High Commissioner for Human Rights noted that “On 3 December [2018], an interim order from the Court of Appeal, upheld by the Supreme Court on 14 December, restrained the functioning of the Prime Minister and Cabinet. On 13 December, the Supreme Court decided that Presidential Gazette No. 2096/70 that dissolved the parliament was ultra vires and unconstitutional. On 15 December, Mahinda Rajapaksa resigned, and on 16 December Ranil Wickremesinghe was once again sworn in as Prime Minister”.²⁰¹

The Bertelsmann Stiftung’s Transformation Index considered that “the resolution of the crisis with the reappointment of Wickremesinghe in December 2018 can be seen as a victory for the separation of powers. Nevertheless, differences in political priorities between the president and the prime minister hampered policy implementation even after December 2018”.²⁰²

¹⁹⁶ Journalists for Democracy in Sri Lanka, [Sri Lanka: Battle of two Prime Ministers turns deadly](#), 29 October 2018

¹⁹⁷ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 12

¹⁹⁸ Foreign Affairs, [The Future of Democracy in South Asia](#), 4 January 2019

¹⁹⁹ Al Jazeera, [Chaos in Sri Lanka parliament as MPs exchange blows](#), 15 November 2018

²⁰⁰ Journalists for Democracy in Sri Lanka, [Sri Lanka's disputed PM sacked by parliament for second time \(VIDEO\)](#), 16 November 2018

²⁰¹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 12

²⁰² Bertelsmann Stiftung, [Transformative Index \(BTI\) 2020 Country Report, Sri Lanka](#), 29 April 2020, *Transformative Status, II. Governance Performance, 14. Steering Capability*, p. 24

In a February 2019 report, the UN High Commissioner for Human Rights noted “the political crisis that erupted in October 2018 and the associated concerns about a possible regression in human rights, transitional justice and the reconciliation agenda, and related mechanisms”.²⁰³ It further considered that “for seven weeks, the legitimacy and the legality of a number of authorities were in question, which led to further delays in the implementation of the recommendations made in Human Rights Council resolution 30/1, for instance owing to staff changes in key institutions and uncertainty with regard to reporting lines”.²⁰⁴

For further information on how the constitutional crisis impacted on transitional justice, see [I.c.ii Allegations of Corruption and Impunity for Conflict-Era Crimes](#).

For further information on the treatment of government critics, see section [V.e.ii. Treatment of Political Opposition](#).

c. 2019 Presidential Election

Election results

Al Jazeera explained that the November 2019 presidential election was contested “by a record 35 candidates from across the political spectrum” and provided background information on the main candidates, voting system and key issues.²⁰⁵

The Jamestown Foundation explained in a November 2019 article that “Though Rajapaksa was the front runner, his victory was not guaranteed as rival candidate Sajith Premadasa from the ruling United National party (UNP) ran a strong campaign. A victory for Premadasa would have likely not seen the situation for minority ethnic communities deteriorate as significantly, but he ran his campaign on promises to eradicate terrorism, which would have likely disproportionately affect minority Muslim and Tamil communities while allowing militant Buddhist groups to continue operating. At the same time, Premadasa would have been unlikely to spur neither the kind of governmental change that would lead to transparency or accountability for past governments’ atrocities, nor would it have built the institutions and pass legislation that would lead to reconciliation and help ease communal tensions”.²⁰⁶

President Gotabaya Rajapaksa of the Sri Lanka Podujana Peramuna (SLPP) [Sri Lanka’s People’s Front] was directly elected by preferential majority popular vote for a 5-year term (eligible for a second term) on 16 November 2019 with the next election to be held in 2024.²⁰⁷ Rajapaksa won with 52.2% of the vote, Sajith Premadasa (UNP) 42% and others 5.8%.²⁰⁸ In Sri Lanka, the president is both chief of state and head of government.²⁰⁹

²⁰³ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 10

²⁰⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 13

²⁰⁵ Al Jazeera, [Infographic: Sri Lanka presidential election 2019](#), 16 November 2019

²⁰⁶ Jamestown Foundation, [Sri Lanka: Presidential Elections Likely to Further Ethnic Strife and Radicalization](#), 18 November 2019

²⁰⁷ CIA World Factbook, [Sri Lanka](#), last updated 20 May 2020, *Government*

²⁰⁸ CIA World Factbook, [Sri Lanka](#), last updated 20 May 2020, *Government*

²⁰⁹ CIA World Factbook, [Sri Lanka](#), last updated 20 May 2020, *Government*

A Congressional Research Service briefing described that:

The Rajapaksas' political base is expected to be further strengthened in 2020 when the SLPP is projected by observers to win a majority of seats in parliament. Gotabaya Rajapaksa campaigned heavily on a platform of national security, pledging to suppress Islamist extremism. His key base of support is the Sinhalese Buddhist majority. Most Tamils, who are largely Hindu or Christian, as well as most Muslims voted for his opponent. Former Prime Minister Ranil Wickremesinghe of the UNP announced his resignation following the election. This move opened the way for Gotabaya to select his brother as prime minister.²¹⁰

Journalists for Democracy in Sri Lanka noted that "Of Sri Lanka's 25 electoral districts, 80 percent of the vote in favour of Premadasa came from the eight districts of the North and East which are majority Tamil and Tamil-speaking Muslim. The only other district that Premadasa won is Nuwara Eliya, which is also majority Tamil. As if to brush off any ambiguity about the racist platform that had propelled him to the presidency Rajapaksa declared as he took oath as president, 'I knew I could win with only the Sinhala majority. But I asked the Tamils and Muslims to be part of my success. Their response was not one I expected. But I urge them to join me to build one Sri Lanka'."²¹¹

The post- election government was reported by the European Union Election Observation Mission to be made up as follows:

On 22 November [2019] President Rajapaksa appointed a 16-member cabinet, including his brother, Mahinda Rajapaksa, as prime minister. The cabinet includes two Tamil ministers, one woman and no Muslim representation. On 27 November [2019] the President appointed 35 state ministers, including his brother Chamal Rajapaksa, as state minister of defence. There were various interpretations of the Constitution as to whether the President, as commander-in-chief of the armed forces, can hold the defence ministry portfolio. No immediate appointment was made. On 2 December [2019] President Rajapaksa prorogued parliament and fixed 3 January 2020 for the start of the new session.²¹²

The South Asia Terrorism Portal (SATP) reported that:

[...] on November 22, 2019, the President appointed a 16-member interim Cabinet headed by his elder brother Mahinda Rajapaksa and allotted major portfolios to his brothers. Mahinda Rajapaksa as Prime Minister, as well as Defence and Finance Minister. Chamal Rajapaksa as Trade and Food Security Minister. 16 law makers will serve as Ministers in a Caretaker Government until the next General Election in March 2020. Gotabaya also vowed to call a snap general election "at the earliest opportunity" hoping to ride a wave of popularity and secure a majority for his SLPP party in the 225-member Parliament. Currently, the Rajapaksas and their allies have just 96 legislators, making it hard for them to pass any legislation.²¹³

²¹⁰ Congressional Research Service, [Sri Lanka](#), 4 December 2019

²¹¹ Journalists for Democracy in Sri Lanka, [Will Tamils overcome politics of fear to find new leadership?](#) 24 November 2019

²¹² European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XIX. *Announcement of Results and Post-Election Environment*, p. 47

²¹³ South Asia Terrorism Portal (SATP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

The Ministry of Information and Mass Media issued a list of new secretaries appointment to ministries on 28 November 2019.²¹⁴

Conduct during the election

Al Jazeera reported that “The six-week campaign in a neck-and-neck race has seen tensions mount across Sri Lanka, with the Centre for Monitoring Election Violence (CMEV) documenting at least 743 electoral violations, including at least 45 cases of assaults or threats. The alleged violations are split relatively equally between the two leading parties, Rajapaksa's Sri Lanka People's Front (SLPP) and Premadasa's UNP, the CMEV data shows”.²¹⁵ Further details are available on the Centre for Monitoring Election Violence's [website](#).

In advance of the election, the Centre for Policy Alternatives released a letter sent to Mr Senura Abeywardene, the Country Representative for Sri Lanka at Facebook, on 30 September 2019, with specific asks around ads oversight in relation to the 2019 Presidential Election, noting that “Facebook was implored to provide election monitors, the Elections Commission as well as citizens the tools – available in other regions and countries, including India – required for rigorous oversight of campaign spending across Pages and Groups affiliated to or acting as proxies of presidential candidates”.²¹⁶

In a November 2019 article, Transparency International Sri Lanka called upon the “Elections Commission of Sri Lanka (ECSL), to pursue prosecutions against individuals and parties who have committed offences against public property in the run up to the 2019 presidential poll. As at the beginning of the campaign moratorium on 13 November, TISL's election monitoring arm, the Program for the Protection of Public Resources (PPPR) had received 112 complaints and had submitted 88 verified complaints to the ECSL. Major incidents reported to TISL during the campaign period include appointments granted by the Ceylon Electricity Board, the publishing of promotional newspaper supplements by the Ministry of Primary Industries and Social Empowerment, and the use of Sri Lanka Air Force helicopters to transport senior politicians to and from campaign rallies”.²¹⁷

Al Jazeera reported that “Election observers say there has been widespread misuse of government resources in the run-up to the poll, with state governors, local government officials and others all using state resources to illegally back both candidates”.²¹⁸

The European Union Election Observation Mission found with regards to the November 2019 Presidential election that:

The 16 November presidential election took place in a climate of deep societal division. A largely violence-free electoral process was well managed by the electoral administration. A peaceful and calm campaign on the ground contrasted with divisive rhetoric, hate speech and disinformation in traditional and social media. Only a few of 35 registered candidates were visible throughout the campaign period. The absence

²¹⁴ Ministry of Information and Mass Media, [New secretaries to ministries appointed](#), 28 November 2019

²¹⁵ Al Jazeera, [Sri Lankans vote to elect new president after divisive campaign](#), 16 November 2019

²¹⁶ Centre for Policy Alternatives, [Letter to Facebook: Urgent need for rollout of platform affordances for greater oversight of campaign spending](#), 7 November 2019

²¹⁷ Transparency International Sri Lanka, [TISL Calls on Elections Commission to Pursue Prosecutions for Offences Against Public Property](#), 14 November 2019

²¹⁸ Al Jazeera, [Sri Lankans vote to elect new president after divisive campaign](#), 16 November 2019

of a campaign finance law and the biased coverage of the election by both private and state media contributed to an uneven playing field. [...]

Campaigning on the ground was peaceful, consisting mainly of small-scale meetings and door-to-door canvassing. The atmosphere was calm despite a small number of violent incidents and reported threats. [...] Election day was peaceful and orderly with only a few violent incidents reported.²¹⁹

For detailed findings on all aspects of the election process consult the report by the European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019.

The Sri Lanka Campaign for Peace and Justice reported that “Notwithstanding some very serious electoral violations, including an incident in which shots were fired at a bus-load of Muslim voters in Sri Lanka’s North-West, the contest is widely regarded as having been sufficiently free and fair for the result to stand”.²²⁰

The U.S. Department of State’s annual report covering 2019 noted that “Domestic and international observers concurred that the 2019 presidential election was technically well managed, with few reports of violence. Observers pointed out, however, that unregulated campaign spending, abuse of state resources, and media bias affected the level playing field. Commonwealth observers commended the country on a largely peaceful, credible, and orderly election, but they expressed concern that some groups experienced fear and intimidation. Both local and international observers reported several dozen incidents of postelection violence, particularly targeting minority groups”.²²¹

Al Jazeera described that “A Sri Lankan author [Viraj Lasantha Wijerathna] assaulted by unidentified men in what appears to be a politically motivated attack says he is determined to vote in the country’s presidential poll, as election observers report sporadic cases of limited violence and electoral violations on polling day. At least 139 electoral violations - including two cases of assault and 41 of intimidation - were reported as of midday on Saturday, the Centre for Monitoring Election Violence (CMEV) said in a statement”.²²²

The South Asia Terrorism Portal reported:

The Commonwealth Observer Group (COG) condemned certain incidents of intimidation and violence during Sri Lanka Presidential Elections, reports Colombo Page on November 19. In a press conference in Colombo, Chair of COG, Prosper Bani, stated that though the Presidential election have been largely peaceful, certain incidents of violence especially an attack on a convoy of buses transporting Muslims to vote in the northern part of the country is highly condemnable. COG stressed that a credible election must be inclusive, guaranteeing every citizen's right to participate freely and safely in the process. The election observer group also noted that ethnic and religious tensions characterized aspects of the pre-election environment, creating an atmosphere of fear and anxiety for some groups. Like the other election observer groups, COG recommended the need for regulating financial campaigns as well as the different forms of media. Increase in women participation in politics was also recommended by COG.

²¹⁹ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, I. Executive Summary, p. 4

²²⁰ Sri Lanka Campaign for Peace and Justice, [Gotabaya’s Sri Lanka: the risks ahead and how to respond](#), 19 November 2019

²²¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 3. Freedom to Participate in the Political Process, p. 17

²²² Al Jazeera, [Sri Lanka election: Observers report poll day violations](#), 16 November 2019

COG's final report will be submitted to the Commonwealth Secretary-General and subsequently made available to the Government of Sri Lanka, political parties, the Election Commission and the public.²²³

In a report covering 1 July 2019 to 31 December 2019 INFORM documented that:

While the election day was generally peaceful except several reported incidents of assaults, more than 20 incidents of violence have been reported in the post election period. However even during the pre-election period, there were systematic attempts to intimidate people of ethnic minorities and to prevent them from voting, and reprisals against ethnic minorities especially against estate Tamils during the post-election period. A large number of Internally displaced Muslims (IDP) had to travel around 180 Km to cast their votes. Two buses carrying IDPs going to vote were attacked during the wee hours of the election day. In addition there were allegations that large numbers of registered voters belonging to ethnic minorities were selectively removed in few areas in Colombo. The traditional media and social media were largely biased towards either of two major political candidates, and politicians used ethnonationalism and anti-minority sentiments during their campaigns. While religious places were used to promote specific candidates, female Buddhist monks were prevented from voting as they have not been issued with national identity cards for number of years due to the opposition came from patriarchal Buddhist order.²²⁴

The report provided a detailed description of each incident.

In its report covering May 2019 to April 2020, the International Federation of Journalists noted that “biased election reporting by media became a highly contentious issue during the presidential election. The Asian Network for Free Elections (ANFREL) observed that while the presidential election was largely peaceful and orderly, media was partisan: “...media in Sri Lanka now has a more conducive atmosphere in relation to press freedom compared with ten years ago. But at the same time, the perception of ANFREL observers is that the media has been blatantly biased in many instances, more particularly with private media”.²²⁵

The European Union Election Observation Mission further noted that “In the immediate post-election period several physical attacks and hateful commentary on social media against Tamils and Muslims were reported, while journalists at three online outlets were questioned for lengthy periods by police, raising concerns for media freedom”.²²⁶ For further information, see [V.e.i. Situation of Journalists/Media Workers/Bloggers/Citizen Journalists, V.i.d\) Muslims, \(4\) Election & Post-election period \(November 2019 – May 2020\)](#) and [V.j.ii. Persons of Tamil Ethnicity](#).

d. 2020 Parliamentary Elections

Parliament is made up of 225 seats, of which “members directly elected in multi-seat constituencies by proportional representation vote using a preferential method in which voters select 3 candidates in

²²³ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

²²⁴ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, *Executive Summary*

²²⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 68

²²⁶ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, I. *Executive Summary*, p. 7

order of preference; remaining 29 seats allocated to other political parties and groups in proportion to share of national vote; members serve 5-year terms".²²⁷ The last parliamentary elections were held on 17 August 2015, and the next were originally scheduled for 25 April 2020.²²⁸

Al Jazeera noted that in early March 2020, Sri Lanka's president dissolved parliament and called for new parliamentary elections six months early.²²⁹

The International Crisis Group noted in its April 2020 'Crisis Watch':

Facing pressure from govt for elections, Election Commission 20 April announced 20 June as new date of postponed parliamentary elections, despite constitution requiring parliament to sit by 2 June. President Rajapaksa refused calls to reconvene old parliament even after 27 April collective opposition promise to support govt policies to contain COVID-19 and despite 30 April expiration of govt borrowing authority.²³⁰

The Centre for Policy Alternatives reported in April 2020 in response to the Election Commission's announcement that parliamentary elections will be held on 20 June 2020 that:

This announcement comes during a period in which the number of persons who have tested positive for Covid -19 continue to increase and the "curfew" and quarantine measures imposed by the Government continue to be operational in several parts of Sri Lanka.

The Constitution requires that Parliament be summoned three (03) months from the date on which it is dissolved. The new date set for elections by the Election Commission falls outside this time period and is clearly unconstitutional. The Constitution requires a functioning Parliament to be in place in the Republic in order to ensure the functions of Government can be carried out. The only exception to this is the period in which Parliament is dissolved for elections. However even in this exceptional situation, the Constitution makes ample provision to ensure that Parliament can be called upon to perform its functions as and when the need arises. These constitutional provisions are not an accident, they are the personification of the fundamental idea that Sri Lanka is a Constitutional Republic.

CPA is also concerned that in light of the continued global pandemic and the ground situation within Sri Lanka, there does not exist a conducive environment for the conduct of a free and fair election.²³¹

The South Asia Terrorism Portal reported on 27th May 2020:

Hearing of seven Fundamental Rights (FR) petitions challenging the election date, commenced on May 27 before a five-judge Supreme Court (SC) bench, reports Daily Mirror. The five-member SC bench was headed by Chief Justice Jayantha Jayasuriya and comprises justices Buwaneka Aluvihare, Sisira De Abrew, Priyantha Jayawardena and Vijith Malalgoda. Several FR petitions have been filed challenging the dissolution of Parliament and fixing the General Election date for June 20.²³²

Carnegie India reported in late May 2020 with regards to South Asia's battle with Coronavirus that "The pandemic has important implications for Sri Lanka's domestic politics and ethnic relations. As of this writing, the Sri Lankan parliament remains dissolved, concentrating unprecedented power in the hands

²²⁷ CIA World Factbook, [Sri Lanka](#), last updated 20 May 2020, *Government*

²²⁸ CIA World Factbook, [Sri Lanka](#), last updated 20 May 2020, *Government*

²²⁹ Al Jazeera, [Sri Lankan parliament dissolved; elections set for April](#), 2 March 2020

²³⁰ International Crisis Group, [Crisis Watch, Sri Lanka](#), April 2020

²³¹ Centre for Policy Alternatives, [CPA Statement on the Election Commission's announcement setting the 20 June 2020 as the date on which parliamentary elections will be held](#), 22 April 2020

²³² See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

of the central leadership with no democratic opposition. Given the strict restrictions on movement, the parliamentary elections scheduled to take place on April 25 [2020] were postponed. [...] Currently, with the Sri Lankan parliament dissolved, the government has made decisions more quickly. The president, the prime minister, and a team of fifteen cabinet members are now directly involved in coronavirus response strategies—monitoring the situation, consulting experts, and issuing directives and guidelines”.²³³

At the end of May 2020 Al Jazeera noted that the main opposition Samagi Jana Balawegaya (SJB) party and several civil society groups brought a constitutional challenge and that “Sri Lanka's Supreme Court is due to rule in a key constitutional case challenging President Gotabaya Rajapaksa's decision not to reconvene parliament in light of a delayed general election - a case that observers say could have lasting implications for the island nation's democracy”.²³⁴ The same source further noted that “Since March 2, President Rajapaksa has operated his government without the oversight of parliament, and his counsel has argued that he may continue to do so until a general election can be held and a new parliament convened”.²³⁵

For information on the treatment of dissent during the COVID-19 pandemic, see [V.e.iii. Treatment of those perceived to oppose the government \[without political affiliation\]](#).

e. Executive Interference and Political Appointments

In May 2019 Reuters reported that “Sri Lanka’s army [...] defended its decision to reinstate an intelligence official arrested in 2017 on suspicion he attacked journalists, saying he is the right person to investigate the Easter bombings claimed by Islamic State. Major Prabath Bulathwatte was arrested on suspicion he assisted in the abduction and torture of Sri Lankan editor Keith Noyahr in 2008. He was also accused in the murder of Lasantha Wickrematunga, an outspoken editor of The Sunday Leader newspaper, who was killed in 2009 while stuck in rush hour traffic in Colombo, according to police and prosecutors”.²³⁶

Amnesty International reported in its annual report covering events in 2019 that “In August, Major General Shavendra Silva was appointed Army Commander after being promoted to Chief of Staff of the Army earlier in the year. In 2014, an investigation conducted by the Office of the UN High Commissioner for Human Rights (OHCHR) found evidence of his command responsibility in connection with serious human rights violations during the conflict. Several navy officers, who had been charged in connection with the enforced disappearance of 11 youth in 2008 and 2009 in Colombo, were promoted after being released on bail. After the new President, Prime Minister and Cabinet of Ministers were sworn in at the end of the year, a number of military officials named in the OHCHR investigation were appointed to positions of power”.²³⁷ See also [II.a.iv. Major General Shavendra Silva](#).

Human Rights Watch recorded that “Rajapaksa, who took office on November 18, 2019, has also taken other steps that threaten human rights protections in Sri Lanka. He appointed army commanders

²³³ Carnegie India, [Sri Lanka: Balancing Public Health and Centralized Power](#), 21 May 2020

²³⁴ Al Jazeera, [Sri Lanka stares at constitutional crisis as polls delayed](#), 22 May 2020

²³⁵ Al Jazeera, [Sri Lanka stares at constitutional crisis as polls delayed](#), 22 May 2020

²³⁶ Reuters, [Sri Lankan army defends rehiring major amid outcry from rights groups](#), 16 May 2019

²³⁷ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

implicated by the UN in attacks on civilians and other grave abuses during the civil war to defense secretary and other senior positions. He placed the police and other civilian agencies under the Defense Ministry. In addition, he appointed a military officer as the head of the civilian intelligence agency without requiring him to resign from the armed forces, and repeatedly said he would place the intelligence agencies at the heart of his administration”.²³⁸

The New York Times reported in November 2019 that “The infrastructure that had been built to support the investigations into the Rajapaksas and their allies has swiftly been unraveled over the last week. The Criminal Investigations Department, or C.I.D., which has been spearheading the inquiries, has been gutted, and its powers limited. The head of the C.I.D. was reassigned last week to a junior position away from the capital, Colombo, officials said. And the lead detective on many of the cases, Nishantha Silva, fled to Switzerland on Sunday. National television channels on Tuesday displayed the photos of other detectives involved in the investigations, accusing them of corruption and treason, after they were stripped of their personal security”.²³⁹

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “Members of the Sri Lankan Security Forces with credible accusations of human rights violations have been appointed to prominent positions. These troubling appointments include Major General Shavendra Silva as Chief of Staff of the Sri Lanka Army, and the confirmation of rank granted by the Sri Lanka Navy to Commodore D.K.P. Dassanayake. The Office of Missing Persons in Sri Lanka raised concerns regarding Dassanayake’s connection to a series of abductions. President Rajapaksa also immediately appointed another alleged war criminal, Major Kamal Gunaratne, as the defense secretary. Gunaratne and Silva are mentioned in the UN 2015 war crimes investigation. Former Liberation Tigers of Tamil Eelam (LTTE) Eastern Commander Karuna Amman has been leading the Sri Lanka Podujana Peramuna, (Sri Lanka Freedom Party, SLPP) political campaign in the East”.²⁴⁰ In December 2019 the International Truth and Justice Project published a dossier on Kamal Gunaratne.²⁴¹

In a January 2020 joint report the International Truth and Justice Project and Journalists for Democracy in Sri Lanka noted that “The new President’s strategy is to securitize and militarize Sri Lanka through appointing many of his former war time cronies in the military to key posts in state institutions and to take over functions normally handled by the police. The new Government’s policy is to suppress any dissent and to crush any demands by the international community or domestically for justice and accountability for past crimes committed during the decade long conflict with the LTTE. In this context he has also promised to rehabilitate alleged perpetrators close to him and has already appointed many individuals previously accused of corruption or alleged to have committed war crimes in his inner circle to key positions of power”.²⁴²

In a February 2020 article the UK organisation Freedom from Torture stated that “Rajapaksa’s appointment of key figures during the civil war to government positions also signals his lack of commitment to bring justice to victims. Two of the most notorious appointments are Kamal Gunaratne,

²³⁸ Human Rights Watch, [Sri Lanka: Repeal Abusive Counterterrorism Law](#), 10 January 2020

²³⁹ New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

²⁴⁰ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Access to Effective Remedies (Article 2.3)*, p. 5

²⁴¹ International Truth and Justice Project, [Kamal Gunaratne Secretary of Defense, Sri Lanka](#), December 2019

²⁴² International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020

former Army Commander, as Secretary of Defense and C. A. Chandraprema, former death squad member, who has been nominated as the new Permanent Representative to the United Nations Human Rights Council”.²⁴³

The International Truth and Justice Project and Journalists for Democracy in Sri Lanka argued in February 2020 that “Switzerland must deny accreditation to the Ambassador designate for Sri Lanka, C.A. Chandraprema, because of his membership during the late eighties of a death squad responsible for the murders of hundreds of people, including human rights lawyers, journalists, university students and school children”.²⁴⁴

The UN High Commissioner for Human Rights noted in his February 2020 report that “In resolution 30/1, the Human Rights Council encourages the Government to introduce effective security sector reforms. The return of land occupied by the military in Northern and Eastern Provinces continued in 2019, with the majority of land now returned. Yet there has been a disturbing trend towards the militarization of civilian government functions. Control of several key civilian departments has been recently put under the oversight of the Ministry of Defence, including the police, the immigration department, telecommunications registration, the national media centre and the secretariat for non-governmental organizations”.²⁴⁵ The same source further stated that he was “deeply concerned about the appointment of several military officers to senior command positions, both before and after the presidential elections, despite the serious allegations that troops under their command had committed gross violations of international human rights and humanitarian law during the war, as documented by the Secretary-General’s Panel of Experts on Accountability in Sri Lanka and by OHCHR during its investigation on Sri Lanka”.²⁴⁶

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that “There have also been growing concerns about political interference in the police. In November 2019, following Presidential elections, a number of key police officers were transferred including the Director of the Criminal Investigation Department (CID), Shani Abeysekera. The CID Inspector of Police, Nishantha Silva, was forced to flee the country after his security protection was removed and he received death threats. Silva was leading investigations on a number of key cases, including the Navy abductions case and the murder of Lasantha Wickrematunge”.²⁴⁷

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office there “several statements indicate a desire to strengthen executive power. For example, statements have been made on the need to amend the Nineteenth Amendment to the Constitution which introduced some checks on the President’s powers. There have also been several instances where the President has reportedly used powers provided to the Minister of Defence, a portfolio he is

²⁴³ Freedom from Torture, [Sri Lanka's withdrawal from UN Human Rights Council resolution: what it means for survivors](#), 26 February 2020

²⁴⁴ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [JOINT PRESS RELEASE: New Sri Lankan Ambassador to Geneva was a member of a government-sponsored death squad](#), 3 February 2020

²⁴⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 33

²⁴⁶ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 34

²⁴⁷ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota's Sri Lanka](#), February 2020, 9. Uphold the rule of law and build confidence in the justice system, p. 18

constitutionally barred from holding. Questions arise also in a context where there is no apparent cabinet level minister for the Ministry of Defence with only a State Minister appointed to date. Noteworthy is the fact that this is the first Executive President who cannot hold any portfolios as per the Nineteenth Amendment but practice demonstrates a clear disregard for constitutional provisions”.²⁴⁸ The same source further noted that:

With the emergence of the popular President coupled with several factors that have weakened the opposition, it is most likely that President Gotabaya Rajapaksa and his party will obtain a comfortable majority in the next Parliament and introduce sweeping legislative and policy reforms. These include a possible repeal or rollback of the Thirteenth and Nineteenth Amendments to the Constitution and electoral reform aimed at wiping away minor political parties and disproportionately benefitting the larger political parties. These, if implemented, will likely have serious implications for the present framework of devolution and Provincial Councils and the likelihood of introducing a structure that will further centralise power. There is also the possibility of removing provisions that at present act as a check on the President’s ability to control Parliament, the judiciary and other independent institutions. With the possible removal of key checks on the President, concerns are raised as to whether Parliament will become a mere rubber stamp and see Sri Lanka tilt towards authoritarian rule.²⁴⁹

The same source reported that “militarization is evident across Sri Lanka with the role of the military expanding into new areas in post war Sri Lanka. Since the Easter Sunday attacks, the primacy afforded to security, stability and a strong ruler witnessed the military and intelligence receiving prominence and the legislative and policy agenda being informed and influenced by national security considerations”.²⁵⁰ Furthermore:

This has witnessed the expansion of a powerful Ministry of Defence with an unprecedented number of former military officials receiving promotions and appointments to key positions in government, despite some facing allegations of past abuses. As discussed previously, the Ministry of Defence for the first time in recent years has no Cabinet Minister but only a State Minister. Despite the absence of a cabinet level minister, the Ministry of Defence has an expansive mandate with numerous key institutions and authorities coming within its purview and provided new roles in times of a crisis. As discussed previously, notwithstanding the constitutional check preventing him from holding any ministries, the President is reportedly exercising some functions provided to the Minister of Defence. The intention to strengthen the defence and intelligence arm is also evident with proposals of future legislation including in the area of intelligence and counter-terror. These would require careful scrutiny when made public to ensure there is oversight and safeguards.²⁵¹

In May 2020 Sri Lanka Brief reported that “President Gotabaya Rajapaksa has brought six institutions under the Ministry of Defence issuing an extraordinary gazette on 22 May 2020. Sri Lanka does not have a minister of defence but it is president Rajapaksa who acts as the unofficial minister of defence. According to the constitution, the president cannot hold any ministries. The deputy minister of defence

²⁴⁸ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Powerful and Populist Executive Presidency*, p. 3

²⁴⁹ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Powerful and Populist Executive Presidency*, p. 3

²⁵⁰ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *The Expanding and Normalizing of Securitization and Militarization*, p. 6

²⁵¹ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *The Expanding and Normalizing of Securitization and Militarization*, p. 6

is his older brother Chamal Rajapaksa. Ministry of defence functions under the Major (Retd) General Kamal Gunaratne, a Rajapaksa's political ally".²⁵²

On 26 May 2020 the International Truth and Justice Project (ITJP) reported that "International assistance to the Criminal Investigation Department (CID) of the Sri Lankan police must be urgently reviewed now that a well known alleged torturer has been put in charge. Senior Superintendent of Police Adambarage Ruwan Prasanna Jayak De Alwis was appointed the new Director of CID by President Gotabaya Rajapaksa [...]. Prasanna de Alwis is named in numerous court documents in connection with torture, including the case filed by eleven Tamils in 2019 in California against Gotabaya Rajapaksa. [...] Systematic torture by TID [Terrorism Investigation Division] in the period when Prasanna de Alwis was based in TID headquarters has been documented by multiple United Nations mechanisms including Special Rapporteurs on Torture and the 2015 OHCHR Investigation report (OISL) into Sri Lanka".²⁵³

Journalists for Democracy in Sri Lanka reported in May 2020 that 177 officers were promoted to mark the 11th anniversary of the end of war that killed at least an estimated 70,000 civilians.²⁵⁴ It further noted that:

The choice of these individuals is a highly politicised one which again sends a message to Sri Lankans and the international community that even lip service to reconciliation is off the agenda. This is yet another insult to victims and reeks of brazen impunity," said the ITJP's Executive Director, Yasmin Sooka.

Major General Chandana Marasinghe of Sri Lanka Army Ordnance Corps, Major General T. Jagath Kodithuwakku of Sri Lanka Light Infantry, Major General Harendra Parakrama Ranasinghe of Special Forces, Major General Andige Priyanka Indunil Fernando of Gemunu Watch and Major General Channa D Weerasooriya of Sri Lanka Light Infantry were among those promoted.

ITJP highlights that the most striking promotion is of Andige Priyanka Indunil Fernando who was found guilty in absentia by a UK court of public order offences, while a Sri Lankan diplomat.

He was convicted of making threatening throat slitting gestures at Tamil protestors outside the Sri Lankan High Commission building in 2018. Since returning to Sri Lanka he has been repeatedly promoted and hailed as a hero despite his criminal actions.

"The message to army officers – and diplomats - is if you go around the world insulting and threatening the Tamil diaspora you will be rewarded," said Yasmin Sooka. "It is also an acute show of disrespect for the judicial system in the UK".

The promotion of former special forces commander, Harendra Parakrama Ranasinghe was also condemned as another resounding blow for accountability.

He was identified in a video as one of the soldiers accepting the surrender of a female Tamil TV presenter known as Isaipriya in May 2009, whom a UN Inquiry found was shortly afterwards executed whilst in army custody. Ranasinghe to date has never been questioned about what happened though he's clearly visible in the video with Isaipriya, whose semi-naked corpse was also seen in trophy photographs. [...]

Channa D. Weerasooriya was 512 Brigade commander in Jaffna at a time when the unit, and other units, were allegedly involved in the detention and torture of Tamil suspects, some of whom the ITJP has interviewed.²⁵⁵

²⁵² Sri Lanka Brief, [Though Sri Lanka has no Minister of Defence, President Rajapaksa takes over 6 more institutions under the Ministry](#), 26 May 2020

²⁵³ International Truth and Justice Project, [Press Release: Alleged Torturer heads Sri Lankan CID](#), 26 May 2020

²⁵⁴ Journalists for Democracy in Sri Lanka, [Latest Sri Lanka military promotions "reeks of brazen impunity"](#), 25 May 2020

²⁵⁵ Journalists for Democracy in Sri Lanka, [Latest Sri Lanka military promotions "reeks of brazen impunity"](#), 25 May 2020

In May 2020 the International Truth and Justice Project reported that “President Gotabaya Rajapaksa of Sri Lanka has appointed an alarming collection of alleged perpetrators of war crimes and bureaucrats previously accused of corruption to his new government” and issued an infographic of Gotabaya’s inner circle.²⁵⁶ The same source noted that “Fourteen military and police officials now holding crucial official roles served under Gotabaya Rajapaksa during the civil war while he was the powerful and much feared secretary of defence”.²⁵⁷

19th Constitutional Amendment

In July 2019 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “In the past 4 years, Sri Lanka has made great strides with regards to democratisation of the country. A notable watershed moment in this process was the introduction of the 19th Amendment to the Constitution, which was passed in parliament by a two-thirds majority on 28 April 2015. The Amendment introduced a number of measures designed to strengthen the democratic character of the country, including the reduction of the executive powers of the President and the limitation of the Office’s term”.²⁵⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade described that “In line with a Sirisena election commitment, in April 2015 parliament amended the constitution to devolve some executive powers from the president to the prime minister, cabinet and parliament. The 19th Amendment reduced presidential and parliamentary terms from six years to five; re-introduced a two term limit for the president (removed in 2010); created independent commissions to oversee the judiciary, police, elections, human rights and the office of the Attorney-General; and re-established a Constitutional Council to make appointments to these commissions. The 10-member Constitutional Council includes the prime minister, speaker of parliament and the leader of the opposition”.²⁵⁹

In its report covering May 2019 to April 2020, the International Federation of Journalists noted that “The president has called for a two-third support in the parliament in order to abolish the 19th Amendment to the Constitution which placed checks and balances on the powers of the executive president and established independent commissions integral for democratic governance.”.²⁶⁰

In a joint February 2020 oral statement Amnesty International, Human Rights Watch and six other human rights organisations stated:

We are deeply concerned by indicators of a significant backsliding on human rights in Sri Lanka, underscored by the government using their address to the Council this week to go back on the important commitments made by Sri Lanka through HRC resolution 30/1.

²⁵⁶ International Truth and Justice Project, [Gotabaya’s Inner Circle](#), 5 May 2020

²⁵⁷ International Truth and Justice Project, [Sri Lanka run by “collection of alleged war criminals and corrupt bureaucrats”](#), 5 May 2020

²⁵⁸ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

²⁵⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 2.40

²⁶⁰ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p.68

Sri Lankan authorities' indication to revoke the 19th amendment to the Constitution would remove checks and balances on the executive and seriously jeopardise the independence of the judiciary and relevant commissions.²⁶¹

In a February 2020 the UN High Commissioner for Human Rights summarised that “Of fundamental importance is the nineteenth Constitutional Amendment, of April 2015, which strengthened the independence of key institutions and provided checks and balances against the executive. The Government has signalled its intention to repeal or revise this important constitutional guarantee if it achieves the required parliamentary majority. The President has also indicated his opposition to any further devolution of power to provinces, as foreseen in the thirteenth Constitutional Amendment”.²⁶²

III. Security Situation

a. Security situation between January 2019 and May 2020

For information on the April 2019 ‘Easter bombings’ see the subsequent section [III.a.i. Easter bombings \(April 2019\)](#).

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview of the security situation in Sri Lanka:

The security situation in Sri Lanka, particularly in the north and east, has improved significantly since the end of the civil war in May 2009. The Sri Lankan Government exercises effective control over the entire country, including Tamil-populated areas. Security has been heightened across Sri Lanka following the Easter Sunday terrorist attacks of 21 April 2019, including through the establishment of roadblocks and security checkpoints. Countrywide Emergency Regulations were introduced on 22 April 2019.²⁶³

In relation to the security situation in the north and east of Sri Lanka, the DFAT report noted:

The government no longer restricts travel to the north and east. It removed security checkpoints on major roads in 2015, although some were re-established following the 2019 Easter Sunday terrorist attacks. DFAT understands that some security checkpoints re-established in the north since 21 April 2019 have since been removed [...]

As they are elsewhere in Sri Lanka, security forces are in a heightened state of alert in the north and east in the aftermath of the 2019 Easter Sunday terrorist attacks. The military presence in the north and east increased after 21 April 2019 and, consistent with the Emergency Regulations DFAT Country Information Report Sri Lanka 21 introduced on 22 April 2019, the military and police enjoyed expanded powers of detention, search and entry. The Emergency Regulations lapsed on 22 August 2019. Local sources told DFAT that the heightened security posture in the north since 21 April 2019 has subsequently eased.²⁶⁴

²⁶¹ Amnesty International et al, [Joint Oral Statement: 43rd session of the Human Rights Council Item 2: General Debate on reports and oral updates of the High Commissioner and the Secretary-General](#), 28 February 2020

²⁶² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 25

²⁶³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 2.56

²⁶⁴ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security situation in the north and east*, paras. 2.64 and 2.65

With regards to crime and gang violence, the same report noted:

Crime rates across Sri Lanka vary but are highest in Colombo District. The incidence of homicide has fallen sharply in recent years and is now comparable with other South Asian countries. The United Nations Office on Drugs and Crime estimated a murder rate of 2.55 per 100,000 people in 2016. A number of local sources told DFAT of an increase in gang violence in Jaffna (Northern Province), including random sword attacks allegedly carried out by the Aava gang [...] Sources in the Northern Province also told DFAT of a growing propensity within the Tamil community in the north to address disputes, including minor neighbourhood disputes, through violence [...]

According to local sources, the Aava gang is active in Jaffna and other parts of the Northern Province. The Aava gang mostly comprises young Tamil men [...] Police attributed a spike in criminal activity in Jaffna in recent years, including sword attacks and robberies, to the group and arrested many of its members, including its purported leader, Kumareswaran Vinodan [...]

A senior police officer told the Sri Lankan media in October 2018 that gang violence was occurring in only four of 53 police areas in the Northern Province, and that most of these incidents were between rival gangs. According to local media reporting, the police launched special operations to eliminate the Aava gang in October 2018. Local sources told DFAT that the police regularly stopped cars in Jaffna to check for swords and that crime levels in the north had fallen with the increase in security since the 2019 Easter Sunday terrorist attacks.²⁶⁵

For more information on gang violence see the ‘Aava gang’ sub-section under section [III.b. Extremist Groups / Criminal Gangs/ Nationalist groups](#).

The Fund for Peace’s ‘Fragile States Index Annual Report 2019’, published in April 2019 and covering the period March 2018 to March 2019, categorised Sri Lanka as “high warning” country.²⁶⁶

The South Asia Terrorism Portal provided the following datasheet on fatalities for the year 2019 and up to 29 May 2020²⁶⁷:

Year	Incidents of Killing	Civilians	Security Forces	Terrorists/Insurgents/Extremists	Not specified	Total
2019	10	262	4	12	0	278
2020	0	0	0	0	0	0

The same source provided the following datasheet on ‘major incidents’, ‘suicide attacks’ and ‘Number of Terrorism Related Incidents’ for the year 2019 and up to 29 May 2020²⁶⁸:

Year	Total Number of Incidents	C	Killed					Injured					Initiated By Security Forces	Initiated By Militant	Initiated By NS
			SF	M	NS	Total	C	SF	M	NS	Total	Initiated By Civilians			
2019	9	262	3	12	0	277	505	0	0	0	505	0	1	1	0

²⁶⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security situation in the north and east*, paras. 2.68 and 2.69

²⁶⁶ Fund For Peace, [Fragile States Index Annual Report 2019](#), April 2019, *2019 Scores*, p. 8

²⁶⁷ South Asia Terrorism Portal (STP), [Datasheet – Sri Lanka, Yearly Fatalities](#), Undated [Last accessed: 31 May 2020]

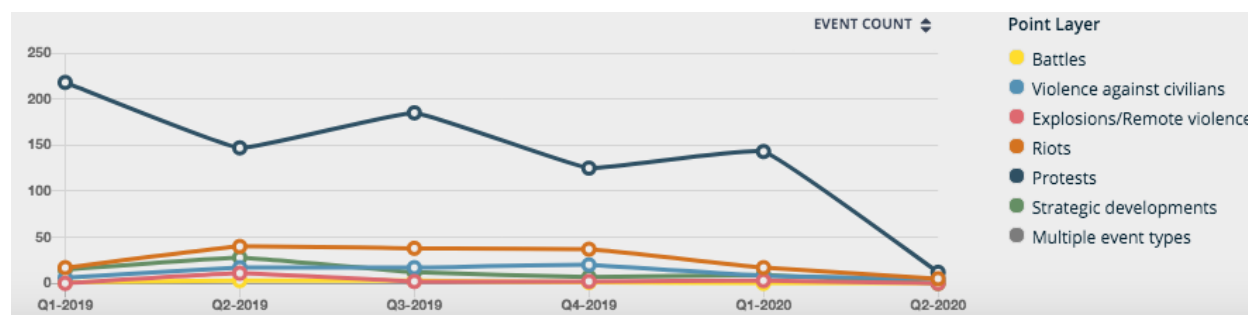
²⁶⁸ South Asia Terrorism Portal (STP), [Datasheet – Sri Lanka, Major Incidents](#), Undated [Last accessed: 31 May 2020], South Asia Terrorism Portal (STP), [Datasheet – Sri Lanka, Suicide Attacks](#), Undated [Last accessed: 31 May 2020], and South Asia Terrorism Portal (STP), [Datasheet – Sri Lanka, Number of Terrorism Related Incidents Year Wise](#), Undated [Last accessed: 31 May 2020]

Year	Total Number of Incidents	C	Killed					Injured			
			SF	M	NS	Total	C	SF	M	NS	Total
2019	8	250	3	9	0	262	500	0	0	0	500

Year	Number of Terrorism Related Incidents
2019	66
2020	6

To access a break-down of this datasheet according to province (i.e. Central, Eastern, North Central, North Western, Northern, Sabaragamuwa, Southern, Uva and Western), see [here](#), and according to district, see [here](#).

ACLED provided the following graph illustrating the ‘event type’ and the number of events in the time period: 1st January 2019 – 30 May 2020²⁶⁹:



The South Asia Terrorism Portal classified a number of events as ‘Terrorist Activities’ between 1 January 2019 and 30 May 2020. The full list can be found [here](#)²⁷⁰. The following are those considered to be security incidents [The ‘Easter bombings’ in April 2019 are excluded as they are dealt with in greater detail in the subsequent section [III.a.i. Easter bombings \(April 2019\)](#)]:

²⁶⁹ ACLED, [Dashboard](#), Undated [Last accessed: 2 June 2020]. Note the following filters were added, which created this graph: Event Date: 01/01/2019 – 30/05/2020; Event Type: All (Battles, Violence against civilians, Explosions/Remote violence, Riots, Protests, Strategic Developments); Region: Sri Lanka; Actor Type: All (State Forces, Rebel Forces, Political Militias, Identity Militias, Rioters, Protesters, Civilians, External/Other Forces); Interaction: All (Sole Military Action, Military Versus Military, Military Versus Rebels, Military Versus Political Militia, Military Versus Communal Militia, Military Versus Rioters, Military Versus Protesters, Military Versus Civilians, Military Versus Other, Sole Rebel Action (e.g. Base Establishment), Rebels Versus Rebels, Rebels Versus Political Militia, Rebels Versus Communal Militia, Rebels Versus Rioters, Rebels Versus Protesters, Rebels Versus Civilians, Rebels Versus Others, Sole Political Militia Action, Political Militia Versus Political Militia, Political Militia Versus Communal Militia, Political Militia Versus Rioters, Political Militia Versus Protesters, Political Militia Versus Civilians, Political Militia Versus Others, Sole Communal Militia Action, Communal Militia Versus Communal Militia, Communal Militia Versus Rioters, Communal Militia Versus Protesters, Communal Militia Versus Civilians, Communal Militia Versus Other, Sole Rioter Action, Rioters Versus Rioters, Rioters Versus Protesters, Rioters Versus Civilians, Rioters Versus Others, Sole Protester Action, Protesters Versus Protesters, Protesters Versus Civilians, Protesters Versus Other, Sole Civilians Action, Civilians Versus Civilians, Other Actor Versus Civilians, Sole Other Action, Others Versus Others).

²⁷⁰ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

- 20th February 2019: “The Jaffna Police on February 20 arrested four members of the Aava group following attacks on two houses in Kokuvilin Jaffna District in Northern Province with petrol bombs, reports The Island. They were arrested in two different places in the area and the police took into custody a motorcycle the suspects had used for the attack and two swords, three matchets and some other sharp weapons. The attack had been launched on February 19, the Police said”;
- 26th April 2019²⁷¹: “Fifteen dead bodies were found at a house where several explosions took place in Kalmunai in Ampara District of Eastern Province on April 26, reports Colombo Page. Among them were bodies of six males, three females and six small children. Another five persons were also injured in the explosions. According to Sri Lanka Army Media Spokesman, three terrorists, suspected to be from an Islamic terrorist organization were among the 15 dead after the shootout. The Security Forces (SFs) had come under gun attack when they attempted to search the house at Saindamarudu area in Kalmunai on April 26. According to the Army, the troops on intelligence tip-off given by the Police were proceeding towards to check a safe house of suspected terrorists when they triggered three explosions and began firing towards the troops. Troops retaliated and raided the safe house where a large cache of explosives had been stored [...] The father and two brothers of the suspected mastermind of Easter Sunday bombings were killed”;
- 1st June 2019: “At least one soldier was killed and two other soldiers were injured when an old bomb exploded in Vasawilan area in Palaly of Jaffna District on June 1, reports Colombo Page. The injured soldiers have been admitted to the Jaffna Teaching Hospital”.²⁷²

ACLEd reported in May 2019 that “three weeks following the deadly Easter Sunday bombings, communal tensions escalated [...]. Violence erupted on 13 May [2019] with large mobs attacking mosques and Muslim-owned businesses across the small island nation, forcing the Sri Lankan Government to declare a nation-wide curfew. Hardline Buddhist groups are likely to blame for the violence that has reportedly left one Muslim man dead so far”.²⁷³ For further information on this incident of violence and others perpetrated against Muslims in the aftermath of the ‘Easter bombings’, see section [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#).

The Sri Lankan Ministry of Defence reported early June 2019 that “A person was shot dead in Mullawatte Road in Gothatuwa Police Division on Sunday evening [...] The deceased is a 40 year old male named Patthinige Thushara Waishantha. Investigations have revealed that the shooting was a result of a dispute between two organized criminal groups”.²⁷⁴

An article published by the Inter Press Service in July 2019 quoted Raisa Wickrematunge, Editor of Groundviews, as stating “‘There has been a tightening of security. There are now security checks being carried out outside hotels and shopping malls – either through scanners or bag and body searches’. ‘At the St Anthony’s Church, where the first blast occurred [of the ‘Easter bombings’], there are bag and body searches conducted before worshippers can go inside, and bags are left outside the Church premises. Many churches and some schools have also increased their security’”.²⁷⁵

²⁷¹ The Asia Times also reported on this particular incident: Asia Times, [Sri Lanka shootout extends cycle of violence](#), 27 April 2019

²⁷² See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

²⁷³ ACLEd, [Regional Overview – Asia](#), 21 May 2019

²⁷⁴ Sri Lanka Ministry of Defence, [2,289 arrested in connection with Easter Sunday bombing and communal violence](#), 4 June 2019

²⁷⁵ Inter Press Service (IPS), [Sri Lanka on Security Alert Long After Easter Bombings](#), 3 July 2019

The Jamestown Foundation reported also in July 2019 that “The North is a virtual police state, and the security forces have developed an institutional obsession over LTTE remnants and possible resurgence, which has not yet materialized and probably will not. The province is on lock-down, militarized, and under the tightest and most insidious system of surveillance, which reaches down to the village level. The slightest sign of activity leads to disproportionate responses with scant regard for human rights and civil liberties”.²⁷⁶

In November 2019 ACLED reported on pre- and post-election violence:

numerous incidents of election-related violence were reported during the week of the country's presidential election, won by Sri Lanka Podujana Peramuna (SLPP) party candidate Gotabaya Rajapaksa. The violence included clashes between supporters of different political parties, as well as attacks on Muslim voters and Tamil voters. In one such incident, an unidentified group pelted stones and fired on a convoy of buses carrying hundreds of Muslim voters to a polling station in Anuradhapura district [...] ²⁷⁷ there were various reports of post-election violence, as new president Gotabaya Rajapaksa appointed his brother and former president, Mahinda Rajapaksa, as the Prime Minister of Sri Lanka [...] Post-election violence included several clashes between supporters of rival political parties, as well as mob violence targeting members of the Tamil community in Sabaragamuwa province. The victims had been accused of failing to vote for Gotabaya Rajapaksa.²⁷⁸

Citing January 2020 interviews with a human rights activist and an interlocutor based in Jaffna, a report by the Swiss State Secretariat for Migration reported [informal translation]: “At the entrances to the Jaffna peninsula as well on the main road from Vavuniya to Kilinochchi army checkpoints have been erected again since the 2019 Easter attacks. All bus travelers heading north are sometimes controlled multiple times. Road checks are taking place through army mobile units operating in the cities of Jaffna and Vavuniya. In early 2020 mobile military units carried out controls in the villages in the Kilinochchi district”.²⁷⁹

According to a Sri Lankan priest based in northern Sri Lanka and who communicated with the Swiss Refugee Council via an instant messaging app in March 2020 [informal translation]: “the north and east of the country have become militarized under the new government. Checkpoints have been set up again, as they were used in the civil war and people have been controlled by the military in some places. This visibly increased military presence is bringing up strong fears among the population in the north and east”.²⁸⁰

Tamil Guardian noted in January 2020 that “Sri Lanka's war crimes accused president Gotabaya Rajapaksa has re-issued an Extraordinary Gazette which calls on the Sri Lankan military to ‘maintain public order’ across the island [...] The gazette has been extended every month after initially being issued by former Sri Lankan president Maithripala Sirisena ever since Emergency Regulations were

²⁷⁶ The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

²⁷⁷ ACLED, [Regional Overview: South Asia 10 – 16 November 2019](#), November 2019

²⁷⁸ ACLED, [Regional Overview: South Asia 17-23 November 2019](#), November 2019

²⁷⁹ Swiss State Secretariat for Migration (SEM), [Notiz Sri Lanka, Lagefortschreibung](#), 7 February 2020, 3.1. *Sicherheit der Zivilbevölkerung*, p. 11. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

²⁸⁰ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 2.4 *Situation im Norden und Osten*, p. 7. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

lifted on the island. Currently tens of thousands of Sri Lankan soldiers are stationed across the Tamil North-East, where they continue to occupy vast swathes of land”.²⁸¹

In May 2020 Tamil Guardian reported that “The Sri Lankan military has set up more checkpoints across Mullaitivu this week, as armed soldiers continue to be stationed and carry out searches across the Tamil homeland. The increase in checkpoints has stepped up since the election of Gotabaya Rajapaksa as Sri Lanka’s president last year, and even more so since the outbreak of the coronavirus pandemic on the island. As military enforced curfews have been put into force by the state, the Sri Lankan military have set up new barriers with armed soldiers stationed at points across the district”.²⁸²

For further information on the situation in the North and the treatment of Tamils, see [V.j.ii. Persons of Tamil Ethnicity](#).

i. Easter bombings (April 2019)

For more information on the extremist groups involved in the ‘Easter bombings’ see [III.b. Extremist Groups / Criminal Gangs/ Nationalist groups](#).

For further information on how the aftermath of the ‘Easter bombings’ incited violence against Muslims and lead to an increase of arrests of Muslims, see [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#). The subsequent sub-section within this section includes more information on the general number of arrests, as well as on the emergency regulations.

The February 2020 report by the Office of the United Nations High Commissioner for Human Rights provided the following overview of the ‘Easter bombings’:

On 21 April 2019, seven coordinated suicide bomb attacks occurred in three Christian churches, in Colombo, Batticaloa and Negombo, and three high-end hotels and a small guest house in Colombo. As a result of these terrorist crimes, more than 250 people were killed, and it became the most lethal single terrorist incident in the country’s history. The attacks were attributed to the National Tawhid Jamaat, a small local extremist organization believed to have been inspired and supported by individuals linked with Islamic State in Iraq and the Levant who claimed the attack.²⁸³

Combating Terrorism Center similarly summarised the events around Easter 2019 as follows:

Over the course of Easter Sunday 2019, eight bombs went off in popular hotels and historical churches across Colombo, the capital city of Sri Lanka; other coastal cities in the west; and towns in the east of the country, killing hundreds. The Islamic State-claimed attack stunned terrorism analysts because there had been no known history of jihadi violence in the country. Several of the attackers were well educated, and two were the scions of a very wealthy family, providing the cell with advantages in its plotting. There were indications, however, from as early as January 2017 that individuals associated with the National Tawheed

²⁸¹ Tamil Guardian, [Extraordinary Gazette for Sri Lankan military to ‘maintain public order’ extended](#), 23 January 2020

²⁸² Tamil Guardian, [Checkpoints ramp up in Mullaitivu as Sri Lanka’s militarisation continues](#), 28 May 2020

²⁸³ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, III. *Developments in reconciliation, accountability and human rights*, para. 12

Jamaat were becoming increasingly supportive of the Islamic State and mobilizing to violence that was missed by local law enforcement. The Sri Lanka attacks may be early evidence that the Islamic State is taking an important and renewed interest in South Asia, following losses in Syria and Iraq.²⁸⁴

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, noted that the bombings were “allegedly organized by three local Islamist terrorists groups”.²⁸⁵ The U.S. Department of State’s annual report covering 2019 noted “The attacks were the responsibility of the National Thowheed Jamath (NTJ), members of which had sworn allegiance to the Islamic State”.²⁸⁶

The South Asian Voices reported in April 2019 that a few days after the ‘Easter bombings’ “ISIS claimed responsibility for the attacks, releasing a video of the purported NTJ [National Thowheed Jamaath] leader pledging allegiance to ISIS’s Caliph, Abu Bakr al Baghdadi [...] A recent video by Abu Bakr al Baghdadi himself announced that the Sri Lanka attacks were in retaliation for Baghouz, the last ISIS stronghold in Eastern Syria that was retaken in March of this year [2019]”.²⁸⁷ The same article further stated “Shortly after the attack, the Sri Lankan government banned the NTJ as well as another group, the Jamathe Millathu Ibraheem (JMI), who were also accused in the attacks”.²⁸⁸

The Jamestown Foundation reported in May 2019 that “Ongoing investigations indicate that IS [Islamic State] supported local Islamist radicals in the attacks. While the NTJ and another little-known Sri Lanka-based Islamist group, Jammiyathul Millathu Ibrahim (JMI) ‘provided the manpower, the Islamic State’s input included ideological inspiration, expertise in bomb-making, and perhaps even resources,’ a senior Sri Lankan police official told *Terrorism Monitor*”.²⁸⁹

Summarising the events that followed the ‘Easter bombings’, the U.S. Department of State’s annual human rights report covering 2019 noted:

The following day [after the ‘Easter bombing’] the government declared an emergency under the Public Security Ordinance, deployed the armed forces domestically, and gave them arrest authority. During the emergency the government banned three Islamist organizations: the NTJ, Jamathe Millathe Ibrahim, and Vilayath As Seylani. The three Islamist groups remained banned after the emergency expired on August 22 [2019]. President Maithripala Sirisena subsequently ordered the military to remain deployed across the country after the expiration of the emergency, although no longer with arrest authority. President Rajapaksa in turn extended the order on November 22 [2019].²⁹⁰

With regards to the state of emergency, a UN High Commissioner for Human Rights report of February 2020 noted that:

²⁸⁴ Combating Terrorism Centre, [Terrorism on the Teardrop Island: Understanding the Easter 2019 Attacks in Sri Lanka](#), May/June 2019

²⁸⁵ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

²⁸⁶ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Executive Summary*

²⁸⁷ South Asian Voices, [Explaining Sri Lanka’s Easter Bombings](#), 29 April 2019

²⁸⁸ South Asian Voices, [Explaining Sri Lanka’s Easter Bombings](#), 29 April 2019

²⁸⁹ The Jamestown Foundation, [Sri Lankan Suicide Bombings: Islamic State’s Deadly Input](#), 7 May 2019, *Terrorism Monitor* Volume: 17 Issue 9

²⁹⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Executive Summary*

Following the April attacks, the former President declared a state of emergency that was extended three times until 22 August 2019. Emergency powers were granted to the armed forces to search and arrest, which curtailed freedom of movement and of peaceful assembly and some fair trial guarantees. Extraordinary deployment of the armed forces in law enforcement operations continued after the lapse of the state of emergency and was still in effect at the time of writing.

Certain emergency regulations adopted following the terrorist attacks were perceived as targeting specific ethno-religious communities, in particular the prohibition of full-face covering for security reasons, including full-face motorbike helmets but also some traditional Muslim female dresses such as the burka or niqab. This measure led to a rise in intolerance towards those observing religious dress codes, especially Muslim women in public institutions such as hospitals and schools and on public transport.²⁹¹

The New York Times reported a day after the 'Easter bombing' that "the country's security agencies had been closely watching a secretive cell of the National Thowheeth Jama'ath, a little-known radical Islamist organization that security officials in Sri Lanka now say carried out the attacks and may have received help from abroad", whilst "Experts said the choice of Christians as a target might mean that a more international extremist group with a broader anti-Christian agenda was involved".²⁹² The same source further noted that "Why the security agencies failed to act aggressively on the information before the bombings is now an enormous question [...] with Sri Lanka's president and prime minister feuding for months, leading to a political breakdown last year, it seems that the president excluded the prime minister from top security briefings and that the prime minister's office had no inkling of the warnings of imminent suicide attacks".²⁹³

Moreover, as Journalists for Democracy in Sri Lanka reported, "Top defence authorities of two consecutive governments in Sri Lanka have been heavily criticised for failing to take action against militant Islam State groups gearing for violence in Sri Lanka despite continuous warnings by traditional Muslim groups".²⁹⁴

The International Crisis Group stated in September 2019 that:

While threats are always easier spotted in hindsight, the Easter attacks nevertheless represented a massive security failure by the Sri Lankan state. Foreign intelligence services had warned their Sri Lankan counterparts of a significant imminent attack on churches weeks before the bombing, even naming the radical Salafi preacher, M.C.M. Zaharan, who helped organise the attacks. Not all of the small group of jihadists involved in the bombings were identified in advance, but Zaharan was known to Sri Lanka's police. The anti-terrorism division of the police had been tracking him since the faction he led brutally attacked followers of a moderate Sufi Muslim cleric in 2017, and had warrants out for his arrest.²⁹⁵

²⁹¹ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, III. *Developments in reconciliation, accountability and human rights*, paras. 28 and 29

²⁹² The New York Times, [Sri Lanka Was Warned of Possible Attacks. Why Didn't It Stop Them?](#), 22 April 2019

²⁹³ The New York Times, [Sri Lanka Was Warned of Possible Attacks. Why Didn't It Stop Them?](#), 22 April 2019

²⁹⁴ Journalists for Democracy in Sri Lanka, [Sri Lanka: Governments ignored Muslim warnings of growing militancy \(VIDEO\)](#), 29 April 2019

²⁹⁵ International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, *Executive Summary*

The U.S. Commission on International Religious Freedom’s annual report covering 2019 noted that whilst the bombing was “conducted by the local extremist group National Thowheeth Jama’ath” it was “later claimed by the Islamic State”.²⁹⁶ The International Crisis Group stated in September 2019 that:

Sri Lankan police say no evidence exists that ISIS ordered or directed the Sri Lanka attacks, or even knew of them in advance. Rather, what is known so far suggests the bombers were inspired by the ISIS brand, eager for the high profile that ISIS affiliation would confer, and supported by several people outside Sri Lanka suspected of previous involvement with ISIS. Indeed, Zaharan shelved plans to attack Buddhist targets in favour of ISIS-inspired attacks on Christians and Western tourists, and the greater publicity and shockwaves this would cause. In addition to the ISIS claim of responsibility, there is circumstantial evidence of possible links, including the sharing by at least one of the attackers of photos and videos for ISIS to publish after the attacks.²⁹⁷

In February 2020 the Sri Lankan Ministry of Defence announced the establishment of a new Task Force to “monitor the progress to speed up the on-going investigation by the Criminal Investigation Department (CID) into last year’s Easter Sunday serial terrorist attacks in the country”.²⁹⁸ The Defence Secretary explained “The CID investigation into these attacks was not conducted in an effective way during the last regime [...] President Rajapaksa had instructed us to secure the contribution of all intelligence agencies which come under the Defence Ministry to identify, collect authentic information related to the attacks, and gather new information and evidence to take legal action against all those involved in supporting the extremists who carried out the attacks”.²⁹⁹

Arrests linked to the Easter bombings

For prison conditions, treatment in detention, detention without charges and detention under the Prevention of Terrorism Act (PTA), see [V.d. Arbitrary Arrests and Detention](#).

For further information on how the aftermath of the ‘Easter bombings’ incited violence against Muslims, see section [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#).

The South Asia Terrorism Portal (SATP) reported that “10 days after the attacks, Sri Lanka Police named all nine Easter Sunday suicide bombers as local residents – Zahran Hashim, Ilham Ahmed Mohamed Ibrahim, Inshaf Ahmed, Mohamed Azzam Mubarak Mohamed, Ahmed Muaz, Mohamed Hasthun, Mohamed Nasser Mohamed Asad, Abdul Latheef and Fathima Ilham – tracing all of them to two domestic Islamist organisations, National Thawheed Jamaath (NTJ) and Jamathei Millathu Ibrahim (JMI)”.³⁰⁰

²⁹⁶ U.S. Commission on International Religious Freedom, [Annual Report 2020 of the U.S. Commission on International Religious Freedom](#), 28 April 2020, *Other Key Developments, The Rise of Ethnoreligious Nationalism*, p. 89

²⁹⁷ International Crisis Group, [After Sri Lanka’s Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, *III. Uncovering the Jihadist Network*

²⁹⁸ Sri Lanka Ministry of Defence, [Task Force set up to expedite CID probe into Easter Sunday terrorist attacks](#), 23 February 2020

²⁹⁹ Sri Lanka Ministry of Defence, [Task Force set up to expedite CID probe into Easter Sunday terrorist attacks](#), 23 February 2020

³⁰⁰ South Asia Terrorism Portal (SATP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

The same report further noted that “In order to maintain public security and essential services, President Maithripala Sirisena, in a gazette notification, on April 22, 2019, declared a State of Emergency across the country. Under the Emergency Regulations, the Government on May 14, 2019, banned three radical Islamist organizations: NTJ, JMI and Willayat as-Seylani (WAS). Finally, the four-month state of emergency declared after Easter Sunday suicide bombings was ended on August 23, 2019. Through this period, there was a nationwide crackdown on Islamist groups. According to partial data compiled by the *South Asia Terrorism Portal (SATP)*, 12 NTJ cadres were killed and 294 cadres of NTJ and JMI were arrested across the country”.³⁰¹

Amnesty International reported early May 2019 that:

According to local news reports, as many as 150 people have already been arrested in connection with the attacks [‘Easter bombings’]. At present, information is not publicly available as to under what laws these arrests were made. Amnesty International has long raised grave concerns as to the effect of the Prevention of Terrorism Act in Sri Lanka (PTA), which has draconian provisions which permit the detention of people for lengthy periods of time, putting them at risk of torture and other ill-treatment. On 25 April 2019, three days after the attacks, Sri Lanka also passed Emergency Regulations No. 2120/5 under the Public Security Ordinance. A second set of Emergency Regulations were passed on 29 April. These regulations contain several draconian provisions which, if abused, may amount to violations of human rights.³⁰²

As to the specific provisions under these Emergency Regulations, Amnesty International raised a number of concerns categorised under ‘Detention Up to One Year’, ‘Broad Definition of Terrorism’, ‘Broad Power of Requisition’, ‘Access to Public Spaces’, ‘Disproportionate Restrictions on Freedom of Expression and Media Freedom’, ‘Dangerously broad ability to restrict freedom of movement’, ‘Over-broad set of offenses’, ‘Penalties include death penalty’, ‘Police powers under the regulations’, ‘Admissibility of statements made in custody’, and ‘Power to proscribe an organization’ which can be viewed in detail [here](#)³⁰³.

Amnesty International also provided the following summary of its concerns in relation to these regulations:

- Detention of persons under regulations 19, 20 and 21 are of serious concern. The safeguards to protect persons from torture in custody are inadequate in the current provisions, and these should be repealed in order to meet minimum obligations under international law. The regulations, in their present form, violate the rights of detainees, including the right to a fair trial in terms of the ICCPR, and may be subject to abuse.
- The regulations have a broad definition of terrorism that results in a risk that legitimate peaceful protest critiquing government action or inaction on a given issue, may be construed as an act of terrorism, and in other instances that charges will be brought under counter-terrorism powers that should properly be addressed by other criminal powers.
- The regulations provide for broad powers of requisition that do not meet the threshold of what may be necessary and proportionate, and therefore may it violate human rights protected by international human rights law, including the International Covenant on Civil and Political Rights (ICCPR).

³⁰¹ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

³⁰² Amnesty International, [SRI LANKA: RESPECT HUMAN RIGHTS IN THE AFTERMATH OF EASTER ATTACKS](#), 3 May 2019

³⁰³ See Amnesty International, [SRI LANKA: RESPECT HUMAN RIGHTS IN THE AFTERMATH OF EASTER ATTACKS](#), 3 May 2019, p. 3-9

- The regulations have broad powers to restrict access to public spaces, which may be used to violate the legitimate exercise of the rights to freedom of expression and peaceful assembly.
- The regulations contain disproportionate restrictions of media freedom and there is a risk that regulation 15 could be abused to violate the right to freedom of expression, especially newspaper journalism.
- Dangerously broad powers to restrict movement also appear to target journalists and have a disproportionate effect on those who influence public opinion.
- The set of offenses in the provisions are also extremely broad, set out in a series of regulations. The death penalty has been prescribed for several of these offenses, and is mandatory for at least one offense.
- Police powers under the regulations are also a cause for concern, with powers extending to taking possession of, burying or even cremating a dead body. There are concerns as to the dangerously broad nature of these powers.
- The regulations provide for statements made in custody, whether or not they are a confession, to be proved against an accused. The burden of proof appears to lie on the accused and the suspension of safeguards in the ordinary law raises concerns that confessions extracted under torture or other cruel and degrading treatment may be admitted in trials against those charged under the regulations.
- The powers of the President to proscribe organizations is also wide enough to permit proscriptions that may result in restrictions on legitimate exercise of human rights, such as the right to freedom of expression, the right to strike and the right to freedom of peaceful assembly.³⁰⁴

In May 2019 the International Truth and Justice Project reported that in the aftermath of the ‘Easter bombings’:

The army is quoted by media sources as saying 10,000 troops were deployed in the wake of the tragic Easter Sunday bombings. As in the war period, these troops enjoy extraordinary powers to detain any suspect. The re-imposition of the Emergency Regulations confer on the army and police sweeping powers of search and seizure, detention or arrest of any person without a warrant or court approval. The Emergency Regulations are in addition to existing counter-terrorism legislation, overdue to be reformed to bring it in line with international standards. Worryingly, there has already been a proposal for an immunity provision from prosecution for the Sri Lankan military and especially intelligence services. Shockingly, this call comes from a number of senior military figures who were involved in the 2009 war and who have yet to be held accountable for the alleged war crimes they committed then.³⁰⁵

The South Asia Terrorism Portal (SATP) reported on 3rd June 2019 that the Police Media Spokesman SP Ruwan Gunasekara announced that “2289 persons were arrested” following the ‘Easter bombings’ “during subsequent searches conducted across the island and regarding communal violence in Northwestern Province. Among the total arrested 423 persons have been remanded and another 211 are being detained at police stations and questioned while 1,655 persons have been released on bail”.³⁰⁶ Some of these arrests have been captured by the SATP and can be accessed [here](#). The Sri Lankan Ministry of Defence clarified further that “Out of those arrested, 575 suspects were arrested under the Prevention of Terrorism Act and 213 suspects were arrested under the Emergency Regulations. 72

³⁰⁴ See Amnesty International, [SRI LANKA: RESPECT HUMAN RIGHTS IN THE AFTERMATH OF EASTER ATTACKS](#), 3 May 2019, p. 9

³⁰⁵ International Truth and Justice Project, [The men now patrolling Sri Lanka](#), May 2019, p. 2/3

³⁰⁶ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

suspects had been arrested under the International Covenant on Civil and Political Rights (ICCPR) Act. 1429 suspects had been arrested under the general law”.³⁰⁷

The U.S. Department of State’s annual report covering 2019 noted with regards to individuals arrested in connection with the ‘Easter bombings’:

According to police, 2,299 individuals were arrested, primarily under the PTA [Prevention of Terrorism Act], in the aftermath of the Easter Sunday attacks. As of September [2019], 293 suspects remained in custody. Nongovernmental organizations (NGOs) reported that in the aftermath of the Easter Sunday terrorist attacks, more than 1,000 citizens were arrested under the PTA and detained without access to family or counsel or an explanation of charges they faced. As of September [2019], NGOs with access to prisoners detained under these ordinances reported that to the best of their knowledge, the vast majority of arrestees had been released. International NGOs continued to have access to the remaining April 21 [2019] attack suspects.³⁰⁸

Similarly, the UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019 noted:

According to the police, after the Easter bombings, 2289 people (mostly Muslims) were arrested under Emergency Regulations on suspicion of involvement with terrorism and subsequently charged under the Prevention of Terrorism Act (PTA) 1979 or the International Covenant on Civil and Political Rights Act (ICCPR Act) 2007 (see paragraphs 67-70). As of July 2019, 1655 have been granted bail, 423 remanded and 211 were in detention. Families of Muslims arrested under the PTA claimed that they had a hard time to secure legal representation in their areas and had undergone significant financial hardship to hire lawyers from other areas. Most of the Muslim lawyers have been reluctant to appear for those arrestees in fear of reprisals. Moreover, the Rapporteur received reports that there were often refusals by non-Muslim lawyers to defend those detained due to ‘extraneous considerations’. The Human Rights Commission of Sri Lanka, in its communication to the Bar Association of Sri Lanka, expressed concern over the refusal of lawyers to appear in these cases due to such considerations [...]

Mosques and madrasas across the country were raided by security forces and many arrests were made. Mosques have also been searched by security forces with little or no respect paid to religious practices, including by taking sniffer dogs (considered impure by Muslims) into mosques and confiscating Quranic and other Islamic texts mainly in Arabic, deemed ‘radical’ material. The army and police also allowed the media to accompany them on the searches which were allegedly often misreported and sensationalised. Several mosques have also come under scrutiny by local vigilante groups. Sections of the local media, both print and electronic, continued to repeat anti-Muslim narratives, without carrying rebuttals or clarifications from individuals or groups in the targeted community.³⁰⁹

Human Rights Watch noted that “Lawyers said their clients had often been arrested without any credible evidence of terrorist involvement, for reasons including having the Quran or other Arabic literature in their possession during searches”.³¹⁰

³⁰⁷ Sri Lanka Ministry of Defence, [2,289 arrested in connection with Easter Sunday bombing and communal violence](#), 4 June 2019

³⁰⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *d. Arbitrary Arrest or Detention, Arrest Procedures and Treatment of Detainees*, p. 6

³⁰⁹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020. *Main challenges to the enjoyment of the right to freedom of religion or belief*, 1. *Anti-Muslim hate propaganda*, paras. 24 and 25

³¹⁰ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

The 2019 U.S. Department of State annual report noted the arbitrariness of the arrests:

In a July 2019 letter to the acting inspector general of police, the HRCSL [Human Rights Commission Sri Lanka] noted it had received an increased number of complaints for arbitrary arrests in the wake of the April 21 [2019] attacks, alleging detention occurred for possessing Arabic language literature or as a result of unsubstantiated rumors. The commission observed that in nearly all complaints the investigations occurred after arrest, leaving suspects detained for indefinite periods.”³¹¹

As of January 2020 according to the UN High Commissioner for Human Rights, “more than 200 individuals were in detention and under judicial custody under the Act [Prevention of Terrorism Act], including in relation to the attacks of April 2019”.³¹²

According to World Watch Monitor, the “handler of the bomber of Zion Protestant Church in Batticaloa” was arrested in March 2020.³¹³

Al Jazeera reported in April 2020 that “Nearly 200 suspects were arrested by the Criminal Investigations Department and Terrorist Investigation Division following the attacks, but even a year later, there have been no formal charges brought forward or court proceedings begun”.³¹⁴

b. Extremist Groups / Criminal Gangs/ Nationalist groups

For a list of designated persons and entities related to terrorism and terrorism financing see the Financial Intelligence Unit of Sri Lanka’s webpage on ‘[Sanctions related to terrorism and terrorism financing](#)’.

The South Asia Terrorism Portal lists 40 proscribed terrorism/extremist groups, which can be accessed [here](#).³¹⁵ The same source lists Tamil Makkal Viduthalai Pulikal (TMVP) under ‘Inactive Terrorist/Insurgent Groups’.³¹⁶

Note that the groups listed below and for which more details have been provided are those most often referred to by the sources consulted for this report within the allocated timeframe for research, 1 January 2019 to 19 May 2020.

³¹¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *d. Arbitrary Arrest or Detention, Arrest Procedures and Treatment of Detainees*, p. 6

³¹² UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, *III. Developments in reconciliation, accountability and human rights*, para. 27

³¹³ World Watch Monitor, [Main suspect behind Sri Lanka Easter churches’ deaths arrested](#), 31 March 2020

³¹⁴ Al Jazeera, [Sri Lanka marks a year since devastating Easter Sunday attacks](#), 21 April 2020

³¹⁵ See South Asia Terrorism Portal (SATP), [Sri Lanka – Terrorist, insurgent and extremist groups](#), Undated [Last accessed: 31 May 2020]

³¹⁶ South Asia Terrorism Portal (SATP), [Sri Lanka – Terrorist, insurgent and extremist groups](#), Undated [Last accessed: 31 May 2020]

Aava Group /Aava gang / Awa gang

The South Asia Terrorism Portal reported that on 1st January 2019 “Police commandos arrested two persons allegedly involved with the Jaffna-based Aava group, at Kokuvil in Karaikattu in Jaffna in Northern Province [...] The suspects were later handed over to Jaffna Police. Aava members are accused of carrying out a series of attacks in the Jaffna peninsula over the past two years”.³¹⁷

On 20th February 2019, the South Asia Terrorism Portal reported:

The Jaffna Police [...] arrested four members of the Aava group following attacks on two houses in Kokuvilin Jaffna District in Northern Province with petrol bombs, reports The Island. They were arrested in two different places in the area and the police took into custody a motorcycle the suspects had used for the attack and two swords, three matchets and some other sharp weapons. The attack had been launched on February 19 [2019], the Police said.³¹⁸

In July 2019 the Sri Lanka Daily Mirror reported that “Three individuals suspected to be members of the ‘Aava Gang’ were arrested by the Kopai police last evening over a clash with the police at Manipai in Jaffna [...] An individual was killed after police opened fire at suspected members of the ‘Awa’ group when they tried to attack a group of police officers at Manipai in Jaffna [...] The suspects aged 18 and 20 were residents of Jaffna and Maanippaai areas”.³¹⁹

A journalist interviewed by a UK Fact-Finding Mission in October 2019 identified as ‘journalist 2’, stated “There have been reports of Tamil youth taking up swords in the North, known as Aava. There are reports of attacks on police and the community. They may follow LTTE ideology”.³²⁰

A member of the Sri Lankan Attorney General Department interviewed by the same UK Fact-Finding Mission in October 2019 stated “Aava group in Jaffna was created by the diaspora to keep their people there”.³²¹

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview on the Aava gang in Sri Lanka:

According to local sources, the Aava gang is active in Jaffna and other parts of the Northern Province. The Aava gang mostly comprises young Tamil men. Its size is unknown. Police attributed a spike in criminal activity in Jaffna in recent years, including sword attacks and robberies, to the group and arrested many of its members, including its purported leader, Kumareshwaran Vinodan. The Aava gang’s origins are disputed. In November 2016, then-Health Minister and Cabinet Spokesperson Dr Rajitha Senaratne claimed the Aava gang was a war-time creation of the military as a counter-insurgency tool against the LTTE and was being used to justify a large ongoing security presence in Tamil areas in the post-war period. DFAT is unable to verify these claims. Multiple local sources told DFAT that members of the Aava gang

³¹⁷ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³¹⁸ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³¹⁹ Daily Mirror, [Manipai clash: Three ‘Awa Gang’ members arrested](#), 23 July 2019

³²⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 49

³²¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Attorney General Department, 3 October 2019, p. 58

were influenced by characters in Tamil gangster movies, who they tried to imitate, and dismissed purported links to the military. [...]

According to local media reporting, the police launched special operations to eliminate the Aava gang in October 2018. Local sources told DFAT that the police regularly stopped cars in Jaffna to check for swords and that crime levels in the north had fallen with the increase in security since the 2019 Easter Sunday terrorist attacks.³²²

Tamil Guardian noted that in February 2020 “Sri Lankan security forces launched a raid on a hotel in Maruthanarmadam in Jaffna, where they reportedly arrested at least forty-one Tamil youth. The arrested Tamils have since been taken to Chunnakam police station for further questioning. No details have been released about the operation from the Sri Lankan military, with Special Task Force Troops reportedly carrying out the hotel raid. Local sources have reported that members of the 'Aava' gang were gathered at the hotel for a birthday party”.³²³

In April 2020 Tamil Guardian reported that “The Sri Lankan police have arrested three Tamils in Jaffna this week, alleging that they are members of the ‘Aava gang’ responsible for various acts of violence in the region”.³²⁴ The same source further highlighted that “The [Aava] gang, which has reportedly carried out several acts of violence in the region, has been linked to Sri Lankan military intelligence. In December 2019, a Sri Lankan brigadier who had been previously removed from a posting due to links with military-backed gangs causing unrest in Jaffna, has been appointed the head of State Intelligence Service (SIS) by Sri Lanka’s new president Gotabaya Rajapaksa. Brigadier Suresh Salley was Sri Lanka’s former Director of Military Intelligence (DMI) when a wave of unrest swept through the Jaffna peninsula in 2016, which authorities blamed on the ‘Aava gang’”.³²⁵

Bodu Bala Sena (BBS)

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, provided the following background on Bodu Bala Sena:

In 2012, the Bodu Bala Sena (BBS), a Sinhala-Buddhist organisation was created. The BBS became influential within short time and received much media attention. BBS claimed to be created to protect the Sinhalese and Buddhism and to draw attention to the threats allegedly faced by the Sinhala race in the face of globalisation, flagging that they may become “global minority”. They alleged that there is a growing international Islamic presence in the country and the Muslim population’s expansion posing a threat to the Sinhala community’s status as the country’s majority; they also instilled fear among the Sinhalese population by referring to the possible domination by some 60 million Tamils in southern India. BBS managed to heighten the polarisation of the communities through identity politics as discussed earlier [...]

Moreover, BBS launched vigorous anti-Muslim campaign and spread inaccurate information to incite hatred against the Muslims. For example, on 17 March 2013, a BBS spokesman at a public meeting in Kandy stated that the Quran orders Muslims to spit three times on meals offered to non-Muslims. While on 12 April 2014, the General Secretary of the BBS falsely attributed to the Holy Quran that the concept of ‘Thaqiya’ allows Muslims to defraud people of other faiths and acquire properties and wealth of non-Muslims by cheating them [...]

³²² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security situation in the north and east*, paras. 2.68 and 2.69

³²³ Tamil Guardian, [41 Tamils arrested in Sri Lankan military raid on Jaffna hotel](#), 24 February 2020

³²⁴ Tamil Guardian, [Sri Lankan police arrest alleged ‘Aava gang’ members](#), 9 April 2020

³²⁵ Tamil Guardian, [Sri Lankan police arrest alleged ‘Aava gang’ members](#), 9 April 2020

hundreds of hate-related incidents were reportedly committed by the BBS and other Buddhist extremist groups with impunity. The Government was reluctant to take action against them even though there were extensive grounds for criminal prosecution.

In 2015, "Sinha Le" campaign started with a poster campaign which carried an image of the lion taken from the national flag along with the words 'Sinha' (lion) in yellow and 'Le' (blood) in red. This was a reinterpretation of the national flag by removing the two coloured strips - saffron and green- representing the Tamil and Muslim communities. It became apparent that the campaign was designed to provoke ethnic tensions, notably targeting at the Muslims and minority communities. These posters and stickers appeared in social media, public spaces and in three wheelers and other private vehicles. On 2 January 2016, the words 'Sinha Le' were sprayed across several gates and walls of Muslim-owned houses in Nugegoda. A few days after, the "Sinhale Jathika Balamuluwa" (SJB) announced its formation at a media briefing to "safeguard the identity of the Sinhala people and to regenerate the supremacy and pride of the Sinhala people". Some observers noted that "Sinha Le" campaign and a few other extremist groups such as Mahasen Balakaya, Nawa Sinhale National Organisation and Sinhala Ravaya, are closely aligned with what was promoted by similar pages, groups and sites of the BBS.³²⁶

According to Christian Solidarity Worldwide:

In July 2019, Gnanasara Thero, General Secretary of the Bodu Bala Sena (BBS), called for the creation of a Sinhalese government, and for politicians to let Buddhist monks combat Islamist extremism, claiming that "It's our responsibility because this is a Sinhalese country. We are the historical owners of this country".³²⁷

A BBC news article from August 2019 reporting on the post-'Easter bombings' violence directed against Muslims stated:

One monk accused of triggering anti-Muslim sentiments in the past is Galagoda Aththe Gnanasara Thero, leader of the Bodu Bala Sena (BBS) or "Buddhist Power Force", a nationalist group.

"No organisation has asked people not to buy from Muslim shops. People are doing it on their own, we have nothing to do with it," he said

President Maithripala Sirisena pardoned the monk in May this year, freeing him from prison after he had served less than a year of a six-year prison term for contempt of court.³²⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted that:

A number of extremist Buddhist groups operate in Sri Lanka, including the BBS, Sinha Le (Lion's Blood), Sinhala Ravaya (Sinhalese Roar) and the Mahason Balakaya (Strong Ghost Regiment). These groups emerged in response to perceived threats to Sri Lanka's Buddhist identity posed by religious minorities, mostly during the time of the Mahinda Rajapaksa Government. The BBS is the most prominent; founded in 2012, it has engaged in acts of violence and hate speech against religious minorities, particularly Muslims. Hate speech against religious minorities, particularly Muslims, is prevalent on social media.

Under the current government, state authorities have taken a relatively less tolerant approach toward Sinhala Buddhist extremism, and groups such as the BBS have met some pushback. In August 2018, the General Secretary of the BBS, Galagoda Aththe Gnanasara, was given a six-year prison sentence for contempt of court following a 2016 incident in which he interrupted a court hearing on the 2010 disappearance of anti-Rajapaksa cartoonist Prageeth Eknaligoda and threatened Eknaligoda's wife. On 19

³²⁶ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. *Root causes of religious intolerance and tensions in Sri Lanka*, 2. *Religious extremism*, paras. 63-66

³²⁷ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Violations against religious minorities*

³²⁸ BBC News, [Sri Lanka's Muslims 'demonised' after Easter bombings](#), 13 August 2019

November 2018, police used tear gas and water cannons on BBS monks protesting outside the Presidential Secretariat in Colombo for Gnanasara's release [...]

Sirisena pardoned Gnanasara on 22 May 2019. Since his release, Gnanasara has actively promulgated anti-Muslim rhetoric and advocated for the government to dismiss Muslim ministers and provincial governors, who Gnanasara has claimed, without evidence, were complicit in the 2019 Easter Sunday terrorist attacks. Sources noted that, while Gnanasara was jailed for contempt of court, he has never been prosecuted for inciting violence against religious minorities.³²⁹

Following the November 2019 elections "Sri Lanka's extremist Buddhist hate group the Bodu Bala Sena announced that it would disband in the wake of Gotabaya Rajapaksa becoming Sri Lanka's new president, claiming that a 'good leader' has come to power [...] He went on to claim that 'anti-religious' forces had been defeated and that his organisation could now 'work for the betterment of this Sinhala Buddhist country'. 'Now we have the full assurance after electing the new President,' said the Buddhist monk, who was released from prison earlier this year and has been accused of leading hate speech on the island. 'The 'One country one law concept' in his manifesto gave an assurance to our country'".³³⁰

INFORM similarly explained in May 2020 that Bodu Bala Sena:

Bodu Bala Sena (literal translation "Buddhist power Force") is a Sinhala Buddhist ultra-nationalist organisation based in Colombo, Sri Lanka. They are allegedly responsible for number of attacks against Muslims during several communal riots. They organized public campaigns to boycott Muslim owned business places, harassed, and threatened HRDs [human rights defenders]. After the appointment of current government BBS leader claimed that they will disband the organization after forthcoming general election in 2020. Its leader Galabodaaththe Gnanasara was convicted on two different cases: one is for threatening a wife of disappeared journalist inside court premises, two for contempt of court. He was subsequently given Presidential pardon which is being contested in courts at the present.³³¹

Islamic State of Iraq and the Levant (ISIS)

The South Asia Terrorism Portal reported that on 27th January 2019 "authorities in Sri Lanka have confirmed that the massive explosives seizure at a remote compound in Wanathawilluwa was actually a training camp for the Islamic State (IS) that attempted to detonate multiple high explosive bombs targeting historic Buddhist monuments in the ancient city of Anuradhapura. This is the first actual terror threat from the Islamic State in Sri Lanka, as the CID [Criminal Investigation Department] hunts for over fifty more named suspects across the island connected to this IS chapter. Already an imam, or Mawlawi, from the remote IS training camp has been arrested; he has confessed in an interrogation that the weapons and high explosives belong to an Islamic State chapter in Sri Lanka".³³²

The U.S. Department of State's annual human rights report covering 2019 noted that the 'Easter bombings' were "the responsibility of the National Thowheed Jamath (NTJ), members of which had

³²⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Religion*, paras. 3.25 and 3.26

³³⁰ Tamil Guardian, [Mission accomplished for Bodu Bala Sena](#), 20 November 2019

³³¹ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *List of acronyms/Key words*, p. iii

³³² See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

sworn allegiance to the Islamic State”.³³³ The South Asian Voices reported in April 2019 that a few days after the ‘Easter bombings’ “ISIS claimed responsibility for the attacks, releasing a video of the purported NTJ [National Thoweed Jamaath] leader pledging allegiance to ISIS’s Caliph, Abu Bakr al Baghdadi [...] A recent video by Abu Bakr al Baghdadi himself announced that the Sri Lanka attacks were in retaliation for Baghouz, the last ISIS stronghold in Eastern Syria that was retaken in March of this year [2019]”.³³⁴

At the end of April 2019 Reuters reported that “Sri Lankan President Maithripala Sirisena said [...] police are looking for 140 people believed to have links with the Islamic State group over the Easter Sunday attacks [...] Sirisena told reporters some Sri Lankan youths had been involved with the extremist group since 2013 [...]”.³³⁵

The South Asian Voices report highlighted in April 2019 that “Notwithstanding recent reports, ISIS and other jihadist groups have been recruiting non-Arabs and putting out local reports for some time now. ISIS affiliated Telegram channels had been translating their Arabic and English works into regional languages for years. Indeed, some have reported ISIS translations in Tamil and other Southern languages as far back as 2014”.³³⁶

Jamathe Millathe Ibrahim / Jammiyathul Millathu Ibrahim / Jamathei Millathy Ibraheem (JMI)

The South Asia Terrorism Portal reported that “A recent survey by the Security Forces (SFs) intelligence wings revealed that there are 45 Jamathei Millathu Ibraheem (JMI) mosques throughout the country with a membership of about 139 [...] The first leader of this organisation was Nizam a Barrister in England and educated in a university there. The information received further reveals that he had gone to Syria in 2012 and obtained a training after joining the Islamic State (IS). After returning to the country he had revisited Syria with 45 persons and had given training to them. However, he had been killed during this period. The 45 have returned to the island after the training and now they have 139 members in this organisation as revealed. They have been trained in making bombs and six who exploded suicide bombs are members of this organization”.³³⁷

With regards to the ‘Easter bombings’ of April 2019 the Jamestown Foundation reported in May 2019 that “Ongoing investigations indicate that IS [Islamic State] supported local Islamist radicals in the attacks. While the NTJ and another little-known Sri Lanka-based Islamist group, Jammiyathul Millathu Ibrahim (JMI) ‘provided the manpower, the Islamic State’s input included ideological inspiration, expertise in bomb-making, and perhaps even resources,’ a senior Sri Lankan police official told *Terrorism Monitor*”.³³⁸ The same source noted that “The intelligence wings of the Sri Lankan security forces have also found that Nizam, the first leader of JMI and a barrister in England, went to Syria in 2012 and was trained by IS. He subsequently returned home to Sri Lanka and took around 45 people to Syria for training. After training in Syria, these men ‘are believed to have returned to the island.’ JMI is ‘now

³³³ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Executive Summary*

³³⁴ South Asian Voices, [Explaining Sri Lanka’s Easter Bombings](#), 29 April 2019

³³⁵ Reuters, [Sri Lankan police looking for 140 with Islamic State links: president](#), 26 April 2019

³³⁶ South Asian Voices, [Explaining Sri Lanka’s Easter Bombings](#), 29 April 2019

³³⁷ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³³⁸ The Jamestown Foundation, [Sri Lankan Suicide Bombings: Islamic State’s Deadly Input](#), 7 May 2019, *Terrorism Monitor* Volume: 17 Issue 9

reported to have 139 members’ who “have been trained in making bombs. ‘Six of the suicide bombers’ who carried out the recent attacks [‘Easter bombings’] ‘were members of this organization.’”³³⁹

The South Asia Terrorism Portal reported that on 14th May 2019 the Sri Lankan government banned “three Islamic radical organizations suspected to be involved in the Easter Sunday bombings, reports NewsIn Asia. The banned organisations are National Tawheed Jamaat (TMJ), Jammatei Millathu Ibraheem (JMI) and Willayat As Seylani (WAS). According to experts, these are inter-connected organizations. They were led by Zahran Hashim, who was one of the suicide bombers”³⁴⁰

(Remnants of the) Liberation Tigers of Tamil Eelam (LTTE)

For information on the situation and treatment of former LTTE members, as well as remnants of the LTTE, see [V.j.ii.a\) Treatment of former members of the LTTE](#).

Mahasen Balakaya / Mahasohon Balakaya

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, stated that “Some observers noted that [...] a few other extremist groups such as Mahasen Balakaya, Nawa Sinhale National Organisation and Sinhala Ravaya, are closely aligned with what was promoted by similar pages, groups and sites of the BBS”³⁴¹

According to the Sri Lanka Daily Mirror, the leader of the Mahasen Balakaya Amith Weerasinghe was arrested in mid-May 2019 “in connection with recent violent incidents [that] took place in the country”³⁴² According to the same source, Amith Weerasinghe was released on 5th June 2019 on “personal bail”³⁴³

National Thowheeth Jama’ath / National Thowheed Jama’ath / National Tauheed Jamat (NTJ)

The New York Times reported a day after the Easter bombings of April 2019 that “the country’s security agencies had been closely watching a secretive cell of the National Thowheeth Jama’ath, a little-known radical Islamist organization that security officials in Sri Lanka now say carried out the attacks and may have received help from abroad”³⁴⁴ The same source provided the following background information on this group: “The National Thowheeth Jama’ath group emerged around 2015 in the aftermath of attacks against Muslims” and its leader was Mohammed Zaharan.³⁴⁵

The Council on Foreign Relations reported in April 2019 that the “National Thowheeth Jama’ath (NTJ) is a previously little-known extremist Islamist group that appears to have surfaced over the past year or so in Sri Lanka, mainly in response to anti-Muslim rioting and other violence against Muslims inflicted by

³³⁹ The Jamestown Foundation, [Sri Lankan Suicide Bombings: Islamic State’s Deadly Input](#), 7 May 2019, Terrorism Monitor Volume: 17 Issue 9

³⁴⁰ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³⁴¹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 2. Religious extremism, para. 66

³⁴² Daily Mirror (Sri Lanka), [Namal Kumara, Amith Weerasinghe arrested](#), 14 May 2020

³⁴³ Daily Mirror (Sri Lanka), [Mahasohon Balakaya’s Amith Weerasinghe granted bail](#) *nawa sinhale*, 5 June 2019

³⁴⁴ The New York Times, [Sri Lanka Was Warned of Possible Attacks. Why Didn’t It Stop Them?](#), 22 April 2019

³⁴⁵ The New York Times, [Sri Lanka Was Warned of Possible Attacks. Why Didn’t It Stop Them?](#), 22 April 2019

the island-state's majority Sinhalese Buddhist population. The group had reportedly vandalized Buddhist statues".³⁴⁶

The New York Times reported also in April 2019 that "National Thowheeth Jama'ath is a small but violent group of young Muslims that started at least three years ago in eastern Sri Lanka, far from the country's more cosmopolitan western and southern coasts. Until this month, the group was generally perceived as anti-Buddhist, counterterrorism experts said".³⁴⁷ The same source further stated:

Until now, National Thowheeth Jama'ath was known mainly for vandalizing Buddhist statues. In March 2017, the group was involved in a violent clash in Kattankudy, a mostly Muslim community near the eastern city of Batticaloa, where one of the church bombings took place [...]

Counterterrorism experts said that in Sri Lanka, National Thowheeth Jama'ath appeared to consist almost entirely of young people, especially recent graduates of Islamic schools. The group appears to have little hierarchy or organizational structure, and no older leaders.³⁴⁸

Al Jazeera provided the following summary on the group in April 2019:

The NTJ is believed to have been formed sometime around 2014 after breaking away from the larger Sri Lanka Thowheed Jamath (SLTJ) [...]

Based in Kattankudy, a Muslim-dominated town in eastern Sri Lanka, the NTJ, much like the SLTJ, is believed to have been strongly influenced by Wahhabism - the official religious doctrine in Saudi Arabia that calls for a strict and literal reading of the Quran and the Sunnah, the teachings of the Prophet Muhammad.

According to its Twitter account, which has a limited social media presence and hasn't been updated since March 2018, the NTJ would regularly organise talks and seminars, distribute videos and even arrange funeral prayers at mosques. [...]

NTJ secretary Abdul Razik has been arrested several times on charges of inciting religious unrest.

Its predecessor group, the SLTJ [Sri Lanka Thowheed Jamath], which is also relatively unknown, has spoken out against Buddhist hardliners for years.³⁴⁹

The South Asia Terrorism Portal reported that "The National Tauheed Jamat is a breakaway faction of Sri Lanka TauheedJamat, branch of Tamil Nadu Tauheed Jamat under the scanner of the Intelligence agencies at least since 2016".³⁵⁰ The same source further noted with regards to Zahran Hashim, the leader of NTJ, that "Hashim joined religious groups like the Sri Lanka TauheedJamat and subsequently got in touch with the Islamic State (IS) especially those based in the United Arab Emirates (UAE) and went on to become the 'chief' of Khorasan Sri Lanka of IS. Hashim has a follower base of nearly 400 radicals [...] Pakistan's Inter-Services Intelligence (ISI) in Colombo might have provided facilitation for logistics supplies to Hashim through its terror proxies like the Lashkar-e-Tayyaba (LeT) and its humanitarian assistance arm Jamat-ud-Dawah (JuD) that has been presence in Sri Lanka since the 2005

³⁴⁶ Council on Foreign Relations, [Sri Lanka Bombings: What We Know](#), 23 April 2019

³⁴⁷ The New York Times, [Local Group Is Blamed for Attacks, but Sri Lanka Suspects 'International Network'](#), 22 April 2019

³⁴⁸ The New York Times, [Local Group Is Blamed for Attacks, but Sri Lanka Suspects 'International Network'](#), 22 April 2019

³⁴⁹ Al Jazeera, [Sri Lanka bombings: Who are the National Thowheed Jamath?](#), 25 April 2019

³⁵⁰ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

tsunami. The JuD had purchased a number of orphans for the purpose of radicalization from Sri Lanka and other countries hit by tsunami”.³⁵¹

The South Asian Voices reported in April 2019 that “There are alleged links between the NTJ and Islamist groups in South India who desired to create a separate Islamic Confederation in the region. The Tamil Nadu Thowheed Jamath (TNTJ) and Sri Lanka Thowheed Jamath have denied any linkages to the group and condemned the attacks. The fact remains that many questions are unanswered related to the group and its linkages”.³⁵² The same source then reported in May 2019 that the Sri Lankan government banned “three Islamic radical organizations suspected to be involved in the Easter Sunday bombings, reports NewsIn Asia. The banned organisations are National Tawheed Jamaat (TMJ), JammateiMillathulbraheem (JMI) and Willayat As Seylani (WAS). According to experts, these are inter-connected organizations. They were led by Zahran Hashim, who was one of the suicide bombers”.³⁵³

At the end of April 2019 the South Asia Terrorism Portal reported that “two suspects were arrested in Damgedara area in Galle during a search conducted on information received of a school managed by the National Thowheed Jama'ath (NTJ). One of the suspects is the principal of the school; and the other is a doctor who has served as an instructor”.³⁵⁴

World Watch Monitor reported in May 2019 that the National Thowheed Jama'ath had allegedly links with the Islamic State (ISIS), according to the Sri Lankan government, and that ISIS's leader Abu Bakr al-Baghdadi “appeared in a video claiming that the Easter attacks were carried out to avenge the outfit's defeat in the Syrian city of Baghouz, its only remaining territory in the region”.³⁵⁵ However, in July 2019 Al Jazeera reported that the ‘Easter bombings’ “were carried out by local groups who drew inspiration from, but were not directly linked to, the Islamic State of Iraq and the Levant (ISIL or ISIS) group [...] remnants of the National Thowheed Jamath (NTJ), the armed group that was held responsible for the Easter attacks, had persuaded ISIL to claim the attack two days after the deadly events in Sri Lanka”³⁵⁶ Ravi Seneviratne, head of the Sri Lankan police Criminal Investigation Department (CID) said.³⁵⁶

The International Crisis Group stated in September 2019 that:

The Sri Lankan network that supported and carried out the [‘Easter bombings’] attacks was built around two families. The more active and important of these centred around the Salafi preacher M.C.M. Zaharan (also known as Zahran Hashim), who was killed in one of two suicide attacks at the Shangri-La Hotel. A well-known and controversial figure in his native town of Kattankudy in the eastern Batticaloa district, Zaharan was a charismatic and forceful Salafi preacher, but also a rebel and outsider. His own religious organisations cut ties with him due to his aggressive behaviour and rhetoric – beginning with the madrasa he studied in and later including National Tawhid Jamaat itself, which Zaharan had helped found.³⁵⁷

³⁵¹ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³⁵² South Asian Voices, [Explaining Sri Lanka's Easter Bombings](#), 29 April 2019

³⁵³ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

³⁵⁴ South Asia Terrorism Portal (SATP), [Sri Lanka, arrest: 2019](#), Undated [Last accessed: 4 June 2020], April - 28

³⁵⁵ World Watch Monitor, [Sri Lankan Christians grapple with aftermath of Easter bombings amid fears of fresh attacks](#), 9 May 2019

³⁵⁶ Al Jazeera, [Sri Lankan investigator: No ISIL link to Easter bombings](#), 24 July 2019

³⁵⁷ International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, III. *Uncovering the Jihadist Network*

Nawa Sinhale National Organisation

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, stated that “Some observers noted that [...] a few other extremist groups such as Mahasen Balakaya, Nawa Sinhale National Organisation and Sinhala Ravaya, are closely aligned with what was promoted by similar pages, groups and sites of the BBS”.³⁵⁸

In May 2019 the Sri Lanka Daily Mirror reported that “Nawa Sinhale National Organisation Director Suresh Priyasad, alias Dan Priyasad, was arrested by the Colombo Crime Division (CCD) [...] over his alleged involvement in the recent acts of violence”.³⁵⁹

Sinhala Ravaya

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, stated that “Some observers noted that [...] a few other extremist groups such as Mahasen Balakaya, Nawa Sinhale National Organisation and Sinhala Ravaya, are closely aligned with what was promoted by similar pages, groups and sites of the BBS”.³⁶⁰

Sri Lanka Thowheed Jamath (SLTJ)

Al Jazeera provided the following summary of the group in April 2019:

The NTJ [National Thowheed Jama'ath] is believed to have been formed sometime around 2014 after breaking away from the larger Sri Lanka Thowheed Jamath (SLTJ) [...]

Based in Kattankudy, a Muslim-dominated town in eastern Sri Lanka, the NTJ, much like the SLTJ, is believed to have been strongly influenced by Wahhabism - the official religious doctrine in Saudi Arabia that calls for a strict and literal reading of the Quran and the Sunnah, the teachings of the Prophet Muhammad.

According to its Twitter account, which has a limited social media presence and hasn't been updated since March 2018, the NTJ would regularly organise talks and seminars, distribute videos and even arrange funeral prayers at mosques. [...]

NTJ secretary Abdul Razik has been arrested several times on charges of inciting religious unrest.

Its predecessor group, the SLTJ [Sri Lanka Thowheed Jamath], which is also relatively unknown, has spoken out against Buddhist hardliners for years.³⁶¹

According to reporting by the Colombo Telegraph, Abdul Razik was the Secretary of the SLTJ up until his arrest in 2018 on “charges of insulting religion”.³⁶²

In June 2019 the Sri Lanka Daily Mirror reported that “Sri Lanka Thowheed Jamath (SLTJ) President A. K. Hisham said [...] he had informed intelligence officers that the mastermind behind the Easter Sunday attacks Zaharan Hashim had come to Akkaraipattu in a Prado a month prior to when the attacks took

³⁵⁸ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 2. Religious extremism, para. 66

³⁵⁹ Daily Mirror (Sri Lanka), [Dan Priyasad arrested](#), 14 May 2019

³⁶⁰ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 2. Religious extremism, para. 66

³⁶¹ Al Jazeera, [Sri Lanka bombings: Who are the National Thowheed Jamath?](#), 25 April 2019

³⁶² Colombo Telegraph, [Gota Supporters Attack YouTuber Over Video Of Thowheed Jamat's Abdul Razik Expressing Support For GR](#), 13 October 2019

place. Testifying before the Parliament Select Committee (PSC) appointed to probe the circumstances behind the Easter Sunday attack, he said the security forces had acted on the information given by them to a certain extent but their efforts were not sufficient”.³⁶³

Transnational Government of Tamil Eelam (TGTE)

Background

The TGTE’s aim to create a separate Tamil state³⁶⁴ is in contradiction with the Sri Lankan constitution, which states at paragraph 157 A:

[...] Prohibition against violation of territorial integrity of Sri Lanka

¹²⁷[157A. (1) No person shall, directly or indirectly, in or outside Sri Lanka, support, espouse, promote, finance, encourage or advocate the establishment of a separate State within the territory of Sri Lanka.

(2) No political party or other association or organization shall have as one of its aims or objects the establishment of a separate State within the territory of Sri Lanka.

(3) Any person who acts in contravention of the provisions of paragraph (1) shall, on conviction by the Court of Appeal, after trial on indictment and according to such procedure as may be prescribed by law

[...]

[...] 127 -Inserted by the Sixth Amendment to the Constitution Sec.3 [...]³⁶⁵

The TGTE was proscribed on 31 March 2014, along with 15 other³⁶⁶ organisations “as terrorist fronts on foreign soil”.³⁶⁷ In 2015 it was reported that Sri Lanka “lifted a ban imposed on eight Tamil diaspora groups for their links with the LTTE as part of efforts to reconcile with the ethnic minority community and asked the remaining ones to renounce separatism and violence”.³⁶⁸ However, this did not include the TGTE, but only “British Tamil Forum, Canadian Tamil Congress, Australian Tamil Congress, Global Tamil Forum, National Council of Canadian Tamils, Tamil National Council, Tamil Youth Organisation and World Tamil Coordinating Committee”.³⁶⁹

Treatment since January 2019

According to reporting by the Colombo Telegraph in August 2019 the Transnational Government of Tamil Eelam (TGTE) is “a political formation of democratically elected members, living outside Sri Lanka,

³⁶³ Daily Mirror (Sri Lanka), [Zaharan came to Akkaraipattu a month prior to April 21 attack](#), 21 June 2019

³⁶⁴ Terrorism Research & Analysis Consortium, [Transnational Government of Tamil Eelam \(TGTE\)](#), undated [accessed 3 July 2020]

³⁶⁵ See Article 157 A of the [The Constitution of the Democratic Socialist Republic of Sri Lanka](#), Revised Edition - 2015

³⁶⁶ The full list of proscribed organisations are: Tamil Rehabilitation Organization (TRO), Tamil Coordinating Committee (TCC) , British Tamil Forum (BTF), World Tamil Movement (WTM) , Canadian Tamil Congress (CTC), Australian Tamil Congress (ATC), Global Tamil Forum (GTF), National Council Of Canadian Tamils (NCCT) a.k.a Makkal Avai, Tamil National Council (TNC), Tamil Youth Organization (TYO), World Tamil Coordinating Committee (WTCC), Transnational Government Of Tamil Eelam (TGTE), Tamil Eelam Peoples Assembly (TEPA) , World Tamil Relief Fund (WTRF) and Headquarters Group (HQ Group)

³⁶⁷ Lanka Web, [BANNED! NO FRONTING FOR LTTE , Freeze of all funds and assets, Tamil parties & NGOs barred from contacts – Order signed by Minister G.L. Peiris](#), 1 April 2014

³⁶⁸ Economic Times, [Sri Lanka lifts ban on pro-LTTE groups; wants them to shun violence](#), 22 November 2015

³⁶⁹ Economic Times, [Sri Lanka lifts ban on pro-LTTE groups; wants them to shun violence](#), 22 November 2015

dedicated to securing justice and freedom for the Tamil people in the North and East of the island in the Tamil homeland".³⁷⁰

A journalist interviewed by a UK Fact-Finding Mission in October 2019 identified as 'journalist 1' stated:

The TGTE does not have much recognition in Sri Lanka. It formed after the defeat of the LTTE. At that time, it was seen as a big thing but now it's seen as an extreme, impractical organisation and is not taken seriously. It may be problematic for genuine members or supporters as the TGTE is banned in Sri Lanka.³⁷¹

A member of the Sri Lankan Attorney General Department interviewed by the same UK Fact-Finding Mission in October 2019 stated "The TGTE is proscribed in Sri Lanka due to its links with the LTTE. If returning TGTE supporters have committed an offence here then we can take action but if they arrived peacefully into the country, they wouldn't face any trouble".³⁷²

Vilayath As Seylani / Willayath-As-Seylani (WAS)

The Jamestown Foundation reported in September 2019 that "The government investigators now believe that before his death, Zahran Hashim [leader of the National Thowheed Jama'ath (NTJ) and mastermind behind the 'Easter bombings'] and his fellow militants from NTJ and JMI [Jammiyathul Millathu Ibrahim] formed the hybrid Willayath-As-Seylani (WAS). WAS is supposedly a new province of IS [Islamic State], with the goal of raising the group's banner in Sri Lanka. However, information about WAS is currently sparse, as the government has been hesitant to confirm any physical manifestation, or even virtual inroads, of IS on Sri Lankan soil".³⁷³

The South Asia Terrorism Portal (SATP) reported that on 14th May 2019 the Sri Lankan government banned "three Islamic radical organizations suspected to be involved in the Easter Sunday bombings, reports NewsIn Asia. The banned organisations are National Tawheed Jamaat (TMJ), JammateiMillathulbraheem (JMI) and Willayat As Seylani (WAS). According to experts, these are interconnected organizations. They were led by Zahran Hashim, who was one of the suicide bombers".³⁷⁴

The International Crisis Group stated in September 2019 that:

The Sri Lankan network that supported and carried out the ['Easter bombings'] attacks was built around two families. The more active and important of these centred around the Salafi preacher M.C.M. Zaharan (also known as Zaharan Hashim), who was killed in one of two suicide attacks at the Shangri-La Hotel [...]. In addition to Zaharan's Kattankudy-based network, built around his family, the team that eventually carried out the Easter attacks also involved lesser-known Colombo-based radicals associated with the Jamathei Millathu Ibrahim (JMI) organisation. The key members in this group were two brothers – Ilham

³⁷⁰ Colombo Telegraph, [Investigating The Truth Of What Happened To Enforced Disappeared Tamils In Sri Lanka](#), 30 August 2019

³⁷¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 47

³⁷² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Attorney General Department, 3 October 2019, p. 58

³⁷³ The Jamestown Foundation, [Sri Lanka Struggles to Solve the Islamic State-Local Network Puzzle](#), 10 September 2019, Terrorism Monitor Volume: 17 Issue 17

³⁷⁴ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

and Inshaf Ibrahim – from a prominent Colombo business family. Much or all of the money needed to fund the attack reportedly came from the Ibrahim brothers.³⁷⁵

IV. Rule of Law/Administration of Justice

a. Access to Justice

i. Legal Representation

The Sri Lankan Constitution legally guarantees the right to counsel.³⁷⁶ According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019:

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.³⁷⁷

The Sri Lanka Legal Aid Commission details that it has 84 centres and “provides legal appearance in courts, conduct awareness raising programmes and clinics are to provide legal aid to deserving persons”.³⁷⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted that “Sri Lanka does not have public defence services and legal services can be costly. The Legal Aid Commission of Sri Lanka, established in 1978, provides legal advice and representation in both criminal and civil matters to Sri Lankans without financial means. The Commission has 76 legal aid centres across the country, including in the north and east. Legal counselling is provided free of charge, while litigation services are available to those persons earning no more than LKR18,000 per month (approximately AUD147). A special unit within the commission represents victims in human rights cases”.³⁷⁹

The U.S. Department of State report covering 2019 detailed “In all cases suspects have the right to legal representation, although no provision specifically provides the right of a suspect to legal representation during interrogations in police stations and detention centers. The government provided counsel for

³⁷⁵ International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, III. *Uncovering the Jihadist Network*

³⁷⁶ [Constitution of Sri Lanka \(As Amended in 2015\) \[Sri Lanka\]](#), 15 May 2015

³⁷⁷ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 85

³⁷⁸ Sri Lanka Legal Aid Commission, [Legal aid beneficiaries](#), undated current webpage [accessed 3 June 2020]

³⁷⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 5.18

indigent defendants in criminal cases before the High Court and courts of appeal but not in other cases; the law requires the provision of counsel only for cases heard at the High Court and courts of appeal”.³⁸⁰

The same source further noted that “As in previous years, arrestees reported torture and mistreatment, forced confessions, and denial of basic rights such as access to lawyers or family members”.³⁸¹ The same source also noted that “Police sometimes held detainees incommunicado, and lawyers had to apply for permission to meet clients, with police frequently present at such meetings”.³⁸² With regards to the treatment of political prisoners the source noted that “Authorities granted irregular access to those providing local legal counsel”.³⁸³ Furthermore, “Services to assist survivors of rape and domestic violence, such as [...] legal aid [...] were generally scarce nationwide due to a lack of funding”.³⁸⁴ For further information on access to justice and state protection for victims of sexual and gender-based see section [V.f.ii. State response to sexual and gender-based violence \(SGBV\)](#).

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “Just weeks before the election, the security apparatus started intimidating civil society organizations and human rights defenders. Now surveillance is very heavy and includes intimidation of lawyers in courtrooms”.³⁸⁵

For further information on the treatment of lawyers, see [V.e.iv. Treatment of human rights defenders](#).

The UN Special Rapporteur on freedom of religion or belief observed in his February 2020 report that:

According to the police, after the Easter bombings, 2289 people (mostly Muslims) were arrested under Emergency Regulations on suspicion of involvement with terrorism and subsequently charged under the Prevention of Terrorism Act (PTA) 1979 or the International Covenant on Civil and Political Rights Act (ICCPR Act) 2007 (see paragraphs 67-70) . As of July 2019, 1655 have been granted bail, 423 remanded and 211 were in detention. Families of Muslims arrested under the PTA claimed that they had a hard time to secure legal representation in their areas and had undergone significant financial hardship to hire lawyers from other areas. Most of the Muslim lawyers have been reluctant to appear for those arrestees in fear of reprisals. Moreover, the Rapporteur received reports that there were often refusals by non-Muslim lawyers to defend those detained due to ‘extraneous considerations’. The Human Rights Commission of Sri Lanka, in its communication to the Bar Association of Sri Lanka, expressed concern over the refusal of lawyers to appear in these cases due to such considerations.³⁸⁶

In a June 2020 report the Centre for Policy Alternatives (CPA) noted that “Article 13 (3) of the Constitution of Sri Lanka provides that ‘any person charged with an offence shall be entitled to be heard, in person or by an Attorney-at-Law, at a fair trial by a competent court.’ Therefore, the courts directly

³⁸⁰ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1d

³⁸¹ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1c

³⁸² U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1d

³⁸³ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1e, *Political Prisoners and Detainees*

³⁸⁴ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6, *Rape and Domestic Violence*

³⁸⁵ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Freedom of Expression, Advocacy of National, Racial or Religious Hatred, Freedom of Assembly, and Freedom of Association (Articles 19, 20, 21, 22)*, p.13

³⁸⁶ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, para. 24

assign criminal cases to lawyers in the event that such persons are unable to retain a lawyer. [...] During the course of the research, CPA was informed that there are gaps in the provision of legal aid by the Legal Aid Commission for persons facing criminal trials, an issue that requires further investigation”.³⁸⁷ For further information on the arrest of Muslims in the aftermath of the ‘Easter bombings’ of April 2019 see section [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#).

ii. Criminal Justice System and Access to a Fair Trial

The Bertelsmann Stiftung’s Transformation Index covering the period from 1st February 2017 to 31st January 2019 considered that:

While the judiciary has clearly become less susceptible to executive control, it has continued to have challenges in ensuring accountability of politicians and officials in power and in enforcing regulations that impact on economically powerful interests. The low levels of the judiciary continue to be subject to political pressure and are hampered by a politicized police force upon which the court system often depends for evidence. Judges at these levels could use more training than they have. [...]

The law specifies protection of civil rights but long delays in the court system limit the effectiveness of the judiciary in addressing grievances.³⁸⁸

In a February 2019 report, the UN High Commissioner for Human Rights noted that “The regular criminal justice system in Sri Lanka continues to suffer from serious structural weaknesses, which are reflected in lengthy delays in investigations and in judicial processes in general, also characterized by long periods of detention on remand and a bail system that is applied inconsistently and in a discriminatory way. Consequently, while prisons are overcrowded with petty criminals (even minor drug possession charges, which are not subject to bail, can lead to pretrial detention), individuals charged with serious crimes, including enforced disappearances, are able to obtain bail”.³⁸⁹

The International Commission of Jurists reported in March 2019 that “women are grossly under-represented in the judiciary in Sri Lanka, which prevents women human rights defenders and female victims from having confidence in the ordinary criminal justice system, impeding their full engagement and participation in pursuing accountability for crimes committed against them during the conflict and other transitional justice processes. A judicial mechanism with the involvement of foreign judges is particularly urgent for women in conflict-affected areas who still live in a highly militarized environment and are compelled to live among their perpetrators – those who have been accused of war crimes including rape and other forms of sexual violence”.³⁹⁰

In a May 2019 report the Centre for Policy Alternatives examined “seven emblematic cases to evaluate the levels of accountability in the prosecution of cases of human rights violations within Sri Lanka’s

³⁸⁷ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 5.1. *Provision of legal aid by the state*, p. 25

³⁸⁸ Bertelsmann Stiftung, [Transformative Index \(BTI\) 2020 Country Report, Sri Lanka](#), 29 April 2020, *Transformative Status, II. Governance Performance, 3. Rule of Law*, p. 8

³⁸⁹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para 50

³⁹⁰ International Commission of Jurists, [Transitional Justice Mechanisms in Sri Lanka \(UN statement\)](#), 20 March 2019

criminal justice system”.³⁹¹ Among one of the themes identified was ‘deficient victim and witness protection’, regarding which the source further explained:

A common thread that follows almost all cases is the fact that the victims and witnesses of these cases have been intimidated, harassed, kidnapped and in some instances even killed. Although Sri Lanka at present has enacted the Assistance to and Protection of Victims of Crime and Witnesses Act, No. 4 of 2015, there continues to be challenges in its implementation and effectiveness, and further amendments are required to ensure its independence and impartiality. As an example, the Act provides for Victims of Crime and Witnesses Assistance and Protection Division, under the Inspector General of Police. Under this scheme, the Division will continue to have links with the Police raising questions of independence. This is a fundamental flaw of this Act since consistent.³⁹²

Responding to the President’s signing of execution warrants, Amnesty International reported in June 2019 that “Amnesty International is concerned that judicial proceedings in Sri Lanka may have not met international standards for a fair trial and resulted in the imposition of the death penalty. [...] The possibility that a skewed justice process could lead to a cruel and irreversible sentence being handed out, and even worse, the possibility that such a sentence could be implemented, is alarming. The secrecy surrounding President Maithripala Sirisena’s plans to resume executions heightens the risk that due process might be violated in the cases of those most at risk – no information is presently available on the details of their cases, including judicial and clemency reviews”.³⁹³ For further information see section [IV.a.iv. Death Penalty](#).

The November 2019 report by the Australian Department of Foreign Affairs and Trade considered that “The judiciary operates largely independently, particularly at the higher levels. The Supreme Court and the Court of Appeal stood up strongly during the 2018 constitutional crisis, and asserted their commitment to judicial independence and the rule of law in the face of political pressure. Yet major shortcomings persist. The judicial system is overburdened and lengthy legal procedures, large numbers of detainees, and a limited number of qualified police, prosecutors and judges combine to create long delays. In the north, a shortage of Tamil-speaking judges and court interpreters contributes to delays in many cases. The average length of time between the commission of a serious criminal offence and the conclusion of the trial and appeal process is 17 years. There continue to be some reports of corruption in the lower courts”.³⁹⁴

The U.S. Department of State’s annual report covering 2019 noted in relation to judicial independence that “The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality”.³⁹⁵ The same source provided the following summary with regards to trial procedures:

The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. The law presumes defendants are innocent until proven guilty. All criminal

³⁹¹ Centre for Policy Alternatives, [The Need for Accountability in Sri Lanka’s Criminal Justice System: A Glance at Seven Emblematic Cases](#), March 2019, *Trends in Emblematic Cases*, p. 8

³⁹² Centre for Policy Alternatives, [The Need for Accountability in Sri Lanka’s Criminal Justice System: A Glance at Seven Emblematic Cases](#), March 2019, *Trends in Emblematic Cases*, p. 8

³⁹³ Amnesty International, [Grave fears for prisoners on death row](#), 25 June 2019

³⁹⁴ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 5.16

³⁹⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.e. *Denial of Fair Public Trial*, p. 9

trials are public. Authorities inform defendants of the charges against them, and they have the right to counsel and the right to appeal. [...] Defendants have the right to confront witnesses against them and to present witnesses and evidence.

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. Most courts outside the northern and eastern parts of the country conducted business in English or Sinhala. Trials and hearings in the North and East were in Tamil and English. A shortage of court-appointed interpreters limited the right of Tamil-speaking defendants to free interpretation as necessary. In several instances, courts tried criminal cases originating in the Tamil-speaking north and east in Sinhala-speaking areas, which exacerbated the language difference and increased the difficulty in presenting witnesses who needed to travel. Few legal textbooks were available in Tamil. Defendants have the right to be present in court during trial and have the right to adequate time and facilities to prepare a defense. Defendants also have the right not to testify or admit guilt.³⁹⁶

The European Union Election Observation Mission noted in its report on the November 2019 Presidential election that:

The judicial system comprises various courts at district, provincial and national level. The Supreme Court sits at the apex of the hierarchy. The current Chief Justice was appointed in 2019. The Supreme Court enjoys a high degree of confidence among stakeholders, boosted by its ruling in December 2018 to overrule presidential efforts to dissolve the parliament during the October 2018 constitutional crisis.³⁹⁷

In a February 2020 report the UN High Commissioner for Human Rights noted that “Following the April attacks, the former President declared a state of emergency that was extended three times until 22 August 2019. Emergency powers were granted to the armed forces to search and arrest, which curtailed freedoms of movement and peaceful assembly and some fair trial guarantees. Extraordinary deployment of the Armed Forces in law enforcement operations continued after the lapse of the state of emergency and was still in effect at the time of drafting”.³⁹⁸ For further information on the emergency regulations see the sub-section ‘Arrests’ in the section [III.a.i. Easter bombings \(April 2019\)](#).

In a June 2020 report the Centre for Policy Alternatives noted that “Sri Lanka does not have a sentencing policy or sentencing guidelines for judges. Discussions since 2011 have examined ways to introduce a national policy on sentencing and to establish an advisory council on sentencing policies and trends. The discussions calling for these innovations mention inconsistencies in bail and sentencing policies as affecting judicial legitimacy and the rule of law. However, both these reforms have not materialised. A national policy on sentencing would provide guidance to judges in imposing sentences to ensure that they weigh aggravating and mitigating factors affecting the sentence in a uniform manner. Consequently, judges will be facilitated to engage in adjudication in a more impartial and objective manner. This is crucial to uphold Article 12 of the Constitution of Sri Lanka”.³⁹⁹

³⁹⁶ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1. e. *Denial of Fair Public Trial, Trial Procedures*, p. 9

³⁹⁷ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, III. *Political context*, c. *Elected institutions, The judiciary*, p. 11

³⁹⁸ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para 28

³⁹⁹ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 5.3. *Absence of a mechanism to monitor sentencing trends and the need to set sentencing guidelines*, p. 26

iii. Due Process

The U.S. Department of State's annual report covering 2019 noted that "The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, but there were reports arbitrary arrest and detention occurred".⁴⁰⁰ The same source further noted that "Police sometimes held detainees incommunicado, and lawyers had to apply for permission to meet clients, with police frequently present at such meetings. In some cases unlawful detentions reportedly included interrogations involving mistreatment or torture".⁴⁰¹

The same source noted with regards to a detainee's ability to challenge lawfulness of detention before a court that "Under the law a person may challenge an arrest or detention and obtain prompt release through the courts. The legal process takes years, however, and the Center for Human Rights Development indicated the perceived lack of judicial independence and minimal compensation discouraged individuals from seeking legal remedies. Under the PTA [Prevention of Terrorism Act] the ability to challenge detentions is particularly limited".⁴⁰²

Responding to the President's signing of execution warrants, Amnesty International reported in June 2019 that "The secrecy surrounding President Maithripala Sirisena's plans to resume executions heightens the risk that due process might be violated in the cases of those most at risk – no information is presently available on the details of their cases, including judicial and clemency reviews".⁴⁰³

Human Rights Watch noted in April 2020 that "Sri Lankan authorities should uphold due process rights and ensure that recently detained Muslim figures have proper access to lawyers". The source described that Hejaaz Hizbullah, a prominent lawyer, was apparently arrested under the draconian Prevention of Terrorism Act and "has been held in apparent violation of basic due process rights. Although he is believed to be detained under the draconian Prevention of Terrorism Act, no detention order has been served, and he was not taken before a magistrate within the required 72 hours. He has been denied regular access to a lawyer, except for brief meetings in the presence of the police on April 15 and 16".⁴⁰⁴

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted that "Detainees do not enjoy some of the most fundamental guarantees of due process, such as immediate access to legal assistance from the moment of arrest and before their initial statement was recorded. The legal basis and procedures for depriving people of their liberty are not clearly established. There are not effective safeguards against arbitrariness in this context and there is an urgent need to strengthen mechanisms for independent monitoring and oversight".⁴⁰⁵

For further information on access to legal representation, see [IV.a.i. Legal Representation](#).

⁴⁰⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *1.d. Arrest Procedures and Treatment of Detainees*, p. 6

⁴⁰¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *.d. Arrest Procedures and Treatment of Detainees*, p. 6

⁴⁰² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *1.d. Arrest Procedures and Treatment of Detainees*, p. 6

⁴⁰³ Amnesty International, [Grave fears for prisoners on death row](#), 25 June 2019

⁴⁰⁴ Human Rights Watch, [Sri Lanka: Due Process Concerns in Arrests of Muslims](#), 23 April 2020

⁴⁰⁵ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Prohibition of Torture and Cruel, Inhuman or Degrading Treatment, Liberty and Security of Person, Fair Trial and Independence of Judiciary (Articles 7, 9, 10 and 14)*, p. 10

For information on arbitrary arrests see [V.d. Arbitrary Arrests and Detention](#), for information on detention without trial see [V.d.iii Detention without Charges and Pretrial Detention](#), and for torture in detention, see [V.d.ii. Treatment in Detention](#).

iv. Death penalty

The Cornell Center on the Death Penalty Worldwide describes Sri Lanka as “Abolitionist de facto”, given that the country’s last recorded execution occurred in 1976.⁴⁰⁶ The source details the crimes punishable by death in Sri Lanka.⁴⁰⁷

The same source documented that as of 3 June 2019, Sri Lanka had 1,299 persons under death sentences.⁴⁰⁸ According to the Sri Lanka Department of Prisons, 144 death sentences were handed down in 2019.⁴⁰⁹

Amnesty International detailed that former President Sirisena had “specifically stated in June 2018 that those who are convicted of drug trafficking already under sentence of death, and who are engaging in drug dealing while in prison, would be executed. In February 2019, the Minister of Justice confirmed that 13 persons are in line to be executed. The given justification was to deter the crime of drug trafficking.”⁴¹⁰

The same source further noted that as of April 2019, “The Sri Lankan prison authorities, on the instructions of President Maithripala Sirisena, have taken decisive steps to resume executions in the next few months. An advertisement has been published to recruit an executioner, the names of death row prisoners convicted of drug trafficking have been identified for execution, and a rope for the hanging has been procured”.⁴¹¹

A further Amnesty International report described that later in 2019 the President of Sri Lanka signed execution warrants:

On 26 June the then President of Sri Lanka Maithripala Sirisena announced that he had signed four execution warrants and that the hangings would be carried out in the following days. He had repeatedly expressed his intention to resume executions – after more than four decades without any – specifically for drug-related offences, but no details were revealed on the selected cases or scheduled executions. The Supreme Court stayed the executions on 5 July to allow for its consideration of petitions stating that the arbitrary selection of four prisoners and the secrecy surrounding the execution order and preparations violated the rights of those facing the death penalty. The petitions remained pending at the end of the year. At least 34 new death sentences were imposed, including 19 for murder and 15 for drug-related offences.⁴¹²

⁴⁰⁶ Cornell Center on the Death Penalty Worldwide, [Sri Lanka](#), regularly updated [last accessed 21 May 2020]

⁴⁰⁷ Cornell Center on the Death Penalty Worldwide, [Sri Lanka](#), regularly updated [last accessed 21 May 2020]

⁴⁰⁸ Cornell Center on the Death Penalty Worldwide, [Sri Lanka](#), regularly updated [last accessed 21 May 2020]

⁴⁰⁹ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Death sentences*, p. 53

⁴¹⁰ Amnesty International, [Sri Lanka: Halt Preparations to Resume Executions](#), 2 April 2019

⁴¹¹ Amnesty International, [Sri Lanka: Halt Preparations to Resume Executions](#), 2 April 2019

⁴¹² Amnesty International, [Death Sentences and Executions 2019](#), April 2020, *Death Sentences p.10 and Notable country developments*, p. 30

In July 2019 the World Coalition Against the Death Penalty and 52 other co-signing organisations wrote to the President of Sri Lanka to express their grave concern over the announcement that four executions had been scheduled.⁴¹³

In a February 2020 report the UN High Commissioner for Human Rights summarised that she was “concerned about the steps taken in 2019 to resume implementation of the death penalty after over 40 years of de facto moratorium, notably the recruitment of executioners and the reported signature of executions warrants for four prisoners convicted of drug-related offences”.⁴¹⁴

In a joint submission to the 128th March 2020 session of the UN Human Rights Committee, the International Federation for Human Rights, Reprieve and The World Coalition Against the Death Penalty explained that the stay of executions was then extended until 10 December 2019 and again until 20 March 2020 and noted that “Following the recent announcement made by the newly appointed Minister of Justice to implement the death penalty for drug-related offenses, the resumption of executions remains a possibility”.⁴¹⁵

In a June 2020 report the Centre for Policy Alternatives noted that it “was also informed that as a result of the accumulation of death row prisoners, their living conditions are affected through overcrowding and a lack of adequate facilities”.⁴¹⁶

b. Corruption

The Bertelsmann Stiftung’s Transformation Index covering the period from 1st February 2017 to 31st January 2019 considered that:

The government that took over in January 2015 pledged to end corruption. Legal prosecution of those responsible for profiting from the sale of bonds (including supporters of the current government) is a positive sign. Increased freedom of the press has also led to some moderation in the scale of corruption, at least at high levels. Unfortunately, while there has been much publicity on the extensive corrupt practices of members of the previous government and instances of missing funds, prosecution has proceeded slowly. There is widespread belief that corruption continues to be embedded in the administration. Public procurement systems are open to bribery and there is virtually no accountability of officeholders in the form of asset declarations or conflict of interest rules. State spending is audited, but party financing is not regulated. Media questioning of allocations of funds and state contracts has become a valuable corrective. The Right to Information Act of 2016 could become a valuable tool to counter corruption. A survey in October 2016 revealed that 34.5% of Sri Lankans thought the government was committed to eradicating corruption, while 40.8% did not think the government was committed to this.⁴¹⁷

⁴¹³ World Coalition Against the Death Penalty, [Joint Open Letter to the President of Sri Lanka on the Imminent Resumption of Executions](#), 1 July 2019

⁴¹⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 35

⁴¹⁵ International Federation for Human Rights, Reprieve and The World Coalition Against the Death Penalty, [Sri Lanka UN Human Rights Committee List of Issues](#), 128 Session (2-27 March 2020)

⁴¹⁶ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 6.5. *Death row prisoners*, p. 34

⁴¹⁷ Bertelsmann Stiftung, [Transformative Index \(BTI\) 2020 Country Report, Sri Lanka](#), 29 April 2020, *Transformative Status, II. Governance Performance, 15. Resource Efficiency*, p. 25

Reporting on the late 2018 constitutional crisis, Freedom House described that:

The military often inserts itself into political affairs. Members of the military openly backed then president Rajapaksa ahead of the 2015 election, and the armed forces recognized his appointment as prime minister in October 2018 despite protests that the move was unconstitutional. Vote buying and political bribery are also a concern. Monitors said the government offered gifts and handouts to voters ahead of the 2015 presidential election, and Rajapaksa's efforts to win lawmakers' support during the 2018 constitutional crisis reportedly included bribery, with dueling allegations that bribes were either offered or demanded.⁴¹⁸

Similarly the Bertelsmann Stiftung's Transformation Index described that "Credible public accounts of efforts to bribe legislators to change party allegiance in October 2018 reduced faith in the political process".⁴¹⁹ For further details see [II.b. 2018 Constitutional Crisis](#).

Freedom House, covering the situation in 2018 also noted that "The Sirisena administration's efforts to fight corruption, including arrests and indictments, have led to few convictions. Corruption remains a problem in the judiciary, public procurement, and customs".⁴²⁰ Furthermore:

In May 2018, Parliament approved a new law that created special courts to deal specifically with corruption. The change was meant to accelerate cases that have been delayed for years, many from former president Rajapaksa's administration. In September, Gotabhaya Rajapaksa, a former defense minister and brother of the former president, was indicted in an anticorruption court for allegedly misusing public funds to build a memorial to his parents. He awaited trial at the end of the year, and it remained to be seen whether the new courts would yield more corruption convictions.⁴²¹

The U.S. Department of State's annual report covering 2019 identified "widespread corruption" as amongst the significant human rights issues in Sri Lanka.⁴²² The report documented that "corruption often caused trial delays".⁴²³ The same source further noted:

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption remained a significant and continuing problem. International companies frequently reported requests for bribes on issues ranging from customs clearances to government procurement. As of November the Commission to Investigate Allegations of Bribery or Corruption arrested 42 individuals on suspicion of providing and accepting bribes during the course of the year.⁴²⁴

⁴¹⁸ Freedom House, [Freedom in the World 2019: Sri Lanka](#), January 2019

⁴¹⁹ Bertelsmann Stiftung, [Transformative Index \(BTI\) 2020 Country Report, Sri Lanka](#), 29 April 2020, *Transformative Status, II. Governance Performance, 14. Steering Capability*, p. 24

⁴²⁰ Freedom House, [Freedom in the World 2019: Sri Lanka](#), January 2019

⁴²¹ Freedom House, [Freedom in the World 2019: Sri Lanka](#), January 2019

⁴²² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Summary*, p. 2

⁴²³ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *section 4., Corruption and Lack of Transparency in Government*, p. 17

⁴²⁴ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *section 1.d. Arrest Procedures and Treatment of Detainees*

Sri Lanka was ranked 93/180 in Transparency International's 2019 Corruption Perceptions Index (CPI).⁴²⁵ Transparency International further noted that "Sri Lanka has scored 38 on the CPI 2019 retaining the same score from the previous year; on a scale of 0 (highly corrupt) to 100 (very clean). The country's score also places Sri Lanka behind Bhutan (68) and India (41) in the South Asian region. Sri Lanka's score of 38 is also far behind the Asia Pacific regional average of 45. This underscores Sri Lanka's stagnant anti-corruption environment, which has seen the country's CPI score fluctuate between 36 and 38 since 2013. Sri Lanka ranks 93rd in CPI 2019, compared to 89th in 2018".⁴²⁶ Speaking on the country's performance on the CPI 2019, Transparency International Sri Lanka's Executive Director Asoka Obeyesekere said, "The CPI deals with perceived levels of public sector corruption. The stagnation in the CPI score is validated by the numerous corruption cases which have seen limited progress. The causes for these challenges can range from skills gaps to deeply entrenched inefficiencies in the criminal justice system".⁴²⁷

In March 2019 Transparency International Sri Lanka (TISL) reported that in commemoration of International Women's Day, it "wishes to underscore the fact that widespread corruption continues to have a disproportionate impact on women in Sri Lanka. TISL believes that this situation is exacerbated by issues ranging from the limited access to political participation of women to lapses in enforcing the law in cases such as sexual bribery".⁴²⁸

In a September 2019 article, Transparency International Sri Lanka reported that it had "filed a complaint with the Commission to Investigate Allegations of Bribery or Corruption (CIABOC) today, citing information obtained through the Right to Information Act, which shows that 8 members of the Cabinet of Ministers had not submitted their Declarations of Assets & Liabilities for 2018/19, as at 20 August 2019".⁴²⁹

In November 2019 the Straits Times reported that "Corruption charges against Sri Lankan President Gotabaya Rajapaksa were dropped on Thursday (Nov 21) by a court, which handed his passport back as he acquired immunity from prosecution after being elected last weekend. Under Sri Lanka's Constitution, no court proceedings can be maintained against a serving president. However, action could be taken after he leaves office. The High Court had indicted Mr Rajapaksa in September last year on charges of siphoning 33 million rupees (S\$251,100) in state funds to build a memorial for his parents".⁴³⁰

In December 2019 Transparency International Sri Lanka reported that it was "encouraged by the convictions handed down by the Special High Court Trial-at-Bar, which sentenced the former President's Chief of Staff I.H.K. Mahanama and the former Chairman of the State Timber Corporation P. Dissanayaka to 20 years and 12 years rigorous imprisonment respectively. Both men were found guilty of soliciting a

⁴²⁵ Transparency International Sri Lanka, [Corruption Perceptions Index 2019 – Sri Lanka Stagnant](#), 23 January 2020

⁴²⁶ Transparency International Sri Lanka, [Corruption Perceptions Index 2019 – Sri Lanka Stagnant](#), 23 January 2020

⁴²⁷ Transparency International Sri Lanka, [Corruption Perceptions Index 2019 – Sri Lanka Stagnant](#), 23 January 2020

⁴²⁸ Transparency International Sri Lanka, [Corruption Disproportionately Impacts Women – TISL](#), 8 March 2019

⁴²⁹ Transparency International Sri Lanka, [Failure to Submit Asset Declarations; TISL Files Complaint Against 8 Cabinet Ministers](#), 10 September 2019

⁴³⁰ Straits Times, [Corruption charges dropped as Gotabaya Rajapaksa has immunity as new Sri Lanka President](#), 21 November 2019

bribe of Rs.100 million and accepting an advance payment of Rs. 20 million from an Indian businessman, who was the complainant in this case”.⁴³¹

In December 2019 Transparency International Sri Lanka launched the 2019 Global Corruption Barometer (GCB) report for Sri Lanka, “the world’s largest public opinion survey on views and experiences of corruption. As a poll of the general public it provides an indicator as to how corruption is affecting individuals on a national level and how efforts to curb corruption are viewed on the ground”.⁴³² The survey provided four key findings:

When asked which key State institution they trust the most amongst the Judiciary, Government and Police, a majority of the public selected the Judiciary with 73% saying they had either a fair amount of trust or a great deal of trust in the courts. This is in stark comparison to the Government at 47% and the Police at 57%.

A quarter of the public found it acceptable to pay a bribe to obtain or expedite certain public services. Two-thirds of the public found these practices to be unacceptable.

Almost half of all respondents (46%) believed that sextortion, a form of corruption which occurs when a public official indicates the willingness to provide a government benefit in exchange for sexual favours, happened either occasionally, often, or frequently. Urban dwellers felt it to be more frequent than rural dwellers. However, within the rural sector, the data shows a greater vulnerability amongst those within the estate sector.

86% of the public had some awareness of the existence of the Commission to Investigate Allegations of Bribery or Corruption (CIABOC). However, 72% were unaware of the existence of a mechanism to report incidents of bribery or corruption.⁴³³

Sri Lanka Brief noted that in January 2020 Former Director of the CID [Criminal Investigation Department], Senior Superintendent of Police Shani Abeysekara was suspended “for allegedly having a conversation with MP Ranjan Ramanayake over a court case”.⁴³⁴

In a January 2020 joint report the International Truth and Justice Project and Journalists for Democracy in Sri Lanka noted that “Pivotal to his strategy for rehabilitating his allies is an extraordinary presidential gazette notification (2157/44) of 9 January 2020, signed by Presidential Secretary P. B. Jayasundera, in which Gotabaya Rajapaksa establishes a Commission of Inquiry to look into political victimization “instigated through a special unit dealing with Anti-Corruption “between 8th January 2015 and 16th November 2019. This paves the way for those previously accused of corruption, including the President’s Chief of Staff, to be exonerated”.⁴³⁵

⁴³¹ Transparency International Sri Lanka, [TISL Hails Landmark Conviction of Former President’s Chief of Staff](#), 22 December 2019

⁴³² Transparency International Sri Lanka, [Paying Bribes Acceptable to a Quarter of Sri Lankans – TISL Survey](#), 9 December 2019

⁴³³ Transparency International Sri Lanka, [Paying Bribes Acceptable to a Quarter of Sri Lankans – TISL Survey](#), 9 December 2019

⁴³⁴ Sri Lanka Brief, [Sri Lanka’s Suspended Top Investigator SSP Shani Abeysekara receives death threats](#), 29 January 2020

⁴³⁵ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020

In February 2020 Sri Lanka Brief reported that “Airbus aviation group had offered a 16 million US dollar bribe to the wife an employee of Sri Lanka’s state airline for a large aircraft order, and at least two million dollars were paid to a ‘straw company’ set up in Brunei, court records show”.⁴³⁶

For information on interference in the judiciary, see [IV.a.ii. Criminal Justice System and Access to a Fair Trial.](#)

c. Impunity and accountability for post-civil war state perpetrated human rights abuses

Also see [I.c.ii. Allegations of Corruption and Impunity for Conflict-Era Crime.](#)

In a January 2019 report Amnesty International assessed that “In Resolution 30/1 the Government of Sri Lanka pledged to reform its domestic laws to include the prosecution of those retrospectively responsible for crimes relevant to the violation and abuse of human rights and international humanitarian law. There has been some progress in light of this undertaking (for example ratification of the Convention on Enforced Disappearances, and the passing of domestic legislation on enforced disappearances), however international crimes such as war crimes and crimes against humanity have still not been incorporated into domestic legislation. On the question of accountability however, the rhetoric of the Government seems to suggest that there will be, if at all, very little reformation of laws to hold perpetrators accountable”.⁴³⁷

The same source further noted that “Similarly, there has been little publicly available progress by the Government of Sri Lanka in implementing the UNHRC’s recommendation to introduce effective security sector reforms as part of its transitional justice process. Such measures will help to enhance the reputation and professionalism of the military and include ensuring that “no scope exists for retention in or recruitment into the security forces of anyone credibly implicated through a fair administrative process in serious crimes involving human rights violations or abuses or violations of international humanitarian law”.⁴³⁸

With regards to witness and victim protection the same Amnesty International report detailed that:

Resolution 30/1 “welcomes the recent passage by the Government of Sri Lanka of an updated witness and victim protection law and its commitment to review the law”. The Assistance to and Protection of Victims of Crime and Witnesses Act was gazetted in 2015, but its implementation has been problematic. The Office of the High Commissioner, in a report published in 2016 urged the Government to review and amend the Act in question to ensure “better safeguards for the independence and effectiveness of the victim and witness protection program”. The independence and impartiality of the National Authority for The Protection of Victims of Crimes and Witnesses have been questioned by organizations such as the

⁴³⁶ Sri Lanka Brief, [Sri Lankan Airline Exec’s Wife Offered US\\$16MN Bribe for Airbus Deal: Court filing](#), 1 February 2020

⁴³⁷ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 6.1 Legal reforms, p. 21

⁴³⁸ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 6.2 Security sector reforms, p. 21

International Truth and Justice Project, as representatives of the Police Department have been appointed to the Board of Management.⁴³⁹

The International Commission of Jurists reported in March 2019 in response to the OHCHR's February 2019 report on promoting reconciliation, accountability and human rights in Sri Lanka that the "Failure of the criminal justice system to effectively address emblematic cases (as reflected in Paragraph 38 of the report) clearly indicates the level of capacity and willingness on the part of the State even today to prosecute and punish perpetrators of serious crimes when they are linked to the security forces or other positions of power".⁴⁴⁰

The Human Rights Litigation and International Advocacy Clinic noted that "As recently as October 11th, 2019, in a landmark case, the Sri Lankan Court of Appeals acquitted four soldiers who were convicted and sentenced for gang rape of a Tamil woman in 2015. Due to the threat to the victim's life since her rapists have been released, she left the country in November 2019".⁴⁴¹

According to a Sri Lankan priest based in northern Sri Lanka and who communicated with the Swiss Refugee Council via an instant messaging app in March 2020 [informal translation]: "under the new government a culture of impunity has been established amongst security forces from senior officers to low-ranking ones".⁴⁴²

A spokesperson for the Sri Lankan Human Rights Commission interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that "There is routine police action against findings of torture by the HRC [Human Rights Commission]. Implementation of national law is lax; there are no statistics on the number of indictments or convictions. However, the HRC understood convictions were not high. Although indictments against police may not be found, the HRC provides a degree of relief to the people".⁴⁴³

A member of the Sri Lankan Attorney General Department interviewed by the same UK Fact-Finding Mission in October 2019 stated "There have been 'quite a few' prosecutions of security forces personnel, convicted for ill-treatment [...] There have been allegations of torture in police custody and these officers have been prosecuted and punished – can be sentenced for 10 years. Some people are not prosecuted due to lack of evidence [...] Sri Lanka is a signatory to the Committee against Torture (UNCAT). Officers are indicted and punished. A fundamental rights application can be made for

⁴³⁹ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 6.3 Witness and victim protection, p. 22

⁴⁴⁰ International Commission of Jurists, [Transitional Justice Mechanisms in Sri Lanka \(UN statement\)](#), 20 March 2019

⁴⁴¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020

⁴⁴² Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 2.1 Tendenz zu Autoritarismus, Militarisierung und zu einer Verschlechterung der Menschenrechtslage, p. 4. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

⁴⁴³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019, p. 41

compensation. Even imminent violations can be reported. There is a special e-mail and telephone number for complaints”.⁴⁴⁴

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted that “No legal mechanism exists to initiate independent investigations for state violence, including extrajudicial killings”.⁴⁴⁵ Furthermore, “Sri Lanka lacks independent and efficient mechanisms to address complaints of torture. The HRCSL [Human Rights Commission for Sri Lanka] can inquire into complaints of torture and make recommendations, including for prosecution, to the Attorney-General’s Department. The HRCSL can also recommend disciplinary action against offenders by relevant state institutions and financial compensation for victims”.⁴⁴⁶

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that “There remains no effective system in place for the protection of victims and witnesses, despite the enactment of legislation and the establishment of a witness protection authority”.⁴⁴⁷ Furthermore, “While the witness protection authority is currently operational, serious concerns have been raised about the appointment of several problematic individuals from the police and security forces to its Board of Members. According to the most recent publicly available data, only a handful of individuals have received protection from the authority, with many witnesses complaining that they have been unable to obtain assistance”.⁴⁴⁸

Moreover, “Those seeking recourse for serious human rights violations continue to face protracted delays. In 2017 it was reported that the Supreme Court was facing a backlog of approximately 3,000 fundamental rights cases. In the lower courts, victims from minority communities continue to complain of the obstacles posed by inadequate language services”.⁴⁴⁹

V. Human Rights Situation

a. Relevant Legal Frameworks

i. Prevention of Terrorism Act (PTA)

The November 2019 report by the Australian Department of Foreign Affairs and Trade explained that:

⁴⁴⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Attorney General Department*, 3 October 2019, p. 58 and 59

⁴⁴⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 4.3

⁴⁴⁶ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 4.27

⁴⁴⁷ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 9. *Uphold the rule of law and build confidence in the justice system* p. 18

⁴⁴⁸ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 13. *Review witness and victim protection law and protect witnesses, victims, investigators, prosecutors and judges* p. 21

⁴⁴⁹ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 9. *Uphold the rule of law and build confidence in the justice system* p. 18

The PTA was enacted as a temporary measure in 1979 to counter separatist insurgencies. It was made permanent in 1982. The PTA is not part of regular criminal law, and contains special provisions on detention and the admissibility of confessions. The PTA allows arrests for unspecified “unlawful activities”, permits detention for up to 18 months without charge and provides that confessions are legally admissible. The PTA was used mainly to target those suspected of involvement with the LTTE. During the war, authorities detained more Tamils under the PTA than any other ethnic group. Since 2015, the government has reviewed some cases of persons still detained under the PTA and released some detainees, mostly Tamils.⁴⁵⁰

Amnesty International provided the following background to the PTA in a January 2019 report “When the government of the time lifted the State of Emergency in August 2011, the Emergency Regulations that had paved the way for prolonged detention of suspects without charge under the Public Security Ordinance also lapsed. However, the Prevention of Terrorism Act (PTA), intended as a temporary piece of legislation in 1979 that contained provisions similar to the Emergency Regulations, was retained to become a permanent feature of Sri Lanka’s criminal justice system. It allowed for extended periods of detention without charge. It was intended to prevent ‘elements or groups of persons or associations that advocate the use of force or the commission of a crime as a means of, or as an aid in, accomplishing governmental change within Sri Lanka’”.⁴⁵¹ Furthermore:

The legislation is well known for its draconian provisions including:

- For suspects to be held without charge for up to 18 months.
- For arbitrary orders to be made by the Minister of Defence restricting freedom of expression and association, with no right of appeal in courts.
- For special rules of evidence allowing for confessions to be admissible in court.
- For the onus to be placed on a suspect to prove to a court that a statement was made under duress.⁴⁵²

The report cites several sources which document the abuses perpetrated under the PTA, including the Former UN Special Rapporteur on the promotion and protection of human rights while countering terrorism in July 2018 who stated that “...the PTA had been used to commit some of the worst human rights violations, including widespread torture and arbitrary detention, in the run-up to and during the conflict, particularly to target minorities and suppress dissent”.⁴⁵³

This is corroborated by several sources. For example, the Sri Lanka Campaign for Peace and Justice noted in February 2019 that “the Prevention of Terrorism Act (PTA), an extremely repressive piece of legislation which enables arbitrary arrest and prolonged detention with minimal legal oversight, has not yet been repealed. The role of the PTA in facilitating torture has been widely documented”.⁴⁵⁴ Human Rights Watch summarised that the PTA “has resulted in countless arbitrary detentions and facilitated torture of detainees”.⁴⁵⁵

⁴⁵⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 3.16

⁴⁵¹ Amnesty International, [Sri Lanka: Countering terrorism at the expense of human rights](#), January 2019

⁴⁵² Amnesty International, [Sri Lanka: Countering terrorism at the expense of human rights](#), January 2019

⁴⁵³ Amnesty International, [Sri Lanka: Countering terrorism at the expense of human rights](#), January 2019

⁴⁵⁴ Sri Lanka Campaign for Peace and Justice, [No will no way: Stalled efforts to deal with the past in Sri Lanka](#), February 2019, 18. *Review and repeal the Prevention of Terrorism Act*, p. 20

⁴⁵⁵ Human Rights Watch, [Sri Lanka: Repeal Abusive Counterterrorism Law](#), 10 January 2020

In a February 2019 report, the UN High Commissioner for Human Rights reviewed the progress made by the Government of Sri Lanka between October 2015 and January 2019 in implementing resolution 30/1. The report noted with regards to the Prevention of Terrorism Act (PTA) that:

A key commitment of the Government in 2015 was to review and repeal the Prevention of Terrorism Act. Draft legislation in the form of a counter-terrorism law, with serious shortcomings, was approved by the Cabinet on 25 April 2017 and later withdrawn for revisions. An improved revised version was presented to the parliament on 9 October 2018. In a determination issued in November 2018 on the constitutionality of the revised bill, the Supreme Court ruled that the death penalty had to be included as punishment to prevent inconsistencies with the Penal Code. It also found that a reference in the bill relating to its compliance with the law, including international human rights instruments to which Sri Lanka is a party, was incompatible with the Constitution, which does not regard “international instruments” as law. The relevant oversight committee of the parliament will be required to take up the amendments proposed by the Supreme Court; meanwhile, there are concerns that other new amendments, reportedly suggested in Cabinet for incorporation at the parliamentary committee stage, might further weaken the bill’s compliance with international best practices.

The High Commissioner is concerned that, despite its lengthy preparation and the consultation of expert advice, the final bill might not comply fully with international human rights norms and standards. Even in its present form, the bill contains problematic features, such as an overly broad definition of terrorism.⁴⁵⁶

In July 2019 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “the Prevention of Terrorism Act is used to unevenly target ethnic and religious minorities in the North and East, often being instrumentalised to break up memorial gatherings and harass civil society organisations working on issues such as accountability, disappearances and return of lands seized by the military during the conflict. In a similar vein, the Emergency Regulations put in place following the Easter bombings have put more power in the hands of security forces, who disproportionately target these communities without justification”.⁴⁵⁷ Similarly, according to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “following the Easter bombings, the Government arrested hundreds of Muslims in April 2019 under the PTA and the ICCPR Act [International Covenant on Civil and Political Rights], which many human rights organizations criticized as abusive and an infringement on legitimate freedom of expressions”.⁴⁵⁸ For further information, see section [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#).

The South Asia Terrorism Portal reported that “On September 18, 2019, in the wake of the Easter Sunday attacks, the Cabinet approved a new Counter Terrorism Bill to deal with the latest threat. The Bill gave a broad definition to terrorism and covered areas not found in the Prevention of Terrorism Act (PTA), 1979. The PTA was only limited to terrorist acts committed by any citizen of Sri Lanka within the country, whereas the Counter Terrorism Bill will apply to any citizen of Sri Lanka in the country within or outside the territory of Sri Lanka. The new Bill, modelled on laws in Britain and India to deal with IS terrorism, also contains provisions for dealing with the use of cyberspace for terrorist operations and

⁴⁵⁶ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 27-29

⁴⁵⁷ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁴⁵⁸ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Counter-terrorism Measures (Articles 2, 7, 9, 10 and 14)*, p. 8

coordination of terrorist activities. The PTA lacked adequate teeth to act against such cyberspace operations”.⁴⁵⁹

The same source further reported that following the election in November 2019:

The new Government also withdrew the Counter Terrorism Bill drafted by the previous Government to replace PTA. Co-Cabinet Spokesman Minister Bandula Gunawardena on January 3, 2020, noted, The previous Cabinet of Ministers approved the repeal of the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 and the introduction of the draft Counter Terrorism Bill in Parliament with the intent of enacting new laws to combat terrorism. The controversial Bill is being considered by the Sectoral Oversight Committee on International Relations in Parliament. However, considering the views expressed by various parties regarding certain provisions contained in the Bill, Minister of Foreign Relations Dinesh Gunawardena has proposed the withdrawal of the Bill.

Minister Gunawardena, in his statement, highlighting the opposition to the Bill within the country stated, There was opposition to the Bill from the start, and we have repeatedly opposed it at Oversight Committee meetings. If the CTA was enacted, it would have stopped the Armed Forces and Police from dealing effectively with the threat of terrorism, and instead curbed the rights guaranteed to the people by the Constitution, such as political trade union rights, and their freedom of expression.

Gunawardena asserted that the PTA would remain in place.

Moreover, expressing serious concern over the Counter Terrorism Bill, the then opposition leader and former President Mahinda Rajapaksa (now the Prime Minister) had stated on April 2, 2019, "We will be talking to other like-minded parties to prevent the passage of the CT Bill in Parliament. The proposed new legislation is because of undue international pressure and the failure of the Government." Similarly, another opposition party, Janatha Vimukthi Peramuna (JVP) Member of Parliament (MP) Anura Kumara Dissanayake on May 8, 2019, had asserted that the Bill included articles that suppress the people. He had further said that it was very clear the Counter Terrorism Bill was attempting to suppress protests and people's rights".⁴⁶⁰

The Centre for Policy Alternatives (CPA) submitted to the UN Human Rights Council in February 2020 that:

The Prevention of Terrorism Act (PTA) has long been criticized as being out of compliance with international standards, including by this Committee. The draft CTA [Counter Terrorism Act] was fiercely debated in public spaces. Civil Society Organizations challenged specific sections of the CTA, specifically on the basis of the limitations on political opponents, civil society, and public dissent. Moreover, the Act contains broad and loose definitions of terrorism, national security, and the nation's sovereignty. The Government did not address these concerns and enact a CTA in compliance with international standards. Instead, on January 2nd, 2020, the Cabinet of Ministers withdrew the CTA bill, leaving only the PTA in place. By withdrawing the CTA bill, Sri Lanka is reneging the pledges it made, including to the United Nations Human Rights Council and the European Union.⁴⁶¹

For a detailed critique of the draft Counter Terrorism Act, see Amnesty International, [Sri Lanka: Countering Terrorism at the Expense of Human Rights](#), January 2019.

In a February 2020 the UN High Commissioner for Human Rights documented that "In the wake of the attacks of April 2019, the Government did not finalize or proceed with the counter-terrorism bill that

⁴⁵⁹ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

⁴⁶⁰ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

⁴⁶¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Counter-terrorism Measures (Articles 2, 7, 9, 10 and 14)*, p. 8

had been drafted to replace the Prevention of Terrorism Act. On 4 January 2020, it announced that it would be withdrawn. The Act has continued to be used, and was used as the basis for the arrest of individuals believed to be linked to the organizations responsible for the attacks”.⁴⁶²

Cabinet spokesman, Minister Bandula Gunawardana was cited as stating in January 2020 that “The PTA is back in the statute book, empowering the Police and Armed Forces to face any threat posed to national security from any quarter”.⁴⁶³

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that “In January 2020, following the election of President Gotabaya Rajapaksa, Sri Lanka’s Cabinet withdrew the CTA Bill, claiming that it had been brought by the previous government under pressure from ‘international forces.’ The new government have not yet announced whether they intend to repeal the PTA; however, according to a February 2020 report by the European Commission, ‘the new government has made it clear that the PTA will remain in place until an improved draft has a chance to be adopted by Parliament, probably after the April/May 2020 Parliamentary elections’”.⁴⁶⁴

For information on the detention of persons under the PTA, see section [V.d.iii.a\) Detention under the Prevention of Terrorism Act \(PTA\)](#). Also see [V.d. Arbitrary Arrests and Detention](#) and [V.d.ii. Treatment in Detention](#).

ii. Human Rights Commission of Sri Lanka (HRCSL)

The November 2019 report by the Australian Department of Foreign Affairs and Trade described that:

The Human Rights Commission of Sri Lanka (HRCSL) was established by an Act of Parliament in 1996 with a mandate to investigate alleged violations of fundamental rights, advise the government in formulating laws and policies that comply with international human rights standards, and promote human rights awareness across the country. The HRCSL has unfettered access to places of detention and makes regular prison visits to monitor the welfare of detainees. The HRCSL has some capacity to undertake independent investigations, but does not have prosecutorial powers (it can refer cases to the Attorney-General for prosecution). The HRCSL has a head office in Colombo and 10 regional offices across the country, including in the Northern and Eastern provinces. It publishes quarterly reports in Sinhala, Tamil and English on the number of complaints received and resolved. Complaints can be lodged with the HRCSL in Sinhalese, Tamil or English.⁴⁶⁵

The U.S. Department of State’s annual report covering 2019 noted that:

The HRCSL has jurisdiction to investigate human rights violations. The HRCSL consists of five commissioners and has divisions for investigations, education, monitoring and review, and administration and finance. There are 10 regional offices across the country. The HRCSL accepts complaints from the public and may also self-initiate investigations. After an allegation is proven to the satisfaction of the

⁴⁶² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 27

⁴⁶³ Daily Mirror Sri Lanka, [Cabinet approval to withdraw Counter Terrorism Bill](#), 4 January 2020

⁴⁶⁴ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *18 Review and repeal the Prevention of Terrorism Act*, p. 26

⁴⁶⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 2.54

commission, the HRCSL may recommend financial compensation for victims, refer the case for administrative disciplinary action or to the attorney general for prosecution, or both. If the government does not follow an HRCSL request for evidence, the HRCSL may summon witnesses from the government to explain its action. If the HRCSL finds the government has not complied with its request, the HRCSL may refer the case to the High Court for prosecution for contempt by the Attorney General's Department, an offense punishable by imprisonment or fine. By statute the HRCSL has wide powers and resources and may not be called as a witness in any court of law or be sued for matters relating to its official duties. The HRCSL generally operated independent of and with lack of interference from the government.

The HRCSL was also responsible for vetting of the country's peacekeepers. The memorandum of understanding between the United Nations, HRCSL, Ministry of Defense, and Ministry of Law and Order for the vetting of military and police participants in peacekeeping operations was finalized in December 2018. As of August 2019, the vetting process was carried out by the HRCSL.

In April the government appointed five commissioners to the Office for Reparations, an independent authority created by the Office for Reparations Act passed in October 2018. The office is mandated to identify aggrieved victims qualified for reparations and provide appropriate compensation individually or collectively.⁴⁶⁶

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, "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".⁴⁶⁷

In a February 2019 report, the UN High Commissioner for Human Rights noted "The Human Rights Commission has continued to work in an independent manner. On 29 May [2018], it was re-accredited with A status by the Global Alliance of National Human Rights Institutions, and within the context of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Government has designated it the national preventive mechanism".⁴⁶⁸

The Asian Human Rights Commission reported in February 2019 that "In an unprecedented move, Sri Lankan President Maithripala Sirisena attacked the Human Rights Commission of Sri Lanka (HRCSL) for carrying out its duty to vet soldiers to participate in United Nations Peacekeeping Missions. While the United Nations Peacekeeping Operations requires the HRCSL to vet the human rights record of persons proposed for participation in peacekeeping missions, the President and the military are opposing this move".⁴⁶⁹

Reporting on the same issue the Asian NGO Network on National Human Rights Institutions (ANNI) stated that it "strongly condemns the effort of personal attacks and false allegations against the Chair and other Commissioners of HRCSL. ANNI stands in solidarity with the HRCSL and urges the Government

⁴⁶⁶ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights, p. 19

⁴⁶⁷ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 80

⁴⁶⁸ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 53

⁴⁶⁹ Asian Human Rights Commission, [SRI LANKA: Public space decreasing as talk of presidential election looms large](#), 14 February 2019

of Sri Lanka to create an environment conducive for the commission to function independently without fear of intimidation and reprisals, in accordance with the Paris Principles and the international standards".⁴⁷⁰

In July 2019 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that "Everywhere I went, I heard repeated praise for the unrelenting work of the Human Rights Commission, which now holds an A-status according to the Paris Principles, in defence of all human rights for all".⁴⁷¹

In a February 2020 the UN High Commissioner for Human Rights welcomed "the formal designation by the Government, in July 2019, of the Human Rights Commission of Sri Lanka as the national prevention mechanism pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".⁴⁷² The same source further noted that "The Human Rights Commission of Sri Lanka has continued its proactive and outspoken defence of human rights in an independent and professional manner. The High Commissioner commends its timely interventions in the aftermath of the attacks of April 2019, which played an important role in preventing resort to excessive or discriminatory measures".⁴⁷³

Information about the functioning of the HRCSL can be found on its [website](#).

b. State surveillance/monitoring

Human Rights Watch noted in its annual report covering 2019 that "activists and civil society members, particularly in the north and east of the country, were increasingly subjected to surveillance and harassment".⁴⁷⁴

Freedom House reported in its 'Freedom on the Net' report covering the period from 1 June 2018 – 31 May 2019 that "The downward trajectory of internet freedom is expected to continue, evidenced by recently proposed amendments criminalizing false information and suggestions of increased government surveillance".⁴⁷⁵ Furthermore:

Following the Easter Sunday attacks, the government indicated its intention to ramp up monitoring and surveillance. In May 2019, the prime minister announced a plan to implement a Centralized and Integrated Population Information System (CIPIS) to track individuals engaged in terrorism, money laundering, and transaction and financial crimes. It was unclear what privacy considerations, if any, had been incorporated into the plan.

During a visit to China in May, President Sirisena asked Chinese president Xi Jinping to share surveillance technology with China, citing the challenges of surveilling encrypted platforms. President Xi reportedly agreed to meet Sirisena's request.

⁴⁷⁰ Asian NGO Network on National Human Rights Institutions, [Sri Lanka: Government must ensure the independence of the Human Rights Commission of Sri Lanka](#), 28 March 2019

⁴⁷¹ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁴⁷² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 10

⁴⁷³ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 37

⁴⁷⁴ Human Rights Watch, [World Report 2020 - Sri Lanka](#), 14 January 2020

⁴⁷⁵ Freedom House, [Freedom on the Net: 2019 Sri Lanka](#), 4 November 2019

In April, Colombo's largest airport announced that it would begin using a facial recognition system that was donated by the UN Office on Drugs and Crime.

The introduction of the electronic identity card (e-NIC) project has also raised surveillance concerns. The project includes a central database storing wide-ranging information and biometrics with "family tree" data. Activists warn that this data could be used to target political opponents and is vulnerable to hacking. However, there was little opposition to the project when it was first introduced, presumably because the government justified it as a needed improvement to the state's service delivery.

Extrajudicial surveillance of personal communications is prohibited under the Telecommunications Act No. 27 of 1996. However, communications can be intercepted on the order of a minister or a court, or in connection with the investigation of a crime.

State agencies reportedly possess some technologies that could facilitate surveillance. In March 2019, President Sirisena requested approval for the government to purchase \$38.9 million worth of surveillance technology from an unnamed Israeli company. Bypassing the normal procedures for purchasing such technology, Sirisena claimed the request, which was purportedly to tackle drug trafficking, was urgent and must be kept secret.⁴⁷⁶

The Jamestown Foundation reported in July 2019 that "The North is a virtual police state, and the security forces have developed an institutional obsession over LTTE remnants and possible resurgence, which has not yet materialized and probably will not. The province is on lock-down, militarized, and under the tightest and most insidious system of surveillance, which reaches down to the village level. The slightest sign of activity leads to disproportionate responses with scant regard for human rights and civil liberties".⁴⁷⁷

According to S. Shriritharan, MP of the Sri Lankan political party Illankai Tamil Arasu Kachci (ITAK) and the Swiss Embassy based in Colombo, who in February 2019 spoke to the Swiss State Secretariat for Migration noted [informal translation]: "Some rehabilitated former LTTE members became informers for security services through the use of force and intimidation. The population is particularly suspicious of those who worked for the Civil Security Department (CSD). Many believed that CSD employees worked as informers for the intelligence service of the military".⁴⁷⁸

Speaking to a civil society representative in February 2019 and through an email received during the same month by the Swiss Embassy based on Colombo, the following information was included in the same Swiss State Secretariat for Migration report on Sri Lanka [informal translation]:

A civil society member from Jaffna noted in early 2019 that the intensity of surveillance in the north increased during 2018, especially after the local elections in February [2018] and during the government crisis at the end of 2018. On the one hand, people were monitored more often, on the other hand, this would be done more visibly, for example, by the monitors taking open pictures of people. However, the focus of the surveillance has shifted in 2018 somewhat from former LTTE members to monitoring of civil society and people protesting against the government (e.g. families of missing persons).⁴⁷⁹

⁴⁷⁶ Freedom House, [Freedom on the Net: 2019 Sri Lanka](#), 4 November 2019

⁴⁷⁷ The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

⁴⁷⁸ Swiss State Secretariat for Migration (SEM), [Focus Sri Lanka, Lage ehemaliger Mitglieder der Liberation Tigers of Tamil Eelam \(LTTE\)](#), 15 March 2019, 4.4. *Benachteiligungen*, p. 20. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

⁴⁷⁹ Swiss State Secretariat for Migration (SEM), [Focus Sri Lanka, Lage ehemaliger Mitglieder der Liberation Tigers of Tamil Eelam \(LTTE\)](#), 15 March 2019, 6.1. *Überwachung durch die Behörden*, p. 26. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

In July 2019 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “I am very concerned at the numerous accounts I received of surveillance, including online surveillance, used to monitor the activities of the civil society sector and intimidate those protesting peacefully for their demands to be heard”.⁴⁸⁰ The same source further detailed that:

Whether people demand the return of their lands, information on their disappeared family members, better living and working conditions, all seem to undergo some low but regular level of surveillance which includes questioning, intimidating phone calls and taking of photos and videos. This type of surveillance can inhibit the workings of civil society organisations and dissuade people from joining in demonstrations. Indeed, reports that I have heard while I have been in the country have indicated such. Members of civil society have also expressed their concerns to me as to how this information may be used, both now and in the future.

Surveillance seems to be particularly prevalent in the North and East of the country and seems to have increased following the Easter Sunday attacks, even though the areas affected have little to no connection with the attacks or the perpetrators. This, coupled with the continuous and strong military presence, which has a highly symbolic value for the lack of accountability for the human rights violations committed during the war, contribute to perpetuate the frustrations, resentment and disenfranchisement, felt by the communities in those areas which remain mistrustful of any State institution. While this surveillance may not be a State-led policy, the State has the responsibility to take the necessary steps so that civil society can freely carry out their legitimate work without surveillance or intimidation.

Indeed, before, during and after my consultations with civil society, participants reported receiving intimidating phone calls, demanding information on other participants, topics discussed and route plans. I was personally witness to this surveillance. During my consultation in Trincomalee, presumed intelligence personnel in civilian clothing were observed monitoring participants outside of the meeting place. In another location, military personnel took note of our vehicles’ number plates. I must, at this point, categorically condemn these instances of surveillance, which may be considered as acts of reprisal and I remind the Government that it has an obligation to ensure that no acts of reprisal occur against those under its jurisdiction who wish to interact with UN human rights mechanisms.⁴⁸¹

Sri Lanka Brief noted in September 2019 that “Surveillance of journalists continue in the North and the East”.⁴⁸² It cites a journalist from the Batticaloa District as stating that “Military intelligence keeps an eye on the journalists who work in this district. Their visits to public events are so frequent that their presence has become, to a certain extent, ‘normal’. They telephone journalists directly and ask for information on such programs. It is difficult to think that these practices will end anytime soon. There is an unexplainable fear among the media community in the district. May be it is because of the past and the continuing surveillance. This an unending pressure”.⁴⁸³

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “There are many former LTTE cadres but many for them could be under surveillance. Certain individuals are more likely to

⁴⁸⁰ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁴⁸¹ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁴⁸² Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, *Surveillance of journalists*

⁴⁸³ Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, *Surveillance of journalists*

be monitored such as those with connections with the criminal underworld, e.g. selling weapons. If they are watched, it is for good reason".⁴⁸⁴

A Human Rights Activist interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that:

Some people are employed by the Sri Lankan authorities to take photos and videos of protestors. This is common in the North and East. There is a network of informants in the North and East made up of former cadres and others [...]

He had heard, anecdotally, that following the coup and Easter bombings, monitoring had increased, and this was more prevalent in the North and East.⁴⁸⁵

A spokesperson for the Sri Lankan Human Rights Commission (HRC) interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that "The HRC thought monitoring continued [...] Freedom of speech and association has opened up since October 2015. However, complaints from the North and East are still received. For example, when families meet to discuss the disappeared, or when human rights defenders meet, intelligence officers appear at these meetings".⁴⁸⁶

Representatives from the Department of Immigration and Emigration interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following information with regards to border controls and surveillance:

Border checks are automated and linked to Interpol to identify internationally-wanted persons. A database is shared with the police to identify criminals. Immigration works closely with SIS and shares information. The Stop list is confidential for data protection. It consists mostly of foreign passport holders. A person could be added to the Stop list following departure if further information comes to light that necessitates this. Prior to departure checks are made on passports and visas to ensure they are genuine. Departing Sri Lankan nationals are asked about the purpose of their visit abroad, and must provide flight details, evidence of money for expenses, employment details etc If they have a job abroad, they must register with the Bureau of Foreign Employment. If a criminal attempts to leave the country (or someone such as an army deserter) it will be flagged to Immigration if the person has been banned from travel abroad by the court. Immigration will pass identified criminal to CID after a preliminary investigation. There is a lot of border surveillance and it is not possible to bypass checks without immigration officials being complicit.⁴⁸⁷

A journalist interviewed by a UK Fact-Finding Mission in October 2019 identified as 'journalist 1', stated that "Government monitoring of social media occurs. Ex-cadres are used to monitor communities. In

⁴⁸⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019, p. 34

⁴⁸⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 37 and 38

⁴⁸⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019, p. 40

⁴⁸⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representatives from the department of Immigration and Emigration 1 October 2019, p. 42

Jaffna, many media organisations were penetrated by ex cadres, paid by the military”.⁴⁸⁸ A second journalist interviewed by a UK Fact-Finding Mission in October 2019 identified as ‘journalist 2’, stated “Former LTTE cadres are not directly mistreated; some former members have gone into politics. There is a fear they’re being watched by the military and intelligence. Similar stories are heard in the North and East – a fear of being watched in case they take up arms”.⁴⁸⁹

The November 2019 report by the Australian Department of Foreign Affairs and Trade described that:

Members of the Tamil community claim that authorities continue to monitor public gatherings and protests in the north and east, and practise targeted surveillance and questioning of individuals and groups. Security forces are most likely to monitor people associated with politically-sensitive issues related to the war, including missing persons, land release and memorial events [...]. Local sources told DFAT that the method of monitoring today was more subtle. [...]

Communities in the north and east report that monitoring is undertaken by military intelligence and the Police Criminal Investigation Department, though in many cases officers dress in plain clothes and do not identify themselves. According to local sources, those participating in public gatherings and protests are often photographed. In the east, local informants within the community (including neighbours and business owners) reportedly undertake monitoring on behalf of the authorities. Intelligence agencies also monitor

links to foreign groups, including some in the Tamil diaspora⁴⁹⁰

The New York Times reported in November 2019 that “Fears of a potential crackdown on critics of the newly returned Rajapaksa political dynasty in Sri Lanka are rising just days after the election, as officials and journalists who investigated the Rajapaksas for human rights abuses and corruption began trying to flee the country, officials said”.⁴⁹¹ The same source further described:

In a case that raised particular alarm, a Sri Lankan employee of the Swiss Embassy in Colombo was abducted on Monday by unidentified men and forced to hand over sensitive embassy information, Switzerland’s foreign ministry said. Officials in Colombo said the men forced her to unlock her cellphone data, which contained information about Sri Lankans who have recently sought asylum in Switzerland, and the names of Sri Lankans who aided them as they fled the country because they feared for their safety after Gotabaya Rajapaksa won the presidency in elections this month.

On the same day, Mr. Rajapaksa imposed a blanket travel ban on more than 700 members of the Sri Lankan police unit that had been investigating the family. And other police officers raided a news outlet critical of the Rajapaksas and forced several journalists to hand their computers over for analysis, in what the police said was an investigation into accusations of hate speech.⁴⁹²

The U.S. Department of State’s annual report covering 2019 noted that “The PTA [Prevention of Terrorism Act] permits government authorities to enter homes and monitor communications without

⁴⁸⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 47

⁴⁸⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 48

⁴⁹⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, Security Situation, para. 3.11-3.12

⁴⁹¹ New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

⁴⁹² New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

judicial or other authorization. Government authorities reportedly monitored private movements without appropriate authorization”.⁴⁹³

In a January 2020 joint report the International Truth and Justice Project and Journalists for Democracy in Sri Lanka noted that:

In the wake of the Easter Sunday bombings a State of Emergency was declared and thousands of troops deployed for civilian policing duties, many of the units now led by officers implicated in serious international crimes and violations. This emergency arrangement lapsed on 21 August 2019 and was replaced by a series of extraordinary gazette notifications issued by the President calling out the army, navy and air force to maintain public order. The most recent gazette issued on 21 December 2019, intentionally legalises the role of the military in the securitization and militarization of the state including through arrogating to themselves policing duties even though an extensive police and intelligence network already exists in the former conflict areas with sophisticated intrusive and extensive surveillance capabilities.

It also comes in a context where the President, the Secretary of Defence, the Chief of National Intelligence (CNI) and the head of the Special Intelligence Service (SIS) come from the military, either as serving or retired military officers. This is significant because the SIS and CNI jobs have previously been held by policemen, not soldiers. This against the backdrop of the police in 2013 having been placed under the authority of a new Ministry of Law and Order following international pressure to normalise the security establishment. Following the November 2019 elections the police have reverted back to the control of the Ministry of Defence because although 54 ministers have been appointed nobody was appointed as Minister of Law and Order. This appears to be part of the remilitarisation of the state, including the policing function in Sri Lanka. A number of police officials have privately expressed their deep concerns to journalists astonished that they themselves are the subject of surveillance by the military that now has more power than the police in day to day security affairs.⁴⁹⁴

In a February 2020 report the Sri Lanka Campaign for Peace and Justice noted that “The use of surveillance via informant networks and civil-security bodies has remained widespread in recent years, particularly in the North and East of the country, with chilling effects on freedom of expression, association and assembly.”⁴⁹⁵ The same source further reported that:

As indicated in two recent civil society reports, these practises appear to have intensified in the wake of the Easter Sunday attacks in Sri Lanka (in April 2019) and in the run up and aftermath to Presidential elections (in November 2019). Amnesty International recorded more than a dozen unscheduled visits to human rights and media organisations between May 2019 and January 2020, whereas the International Truth and Justice Project and JDS Lanka recorded 69 such incidents in the election period alone (up to December 2019).

Those targeted have remarked upon the increasingly sophisticated and coordinated nature of these practises, with state officials routinely summoning civil society leaders for questioning, and detailed enquiries being made about organisations’ funding sources, project activities and registration status.⁴⁹⁶

⁴⁹³ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.d. *Arrest Procedures and Treatment of Detainees*, p. 7

⁴⁹⁴ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 5

⁴⁹⁵ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *The Promise*, p. 3

⁴⁹⁶ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, *The Promise*, p. 3

In February 2020 Human Rights Watch reported that:

Sri Lankan security forces and intelligence agencies have intensified surveillance and threats against families of victims of enforced disappearance and activists supporting them since Gotabaya Rajapaksa became president in November 2019, Human Rights Watch said today. The Sri Lankan government should fulfill its commitments to the United Nations Human Rights Council to strengthen efforts to locate the “disappeared” and bring those responsible to justice.

Activists working in six locations in the northern and eastern parts of the country on behalf of relatives of the forcibly disappeared told Human Rights Watch that there has been a significant increase in government surveillance and intimidation. One activist said that prior to a recent victims’ meeting, “every one of the mothers got at least six telephone calls from different intelligence agencies asking, ‘Where is the meeting?’ ‘Who is organizing the meeting?’ ‘What is being said?’” Another activist said, “We can’t do any visible programs.... We’ve stopped everything.” [...]

A member of the advocacy group Mothers of the Disappeared whose son was forcibly disappeared in 2009 told Human Rights Watch that since the presidential election she has been repeatedly visited by members of the police Criminal Investigation Department (CID).

“They have come and asked who is going to meetings,” she said. “And who is going to Geneva [to attend the UN Human Rights Council].”⁴⁹⁷

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office of the November 2019 Sri Lankan administration “Human rights in general have come under increased scrutiny and threat. Recent months have witnessed an increase in surveillance of civil society with regular visits to offices and requests for information including in some instances personal information of activists”.⁴⁹⁸ The same source further noted that “Recent months continued to witness fake news and hate speech on mainstream and social media. Whilst such trends were linked in the past to ethnoreligious violence including incidents post Easter Sunday attacks in 2019, such trends continued after the Presidential elections. The response by the Government is the promise of increased regulations, with it raising fears of restrictions and surveillance that may impede human rights and civil liberties”.⁴⁹⁹

In March 2020 Human Rights Watch stated that “Sri Lankan security agencies are stepping up surveillance, harassment, and threats against human rights activists and journalists”.⁵⁰⁰ The same source further described:

In interviews with 15 Sri Lankan human rights defenders working in different locations around the country, Human Rights Watch heard consistent accounts of increased surveillance and pressure from security agencies. Several said that intelligence officials had asked activists and victims about their advocacy plans ahead of the current United Nations Human Rights Council session, which began on February 24, 2020 in Geneva. “We fear that international lobbying and travel to Geneva may not happen in future because of this situation,” one activist said.

“Since the return of the Rajapaksas to power, a state of fear is being re-established in Sri Lanka,” said Meenakshi Ganguly, South Asia director. “The activities of the government’s security apparatus are evident in some violent attacks and public death threats against activists and journalists, but also in equally dangerous actions happening out of sight.” [...]

⁴⁹⁷ Human Rights Watch, [Sri Lanka: Families of ‘Disappeared’ Threatened](#), 16 February 2020

⁴⁹⁸ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Reconciliation and Human Rights*, p. 8

⁴⁹⁹ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Reconciliation and Human Rights*, p. 8

⁵⁰⁰ Human Rights Watch, [Sri Lanka: Security Agencies Shutting Down Civic Space](#), 3 March 2020

Several human rights activists described receiving repeated phone calls from intelligence officers. Some of these calls have apparently been to tell activists that they are being watched at that moment. On other occasions the caller asks questions or issues threats or warnings.

One human rights defender said that “everything has shifted into a critical situation. After the election, military activities including monitoring and inquiries have increased. They are following us. That is a huge threat for human rights groups.” Another activist said: “We collected stories and documents. Now we’ve stopped everything. We did a lot of work. Now, zero.” A third activist said she so constantly feels under surveillance that intelligence officers “might even be in the next seat on the bus.”

Police and intelligence officers have sought to instil fear in rights groups by visiting their offices and demanding staff lists, home addresses, and other personal details. One activist said the authorities came to his office demanding this information, but then revealed that “they knew already everything. My personal details, they knew it. This is part of the intimidation.”⁵⁰¹

For further information on the treatment of journalists and human rights defenders, see [V.e. Freedom of Expression, Association and Assembly](#).

c. Forcible Disappearances

This section should be read alongside [I.c.iii. Office of Missing Persons Investigations from May 2016 to Present \(May 2020\)](#).

Amnesty International noted that “Sri Lanka has one of the world’s highest number of enforced disappearances, with a backlog of between 60,000 and 100,000 disappearances since the late 1980s. The authorities have also failed to protect witnesses and families seeking truth and justice, and failed to prosecute those suspected of criminal responsibility”.⁵⁰² According to the International Commission of Jurists, “The fate and whereabouts of some 20,000 people were reportedly unaccounted for in the immediate aftermath of the armed conflict in Sri Lanka. Many of these people are suspected to have been subjected to enforced disappearance, unlawful killings and/or other crimes under international law”.⁵⁰³

Amnesty International further explained that “Sri Lanka signed the International Convention for the Protection of All Persons from Enforced Disappearance on 10 December 2015, and ratified the same on 25 May 2016, following through with one part of the twofold commitment in Resolution 30/1. The latter part of the commitment, to criminalize ‘disappearances’, was complied with when the Government passed the International Convention for the Protection of All Persons from Enforced Disappearance Bill on 7 March 2018”.⁵⁰⁴

In a January 2019 report Amnesty International assessed that Sri Lanka is yet to recognize the competence of the Committee on Enforced Disappearances (CED) to “receive and consider communications” on behalf of victims, as per Article 31 of the UN Convention. Some aspects of the Bill are also problematic. [...] According to media reports, Prime Minister Ranil Wickremesinghe, speaking at

⁵⁰¹ Human Rights Watch, [Sri Lanka: Security Agencies Shutting Down Civic Space](#), 3 March 2020

⁵⁰² Amnesty International, [Sri Lanka: Fulfil the demands of the families of the disappeared](#), 14 February 2020

⁵⁰³ International Commission of Jurists, [Sri Lanka: President’s remarks on “missing persons” are an affront to victims](#), 24 January 2020

⁵⁰⁴ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 6.5 Enforced Disappearances Act, p. 24

an event, claimed that the Enforced Disappearance Bill would not apply retroactively [...] Therefore, according to Prime Minister Wickremesinghe, any ‘disappearances’ occurring before the Act was passed in March 2018 would not come under the purview of the Act”.⁵⁰⁵ The Centre for Policy Alternatives confirmed in a February 2020 submission that “The Protection against Enforced Disappearances Act lacks a retrospective element to capture the violations of the past to ensure accountability”.⁵⁰⁶

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, “Since 2015, no case of enforced disappearance has been recorded”.⁵⁰⁷ It further noted that “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 [Government of Sri Lanka] provided clarifications and information on a further 1,997 cases, which includes clarifications on 309 cases submitted by the GOSL in April 2016”.⁵⁰⁸

Amnesty International reported in its annual report covering events in 2019 that “Families of people forcibly disappeared persisted in their demands for information about their missing relatives for a third straight year. The OMP [Office on Missing Persons] continued to oversee the carbon dating process for remains excavated from the site of a second mass grave in Mannar, in the Northern Province. It also established regional offices in Matara, Mannar, and Jaffna, and issued a report which made key recommendations for interim relief and justice. By the end of the year, the outgoing cabinet had approved only one of the recommendations on interim relief”.⁵⁰⁹

In February 2019 Journalists for Democracy in Sri Lanka reported that “The powerful defence secretary during the Mahinda Rajapaksa rule has acknowledged the use of white vans by Sri Lankan intelligence agencies for abductions which he calls ‘taking in for questioning’”.⁵¹⁰ Furthermore:

Gotabhaya Rajapaksa made the rare admission of the governments controversial counter insurgency tactics in a recent interview with a Colombo based English daily. The shocking claim comes a week after his sibling, former president Mahinda Rajapaksa, acknowledged for the first time that troops committed mass crimes during the war.

In Sri Lanka, with tens of thousands of unresolved enforced disappearances, “white vaning” is a euphemism for abduction and torture - based on the vehicle commonly used.

The former defence secretary had said that Intelligence agencies used white vans claiming that such methods have been used in Sri Lanka for a long time.⁵¹¹

In February 2019 the Asian Human Rights Commission noted “The discovery of body parts of two businessmen from Rathgama, Bussa area, who were abducted, disappeared, and later killed, allegedly by several policemen, including the Officer-In-Charge of the southern province special crime

⁵⁰⁵ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 6.5 *Enforced Disappearances Act*, p. 24

⁵⁰⁶ Centre for Policy Alternatives, [Brief Submission by CPA](#), February 2020

⁵⁰⁷ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 74

⁵⁰⁸ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 76

⁵⁰⁹ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

⁵¹⁰ Journalists for Democracy in Sri Lanka, [Sri Lanka: Gotabhaya acknowledges use of white vans to “take in” suspects](#), 14 February 2019

⁵¹¹ Journalists for Democracy in Sri Lanka, [Sri Lanka: Gotabhaya acknowledges use of white vans to “take in” suspects](#), 14 February 2019

investigating unit, is major news in Sri Lanka”.⁵¹² The Colombo Telegraph noted that “Subsequently, two police officers, attached to the Southern Province Special Investigations Unit (SIU) had been arrested over the abduction and murder of the two businessmen. They were later further remanded until 13th of March”.⁵¹³

In July 2019 Mr. Clément Nyaletsossi Voulé, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “During my mission, I heard stories that mothers of disappeared persons and activists supporting families of the disappeared have been intimidated against organising and participating in memorial ceremonies and memorial days for those who disappeared. For example, I learnt that on 18 May 2019, families of the disappeared from Ampara were at a remembrance ceremony at Thirukkivil Manikka Pillayar Temple, when army soldiers arrived and destroyed and removed banners and decorations, threatening to arrest and detain the participants”.⁵¹⁴

In a September 2019 the Chairperson of the Office on Missing Persons noted “with grave concern that it has continued to receive reports of acts of intimidation and surveillance perpetrated allegedly by members of the security sector against families of the missing and disappeared and justice collaborators. In particular, the OMP has received complaints concerning attacks against legal representatives, justice collaborators and family members who are presently party to proceedings before courts. In response the OMP has intervened in specific cases and followed up with the authorities to ensure the security of the concerned individuals and the progress of the investigations and legal proceedings”.⁵¹⁵

A September 2019 follow up report from the Working Group on Enforced or Involuntary Disappearances following its 2015 visit to Sri Lanka noted that “While welcoming progress in the implementation of some recommendations, it notes that many have only been partially addressed or have not been addressed at all. The Group underlines the importance of full implementation of all of the recommendations made in the report”.⁵¹⁶ The same source further noted that:

The Working Group regrets that neither a judicial accountability mechanism nor a truth seeking mechanism have been created. It re-iterates the importance of the swift establishment of both mechanisms. [...]

The Group also notes that the Army, Navy, Air Force and Police have reiterated their commitment to preventing any form of threats, harassment and intimidation. However, the Working Group notes that civil society organisations do not appear to be aware of such commitments and is extremely concerned by continuing reports of surveillance, threats, intimidation, harassment of relatives of the disappeared and calls on the Government to take urgent action to address these, including investigation of previous and new cases and the prosecution of perpetrators. [...]

The Working Group further observes that there remains a climate of impunity in Sri Lanka and a lack of actions envisaged to address this.

⁵¹² Asian Human Rights Commission, [From enforced disappearances of rebels to businessmen](#), 27 February 2019

⁵¹³ Colombo Telegraph, [Rathqama Businessmen Murder: Expose And Condemn Present Situation: AHRC Tells Speaker](#), 3 March 2019

⁵¹⁴ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁵¹⁵ Sri Lanka Brief, [OMP Made Progress Amidst Lack of Cooperation from State Actors & Continuous Efforts to Deny the Rights of Families of the Disappeared- Saliya Pieris](#), 28 October 2019

⁵¹⁶ UN Human Rights Council, [Report of the Working Group on Enforced or Involuntary Disappearances](#), 10 September 2019, para. 5

The Working Group is concerned by the slow pace of criminal investigations, in particular that it remains the case that only a few emblematic cases have reached the trial stage and none have concluded. It is also very concerned by an alleged incident of obstruction by the Office of the Attorney General in the investigation of a case and information that the armed forces continue to intervene in ongoing cases and have delayed or provided inaccurate information in court proceedings. It further notes worrying information received according to which some individuals suspected of having been involved in the commission of enforced disappearances and related offences are being permitted to remain in positions of power including within the armed forces and the police. In this regard, it expresses serious concern at the appointment of Lieutenant-General Shavendra Silva as Commander of the Sri Lankan Army in August 2019, despite there being serious allegations of gross violations of international human rights and humanitarian law against him and soldiers under his command, including enforced disappearances⁵¹⁷

The Working Group on Enforced or Involuntary Disappearances also noted that it was “concerned by allegations of new cases of enforced disappearance of short duration in order to extract bribes. The Working Group calls on the Government to also urgently investigate these cases and prosecute those responsible”.⁵¹⁸

In response to the Working Group’s report Amnesty International noted in September 2019 that:

We are, however, concerned that Sri Lankan authorities are failing to effectively investigate and, where there is sufficient evidence, prosecute those suspected of perpetrating enforced disappearances, as recommended by the Working Group. Amnesty International has campaigned for justice on many emblematic cases in the last decade. In the vast majority of cases the authorities have made little progress. For example, the perpetrators of Prageeth Eknaligoda’s enforced disappearance, including those bearing command responsibility, continue to elude accountability.

Amnesty International is further disappointed by recent reports of promotion of military officials suspected of committing crimes under international law. For example, last month, some navy officers who were charged in connection with the enforced disappearance of 11 youth in 2008 and 2009 were promoted after being released on bail.⁵¹⁹

A journalist identified as ‘journalist 2’ interviewed by a UK Fact-Finding Mission in October 2019, stated “CID [Criminal Investigation Department] officers investigating some much-publicised incidents of enforced disappearances of Tamil youth and other high-profile criminal incidents have told the journalist they fear for their lives and safety of their family. The CID officers fear that they will be forced to halt investigations”.⁵²⁰

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee:

An estimated 16,000 people remain missing, and an estimated 60,000 to 100,000 backlogged cases of alleged enforced disappearances remain. Sri Lanka has enacted domestic legislation to give effect to the International Convention for the Protection of All Persons from Enforced Disappearance, but the Sri

⁵¹⁷ UN Human Rights Council, [Report of the Working Group on Enforced or Involuntary Disappearances](#), 10 September 2019, para. 5

⁵¹⁸ UN Human Rights Council, [Report of the Working Group on Enforced or Involuntary Disappearances](#), 10 September 2019, para. 12

⁵¹⁹ Amnesty International, [Oral Statement to UN Human Rights Council, Item 3: Working Group on Enforced Disappearances Or Involuntary Disappearances](#), 11 September 2019

⁵²⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 49

Lankan Government still fails to provide families searching for their loved ones with answers. Family members of missing individuals continue to search for their loved ones, believing that they are “detained in a secret detention centre deep in the heart of the Sri Lankan State.” Secret detentions leading to disappearances are common because Sri Lanka’s justice system lacks structural guarantees to prevent secret detentions, including lack of access to legal representation, few limits on pretrial detention, little effective access to bail, and no accessible options to challenge the legality of detention. Promises to release information and identities of individuals detained by armed forces during and after the armed conflict have not been kept.⁵²¹

The same source further documented that “After the election of President Gotabaya Rajapaksa, a Swiss embassy staffer was abducted and forced to hand over sensitive embassy information of those who fled the country to seek asylum in Switzerland, mounting concerns over the Rajapaksa family’s continuing practice of enforced disappearances. Though President Rajapaksa denied any involvement in the embassy staffer’s abduction, on the same day, he imposed a blanket travel ban on approximately 700 members of the Sri Lankan police who had been investigating the Rajapaksa family. After the election of President Rajapaksa, investigations on human rights abuses, including enforced disappearances, have been delayed or halted altogether, raising concerns of the unraveling of justice to victims of human rights abuses”.⁵²²

Al Jazeera noted that “A spokesman for Switzerland's Department of Foreign Affairs said in a statement [...] that the embassy employee was ‘detained against her will on the street and threatened at length’ in an attempt to pressure her into releasing information”.⁵²³ Furthermore, “According to the complaint by the embassy, the employee was abducted on Monday and allegedly questioned about a police officer who reportedly sought Swiss asylum after fleeing Sri Lanka amid fears for his safety after the election of Gotabaya Rajapaksa as the country's president earlier this month. The officer, Nishantha Silva, had earlier been involved in a series of investigations into criminal allegations, including high-profile killings and corruption, some of which were against Rajapaksa”.⁵²⁴

Also reporting on the incident involving the Swiss Embassy employee, the Centre for Policy Alternatives stated that it was:

deeply concerned with recent events in the aftermath of the incident in which an employee of the Embassy of Switzerland in Sri Lanka was allegedly abducted, sexually harassed, and questioned by unidentified persons regarding embassy related matters, on or about the 27th of November 2019. Whilst it is too early to comment on official processes underway investigating these incidents, CPA is alarmed with the conduct of several media institutions, including State media and others, who have acted in a manner to deliberately reveal the identity of the alleged victim and that of her family which raises serious issues of privacy and protection. This is also a blatant violation of media ethics and disregard for the victim’s right to privacy.⁵²⁵

⁵²¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Right to Life (Article 6)*, p.7

⁵²² Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Right to Life (Article 6)*, p.7

⁵²³ Al Jazeera, [Swiss raise alarm over 'attack' on Sri Lanka embassy employee](#), 28 November 2019

⁵²⁴ Al Jazeera, [Swiss raise alarm over 'attack' on Sri Lanka embassy employee](#), 28 November 2019

⁵²⁵ Centre for Policy Alternatives, [Aftermath and reportage of incident involving alleged abduction of Swiss Embassy employee](#), 11 December 2019

Human Rights Watch noted that “The new Rajapaksa administration has halted legal proceedings initiated by the previous government against navy officers accused of the enforced disappearance and alleged killing of 11 young men in Colombo and its suburbs in 2008 and 2009. In November 2019, following the presidential election, a government investigator looking into this and other cases of alleged serious rights violations implicating government officials fled the country following threats. Other criminal investigators have since been put under travel restrictions”.⁵²⁶

In December 2019 Tamil Net reported that “The coordinator of the continuous protest in Vavuniyaa [families of Tamils subjected to enforced disappearances] Jeyavanitha Kasippillai is again facing harassment from the ‘Terrorist’ Investigation Division of the SL Police which is compelling her to appear for an investigation under the notorious Prevention of Terrorism Act”.⁵²⁷

Amnesty International described in a February 2020 article that:

Sri Lanka has made limited progress on the issue of enforced disappearances with the criminalization of enforced disappearances in March 2018—thereby giving partial effect to its obligations under the International Convention for the Protection of all Persons from Enforced Disappearance—and operationalizing the Office on Missing Persons. While some cases related to enforced disappearances are under investigation, the government, on many occasions, has appointed or promoted those suspected of crimes under international law into positions of power - signaling their indifference towards the calls of conflict victims.⁵²⁸

Amnesty International also detailed that “In January 2020, President Gotabaya Rajapaksa, who was elected to office in November 2019, stated that ‘missing persons are actually dead’, without providing any basis for this broad-brush conclusion and which was condemned by victim groups, and families of the disappeared. The Sri Lankan government has an obligation to provide truth regarding the enforced disappearance, as outlined in the International Convention on Disappearances, which states that every victim - the disappeared person or any individual who has suffered harm as the direct result of an enforced disappearance, has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person”.⁵²⁹

Al Jazeera noted in January 2020 that:

Tens of thousands of people still missing from Sri Lanka's quarter-century civil war will be formally declared dead and death certificates will be issued, the president's office announced. President Gotabaya Rajapaksa made his decision known last week during a meeting with the United Nations' resident coordinator in Colombo, his office said in a statement on Monday. "These missing persons are actually dead. Most of them had been taken by the LTTE [Liberation Tigers of Tamil Eelam rebel group] or forcefully conscripted," the statement said. Rajapaksa told the UN representative that after the necessary investigations, steps would be taken to issue death certificates for those previously thought missing.⁵³⁰

However, in response, the Sri Lanka Ministry of Defence stated that “The President's Office has denied media reports quoting President Gotabaya Rajapaksa as saying that 20,000 listed as missing are

⁵²⁶ Human Rights Watch, [Sri Lanka: Families of ‘Disappeared’ Threatened](#), 16 February 2020

⁵²⁷ Tamil Net, [Gotabaya deploys PTA against protesting families of missing persons](#), 9 January 2020

⁵²⁸ Amnesty International, [Sri Lanka: Fulfil the demands of the families of the disappeared](#), 14 February 2020

⁵²⁹ Amnesty International, [Sri Lanka: Fulfil the demands of the families of the disappeared](#), 14 February 2020

⁵³⁰ Al Jazeera, [President Rajapaksa says Sri Lanka to treat war missing as dead](#), 21 January 2020

dead”.⁵³¹ The statement further noted that “Certain International media channels had reported to the effect that President Gotabaya Rajapaksa had stated that 20,000 listed as missing are dead. In all these reports however, the crucial detail that necessary investigations would be conducted before a death certificate would be issued had been wittingly or unwittingly omitted. Furthermore, neither President Rajapaksa nor Ms Singer discussed a number. The subject was discussed in very general terms”.⁵³²

Women’s Action Network stated that “Although the President has since clarified that death certificates will follow proper investigations, his remarks are an affront to mothers, wives, sisters, and daughters of the disappeared who have for years been demanding answers in monthly street protests, before the Office of Missing Persons, and in cases pending in our courts”.⁵³³ According to the International Commission of Jurists, “It is appalling to hear such callous declarations from the Office of the President, particularly given that no credible investigations have been conducted into the cases of those who have gone missing during the armed conflict. [...] The President’s statement appears to disregard the purpose of the Office of Missing Persons. Any attempt to provide ‘closure’ to the relatives of the missing without following the necessary legal procedure to establish the truth is unacceptable”.⁵³⁴

Journalists for Democracy in Sri Lanka reported in January 2020 that “Relatives of the disappeared also say that the suggestion they accept death certificates is a signal by the regime that it wishes to wrap up the issue of disappearances that bedevils Colombo’s external relations. Relatives of the disappeared have long resisted accepting death certificates because it would be an acknowledgement their loved ones are dead. Moreover, the regime is not entitled to say the disappeared are dead and move on – disappearances must be investigated, the truth acknowledged, and perpetrators punished”.⁵³⁵

In February 2020 Human Rights Watch reported that “Sri Lankan security forces and intelligence agencies have intensified surveillance and threats against families of victims of enforced disappearance and activists supporting them since Gotabaya Rajapaksa became president in November 2019, Human Rights Watch said today. The Sri Lankan government should fulfill its commitments to the United Nations Human Rights Council to strengthen efforts to locate the “disappeared” and bring those responsible to justice”.⁵³⁶ Furthermore, Meenakshi Ganguly, South Asia director for Human Rights Watch stated “The families of Sri Lanka’s ‘disappeared’ have spent years waiting for answers, but with the Rajapaksas back in power, security forces are threatening them to drop their demands for truth and accountability. [...] The government needs to stop the harassment immediately and abide by Sri Lanka’s pledges to the UN to uncover the fate of the ‘disappeared’ and provide justice to victims’ families”.⁵³⁷ Furthermore:

A member of the advocacy group Mothers of the Disappeared whose son was forcibly disappeared in 2009 told Human Rights Watch that since the presidential election she has been repeatedly visited by members of the police Criminal Investigation Department (CID).

⁵³¹ Sri Lanka Ministry of Defence, [President Rajapaksa denies saying 20,000 missing are dead](#), 25 January 2020

⁵³² Sri Lanka Ministry of Defence, [President Rajapaksa denies saying 20,000 missing are dead](#), 25 January 2020

⁵³³ Colombo Telegraph, [Women’s Action Network Condemns Statements by President on Missing Persons; Urges Government and U.N. to Deliver Truth and Justice to Families of the Disappeared](#), 26 January 2020

⁵³⁴ International Commission of Jurists, [Sri Lanka: President’s remarks on “missing persons” are an affront to victims](#), 24 January 2020

⁵³⁵ Journalists for Democracy in Sri Lanka, [Relatives of Disappeared ask “betraying” Tamil politicians to step aside](#), 28 February 2020

⁵³⁶ Human Rights Watch, [Sri Lanka: Families of ‘Disappeared’ Threatened](#), 16 February 2020

⁵³⁷ Human Rights Watch, [Sri Lanka: Families of ‘Disappeared’ Threatened](#), 16 February 2020

“They have come and asked who is going to meetings,” she said. “And who is going to Geneva [to attend the UN Human Rights Council]. These are children who were taken by white vans from our houses or who surrendered [to the army]. These are the children we are talking about. I want to know what happened to my son – whether he is dead or alive, and if he is not alive, what happened to him and who did it; whether he was beaten, whether they broke a limb.”

A person who works closely with the families of the disappeared said that under the relatively open environment of the previous government, many relatives of the disappeared had chosen to speak out about their cases. “Now they [the security forces] know who talked about their crimes, so the victims have fears about their safety,” he said.⁵³⁸

d. Arbitrary Arrests and Detention

This section should be read against [V.a.i. Prevention of Terrorism Act \(PTA\)](#).

i. Prison Conditions

According to the undated Sri Lanka profile by the Cornell Center on the Death Penalty Worldwide, “Most [prisons] were built by the British over a century ago. At the Bogambara prison, about 5-6 prisoners occupy each cell. With insufficient space, each prisoner lies down one by one without mattresses, blanket, or pillow or huddled”.⁵³⁹

On 20 January 2019, Sri Lanka Brief reported that “Inmates are held under poor sanitary conditions, given food that is unconsumable, and constantly shouted at in harsh language”.⁵⁴⁰

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, “The prison congestion percentage, which was 486% in 2010, has now been brought down to 148%”.⁵⁴¹ Statistics from the Sri Lanka Department of Prisons indicated that in 2019 there were 29,164 convicted prisoners, of which 654 were women, detailing these by institution.⁵⁴² In 2019 there were 115,325 ‘direct admissions’ of unconvicted prisoners, of which 5,912 were women and that this figure has been rising since 2015.⁵⁴³ These figures are disaggregated by institution, age group, education level, race, religion and marital status for both convicted and unconvicted prisoners.⁵⁴⁴ The same report recorded that in 2019, there was authorized capacity for 6,728 convicted and 5,034 unconvicted prisoners.⁵⁴⁵ However, the average daily population was 10,056 convicted (49.4% overcrowding) and 14,390 unconvicted prisoners (185.9% overcrowding), with total overcrowding of 107.8%, which had increased from 73.3% in 2018.⁵⁴⁶

⁵³⁸ Human Rights Watch, [Sri Lanka: Families of ‘Disappeared’ Threatened](#), 16 February 2020

⁵³⁹ Cornell Center on the Death Penalty Worldwide, [Sri Lanka](#), regularly updated [last accessed 21 May 2020]

⁵⁴⁰ Sri Lanka Brief, [ANGUNAKOLAPELESSA: BRUTALITY WITHIN PRISON WALLS OF SRI LANKA](#), 20 January 2019

⁵⁴¹ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 94

⁵⁴² Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Direct admissions of convicted and unconvicted prisoners by institutions-2019 p. 10 and Unconvicted prisoners, 2015-2019, p. 15*

⁵⁴³ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Direct admissions of convicted and unconvicted prisoners by institutions-2019 p. 10 and Unconvicted prisoners, 2015-2019, p. 15*

⁵⁴⁴ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, p. 16-21 and p.29-33

⁵⁴⁵ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Table 10.8, p. 81*

⁵⁴⁶ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Table 10.8, p. 81*

The November 2019 report by the Australian Department of Foreign Affairs and Trade considered that “In general, prison conditions in Sri Lanka do not meet international standards, including due to old infrastructure, overcrowding, and a shortage of adequate health and sanitary facilities. [...] Overcrowding in Sri Lankan prisons is a major issue”.⁵⁴⁷

The U.S. Department of State report covering 2019 detailed that “Prison conditions were poor due to old infrastructure, overcrowding, and a shortage of sanitary facilities”.⁵⁴⁸ The same source further documented that:

Overcrowding was a problem. The commissioner of prisons indicated that the prison population significantly exceeded the system’s capacity. Authorities sometimes held juveniles and adults together. Authorities often held pretrial detainees and convicted prisoners together. In many prisons inmates reportedly slept on concrete floors, and prisons often lacked natural light or ventilation.

A few of the larger prisons had their own hospitals, but the majority were staffed only by a medical unit. Authorities transferred prisoners requiring medical care in smaller prisons to the closest local hospital for treatment.

In January the Committee to Protect Prisoners’ Rights released videos revealing assaults by prison authorities against prisoners who protested the Angunakolapelessa Prison superintendent’s conduct in November 2018. In response the prison reforms and justice minister appointed a three-member committee to investigate, but no information had been released by year’s end by the committee.⁵⁴⁹

A spokesperson for the Sri Lankan Human Rights Commission interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “Medical help in detention is available but facilities need to be improved. There is no wholesale negligence”.⁵⁵⁰

The Daily News reported in January 2020 that:

Within two weeks of granting amnesty to more than 500 prisoners on the occasion of the 72nd Independence Day, President Gotabaya Rajapaksa made an unannounced visit to Welikada Prison to get a firsthand look into the problems and grievances of prisoners and prison conditions.

[...] During his surprise visit, the President engaged in talking to the detainees who were walking outdoors and asked about their well-being. Many among them were imprisoned for drug use. The inmates told the President the prison is overcrowded and has three times more inmates than its capacity.

[...] Over-crowded prisons are bursting at seams [...] Many disclosures were made from time to time about pathetic conditions in prisons, lack of sanitation, cruel treatments meted out to suspects and prisoners, corrupt practices of prison guards and to rot in the whole system. Although, the ministers in charge of prison reforms in the last few decades assured the Parliament about their commitment to make the prisons system more humane and effective by adhering to the UN international standards, so far no serious reforms had taken place. [...]

One has to acknowledge that the prison guards also are under stress due to heavy staff shortage. The statistics revealed that a substantial number of prison guard vacancies have not been filled, thus adding a

⁵⁴⁷ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 5.21-5.22

⁵⁴⁸ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1c

⁵⁴⁹ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1c

⁵⁵⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019*, p. 41

heavy burden on existing staff. A recent survey conducted by an eminent team of psychologists stated that 38% prison guards were suffering from stress disorders, adversely affecting their performances. [...] The problems such as overcrowding of prisons and lack of sanitary and health facilities result in outbursts by prisoners, sometimes they even turn into violent riots. Welikada Prison has become the scene of repeated protests by women. In the recent past, a group clambered onto the roof to protest living conditions, and delays in court hearings.⁵⁵¹

According to a March 2020 report from the Sri Lanka Department of Prisons, there are 60 detention centres in Sri Lanka.⁵⁵² Of these, there are 4 closed prisons (maximum security), 18 remand prisons, 10 work camps (minimum security prisons), 2 open prison camps (minimum security prisons), 1 training school, 2 'correctional centres for youthful offenders' and 23 lock-ups (near to courts where prisoners with pending cases or persons sentenced are held for short periods before transfer).⁵⁵³ The report includes a map detailing the locations of these.⁵⁵⁴

In March 2020 the Sri Lankan Daily Mirror reported that according to prison sources "The congestion in 30 prisons in the country including Welikada prison has come to a head with more than 26,000 inmates being housed in them where only 10,000 could be detained".⁵⁵⁵ The same source further noted that "The situation has drawn the attention of even President Gotabaya Rajapaksa who has instructed to build a new prison in Watareka, Homagama to ease the situation. [...] It is reported that skin diseases have spread in some prisons mainly due to the congestion".⁵⁵⁶

In March 2020 the Human Rights Commission of Sri Lanka wrote to the President of Sri Lanka to bring to his attention "the necessity to take urgent action to prevent the possible spread of the Covid-19 virus within the prison system in Sri Lanka".⁵⁵⁷ The same source further noted that "As prisons are the most densely populated spaces in the country, the possibility of the virus spreading is very high putting at risk the health of prisoners and officials, and indeed, eventually the larger community. Prisoners are rendered much more vulnerable than fellow citizens due to deprivation of liberty".⁵⁵⁸

Journalists for Democracy in Sri Lanka reported that:

Sri Lanka's President failed to heed a written warning that he should act to prevent panic over the COVID 19 virus in a high security prison where two inmates were shot dead in a riot triggered by rumours. Officials in the Anuradhapura prison had opened fire on detainees who launched a protest on March 21 demanding release of minor offenders to minimise risk of spreading the disease among the prison population.

⁵⁵¹ Daily News, [Prisons must be institutes for correction](#), 14 February 2020

⁵⁵² Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Prison Institutions of Sri Lanka* p. 4

⁵⁵³ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Prison Institutions of Sri Lanka* p. 3

⁵⁵⁴ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Prison Institutions of Sri Lanka* p. 4

⁵⁵⁵ Daily Mirror, [Prisons congestion worsens, new prison on the cards](#), 2 March 2020

⁵⁵⁶ Daily Mirror, [Prisons congestion worsens, new prison on the cards](#), 2 March 2020

⁵⁵⁷ Human Rights Commission of Sri Lanka, [COVID-19 Epidemic- Recommendations of HRCSL Regarding Protection of Prisoners](#), 27 March 2020

⁵⁵⁸ Human Rights Commission of Sri Lanka, [COVID-19 Epidemic- Recommendations of HRCSL Regarding Protection of Prisoners](#), 27 March 2020

Two have succumbed to injuries while six others are being treated for injuries, said the Police Media Director SP Jaliya Senaratne. [...]

The country's leading prisoners' rights watchdog that had earlier raised the alarm of panic among detainees fearing a coronavirus outbreak in Sri Lanka's overcrowded prisons, blamed the president for the deaths. [...]

Five days before the Anuradhapura prison killing CPRP wrote to the president urging the release of minor offenders and the elderly to ease the overcrowding to help control the spreading of coronavirus in prisons.⁵⁵⁹

The Colombo Telegraph reporting on the impact of the COVID-19 pandemic on prison conditions noted in March 2020:

Yesterday's incident in the Anuradhapura prison is a warning about another danger area that can explode to our common peril. The overcrowding and appalling sanitary conditions in our prisons renders such basic precautions as washing hands or maintaining social distance utterly impractical. The virus will spread like wildfire if it manages to gain even a bare foothold in any of the prisons. The government needs to think of precautionary measures now, such as reducing the overcrowded state in prisons by releasing those convicted of minor offenses or are in jail for not being able to pay fines.⁵⁶⁰

On 26 March 2020, the Tamil Guardian published a letter written by a coalition of civil society organisations calling for preventative measures to prevent the spread of COVID-19:

Given the severe overcrowding of prisons with minimal sanitation and health facilities, they could be very vulnerable to the spread of COVID-19. [...]

We are also aware that more than 50% of the prison population in Sri Lanka are remand prisoners, and that a large number of the convicted prisoners are those who have defaulted on paying fines. Further, the denial of bail for minor, bailable offences, inability to meet bail conditions and lengthy waits for trials to commence and conclude are also reasons for prison overcrowding.⁵⁶¹

Journalists for Democracy in Sri Lanka reported in March 2020 that according to the Committee for Protecting Rights of Prisoners, "the country's main prison facility in Welikada built to house 800 inmates is packed with 5000".⁵⁶² Tamil Net reported in April 2020 that "There were more than 26,000 inmates in the prisons of the island while the capacity was at 10,000, according to a news release from the SL [Sri Lanka] Presidential Secretariat on 04 April [2020]".⁵⁶³

In a March 2020 article, Economy Next reported that "It is often alleged that due to corruption in the Prisons the quantity of food the Department provides inmates is grossly insufficient and it requires food from home to keep the inmates adequately fed".⁵⁶⁴

Ruki Fernando, advisor to INFORM noted in a March 2020 article that:

⁵⁵⁹ Journalists for Democracy in Sri Lanka, [President warned of COVID 19 unrest days before deadly prison shooting](#), 22 March 2020

⁵⁶⁰ Colombo Telegraph, [A Bell Tolls For The World](#), 22 March 2020

⁵⁶¹ Tamil Guardian, [Re: Releasing Prisoners to prevent spread of COVID-19 in prisons](#), 26 March 2020

⁵⁶² Journalists for Democracy in Sri Lanka, [President warned of COVID 19 unrest days before deadly prison shooting](#), 22 March 2020

⁵⁶³ Tamil Net, [Colombo's racial prejudice against Tamils stands exposed in prisoners release](#), 12 April 2020

⁵⁶⁴ Economy Next, [Sri Lanka's overcrowded jails tense over COVID 19](#), 27 March 2020

Prison Department statistics also indicate that more than 81% of those admitted to prisons in 2018 and 2017 are unconvicted (remand) prisoners. This percentage has been 75-80% throughout 2010-2016. Some are remanded due to their and their family's inability to make deposits for bail while others could be remanded due to police and magistrates choosing to remand as the norm and bail as the exception.

Long years awaiting trials to begin and long years for completion of trials is another reason for overcrowded prisons in Sri Lanka. [...]

In Sri Lanka and the world, prisons health care system is not as good as healthcare outside the prison, and poor nutrition and unhygienic conditions are common. Overcrowding is a key problem. According to the "Lankadeepa" report of 21st March cited above, Kegalle prison has about 900 persons, despite being meant for about 350. Inmates of Welikada prison are reported to have told the President last month that the prison hosts three times the capacity it can host.⁵⁶⁵

In April 2020, Sri Lanka brief reported on the case of Ramzy Razeek who was arrested on 9th April 2020 for a Facebook posts who described the detention conditions thus:

A person who was released from detention facility in Pallansena, Negombo (Gampaha district) reported that Ramzy is being detained in that detention facility and that he is undergoing extreme difficulties without the needed healthcare, accessible toilet and unhygienic conditions. The released person had reported severe overcrowding, with some detainees being below 18 years while others are adults. He says most are detained for drug related offenses. He also reports seeing a detainee being badly beaten by a jailer and says beatings of detainees by jailers is common. Another person who had been released from the same detention facility has reported through a video posted on Facebook about beatings, lack of hygienic conditions, difficulties to practice physical distancing and other COVID19 related protection measures.⁵⁶⁶

INFORM issued a report on 'Repression of Dissent in Sri Lanka' which covered 'before and during curfew 1st February 2020 - 30th April 2020 which noted that "In context of overcrowded prisons with about 26,000 inmates in places with capacity for about 10,000, there were widespread calls for release of prisoners based on an identified criteria and available legal provisions. 2961 were reported to have been released between 17th March to 4th April, but there is no information available about releases after that".⁵⁶⁷

Tamil Net reported in April 2020 that "The SL State released almost three-thousand prisoners from its prisons to halt the spread of the pandemic in jails. However, none of the eighty-four Tamil Political Prisoners were among those released".⁵⁶⁸

In a June 2020 report the Centre for Policy Alternatives noted that "The most recent riots at the Anuradhapura prison, which resulted in the deaths of two inmates, was also due to the 'congested conditions and poor quality of meals' which were further aggravated by the visiting restrictions imposed to contain COVID19".⁵⁶⁹ The same source further noted that:

⁵⁶⁵ Ruki Fernando, [Protecting Prisoners from Coronavirus](#), 22 March 2020

⁵⁶⁶ Sri Lanka Brief, [FREEDOM OF EXPRESSION VS. HATE SPEECH, FAKE AND MISLEADING NEWS IN SRI LANKA](#), 4 May 2020

⁵⁶⁷ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 3. Context, p. 5

⁵⁶⁸ Tamil Net, [Colombo's racial prejudice against Tamils stands exposed in prisoners release](#), 12 April 2020

⁵⁶⁹ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 4. Constitutional and Legal Framework, p. 15

Prison Rule 179 states that ‘so far as the number of cells in the prison shall permit, every male prisoner shall be locked up at night by himself in a separate cell, to be duly certified by the Inspector-General as sufficient for one prisoner. No cell shall be certified which contains less than 54 superficial feet of floor space and 540 cubic feet of space, and is not properly ventilated.’ However, Sri Lanka’s current prison infrastructure is drastically inadequate to hold the inmate population. Severe overcrowding continues to be a problem in prisons to the extent that the prisoners have to take turns to sleep.

CPA was informed that in some prisons, a space that was initially constructed to hold one prisoner is said to be shared by six or more prisoners. Further, there is no supervision of how these prisoners treat each other, which perpetuates prisoner-to-prisoner violence. Moreover, the treatment of inmates by the prison

administration can also vary based on their socioeconomic affluence. As a result, the standards of prisons constrain inmates to conditions which are an affront to their human dignity. Such conditions further degrade their physical and psychological conditions, rather than developing their capacities for societal reintegration post-incarceration. [...]

CPA was informed that inmates receive only meagre meals that do not provide them with basic nutrition¹⁰³ but due to the poverty faced by some, even these prison meals are considered a luxury. [...]

In addition to the consideration required with meals, CPA was also informed that prisons lack the most basic sanitary facilities with severe shortages of washrooms affecting inmates’ cleanliness and health.⁵⁷⁰

ii. Treatment in Detention

The U.S. Department of State report covering 2019 detailed with regards to ‘Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment’ that “The constitution and law prohibit such practices, but authorities reportedly employed them”.⁵⁷¹ The same source further documented that:

The law makes torture a punishable offense and mandates a sentence of not less than seven years’ and not more than 10 years’ imprisonment. The government maintained a Committee on the Prevention of Torture to visit sites of allegations, examine evidence, and take preventive measures on allegations of torture. The Prevention of Terrorism Act (PTA) allows courts to admit as evidence any statements made by the accused at any time and provides no exception for confessions extracted by torture.

Interviews by human rights organizations found that torture and excessive use of force by police, particularly to extract confessions, remained endemic. The Human Rights Commission of Sri Lanka (HRCSL), for example, noted that many reports of torture referred to police officers allegedly “roughing up” suspects to extract a confession or otherwise elicit evidence to use against the accused. As in previous years, arrestees reported torture and mistreatment, forced confessions, and denial of basic rights such as access to lawyers or family members. [...]

The HRCSL investigates complaints received and refers them to the relevant authorities when warranted. The HRCSL reported it received some credible allegations of mistreatment from prisoners, but the Ministry of Prison Reforms reported it did not receive any complaints.⁵⁷²

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee citing a range of sources that predate 2019, “Reports continue to find that security forces frequently use torture on individuals detained on suspicion of crimes implicating national security. Detainees are often tortured for the purpose of obtaining confessions, and the confessions are often used in legal proceedings. The election of President Gotabaya Rajapaksa casts

⁵⁷⁰ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 6.2. *Prison infrastructure and facilities*, p. 32

⁵⁷¹ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1c

⁵⁷² U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1c

doubt on the future of torture and ill-treatment of detainees, especially with the swearing in of former president, Mahinda Rajapaksa, as Prime Minister. There were widespread reports of torture by State officials during interrogations under President Mahinda Rajapaksa's administration, to extract information from detainees of alleged ongoing attacks by the LTTE or any anti-government activity. In December 2019 and January 2020, two young Muslim male inmates (one in Welikada prison and another in Batticaloa prison) deaths have been reported to the National Human Rights Commission".⁵⁷³

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, "The GOSL [Government of Sri Lanka] is cognizant of the continued challenges encountered with respect to combating torture in the country. It maintains a zero tolerance policy on torture".⁵⁷⁴

On 17 January 2019, Asia Times reported that:

Leaked video footage of a group of unarmed inmates being beaten with batons by prison officials has surfaced, renewing the debate about violations of prisoners' rights in Sri Lanka.

Footage from closed-circuit television (CCTV) cameras in a new prison in the island's south called Angunakolapelessa was filmed late last year, when the country had a constitutional crisis and lacked an active government.

Prison officials, led by a superintendent, are seen forcing inmates to crawl and walk on their knees in a prison yard. The video shows that those in remand custody were subjected to serious violence. The Prison Superintendent, dressed in civilian clothing, is shown leading a group of 25 to 30 other jailers, guards and officials, chasing inmates from their cell blocks to open ground in the prison complex.

The footage shows inmates being continuously hit by long batons, kicked and thrown to the ground. The video was leaked by unnamed individuals from Angunakolapelessa Prison, which opened in 2017.

When the new jail was being established, the government described it as a 'super prison' and the 'most luxurious' of Sri Lanka's correctional facilities within a rehabilitation-based penal system.

The video footage obtained from two cameras, situated on either side of the yard, depicts prisoners being rounded up and assaulted from 8.56am till 9.18am on the morning of November 22.

The drama occurred during the height of the constitutional crisis and followed by a series of prisoner protests that erupted during the latter part of the year.⁵⁷⁵

In a February 2019 report, the UN High Commissioner for Human Rights noted :

OHCHR has continued to receive credible information about cases of abduction, unlawful detention, torture and sexual violence by Sri Lanka security forces, which allegedly took place in 2016 to 2018. A preliminary assessment of the information received indicates that there are reasonable grounds to believe that accounts of unlawful abductions and detention and of torture, including incidents of sexual violence against men and women, are credible, and that such practices might be continuing in northern Sri Lanka. Such allegations should be the subject of prompt, effective, transparent, independent and impartial investigations. In the past, the Government has condemned any act of torture, and indicated that any allegation of torture would be properly investigated and prosecuted. OHCHR is not aware of any investigations undertaken to date into the above-mentioned allegations.⁵⁷⁶

⁵⁷³ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Prohibition of Torture and Cruel, Inhuman or Degrading Treatment, Liberty and Security of Person, Fair Trial and Independence of Judiciary (Articles 7, 9, 10 and 14)*, p. 10

⁵⁷⁴ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 79

⁵⁷⁵ Asia Times, [Beating of inmates caught on Sri Lankan jail cameras](#), 17 January 2019

⁵⁷⁶ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 53

The OHCHR reported that “the United Nations Subcommittee on Prevention of Torture has completed its first visit to Sri Lanka from 2 to 12 April [2019] where it examined the treatment of people deprived of their liberty and the safeguards in place for their protection against torture and ill-treatment. ‘We have received good cooperation during the visit, having access to all places of detention, getting all relevant information and performing confidential interviews. We look positively on Sri Lanka’s prospective development of a national preventive mechanism, as required under the Optional Protocol to the Convention against Torture,’ said Victor Zaharia, who led the four-member delegation”.⁵⁷⁷ The same source explained that “The Subcommittee’s next step will be to submit its confidential report to the Government of Sri Lanka, containing its observations and recommendations arising from the visit. The Subcommittee on Prevention of Torture encourages the State parties to make its reports public”.⁵⁷⁸

In May 2019 Human Rights Watch reported that “The torture and other ill-treatment of detainees, particularly in political cases, has remained a problem since the end of the conflict”.⁵⁷⁹

In July 2019 the Asian Human Rights Commission reported on the case of Sri Rangaraja Sudan who was charged under the Poison, Opium, and Dangerous Drugs Ordinance on 16 July 2016.⁵⁸⁰ The report noted:

On 17 May 2019, one of the lawyers of the Human Rights Office Kandy visited the Bogambara Prison at 1:30 pm to observe first hand Sudan’s health condition. However, the Prison Officers delayed the Lawyer from entering the prison or talking with Sudan until 2.30 pm. Even though, the Lawyer started to talk with Sudan in Tamil, the Prison Officers had seemingly not given permission by saying; there is no translator to translate the conversation.

Then, the Lawyer spoke with Sudan in Sinhala and asked “Do you have any issues in this prison?” Sudan stated that he was severely assaulted by the prison officers that morning. When the Lawyer asked the reasons for the assault, Sudan stated that “one of the prisoners who brought tobacco into the prison accused him that the tobacco was brought in with instructions from Sudan”. As result of this, Sudan was severely tortured by the Prison Officers. According to the Lawyer, as the result of such severe torture, Sudan cannot sit on a chair and suffers from severe back pain with wounds and bruises over his entire body. The Lawyer then asked him whether he was brought to the hospital by the Prison Officers to get treatment for his wounds. He said “no”. Further, according to Sudan, after this incident he was not given any prison food and continuously feels hungry.⁵⁸¹

The Sri Lanka Daily Mirror reported at the end of August 2019:

Condemning the actions of the police, human rights activists, called for justice to be meted out to Anne Ranaweera. Having been subject to both physical and verbal assault at the hands of the police, in her home and at the police station, Ranaweera intends to legally pursue this breach of her fundamental rights. On August 13, Anne Ranaweera, a 33-year-old freelance journalist for the Catholic newspaper Gnanartha Pradeepaya, was brutally assaulted by police at the Pamunugama Police Station.

According to the victim, her ordeal began when at around 9:30 am four male policeman, one in uniform and the others in plainclothes, had scaled her neighbour’s wall and forcibly entered her property in

⁵⁷⁷ OHCHR, [UN torture prevention body concludes visit to Sri Lanka](#), 12 April 2019

⁵⁷⁸ OHCHR, [UN torture prevention body concludes visit to Sri Lanka](#), 12 April 2019

⁵⁷⁹ Human Rights Watch, [Sri Lanka: Failed Pledges Mar 10 Years Since War’s End](#), 17 May 2019

⁵⁸⁰ Asian Human Rights Commission, [Male Prisoner needing urgent medical treatment for heart ailment severely tortured by Police](#), 17 June 2019

⁵⁸¹ Asian Human Rights Commission, [Male Prisoner needing urgent medical treatment for heart ailment severely tortured by Police](#), 17 June 2019

Pamunugama. [...] After exiting her house, the cops had tried to assault her with a pole because her mother had objected to her being handcuffed. “They dragged me by my saree into the jeep. When my mother tried to intervene, S.I. Perera began to hit her,” Ranaweera charged. These incidents were witnessed by her mother and six-year-old son. She added that except for the jeep driver, the others had continued to abuse her in foul language all the way to the station.

When she was brought to the police station at around 11.30 am, Rev. Kurukulasuriya was there, and she told the priest what had happened. The OIC then summoned her to his room. “When I complained that the police had videoed me, he started shouting at me. Father entered the room at that point. The OIC threatened to put me in jail saying that I had obstructed them from performing their duty. They then dragged me into a cell,” she recalled. While in the cell she had shouted, prompting them to bring her back to the OIC’s room. “They didn’t allow me to talk. After that, S.I. Perera attacked me with a metal chair. I couldn’t even block the chair because I was being held down on either side. After I fell back, he kicked me,” she charged. Both she and Rev. Kurukulasuriya had protested against the officer’s violent behaviour.⁵⁸²

A Human Rights Activist interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “Most people who are arrested, regardless of the reason and irrespective of their ethnic group, are beaten by the police [...] There are regular reports of individual incidents of torture; in August 2019, a woman accused the police of beating her in Colombo”.⁵⁸³

A spokesperson for the Sri Lankan Human Rights Commission (HRC) interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “Some judicial medical officer reports have indicated signs of torture. There is evidence of beatings but not the same brutality that was seen in the past, e.g. broken limbs, extracted fingernails. The HRC makes representations of behalf of detainees”.⁵⁸⁴

A representative of ‘an NGO’ interviewed by a UK Fact-Finding Mission in October 2019 stated in response to the question “Is there torture in detention?” that there is “in police custody. There is some civil society monitoring of this. There is a belief that Police have ‘secret’ torture places in their police station. They may assault detainees to extract information even if they are innocent. If they want to solve a case, they may torture to extract a confession. They might target people who have previously committed a crime – that’s an easy target. The method of torture would depend on the crime or complaint. There is pressure to make arrests in sensitive cases, e.g. sexual assault. Individuals can bribe the police to torture their enemies. For example, if a maid was arrested for stealing, the employer would tell the police they must beat/slap the suspect to get the truth. But it’s not like in the past, the situation is much better than it was during the war. And police custody torture is not targeted against any particular group – it’s random, widespread and across the board. There is a saying ‘without assault you won’t get the truth’”.⁵⁸⁵

⁵⁸² Daily Mirror, [Courage in the face of police brutality](#), 29 August 2019

⁵⁸³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 37

⁵⁸⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019, p. 40

⁵⁸⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, NGO 2 October 2019, p. 50/51

In September 2019 the International Truth and Justice Project issued a report that “identifies 58 (fiftyeight) alleged torturers in the Terrorism Investigation Division (TID) of the Sri Lankan police based on investigation and research, including those who bear command responsibility”.⁵⁸⁶ The report explained that “The torture by the Terrorism Investigation Division (TID) of the Sri Lankan police documented here, occurred between 2008 and 2017”.⁵⁸⁷ The report summarized that:

It is based on the testimony of 73 (seventy-three) survivors of torture, both Tamil and Sinhalese, interviewed in five different countries. These survivors have experienced the most brutal torture imaginable – including in many cases rape and other forms of sexual violence. [...] In 24 (twenty-four) cases, detailed dossiers have been prepared on the individuals identified in the police. [...] Sri Lankans rightly fear the TID. This is the first report to examine the extensive use of torture by this specific police unit over the last decade.⁵⁸⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that “Local sources told DFAT that the police routinely mistreat suspects during criminal investigations, including as a way of extracting confessions. Sources also told DFAT that mistreatment was common in prisons. Mistreatment could range from a slap to the face to severe beatings, and, in some cases, may amount to torture. Sources told DFAT that mistreatment, where it occurred, was not confined to a particular geographic region or ethnic group, but was a problem countrywide that affected all communities. DFAT is unable to verify these allegations. In recent years, the HRCSL has received about 400 complaints of mistreatment and torture annually. According to local sources, some of these alleged violations were perpetrated by the Police Special Task Force”.⁵⁸⁹ The same source further noted that:

Local sources, including Tamils, say mistreatment and torture by police continues to occur, but is primarily due to outdated policing methods and is not ethnically-based. Senior police do not endorse mistreatment or torture, but reform messages have been slow to filter down. Where police mistreat or torture an individual, such practices reflect low capacity, lack of training, poor arrest and detention procedures, and poor policing methods that focus on extracting confessions rather than undertaking thorough investigations. Sources told DFAT that, with improvements in police training and greater monitoring of prisons by the HRCSL [Human Rights Commission of Sri Lanka], the incidence of mistreatment and torture had contracted in absolute terms, but was still common.⁵⁹⁰

A December 2019 Congressional Research Service briefing assessed that “Ongoing human rights concerns include unlawful killings, torture, sexual abuse, arbitrary detention [...]”.⁵⁹¹

In a February 2020 article in response to Sri Lanka’s withdrawal from the UN Human Rights Council resolution, the UK organisation Freedom from Torture stated that “For the last eight years, Sri Lanka has been the top country of origin for torture of survivors referred to Freedom from Torture for clinical

⁵⁸⁶ International Truth and Justice Project, [Terrorism Investigation Division: Sri Lankan Police](#), September 2019, *Executive Summary* p. 4

⁵⁸⁷ International Truth and Justice Project, [Terrorism Investigation Division: Sri Lankan Police](#), September 2019, *Methodology*, p. 7

⁵⁸⁸ International Truth and Justice Project, [Terrorism Investigation Division: Sri Lankan Police](#), September 2019, *Methodology*, p. 7

⁵⁸⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 4.24

⁵⁹⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 4.26

⁵⁹¹ Congressional Research Service, [Sri Lanka](#), 4 December 2019

services and medico-legal reports. Our doctors have documented more than 300 cases of torture by the state between 2009 and 2015, when President Mahinda Rajapaksa lost power. In 2015, Freedom from Torture published *Tainted Peace: Torture in Sri Lanka since May 2009*, which analysed 148 of those cases".⁵⁹²

In a February 2020 report the UN High Commissioner for Human Rights observed that "Very little action has been taken to remove individuals responsible for past violations, to dismantle structures and practices that have facilitated torture, enforced disappearance and extrajudicial killings, and to prevent their recurrence".⁵⁹³ The same source further noted that "Police sometimes held detainees incommunicado, and lawyers had to apply for permission to meet clients, with police frequently present at such meetings. In some cases unlawful detentions reportedly included interrogations involving mistreatment or torture".⁵⁹⁴

Journalists for Democracy in Sri Lanka noted that in response "More than a hundred Tamils in Sri Lanka and the UK including those tortured by security forces this month, have written to the UN rights chief denouncing her report for being 'heavily biased towards the government' and 'erasing' victims from the record".⁵⁹⁵ It further reported that:

The letter from survivors in exile distressed by the UN Human Rights Commissioner Michelle Bachelet's failure to acknowledge ongoing torture in Sri Lanka, have appealed her to visit them and see their tears and scars for herself.

One signatory from the north of Sri Lanka had been tortured in detention this month.

High Commissioner Michele Bachelet, herself a torture victim, delivered a special report on Promoting reconciliation, accountability and human rights in Sri Lanka to the 43rd session of the Commission in Geneva. Although she refers to torture in the 'past' twice in her report, torture at the hands of security forces during the last year has not been mentioned.

"Your report this week to the United Nations Human Rights Council [A/HRC/43/19] caused us great hurt and anguish; you erased us from the record," 40 survivors said in a moving letter to the UN rights chief.

"Though you must know this is still happening in 2019 – we are the living proof – this year you didn't mention it at all."

"If by some chance you don't believe us – which is very painful – please come and visit us and see our tears and our scars for yourself."⁵⁹⁶

In a submission to the UN Human Rights Committee for its 128th March 2020 session, the All Survivors Project Foundation (ASP) reported that "Senior police officers speaking to ASP under conditions of anonymity maintained that no cases of sexual violence against male Tamils have been investigated or brought before the courts because no complaints have been received by the police. However, although many survivors do not report for stigma and fear of reprisal, this contradicts the experience of human rights defenders in Sri Lanka who are aware of attempts by male victims of sexual violence to report

⁵⁹² Freedom from Torture, [Sri Lanka's withdrawal from UN Human Rights Council resolution: what it means for survivors](#), 26 February 2020

⁵⁹³ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 34

⁵⁹⁴ U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1d

⁵⁹⁵ Journalists for Democracy in Sri Lanka, ["Erased" Tamil victims challenge UN rights chief's latest report on Sri Lanka](#), 26 February 2020

⁵⁹⁶ Journalists for Democracy in Sri Lanka, ["Erased" Tamil victims challenge UN rights chief's latest report on Sri Lanka](#), 26 February 2020

crimes, but where the police have either refused to record the complaint or have dissuaded victims from pursuing it”.⁵⁹⁷ The same source further described that:

A lack of legal protection for men and boys from sexual violence contributes to an environment in which violations can take place and perpetrators cannot be held to account.

In Sri Lankan law, the possibility of rape of men is not recognised. Men are defined only as perpetrators of rape under Article 363 of the Penal Code, under which “a man is said to commit rape who has sexual intercourse with a woman under any of the following descriptions...”. Similarly, the prohibition of statutory rape applies only to girls (under the age of 16 years) and not to boys.

Other provisions under the Penal Code mischaracterise or define sexual violence in such a way that they do not reflect the lived experience of survivors, are inconsistent with the more inclusive, gender-neutral definitions under international law, or are otherwise inadequate for prosecuting sexual violence against men and boys. For example, forms of sexual violence that do not constitute rape are prohibited under Section 365B of the Penal Code relating to “grave sexual abuse” which is defined as any act “committed by any persons, who for sexual gratification... by the use of his genitals or any other part of the human body or any instrument on any orifice or part of the body of any other person...” without consent or under force, threat or intimidation. Rape of men (and other forms of sexual violence) could be prosecuted under this provision. However, it offers an inadequate recourse, not only because it carries a lesser sentence than rape under Article 363, thereby effectively treating the rape of males as a lesser crime than the rape of females, but also because it requires the act to be committed ‘for sexual gratification’, thereby mischaracterising sexual violence against men.

Other provisions under the Penal Code may deter male survivors from seeking justice. Sections 365 and 365A criminalise certain homosexual acts, categorising them as “unnatural offences”. These provisions have been used to persecute members of the LGBTI community and serve to reinforce discriminatory gender stereotypes. As such it can tacitly encourage violence and it act to deter survivors of sexual violence from seeking justice or medical and other support for fear of being arrested and prosecuted.⁵⁹⁸

The same report also detailed the following additional challenges faced by survivors of sexual violence, “Beyond the general lack of effective investigations and prosecution for crimes committed by security forces, including in detention settings”, based on information gathered by ASP:

- There is no specific training available to help the police to identify and investigate sexual violence. Judges, magistrates and other judicial officials also lack understanding of and sensitivity towards victims of sexual violence, and procedures to ensure the privacy and confidentiality of victims at all stages, including during court hearings, are lacking.
- There are additionally no guidelines in policies to ensure effective institutional responses to sexual violence.
- Capacity and expertise in other specialist areas is also lacking and concerns about political interference persist. Judicial Medical Officers (JMOs), whose role it is to examine individuals alleging physical injury or harm resulting from their treatment in detention, receive no training on the identification of sexual violence against men and boys who do not specifically report that it has occurred. Physical examinations take place with consent, but stigma and shame may prevent victims from reporting injuries, particularly to the genitals, and may cause them to withhold consent. Moreover, although guidelines require that examinations take place in a private setting, there are reports of police officers being present during medical examinations.
- Forensic capacity is also low and this has caused delays of up to several years in investigations. Regular forensic analysis of samples collected by the police is the responsibility of the Government Analyst

⁵⁹⁷ All Survivors Project Foundation, [Sri Lanka: Submission to the UN Human Rights Committee 128th Session](#), 2-27 March 2020

⁵⁹⁸ All Survivors Project Foundation, [Sri Lanka: Submission to the UN Human Rights Committee 128th Session](#), 2-27 March 2020

Department (GA), but concerns exist about the way in which evidence is collected by the police and delays by the GA in reporting on its findings. Such delays contribute to inordinately lengthy trial processes in Sri Lanka, which create additional uncertainty and distress for victims.⁵⁹⁹

Deaths in detention

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, “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”.⁶⁰⁰

According to a March 2020 report from the Sri Lanka Department of Prisons, there were 183 deaths in detention in 2019, including both convicted and unconvicted prisoners.⁶⁰¹

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted that “In December 2019 and January 2020, two young Muslim male inmates (one in Welikada prison and another in Batticaloa prison) deaths have been reported to the National Human Rights Commission”.⁶⁰²

On 26 March 2020 Amnesty International reported that “In Sri Lanka, two prisoners were killed, and others injured, by prison guards last week when protests related to COVID-19 flared at Anuradhapura prison”.⁶⁰³ Reporting on the same incident the Tamil Guardian noted that “The pandemic has sparked protests within prisons around the world about these conditions and the restriction of prison visits, which is an essential way by which prisoners receive adequate food and clothing. In Sri Lanka, one such protest resulted in the killing of two prisoners by police officers at a jail in Anuradhapura”.⁶⁰⁴ Reporting on the same incident, Journalists for Democracy in Sri Lanka reported that:

Sri Lanka’s President failed to heed a written warning that he should act to prevent panic over the COVID 19 virus in a high security prison where two inmates were shot dead in a riot triggered by rumours. Officials in the Anuradhapura prison had opened fire on detainees who launched a protest on March 21 demanding release of minor offenders to minimise risk of spreading the disease among the prison population. Two have succumbed to injuries while six others are being treated for injuries, said the Police Media Director SP Jaliya Senaratne. [...]

⁵⁹⁹ All Survivors Project Foundation, [Sri Lanka: Submission to the UN Human Rights Committee 128th Session](#), 2-27 March 2020

⁶⁰⁰ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 85

⁶⁰¹ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, Table 10.7, p. 81

⁶⁰² Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Prohibition of Torture and Cruel, Inhuman or Degrading Treatment, Liberty and Security of Person, Fair Trial and Independence of Judiciary (Articles 7, 9, 10 and 14)*, p. 10

⁶⁰³ Amnesty International, [South Asia: As COVID-19 spreads, fears rise for people at higher risk](#), 26 March 2020

⁶⁰⁴ Tamil Guardian, [Prisons releasing vulnerable inmates globally to stem spread of Coronavirus](#), 28 March 2020

The country's leading prisoners' rights watchdog that had earlier raised the alarm of panic among detainees fearing a coronavirus outbreak in Sri Lanka's overcrowded prisons, blamed the president for the deaths. [...]

Five days before the Anuradhapura prison killing CPRP wrote to the president urging the release of minor offenders and the elderly to ease the overcrowding to help control the spreading of coronavirus in prisons.⁶⁰⁵

Detention of juveniles

The U.S. Department of State's annual report covering 2019 noted that "Authorities sometimes held juveniles and adults together".⁶⁰⁶

The Juvenile Justice Advocates submitted in May 2019 to the 81st Session of the UN Convention on the Rights of the Child with respect to Sri Lanka that:

- Minimum age of criminal responsibility is 8 years.
- Children over the age of 16 are often excluded from the protection of the Children and Young Persons Ordinance.
- Children in detention are often ill-treated by the police and have no access to education.
- There is a low number of juvenile courts and a general lack of understanding of the specialized requirements of juvenile justice.
- Domestic legislation does not guarantee children the right to legal representation.
- There is a lack of alternatives to detention.
- Children are not separated from adults throughout the judicial process.⁶⁰⁷

In a June 2020 report the Centre for Policy Alternatives noted that it "was also informed of the children of female prisoners who grow up within the prison until the age of five at a separate unit within the Welikada Prison premises. However, concern was raised regarding the guardianship of these children where they have no family to take them in after they pass the age of five".⁶⁰⁸ The same source further noted that "The Children and Young Persons Ordinance provides for the separation of children from adult prisoners during arrest, remand, transportation and trial as well as delineating special procedures during trial and conviction. However, existing research identifies numerous gaps in their implementation".⁶⁰⁹

iii. Detention without Charges and Pretrial Detention

For information on the arbitrary arrests of Muslims see [V.i.d\) \(2\) Aftermath of the 'Easter bombings' \(April – November 2019\)](#) and [V.j.ii. Persons of Tamil Ethnicity](#).

⁶⁰⁵ Journalists for Democracy in Sri Lanka, [President warned of COVID 19 unrest days before deadly prison shooting](#), 22 March 2020

⁶⁰⁶ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 1.c. Prison and Detention Center Conditions, p. 5

⁶⁰⁷ Juvenile Justice Advocates, [CRC May Sessional Working Group \(81st Session\) Country name: Sri Lanka, Appropriate pretrial detention times for children](#), Submitted for the 13 May 2019 - 31 May 2019 session

⁶⁰⁸ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 6.6 Female Prisoners, p. 36

⁶⁰⁹ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 6.7. Young prisoners, p. 38

For information on the arbitrary arrest of persons detained in connection to exercising freedom of Expression, Association and Assembly [see V.e.i. Situation of Journalists/Media Workers/Bloggers/Citizen Journalists](#), [V.e.ii. Treatment of Political Opposition](#), [V.e.iii. Treatment of those perceived to oppose the government](#) and [V.e.iv. Treatment of human rights defenders](#).

The November 2019 report by the Australian Department of Foreign Affairs and Trade explained that “The PTA [Prevention of Terrorism Act] allows authorities to detain suspects without charge for up to 72 hours. After this period has elapsed, a suspect either can appear before a magistrate, or can be held without charge under detention orders for three-month periods not exceeding 18 months, although, in practice, some have been detained without charge for considerably longer than the PTA allows”.⁶¹⁰

Members of the Sri Lankan Criminal Investigation Department interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following information regarding arrest procedures:

According to law, police have the power of arrest. Other agencies may have powers of arrest, but these are confined to particular cases. Under the Public Security Ordinance 1947, the President may bring in a State of Emergency and then the armed forces have the power to arrest [...]

According to law, people may be detained for 24hrs; drugs offences up to 7 days. All arrestees must be brought before a magistrate within 24hrs of arrest. People arrested for terrorism or extremism offences may be held for 1-2 months [...]

If someone is arrested under special laws (public security ordinance) then family members and the Human Rights Commission would be informed. Generally, arrestees are issued with a receipt of arrest, as are their family members.

Q. Do you have a list wanted persons?

This is published in ‘Police Gazette 3’ – not yet available online. Contains a list of wanted persons, i.e. anyone who is wanted by the police – everyone who is wanted is included on the list [...]

Police custody is only 24-48 hours; then the person is moved to judicial custody. Families are allowed to visit those in police or prison custody [...]

Every Friday, complaints can be made directly to the Inspector General and CID HQ. But at any time, a person can make a complaint, about arbitrary arrest for example, at their local police station. Complaints can also be made at the HRC and National Police Commission (NPC). NPC branches are throughout the country.⁶¹¹

The U.S. Department of State’s annual report covering 2019 noted with regards to arrest procedures that:

The criminal procedure code allows police to make an arrest without a warrant for offenses such as homicide, theft, robbery, and rape. Alternatively, police may make arrests pursuant to arrest warrants that judges and magistrates issue based on evidence. The law requires authorities to inform an arrested person of the reason for the arrest and arraign that person before a magistrate within 24 hours for minor crimes, 48 hours for some grave crimes, and 72 hours for crimes covered by the PTA. More time reportedly elapsed before some detainees appeared before a magistrate, particularly in PTA cases. For bailable offenses as characterized under the Bail Act, instead of arraignment in court, police can release suspects within 24 hours of detention on a written undertaking and require them to report to court on a

⁶¹⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 4.30

⁶¹¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Members of Criminal Investigation Department (CID) 1 October 2019*, p. 38 and 39

specified date for pretrial hearings. Suspects accused of committing bailable offenses are entitled to bail, administered by police before seeing a magistrate, but for suspects accused of nonbailable offenses, bail is awarded only after appearing before a magistrate and at the magistrate's discretion.⁶¹²

The same source recorded with regards to arbitrary arrests that "As of August [2019] the National Police Commission reported 17 complaints of unlawful arrest or detention. The HRCSL [Human Rights Commission of Sri Lanka] received numerous complaints of arbitrary arrest and detention through November [2019]" Furthermore "In a July [2019] letter to the acting inspector general of police, the HRCSL noted it had received an increased number of complaints for arbitrary arrests in the wake of the April 21 [2019] attacks, alleging detention occurred for possessing Arabic language literature or as a result of unsubstantiated rumors. The commission observed that in nearly all complaints the investigations occurred after arrest, leaving suspects detained for indefinite periods".⁶¹³

In July 2019 Sri Lanka Brief reported that:

In the weeks after the April 21 suicide bombing tragedy, the country's Muslim community bore the brunt of the security response and either continues to suffer or are attempting to recover from over zealous police actions and also the impact of parallel social aggression targeting the same community. [...] Activists have also pointed out that there is inconsistency and confusion over which law is being applied in any particular case. Often the detention orders that are required to hold suspects under the PTA have not been provided to their lawyers making the detention arbitrary. According to the latest information available, over 500 individuals remain in custody, some due to the fact they were remanded, others because they are still under investigation. As of June 4 out of the 423 who were remanded, 358 were Muslims. However, having received a high number of complaints relating to the arbitrary and illegal arrests the Human Rights Commission of Sri Lanka (HRCSL) this week took steps to call on the Acting Police Chief to ensure due processes are followed to prevent arbitrary or illegal arrests.⁶¹⁴

The Sri Lanka Daily Mirror (Sri Lanka) reported in August 2019 that:

The opposition [...] raised concerns over not releasing former Eastern Province Chief Minister, Tamil Makkal Viduthalai Pulikal (TMVP) leader Sivanesathurai Chandrakanthan alias 'Pillayan'. Joint Opposition MP Susantha Punchinilame said that Pillayan was kept in remand prison for more than four and half years without filing any cases against him. [...] The MP said there were many people in remand prisons across the country, without legal action being taken against them and added that they should either be released or that legal action should be taken against them.⁶¹⁵

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, "Allegations of arbitrary arrests and detention and impunity for past

⁶¹² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *1.d. Arrest Procedures and Treatment of Detainees*, p. 8

⁶¹³ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *1.d. Arrest Procedures and Treatment of Detainees*, p. 8

⁶¹⁴ Sri Lanka Brief, [SRI LANKA: A COMMUNITY TORMENTED BY OVER ZEALOUS LAW ENFORCEMENT; ARBITRARY ARRESTS, FALSE ACCUSATIONS, RUINED LIVES](#), 7 July 2019

⁶¹⁵ Daily Mirror, [Pillayan's detention in remand prison JO express concern over unreasonable delay in filing cases](#), 24 August 2019

mistreatment continue” and “There are ongoing concerns that arbitrary arrests and detention occur disproportionately for Tamils and Muslims, in some cases for reasons that are discriminatory”.⁶¹⁶

In February 2020 the UN High Commissioner for Human Rights documented that “Following the April attacks, the former President declared a state of emergency that was extended three times until 22 August 2019. Emergency powers were granted to the armed forces to search and arrest, which curtailed freedom of movement and of peaceful assembly and some fair trial guarantees. Extraordinary deployment of the armed forces in law enforcement operations continued after the lapse of the state of emergency and was still in effect at the time of writing”.⁶¹⁷

In late April 2020 a UN article cited Georgette Gagnon, Director of Field Operations, as describing “how various countries had adopted a ‘heavy-handed’ or ‘highly militarised’ security response to the virus”.⁶¹⁸ Furthermore “We’ve seen that police and other security forces are using excessive and sometimes deadly force to enforce lockdowns and curfews. [...] These violations have often been against people from the poorest and most vulnerable segments of the population. [...] During the press conference, and in response to questions from journalists the OHCHR official touched on issues of concern related to states of emergency or exceptional measures in some 20 countries, noting ‘there are probably several dozen more that we could have highlighted.’ She went on to describe how [...] more than 26,800 people had also been detained in Sri Lanka”.⁶¹⁹

For further information on Sri Lanka’s handling of the COVID-19 pandemic see [V.e.iii. Treatment of those perceived to oppose the government \[without political affiliation\]](#) and [IX. COVID-19 and impact on human rights](#).

Additional information on the emergency regulations passed in the aftermath of the April 2019 ‘Easter bombings’ can be found in section [III.a.i. Easter bombings \(April 2019\)](#).

Pre-trial detention

The U.S. Department of State’s annual report covering 2019 noted with regards to pretrial detention that “pretrial detainees composed approximately one-half of the detainee population. The average length of time in pretrial detention was 24 hours, but inability to post bail, lengthy legal procedures, judicial inefficiency, and corruption often caused trial delays. Legal advocacy groups asserted that for those cases in which pretrial detention exceeded 24 hours, it was common for the length of pretrial detention to equal or exceed the sentence for the alleged crime”.⁶²⁰

According to the Sri Lanka Department of Prisons, in 2019 there were 115,325 ‘direct admissions’ of unconvicted prisoners, of which 5,912 were women and that this figure has been rising since 2015.⁶²¹

⁶¹⁶ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Prohibition of Torture and Cruel, Inhuman or Degrading Treatment, Liberty and Security of Person, Fair Trial and Independence of Judiciary (Articles 7, 9, 10 and 14) p.10*, p. 9 and p. 10

⁶¹⁷ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 28

⁶¹⁸ UN news, [‘Toxic lockdown culture’ of repressive coronavirus measures hits most vulnerable](#), 27 April 2020

⁶¹⁹ UN news, [‘Toxic lockdown culture’ of repressive coronavirus measures hits most vulnerable](#), 27 April 2020

⁶²⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.d. *Arrest Procedures and Treatment of Detainees*, p. 8

⁶²¹ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, *Direct admissions of convicted and unconvicted prisoners by institutions-2019*, p. 10, and *Unconvicted prisoners, 2015-2019*, p. 15

These figures are disaggregated by institution, age group, education level, race, religion and marital status.⁶²² In 2019 the proportion of remandees to the total inmate population was 79.8%.⁶²³

According to snapshot figures on 31st December 2019, of 14,642 prisoners then awaiting trial, 10,163 (69.4%) had been held for under 6 months, 1,990 (13.6%) for between 6-12 months, 1072 (7.3%) for 12-18 months, 737 (5 %) for between 18 months and 2 years and 680 (4.6%) had been held for over 2 years.⁶²⁴ It also provided further breakdown of these figures as follows:⁶²⁵

Table 3.10
LENGTH OF PERIOD SPENT IN CUSTODY BY ALL
REMANDEES AS ON 31ST DECEMBER 2019

	Male	Female	Total	Percentage of Total Remandees
Under 14 Days	2,966	150	3,116	21.3
14 Days to less than 1 Month	3,666	183	3,849	26.3
1 Month to less than 6 Months	2,862	336	3,198	21.8
6 Months to less than 1 year	1,861	129	1,990	13.6
1 Year to less than 1 1/2 Years	1,020	52	1,072	7.3
1 1/2 Year to less than 2 Years	704	33	737	5.0
2 Years to less than 3 Years	298	27	325	2.2
3 Years to less than 4 Years	148	15	163	1.1
4 Years to less than 5 Years	99	8	107	0.7
5 Years and Above	81	4	85	0.6
Under Detention	-	-	-	-
Total	13,705	937	14,642	100.0

Source ; Department of Prisons

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted that “It is common for pretrial detention to continue for 3-4 years and in some instances even longer, up to 10 years, and it is often followed by a lengthy trial. Time spent in pretrial detention is not always considered when the final sentence is calculated and is left to the discretion of the judge. In a number of cases, accused persons have spent numerous years in pretrial detention but were subsequently acquitted and released from prison without any acknowledgement of wrongful imprisonment or compensation for the years spent in custody”.⁶²⁶

Following a visit of President Gotabaya Rajapaksa to Welikada Prison, The Daily News reported in January 2020 that:

⁶²² Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, p. 16-21

⁶²³ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, Table 3.13, p. 26

⁶²⁴ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, Table 3.8 Period spent on remand by prisoners awaiting trial-2019, p. 23

⁶²⁵ Sri Lanka Department of Prisons, [Prisons Statistics of Sri Lanka- Year 2020](#), 2 March 2020, Table 3.10, p. 25

⁶²⁶ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Prohibition of Torture and Cruel, Inhuman or Degrading Treatment, Liberty and Security of Person, Fair Trial and Independence of Judiciary (Articles 7, 9, 10 and 14)*, p. 10

One thing came to light during the visit was the immediate need for prison reforms. These are few examples of the need for early legal reforms. The suspects remanded for years as it might take very long period to complete the legal process. Sometimes the verdict and the crime are decade or more apart. [...] There were shocking revelations about inadequacy of legal provisions to release prisoners who are unable to pay small fines or remand prisoners who are unable to deposit money or sureties to fulfill bail conditions. According to some lawmakers, more than 50% of the prisoners and remanded suspects languishing behind bars in abject surroundings due to above two reasons. [...] As the prisons are overcrowded, there is an urgent need to take measures to make more non-violent offences bailable and to experiment with alternatives to incarceration.⁶²⁷

A joint statement from INFORM and the Law and Society Trust of March 2020 noted that:

We are also aware that more than 50% of the prison population in Sri Lanka are remand prisoners, and that a large number of the convicted prisoners are those who have defaulted on paying fines. Further, the denial of bail for minor, bailable offences, inability to meet bail conditions and lengthy waits for trials to commence and conclude are also reasons for prison overcrowding.⁶²⁸

The Centre for Policy Alternatives noted in June 2020 that “Remand prisoners, prisoners committed to trial and civil prisoners are subject to less stringent conditions of custody than convicted prisoners. Prison Rules 189 to 211 allow for them to provide themselves with their own food, clothing and ‘a suitable room or a cell specially fitted for such prisoner’ subject to approval of the Superintendent”.⁶²⁹

a) Detention under the Prevention of Terrorism Act (PTA)

Also see section [V.a.i. Prevention of Terrorism Act \(PTA\)](#).

According to the State report submitted by Sri Lanka to the UN Human Rights Committee in February 2019, “The administratively enforced de facto moratorium on new arrests under the PTA continues to be in operation”.⁶³⁰ The State report further detailed that:

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.⁶³¹

In a February 2019 report, the UN High Commissioner for Human Rights reviewed noted that “The adjudication of security detainees held under the Prevention of Terrorism Act remains a matter of concern among the Tamil community, which has identified it as a matter of confidence-building.

⁶²⁷ Daily News, [Prisons must be institutes for correction](#), 14 February 2020

⁶²⁸ Law and Society Trust (LST) and INFORM Human Rights Documentation Centre, [Sri Lanka – Releasing Prisoners to prevent spread of COVID-19 in prisons](#), 26 March 2020

⁶²⁹ Centre for Policy Alternatives, [The Need for Prison Reforms in Sri Lanka](#), June 2020, 6.8 Remand Prisoners, p. 39

⁶³⁰ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 51

⁶³¹ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 51

According to information provided by the Government, as at 25 January 2019, 58 individuals detained under the Act were facing trial and three suspects were awaiting indictment”.⁶³²

A spokesperson for the Sri Lankan Human Rights Commission interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “In the past, senior politicians would be held separately. Places of detention must be published. There are no secret places of detention any more. Detainees held under the PTA are held in normal prisons or the high security prison ‘Boosa’, in the South”.⁶³³

The U.S. Department of State’s annual report covering 2019 noted that “The Bail Act states no person should be held in custody for more than 12 months prior to conviction and sentencing without a special exemption. Under the PTA detainees may be held for up to 18 months without charge, but in practice authorities often held PTA detainees for longer periods. Judges require approval from the Attorney General’s Department to authorize bail for persons detained under the PTA, which the office normally did not grant”.⁶³⁴ The same source further noted that:

According to police, 2,299 individuals were arrested, primarily under the PTA, in the aftermath of the Easter Sunday attacks. As of September [2019], 293 suspects remained in custody. Nongovernmental organizations (NGOs) reported that in the aftermath of the Easter Sunday terrorist attacks, more than 1,000 citizens were arrested under the PTA and detained without access to family or counsel or an explanation of charges they faced. As of September, NGOs with access to prisoners detained under these ordinances reported that to the best of their knowledge, the vast majority of arrestees had been released. International NGOs continued to have access to the remaining April 21 [2019] attack suspects. [...] In July Tamil prisoners across the country, including former Liberation Tigers of Tamil Elam (LTTE) fighters, and civil society groups undertook hunger strikes, demanding immediate resolution to the prisoners’ protracted detention. Many of the prisoners were held under the PTA without charge. They asked the government either to indict them or provide a pathway for their eventual release.⁶³⁵

In February 2020 the Sri Lanka Campaign for Peace and Justice noted that one of the commitments in Human Rights Council Resolution 30/1 was to implement the recommendations of the 2015 OHCHR Investigation on Sri Lanka (OISL) report, including “Review all cases of detainees held under the Prevention of Terrorism Act and either release them or immediately bring them to trial”.⁶³⁶ The report assessed Sri Lanka’s progress in this regard thus:

This has not happened, despite pledges by the previous government to ‘fast-track’ cases of those held under the draconian Prevention of Terrorism Act (PTA). Far from a decrease in the total of those held under the PTA, detainee numbers have rocketed following the scores of arrests made in the aftermath of the April 2019 Easter Sunday bombings. While no up-to-date official figures have been made available, in

⁶³² UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 34

⁶³³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019, p. 42

⁶³⁴ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.d. Arrest Procedures and Treatment of Detainees p. 7

⁶³⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.d. Arrest Procedures and Treatment of Detainees p. 7-8

⁶³⁶ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 1. Implement the recommendations of the OISL report, p. 10

January 2020 the International Crisis Group estimated that at least “hundreds of Muslims remain in custody under the Prevention of Terrorism Act.”

These figures would represent a stark backsliding, in view of reports that the number of PTA detainees may have been steadily decreasing in recent years.⁶³⁷

In February 2020 the UN High Commissioner for Human Rights documented that “The Act [PTA] has continued to be used, and was used as the basis for the arrest of individuals believed to be linked to the organizations responsible for the attacks. As of January 2020, more than 200 individuals were in detention and under judicial custody under the Act, including in relation to the attacks of April 2019”.⁶³⁸

For information on the arbitrary arrests of Muslims see [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#) and the treatment of Tamils, see [V.j.ii. Persons of Tamil Ethnicity](#).

For information on the arbitrary arrest of persons detained in connection to exercising freedom of Expression, Association and Assembly see [V.e. i. Situation of Journalists/Media Workers/Bloggers/Citizen Journalists](#), [V.e.ii. Treatment of Political Opposition](#), [V.e.iii. Treatment of those perceived to oppose the government](#) and [V.e.iv. Treatment of human rights defenders](#).

e. Freedom of Expression, Association and Assembly

For information on treatment in detention, please see [V.d. Arbitrary Arrests and Detention](#).

i. Situation of Journalists/Media Workers/Bloggers/citizen journalists

Media landscape

In its report covering May 2019 to April 2020, the International Federation of Journalists noted that “Barring a few exceptions, Sinhala media is dominated by Sinhala-Buddhist supremacist ideology and is openly and aggressively pro-government. With the rise of militarisation of civilian life, the military and Sinhala Buddhist groups have come to wield enormous power in Sri Lanka”.⁶³⁹ The same source further explained that “A key concern in Sri Lanka is ownership of media, which has always been controlled by the government and by private owners who are politically connected. Political control over state media continues and it operates as a tool to propagate state ideology. At the same time, privately-owned news media remain biased on political lines”.⁶⁴⁰

The same source further described the media landscape in Sri Lanka:

The media landscape in the country remains male-dominated. Among the accredited provincial correspondents there are only 33 women journalists (three per cent) compared to 1,022 men. Women journalists face discrimination as well as stereotyping at the workplace. In August 2019, the Chevening

⁶³⁷ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota’s Sri Lanka](#), February 2020, 1. *Implement the recommendations of the OISL report*, p. 10

⁶³⁸ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 27

⁶³⁹ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 68

⁶⁴⁰ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 68

Alumni Association of Sri Lanka established Women in Journalism Sri Lanka (WJSL) in an attempt to empower and connect women media workers.

Social media in the country is dominated by Facebook. According to a report published in February, Facebook held 76 per cent of the total social media landscape (compared to Pinterest 9 per cent, Twitter 6 per cent, YouTube 5 per cent, and Instagram 4 per cent).

Facebook has been repeatedly accused of inaction over incitement of communal tensions in Sri Lanka, but there have been no significant steps taken to address this concern. Following the Easter Sunday attacks, social media platforms, including Facebook, were blocked for a week in an attempt to curb the spread of fake news and communal tensions. Notwithstanding the opportunity it provides for informed discussions and challenging the dominant narrative, social media in Sri Lanka, particularly in local languages, has become a platform for hate speech and misinformation.⁶⁴¹

In April 2019 Sri Lanka's president issued a new set of Emergency Regulations.⁶⁴² Groundviews issued a commentary explaining the contents of Emergency Regulation 15, which concern the 'control of publications', and certain other regulations "relevant to publication".⁶⁴³

The International Federation of Journalists noted that with regards to changes in the legal environment that:

In late May [2019], the cabinet approved amendments to the penal code and criminal procedure code, criminalizing the dissemination of 'false news' if it was deemed to affect 'communal harmony' or 'state security'. The amendment used broad and vague terminology and carried a fine of LKR 1,000,000 (USD 5,000) and/or a five-year prison sentence for offenders. In the backdrop of the police misusing the ICCPR Act to restrict freedom of expression, concerns were raised regarding the amendments. In a letter to the minister of justice and prison reforms, FMM expressed its concern that the proposed legal amendments could seriously threaten freedom of expression and media freedom in the country.

Meanwhile, the government has reached the final stages of drafting a Cyber Security Act to prevent the publishing of defamatory posts and comments on social media. The draft act establishes a mechanism for immediate removal of posts with ethnic or religious sensitivities that could spread hatred on social media. Under the new mechanism, a Digital Infrastructure Protection Agency (DIPA) will be set up as an apex body for all cyber security related affairs including credit card fraud, online sexual exploitation, hacking, and intellectual property theft, cyber terrorism, and processing of unauthorised information.⁶⁴⁴

In September 2019 Free Media Movement reported that the "Sri Lanka Rupavahini Corporation (SLRC), Sri Lanka's state-run broadcaster has been moved from the purview of the Media Ministry to the Defence Ministry under presidential powers. The International Federation of Journalists (IFJ) joins its affiliates the Free Media Movement (FMM), the Sri Lanka Working Journalists Association (SLWJA) and the Federations of Media Employee Trade Union (FMETU) in strongly condemning the move by Sri Lankan President Maithripala Sirisena, threatening the independence of the media outlet".⁶⁴⁵

Amnesty International reported in its annual report covering events in 2019 that "The government withdrew its plans to criminalize individuals for issuing "false news", where five-year jail sentences

⁶⁴¹ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, Sri Lanka, p. 70

⁶⁴² Groundviews, [Explaining Sri Lanka's New Emergency Regulations on 'Publication'](#), 25 April 2019

⁶⁴³ Groundviews, [Explaining Sri Lanka's New Emergency Regulations on 'Publication'](#), 25 April 2019

⁶⁴⁴ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, Sri Lanka, p. 73

⁶⁴⁵ Free Media Movement, [International Federation of Journalists, Sri Lanka: Defense Ministry takes control of state-run broadcaster](#), 17 September 2019

would be imposed on those accused of spreading fake news and hate speech on social media, following criticism from civil society. In September [2019], however, it announced measures to introduce a section on “Constitution of Hostile Speech” as an amendment to the Penal Code and Code of Criminal Procedure. The bill did not pass parliament by the time the government changed at the end of the year”.⁶⁴⁶

The Committee to Protect Journalists described that “Already, Sri Lanka has seen a rapid militarization of the civil administration. In December [2019], the Telecommunications Regulatory Commission of Sri Lanka, along with nearly 150 institutions, was brought under the Ministry of Defense”.⁶⁴⁷

Treatment of media workers

In February 2019 Journalists for Democracy in Sri Lanka reported that “Army officers in the highly militarised north eastern Sri Lanka have threatened a journalist for covering local Tamils protesting the siphoning of water in a mass scale. Freelance journalist Selvaraja Sumanthan was threatened by an army major, while he was covering the protest. The journalist had been told that he will face ‘dire consequences’ if he does not leave the area”.⁶⁴⁸ A further report from the same source in February 2019 documented that “A Tamil journalist has been admitted to hospital after he was assaulted by a senior police officer on Tuesday (19) in Jaffna. Journalist Kugarajah Nadarajah of DAN TV said he was attacked by the acting Officer-in- Charge (OIC) of Kopay police station E G Gunaratne, while he was covering a suspected arson attack on a house in Kokuvil”.⁶⁴⁹

In a report covering January to March 2019 INFORM documented that:

Tamil journalists’ work in the north was widely obstructed by armed forces and police interference. One journalist was physically assaulted while others were threatened and intimidated. The building of a Buddha statue was completed on what locals claim is Hindu temple grounds. At the building site and at the unveiling ceremony of the statue, Tamil journalists faced intimidation and hostility by builders and monks respectively. [...]

In acts that are restrictive on the arts, an episode of TV show ‘Kopi Kade’ was prevented from airing on state television network ITN. In a separate incident, a writer was questioned over alleged damage to Buddhism after being reported by Buddhist monks. The latter incident is one of the growing indicators of Buddhist intolerance towards any interpretation of Buddhism for artistic expression or general expression that is not approved by the Buddhist clergy. In another incident, a journalist was allegedly threatened and demanded to stop coverage of a protest in the southern city of Hambantota.⁶⁵⁰

The report provided further details about the respective incidents.⁶⁵¹

⁶⁴⁶ Amnesty International, [Human Rights in Asia-Pacific; Review of 2019 - Sri Lanka](#), 30 January 2020

⁶⁴⁷ Committee to Protect Journalists, [Sri Lankan journalists turn to self-censorship under Rajapaksas as hope for justice fades](#), 28 April 2020

⁶⁴⁸ Journalists for Democracy in Sri Lanka, [Army threatens journalist covering protest against water theft \(VIDEO\)](#), 12 February 2019

⁶⁴⁹ Journalists for Democracy in Sri Lanka, [Sri Lanka police officer assaults Tamil journalist in Jaffna](#), 20 February 2019

⁶⁵⁰ INFORM, [Repression of Dissent in Sri Lanka 1st January – 31st March 2019](#), 9 May 2019, A. *Threats and Obstructions to Activism in the North*, p. 11

⁶⁵¹ INFORM, [Repression of Dissent in Sri Lanka 1st January – 31st March 2019](#), 9 May 2019

INFORM also detailed that “Based on a complaint made by the Sri Lanka Navy, a journalist of Tamil Guardian website had been arrested in the morning of 20th April [2019], Tamil guardian reports. Arrested journalist Shanmugam Thawaseelan is a Mullaitivu based senior journalist. He had been questioned by the Mullaitivu Police before the arrest”.⁶⁵²

On the 28 April 2019, the Committee to Protect Journalists reported, following the Easter attacks, that according to NetBlocks, an independent, international civil society group that monitors internet censorship, social media and messaging app restrictions were continuing into their eighth day.⁶⁵³ It further noted that “The social media ban was announced by the defense ministry and a government news portal on grounds that ‘false news reports were spreading through social media.’ The aim was ‘to prevent speculative and mischievous attempts to spread rumors,’ The Associated Press cited a Sri Lankan official as saying. The announcements said it would remain in place “until investigations were concluded”.⁶⁵⁴

Freedom House reported in its Freedom on the Net report covering the period from 1 June 2018 – 31 May 2019 that “The downward trajectory of internet freedom is expected to continue, evidenced by recently proposed amendments criminalizing false information and suggestions of increased government surveillance”.⁶⁵⁵ The same source further detailed that:

The government blocked social media and communication platforms three times in April and May 2019, in the aftermath of the Easter Sunday attacks (see A3). Authorities claimed the restrictions were necessary to stop the spread of disinformation and hateful content, as well as limit sectarian violence during the politically tense weeks and months following the attacks. The restrictions, however, prevented access to independent news sources and limited users’ ability to contact those in areas affected by the crisis. [...] Following the bombings on Easter Sunday, false or manipulated information was quickly shared online. For example, rumors spread that the water supply in Hunupitiya was poisoned and a fake Facebook page masquerading as the police spread rumors that users could be arrested if they used VPNs [Virtual Private Network]. Authorities also spread misleading information during the coverage period, including in the aftermath of the Easter attacks and throughout the political crisis in October and November 2018.⁶⁵⁶

In a report covering April to July 2019 INFORM documented that “During this quarter of the year, No 56 of 2007 ICCPR (International Covenant on Civil and Political Rights Act was heavily misused by the authorities to suppress freedom of expression and freedom of speech”.⁶⁵⁷ The same source noted that of 25 incidents documented in the reporting period, 40% “were related to the repression of journalists, writers and artists”.⁶⁵⁸ It described each individual incident and further noted that:

At least 3 journalists were reported to have been arrested on suspicion of terrorism related offences while doing their job and while they are at their homes, and later released on bail. Also the repression of writers who dissented against Buddhist nationalism – a trend which could be observed since several years – was intensified during these 3 months.⁶⁵⁹

⁶⁵² INFORM, [Repression of Dissent in Sri Lanka Apr-June 2019](#), 3 September 2019

⁶⁵³ Committee to Protect Journalists, [Social media still blocked in Sri Lanka following terror attack](#), 29 April 2019

⁶⁵⁴ Committee to Protect Journalists, [Social media still blocked in Sri Lanka following terror attack](#), 29 April 2019

⁶⁵⁵ Freedom House, [Freedom on the Net: 2019 Sri Lanka](#), 4 November 2019

⁶⁵⁶ Freedom House, [Freedom on the Net: 2019 Sri Lanka](#), 4 November 2019

⁶⁵⁷ INFORM, [Repression of Dissent in Sri Lanka Apr-June 2019](#), 3 September 2019, C. Repressive Laws

⁶⁵⁸ INFORM, [Repression of Dissent in Sri Lanka Apr-June 2019](#), 3 September 2019, C. Repressive Laws

⁶⁵⁹ INFORM, [Repression of Dissent in Sri Lanka Apr-June 2019](#), 3 September 2019

In June 2019 Reporters Without Borders called on the “Sri Lankan authorities to punish those responsible for recent acts of violence and harassment of journalists and to ensure that the police stop harassing and intimidating reporters covering the problems that the Tamil minority still endure ten years after the end of the civil war. [...] Ten years after the end of the civil war, the resurgence in attacks by the security forces against Tamil reporters recalls the worst times in Sri Lanka’s history, when it was one of the world’s deadliest countries for journalists”.⁶⁶⁰ The source documented the following incidents:

The 27 May violence against Kanapathipillai Kumanan, a journalist working for the Tamil daily Virakesari, was the third reported attack on a journalist of Tamil origin since the start of the year. Kumanan was working on a story about a Hindu temple in the district of Mullaitivu, on Sri Lanka’s northeastern coast, when a police officer hit him, threw his camera to the ground and threatened him with worse violence if he reported this attack. [...]

Shanmugam Thavaseelan, a reporter for the Asia Broadcasting Corporation and Tamil Guardian, was arrested by police on trumped-up charges on 20 April in Mullaitivu, the same district where the police attacked Kumanan five weeks later. Thavaseelan’s real crime was trying to cover a demonstration calling for justice for the Tamil civilians who disappeared during the civil war.

Nadarajah Kugarajah, a reporter for the Tamil TV channel Dan TV, was attacked by several police officers while investigating an arson attack two months before that in Jaffna, the capital of the mainly Tamil Northern Province, and had to be hospitalized with injuries, especially facial injuries.⁶⁶¹

Journalists for Democracy in Sri Lanka reported in June 2019 that “A Tamil journalist reporting the inaction of law enforcement officers in implementing a court order in northeastern Sri Lanka has been intimidated by police. Freelance Journalist Kanapathipillai Kumanan who was covering a dispute between two Hindu and Buddhist temples, had been physically assaulted and verbally abused by the officer in charge (OIC) of the Kokkilai police station”.⁶⁶²

In July 2019 the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that:

I am also alarmed by the high levels of hate speech, both on and offline that seem to have spiked after the Easter Sunday attacks in the country. Despite the fact that sufficient legislation is in place to effectively combat and prosecute hate speech through, inter alia, the ICCPR Act 2007, the usage of section 3 of the act - which criminalises speech which advocates for national, racial or religious hatred leading to or inciting discrimination, hostility or violence - has been used to target minority communities, while highly publicised instances of hate speech within the majority community have remained largely unpunished. Hate speech and misinformation have been able to propagate at alarming speeds due to the use of social media which has remained largely unchecked. While the Government has instituted social media shutdowns at certain points in order to combat this, I note that such shutdowns also have an adverse effect on the ability of people to freely assemble and associate online. With this in mind, I underscore that there must be sufficient safeguards and monitoring mechanisms in place to effectively combat hate speech and misinformation online, with internet or social media shutdowns only being used as a measure of last resort.⁶⁶³

⁶⁶⁰ Reporters Without Borders, [Alarming resurgence in Sri Lankan police attacks on Tamil journalists](#), 4 June 2019

⁶⁶¹ Reporters Without Borders, [Alarming resurgence in Sri Lankan police attacks on Tamil journalists](#), 4 June 2019

⁶⁶² Journalists for Democracy in Sri Lanka, [Tamil journalist reporting police inaction intimidated by senior officer](#), 1 June 2019

⁶⁶³ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

The International Federation of Journalists noted that “The months before the presidential election witnessed several arrests”.⁶⁶⁴ It further described:

A journalist from the Thinakaran newspaper was arrested on May 9 for being in possession of newspaper cuttings featuring the leader of National Thowheeth Jama’ath (NTJ) who was responsible for the Easter Sunday attacks. A few days later, on May 13, Mohommed Rizvi Maharooof was arrested under the incorrect assumption that he possessed CDs with promotional material of the NTJ.

In August, police verbally abused, threatened, assaulted and then arrested a woman journalist working for the Catholic newspaper Gnanartha Pradeepaya. Police also took video footage of her and her home. She was also assaulted with a chair at the police station. She was released upon complaining to the Officer-in-Charge (OIC). She was not informed of the reasons for arrest. A few days later, an unknown mob attacked her house with stones.

On September 5, Jinasena Rathugmage, a senior Sinhala journalist in Vavuniya was interrogated by the Terrorism Investigation Division (TID) for around six hours for reporting on the arrest of Kilinochchi’s Judicial Medical Officer.⁶⁶⁵

The South Asia Terrorism Portal (SATP) reported on 6th August 2019 “The Terrorist Investigation Division (TID) of Sri Lanka has questioned a journalist, S.N. Nirojan in Colombo in Western Province for his alleged contacts with ex-LTTE cadres on August 6, reports The Island”.⁶⁶⁶

A ‘diplomatic source’ interviewed by a UK Fact-Finding Mission in October 2019 stated “Journalists and Human Rights activists have received summons to TID (already before Easter attacks) and are then released after a day of questioning [...] In the north those who might be targeted are activists working with families of the missing, journalists or those working with ex-cadres”.⁶⁶⁷

A journalist interviewed by the same UK Fact-Finding Mission in October 2019 and only identified as ‘journalist 2’, stated “Prior to 2015, he faced issues as a journalist and related a story of how he was followed in 2013 after meeting with a journalist from the UK. If the government changed, the journalist said he would not want to be seen meeting with Western officials. He said he could report openly at the moment but thought he might not be able to under a new government after the 16 November [2019] Presidential election if former Defence Secretary Gotabaya Rajapaksa wins”.⁶⁶⁸

A member of the Sri Lankan Attorney General Department interviewed by the UK Fact-Finding Mission in October 2019 stated that they were “Not aware of recent incidents of harassment of journalists or human rights activists. Some media outlets might sensationalise reports”.⁶⁶⁹

⁶⁶⁴ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 71

⁶⁶⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 71

⁶⁶⁶ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

⁶⁶⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Diplomatic Source 2 October 2019*, p. 46

⁶⁶⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Journalist 2 2 October 2019*, p. 49

⁶⁶⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Attorney General Department, 3 October 2019*, p. 59

The International Federation of Journalists noted that “A clear surge in violations was visible immediately following the presidential election. Incidents of intimidation and violence occurred in several parts of the island”.⁶⁷⁰ It further described:

Freelance journalist Lasantha Wijeratne was attacked on November 14 by a group of unidentified armed men who stormed into his house in Habaraduwa in the Southern Province during the wee hours of the morning. A terrorised Wijeratne was slashed with a sharp weapon, threatened and beaten. Before the incident, Wijeratne had released the book, *Wasteful Development and Corruption*, which allegedly criticised Gotabaya Rajapakse, one of the frontrunners of the presidential race. The attackers mentioned his book during the attack and told Wijeratne to remove all copies from book shops. It is believed that this book was the cause of his assault. Though the police commenced an investigation into the incident, there has been no progress so far.

Following the presidential election, independent journalists and critical online media came under pressure. Individual journalists were intimidated and a set of leaflets carrying death surveillance of journalists also increased and the digital media was particularly targeted. On November 22, Sri Lankan police visited and interrogated Sakthivelpillai Prakash, the editor of the Tamil-language newspaper *Thinnapuyal*. The police also demanded details of all reporters and correspondents. Sanjay Dhanushka, a journalist who manages the video channel at *TheLeader.lk* news, was summoned and questioned by the Criminal Investigation Department (CID) for several hours. *Newshub.lk* reported that their office in Nugegoda was searched by the police on November 26, upon a false complaint that the company had in its possession defamatory material targeting a presidential candidate. Thushara Vitharana, the editor of the *Voicetube.lk*, was summoned for questioning by the CID. She was interrogated for two hours. The director of Vavuniya-based Tamil language newspaper *Thinappuya*, Sakthivelpillai Prakash, his wife, and another editor were summoned by the TID on March 2, following the paper’s coverage of the UN Human Rights Council in Geneva.⁶⁷¹

With regards to the post-election period the European Union Election Observation Mission (EOM) noted that “Police investigations and questioning of selected online journalists fuelled concerns about respect for pluralism and freedom of expression. Journalists from several outlets told the EU EOM of a move towards self-censorship in light of the election result”.⁶⁷²

In a report covering 1 July 2019 to 31 December 2019 INFORM documented that “Repression of journalists and media workers was a major pattern observed in this period both before and after elections. 24 incidents relating to restrictions, threats, assaults and interrogation of journalists and media workers were reported. While 15 incidents reported before the Presidential election, 9 incidents were reported after the election”.⁶⁷³ It provided further details on the specific incidents and further noted that:

The former President took over the state television Sri Lanka Rupavahni Corporation (SLRC) under the purview of Defense Ministry immediately before announcing the Presidential elections. A female

⁶⁷⁰ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p.71

⁶⁷¹ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p.72

⁶⁷² European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, *Announcement of Results and Post-Election Environment*, b. *Post-Election Environment*, p. 48

⁶⁷³ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, *Executive Summary*

journalist was arbitrarily arrested, assaulted by the Police and was released without any charges. Her home was stoned by mobs few days later. A minister threatened a journalist after he exposed alleged corruption in a development project. Another journalist was threatened with death by few local politicians inside the local council premises, after he reported about a clash between two local politicians. A journalist who exposed an illegal toddy trade was assaulted by a group of persons linked toddy businessmen and local politicians. Two media institutions and few journalists who supported defeated candidate were searched, and interrogated. In total, there were 8 incidents of journalists facing physical attacks, and 6 journalists, being interrogated by the Police, while one newspaper distributor was arrested.⁶⁷⁴

The International Federation of Journalists documented that “In a case that reveals the politicisation of the industry and the resultant pressure on journalists in the country, senior Tamil language journalist KM Razool working with Capital FM was suspended on October 16, 2019 for ‘alleged insubordination’. He was suspended for refusing to publish unverified content attacking the leadership of the Tamil National Alliance (TNA), and the United National Party (UNP), and favouring Sri Lanka People’s Front candidate Gotabaya Rajapaksa in the lead up to the presidential election”.⁶⁷⁵

In December 2019 the Committee to Protect Journalists reported on several recent attacks against journalists:

On December 6, a group of men beat Thusitha Kumara de Silva, a reporter for the Daily Mirror and LankaDeepa newspapers, and his wife with helmets and sticks near their home in Beruwala, western Sri Lanka, according to news reports. They were both admitted to a local hospital for treatment and later transferred to a general hospital with unspecified injuries, according to those reports.

On December 10, a group of men entered the offices of the Resa newspaper and grabbed Maduka Thaksala Fernando, a journalist at Resa parent company Lake House, by the neck, dragged him outside, and beat him while telling him not to return to the newspaper, according to news reports.

Police arrested five suspects in the de Silva attack on December 11, according to reports by the Daily Mirror and the BBC. Fernando has lodged a complaint with the police, according to news reports.

On December 12, Rajapaksa addressed the heads of local media institutions in a speech, saying that while there was an opportunity for “reasonable criticism,” he expected every media institution to conduct “favorable media reporting” to uphold the country’s reputation, according to news reports.

“The number of attacks against the media within weeks of President Gotabaya Rajapaksa’s inauguration is extremely alarming,” said Aliya Iftikhar, CPJ’s senior Asia researcher. “Rajapaksa has said the media will not be hindered under his administration, and he must prove that by ensuring that recent attacks against journalists are thoroughly investigated and those responsible are swiftly brought to justice.”

De Silva told the BBC that he had recently been threatened over his reporting on an illegal liquor production company.

Fernando alleged that his attackers belonged to the Sri Lanka Podujana Peramuna trade union, a pro-government union, and attacked him because of his political beliefs, according to news reports. [...]

In the two weeks following Rajapaksa’s inauguration, police questioned Thinappuyal newspaper director Sakthivelpillai Prakash about his outlet’s coverage of the Liberation Tigers of Tamil Eelam on November 22, and Voice Tube editor Thushara Vitharana about a recent broadcast from the outlet on November 28, according to news reports. On November 26, police questioned The Leader video manager Sanjaya Dhanushka for several hours, according to news reports, which did not specify the motive for the questioning.

⁶⁷⁴ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, Executive Summary

⁶⁷⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, Sri Lanka, p. 70

Thinappuyal, The Leader, and Voice Tube all supported Sajith Premadasa, Rajapaksa's opponent, in the November election, according to a report by exiled human rights group Journalists for Democracy in Sri Lanka.

On November 26, police raided the offices of News Hub, a local news website, and searched the outlet's records for references to Rajapaksa, according to news reports.⁶⁷⁶

Journalists for Democracy in Sri Lanka documented several of the same incidents and reported in December 2019 that "Media watchdogs in Sri Lanka have raised the alarm about a looming clampdown on media freedom following abrupt police probes against pro opposition media institutions soon after a Sinhala nationalist president was voted to office".⁶⁷⁷

Reporters Without Borders noted on their current webpage on Sri Lanka that "Shortly after his installation as president, there was a surge in cases of police harassment of journalists, including raids, interrogations and acts of intimidation, for all sorts of reasons. The tenth anniversary of the end of the civil war and the crushing of the Tamil rebellion, 2019 also saw a disturbing increase in police attacks on reporters covering issues linked to Sri Lanka's Tamil minority".⁶⁷⁸

The Sri Lanka Campaign for Peace and Justice noted in December 2019 that "It's been just under three weeks since Gotabaya Rajapaksa became President of Sri Lanka, and already there are some worrying signs of the chilling effect his victory is having on press freedom and civic space on the island. Several important commentators, from both the North and the South, have locked their social media profiles or withdrawn from online platforms altogether. Others have felt compelled to trawl through their account history to delete posts that might risk making them a target. The tweet below – posted by an anonymous Tamil journalist responsible for many important recent despatches from Sri Lanka's war-affected North and East – is but one example of the challenges which many now face".⁶⁷⁹ Furthermore "Elsewhere, observers have highlighted a subtler shift towards forms of self-censorship, with commentators sticking to 'safe' subjects or avoiding sensitive issues entirely. In one account of this trend, a Colombo-based journalist, who has for several years written a weekly column for a national newspaper, cited a sudden and unprecedented refusal by the editor to publish his latest piece. The explanation offered by the editor? 'Orders from above'".⁶⁸⁰

As the journalist in that case explained, highlighting the incoming administration's ability to curb the press while denying its involvement in censorship: "This jettisoning [of critical voices] will not be based on orders from the Presidency. The President's reputation and the Rajapaksa legacy is enough to instill fear."

The U.S. Department of State's annual report noted that "Independent media were active and expressed a wide variety of views. Journalists in the Tamil-majority North and East, however, reported harassment, intimidation, and interference from the security sector when reporting on sensitive issues related to the civil war or its aftermath. They reported the military contacted them to request copies of photographs, lists of attendees at events, and names of sources from articles. They also reported the military directly

⁶⁷⁶ Committee to Protect Journalists, [Journalists beaten by unidentified groups, interrogated by police in Sri Lanka](#), 16 December 2019

⁶⁷⁷ Journalists for Democracy in Sri Lanka, [Fear grips journalists after new Sri Lanka president targets opposition media](#), 3 December 2019

⁶⁷⁸ Reporters Without Borders, [Sri Lanka](#), undated [accessed 29 May 2020]

⁶⁷⁹ Sri Lanka Campaign for Peace and Justice, [Chilling effects under Sri Lanka's new President](#), 5 December 2019

⁶⁸⁰ Sri Lanka Campaign for Peace and Justice, [Chilling effects under Sri Lanka's new President](#), 5 December 2019

requested that journalists refrain from reporting on sensitive events, such as Tamil war memorials or land occupation protests, and that they feared repercussions if they did not cooperate”.⁶⁸¹ Furthermore, “There were reports of harassment and intimidation of journalists when covering sensitive issues. [...] On several occasions print and electronic media journalists noted they self-censored stories that criticized the president or his family. These journalists said they had received direct calls from supporters of the government asking them to refrain from reporting anything that reflected negatively on the ruling party or opposition politicians”.⁶⁸²

INFORM documented that during January 2020 “Repression against journalists and media workers was a prominent trend during this month. There were 8 incidents relating to 12 journalists that have been reported. In one incident, 7 journalists in Batticaloa reported having received death threats. One of them also had two prior threats and intimidations in the same month. In another incident a journalist in Chilaw was reported to have been assaulted by a group linked to local politicians after he reported on an unauthorized filling of a paddy field. A journalist’s house was vandalized by an unidentified group in Jaffna. In another case, a female journalist who went to file a complaint at the Police station was treated in a degrading manner”.⁶⁸³

In a January 2020 joint report the International Truth and Justice Project and Journalists for Democracy in Sri Lanka noted that “The information collected for this report reveals a systematic clampdown by the police, army and intelligence services in Sri Lanka intended to terrorize and deter human rights activists and the media from documenting and reporting on issues of justice and accountability. The crackdown also targets Sinhala journalists in a post-election spate of retaliation against those perceived to have supported the opposition”.⁶⁸⁴ The report detailed 69 incidents occurring before and after the Presidential election, up to the end of December 2019, of which 14 concerned the media.⁶⁸⁵

In January 2020 Reporters Without Borders reported that “holds the Sri Lankan government responsible for anything that happens to seven journalists in the eastern city of Batticaloa who were refused police protection after being the targets of a death threat. The dismissive manner with which the police treated their request for protection is appalling”.⁶⁸⁶ It further explained:

The threat was made in the form of leaflets found outside the Batticaloa press club and scattered in the city on 23 January [2020]. They showed a photo of the seven journalists with their heads circled and the chilling words: “Beware! These are the reporters who received money from the [Tamil] Tigers abroad to undermine the government. We will execute them.” [...]

In view of the gravity of the leaflet’s message, the seven journalists tried to file a complaint with the Batticaloa police and request police protection. The response from a police officer was a flat refusal.

⁶⁸¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 2. a. Freedom of Expression, Including for the Press, p. 12a

⁶⁸² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 2. a. Freedom of Expression, Including for the Press, p. 12a

⁶⁸³ INFORM, [Repression of Dissent in Sri Lanka: January 2020](#), 26 February 2020

⁶⁸⁴ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 6

⁶⁸⁵ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 6

⁶⁸⁶ Reporters Without Borders, [Sri Lankan police refuse protection to journalists threatened with death](#), 28 January 2020

“The extremely dismissive response from the police is all the more unacceptable because at least 14 journalists were murdered in connection with their work under Rajapaksa family rule from 2005 to 2015,” said Daniel Bastard, the head of RSF’s Asia-Pacific desk. [...]

Two weeks before the discovery of the leaflets in Batticaloa, police in the central town of Mulleriyawa refused to register a complaint by Nimanthi Ranasinghe, a court reporter for the newspaper Lankadeepa who wanted to report that a death threat had been made against her.⁶⁸⁷

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted that “Many journalists, victims and human rights workers are leaving the country. The President himself has spoken openly about wanting to control nongovernmental organizations; he has accused them of interfering with the sovereignty of the nation. Current government officials have stated that even the Constitutional reforms undertaken by the previous government were at the behest of the NGOs and did not have popular support. Mainstream newspapers formerly considered neutral have joined in this attack”.⁶⁸⁸

In a February 2020 the UN High Commissioner for Human Rights documented that “Several journalists were summoned by the Criminal Investigation Department, arrested and detained or had their offices searched; others have received threats”.⁶⁸⁹

In an April 2020 article the Committee to Protect Journalists described that “While the civil war ended more than a decade ago, a steady campaign of intimidation and attacks on journalists ran throughout Mahinda Rajapaksa’s presidency, from 2005 to 2015. While the country and its media are freer and safer today than during the war years– no one has been held to account for the killings, abductions, and harassment, leading some to fear that there will be a fresh round of violence and abuse”.⁶⁹⁰ The same source further described:

After five months of the new administration, CPJ has documented cases of journalists being harassed, threatened, and intimidated. CPJ is aware of at least two journalists who have gone into exile since the election. The chief investigator responsible for overseeing the cases of journalists who had been murdered fled the country and sought asylum shortly after the election, according to news reports. Eight journalists in Batticaloa city received death threats in the form of flyers with their pictures circulated, according to news reports. Authorities have summoned a number of journalists for questioning, as CPJ has documented.

Arumugam Sabeswaran, a sub-editor for the Tamil daily newspaper Thinakkural, told me at the Jaffna Press Club on a sunny weekday morning that reporting had already visibly changed in the past three months, with fewer details being included in articles. Reporters said sensitive topics included the army, human rights violations, missing peoples, land-grabbing, political corruption, and the Rajapaksa family.

Hana Ibrahim, the editor of the Daily/Weekend Express, said her management had already cautioned her not to be too critical of the Rajapaksas.

“Everyone is scared,” she said. “We’re not writing what needs to be written. We’re not being critical.

⁶⁸⁷ Reporters Without Borders, [Sri Lankan police refuse protection to journalists threatened with death](#), 28 January 2020

⁶⁸⁸ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Freedom of Expression, Advocacy of National, Racial or Religious Hatred, Freedom of Assembly, and Freedom of Association (Articles 19, 20, 21, 22)*, p. 13

⁶⁸⁹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 32

⁶⁹⁰ Committee to Protect Journalists, [Sri Lankan journalists turn to self-censorship under Rajapaksas as hope for justice fades](#), 28 April 2020

The Free Media Movement, a local press freedom advocacy group, saw an increase in incidents reported to them immediately after the presidential election, Thaha Muzammil, the treasurer of the group, told me. In many of the instances, the main culprits were suspected supporters of the ruling Sri Lanka Podujana Peramuna (SLPP) political party.

Kamaranatan Hamsanan, a reporter at Thinakkural, and Ibrahim both told CPJ separately that authorities were brazenly surveilling journalists, using official vehicles. Reporters covering protests are particularly watched, Kumaraswamy Selvakumar, a freelance journalist based in Jaffna, told me. Because of this, some journalists are afraid to do on-the-ground reporting, Sabeswaran said.

Prabakaran Thangarajah, editor of the Tamil daily newspaper Uthayan, told CPJ in his office that he sometimes receives phone calls from the military asking about sources. Other times, he said he receives calls from unknown people who make threats about news that was published; reporters and freelancers for the paper have been threatened by unnamed people to not file a story; and shops are told not to sell the paper.”⁶⁹¹

In its report covering May 2019 to April 2020 the International Federation of Journalists noted that “During the period covered by this report there were no instances of official media censorship in the country. Media personnel, including foreign journalists officially had access to all parts of the country. However, reports reveal that self-censorship is being practiced by media organisations in Sri Lanka: State media as well as privately owned media go to great lengths to ensure that their journalists conform to the interests of the owners, including their commercial interests”.⁶⁹²

The same source further noted that “No killings or disappearances of journalists were reported from Sri Lanka in the period under review. However, there were numerous incidents of interrogation, intimidation, and arrest of journalists. Journalists were obstructed from reporting on at least two occasions. [...] Numerous incidents of threats and attacks against journalists were reported. Inform Human Rights Documentation Centre documents that there have been eight incidents in January alone. In one incident, seven journalists in Batticaloa received death threats. In another incident, a journalist in Chilaw was assaulted by a group linked to local politicians after he reported on an unauthorised filling of a paddy field”.⁶⁹³

Furthermore, “Following the Easter Sunday [2019] attacks, Muslim journalists became victims of discrimination, hate speech, and heightened surveillance. The severity of hate speech on social media has become a cause for serious concern in Sri Lanka. Journalist Azzam Ameen was subjected to online harassment on social media by organised groups who flooded his platforms with hate speech and racist comments. Targeted for his Muslim identity, Ameen faced continued harassment despite his clarification that all his reports were based on facts. Tamil journalist Thusian Nandakumar, an editorial member of Tamil Guardian website was also subjected to online hate speech following the Easter Sunday attacks, for pointing out in a BBC interview that Tamil Christians in Sri Lanka had been massacred by the Sri Lankan military”.⁶⁹⁴

⁶⁹¹ Committee to Protect Journalists, [Sri Lankan journalists turn to self-censorship under Rajapaksas as hope for justice fades](#), 28 April 2020

⁶⁹² International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 70

⁶⁹³ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 70

⁶⁹⁴ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Sri Lanka*, p. 70

The International Federation of Journalists reported that on 24 May 2020, “Bimal Shyaman, a journalist with Hiru, Derana and Swarnavahini television channels, was harassed and assaulted while reporting the Eid celebrations in the Atulugama area of Kalutara. [...] Bimal’s report intended to show how Muslim communities were celebrating Eid and maintaining social distancing amid the Covid-19 outbreak. This was to counter reports by media organisations in Sri Lanka that had blamed Muslims in failing to follow lockdown rules”.⁶⁹⁵

The International Federation of Journalists reported “The ironic misuse of the International Covenant on Civil and Political Rights (ICCPR) Act in Sri Lanka intended to prohibit incitement of discrimination, hostility or violence on religious grounds was another attack on free speech. Covid-19 also revealed governments’ anxiety about investigative reports and had them resorting to measures to control the narrative. Strict legal action was threatened against media organisations that ‘criticize’, point out ‘minor shortcomings/failures’ or ‘scold/ chastise’ state officials performing their duties”.⁶⁹⁶

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’.⁶⁹⁷ The report summarised with regards to the repression of journalists that:

Before curfew: In February, a pro-government journalist trade union complained to the Criminal Investigation Department (CID) about 10 journalists for having alleged connections with a victim of a controversial abduction case of Swiss embassy staffer⁴¹ and with the legal case challenging the citizenship of Gotabaya Rajapakse. One of the journalists, Anurangi Singh has been subsequently questioned by the CID. The Colombo Magistrate’s Court was informed that Singh was questioned over former Sunday Observer Editor Dharisha Bastians and possible links to the incident involving the Swiss Embassy staffer. Also, a son of a politician threatened a journalist on duty. Another news website claimed that several journalists attached to them received phone calls threatening them with death after they published an article critical of misogynistic views expressed by a Buddhist monk. A house of a Batticaloa based journalist was visited by persons who claimed to be from the CID of the police. A Mullaitivu based journalist was questioned over the phone by intelligence agencies about a twitter post he has published. On 2nd of March, a director of a Vavuniya based newspaper, his wife and another editor were summoned to TID.

During curfew: A journalist was threatened with death over phone calls for reporting on opening shops violating curfew by the shop owner. A web journalist and a medical doctor who provided information to him were arrested and detained under the charges of fake news for reporting about suspected covid19 case in social media. A Tamil web journalist in Kilinochchi was attacked with swords. A journalist and two makeup artists working in a leading private media institution were terminated from their employment after they exposed a special event organized by the institution violating curfew laws related to covid19. Another makeup artist working in the same private media institution was terminated for requesting protective equipment. However, the letters of termination claimed that their work was discontinued due to poor performance. Few Batticaloa journalists were personally targeted on Facebook with hate posts and comments after they reported in mainstream media about an injustice regarding the distribution of rations in the area.⁶⁹⁸

⁶⁹⁵ International Federation of Journalists, [Sri Lanka: Regional TV correspondent assaulted by thugs](#), 27 May 2020

⁶⁹⁶ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Overview*, p. 6

⁶⁹⁷ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *Executive Summary*

⁶⁹⁸ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *Executive Summary*

In May 2020 Tamil Net reported that “Occupying SL Navy and Police are blocking journalists in the North from exposing the use of Tamil areas as large-scale COVID-19 quarantine centres. Two Tamil journalists were recording video of a convoy of seventeen buses that were bringing individuals from South to SL military-operated quarantine centre at Pampai-madu in Vavuniyaa on Sunday. The SL Navy responded by blocking the A9 Road with the convoy until the SL Police negotiated with the journalists not to publish the video”.⁶⁹⁹

ii. Treatment of Political Opposition

For information on the treatment of suspected or former LTTE members, see [V.j.ii.a\) Treatment of former members of the LTTE](#) and for information on political appointments, see [II.e. Executive Interference and Political Appointments](#).

Freedom House’s ‘Freedom in the World’ report covering events in 2018 described with regards to political pluralism and participation that:

A range of political parties are able to operate freely and contest elections. The success of the SLPP, founded in 2016 and led by former president Rajapaksa, in the February local council elections demonstrated that new parties can form and operate without significant interference.

However, political debates between parties sometimes involve an element of violence and intimidation, which became apparent during the 2018 constitutional crisis. Among other incidents, Rajapaksa supporters attacked legislators opposed to his appointment as prime minister with chairs and chili powder to prevent them from holding a no-confidence vote in November.

Opposition groupings are generally free to carry out peaceful political activities and are able to win power through elections. Most recently, the opposition SLPP won control of 231 out of 340 local councils in the February 2018 elections. However, opposition figures and supporters sometimes face harassment. Election observers noted that some opposition party members were attacked and intimidated in the Northern Province during the 2015 parliamentary election campaign.

The military often inserts itself into political affairs. Members of the military openly backed then president Rajapaksa ahead of the 2015 election, and the armed forces recognized his appointment as prime minister in October 2018 despite protests that the move was unconstitutional. Vote buying and political bribery are also a concern. Monitors said the government offered gifts and handouts to voters ahead of the 2015 presidential election, and Rajapaksa’s efforts to win lawmakers’ support during the 2018 constitutional crisis reportedly included bribery, with dueling allegations that bribes were either offered or demanded.

A number of parties explicitly represent the interests of ethnic and religious minority groups, including several Tamil parties and the Sri Lankan Muslim Congress, the country’s largest Muslim party. Tamil political parties and civilians faced less harassment and fewer hindrances in voting during 2015 presidential and parliamentary elections compared with the 2010 elections. However, systemic discrimination, including via language laws and naturalization procedures, negatively affects Tamils’ political participation. The interests of women are not well represented in Sri Lankan politics, and women hold less than 6 percent of the seats in Parliament.⁷⁰⁰

In its February 2019 report, the UN High Commissioner for Human Rights described the political crisis at the end of 2018 and noted that some staff members of the Secretariat for Coordinating Reconciliation

⁶⁹⁹ Tamil Net, [SL Police blocks journalists covering SL Navy-led quarantine transportation](#), 25 May 2020, 4.1 *Repression of journalists*, p. 7

⁷⁰⁰ Freedom House, [Freedom in the World 2019: Sri Lanka](#), January 2019

Mechanisms “were reportedly subjected to surveillance and threats within hours of the removal of Prime Minister Wickremesinghe”.⁷⁰¹

For further details including information on political violence between parliamentarians, see [II.b. 2018 Constitutional Crisis](#).

Sri Lanka Brief noted in September 2019 that “Politically motivated extrajudicial killings have not been reported”.⁷⁰² The same source described that “Another group of former LTTE cadres expressed their aspiration to go in to democratic politics amidst worrying economic concerns”.⁷⁰³ The same source cited a ‘group of ex -LTTE cadres’ as stating “We have formed a political party called Rehabilitated Tamil Liberation Tigers Party. As a party too, we face police harassment. We want to be allowed to enjoy democratic way of life. We want livelihood support. We need freedom”.⁷⁰⁴

A Human Rights Activist interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “As a proscribed group, yes’, TGTE [Transnational Government of Tamil Eelam] members would be at risk, as ‘The TGTE say genocide is occurring so they would be at risk of arrest or other reprisals’”.⁷⁰⁵

A journalist interviewed by the same UK Fact-Finding Mission in October 2019 identified as ‘journalist 2’, stated “A high profile TGTE member returning to Sri Lanka would face arrest and be accused of LTTE links; the association with the LTTE would lead to arrest as it is seen as an organisation attempting to disrupt the post-war situation and as attempting to instigate violence, encouraging the take up of arms. They would definitely be questioned”.⁷⁰⁶

The U.S. Department of State’s annual report covering 2019 noted that “Security forces and police, armed with a court order, attempted to search the residence of Tamil National Alliance member of parliament S. Shrisharan on August 21 [2019], a day after he criticized the appointment of Shavendra Silva as army commander. Earlier, on May 18 [2019], four soldiers and a police officer searched Shrisharan’s residence in Jaffna, while he was taking part in the commemoration of war victims in Kilinochchi”.⁷⁰⁷

⁷⁰¹ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, paras. 15 and 16

⁷⁰² Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, OMP and the Office for Reparations

⁷⁰³ Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, OMP and the Office for Reparations

⁷⁰⁴ Sri Lanka Brief, [Sri Lanka: Approaching elections and implications on transitional justice](#), September 2019, OMP and the Office for Reparations

⁷⁰⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 37

⁷⁰⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 48

⁷⁰⁷ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 1.f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence, p. 11

In a report covering 1 July 2019 to 31 December 2019 INFORM documented 13 incidents against “Political Party member or supporters”.⁷⁰⁸

The International Crisis Group noted that “two prominent opposition lawmakers” were arrested on 18 and 26 December 2019 in separate cases, “raising fears of government crackdown”.⁷⁰⁹

The Associated Press described with regards to the first incident that:

About 200 opposition lawmakers and supporters protested in Sri Lanka’s capital on Monday to condemn the arrest of a former Cabinet minister whose political defection in 2014 triggered the fall of the government led by the brother of the current president.

The protesters carried torches and candles as they urged the authorities to release Patali Champika Ranawaka. He was arrested last week over a 2016 traffic accident in which a young motorcyclist was seriously injured.

A court has ordered his detention pending an investigation.

Opposition lawmaker Akila Viraj Kariyawasam called Ranwaka’s arrest politically motivated.⁷¹⁰

The Colombo Gazette noted with regards to the second incident mentioned by the International Crisis Group above that on 26 December 2019 “United National Party (UNP) Parliamentarian and former Health Minister, Rajitha Seneratne, was arrested by the Criminal Investigations Department (CID) at Lanka Hospital. [...] The Attorney General had earlier instructed the Criminal Investigations Department (CID) to arrest Seneratne over a controversial ‘white van’ press briefing in November, prior to the Presidential election. During the Presidential election campaign, Senaratane had brought before the media two men said to be drivers of a ‘white van’ used for abductions”.⁷¹¹

The Straits Times reported that on 4th January 2020 “Sri Lankan police [...] arrested an opposition legislator over an alleged gun offence, but the outspoken MP claimed he was being targeted for speaking out against corruption in politics. Ranjan Ramanayake was the third member of the United National Party - which lost a November presidential election in a landslide win for Gotabaya Rajapaksa - to be arrested in as many weeks”.⁷¹²

In January 2020 the Tamil Guardian noted that “An attempted attack on UPFA [United People’s Freedom Alliance] MP K Kader Masthan has reportedly left the parliamentarian’s bodyguard hospitalised with injuries to his arm. The alleged attack happened on Sunday night when the MP was travelling towards Vavuniya town and his vehicle stopped in Pavatkulam for a member of his team to alight. Masthan’s vehicle was reportedly set upon by a group wielding swords”.⁷¹³

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’.⁷¹⁴ The report noted that before curfew “Two female Tamil human

⁷⁰⁸ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, III. Coverage of the Incidents p.12

⁷⁰⁹ International Crisis Group, [Crisis Watch, Sri Lanka](#), December 2019

⁷¹⁰ Associated Press, [Opposition lawmakers protest arrest of ex-Cabinet minister](#), 23 December 2019

⁷¹¹ Colombo Gazette, [Former Minister Rajitha Seneratne arrested in hospital](#), 27 December 2019

⁷¹² Straits Times, [Sri Lanka opposition MP cries foul over gun arrest](#), 5 January 2020

⁷¹³ Tamil Guardian, [Attempted attack on UPFA MP in Vavuniya](#), 2 January 2020

⁷¹⁴ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, Executive Summary

rights defenders who were considered potential candidates for parliamentary elections, Nalini Ratnarajah and Ambika Satkunanathan were subjected to vicious hate speech campaigns online”.⁷¹⁵ The report also documented 4 incidents against politicians during curfew.⁷¹⁶

In February 2020 the Tamil Guardian reported that “Sri Lankan police have repeatedly targeted the Tamil National People's Front (TNPf) over its initiatives to provide financial assistance to deprived communities in Mullaitivu”.⁷¹⁷ The same source further described that:

The party's leader Gajendrakumar Ponnambalam, visited the Puthukkudiyiruppu Police Station on Tuesday (11th Feb 2020) to talk with the station's executives to address the issue. There was growing unrest among party members following the harassment by police officers.

Gajen Ponnampalam stated that TNPf's efforts to help the locals was being unnecessarily maligned by police:

“We have been helping locals of the village of Mayilkunjan in the town of Puthukkudiyiruppu, Mullaitivu who have asked for our help. Most of the locals here have those migrated from the town of Manaluru (now the government colonised Sinhala settlement area Weli Oya) and are living in poverty.

Ever since we have been helping these locals, they have been harassed and vilified for accepting our support.

Recently we provided locals with Thai Pongal pots and 15 schoolchildren with bicycles but in both instances we have been subject of police investigations after they ‘allegedly’ received complaints over our gestures of support.”

He insisted that the constant police investigations was targeted to damage the rapport TNPf have established with locals;

“We believe these investigations are deliberately being made to halt our efforts in establishing a good relationship with locals and it is unfair to punish the locals for working with us and other parties.

*After discussing the matter with the Puthukkudiyiruppu police officials, I have urged the investigations to stop. I have notified them that the Human Rights Commissions would be informed if this harassment continues,” he added.*⁷¹⁸

The Tamil Guardian noted in April 2020 that “Former Sri Lankan minister and leader of the All Ceylon Makkal Congress (ACMC) Rishad Bathiudeen MP has spoken out against the arrest of his brother in connection with last year's Easter Sunday attacks, alleging that the arrest was an act of political revenge”.⁷¹⁹

In May 2020 Tamil Guardian reported that “A Sri Lankan judge has issued a 14-day isolation order against eleven senior figures from the Tamil National People's Front (TNPf) this evening, just hours party members were to mark Tamil Genocide Day”.⁷²⁰ Furthermore, “TNPf activists have been repeatedly harassed and intimidated this week as they went about marking 11 years since the massacres at

⁷¹⁵ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 4.3 Arrests related to facebook posts, threats and risks online p.9

⁷¹⁶ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 6. Statistical Analysis, p. 16

⁷¹⁷ Tamil Guardian, [Tamil political party repeatedly harassed by Sri Lankan police](#), 19 February 2020

⁷¹⁸ Tamil Guardian, [Tamil political party repeatedly harassed by Sri Lankan police](#), 19 February 2020

⁷¹⁹ Tamil Guardian, [Former Sri Lankan minister alleges political revenge as brother arrested over terror attacks](#), 16 April 2020

⁷²⁰ Tamil Guardian, [Sri Lanka cites COVID-19 to order TNPf leaders into isolation ahead of Mullivaikkal Remembrance Day](#), 17 May 2020

Mullivaikkal”.⁷²¹ The same source reported that on the next day, “Sri Lankan security forces have arrested at least two activists from the Tamil National People's Front (TNPf), as Mullivaikkal commemorations are underway across the Tamil homeland. [...] Their arrest comes just hours after a Jaffna magistrate lifted a coronavirus quarantine order against 11 TNPf activists, as the state attempted to halt genocide commemorations. Yesterday, a member of the TNPf, was threatened that the army will shoot her if she lights lamps to commemorate Tamil genocide day”.⁷²²

Tamil Net reported a day later that “The occupying Sinhala military and SL Police were blocking Tamil political parties from marking Mu'liivaaykkaal Remembrance Day in Jaffna (TNPf) and Batticaloa (TNPf and ITAK) meting out various harassments. Former Chief Minister Justice CV Wigneswaran (TMK) was turned away at a checkpoint by the SL military Monday morning. The SL Police in Jaffna approached the SL judiciary on Sunday in a bid to block TNPf leader Gajendrakumar Ponnambalam and his fellow party members from attending the Remembrance event. The SL Police was arguing that they had failed to comply with COVID-19 measures during the remembrance events held earlier. However, they managed to convince the judge on Monday reversing the court decision with the help of a team of attorneys”.⁷²³

The Tamil Guardian documented in late May 2020 that “The Tamil National People’s Front has reported a surge in intimidation, surveillance and harassment of members and activists by the Sri Lanka security forces. On Tuesday TNPf members travelling to repair a roof damaged by the cyclone were interrupted by army officials. They were stopped at Pungudutheevu Army Camp and had their van examined for an hour. After being cleared, army personnel continued to follow them. This follows the continued surveillance of their offices by heavily armed troops”.⁷²⁴

iii. Treatment of those perceived to oppose the government [without political affiliation]

For information on the treatment of journalists criticising the President, see [V.e.i. Situation of Journalists/Media Workers/Bloggers/Citizen Journalists](#).

For information on the use of anti-hate laws to imprison Muslims, see [V.i.d\) \(2\) Aftermath of the ‘Easter bombings’ \(April – November 2019\)](#).

Freedom House reported in its Freedom on the Net report covering the period from 1 June 2018 – 31 May 2019 that “A number of people were detained for criticizing the police on social media during the coverage period. In February 2019, a man was charged with humiliating the police after allegedly posting Facebook comments on a fraudulent account that criticized the police. In January 2019, two men were charged with damaging public property and humiliating the police for posting a video on Facebook of themselves pretending to bribe a cardboard cutout of a traffic police officer. They were later released on bail”.⁷²⁵

⁷²¹ Tamil Guardian, [Sri Lanka cites COVID-19 to order TNPf leaders into isolation ahead of Mullivaikkal Remembrance Day](#), 17 May 2020

⁷²² Tamil Guardian, [TNPf organisers arrested as genocide commemorations underway](#), 18 May 2020

⁷²³ Tamil Net, [Occupying SL military desecrates Remembrance Day candles, harasses Tamil politicians](#), 18 May 2020

⁷²⁴ Tamil Guardian, [Surveillance and intimidation of TNPf members ramps up](#), 23 May 2020

⁷²⁵ Freedom House, [Freedom on the Net: 2019 Sri Lanka](#), 4 November 2019

In August 2019 Journalists for Democracy in Sri Lanka reported that “Tamils in northern Sri Lanka have been protesting the detention of a forensic expert who had provided crucial forensic evidence on several human rights abuse cases exposing the involvement of security forces. Director of the Palai hospital in the Kilinochchi district, Dr Sinnaiah Sivaruban, who is a Judicial Medical Officer (JMO), arrested by the military is been held in Terrorist Information Department (TID) custody since 18 August [2019]. [...] Protesting Tamils who are strongly convinced that Dr Sivaruban was arrested due to his career as a Judicial Medical Officer (JMO) urged authorities to produce him in court”.⁷²⁶

In December 2019 the BBC reported that “A Sri Lankan employee of the Swiss embassy in Colombo, who says she was kidnapped, sexually assaulted and forced to disclose information, has been arrested. Sri Lankan officials allege she made a false accusation”.⁷²⁷ Furthermore, “Swiss officials said unidentified men detained the woman against her will last month and tried to force her to ‘disclose embassy-related information’. They said at the time this was ‘a very serious and unacceptable attack on one of its diplomatic representations and its employees’.⁷²⁸ The New York Times reported in November 2019 that “Fears of a potential crackdown on critics of the newly returned Rajapaksa political dynasty in Sri Lanka are rising just days after the election, as officials and journalists who investigated the Rajapaksas for human rights abuses and corruption began trying to flee the country, officials said”.⁷²⁹ The same source further described:

In a case that raised particular alarm, a Sri Lankan employee of the Swiss Embassy in Colombo was abducted on Monday by unidentified men and forced to hand over sensitive embassy information, Switzerland’s foreign ministry said. Officials in Colombo said the men forced her to unlock her cellphone data, which contained information about Sri Lankans who have recently sought asylum in Switzerland, and the names of Sri Lankans who aided them as they fled the country because they feared for their safety after Gotabaya Rajapaksa won the presidency in elections this month. On the same day, Mr. Rajapaksa imposed a blanket travel ban on more than 700 members of the Sri Lankan police unit that had been investigating the family.⁷³⁰

The International Crisis Group that “The new government also quickly rolled back police investigations into a series of high-profile political killings and disappearances during the Mahinda Rajapaksa administration. [...] Within days of Gotabaya’s election, the new government removed the lead police investigators’ security details, transferred them to menial jobs, and denounced them as traitors. The most prominent investigator, Nishantha Silva, fled the country fearing for his safety. The government has launched a review of all prosecutions of Mahinda-era abuses, which the Rajapaksas and supporters have long called politically motivated, and announced a presidential commission to investigate police and other officials responsible for the alleged witch hunt”.⁷³¹

The Asia Times further described that “The Sri Lankan government has put airports on alert to stop police detectives leaving without permission after a top officer who had reportedly received death threats fled the island, police said [...]. The alleged threats against inspector Nishantha Silva came after the November 16 election of Gotabaya Rajapaksa, who was also under investigation by him. Police

⁷²⁶ Journalists for Democracy in Sri Lanka, [Tamils protest arrest of doctor with “expertise to expose war crimes”](#), 27 August 2019

⁷²⁷ BBC, [Sri Lankan worker at Swiss embassy arrested over kidnap claim](#), 16 December 2019

⁷²⁸ BBC, [Sri Lankan worker at Swiss embassy arrested over kidnap claim](#), 16 December 2019

⁷²⁹ New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

⁷³⁰ New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

⁷³¹ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

spokesman Ruwan Gunasekera said the names of 704 Criminal Investigation Division (CID) officers had been sent to immigration authorities”.⁷³²

In an October 2019 article, Amnesty International explained that “The rights to freedom of expression, peaceful assembly and association have been under assault in Sri Lanka over recent years. Laws that are supposed to protect human rights have perversely been used to punish people for exercising their human rights. The International Covenant on Civil and Political Rights (ICCPR) Act was supposed to enshrine into domestic law Sri Lanka’s international obligations. Instead, the law has been repeatedly abused to silence people for what they say or write. The Sri Lankan cabinet has also been considering the amendments to the penal code that will criminalize freedom of expression under the guise of combating ‘false news’”.⁷³³

Treatment of protestors, commemorators

For information on the treatment of relatives of the disappeared, see [V.c. Forcible Disappearances](#).

In a report covering January to March 2019 INFORM documented that:

Activism in the North has met with comparatively (to the rest of the country) subtle but considerable and sustained repression. The families of the disappeared faced harassment in the form of threats of arrest; persons alleging to be the CID forcibly entered the house of a disappeared man’s family; and, the Navy attempted to arbitrarily prevent activists from visiting Iranaitivu, where locals had recently regained access to their land after more than 25 years. In separate incidents, land rights protests at Keppapulavu were heavily surveilled by the armed forces on what appeared to be official cameras and by individual personal phones, presumably to intimidate the protesters. [...]

The organizers of the 1000 Movement which demands a daily minimum wage of Rs. 1000 for tea plantation workers faced various forms of harassment, attacks and even arrest. University student protests in Colombo were dispersed by police with tear gas and water cannons. Teachers protesting in a separate incident were similarly assaulted during demonstrations. In Puttalam, protesters were violently baton-charged, while in Colombo, a private TV station dismissed employees who had participated in a union meeting.⁷³⁴

A Ground Views article explained that “In the wake of the Easter Sunday Attacks, the previous government imposed emergency law which made tangible changes to the landscape of protest, and recalibrated the relationship between protesters and the police. Under these laws, the president has the authority to halt any meeting or protest that he deems can threaten security, and the armed forces are given the authority to disperse gatherings as they see fit. Demonstrators in the wake of Easter 2019 had to work with the police to produce a safe and legitimate protest in an atmosphere of fear and suspicion”.⁷³⁵

In a report covering April to July 2019 INFORM documented that:

The repression of dissent in the North-East was observed during this period, as well as a continuous pattern for several years. Tamil students organizing memorial events for end of the war were threatened.

⁷³² Asia Times, [704 Sri Lanka detectives on airport watch list](#), 27 November 2019

⁷³³ Amnesty International, [Sri Lanka: Human rights must be at the heart of next presidency](#), 18 October 2019

⁷³⁴ INFORM, [Repression of Dissent in Sri Lanka 1st January – 31st March 2019](#), 9 May 2019, A. *Threats and Obstructions to Activism in the North*, p. 11

⁷³⁵ Ground Views, [Out of Site, Out of Mind – A Shift in the Protest Landscape of Colombo](#), 21 February 2020

[...] A Tamil anti-disappearance activist who was very involved in a long term protest by families of disappeared was interrogated. Those protesting against land acquisition by a factory were also arrested and an anti- disappearance activist was subjected to interrogation.⁷³⁶

In July 2019 Mr. Clément Nyaletsossi Voulé, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “I found that the legal framework governing the right to freedom of peaceful assembly is comprehensive, although scattered in different sets of laws and regulations which seem to be interchangeably enforced. Some of these laws and regulations have, however, been used to unduly restrict this right. These restrictions seem more frequent in the North and East of the country. In addition, I heard numerous accounts that enforcement of this legislation can be biased according to who the organisers of the protest are, or who those who object are, for example”.⁷³⁷

The same source further documented that “While noting the considerable efforts undertaken in transforming the police force into a well-trained and community policing force since the end of the war, the approach of the police in managing assemblies seems to rest on the negative perception that protests and demonstrations are generally a nuisance and should be prevented, instead of being treated as a fundamental right inherent to every person”.⁷³⁸ Moreover:

During my meetings, I heard disturbing accounts of peaceful assemblies of groups mobilising around common concerns which were prevented from taking place, or which were met with physical and verbal violence at the hands of individuals, without public intervention. For example, individuals were prevented from taking part in a special prayer event at Vinayagar Temple, located in the premises of Kanniya hot water springs in Trincomalee, when their bus was repeatedly stopped for excessive periods of time at checkpoints. When they reached the fourth and final checkpoint on their journey, they were stopped and forbidden from travelling any further. Meanwhile, police obtained an injunction order from the court for public nuisance, which prevented individuals from accessing the site.

In another instance, representatives of 100 families which I met with in Keppapilavu stated that a court order had removed them from their protest site beside an army barracks (where they had been peacefully gathering for 792 days). They were forced to relocate to another location, while the court order instructed them to assemble only in groups of a limited size and to refrain from chanting slogans, citing army security concerns. The families had been gathering to demand the return of their land, which the army had occupied. While the families did not complain of any physical intimidation, they are psychologically affected by efforts to demoralise them and discourage them in their struggle. [...]

I also heard reports of protests met with force, water cannons and tear gas, in ways that seemed disproportionate. I understand that steps have been taken in relation to certain emblematic cases involving death at the hands of law enforcement officials to bring cases to trial, albeit many years after the event. I hope that accountability for the perpetrators and redress for the victims and their families will soon become reality.⁷³⁹

Ruki Fernando advisor to the organisation INFORM Human Rights Documentation Centre stated in July 2019 that “We have seen a large number of peaceful protests for rights by many groups such as

⁷³⁶ INFORM, [Repression of Dissent in Sri Lanka Apr-June 2019](#), 3 September 2019

⁷³⁷ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁷³⁸ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁷³⁹ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

students, farmers, families of disappeared people, people whose land is occupied by the military and people affected by the project such as landfills. In several of them, protesters have been attacked physically and people have been arrested and ill-treated in detention”.⁷⁴⁰

An IOM representative interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “There are also a lot of demonstrations going on here and people are not taken into custody, we are not seeing cases of people being arrested on this basis”.⁷⁴¹

On 24th November 2019 Tamil Guardian reported that “The Sri Lankan security forces have threatened Tamils who have helped organise activities across the North-East ahead of Maaveerar Naal [...] President of the Tamil National People's Front Gajen Ponnambalam said that “organisers everywhere” had been threatened by both Sri Lanka's military and police”.⁷⁴² Two days later, Tamil Guardian also reported that “Sri Lankan police arrested thirteen Tamils, including the Mullaitivu co-ordinator of the Tamil National People's Front (TNPf), while they were preparing for Maaveerar Naal remembrance [...] After extensive questioning the group were let go but warned to carry out the commemorations ‘peacefully’ and not to use LTTE flags or symbols”.⁷⁴³

Human Rights Watch reported in November 2019 that “New concerns have arisen over freedom of expression and peaceful assembly in predominantly Tamil areas in the north, as the UN special rapporteur Clément Nyaletsossi Voulé documented earlier this year”.⁷⁴⁴

A November 2019 report by the Australian Department of Foreign Affairs and Trade noted that “Local sources told DFAT that participants in politically-sensitive protests in the north, particularly in relation to missing persons and land returns, are monitored and sometimes questioned by the authorities”.⁷⁴⁵

In December 2019 the Tamil Guardian reported that “Families of the disappeared decried the surveillance and intimidation they endure at the hands of Sri Lankan security and intelligence forces, while Sri Lankan intelligence officers came out in force to photograph and carry out surveillance of a mass rally in Mullaitivu”.⁷⁴⁶ The same source further noted that “Leaders of the protests, many of whom are vulnerable women, have been routinely attacked and threatened by suspected intelligence personnel since the roadside protests started and gained momentum almost three years ago”.⁷⁴⁷

In a report covering 1 July 2019 to 31 December 2019 INFORM documented that:

⁷⁴⁰ Asian Forum for Human Rights and Development, [From Ruki Fernando of Our Member INFORM Human Rights Documentation Centre, Sri Lanka – SRI LANKA: ‘People are scared of expressing themselves freely’](#), 27 July 2019

⁷⁴¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, IOM 3 October 2019, p. 54

⁷⁴² Tamil Guardian, [Sri Lankan military threatens Maaveerar Naal organisers](#), 24 November 2019

⁷⁴³ Tamil Guardian, [13 Tamils arrested during Maaveerar Naal preparations](#), 26 November 2019

⁷⁴⁴ Human Rights Watch, [Sri Lanka: Next President Faces Major Rights Challenges](#), 11 November 2019

⁷⁴⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security Situation*, para. 3.110

⁷⁴⁶ Tamil Guardian, [Families decry surveillance as Sri Lankan intel out in force at disappeared protest](#), 11 December 2019

⁷⁴⁷ Tamil Guardian, [Families decry surveillance as Sri Lankan intel out in force at disappeared protest](#), 11 December 2019

Attacks and restrictions on protesters were also reported as a pattern. 6 incidents of protests being attacked with tear gas and water cannons were reported before the election. 4 of them were organized by student activists mainly against the privatization of higher education. A protest by unemployed graduates on unequal employment opportunities in public sector, and a protest by civilians against the burial of the remains of the suicide bomber in Batticaloa were also attacked with water cannons and tear gas. An environmental activist (a Buddhist monk) was arrested after he protested against environmentally damaging plantation of a private company.

While no tear gas and water cannon attacks or any other attacks on protesters in the South were reported in the post-election period, 3 incidents of repression of protesters were reported from Northern Province after the election. An unknown group of hooligans attacked the villagers who were protesting against the environmental degradation and land disputes regarding a windmill project Chavakachcheri in Jaffna District. During another protest against sand mining in Thottaveli village in Mannar district, Police had verbally threatened a catholic priest and other villagers while remembering them of the violence during the last stage of the war. In another protest organized by families of Disappeared held in Mullaitivu, the intelligence officers have photographed the protesters as a form of intimidation and surveillance.⁷⁴⁸

INFORM issued a report on 'Repression of Dissent in Sri Lanka' which covered 'before and during curfew 1st February 2020 - 30th April 2020'.⁷⁴⁹ The report summarised with regards to protestors that "In Colombo, protesters were assaulted and threatened with arrest by police and a temporary hut of protesters were taken down by police. Persons protesting on covid19 related issues were also arrested in Batticaloa and Kandy districts. A court order was issued to stop a student protest in Colombo and students in Jaffna University were stopped from entering the University to have a protest".⁷⁵⁰ The same source further described:

Before curfew: The relative tolerance of protests seen in previous months ended since the beginning of the month of February. The students of the University of Jaffna were refused entry to the university after they protested raising black flags against Independence Day. In Colombo, near to the Presidential Secretariat an "agitation site", later called "demonstration site" was established as a designated venue for the protests. On 24th February, Police assaulted protesting former employees of the National Housing Authority who blocked Galle Road near to the Presidential Secretariat. On 27th February, Police threatened peaceful protesters against microfinance loan schemes, that they will be arrested unless they move into the designated agitation site. A group of disabled soldiers who are continuing months long protest moved to the designated protest area and built a temporary hut for the protestors to stay and protest. The hut was forcefully removed by the Police. A group of student activists who were protesting in front of the ministry of higher education premises were issued a court order preventing them from protesting and they were later arrested. On 8th March, during an alms giving ritual at the Mullivaikkal beach held for the LTTE cadres who died in the war, the military had taken down the vehicle numbers and NIC numbers of the people who participated in this ritual. On 13th March 6 persons were arrested in Batticaloa for protesting against the transfer of a covid19 patient to the Batticaloa hospital. However no arrests were made in similar protests conducted in the South with the support of the pro-government politicians.

During curfew: On 21st of March, two prisoners were shot dead as they started a protest demanding to release them due to covid19 risks in the prison. On 9th April, hundreds of people in Doluwa, in the Kandy district, came to the road demanding food and relief in the context of the three-week-long indefinite curfew, seeming a spontaneous protest by people desperate for food and other essentials to sustain their

⁷⁴⁸ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, Executive Summary

⁷⁴⁹ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020

⁷⁵⁰ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020

lives. The next day, police had arrested one person who had participated in the protest and he has been remanded till 16th April 2020.⁷⁵¹

Treatment of artists, authors and playwrights

The Free Media Movement noted that in early April 2019, “Writer Shaktika Sathkumara was arrested by the police on the pretext that a short story the author published disrespects the Buddhist philosophy. The artist is to be kept under detention until 9 April [2019]”.⁷⁵² Reporting on the same incident, Amnesty International noted that “Shakthika Sathkumara, an award-winning Sri Lankan writer, was arrested on 1 April 2019 for writing a short story and sharing it on his Facebook profile. While he was released on bail by the High Court on 5 August, after spending four months in prison, the charges against him are still pending and he could face up to 10 years in prison if found guilty. Detained for peacefully exercising his right to freedom of expression, Shakthika Sathkumara is a prisoner of conscience and all charges against him should be immediately and unconditionally dropped”.⁷⁵³ The same source further noted that:

The arrest of Mr. Sathkumara is part of a worrying trend where the ICCPR [International Covenant on Civil and Political Rights] Act is being misused to violate the rights to freedom of expression and of thought, conscience and religion – ironically provided for in the ICCPR itself – of several peaceful activists and writers in Sri Lanka. In May 2019, a woman named M. R. Mazahima was arrested under the ICCPR Act for wearing a blouse with the prints of a ship’s wheel, which the complainants to the police had wrongly claimed was a Buddhist symbol. She was kept in custody for more than three weeks before being granted bail. In June 2019, columnist Kusal Perera was threatened with arrest under the ICCPR Act for writing about growing Sinhala Buddhist extremism in Sri Lanka.⁷⁵⁴

The U.S. Department of State’s annual report covering events in 2019 noted that “he was released on bail in August after being remanded for four months. On July 29, Amnesty International declared Sathkumara a prisoner of conscience. At his criminal hearing on December 10, the court granted the government’s request for a continuance in the case until May 2020.”⁷⁵⁵

In October 2019 Journalists for Democracy in Sri Lanka reported that “Police in Sri Lanka have used a UN backed law designed to protect fundamental rights including freedom of expression for legal action against an award winning playwright”.⁷⁵⁶ The same source further described that:

Malaka Devapriya was interrogated for four hours by the Police on 17 October by police Organized Crimes Prevention Division (OCPD) about a radio drama production by him, says his lawyer Sanjaya Wilson. [...] Devapriya had been questioned following a complaint by extremist Buddhist monk Angulugaha Jinananda accusing the playwright of distorting Buddhist terminology. Police had initiated legal action against the playwright under Section 3 (1) of the International Covenant on Civil and Political Rights Act (ICCPR Act) No.56 of 2007 and Sections 291A and Section 291B of the Penal Code.⁷⁵⁷

⁷⁵¹ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 4.2 *Repression of freedom of assembly*, p. 8

⁷⁵² Free Media Movement, [Sri Lanka: Short story writer arrested for ‘disrespecting’ Buddhism](#), 3 April 2019

⁷⁵³ Amnesty International, [Writer Released on Bail, Still at Risk of Jail](#), 5 September 2019

⁷⁵⁴ Amnesty International, [Writer Released on Bail, Still at Risk of Jail](#), 5 September 2019

⁷⁵⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. a. Freedom of Expression, Including for the Press*, p. 11

⁷⁵⁶ Journalists for Democracy in Sri Lanka, [Award winning Sri Lankan playwright penalised under UN law](#), 18 October 2019

Treatment of academics

The U.S. Department of State's annual report covering 2019 noted that "State university officials allegedly attempted to prevent professors and university students from criticizing government officials. The government interfered with university appointments and credentialing of individuals based on legal activities and political expression".⁷⁵⁸ The same source further documented that:

In May [2019] the UGC [University Grants Commission] removed the university's vice chancellor, Jaffna Ratnam Wigneswaran, without cause or an inquiry. An affidavit in response to a fundamental rights petition filed by the chairman of the UGC at the Supreme Court showed that the removal was due to a complaint from the Directorate of Military Intelligence of the Army regarding Wigneswaran's participation in an event called *Thamil Amutham*, where a reconstructed memorial monument carrying Tamil nationalist proclamations was unveiled within the university premises.⁷⁵⁹

Groundviews published a December 2019 statement signed by forty five academics condemning "the attempts by the Ministry of Buddhasasana, Cultural and Religious Affairs to remove the Director General of the Department of National Archives, Dr. Nadeera Rupesinghe".⁷⁶⁰

Treatment of persons perceived to criticise the government's response to COVID -19

Also see [IX. COVID-19 and impact on human rights](#).

The Adayaalam Centre for Policy Research issued a report in April 2020 which described the organisation's key areas of human rights concerns around the government's COVID-19 response.⁷⁶¹ With regards to suppression of dissent the report noted:

In Sri Lanka, on April 1, 2020, the Acting Inspector General (IGP) instructed the police to take legal action against those who publish posts on social media criticising government officials and obstructing their duties. The police have not indicated under what legal provision these actions will be taken. The Penal Code has an archaic provision which criminalises obstruction of a public servant from carrying out his duties but it is far from obvious that genuine criticism directed at the failings of government action constitutes an obstruction of duty.

The police reportedly arrested more than seven individuals in the week after this order came into place. As of April 17 the police had reportedly arrested 17 individuals 'for spreading false information' about COVID-19. Included among those arrested was reportedly a university student who criticised the appointment of the President's brother, Basil Rajapaksa, as head of the Task Force on COVID-19. One middle-aged woman was arrested after posting a message on Facebook alleging the president had COVID-19 and spent a week in prison. The Human Rights Commission of Sri Lanka (HRCSL) has questioned the legal basis of the statutes that the B reports pertaining to these arrests cite, and have noted that one B

⁷⁵⁷ Journalists for Democracy in Sri Lanka, [Award winning Sri Lankan playwright penalised under UN law](#), 18 October 2019

⁷⁵⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 2.a. *Academic Freedom and Cultural Events*, p. 14

⁷⁵⁹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 2.a. *Academic Freedom and Cultural Events*, p. 14

⁷⁶⁰ Groundviews, [Academics, researchers & practitioners condemn the Government's attempts to remove the Director General of the National Archives](#), 23 December 2019

⁷⁶¹ Adayaalam Centre for Policy Research, [Situation Brief No.3: COVID-19: Sri Lanka's militarised response poses grave threats to human rights](#), 30 April 2020, C. *Suppression of dissent*

report did not even specify a legal basis. ACPR shares the concerns of the HRCSL that these arrests are contributing to “chilling of criticism” and are unconstitutional.⁷⁶²

Human Rights Watch reporting on the 1 April 2020 order noted that:

The global pandemic is a challenge for authorities as they try to protect the population with necessary public health measures. However, criticism will not hinder their work, even if some find it aggravating or unjustified. Blanket censorship and threats of arrest for speech not only violate Sri Lanka’s obligations under international human rights law, but are counter-productive. [...]

Sri Lankans’ concerns that their rights will be respected are particularly crucial since President Gotabaya Rajapaksa has assigned the army chief to lead Sri Lanka’s coronavirus response. Gen. Shavendra Silva, who heads the National Operation Centre for Prevention of COVID-19 Outbreak, faces credible allegations of war crimes during the final months of Sri Lanka’s long civil war. Ethnic Tamils, Muslims, and critics of the government, who have long borne the brunt of security force abuses, will be especially concerned that their civil and political rights will not be respected.⁷⁶³

The Human Rights Commission of Sri Lanka stated in April 2020 that it “observes a spate of recent arrests by the police on the basis of statements made over social media, especially in the context of the spread of Covid 19 virus in the country. We have observed an increasing number of such arrests since the issuing of a letter dated 1 April, 2020 by the Media Division of the Police Department to heads of media institutions warning of strict legal action against those who publish false and malicious statements over the internet against public authorities who are engaged in containing the spread of the virus. The letter clearly conveys the message that criticism of officials will not be tolerated”.⁷⁶⁴ The same source considered that “We wish to [...] point out that any arrest for the mere criticism of public officials or policies would be unconstitutional”.⁷⁶⁵

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’.⁷⁶⁶ The report summarised that “This report records 95 incidents that had been reported during the 90 days period. The average number of incidents per day reported prior to the covid-19 curfew is slightly higher than the number of incidents reported during the curfew. There were a high number of incidents related to legal, institutional and policy changes prior to the curfew. During the curfew, the number of physical attacks, arrests, verbal threats and hate speech related incidents were high. Before curfew many incidents were reported from Colombo in the Western Province. During the curfew period, more than 50% of incidents were reported from districts outside Western Province and Northern and Eastern provinces. In previous reports, the number of incidents were high in North and East. Most of the victims were government officials, journalists, civil society activists and protesters respectively. During both periods, most of alleged perpetrators were either police or military, followed by government officers and politicians and business persons. Majority of victims were men”.⁷⁶⁷

⁷⁶² Adayaalam Centre for Policy Research, [Situation Brief No.3: COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, C. *Suppression of dissent*

⁷⁶³ Human Rights Watch, [Sri Lanka Uses Pandemic to Curtail Free Expression](#), 3 April 2020

⁷⁶⁴ Sri Lanka Brief, [Sri Lanka HRC Writes to IGP: Limiting Freedom of Expression in a Democracy Needs to Strike a Lawful Balance](#), 27 April 2020

⁷⁶⁵ Sri Lanka Brief, [Sri Lanka HRC Writes to IGP: Limiting Freedom of Expression in a Democracy Needs to Strike a Lawful Balance](#), 27 April 2020

⁷⁶⁶ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020

⁷⁶⁷ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *Executive Summary*

The report noted with regards to ‘Arrests related to facebook posts, threats and risks online’ that:

On 1st April [2020] police announced that those criticizing and pointing shortcomings of government officials will be arrested. At least 17 persons had been arrested by 19th April for fake news and the Human Rights Commission had expressed concerns about legal basis for some of the arrests. [...]

On 26th March, the police visited a member of Inter University Student Federation (IUSF) Shihan Hansaka’s house in Maharagama to question him about a Facebook post he wrote questioning the government. A person in Trincomalee was arrested by Uppuveli Police for allegedly criticizing the Government Agent in the area on facebook.

A woman political activist was arrested for allegedly publishing fake facebook posts claiming that there are no essential food items at Sathosa government grocery and weaknesses in the supply of essential drugs and conducting PCR tests for covid19 patients and suspected cases.⁷⁶⁸

The National Operation Center for Prevention of COVID-19 Outbreak is headed by Sri Lanka’s Army Commander who is also acting Chief of Defence Staff, Lt. Gen. Shavendra Silva.⁷⁶⁹ In April 2020 the International Truth and Justice Project stated that “The lack of civilian oversight over Sri Lanka’s militarized COVID-19 response raises some very serious human rights concerns. [...] ‘Sri Lanka has an alleged war criminal heading its COVID-19 response, who served in the same army regiment as the President, raising questions about transparency, accountability and oversight,’ said the ITJP’s Executive Director, Yasmin Sooka”.⁷⁷⁰ See [II.a.iv Major General Shavendra Silva](#) for further information.

In April 2020 Sri Lanka Brief noted that”

Sri Lanka Police arrested a 41-year-old woman for posting and sharing false content on FB [Facebook]. She has written on her FB wall ‘Gotabhaya has tested positive for COVID-19, Sad.’ Police also raided the home of another university student in Maharagama, near Colombo, following allegations that he criticised the appointment of Basil Rajapakse—the Sri Lankan president’s youngest brother—to head the Presidential Task Force on COVID-19, on his Facebook account. A youth has also been arrested by Uppuweli police in Trincomalee on claims that he criticised on his Facebook the area’s divisional secretariat for injustices that occurred during the coronavirus eradication and quarantine program. Sri Lanka Police had arrested 11 people and legal action has been instituted against them for ‘spreading false content’ on social media, related to COVID-19. Among the arrested are a Former Presidential Staff Member, a Doctor, University Administration Officer and a University Student. Investigations were also taking place on 70 such separate incidents.⁷⁷¹

On 3 June 2020 UN High Commissioner for Human Rights Michelle Bachelet “expressed alarm at the clampdown on freedom of expression in parts of the Asia-Pacific during the COVID-19 crisis, saying any actions taken to stop the spread of false information must be proportionate”.⁷⁷² With regards to Sri Lanka she noted that “the Acting Inspector General of Police threatened to arrest anyone who allegedly criticizes or highlights “minor shortcomings” of officials involved in the coronavirus response or who shares “fake” or “malicious” messages. The Human Rights Commission of Sri Lanka on 25 April wrote a letter to the police informing them that any arrest for the mere criticism of public officials or policies

⁷⁶⁸ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *Executive Summary* and 4.3 *Arrests related to facebook posts, threats and risks online*, p. 9

⁷⁶⁹ International Truth and Justice Project, [Sri Lanka’s Militarisation of COVID-19 Response](#), 8 April 2020

⁷⁷⁰ International Truth and Justice Project, [Sri Lanka’s Militarisation of COVID-19 Response](#), 8 April 2020

⁷⁷¹ Sri Lanka Brief, [Situation Update: COVID-19 Pandemic and Freedom of Expression Rights](#), 16 April 2020

⁷⁷² OHCHR, [Asia: Bachelet alarmed by clampdown on freedom of expression during COVID-19](#), 3 June 2020

would be unconstitutional. A number of individuals have been arrested over posts in their Facebook pages”.⁷⁷³

iv. Treatment of human rights defenders

For information on the treatment of relatives of the disappeared, see [V.c. Forcible Disappearances](#).

In a February 2019 report, the UN High Commissioner for Human Rights noted “Since 2015, the general situation has improved with regard to civil and political rights: there have been advances with respect to freedom of expression and assembly, incipient efforts made to consult representatives of civil society, a robust right to information framework has been established, and independent commissions, such as the Human Rights Commission, have been strengthened, and relations between security forces and civilians have improved”.⁷⁷⁴

However the same source also noted that “Some serious concerns nonetheless persist”.⁷⁷⁵ It further noted:

Reports of harassment or surveillance of human rights defenders and of victims of human rights violations have continued. In 2018, at least two incidents were reported involving the assault of human rights defenders by unidentified aggressors, presumably in connection to their advocacy on cases of disappearance. Other human rights defenders have reported being questioned by the authorities after having travelled to Geneva to attend sessions of the Human Rights Council. One Sri Lankan United Nations staff member was visited by armed men who questioned him about his activities in support of visits by diplomats and United Nations officials, including the United Nations High Commissioner for Human Rights in 2013. Such cases suggest that informal and often extralegal intelligence gathering activities have not ceased, despite the recommendations made thereon. The surveillance or intimidation of victims and activists is incompatible with the reconciliation agenda, and perpetuates a mistrust in State institutions that could undermine the effectiveness of transitional justice mechanisms. If such acts do not represent government policy, as the High Commissioner was repeatedly assured, the Government must denounce them publicly and ban them, and take disciplinary, and when relevant, judicial action against the officers concerned.⁷⁷⁶

In July 2019 Mr. Clément Nyaletsossi Voulé, United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association reported that “Sri Lanka has a large and varied civil society, with some 1,500 NGOs registered at the national level, working on diverse topics including post-conflict rehabilitation and reconciliation, disappearances, women’s rights, LGBTI inclusion, land rights, environment, natural resources, freedom of expression, minority rights, corruption, development and education. More NGOs exist still at a local level, encompassing a similar variety. I also noticed a most promising trend at a local level, with organisations increasingly gathering themselves into community

⁷⁷³ OHCHR, [Asia: Bachelet alarmed by clampdown on freedom of expression during COVID-19](#), 3 June 2020

⁷⁷⁴ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 53

⁷⁷⁵ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 8 February 2019, para. 53

⁷⁷⁶ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, para. 55

consortia, pooling knowledge and mutual support in order to create a strong and vibrant civil society culture".⁷⁷⁷ The same source further noted that:

Concerns were raised during consultations that informal refusals of registration for associations are commonplace in the North and East for groups working on politically sensitive issues such as LGBTI rights, disappearances, land rights and post-conflict reconciliation. Usually these refusals come in verbal form, without documentation or form of redress. In these cases, reports have been received of local officials refusing to accept registration forms, or even refusing to provide registration materials in the first place. Furthermore, at a district and divisional level, associations are required to obtain approval from the relevant district or divisional secretary for programs they wish to implement. Rejections of certain programs have been reported, allegedly due to the political or sensitive nature of an association's purview. [...]

I am very concerned at the numerous accounts I received of surveillance, including online surveillance, used to monitor the activities of the civil society sector and intimidate those protesting peacefully for their demands to be heard. Whether people demand the return of their lands, information on their disappeared family members, better living and working conditions, all seem to undergo some low but regular level of surveillance which includes questioning, intimidating phone calls and taking of photos and videos. This type of surveillance can inhibit the workings of civil society organisations and dissuade people from joining in demonstrations. Indeed, reports that I have heard while I have been in the country have indicated such. Members of civil society have also expressed their concerns to me as to how this information may be used, both now and in the future.

Surveillance seems to be particularly prevalent in the North and East of the country and seems to have increased following the Easter Sunday attacks, even though the areas affected have little to no connection with the attacks or the perpetrators. This, coupled with the continuous and strong military presence, which has a highly symbolic value for the lack of accountability for the human rights violations committed during the war, contribute to perpetuate the frustrations, resentment and disenfranchisement, felt by the communities in those areas which remain mistrustful of any State institution.⁷⁷⁸

With special reference to female human rights activists, following his visit to Sri Lanka in August 2019, the UN Special Rapporteur on freedom of religion or belief found that "Women's human rights activists appear to be at risk from fundamentalist members in their own religious communities. Their work, beliefs and religious identity are discredited by male leaders who claim that they are violating religious norms".⁷⁷⁹

In August 2019 Journalists for Democracy in Sri Lanka reported that "A leading anti-disappearance Tamil activist from eastern Sri Lanka had been hit and run by a group of men suspected to be affiliated with state paramilitaries. Three men riding a motorcycle had knocked down the Batticaloa vice president of Families of the Disappeared Association along with her daughter off their scooter on the way back from a funeral in the weekend. The mother of three, receiving treatment with her daughter at the Batticaloa general hospital for fractures to their limbs fears that the attack was carried out by paramilitaries operating in the east who are accused of hundreds of enforced disappearances".⁷⁸⁰

⁷⁷⁷ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁷⁷⁸ OHCHR news, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁷⁷⁹ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁷⁸⁰ Journalists for Democracy in Sri Lanka, [Rights activist Tamil mother attacked by suspected Sri Lanka paramilitaries](#), 7 August 2019

In October 2019 the International Crisis Group noted that “Amid concerns over increased political repression under a Gotabaya govt, several prominent NGOs and activist groups working on minority and human rights issues reported increased police surveillance and harassment”.⁷⁸¹ The Sri Lankan Observer detailed that “There has been a pattern of threats, intimidation and harassment against human rights defenders, especially those working in the North and the East, in the lead up to the November election. Lawyers and activists working on military accountability have been particularly targeted”.⁷⁸²

The Sri Lanka Campaign For Peace and Justice documented in October 2019 that “Two civil society activists who lodged a court case challenging the validity of presidential frontrunner Gotabaya Rajapaksa’s Sri Lankan citizenship have reported being subjected to a campaign of intimidation, including receiving torture and death threats. Professor Chandraguptha Thenuwara and journalist Gamini Viyangoda said that they have received numerous threatening telephone calls and been subjected to a stream of abuse on social media. Thenuwara said that a driver had screamed threats at him on the street”.⁷⁸³

A representative from the Northern province community interviewed by a UK Fact-Finding Mission in October 2019 stated that “NGOs, human rights and political actors are free to do what they do, unlike the past. But after the Constitutional coup in October there was a change and intimidation of civil society actors in the North and East by intelligence services or military resumed. They visited their premises many times, to collect details of their programmes, funding, etc. Post-Easter bombings intimidation against civil society actors increased again. People are bullied on social media. The former governor of the Eastern Province posted pictures of civil society actors calling them ‘NGO rascals’. Although politicians know the minority vote is important, this sort of thing raises alarm. There has been an increase in the intimidation of civil society and several political activists in the north and east are complaining about increased intimidation”.⁷⁸⁴

The New York Times reported in November 2019 that “Fears of a potential crackdown on critics of the newly returned Rajapaksa political dynasty in Sri Lanka are rising just days after the election, as officials and journalists who investigated the Rajapaksas for human rights abuses and corruption began trying to flee the country, officials said”.⁷⁸⁵ The Times of India noted that addressing a function after he visited an Indian Buddhist temple, President Gotabaya Rajapaksa stated that Sri Lanka's new government “will not succumb to pressures from non governmental organisations, asserting that the situation needed to be changed”.⁷⁸⁶

A ‘diplomatic source’ interviewed by the same UK Fact-Finding Mission in October 2019 stated: “Journalists and Human Rights activists have received summons to TID [Terrorism Investigation Department] (already before Easter attacks) and are then released after a day of questioning [...] In the

⁷⁸¹ International Crisis Group, [Crisis Watch, Sri Lanka](#), October 2019

⁷⁸² Sri Lankan Observer, [University students and academics condemn harassment of Guruparan](#), 17 November 2019

⁷⁸³ Sri Lanka Campaign For Peace and Justice, [A disturbingly familiar pattern: Gotabaya court challengers threatened with death](#), 9 October 2019

⁷⁸⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019, p. 52

⁷⁸⁵ New York Times, [Sri Lankan Critics Fear a Crackdown Is Underway, and Some Flee](#), 27 November 2019

⁷⁸⁶ Times of India, [Lankan govt not to succumb to pressures from NGOs: President Gotabaya Rajapaksa](#), 25 November 2019

north those who might be targeted are activists working with families of the missing, journalists or those working with ex-cadres”.⁷⁸⁷

The Swiss Refugee Council noted in its briefing of December 2019 that based on [informal translation] “numerous reports” it has heard of “threats against critical activists and media representatives since Rajapaksa took office [in November 2019].⁷⁸⁸ Following an interview with a human rights activist based in Jaffna in January 2020, a report by the Swiss State Secretariat for Migration published in February 2020 stated [informal translation]: “Since the presidential election human rights activists in Sri Lanka have been communicating only with special, encrypted apps”.⁷⁸⁹

In a report covering 1 July 2019 to 31 December 2019 INFORM documented that:

Repression against the activists in North and East also continued in this period same as the previous years. An anti-disappearance activist in Ampara was summoned by Terrorist Investigation Division (TID) of Sri Lanka Police. Another anti-disappearance activist was pushed off from her motorcycle causing injury when she was travelling with her daughter. Stones were thrown at house of a family of a disappeared person in the East, who had been campaigning for truth and justice. The lawyers who appeared for a disappearance case were photographed inside the court premises without their consent, by a person accompanied by the Deputy Solicitor General. Few days later, the office of an NGO headed by a human rights activist and one of the lawyers who appeared in the previous case was visited and interrogated by the intelligence officers. INFORM was told by several NGOs in the North and East working on various Human Rights issues had their offices visited by the Intelligence officers in civil clothes, and details were asked about ongoing projects, funding, details of the staff, and how events were organized, and information about other organizations in the area. NGOs in North and East as well as some NGOs in Colombo have faced increasing surveillance after the Presidential election. Some NGO representatives [sic] were summoned to Colombo for questioning.⁷⁹⁰

The report provided a detailed description of each incident.⁷⁹¹

In a January 2020 joint report the International Truth and Justice Project and Journalists for Democracy in Sri Lanka noted that “Gotabaya Rajapaksa’s current strategy is to target those organisations and individuals who document, report and litigate on behalf of victims, especially Tamils in the former conflict areas and to crush any opposition and suppress dissent. Gotabaya Rajapaksa’s militarization and securitization policy has been calculated and well-orchestrated. [...] Human Rights Defenders, journalists, and trade union activists have expressed concern at the intelligence collected insidiously through the “Occupation Information Sheets” they are being required to fill in, detailing home and office ownership and leases, staff and inhabitants and their National Identity Cards, vehicle details. The state

⁷⁸⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, *Diplomatic Source* 2 October 2019, p. 46

⁷⁸⁸ Swiss Refugee Council, [Keine Rückführungen nach Sri Lanka](#), 19 December 2019. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

⁷⁸⁹ Swiss State Secretariat for Migration (SEM), [Notiz Sri Lanka, Lagefortschreibung](#), 7 February 2020, 4.3. *Menschenrechtsaktivistinnen und -aktivisten*, p. 18. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

⁷⁹⁰ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, *Executive Summary*

⁷⁹¹ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, *Executive Summary*

already has data from the last census and the electoral register”.⁷⁹² The same source further considered that “The information collected for this report reveals a systematic clampdown by the police, army and intelligence services in Sri Lanka intended to terrorize and deter human rights activists and the media from documenting and reporting on issues of justice and accountability. The crackdown also targets Sinhala journalists in a post-election spate of retaliation against those perceived to have supported the opposition”.⁷⁹³

The same report further detailed 69 incidents occurring before and after the Presidential election, up to the end of December 2019.⁷⁹⁴ The report documented 38 incidents against NGOs:

NGOs in Colombo and the north and east of the island who work on issues like enforced disappearance, Prevention of Terrorism Act (PTA) detention and land rights are once again under intense scrutiny and have started receiving threatening visits from security officials in the months leading up to elections. Of the 33 pre-election incidents collected, which are by no means comprehensive, the visits intensified sharply in October 2019.

In 9 cases the officers who harassed or intimidated NGO staff introduced themselves (showing CID identity cards) or were known to be from the Criminal Investigation Department (CID) of the police; in 2 cases from the Terrorism Investigation Division (TID); in 5 cases they were believed to be from intelligence and in another 6 cases the policeman’s identity or station was known to the NGO. Some NGOs even have the names and phone numbers of those who harassed and threatened them. [...]

NGO staff were asked for the registration documents of the organisation, details of donors and funding sources, international links, details of employees (including broken down by gender and organisational structure) and activities, especially work on disappearances or connected to litigation. In some instances, NGO staff reported being followed by plain clothes officers when conducting their field work. Others noted receiving sudden visits from security officials or being harassed by anonymous calls on their mobile phones. [...] One NGO staff member was even advised by the police to leave their job and seek employment in another sector if the government changed. These ominous visits, menacing threats and intimidation as well as the interrogation of NGO staff suggests a systemic plan. [...] The intimidation and threats to NGOs have continued well after the 16 November elections.

Organisations continued to be visited by police officers who interrogated staff members on whether they had sent information abroad to international organisations and demanding to know who their funders were. Questions were asked of several organisations about events being planned for international Human Rights Day (10 December).

Increasingly the questions are focused on individual NGO staff and their whereabouts; some have been summoned for questioning or in a few instances, hunted down so extensively that they were forced to flee the country.⁷⁹⁵

In December 2019 Tamil Net reported that Komahan Murugiah from Punnaalai, Jaffna had been harassed by the State Intelligence Service after he denounced a news report that claimed that seven Tamil Political Prisoners had been released from prison.⁷⁹⁶ The same source also documented that “Unknown persons who entered the residence of Jaffna-based Political Analyst and Senior Lawyer S.A.

⁷⁹² International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 4

⁷⁹³ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 6

⁷⁹⁴ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020

⁷⁹⁵ International Truth and Justice Project and Journalists for Democracy in Sri Lanka, [Sri Lanka: And the Crackdown Begins](#), January 2020, p. 4

⁷⁹⁶ Tamil Net, [SL State Intelligence harasses another Tamil activist in Jaffna](#), 10 December 2019

Jothilingam have ransacked the place while the 64-year-old activist was away [...]. The ransackers have gone through his possessions in all the rooms and taken away two smartphones used by the activist”.⁷⁹⁷

In a report covering 1 July 2019 to 31 December 2019 INFORM documented that:

Repression against the activists in North and East also continued in this period same as the previous years. An anti-disappearance activist in Ampara was summoned by Terrorist Investigation Division (TID) of Sri Lanka Police. Another anti-disappearance activist was pushed off from her motorcycle causing injury when she was travelling with her daughter. Stones were thrown at house of a family of a disappeared person in the East, who had been campaigning for truth and justice. The lawyers who appeared for a disappearance case were photographed inside the court premises without their consent, by a person accompanied by the Deputy Solicitor General. Few days later, the office of an NGO headed by a human rights activist and one of the lawyers who appeared in the previous case was visited and interrogated by the intelligence officers. INFORM was told by several NGOs in the North and East working on various Human Rights issues had their offices visited by the Intelligence officers in civil clothes, and details were asked about ongoing projects, funding, details of the staff, and how events were organized, and information about other organizations in the area. NGOs in North and East as well as some NGOs in Colombo have faced increasing surveillance after the Presidential election. Some NGO representatives were summoned to Colombo for questioning.⁷⁹⁸

The Tamil Guardian reported in January 2020 that “The Sri Lankan military interrogated a Tamil youth in Jaffna [...] after accusing him of leading a campaign which has seen growing calls for the removal of a military base from the local area. Soldiers reportedly raided the house of the youth in Chulipuram on Friday evening, and told his family that he was to be summoned for questioning the next day. Though others tried to accompany him to the army camp [...], soldiers only allowed the youth to enter. During his interrogation, he was reportedly asked to sign a letter stating that he did not want the military to leave the area”.⁷⁹⁹

According to a Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee, “The new Government has targeted human rights defenders, journalists, and those seeking to investigate and prosecute violations during the 26-year civil war that ended in 2009 as well as subsequent human rights violations”.⁸⁰⁰ The same source further noted that “Just weeks before the election, the security apparatus started intimidating civil society organizations and human rights defenders. Now surveillance is very heavy and includes intimidation of lawyers in courtrooms”.⁸⁰¹

In January 2020 Amnesty International reported that it is “concerned by multiple reports of harassment, intimidation and attacks on human rights organisations” further noting that:

⁷⁹⁷ Tamil Net, [Veteran political analyst faces surveillance harassment in Jaffna](#), 9 December 2019

⁷⁹⁸ INFORM, [Repression of Dissent in Sri Lanka before and after the Presidential Election 1st July – 31st December 2019](#), 21 February 2020, *Executive Summary*

⁷⁹⁹ Tamil Guardian, [Sri Lankan army interrogates Tamil youth after calls for demilitarisation](#), 20 January 2020

⁸⁰⁰ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Summary*

⁸⁰¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Freedom of Expression, Advocacy of National, Racial or Religious Hatred, Freedom of Assembly, and Freedom of Association (Articles 19, 20, 21, 22) p. 13*

At least twelve cases recorded by Amnesty International indicate that the Sri Lanka Police, including the Criminal Investigation Department (CID) the Terrorism Investigation Division (TID) also known as Counter-Terrorism and Terrorism investigation Division (CTID), as well as officials with State Intelligence, have visited the premises of, or summoned members of human rights organizations, making enquiries around project activities, donors and funding information, registration, and details of staff members. The reports indicate that such visits have occurred for several months over 2019, spilling into 2020, in different parts of the country including in the Northern, Eastern and Western Provinces on an ad-hoc and arbitrary basis since May, however more systematically particularly in the Western Province since November 2019. This trend of information gathering by different law enforcement agencies serve as a form of harassment and intimidation, and must be seen in the context of attacks, surveillance and harassment of Human Rights Defenders (HRDs) that Amnesty International has documented as having occurred intermittently for several years. Such harassment and intimidation has a chilling effect by way of suppressing dissent, creating fear in organizations and individuals defending and promoting human rights about the start of a crackdown, and may amount to reprisals for their work.⁸⁰²

INFORM documented that during January 2020 “Repression of activists in the North and East continued same as the previous month. More than 50% of the incidents were reported from the North and East. Staff of 2 NGOs were questioned by Counter Terrorism Investigation Division (CTID). Another Woman HRD [Human Rights Defender] from the North was asked to come to CTID for an inquiry. However after she informed to the Human Rights Commission, she was informed that it was not necessary. Families of the victims of the Mirusuvil massacre were threatened by unknown persons in a white van, after reports appeared in media that the Army soldier who was convicted might be released. A Tamil youth was interrogated for involving in a campaign for the removal of an army camp from the local area”.⁸⁰³

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’.⁸⁰⁴ The report noted that “Visits by intelligence agencies to offices of NGOs, houses of NGO staff and phone calls continued. A female activist vocal demanding investigations into a child abuse case was threatened that her nude photographs will be made public. Police also held an inquiry against an information technology activist after he pointed security loopholes in an ATM machine of a private bank”.⁸⁰⁵

In a joint February 2020 oral statement to the UN Human Rights Council, Amnesty International, Human Rights Watch and six other human rights organisations stated:

Since November 2019, the Ministry of Defence has been assigned as the oversight body for NGOs, significantly increasing the risk of their surveillance. More than a dozen human rights and media organisations have received intimidating visits from law enforcement and intelligence agencies, while death threats against journalists have resumed. The climate of fear has returned to Sri Lanka, in particular among those who continue to call for truth, justice and accountability. Relentless campaigns against minorities also require immediate attention.⁸⁰⁶

⁸⁰² Amnesty International, [Attacks on human rights organisations, media organisations and journalists in Sri Lanka](#), 16 January 2020

⁸⁰³ INFORM, [Repression of Dissent in Sri Lanka: January 2020](#), 26 February 2020

⁸⁰⁴ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, Executive Summary

⁸⁰⁵ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, Executive Summary

⁸⁰⁶ Amnesty International et al, [Joint Oral Statement: 43rd session of the Human Rights Council Item 2: General Debate on reports and oral updates of the High Commissioner and the Secretary-General](#), 28 February 2020

In February 2020 the UN High Commissioner for Human Rights documented that “There has been a significant opening of civic space in Sri Lanka since 2015. However, reports of harassment or surveillance of human rights defenders and victims of human rights violations increased during 2019”.⁸⁰⁷ The same source further noted that:

In particular, starting from October 2019, more than a dozen organizations working on documentation or litigation around accountability and disappearance issues have reported being visited by agents claiming to belong to security agencies and requesting administrative details of the organizations, including lists of staff, funding sources and external travel. Some of the relatives of victims of disappearance who took part in organized protests in 2019 were asked to report to police stations for further questioning. Such visits, which began before the presidential election and have since continued, have been documented in different parts of the country, generating considerable fear and anxiety. [...]

In some cases, Sri Lankans who travelled to Geneva to attend sessions of the Human Rights Council were questioned about the motives of their trips, either at the airport or during visits by the police to their homes upon their return (see A/HRC/42/30).⁸⁰⁸

According to an interlocutor active in the catholic church in northern Sri Lanka interviewed by the Swiss Refugee Council in March 2020 [informal translation]: “the surveillance in the north was high before the November 2019 presidential election, but has increased again since then. The office of a human rights activist in Vavunya, for example, was already in September 2019 and then several times after the presidential election searched by the Criminal Investigation Department (CID) and by the terrorist Investigation Division (TID). The human rights activist was also summoned to appear at the CID in Colombo. According to contact person B, such incidents are currently common and numerous people have been summoned”.⁸⁰⁹

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office by the current administration “Human rights in general have come under increased scrutiny and threat. Recent months have witnessed an increase in surveillance of civil society with regular visits to offices and requests for information including in some instances personal information of activists”.⁸¹⁰ The same source further noted that:

Signs of restricting activities linked with human rights and reconciliation were evident when the Additional District Secretary of Mullaitivu District issued a letter on 26th February 2020 requesting that local and international organisations minimise ‘soft skilled programmes’, a reminder of pre 2015 attempts by the then Government to restrict the work on issues deemed sensitive. [...]

Restrictions on freedom of assembly were also seen with the Government designating an area for protests in the heart of Colombo. With the NGO Secretariat coming under the purview of the Ministry of

⁸⁰⁷ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 32

⁸⁰⁸ UN, [Report of the United Nations High Commissioner for Human Rights: Promoting reconciliation, accountability and human rights in Sri Lanka](#), 26 February 2020, para. 32

⁸⁰⁹ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 2.4 Situation im Norden und Osten, p. 8. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

⁸¹⁰ Centre for Policy Alternatives, [Sri Lanka's Recent Political Challenges & Prospects for the Future](#), March 2020, *Reconciliation and Human Rights*, p. 8

Defence and the prospect of future legislation and regulations to restrict civil society and media, credible fears remain as regards the civic space in Sri Lanka.⁸¹¹

In March 2020 Human Rights Watch stated that “Sri Lankan security agencies are stepping up surveillance, harassment, and threats against human rights activists and journalists [...]. Since November 2019, when the government of President Gotabaya Rajapaksa came into office, there has been a rapid closing of civic space and freedom of expression”.⁸¹² The same source further described:

In interviews with 15 Sri Lankan human rights defenders working in different locations around the country, Human Rights Watch heard consistent accounts of increased surveillance and pressure from security agencies. Several said that intelligence officials had asked activists and victims about their advocacy plans ahead of the current United Nations Human Rights Council session, which began on February 24, 2020 in Geneva. “We fear that international lobbying and travel to Geneva may not happen in future because of this situation,” one activist said.

“Since the return of the Rajapaksas to power, a state of fear is being re-established in Sri Lanka,” said Meenakshi Ganguly, South Asia director. “The activities of the government’s security apparatus are evident in some violent attacks and public death threats against activists and journalists, but also in equally dangerous actions happening out of sight.”

Several human rights activists described receiving repeated phone calls from intelligence officers. Some of these calls have apparently been to tell activists that they are being watched at that moment. On other occasions the caller asks questions or issues threats or warnings.

One human rights defender said that “everything has shifted into a critical situation. After the election, military activities including monitoring and inquiries have increased. They are following us. That is a huge threat for human rights groups.” Another activist said: “We collected stories and documents. Now we’ve stopped everything. We did a lot of work. Now, zero.” A third activist said she so constantly feels under surveillance that intelligence officers “might even be in the next seat on the bus.”

Police and intelligence officers have sought to instil fear in rights groups by visiting their offices and demanding staff lists, home addresses, and other personal details. One activist said the authorities came to his office demanding this information, but then revealed that “they knew already everything. My personal details, they knew it. This is part of the intimidation.” [...]

The intelligence agencies have also begun to target the financial and administrative records of nongovernmental organizations over the last five years, and especially details of funding from donors abroad. Activists fear the authorities will allege accounting errors as a pretext to shut them down or to bring criminal charges.

Several human rights groups based in eastern Sri Lanka have been summoned for questioning in Colombo by the police Terrorist Investigation Department (TID). One human rights activist said: “In the investigation they told us, ‘You have used money you received from abroad for terrorist activities in Sri Lanka. You are involved in terrorist activities, that is why you have been called for investigation.’”⁸¹³

Human Rights Watch also noted that “Rajapaksa has placed a number of important civilian agencies under the Defence Ministry, including the civilian police and the NGO Secretariat, which regulates nongovernmental groups, among dozens of others”.⁸¹⁴ For further information, see [II.e. Executive Interference and Political Appointments](#).

⁸¹¹ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, *Reconciliation and Human Rights*, p. 8

⁸¹² Human Rights Watch, [Sri Lanka: Security Agencies Shutting Down Civic Space](#), 3 March 2020

⁸¹³ Human Rights Watch, [Sri Lanka: Security Agencies Shutting Down Civic Space](#), 3 March 2020

⁸¹⁴ Human Rights Watch, [Sri Lanka: Security Agencies Shutting Down Civic Space](#), 3 March 2020

With regards to the right to association, the International Federation of Journalists noted in a May 2020 report:

Immediately after his appointment, President Gotabaya Rajapaksa brought the secretariat of non-governmental organisations (NGOs) under the Ministry of Defence, which he heads. Just a few months before, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association Clément Nyaletsossi Voule had written that it was "... encouraging to note the recent transfer in competency for the NGO Secretariat from the Ministry of Defence to the Ministry of National Integration, Official Languages, Social Progress and Hindu Religious Affairs".

The impact of the change is already being felt. In March 2020, NGOs in Mullaitivu District were ordered by the District Additional Secretary to minimise empowerment programmes such as trainings on women's rights, child rights, human rights, and land rights, as well as to minimise the setting up and strengthening of self-help groups.

Operations of the Consortium of Non-Governmental Organisations in Ampara district have been disrupted by the frequent inspections and questionings by the TID.⁸¹⁵

In May 2020 The Sri Lanka Campaign for Peace and Justice noted that "Just over a month ago, online activist Ramzy Razeek emailed Sri Lanka's chief of police to complain about a flurry of death threats that he had been receiving on Facebook. But instead of investigating the threats against Ramzy, later that day the authorities showed up at his house and arrested him. Nearly a month on, he remains in detention without any formal charges having been brought against him".⁸¹⁶ The same source further noted that "Dozens are reported to have been arrested after police issued a warning on 1 April saying that they would take legal action against those "criticising" government officials – a trend that has coincided with a climate of growing hostility and racism towards members of Sri Lanka's Muslim community".⁸¹⁷

Reporting on the same incident, Amnesty International noted that "Ramzy Razeek, a retired government official and social media commentator, has been detained since 9 April 2020 without charge, or proper access to lawyer. Suffering from several medical complications, his family is worried about his health conditions in the overcrowded and unhygienic prison facilities. Detained for peacefully exercising his right to freedom of expression, Ramzy Razeek must be immediately and unconditionally released, and all charges against him dropped".⁸¹⁸ The same source further noted that:

This arbitrary use of the ICCPR Act in Sri Lanka – which amounts to misuse of an Act designated to protect, not violate human rights – has created a chilling effect in the country where several people including writers and activists have been detained for peacefully expressing their opinions. Under the ICCPR, which Sri Lanka is legally bound to implement, the rights to freedom of expression and of thought, conscience and religion may only be restricted in narrow, clearly defined circumstances. Restrictions are only permissible if they are provided by law; placed for the purpose of protecting certain public interests (national security or public safety, public order, protection of public health or morals) or the rights and

⁸¹⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, Sri Lanka, p.73

⁸¹⁶ Sri Lanka Campaign for Peace and Justice, [Threatened with death. Then arrested. Still detained. Help #FreeRamzyRazeek](#), 7 May 2020

⁸¹⁷ Sri Lanka Campaign for Peace and Justice, [Threatened with death. Then arrested. Still detained. Help #FreeRamzyRazeek](#), 7 May 2020

⁸¹⁸ Amnesty International, [Sri Lanka: Health Concerns for detained blogger: Ramzy Razeek](#), 20 May 2020

freedoms of others; and demonstrably necessary for that purpose. Merely implicit or even explicit criticism of a religion or other belief system cannot be criminalized as incitement.⁸¹⁹

Tamil Net reported in May 2020 that “A Sinhala-language news website, Gagana, owned by IBC Tamil Ltd., is being used in a campaign of reporting to prompt the intelligence wing of the occupying SL military to hunt down Tamil grassroots activists at Ki'li-veddi in Moothoor division of the Trincomalee district. A news item published in gaganga.lk with screenshots of social media messages supposedly shared in the accounts of three Tamils on the occasion of 18 May Mu'llivaaykkaal Remembrance has put the lives of three persons, particularly one of them, in great danger, rights activists in Trincomalee said. The Sinhala ‘news’ accused the Tamil youth sharing the posts as promoters of ‘terrorism’ through social media. It went further claiming that the Tamil youth were making money from ‘pro-LTTE Tamil diaspora’.”⁸²⁰ A further article from the same source noted that five members of the Terrorist’ Investigation Division “carried out an intimidating interrogation” of VS Sivakaran, the chairman of Thamizh Theasia Vaazhvirimaich Changkam, and “were posing questions in the two-and-a-half-hour investigation about Mr Sivakaran’s role in Maaveerar-Naa’l (Heroes’ Day) marked on 27 November 2019. They also warned the outspoken critic of genocidal Colombo that he was on a watchlist for organising remembrance days for people whom the TID blamed as ‘terrorists’”.⁸²¹

Treatment of lawyers

The U.S. Department of State report documented that “On November 9 [2019], the Jaffna University leadership endorsed the September 27 decision of the University Grants Commission of Sri Lanka (UGC) to debar K. Guruparan, the head of the Department of Law, from legal practice. Leaked letters from the Ministry of Defense to the UGC showed that Guruparan was debarred for pursuing habeas corpus cases filed in 2017 by three families regarding the disappearance of 26 youths in Jaffna allegedly involving the military. Plainclothes military intelligence personnel travelling with Attorney General Department representatives threatened the lawyers and families outside of the court”.⁸²²

Frontline Defenders reporting on the same incident noted that “On 9 November 2019, Kumaravadivel Guruparan, a human rights lawyer and Head of the Department of Law at the University of Jaffna, was informed by Jaffna University Council that he will no longer be permitted to practice as a lawyer in Sri Lankan courts. The decision was made by the University Grants Commission (UGC), at the instigation of the Sri Lankan military and is an act of reprisal against his peaceful human rights work”.⁸²³ The same source further noted that “Recently he has faced threats, intimidations and attempts to suppress his work. These have been instigated by the military, in order to subvert justice and hamper the cases’ successful litigation in court”.⁸²⁴

In April 2020 Amnesty International issued an ‘Urgent Action’ documenting that “Hejaaz Hizbullah, a prominent Sri Lankan lawyer, was arrested on 14 April 2020 and has since been detained without charge

⁸¹⁹ Amnesty International, [Sri Lanka: Health Concerns for detained blogger: Ramzy Razeek](#), 20 May 2020

⁸²⁰ Tamil Net, [IBC's sister-media Gagana used to threaten Tamil villagers in Trinco on 18 May Remembrance](#), 19 May 2020

⁸²¹ Tamil Net, [SL TID interrogates outspoken Tamil activist VS Sivakaran in Mannaar](#), 20 May 2020

⁸²² U.S. Department of State, [Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, 2a. *Academic Freedom and Cultural Events*

⁸²³ Frontline Defenders, [Human rights lawyer Kumaravadivel Guruparan barred from practicing law](#), 13 November 2019

⁸²⁴ Frontline Defenders, [Human rights lawyer Kumaravadivel Guruparan barred from practicing law](#), 13 November 2019

or access to a lawyer. His family believes he has been targeted for his work, including for the rights of Muslim minorities in the country. The Bar Association of Sri Lanka has said that Hejaaz’s arrest is based on work done in his professional capacity as a lawyer. Media reports suggest he could be charged under the draconian Prevention of Terrorism Act”.⁸²⁵ The same source further noted that “Hejaaz is a senior lawyer at the Supreme Court of Sri Lanka and has been a vocal critic of government on human rights issues, particularly the rights of minorities in the country. Hejaaz and his family believe that he has been targeted for criticizing the authorities. The family has also filed complaints with the Human Rights Commission of Sri Lanka”.⁸²⁶

Human Rights Watch noted that “The police allege that Hizbullah was arrested in connection with the Easter bombings. He has been held in apparent violation of basic due process rights. Although he is believed to be detained under the draconian Prevention of Terrorism Act, no detention order has been served, and he was not taken before a magistrate within the required 72 hours. He has been denied regular access to a lawyer, except for brief meetings in the presence of the police on April 15 and 16”.⁸²⁷ The International Bar Association’s Human Rights Institute⁸²⁸ and the International Commission of Jurists⁸²⁹ called upon the Sri Lankan authorities to abide by due process and uphold the rule of law in the case.

On 1 June 2020 Journalists for Democracy in Sri Lanka noted that “A supreme court lawyer in Sri Lanka representing victims in several cases of grave human rights violations including murder, allegedly committed by members of the security forces, fears for her life due to police inaction. Attorney at Law Achala Shanika Seneviratne has lodged a complaint with the Criminal Investigation Department (CID) for the second time within a year against men who had repeatedly taken to social media to threaten her with death. She had earlier complained about issuing death threats on social media platforms using her photograph in the aftermath of Easter Sunday bombing when Sinhala extremists went on a rampage against Muslims. However, ‘I regret that no case had been filed or any legal action taken about the complaint to the complaint under C 192/19CD on 30 April 2019,’ said Achala Seneviratne in her fresh complaint to CID Director (Cyber Crimes)”.⁸³⁰

Also on 1 June 2020 the Tamil Guardian reported that “Sri Lanka’s Criminal Investigation Department (CID) has launched investigations into Non-Governmental Organisations (NGOs) which were reportedly registered without due procedure under the previous government. Speaking to the Daily Mirror, Raja Gunaratne, Director of the National NGO Secretariat, said that NGOs had been registered without checking their funding sources and projects”.⁸³¹

For information on the ability of defendants to access legal counsel, see [IV.a.i. Legal Representation](#).

⁸²⁵ Amnesty International, [Concerns Mount for Detained Lawyer](#), 27 April 2020

⁸²⁶ Amnesty International, [Concerns Mount for Detained Lawyer](#), 27 April 2020

⁸²⁷ Human Rights Watch, [Sri Lanka: Due Process Concerns in Arrests of Muslims](#), 23 April 2020

⁸²⁸ International Bar Association’s Human Rights Institute, [IBAHRI urges Sri Lanka to abide by due process in the case of Mr Heejaz Hizbullah](#), 13 May 2020

⁸²⁹ International Commission of Jurists, [Sri Lanka: ICJ raises concerns about the arbitrary arrest and detention of lawyer Hejaaz Hizbullah; calls for repeal and replacement of the Prevention of Terrorism Act](#), 21 April 2020

⁸³⁰ Journalists for Democracy in Sri Lanka, [Sri Lanka: Female human rights lawyer facing continuous death threats](#), 1 June 2020

⁸³¹ Tamil Guardian, [CID investigates NGOs registered without due process](#), 1 June 2020

f. Situation of Women

Information on Trafficking in Persons can be found in section [VI. Trafficking in Persons](#).

For information on the experience of female Muslims, especially in the aftermath of the April 2019 'Easter bombings' see [V.i.d\) \(3\) Experience of female Muslims, especially in the aftermath of the 'Easter bombings' of April 2019](#).

i. Sexual and Gender-based Violence (SGBV)

For information on the state response to the following forms of sexual and gender-based violence against women, see [V.f.ii. State response to sexual and gender-based violence \(SGBV\)](#).

a) Discrimination

With regards to discrimination experienced by women, the U.S. Department of State's annual report covering 2019 stated that "Adjudication of questions related to family law, including marriage, divorce, child custody, and inheritance, varied according to the customary law of each ethnic or religious group, resulting in discrimination".⁸³²

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted that:

Although civil and criminal law regard women as equal, the law favours men in relation to divorce, custody of children, property distribution and inheritance. Sri Lanka ranks 80 out of 189 countries in the UNDP's 2018 Gender Inequality Index. Sri Lankan women are highly educated: more women graduate from university than men and, according to the UNDP, more than 82 per cent of Sri Lankan women aged 25 or over have received some secondary education.⁸³³

Seven academics addressing the candidates of the November 2019 presidential election noted in relation to access to education, including vocational training, for female students:

Gender composition of student populations in school, university and vocational sectors is changing rapidly due to the higher participation of women than men in almost all levels of education and in most fields. This is a major facet of democratization of education in Sri Lanka. However, educational institutions as well as the labour markets have not yet made meaningful adjustments to accommodate this demographic change. Facilities available at educational institutions are still insensitive to the needs of the majority of students who are women.

Vocational training is still conventional in orientation that re-affirms gender stereotyping. There are no incentives for women students to join the vocational fields that have traditionally been reserved for men. The field of employment continues to discriminate educated and professionally qualified women in recruitment as well as promotion.⁸³⁴

⁸³² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women*, p. 20

⁸³³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women*, para. 3.120

⁸³⁴ Groundviews, [Addressing the Multiple Crises in Sri Lankan Education: For the Attention of Candidates in the Presidential Election 2019](#), 5 November 2019

With regards to discrimination experienced with respect to employment, the 2019 U.S. Department of State report noted that “Women have a wide range of workforce restrictions, including caps on overtime work and limits on nighttime shifts” and the government discriminated “with respect to employment and occupation. For example, some employers specified particular positions as requiring male or female applicants, and women often earned less than men for equal work”.⁸³⁵

In 2019 provisions of the Muslim Marriage and Divorce Act (MMDA) have been discussed, notably to increase the minimum age of marriage for Muslims as currently the MMDA “does not stipulate a age of marriage”.⁸³⁶ According to the same article published by Sabra Zahid and Hyshyama Hamin on Groundviews, “There is compelling evidence from women’s organisations working at the community level to indicate that the practice of child marriage is in fact more common than it is admitted to be”.⁸³⁷

For information on the situation of female headed households see section [V.f.iii. Situation of female headed households](#).

b) Sexual harassment

The U.S. Department of State’s annual report covering 2019 noted that “Sexual harassment was common and was a particularly widespread problem in public transport”.⁸³⁸

Groundviews reported in March 2019 that “Those who do report or come forward to talk about street harassment are often targeted themselves. For instance, a tweet from management executive Malki Opatha on her experience of street harassment had many people asking her why she had chosen to sit near the window on the bus. Others had told her that she should have shouted at the perpetrator”.⁸³⁹ The same article further noted that “A recent UNPFA [UN Population Fund] campaign on street harassment to mark 16 days of gender-based violence saw many commenters blaming those who came forward to share their stories of street harassment”.⁸⁴⁰

Oxfam released research findings in July 2019 on sexual harassment in Sri Lanka and found that “sexual harassment of women, girls and gender non-conforming people on public transport is tolerated by urban Sri Lankan commuters who consider it normal male behaviour, an everyday occurrence and the fault of women for not being submissive, obedient or dressing decently. These beliefs are fuelling abuse, 90 percent of women and girls in Sri Lanka have been sexually harassed on buses and trains at least once in their lifetime and over half say they have experienced violence on a regular basis according to a 2017 study by the UN”.⁸⁴¹

⁸³⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 7. *D. Discrimination with Respect to Employment and Occupation*, p. 28

⁸³⁶ Groundviews, [Long Overdue: Breaking down the minimum age of marriage in Sri Lanka](#), 15 July 2019

⁸³⁷ Groundviews, [Long Overdue: Breaking down the minimum age of marriage in Sri Lanka](#), 15 July 2019

⁸³⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women*, p. 20

⁸³⁹ Groundviews, [Systemic Violence: Mapping Police Statistics On Sexual Abuse](#), 8 March 2019

⁸⁴⁰ Groundviews, [Systemic Violence: Mapping Police Statistics On Sexual Abuse](#), 8 March 2019

⁸⁴¹ Oxfam, [Sexual harassment on public transport? “It’s not my business to intervene” say urban commuters in Sri Lanka](#), 22 July 2019

c) 'Sexual bribery'

In February 2019 the International Commission of Jurists submitted a report to the UN High Commissioner for Human Rights, which stated that "There have been reports of sexual harassment and demands for sexual bribery by military personnel, even after the war".⁸⁴²

The Sri Lankan Independent published an article in December 2019 on the occurrence of 'sexual bribery' in particular in the North and East of the country.⁸⁴³ The article further specified:

For the women in the North and the East the issue is compounded, says Saroor [Shreen Saroor, Women's Rights Activist] as it is not only government officials but para-military groups who wield power. The moment women cross the artificial boundaries set up by society, and venture out to obtain a loan, start a business, seek justice for a missing family member, they are faced with various obstacles, and sexual bribery is one of those. Sexual predators can be anyone; to start a business involving food it would be by the PHI, if it's seeking the whereabouts of a family members it could involve any member of the judiciary, or the Samurdhi officers when obtaining welfare payments. The list is endless. What's more, soliciting of sexual favours is blithely justified as something the woman has a need for, as she is single or has a disabled spouse! Society does not help either, as often victims would be accused of having imagined being asked for sexual favours [...]

For Muslim women, says Saroor, the situation is worse, though society believes being fully covered provides them more security. Caught up in a patriarchal system, where they must rely on the Quasi courts for most forms of relief, be it obtaining a divorce or maintenance payment, the women are subjected to harassment by members of the court itself.⁸⁴⁴

With special reference to what is happening in Batticaloa suburb, Tamil Net reported in May 2020:

There have been allegations of soldiers of the occupying SL Army's 231 Brigade Headquarters at Kalladi sexually abusing Tamil women for some time. In recent weeks, the issue has become a menace of increasing threat, community leaders in the area complain, on condition of anonymity. The SLA soldiers, who are predominantly Sinhalese, exploit the poverty-stricken families by providing minor jobs and seeking the households. Higher ranking officers and commanders are also involved in the exploitation, and some women are taken to the military quarters and abused by more than two or three soldiers during the nights, reliable sources said. The soldiers have started to collect details of female-headed households triggering widespread fear, the sources further said.⁸⁴⁵

d) Sexual violence, rape and domestic violence

The website 'Hot Peach Pages' consists of an International Directory of Domestic Violence Agencies; with regards to Sri Lanka it lists 86 organisations, organised by district and services they offer – see [here](#).⁸⁴⁶

⁸⁴² International Commission of Jurists, [Written statement to the UN High Commissioner for Human Rights](#), 14 February 2019

⁸⁴³ See The Independent (Sri Lanka), [It's Time to Combat Sexual Bribery](#), 2 December 2019

⁸⁴⁴ The Independent (Sri Lanka), [It's Time to Combat Sexual Bribery](#), 2 December 2019

⁸⁴⁵ Tamil Net, [SL Army's 231 Brigade sexually abuses Tamil women in Batticaloa suburb](#), 30 May 2020

⁸⁴⁶ See Hot Peach Pages, [Sri Lanka](#), Undated [Last accessed: 29 May 2020]

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted with regards to domestic violence:

Violence against women is prevalent in Sri Lanka. Local sources told DFAT that violence against women occurs throughout the country, across all ethnic groups and social strata. Violence against women is most common in domestic settings. Recent survey data by the UNFPA indicate that 28 per cent of women had experienced some form of physical or sexual violence in their lifetime and 18 per cent had experienced intimate partner violence within the last 12 months. According to Sri Lankan Government statistics from 2016, 17 per cent of married women had experienced intimate-partner violence. Kilinochchi (Northern Province) and Batticaloa (Eastern Province) had the highest rate of intimate-partner violence (50 per cent). Among women who suffered intimate-partner violence, only 18 per cent sought help from the police. The UNFPA, in February 2018, reported that more than one-third of female homicides in Sri Lanka were related to intimate-partner violence. [...]

The UNFPA reported in 2016 that one in four women in Sri Lanka is sexually abused by the age of 18. The Prevention of Domestic Violence Act (2005) criminalises rape and domestic violence, but marital rape is considered an offence only in cases where the individuals are legally separated. Sexual harassment is an offence under Section 345 of the Penal Code with a maximum penalty of five years' imprisonment; perpetrators of sexual harassment may also be ordered to pay compensation to their victims. Sexual harassment of women is common, particularly on public transport, but is rarely reported.⁸⁴⁷

The People for Equality and Relief in Lanka (PEARL) reported in June 2019 about the ongoing conflict-related sexual violence against Tamil women:

PEARL condemns Sri Lanka's ongoing conflict-related sexual violence against Tamil women and men and demands justice and accountability for its egregious crimes [...] Rape, in particular, remains a tool of political repression and reprisal by the Sri Lankan state [...]

sexual violence continues to affect Tamil victim-survivors and political prisoners detained under the Prevention of Terrorism Act (PTA) [...]

There is also evidence that conflict-related sexual violence exacerbates a process of destroying the fabric of Tamil society in Sri Lanka, fueling an already prevailing Sinhala-Buddhist ethnocracy. The military occupation of the North-East, where in parts there is up to 1 soldier for every 2 civilians, increases the risk of sexual violence for Tamil women [...]

These human rights violations specifically target Tamils and particularly Tamils who had actual or suspected ties to the Liberation Tigers of Tamil Eelam (LTTE). PEARL urges the UN and states to validate the experiences of Tamil victim-survivors by acknowledging both the political nature of conflict-related sexual violence on the island and Sri Lanka's lack of political will.⁸⁴⁸

In March 2020, the same source reported:

To this day, toxic masculinity and patriarchy remain rampant in the Tamil community. Gender-based violence continues to harm and kill Tamil women, in the diaspora and in the homeland. While we see some grassroots moves to address these issues, more needs to be done to tackle gender-based violence.

⁸⁴⁷ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women*, paras. 3.123 and 3.124

⁸⁴⁸ People for Equality and Relief in Lanka (PEARL), [International Day for the Elimination of Sexual Violence in Conflict: Sri Lanka's Strategic Use of Sexual Violence Against Tamils](#), 19 June 2019

It is important that challenging patriarchal violence becomes part and parcel of education systems and cultural activities, across the Tamil nation.⁸⁴⁹

Tamil Guardian reported, also in May 2020, that “Tamil women from the North-East who come to work in Sri Lanka’s special trade zones are being subjected to sexual harassment and abuse, found a report by The Diplomat, driving at least one woman to commit suicide. ‘Activists estimate that about 90 percent of them are molested at least once during their tenure,’ states a piece by Harshita Rathore this week. ‘Poor and marginalised women from Sri Lanka’s north-east work in Special Trade Zones, mostly garment factories created by the government,’ said a video report”⁸⁵⁰.

e) Female Genital Mutilation/Cutting (FGM/C)

The U.S. Department of State’s annual report covering 2019 provided the following overview regarding the practice of FGM/C in Sri Lanka:

Female Genital Mutilation/Cutting (FGM/C): Some of the country’s Muslims historically practiced FGM/C, but it was not a part of public discourse until recent years when media articles drew attention to the practice. There were no statistics on the current prevalence of FGM/C in the country, which does not have laws against FGM/C [...] Several civil society groups led mostly by Muslim women continued to campaign against FGM/C.⁸⁵¹

According to the Orchid Project, an international organization working towards ending female genital cutting, the terminology used to describe FGM/C in Sri Lanka is “‘khatna’ or ‘sunnat’”⁸⁵². The same source reported that participants of its research “were asked about which type of FGM/C is perceived to be prevalent in their local context, alongside the WHO definitions of types of cutting [...] Across the region, participants identified Type I to be perceived as the most prevalent form of FGM/C, closely followed by Type IV, which is largely in line with expectations, existing studies, and anecdotal information available on the practice across Asia. Perceptions of Type II being practised were also evident across [...] Sri Lanka”⁸⁵³.

Specifically the report found “In Sri Lanka, it was highlighted that the Dawoodi Bohra community undergo a particular type of cut at a later age, which is distinct from a number of ethnic or Tamil communities which carry out the practice shortly after birth”⁸⁵⁴.

According to the same report:

⁸⁴⁹ People for Equality and Relief in Lanka (PEARL), [International Women’s Day: Calling for an End to Gendered Harassment and Violence Against Tamil Women in Political Spheres](#), 8 March 2020

⁸⁵⁰ Tamil Guardian, [Sexual abuse leads to suicide in Sri Lanka’s trade zones](#), 1 May 2020

⁸⁵¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women*, p. 20

⁸⁵² Orchid Project, [Asia Network to End Female Genital Mutilation/Cutting \(FGM/C\) Consultation report, “I didn’t know it happened there”](#), March 2020, *Introduction, Types and Terminology*, p. 8

⁸⁵³ Orchid Project, [Asia Network to End Female Genital Mutilation/Cutting \(FGM/C\) Consultation report, “I didn’t know it happened there”](#), March 2020, *Perceptions of FGM/C across Asia, Perceptions of prevalence and type*, p. 22

⁸⁵⁴ Orchid Project, [Asia Network to End Female Genital Mutilation/Cutting \(FGM/C\) Consultation report, “I didn’t know it happened there”](#), March 2020, *Perceptions of FGM/C across Asia, Perceptions of prevalence and type*, p. 22

Responses from Sri Lanka note that rising nationalism and fear following the 2019 Easter terrorist attacks have created a rising climate of intolerance towards Tamils and Muslim minorities, some of which practice FGM/C. Participants stressed that as a result of this climate, they are working cautiously and sensitively at very local levels. Further responses broadly note that security threats exist from governments, tribal leaders, religious clerics, and from extremist groups who oppose women's empowerment. Types of threats or reprisals feared by participants for working on FGM/C

- Threats to economic security or social standing
- Social sanctions by the community
- Social media trolling
- Restricting freedom of movement
- Public backlash against activists.⁸⁵⁵

The Family Planning Association of Sri Lanka (FPA) commissioned a brief study in 2018 to “understand the physical and psychosocial impacts of Female Genital Cutting (FGC)¹ as reported by women in Sri Lanka”, which can be viewed [here](#).⁸⁵⁶ The concluding observations were as follows:

- a) Female genital cutting is not practiced by all Muslim communities in Sri Lanka and that there is diversity of experiences and significant variation in the narratives and justifications that accompany the practice.
- b) The conversation on female genital cutting is evolving and it was clear that women needed spaces, conversation starters, information and solidarity to navigate the complexities that surfaced. Some of these complexities included the notions of FGC as an identity marker and the difficulties of expressing identity related practices in a backdrop of religious intolerance; difficulties in talking about sexual pleasure, bodily integrity and autonomy; difficulties in challenging patriarchal, religious and political institutions and individuals holding power over religious knowledge and policing speech and actions; the particularities of family dynamics and difficulties in taking a position contrary to the wishes of parents and in-laws.
- c) There is no enabling environment for conversations of bodily integrity, sexual rights and pleasure for women, and those working in this area may have to consider what implications this has on identifying and addressing this issue.
- d) There is no formal medical training on the practice in Sri Lanka.
- e) Medical professionals, whilst being among the first to respond to this issue in Sri Lanka, have also expressed a reluctance to speak or engage publicly on the practice for the reason that such measures may be misconstrued as measures motivated by religious intolerance targeting a minority community.⁸⁵⁷

ii. State response to sexual and gender-based violence (SGBV)

a) Discrimination

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted with regards to Muslim family law:

Muslim family law, including marriage, divorce and inheritance, is codified in the Muslim Marriage and Divorce Act (1951) (MMDA). The MMDA is derived from sharia law and applies only to the Muslim community. The MMDA contains provisions that are considered discriminatory against women. The constitution affirms the validity of the MMDA and unwritten customary laws even where inconsistent

⁸⁵⁵ Orchid Project, [Asia Network to End Female Genital Mutilation/Cutting \(FGM/C\) Consultation report, “I didn’t know it happened there”](#), March 2020, *Safety, Security and Support Networks*, p. 27

⁸⁵⁶ See Ibrahim, Z. and Tegal, E., [Towards understanding female genital cutting in Sri Lanka](#), December 2019

⁸⁵⁷ Ibrahim, Z. and Tegal, E., [Towards understanding female genital cutting in Sri Lanka](#), December 2019, *Executive Summary*, p. 2

with fundamental rights provisions, and Article 80 (3) of the Constitution removes the possibility of challenging the legislation itself. The all-male Quazi court system implements the MMDA (women are not permitted to be appointed as Quazis). Quazi court rulings rarely favour women[...]

Sources within the Muslim community spoke in favour of the MMDA and the Quazi court system. Muslim women who advocate for reform of the MMDA and other rights risk harassment and ostracism from the Muslim community. [...]

The MMDA does not recognise marital rape, and the Quazi court system does not have jurisdiction for domestic violence cases. Anecdotal evidence suggests that Quazis often ask Muslim women to tolerate domestic violence from their husbands, which reflects a broader perception that solutions within the Muslim community are preferred to state remedies. Muslim women can access redress under the Prevention of Domestic Violence Act, but in practice many do not. Fewer Muslim women access protection orders as a domestic violence intervention compared to other groups of women.⁸⁵⁸

With special reference to women Muslims, following his visit to Sri Lanka in August 2019, the UN Special Rapporteur on freedom of religion or belief found that “Women’s experiences of ethno-religious hostility including violence, displacement and stereotyping do not receive attention nor redress. Many of the conspiracy theories and tropes about Muslims target women and their reproductive capacity”.⁸⁵⁹ The same briefing further highlighted issues with the General Marriage Ordinance, namely “there is no option for Muslims to opt-in or opt-out of the Muslim Marriage and Divorce Act (MMDA). The application of the MMDA has long been a subject of concern for those advocating for gender equality and has been the subject of several reviews, focusing on both substantive aspects of the law and its administration. Based on patriarchal readings of sharia, the MMDA violates international human rights standards including those articulated by the UN CEDAW. Furthermore, the law set up Quazi courts to settle marriage disputes, but women are not permitted to be Quazi judges. However, the long-awaited reform of the MMDA has started to progress recently”.⁸⁶⁰ Groundviews reported in July 2019 that:

Up until July 2019, not a single Muslim and very few non-Muslim politicians have come forward publicly on the matter. Nor have agencies like the National Child Protection Authority (NCPA) or the Human Rights Commission (HRC) made any acknowledgement of or desire for action despite it being a child rights and human rights issue. On July 12 [2019], MP Faiszer Mustapha announced that Muslim MP’s had unanimously decided on raising the minimum age of marriage to 18 years, among a few other amendments. While a positive sign, until and unless this rhetoric results in comprehensive law reform, they remain empty words.⁸⁶¹

Sri Lanka Brief noted in September 2019 that:

The all-male ACJU [All Ceylon Jamiyyathul Ulama – religious body of Islamic theologians] has also sidelined women’s voices in the efforts to reform the Muslim Marriages and Divorce Act (MMDA). MMDA is an archaic law which relentlessly discriminates against women in marriage and family relations. The efforts to reform MMDA have been ongoing for thirty years. In July, 14 [2019] proposed reforms on which Muslim MPs had reached an agreement and planned to advance for Cabinet approval, were made public. Following this, the ACJU threatened all elected Muslim members of parliament against reforming the MMDA and sabotaged the proposed Cabinet paper. The proposals included the raising of the age of

⁸⁵⁸ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Muslim women*, paras. 3.143-3.144

⁸⁵⁹ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁸⁶⁰ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁸⁶¹ Groundviews, [Long Overdue: Breaking down the minimum age of marriage in Sri Lanka](#), 15 July 2019

marriage for Muslim girls to 18, the requirement of registration of marriages, the requirement of the woman's signature on the marriage certificate, the requirement that all Quazis must be Attorneys-at-Law, and the recognition that women are eligible to become Quazis. Despite continued demands from Muslim women for reforms, the Government is yet to address the structural and legal discrimination of Muslim women.⁸⁶²

In January 2020 five Bills to amend the Muslim marriage laws to “make marrying off underage girls a criminal offence” were put before Parliament.⁸⁶³ Amongst the sources consulted for this report, no further information could be located as to the outcome of labeling these Bills.

b) Sexual harassment

The U.S. Department of State's annual report covering 2019 stated that “Sexual harassment is a criminal offense carrying a maximum sentence of five years in prison”.⁸⁶⁴

Groundviews reported in March 2019 that its suspicion was that “the police did not record statistics for street harassment”, which following its own investigation “proved to be partially correct”.⁸⁶⁵ It further asserted that “At present, those who file complaints, including around sexual abuse and violence, are met with a system that is not designed for, or responsive to their needs”.⁸⁶⁶

Oxfam released research findings in July 2019 on sexual harassment and found that “Despite the widespread prevalence of sexual harassment, Oxfam's research reveals that women are not only blamed for the harassment itself, but also criticized for complaining or causing a scene. Data from the UN shows that just 8 percent of women and girls in Sri Lanka seek help from law enforcement when facing sexual harassment on public transport, while 82 percent of bystanders say they rarely intervene when they witness abuse”.⁸⁶⁷ The same report further found that:

A major factor highlighted that prevents women and bystanders from reporting incidents of harassment was the complexity of the legal system. In one discussion about bystander intervention, some of the younger men shared that they choose not to intervene in part because they do not want to be drawn into further inquiries at the police station. Across all districts, participants reported feeling that the police are not helpful or supportive when complaints about SGBV on public transport are made to them. In addition, there were concerns around the practicality of being able to prove that an incident took place. Respondents stated that police often blame victims for SGBV, which further deters reporting

⁸⁶² Sri Lanka Brief, [Briefing Notes, Sri Lanka Briefing Notes, Issue No 16](#), September 2019, *Implications on Minorities*, p. 10

⁸⁶³ The Island, [Five Bills presented to Parliament to scrap Muslim marriage laws that permit matrimony of underage girls](#), 8 January 2020

⁸⁶⁴ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women*, p. 19

⁸⁶⁵ Groundviews, [Systemic Violence: Mapping Police Statistics On Sexual Abuse](#), 8 March 2019

⁸⁶⁶ Groundviews, [Systemic Violence: Mapping Police Statistics On Sexual Abuse](#), 8 March 2019

⁸⁶⁷ Oxfam, [Sexual harassment on public transport? “It's not my business to intervene” say urban commuters in Sri Lanka](#), 22 July 2019

Other factors raised included how the role of class and power dynamics affects how survivors and perpetrators would be perceived and treated by law enforcement and bystanders. For example, if the survivor was perceived to be from a higher class, then the police would be more helpful.⁸⁶⁸

c) 'Sexual bribery'

The Sri Lankan Independent published an article in December 2019 on the occurrence of 'sexual bribery' in particular in the North and East of the country.⁸⁶⁹ Priyantha Jayakody, Deputy Inspector General of Police, Crimes & Organized Crimes told the source that he had not received any complaints with regards to 'sexual bribery' in the North and East and further noted:

there are lacunas in the law, which, though adequate needs to be strengthened. In the more rural areas filing a complaint becomes difficult as the various bureaucrats band together. This is true when prosecuting cases too, he stated.

Moreover, owing to the lengthy legal process, and having to face perpetrators in the courts, women themselves shy away from lodging a complaint. Often, he points out, when the case comes up in court following a long lapse, and the victim refuses to appear, the AG advises that the case be dropped.⁸⁷⁰

The same article further stated:

The very many barriers that victims face, makes it extremely difficult to prosecute agrees Shyamala Gomez [Executive Director of the Centre for Equality and Justice]. Evidence gathering is problematic when the sexual solicitation takes on subtle forms, when victims feel guilty of having caved in, or in some instances where victims are asked to sign an affidavit, something they are not willing to do. The culture of impunity is still deeply embedded amongst society especially in the North and East states Saroor [Shreen Saroor, Women's Rights Activist] adding that women continue to feel fearful of going to the police. This is despite all of the police stations across the country being staffed with a children's and women's desk. The issue in the North and East says DIG Jayakody is that women police officers are not conversant in Tamil, and the translators are all men. That, says Saroor is a huge impediment, as the male translators attempt to interfere with the process.⁸⁷¹

d) Sexual violence, rape and domestic violence

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee provides the following information on the Prevention of Domestic Violence Act, N. 34 of 2005:

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

⁸⁶⁸ Oxfam, [Smashing Spatial Patriarchy, Shifting social norms driving sexual and gender-based violence on public transport in Sri Lanka](#), July 2019, Executive Summary, Influencing Factors, p. 5/6

⁸⁶⁹ See The Independent (Sri Lanka), [It's Time to Combat Sexual Bribery](#), 2 December 2019

⁸⁷⁰ The Independent (Sri Lanka), [It's Time to Combat Sexual Bribery](#), 2 December 2019

⁸⁷¹ The Independent (Sri Lanka), [It's Time to Combat Sexual Bribery](#), 2 December 2019

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. [...]

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. [...]

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.⁸⁷²

The U.S. Department of State's annual report covering 2019 provided the following overview regarding the legal framework and government's response to rape and domestic violence against women:

Rape and Domestic Violence: The law prohibits rape and domestic violence, but enforcement of the law was inconsistent. Section 363 of the penal code does not explicitly criminalize rape of men. Section 365 B (1), which is gender neutral, criminalizes "grave sexual abuse." The prescribed penalties for rape are seven to 20 years' imprisonment and a fine of at least 200,000 Rs (\$1,160). For domestic violence, a victim can obtain a protection order for one year and request a maintenance allowance. The law prohibits spousal rape only if the spouses are legally separated. Women's organizations reported police and judiciary responses to rape and domestic violence incidents and cases were inadequate. The police Bureau for the Prevention of Abuse of Women and Children conducted awareness programs in schools and at the grassroots level to encourage women to file complaints. Police continued to establish women's units in police stations. Services to assist survivors of rape and domestic violence, such as crisis centers, legal aid, and counseling, were generally scarce nationwide due to a lack of funding.⁸⁷³

Amnesty International in its review of 2019 noted that "Impunity for perpetrators of various forms of violence against women and girls persisted, and insufficient steps were taken to try cases of violence against women".⁸⁷⁴

In February 2019 the International Commission of Jurists submitted a report to the UN High Commissioner for Human Rights, which stated that:

Women are grossly under-represented in the justice sector in Sri Lanka. Only 23% of the judges in Sri Lanka are women. The principle of gender equality should guide all judicial appointments, and will be particularly important in any judicial mechanism implementing resolution 30/1. The leadership and genuine participation of women in the judicial mechanism would contribute not only towards integrating gender into the work, but it should also build confidence of women in civil society and female victims, resulting in their fuller engagement with and participation in this and other transitional processes. Establishment of an international judicial mechanism is particularly urgent for women in conflict-affected areas, especially those in the Northern Province who still live in a highly militarized environment and are compelled to live among their perpetrators --members of the military who have been accused of war

⁸⁷² UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, Paragraph 9: Violence against women, paras. 39-41

⁸⁷³ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women, p. 19/20*

⁸⁷⁴ Amnesty International, [Human Rights in Asia-Pacific: Review of 2019 - Sri Lanka](#), 30 January 2020, *Violence against women and girls*

crimes including rape and other forms of sexual violence. There have been reports of sexual harassment and demands for sexual bribery by military personnel, even after the war. This vulnerability to violence, coercion and harassment impacts other aspects of their lives including their freedom of movement and to pursue a means of living. These circumstances hold back women from pursuing prosecution against perpetrators of sexual and gender based violence for fear of reprisal and stigma.⁸⁷⁵

With special reference to a gang rape case, the Human Rights Litigation and International Advocacy Clinic submission to the UN Human Rights Committee noted:

As recently as October 11th, 2019, in a landmark case, the Sri Lankan Court of Appeals acquitted four soldiers who were convicted and sentenced for gang rape of a Tamil woman in 2015. Due to the threat to the victim's life since her rapists have been released, she left the country in November 2019.⁸⁷⁶

Also referring to this particular case, a joint statement by women's rights activist published in November 2019 noted their "continuing concern regarding two critical issues we face in Sri Lanka: the failures of the justice system in responding to grave acts of violence committed against women and other marginalized groups and persons, and high-level interventions to undermine and delegitimise the justice system even when justice has been done. The justice system in our country frequently fails women. Women and their families lose faith in the rule of law and the capacity of the legal system to deliver justice to citizens affected by violence. Yet a few recent decisions have been unprecedented in holding perpetrators to account for acts of violence against women. These include the Viswamadu rape case, the Royal Park murder case and the case against Ven. Galaboda Atte Gnanasara".⁸⁷⁷

Women and Media Collective's November 2019 statement provided the following information with regards to three related cases:

Viswamadu case

We wish to express our disappointment over the acquittal of the soldiers convicted in 2015 of the gang-rape of a Tamil woman in Viswamadu, Kilinochchi [...]

Galaboda Atte Gnanasara

Second, in August 2018, The Court of Appeal found Ven. Galaboda Atte Gnanasara guilty of Criminal intimidation and Contempt of Court under sections 346 and 486 of the Penal Code. He was sentenced to six years in prison. The incident in question related to Ven. Gnanasara walking into the Magistrate Court in Homagama during a hearing relating to the disappearance of journalist Prageeth Ekneligoda and insulting and intimidating both the presiding judge and Sandya Ekneligoda, a woman human rights defender and the wife of Prageeth. While The Court of Appeal decision related to the Contempt of Court case filed by the Magistrate at the time, it reiterated the guilty verdict given by the Magistrate Court of Homagama in June 2018 in a case filed by Sandya Ekneligoda. In May this year, President Maithripala Sirisena pardoned Ven. Gnanasara.

The Royal Park case

Today, it was reported that President Sirisena has granted a Presidential pardon to Shramantha Jayamaha, convicted and serving a life sentence for the brutal murder of Yvonne Jonsson at Royal Park complex in Colombo in 2005. Speaking at a youth convention on Sunday 20 October [2019], the President called the brutal murder "an incident of impatience".

⁸⁷⁵ International Commission of Jurists, [Written statement to the UN High Commissioner for Human Rights](#), 14 February 2019

⁸⁷⁶ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Equal Rights of Men and Women (Article 3)*, p. 6

⁸⁷⁷ Women and Media Collective, [Statement: Women's rights activists respond to recent events in relation to women and justice in Sri Lanka](#), 9 November 2019

We feel this is unacceptable. It is shocking that the President of the country considers the brutal murder of a young woman, by someone who knew her, “an incident of impatience”. The President describes it as a response to “to an argument with the girl” and said that ‘the girl’ “ended up being killed.”

We know from credible reports and evidence from the court case that Jonsson was violently assaulted and killed. We also know from her sister’s most recent public statement, as is often the case with perpetrators of violence against women, that he had an established history of controlling and violent behaviour. The President describes the perpetrator as a “child in prison”, blatantly trivializing this gross act of violence by a young man. The age of adulthood in this country is 18 years.

The President also said, “Today, that boy has done a doctorate as well... The party of the child who is in prison over the Royal Park incident has requested me to release him under a presidential pardon... he has served his term on good behaviour.” [...]

We know from statements over the years that Jayamaha’s powerful and influential family has made several attempts to threaten and intimidate Jonsson’s family. The manner in which the President is responding to this brutal murder, ignoring the decision from the highest court of the land, the Supreme Court, sends the message that the law of the land does not apply to influential and powerful people.⁸⁷⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Sexual harassment of women is common, particularly on public transport, but is rarely reported [...]

Anecdotal evidence suggests that victims of sexual violence are reluctant to report the matter to the police due to social stigma and out of fear they would be ostracised by their families and have difficulty marrying if the matter became widely known. According to police statistics, 345 cases of rape of women over 16 years were recorded in 2018, an increase from 2017 (294 cases). Sources told DFAT that police are not adequately trained in collecting evidence in cases of sexual assault, and lack rape kits for evidence collection [...]

According to the UN Committee on the Elimination of Discrimination against Women, most cases of gender-based violence are likely to go unreported due to inadequate legislation, women’s limited access to justice, fear of reprisals, limited trust in the police and judiciary, delays in the investigation of cases and very low conviction rates. Sources told DFAT that domestic violence was being reported more frequently today, but remained underreported overall. Reporting and seeking legal recourse for domestic violence is considered socially and culturally taboo. Instances of domestic-based violence are therefore under-reported. Domestic violence is often seen as a normal part of married life, and sources told DFAT that women are expected to tolerate abuse by their husbands. Women are reluctant to have their partners prosecuted and incarcerated as this would carry social stigma and have an adverse economic impact. Economic dependence meant women often had little choice but to persevere in relationships with domestic violence and abuse. Local sources told DFAT that language barriers are a major deterrent to non-Sinhala speaking women reporting gender-based violence to the police, particularly in the north and east (most police are Sinhala speakers).⁸⁷⁹

The same report further noted:

Very few police officers are female. Thirty-six police stations across Sri Lanka have ‘Women and Child Bureaus’, but local sources claim there are not enough female officers to staff the bureaus, reducing the ability of women to report crimes and seek support.⁸⁸⁰

⁸⁷⁸ Women and Media Collective, [Statement: Women’s rights activists respond to recent events in relation to women and justice in Sri Lanka](#), 9 November 2019

⁸⁷⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women*, paras. 3.124 and 3.125

⁸⁸⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Police*, para. 5.11

With special reference to the experience of being able to access protection for women living in the north and east of Sri Lanka the DFAT report stated:

A local source told DFAT that more opportunities exist today for women in the north and east to report gender-based violence but – consistent with the broader national trend – slow judicial processes and, in particular, cultural and social attitudes act as deterrents. For Tamil-speaking women in the north and east, language is an added barrier to women seeking state protection against domestic violence. While the government has made attempts to recruit more Tamil-speakers, most police officers in the north and east are not proficient in Tamil. According to local sources, there are few Tamil-speaking female police officers trained to respond to gender-based violence, and Women’s and Children’s desks at police stations in the north are often attended by Sinhala-speaking male officers. One source told DFAT that police sometimes solicit sexual favours from women who report complaints.⁸⁸¹

e) Female Genital Mutilation/Cutting (FGM/C)

The U.S. Department of State’s annual report covering 2019 noted that in relation to FGM “In May 2018 the director general of health services from the Ministry of Health issued a circular prohibiting medical practitioners from carrying out FGM, but FGM/C itself is not criminalized”.⁸⁸² In response to this circular it further noted that “The recent Sri Lankan Ministry of Health circular emphasising the harmful nature of FGM has been met with resistance, with some Muslims stating this is an infringement on their religious rights and freedoms and an attempt to “discredit and marginalize the Muslim community” [...] Furthermore, the practice has been justified on the grounds that it is no different than male circumcision, not the same as the practice performed in some African nations – namely, type II and III – and can safely be provided by health professionals in hygienic conditions”.⁸⁸³

According to a March 2020 Orchid Project report, an international organization working towards ending female genital cutting:

Responses from Sri Lanka note that rising nationalism and fear following the 2019 Easter terrorist attacks have created a rising climate of intolerance towards Tamils and Muslim minorities, some of which practice FGM/C. Participants stressed that as a result of this climate, they are working cautiously and sensitively at very local levels. Further responses broadly note that security threats exist from governments, tribal leaders, religious clerics, and from extremist groups who oppose women’s empowerment. Types of threats or reprisals feared by participants for working on FGM/C

- Threats to economic security or social standing [...]
- Restricting freedom of movement
- Public backlash against activists.⁸⁸⁴

⁸⁸¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Conditions for women in the north and east*, para. 3.134

⁸⁸² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Women*, p. 20

⁸⁸³ Dawson, A., Rashid, A., Shuib, R., Wickramage, K., Budiharsana, M., Martua Hidayana, I., and Marranci, G., [Addressing female genital mutilation in the Asia Pacific: the neglected sustainable development target](#), 2020 Vol. 44, No. 1, Australian and New Zealand Journal of Public Health, p. 9

⁸⁸⁴ Orchid Project, [Asia Network to End Female Genital Mutilation/Cutting \(FGM/C\) Consultation report, “I didn’t know it happened there”](#), March 2020, *Safety, Security and Support Networks*, p. 27

f) Shelters for victims of SGBV

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee noted that the Ministry of Women and Child Affairs 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”.⁸⁸⁵

In relation to shelters and other support services available, the November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) stated:

The police have established Women’s and Children’s Desks at some police stations and hospitals, including in Tamil-populated areas. The Ministry of Health, in partnership with non-government organisations, maintains district hospital-based medical services for sexual assault victims. Local sources told DFAT that state-provided support services for women had improved, but gaps remained, which often had to be filled by NGOs. [...]

NGOs like Women In Need and the Women’s Action Network provide free psychological counseling and legal advice and shelter services to victims of gender-based violence. Women In Need operates a 24-hour hotline, available in Sinhalese, Tamil and English. Women In Need and the Women’s Action Network have a countrywide presence, including in the Northern and Eastern provinces. While NGOs are increasingly active in this space, non-state support services for victims of gender-based violence are scarce and lack funding overall. [...]

There are five women’s shelters in all of Sri Lanka, including one in the Northern Province (in Jaffna, operated by Women In Need). The shelters are unmarked. According to sources, the women’s shelter in Jaffna contains six rooms and can accommodate a maximum of 30 women (when the shelter is full, women are referred to an alternative safe space). Women can stay in the shelter for a maximum of three months. Children up to the age of five are allowed to stay with their mothers in the shelter; those older than five are sent to a children’s home or placed under the care of other family members. This forced separation from one’s children was cited by local sources as a major deterrent to women seeking shelter. The scarcity of women’s shelters was seen as a major gap by sources. Local sources told DFAT that police and judicial responses to gender-based violence were inadequate and, where instances of domestic violence were reported, women were often told to return to their partners and resolve the matter within the family unit.⁸⁸⁶

The same report noted with regards to women living in the north and east of Sri Lanka and their access to shelters and services:

Support services – state and non-state – are available for women in the north and east, but are generally not considered adequate. Tamil-speaking officers dedicated to women’s affairs are attached to Divisional Secretariats, and provide counselling and other support services. Sources told DFAT that support services for women in the Northern Province were being provided primarily by NGOs, who had to cover large geographic areas yet lacked resources. A source in the Eastern Province told DFAT that support services

⁸⁸⁵ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, *Paragraph 9: Violence against women, para. 37*

⁸⁸⁶ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, paras. 3.126-3.128*

for women there compared favourably to – and in some cases were even superior to – those services available in Colombo.⁸⁸⁷

iii. Situation of female headed households

According to the report by the Independent Expert on the ‘effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights’, following his visit to Sri Lanka in September 2018, “According to the United Nations Sustainable Development Framework for 2018–2022, a quarter of Sri Lankan households are headed by women”.⁸⁸⁸

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee provide the following information with regards to the government’s approach in relation to ‘female-headed households (FHHs)’ in the North and East of Sri Lanka:

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.⁸⁸⁹

The Independent Expert on the ‘effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights’, following his visit to Sri Lanka in September 2018, expressed his concern at the “significant rise in the value added tax rate, given that the brunt of taxes of this type is often borne by the poorest [...] Regressive tax measures can particularly affect the livelihoods of women, especially those who are living in poverty, since it will most heavily affect women and reproduce inequality, while also failing to substitute for the revenue lost through tax evasion and avoidance”.⁸⁹⁰

⁸⁸⁷ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Conditions for women in the north and east*, para. 3.135

⁸⁸⁸ UN Human Rights Council, [Visit to Sri Lanka, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, on his visit to Sri Lanka](#), 17 January 2019, III. Macroeconomics, finance and human rights, para. 13

⁸⁸⁹ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, Paragraph 9: Violence against women, para. 47

⁸⁹⁰ UN Human Rights Council, [Visit to Sri Lanka, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, on his visit to Sri Lanka](#), 17 January 2019, III. Macroeconomics, finance and human rights, B. Economic reform programme, 1. Fiscal reform, public expenditure and social spending, para. 26

The same report further highlighted the ‘human rights impact of loan practices on borrowers’ and particularly how it affected women:

The Independent Expert learned that while the universe of borrowers is broad, women in poor or war-affected areas are specifically targeted by microfinance financial [...] Given that lenders do not follow any particular guidelines to assess the credit risks of loans, combined with the usurious terms often applied, a very high number of women default on their debts and become trapped in an exploitative financial system [...]

While the objective of the microfinance system has been to lift people out of poverty by allowing them credit to sustain their livelihoods, it has also been observed that, in actual fact, some institutions generate huge profits by putting enormous pressure on poor borrowers, and on women in particular. Although some women seek loans to build a business, many of them do not succeed in their projects – which is not surprising, given the lack of an enabling environment for micro and small enterprises (such as extremely high interest rates), coupled with very modest economic growth. Other women seek loans to cover the basic consumption needs for their families. Others borrow to pay off previous loans. It is common to see women owing multiple loans to different lenders at the same time [...]

Reportedly, collectors go to women’s houses to be paid, sometimes on a daily basis, and even stay for hours until they are. Women are at times exposed to psychological and physical violence by collectors. It was also brought to the Independent Expert’s attention that, in some cases, women were pressured by collectors to exchange “sexual favours” for instalments [...] and that some women borrowers even offered to sell their kidneys to repay loans [...]

Reports also indicate that some women leave their villages, while others suffer domestic violence as a punishment for “contract breach”, or have to work much harder and more hours to earn sufficient money to repay their debts. Cases of suicide have also been reported.⁸⁹¹

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted with regards to women living in the north and east of Sri Lanka “DFAT is aware of reports of women living near military bases, particularly single women, reporting sexual harassment by military personnel. DFAT is unable to verify these claims. One local source told DFAT that sexual harassment in these circumstances was not prevalent”.⁸⁹²

The same report provided the additional information on female-headed households:

High male death rates during the war have left a large number of female-headed households in Sri Lanka. The latest Household Income and Expenditure Survey (2016) estimates 1.4 million female-headed households in Sri Lanka (representing 25.8 per cent of the population), mostly in the north and east. The definition of a female-headed household in Sri Lanka varies, but can include war widows, never married, disabled and elderly women, and family members of the missing or disappeared. [...]

Female-headed households are vulnerable to poverty, gender-based violence and sexual exploitation, and face obstacles to accessing services and employment opportunities. Anecdotal evidence suggests female-headed households are at greater risk of mental illness. Government agencies and domestic and international NGOs provide some livelihood, housing and psychosocial support to female-headed households, but local sources claim that on-the-ground support is minimal and under-resourced. The Sri Lankan Government approved a national policy on women-headed households and associated national

⁸⁹¹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights, on his visit to Sri Lanka](#), 17 January 2019, VI. Microcredit and human rights, B. Human rights impact of loan practices on borrowers, paras. 76-80

⁸⁹² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Conditions for women in the north and east*, para. 3.131

action plan in 2016, with the objective of strengthening protection, livelihood development and support services for female-headed households. Sources told DFAT that indebtedness was a growing problem among female-headed households: having lost the main breadwinner in the family, female-headed households were preyed upon by loan providers and entered into loans they could not repay. According to local sources, indebted female-headed households are at greater risk of mental illness and suicide. [...] The government runs economic empowerment projects for female-headed households, helps this cohort secure loans and provides some debt relief. A National Centre for the Empowerment of Widows and Women Headed Families was established in Kilinochchi in November 2015 and functions as a resource centre for female-headed households in the north and east. The Centre includes women development officers and counsellors. Observers have criticised many home-based income generation programs for female-headed households for failing to match market needs. While they are available, sources considered support services for female-headed households insufficient. Sources in the north claimed that military widows received more state support than LTTE war widows. [...]

Women reported difficulties in gaining access to government services targeting female-headed households, due to a lack of awareness and to experiences of harassment and exploitation when seeking services. The social stigma of widowhood also reportedly impedes access to government and nongovernment services. The UN Special Rapporteur on minority issues assessed that war widows, female family members of the disappeared and female activists who advocate on behalf of other women faced particular risks. Some women reported requests for money or sexual services from officials in exchange for information on missing family members or, in the case of Sinhalese war widows, government benefits for their deceased husbands' military service. The UN Special Rapporteur cited allegations that members of the Police Criminal Investigation Department intimidated and harassed these groups of women, particularly those connected to former LTTE members. [...]

According to local sources, there is social stigma attached to single women in Sri Lanka. Traditional attitudes dictate that women marry by a certain age and bear children, and aspersions are cast on those women who fail to meet – including by choice – these societal expectations. Anecdotal evidence indicates stigma is attached to widows within the Tamil community. Conservative Hindus consider widows “bad luck”, leading to ostracism in some cases [...]

Local sources told DFAT that female former LTTE combatants faced particular hardships, including in relation to finding employment and marriage partners. Anecdotal evidence suggests female former LTTE combatants are viewed with suspicion within their communities, and there is a societal perception that they were the subject of sexual violence during the war.⁸⁹³

With special reference to what is happening in Batticaloa suburb, Tamil Net reported in May 2020:

There have been allegations of soldiers of the occupying SL Army's 231 Brigade Headquarters at Kalladi sexually abusing Tamil women for some time. In recent weeks, the issue has become a menace of increasing threat, community leaders in the area complain, on condition of anonymity. The SLA soldiers, who are predominantly Sinhalese, exploit the poverty-stricken families by providing minor jobs and seeking the households. Higher ranking officers and commanders are also involved in the exploitation, and some women are taken to the military quarters and abused by more than two or three soldiers during the nights, reliable sources said. The soldiers have started to collect details of female-headed households triggering widespread fear, the sources further said.⁸⁹⁴

⁸⁹³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Female-headed households*, paras. 3.136-3.141

⁸⁹⁴ Tamil Net, [SL Army's 231 Brigade sexually abuses Tamil women in Batticaloa suburb](#), 30 May 2020

g. Situation of Children

i. Overview

Save The Children ranks Sri Lanka 56 out of 176 countries in its '2019 End of Childhood Index'.⁸⁹⁵ The Index reflects the average level of performance across a set of eight indicators related to child health, education, labour, marriage, childbirth and violence.⁸⁹⁶

UNICEF reported in January 2019 that:

[...] children around the country still need support to fully realize their rights and unlock their vast potential. Pockets of extreme poverty continue to exist, particularly in the North, East, hill country and some urban areas. Vulnerable communities still face the challenges of infant and under-five mortality, undernutrition and unequal access to preventative and curative health services. Instances of violence, abuse and exploitation still disturb communities, institutions and homes because poor awareness coupled with a scarcity of coordinated, well-resourced and readily-available child protection services make it hard for children to go about their lives free from fear or discrimination.⁸⁹⁷

The CIA World Factbook noted that 23.11% of the population are 1-14 years old; and 20.5% of children under the age of 5 are classified as underweight.⁸⁹⁸ UNICEF similarly reported in February 2020 that "In Sri Lanka, 17 per cent of children under the age of 5 years are stunted, and this reaches 22 per cent among those who are 2 years of age".⁸⁹⁹

The same UNICEF report stated that:

Sri Lanka ranks 68 in a new global index of 180 countries, comparing performance on child flourishing, estimated using measures including child survival and well-being, such as health, education, and nutrition; sustainability, using greenhouse gas emissions as a proxy, and equity indicated by country income gaps. [...] Sri Lanka's ranking represents the substantial progress the country has made in advancing child and maternal survival including greater access to health services and a drastic reduction of mortality rates for children under 5, while also achieving almost universal primary school attendance for boys and girls across the country.⁹⁰⁰

Despite improvements, UNICEF, in an additional report also published in February 2020, noted that:

While the lives of children have improved significantly over the past decades in Sri Lanka, the majority of them are living in low-income families and, as a result, face challenges in accessing adequate, nutritious food and a good home learning environment. The current social protection system is not fit for purpose to address the needs of children.⁹⁰¹

⁸⁹⁵ Save the Children, [Changing lives in our lifetime: Global Childhood Report 2019](#), May 2019, p. 49

⁸⁹⁶ Save the Children, [Changing lives in our lifetime: Global Childhood Report 2019](#), May 2019, p. 49

⁸⁹⁷ UNICEF, [The Situation of Children in Sri Lanka](#), 17 January 2019

⁸⁹⁸ CIA World Factbook, [Sri Lanka: People and Society](#), last updated on 20 May 2020 [Last accessed: 2 June 2020]

⁸⁹⁹ UNICEF, [Investing in the future: children](#), February 2020, p. 4-5

⁹⁰⁰ UNICEF, [Sri Lanka ranks 68 out of 180 in a new global 'child flourishing' index](#), 20 February 2020

⁹⁰¹ UNICEF, [Investing in the future: A universal benefit for Sri Lanka's children](#), February 2020

ii. Access to education

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview of the education system in Sri Lanka:

Sri Lanka has a free primary to tertiary education system (up to the undergraduate level). This has enabled Sri Lanka to achieve universal access to education at the primary level (99 per cent enrolled, with a completion rate of 95 per cent) and high enrolment at the secondary level (89 per cent). An equal proportion of boys and girls are enrolled in primary education, with girls slightly outnumbering boys at the secondary level. Education is compulsory up to 16 years of age. According to the UNDP, Sri Lankans, on average, spend 13.9 years in school. Sri Lanka's literacy rate is 91.2 per cent. The literacy rate for those aged 15-24, at 98 per cent, is the highest in the region. Public primary and secondary schooling is of a high standard, although education outcomes are worse in the north and east [...]

2.22 Students can choose to be educated in either Sinhala or Tamil, and all students study English from grade one. A lack of Tamil-speaking teachers hinders access to Tamil-language education, and limited numbers of Sinhala- and English-speaking teachers in the north and east also affect education and employment options. To help address this, the government allocated LKR400 million (approximately AUD3.3 million) in the 2019 budget for Tamil-language teacher training. Muslims can choose to attend Islamic schools (madrassas), which follow the national curriculum but include dedicated religious tuition. Following the 2019 Easter Sunday terrorist attacks, the government announced it would regulate madrassa schools that do not follow the national curriculum. [...]

University entrance in Sri Lanka is merit-based, with entrance scores modified to take account of a district's socioeconomic indicators. Demand for university places far outstrips supply.⁹⁰²

UNICEF reported in January 2019 that:

Today, Sri Lanka's preschool sector is largely unregulated. Many children do not receive the quality preschool education they need to enter primary schools and ultimately succeed in their lives. Curricula needs standardizing and updating, and their implementation needs support. Teachers need training in age-appropriate delivery methods that develop students' motoric, socio-emotional and cognitive competencies in preparation for school life. The Early Childhood Development Standards (ECDS), which provide a holistic vision of the skills and knowledge that pre-school children require, needs to be implemented universally.

As children pass through middle childhood and adolescence [...] In certain pockets of poverty, particularly in the tea-estate areas and in former conflict-affected areas of the North and East, levels of learning remain low.⁹⁰³

Save the Children noted in February 2019 that:

Around 10% of Sri Lanka's population are under the age of 5, according to the Department of Census and Statistics (2017). World Bank states that there are 29,340 ECD teachers in the country and has invested around 50 million USD in construction and upgrading of ECD centers. However, the key gap in early learning that UNICEF identified is the poor quality of pre-schools which are mainly in the private sector and are functioning without proper regulation.⁹⁰⁴

⁹⁰² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Education*, paras. 2.21-2.23

⁹⁰³ UNICEF, Sri Lanka: [Education](#), 17 January 2019

⁹⁰⁴ Save the Children, [Male Engagement in Early Childhood Education](#), 5 February 2019

The CIA Factbook noted that school life expectancy (total number of years of schooling (primary to tertiary) that a child can expect to receive) stands at 14 years.⁹⁰⁵

Groundviews reported on madrasah schools in Sri Lanka in May 2019:

The perception of the many when considering the recent growth of madrasahs points to their fear of supposed Arabization or Islamization of Muslim society. Contrarily, the reality is that quite a lot of Muslim children particularly in urban areas hail from poor families and due to living in rented residences do not get government school admissions owing to very high competition. In Colombo alone, according to studies, nearly 5,000 children do not get admission to government schools. As a result, a sizable number of Muslim children are forced to go to mediocre international schools or madrasahs as a last choice or end up receiving no formal education. Often these children, quite a lot of them attend international schools or end up as dropouts due to the inability to pay academic fees. Those going to madrasahs too end up as dropouts due to access and poor quality of education. The successive governments have failed to respond to this problem that is threatening communities and the nation at large by failing to equip the citizens befittingly.⁹⁰⁶

Human Rights Watch noted in May 2019 that “Sri Lanka, and Sudan- have included commitments to refrain from all military use of schools as part of ceasefire or peace agreements between the government and domestic armed non-state actors”.⁹⁰⁷

Groundviews reported in July 2019 that “Sri Lanka’s entire system of education, at pre-school, primary, secondary and tertiary levels, has been facing multiple crises”.⁹⁰⁸ This includes:

- [...] The ever-increasing social demand for school, tertiary and higher education continues to remain only partially met. [...]
- Progressive decline of the quality and standards of education provided at all levels in the state sector [...]
- Poor nutritional conditions among the school children, particularly due to increasing economic hardships experienced by the low income and lower middle class families, is a forgotten policy issue. [...]
- Improvements in school education are severely hampered by the state of stagnation in professionalism among most of the schoolteachers in their teaching, training, evaluation and mentoring skills.⁹⁰⁹

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted further “Rural and former war-affected areas have few well-resourced schools, and access to education can be difficult for children from lower caste groups”.⁹¹⁰

In January 2020, the Human Rights Litigation and International Advocacy Clinic of the University of Minnesota Law School submitted a report to the UN Human Rights Council and stated:

⁹⁰⁵ CIA World Factbook, [Sri Lanka: People and Society](#), last updated on 20 May 2020 [Last accessed: 2 June 2020]

⁹⁰⁶ Groundviews, [Madrasahs, Extremism and National Security](#), 13 May 2019

⁹⁰⁷ Human Rights Watch, [Protecting Schools from Military Use: Law, Policy, and Military Doctrine](#), May 2019

⁹⁰⁸ Groundviews, [Addressing the Multiple Crises in Sri Lankan Education: For the Attention of Candidates in the Presidential Election 2019](#), 11 May 2019

⁹⁰⁹ Groundviews, [Addressing the Multiple Crises in Sri Lankan Education: For the Attention of Candidates in the Presidential Election 2019](#), 11 May 2019

⁹¹⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Children*, para. 3.158

In its 2019 report, the [Sri Lankan] State did not specifically address the Committee’s concerns regarding the limiting of children’s access to schools based on their religious affiliation. The State did note that “[a]pproximately 271 radio programmes [had] . . . been conducted for school children on language proficiency in encouraging bilingualism,” but this did not address how the State was acting to ensure that Muslim children were able to access schools. [...]

Ongoing school segregation based on ethno-religious identity discriminates against Muslim children. The Special Rapporteur on freedom of religion reported in August 2019 that this issue continues to be relevant “where the intake of students from different religious communities is not based on a fair quota system.”[...] There is concern among Sri Lankans that such disparities are actually fostering a new generation of anti-Muslim sentiments by excluding Muslim students. Specifically, Muslim girls are frequently discriminated against within education institutions. Muslim girls attending non Muslim schools are frequently given the ultimatum of removing their shawl or pants to enter the school or to leave and enroll into a Muslim-specific school. To this date, there are incidents reported that Muslim students are harassed for wearing hijabs when they sit for public exams.⁹¹¹

The Human Rights Commission of Sri Lanka stated in March 2020 that “The current segregation of schools along ethnic/linguistic and religious lines has compelled our children to grow up in ethno-religious isolation, laying a strong foundation for communal suspicion and divisions. We recommend an integrated school system which exposes all children to the rich heritage of religious, linguistic and cultural diversity of Sri Lanka, Children must be taught the philosophical foundations of all major religions. School curricula must be designed to impart a cosmopolitan education that prepares all children to live in a diverse society that celebrates pluralism”.⁹¹²

The U.S. Department of State found in its annual report on human rights covering events of 2019, that “Children with disabilities attended school at a lower rate than other persons”.⁹¹³

iii. Use of corporal punishment

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Sri Lanka enacted the Corporal Punishment (Repeal) Act in 2005, which repealed the Corporal Punishment Ordinance. While corporal punishment is illegal, ambiguous provisions in the Penal Code mean few offenders are charged. Administrative circulars issued by the Ministry of Education – first in 2005 (Circular No.17) and most recently in 2016 (Circular No.12) – prohibit the use of corporal punishment in schools, although, in practice, it continues to be used. The Ministry delivers training programs for teachers on non-violent methods of discipline. Sri Lanka accepted a recommendation to prohibit corporal punishment in all settings as part of its 2017 Universal Periodic Review.⁹¹⁴

In a report of December 2019, the Global Initiative to End Corporal Punishment noted that:

⁹¹¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka, 128th Session of the UN Human Rights Committee Geneva, March 2-27, 2020](#), 13 January 2020

⁹¹² Human Rights Commission of Sri Lanka, [STATEMENT ON THE REPORT OF THE SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION OR BELIEF ON VISIT TO SRI LANKA UN HUMAN RIGHTS COUNCIL](#), 2 March 2020

⁹¹³ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 7. Worker Rights

⁹¹⁴ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Corporal Punishment*, para. 4.40

Sri Lanka expressed its commitment to prohibiting all corporal punishment of children, including in the home, at the July 2006 meeting of the South Asia Forum, following the 2005 regional consultation of the UN Study on Violence against Children. This commitment was reiterated during the Universal Periodic Review of Sri Lanka in 2017, during which Sri Lanka clearly accepted a recommendation to prohibit corporal punishment in all settings. Sri Lanka is a Pathfinder country with the Global Partnership to End Violence Against Children, which was established in 2016. [...]

Prohibition is still to be achieved in the home, alternative care settings, day care, schools and some penal institutions. Article 82 of the Penal Code 1883 states: “Nothing, which is done in good faith for the benefit of a person under twelve years of age, or, of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause/or be intended by the doer to cause, or be known by the doer be likely to cause, to that person....” Illustration (i) of the offence of “criminal force” (article 341) states that a schoolmaster who flogs a students is not using force illegally. Article 71(6) of the Children and Young Persons Ordinance 1939 recognises “the right of any parent, teacher or other person having lawful control or charge of a child ... to administer punishment to him”. The near universal acceptance of corporal punishment in childrearing necessitates clarity in law that no level of corporal punishment is acceptable or lawful. These provisions should be repealed and prohibition enacted of all corporal punishment and other cruel or degrading forms of punishment, in the home and all other settings where adults have authority over children.⁹¹⁵

The Colombo Telegraph reported in February 2020 that:

A 13yr old female student from Gampaha District desperately appealed to ban the sale of canes in Sri Lanka because every class in her school has a cane, which is put to maximum use at every lesson of every day. [...]

A Study on Child Disciplinary Methods Practiced in Schools in Sri Lanka conducted by National Child Protection Authority (NCPA) in 2017 revealed that 80.4% of students reported having experienced at least one episode of corporal punishment, 53.2% of students reported having experienced at least one episode of physical abuse and 72.5% of students reported having experienced at least one episode of psychological aggression in the past term. [...].⁹¹⁶

iv. Child labour

On 2 April 2019, the government of Sri Lanka responded to the list of issues in relation to the report submitted by Sri Lanka under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:

The Department of Labour in Sri Lanka is vested with the responsibility of assisting persons who become victims of labour law violations including child labour. This government institution provides opportunity for the public to lodge their complaints, and provides legal assistance when and where necessary. Cases related to child labour are investigated with the support of officers of the Sri Lanka Police, the relevant Probation Officers and Labour Officers. Findings of the investigations and any follow-up action taken are then reported to the Commissioner of Labour (Women and Children’s Affairs) of the Department of Labour. Accordingly, the data available at the Department of Labour are as follows:

⁹¹⁵ Global Initiative to End Corporal Punishment, [Corporal punishment of children in Sri Lanka](#), December 2019

⁹¹⁶ The Colombo Telegraph, [Child Protection In Sri Lanka Is A National Crisis](#), 27 February 2020

(i)127 (in 2018) and 37 (in 2019) child labour complaints have been investigated during the period 01.01.2018 to 01.03.2019 [...].⁹¹⁷

The U.S. Department of State found in its annual report on human rights covering events of 2019, that:

The minimum age for employment is 14, although the law permits the employment of younger children by their parents or guardians in limited family agricultural work or technical training. The government increased the compulsory age of education from 14 years to 16 years in 2016. The law prohibits hazardous work for persons younger than 18. The law limits the working hours of children ages 14 and 15 to nine hours per day and of ages 16 and 17 to 10 hours per day. The government estimated less than 1 percent of children—approximately 40,000—were working, although employment was often in hazardous occupations. The government currently classifies 51 activities as hazardous.

The government did not effectively enforce all laws, and existing penalties were not sufficient to deter violations.

The Labor Ministry made some progress in implementing its plan to eliminate the worst forms of child labor. The government appointed district coordinators with responsibility of reducing child labor in all 25 districts and provided new guidelines for district officials. The Department of Labor continued its efforts to monitor workplaces on the list of hazardous work for children.

According to the *Child Activity Survey of 2016* published in February, children worked in the construction, manufacturing, mining, and fishing industries and as cleaners and helpers, domestic workers, and street vendors. Children also worked in agriculture during harvest periods. Children displaced by the war were especially vulnerable to employment in hazardous labor.

The list of hazardous work prohibited for children younger than 18 does not include domestic labor. This left children employed as child domestic workers vulnerable to physical, sexual, and emotional abuse. Family enterprises, such as family farms, crafts, small trade establishments, restaurants, and repair shops, commonly employed children. Criminals reportedly exploited children, especially boys, for prostitution in coastal areas.⁹¹⁸

v. Female genital Mutilation / Cutting

For further information on how FGM/C affects women and their access to state protection see sections [V.f.i.e\) Female Genital Mutilation/Cutting \(FGM/C\)](#) and [V.f.ii.e\) Female genital Mutilation/Cutting \(FGM/C\)](#).

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted further:

According to local sources, female genital circumcision is prevalent within the Muslim community. The form of female genital cutting undertaken in Sri Lanka fits the WHO definition of mutilation, and is performed on girls from a few months old up to the age of seven years. Muslim community sources told DFAT that female genital circumcision is performed primarily in the home, 40 days after birth. In 2018, the Ministry of Health issued a circular prohibiting medical practitioners from performing female genital

⁹¹⁷ UN Committee of the Rights of the Child, [List of issues in relation to the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Replies of Sri Lanka to the list](#), 2 April 2019

⁹¹⁸ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 7. Worker Rights

cutting, although the practice is yet to be criminalised. In any case, sources claim that the procedure is normally performed by female Muslim elders (aged over 70), rather than medical professionals.⁹¹⁹

The End FGM European Network noted in a report published in March 2020 that there is “No specific law against FGM/C” in Sri Lanka.⁹²⁰ The report noted that “FGM/C is known to occur among the Moor, Malay, and Bohra communities in Sri Lanka. No prevalence estimates are available. The type of FGM/C practiced is usually Type I/Type IV FGM/C (cutting/pricking of the clitoral hood and/or clitoris)”.⁹²¹

vi. Child marriage and child rape

For further information on the Muslim Marriage and Divorce Act see sections [V.f.i.a\) Discrimination](#) and [V.f.ii.a\) Discrimination](#).

In June 2019, UN News reported that:

The scale of Sri Lanka’s child sex tourism industry has reached such worrying proportions that the authorities should take action immediately, UN-appointed independent rights experts said [...] noting that some impoverished parents are being forced to “sell” their children.

In an interview with UN News’s Daniel Johnson, veteran member of the Committee on the Rights of the Child, Renate Winter, said that the scourge was “very widespread”, particularly in the north of the country.⁹²²

Groundviews noted in July 2019 that “Sri Lanka is a party to the Convention on Rights of the Child (CRC) and Convention for Elimination of All forms of Discrimination Against Women (CEDAW)”. The report outlined the minimum age of marriage in Sri Lanka:

As evidenced by many cases around Sri Lanka of young Muslim brides abandoned, divorced or forced into polygamous relationships after being married as minors – child marriage with or without legal loopholes will not protect the rights of children, no matter how it is articulated otherwise. [...]

in 1995 the Penal Code was also amended raising the age of sexual consent from 12 years (previously) to 16 years given that this was the age at which individuals had the freedom to make decisions on education (de Silva 2009). Hence since 1995, under Section 363 of the Penal Code, sexual intercourse with a girl below the age of 16 is a criminal offence, however this provision exempts married Muslim girls between 12 and 16 years of age. [...]

the key difference is that in the Muslim community, it is legal and State has not taken any action in this regard, whereas in other communities the State agencies, social workers and civil society actors are actively working to eliminate the practice in the interest of the children and rightly so.

While the battle is fought within the Muslim community – between affected women supported by community groups, activists as well as a large number of women and men seeking reform, and the conservatives – the State continues to absent itself from these conversations. Up until July 2019, not a single Muslim and very few non-Muslim politicians have come forward publicly on the matter. Nor have

⁹¹⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Children*, para. 3.162

⁹²⁰ End FGM European Network, [Female Genital Mutilation/Cutting: A Call for a Global Response](#), March 2020, Map 6

⁹²¹ End FGM European Network, [Female Genital Mutilation/Cutting: A Call for a Global Response](#), March 2020, Map 6

⁹²² UN News, [Sri Lanka child sex tourism ‘very widespread’, warns UN rights panel](#), 6 June 2019

agencies like the National Child Protection Authority (NCPA) or the Human Rights Commission (HRC) made any acknowledgement of or desire for action despite it being a child rights and human rights issue. On July 12, MP Faiszer Mustapha announced that Muslim MP's had unanimously decided on raising the minimum age of marriage to 18 years, among a few other amendments. While a positive sign, until and unless this rhetoric results in comprehensive law reform, they remain empty words.⁹²³

The UN Committee on the Rights of the Child found in their Concluding Observations about the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, published in July 2019, that:

The Committee is seriously concerned that, despite the minimum marriage age of 18 years set by law, child marriage remains prevalent in the State party and may in some circumstances be tantamount to the sale of children.⁹²⁴

The same UN Committee on the Rights of the Child report noted that:

The Committee welcomes the State party's commitment to eradicate the sexual exploitation of children in travel and tourism by 2020. In addition, it notes the State party's initiatives to address the sexual exploitation of children in travel and tourism, in particular national consultations on advancing responsible business practices in that connection and zero-tolerance programmes for foreigners in the areas of Bentota and Kalutara. However, the Committee is seriously concerned that:

- (a) There are allegations that boys are increasingly victims of sexual abuse and exploitation in the context of travel and tourism;
- (b) The State party has not sufficiently engaged with and regulated the private sector, especially the travel, hotel and tourism industry, to prevent and combat child sex tourism, including prevention, monitoring and reporting of cases of the sexual exploitation of children;
- (c) There is a lack of data to assess the scope of the sexual exploitation of children in travel and tourism and the level of impunity of perpetrators of such acts.⁹²⁵

The U.S. Department of State found in its annual report on human rights covering events of 2019, that:

Early and Forced Marriage: Civil law sets the minimum legal age for marriage at 18 for both men and women, although girls may marry at age 16 with parental consent. According to the penal code, sexual intercourse with a girl younger than 16 years, with or without her consent, amounts to statutory rape. The provision, however, does not apply to married Muslim girls older than 12. The Muslim Marriage and Divorce Act, which applies only to Muslims, permits the marriage of girls as young as 12 at the consent of the bride's father, other male relative, or a *quazi* (a judge who interprets and administers Islamic law).⁹²⁶

Regarding sexual exploitation, the same report noted:

⁹²³ Groundviews, [Long Overdue: Breaking down the minimum age of marriage in Sri Lanka](#), 15 July 2019

⁹²⁴ UN Committee on the Rights of the Child, [Concluding observations on the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 3 July 2019, para. 21

⁹²⁵ UN Committee on the Rights of the Child, [Concluding observations on the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 3 July 2019, para. 23

⁹²⁶ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Children

Sexual Exploitation of Children: The law prohibits the commercial sexual exploitation of children, the sale of children, offering or procuring a child for child prostitution, and practices related to child pornography, but authorities did not always enforce the law. The minimum age of consensual sex is 16.⁹²⁷

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted further:

Child, early and forced marriage (CEFM) occurs in Sri Lanka. According to the UNFPA's 2019 State of World Population report, 12 per cent of Sri Lankan children were married by the age of 18 in the period 2006-2017. Rates of child marriage are higher in the Muslim and Tamil communities. The General Marriages Ordinance (1907) and the Kandyan Marriage and Divorce Act (1952) (for Sinhala Buddhists in the Kandy District) set the legal age of marriage at 18 years, although children may marry at 16 with parental consent. The MMDA does not stipulate a minimum age of marriage for Muslims and allows for children younger than 12 to marry with the approval of the child's father and a Quazi — the child's consent is not required. Prime Minister Wickremesinghe has stated publicly that the government will amend the MMDA to increase the minimum age of marriage to 18 for Muslim women. [...]

Several factors have contributed to the high rates of CEFM in Sri Lanka. During the war, some parents offered girls for marriage to prevent forced recruitment by the LTTE, while others in IDP camps gave daughters away to secure protection for the family and to lessen the risk of sexual violence. Following the war, poor female-headed households married off their daughters to gain financial support and a son-in-law to assist in land cultivation. In the context of a lack of family planning services and conservative social norms around extra-marital sex, marriage provides a way to salvage the reputation of girls who have engaged in sex outside marriage [...]

Sexual intercourse with a girl younger than 16 years of age, with or without her consent, amounts to statutory rape under the law. This provision does not apply to married Muslim girls older than 12. Local sources told DFAT that statutory rape was a major concern in Sri Lanka. According to police statistics, 1,199 cases of statutory rape with the victim's consent were recorded in 2018; 248 cases of statutory rape without the victim's consent were recorded in the same period.⁹²⁸

vii. Use of child soldiers

According to the Child Soldiers World Index, Sri Lanka ratified the Convention on the Rights of the child on 12 July 1991 and ratified the Optional Protocol on the involvement of children in armed conflict (OPAC) on 8 September 2000.⁹²⁹ The Index further noted that the minimum voluntary enlistment age is 18 in Sri Lanka and there is no conscription.⁹³⁰

In April 2019, the sixth periodic report submitted by Sri Lanka to the UN Human Rights Council, noted that "[...] the new section 358A of the Penal Code criminalises [...] the recruitment of children for use in armed conflict".⁹³¹

⁹²⁷ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 6. Discrimination, Societal Abuses, and Trafficking in Persons, Children

⁹²⁸ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Children*, paras. 3.159-3.161

⁹²⁹ Child Soldiers Word Index, [Sri Lanka](#), undated [Last accessed: 2 June 2020]

⁹³⁰ Child Soldiers Word Index, [Sri Lanka](#), undated [Last accessed: 2 June 2020]

⁹³¹ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), 25 April 2019, para.103

Amongst the sources consulted for this report within the set timeframe of research no further information pertaining to the use of child soldiers by government and non-state actors was located.

viii. Child protection

Regarding child protection, UNICEF noted in January 2019 that:

Sri Lanka lacks a national child protection framework. This means that well-meaning stakeholders at every level lack nationally accepted guidelines and a defined hierarchy within which to carry out their tasks. To make matters more challenging, insufficient evidence and data make it hard for policymakers to assess and react to challenges on the ground.

Children with disabilities are at greater risk. Essential services for children with physical or mental disabilities are either unaffordable in many areas or absent altogether. Several communities lack the ability to identify and respond early to the needs of these children, and do not have suitable parental support schemes to provide the type of safety net that they and their families need.⁹³²

On 2 April 2019, the government of Sri Lanka responded to the list of issues in relation to the report submitted by Sri Lanka under article 12 (1) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography:

Cases related to sale of children, child prostitution and child phonography as well as other forms of violence are reported to Sri Lanka Police, National Child Protection Authority (NCPA) and Sri Lanka Computer Emergency Readiness Team (SLCERT), and if the case is related to child labour, the same is referred to the Department of Labour. The Crime Division of police specially provides its services to persons who become victim of cybercrime, through their dedicated Cybercrimes Unit. Facilities for lodging complaints are available at all the institutions that deal with cases and investigations are carried out by Sri Lanka Police through its separate division. Matters related to children are referred to the division of Police Women and Child Abuse Prevention Bureau established at 42 police divisions across the country. Databases on reported cases are maintained at the central station of the Women and Children's Bureau. The data provided by Sri Lanka Police on concerned matters are as follows:⁹³³

⁹³² UNICEF, [Sri Lanka: Child Protection](#), 17 January 2019

⁹³³ UN Committee of the Rights of the Child, [List of issues in relation to the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, Replies of Sri Lanka to the list](#), 2 April 2019

<i>Offences</i>	<i>2016 Reported</i>	<i>2017 Reported</i>	<i>2018 Reported</i>
Sale of Children	-	-	-
Offence of Child Prostitution	-	-	-
Child Rape	1 599	1 374	1 384
Obscene Publication, exhibition &c. relating to children (Child Pornography)	7	7	9
Procuration	4	4	7
Sexual Exploitation of Children	37	28	27
Offence of Unnatural Acts	23	28	8
Trafficking in Children	4	2	5
Grave Sexual Abuse	614	525	670
Offence of Incest	36	29	28
Sexual Harassment	1 361	1 225	1 332
Publication of Matter relating to certain Offences	2	5	2
Child sex tourism	-	-	-
Causing or procuring children to beg	9	6	9
Child labour	Nil	1	Nil
Illegal adoption	-	-	-
Child Marriage	-	-	-

The UN Committee on the Rights of the Child found in their Concluding Observations, published in July 2019, that:

The Committee notes the measures taken to prevent the sexual exploitation of children. However, it is seriously concerned about:

- (a) The high number of children, including boys, who are sexually exploited, including by foreigners, while the scope of the sexual exploitation of children is unknown due to a lack of disaggregated data and a standard data-gathering system;
- (b) Reported cases of the sale of boys by their families for sexual exploitation and cases of parents encouraging children, particularly girls, to enter the sex industry;
- (c) The insufficient regulation of the communications technology sector by the State party, in the light of increased access to the Internet, which is reportedly contributing to the prevalence of online child pornography;
- (d) The persistent involvement of children in forced labour, including through trafficking;
- (e) The fact that current policies and programmes do not effectively address the underlying root causes of the sale of children, child prostitution and child pornography, particularly poverty and social pressure;
- (f) The absence of mechanisms to detect, identify and monitor children at risk of becoming victims of the offences covered by the Optional Protocol.⁹³⁴

The UN Committee on the Rights of the Child further noted that:

The Committee notes that the amended Penal Code prohibits the sexual exploitation of children, child pornography, procurement of children for prostitution, trafficking in children and inducing consent for the adoption of a child. However, the Committee is concerned at the confusion of the offences under the Optional Protocol with trafficking and the remaining gap in criminalizing all the offences. In particular, the Committee is concerned that:

- (a) While not explicitly defined, sale of children, a concept similar, but not identical, to trafficking in children, is nonetheless criminalized as trafficking;

⁹³⁴ UN Committee on the Rights of the Child, [Concluding observations on the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 3 July 2019, para. 19

- (b) Offences of offering, delivering and accepting a child for forced labour or the removal of organs are criminalized as trafficking but not as the sale of children;
- (c) Child prostitution and child pornography have not been criminalized as defined in articles 2 and 3 of the Optional Protocol;
- (d) Sections 360A (Procuration) and 365 (Unnatural offence) of the Penal Code only protect children up to the age of 16 from being procured for prostitution and from being involved in same-sex activity, with or without consent.⁹³⁵

The UN Committee on the Rights of the Child also expressed its concerns about impunity:

- The Committee welcomes the establishment of toll-free helplines for children to lodge complaints and notes that offences under the Optional Protocol are punishable with imprisonment between six months and 20 years and may also be punished with a fine. However, the Committee is concerned at:
- (a) A lack of enforcement of laws pertaining to the sexual exploitation of children;
 - (b) Underreporting of offences under the Optional Protocol, in particular in relation to the sexual exploitation of boys, due to social stigma, the criminalization of homosexuality and corruption;
 - (c) Inadequate capacity and resources to duly investigate and prosecute offences under the Optional Protocol;
 - (d) Low prosecution rates and a high number of pending cases concerning offences under the Optional Protocol;
 - (e) Reports of official complicity, protracted proceedings and extensive application of bail, fines and suspended sentences in relation to cases of the sale of children, child prostitution and child pornography;
 - (f) Reports that cases of the sale and trafficking of children are prosecuted as procurement under section 360A of the Penal Code and not as trafficking under section 360C;
 - (g) The State Party's explanation during the constructive dialogue that, while minimum sentences are provided for most of the offences, in some instances the judiciary deviates from the minimum sentences, resulting in penalties that do not reflect the gravity of the offence, and that such sentences are appealed to a higher court by the Attorney General's Office;
 - (h) Inconsistent information about the number of reported cases of offences under the Optional Protocol and a lack of data on their outcome, including the number of perpetrators who have been prosecuted and criminally sentenced.⁹³⁶

The Colombo Telegraph reported in February 2020 that:

Chief Government Whip of the newly established government of the Democratic Socialist Republic of Sri Lanka declared to Parliament that 142 incidents of rape, 42 cases of serious sexual abuse and 54 cases of child abuse have been reported from various police divisions in the country in the first 15 days of 2020 [...] The failures of Police, Judiciary and Human Rights Commission of Sri Lanka (HRCSL) in protecting our children and promoting their rights have resulted in frustrating inadequacies and lengthy and painful progression of inquiries.

By the end of 2017, there were over 17,000 cases of child abuse stalled at Attorney General's Department dating back as long as ten years. This figure is believed to have risen over 20,000 by end of 2018.⁹³⁷

The US State Department found in its annual report on human rights covering events of 2019, that:

⁹³⁵ UN Committee on the Rights of the Child, [Concluding observations on the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 3 July 2019, para. 27

⁹³⁶ UN Committee on the Rights of the Child, [Concluding observations on the report submitted by Sri Lanka under article 12 \(1\) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography](#), 3 July 2019, para. 29

⁹³⁷ The Colombo Telegraph, [Child Protection In Sri Lanka Is A National Crisis](#), 27 February 2020

Child Abuse: According to reports and evidence from fundamental rights applications and complaints filed with police during the year, school authorities frequently violate government regulations on banning corporal punishment in schools. There was also growing public concern about the high incidence of violence, including sexual violence, against children in the family and community. Despite successful efforts to reform the penal code, the basic criminal law, and other laws on child abuse, cruelty to children and their exploitation in trafficking, and child labor persisted. Penalties vary based on the type and degree of child abuse, but trials tended to drag on for years.

Most child abuse complaints received by the National Child Protection Authority (NCPA), usually via a toll free 24-hour hotline, related to violence inflicted on children, and the rest of the complaints addressed related issues such as cruelty to children, deprivation of a child's right to education, sexual abuse, and child labor. Teachers, school principals, and religious instructors reportedly sexually abused children. In a number of child rape cases, government officials were the suspected perpetrators. Civil society organizations working on children's issues asserted children had insufficient mechanisms to report domestic violence or abuse safely. Although police stations are supposed to have an officer dedicated to handling abuse complaints from women and children, the government did not consistently implement this practice nationwide. Although the police Children and Women Bureau plays a major role in investigating abuse cases, depending on the severity of the case, some fall under the jurisdiction of the magistrates' courts as outlined in the criminal procedure code. In these instances police file a formal complaint sheet and begin a judicial medical process. The attorney general files indictments for child abuse cases exclusively in high courts.

The NCPA's founding chairman, Harendra de Silva, said the organization failed at its core mandate due to increasing politicization in recent years. He stated the thousands of child abuse cases that were pending in courts and other state institutions, including the NCPA, signaled a "trend of corruption." According to the NCPA, at least 9,000 complaints are filed annually on various forms of abuse, including cruelty to children, sexual harassment, rape, grave sexual abuse, child labor and trafficking. The NCPA began awareness programs during the year, such as Jana Paura or "people's shield", to educate the public on child protection and children's rights. The Attorney General's Department reported that, from January to July 31, some 3,113 child abuse cases were concluded where 1,881 indictments were served in high courts; advice was sought on 399 cases; and 833 cases were discharged.

On June 12, the Supreme Court ruled that Chief Inspector Waruni Bogahawatta of the Matara police station, an award-winning female police officer, was responsible for a minor girl's unlawful arrest and deprivation of her liberty. The officer allegedly detained her without justification and subjected her to degrading treatment while she questioned the child in a bid to frame a local politician for rape. The Supreme Court also ordered Bogahawatta to pay approximately 98,600 Rs (\$570), and the state to pay approximately 49,300 Rs (\$285), as compensation to the victim.⁹³⁸

h. Situation of Individuals of Diverse Sexual Orientations or Gender Identities

Note: The UN Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity was scheduled to visit Sri Lanka from 27 May to 7 June 2019.⁹³⁹ According to the website of the Independent Expert this has been postponed and no alternative date has been provided.⁹⁴⁰ According to ILGA, the visit got postponed to take place between 28 October to 8

⁹³⁸ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 6. *Discrimination, Societal Abuses, and Trafficking in Persons, Children*

⁹³⁹ UN Human Rights Office of the High Commissioner, [Call for inputs on upcoming country visit to Sri Lanka - postponed by the Independent Expert](#), Undated [Last accessed: 3 June 2020]

⁹⁴⁰ See UN Human Rights Office of the High Commissioner, [Country visits of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity](#), Undated [Last accessed: 3 June 2020]

November 2019, but no further information confirming this could be found amongst the sources consulted.⁹⁴¹

i. Legal Framework

Amnesty International provided the following background with regards to the legal framework prevalent in Sri Lanka affecting individuals of diverse sexual orientation or gender identities:

In 1883, the British who had taken control of the island of Sri Lanka, passed the Penal Code, the main law which defines what is a crime in Sri Lanka. Section 365 and 365A prohibited “carnal intercourse against the order of nature” and “gross indecency”. The Penal Code did not give a specific explanation of what these meant, but these vague and overly broad 136-year-old colonial laws are still being used to target LGBTI people in Sri Lanka today [...]

In addition to Sections 365 and 365 A, Section 399 of the Penal Code bans “cheating by impersonation” which means pretending to be someone else or telling a person they are someone that they are not. This law has been used frequently against transgender people, to allege that they are “pretending” to be a different gender.

Another regulation, the Vagrants Ordinance, a 178-year-old law has been used to disproportionately target LGBTI people, allowing the police to take them into custody and even put them in prison to extort or harass them.

The Sri Lankan Constitution protects the Fundamental Right to Equality (Article 12). At the 2014 International Covenant of Civil and Political Rights review, Sri Lanka confirmed that Article 12 prohibits discrimination based on sexual orientation and gender identity. However, this right is rarely protected in the case of LGBTI individuals and they continue to be harassed, marginalized and abused on the basis of their real or perceived gender identity and/or sexual orientation.

During its third cycle of the Universal Periodic Review carried out in November 2017, Sri Lanka stated that the country “is in the process of taking measures to guarantee the right to non-discrimination, inter alia, on the grounds of sexual orientation and gender identity”. It particularly focused on the commitment to reform the Penal Code. To date however, there have been no steps taken towards reform.⁹⁴²

Human Rights Watch also noted that “Sections 365 and 365A of Sri Lanka’s penal code criminalize consensual same-sex conduct [...] The government rejected recommendations at its 2017 Universal Periodic Review to decriminalize same-sex conduct, but accepted recommendations to protect LGBT people from discrimination.”⁹⁴³ In its annual report covering 2019 Human Rights Watch noted that “Despite agreeing to protect lesbian, gay, bisexual, and transgender (LGBT) people from discrimination, the government did not revoke sections 365 and 365A of the penal code, which criminalize same-sex conduct”.⁹⁴⁴

In April 2019, the sixth periodic report submitted by Sri Lanka to the UN Human Rights Council noted that:

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,

⁹⁴¹ See ILGA, [This is the 21st monthly info note by ILGA World on UN Special Procedures and sexual orientation, gender identity and expression, and sex characteristics \(SOGI/ESC\)](#), 17 July 2019

⁹⁴² Amnesty International, [Sri Lanka: End discrimination against LGBTI people](#), 7 December 2019

⁹⁴³ Human Rights Watch, [Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity, Sri Lanka](#), 23 September 2019

⁹⁴⁴ Human Rights Watch, [World Report 2020 - Sri Lanka](#), 14 January 2020

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.

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.”⁹⁴⁵

The US State Department noted in its annual report on human rights covering events of 2019 that:

The law criminalizes consensual same-sex sexual conduct between adults. Those convicted of engaging in same-sex sexual activity in private or in public face 10 years’ imprisonment. Although prosecutions were rare, human rights organizations reported police used the threat of arrest to assault, harass, and sexually and monetarily extort LGBTI individuals. Antidiscrimination laws do not prohibit discrimination based on sexual orientation and gender identity.⁹⁴⁶

The same report further stated that “The law does not prohibit employment or occupational discrimination on the basis of [...] sexual orientation or gender identity [...]”⁹⁴⁷.

ii. State discrimination and treatment

In February 2019, the Colombo Telegraph reported that

At a meeting of the National Intellectual Organisation [NIO] held in November 2018, JVP leader Anura Dissanayake affirmed in public that his party, [the primary contender to present itself as a third alternative in Sri Lankan politics], recognises and respects LGBT+ rights [...]

This is the first time that representatives of LGBTIQ+ communities in Sri Lanka have been invited by a political party to join a high level public political dialogue. This is also the first time when an organisation affiliated to a national-level political party has included a comprehensive section on LGBT+ rights in their primary policy document. [...]

This is very important, because it is non-heteronormative citizens whose rights are being criminalised. They face very high levels of stigma.⁹⁴⁸

In June 2019, Groundviews reported that:

[The State of] Emergency has serious implications for LGBTQIA+, or queer, Sri Lankans in the immediate term. For a community that already faces harassment and violence by security forces while navigating

⁹⁴⁵ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), 25 April 2019, para. 29 and 30

⁹⁴⁶ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 6. *Discrimination, Societal Abuses, and Trafficking in Persons*

⁹⁴⁷ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 7. *Worker Rights*

⁹⁴⁸ Colombo Telegraph, [JVP/NIO: First Major Sri Lankan Political Platform To Openly Recognise LGBT+ Rights](#), 21 February 2019

their daily lives, the spectre of increased security checks and procedures is daunting. This is particularly acute for transgender Sri Lankans, who ordinarily face higher scrutiny because their official identification documents may not match their gender identity and presentation. [...]

There is also a deep frustration that the current government, elected on explicit and implicit promises of advances for the community, has delivered very little. Hopes of homosexuality being decriminalised were dashed in 2017 when Cabinet dropped a commitment to do so from the National Human Rights Action Plan (NHRAP), a move proudly defended by the President and several Ministers.⁹⁴⁹

According to the UN Special Rapporteur on the rights to freedom of peaceful assembly and association following his visit to Sri Lanka in July 2019 “I have also received reports that the Vagrants Ordinance of 1841 could have a chilling effect on gatherings of certain communities, including the LGBTI community”.⁹⁵⁰

Human Rights Watch reported in September 2019 that:

Some lesbian, gay, bisexual, and transgender (LGBT) people – particularly those who are visibly gender non-conforming – face arbitrary arrest, police mistreatment, and discrimination in accessing health care, employment, and housing. [...]

The Health Ministry established a Gender Recognition Certificate in 2016 that allows people to change their legal gender, but requires psychiatric evaluation first.⁹⁵¹

Amnesty International reported in October 2019 that: “Sri Lanka continues to criminalize homosexuality using an archaic, colonial-era penal code. LGBTI people routinely face harassment and discrimination at the hands of the police and other state officials”.⁹⁵²

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted:

According to local LGBTI sources, police use sections 365 and 365 (a) of the Penal Code or the Vagrants Ordinance (which empowers authorities to detain people considered to be loitering in public) to threaten, harass, extort money and sexual favours, and arbitrarily arrest and detain LGBTI individuals. Transgender individuals, particularly individuals who are biologically male but have transitioned to female, by virtue of being more visibly identifiable, are considered particularly vulnerable [...] LGBTI victims of abuse and harassment, including by the police, are generally unwilling to file complaints due to safety concerns and a reluctance to bring attention to their sexual orientation, meaning their incidence goes largely unreported.⁹⁵³

The European Union Election Observation Mission noted in its report on the 2019 Presidential election, published in November 2019, that:

The LGBT community is still stigmatised by criminalisation. The Ministry of health issued a circular in 2016 aimed at enabling transgender persons to change their birth certificate, a document key to obtaining

⁹⁴⁹ Groundviews, [Pride under Emergency](#), 28 June 2019

⁹⁵⁰ UN Human Rights Office of the High Commissioner, [End of Mission Statement United Nations Special Rapporteur on the rights to freedom of peaceful assembly and association, Mr. Clément Nyaletsossi Voulé, on his visit to Sri Lanka \(18-26 July 2019\)](#), 26 July 2019

⁹⁵¹ Human Rights Watch, [Human Rights Watch Country Profiles: Sexual Orientation and Gender Identity, Sri Lanka](#), 23 September 2019

⁹⁵² Amnesty International, [Sri Lanka: Human rights must be at the heart of next presidency](#), 18 October 2019

⁹⁵³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Sexual Orientation and Gender Identity*, para. 3.148

identity and other legal documents. However, the certificate is only available to persons who are commencing medical transition procedures. The formalisation of transgender status through law and procedures for changed ID cards remain unclear, thereby creating obstacles to voting rights and protection from discrimination.⁹⁵⁴

Amnesty International noted in a report dated 7 December 2019, discussing the release of a comic book detailing the experiences of four LGBTI people, that: “The stories that highlight the experiences [...] show the alarming and various ways the police handle cases that involve LGBTI people, often treating them like criminals when they are the ones being victimized”.⁹⁵⁵

OutRight International reported on its website updated in February 2020 that:

In 2016, Sri Lanka’s Supreme Court condemned the current penal codes criminalizing same-sex relations; however, the laws remain on the books. These laws, in addition to Sri Lanka’s vague Vagrancy Ordinances, provide legal coverage for police targeting, harassment, and extortion of LGBTIQ people. Prosecutions under these laws are uncommon, yet they contribute to widespread antipathy towards LGBTIQ people. Public officials have stated that discrimination on the basis of sexual orientation and gender identity is implicitly banned under the Sri Lankan Constitution, but LGBTIQ people regularly experience discrimination. The National Human Rights Action Plan for 2017-2021 failed to protect against discrimination explicitly on the basis of sexual orientation and gender identity.

The Gender Recognition Circular was issued in 2016. The process was implemented the same year and appears to be working smoothly. Legal gender recognition can be obtained within 3-5 days, with the new identity card containing no gender history.

Public officials have mixed reactions to LGBTIQ issues. While some politicians disparage LGBTIQ identities as an illness or an “import from Western culture,” other politicians have begun to express tentative support for the human rights of LGBTIQ people. The media disseminates inaccurate information about LGBTIQ issues, which reinforces the general public’s view that LGBTIQ people threaten culture, religion, and traditional values of Sri Lanka.⁹⁵⁶

iii. Societal/Family discrimination and treatment

The US State Department noted in its annual report on human rights covering events of 2019, that “Significant human rights issues included [...] violence against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons”.⁹⁵⁷

The same US State Department report further found that “Transgender persons continued to face societal discrimination, including arbitrary detention, mistreatment, and discrimination accessing employment, housing, and health care”.⁹⁵⁸

⁹⁵⁴ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XV. *Participation of Persons With Disabilities and Other Vulnerable Groups*, p. 42

⁹⁵⁵ Amnesty International, [Sri Lanka: End discrimination against LGBTI people](#), 7 December 2019

⁹⁵⁶ OutRight International, [Sri Lanka](#), 29 February 2020

⁹⁵⁷ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Executive Summary*

⁹⁵⁸ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 6. Discrimination, Societal Abuses, and Trafficking in Persons*

The February 2019 report by the Office of the United Nations High Commissioner for Human Rights (UNHCHR) provided the following overview covering October 2015 to January 2019:

The High Commissioner is deeply concerned at the aggravation of intercommunal tensions, in particular at several attacks conducted by militant Buddhist groups targeting cultural, religious (including the Muslim community and evangelical Christians) or sexual minorities [...].⁹⁵⁹

In March 2019, the Sri Lanka Daily Mirror reported that:

Speaking to the Daily Mirror, LGBTIQ Rights Activist Rosanna Flamer-Caldera said that in every social circle, women and LGBTIQ people face severe discrimination. She maintains that due to the misinterpretation of laws, both females and LGBTIQ people in Sri Lanka are facing sexual harassment and discrimination in public transport.

She said that people have erroneously made up their minds against females and the LGBTIQ community in Sri Lanka. She stated that there is too much impunity in Sri Lanka and there is no legal action being taken against those who harass women and LGBTIQ people which ultimately contributes to such incidents.⁹⁶⁰

An article published by Roar Media in April 2019 noted that:

Conversion therapy—or programmes designed to ‘convert’ people in the LGBTIQ spectrum— is widely practised in Sri Lanka, by both medical and religious institutions. Since homosexuality is illegal in the country, the practitioners of conversion therapy are allowed to operate freely and without question. However, this does not negate the fact that such therapy can cause severe psychological —and in some cases, physical— harm to those who undergo it. [...] For many of the children and young adults who fall within the LGBTIQ spectrum, conversion therapy begins at home. [...]

Many private hospitals also have psychiatrists who administer hypnotic and shock therapies on their patients to ‘counter’ homosexuality.

“There is a well-known hospital in Colombo, that has a [psychiatrist] who does electric shock therapy,” said Manoj. “This is done by showing a patient videos of homosexual porn, and then administering an electric shock. Then they will switch it to heterosexual porn, and play calm soothing music in the background. I have a friend who was put through this, and now he is unable to become aroused at all.” [...]

The prevailing cultural and religious stigma surrounding the LGBTIQ community in Sri Lanka is also deeply entrenched in the healthcare system of the country. This leads to a devastating lack of education on the part of medical professionals on how to care for their LGBTIQ patients in ways that are not mentally or physically harmful.⁹⁶¹

Freedom House reported that:

In April 2019, the award-winning author and poet Shakthika Sathkumara was arrested and charged under the ICCPR Act and Penal Code for a short story he shared on Facebook that reportedly suggested same-sex sexual activity and child abuse within the Buddhist clergy. The complaint was filed by Buddhist monks. As of July 2019, Sathkumara remained in detention, which drew widespread condemnation from free speech advocates.⁹⁶²

⁹⁵⁹ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 8 February 2019, IV. Other human rights issues, para. 58

⁹⁶⁰ Daily Mirror, [Closing the door on sexual abuse](#), 8 March 2019

⁹⁶¹ Roar Media, [‘Homosexuality Is Wrong!’: The Chilling Reality of Conversion Therapy In Sri Lanka](#), 11 April 2019

⁹⁶² Freedom House, [Freedom on the Net 2019: Sri Lanka](#), June 2019

In June 2019, Groundviews reported on the impact of the State of Emergency introduced following the ‘Easter bombings’ on LGBTI persons:

Emergency has also affected queer Sri Lankans’ physical sense of community. Like most communities in Sri Lanka, queer Sri Lankans have had to stop or scale down their community gatherings. Cutting off opportunities for activism and socialisation has an especially adverse impact on a community whose members are already often forced to hide or suppress their identities within wider social circles. [...] Plans by LGBTQIA+ organisations for a more publicly visible Pride month had to be curtailed, including shelving a Pride Parade which would have been a first in Sri Lanka. However, a number of the community-organised events for Pride month have gone ahead throughout the month of June.⁹⁶³

In a separate report, Groundviews also stated in June 2019 that:

Queerness and sex, especially outside community spaces, is regularly discussed in reductive terms. Mainstream media also regularly publishes factually incorrect or misleading information about LGBT+ individuals – a study by LGBT+ rights collective Young Out Here logged numerous such instances across Sri Lankan publications to highlight the frequency of prejudicial reporting.⁹⁶⁴

In June 2019, Groundviews reviewed a report that analysed how women were discussed on Facebook.⁹⁶⁵ The report used focus group discussions with LBT community members and monitored 52 Facebook pages over a period of 6 months.⁹⁶⁶ Groundviews stated that the report found that:

What emerged was a clear pattern of speech that was sexist, or objectified, harassed or otherwise targeted women and members of the LBT community. The non-consensual dissemination of intimate photos and videos was another disturbing trend found in the lead-up to this study, with entire pages dedicated to such content, or alternatively linking to such content on third-party websites. The findings of this report indicate the normalisation of sexist commentary, escalating to and including violence against women and LBT communities, both online and offline.⁹⁶⁷

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, provided the following observations:

Members of LGBTQI+ community also reported that religious teaching is a significant factor in the marginalization of the LGBTQI+ communities and leads to deep personal struggles for those who attempt to reconcile their religious identity with their sexuality. Often, the perspectives of LGBTQI+ and women are excluded from inter-religious dialogues and processes of reconciliation. Reconciliation, through ethnic and religious lenses, without considering gendered impacts, is not inclusive.⁹⁶⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted:

No legislation exists to protect LGBTI individuals from discrimination or hate crimes. According to local sources, LGBTI individuals are widely seen as “sexual deviants” and routinely experience discrimination

⁹⁶³ Groundviews, [Pride under Emergency](#), 28 June 2019

⁹⁶⁴ Groundviews, [‘Culturally inappropriate’ Love Stories and Identities](#), 23 June 2019

⁹⁶⁵ See Groundviews, [Opinions, B*tch: Technology Based Violence Against Women in Sri Lanka](#), 27 June 2019

⁹⁶⁶ See Groundviews, [Opinions, B*tch: Technology Based Violence Against Women in Sri Lanka](#), 27 June 2019

⁹⁶⁷ Groundviews, [Opinions, B*tch: Technology Based Violence Against Women in Sri Lanka](#), 27 June 2019

⁹⁶⁸ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

and bullying in the workplace and the education and health care systems. Local LGBTI sources told DFAT that openly-gay couples face obstacles to securing housing and accommodation. As a result, many homosexual persons seek to conceal their sexual orientation. [...]

Transgender individuals are more likely to experience discrimination. Employers are reluctant to hire transgender individuals, and DFAT heard accounts of transgender individuals being dismissed from their jobs due to their sexual orientation and gender identity. Transgender individuals are also more likely to encounter obstacles gaining access to basic services that require identity documents [...]

According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Some middle and upper class, educated and urban Sri Lankans are open about their sexuality within their family and community circles; however, risks are higher for lesbian and bisexual rural women due to more traditional familial expectations and values. DFAT considers reports of violence in the home and public spaces to be credible, and many LGBTI individuals – especially Muslims – hide their identity to avoid harassment. Local sources told DFAT that some families pressure LGBTI individuals to seek treatment to ‘cure’ their homosexuality at dedicated profit-making centres or through witchcraft [...]

Local sources told DFAT that hostility toward LGBTI individuals was ‘across the board’ and was not confined to a particular ethnic group or geographic area. Colombo (Western Province), Kandy (Central Province) and Galle (Southern Province) are considered more tolerant of sexual orientation relative to other parts of Sri Lanka. Some LGBTI individuals have chosen to relocate to these centres, which have larger LGBTI communities and support networks [...]

According to local LGBTI sources, homosexual women face added difficulties in being open about their sexuality. Sources told DFAT that being a woman in Sri Lanka, as a patriarchal society, was challenging in itself, and the challenge of being a homosexual woman was greater still. Homosexual women are reportedly pressured into heterosexual marriage and face harassment in public, including on public transport [...]

Hate speech against the LGBTI community is common on social media, including against those who advocate for LGBTI rights [...]

Local sources identified extremist Buddhist and Muslim groups as posing particular threats to the LGBTI community.⁹⁶⁹

Amnesty International noted in a report dated 7 December 2019 that:

[...] individuals in Sri Lanka continue to face discrimination, abuse and a complete lack of protection for their real or perceived sexual orientation or gender identity[...]

Societal taboo has been punishing for LGBTI individuals when it comes to their jobs, homes and schools – compromising their ability to access services that are central to realizing their human rights.⁹⁷⁰

A December 2019 Congressional Research Service briefing assessed that “Ongoing human rights concerns include [...] violence against LGBTI persons”.⁹⁷¹

Gay Star News reported on 18 May 2020 about research conducted by Kaleidoscope Trust, which drew on LGBT+ organisations across 37 countries. The report noted that:

By speaking to 34 LGBT+ charities working in those countries, it found that 85% were worried about their service users’ wellbeing. [...]

⁹⁶⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Sexual Orientation and Gender Identity*, paras. 3.149 - 3.152, and 3.154

⁹⁷⁰ Amnesty, [Sri Lanka: End discrimination against LGBTI people](#), 7 December 2019

⁹⁷¹ Congressional Research Service, [Sri Lanka](#), 4 December 2019

The report also uses examples from Kiribati and Sri Lanka where LGBTI+ people are ‘in lockdown with relatives who discriminate against and stigmatise them’. This is a ‘threat to their mental and physical health’.⁹⁷²

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020’ which recorded that “there were hate speech campaigns online targeting LGBTIQ community and at least one LGBTIQ activist and several individual LGBTIQ persons”.⁹⁷³

i. Freedom of Religion

i. Treatment of Religious Minorities

a) General information

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, provided the following summary with regards to religious adherence in Sri Lanka:

According to 2012 census, Buddhism is the largest religion of Sri Lanka comprising 70.1% of the population; while Hindus, Muslims, Christians and others account for 12.6%, 9.7%, 6.2% and 1.4%, respectively. The census indicates that most Muslims are Sunni while the Christians are mainly Roman Catholic. Smaller religious communities are Baha’is, Shia (Bohra community), Sufis, Ahmadis, Jehovah Witnesses, Methodists, Pentecostals and Evangelicals. There are also Veddas, an indigenous community, who practice traditional beliefs [...]

The majority of the population in Sri Lanka are Sinhalese (74.9%) who are predominantly Buddhist, with a small number belonging to the minority Christian community. The Tamils (15.3%) are mainly Hindus, with a small number professing Christianity. Most of Sri Lanka’s Moors (9.3%) are Muslims. Other ethnic groups namely Burgher, Malay, Sri Lanka Chetty and Bharatha form 0.5% of the population.⁹⁷⁴

The November 2019 report by the Australian Department of Foreign Affairs and Trade provided the following overview as to the significance of religion in Sri Lanka:

Religion plays a significant role in daily life in Sri Lanka and strongly correlates with ethnicity: most Sinhalese are Buddhist and most Tamils are Hindu. A minority of each ethnicity is Christian. Muslims are considered a separate ethnic group [...]

The constitution provides for freedom of religion, including the freedom to change religion. The constitution also provides for freedom of public and private worship. However, Article 9 of the Constitution grants Buddhism a ‘foremost place’ and obligates the state to ‘protect and foster’ Buddhism while protecting the rights of religious minorities. In 2003, the Supreme Court ruled that the state was constitutionally required to protect only Buddhism.⁹⁷⁵

Similarly, according to Minority Rights Group International:

⁹⁷² Gay Star News, [Coronavirus causing a humanitarian crisis for people around the world](#), 18 May 2020

⁹⁷³ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 4. Major incidents and trends related to dissent, 4.3 Arrests related to facebook posts, threats and risks online, During curfew, p. 9

⁹⁷⁴ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, II. General context, 1. Religious and ethnic demography, paras. 4 and 5

⁹⁷⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, Religion, paras. 3.21 and 3.22

There is a strong overlap between religion and ethnicity in Sri Lanka, with most of the Buddhist majority estimated in the 2012 Census belonging to the Sinhalese population. Similarly, most of the Hindu and Christian minorities are Tamil. The Muslim community is made up primarily of Sri Lankan Moors, Malays and smaller religious groups. Other religious minorities, including Parsis and Baha'i, are also present in the country in smaller numbers.⁹⁷⁶

The UN Special Rapporteur on freedom of religion or belief also noted that "In most of the conversations I had, people often identified themselves as Muslim, Sinhala, or Tamil. Otherwise, they identify themselves by religion such as Buddhist, Christian, Hindu or Muslim. It is apparent that there is a deeply rooted identity politics, closely linked with religion and ethnicity" and that:

While there is recognition that the Sri Lankan national identity represents some diversity, including religious and linguistic diversity; those who are members of a religious community that does not belong to the four main line religions in Sri Lanka appear not to enjoy the same rights and freedom as those officially recognized even though the law provides equal rights for all. Even among those who are recognised, the communities who are outnumbered by others in different areas claim that they are marginalised or at risk of being 'colonised' by the majority. Similarly, the majority would argue that the 'invasion' of new religious communities in certain areas is not welcomed as they do not fit, or use the pretext that the new religious groups have undermined religious harmony in certain areas or hurt religious feelings of the majority people.⁹⁷⁷

He further identified the following main challenges to the right to freedom of religion or belief:

The State does not appear to impede the freedom of thought, conscience and religion or belief and the country has a long tradition of embracing religious pluralism. The choice of an individual to have, to adopt or to change one's religion or belief is guaranteed in law in Sri Lanka and broadly conforms to international standards.

However, even where the state does not impose specific restrictions on the manifestation of religion or belief, there were frequent reports of acts of intolerance from one religious community to another along with the failure of the state to protect individuals and communities targeted by such hostility.⁹⁷⁸

The same report in addition noted:

While the Constitution of Sri Lanka protects freedom of religion or belief and its manifestation under Article 10 and 14 (1) e, Article 9 of the Constitution declares, "Buddhism shall be given the foremost place by the State". The Government argues that this does not reduce the protection provided to other religions as guaranteed under Article 10 and 14 (1) e as well as Article 12 that stresses equality of all. Controversially, a 2003 Supreme Court ruling determined that the State was constitutionally required to protect only Buddhism, as other religions were not accorded the same fundamental right of state-provided protection. I heard frequently from my interlocutors that they feel that the State was structurally unable to treat other religions on an equal basis owing to this provision and ruling.⁹⁷⁹

⁹⁷⁶ Minority Rights Group International, *Minority and indigenous peoples*, Updated March 2018

⁹⁷⁷ UN Human Rights Office of the High Commissioner, *Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief*, 26 August 2019

⁹⁷⁸ UN Human Rights Office of the High Commissioner, *Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief*, 26 August 2019

⁹⁷⁹ UN Human Rights Office of the High Commissioner, *Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief*, 26 August 2019

The February 2019 'Interim Report' by the Sri Lankan Select Committee of Parliament tasked to "study and report to Parliament its recommendations to ensure communal and religious harmony in Sri Lanka" found with regards to 'law enforcement' that:

Incidents of racial violence have often gone beyond redemption because prompt action had not been taken by the law enforcement machinery when circumstances required such intervention. Added to that was the absence of timely alerts by the intelligence agencies to avert the outbreak and spread of violence. Officers-in-Charge of Police Stations are responsible and accountable under the law for taking immediate action at the first sign of potential outbreak of violence. They are abdicating their responsibility if they await political orders or are restrained by wrongful orders. If the authorities are vigilant and respond swiftly to the first signs of trouble, damage can be avoided. The recent incidents of serious violence in Kalutara, Galle, Ampara and Kandy districts have exposed the Police Department's inexcusable delays to enforce the law and the Attorney-General's failure in most instances to prosecute the perpetrators of violence.⁹⁸⁰

The August 2019 visit to Sri Lanka by the UN Special Rapporteur on freedom of religion or belief highlighted the following challenges with regards to protection offered by the state:

Often, many described problems of double standards in law enforcement depending on which community offends or finds itself offended by the actions of other. For instance, I heard of cases of violence against minorities perpetrated by the majority community where perpetrators are clearly identified in video recordings but remain unaccountable for years after the incident.

Reversely, many complained, that when a complaint is brought forward by members of the Buddhist community, action is swift and, at times, disproportionate. I heard examples of some arrested under the ICCPR [International Covenant on Civil and Political Rights] Act for seemingly trivial reasons (a fictional story, a symbol in a dress) that were deemed to provoke "religious disturbance", while I heard of impunity for serious incidents of incitement to violence such as those that led to the Aluthgama riots in 2014.⁹⁸¹

The UN Special Rapporteur found with regards to 'lack of rule of law, accountability and impunity':

Many complained about the role of the authorities in protecting communities against violence, citing the inability or the unwillingness of the authorities to protect communities against threats and acts of violence. Some expressed surprise and dismay that large mobs could openly and for several hours rampage through minority community neighbourhoods without hindrance or reaction from law enforcement authorities, or that these authorities fail to make adequate provision for protection even when some of the rioting continued on for several days. In some cases, these attacks took place during curfew hours [...]

Some also expressed concern about perceived bias in the way the police addressed complaints. This was particularly the case where the assailants were members of the majority community. Many complained that either police failed to register and investigate complaints raised by them or that they would act in a punitive manner on complaints raised against them while failing to take similar measures when they were the target of attacks, or that generally the police were unsure on how to act in responding to infringements of the law by Buddhist monks.

980 Sri Lankan Select Committee of Parliament, [Interim Report of the Select Committee of Parliament to Study and report to Parliament its Recommendations to Ensure Communal and Religious Harmony in Sri Lanka](#), 22 February 2019, 2.4 Law Enforcement, p. 13/14

981 UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

Some blamed politicians for influencing law enforcement citing examples where politicians were allegedly involved in pressuring the police to release persons arrested following violent attacks. Others blamed a more deep-seated culture of impunity which undermined the rule of law and human rights.⁹⁸²

With regards to registration of religious organisations or places of worship, the UN Special Rapporteur on freedom of religion or belief documented a “lack of clear guidelines” and that “Minority communities complain that the registration process is opaque and slow; that registration requirement is not clear and is a cumbersome process, and that it also results in monitoring and harassment by local police and authorities. Permits for construction of houses of worship may also be denied based on the opposition of the local community. Unregistered houses of worship have been closed”.⁹⁸³

On access to education for religious minorities the same Special Rapporteur stated “There are also complaints of discrimination at schools where the intake of the students from different religious communities is not based on a fair quota system. Information on different religious denominations is not taught and there is little understanding among the younger generation of the religious pluralism that characterises Sri Lanka”.⁹⁸⁴

The U.S. Department of State report covering 2019 noted that “Authorities restricted hate speech, including insult to religion or religious beliefs through the police ordinance and penal code”.⁹⁸⁵

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Incidents targeting religious minorities were reported throughout 2018 and 2019. Some local government officials and police continue to refer to a 2008 circular of the Ministry of Buddhasasana and Religious Affairs, revoked in 2015, which states that all new constructions of places of worship require the approval of the Ministry. According to local sources, the circular is used to restrict the construction of new places of worship by religious minorities. DFAT is aware of reports of children being denied admission to schools because of their religious background, and of children being forced to observe Buddhist rituals in state schools. Local sources allege that police and government officials at the local level, who are predominantly Buddhist, are prejudiced against religious minorities and are not responsive to instances of religiously-motivated attacks against them. Religious minorities told DFAT they were losing faith in the state’s ability to provide them with protection against Buddhist extremists, particularly at the local government level [...]

But impunity for hate speech and incitement of violence against religious minorities, particularly Muslims, is an ongoing issue, and there remains an overriding lack of political will to confront Buddhist extremism, including in the context of forthcoming elections.⁹⁸⁶

⁹⁸² UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁹⁸³ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁹⁸⁴ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁹⁸⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 2., a. Freedom of Expression, Including for the Press, p. 11

⁹⁸⁶ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Religion*, paras. 3.24 and 3.26

Following the ‘Easter bombings’ of April 2019 and the subsequent State of Emergency, the UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, noted that “Under the State of Emergency, some religious communities have been affected in their practice and manifestation of religion or belief, while the suspicion and distrust among religious communities also increased over time and led to an increase of hate speech and violence against the Muslim community. Many complained that they have faced increasing harassment and victimisation based on their religion or belief identity. The State of Emergency has now lapsed”.⁹⁸⁷

The U.S. Commission on International Religious Freedom’s annual report covering 2019 reported that “Several major political parties, as well as newly elected President Gotabaya Rajapaksa, actively promoted Sinhalese Buddhist nationalism, breeding mistrust and antagonism against religious minorities”.⁹⁸⁸

According to the joint report submitted by the World Evangelical Alliance and the National Christian Evangelical Alliance of Sri Lanka to the UN Human Rights Committee in January 2020, “The past decade has seen a gradual but significant decline in the right to free religious expression and practice and a rise in organized, religiously motivated violence and intimidation against religious minorities”.⁹⁸⁹ The same report further noted:

With the conclusion of the war in 2009, there has been a disturbing trend in anti-minority sentiments in the country. Over the years there has been an evident rise in religious nationalism and extremism. The emergence of the “Sinhala-Buddhist” and “Tamil-Hindu” identities has exacerbated tension between the majority population and minority groups and has served to create animosity towards even those who identify as Sinhalese but not Buddhist, and Tamil but not Hindu.⁹⁹⁰

The same report further noted:

Since 2015, 183 out of 436 incidents reported involved incidents of threats and intimidation (42%). Additionally, during the same period, 186 incidents have involved state officials, either explicitly or implicitly (43%). A majority of the incidents also involved demands to stop prayer meetings or church gatherings on the basis of registration [...]
Furthermore, over 500 incidents of violence, intimidation, and discrimination have been recorded in relation to Sri Lanka’s Muslim community since 2013. 2017 and 2018 saw systematic hate campaigns, both online and offline, targeting Muslim and Evangelical Christian communities which resulted in sporadic incidents of violence.⁹⁹¹

⁹⁸⁷ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

⁹⁸⁸ U.S. Commission on International Religious Freedom, [Annual Report 2020 of the U.S. Commission on International Religious Freedom](#), 28 April 2020, *Other Key Developments, The Rise of Ethnoreligious Nationalism*, p.

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⁹⁸⁹ World Evangelical Alliance/National Christian Evangelical Alliance of Sri Lanka, [Freedom of Religion or Belief, Freedom of Expression and Discrimination \[sic\] in Sri Lanka](#), 13 January 2020, *Introduction and background*

⁹⁹⁰ World Evangelical Alliance/National Christian Evangelical Alliance of Sri Lanka, [Freedom of Religion or Belief, Freedom of Expression and Discrimination \[sic\] in Sri Lanka](#), 13 January 2020, *Introduction and background*

⁹⁹¹ World Evangelical Alliance/National Christian Evangelical Alliance of Sri Lanka, [Freedom of Religion or Belief, Freedom of Expression and Discrimination \[sic\] in Sri Lanka](#), 13 January 2020, *Freedom of Religion; Cultural and Religious Rights (arts. 18 and 27)*

In May 2020 Christian Solidarity Worldwide provided the following analysis on freedom of religion in Sri Lanka:

Despite the end of a prolonged 30 year ethnic civil war, Sri Lanka's challenges to unify its diverse ethno-religious population has been plunged into further uncertainty following the 2019 terror attacks on Easter Sunday. Sri Lanka's religious communities risk being on a collision course that will fundamentally threaten the peace and security of the nation, which will pose further challenges to a successful transition to justice. A fundamental Islamic presence has further heightened challenges for the country and region. In 2015 Sri Lanka co-sponsored a UN resolution entitled 'Promoting reconciliation, accountability and human rights in Sri Lanka', pledging to implement a robust transitional justice process and reaffirming that "all Sri Lankans are entitled to the full enjoyment of their human rights regardless of religion, belief or ethnicity..." Despite this positive step, religious intolerance in Sri Lanka has been increasing since 2000, and especially since the end of the civil war in 2009. Acts of violence motivated by religious hatred have increased since 2012, and crimes are committed in an environment of impunity. Buddhist nationalist groups continue to discriminate against, intimidate and attack Muslim and Christian communities.⁹⁹²

The same source highlights that the Circular issued in October 2018 concerning the construction of new places of worship "has been used by law enforcement and local government officials to discriminate against religious minority groups and their places of worship, and to close churches forcibly and arbitrarily".⁹⁹³

With special reference to the experience of women of ethno-religious background, the UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, stated:

Religious minority women risk double victimization at community and personal level due to patriarchal structure in the society and in policies [...]
The Rapporteur heard of an account of a Tamil Hindu woman married with a Sinhala Buddhist man. Her husband insisted on her converting into Buddhism and threatened to kill their daughter if she did not comply with his demand. She reported her case to the police but she received no support and remained in much fear of her life. He also heard about an attack against four girls from the Assemblies of God community by a mob of 60 men with the professed intention to rape them. This further illustrates the additional vulnerability of religious minority women and girls [...]
Widows face challenges of getting remarried especially when community members worry that they may get converted into another religion.⁹⁹⁴

In report covering May 2019 to April 2020, the International Federation of Journalists noted that "In Sri Lanka, the anti-minority rhetoric whipped up by the Sinhala nationalist media and social media users blaming a particular community for the epidemic prompted the Ministry of Health and Indigenous Medical Services to issue guidelines for reporting Covid-19, requesting the media not to mention race or religion of infected persons or of those who die of it; not to publish photographs or show videos of infected persons without their permission and not to report in a manner that causes hatred among people".⁹⁹⁵

⁹⁹² Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Introduction*

⁹⁹³ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *2008 Circular*

⁹⁹⁴ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, *III. Main challenges to the enjoyment of the right to freedom of religion or belief, 5. Rights of Women and Gender-based Discrimination, paras. 46-48*

⁹⁹⁵ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Overview p.10*

b) Christians

According to Minority Rights Group International:

There are two groups of Tamils: 'Sri Lankan Tamils' (also known as 'Ceylon' or 'Jaffna' Tamils) are the descendants of Tamil-speaking groups who migrated from southern India many centuries ago; and 'Up Country Tamils' (also known as 'Indian' or 'estate' Tamils), who are descendants of comparatively recent immigrants. Both Tamil groups are predominantly Hindu with a small percentage of Christians. They also speak their own distinct language called Tamil.⁹⁹⁶

Therefore, for information on land restitution and land seizure in the North and particularly its impact on Tamils see section [V.j.iii. Land restitution/land seizure](#).

According to Mathew Schmalz, Associate Professor of Religion at the US College of the Holy Cross, "I lived in Sri Lanka in the fall of 2013 and did research on Catholicism in both the southwest and northern parts of the country. Approximately, 7% of Sri Lanka's 21 million are Christian. The majority of them are Roman Catholic [...] Sri Lanka's Protestant community is quite small, constituting only 1% of Sri Lanka's population".⁹⁹⁷

The February 2019 report by the Office of the UN High Commissioner for Human Rights provided the following overview covering October 2015 to January 2019:

The High Commissioner is deeply concerned at the aggravation of intercommunal tensions, in particular at several attacks conducted by militant Buddhist groups targeting cultural, religious (including the Muslim community and evangelical Christians) or sexual minorities [...]

Incidents targeting evangelical Christians continued to be reported. Since January 2018, one non-governmental organization working on freedom of religion has documented 86 such incidents, including threats and disruption of religious services.⁹⁹⁸

According to World Watch Monitor, an organisation reporting on the treatment of Christians worldwide:

Buddhist monks, who are influential in the villages, are the main source of pressure on Christians. Church services and prayer meetings have been stopped and church buildings attacked by mobs. Church leaders are most vulnerable. Christians from Buddhist, Muslim or Hindu backgrounds are seen as traitors and subjected to physical and verbal assaults.⁹⁹⁹

The U.S. Department of State's annual report covering 2019 documented the following situation for Christians:

Christian groups and churches reported that some authorities classified worship activities as "unauthorized gatherings" and pressured them to end these activities. According to the groups,

⁹⁹⁶ Minority Rights Group International, [Minority and indigenous peoples](#), Updated March 2018

⁹⁹⁷ Mathew Schmalz (Asia Times), [Who are Sri Lanka's Christians?](#), 27 April 2019

⁹⁹⁸ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 8 February 2019, IV. Other human rights issues, para. 58 and 59

⁹⁹⁹ World Watch Monitor, [Sri Lanka](#), Undated [Last accessed: 20 May 2020]

authorities sometimes justified their actions, stating the groups were not registered with the government, although no law or regulation specifically requires such registration.¹⁰⁰⁰

In April 2019 Sri Lanka Brief reported that:

From February 3 to April 14 this year, across Sri Lanka, there has been some sort of disruption against a Christian worship service every Sunday – on 11 successive Sundays to be specific [...]The violations reported this year against Christians include forcible entry to places of worship while services were ongoing, disrupting services, damaging properties, throwing stones and gathering outside places of worship in a threatening manner. Those leading prayers, hosting prayer services and participants have been threatened and obscene language used against them. Among the more serious violations was an assault of two females in two different incidents, a death threat and a threat to burn a place of worship. At least 15 police complaints have been filed, some dealing with several violations. In some cases, police had refused or been reluctant to take complaints, sometimes going to the extent of siding with the alleged perpetrators, mocking and admonishing victims. On some occasions, police had refused to take matters to courts, demanded that victims file private complaints, and even refused to offer protection.¹⁰⁰¹

The same source further documented that:

This year [Jan-April 2019], at least 13 churches and one individual have been affected in nine districts, with about 35 incidents and about 70 violations. Some churches have been affected multiple times, with multiple violations, such as disrupting a service, assault, death threats, shouting obscenities and damage to property. Such violations against Christians have occurred regularly in Sri Lanka over several years, under successive governments.¹⁰⁰²

According to Christian Solidarity Worldwide, the National Christian Evangelical Alliance of Sri Lanka has documented an “estimated 387 attacks or violations targeting Christians” since the “beginning of 2015 to the end of June 2019”.¹⁰⁰³ The same source further noted, as recorded in that same Christian Solidarity Worldwide article, that “The number of incidents reported to them has remained fairly even across the years. These incidents are wide ranging, including acts of physical violence, threats of violence, closure (and attempted closure) of churches, hate campaigns and propaganda, property damage and police indifference”.¹⁰⁰⁴ According to a Thomson Reuters Foundation news article in 2018 “there were 86 verified incidents of discrimination, threats and violence against Christians, according to the National Christian Evangelical Alliance of Sri Lanka (NCEASL), which represents more than 200 churches and other Christian organisations” whilst in 2019 – up to April 2019 – “the NCEASL recorded 26 such incidents, including one in which Buddhist monks allegedly attempted to disrupt a Sunday worship service, with the last one reported on March 25 2019”.¹⁰⁰⁵

Journalists for Democracy in Sri Lanka reported on 17th April 2019 that “Christians attending a prayer meeting at a center for the disabled were pelted with stones and burning firecrackers, by an abusive

¹⁰⁰⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 2., b. *Freedoms of Peaceful Assembly and Association, Freedom of Association*, p. 14

¹⁰⁰¹ Sri Lanka Brief, [CHRISTIANS AND RELIGIOUS FREEDOM UNDER FIRE IN SRI LANKA – RUKI FERNANDO](#), 20 April 2019

¹⁰⁰² Sri Lanka Brief, [CHRISTIANS AND RELIGIOUS FREEDOM UNDER FIRE IN SRI LANKA – RUKI FERNANDO](#), 20 April 2019

¹⁰⁰³ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Violations against religious minorities*

¹⁰⁰⁴ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Violations against religious minorities*

¹⁰⁰⁵ Thomson Reuters Foundation News, [Easter Sunday bombings kill more than 200 in Sri Lanka churches, hotels](#), 21 April 2019

anti-Christian mob, says the Methodist Church in Sri Lanka. This latest attack on non Buddhists had been launched when devotees were celebrating Palm Sunday, a holy day for Christians [...] ‘This is not the first time,’ Bishop Perera said in a video message posted in social media. Alongside scores of Christian institutions, the Koombichchankulam center has also been a target since February [2019]’.¹⁰⁰⁶ Moreover, the same article highlighted “police inaction and that “‘There are also previous complaints for which nothing much has happened. There we were promised that we will be given protection to do our worship in that place. But that did not materialize yesterday (14) until I called for police intervention.’ Bishop Perera says that he had to telephone the most senior police officer in the Anuradhapura district to escort him and the congregation through the angry mob who had locked the gate from outside and blocked the exit” .¹⁰⁰⁷

Following his visit to Sri Lanka in August 2019, the UN Special Rapporteur on freedom of religion or belief found:

Often, [...] new Christian churches in particular faced a range of harassment and assaults. This ranges from interruption of worship, damage to places of worship, physical assaults on clergy, intimidation, mob violence towards the community or clergy, demands for registration of the church [...] and restricting the use of places of worship, the obstruction of religious rites such as those related to burial ceremonies or access to cemeteries, incitement to violence to the community and many other acts of intolerance.¹⁰⁰⁸

The UN Special Rapporteur also found with regards to ‘impunity and lack of rule of law and accountability’:

The Rapporteur received reports from the National Christian Evangelical Alliance of about 87 cases of recorded physical attacks at places of worship, residential area, pastors or members of the Evangelical churches (2015-2019); while only 50 cases were reported to the police, and 8 cases went to the courts, there has been not a single conviction of perpetrator even though in some cases, compensation has been granted to the victims. Similarly, the Evangelical Christians communities have documented over 11 cases of incitement to hatred and violence against them, and about 300 instances of harassment or discrimination based on their religious identity. Among those cases that were taken to the police or courts, the result was the same, there was not a single conviction.¹⁰⁰⁹

With special reference to proselytizing and conversion, the UN Special Rapporteur on freedom of religion or belief reported in August 2019:

Hostilities towards non-Roman Catholic Christians [...] appear to be grounded in a fear that possible conversions that take place threaten established hegemonies or that such efforts “insult” the doctrines

¹⁰⁰⁶ Journalists for Democracy in Sri Lanka, [Mobs attack Sri Lanka Methodist center for disabled on Palm Sunday \(VIDEO\)](#), 17 April 2019

¹⁰⁰⁷ Journalists for Democracy in Sri Lanka, [Mobs attack Sri Lanka Methodist center for disabled on Palm Sunday \(VIDEO\)](#), 17 April 2019

¹⁰⁰⁸ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰⁰⁹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 4. Impunity and lack of rule of law and accountability, para. 80

and beliefs of the dominant religion in a given area. Other perpetrators of intolerance attempt to justify their prejudice by claiming that conversion involves ‘exploitation’ of vulnerable persons.¹⁰¹⁰

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Around 82 percent of Christians in Sri Lanka are Roman Catholic. Other Christian denominations include Anglican, Assembly of God, Baptist, The Church of Jesus Christ of Latter-day Saints (Mormon), the Dutch Reformed Church, Jehovah’s Witnesses, Methodist and Pentecostal. Membership of evangelical Christian groups is small but growing. The Christian community encompasses both Sinhalese and Tamil ethnic groups [...]

The National Christian Evangelical Alliance of Sri Lanka (NCEASL) documented 88 incidents of violence and intimidation against Christians in 2018, 19 of which involved acts of violence. The NCEASL documented 96 such incidents in 2017, 90 in 2016 and 89 in 2015. These primarily involved intimidation, including physical and verbal threats against pastors and their congregations and disruption of worship services, demands for closure of churches and legal challenges. In some cases, local officials requested evangelical Christian churches register as places of worship, although no law or regulation requires registration. Buddhists were the perpetrators of most of the reported incidents, followed by Hindus and, to a lesser extent, Catholics against other Christian denominations. Prior to 2019, there were no reported incidents of violence or visible hostility against Christians perpetrated by Muslims. DFAT is aware of reports of Hindu and Buddhist mobs preventing Christians from burying their dead in public cemeteries in the North Central and Eastern provinces in recent years. [...]

According to sources from the local Christian community, Christians who file complaints on the basis of perceived breaches of their right to religious freedom are often victimised and blamed by law enforcement officials, and some complaints are not investigated further. Of the incidents of violence and intimidation against Christians documented by the NCEASL since 2015, nearly half involved state agents, either implicitly or explicitly, including police, village officers (grama niladhari) and Divisional Secretariats. Sources told DFAT that restrictions on Christians’ religious liberties were particularly pronounced in rural areas and that, as a result, Christians in these areas were increasingly apprehensive about being open about their faith. [...]

The NCEASL has documented over 50 incidents of anti-Christian violence and intimidation in 2019 to date, including the Easter Sunday terrorist attacks. Christians were deliberately targeted as part of these attacks. Most of those killed were parishioners attending Easter services at the St Anthony’s Roman Catholic (Colombo), St Sebastian Roman Catholic (Negombo) and Zion evangelical (Batticaloa) churches. Public church services were suspended across Sri Lanka immediately following the attacks [...]

The number of incidents targeting evangelical Christians has remained largely static over recent years, and is highest in Buddhist-majority regions in the North Central, South and Western provinces. The NCEASL has attributed some instances of violence and intimidation against Christians to the BBS, although DFAT is not aware of any specific incidents perpetrated by the BBS against the Christian community in 2018. The primary focus of the BBS and other Buddhist extremist groups is the Muslim community. There were no reported incidents of attacks on Christians by radical Muslims in Sri Lanka prior to the Easter Sunday terrorist attacks. Future attacks against the Christian community by homegrown Islamic extremists are possible.¹⁰¹¹

The European Union Election Observation Mission noted in its report on the 2019 Presidential election that “The post-election period saw widespread vilification of minorities on social media [...] EU observers

¹⁰¹⁰ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰¹¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Christians, paras. 3.42-3.46*

noted hateful commentary targeting Tamil, Muslim and also Christian communities, primarily in Negombo, departing from the message of reconciliation voiced by political leaders”.¹⁰¹²

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted:

As recently as December 2019, there have been two incidents of violence on Christmas, including Christian pastors being beaten by a monk in the East. On 4 August 2019, a young Methodist man was badly beaten by a group of Buddhist monks in the village of Mahinyanganaya; no arrests have been made.¹⁰¹³

Providing further detail on one of the incidents mentioned above that occurred in December 2019, INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘July 1 – Dec 31, 2019’ which recorded that “Between 20th -27th of December, a video of a Christian person who is being slapped by the extremist Buddhist monk Batticaloa Sumana Thero went viral. In the video church worker asks from the Buddhist monk ‘according to your religion, where do you go after your religion’. The monk asks back ‘Did you come here to listen to my sermons?’ and then he slaps the church worker and continues saying ‘You go away, outcast. We don’t allow you to build churches inside villages’”.¹⁰¹⁴

The Adayaalam Centre for Policy Research reported in April 2020 on its main human rights related concerns over how the Sri Lankan government is dealing with the COVID-19 pandemic and highlighted with respect to Christians:

In the North, the media contributed to some social media proliferation of anti-Christian rhetoric through sensationalist reporting of the virus being traced to an Evangelical Pastor (based in Switzerland with a church branch in Jaffna). This led to some ostracising the Christian community as a whole. While the rhetoric in no way reached the levels that anti-Muslim rhetoric has achieved, it is still an issue to be watched amidst growing extremist Hindu fundamentalist elements in the North which have attempted to marginalise and alienate Christian communities.¹⁰¹⁵

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘before and during curfew 1st February 2020 - 30th April 2020 which noted that “Hate speech and false news against Muslims and Christians were published in mainstream and social media. For example, a mainstream national

¹⁰¹² European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XIV. *Participation of ethnic and religious minorities*, p. 41 and *Announcement of Results and Post-Election Environment*, b. *Post-Election Environment*, p. 48

¹⁰¹³ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Freedom of Expression, Advocacy of National, Racial or Religious Hatred, Freedom of Assembly, and Freedom of Association (Articles 19, 20, 21, 22)*, p. 14

¹⁰¹⁴ INFORM, [Repression of Dissent in Sri Lanka: Before and after the Presidential Election, 1st July 2019 – 31st December 2019](#), February 2020, F. *Other, After the Election*, para. 74, p. 10

¹⁰¹⁵ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response*, D. *COVID-19 and Intercommunal tensions*, (ii) *An issue to watch: Anti-Christian rhetoric in the North*, p.

newspaper called ‘Satan’ in a news headline referring to a Christian religious leader who was tested positive for covid19 while other mainstream media also referred ‘pastor’”.¹⁰¹⁶

c) Hindu

According to Minority Rights Group International:

There are two groups of Tamils: ‘Sri Lankan Tamils’ (also known as ‘Ceylon’ or ‘Jaffna’ Tamils) are the descendants of Tamil-speaking groups who migrated from southern India many centuries ago; and ‘Up Country Tamils’ (also known as ‘Indian’ or ‘estate’ Tamils), who are descendants of comparatively recent immigrants. Both Tamil groups are predominantly Hindu with a small percentage of Christians. They also speak their own distinct language called Tamil.¹⁰¹⁷

Therefore, for information on land restitution and land seizure in the North and particularly its impact on Tamils see section [V.j.iii. Land restitution/land seizure](#).

The U.S. Department of State’s annual report covering 2019 documented the following land disputes affecting some Hindu groups:

Some Hindu and Muslim groups reported they had difficulty officially claiming land they had long inhabited after Buddhist monks placed a statue of Buddha or a bodhi tree on their property, and described these acts as part of a ‘colonialization’ plan to dilute the concentration of minorities in the North.¹⁰¹⁸

d) Muslims

(1) General information

According to Minority Rights Group International:

A significant proportion of Muslims (includes Sri Lankan Moors, Malays and other smaller religious sects like Boras and Khojas) live in the north and east, particularly the latter, where they constitute about a third of the population. The remaining Muslim community is dispersed throughout the urban centres of Sri Lanka. Muslims are also divided between mainly agriculturists living in the east, and traders who are dispersed across the island. Muslims speak both Tamil and Sinhalese depending on the area they live in.¹⁰¹⁹

A November 2019 report by the Australian Department of Foreign Affairs noted that:

Muslims are the third largest religious group in Sri Lanka (9.7 per cent of the population were practising Islam at the time of the 2012 census). Between 1981 and 2012, Sri Lanka’s Muslim population grew by over 40 per cent, from 1.12 million to 1.97 million. Most Muslims speak Tamil as their first language.

¹⁰¹⁶ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, 3. Context, Situation during the curfew, p. 6

¹⁰¹⁷ Minority Rights Group International, [Minority and indigenous peoples](#), Updated March 2018

¹⁰¹⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, e. Denial of Fair Public Trial, Property Restitution, p. 10

¹⁰¹⁹ Minority Rights Group International, [Minority and indigenous peoples](#), Updated March 2018

Muslim communities live throughout Sri Lanka, including in Colombo and Kandy, with larger communities in the east (Ampara, Batticaloa and Trincomalee), north (Mannar) and northwest (Puttalam). Nearly all Sri Lankan Muslims (98 per cent) are Sunni. A small number of Shi'a, including members of the Bohra community from India, reside mostly in Colombo. The Malay community, largely comprising descendants of Malay members of the Ceylon Police Force, is Muslim and a few of its members hold senior positions in the Sri Lankan military and police. The Urdu-speaking Memon community of Indian or Pakistani descent mostly lives in Colombo. Sri Lanka also hosts a small number of Muslims who follow the Sufi tradition. Muslim property rights fall under state law while sharia (Islamic) law and cultural practice apply to marriages [...] Although many Muslims work in agriculture and fisheries, many also work in business, industry and the civil service. There are many wealthy Muslim businessmen in the east.¹⁰²⁰

The February 2019 report by the Office of the UN High Commissioner for Human Rights provided the following overview covering October 2015 to January 2019:

The High Commissioner is deeply concerned at the aggravation of intercommunal tensions, in particular at several attacks conducted by militant Buddhist groups targeting cultural, religious (including the Muslim community and evangelical Christians) or sexual minorities. The most serious incident was the series of riots that broke out in Kandy district, between 5 and 8 March 2018, when mobs of Sinhala-Buddhist demonstrators attacked mosques and Muslim-owned houses and businesses. Two people were killed during the riots (one Muslim man when his home was set on fire, and a demonstrator as a result of an unclarified explosion) and 28 people were injured, while public property, 445 houses and shops, 24 places of worship and 65 vehicles were vandalized. The initial passive response of the police and the inability to control the situation led to President Sirisena declaring a state of emergency from 6 to 18 March 2018, and restrictions on social media and messaging platforms. A total of 280 people were arrested for the Kandy riots and connected activities. While some of those arrested were demonstrators, on 8 March at least 10 people identified as leaders of radical groups inciting the violence were arrested by the Terrorist Investigation Division, including Amith Jeewan Weerasinghe, the leader of Mahasohon Balakaya. On 1 November 2018, Mr. Weerasinghe, reportedly also one of the leaders of the riots in Kandy, and two other persons charged were granted bail.¹⁰²¹

According to Christian Solidarity Worldwide:

Religious intolerance towards Muslims pre-dates the 2019 Easter bombings. Many propagators of hate speech towards Muslims play on economic factors, suggesting that all Muslims are successful businessmen. Responses to this include Halal boycotts and repeated attacks and destruction of Muslim businesses. Many Sinhalese-Buddhist nationalists also fear a rapid rise in the Muslim population which would turn them into the dominant ethno-religious group. This fear was particularly evident in the build-up to the Ampara riots, during which it was widely circulated that Muslims were going to exploit their new position through the use of 'sterilisation pills' to end Sinhalese-Buddhist dominance.¹⁰²²

In March 2019 Journalists for Democracy in Sri Lanka spoke to survivors of the March 2018 mob violence of Sinhalese who "went on a rampage against the minority Muslims in the Kandy district, after a Sinhala lorry driver died following a road rage incident. Properties owned by Muslims were set on fire and mosques attacked during the three day long deadly riots forcing the government to declare a state of

¹⁰²⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Muslims*, para. 3.28

¹⁰²¹ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 8 February 2019, IV. *Other human rights issues*, para. 58

¹⁰²² Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Violations against religious minorities*

emergency and impose curfew [...] STF [Special Task Force] troopers deployed in the province during the riots to curtail unrest came under fire over inciting violence against Muslims and turning a blind eye to the Sinhala rioters”.¹⁰²³ The survivors reportedly stated that they “fear the truth will never surface as the final report of Sri Lanka's Human Rights Commission has been delayed for over 10 months. The national human rights body led by Dr Deepika Udagama conducted a three day inquiry into the events in May 2018 and promised to release the findings by July.

Following his visit to Sri Lanka in August 2019, the UN Special Rapporteur on freedom of religion or belief found:

Often, the Muslim communities [...] in particular faced a range of harassment and assaults. This ranges from interruption of worship, damage to places of worship, physical assaults on clergy, intimidation, mob violence towards the community or clergy, demands for registration of the [...] mosque and restricting the use of places of worship, the obstruction of religious rites such as those related to burial ceremonies or access to cemeteries, incitement to violence to the community and many other acts of intolerance. The Muslim communities have faced increased hostility especially after the April [2019] bombings. Prior impunity has strengthened the anti-Muslim groups. Weak and un-coordinated responses to anti-Muslim violence have seen the rise in violence and attacks on individuals and the communities in some parts of the country [...].¹⁰²⁴

With reference to proselytising and conversion, the UN Special Rapporteur on freedom of religion or belief reported in August 2019:

Hostilities towards [...] Muslims appear to be grounded in a fear that possible conversions that take place threaten established hegemonies or that such efforts “insult” the doctrines and beliefs of the dominant religion in a given area. Other perpetrators of intolerance attempt to justify their prejudice by claiming that conversion involves ‘exploitation’ of vulnerable persons.¹⁰²⁵

Sri Lanka Brief noted in September 2019 that “Amidst growing hatred directed at Muslims, there is an unmistakable economic call that is used alongside the nationalist rhetoric. There is a widespread and organized propaganda to ‘boycott Muslim businesses’ which is being spread by Sinhalese-Buddhist extremist groups. This has caused severe consequences on Sri Lanka’s Muslim communities who are traditionally traders. While leading Buddhist monks have openly advocated for boycotting Muslim businesses, Buddhist temples and Buddhist traders’ unions play a central role in the attempt to economically marginalize Muslims. Even Tamil groups have called for boycotting Muslim businesses, illustrating the complexity of ethnic division in the country at present”.¹⁰²⁶

The same source further noted that:

Since 2014, the sentiment that Muslims are hell-bent on causing infertility in, or sterilizing, Sinhalese women in order to cause the extinction of Sinhalese race has been a principal thread running through

¹⁰²³ Journalists for Democracy in Sri Lanka, [One year on, justice denied for Muslim victims in central Sri Lanka](#), 21 March 2019

¹⁰²⁴ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰²⁵ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰²⁶ Sri Lanka Brief, [Briefing Notes, Sri Lanka Briefing Notes, Issue No 16](#), September 2019, *Implications on Minorities*, p. 8/9

anti-Muslim violence. A false allegation that a Muslim shop keeper had added ‘infertility causing pills’ to food sparked communal violence in Ampara last year. In the complete absence of a mechanism to prevent ‘fake news’, extremist groups resort to devious strategies to further their motives. In early September, a few photos of statues of monks lying horizontally surfaced on social media. The accompanying description noted that the statues had been destroyed by extremist groups, and hence on the ground. The photos were shared widely, causing an uproar of Sinhalese Buddhist nationalism on social media²¹. It was later revealed that the picture depicted the statues being rolled on the ground to be moved during construction. The continued tensions have caused the deterioration of ethnic relations at the macro as well as micro level.¹⁰²⁷

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “There are increasing ethnic tension between the Sinhalese and Tamil communities against Muslims. Muslims have the perception they are not accepted or that their cultural practices will be lost so some are looking for opportunities abroad”.¹⁰²⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade noted that:

Although most Muslims sided with (Sinhalese) government forces during the war, religious tensions between Muslims and the Sinhala Buddhist majority have risen in the post-war period. Extremist Buddhist groups such as the BBS, Sinha Le, Sinhala Ravaya and Mahason Balakaya have targeted the Muslim community, including through social media. Greater freedom of expression under the current government and growth in social media use have enabled an increase in hate speech against Muslims and other religious minorities. Buddhist extremists have advocated for a boycott of Muslim-owned shops and businesses. President Sirisena has committed to investigate anti-Muslim hate crimes and bring perpetrators to justice, although local sources claim that, for political reasons, the government is reluctant to address violence perpetrated by religious clerics due to concerns of a public backlash. Sources from within the Muslim community told DFAT that Muslims did not receive adequate state protection from the BBS and other extremist Buddhist groups.¹⁰²⁹

The U.S. Department of State further documented the following land disputes in 2019 affecting some Muslim groups:

Some Hindu and Muslim groups reported they had difficulty officially claiming land they had long inhabited after Buddhist monks placed a statue of Buddha or a bodhi tree on their property, and described these acts as part of a ‘colonialization’ plan to dilute the concentration of minorities in the North.¹⁰³⁰

(2) Aftermath of the ‘Easter bombings’ (April – November 2019)

¹⁰²⁷ Sri Lanka Brief, [Briefing Notes, Sri Lanka Briefing Notes, Issue No 16](#), September 2019, *Implications on Minorities*, p. 11

¹⁰²⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019*, p. 33

¹⁰²⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Muslims*, para. 3.30

¹⁰³⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *e. Denial of Fair Public Trial, Property Restitution*, p. 10

For information on the increased arrests of suspects linked to the April 2019 ‘Easter bombings’ [see III.a.i. Easter bombings \(April 2019\)](#) and for information on treatment in detention please see [V.d. Arbitrary Arrests and Detention](#).

Discrimination, economic boycotts and attacks against Muslims

The U.S. Commission on International Religious Freedom’s annual report covering 2019 reported that following the ‘Easter bombing’ “hardline Buddhist mobs launched attacks and economic boycotts against Sri Lanka’s Muslim community and that there were also reports of an attack against a group of Muslims heading to the polls during the November 2019 presidential election”.¹⁰³¹

Referring specifically to the anti-Muslim violent attacks in May 2019 in Kurunegala District, the UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, also noted “The Government imposed a curfew to bring the situation under control, but serious concerns were raised after footage and eyewitness accounts emerged of Sri Lankan security forces colluding with mobs and not acting to prevent or stop the violence”.¹⁰³²

The UN Special Rapporteur on freedom of religion or belief also noted:

The aftermath of the Easter bombings has seen an intensification of discrimination, hostility and violence against Muslim communities, boycotts of Muslim businesses, vigilante attacks on Muslim women’s dress codes and media hate campaigns. Despite the rejection of the extremist ideology of those involved in the attacks by the Muslim political religious and civil society leaders, members of the Muslim community have been subject to widespread stigmatisation and racist attacks. Hatred that appears to ride on conspiracy theories about Muslims and racist stereotypes have raised fears amongst the Muslim community for their safety and for their future in the country.¹⁰³³

The South Asia Terrorism Portal reported on the following violent incidents against Muslims during the month of May 2019 in ‘retaliation’ for the ‘Easter bombings’:

- 12th May 2019: “Mob on May 12 targeted a mosque and few shops owned by Muslims located at Chilav in Puttalam District of North Western Province after a dispute that started in a social media post, reports Indian Express. The Sri Lankan Police on May 12 imposed curfew with immediate effect in the country’s Christian dominated town after the incident. Several dozen people threw stones at mosques and Muslim-owned stores and a man was beaten in a dispute that started on Facebook. Sri Lankan authorities have temporarily blocked some social media networks and messaging apps, including Facebook and WhatsApp”;
- 13th May 2019: “Mobs armed with sticks attacked a Muslim-owned hotel and a mosque in Minuwangoda town indicating a spillover of anti-Muslim violence, reports The Hindu”;

¹⁰³¹ U.S. Commission on International Religious Freedom, [Annual Report 2020 of the U.S. Commission on International Religious Freedom](#), 28 April 2020, *Other Key Developments, The Rise of Ethnoreligious Nationalism*, p. 89

¹⁰³² UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, *III. Main challenges to the enjoyment of the right to freedom of religion or belief, 1. Anti-Muslim hate propaganda*, para. 26

¹⁰³³ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, *III. Main challenges to the enjoyment of the right to freedom of religion or belief, 1. Anti-Muslim hate propaganda*, para. 23

- 13th May 2019: “Mobs attacked and killed an unidentified muslim man at his carpentry workshop in Puttalam district, reports The Hindu. The incident happened despite a nationwide curfew imposed on May 13 night after anti-Muslim riots spread to three districts. Police said there were sporadic incidents of mobs throwing stones and torching shops, motorcycles and cars owned by Muslims. Mobs set ablaze at least three shops in Hettipola town. Following the riots, a nationwide curfew was announced on May 13 adds Colombo Page. Sri Lankan authorities have temporarily curbed the use of social media platforms like Facebook and WhatsApp”;
- 14th May 2019: “A 45-year-old individual died of stab wounds in Kurunegala District in North Western Province of Sri Lanka, reports The Hindu on May 14. On the same day, Police arrested dozens and remanded nearly 30 persons in connection with anti-Muslim attacks in at least three Districts. According to Police Spokesperson Ruwan Gunasekara, Amith Weerasinghe of MahasonBalakaya, a Sinhala-Buddhist group; and Namal Kumara, a self-declared anti-corruption activist were arrested in connection with the violence. Newsin Asia further adds that security experts described the anti-Muslim violence as being “serious” especially because violence had taking place while the curfew was on. Many Muslim houses, business premises and vehicles were vandalized. Violence against Muslims houses and businesses began in Negombo, a Christian area, north of Colombo”.¹⁰³⁴

Al Jazeera reported that in addition to killing Saleem Ameer, after he was attacked by a mob “with swords, fatally wounding him before pouring turpentine on his face”, the mobs “wounded at least 14 other Muslims and destroyed over 540 Muslim-owned houses, shops, and mosques as well as nearly 100 vehicles, according to an assessment by local charities”.¹⁰³⁵ According to the same source “three police officers stood, looking on in disbelief” and “Armed navy personnel stood guard on a narrow dirt track that leads to Ameer's home in Kottaramulla [...] They are among hundreds of military and additional police who have been deployed in the region since the anti-Muslim riots”.¹⁰³⁶

The U.S. Department of State reported, “In May [2019], after communal violence following the Easter Sunday attacks of April 21, the HRCSL [Human Rights Commission Sri Lanka] issued guidelines that called for all electronic media institutions to exercise sensitivity when broadcasting news due to concerns over the Muslim community being unreasonably subject to unsubstantiated suspicion and disrespect”.¹⁰³⁷

Following the violent attacks in mid-May 2019 against religious minorities, Adama Dieng, UN Special Adviser on the Prevention of Genocide, and Karen Smith, UN Special Adviser on the Responsibility to Protect, issued a joint statement stating that they are “alarmed about the growing acts of violence on the basis of religion, including attacks against homes, places of worship and businesses, in the North Western Province of Sri Lanka. The Special Advisers noted a recent spate of attacks against Muslim and Christian communities in Sri Lanka, a majority Buddhist country [...] The recent violence in Sri Lanka has highlighted a growing influence of nationalist and extremist views of identity in the Asia region, putting religious minorities at risk”.¹⁰³⁸

The UN Special Rapporteur also documented the following incident in June 2019:

¹⁰³⁴ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

¹⁰³⁵ Al Jazeera, In Sri Lanka, [Muslims say Sinhala neighbours turned against them](#), 21 May 2019

¹⁰³⁶ Al Jazeera, In Sri Lanka, [Muslims say Sinhala neighbours turned against them](#), 21 May 2019

¹⁰³⁷ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, e. *Denial of Fair Public Trial, Property Restitution*, p. 12

¹⁰³⁸ UN Press Release, [Joint Statement by Adama Dieng, United Nations Special Adviser on the Prevention of Genocide, and Karen Smith, United Nations Special Adviser on the Responsibility to Protect, on attacks against religious minorities in Sri Lanka](#), 13 May 2020

On 3 June 2019, a Buddhist monk commenced to fast unto death, demanding the resignation of three Muslim politicians whom he claimed were linked to the Easter Sunday attackers. The leader of the BBS paid him a visit and issued a statement warning of mass mobilisation if the Muslim politicians did not comply with the demand. Large mobs gathered in central Kandy in support of the monk and threatened to get onto the streets to attack Muslims. Without any formal investigation, two Governors had to resign on the same day. Many worry that this incident sets a dangerous precedent of recognising the authority of religious leaders in political matters.¹⁰³⁹

Reporting on the same incident, Al Jazeera reported:

All of Sri Lanka's Muslim ministers and their deputies have resigned from their portfolios after accusing the government of failing to guarantee the security of the nation's minority Muslim community amid fears of attacks following the Easter suicide bombings.

The decision comes after hardline Buddhist monks, including firebrand monk Galagoda Aththe Gnanasara Thero, set a deadline to the government to fire Muslim provincial governors and a minister.

Gnanasara, who has long been accused of instigating hate crimes against Muslims, was released from jail on a presidential pardon last month [May 2019].¹⁰⁴⁰

Christian Solidarity Worldwide reported that in July 2019, "Gnanasara Thero, General Secretary of the Bodu Bala Sena (BBS), called for the creation of a Sinhalese government, and for politicians to let Buddhist monks combat Islamist extremism, claiming that "It's our responsibility because this is a Sinhalese country. We are the historical owners of this country".¹⁰⁴¹

The Jamestown Foundation reported in July 2019 that following the 'Easter bombings':

Mosques have been stormed and Qurans defaced and defiled. Muslim's shops have been attacked and factories destroyed by fire. Allegedly, the police have looked on and offered little if any protection—rule of law remains unacceptably weak. Muslims have been harassed on public transport. Sinhalese hate groups have commandeered social media and "fake news" abounds. Under new anti-terror legislation, Muslims have been detained for the possession of the Quran, Arabic literature, knives, toy guns, and even camouflage clothing [...]

A Muslim doctor has been accused of secretly sterilizing 4,000 non-Muslim women. Parents have blocked access to their school for Muslim teachers. Lawyers have refused to represent Muslims.¹⁰⁴²

Human Rights Watch noted in its annual report covering 2019 with regards to the availability of protection that:

Despite previous targeting of Muslims, such as in Kandy district in 2018, the government did not adequately protect vulnerable communities, prosecute attackers, or confront virulent anti-Muslim hate speech.¹⁰⁴³

The same source had already in July 2019 raised this concern when it reported:

¹⁰³⁹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 4. Impunity and lack of rule of law and accountability, para. 87

¹⁰⁴⁰ Al Jazeera, [Sri Lanka Muslim ministers quit to protest 'threat to community'](#), 3 June 2019

¹⁰⁴¹ Christian Solidarity Worldwide, [General Briefing: Sri Lanka](#), 1 May 2020, *Violations against religious minorities*

¹⁰⁴² The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

¹⁰⁴³ Human Rights Watch, [World Report 2020 - Sri Lanka](#), 14 January 2020, *Treatment of Minorities*

The governmental Human Rights Commission of Sri Lanka found in May that the government failed to protect Muslims during communal rioting. Police have repeatedly failed to act properly or prosecute perpetrators. For instance, the manager of a Muslim-owned business who was attacked said the police did not make any arrests “despite plenty of CCTV footage to identify the perpetrators.” Officials have made little effort to discourage public campaigns by religious figures that put the Muslim community at greater risk.¹⁰⁴⁴

In addition, “The Human Rights Commission of Sri Lanka found that the police had inappropriately released suspects detained for mob violence and concluded that this ‘clearly prevented equal protection of the law to affected citizens and also to the public at large’”.¹⁰⁴⁵ Moreover, Journalists for Democracy in Sri Lanka reported that “Members of Sri Lanka’s police and military forces collaborating with mobs in vandalizing a mosque in north western Sri Lanka have been caught on video”.¹⁰⁴⁶

A Muslim shop owner told BBC News in August 2019 that “For decades, Mr Iliyas, who is a Muslim, spent his days serving people from all religious communities. But that has changed since Sri Lanka’s Easter Sunday bombings in April. “Since the Easter Sunday bombings, almost 90% of my Sinhalese customers have stopped buying from my shop. My business has gone down significantly and I have lost hundreds of thousands of rupees,” Mr Iliyas said [...] “Though some customers have started coming back in recent weeks it is not enough. If this trend continues then I am in big trouble,” Mr Iliyas said”.¹⁰⁴⁷ The same news article by BBC News reported that “Many Muslims feel that since the suicide bombings they have been demonised, and traders from the community say that they have become a target”.¹⁰⁴⁸

Also reporting on these violent attacks, the International Crisis Group stated in September 2019 that

Much worse came the following weekend on 12-13 May, when well-established Sinhala Buddhist militant groups launched a major attack on Muslim businesses, homes and mosques in Puttalam, Kurunagala and Gampaha districts. One Muslim was killed and the violence reportedly did as much damage in 36 hours as was done in 5 days of anti-Muslim rioting in March 2018 [...]

As details about the weekend violence emerged, it became clear that this was not spontaneous retaliation for the Easter attacks, but a continuation of the years-long and orchestrated anti-Muslim campaign. The attacks followed the same script as previous incidents of large-scale rioting against Muslims, with nationalist organisations bussing in supporters and mobilising local Sinhalese, and security forces, despite their extra powers under emergency law, failing to maintain order and in some cases appearing to assist rioters. Two of Sri Lanka’s best-known Buddhist militants –Amith Weerasinghe, leader of Mahasohon Balakaya, and Dan Priyasad, head of Nawa Sinhale National Movement – joined the crowds. The general secretary of Sirisena’s Sri Lanka Freedom Party, Dayasiri Jayasekera, made a public intervention to arrange bail for several Sinhalese arrested for the rioting.¹⁰⁴⁹

The same source further noted the following actions against Muslims following the ‘Easter bombings’:

¹⁰⁴⁴ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

¹⁰⁴⁵ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

¹⁰⁴⁶ Journalists for Democracy in Sri Lanka, [Video exposes security forces collusion in Sri Lanka anti Muslim riots](#), 14 May 2019

¹⁰⁴⁷ BBC News, [Sri Lanka's Muslims 'demonised' after Easter bombings](#), 13 August 2019

¹⁰⁴⁸ BBC News, [Sri Lanka's Muslims 'demonised' after Easter bombings](#), 13 August 2019

¹⁰⁴⁹ International Crisis Group, [After Sri Lanka’s Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, V. *After the Attacks: An Anti-Muslim Backlash*, B. *Renewed Anti-Muslim Violence*

2. Boycotts and threats

While sporadic boycott campaigns against Muslim businesses have had localised effects over the past seven years, the current campaign is larger and causing considerably greater damage to Muslim shopkeepers and businesses across the island [...]

In some cases, the boycotts have been enforced through intimidation, with Sinhala shoppers threatened and harassed after shopping at Muslim-owned stores.¹⁰⁵⁰

Furthermore:

Five months after Easter Sunday's devastating jihadist bombings killed more than 250 and injured roughly twice as many, the situation in Sri Lanka has only become more dangerous. Although the small group of Islamic State-inspired militants was clearly at the far fringes of Muslim society, and although no evidence suggests that any remain at large, Sri Lanka's peaceful Muslim population now confronts a significant backlash. Sinhalese Buddhist nationalists have waged a campaign of violence and hate while a weak and divided political leadership has either stood idly by or, worse, egged on the abuse [...] Rather than taking the country back toward the cliff of conflict, Sri Lanka's leaders should focus their attention on repairing the state's broken security apparatus, and stop alienating law-abiding Muslim citizens who represent 10 per cent of the population.¹⁰⁵¹

And:

the post-Easter backlash against Sri Lankan Muslims has been harsh and dangerous. Nationalist politicians and religious leaders from the majority Sinhalese Buddhist ethno-religious group have used the Easter attacks and the fears they provoked to reinforce a narrative blaming Muslims collectively for growing "extreme". The government has allowed militant Sinhalese groups purportedly defending Buddhism to ramp up their post-war anti-Muslim campaign of economic boycotts, media pressure, and organised violence with impunity. The months since the Easter bombings have seen island-wide boycotts of Muslim businesses, vigilante attacks on women wearing *hijab*, and old and new media rumour campaigns by Sinhala nationalist groups alleging Muslim plots to sterilise Sinhalese women. Two days of devastating riots targeting Muslim businesses and mosques in mid-May raised fears of an island-wide pogrom like the July 1983 anti-Tamil riots that led to all-out war.

Yet, instead of condemning the attacks and investigating the perpetrators, President Sirisena chose instead to release from prison a prominent extremist monk, Galagoda Aththe Gnanasara Thera, who promptly joined anti-Muslim protests, issued threats, and rallied other monks to demand "a government that will protect the Sinhalese". The use of emergency laws to arrest hundreds of Muslims on flimsy or fabricated grounds has seen the Sri Lankan state, for the first time, move from failing to protect Muslims to actively violating their rights.¹⁰⁵²

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Anti-Muslim sentiment in Sri Lanka has increased following the 2019 Easter Sunday terrorist attacks [...] Local sources told DFAT that, since the attacks, Muslim shop owners, stallholders, mobile vendors and daily labourers in the Eastern Province have been obstructed from carrying out their daily business, leaflets have been distributed promoting boycotts of Muslim businesses, and some Muslims have been

¹⁰⁵⁰ International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, V. *After the Attacks: An Anti-Muslim Backlash*, C. *Other Actions Against Muslims*

¹⁰⁵¹ International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, *Executive Summary*

¹⁰⁵² International Crisis Group, [After Sri Lanka's Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, *Executive Summary*

denied access to shops and transport. DFAT has also heard anecdotally that some Muslim men in the north and east have been refused night travel passes, which has prevented them from fishing [...]

The Muslim community has been the subject of reprisal attacks, including physical assault and property damage, since 21 April 2019. Known reprisals have occurred in the Western (Negombo, Gampaha, Kalutara), North Western (Puttalam, Chilaw, Kurunegala) and Northern (Mannar) provinces. In the most serious incident, on 12-13 May, scores of Muslim-owned businesses, mosques, houses and vehicles were targeted by Sinhalese mobs in several towns and cities across North Western Province, including Chilaw, Puttalam and Kurunegala. Many properties were torched and destroyed or badly damaged (450 in Kurunegala District alone, according to local contacts). One Muslim businessman was killed. The government declared a countrywide curfew and blocked social media in response to the unrest, to prevent the circulation of videos and posts inciting violence against Muslims. More than 100 people were arrested in connection with the violence, including high-profile Sinhalese Buddhist nationalist Amith Weerasinghe. The HRCSL expressed concern that the authorities did not do enough to stop the attacks [...]

Inter-communal tensions, and the potential for further unrest, remain high [...]

Local groups have reported the construction of Buddhist shrines in the north and east in Hindu and Muslim areas with few, if any, Buddhist residents. In some locations in the north, the military was reportedly involved [...]

Incidents against Muslims have increased since the Easter Sunday terrorist attacks. Sinhala Buddhist nationalist groups have engaged in a sustained campaign of hate speech against Muslims in recent years, which remains ongoing. Following the Easter attacks, Muslims have been the subject of discrimination and vilification, and some non-Muslims hold the Muslim community collectively responsible for the events of 21 April 2019. With the exception of the anti-Muslim violence of March 2018 and May 2019, attacks on the Muslim community have been of a low-level nature.¹⁰⁵³

The February 2020 report by the UN High Commissioner for Human Rights provided the following overview of the targeting of certain religious minorities that followed the ‘Easter bombings’:

Certain emergency regulations adopted following the terrorist attacks were perceived as targeting specific ethno-religious communities, in particular the prohibition of full-face covering for security reasons, including full-face motorbike helmets but also some traditional Muslim female dresses such as the burka or niqab. This measure led to a rise in intolerance towards those observing religious dress codes, especially Muslim women in public institutions such as hospitals and schools and on public transport [...]

The terrorist attacks were followed by a backlash against religious minorities, particularly the Muslim community, with serious incidents reported in several places [...] In May 2019, organized mobs conducted attacks against mosques and Muslim-owned shops in several locations in the districts of Puttalam and Kurunegala, causing widespread destruction of property and killing one person in Kottaramulla. These inter-ethnic tensions were fuelled notably by militant nationalist and extremist Buddhist religious groups that had been implicated in deadly anti-Muslim riots in Aluthgama in 2014 and in Ampara and Kandy districts in 2018, and dozens of fuel bomb attacks in 2017 (A/HRC/40/23, para. 58).¹⁰⁵⁴

Arrests of Muslims

The U.S. Commission on International Religious Freedom’s annual report covering 2019 highlighted:

According to the police, after the Easter bombings, 2289 people (mostly Muslims) were arrested under Emergency Regulations on suspicion of involvement with terrorism and subsequently charged under the

¹⁰⁵³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Muslims*, paras. 3.31, 3.32, 3.34, 3.35, 3.38, and 3.40

¹⁰⁵⁴ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, *III. Developments in reconciliation, accountability and human rights*, paras. 29 and 30

Prevention of Terrorism Act (PTA) 1979 or the International Covenant on Civil and Political Rights Act (ICCPR Act) 2007 (see paragraphs 67-70). As of July 2019, 1655 have been granted bail, 423 remanded and 211 were in detention. Families of Muslims arrested under the PTA claimed that they had a hard time to secure legal representation in their areas and had undergone significant financial hardship to hire lawyers from other areas. Most of the Muslim lawyers have been reluctant to appear for those arrestees in fear of reprisals. Moreover, the Rapporteur received reports that there were often refusals by non-Muslim lawyers to defend those detained due to 'extraneous considerations'. The Human Rights Commission of Sri Lanka, in its communication to the Bar Association of Sri Lanka, expressed concern over the refusal of lawyers to appear in these cases due to such considerations [...]

Mosques and madrasas across the country were raided by security forces and many arrests were made. Mosques have also been searched by security forces with little or no respect paid to religious practices, including by taking sniffer dogs (considered impure by Muslims) into mosques and confiscating Quranic and other Islamic texts mainly in Arabic, deemed 'radical' material. The army and police also allowed the media to accompany them on the searches which were allegedly often misreported and sensationalised. Several mosques have also come under scrutiny by local vigilante groups. Sections of the local media, both print and electronic, continued to repeat anti-Muslim narratives, without carrying rebuttals or clarifications from individuals or groups in the targeted community.¹⁰⁵⁵

Human Rights Watch noted that "Lawyers said their clients had often been arrested without any credible evidence of terrorist involvement, for reasons including having the Quran or other Arabic literature in their possession during searches".¹⁰⁵⁶ Similarly, the Human Rights Litigation and International Advocacy Clinic report also stated:

There are ongoing concerns that arbitrary arrests and detention occur disproportionately for Tamils and Muslims, in some cases for reasons that are discriminatory. Since the April 2019 bombings, such reasons for arrest and detention included simply "having the holy Qur'an or other Arabic literature." Of the 423 arrested after the bombings, 358 were Muslim men, women and teenagers. Muslim women were sometimes arrested and detained simply for wearing a niqab (face veil).¹⁰⁵⁷

In June 2019 Police spokesman Ruwan Gunasekara told Al Jazeera that "2,289 people - including 1,820 Muslims - [...] were arrested 'in connection to the Easter bombings or related incidents'" and that "While 1,655 of those arrested have been released on bail, 634 are still in custody, either because they have been remanded or they are under investigation".¹⁰⁵⁸ The same article noted that "The crackdown has been particularly severe in Kattankudy, the east coast hometown of the alleged mastermind of the Easter attacks, Zaharan Hashim. 'Everyone is afraid. So many innocent people have been arrested,' said a university lecturer in Kattankudy, who asked not to be named. 'People call the police on us if they think we look suspicious,' he said".¹⁰⁵⁹

After speaking to lawyers who "between themselves are representing hundreds of people", Human Rights Watch highlighted in July 2019:

¹⁰⁵⁵ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020III. *Main challenges to the enjoyment of the right to freedom of religion or belief*, 1. *Anti-Muslim hate propaganda*, paras. 24 and 25

¹⁰⁵⁶ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

¹⁰⁵⁷ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Counter-terrorism Measures (Articles 2, 7, 9, 10 and 14)*, p. 9

¹⁰⁵⁸ Al Jazeera, [Muslims 'targeted with arbitrary arrests' after Easter massacre](#), 16 June 2019

¹⁰⁵⁹ Al Jazeera, [Muslims 'targeted with arbitrary arrests' after Easter massacre](#), 16 June 2019

Lawyers said there is inconsistency and confusion over which law is being applied in any particular case. Often the detention orders that are required to hold suspects under the PTA have not been provided to their lawyers. Where these procedures have not been followed, the detention is arbitrary. “The police themselves are unclear what powers they are using,” said one lawyer.

A partial list of 105 detainees that defense lawyers provided to Human Rights Watch summarizes justifications given by the authorities for arrests, including: “Keeping money at home”; “Talking in playground (Breaking emergency law)”; “A post [he] had shared on social media 5 years back”; “Having English lecturer docs”; “Arabic song in Laptop”; “Traveling to Jaffna for job”; and “no reason.”

One lawyer said a Muslim family of 10 from Kiribathgoda was arrested after a neighbor reported that they had cloth the same color as that used for Buddhist monastic robes, apparently suspecting their intentions. The entire family was held for several days, although they explained they sold the fabric. The police released the family to a court after working hours, allegedly to avoid scrutiny. “Police never shared any information. There were no court reports,” said the lawyer.¹⁰⁶⁰

The International Crisis Group stated in September 2019 that:

1. Arrests and rumours

Following the Easter attacks, more than 1,800 Muslims were arrested in connection to the bombings or related incidents, with nearly 300 Muslims still in custody as of early September.

Families of those arrested and Muslim community leaders complain that many of those imprisoned had no connections to the attacks or extremist groups but had been reported to the authorities out of fear or bigotry [...]

Rumours and unfounded allegations spread through both traditional and social media, fanning popular fears and prompting more arbitrary arrests.¹⁰⁶¹

A spokesperson for the Sri Lankan Human Rights Commission interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “A large number of Muslims were arrested following the Easter bombings. There were complaints of illegal arrests but hardly any complaints of torture. Some Muslims were detained because of their close relationship with Muslim extremists but others were arrested just for holding Arabic writing or because of where they’d travelled to. One woman was arrested for wearing a symbol that was insulting to Buddhism”.¹⁰⁶²

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

On 24 May, Dr. Mohamed Shafi, a Muslim doctor in Kurunegala (North Western Province), was detained on allegations he sterilised thousands of Sinhalese women without their consent. The arrest followed a front-page story in a nationalist newspaper claiming an unidentified doctor had sterilised 4,000 women after performing caesarian sections. Dr Shafi was released on bail on 25 July after police found no substantial evidence against him. [...]

The Muslim community has come under increased scrutiny as part of the government’s counterterrorism efforts following the Easter Sunday terrorist attacks, including monitoring for signs of radicalism [...]. According to media reporting, up to 2,000 Muslims have been questioned and, in many cases, detained for ‘extremism’ on the basis of limited evidence. Muslims have reportedly also been targeted for vehicle

¹⁰⁶⁰ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

¹⁰⁶¹ International Crisis Group, [After Sri Lanka’s Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, V. *After the Attacks: An Anti-Muslim Backlash*, C. *Other Actions Against Muslims*

¹⁰⁶² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: *Notes of meetings with sources*, Human Rights Commission (HRC) 1 October 2019, p. 40

searches at security roadblocks throughout the country. Military checkpoints along the main travel routes used by Muslims (Puttalam to Mannar and Vavuniya) remained in place at the time of publication.¹⁰⁶³

The International Crisis Group stated in January 2020 that:

The status of Muslims as full participants in the country's social, political and economic life is also at growing risk. Following the ISIS-inspired 2019 Easter bombings – which killed more than 260, mostly Christian worshippers, and wounded many more – Muslims, especially Muslim women, whose use of face veils was briefly banned, have faced increased social discrimination and damaging economic boycotts. Radical Buddhist militants who back – and have in past had the backing of – Gotabaya Rajapaksa, have targeted Muslims for discrimination. All Sinhala suspects arrested for anti-Muslim violence have been released, with no prosecutions likely, while hundreds of Muslims remain in custody under the Prevention of Terrorism Act, many detained following the Easter bombings on questionable grounds and some reportedly suffering physical abuse and extortion.¹⁰⁶⁴

(3) Experience of female Muslims, especially in the aftermath of the 'Easter bombings' of April 2019

With special reference to female Muslims, following his visit to Sri Lanka in August 2019, the UN Special Rapporteur on freedom of religion or belief found that “Women’s experiences of ethno-religious hostility including violence, displacement and stereotyping do not receive attention nor redress. Many of the conspiracy theories and tropes about Muslims target women and their reproductive capacity”.¹⁰⁶⁵ The same briefing further highlighted issues with the General Marriage Ordinance, namely “there is no option for Muslims to opt-in or opt-out of the Muslim Marriage and Divorce Act (MMDA). The application of the MMDA has long been a subject of concern for those advocating for gender equality and has been the subject of several reviews, focusing on both substantive aspects of the law and its administration. Based on patriarchal readings of sharia, the MMDA violates international human rights standards including those articulated by the UN CEDAW. Furthermore, the law set up Quazi courts to settle marriage disputes, but women are not permitted to be Quazi judges. However, the long-awaited reform of the MMDA has started to progress recently”.¹⁰⁶⁶ Further information on the situation of Muslim women can be found at section [V.f.a\) Discrimination](#).

With special reference to the MMDA, the Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted:

Article 16 of the Constitution allows for private religious practices predating the Constitution to remain “valid and operative,” producing such equal rights violations as the Muslim Marriage and Divorce Act (MMDA), a law that restricts the rights of Muslim women and girls. The law bars any form of Muslim women’s participation in government while permitting child marriage and unconditional polygamy. Three

¹⁰⁶³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Muslims*, paras. 3.31, 3.32, 3.34, 3.35, 3.38, and 3.40

¹⁰⁶⁴ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

¹⁰⁶⁵ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰⁶⁶ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

important new bills have been introduced to change this law, but two other bills has been introduced that would deny religious rights, multiculturalism and diversity.¹⁰⁶⁷

Moreover, following the ‘Easter bombing’ and the emergency regulation to ban face-covering in public places:

This has led to a rise in intolerance towards those who observe religious dress codes, especially among the Muslim women in public institutions such as hospital, schools and public transport. Some people stop Muslim women and girls simply with hijab or abaya from entering some hospitals or exam halls, or make verbal insults at work places. I also received reports that alleged violations of the ban on the face-veil were sometimes met with harsh reaction, including imprisonment, which is a draconian measure.¹⁰⁶⁸

The UN Special Rapporteur on freedom of religion or belief further reported that “Many Muslim women whose religious beliefs, or families, require them to wear a veil in public found themselves forced to stay home. Even though the ban is no longer in effect, many choose not to wear the veil while some continue to be harassed based on their religious dress codes”.¹⁰⁶⁹

Following the ‘Easter bombings’ and during the state of emergency the U.S. Department of State reported “the government banned face coverings such as the burqa, niqab, and full-face helmets, citing national security and public safety concerns”.¹⁰⁷⁰ The same report continued “The ban on face coverings was briefly lifted when the emergency regulation lapsed; however, in late August [2019], the cabinet passed legislation permanently banning the burqa, the niqab, and similar face coverings, after consultation with the Muslim community”.¹⁰⁷¹

The following specific incident in May 2019 was highlighted by the same source:

[...] On May 17 [2019], a Muslim woman was arrested, remanded, and released on bail three weeks later by the Hasalaka Police for wearing a kurta decorated with the logo of a ship’s helm wheel, which was alleged to be a Buddhist dharma chakra. She was charged under the International Covenant on Civil and Political Rights (ICCPR) Act. Legal experts and civil society groups pointed out that the ICCPR Act has never been used to prosecute those who allegedly sought to incite hatred and communal tensions [...].¹⁰⁷²

The Jamestown Foundation reported in July 2019 that following the ‘Easter bombings’:

Mosques have been stormed and Qurans defaced and defiled. Muslim’s shops have been attacked and factories destroyed by fire. Allegedly, the police have looked on and offered little if any protection—rule

¹⁰⁶⁷ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Constitutional and Legal Framework; Right to an Effective Remedy (Article 2)*, p. 3

¹⁰⁶⁸ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹⁰⁶⁹ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, III. *Main challenges to the enjoyment of the right to freedom of religion or belief*, 5. *Rights of Women and Gender-based Discrimination*, para. 50

¹⁰⁷⁰ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 2., a. *Freedom of Expression, Including for the Press*, p. 11

¹⁰⁷¹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 2., a. *Freedom of Expression, Including for the Press*, p. 11

¹⁰⁷² U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6., *Discrimination, Societal Abuses, and Trafficking in Persons, National/Racial/Ethnic Minorities*, p. 24

of law remains unacceptably weak. Muslims have been harassed on public transport. Sinhalese hate groups have commandeered social media and “fake news” abounds. Under new anti-terror legislation, Muslims have been detained for the possession of the Quran, Arabic literature, knives, toy guns, and even camouflage clothing. A Muslim woman wearing a dress with a motif depicting a ship’s helm was rounded on and accused of mocking Buddhism for wearing an image of the wheel of dharma; the victim was later charged under a hate speech law that prohibits insulting religions with the “malicious intention of outraging religious feelings” and she faces a two year custodial prison sentence and has so far spent over two weeks behind bars [...] A Muslim doctor has been accused of secretly sterilizing 4,000 non-Muslim women. Parents have blocked access to their school for Muslim teachers. Lawyers have refused to represent Muslims.¹⁰⁷³

Reporting on the threats and attacks that Muslims faced in the aftermath of the ‘Easter bombings’, Human Rights Watch reported in July 2019:

The Human Rights Commission has said the regulation against face coverings has led to Muslim women, even those not covering their faces, being denied access to law courts and to government schools where they work as teachers. Media reports also show that Muslim parents and children have been denied access to government schools for wearing items of Islamic dress such as headscarves.

A May 29 government circular further limited what women are allowed to wear in public buildings, requiring all women to wear a sari or osariya (Kandyan sari), although this is not a tradition common to all Sri Lankans. (Men meanwhile are required to wear shirt and trousers.) These rules apply to all staff and visitors to government offices. The commission concluded that the rule is “irrational and arbitrary and is in violation of equal protection of the law guaranteed by Article 12(1) of the Constitution.”¹⁰⁷⁴

BBC news reported in August 2019:

Muslim women wearing traditional Islamic dress were also targeted after Easter Sunday as the government banned face coverings in public, citing security reasons.

Though the niqab and burka - which cover most or all of the face and are worn by some Muslim women - were not specifically named, rights groups say even those wearing head scarves have been harassed.

"Muslim women working in government offices are facing problems. In some places, those who are wearing only headscarves are being asked to go home and come back wearing a saree," said Juwairiya Mohideen, director of the Muslim Women Development Trust.

Some Sinhalese women refuse to sit next to Muslim women wearing the traditional Abaya - a long loose-fitting robe - on public buses, she said.¹⁰⁷⁵

The International Crisis group reported in September 2019:

3. Dress restrictions

Within days of the Easter attacks, President Sirisena signed an order under emergency powers banning all face coverings, including the burqa and niqab worn by some Sri Lankan Muslim women.

The burqa ban fulfilled a longstanding demand of militant Buddhist groups – one that preceded the Easter bombing – even as critics pointed out that none of the Easter bombers had covered their faces and that women wearing veils had never posed a security threat in Sri Lanka. In the wake of the ban, many Muslim women reported being harassed on the street and refused service at government agencies and private businesses when wearing a headscarf, even with their faces visible.

Many Muslim women whose religious beliefs, or families, require them to wear a veil in public found themselves forced to stay home.¹⁰⁷⁶

¹⁰⁷³ The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

¹⁰⁷⁴ Human Rights Watch, [Sri Lanka: Muslims Face Threats, Attacks](#), 3 July 2019

¹⁰⁷⁵ BBC News, [Sri Lanka's Muslims 'demonised' after Easter bombings](#), 13 August 2019

A spokesperson for the Sri Lankan Human Rights Commission interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “A large number of Muslims were arrested following the Easter bombings. There were complaints of illegal arrests but hardly any complaints of torture. Some Muslims were detained because of their close relationship with Muslim extremists but others were arrested just for holding Arabic writing or because of where they’d travelled to. One woman was arrested for wearing a symbol that was insulting to Buddhism”.¹⁰⁷⁷

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

Anti-Muslim sentiment in Sri Lanka has increased following the 2019 Easter Sunday terrorist attacks. DFAT is aware of reports of Muslims being subjected to discrimination on the basis of their religion since 21 April 2019, including within the context of Emergency Regulations promulgated following the attacks. Under these regulations, clothing that covered the face and prevented identification was banned in public places. While it did not refer explicitly to Muslim female garb such as the burqa and niqab (which cover the face), the ban was interpreted as a clear reference to this type of dress. Following reports that some shops, hospitals, courts and universities were banning women wearing the hijab from entering their premises, on 13 May the government issued a gazette clarifying that the ban did not extend to the hijab (which does not obscure the face). The Emergency Regulations lapsed on 22 August 2019. Though there are no longer legal restrictions on face coverings, there have been reports of women wearing the niqab continuing to be detained by the authorities.¹⁰⁷⁸

(4) Election & Post-election period (November 2019 – May 2020)

The U.S. Department of State’s annual report covering 2019 reported on the following pre-election incident in November 2019:

On November 16 [2019], three buses carrying Muslim voters from Puttalam to Mannar were reportedly stopped in Thanthirimale by Sri Lanka Podujana Peramuna (SLPP) supporters. The SLPP supporters burned tires and threw rocks, eventually hitting one of the buses and breaking a window. At least one shot was reportedly fired, but no one was injured.¹⁰⁷⁹

In November 2019 ACLED reported about pre-election violence:

numerous incidents of election-related violence were reported during the week of the country’s presidential election, won by Sri Lanka Podujana Peramuna (SLPP) party candidate Gotabaya Rajapaksa. The violence included clashes between supporters of different political parties, as well as attacks on

¹⁰⁷⁶ International Crisis Group, [After Sri Lanka’s Easter Bombings: Reducing Risks of Future Violence](#), 27 September 2019, V. *After the Attacks: An Anti-Muslim Backlash*, C. *Other Actions Against Muslims*

¹⁰⁷⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: *Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019*, p. 40

¹⁰⁷⁸ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Muslims*, paras. 3.31

¹⁰⁷⁹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6., *Discrimination, Societal Abuses, and Trafficking in Persons, National/Racial/Ethnic Minorities*, p. 24

Muslim voters and Tamil voters. In one such incident, an unidentified group pelted stones and fired on a convoy of buses carrying hundreds of Muslim voters to a polling station in Anuradhapura district [...]¹⁰⁸⁰

The Human Rights Litigation and International Advocacy Clinic documented that during the November 2019 presidential election “evicted Muslims were targeted and attacked while traveling from Puttalam to Mannar and Mullaitheevu to vote. Sinhala mobs, who happened to be both supporters of SLPP and Rajapaksa, shot and threw stones at their buses to and from the polling locations. Many of the injured were women and children”.¹⁰⁸¹

The European Union Election Observation Mission noted in its report on the 2019 November Presidential election that:

The post-election period saw widespread vilification of minorities on social media as well as a number of attacks on mosques and against Tamils and Muslims in areas that had voted largely for Premadasa. These incidents raised fears among minority communities and heightened concerns about the prospects for future reconciliation.¹⁰⁸²

The same report further stated: “The immediate post-election period saw attacks, verified by EU observers, on Tamils and Muslims, and intimidation of NDF [New Democratic Front] supporters [...] EU observers noted hateful commentary targeting Tamil, Muslim and also Christian communities, primarily in Negombo, departing from the message of reconciliation voiced by political leaders.”¹⁰⁸³

The Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted:

The Muslim minority in Sri Lanka is today facing violence, threats and discrimination. Threats to physical security are ongoing and have increased over the past three years. Discrimination is institutionalized through the lack of constitutional and other legal protections for Muslims, inconsistent enforcement of minorities’ rights, and inadequate state response to mob violence. Muslims also face ongoing institutional discrimination in education, language access, and are underrepresented in sociopolitical institutions. There is a lack of legal accountability for those who have committed past human rights violations against Muslim communities.¹⁰⁸⁴

The same source further stated with regards to arbitrary arrests and detentions “There are ongoing concerns that arbitrary arrests and detention occur disproportionately for Tamils and Muslims, in some cases for reasons that are discriminatory”.¹⁰⁸⁵

¹⁰⁸⁰ ACLED, [Regional Overview: South Asia 10 – 16 November 2019](#), November 2019

¹⁰⁸¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Freedom of Thought, Conscience and Religion (Article 18)*, p. 12

¹⁰⁸² European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XIV. *Participation of ethnic and religious minorities*, p. 41

¹⁰⁸³ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, *Announcement of Results and Post-Election Environment*, b. *Post-Election Environment*, p. 48

¹⁰⁸⁴ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Summary*, p. 2

¹⁰⁸⁵ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Counter-terrorism Measures (Articles 2, 7, 9, 10 and 14)*, p. 9

The International Crisis Group stated in January 2020 that:

Following a post-election statement by Mahinda Rajapaksa that indicated a desire to weaken religious and ethnic-based parties, Rajapaksa's allies proposed a constitutional amendment that would dilute minority representation in parliament by increasing the threshold of votes needed for parties to be represented from 5 to 12 per cent. Should the government endorse the amendment and gain the two-thirds parliamentary support needed to pass it, Muslim political parties would be unlikely to obtain any seats. This would further marginalise and anger a community that already feels under siege.¹⁰⁸⁶

In May 2020 Sri Lanka Brief reported on the following incident:

Three minors, all students of the Al-Zuhairiya Arabic School in Karaitivu have filed Fundamental Rights petitions before the Supreme Court alleging that officials who identified themselves as Policemen forcibly took them from their parents and attempted to make them sign false documents [...]

In the petitions, the students, whom we will not name, said that the men identified themselves as CID officers. The boys say they were questioned about the activities of the school and asked whether they were taught to handle weapons and carry out violent acts. He was also asked whether a violent philosophy was taught in the school. In the petition, the boy said he denied any such education was imparted. Instead, he said they were taught Islam, English, Mathematics and Computers. The boy also alleged that his alleged abductors forced them to sign blank pieces of paper. In a petition which we have in our possession, the boy says that he was offered a scholarship at this school as his parents did not have the wherewithal to send him to school in his place of residence [...]

He also said that his interlocutors showed him pictures of various individuals and asked them whether they were teachers in the Al-Zuhairiya school. He also alleges that his abductors videotaped him while he was being questioned. On April 28 [2020], he was taken by the same men and repeatedly questioned about the same matters. Again he says he denied these activities occurred at the school. He says he has suffered emotional pain and fear as a result of these interrogations. He also says he fears for his safety and the safety of his family and further legal action against him".¹⁰⁸⁷

(5) COVID-19 and the treatment of Muslims

For more general information on in how far COVID-19 measures impact on human rights see [IX. COVID-19 and impact on human rights](#).

In April 2020 the Carnegie Endowment for International Peace focused at in how far responses to COVID-19 has "aggravated political polarization" and found that in Sri Lanka "the government has stoked identity fissures by imposing restrictions on Muslim communities in the name of public health that flout international guidelines".¹⁰⁸⁸ The same source further reported that "voices in the media and on online platforms have spread a hateful narrative that blames the country's Muslim minority for the spread of the virus".¹⁰⁸⁹

The International Crisis Group noted in its April 2020 'Crisis Watch':

¹⁰⁸⁶ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

¹⁰⁸⁷ Sri Lanka Brief, [SRI LANKA: THREE CHILDREN ALLEGE "CID OFFICERS" TRIED TO COERCE THEM TO IMPLICATE MADRASSAH IN ARMS TRAINING](#), 14 May 2020

¹⁰⁸⁸ Carnegie Endowment for International Peace, [Polarization and the Pandemic](#), 28 April 2020

¹⁰⁸⁹ Carnegie Endowment for International Peace, [Polarization and the Pandemic](#), 28 April 2020

Amid COVID-19 fears, govt measures sparked concerns over [...] growing anti-Muslim hate speech [...] Muslims widely accused of spreading COVID-19 on social and traditional media; govt yet to challenge false accusations and hate-speech, accused of assisting biased reporting by pro-govt TV. Govt 11 April made cremation – in contravention of Islamic burial practices – compulsory for all COVID-19-related deaths despite objections from Muslim leaders and 8 April letter from four UN Special Rapporteurs calling on President Rajapaksa to follow World Health Organization guidelines.¹⁰⁹⁰

People for Equality and Relief in Lanka (PEARL) criticised the move and stated: “The Sri Lankan government’s confirmation that cremation would be the only option for those who died or are suspected to have died of COVID-19 is another affront to Sri Lanka’s religious minorities, and further displays the state’s persistent disregard for the sensibilities of non-Sinhala Buddhist communities. Nearly one year after the Easter bombings, and the subsequent riots targeted at the Muslim community, Sri Lanka persists in implementing measures that marginalise its ethnic communities and religious minorities”.¹⁰⁹¹ Similarly, in an opinion piece published by Al Jazeera, Omar Suleiman, “American Muslim scholar and theologically driven activist for human rights”, stated that “Sri Lanka’s decision to make cremations mandatory for COVID-19 victims is an act of institutionalised Islamophobia”.¹⁰⁹²

Human Rights Watch demanded in April 2020 that “Sri Lankan authorities should uphold due process rights and ensure that recently detained Muslim figures have proper access to lawyers [...] The arrests, soon after the government adopted a Covid-19 funeral policy biased against Muslims, raise concerns about the safety of Sri Lanka’s Muslim minority”.¹⁰⁹³ The same source further noted that:

Concerns for the safety and security of Sri Lanka’s Muslim community after the Easter bombings have increased since the outbreak of Covid-19. On April 12 [2020], Sri Lankan Muslim organizations wrote to the inspector general of police reporting an upsurge in hate speech, including calls to boycott Muslim businesses and accusations that Muslims are deliberately spreading Covid-19. Senior government figures have made public remarks associating the Muslim community with Covid-19 infection.¹⁰⁹⁴

The International Truth and Justice Project reported in April 2019 that:

Organisations in Sri Lanka have expressed concern that the crisis could be misused to whip up religious hatred, in particular against Muslims. This is of concern given Gotabaya Rajapaksa’s closeness to Sinhala Buddhist extremist organisations, such as the Bodu Bala Sena (BBS), which are notoriously anti-Muslim. A statement by 26 trades unions complained that: “While reporting information about infected and the dead from the novel corona virus, it is evident that people are categorised according to religion and ethnicity in a manner that incites racist sentiments... Our trade unions would highlight that these guidelines should be followed by state officials, government ministers and all politicians who make statements about corona patients and those who passed away”.¹⁰⁹⁵

The military’s role in contact-tracing was criticised by the Adayaalam Centre for Policy Research (ACPR):

¹⁰⁹⁰ International Crisis Group, [Crisis Watch, Sri Lanka](#), April 2020

¹⁰⁹¹ People for Equality and Relief in Lanka, [Sri Lanka’s compulsory cremation order is an affront to religious sensibilities](#), 14 April 2020

¹⁰⁹² Omar Suleiman (Al Jazeera), [Like India, Sri Lanka is using coronavirus to stigmatise Muslims](#), 20 May 2020

¹⁰⁹³ Human Rights Watch, [Sri Lanka: Due Process Concerns in Arrests of Muslims](#), 23 April 2020

¹⁰⁹⁴ International Crisis Group, [Crisis Watch, Sri Lanka](#), April 2020

¹⁰⁹⁵ International Truth and Justice Project, [Sri Lanka’s Militarisation of COVID-19 Response](#), 8 April 2020, *Religious Hatred*

Worryingly in Sri Lanka contact-tracing efforts are being lead by the State’s intelligence services who are notorious for their use of torture against primarily Tamil civilians and excombatants. They are using the assistance of telecommunication companies to trace individuals’ contacts and the places they have visited, in addition to looking through people’s immigration records. The military is also planning to use drones to monitor villages affected by COVID19. Already Tamil aid workers and activists in the North who have been distributing rations to impoverished communities including Tamil families of the disappeared and ex-combatants have reported been interrogated by the CID about where they got the aid. The CID has told them that they should be informed about any aid distributions even where activists had already informed local government officials. Reports have also emerged of the military leaking details of individuals they have traced discriminatorily against Tamils and Muslims. In a context where the military has consistently used surveillance as a tool of intimidation and harassment of human rights defenders, journalists, and the Tamil community, the broad powers and technology being given to them without any apparent oversight or end date is of grave concern to ACPR.¹⁰⁹⁶

The same source further highlighted that:

On April 12 [2020], several Muslim organisations including the Muslim Council of Sri Lanka and the Colombo District Mosques’ Federation published a letter to the Inspector General of Police raising alarm about the increased spread of hate speech and “racist appeals” to boycott Muslim businesses on social media and in the mainstream media. However, there have been no reported arrests or investigations of individuals who have publicly made incendiary statements inciting hatred, boycotts or violence against Muslims. Instead, a Muslim retired government official was arrested after posting about religious discrimination on his Facebook page.¹⁰⁹⁷

Freedom House reported in May 2020 that:

In Buddhist-majority Sri Lanka, the government has needlessly suppressed the Muslim minority’s burial practices by making cremations compulsory for coronavirus victims. International experts say that burial and cremation are both acceptable ways of dealing with the bodies of COVID-19 victims, and Sri Lankan Muslim leaders and human rights groups argue that the cremation decree is a violation of religious freedom. Resentment against the policy has deepened since a Muslim family claimed that authorities coerced them to sign a consent form for a family member’s cremation, despite subsequent tests showing that she did not die of COVID-19.¹⁰⁹⁸

Shreen Abdul Saroor, writing for Groundviews, also reported in mid-May 2020 that “To date in Sri Lanka 9 persons are said to have died of Covid-19 and out of these 4 are Muslims. At least 02 of these victims’ families believe their loved ones did not die of COVID-19”.¹⁰⁹⁹

Groundviews reported at the end of May 2020 that:

¹⁰⁹⁶ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, B. Militarisation of the COVID-19 Response, (iv) Military’s role in Contact-Tracing*, p, 8

¹⁰⁹⁷ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, D. COVID-19 and Intercommunal tensions, (i) Racism against the Muslim community*, p. 10/11

¹⁰⁹⁸ Freedom House, [State-Sponsored Religious Discrimination Rises with the Pandemic](#), 18 May 2020

¹⁰⁹⁹ Groundviews, [Scapegoating the Muslims: From Aluthgama to Post-Easter Sunday to COVID-19](#), 13 May 2020

In the early days of the outbreak, the President's close associates attempted to blame the Muslims for the pandemic, assuming that the majority of COVID-19 cases were reported among Muslims. The Commander of the Army, Minister Aluthgamage, as well as their propagandist Chatura Alwis, publicly propagated this myth, leading to racial discrimination. President Rajapaksa remained silent. His followers would have believed that his silence justified the ethnic stigmatisation of the pandemic.¹¹⁰⁰

In May 2020 the Organization of Islamic Cooperation, the "2nd largest inter-governmental organization after the UN", expressed its concerns regarding the situation of Muslims in Sri Lanka during the COVID-19 pandemic:

General Secretariat of the Organization of Islamic Cooperation (OIC) expressed its deep concern over reports on escalating hate speech and hostility towards Muslims in Sri Lanka, the promotion of biased and rejected allegations holding members of the Muslim community responsible for the spread of the novel Coronavirus pandemic (COVID-19) in the country as well as reports that authorities cremated bodies of the Muslim victims of the pandemic and arrested community members who rejected these practices.¹¹⁰¹

e) Other religious minorities

Jehovah's Witnesses

The European Association of Jehovah's Witnesses noted in its submission to the UN Human Rights Committee in January 2020 that "Jehovah's Witnesses enjoy a measure of religious freedom in Sri Lanka, but in recent years they have experienced an increase in acts of opposition, intimidation and physical violence, along with police inaction".¹¹⁰² The same source further noted that "problems are often compounded by the slow legal process in Sri Lanka" and that "it is difficult for Jehovah's Witnesses in Sri Lanka to obtain approval for building places of worship".¹¹⁰³ The report also documented seven incidents in 2019 which it classified under 'physical assaults, harassment and police inaction'.¹¹⁰⁴

The UN Special Rapporteur on freedom of religion or belief reported, following his visit to Sri Lanka in August 2019, noted that "Reported hostilities towards Jehovah's Witnesses, Evangelicals and Muslims appear to be grounded in the perception that religious conversions threaten established hegemonies or "insult" the doctrines and beliefs of the dominant religion in a given area. Often, these religious conversions are allegedly claimed to be 'unethical' and involve 'exploitation' of vulnerable persons".¹¹⁰⁵

¹¹⁰⁰ Groundviews, [Sri Lanka: 10 Political mistakes that shouldn't have been committed during the pandemic](#), 30 May 2020

¹¹⁰¹ Right to Life, [Sri Lanka warned about rising anti-Muslim hatred](#), 13 May 2020

¹¹⁰² European Association of Jehovah's Witnesses, [Submission to the UN Human Rights Committee Prior to the Adoption of the List of Issues, 128th Session \(2-27 March 2020\), Sri Lanka](#), 10 January 2020, I. Introduction, para. 2

¹¹⁰³ European Association of Jehovah's Witnesses, [Submission to the UN Human Rights Committee Prior to the Adoption of the List of Issues, 128th Session \(2-27 March 2020\), Sri Lanka](#), 10 January 2020, I. Introduction, para. 3 and 4

¹¹⁰⁴ European Association of Jehovah's Witnesses, [Submission to the UN Human Rights Committee Prior to the Adoption of the List of Issues, 128th Session \(2-27 March 2020\), Sri Lanka](#), 10 January 2020, II. Violations of the provisions of the International Covenant on Civil and Political Rights (The Covenant), A. Right to Freedom of Thought, Conscience and Religion and Right to Hold Opinions Without Interference (Articles 18, 19, 26 and 27), 1. Physical Assaults, Harassment and Police Inaction, paras. 17-34

¹¹⁰⁵ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, III. Main challenges to the enjoyment of the right to freedom of religion or belief, 2. The right to proselytize and conversion, para. 33

The UN Special Rapporteur also found with regards to ‘impunity and lack of rule of law and accountability’:

The Jehovah’s Witnesses also reported at least 58 cases were referred to the police 2017-2019 of physical assaults, harassments and intimidation, disruption of their worship meetings, vandalism on the places of worship, and refusal of permit for building places of worship. 33 cases have been taken to the court, only 5 cases have been decided in favour of them where perpetrators agreed to stop harassing them but there is still not a single conviction.¹¹⁰⁶

Bhikkhunis

With special reference to the order of Bhikkhuni nuns, the UN Special Rapporteur on freedom of religion or belief found that “the government refuses to acknowledge” this order and that “Bhikkunis are not permitted to have their ordination on their National Identity Card (NIC) whereas Bhikkus (male) are afforded this privilege”.¹¹⁰⁷

j. Treatment of Ethnic Minorities

i. Ethnic minorities in general

For information on the ethnic composition of Sri Lanka see section [I.a.ii. Ethnic Composition](#).

The Bertelsmann Stiftung’s Transformation Index covering the period from 1st February 2017 to 31st January 2019 considered that:

Sri Lanka is a deeply divided society. For more than 80 years, the country has been marred by ethno-religious and linguistic tensions. Relations between Sinhalese (about 75% of the population, mostly Theravada Buddhists), Sri Lankan Tamils (11%, mostly Shaivite Hindus), Sri Lankan Moors, (about 9%, mainly Sunni Muslims) and Indian Tamils (4%) are severely polarized. Linguistic and religious cleavages largely superimpose and reinforce each other, giving rise to sharp identity politics. Accordingly, most Sinhalese and Tamils alike equate the Sri Lanka “nation” with the Sinhalese community, from which other ethnic groups are de facto excluded.¹¹⁰⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview:

Most Sri Lankans tend to live within their own ethnic communities, although different ethnic groups live within close proximity in major urban areas. Colombo has roughly equal populations of Sinhalese, Tamils and Muslims. As Sri Lanka’s commercial centre, Colombo has attracted Tamils and Muslims from other parts of the country in search of greater economic opportunities. Many Tamils and Muslims also moved to

¹¹⁰⁶ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes of religious intolerance and tensions in Sri Lanka, 4. Impunity and lack of rule of law and accountability, para. 81

¹¹⁰⁷ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹¹⁰⁸ Bertelsmann Stiftung, [Transformative Index \(BTI\) 2020 Country Report, Sri Lanka](#), 29 April 2020, *Transformative Status, I. Political Transformation, 1. Stateness, p. 6*

Colombo during the war, to escape the fighting in the north and east. Tamils comprise most of the population in the Northern Province, with the region's isolation during the war – and the ouster of Muslims by the LTTE in 1990 – making it less ethnically diverse. The Eastern Province, in contrast, is mixed – at the time of the 2012 census, Tamils comprised 39.2 per cent of its population, Muslims 36.9 per cent and Sinhalese 23.2 per cent. Sources told DFAT of ongoing tensions between the Muslim and Tamil communities in the Eastern Province dating from the civil war, when the LTTE allegedly perpetrated attacks on the Muslim community. These tensions have become more acute following the 2019 Easter Sunday terrorist attacks. In contrast, Muslim sources told DFAT that the Muslim and Tamil communities co-existed peacefully in the Northern Province.¹¹⁰⁹

In January 2019 Groundviews reported that “It is not uncommon to read headlines of this nature in Sri Lankan print media, with perpetrators of a crime or their suspects being identified by race. In Sinhala, Tamil and English media alike, the race or ethnicity of an individual engaged in or suspected of criminal activity is often highlighted, even when it is not central to the news story, and despite the damaging impact it can have on community relations”.¹¹¹⁰

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, provided the following observations in relation to ‘ethnic and religious identity’:

In most of the conversations I had, people often identified themselves as Muslim, Sinhala, or Tamil. Otherwise, they identify themselves by religion such as Buddhist, Christian, Hindu or Muslim. It is apparent that there is a deeply rooted identity politics, closely linked with religion and ethnicity.¹¹¹¹

In a further news item published in August 2019 by the UN Human Rights Office of the High Commissioner the UN Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, was quoted as stating: “Simmering ethno-religious tensions in Sri Lanka require urgent action by the authorities to strengthen respect for freedom of religion or belief in Sri Lanka [...] There is a serious deficit of trust among ethno-religious communities in Sri Lanka following the deadly Easter Sunday bomb blasts and subsequent mob violence this year [2019, and these tensions must not be ignored”.¹¹¹²

The UN Special Rapporteur on freedom of religion or belief also observed:

According to 2012 census, Buddhism is the largest religion of Sri Lanka comprising 70.1% of the population. The Rapporteur has also observed the tendency of some Buddhist religious leaders to instigate hatred and division among the population in Sri Lanka by invoking nationalist sentiments among people by politicising ethnic and religious identity. Similarly, political parties have invoked ethno-nationalistic rhetoric in Sri Lanka using the popularity of “Sinha-Le” campaign (see paragraph 71 below) as a powerful tool to mobilise the public. For as long as the tension of identity among religious and ethnic groups exists, this will continue to undermine all the peace building, coexistence and religious tolerance

¹¹⁰⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Race/Nationality, para. 3.2*

¹¹¹⁰ Groundviews, [Reporting on identity in the Sri Lankan media: Ethics and errors](#), 12 January 2019

¹¹¹¹ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹¹¹² UN Human Rights Office of the High Commissioner, [Sri Lanka: Simmering ethno-religious tensions must not be ignored, says UN rights expert](#), 26 August 2019

or harmony projects as each group of people will remain in their own boxes, rejecting and alienating the 'others'.¹¹¹³

The UN Special Rapporteur on freedom of religion or belief reported following his visit to Sri Lanka in August 2019 with regards to access to education that the Select Committee of Parliament established to "study and report on "communal and religious harmony" in Sri Lanka" and noted in his interim report that "the current ethnicity-based school identification system creates divisions in society and does not facilitate interaction among children of different ethnic groups and perpetuates misunderstanding among communities".¹¹¹⁴

The South Asia Terrorism Portal reported that "Through 2019, the National Unity Government, formed on August 20, 2015, made remarkable efforts to press forward the reconciliation process by establishing regional OMP centres to help find the missing persons of the war era. However, after the eighth Presidential Election of November 2019, there are already concerns in the country among the minority communities about the possibility of a return to iron-fisted rule under the Rajapaksa-duo's regime. Moreover, with a discernibly polarized mandate, Gotabaya's commitment to be a leader for all will be severely tested".¹¹¹⁵

A journalist interviewed by a UK Fact-Finding Mission in October 2019 identified as 'journalist 1', stated:

Despite the end of the war, peace is not there; the root causes still exist [...]

The Sinhalese mindset is that minorities live at the mercy of others. Protesters could be identified by the authorities and picked up at a later time.

The military is not controlled by the government. Even though the current government is liberal, some hardliners hold hard-line views against minorities. Views can change with the government; it's all political and depends who is in power.¹¹¹⁶

INFORM issued a report on 'Repression of Dissent in Sri Lanka' which covered 'July 1 – Dec 31, 2019' which recorded that "there were allegations that large numbers of registered voters belonging to ethnic minorities were selectively removed in few areas in Colombo".¹¹¹⁷

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview:

DFAT is aware that some Sinhalese from the south have resettled in the north and east with government assistance in the post-war period. Local sources in the north expressed concern about the construction of Buddhist statues and temples in non-Buddhist populated areas. DFAT is unable to verify claims that

¹¹¹³ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, IV. Root causes fo religious intolerance and tensions in Sri Lanka, I. Politicisation of ethnic and religious identity, para. 60

¹¹¹⁴ UN Human Rights Council, [Visit to Sri Lanka, Report of the Special Rapporteur on freedom of religion or belief](#), 28 February 2020, III. Main challenges to the enjoyment of the right to freedom of religion or belief, 4. Religious education, paras. 15 and 41

¹¹¹⁵ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

¹¹¹⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 46/47

¹¹¹⁷ INFORM, [Repression of Dissent in Sri Lanka: Before and after the Presidential Election, 1st July 2019 – 31st December 2019](#), February 2020, ii. Summary of incidents in the report, p. 10

Sinhalese settlers in the north and east have received preferential treatment to establish businesses. Some Tamil sources claimed Sinhalese had been resettled on desired coastal land and that Sinhalese fishermen in the north were supported by the Navy.¹¹¹⁸

Similarly, the International Crisis Group stated in January 2020 that “Since his election on 16 November 2019, Sri Lankan President Gotabaya Rajapaksa and his brother, Prime Minister Mahinda Rajapaksa, have initiated fundamental changes to policies on ethnic relations, the legacy of a 26-year civil war, and the rule of law [...] The shift in policy, rooted in part in the ethno-nationalism of many among Sri Lanka’s Sinhala and Buddhist majority, threatens to increase ethnic and religious tensions and dangerously weaken checks on executive and state power”.¹¹¹⁹ The same source further noted that:

Among Rajapaksa’s 54 ministers are only two Tamils, and, for the first time since the nation became independent in 1948, no Muslim minister at all; there is only one female minister. Citing opposition among the Sinhala majority, Rajapaksa has repeatedly rejected any further devolution of power to the provinces, including what is mandated in the current constitution, thereby neutralising a mechanism intended to give ethnic minorities greater self-governance. Past statements by Gotabaya calling the large Tamil majority in the north “unnatural” heighten fears of military- and state-supported population transfer designed to change the demographic picture.¹¹²⁰

The Centre for Policy Alternatives noted in a March 2020 report that at the completion of 100 days in office that:

Indeed, there seems to be no indication that any political concessions will be made with regard to the political concerns of minority groups, with the Government refusing to make even symbolic gestures of inclusion (scrapping the singing of the national anthem in Tamil at the Independence Day event for instance). Insofar as minorities have been acknowledged, rhetorical focus is shifted to the creation of a civic nationalism which includes those groups, whilst dismissing those particular concerns which have emerged out of their specific experiences as minorities. The Government reassures members of minority groups that it will serve the ‘whole country’ but has been largely dismissive of specific ‘divisive’ political demands, which are often framed as being the result of manipulation by Tamil politicians and Western aligned interests.¹¹²¹

In April 2020 the Carnegie Endowment for International Peace focused at in how far responses to COVID19 has “aggravated political polarization” and found that in Sri Lanka “the president has exploited the crisis to empower the military and promote a militarized mindset toward governance that historically has harmed minority groups”.¹¹²²

The UK Guardian newspaper cited human rights activist, Ruki Fernando in an April 2020 article as noting that in light of COVID19 “Now with the current fears and restrictions, Fernando is worried about vulnerable communities such as refugees, prisoners, the poor and minorities. We are seeing both racism and authoritarianism raising their ugly heads in the middle of the fight against Covid”.¹¹²³

¹¹¹⁸ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Tamils*, para. 3.9

¹¹¹⁹ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

¹¹²⁰ International Crisis Group, [Watch List 2020, Asia, A Dangerous Sea Change in Sri Lanka](#), 29 January 2020

¹¹²¹ Centre for Policy Alternatives, [Sri Lanka’s Recent Political Challenges & Prospects for the Future](#), March 2020, Reconciliation and Human Rights p.8

¹¹²² Carnegie Endowment for International Peace, [Polarization and the Pandemic](#), 28 April 2020

¹¹²³ The Guardian, [‘It’s a very worrying time’: Sri Lanka’s recovery interrupted by coronavirus](#), 12 April 2020

In report covering May 2019 to April 2020, the International Federation of Journalists noted that “In Sri Lanka, the anti-minority rhetoric whipped up by the Sinhala nationalist media and social media users blaming a particular community for the epidemic prompted the Ministry of Health and Indigenous Medical Services to issue guidelines for reporting Covid-19, requesting the media not to mention race or religion of infected persons or of those who die of it; not to publish photographs or show videos of infected persons without their permission and not to report in a manner that causes hatred among people”.¹¹²⁴

In June 2020 Tamil Guardian reported:

Udaya Prabhath Gammanpila, leader of the Pivithuru Hela Urumaya (an ultra-Sinhala nationalist party), attacked minorities in Sri Lanka on Twitter claiming that they were provided too much freedom.

Gammanpila, a supporter of the Rajapaksa administration and former cabinet Minister, stated on Twitter:

“Some” minorities in Sri Lanka not only breathe but also blow at the majority.

Eg #EasterSundayAttack #AranthalawaMassacre #GonawalaMassacre #AttackOnTempleOfToothRelic and thousands of many more such attacks

Gammanpila racist tweet follows increasing police brutality against Tamils in the North and East as well as attacks against Muslims in Sri Lanka.¹¹²⁵

ii. Persons of Tamil Ethnicity

For information on land restitution and land seizure in the North and particularly its impact on Tamils see section [V.j.iii. Land restitution/land seizure](#).

For information on the situation and treatment of Christians see section [V.i.i.b\) Christians](#) and for Hindus see section [V.i.i.c\) Hindu](#).

For information on enforced disappearances and the treatment of family members of the disappeared see [V.c. Forcible Disappearances](#).

For information on treatment in detention please see [V.d. Arbitrary Arrests and Detention](#).

According to Minority Rights Group International:

There are two groups of Tamils: ‘Sri Lankan Tamils’ (also known as ‘Ceylon’ or ‘Jaffna’ Tamils) are the descendants of Tamil-speaking groups who migrated from southern India many centuries ago; and ‘Up Country Tamils’ (also known as ‘Indian’ or ‘estate’ Tamils), who are descendants of comparatively recent immigrants. Both Tamil groups are predominantly Hindu with a small percentage of Christians. They also speak their own distinct language called Tamil.¹¹²⁶

The U.S. Department of State’s annual report covering 2019 noted with regards to the general treatment of Tamils in Sri Lanka:

¹¹²⁴ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Overview p.10*

¹¹²⁵ Tamil Guardian, [Sri Lankan ultra-nationalist politician attacks minorities on Twitter](#), 7 June 2020

¹¹²⁶ Minority Rights Group International, [Minority and indigenous peoples](#), Updated March 2018

Both local and Indian-origin Tamils maintained that they suffered longstanding, systematic discrimination in university education, government employment, housing, health services, language laws, and procedures for naturalization of noncitizens. Throughout the country, but especially in the North and East, Tamils reported security forces regularly monitored and harassed members of their community, especially activists, journalists, and former or suspected former LTTE members.¹¹²⁷

As to Tamils arrested without charge under 'Prevention of Terrorism Act (PTA)' provisions, the report stated:

In July 2019 Tamil prisoners across the country, including former Liberation Tigers of Tamil Elam (LTTE) fighters, and civil society groups undertook hunger strikes, demanding immediate resolution to the prisoners' protracted detention. Many of the prisoners were held under the PTA without charge. They asked the government either to indict them or provide a pathway for their eventual release.¹¹²⁸

In relation to 'trial procedures' the same report noted that:

The law requires court proceedings and other legislation to be available in English, Sinhala, and Tamil. Most courts outside the northern and eastern parts of the country conducted business in English or Sinhala. Trials and hearings in the North and East were in Tamil and English. A shortage of court-appointed interpreters limited the right of Tamil-speaking defendants to free interpretation as necessary. In several instances, courts tried criminal cases originating in the Tamil-speaking north and east in Sinhala-speaking areas, which exacerbated the language difference and increased the difficulty in presenting witnesses who needed to travel. Few legal textbooks were available in Tamil.¹¹²⁹

Reuters reported in May 2019 that "Sri Lankan government forces may never return swathes of land taken from ethnic Tamils during a decades-long civil war, land and human rights experts said [...] further impoverishing tens of thousands uprooted in the bloody conflict".¹¹³⁰ The same source further explained that "Government authorities said about 80 percent of confiscated land had been handed back. The remainder, mostly held by the military, may never be returned, said Dhammika Herath, a post-conflict expert at the University of Peradeniya in Sri Lanka [...] Nearly 30,000 acres (12,140 hectares) of private land were still being held as of March 31, according to government officials. Sumith Atapattu, a spokesman for the Sri Lankan army, said the land is being retained for "security purposes". "We are open to seeing if compensation or some alternate arrangement can be made," he said".¹¹³¹

Human Rights Watch noted in its annual report covering 2019 that "Some families of people forcibly disappeared during the war reported intimidation by soldiers. The army also disrupted Tamil memorial events. In May [2019], families of the disappeared from Ampara were at a remembrance ceremony when soldiers arrived and destroyed or removed banners and decorations, and threatened to arrest the participants".¹¹³²

¹¹²⁷ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *section 6., National/Racial/Ethnic Minorities*, p. 23

¹¹²⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *d. Arbitrary Arrest or Detention, Arrest Procedures and Treatment of Detainees*, p. 8

¹¹²⁹ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *e. Denial of Fair Public Trial*, p. 9

¹¹³⁰ Reuters, [Ten years after war ended, Sri Lankan Tamils may never get back land](#), 17 May 2019

¹¹³¹ Reuters, [Ten years after war ended, Sri Lankan Tamils may never get back land](#), 17 May 2019

¹¹³² Human Rights Watch, [World Report 2020 - Sri Lanka](#), 14 January 2020

In June 2019 Reporters Without Borders reported that on the “Ten years after the end of the civil war, the resurgence in attacks by the security forces against Tamil reporters recalls the worst times in Sri Lanka’s history, when it was one of the world’s deadliest countries for journalists. [...] attempts by journalists to cover the demands of the Tamil minority’s representatives are being met with acts of intimidation from the security forces”.¹¹³³ In one incident, a journalist of Tamil origin working for the Tamil daily *Virakesari* was covering a story about a Hindu temple in the district of Mullaitivu – the focus of the “conflict between the mainly Hinduist Tamil minority and the mainly Buddhist Sinhalese majority, the temple has been occupied for the past few years by Buddhist monks, who changed its name and recently installed CCTV cameras in order to control access”.¹¹³⁴ For further information, see [V.e.i. Situation of Journalists/Media Workers/Bloggers/Citizen Journalists](#).

ACLEED reported in July 2019 that “communal tensions between the Tamil and Sinhalese community heightened last week following the destruction of a Hindu temple at Kanniya town in Trincomalee to make way for a Buddhist vihara (temple or monastery). Protests by hundreds of Tamils were met with police force as well as violence by Sinhalese traders”.¹¹³⁵

The Jamestown Foundation reported in July 2019 that “The North is a virtual police state, and the security forces have developed an institutional obsession over LTTE remnants and possible resurgence, which has not yet materialized and probably will not. The province is on lock-down, militarized, and under the tightest and most insidious system of surveillance, which reaches down to the village level. The slightest sign of activity leads to disproportionate responses with scant regard for human rights and civil liberties”.¹¹³⁶

With regards to the situation in East Sri Lanka, the same source noted:

In the East, there is a different, but no more positive, post-war outcome for the Tamils. Here, Muslim communities have been allowed, even encouraged, by the state to prosper at the direct expense of Tamils; the desire for retribution runs deep. Muslims have taken over key political and administrative posts and have ensured that state resources are unevenly distributed in their favour—local government, development, education all lack any form of ethnic balance. Ampara and Batticaloa—the two main cities in the East—are visibly thriving, but only for the Muslims. In the East, Tamils lack the financial resources and the social networks necessary to migrate to the West. Instead, they find unsatisfactory employment contracts largely in the Middle East, again controlled by Muslim traders.¹¹³⁷

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “There are increasing ethnic tension between the Sinhalese and Tamil communities against Muslims. Muslims have the perception they are not accepted or that their cultural practices will be lost so some are looking for opportunities abroad”.¹¹³⁸

¹¹³³ Reporters Without Borders, [Alarming resurgence in Sri Lankan police attacks on Tamil journalists](#), 4 June 2019

¹¹³⁴ Reporters Without Borders, [Alarming resurgence in Sri Lankan police attacks on Tamil journalists](#), 4 June 2019

¹¹³⁵ ACLEED, [Regional Overview – Asia](#), 29 July 2019

¹¹³⁶ The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

¹¹³⁷ The Jamestown Foundation, [Ethnic Conflict in Sri Lanka: The Easter Bombings and Beyond](#), 26 July 2019

¹¹³⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019, p. 33

A Human Rights Activist interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “Some random Tamils are subject to intimidation [by the security forces]”.¹¹³⁹

A representative of the Tamil National Alliance (TNA) interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “We (TNA) are a political organisation representing the Tamil people of Sri Lanka and have been democratically elected into parliament we have no links to the TGTE but at the same time we acknowledge that there is discrimination against Tamils. Violations of Human Rights, religious, social and cultural rights and other continuing phenomena and continue to inhibit the Tamils from living with dignity. After the change in government post-2015 there have been some improvements. To discriminate against minorities is tolerated and is not dealt with under the law”.¹¹⁴⁰

When asked whether the police would provide protection to a Tamil person being threatened and reporting a crime, the same source replied “Not always. It would depend on the circumstances if the offenders are influential people, then no”.¹¹⁴¹

When asked why young Tamils leave Sri Lanka today and whether there is a “genuine fear among young Tamils of persecution” the same representative of the Tamil National Alliance (TNA) told the UK Fact-Finding mission “Don’t know about young Tamils who were not involved in war. You are not subject to persecution because you are a Tamil. Tamils who were involved in military conflict often know of other Tamils who were involved in the conflict and have disappeared then they have a genuine [...] The situation at present is not as bad as it was some time ago, but it has certainly not improved to the point where everything is perfectly ok. Things can get worse at any point in time”.¹¹⁴²

A ‘diplomatic source’ interviewed by the same UK Fact-Finding Mission in October 2019 stated: “With Tamils there is a subjective fear and mistrust of the authorities, they do acknowledge that it is better, but they think it can change at any time. Checkpoints were brought back in following the Easter attacks, these are still there but not in action, but these checkpoints brought back fears amongst the Tamil community. However, it is mostly Muslims who were affected by the checkpoints. When the emergency regulations were brought in, there might have been some local misuse to increase surveillance against Tamils, but the focus was clearly on the Muslim community”.¹¹⁴³

¹¹³⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 36

¹¹⁴⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Tamil National Alliance (TNA) 1 October 2019, p. 44

¹¹⁴¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Tamil National Alliance (TNA) 1 October 2019, p. 44

¹¹⁴² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Tamil National Alliance (TNA) 1 October 2019, p. 46

¹¹⁴³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Diplomatic Source 2 October 2019, p. 46

A journalist interviewed by the UK Fact-Finding Mission in October 2019 identified as ‘journalist 2’, stated “Tamil groups and journalists obtain information from Tamils who claim torture. The journalist was under the impression that torture did not occur now but that it could occur under the rule of Rajapaksa”.¹¹⁴⁴

A representative of ‘an NGO’ interviewed by the UK Fact-Finding Mission in October 2019 stated “Following the Easter 2019 bombings there were checkpoints in the south of the country and when entering the North. Random checkpoints were in the East but mostly checked Muslims. In the north there aren’t many Muslims so having this checkpoint was viewed by the Tamil people as a form of harassment and humiliation against the general population; a real terrorist could avoid checkpoints if they wanted to. Tamils see Muslims being bullied and think that this could happen to them”.¹¹⁴⁵

An UNHCR Sri Lanka representative interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 stated when asked what the situation is like for Tamils in Sri Lanka:

Tamils returning back to areas in the North are facing a number of reintegration challenges - shelter, livelihood and WATSAN [Water and Sanitation]. The government are meant to set aside a quota of housing assistance for returnees, but this doesn’t happen uniformly in all districts. Housing and land is a problem across the North as there are people who never owned land prior to the war - there is also secondary occupation and other complications.¹¹⁴⁶

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) provided the following overview:

Some members of the Tamil community report discrimination in employment, particularly in relation to government jobs. Even the Tamil-dominated north and east have relatively few Tamil public servants. Despite government incentives, the number of Tamil-speaking police officers and military personnel in the north and east remains small, and monolingual Tamil speakers can have difficulty communicating with authorities [...]

Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested or detained by security forces during the war. While LTTE members and supporters were almost all Tamil, security forces also imputed LTTE support based on ethnicity, and emergency regulations were, at times, applied in a discriminatory manner [...]

Members of the Tamil community claim that authorities continue to monitor public gatherings and protests in the north and east, and practise targeted surveillance and questioning of individuals and groups. Security forces are most likely to monitor people associated with politically-sensitive issues related to the war, including missing persons, land release and memorial events [...] Local sources told DFAT that the method of monitoring today was more subtle [...]

The current government has relaxed some restrictions on the public commemoration of events associated with the Tamils’ armed struggle for statehood. While sources told DFAT there is monitoring by the authorities, Tamils have been free to hold public ceremonies marking Maaveerar Naal (Great Heroes’ Day)

¹¹⁴⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 49

¹¹⁴⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, NGO 2 October 2019, p. 50

¹¹⁴⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019, p. 56

since 2016. Maaveerar Naal commemorates those who died fighting for the LTTE. A local source told DFAT the atmosphere at war commemorations was 'constructive' and Tamils were increasingly comfortable marking such events. A memorial event to mark the 10-year anniversary of the end of the war was held in Mullivaikkal (Northern Province) on 18 May 2019, albeit with a high security presence. Sources told DFAT that heightened security and fear levels under the Emergency Regulations introduced on 22 April 2019 discouraged some people from attending. The Emergency Regulations lapsed on 22 August 2019.¹¹⁴⁷

The Tamil Guardian reported in November 2019 that "Tamil language signboards have reportedly been vandalised by unidentified persons across Sri Lanka, just days after Gotabaya Rajapaksa was sworn in as president. Following last week's presidential election, a spur of racist events have taken place across the island, in which Tamil language signs are being forcibly removed or vandalized".¹¹⁴⁸ The same article also reported that "Earlier this week the Tamil road names of a street in Colombo were removed from signs, and last month a café in Colombo triggered outrage over social media after it displayed a sign instructing its employees that "No Tamil" is to be spoken".¹¹⁴⁹

In November 2019 ACLED reported about pre- and post-election violence affecting the Tamil community:

numerous incidents of election-related violence were reported during the week of the country's presidential election, won by Sri Lanka Podujana Peramuna (SLPP) party candidate Gotabaya Rajapaksa. The violence included clashes between supporters of different political parties, as well as attacks on Muslim voters and Tamil voters. In one such incident, an unidentified group pelted stones and fired on a convoy of buses carrying hundreds of Muslim voters to a polling station in Anuradhapura district [...] ¹¹⁵⁰ there were various reports of post-election violence, as new president Gotabaya Rajapaksa appointed his brother and former president, Mahinda Rajapaksa, as the Prime Minister of Sri Lanka [...] Post-election violence included several clashes between supporters of rival political parties, as well as mob violence targeting members of the Tamil community in Sabaragamuwa province. The victims had been accused of failing to vote for Gotabaya Rajapaksa.¹¹⁵¹

The European Union Election Observation Mission noted in its report on the 2019 November Presidential election that:

The post-election period saw widespread vilification of minorities on social media as well as a number of attacks on mosques and against Tamils and Muslims in areas that had voted largely for Premadasa. These incidents raised fears among minority communities and heightened concerns about the prospects for future reconciliation.¹¹⁵²

The same report further stated: "The immediate post-election period saw attacks, verified by EU observers, on Tamils and Muslims, and intimidation of NDF supporters [...] EU observers noted hateful

¹¹⁴⁷ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Tamils, Monitoring, harassment, arrest and detention*, paras. 3.7, 3.11 and 3.13

¹¹⁴⁸ Tamil Guardian, [Tamil language street signs vandalized across Sri Lanka](#), 24 November 2019

¹¹⁴⁹ Tamil Guardian, [Tamil language street signs vandalized across Sri Lanka](#), 24 November 2019

¹¹⁵⁰ ACLED, [Regional Overview: South Asia 10 – 16 November 2019](#), November 2019

¹¹⁵¹ ACLED, [Regional Overview: South Asia 17-23 November 2019](#), November 2019

¹¹⁵² European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, XIV. *Participation of ethnic and religious minorities*, p. 41

commentary targeting Tamil, Muslim and also Christian communities, primarily in Negombo, departing from the message of reconciliation voiced by political leaders”.¹¹⁵³

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered ‘July 1 – Dec 31, 2019’ which also recorded that “There were at least 4 major incidents that targeted to intimidating estate Tamils and preventing them from voting. One of them occurred before the election, two incidents occurred on the election date. Estate Tamil are the most underprivileged ethnic group in Sri Lanka with inter-generational poverty and other issues”.¹¹⁵⁴

On 24th November 2019 Tamil Guardian reported that “The Sri Lankan security forces have threatened Tamils who have helped organise activities across the North-East ahead of Maaveerar Naal [...] President of the Tamil National People’s Front Gajen Ponnambalam said that “organisers everywhere” had been threatened by both Sri Lanka’s military and police”.¹¹⁵⁵ Two days later, Tamil Guardian also reported that “Sri Lankan police arrested thirteen Tamils, including the Mullaitivu co-ordinator of the Tamil National People’s Front (TNPf), while they were preparing for Maaveerar Naal remembrance [...] After extensive questioning the group were let go but warned to carry out the commemorations ‘peacefully’ and not to use LTTE flags or symbols”.¹¹⁵⁶

Immediately following the election Jacobin, describing itself as “a leading voice of the American left, offering socialist perspectives on politics, economics, and culture”¹¹⁵⁷, reported that “many Tamil activists shifted their social media profiles to private and scrambled to strengthen their security protocols. New army checkpoints appeared in the eastern province of Amparai. A Muslim-owned shop in Haputala was attacked. In Kegalle, Tamil residents were assaulted in their homes and their appliances were vandalized for supporting the ‘wrong’ Sinhala Buddhist. A victim from the incident is recorded saying: ‘We placed a vote and earned a beating’”.¹¹⁵⁸

In December 2019 the Tamil Guardian reported that “A Tamil man was shot dead in Mannar [...] by unidentified gunmen”.¹¹⁵⁹ A few days earlier the same source stated in another article that “A Tamil man who had been reported as missing by his family in Mannar [...] has been found dead on Friday morning”¹¹⁶⁰.

Also in December 2019 the Tamil Guardian reported that:

Sri Lankan police have detained a Muslim man under Prevention of Terrorism Act (PTA) regulations, reportedly investigating an alleged plot to assassinate Sri Lankan president Gotabaya Rajapaksa or one of him [sic] family members. Four Tamil men who were also arrested were released on bail shortly after. The five were all tenants of a house in Jayawardenapura and arrested by Katunayake police.

¹¹⁵³ European Union Election Observation Mission, [Democratic Socialist Republic of Sri Lanka European Union Election Observation Mission FINAL REPORT Presidential election](#), 16 November 2019, *Announcement of Results and Post-Election Environment*, b. *Post-Election Environment*, p. 48

¹¹⁵⁴ INFORM, [Repression of Dissent in Sri Lanka: Before and after the Presidential Election, 1st July 2019 – 31st December 2019](#), February 2020, 5. *Intimidation targeted at estate Tamils to prevent them from voting*, p. 26

¹¹⁵⁵ Tamil Guardian, [Sri Lankan military threatens Maaveerar Naal organisers](#), 24 November 2019

¹¹⁵⁶ Tamil Guardian, [13 Tamils arrested during Maaveerar Naal preparations](#), 26 November 2019

¹¹⁵⁷ See [Jacobin](#), Undated [Last accessed: 10 June 2020]

¹¹⁵⁸ Jacobin, [In Sri Lanka’s Ethnocracy, Tamils Will Always Lose](#), 25 November 2019

¹¹⁵⁹ Tamil Guardian, [Tamil father of two gunned down on Boxing Day](#), 29 December 2019

¹¹⁶⁰ Tamil Guardian, [Missing Tamil man found dead in Mannar](#), 20 December 2019

While the testimonies purportedly showed that four of the arrested - all Tamils - did not have any intention in partaking in the plot and so released on bail, the remaining suspect is being detained under a PTA detention order for 72 hours, obtained from the Minuwangoda court.¹¹⁶¹

Later that same month Tamil Guardian reported that “A Tamil man from Jaffna who had been summoned to Sri Lanka’s Terrorism Investigation Division (TID) has been reported as missing by his family. 38-year-old Paramu Vijayakumar was summoned to the TID office in Colombo on the 6th of December. His wife said that Vijayakumar had left for Colombo but has not been seen since. When she went to file a missing persons complaint at her local police station in Valvettithurai, they reportedly told her they had been in contact with the TID and no summons had been issued for her husband. Sri Lankan police are reportedly conducting further investigations”.¹¹⁶²

In an opinion piece for Al Jazeera, Mario Arulthas, Advocacy Director for the Washington DC-based People for Equality and Relief in Lanka (PEARL), noted that in the post-election climate:

Tamil and Sinhala media have [...] faced increasing pressure since the vote [November 2019 election]. Several journalists were forced to hand their computers to the police over unsubstantiated accusations of spreading hate speech. Tamil activists have ramped up their security protocols and some are reconsidering their continued presence in the country. Self-censorship has become the norm once again. Meanwhile, hate speech, particularly against Tamils, has exploded on social media, with no action taken against those posting. In the centre of the country, Tamils were attacked by Sinhalese, who accused them of voting against Gota.¹¹⁶³

Tamil Guardian reported that “A Tamil man has been admitted to Jaffna General Hospital after he was arrested by Sri Lankan police and found beaten unconscious [...] Sunthar was arrested for an alleged assault in Kalvuyangad that took place on December 4 [2019]. His wife had returned home from work to find that her house doors were locked and told that her husband had been arrested by the Sri Lankan police. Though she attempted to visit him, she was not permitted to see her husband, even as she remained locked out of her own house. She went on to file a complaint with the Humans Rights Commission's (HRC) Jaffna office”.¹¹⁶⁴

Following an interview with a human rights activist based in the northern province in early February 2020, the report by the Swiss State Secretariat for Migration published in the same month stated [informal translation]: “Sri Lankan sources mentioned to the SEM a great fear of the Tamil people for their future under President Gotabaya Rajapaksa. This fear is based, amongst others, on the fact that military personnel detained for violations of human rights have been released, new checkpoints have been set up in the Tamil-dominated areas and non-governmental organizations have been controlled and intimidated”.¹¹⁶⁵

¹¹⁶¹ Tamil Guardian, [Muslim man detained under PTA for alleged Gota murder plot, 4 Tamils bailed](#), 5 December 2019

¹¹⁶² Tamil Guardian, [Tamil man reported missing after being summoned by TID](#), 22 December 2019

¹¹⁶³ Mario Arulthas (Al Jazeera), [Trouble brews in post-election Sri Lanka](#), 9 December 2019

¹¹⁶⁴ Tamil Guardian, [Tamil man in hospital after being beaten unconscious by Sri Lankan police](#), 12 March 2020

¹¹⁶⁵ Swiss State Secretariat for Migration (SEM), [Notiz Sri Lanka, Lagefortschreibung](#), 7 February 2020, 4.1. *Tamilische Bevölkerung*, p. 13. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

In January 2020 Al Jazeera reported that “Sri Lanka's minority ethnic Tamils who are concentrated in the country's north, say the area still suffers from a lack of development, despite promises by its new President Gotabaya Rajapaksa [...] Analysts say despite the building of a new railway and road linking the peninsula and mainland, the gulf between the majority Sinhalese and Tamil community is still wide”.¹¹⁶⁶

In mid-January 2020 Tamil Guardian reported “A joint search operation; involving army, special task force (STF) and police officers, was carried out in Kurunagar, Jaffna [...] as military surveillance [sic] in the North continues. The police ordered an unexpected round-up of the local residents, in which no suspects were arrested and no suspicious items were recovered. Police officials insisted that these operations were carried out for the sake of national security. A similar operation involving army and police officers also took place in Tellipalai, Jaffna on Saturday. There has been a noticeable rise in surveillance operations across various locations of the country since Gotabaya Rajapaksa took office as the Sri Lankan president”.¹¹⁶⁷

Also in mid-January 2020 Tamil Guardian documented the arrest of “At least four Tamils [...] after the Sri Lankan military launched a search operation in Jaffna, following a clash between local Tamils and soldiers in Nagarakovil [...] As the local community celebrated Thai Pongal, an argument broke out in Vadamarachchi East after a soldier reportedly attempted to stop a Tamil man on a motorcycle. The incident began to escalate, with relatives of the local man gathering around to support him, when a reported physical clash broke out between the soldiers and local Tamils”.¹¹⁶⁸ Later that month Tamil Guardian reported on the arrest of “at least one Tamil youth, after conducting search raids in Valvettithurai [...] The youth, identified as 28-year-old Padmanabhan Sindhuraj, was at home when the military raided the property, allegedly searching for his brother. It is reported they were searching for the Tamil man in connection with a clash between local Tamils and soldiers in Nagarkovil last week”.¹¹⁶⁹

A few days later Tamil Guardian reported that “Sri Lankan police in Jaffna have been accused of torturing two Tamils in Jaffna this week, leaving them both with broken limbs. The two Tamil men were arrested by Kayts police and accused of theft. They allege that once taken to the police station, they both were beaten and tortured by police officers - to the point that they both had broken arms. The official in charge of the crime division at the station was singled out as being responsible for the torture that they endured. Local Tamil civil society organisations said they have repeatedly complained about the officer in question, who has been allegedly to repeatedly been involved in unlawful activities”. The same source further stated that “Torture remains endemic on the island, with state security forces accused of systematically torturing Tamil men and women including through sexual violence”.¹¹⁷⁰

The South Asia Terrorism Portal reported that “in another departure from the previous Government, the Gotabaya Rajapaksa Government declined to sing the national anthem in Tamil, the country's second national language, during the island's Independence Day celebrations on February 4, 2020. Earlier, the anthem was sung in the country's two primary languages – Sinhala and Tamil – to promote ethnic harmony in the aftermath of a decades-long civil war. Tamil politicians had requested Gotabaya to continue the practice of singing the Tamil translation of the national anthem, recognized by the

¹¹⁶⁶ Al Jazeera, [Sri Lanka's Tamils fear discrimination under new president](#), 2 January 2020

¹¹⁶⁷ Tamil Guardian, [Sri Lankan military conducts multiple searches across Jaffna](#), 13 January 2020

¹¹⁶⁸ Tamil Guardian, [Four arrested and lockdown enforced after locals clash with Sri Lankan military](#), 17 January 2020

¹¹⁶⁹ Tamil Guardian, [Sri Lankan army arrests Tamil youth in Jaffna](#), 26 January 2020

¹¹⁷⁰ Tamil Guardian, [Sri Lanka police torture two Tamils in Jaffna](#), 20 January 2020

Constitution, in order to give the Tamil community a sense of belonging to the country after decades of estrangement with the state”.¹¹⁷¹

Sri Lanka Brief reported in early March 2020 that:

Under the government programme for placement of 100,000 unemployed graduates and diploma holders, the interviewing process is underway at Divisional Secretariats by senior government officials with the participation of military officers on the interview board. This raised concerns among those who came for the interview at a DS office in the North this week. It was also observed that military officers keep a separate file of the candidates. When asked why the military officers keep separate files of candidates, it was said that since most of the candidates were claiming to be from poverty background, military officers would be visiting the residences to verify their family condition along with educational qualifications. The government has announced that those who are from poverty ridden families will be given priority in the appointments [...]

Earlier it was announced that those selected would be appointed to ministries and departments at a monthly allowance of Rs 20,000 during the one year training period. The appointments will be granted on a district basis and it is a compulsory requirement for them to serve for five years in the district to which they are posted on their first appointment.¹¹⁷²

In March 2020 Tamil Net reported:

The previous regime in Colombo was employing Sinhalese from the South to the vacancies of unskilled labourers in the North. For example, Sinhala youth were deployed in large numbers for the job of electricity meter reading in households in the North. However, the present regime has gone a step further installing Sinhalese also in the top positions of the civil administration in the North-East, observed former Northern Provincial Council Chief Minister Justice C.V. Wigneswaran. He was responding to a question from TamilNet on the recent trends of Sinhalicisation and militarisation of the civil administration in the occupied country of Eezham Tamils at the prolonged absence of the elected provincial councils.¹¹⁷³

Tamil Guardian reported in April 2020 that “A young Tamil man from Jaffna among several other youngsters, were brutally attacked by drunk off-duty police officers and viciously dragged to the local police station”.¹¹⁷⁴ The same source further noted “This attack is an example of the many incidents of police harassment and brutal treatment of civilians across the North-East in the past few weeks during the curfew. There have been incidents of bicycles having their tyres slashed; chains ripped out, people being harassed and beaten for standing in the front of their house, breaking chairs and vandalizing houses and also hitting and behaving inappropriately with women”.¹¹⁷⁵

In April 2020 Journalists for Democracy in Sri Lanka reported that “The provocative behaviour of the navy in this highly militarised environment has been the source of many complaints by Tamil and Muslim fishermen. Fishermen have accused navy personnel attacking them, destroying their catch and using the official requirement of registering with the navy before fishermen are permitted to go to sea,

¹¹⁷¹ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

¹¹⁷² Sri Lanka Brief, [SRI LANKA: MILITARY TO CHECK FAMILY BACK GROUNDS OF UNEMPLOYED GRADUATES & DIPLOMA HOLDERS APPLYING FOR JOBS](#), 1 March 2020

¹¹⁷³ Tamil Net, [Increasing pattern of Sinhala officials controlling civil affairs in North-East: Wigneswaran, Mavai](#), 5 March 2020

¹¹⁷⁴ Tamil Guardian, [Drunk police officers severely injure Tamil youngsters in unprovoked attack](#), 22 April 2020

¹¹⁷⁵ Tamil Guardian, [Drunk police officers severely injure Tamil youngsters in unprovoked attack](#), 22 April 2020

to intimidate and harass them”.¹¹⁷⁶ In the most recent incident as reported by the same source “Fishermen plying their trade off the coast of Kiranchi, in the Kilinochchi District have accused Sri Lanka Navy personnel of cannibalistic behaviour and unprovoked assault. The fishermen said they had initially refrained from complaining to the authorities fearing repercussions, although a statement was made when information reached the local police after one of them was treated in a government hospital for injuries”.¹¹⁷⁷

The military’s role in contact-tracing under the COVID-19 pandemic was criticised by the Adayaalam Centre for Policy Research at the end of April 2020:

Worryingly in Sri Lanka contact-tracing efforts are being lead by the State’s intelligence services who are notorious for their use of torture against primarily Tamil civilians and excombatants. They are using the assistance of telecommunication companies to trace individuals’ contacts and the places they have visited, in addition to looking through people’s immigration records. The military is also planning to use drones to monitor villages affected by COVID19. Already Tamil aid workers and activists in the North who have been distributing rations to impoverished communities including Tamil families of the disappeared and ex-combatants have reported been interrogated by the CID about where they got the aid. The CID has told them that they should be informed about any aid distributions even where activists had already informed local government officials. Reports have also emerged of the military leaking details of individuals they have traced discriminatorily against Tamils and Muslims. In a context where the military has consistently used surveillance as a tool of intimidation and harassment of human rights defenders, journalists, and the Tamil community, the broad powers and technology being given to them without any apparent oversight or end date is of grave concern to ACPR.¹¹⁷⁸

Tamil Guardian reported in early May 2020 that “Sri Lankan police officers forced entry into a house in Jaffna and viciously attacked family members with their guns and bats, leaving at least three Tamil women hospitalized [...] Children and elderly people living in the house were also ruthlessly assaulted, with officers threatening to arrest people on false drug possession charges”.¹¹⁷⁹

A further incident Tamil Guardian reported on occurred in early May 2020 where reportedly “An elderly disabled man was falsely accused and arrested by police officers and tortured in custody”.¹¹⁸⁰

In mid- May 2020 Tamil Net reported:

22-year-old Anushan Pasupathy sustained three gunshot wounds as the occupying SL Army (SLA) opened fire at the Tamil youth while he was riding a motorbike between Kaanthiyoor and Mu'raavil in Point Pedro, Jaffna [...]
One of the SL Army soldier groups, deployed on Jaffna-Point Pedro Road fired at him without any provocation [...]

¹¹⁷⁶ Journalists for Democracy in Sri Lanka, [Sri Lanka Navy accused of behaving like 'cannibals'](#), 22 April 2020

¹¹⁷⁷ Journalists for Democracy in Sri Lanka, [Sri Lanka Navy accused of behaving like 'cannibals'](#), 22 April 2020

¹¹⁷⁸ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka's militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, B. Militarisation of the COVID-19 Response, (iv) Military's role in Contact-Tracing, p. 8*

¹¹⁷⁹ Tamil Guardian, [Sri Lankan police leave three Tamil women hospitalised in brutal assault](#), 1 May 2020

¹¹⁸⁰ Tamil Guardian, [Falsely arrested and tortured disabled Tamil man submits complaint at Human Rights Commission](#), 3 June 2020

In recent days, there have been reports of increasing violent acts by the Sinhala soldiers, who are stationed in the occupied Tamil homeland. The SLA soldiers claim that they are controlling the spread of COVID-19 as well as assisting the SL Police.¹¹⁸¹

A few days later Tamil Guardian reported that “Sri Lankan sailors assaulted at least two Tamil farmers in Vadamarachchi East this week, in yet another attack on Tamil civilians. The farmers were returning from work, when they were stopped by the sailors and attacked with metal wires [...] The attack is the latest in a series of ramped up Sri Lankan state violence against Tamil civilians in the North-East”.¹¹⁸²

Journalists for Democracy in Sri Lanka reported at the end of May 2020 that "A war commemoration event involving the armed forces was permitted to go ahead in Colombo this week despite concerns about Covid-19 but security forces used the virus as an excuse to prevent such memorialisation by Tamils in the north-east".¹¹⁸³ For example, Tamil Guardian reported that

Sri Lankan police halted Ilankai Tamil Arasi Katchi's (ITAK) Mullivaikkal remembrance event at their office in Batticaloa [...] ITAK members and locals were stopped from paying their respects minutes before the event began. The police handed over a court order to ITAK's General Secretary, K Thuraiarasingam [...] Despite the limited number of attendees, the police insisted that event could not go ahead. This is the second memorial event to be blocked by the police in Batticaloa today [...] Sri Lankan military and police have attempted to stop remembrance events across the North-East today as well as an increase in intimidation in the lead up to Tamil Genocide Remembrance Day.¹¹⁸⁴

The Sri Lankan organisation ‘Right to Life’ provided the following report about the current situation under COVID-19 related lockdown in the North:

Armed forces have been deployed throughout the Jaffna town in a situation where curfews have been lifted and people begin to move. It is also reported that the civilian officials in the North are very displeased with the military takeover of most of the civilian activities, including the corona work and the distribution of subsidies. Over the past month, the Sri Lankan army and police have been reportedly harassing poor people in the North using curfews in Sri Lanka in the wake of the Corona epidemic.

These people are being harassed by people coming out of their homes for lack of necessities, including food and water. The Jaffna office of the Human Rights Commission has received nine complaints. Seven of them are against Chavakachcheri, Vaddukkoddai, Kopay and Point Pedro police stations and Elephant Pass. Many families in Jaffna have been affected due to lack of drinking water. One of the complaints received by the Human Rights Commission is the brutal assault on the people who come to get water. The most recent incident was the April 25 [2020] attack on a resident of Vatukovil in Jaffna when he went to the Sittakeesi Guna Devi Temple for water. He was brutally assaulted and beaten by the police. During the curfew, fishing was allowed by the Navy, but those who went to sea to sell their produce were fired. On April 7 [2020], the Navy attacked four persons who were trying to get sea leeches on the night of the Sillarman Thuda beach in Poonakadi in the Kilinochchi district. Thirty-two-year-old Selvakumar had broken his arm.

On April 7 [2020], Indrallal and his brother, who were engaged in fishing in the area, were assaulted by 10 naval personnel surrounded by Julian, who is studying at the University of Jaffna. The office of Nadarajalingam Thushanthan, a journalist of the Mogulvan web site, was brutally attacked by a group that broke into the office at around 5.45 pm on March 30 [2020]. These attacks and the release of assailants,

¹¹⁸¹ Tamil Net, [SL Army fires at Tamil youth in Point Pedro, Jaffna](#), 15 May 2020

¹¹⁸² Tamil Guardian, [Sri Lankan navy assaults Tamil farmers in Jaffna](#), 21 May 2020

¹¹⁸³ Journalists for Democracy in Sri Lanka, [Latest Sri Lanka military promotions “reeks of brazen impunity”](#), 25 May 2020

¹¹⁸⁴ Tamil Guardian, [Sri Lankan police halt another Mullivaikkal remembrance event in Batticaloa](#), 18 May 2020

while protecting the military and police forces, have been used in the backdrop of violent attacks on innocent people coming out of their homes to get water to drink while the curfew is being implemented. There is every doubt that the attack was carried out. People in the South are also being harassed, accused of breaking curfews. Forty thousand people have been arrested and nearly 10,000 vehicles have been detained. Most of them are out of home to get the essentials.¹¹⁸⁵

a) Treatment of former members of the LTTE

For background information, [see I.b. ii. Defeat of LTTE in 2009](#).

The U.S. Department of State's annual report covering 2019 noted specifically with regards to former LTTE members:

Throughout the country, but especially in the North and East, Tamils reported security forces regularly monitored and harassed members of their community, especially [...] former or suspected former LTTE members.¹¹⁸⁶

Sri Lanka Brief noted in September 2019 with regards to the 'lives of former LTTE Cadres':

In the North, surveillance continues. A former LTTE cadre from Vavuniya explained the events following the Easter Sunday [2019] bombings as follows.

"After the Easter Sunday attacks, the Army visited my home where I'm living with my two children aged 7 and 5 years. My husband is working in the Middle East. I was a LTTE carder and was released after rehabilitation. It was some 8 years ago. Military personal had a form to be filled with information about me. They asked me the number I was given when I was with the LTTE. When I asked why they needed the number after 8 years, they shouted at me. I felt subjugated. They asked for information on my husband as well. They gave me a number to hold and took photographs of me while my two sons watched. I have lived a normal life for 8 years. Why does the Government still harass us? [...]

The situation keeps deteriorating for most former LTTE cadres. Most of them live in poverty and fear".

Former LTTE cadre, Vavuniya District, Northern Province

Another group of former LTTE cadres expressed their aspiration to go in to democratic politics amidst worrying economic concerns.

"Even after 8 years of peaceful life, we are still harassed by security agencies. It is as if the intelligence apparatus has become a part of our lives. They have our mobile phone numbers and they call us regularly. After the Easter Sunday [2019] attacks Army personal visited us and filled up a form with our personal information. We are afraid to travel together. If six of us travel together, the Police question us and harass us. We receive threats from known and unknown sources. Is eight years not enough to trust us? [...]

We only learned warfare. Although we all went through rehabilitation after the war, we could not learn any livelihood skills that actually help us make a living. Today, most of us engage in daily wage laborer jobs or short-term jobs. Neither the Government, nor NGOs, has helped us set up livelihoods".

A group of ex-LTTE carders

The dire economic situation in which the former LTTE cadres live show the slow progress of transitional justice. Even a decade after the end of the conflict, fruits of economic development have not reached the war affected areas. The lives they live, in sheer poverty, are being forgotten.¹¹⁸⁷

¹¹⁸⁵ Right to Life, [The lives of people in the North who have been tortured by the governments military rule](#), 12 May 2020

¹¹⁸⁶ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 6., National/Racial/Ethnic Minorities, p. 23

¹¹⁸⁷ Sri Lanka Brief, [Briefing Notes, Sri Lanka Briefing Notes, Issue No 16](#), September 2019, *Lives of former LTTE Cadres*, 17/18

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that “Some former LTTE leaders are now parliamentarians. Rehabilitees struggle to reintegrate and go back to their homes (some left as young as 13) as they are ostracised for being LTTE [...] Some support measures are in place; some former cadres have been absorbed into government programmes. Some are helping in de-mining programmes and assisting the military”.¹¹⁸⁸

A spokesperson for the Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that it “had met with rehabilitees and had not heard any complaints that they were being monitored by the military. They (the ex-cadres) are eager to get back to work and that concern (of being under surveillance) is not there. They are more worried about income and livelihoods. Even ex-cadres who have not been through rehabilitation are able to come and go freely; there is little vigilance on the average ex-cadre. In the current context, there is free movement. Attitudes of higher government officials are passed down through the ranks so the behaviour at the bottom-line changes accordingly. MNPEA were not aware of ex-cadres facing problems on their return home (to their communities) but some private sector employers might be unwilling to employ them, despite the government incentives”.¹¹⁸⁹

A Human Rights Activist interviewed for the UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that it “There is interest from the security forces to look for former LTTE members [...] Former LTTE cadres have been summoned, too. Some with an activist profile, but not all”.¹¹⁹⁰ The same source further stated “Ex-cadres have said they are ostracised by their communities, a) due to close monitoring they might be under, and b) because of their activities in the LTTE”.¹¹⁹¹

A spokesperson for the Sri Lankan Human Rights Commission interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “LTTE sympathisers may be monitored if they have some prominence, actively supported or raised funds for the LTTE – then they may be questioned. The level of interest might depend on their degree of involvement in the past and on their current connections, e.g. with diaspora groups”.¹¹⁹²

¹¹⁸⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019, p. 34

¹¹⁸⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) 30 September 2019, p. 35

¹¹⁹⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 36

¹¹⁹¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 38

¹¹⁹² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Commission (HRC) 1 October 2019, p. 41

A representative of the Bureau of the Commissioner General of Rehabilitation interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following information on the rehabilitation of former LTTE cadres:

The Bureau is responsible for rehabilitation, resettlement and youth affairs and opened in 2007. More than 10,000 LTTE cadres surrendered to the government in 2009 and were handed to the armed forces to commence rehabilitation in 24 centres [...]
Rehabilitation of these initial 10,000+ cadres was completed in 2013. 2,000 more were arrested and were ordered to rehabilitation by the courts [...]
12,191 ex-cadres have been reintegrated, mostly from 7 districts in the North and East. Offices were established to look after the well-being of rehabilitees. Money and livelihoods were provided. The last rehabilitee was reintegrated into society 2 months ago. Some former LTTE cadres remain in detention and may be rehabilitated. The Bureau is now mainly responsible for rehabilitating drug addicts. There are 2 centres with 1,800 persons who receive education and vocational training.¹¹⁹³

The same source further noted that:

No rehabilitees have been involved in anti-government activity since their [sic] rehabilitation. However, there is still stigma and being ostracised from communities is a problem. They are given less priority for jobs, etc. 100-150 former cadres have joined the army; nearly 700 have joined the civil defence force. Support to rehabilitees is offered but limited to means to make a livelihood such as fishing gear and boats, farm animals, machinery, etc. Any requirement for medical treatment once rehabilitated would need to be accessed through hospitals.
Rehab is voluntary. If a returnee returning now was prepared to go into rehab they could. If a former LTTE cadre returned from the UK and asked for rehabilitation they would be offered it. If they were arrested for criminal activity, then the courts might decide if the person would go to rehab. Not every cadre went to rehab, and they were left to their own devices.¹¹⁹⁴

A representative of the Tamil National Alliance interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following response about whether former LTTE members have been rehabilitated: "They have been engaged in some rehabilitation activity, I don't think there has been a regular program of rehabilitating Tamil youth particularly imparting skills to them [...] they have not given skills to youth who were involved in the war. They have not ensured that they can obtain jobs. The Government contribution has been seriously lacking. We want the Tamil people abroad to come back but they must be mentally attuned to come back. They must be assured that they will be treated differently and have a future here- they are not being assured of that".¹¹⁹⁵

A journalist interviewed by the UK Fact-Finding Mission in October 2019 identified as 'journalist 1', stated:

¹¹⁹³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Bureau of the Commissioner General of Rehabilitation 1 October 2019*, p. 43

¹¹⁹⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Bureau of the Commissioner General of Rehabilitation 1 October 2019*, p. 43

¹¹⁹⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Tamil National Alliance (TNA) 1 October 2019*, p. 45

Rehabilitation is not happening properly. Not heard of many success stories, although the journalist was aware of six Tamil girls who were successfully retrained as journalists. Reconciliation is more cosmetic than genuine. Tamils who suffered at the hands of the army still have some respect for ex-cadres, but others discriminate against them, e.g. don't offer jobs for fear of reprisals.¹¹⁹⁶

A second journalist interviewed by the same UK Fact-Finding Mission in October 2019 identified as 'journalist 2', stated:

Former LTTE cadres are not directly mistreated; some former members have gone into politics. There is a fear they're being watched by the military and intelligence. Similar stories are heard in the North and East – a fear of being watched in case they take up arms.¹¹⁹⁷

A representative of an 'NGO' interviewed by a UK Fact-Finding Mission in October 2019 stated "Tamils are not targeted anymore. Family members of former LTTE cadres may be under some surveillance and rehabilitees have to routinely report to the military. Tamil employers won't give jobs to ex-cadres (even though the government pays half their salary). They are discriminated against (particularly female ex-cadres) by their own people due to their past and the fear that they are under surveillance from the military".¹¹⁹⁸

A representative from the Northern province community interviewed by a UK Fact-Finding Mission in October 2019 stated that "Rehabilitees may be targeted by SIS [State Intelligence Service] – they visit their home, find out their activities, restrict movement. Prominent people are still under scrutiny and are called into the TID [Terrorism Investigation Division] occasionally even after 2015. There is no rejection per se, but the ordinary man does not want to be seen affiliating with a former cadre due to ongoing scrutiny. Employers are not willing to employ as they will face visits by SIS. Opportunities were given to some young fighters after they surrendered in 2009. Some were sent to schools and few among them entered universities. Some were employed into the security forces or civil defence force; there was controversy on the recruitment process but now they're living on a pensionable salary. Some given government employment as bus drivers and conductors. But, many of surrendeers were detained in the name of rehabilitation and there were claims of abuses".¹¹⁹⁹

An IOM representative interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that "Some went through rehabilitation and didn't face problems. They were all excombatants recognised by the government [...] To a large extent, rehabilitation has been successful; maybe not economically but there has been no further violence. The government has a genuine intention to put people back into the community. There are some problems with reintegration in the

¹¹⁹⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 48

¹¹⁹⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 48

¹¹⁹⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, NGO 2 October 2019, p. 50

¹¹⁹⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019, p. 53

North and East – societal problems including discrimination and bias within their communities, lack of livelihood opportunities”.¹²⁰⁰

An UNHCR Sri Lanka representative interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 stated:

There is a perception in IDP/returnee communities that refugee returnees left while they remained and therefore assistance should be more for the IDP returnees. There is an underlying hostility. Ex-cadres who have been rehabilitated are also sometimes viewed with hostility as people think they may be informants as they are often required to check in with the army base nearby regularly as a part of their release from rehabilitation, but this is not something we monitor.¹²⁰¹

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’, which covered ‘July 1 – Dec 31, 2019’ and which recorded that following the election in November 2019 “A former female LTTE cadre in the Northern Province was questioned by several intelligence personnel, about a book she had published about her experiences during the war”.¹²⁰²

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted with regards to the rehabilitation of former LTTE members:

Since the end of the war, the Sri Lankan Government has managed a large-scale rehabilitation process for former LTTE members. The government established 24 rehabilitation centres in the Northern, Eastern and Western provinces for former LTTE members who surrendered in the final stages of the war. The Bureau of the Commissioner General of Rehabilitation used a ‘three pronged approach’ to manage arrested LTTE members: (1) those to be investigated and prosecuted under normal court of law; (2) those to be rehabilitated; and (3) those to be released upon confirmation by intelligence agencies of their peripheral involvement in the war. Sources told DFAT that those targeted for rehabilitation included not just former combatants, but also those who performed non-combat functions for the LTTE as part of its civilian administration in Tamil-populated areas. [...]

According to Sri Lankan Government statistics from March 2019, 12,191 former LTTE members (including 2,265 women) had completed rehabilitation. At the time of publication, only one rehabilitation centre for former LTTE members remained operational (Poonthottam Rehabilitation Centre in Vavuniya, DFAT Country Information Report Sri Lanka 34 Northern Province). DFAT understands this centre currently houses one former LTTE member [...]

Official sources told DFAT the Poonthottam centre would remain open for the foreseeable future and be used on a needs basis, including to rehabilitate drug addicts and non-rehabilitated former LTTE members that come to the attention of the authorities. Convicted former LTTE members currently held in other places of detention, including under the PTA, might – upon their release – also be sent for rehabilitation (local sources indicate there are more than 100 such individuals). [...]

Former LTTE members undergo two forms of profiling: (1) psychosocial, including an assessment of their level of radicalisation; and (2) socioeconomic, including education, professional skills and vocational interests. Personal files assess the progress of former LTTE members in terms of rehabilitation and de-radicalisation. Rehabilitation is typically a one-year program, extended to up to two years for those

¹²⁰⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, IOM 3 October 2019, p. 55

¹²⁰¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019, p. 56

¹²⁰² INFORM, [Repression of Dissent in Sri Lanka: Before and after the Presidential Election, 1st July 2019 – 31st December 2019](#), February 2020, F. Other, *After the election*, p. 58

assessed as highly radical. The first six months of the rehabilitation program usually focus on 'rehabilitation of the mental and physical state', including education, spiritual, religious and cultural training and sports; the last six months are dedicated to vocational training. The rehabilitation process includes field trips. [...]

Although the activities undertaken in the rehabilitation centres vary, vocational training for men includes welding, masonry, plumbing, driving, tailoring, wiring, Sinhala language, computer skills and vegetable cultivation. Women are accommodated separately from men and receive training in cookery, beauty therapy, tailoring, Sinhala language and computer skills. DFAT understands that no women are currently undergoing rehabilitation. Former child soldiers undergo a separate rehabilitation program, with a focus on education. While many of those who have completed rehabilitation have reported difficulty finding regular employment upon their release, others have said the vocational skills gained during rehabilitation made them more employable. The unemployment rate among rehabilitated former LTTE members, particularly women, is reportedly higher than the national average but this may reflect factors such as the weaker economic conditions in the north and east, war-related disabilities and a reluctance by employers to hire known former LTTE members, for fear of inviting monitoring by the authorities. [...]

Former LTTE members undergoing rehabilitation are permitted to make multiple visits to their family and receive family visits during their rehabilitation process. In 2016, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment assessed that conditions in rehabilitation were considerably more humane than in prison. Local sources told DFAT that rehabilitation centres compared favourably to prisons, including from the point of view they were not overcrowded like prisons (see Detention and Prison). [...]

A July 2018 report of the UN Working Group on Arbitrary Detention assessed there were 'systemic problems with deprivation of liberty' in connection with the Poonthottam Rehabilitation Centre and described the detention of former LTTE members for the purposes of rehabilitation therein as 'arbitrary'. The UN Working Group recommended that the Sri Lankan Government release detainees from the Poonthottam Rehabilitation Centre immediately and unconditionally, and close the centre as soon as possible. [...]

Local sources estimate that between 4,000 and 6,000 former LTTE members are undisclosed and non-rehabilitated, some of whom would now be living overseas. Military sources believe the number of undisclosed and non-rehabilitated former LTTE members within Sri Lanka is low, including approximately 280 individuals in Jaffna (Northern Province). Former LTTE members are reluctant to identify for fear of rehabilitation or prosecution. One source claimed the authorities were not actively looking for nonrehabilitated former LTTE members. [...]

Although no formal parole arrangements apply, former LTTE members are required to register with the Civil Affairs Office of their local military unit and may be subject to monitoring, the level of which would depend on the degree of their assessed LTTE involvement. Military sources said the military had no system to monitor rehabilitated former LTTE cadres, unless police reported suspicious activities. Most individuals released from rehabilitation centres have returned to their places of origin and, like all other citizens, are required to register with a local grama niladhari (village officer) to receive financial and other support for repatriation and access to public services. Some international and domestic NGOs also provide post-release support. DFAT understands that no travel restrictions apply to rehabilitated former LTTE members, who may obtain a passport. Those who complete rehabilitation are issued a certificate of completion as evidence they have been rehabilitated. [...]

DFAT is aware of reports that more than 150 former LTTE members died of cancer after being in rehabilitation centres. Some Tamil political leaders, including former Northern Province Chief Minister C.V. Wigneswaran, raised allegations in 2015 and 2016 that former LTTE members received poisonous injections during rehabilitation resulting in fevers, heart disease and cancer. The Northern Provincial Council directed its health ministry to investigate over 200 allegations — it concluded there was no evidence of injections. [...]

The government has used the rehabilitation process to screen and profile LTTE members through interviews, informants and other relevant information to assess individuals' depth of involvement with the LTTE, period of involvement and activities. Security forces can use such information to categorise

individuals and potentially to determine whom to prosecute for terrorism or other offences. DFAT is not aware of specific cases where this has occurred.¹²⁰³

With regards to high-profile former LTTE members, the same source reported:

‘High-profile’ former LTTE members are individuals who held senior positions in the LTTE’s military wing and civilian administration. The LTTE’s former leadership face the highest risk of monitoring, arrest, detention or prosecution, regardless of whether they performed a combat or civilian role during the war. Although most of the LTTE’s leadership died during the war, a number surrendered or were captured and sent to rehabilitation centres or prosecuted/detained. Some former leaders may have left Sri Lanka before, during or after the war (see Former LTTE members living outside Sri Lanka). Others considered ‘high-profile’ include individuals suspected of terrorist or serious criminal offences during the war, or of providing weapons or explosives to the LTTE. [...]

The average judicial process in Sri Lanka, including appeal, is protracted (see Judiciary). High-profile former LTTE members would likely continue to be monitored by the Sri Lankan authorities following their release from prison and completion of any rehabilitation process.¹²⁰⁴

As to in how far former LTTE members are monitored, the same source highlighted:

Some Tamils with imputed LTTE links (including those who fought for the LTTE or were part of its civilian administration) continue to report police monitoring and harassment. Multiple sources in the north told DFAT that former LTTE members, including those considered low-profile, are monitored to guard against the LTTE’s re-emergence, although monitoring today is less extensive and takes a more subtle form. A source that DFAT considers credible claimed the extent of monitoring depends on one’s former seniority within the LTTE; ongoing involvement with politically-sensitive issues, including protests relating to disappeared persons; and links to the Tamil diaspora, particularly elements of the diaspora considered radical by the Sri Lankan Government. Former LTTE members that fit this profile are more likely to be monitored by the authorities. In contrast, those who maintain a low-profile are considered less vulnerable to monitoring [...]

Where monitoring did occur, local sources claimed the authorities – usually undercover police officers or intelligence agents – used more subtle methods, for example inviting individuals to tea in public places and asking questions about their activities. The questioning did not involve violence. Telephone calls were also common. Some sources claimed questioning was sometimes indirect, and involved questioning the neighbours of suspected former LTTE members. DFAT is unable to verify these claims. Sources told DFAT that monitoring of former LTTE members was less extensive in the Eastern Province, insofar as many there had defected during the latter years of the war and aligned with the government as part of the Karuna Group/TMVP (see Security situation in the north and east). Formal complaints of harassment and monitoring by former LTTE members to the HRCSL have decreased significantly; few such complaints were received in 2018.¹²⁰⁵

Furthermore,

¹²⁰³ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), Rehabilitation*, paras. 3.61 – 3.70

¹²⁰⁴ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), High-profile former LTTE members*, paras. 3.71 and 3.72

¹²⁰⁵ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), Monitoring of former LTTE members*, paras. 3.75 and 3.76

The Sri Lankan Government acknowledges that former LTTE members and their families may continue to face discrimination both within their communities and from government officials. DFAT cannot verify claims that people have been arrested and detained because of their family connections with former LTTE members, but understands that close relatives of high-profile former LTTE members who are wanted by Sri Lankan authorities may be subject to monitoring.¹²⁰⁶

As to current arrest and detention of former LTTE members, the Australian Department of Foreign Affairs and Trade report stated:

In addition to those arrested under the PTA, some former LTTE members have faced other criminal charges. [...]

Modest numbers of former LTTE members continue to be detained and prosecuted within Sri Lanka's criminal justice system. According to local sources, more than 100 former LTTE members are currently being held in detention, including one who is undergoing rehabilitation.¹²⁰⁷

With regards to societal discrimination,

Most former LTTE members released from rehabilitation have been accepted back into their communities in the north and east, despite some suspicion that they may act as informants for Sri Lankan authorities. There is an acknowledgement within the Tamil community that many people were forced to participate in LTTE activities against their will. [...]

Many have encountered difficulty finding employment, including because some employers are reluctant to hire former LTTE members out of fear it would invite increased police and military attention. Societal discrimination against former LTTE members is also related to caste, as the majority of former LTTE members are lower caste. Former LTTE members can readily access government services. [...]

Local sources in the north characterised former LTTE members as the most vulnerable and neglected segment of the Tamil population. Former LTTE members face ongoing challenges reintegrating fully into society. Sources told DFAT that unemployment among this cohort is high. Many, including those that received vocational education as part of the post-war rehabilitation process, lack the skills to find and hold meaningful employment, and some have reportedly resorted to criminal activities. Anecdotal evidence indicates that mental illness linked to the war is prevalent among former LTTE members. Those with disabilities sustained during the war receive minimal state support, if at all. [...]

Local sources report that female former LTTE members face additional hardships, including the risk of sexual harassment and difficulties finding marriage partners owing to their LTTE past. Women who were forcibly recruited by the LTTE are more likely to be accepted back into their communities than those who joined voluntarily.¹²⁰⁸

The South Asia Terrorism Portal reported that "The Government also cracked down on the remnants of the Liberation Tigers of Tamil Eelam (LTTE) in 2019, with 27 former LTTE cadres and sympathisers arrested across the country. There were six such arrests in 2018 and seven in 2017. No LTTE-linked fatalities were recorded in 2019, 2018 and 2017. The last LTTE-related fatality was reported on April 10,

¹²⁰⁶ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), Family members of LTTE*, para. 3.83

¹²⁰⁷ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), Arrest, Detention, and Prosecution*, para. 3.84 and 3.85

¹²⁰⁸ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Liberation Tigers of Tamil Eelam (LTTE), Societal discrimination*, para. 3.88 and 3.90

2014 [...] Kamal Gunaratne on December 9, 2019, stated that the ideology of LTTE continues to persist despite Sri Lanka's freedom from terrorism".¹²⁰⁹

The Sri Lanka Daily Mirror also reported in December 2019 that the "Terrorist Investigation Division (TID) said that four non-rehabilitated LTTE cadres have been taken into custody in the Muthur and Sampur areas [...] when they were engaged in rejuvenating LTTE".¹²¹⁰ A few days later the Defence Ministry Secretary, Maj Gen (Rtd) Kamal Gunaratne, was quoted in the Economy Next as stating that "the country's intelligence agencies have a vital role to play in keeping tabs on the LTTE which he said is attempting to re-emerge".¹²¹¹

Following an interview with a human rights activist based in Jaffna in January 2020, a report by the Swiss State Secretariat for Migration published in February 2020 stated [informal translation]: "Before the election [in November 2019], rehabilitated former LTTE members, who are now working for the *Civil Security Department* (CSD), were forced to attend campaign events in support of Gotabaya Rajapaksa".¹²¹²

In mid-January 2020 reporting on the recent arrest of two Tamil men accused of "having links to a former LTTE cadre who they claimed to have found in the possession of explosives" Tamil Guardian further stated "The latest arrest comes as several Tamils, including former LTTE cadres, have been arrested across the North-East in recent months".¹²¹³ A few days later Tamil Guardian reported that "A Tamil shop owner arrested under the Prevention of Terrorism Act (PTA) for selling a CD with LTTE songs has been released on bail after his lawyer appealed to Sri Lanka's attorney general. Another Tamil man arrested for purchasing the CD and playing it remains in remand after a year".¹²¹⁴

In a February 2020 report the Sri Lanka Campaign for Peace and Justice noted that "Former LTTE combatants and Tamil disappearance activists continue to bear the brunt of the state's security apparatus. In December 2019, families of the disappeared protesting in the North and East of the country published a joint letter to the UN [...] which noted an increase in intimidation and surveillance by the military, including home visits and interrogations".¹²¹⁵

Tamil Net reported in May 2020:

A group of Sinhala soldiers, believed to be coming from the 522 Brigade camp of the occupying SL Army in Point Pedro, entered the house of Aingaran Achchitha and assaulted the women and children who were home in Vadamaradchi East, Jaffna. 64-year-old Vijeyaluxmy Pathmanathan, the mother of Achchitha's husband, has been admitted to Point Pedro Base Hospital with injuries. The incident occurred around 10:45 pm Friday. The soldiers were searching for Aingaran, a former LTTE member, who had slapped a

¹²⁰⁹ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

¹²¹⁰ Daily Mirror (Sri Lanka), [Four persons who tried to rejuvenate LTTE arrested](#), 10 December 2019

¹²¹¹ Economy Next, [Intelligence plays vital role in monitoring LTTE remnants, extremist groups – Def Secy](#), 13 December 2019

¹²¹² Swiss State Secretariat for Migration (SEM), [Notiz Sri Lanka, Lagefortschreibung](#), 7 February 2020, 4.1. *Tamilische Bevölkerung*, p. 16. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

¹²¹³ Tamil Guardian, [Sri Lankan TID orders police arrest of two Tamils from Mullaitivu](#), 13 January 2020

¹²¹⁴ Tamil Guardian, [Bail for trader accused of selling LTTE record, buyer remains in remand after 1 year](#), 26 January 2020

¹²¹⁵ Sri Lanka Campaign for Peace and Justice, [Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota's Sri Lanka](#), February 2020, *The Promise* p. 3

soldier following a minor quarrel sometime back in January. Mr Aingaran, fearing extra-judicial revenge, has gone underground as the SLA soldiers have been searching for him.¹²¹⁶

iii. Land restitution/land seizure

For information on the socio-economic situation of IDPs see section [VII.b. General information on the socio-economic conditions for IDPs and their treatment](#).

Overview of the issue

The February 2019 report by the UN High Commissioner for Human Rights provided the following overview covering October 2015 to January 2019:

The return of land occupied by the military in the Northern and Eastern Provinces has continued. In early October 2018, President Sirisena indicated that all civilian land in the North and the East would be released by the end of 2018. According to government figures, around 75 per cent of the land held in 2009 has already been returned. Government figures also indicated that, as at 31 December 2018, 46,322 acres of land (of which 40,490 acres of State land and 5,833 acres of private land) had been released between January 2015 and December 2018, including 5,797 acres (of which 4,738 acres of State land and 1,059 acres of private land) in 2018 alone. Government plans in March 2018 indicated, however, the need for the security forces to retain 36,002 acres, including 5,327 acres of private land. While the High Commissioner acknowledges the significant amount of land returned to date, she still has concerns about the process; for example, some restitutions have been only partial or incomplete, allowing for access to dwellings but not to livelihood resources (such as agricultural land or fishing resources) or vice versa. On other occasions, public services, such as schools, remain unavailable. There have also been cases of property being destroyed shortly before it was to be returned. Furthermore, communities have complained about new land grabs and other contentious land issues, such as alleged “colonization” through the establishment of irrigation, forestry and archaeological projects, and of continued military involvement in economic activities. Such situations prevent the resumption of livelihoods, unlike what was encouraged by the Human Rights Council in its resolution 30/1.¹²¹⁷

The U.S. Department of State provided the following background as to land ownership problems in Sri Lanka following the civil war:

Land ownership disputes continued between private individuals in former war zones, and between citizens and the government.

The military seized significant amounts of land during the war to create security buffer zones around military bases and other high-value targets, known as high security zones (HSZs). According to the 1950 Land Acquisition Act, the government may acquire private property for a “public purpose,” but the law requires posting acquisition notices publicly and providing proper compensation to owners. The former government frequently posted acquisition notices for HSZ land that were inaccessible to property owners, many of whom initiated court cases, including fundamental rights cases before the Supreme Court, to challenge these acquisitions. Throughout the year lawsuits, including a 2016 Supreme Court fundamental rights case and numerous writ applications filed with high courts, remained stalled. Although HSZs had no

¹²¹⁶ Tamil Net, [Occupying Sinhala soldiers mete out revenge assaults against Tamil families in Jaffna, Vanni](#), 9 May 2020

¹²¹⁷ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 8 February 2019, III. Developments in reconciliation and accountability, C. Preconditions for transitional justice and confidence-building measures, para. 35

legal framework following the lapse of emergency regulations in 2011, they still existed and remained off limits to civilians. During the year [2019] the government returned 1,308 acres of land. Since 2009 the government reported it had released more than 89,273 acres of land, representing more than 85 percent of all land occupied during the war.

With the amount of remaining land in dispute, many of those affected by the HSZs complained that the pace at which the government demilitarized land was too slow, that the military held lands it viewed as economically valuable for military benefit, and that military possession of land denied livelihood to the local population. According to the acquisition notices, while most of the land acquired was for use as army camps and bases, among the purposes listed on certain notices were the establishment of a hotel, a factory, and a farm.¹²¹⁸

The February 2020 report by the UN High Commissioner for Human Rights provided the following overview for 2019:

In resolution 30/1, the Human Rights Council encourages the Government to introduce effective security sector reforms. The return of land occupied by the military in Northern and Eastern Provinces continued in 2019, with the majority of land now returned. Yet there has been a disturbing trend towards the militarization of civilian government functions. Control of several key civilian departments has been recently put under the oversight of the Ministry of Defence, including the police, the immigration department, telecommunications registration, the national media centre and the secretariat for non-governmental organizations.¹²¹⁹

Thomson Reuters Foundation News explained:

In Sri Lanka's embattled north and the east, Tamils - an ethnic minority - were uprooted several times during and after the decades-long conflict by both the separatist forces of the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan army.

The army set up camps and high-security zones in confiscated land, thwarting the return of those who fled.

Even where land was released, there was inadequate assistance for land clearance and livelihood aid, non-profit Human Rights Watch said in a 2018 report.

Some land is also being used for commercial purposes including agriculture and tourism, it said.¹²²⁰

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted:

The military appropriated substantial amounts of private- and state-held land in the Northern and Eastern provinces during and after the civil war in order to establish bases and associated buffer zones (known as 'High Security Zones'). As part of the government's transitional justice efforts, President Sirisena pledged to return all land appropriated by the military in the north and east by the end of 2018. While there has been significant progress on land return, Sirisena's pledge had not been met at the time of publication. According to the Sri Lankan Government, as of 2 April 2019, 89,263 acres (or more than 75 per cent) of land held by the military had been released, including 5,797 acres in 2018. [...]

¹²¹⁸ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1., e. Denial of Fair Public Trial, Property Restitution

¹²¹⁹ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, III. Developments in reconciliation, accountability and human rights, para. 33

¹²²⁰ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

Incremental land returns continue, although there have been issues with how some land has been released. For example, in some cases farmers have been returned their land but not their houses, and fishermen have been returned their land but denied access to the ocean. The government has committed to pay compensation where land is not returned for national security reasons. DFAT understands the military retains sole decision-making authority on which land to return and how people should be compensated. Sources told DFAT that the military continued to hold land considered economically valuable, including for fishing and farming purposes. According to the OHCHR, as at 30 September 2018, the military retained 17,793 acres in the Northern Province (4,162 acres of which was private land) and 12,520 acres in the Eastern Province (of which 131 acres was private land). According to military sources, only 1.37 per cent of the land in the Jaffna Peninsula is occupied by the military today. Official sources attributed delays in releasing remaining land to the complexity and financial cost associated with closing existing bases and relocating military personnel elsewhere. The government and the military say they remain committed to land return.¹²²¹

Situation between January 2019 and May 2020

In January 2019 Ruki Fernando writing on Groundviews reported that in 2018 President Sirisena had promised to return “occupied lands in the North and East” of the country by 31st December 2018, but “when this promise was broken [...] the people of Keppapulavu, located in the Mullaitheevu district in Northern Sri Lanka [...] protested outside an Army camp” since March 2017.¹²²² No further information was included in this source as to the outcome of this protest.

In March 2020 Thomson Reuters Foundation News reported that “Women whose land was seized by the army during a long-running war are protesting to have their ancestral homes returned [...] Jasinthan and dozens of other women in Keppapulavu have been staging a protest for more than three years at the entrance to the army camp which they say sits on their ancestral land, one of the longest protests in the country”.¹²²³ According to one of the woman involved in the protest and who spoke to Thomson Reuters Foundation news, she has been “summoned to court several times - including the day after her husband died - because of the protests. She said she has received threats, and has installed security cameras at her home and acquired a pair of guard dogs”.¹²²⁴

INFORM issued a report on ‘Repression of Dissent in Sri Lanka’ which covered the situation between 1st January to 31st March 2019, which recorded that “the Navy attempted to arbitrarily prevent activists from visiting Iranaitivu, where locals had recently regained access to their land after more than 25 years. In separate incidents, land rights protests at Keppapulavu were heavily surveilled by the armed forces on what appeared to be official cameras and by individual personal phones, presumably to intimidate the protesters”.¹²²⁵

¹²²¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Security situation in the north and east*, paras. 2.66 and 2.67

¹²²² Groundviews, [Keppapulavu: Land Struggle Reaches Poiling Point after 700 days of protest](#), 22 January 2019

¹²²³ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

¹²²⁴ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

¹²²⁵ INFORM, [Repression of Dissent in Sri Lanka 1st January – 31st March 2019](#), 9 May 2019, A. *Threats and Obstructions to Activism in the North*, p. 11

According to the People's Alliance for Right to Land "In Keppapilavu, nearly 350 acres of land is yet to be released".¹²²⁶ Chandana Wickramasinghe, an army spokesman, told Thomson Reuters Foundation News:

About 85% of the private lands in the north and east held by armed forces "have already been handed over to the legitimate owners," said Chandana Wickramasinghe, an army spokesman. The remaining land is of "tactical importance" and is vital for national security, he said. "Hence releasing the remaining lands will depend on the situation subsequent to the accessing of security parameters. Therefore a timeline is not a matter that can be discussed at present".¹²²⁷

A similar statement was also made by Sri Lanka's foreign minister to the UN Human Rights Commission reviewing the country's human rights record¹²²⁸ and Journalists for Democracy in Sri Lanka reported in March 2019 "Thousands of acres of land occupied by the military in northern Sri Lanka will not be released to their rightful owners despite ongoing protests. Scores of war displaced Tamil families have been protesting for more than two years by the wayside opposite sprawling camps built over their traditional lands demanding the military to vacate. Their land "would continue to be held by the security forces" Sri Lankan foreign minister adamantly told the UN rights body reviewing the country's human rights record".¹²²⁹

In March 2019 Amnesty International described the "glacial pace" at which civilian land occupied by the Sri Lankan armed forces during the civil war have been returned to the civilian owners and stated that it was aware of "allegations by communities, that the Department of Forests have gazetted private land as forest lands".¹²³⁰

A report published in May 2019 by the Centre for Equality and Justice that "sought to present the voices of women in Sri Lanka on reconciliation through thirty case studies" included the following quote by Ranaweera Mudiyansele Thakshala, Women Development Officer:

Many women are now alone because of the disappearances. They do not have ownership of anything, whether land or rights. Some (Tamil) women cannot even obtain loans. Unlike in the Sinhala community, Tamil women do not have access to and ownership of land because of the special features of the law governing them.¹²³¹

Reuters reported in May 2019 that "Sri Lankan government forces may never return swathes of land taken from ethnic Tamils during a decades-long civil war, land and human rights experts said [...] further impoverishing tens of thousands uprooted in the bloody conflict".¹²³² The same source further explained that "Government authorities said about 80 percent of confiscated land had been handed back. The remainder, mostly held by the military, may never be returned, said Dhammika Herath, a post-conflict

¹²²⁶ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

¹²²⁷ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

¹²²⁸ See Journalists for Democracy in Sri Lanka, [Sri Lanka refuses to hand back military occupied land](#), 22 March 2019

¹²²⁹ Journalists for Democracy in Sri Lanka, [Sri Lanka refuses to hand back military occupied land](#), 22 March 2019

¹²³⁰ Amnesty International, [Flickering Hope: Truth, justice, reparations and guarantees of non-recurrence in Sri Lanka](#), 24 January 2019, 5.2 Land release

¹²³¹ Centre for Equality and Justice, [Reconciling Sri Lanka: What the WOMEN say](#), May 2019, *Women's issues that need to be Resolved for Reconciliation to be Achieved / Challenges*, p. 10

¹²³² Reuters, [Ten years after war ended, Sri Lankan Tamils may never get back land](#), 17 May 2019

expert at the University of Peradeniya in Sri Lanka [...] Nearly 30,000 acres (12,140 hectares) of private land were still being held as of March 31, according to government officials. Sumith Atapattu, a spokesman for the Sri Lankan army, said the land is being retained for “security purposes”. “We are open to seeing if compensation or some alternate arrangement can be made,” he said”.¹²³³

The South Asia Terrorism Portal reported that “President Maithripala Sirisena, during a discussion with security officials on August 28, 2019, issued instructions to expedite the process of releasing lands acquired by the military in the North and East to the rightful owners. During the discussion, security officials informed the President that 80.98 per cent of state lands and 90.73 per cent of private lands which had been acquired during the war, had already been released”.¹²³⁴

Particular groups affected by it appear to be Hindu and Muslims as this information from the U.S. Department of State’s annual report alludes to:

Some Hindu and Muslim groups reported they had difficulty officially claiming land they had long inhabited after Buddhist monks placed a statue of Buddha or a bodhi tree on their property, and described these acts as part of a ‘colonialization’ plan to dilute the concentration of minorities in the North.¹²³⁵

The Centre for Policy Alternatives reported in September 2019 that it was “deeply troubled by the recent incidents in the Mullaitivu District around the disputed land between a Neeraviyadi Pillaiyar Kovil and Mullaitivu Gurukanda Purana Rajamaha Viharaya, that is illustrative of the fault lines of conflict in post war Sri Lanka. The incident speaks to multiple issues of concern, ranging from the undermining of the rule of law to militarisation and competing land claims to ethno-religious tensions, and highlight the fragile peace that is under severe strain by nationalist forces”.¹²³⁶ The incident in question related to:

attempts were made to cremate Colomba Medhalankarakitti Thero, who resided in the Mullaitivu Gurukanda Purana Rajamaha Viharaya on land claimed to belong to the Neeraviyadi Pillaiyar Kovil. Locals and the Kovil Trustees protested this move, with the matter being taken to the Mullaitivu Magistrates Court with a court order issued preventing the cremation on the said land. Despite the court order and in direct violation of it, the cremation took place on the land claimed to belong to the Kovil on 23rd September 2019 with video footage showing Galagoda Aththe Gnanasara Thero and other monks leading the proceedings. Reports also indicate the tacit support of the police and military who failed to prevent the violation of the court order and the alleged assault of an Attorney-at-Law.¹²³⁷

When asked whether ‘Sinhalese are moving to the North’, a representative from the Northern province community interviewed by a UK Fact-Finding Mission in October 2019 stated that “It’s discreetly happening but not at the same levels as before. Some state-sponsored colonisation of Buddhists into Tamil areas continues on a low scale. Housing schemes may prioritise Sinhalese applicants. When the military build Buddhist temples they are aiding and abetting Sinhalisation in the North. When military release private land they leave the Buddhist temples, so Buddhists then claim the land as theirs. There

¹²³³ Reuters, [Ten years after war ended, Sri Lankan Tamils may never get back land](#), 17 May 2019

¹²³⁴ South Asia Terrorism Portal (STP), [Sri Lanka: Assessment – 2020](#), Undated [Last accessed: 31 May 2020]

¹²³⁵ U.S. Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, section 1., e. Denial of Fair Public Trial, Property Restitution

¹²³⁶ Centre for Policy Alternatives (CPA), [CPA calls for urgent action to address recent events in Mullaitivu District](#), 30 September 2019

¹²³⁷ Centre for Policy Alternatives (CPA), [CPA calls for urgent action to address recent events in Mullaitivu District](#), 30 September 2019

are court orders banning such action. There are reports saying over 200 Buddhist shrines have been built in the North and East since the end of the war”.¹²³⁸

Amnesty International in its demands for Sri Lanka’s next president ahead of the November 2019 elections highlighted “While tracts of civilian-owned land have been returned to their owners, many families are still protesting to get their lands back. The land that is still occupied by the Sri Lankan military should be returned and there should also be paid reparations for their decade-long dispossession”.¹²³⁹

In December 2019 Tamil Guardian reported that “Ten Tamil families are facing a new land-grab by the Sri Lankan navy in Punguduthivu. According to a notice issued on November 22 [2019], the navy is to appropriate over 14 acres of land belonging to ten different owners in the coastal village of Vallan on the islet of Punguduthivu. The land is being seized for the establishment of a base for the Sri Lanka navy ship Gotaimbara. The Sri Lankan navy already occupy large swathes of the islet. Earlier this week Sri Lanka's new defence secretary stressed that military bases would not be removed from the North-East, despite ongoing calls from Tamils for demilitarisation and land return”.¹²⁴⁰

Similarly, the Human Rights Litigation and International Advocacy Clinic submission of January 2020 to the UN Human Rights Committee noted:

A disproportionate number of Muslim Sri Lankans were forcibly evicted at gunpoint by Tamil Tigers in 1990 in Sri Lanka. Muslims in Sri Lanka have expressed frustration that there is a lack of transparency about the resettlement process. Concerns have also been raised that land allocation by the Government has included settling Sinhalese on previously Muslim lands to the disadvantage of shrinking Muslim minorities in such communities. State-sponsored programs that transfer Sinhalese into the North and East, such as Gal Oya and Weli Oya/Manal Aru, are viewed by the local Tamil and Muslim populations as particularly contentious. For example, the majority Muslim-and-Hindu, Tamil-speaking towns of Pulmoaddai and Kokkilai, which both border the Northern and Eastern provinces, have gone through well-documented changes throughout military occupation, such as the creation of military outposts, Sinhalese settlements, and the building of military-controlled Buddhist sites in the occupied areas.¹²⁴¹

Tamil Net reported in April 2020:

The occupying SL [Sri Lankan] Navy, which is stationed at Mu'llik-ku'lam, a coastal village located 45 km south of Mannaar city, continues to keep more than one thousand acres of lands out of bound to the uprooted Tamils. SL President Gotabaya Rajapaksa transformed the ancient Tamil village as the command headquarters of North West Naval Area of SL Navy when he was the SL Defence Secretary in 2013. The SLN is using only 35 acres of lands. Private title-lands, LDO permit lands and lands that belong to Catholic Diocese of Mannaar remain out of bounds for the uprooted Tamils. After 2015 regime change, Colombo handed back barely 77 acres of church lands deceiving the protesting people with a promise of freeing

¹²³⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Representative from the Northern province community* 2 October 2019, p. 53

¹²³⁹ Amnesty International, [Sri Lanka: Human rights must be at the heart of next presidency](#), 18 October 2019, *Transitional justice*

¹²⁴⁰ Tamil Guardian, [Ten Tamil households face new land-grab by Sri Lankan navy](#), 4 December 2019

¹²⁴¹ Human Rights Litigation and International Advocacy Clinic, [Submission for the List of Issues: Sri Lanka](#), 13 January 2020, *Land Seizures and Resettlement: Freedom of Movement, Right to Privacy, and Rights of Minorities (Articles 17, 27)*, p. 11

their properties in a “step-by-step” manner. The changes taking place within the SL Navy and the pandemic lockdown have further eroded the outlook for resettlement, the uprooted people complain.¹²⁴²

In May 2020 the same source reported:

Tamil dairy farmers in Batticaloa complain that SL Mahaweli ‘Development’ Authority has recently resumed Sinhala colonisation of Paduvaan-karai region of Batticaloa, particularly the pasturelands at Periyamaathava’nai and Mayilaththa-madu in the administrative divisions of Koa’ra’laip-pattu South (Kiraan) and Ea’raavoorpattu (Chengkalai). The Mahaweli authority has identified land plots to settle more than one thousand Sinhala colonists, and a preparatory meeting has taken place in this regard on Tuesday, said Nimalan Kandsamy, the president of the association of dairy farmers. Sinhala officials belonging to the Mahaweli authority have stepped up their visits into the region. Chamal Rajapaksa, a sibling of SL President Gotabaya Rajapaksa, is the SL Minister of Mahaweli as well as the State Minister of Defence in the ‘caretaker’ cabinet of the Rajapaksa regime at the moment.¹²⁴³

VI. Trafficking in Persons

a. Profiles of Sri Lankan victims of trafficking

The U.S. Department of State 2019 report on trafficking covering 1st April 2018 to 31st March 2019 noted with regards to Sri Lankan victims trafficked abroad that:

As reported over the past five years, human traffickers exploit domestic and foreign victims in Sri Lanka, and traffickers exploit victims from Sri Lanka abroad. Sources estimate there are approximately 1.5 million Sri Lankans working in the Middle East, predominately in construction and domestic work. In 2018, the majority of Sri Lankan female migrant workers sought employment in Saudi Arabia, Kuwait, Qatar, Japan, and South Korea. Some Sri Lankan men, women, and children who migrate to the Middle East, Asia—including Southeast Asia and Afghanistan—Europe, and the United States to work in the construction, garment, and domestic service sectors are victims of forced labor [...]

Traffickers force Sri Lankan women to engage in commercial sex acts in Cyprus, Malaysia, Maldives, Singapore, Thailand, and elsewhere.¹²⁴⁴

As for Sri Lankan victims of trafficking within Sri Lanka, the same source noted:

Within the country, traffickers exploit women and children in sex trafficking. Traffickers exploit boys and girls in commercial sex in coastal areas for child sex tourism, including in hotels, on beaches, and during annual festivals [...]

Government officials acknowledged reports that local government and security sector officials forced women who asked for information about their missing husbands, or widows who attempted to claim government benefits from their deceased husbands’ military service, to perform commercial sex acts in exchange for information and/or government benefits [...]

NCPA [National Child Protection Agency] alleged a state-run orphanage, in collaboration with tuk-tuk drivers, exploited children from the orphanage in child sex trafficking. Traffickers force children, individuals with physical deformities, and those from socially vulnerable groups to beg or engage in criminal activity in Sri Lanka’s largest cities. Some child domestic workers in Colombo, generally Tamils from the tea estate region, are subjected to physical, sexual, and mental abuse, non-payment of wages,

¹²⁴² Tamil Net, [Uncertainty grips war-uprooted coastal village of mainland Mannaar](#), 10 April 2020

¹²⁴³ Tamil Net, [Occupying Colombo resumes Sinhala colonisation in Batticaloa’s interior](#), 27 May 2020

¹²⁴⁴ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Trafficking Profile*

and restrictions of movement—indicators of labor trafficking. Traffickers subject children to forced labor in small boutiques and informal markets.¹²⁴⁵

b. Prevention

According to the U.S. Department of State 2019 report on trafficking covering 1st April 2018 to 31st March 2019, the government of Sri Lanka continued “to conduct numerous anti-trafficking trainings and awareness-raising events for government officials and civil society”.¹²⁴⁶

No additional information was located amongst the list of sources consulted within the allocated timeframe for this research report.

c. Prosecution

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee noted that:

The GOSL [Government of Sri Lanka] 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.¹²⁴⁷

According to the U.S. Department of State 2019 report on trafficking covering 1st April 2018 to 31st March 2019, the government of Sri Lanka convicted “more traffickers than previous years, including the first conviction under the trafficking statute in five years” but “did not demonstrate overall increasing efforts compared to the previous reporting period. While it convicted more traffickers, it issued suspended sentences to some of those convicted and initiated significantly fewer prosecutions”.¹²⁴⁸

The report also highlighted the following failings in securing convictions:

Lack of thorough human trafficking investigations for elements of force, fraud, or coercion, difficulty securing evidence from victims, and judges’ lack of understanding of the severity of the crime contributed to both the government’s general reliance on procurement charges and the lenient sentences applied under Section 360(C) [Section 360(C) of the penal code criminalized sex trafficking and labor trafficking and prescribed penalties of two to 20 years’ imprisonment and a fine, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those prescribed for other serious offenses, such as rape].¹²⁴⁹

¹²⁴⁵ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Trafficking Profile*

¹²⁴⁶ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019

¹²⁴⁷ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, *Paragraph 20: Trafficking in persons, para. 106*

¹²⁴⁸ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019

¹²⁴⁹ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Prosecution*

In addition, the report stated that “Law enforcement reported many victims were reluctant to pursue cases against their alleged traffickers due to the social stigma attached with being a trafficking victim and the inadequate support during the law enforcement process, including a lack of financial assistance to travel to courts to participate”.¹²⁵⁰

The U.S. Department of State further noted that “Complicity remained a serious problem and the government did not initiate any new investigations into allegedly complicit officials, despite multiple reports of official complicity in trafficking. Therefore Sri Lanka was downgraded to Tier 2 Watch List”.¹²⁵¹

d. Protection and government support for victims of trafficking

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee sets out the various ratifications and national legislation to combat trafficking in persons:

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 [Government of Sri Lanka] 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 [...]

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. [...]

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”.¹²⁵²

According to the U.S. Department of State 2019 report on trafficking covering 1st April 2018 to 31st March 2019, the government of Sri Lanka “did not demonstrate overall increasing efforts compared to the previous reporting period [...] Despite numerous trainings, officials did not make adequate efforts to screen individuals arrested or charged for prostitution, vagrancy, or immigration offenses for indicators

¹²⁵⁰ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Protection*

¹²⁵¹ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019

¹²⁵² UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, *Paragraph 20: Trafficking in persons, paras. 102-104*

of human trafficking; the government detained child sex trafficking victims and did not provide appropriate care”.¹²⁵³ The same report further noted “The government maintained mixed efforts to identify and protect trafficking victims; while authorities identified more potential trafficking victims, they did not provide adequate services to victims”.¹²⁵⁴ With regards to returned Sri Lankan migrant workers, the:

SLBFE [Sri Lanka Bureau of Foreign Employment] continued to operate a transit shelter near the Colombo airport for returned migrant workers who suffered abuse abroad. SLBFE reportedly did not identify any trafficking victims among the migrant workers assisted at this shelter during the reporting period; however, as NGOs continued to identify large numbers of Sri Lankan labor trafficking victims among returned migrant workers, the efficacy of such screening was unclear.¹²⁵⁵

As to the existence of shelters, the report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee noted that “The MWCA [Ministry of Women and Child Affairs] has established a shelter for female victims of trafficking”.¹²⁵⁶

The U.S. Department of State reported on the existence of a shelter for “female victims of violence, including trafficking victims, although the shelter did not serve any trafficking victims during the reporting period. The government shelter could not accommodate male victims, including the 56 male victims identified. The government reported all seven potential adult female trafficking victims opted to live independently in lieu of the women’s shelter”.¹²⁵⁷ With regards to other rehabilitation and support services, the report stated “Under the supervision of the National Anti-Human Trafficking Task Force (NAHTTF), various government ministries could provide legal, medical, and psycho-social support to trafficking victims; the government reported none of the 66 victims sought these services during the reporting period”.¹²⁵⁸

e. Non-state support for victims of trafficking

The report submitted in February 2019 by the government of Sri Lanka to the UN Human Rights Committee noted that the Ministry of Women and Child Affairs 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”.¹²⁵⁹

Without specifying whether these shelters accept victims of trafficking, the November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) stated:

¹²⁵³ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019

¹²⁵⁴ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Protection*

¹²⁵⁵ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Protection*

¹²⁵⁶ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, *Paragraph 20: Trafficking in persons, para. 110*

¹²⁵⁷ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Protection*

¹²⁵⁸ U.S. Department of State, [2019 Trafficking in Persons Report: Sri Lanka](#), 24 June 2019, *Protection*

¹²⁵⁹ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), Date received 22 February 2019, 25 April 2019, *Paragraph 9: Violence against women, para. 37*

There are five women’s shelters in all of Sri Lanka, including one in the Northern Province (in Jaffna, operated by Women In Need). The shelters are unmarked. According to sources, the women’s shelter in Jaffna contains six rooms and can accommodate a maximum of 30 women (when the shelter is full, women are referred to an alternative safe space). Women can stay in the shelter for a maximum of three months. Children up to the age of five are allowed to stay with their mothers in the shelter; those older than five are sent to a children’s home or placed under the care of other family members. This forced separation from one’s children was cited by local sources as a major deterrent to women seeking shelter. The scarcity of women’s shelters was seen as a major gap by sources.¹²⁶⁰

The same report noted with regards to women living in the north and east of Sri Lanka and their access to shelters and services:

Support services – state and non-state – are available for women in the north and east, but are generally not considered adequate. Tamil-speaking officers dedicated to women’s affairs are attached to Divisional Secretariats, and provide counselling and other support services. Sources told DFAT that support services for women in the Northern Province were being provided primarily by NGOs, who had to cover large geographic areas yet lacked resources. A source in the Eastern Province told DFAT that support services for women there compared favourably to – and in some cases were even superior to – those services available in Colombo.¹²⁶¹

VII. Refugees and Internally Displaced Persons

a. General information on the socio-economic conditions for refugees and their treatment

For information on the treatment of refugees following the ‘Easter bombings’ of April 2019 see section [VII.c. Situation after the Easter 2019 bombing attacks for refugees, IDPs and migrants in general.](#)

The U.S. Department of State noted in its annual report on human rights covering events of 2019 that:

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, stateless persons, or other persons of concern.¹²⁶²

The report further noted:

Access to Asylum: The law does not provide for the granting of asylum or refugee status. A 2005 Memorandum of Understanding allows UNHCR to operate in the country to conduct refugee registration and status determinations. UNHCR also facilitates durable solutions for refugees, in the form of resettlement to third countries. The government relied on UNHCR to provide food, housing, and education for refugees in the country and to pursue third-country resettlement for them. Asylum seekers, on the other hand, had to rely on the support of NGOs for basic needs.

¹²⁶⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women*, paras. 3.126-3.128

¹²⁶¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Women, Conditions for women in the north and east*, para. 3.135

¹²⁶² US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. Respect for Civil Liberties*

Access to Basic Services: The law does not permit refugees and asylum seekers to work or enroll in the government school system, but many worked informally. Refugees and asylum seekers registered with UNHCR have access to free health care in state hospitals.¹²⁶³

The U.S. Department of State's annual report on trafficking, covering April 2018 to March 2019 noted that "The government does not grant asylum or refugee status, nor does it allow refugees or asylum-seekers to work or attend school. This renders such persons, including Rohingya, vulnerable to trafficking".¹²⁶⁴

A UNDP report on Sri Lanka, dated 1 April 2019, noted that:

Despite not being party to the convention or the 1967 protocol, the Sri Lankan Government provides asylum space for refugees and asylum seekers to submit their claims to UNHCR in Sri Lanka and to remain, while a durable solution is achieved in each specific case. As per the Government's agreement with UNHCR, they are granted space in which to reside until UNHCR processes their claims of asylum which can take between one and a half to two years. At present there [sic] 844 refugees and 826 asylum seekers awaiting the determination of their claims in Sri Lanka. Since Sri Lanka is not party to the Convention, these refugees and asylum seekers have no official legal status and are therefore unable to work during their stay in Sri Lanka. As a result, they are provided with a living allowance by UNHCR which can be used to meet their basic needs. This living allowance, however, is only available to refugees. Asylum seekers have to rely on the support of non-governmental organizations such as ZOA and Muslim Aid as well as support from family back home to meet their basic needs.

The children of refugees and asylum seekers also have limited access to education. While primary education is made available to refugee children, children under the age of 5 and over 12 receive no official schooling. Similarly, asylum seekers must once again, rely on charities and individual benefactors to facilitate learning opportunities for their children.

The lack of access to employment and the lack of educational opportunities, especially for secondary-school age students and youth severely impacts the self-reliance and motivation of refugees and asylum seekers in Sri Lanka. UNHCR in collaboration with Citra's Social Innovation Lab is currently exploring opportunities to provide increased support for skills development and vocational training for refugees and asylum seekers in Sri Lanka and the 3rd edition of the Colombo Development Dialogues will provide a space at which possible solutions might be formulated.¹²⁶⁵

Groundviews reported in April 2019 that:

Sri Lanka is not a signatory to the 1951 Refugee Convention and there are no national procedures for the granting of refugee status. The United Nations High Commissioner for Refugees (UNHCR), based on a 2005 agreement with the Government of Sri Lanka, registers asylum seekers and carries out refugee status determination. Successive Sri Lankan governments have welcomed them to stay in the country temporarily, till they find permanent resettlement in other countries. As of 31st March 2019, there were 851 persons who have been accepted as refugees awaiting resettlement in other countries and another 819 whose refugee applications are pending (asylum seekers). They come from about 15 countries, with majority of 1341 being from Pakistan and 201 from Afghanistan. [...]

UNHCR provides those recognized as refugees with an allowance of about Rs. 10,000 per person or Rs. 22,000 for family with two or more children, which is not enough to cover even accommodation and food and live in dignity in Sri Lanka. Asylum seekers don't get any allowance and are left to fend for

¹²⁶³ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. Respect for Civil Liberties*

¹²⁶⁴ US State Department, [2019 Trafficking in Persons Report](#), 24 June 2019

¹²⁶⁵ UNDP, [Migrants, Refugees and Asylum Seekers: the Sri Lankan Context](#), 1 April 2019

themselves. Few Muslim and Church groups and NGOs have been supporting them with education, accommodation, food, healthcare etc. But these have been very minimal and only few have benefited.

The Sri Lankan government doesn't ensure the right to housing, food, education, healthcare or legal employment for asylum seekers and refugees. No permanent or even transitional shelter is provided by the government. They are not included in government programs for food and nutrition security or social security programs such as Samurdhi, even though this could be done fairly easily and at little extra cost. The treatment and services available to asylum seekers and refugees at public hospitals and clinics is often lacking in terms of care and compassion. In some cases, the provision of treatment is at the discretion of authorities and asylum seekers and refugees who seek medical care are made to feel like they are seeking a privilege, rather than exercising a basic right. Despite being forced to flee having experienced and witnessing atrocities, violence and discrimination, anxieties about family and friends they left behind and finding themselves in an unfamiliar and unwelcoming environment, there is no psychiatric and psychosocial care made available to asylum seekers and refugees.

Although the Sri Lankan Constitution guarantees "assurance to all persons of the right to universal and equal access to education at all levels", this is not extended to refugee and asylum children. The refugee children between 6 – 10 years have access to schooling through UNHCR's support, but children of secondary school age, do not have any access to formal schooling. Asylum seekers and refugees are also not absorbed into the many government technical education and vocational training systems, which has the potential to help them to learn and develop vocational skills that they could utilize in seeking employment and living independently in Sri Lanka and their countries of permanent resettlement.¹²⁶⁶

The Sri Lanka Daily Mirror reported in May 2019 that:

The MOU [between UNHCR and the government] enables asylum seekers to live in Sri Lanka. However, the pre-condition is that they should be registered with the UNHCR. Attorney-at-Law Menaka Lecamwasam, who has conducted research on refugee related matters, pointed out that if an asylum seeker is not registered with the UNHCR, they are often classified as 'illegal immigrants', and can be deported. "This is largely because of an unawareness about the UNHCR and that you should get registered as an asylum seeker," she said. [...]

According to lawyers, on average it takes one and a half years for the application of an asylum seeker to be processed. Once a person is recognised as a refugee resulting from the RSD, the UNHCR facilitates his or her resettlement to a third country which in some cases takes several years. Sri Lanka does not permit resettlement of refugees in Sri Lanka. Sri Lanka is merely a temporary 'transit point'.

The UNHCR issues certificates for asylum seekers and refugees respectively which allows them to stay in Sri Lanka. According to the UNHCR Submission on Sri Lanka at the Universal Periodic Review in March, 2017 refugees and asylum seekers registered with UNHCR are afforded free health care in State hospitals in Sri Lanka. However, children do not have access to free education, and adults are not allowed to work. [...]

Another lawyer, who spoke on terms of anonymity, said that for the past 13 years, around ten thousand refugees who arrived in Sri Lanka, fleeing persecution from their countries of origin, were resettled in the USA, Canada, Sweden, Norway, Netherlands, etc. He added that each host country had an annual allocations for refugees.¹²⁶⁷

In an operational updated UNHCR stated that as of 30 April 2019, 1,697 persons comprised UNHCR's registered population.¹²⁶⁸ 868 of those were refugees and 829 were asylum seekers.¹²⁶⁹ As of 10 May

¹²⁶⁶ Groundviews, [Refugees crisis in Sri Lanka after the Easter Sunday bombings](#), 5 April 2019

¹²⁶⁷ Daily Mirror, [Reflecting on the refugee crisis in Sri Lanka Refugees plead to expedite their cases and resettle them in third countries](#), 23 May 2019

¹²⁶⁸ UNHCR, [Sri Lanka Operational Update](#), 14 May 2019

¹²⁶⁹ UNHCR, [Sri Lanka Operational Update](#), 14 May 2019

2019, there were 1,063 displaced refugees and asylum seekers, staying in the following locations: Negombo police station (158); Negombo mosque (296); and Pasyala community centre (609).¹²⁷⁰

The same operational update further noted that:

Sri Lanka currently hosts nearly 1,700 refugees and asylum seekers, mainly from Pakistan, Afghanistan, Iran and Myanmar. Many of these individuals sought protection in Sri Lanka after fleeing violence, persecution and extremism in their own countries. They have resided peacefully and largely without incident in Sri Lanka.¹²⁷¹

In June 2019, Amnesty International called for the Sri Lankan government to “halt plans to forcibly return asylum-seekers to their countries of origin in violation of international law”.¹²⁷² Amnesty International stated:

There are more than 1,200 refugees and asylum seekers who have been displaced by the violence in the aftermath of the 21 April 2019 attacks. They include more than 1,000 Pakistani Ahmadi Muslims, while the remaining 200 are mostly from religious minorities from Pakistan and Afghanistan, including Pakistani Christians, Pakistan Shi’as, and Afghan Shi’a Hazaras. The people at risk of deportation include Pakistani Christians and Pakistani Shi’as, religious minorities that have faced violence at the hands of armed groups and accusations of “blasphemy”, an offence that carries a maximum punishment of the death penalty [...] The people at risk of deportation have had their asylum claims rejected by the UN refugee agency. Under customary international law, however, the principle of non-refoulement applies to all people, regardless of their asylum status. No one can be sent to a risk of irreparable harm.¹²⁷³

In June 2019, Groundviews published an article about World Refugee Day noting that:

The Sri Lankan government has an agreement with United Nations High Commissioner for Refugees (UNHCR) which allows UNHCR to register those seeking refugee status and carry out refugee status determination. According to UNHCR statistics, there are 862 refugees (those who have been granted refugee status) and 829 asylum seekers (those whose refugee applications are pending) in Sri Lanka as of April 30, 2019. Those who have been granted refugee status await permanent resettlement in another country. Between January to April 2019, 26 refugees had departed to Canada and United States of America for permanent resettlement, but I’m also aware of several refugees who have been stuck in Sri Lanka for several years despite being granted refugee status. These refugees come from 15 countries in South Asia, Middle East and Africa. 1,362 were from Pakistan and 200 from Afghanistan. Others were from Bangladesh, Eritrea, India, Iran, Maldives, Myanmar, Nigeria, Palestine, Somalia, Sudan, Syria, Tunisia and Yemen.

The majority are Ahmadiyya Muslims, while there are also significant number of Christians and other Muslims. These communities have suffered threats, attacks and killings by extremist groups, with little to no protection from the State against these attacks. A few persecuted human rights activists, journalists, bloggers, atheists and gay persons have also sought refuge in Sri Lanka.¹²⁷⁴

The same article also outlined what daily life is like as a refugee in Sri Lanka:

¹²⁷⁰ UNHCR, [Sri Lanka Operational Update](#), 14 May 2019

¹²⁷¹ UNHCR, [Sri Lanka Operational Update](#), 14 May 2019

¹²⁷² Amnesty International, [Sri Lanka: Halt forced returns of Pakistani religious minorities](#), 14 June 2019

¹²⁷³ Amnesty International, [Sri Lanka: Halt forced returns of Pakistani religious minorities](#), 14 June 2019

¹²⁷⁴ Groundviews, [World Refugee Day and Refugees in Sri Lanka](#), 19 June 2019

UNHCR provides those recognised as refugees with an allowance of about Rs. 10,000 per person or Rs. 22,000 for family with two or more children, which is not enough to cover even accommodation and food to live in dignity in Sri Lanka. Asylum seekers don't get any allowance and are left to fend for themselves, with their savings and contributions from relatives, friends and other well-wishers. Among the refugees I have met are medical doctors, journalists, lawyers, government officials, teachers, graphic designers and beauticians. But the Sri Lankan government doesn't allow refugees to be employed legally, denying them the opportunity to be gainfully occupied and earn an income to cover the costs of their temporary stay in Sri Lanka. In desperation, some refugees had worked in shops and as construction workers, but I have been told several instances where employers had refused to pay them the agreed amounts and they were helpless in claiming what was due to them. They end up contributing to the Sri Lankan economy by renting our rooms, houses, buying things from our shops, and spending on three-wheelers and buses. Asylum seekers and refugees are also not absorbed into the government technical education and vocational training systems, which has the potential to help them to learn and develop skills that they could utilise in seeking employment during their stay in Sri Lanka (if allowed to do so) and their countries of resettlement. Government hospitals provide free healthcare, but sometimes refugees have faced hostility in hospitals. There is no psychiatric and psychosocial care made available to them, despite the unfamiliar circumstances they have been compelled to live in, and the trauma they have faced due to the violence and discrimination that had compelled them to leave. Despite the large number of abandoned government buildings across the country, the government doesn't provide housing. Some landlords have been reluctant to rent rooms and houses to refugees, while others have exploited their vulnerability by charging higher prices. The children are not included in the government's "free education" policy, and thus, many children are unable to go to school. Refugees are also not included in government programs for food and nutrition security or social security programs such as Samurdhi.¹²⁷⁵

In September 2019, UNHCR provided an update on their operations in Asia and the Pacific noting that "As of mid-September 2019, [...] refugees in Sri Lanka continued to be resettled to third countries. As of mid-September, a total of 218 individuals had departed Sri Lanka for resettlement to Canada, the Netherlands, and the United States of America in 2019".¹²⁷⁶

In an October 2019 report by Amnesty International, it was noted that:

Before the ['Easter bombings' of April 2019] attacks, the majority of the refugees and asylum-seekers who spoke to Amnesty International and MRG confirmed that they did not experience violence on the scale they saw after the attacks. They did, however have some restrictions on their human rights. Since laws and policies governing the right to work for foreigners in Sri Lanka do not permit them to work, many of the refugees lived on money sent to them by relatives in their home countries, on their savings, or on an allowance provided by UNHCR to those granted refugee status. Some of them undertook courses in skills such as cooking, offered by a local NGO in Negombo. [...]

Similarly, prior to the attacks on 21 April [2019], Pakistani Ahmadis lived in Sri Lanka relatively freely without being subjected to the harassment and everyday bigotry that was a part of their lives in Pakistan. For the first time, they could freely express their religious identity and take part in community activities. Indeed, for many refugees and asylum-seekers life in Sri Lanka, while presenting challenges such as lack of formal documentation, offered improved conditions from their countries of origin, where they fled persecution.¹²⁷⁷

¹²⁷⁵ Groundviews, [World Refugee Day and Refugees in Sri Lanka](#), 19 June 2019

¹²⁷⁶ UNHCR, [Update on UNHCR's operations in Asia and the Pacific](#), 27 September 2019

¹²⁷⁷ Amnesty International, [Unsafe at Home, Unsafe Abroad](#), October 2019, p.14-15

At the end of October 2019, Groundviews reported that following the ‘Easter bombings’ “About 2/3” of the asylum seekers and refugees who lived in Sri Lanka “were evicted [...] some were beaten and threatened, and its only in last few months they are slowly recovering”.¹²⁷⁸

In December 2019, the Tamil Guardian reported that “A Pakistani refugee was found hacked to death in Dalupotha, Negombo. The victim was 50-year old Mohammedi Yabi who arrived in Sri Lanka six months ago”.¹²⁷⁹

b. General information on the socio-economic conditions for IDPs and their treatment

For information on the treatment of IDPs following the ‘Easter bombings’ of April 2019 see section [VII.c. Situation after the Easter 2019 bombing attacks for refugees, IDPs and migrants in general.](#)

For information on land restitution and land seizure in the North and particularly its impact on Tamils see section [V.j.iii. Land restitution/land seizure.](#)

The U.S. Department of State noted in its annual report on human rights covering events of 2019 that:

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons (IDPs), refugees, returning refugees, stateless persons, or other persons of concern.¹²⁸⁰

The same report further noted:

The country’s civil war, which ended in 2009, caused widespread, prolonged displacement, including forced displacement by the government and the LTTE, particularly of Tamil civilians. According to the Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern Province Development and Youth Affairs, 25,889 citizens remained IDPs as of August 31 [2019]. The large majority resided in Jaffna, Kilinochchi, Mannar, and Batticaloa Districts in the North and East. While all IDPs had full freedom of movement, most were unable to return home due to: land mines; restrictions designating their home areas as part of HSZs; lack of work opportunities; inability to access basic public services, including acquiring documents verifying land ownership; and lack of government resolution of competing land ownership claims; and other war-related reasons. The government did not provide protection and assistance to these IDPs in welfare camps.

The government promoted the return and resettlement of IDPs by returning approximately 8,000 acres of military-seized land since 2015 and making additional state land available for landless IDPs. The military and other government agencies supported the resettlement of IDPs by constructing houses, schools, toilets, and providing other social services on newly released lands.¹²⁸¹

¹²⁷⁸ Groundviews, [Sri Lanka resumes deportation of asylum seekers](#), 31 October 2019

¹²⁷⁹ Tamil Guardian, [Pakistani refugee murdered in Negombo](#), 26 December 2019

¹²⁸⁰ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. Respect for Civil Liberties*

¹²⁸¹ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. Respect for Civil Liberties*

The U.S. Department of State’s annual report also highlighted that “IDP welfare centers and relocation sites exposed children to the same difficult conditions as adult IDPs and returnees in these areas”.¹²⁸²

Freedom House reported in its annual report of 2019 that:

Government appropriation of land in the north and east after the civil war for economic development projects or to establish “high security zones” prevented many displaced people from returning to their property. However, the Sirisena administration has released some military-held land for resettlement.¹²⁸³

The Internal Displacement Monitoring Centre (IDMC) reported the following summary of events in 2019 in their annual report:

Monsoon rainfall in Sri Lanka was lower than usual in 2019, and fewer people were displaced than in previous years as a result. A series of small storms did develop from September, however, triggering floods, landslides and around 45,000 evacuations. Heavy rains affected more than 136,000 people across six districts and many homes were damaged. The north-east monsoon triggered floods, landslides and 34,000 displacements in North, East, North Central, Sabaragamuwa and Uva provinces in November and December. Some areas received more than two metres of rainfall in a day. Sri Lanka also recorded a relatively small number of displacements associated with conflict and violence in 2019. A series of simultaneous suicide attacks by radical Islamist militants on churches and hotels killed more than 250 people during Easter celebrations in April. The army conducted counterterrorism operations in response, which caused more than 1,400 evacuations in Ampara district the same month. The violence also inflamed tensions between the country’s ethnic and religious groups. Anti-Muslim riots triggered around 300 displacements in the cities of Minuwagoda, Negombo and Kurunegala in May, and many mosques, shops and homes were destroyed. The UN called on all groups involved to work together to stop hate attacks and prevent further violence in Sri Lanka, which continues to grapple with reconciliation after the end of the country’s civil war in 2009. Around 27,000 people were living in displacement as a result of conflict and violence at the end of the year, the majority of them since the war.¹²⁸⁴

Regarding the 2019 monsoon, IDMC recorded 50,638 new displacements and 1769 destroyed houses.¹²⁸⁵ IDMC’s estimate of new displacements triggered by the south-west monsoon “includes [...] more than 49,000 relocations to safe places in Sri Lanka. These figures are conservative and may exclude an unknown number of displacements to host families in all affected countries. Comprehensive data on the total number of people still displaced due to the South Asia monsoon as of December 2019 is lacking”.¹²⁸⁶

On its website, IDMC records that between 1 January and 31 December 2019, there were: 87,000 new displacements resulting from disasters with the total number of IDPs at 4,900.¹²⁸⁷ Furthermore, in this time period, there were 27,000 new displacements as a result of conflict and violence with the total

¹²⁸² US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 6. *Discrimination, Societal Abuses, and Trafficking in Persons*

¹²⁸³ Freedom House, [Freedom in the World 2019](#), 4 February 2019, Section G Personal Autonomy and Individual Rights

¹²⁸⁴ IDMC, [Global Report on Internal Displacement 2020](#), April 2020, South Asia, p.51

¹²⁸⁵ IDMC, [Southwest monsoon season](#), undated

¹²⁸⁶ IDMC, [Southwest monsoon season](#), undated

¹²⁸⁷ IDMC, [Sri Lanka](#), undated

number of IDPs at 27,000.¹²⁸⁸ The organisation also estimates that the average expected number of displacements per year for sudden-onset hazards in Sri Lanka will be 20,548.¹²⁸⁹

In January 2019, Amnesty International noted that “While substantial portions of land occupied by the Sri Lankan military for several years has been returned, communities remain displaced. By some estimates, the total land occupied by the military amounted to tens of thousands of acres”.¹²⁹⁰

The South Asia Terrorism Portal (SATP) reported in February 2019:

Sri Lankan Prime Minister Ranil Wickremesinghe directed authorities in Resettlement Ministry and Divisional Secretariat to make arrangements to speed the resettlement process of displaced Muslim families of Jaffna, reports Colombo Page on February 18. The PM has taken this measure in response to an appeal by Sri Lanka's Minister for Resettlement of Protracted Displaced Persons, Rishad Bathiudeen. Among the 20000 Northern Muslim families that Liberation Tigers of Tamil Eelam (LTTE) expelled overnight from their traditional homes in North on 1990 October 30 was the eight-member family of Minister Bathiudeen. "Muslim IDPs who were resettled in Jaffna after the war, complain about the space of land available to them. They say the land is not enough for their growing population. Therefore, some of them have even returned from the resettled locations back to their camps," Minister Bathiudeen complained calling for PM Wickremesinghe's attention to the issue. This is the first time in three decades that the Jaffna's displaced Muslims, since their expulsion in 1990 by the LTTE, are hearing good news on their future, Minister Bathiudeen said.¹²⁹¹

The IDMC published a report in March 2019 noting that:

Sri Lanka still faces a series of challenges associated with internal displacement as some IDPs from the 30-year civil war that ended in 2009 are yet to find durable solutions. In addition, the country is at risk of future displacement associated with disasters. Seven disasters triggered 135,000 new displacements in 2017 alone. [...]

IDPs in Sri Lanka are not exposed to active fighting and are generally able to access documentation, education and healthcare. Access to remedies and justice can be problematic, however, when IDPs' land is occupied by the military. Despite government claims that 80 per cent of occupied land has been returned, Human Rights Watch warns that the process of returns is not transparent. Moreover, the same report highlights that resettlement packages are not uniformly distributed.¹²⁹²

The same report also outlined that:

Sri Lanka adopted a National Policy on Durable Solutions for Conflict-affected Displacement in 2016. Although the Policy was designed to set out the rights of IDPs, returnees and persons of concern associated with conflict, it recognises the need to protect the population from displacement associated with disasters.¹²⁹³

In March 2019, the Tamil Guardian reported that:

¹²⁸⁸ IDMC, [Sri Lanka](#), undated

¹²⁸⁹ IDMC, [Sri Lanka](#), undated

¹²⁹⁰ Amnesty International, [Sri Lanka: Hope flickers as justice still proves elusive](#), 25 January 2019

¹²⁹¹ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

¹²⁹² IDMC, [MONITORING PROGRESS TO REDUCE INTERNAL DISPLACEMENT](#), March 2019

¹²⁹³ IDMC, [MONITORING PROGRESS TO REDUCE INTERNAL DISPLACEMENT](#), March 2019

Displaced Tamil families who launched a travelling signature campaign this week reached Vavuniya yesterday before beginning the journey to Colombo today. The 'caravan protest' began in Keppapulavu, Mullaitivu on Tuesday where families have been protesting for over 730 days against the Sri Lankan military's occupation of their lands. The protest continues in spite of police harassment and threats.¹²⁹⁴

In April 2019, the sixth periodic report submitted by Sri Lanka to the UN Human Rights Council noted that:

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. [...]

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.

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.¹²⁹⁵

On 17 May 2019, Reuters reported that "Sri Lankan government forces may never return swathes of land taken from ethnic Tamils during a decades-long civil war, land and human rights experts [...] further impoverishing tens of thousands uprooted in the bloody conflict".¹²⁹⁶

In August 2019, ACAPS reported that:

Around 39,000 people remain internally displaced in Northern province following the end of conflict in 2009. [...] Many IDPs depend on aid to meet their basic needs and live with relatives (around 34,000) or in temporary shelters (around 3,000) that do not offer adequate protection against the elements and where IDPs do not receive government assistance [...]. There is very little information available regarding life conditions and specific sectoral needs of IDPs.¹²⁹⁷

In the same August 2019 briefing note ACAPS further reported that "Some 12,000 people across the country have been affected by heavy wind and rain, landslides or flooding in August [2019] [...]. Media sources report on the displacement of thousands as a result of the extreme weather conditions".¹²⁹⁸

¹²⁹⁴ Tamil Guardian, [Displaced Tamil families continue signature campaign to Colombo](#), 02 March 2019

¹²⁹⁵ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), 25 April 2019, paras. 57, 59 and 60

¹²⁹⁶ Reuters, [Ten years after war ended, Sri Lankan Tamils may never get back land](#), 17 May 2019

¹²⁹⁷ ACAPS, [Sri Lanka Drought: Briefing note](#), 16 August 2019

¹²⁹⁸ ACAPS, [Sri Lanka Drought: Briefing note](#), 16 August 2019

A representative of the Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) interviewed by a UK Home Office Fact-Finding Mission in September 2019 stated the following regarding its work with IDPs:

Over 50,000 houses have been built in the North to benefit IDPs and refugees returning from India. In 2019 so far 10 000 homes have been released. Housing is prioritised according to need: women heads of household; families of missing persons; ex-combatants and rehabilitated ex- cadres; mine-affected persons; and disabled people (Jaffna centre producing artificial limbs). Returned failed asylum seekers, (who may be low-income) are not prioritised for housing but may be considered under IDPs or refugees. In addition to housing, livelihood assistance is provided in the form of goods.¹²⁹⁹

An UNHCR Sri Lanka representative interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted that “Sri Lanka is a non-signatory state and therefore there is no legal or policy framework for asylum. As a result, asylum-seekers and refugees do not have the right to work and have no legal status while their children cannot access public schools although they do have access to health care free of charge the same as nationals. UNHCR has advocated on access to education and work for asylum-seekers and refugees. Since there are now certain professions where Sri Lanka is importing labour, UNHCR is advocating for the reallocation of some of these jobs to asylumseekers and refugees”.¹³⁰⁰

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that:

The war internally displaced over 900,000 people, mostly Tamils and Muslims in the Northern and Eastern provinces. The majority have been resettled. According to the Sri Lankan Government, 891,628 IDPs had been resettled as at 2 April 2019 (554,543 in the north and 337,085 in the east), with most returning to their places of origin. According to these statistics, 27,946 IDPs are yet to be resettled (26,936 in the Northern Province, most of them in Jaffna, and 1,010 in the Eastern Province). Of those yet to be resettled in the north, 2,216 IDPs were living in 25 welfare centres, all in Jaffna, with the remaining (24,720) living in host communities in Jaffna, Kilinochchi, Mullaitivu and Vavuniya. Many of those who are yet to be resettled originate from High Security Zones and surrounding areas now run by the military. Those yet to be resettled in the east all live in host communities in Trincomalee and Batticaloa, with no IDPs remaining in welfare centres. IDPs have full freedom of movement. [...]

IDPs living in host communities receive resettlement assistance from the government and military, including housing renovation and construction and livelihood support. IDPs must register with the government to receive assistance. IDPs in welfare centres are no longer eligible to receive government protection or assistance. According to the Sri Lankan Government, 150,857 houses had been constructed in former war-affected areas as at 2 April 2019. To promote resettlement of displaced persons, the government allocated LKR5.5 billion (approximately AUD45 million) in the 2019 budget for the construction of an additional 15,000 houses in the north and east. Official sources told DFAT that female-headed households, families with disabled members and former combatants are given priority for resettlement and housing assistance. UNHCR also provides some assistances to IDPs [...]

The Sri Lankan Government has committed to returning land to people displaced during the war, including people who were landless. The ‘National Policy on Durable Solutions for Conflict-Affected

¹²⁹⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) 30 September 2019*, p. 35

¹³⁰⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019*, p. 55

Displacement’, adopted in August 2016, ‘commits the State to release in a timely manner all state-held land from which people were displaced or which they owned, retaining only that land legitimately required for public purposes in exceptional cases.’ In reality, the military has not released all land in the north and east, and IDPs are not always able to select their preferred location [...] It is not clear whether the released land will be sufficient to accommodate the remaining IDPs. [...]

In addition to delays in returning military-held land, loss of deeds or other ownership documents, and the destruction or secondary occupation by civilians of land and property, have complicated IDP resettlement. Most returning IDPs have lost most of their physical and financial assets. Without a registered, permanent address, displaced communities are unable to vote. They also report difficulties in accessing education, employment and public services, due to discrimination from both majority host communities and local officials, and limited government financial assistance, including for housing. Protracted displacement and scarcity of resources have also created conflict between and within minority groups and displaced and host communities. In March 2017, the government declared four forest areas in the Northern Province as conservation reserves; this land has been contested as the place of origin of a number of Muslim IDPs evicted by the LTTE in the 1990s. [...]

The IDPs in welfare centres in the north initially had priority for resettlement over other categories of IDPs. Many long-term IDPs have established their lives in their area of displacement, and some have chosen not to return, or have been unable to return, to their areas of origin. This includes most of the approximately 75,000 Muslims whom the LTTE forcibly expelled from the Northern Province in October 1990 and moved to Puttalam, North Western Province (Muslims were considered by the LTTE to be progovernment). Those expelled lost their homes, belongings, businesses and livelihoods. Only a minority has since returned to their places of origin. According to Sri Lankan Government statistics from March 2019, 21,292 Muslim families had been resettled in the Northern Province (mostly in Mannar) and 22,512 families in the Eastern Province (mostly in Trincomalee). According to these statistics, 1,465 Muslim families remained displaced in the north (all living in host communities in Jaffna) and 195 Muslim families remained displaced in the east (all living in host communities, mostly in Trincomalee). Sources told DFAT that most displaced Muslims were established where they were and were therefore unlikely to return to their places of origin. Displaced Muslims report they do not receive the same level of resettlement and livelihood assistance from the government and UN agencies as other IDPs and refugee returnees from Tamil Nadu. DFAT assesses that the low rate of Muslim IDP resettlement is partly attributable to the exclusion of Muslim IDPs from various forms of government resettlement assistance, and to the prioritisation of more recent IDPs.¹³⁰¹

The same report further noted with regards to returned IDPs:

the Sri Lankan military, intelligence and police continue to maintain a high level of awareness of returned IDPs to the north and east. The government has reduced the level of monitoring, but some individuals have reported that their movements continue to be observed.¹³⁰²

Oxfam noted in December 2019 that “The ten countries which are most at risk of climate fuelled displacement globally are: [...] (8) Sri Lanka [...]”.¹³⁰³ The report outlined that floods and storms are the main threats from sudden onset extreme weather, with 1.4% of the population newly displaced by sudden onset extreme weather events on average each year between 2008–18.¹³⁰⁴

¹³⁰¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Groups of Interest, Internally Displaced Persons (IDPs)*, paras. 3.93-3.97

¹³⁰² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Internal Relocation*, para. 5.29

¹³⁰³ Oxfam, [Climate fuelled disasters number one driver of internal displacement globally forcing more than 20 million people a year from their homes](#), 2 December 2019

¹³⁰⁴ Oxfam, [Forced from Home: Climate-fuelled displacement](#), 2 December 2019, *Table 2*, p.6

On 27 December 2019, the International Federation of Red Cross and Red Crescent Societies (IFCR) reported on the impact of the monsoon floods and landslides:

In the severely affected areas in 13 districts, 65,316 people have been affected, 62 families lost their houses and personal daily life items temporarily lost their income and means for providing themselves with food and basic necessities. Furthermore, families with infants, differently abled persons, people living with chronic illness and pregnant and lactating women might need special support and care. Due to broken infrastructure and overflow of sewage pits, key water sources contaminated and access to safe water remain a major challenge. Displaced population has limited access to water and sanitation facilities, and necessary hygiene items. Thus, an increase in incidence of water-borne and vector-borne diseases is expected in all affected areas.¹³⁰⁵

The IDMC's 'Severity report' published in February 2020 noted that in Sri Lanka, "The severity of internal displacement of IDPs displaced by the civil war is medium, with a score of 0.60". The report provided the following overview regarding IDPs:¹³⁰⁶

SAFETY AND SECURITY		0.67
<i>Is the area to which IDPs are displaced free from active fighting?</i>	Sporadic conflict not affecting IDPs	0
<i>Is the area to which IDPs are displaced free from explosive hazards?</i>	Little contamination and no/few accidents in displacement areas	1
<i>Are IDPs free from persecution or human rights abuses (including GBV) in the area to which they have been displaced?</i>	Some reported cases	1
LIVELIHOODS		1
<i>Are there income-generating opportunities for IDPs?</i>	Precarious employment	1
<i>Do IDPs have enough to eat?</i>	Somewhat food insecure	1
<i>Are IDPs able to avoid resorting to negative coping strategies such as child labour, prostitution or child marriage?</i>	Some negative coping mechanisms reported	1
HOUSING		0
<i>Are IDPs living in safe, adequate shelters able to withstand the local climate (i.e. not in unfinished buildings, tents, etc.)?</i>	Adequate	0
<i>Are IDPs protected from forced evictions?</i>	No/few reported cases	0
SERVICES		0.33
<i>Do IDPs have appropriate access to water and sanitation?</i>	Consistent	0
<i>Are there accessible and affordable health care services?</i>	Free or affordable healthcare, but difficult to access	1
<i>Are primary-age IDP children in school?</i>	Children in school, safe access, trained teachers / Less than 10% drop out	0
CIVIC AND SOCIAL RIGHTS		1.50
<i>Do IDPs have documentation?</i>		
<i>Are there any family tracing and reunification mechanisms available?</i>		
<i>Can IDPs vote in elections in their area of displacement?</i>	IDPs can legally vote but face barriers	1
<i>Do IDPs have access to effective remedies and justice?</i>	Partially	1

Regarding flooding from the southwest monsoon, ACAPS reported in May 2020 that:

¹³⁰⁵ IFCR, [Emergency Plan of Action \(EPoA\) Sri Lanka: Floods and Landslides](#), 27 December 2019

¹³⁰⁶ IDMC, [Assessing the Severity of Displacement](#), February 2020, p.54

According to the National Department of Meteorology, an estimated 35,000 to 50,000 families may be displaced, based on analysis of previous floods and landslides. [...] Informal settlements on the outskirts of the urban areas are built up on floodplains, which means that the poorest people are most vulnerable to flooding events and habitually end up displaced. In December 2019, flooding forced more than 15,000 people to leave their homes.¹³⁰⁷

In May 2020, the IFRC provided the following operational update regarding floods and landslides:

Due to overflow of sewage pits, key water sources were contaminated and access to safe water remained a major challenge. People were displaced having limited access to water and sanitation facilities, and necessary hygienic items. Thus, an increase in incidence of water-borne and vector-borne diseases were expected in all affected areas.¹³⁰⁸

c. Situation after the Easter 2019 bombing attacks for refugees, IDPs and migrants in general

The February 2020 report by the Office of the United Nations High Commissioner for Human Rights (UNHCHR) provided the following overview of the targeting of certain religious minorities that followed the ‘Easter bombings’:

The terrorist attacks were followed by a backlash against religious minorities, particularly the Muslim community, with serious incidents reported in several places. In Negombo, a Catholic-majority town and target of one of the bomb explosions, refugees and asylum seekers from Pakistan and Afghanistan, including Ahmadis, Christians and Shia Muslims, were forced to leave their residences owing to pressure from landlords, neighbours and mobs, and took shelter in the police station and in religious centres until they were relocated.¹³⁰⁹

The U.S. Department of State found in its annual report on human rights covering events of 2019 that:

After the April 21 [2019] attacks, more than 1,600 Muslim and Christian refugees were forced to leave their homes in the wake of retaliatory attacks and seek protection in three welfare centers in Negombo and Pasyala. Local community members threatened to destroy the houses of Pakistani, Afghan, and Iranian refugees. The government, police, and security forces assisted UNHCR to ensure the protection of refugees. In the months following the April 21 attacks, most refugees who were not resettled outside of the country had returned to their rented residences.¹³¹⁰

The U.S. Commission on International Religious Freedom’s annual report covering 2019 reported that following the ‘Easter bombings’ “hardline Buddhist mobs launched attacks and economic boycotts against Sri Lanka’s Muslim community”.¹³¹¹

¹³⁰⁷ ACAPS, [Sri Lanka Floods from Southwest Monsoon: Anticipatory briefing note](#), 7 May 2020

¹³⁰⁸ IFRC, [Operational Update Report: Sri Lanka Floods and Landslides](#), 8 May 2020

¹³⁰⁹ UN Office of the United Nations High Commissioner for Human Rights, [Promoting reconciliation, accountability and human rights in Sri Lanka, Report of the Office of the United Nations High Commissioner for Human Rights](#), 26 February 2020, III. *Developments in reconciliation, accountability and human rights*, para. 30

¹³¹⁰ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, *Section 2. Respect for Civil Liberties*

¹³¹¹ U.S. Commission on International Religious Freedom, [Annual Report 2020 of the U.S. Commission on International Religious Freedom](#), 28 April 2020, *Other Key Developments, The Rise of Ethnoreligious Nationalism*, p.

In April 2019, following the ‘Easter bombings’, Groundviews reported that:

Many guesthouse owners had refused to accept Afghan and Pakistani refugees, despite them having legal documents to reside in Sri Lanka. Muslim house owners are been particularly afraid, especially of inciting further hostilities from local people. [...] A few Northern Tamil politicians are reported to have opposed hosting refugees in the North, but refreshingly, other Tamil politicians, civil society activists and clergy in North have welcomed refugees.¹³¹²

The South Asia Terrorism Portal (SATP) reported on 30th April 2019 “Many Maldivian families residing in Sri Lanka have returned to the country due to the tense situation in Lanka following the terrorist attacks that took place on Easter, reports The Edition on April 30. Approximately 13,000 Maldivians reside in Sri Lanka for educational, medical and other purposes”.¹³¹³

In May 2019, Amnesty issued a public statement that stated:

There are currently 1,600 refugees and asylum-seekers at heightened risk in Sri Lanka. They include Christians and Ahmadi Muslims from Pakistan, Shi’a Hazaras from Afghanistan and Iranian citizens. Following the Easter Sunday attacks, approximately 1200 individuals from this group faced reprisals from mobs for their perceived association with Islam. Forced to flee their accommodation near Negombo, where the attack on the St. Sebastian’s Church took place on Easter Sunday, they have been desperately searching for safety, moving between temporary accommodation provided by UNHCR, police stations, places of worships and other sanctuaries provided to them by local NGOs and civil society activists. Every few days, they have been told to leave in the face of threats.

The refugees and asylum-seekers from Pakistan, Afghanistan and Iran are now languishing in limbo. The Sri Lankan government is not stepping in to provide them with security, shelter and basic necessities they need. More worryingly, there are fears that they will be forcibly deported to their countries from where they fled – a move that would violate the principle of non-refoulement, by putting them at risk of serious human rights violations and abuses. The Sri Lankan government has a responsibility to ensure their safety and access to basic necessities as well as relocation to safe houses until their applications are processed by the relevant refugee agencies. Amnesty International has called on the government of Sri Lanka to protect refugees and asylum seekers.¹³¹⁴

Also in May 2019, Minority Rights Group noted that following the bombings and the attacks, “Some refugees and asylum seekers from Pakistan and Afghanistan have also experienced property damage, mob violence and threats”.¹³¹⁵

UNHCR’s operational update of 31 May 2019 further noted that:

UNHCR Sri Lanka is seeking urgent support for over 1,000 refugees and asylum seekers displaced following the 21 April [2019] attacks. Refugees and asylum seekers have sought refuge in communal spaces which are over-crowded and lack basic facilities. UNHCR is providing protection, food and medicine while working to identify more sustainable solutions. [...]

¹³¹² Groundviews, [Refugees crisis in Sri Lanka after the Easter Sunday bombings](#), 5 April 2019

¹³¹³ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

¹³¹⁴ Amnesty International, [Sri Lanka: Respect Human Rights in the Aftermath of the Easter Attacks](#), 3 May 2019

¹³¹⁵ Minority Rights Group, [Sri Lanka – Joint urgent appeal to provide protection for refugees and asylum seekers](#), 9 May 2019

No persons of concern to UNHCR were killed or injured or have been implicated in the attacks. In the days following the attacks, concerns of additional or retaliatory attacks have persisted and tension has remained high. Persons of concern to UNHCR have been obliged by their landlords and neighbours to leave their rented accommodation or have left of their own accord. Currently, 1,060 refugees and asylum seekers, including women and children, have sought shelter and safety in a mosque and police station in Negombo, site of one of the church attacks, and a community center in Pasyala, near Colombo. The Army and police are providing security in these locations, but the situation is tenuous as some members of the public demand that refugees leave.¹³¹⁶

Human Rights Watch reported in May 2019 that:

Muslims in Sri Lanka, especially around 1,500 refugees and asylum seekers, mostly persecuted minorities from Pakistan and Afghanistan, have suddenly found themselves in a particularly uncomfortable position. Falsely linked to the bombings by angry local residents, around 1,200 are crowded into three makeshift sites, where they have been living with meager basic necessities for almost two weeks.¹³¹⁷

Christian Post reported on 15 May 2019 on the situation for Christians following the ‘Easter bombings’:

Persecuted Christian refugees and asylum seekers in Sri Lanka are in hiding inside a police station as a result of death threats from angry Sri Lankans following last month’s Easter Sunday bombings that claimed the lives of over 250.

Although enraged Sri Lankans have primarily targeted peaceful Muslims and their property in response to last month’s bombings claimed by the Islamic State, asylum-seeking Christians from Afghanistan and Pakistan who fled the country over religious persecution are also in fear for their lives.

Anton Kyanq, a Sri Lankan pastor who has traveled the country to bring assistance to Christians in need, told The Christian Post in an interview that as many as 60 Pakistani and Afghani Christian refugees are currently housed inside of a police station in Negombo (one of the three cities where the Easter suicide bombings have occurred).¹³¹⁸

Amnesty International published the following research in May 2019 and found:

Living in fear of further attacks as anti-Muslim violence rises in Sri Lanka, these people [refugees and asylum-seekers] are currently languishing in overcrowded community centres and a police station, offered to them in goodwill as places of temporary shelter. Amid dire conditions, they lack proper places to sleep, clean and adequate sanitation facilities, access to medical attention to treat illnesses that have proliferated in the makeshift shelters.

Targeted by mobs who blame them for the 21 April attacks that killed more than 250 people at three churches and three hotels, the refugees and asylum-seekers – many belonging to persecuted religious minorities from Afghanistan, Iran and Pakistan – say they are reliving the horrors that forced them to originally flee their own countries.

[...]

The refugees and asylum-seekers include Ahmadi Muslims, Shi’as and Christians from Pakistan, Shi’a Hazaras from Afghanistan, as well as political refugees from Iran and Pakistan. [...]

Beginning on 22 April 2019, mobs of young and sometimes armed men began going door to door in the Negombo area, looking to evict refugees and asylum-seekers from Muslim-majority countries. Up to this point, refugees and asylum-seekers said they had lived peacefully in the area, only ever encountering occasional hostility.

¹³¹⁶ UNHCR, [Sri Lanka Operational Update](#), 14 May 2019

¹³¹⁷ Human Rights Watch, [Fear Returns to Sri Lanka After Bombings](#), 10 May 2019

¹³¹⁸ Christian Post, [After Sri Lanka bombings, 60 Christian refugees flee homes over revenge threats](#), 15 May 2019

The mood, however, changed after the Easter Sunday attacks, which included a large attack on Negombo's St. Sebastian's Church, where more than 100 people were killed. Some refugees and asylum-seekers told Amnesty International that a rumour had spread in the Negombo area claiming that Pakistanis were behind the bombings, unleashing violent mobs seeking reprisals. [...]

Refugees and asylum-seekers from Afghanistan and Pakistan told Amnesty International that, in several cases, their landlords intervened and pleaded with the mobs not to attack their tenants, and then helped their tenants to leave. Some Ahmadi Muslim women said that they had to leave in a sudden panic and, out of fear, they were not even able to take their scarves and other religious clothing with them.[...]

On 25 April 2019, a mob of hundreds of people, including Buddhist monks, gathered outside one of the temporary shelters where the refugees and asylum-seekers had sought safety.

The mob shouted threats and hurled stones, some landing in the grounds of the community centre and even striking a building where women and children had taken shelter – traumatizing them once again.[...]

The events since the Easter Sunday massacre have left refugees and asylum-seekers fearing for their safety in Sri Lanka, comparing this ordeal to the events that forced them to flee their own countries in the first place.¹³¹⁹

At the end of May 2019, UN News reported that:

More than a month on from the bombings, some 1,000 refugees and asylum seekers, mainly Muslims from Pakistan and Afghanistan, are sheltering in police stations and mosques near the capital Colombo, in the towns of Pasyala and Negombo; the site of one of the church attacks. [...]

Conditions are cramped, and several of the pregnant women in the mosque have difficulty sleeping in the confined space. Those in the car park at Negombo's police station have security and assistance, but facilities are inadequate, with just a handful of toilets shared by the police and new arrivals. It is so hot, said UNHCR, that most people have broken out in skin rashes, with their arms and legs covered in infected mosquito bites.¹³²⁰

An article by Groundviews published in June 2019 noted that:

Along with Sri Lankan Muslims, the small refugee and asylum seeker population, especially around Negombo, bore the brunt of reprisals and hostilities after the Easter Sunday bombings. Some refugees were subjected to physical violence and others faced threats of violence as about two third of the refugee population were evicted from the rooms and houses they were renting. Some house owners were sympathetic towards refugees, but were threatened by mobs and neighbours to evict the refugee families. The majority of those evicted were Pakistani Ahmadiyya Muslims and they sought shelter in two Ahmadi mosques. Others were accommodated in the garage and verandas of the Negombo Police station. Conditions in these three camps during April and May were unbearable, with many including children falling ill, due to severe congestion, lack of shelter in sun and rain, lack of toilets and sanitation facilities. They have been used to cooking for themselves and some found it difficult to adjust to Sri Lankan style food that was provided.

Appeals to the government, Christian churches, Buddhist temples, NGOs and private individuals to find better accommodation didn't bring positive results. [...] Many refugees had to leave behind their meagre belongings and basic essentials including clothes, medicine and children's supplies. [...]

Refugees and asylum seekers were also evicted in Kandy and suburbs of Colombo, through written and verbal notices, largely due to the instigation by police and neighbours. It took huge efforts for them to find new accommodation.

Now, nearly two months since the Easter Sunday bombings, life in the three camps remains difficult despite efforts by UNHCR, some government agencies, NGOs and well-wishers. The population in two

¹³¹⁹ Amnesty International, [Sri Lanka: Refugees fear for their safety amid desperate conditions](#), 16 May 2019

¹³²⁰ UN News, [Asylum seekers in Sri Lanka fear for their safety](#), in wake of Easter Sunday terror attacks, 31 May 2019

Ahmadi mosques have decreased from about 1000 to about 700, with some having returned to their original rooms and houses and some having left for Canada and USA. During a visit to one of the camps earlier this week, I observed that facilities, like temporary accommodation and toilets, have improved compared to late April, but families have been separated for nearly two months now at two of the camps, as there are no facilities for them to stay together. Those in the camp in the North are not allowed to move out or have visitors. In addition to the three camps, some refugees are also detained in an overcrowded detention facility.¹³²¹

Groundviews reported In June 2019 that:

Little reported (though more so in recent weeks) is the way in which Sri Lanka's Muslim population has borne the brunt of this approach to policing. There are stories rising to the surface of ministers resigning over harassment, and worshippers being harassed, and people being detained for reading the Qu'ran. Following the burqa and niqab ban, Muslim women stayed indoors to avoid abuse. The government recently set up a hotline exclusively for Muslims to report such incidents.

There have been calls to boycott Muslim-owned shops, amid increasing distrust of Sri Lanka's Muslims. This hostility has been stoked by Buddhist hardliners, led by the Bodu Bala Sena (BBS), or "Buddhist Power Force". The group's chief executive, Dilantha Vithanage, warned that Sri Lankans might be "forced" to deal with what he called "a rise in Islamic extremism" on their own. As quoted in Reuters, he claims "[t]his is a bigger danger than Tamil separatism".¹³²²

The UN Special Rapporteur on freedom of religion or belief, following his visit to Sri Lanka in August 2019, noted that "The government's response to the displacement of refugees and asylum seekers by violent mobs or other pressures after the Easter bombing by offering them temporary shelter deserves praise and I hope these measures will continue until the few remaining families are re-settled".¹³²³ However, the same briefing also highlighted:

Deficits in the application of the rule of law appears to have significant impact on communities and individuals in vulnerable situations. Refugees and asylum-seekers in the Negombo area, all from Muslim-majority countries, were targeted, threatened and displaced in the aftermath of the Easter bombings. While some have been resettled to third countries or relocated in the country, there are still at least 55 people who have no means to survive if they were to leave Punthahom. Some Muslim groups expressed dismay that they were unable to offer these refugees support and safety for fear of inviting increased attacks on the community and for the lack of funding.¹³²⁴

In September 2019, UNHCR issued an update on their operations noting that "As of mid-September, 73 refugees had yet to return to private accommodation".¹³²⁵

In a report published in October 2019, Amnesty International and Minority Rights Group International noted that:

¹³²¹ Groundviews, [World Refugee Day and Refugees in Sri Lanka](#), 19 June 2019

¹³²² Groundviews, [Police Harassment in Sri Lanka: Fines, Bribes and Batons](#), 11 June 2019

¹³²³ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹³²⁴ UN Human Rights Office of the High Commissioner, [Preliminary findings of Country Visit to Sri Lanka by the Special Rapporteur on freedom of religion or belief](#), 26 August 2019

¹³²⁵ UNHCR, [Update on UNHCR's operations in Asia and the Pacific](#), 27 September 2019

After the 21 April attacks in 2019, the refugees and asylum seekers were not safe on the streets, in public places, or even in their own homes in Negombo and surrounding areas. The law enforcement agencies were unable to guarantee their safety, resulting in their re-location to crowded shelters in a police station and community centres. [...]

The treatment of refugees and asylum-seekers, and the impact on their safety, security and freedom of movement, infringed a number of human rights guaranteed to them by not only international human rights law, but also the domestic human rights legal frameworks. There was no media coverage of any police investigations into the acts of violence, threats and intimidation directed against refugees and asylum seekers, jeopardizing the right to life, personal security and adequate housing among other human rights at risk.¹³²⁶

The same report further noted that:

The Government of Sri Lanka, in the aftermath of the April attacks, and in the context of a heavy backlash against refugees and asylum-seekers in Negombo, did co-operate with the UNHCR, to attempt to transport refugees in buses to safe locations. Police protection was granted to these vehicles. However, on at least two occasions documented by Amnesty International and MRG [Minority Rights Group], and by local civil society activists the busloads of refugees had to return to Negombo from alternative temporary shelters, as a result of protests by local residents. [...]

The fact remains that the refugees were not safe on the streets, in public places, or even in their own homes in Negombo and surrounding areas. The law enforcement agencies were unable to guarantee their safety, resulting in their relocation to crowded shelters in a police station and community centres.¹³²⁷

In a separate report produced by Amnesty International in October 2019, the organisation stated:

A worrying trend over recent years has been a rise in anti-Muslim violence in Sri Lanka. In the wake of the Easter Sunday massacre, where hundreds were killed in churches and hotels in different parts of Sri Lanka, violent mobs unleashed their rage against Sri Lankan Muslims and refugees and asylum seekers from Muslim-majority countries.

The attacks follow similar violence in 2018, 2017 and 2014, when armed mobs attacked and torched Muslim-owned homes, businesses and places of worship.¹³²⁸

In November 2019, Amnesty International reported that “the authorities failed to offer the refugees and asylum seekers adequate protection and living conditions and failed to investigate the attacks and bring all those suspected of criminal responsibility to justice in fair trials”.¹³²⁹ The report further noted that:

The Sri Lankan authorities failed to protect the refugees, to confront the mobs that threatened them, to investigate the attacks and to hold the perpetrators accountable.

They also failed to provide the refugees and asylum-seekers with adequate shelter. Forced from their homes, they squeezed into the garage of a police station and into community centres, where they lacked beds to sleep in, food to eat, adequate healthcare and sanitation facilities. At the Negombo police station, around 160 people spent nearly 30 days in appalling conditions.

The refugees and asylum-seekers were moved to a camp in the north of Sri Lanka, from where many have returned to their homes.¹³³⁰

¹³²⁶ Amnesty International and Minority Rights Group International, [Unsafe at home, Unsafe abroad](#), October 2019, p.5

¹³²⁷ Amnesty International and Minority Rights Group International, [Unsafe at home, Unsafe abroad](#), October 2019, p.19 and 25

¹³²⁸ Amnesty International, [Sri Lanka: Human rights must be at the heart of next presidency](#), 18 October 2019

¹³²⁹ Amnesty International, [Sri Lanka: No investigations and no accountability in attacks on refugees and asylum-seekers](#), 1 November 2019

VIII. Returnees

a. Treatment of returnees, including refused asylum seekers

The U.S. Department of State noted in its annual report on human rights covering events of 2019 that “The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to [...] returning refugees [...]”¹³³¹

In January 2019, the Mirror Citizen reported that:

The Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern Province Development, Vocational Training, Skills Development and Youth Affairs, held by Prime Minister Ranil Wickremesinghe, has initiated action to construct 10,000 Brick and Mortar type Houses in the northern and eastern provinces, a statement from the Ministry said.

The first phase of the 4,750 Houses will commence with Thaipongal [...]

Accordingly, priority will be given to [...] and refugee returnees with special focus on women headed families [...].¹³³²

The South Asia Terrorism Portal (SATP) reported at the end of January 2019:

Around 83 Sri Lankan Tamil refugees from various camps in Tamil Nadu in India on January 31 [2019] voluntarily returned to Sri Lanka with the assistance of United Nations High Commissioner for Refugees (UNHCR), authorities said, reports Colombo Page. A group of 83 Sri Lankan Tamils who had fled the country during the war and lived in refugee camps in Tamil Nadu has arrived in Sri Lanka on January 31. The Prime Minister’s Media Office in a statement said that the Government is committed to taking all necessary measures to build peace and reconciliation among every Sri Lankan, and accordingly, invited all citizens who fled the country during the wartime to return home. The Government would take necessary steps to resettle the returned refugees in their respective residential areas such as Vavuniya, Mannar, Matale, Mullaitivu, Trincomalee and Jaffna, the release further said. According to the statement, 11,020 Sri Lankan Tamil refugees, who had been sheltered in refugee camps in Tamil Nadu, have voluntarily returned to the country so far since 2009 and 3,815 more refugees have expressed their desire to return to Sri Lanka under the patronage of the UNHCR. The UN agency has provided the refugees with air fare and several allowances. The allowances given for the returning refugees include an allowance of LKR 10,000 per person over 18 years and LKR 7,500 for a person under the age of 18 for reintegration, Transport allowance of LKR 2,500 per person, personal allowance of LKR 5,000 per person and LKR 5,000 allowance for family on arrival.¹³³³

In March 2019, the Sri Lankan government’s official news agency news.lk reported that:

24 families who went to South India as refugees during the conflict era are to be return to Sri Lanka on 26 March and 28 March 2019 under the voluntary repatriation scheme facilitated by the United Nations High Commissioner for Refugees (UNHCR). 54 members belong to 24 families are to be return to Sri Lanka [...]

¹³³⁰ Amnesty International, [Sri Lanka: No investigations and no accountability in attacks on refugees and asylum-seekers](#), 1 November 2019

¹³³¹ US Department of State, [2019 Country Reports on Human Rights Practices: Sri Lanka](#), 11 March 2020, Section 2. *Respect for Civil Liberties*

¹³³² Mirror Citizen, [For Northern and Eastern provinces 10,000 Brick and Mortar type houses](#), 15 January 2019

¹³³³ See South Asia Terrorism Portal (SATP), [Sri Lanka: Timeline \(Terrorist Activities\), 01-Jan-2019 to 30-May-2020](#), Undated [Last accessed: 31 May 2020]

The UNHCR provides them free air tickets, a reintegration allowance of Rs.10,000 per adult and Rs.5,000 per non-adult, a travel allowance of Rs.2,500, and Rs.5,000 per member and Rs.10,000 per family for non-food items. Further, the Ministry of Resettlement provides them Rs.5, 000 at the airport, Rs.25,000 to construct a temporary shelter, Rs.3,000 for equipment and Rs.5,000 for land clearance and Mr. V.Sivagnanasothy, Secretary to the Ministry of National Policies, Economic Affairs, Resettlement & Rehabilitation, Northern Province Development, Vocational Training & Skills Development and Youth Affairs stated that they will be given special marks when selecting for livelihood programs and housing schemes.¹³³⁴

In April 2019, the sixth periodic report submitted by Sri Lanka to the UN Human Rights Council noted that “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”.¹³³⁵

In May 2019, UN News reported that:

The UN Committee Against Torture has expressed concern over the United Kingdom’s policy of forcibly returning asylum-seekers to places where they face a risk of abuse – highlighting 43 enforced returns to Sri Lanka last year, and 50 more to Afghanistan.

UK Home Office caseworkers “arbitrarily reject credible evidence of past torture”, the independent experts maintained, which led to torture victims’ asylum claims being denied.

While noting that “a large proportion” of denied asylum claims were ultimately overturned on appeal, the Committee called for more training for caseworkers so that they could identify the risks the claimants faced.

In meetings with the UN panel, the UK delegation earlier said that the country did not seek to return anyone who demanded protection, if there was a risk of torture or persecution.¹³³⁶

The UN Committee Against Torture noted in their ‘Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland’, published in June 2019, that:

The Committee notes with concern that the State party does not publish statistics indicating the number of persons it has expelled or returned to other countries despite these persons having expressed concern that they face a risk of torture in the destination country [...] Nor does the State party publish statistics indicating the number of persons it has decided not to expel or return to countries where these persons have been found to face a risk of torture. Noting that a large proportion of asylum denials are reportedly overturned on appeal, the Committee expresses serious concern about reports that Home Office caseworkers very frequently do not apply the appropriate standard of proof applicable to asylum claims and arbitrarily reject credible medical evidence of past torture, resulting in the arbitrary denial of asylum claims made by victims of past torture.

In this context, the Committee is concerned about information provided by the delegation that in 2018 43 persons were returned to Sri Lanka [...].¹³³⁷

Tamil Guardian reported in July 2019 that:

¹³³⁴ News.lk, [Sri Lankan refugees to return from South India](#), 25 March 2019

¹³³⁵ UN Human Rights Committee, [Sixth periodic report submitted by Sri Lanka under article 40 of the Covenant, due in 2017](#), 25 April 2019, para.58

¹³³⁶ UN News, [Friday’s Daily Brief: Syria, Yemen airstrikes, Anti-torture panel, Gay rights, Climate change, #Vesak Day](#), 17 May 2019

¹³³⁷ UNCAT, [Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland](#), 7 June 2019, para. 52

Former Tamil political activist, Mr Kaviraj Shanmuganathan, was denied entry into Sri Lanka upon arrival at Bandaranaike International Airport [...] Upon enquiry, he was told he was denied entry as he was listed as someone who worked against the sovereignty and interests of the country. He was then told that he could voluntarily return [sic] a country of his choice or go back to the UK where he could make an application to visit with the permission of Sri Lanka's Defence Ministry. He would need to contact Sri Lanka's High Commission in London. Tamilpolity reports that Shanmuganathan has chosen to go to Chennai where he will consider the options available to him. His family, however, have been granted entry into Sri Lanka. Shanmuganathan was a leader of the protests in London between April to May 2009 which demanded a ceasefire in Sri Lanka and he also lobbied for an international independent investigation into the mass atrocities committed in the last stages of the war. Shanmuganathan quit politics and engaged in humanitarian activities to support war victims in Tamil areas.¹³³⁸

In September 2019, UNHCR provided an update on their operations in Asia and the Pacific noting that:

As of mid-September 2019, 620 Sri Lankan refugees returned home from India through the voluntary repatriation programme. UNHCR is working closely with the Sri Lankan and Indian authorities to enhance opportunities for return, such as the resumption of ferry services between Tamil Nadu and Sri Lanka.¹³³⁹

A representative of the Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) interviewed by a UK Home Office Fact-Finding Mission in September 2019 stated the following regarding its work with refugees:

Over 50,000 houses have been built in the North to benefit IDPs and refugees returning from India. In 2019 so far 10 000 homes have been released. Housing is prioritised according to need: women heads of household; families of missing persons; ex-combatants and rehabilitated ex-cadres; mine-affected persons; and disabled people (Jaffna centre producing artificial limbs). Returned failed asylum seekers, (who may be low-income) are not prioritised for housing but may be considered under IDPs or refugees. In addition to housing, livelihood assistance is provided in the form of goods.¹³⁴⁰

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms (SCRM) interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted that "Some people may be charged for leaving Sri Lanka illegally but not all will be held criminally culpable".¹³⁴¹

Members of the Sri Lankan Criminal Investigation Department interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 noted with regards to whether someone previously detained would still be of interest if they'd left and then re-entered Sri Lanka:

At airport they may be questioned by immigration, CID or SIS (intelligence service). They would be arrested if travelling of [sic] forged document. The SIS or CID would contact the local police to make

¹³³⁸ Tamil Guardian, [Former Tamil political activist denied entry to Sri Lanka](#), 30 July 2019

¹³³⁹ UNHCR, [Update on UNHCR's operations in Asia and the Pacific](#), 27 September 2019

¹³⁴⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) 30 September 2019, p. 35

¹³⁴¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019, p. 34

checks on the persons address, etc. They could be held for 2-3 hours during the checking process. This is not to harass but to exclude criminality or explore criminal liability.¹³⁴²

Asked what would happen if a former LTTE member arrived back in Sri Lanka, members of the Sri Lankan Criminal Investigation Department stated “Only of interest if a case was pending against them for a criminal act. Then they would face arrest. Otherwise they are of no interest”.¹³⁴³ The same source further noted “If a person is just a member [of a proscribed group] no action would be taken [...] it’s a routine police job to maintain the watch list. If someone returned was on a watch list, then they’d be arrested if criminal offences outstanding”.¹³⁴⁴

Representatives from the Sri Lankan Department of Immigration and Emigration also interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following information with regards to what would happen to returned refused asylum seekers:

Returning failed asylum seekers will be questioned if they’ve overstayed their visa. If a person is identified as a failed asylum seeker they will be questioned, then passed to CID. They may be released but monitored. The local police would be informed, and the person would be monitored although the length of time may vary.¹³⁴⁵

A representative of the Tamil National Alliance (TNA) interviewed by the same UK Home Office Fact-Finding Mission in October 2019 replied when asked whether ‘Someone who has claimed asylum in UK would they have a reasonable fear when they return’: “It has to be viewed in context of what is happening- the rule of law is not enforced or observed, there have been thousands of cases where they have been no investigations. People have natural fear in country where they do not feel safe. If they left because they fear persecution and been involved in some activity that puts them at risk then it needs to be understood in that context, that background [...] Tamils who left the country as a result of LTTE or as a result of fear of persecution are being identified somehow when they come back- they could fear that they might not be safe”.¹³⁴⁶

A ‘diplomatic source’ interviewed by the UK Fact-Finding Mission in October 2019 stated:

On arrival FAS [failed asylum seekers] may be questioned, especially if they have arrived on an ETD [Emergency travel Document], about how they left Sri Lanka, on what document and whether they were aided by smugglers. They may be charged for use of false documents or illegal departure and then appear

¹³⁴² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Members of Criminal Investigation Department (CID) 1 October 2019, p. 39

¹³⁴³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Members of Criminal Investigation Department (CID) 1 October 2019, p. 39

¹³⁴⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Members of Criminal Investigation Department (CID) 1 October 2019, p. 40

¹³⁴⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representatives from the department of Immigration and Emigration 1 October 2019, p. 42/43

¹³⁴⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Tamil National Alliance (TNA) 1 October 2019, p. 45

in court. These entry procedures can take a long time, sometimes up to 8 hours, as this involves checking where the person used to live (checks have to be made with local police stations as there is no central police database of this information). People are not arrested this is just part of immigration procedure. People are then released, and it is not unusual to be checked at home after having left the airport. If a person has to be brought before Court, it might involve staying overnight at the airport depending on the time of arrival in a holding room with a large window overlooking to the office.¹³⁴⁷

A journalist interviewed by the UK Fact-Finding Mission in October 2019 and only identified as ‘journalist 1’, stated:

Although the journalist hasn’t faced any security related harassment whilst going to or returning from abroad at the airport, they have heard stories that persons of Tamil origin face harassment and intimidation at the hands of security sector for several reasons including for being wealthy.¹³⁴⁸

Another journalist interviewed by the same UK Fact-Finding Mission in October 2019 and identified as ‘journalist 2’, stated “The journalist was not aware of random Tamils being targeted on return. His Tamil relatives have visited Sri Lanka from abroad and not faced any issues since 2015. However, if the government changes, they would not return. Returning failed asylum seekers would definitely be questioned by CID at the airport. If they were found to have connections with LTTE they would face further questioning at CID HQ”.¹³⁴⁹

A representative of an unnamed ‘NGO’ interviewed by the UK Fact-Finding Mission in October 2019 stated that “The NGO were aware of 5 cases where individuals were questioned on return and asked about forged passports at Colombo airport (only international airport). They were then released. If a person was found to support the LTTE, it would depend on the case; aware of one case where the person was questioned by TID as their name appeared on the immigration blacklist. They went to court but don’t know the outcome. IOM support some nationals on their return and through immigration”.¹³⁵⁰

A representative from the Northern province community interviewed in October 2019 stated that “Activists are probably monitored, have heard reports of diaspora activist facing intimidation when they return to Sri Lanka. TID/CID are at the airport and collect intelligence. It has not been the case for everyone and now its more prominent activists. Some US/UK Tamil groups, GTF members, come and go (into/out of Sri Lanka) and face no problems. They travel to the North and cover the ‘war heroes’ event. There is some self-censorship especially amongst active diaspora groups and they may not feel comfortable returning. There is an active threat but not at a high level. Some diaspora groups do what they do to raise the asylum profile”.¹³⁵¹

¹³⁴⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Diplomatic Source 2 October 2019, p. 46

¹³⁴⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 47

¹³⁴⁹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 49

¹³⁵⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, NGO 2 October 2019, p. 51

¹³⁵¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019, p. 52

The same source further stated with regards to returned refused asylum seekers:

If failed asylum seekers are deported there may be sensitivity. Some of them have been arrested and released on bail and the court case follows but the representative was not aware of any torture claims.¹³⁵²

An IOM representative interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 provided the following response when asked ‘How are returnees treated?’:

If persons are returning to Sri Lanka on an ETD, either an enforced or voluntary return, the Sri Lankan authorities are provided with their data from the relevant issuing authority, i.e. Sri Lankan High Commission. If a person travels on their own passport, Immigration authorities would not be forewarned of their return, but information can be obtained through API. Immigration do not get involved with criminal matters – this is dealt with by the police at the airport.

After coming through immigration, ETD holders would be referred to the police to check criminal records, etc. If there are no criminal issues, the person is released. If there is a case to answer the usual criminal procedures will apply.

IOM are based before immigration to receive passengers on IOM returns programmes. Those who travel on their own passports are not recognised as readmission migrants.

IOM will provide reception support (meet and greet) and get the returnees to go to the immigration counter. If they are referred to CID, IOM observe this process. IOM have not witnessed intense questioning in the last couple of years, unlike in the past when returnees may have been asked what they were doing in the UK.

IOM did not believe there was a distinction made between returnees, whether Tamil or Sinhalese. There may be isolated cases but no systematic policy of discrimination.

Alleged harassment against immigration officers is counterproductive – it demoralises officers and doesn’t help customer relations.

One hindrance raised at the port of entry is the common offence of leaving Sri Lanka irregularly (illegally) – it’s an offence under the law so will be dealt with under the law on return. Illegal departure may mean not leaving the country via an authorised port or using a forged document. Draft immigration legislation (Bill not yet in parliament) will prescribe a fine for illegal departure as opposed to attending court.

If someone claimed asylum, this would not be considered an offence. If a failed asylum seeker returned, they would not look at how long they have been gone. The police are only interested in criminal offences committed in Sri Lanka.

Even if a person had been away for a number of years, or their visa had expired, they wouldn’t be questioned specifically on this. IOM do not see such alleged discriminatory treatment. There are no media reports of returnees being interrogated on such grounds. Any allegations to that effect need to be substantiated with facts. There is no distinction between the Tamil and Sinhalese speaking communities, the diaspora is saying otherwise to their own ends.

SIS don’t arrest or prosecute but will screen arriving persons against their own watch list.¹³⁵³

The same source further noted that “Demonstrating abroad is not an offence in Sri Lanka, if they can prove there is a link to a banned organisation then it might increase the risk”.¹³⁵⁴

¹³⁵² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019*, p. 52

¹³⁵³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, IOM 3 October 2019*, p. 53/54

¹³⁵⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, IOM 3 October 2019*, p. 54

An UNHCR Sri Lanka representative interviewed by the UK Home Office Fact-Finding Mission to Sri Lanka in October 2019 stated when asked whether Tamil refugees returning from India feel safe when coming back:

The facilitation of returns on a voluntary basis was ongoing even during the war. After the armed conflict ended although there was an expectation that number of returnees would go up it did not and in fact it came down. Post-2015 numbers rose but they are still small. Estimates are that there are 65000 refugees in camps in Tamil Nadu and 35,000 outside of the camps around 100,000 in total. The interest in returns has decreased after 21st April and the impending elections may also have an impact on a decrease in interest. UNHCR doesn't have access to camps in Tamil Nadu so it's difficult to assess the barriers to return. We get access only to refugees once they have expressed a wish to return. India is not enforcing return to Sri Lanka.¹³⁵⁵

When asked what the situation is like for Tamils in Sri Lanka the same source replied:

Tamils returning back to areas in the North are facing a number of reintegration challenges - shelter, livelihood and WATSAN. The government are meant to set aside a quota of housing assistance for returnees, but this doesn't happen uniformly in all districts. Housing and land is a problem across the North as there are people who never owned land prior to the war - there is also secondary occupation and other complications. Documentation is a challenge particularly for those born in India who have to resolve their citizenship if their parents have not carried out a consular registration of their births. Every year we monitor a sample of refugees who have returned, we administer questionnaires and conduct household visits and produce a report which is made public. In the last few reports, security has not been identified as a major issue.¹³⁵⁶

The UNHCR Sri Lanka representative further stated:

At the airport there is a security screening. Before 2015 there was a 3-tier screening structure. These interviews would go on for 5/6 hours. Now it's just 1 tier and they are only interviewed by state intelligence. Between 2010-2015 there were 10 arrests of returning refugees. Since 2017 there have been no refugee returnees arrested/detained at the airport. Most returnees who are detained at the airport go through a rehabilitation process and are then released back into the community [....]
If you have admitted to being a high profile LTTE cadre you would be subjected to more questioning, but you will not necessarily be detained. However, lying about your profile or involvement can sometimes result in detention as name lists of returnees are shared with government prior to their return and therefore the intelligence services are aware of the people who are returning.¹³⁵⁷

¹³⁵⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019, p. 55

¹³⁵⁶ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019, p. 56

¹³⁵⁷ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, UNHCR Sri Lanka 3 October 2019, p. 57

A member of the Sri Lankan Attorney General Department interviewed in October 2019 stated “If an ex member of the LTTE returned and they were a wanted person they would be questioned but mere membership of the LTTE would not be of interest”.¹³⁵⁸

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted with regards to returnees from Tamil Nadu in India:

Approximately 95,000 Sri Lankan Tamil refugees live in the southern Indian state of Tamil Nadu, most of whom fled the war in the mid-1980s, or are the descendants of those who fled (almost 60 per cent are second- and third-generation). The majority of Sri Lankan Tamil refugees (approximately 60,000) reside in 107 camps administered by the Tamil Nadu Government. The remainder live in host communities outside the camps. Camp refugees are registered with India’s Department of Rehabilitation and Welfare, and are provided education, health care, social security and amenities by the Indian Government [...]

Only a small number of Sri Lankan Tamils have returned from Tamil Nadu to Sri Lanka since the end of the war. According to Sri Lankan Government statistics from March 2019, 8,168 Sri Lankan Tamil refugees had returned from Tamil Nadu between 2011 and 2018, mostly with UNHCR assistance. UNHCR provides reintegration, transport and non-food item support to returnees, as well as legal advice in relation to housing, land and property issues. UNHCR support includes a free air ticket to returnees (to Colombo’s Bandaranaike International Airport); a one-off reintegration grant of LKR10,000 (approximately AUD82) for persons over the age of 18 and LKR7,500 (approximately AUD61) for those below 18; and a one-off non-food item allowance of LKR10,000 per family or LKR5,000 (approximately AUD41) for singles. UNHCR also provides LKR2,500 (approximately AUD20) per person for transportation assistance from the airport to their destination of choice (with most returning to their place of origin). Colombo’s Bandaranaike International Airport is currently the only entry point for returns [...]

Those returning informally (i.e. outside of UNHCR processes) are not eligible for UNHCR cash grants or non-food items. The International Organization for Migration (IOM) also provides pre- and post-departure support services to Sri Lankan Tamil refugees from Tamil Nadu, including livelihood assistance [...]

Sri Lanka’s Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern Province Development, Vocational Training and Skills Development and Youth Affairs provides returning families from Tamil Nadu LKR38,000 (approximately AUD311) in cash assistance. This includes: one-off food allowance of LKR5,000 (approximately AUD41); LKR25,000 (approximately AUD204) for temporary shelter; and LKR3,000 (approximately AUD25) for land preparation. The government also provides returnees with some livelihood assistance [...]

The tempo of returns increased after the change of government in Sri Lanka in 2015. In 2017, 1,520 Sri Lankan refugees repatriated voluntarily from India under UNHCR auspices, compared to 852 in 2016 and 452 in 2015. However, interest in air repatriation has declined since 2018, largely due to the political instability caused by Sri Lanka’s constitutional crisis and the fallout from the 2019 Easter Sunday terrorist attacks. According to UNHCR, 1,283 refugees repatriated in 2018 — 16 per cent fewer than 2017. This trend continued in 2019, with only 670 refugees having repatriated as at 11 October (68 per cent fewer than the corresponding period in 2018). A small number of refugees are known to have returned spontaneously, outside of UNHCR processes. In addition to UNHCR and the IOM, NGOs like the Organisation for Eelam Refugees’ Rehabilitation help refugees make informed decisions regarding repatriation, provide practical assistance to obtain documentation and navigate the approvals necessary for return to Sri Lanka, and render resettlement assistance upon return to Sri Lanka. [...]

Significant administrative barriers hinder large-scale repatriation, including delays in obtaining Sri Lankan citizenship and National Identity Cards (NICs) and Indian exit permits. A change in rules in India’s Foreigner Regional Registration Office for obtaining exit permits has increased the processing time from an average of three months (in 2017) to nine months (in 2019). This has discouraged returnees, who, in

¹³⁵⁸ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Attorney General Department, 3 October 2019, p. 58

some cases, have abandoned their plans to return to Sri Lanka as a result. Logistical restrictions limiting returnees to 50 kilograms of luggage on their repatriation flight from Tamil Nadu is another barrier. Permitting additional baggage is expensive and logistically difficult under current UNHCR arrangements. Upon their return to Sri Lanka, refugees from Tamil Nadu have reported difficulties gaining access to government or non-government assistance. Returnees from Tamil Nadu report challenges in obtaining well-paid employment and adequate housing, and having educational qualifications obtained in India recognised in Sri Lanka. Increased cost of living compared to India and a slight difference in Tamil dialects in Sri Lanka and Tamil Nadu create additional challenges.¹³⁵⁹

The same source further reported:

Returnees who depart Sri Lanka irregularly by boat are considered to have committed an offence under the I&E Act. If a returnee voluntarily returns on their own passport on a commercial flight, they may not come to the attention of local authorities if they had departed Sri Lanka legally through an official port on the same passport [...]

Processing of returnees at the airport can take several hours, due to the administrative processes, interview lengths and staffing constraints. Returnees are processed in groups, and individuals cannot exit the airport until all returnees have been processed, although returnees are free to go to the bathroom and to talk to one another during this time. [...]

For returnees travelling on temporary travel documents, police undertake an investigative process to confirm identity. This would identify someone trying to conceal a criminal or terrorist background, or trying to avoid court orders or arrest warrants. This often involves interviewing the returning passenger, contacting police in their claimed hometown, contacting claimed neighbours and family, and checking criminal and court records. All returnees are subject to these standard procedures, regardless of ethnicity and religion. DFAT understands detainees are not subject to mistreatment during processing at the airport.¹³⁶⁰

The Australian report further specified with regards to offences under the Immigrants and Emigrants Act:

Most Sri Lankan returnees, including those from Australia, are questioned (usually at the airport) upon return and, where an illegal departure from Sri Lanka is suspected, they can be charged under the I&E Act. DFAT understands the Police Airport Criminal Investigations Unit at Bandaranaike International Airport makes most arrests. In the process, police will take photographs, fingerprints and statements from returnees, and further enquire about activities while abroad if returnees are suspected to be former LTTE members. At the earliest available opportunity after investigations are completed, police transport individuals charged with departing Sri Lanka illegally to the closest Magistrate's Court, after which custody and responsibility for the individual shifts to the courts or prison services. The magistrate then makes a determination on next steps for each individual; facilitators or organisers of people smuggling ventures, including the captain and crew of the boat, are usually held in custody. Apprehended individuals can remain in police custody at the Criminal Investigation Department's Airport Office for up to 24 hours after arrival. Should a magistrate not be available before this time (for example, because of a weekend or public holiday), those charged may be detained for up to two days in an airport holding cell. DFAT is not aware of mistreatment of returnees during this process [...]

The Sri Lankan Attorney-General's Department has directed that all passengers of people smuggling ventures, not only those suspected of facilitating or organising irregular migration, be charged under the I&E Act and appear in court. Those charged are required to appear in court in the location where the

¹³⁵⁹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Groups of Interest, Returnees from Tamil Nadu*, paras. 3.98, 3.100-3.102, and 3.104

¹³⁶⁰ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Treatment of returnees, Exit and Entry Procedures*, paras. 5.31 – 5.33

offence occurred, which involves legal and transport costs. While the frequency of court appearances depends on the magistrate, DFAT understands that most individuals charged under the I&E Act appear in court every 3-6 months. In addition to their own court hearings, those charged may be summonsed as witnesses in cases against the facilitators or organisers of people smuggling ventures. Cases are taken forward in court only when all members of a people smuggling venture have been located, contributing to protracted delays. DFAT Country Information Report Sri Lanka 68 According to local sources, some cases dating from 2015 are still ongoing. The IOM provides legal assistance to individuals charged under the I&E Act who returned to Sri Lanka with the IOM's assistance. Some returnees charged under the I&E Act report having to travel long distances to attend court hearings, and have found this disruptive to their livelihoods. At the time of publication, about 800 separate court cases were pending, with most involving several people. The I&E Act does not specify minimum mandatory sentences. Returnees who departed Sri Lanka legally are not required to face a court, as no offence under the I&E Act applies [...]

The severity of the fine for fare-paying passengers charged under the I&E Act does not necessarily increase for those who have departed Sri Lanka illegally on more than one occasion. DFAT notes that, while the fines issued for passengers of people smuggling ventures are often low, the cumulative costs associated with regular court appearances over protracted lengths of time can be high.¹³⁶¹

The report further described the conditions for returnees as follows:

Despite positive government sentiment, refugees and failed asylum seekers face practical challenges to successful return to Sri Lanka. Most returnees have incurred significant expenses or debt to undertake their outward journey. Some refugee returnees receive reintegration assistance in the form of transport assistance and livelihood support upon return to Sri Lanka from the government, UN agencies and NGOs, but this requires a returnee to meet strict eligibility guidelines and is minimal. Failed asylum seekers receive limited reintegration assistance. Many returnees have difficulty finding suitable employment and reliable housing on return. Those who have skills that are in high demand in the labour market are best placed to find well-paid employment [...]

DFAT understands that some returnees, including returnees in the north and east with suspected LTTE links, have been the subject of monitoring by the authorities, involving visits to returnees' homes and telephone calls by the Criminal Investigation Department. DFAT understands that most returnees, including failed asylum seekers, are not actively monitored on an ongoing basis. DFAT is unable to verify whether monitoring, where it occurs, is specific to former LTTE cadres. DFAT is not aware of returnees, including failed asylum seekers, being treated in such a way that endangers their safety and security. Tamils who had failed to secure asylum in Australia and since returned to the Northern Province told DFAT they had no protection concerns and had not experienced harassment by the authorities, nor received monitoring visits [...]

Bureaucratic inefficiencies rather than official discrimination present the biggest challenge to reintegration for returnees. Refugee returnees, particularly those who returned without UNHCR facilitation, can experience delays in obtaining necessary identification documents and citizenship. Lack of documentation inhibits access to social welfare schemes and the ability to open bank accounts, find employment or enrol in educational institutions. Limited job availability in the north and east further contributes to difficulties in securing employment and housing [...]

Some refugees and failed asylum seekers reported social stigma upon return to their communities, including for being beneficiaries of financial reintegration assistance.¹³⁶²

¹³⁶¹ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Treatment of returnees, Offences under the Immigrants and Emigrants Act (I&E Act)*, paras. 5.34, 5.35, and 5.38

¹³⁶² Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Conditions for Returnees*, paras. 5.45-5.47 and 5.49

The April 2020 report by the Swiss Refugee Council provided the following information based on three interlocutors it interviewed/had contact with in October 2019 [informal translation]:

During an interview on 24th October 2019, contact person G, who is a catholic priest working in northern Sri Lanka, stated that returnees from western countries are in a "more complicated" situation than those returned from India or the Gulf States. They are monitored and raise the suspicions of the security forces. The Authorities would try to find out if a person is connected to the LTTE. If the suspicion increases, this will result in increased surveillance. In an interview on October 18, 2019, contact person H, who works for an international organization in Sri Lanka, stated that returnees to Sri Lanka routinely get questioned upon their arrival at Colombo Airport. The Department of Immigration and Emigration and then the State Intelligence Service (SIS) and the Criminal Investigation Department (CID) would conduct these interrogations [...] The duration of the interrogations differs and can range from hours to several days. At a later point in time and when the interrogations are over, the returnees may, according to contact person H, be picked up by the police again at the place of residency they specified. Mostly by the CID.¹³⁶³

Moreover, the same Swiss Refugee Council report noted, again based on information it has received from a number of interlocutors [informal translation]:

According to contact A, who is a Sri Lankan Catholic priest, it can be assumed that the Sri Lankan authorities will consider the collection of money abroad in favor of victims of the civil war as an attempt by the diaspora to revive the LTTE [...] So it can be assumed that the government will view the collection of funds for victims of the civil war as critical, as this may be seen as criticism that the Sri Lankan state does not provide enough help for these and that indeed war crimes and human rights violations committed by state actors occurred during the civil war (information obtained on April 2, 2020 using an instant messenger from contact person A). Also contact person D, who works for an international Tamil Diaspora organization, pointed out that the perception of the Sri Lankan authorities was important regarding the risk to a diaspora member who sent money to Sri Lanka from abroad. The organization of contact person D in the UK is aware of cases in which the Sri Lankan authorities interrogated family members of diaspora members living abroad who provided a range of financial support – from support to investigate war crimes to humanitarian projects for Tamils. The interrogations and harassment of family members of diaspora members increased significantly after the change of government in November [2019] (email information from April 6, 2020 from contact person D).¹³⁶⁴

In addition, the Swiss Refugee Council report stated [informal translation]:

According to the contact person E, who is active in the field of human rights in Sri Lanka, diaspora members who raise money abroad are likely to create interest of the Sri Lankan authorities and to thus become their focus. According to contact person E, the recipients can also then become the focus of the Sri Lankan authorities. For example, in spring 2020 a group of Tamil journalists and activists were interrogated extensively by security forces about funds, which they received from diaspora groups abroad (information from April 10, 2020 by means of an instant messenger from contact person E). Contact

¹³⁶³ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 4 *Gefährdung bei Rückkehr wegen im Ausland getätigter Geldsammelaktivitäten für Kriegsoffer*, p. 10. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

¹³⁶⁴ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 4 *Gefährdung bei Rückkehr wegen im Ausland getätigter Geldsammelaktivitäten für Kriegsoffer*, p. 11. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

person D also pointed out that family members of diaspora members were interrogated about their financial support to Tamil-related projects (email information from contact person D on April 6, 2020).¹³⁶⁵

Tamil Guardian highlighted in January 2020 that “Sri Lankan President Gotabaya Rajapaksa president announced that he will further expand the role of the defence department, as he assigned the Immigration and Emigration Department to Defence State Minister, and brother, Chamal Rajapaksa. The move further expands the control of the powerful defence department, which already was granted control of state institutions that govern for non-governmental organisations, as well as the technology, telecommunications and media agencies. A total of 31 state institutions are now under the purview of Sri Lanka’s defence ministry. The latest move will be particularly troubling for Tamil asylum seekers, who face a particular risk of torture and human rights abuses at the hands of Sri Lanka’s security forces. Many are still attempting to flee the island, but face deportation from other states around the world. Kamal Gunaratne, a former military commander accused of overseeing mass atrocities, is Sri Lanka’s defence secretary”.¹³⁶⁶

In March 2020 Thomson Reuters Foundation News reported that “More than two-thirds of returning refugees are landless, according to human rights groups”.¹³⁶⁷

On 5 April 2020, Sri Lanka Brief reported that in response to the Covid19 pandemic:

The government has now taken full control of media, including private media, to popularise the political agenda of the government and strategic direction of a Sinhala Buddhist state. [...] The following key messages that are propagated in the vernacular media, including the websites operated by the pro-government outfits, are significant: [...]

Sri Lankan returnees from the West, particularly from Italy, who have not reported for quarantine are traitors.¹³⁶⁸

Further information on Sri Lanka’s response to COVID-19 can be found in section [IX. COVID-19 and impact on human rights](#).

b. Information related to *sur place* activity and monitoring and surveillance in country of asylum

In April 2019, The Guardian (UK) reported that:

An arrest warrant for a former Sri Lankan military attache, convicted of public order offences after making cut-throat gestures at protesters, has been revoked without a court hearing following Foreign Office involvement.

¹³⁶⁵ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsoffer](#), 10 April 2020, 4 *Gefährdung bei Rückkehr wegen im Ausland getätigter Geldsammelaktivitäten für Kriegsoffer*, p. 11. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

¹³⁶⁶ Tamil Guardian, [Sri Lanka’s defence ministry assigned control of immigration](#), 27 January 2020

¹³⁶⁷ Thomson Reuters Foundation News, [Sri Lankan Tamil women fight for land a decade after war ends](#), 3 March 2020

¹³⁶⁸ Sri Lanka Brief, [STATUS STATEMENT II: SRI LANKA’S RESPONSE TO COVID-19 – ALLIANCE OF INDEPENDENT PROFESSIONALS](#), 5 April 2020

The private prosecution of Brig Priyanka Fernando has degenerated into extraordinary legal confusion, forcing the chief magistrate, Emma Arbuthnot, to take control of the case. [...] Fernando was filmed making cut-throat gestures aimed at Tamil protesters outside the Sri Lankan high commission in London on 4 February 2018. Demonstrators were highlighting concerns about human rights violations against Sri Lanka's Tamil minority. Footage of the incident went viral on YouTube.¹³⁶⁹

Human Rights Watch further reported on the case and stated:

The publicity of the Snowden refugees' acts of kindness, and their location, made her fear for her life. Police from the Sri Lankan Criminal Investigation Department came to the slums of Hong Kong to search for the five Sri Lankans who helped Snowden, carrying their photographs, in late 2016. Ajith's family in Sri Lanka faced repeated visits from the military, with many more after his story became public.¹³⁷⁰

The Sri Lanka brief, which also reported on the court case of Brigadier Priyanka Fernando, stated that "The job entails "monitoring any anti-Sri Lanka activities in the UK" and reporting to the ministry of defence, intelligence agencies, amongst others, as well as "monitoring any LTTE activities in the UK and devising appropriate plan with the coordination of intelligence agencies in Sri Lanka to counter it."¹³⁷¹

The Morning Star reported that:

Making slit-throat gestures at Tamil protesters was part of the job description for Sri Lanka's military attache in London, Westminster Magistrates Court heard [...]
Barrister Nicholas Wayne made the extraordinary argument in defence of his client, Brigadier Priyanka Fernando.
The soldier was caught on camera running his fingers across his throat while standing guard outside the Sri Lankan High Commission last year. The Brigadier left the country days later.
A British judge has since found him guilty of causing "harassment, alarm and distress" to Tamil complainants who brought a private prosecution, but the Brigadier claims he has diplomatic immunity. [...]
The court previously heard testimony from the Tamil complainants who said Sri Lankan diplomats repeatedly threatened and harassed them in London.
Their claims are strengthened by point one of Mr Fernando's job description, which tasked him with "monitoring any anti-Sri Lanka activities in the UK and reporting to ... Intelligent [sic] agencies in Sri Lanka."
The soldier was also expected to "establish contacts with appropriate defence and intelligent [sic] agencies in the UK."¹³⁷²

In December 2019 The Guardian (UK) reported that:

A senior member of the Sri Lankan military has been convicted of public order offences in London and fined thousands of pounds after a court ruled he was not protected by diplomatic immunity.
Brig Priyanka Fernando was filmed making throat-slitting gestures towards Tamil protesters outside the Sri Lankan high commission in London on 4 February 2018. The demonstrators were highlighting concerns about human rights violations against Sri Lanka's Tamil minority. Footage of the incident went viral. [...]

¹³⁶⁹ The Guardian, [UK arrest warrant for Sri Lanka attache over throat-cut gestures revoked](#), 1 April 2019

¹³⁷⁰ Human Rights Watch, [Two 'Snowden refugees' are safe. Now, what about the rest?](#), 1 April 2019

¹³⁷¹ Sri Lanka Brief, [JUDGE SAYS BRIGADIER PRIYANKA FERNANDO'S DEATH THREATS NOT COVERED BY DIPLOMATIC IMMUNITY](#), 2 March 2019

¹³⁷² Morning Star, ['Death threats were part of Sri Lankan diplomat's job description,' court told](#), 1 March 2019

Three Tamils who have refugee status in the UK brought a private prosecution against Fernando. Majuran Sathananathan, Palliya Perera and Gokulakrishnan Narayanasamy, who were all involved in the protest, argued Fernando's behaviour caused them harassment, alarm and distress.

The court found Fernando guilty and ordered him to pay more than £4,000 in fines, costs and compensation.

The chief magistrate, Emma Arbuthnot, said: "My view is that his actions were really rather disreputable. I gather he was recalled to Sri Lanka one hopes in disgrace to some extent. His body language appeared to be arrogant and intimidating. He must have known it would be alarming at the very least."¹³⁷³

The Colombo Telegraph, also reporting on this particular case, noted that the International Centre for Prevention and Prosecution of Genocide (ICPPG) thanked the prosecutors and also the "key witnesses Sabeshraj Sathiyamoorthy and Sockalingam Yogalingam, MP of TGTE [Transnational Government of Tamil Eelam] for their braveness in bringing this case and their tireless effort in continuing the case to this point".¹³⁷⁴

In March 2019, Human Rights Watch reported:

Supun Kellapatha and his partner Nadeeka separately escaped death threats and politically motivated abuse in Sri Lanka, and met each other as they waited – in vain – for Hong Kong to grant them asylum. The couple now have two children, Dinath and Sethumdi, who are stateless. Ajith Debagama Kankanalamage escaped horrific and repeated torture by the Sri Lankan army, but his asylum request was also rejected by Hong Kong, which is ready to deport him to where his life is at risk. His family was threatened and harassed by police once his connection to Snowden, and location in Hong Kong, became known. Sri Lankan Criminal Investigation Department officers were spotted in Hong Kong searching for these five in late 2016, making the prospect of retaliation should they be repatriated all the more likely.¹³⁷⁵

In August 2019 the Sri Lankan government declared a "prominent international rights activist as a 'terrorist'" reported Journalists for Democracy in Sri Lanka.¹³⁷⁶ According to the same source, activist Viraj Mendis, a Sinhalese living in exile, was declared a "'fund raiser' for terrorism" for his involvement as "head of Germany based refugee rights group, International Human Rights Association (IMRV-Bremen)".¹³⁷⁷

The International Truth and Justice Project noted in a press release dated October 2019 that:

Tamil asylum seekers in the UK say their families back home are being deliberately targeted by Sri Lankan security forces, shown photographs of them in demonstrations in London, threatened and in some cases physically assaulted. Spouses and parents in the villages of the north of Sri Lanka are being visited by police and army within days of the person in London giving a media interview or participating in a protest. "This shows that surveillance in the UK of Tamils, who have been forced to go into exile, is being used to silence victims and witnesses," said the Executive Director of the International Truth and Justice Project, Yasmin Sooka, "state agencies wouldn't need to silence victims' families if they hadn't driven them out in the first place".

¹³⁷³ The Guardian, [Sri Lankan official fined over throat-slitting gestures in London](#), 6 December 2019

¹³⁷⁴ The Colombo Telegraph, [Brigadier Fernando Had Brought Disrepute And Embarrassment To Sri Lanka And The Army: Senior District Judge Emma Arbuthnot](#), 7 December 2019

¹³⁷⁵ Human Rights Watch, [Canada, Please Save All the 'Snowden Refugees'](#), 26 March 2019

¹³⁷⁶ Journalists for Democracy in Sri Lanka, [Swiss legal debacle "triggered Sri Lanka's latest terrorists list"](#), 2 August 2019

¹³⁷⁷ Journalists for Democracy in Sri Lanka, [Swiss legal debacle "triggered Sri Lanka's latest terrorists list"](#), 2 August 2019

The Sri Lankan authorities monitor Tamil TV broadcasts from the UK and social media sites. In one recent case, security officials found the wife in her village in northern Sri Lanka of a man in the UK just days after he had given a TV interview in London. They warned her he should stop: “Your husband is doing unnecessary things abroad. If he goes there, he should be silent. We are saying this to you in a polite way but if other people come, they won’t be so polite”. She was also questioned about his postings on social media accounts. Another Tamil asylum seeker reported threats to his family in Mullaitivu from plain clothes officers of the Criminal Investigation Division (CID) following an interview he gave to the media. He says his father was physically assaulted.

The ITJP interviewed 26 Tamil men in the UK, all of them claiming asylum on the basis of post-war torture. [...] All reported that their families had been repeatedly visited by security services after they had fled the country – including some as recently as September 2019. The visits were mainly by plain clothes police officers but in some cases military intelligence or the Civil Security Department.¹³⁷⁸

In the same press release, the International Truth and Justice Project also outlined complaining measures:

Only about half of those interviewed said their families had tried to report the surveillance, threats or assaults to the police. [...]

Several men said their families were specifically warned not to report to the police the visits or were too frightened to do so. Most who tried said local police officers refused to accept a complaint as they had no eyewitnesses because everyone was too frightened to testify and they couldn’t name the individuals responsible. They were also told there was no indication they were state actors if they were in plain clothes. In some cases police allegedly refused to accept complaints, saying “your sons are LTTE and trying to regroup the LTTE” or “such things don’t happen”. After participating in a protest in London in mid-2019, this man’s parents in Sri Lanka were threatened but tried to report the incident despite warnings not to do so:

“My parents went to the police station to report it but the police wouldn’t accept the complaint. They asked for the names of the people who had threatened them and they didn’t have the names. There are various different intelligence officers who come on different occasions in plain clothes. Now my parents are alone at home and frightened because they live near an army camp.”

Five interviewees said their families had registered complaints with the Human Rights Commission of Sri Lanka (HRCSL) but three were reportedly asked for a police report first which the police refused to provide.

“It’s easy to assert that the ongoing flow of Tamils claiming asylum on the basis of torture is the work of a few corrupt security officers but reports of systematic intimidation of the victims’ families belie such a theory,” said Ms. Sooka. “These acts of surveillance, intimidation and continued persecution of families indicate the paranoia of the Government of Sri Lanka in wanting to shut down even relatively small protests abroad and penalising those who give interviews. In no way is this approach consistent with the narrative of “reconciliation” that has been fed to donors and diplomats”.¹³⁷⁹

A spokesperson for the Sri Lankan Secretariat for Coordinating Reconciliation Mechanisms (SCRM) interviewed by a UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 noted with regards to the question ‘Is the Sri Lankan government aware of diaspora activities?’ that “The government does not discourage returnees nor actively encourage them. However, the government has

¹³⁷⁸ International Truth and Justice Project, [Press Release: Sri Lankan security agencies assaulting families of asylum seekers in UK](#), 24 October 2019

¹³⁷⁹ International Truth and Justice Project, [Press Release: Sri Lankan security agencies assaulting families of asylum seekers in UK](#), 24 October 2019

encouraged the Tamil diaspora to invest in the North and East post-conflict areas. There is increasing interest in the diaspora to get involved but there is no desire to leave their homes abroad”.¹³⁸⁰

A Human Rights Activist interviewed by the same UK Home Office Fact-Finding Mission to Sri Lanka in September 2019 replied to the question ‘Are Tamils monitored abroad?’:

There is some monitoring. Anecdotally, the source cited one person who was arrested and detained for a few hours who had participated in a protest abroad. He was picked up at the airport in 2017/18 for protesting about the war in 2008/09 and this is the first time he had returned. A Norwegian-based Sri Lankan Tamil journalist (now a Norwegian citizen) was accused of writing against the government and judiciary and arrested in Jaffna in 2019. He was released but has a case pending against him. Tamils returning from abroad are generally monitored to see what they are doing, especially in the North and East. Certain Tamils are subject to close scrutiny, e.g. political activists, journalists. But, in his experience, not all Tamils are monitored, and he knew of Tamils from the diaspora who had not encountered any difficulty [...]

it would be no surprise if such monitoring occurred abroad. The source cited official and unofficial Sri Lankan representatives had taken photos of human rights activists in the UN building in Geneva. He could not recall a random Tamil being stopped at the airport. He was not aware of anyone on the Watch list being stopped but has heard this happens anecdotally.¹³⁸¹

A Human Rights Activist interviewed for the fact-finding mission noted that “Some family members may be harassed if the police are looking for someone who has fled abroad”.¹³⁸²

When asked whether he/she is ‘aware of monitoring of returning Tamils’, a journalist interviewed by a UK Fact-Finding Mission in October 2019 and only identified as ‘journalist 1’, stated:

Monitoring on return to Sri Lanka is possible if you are deemed to have done something against the government. Officers were placed amongst protesters in the UK to monitor and keep track of them. This is common practice as the government and military fear revenge.¹³⁸³

A second journalist interviewed by the UK Fact-Finding Mission in October 2019 and only identified as ‘journalist 2’, stated “The journalist was aware of diaspora groups taking part in protests abroad and they see people taking photos from inside the Sri Lankan High Commission”.¹³⁸⁴

A representative from the Northern province community interviewed by the same UK Fact-Finding Mission in October 2019 stated that “Activists are probably monitored, have heard reports of diaspora

¹³⁸⁰ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019, p. 33

¹³⁸¹ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 36

¹³⁸² UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Human Rights Activist 30 September 2019, p. 38

¹³⁸³ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 1 2 October 2019, p. 47

¹³⁸⁴ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, Annex D: Notes of meetings with sources, Journalist 2 2 October 2019, p. 48

activist facing intimidation when they return to Sri Lanka. TID/CID are at the airport and collect intelligence. It has not been the case for everyone and now its more prominent activists.”¹³⁸⁵

The November 2019 report by the Australian Department of Foreign Affairs and Trade (DFAT) noted that “Intelligence agencies also monitor links to foreign groups, including some in the Tamil diaspora”.¹³⁸⁶

The Asia Times reported at the end of November 2019 that the Sri Lankan staff working for the Swiss embassy in Colombo who was reportedly “abducted and forced to hand over sensitive information” to the Sri Lankan police, “was reportedly forced to open her mobile phone and reveal names of Sri Lankans who had recently sought asylum in Switzerland”.¹³⁸⁷

In January 2020 Tamil Guardian reported that “Sri Lanka’s defence secretary called on the British government to share military intelligence and technology to combat ‘terrorism’, as he slammed the Tamil diaspora in a meeting with Britain’s High Commissioner [...] Kamal Gunaratne, who is himself accused of overseeing war crimes, told the UK’s High Commissioner to Sri Lanka Sarah Hulton that his government was seeking ‘assistance in sharing military intelligence, technology and expertise in combating terrorism’. He went on to slam the Tamil diaspora to the High Commissioner, stating there were “concerted efforts of Tamil diaspora groups... to revive the LTTE””.¹³⁸⁸

The Swiss Refugee Council noted on 10 April 2020 [informal translation]:

According to an interlocutor who works for an international Tamil Diaspora organisation and a catholic priest active in northern Sri Lanka, both of which told the Swiss Refugee Council in April 2020 [informal translation]: “the Sri Lankan Authorities systematically collect information about diaspora activities and monitor them. The diaspora organization had observed this in particular in Great Britain [...] the Sri Lankan authorities would monitor the diaspora. It is also possible that informants provide the Sri Lankan authorities with relevant information”.¹³⁸⁹

IX. COVID-19 and impact on human rights

For specific information on how particular profiles are affected by Sri Lanka’s response to COVID-19 see sections:

- [V.e.i Situation of Journalists/Media Workers/Bloggers/Citizen Journalists](#)
- [V.e.iii Treatment of those perceived to oppose the government \[without political affiliation\]](#)
- [V.i.d\) \(5\) COVID-19 and the treatment of Muslims](#)
- [V.j.ii. Persons of Tamil Ethnicity](#)

¹³⁸⁵ UK Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Annex D: Notes of meetings with sources, Representative from the Northern province community 2 October 2019*, p. 52

¹³⁸⁶ Australian Government, Department of Foreign Affairs and Trade (DFAT), [DFAT Country Information Report: Sri Lanka](#), 4 November 2019, *Tamils, Monitoring, harassment, arrest and detention*, para. 3.12

¹³⁸⁷ Asia Times, [Rajapaksas vs cops plot thickens with ‘abduction’](#), 29 November 2019

¹³⁸⁸ Tamil Guardian, [Sri Lanka calls for sharing of UK military intelligence to tackle Tamil diaspora](#), 16 January 2020

¹³⁸⁹ Swiss Refugee Council, [Sri Lanka: Aktuelle politische Situation, Überwachung der Diaspora, Geldsammeln im Ausland für Kriegsopfer](#), 10 April 2020, 3 *Überwachung der Diaspora*, p. 9. Informal translation from German to English provided by a COI researcher, co-author of this ARC COI report.

The Adayaalam Centre for Policy Research provided the following timeline of COVID-19 in Sri Lanka, as of 30 April 2020:

January 27 First reported COVID-19 patient in Sri Lanka, a foreign national.
March 10 First case of a local in Sri Lanka diagnosed with COVID-19, transmitted via tourists.
March 16 16-20 of March declared public holidays.
March 18 First police curfew declared in Puttalam District and Kochchikade Police Division in Negombo.
March 20 Curfew across entire island announced in the morning to begin same day at 6PM until 23 March 2020.
March 23 – April 19 Curfew temporarily lifted across different districts for short intermittent periods of time.
April 20 24-hour curfew relaxed for all districts except Colombo, Kalutara, Gampaha, Kegalle, Kandy, Puttalam and Ampara. All other districts to remain in curfew between 8:00PM and 5:00AM every day.
April 25 Countrywide 24-hour curfew imposed after sudden jump in infections from a navy camp on the outskirts of Colombo.
April 27 24-hour curfew extended in districts of Colombo, Gampaha, Kalutara and Puttalam until 4 May with relaxed exceptions for workers. All other districts to remain in curfew between 8:00PM and 5:00AM every day until 1 May.¹³⁹⁰

In March 2020 Amnesty International highlighted the economic impact of COVID-19-related lockdown measures on daily wage earners:

As lockdowns come into force, they will overwhelmingly be denied their means of earning a livelihood. In an economically low-income region with limited social security systems in place, they do not have an adequate – or, in many cases, any – social safety net to fall back on. In Sri Lanka last week, as a curfew was being imposed, queues formed outside pawn shops, highlighting the dire circumstances already hitting people.

Some countries in South Asia, including India, Sri Lanka and Pakistan, this week announced economic stimulus packages, but these have been chiefly targeted at industries. There is a need for specific measures aimed at people working in the informal sector in line with the right to social security so that they can realize their right to an adequate standard of living.¹³⁹¹

The Adayaalam Centre for Policy Research highlighted as one of its main area of human rights related concerns “the legality (or lack thereof) of the curfew”:

The curfew has been described largely as ‘police curfew’ in notifications by the police [...]

The stated purpose of the curfew to prevent transmission of COVID-19 within communities is a welcome goal. However, the way in which the curfew has been administered, at times with little warning, and then with short breaks, has raised serious questions about whether it is achieving this purpose. Further, the failure to put in place government supports prior to declaring a curfew has disproportionately impacted the most economically marginalised sections of society who rely on daily wages but cannot work during the curfew or must work in hazardous conditions [...]

The laws of Sri Lanka do not provide for a ‘police curfew’. No curfew has been declared under the Public Security Ordinance,²⁰ neither has a ‘state of disaster’ been declared under the Disaster Management Act. The GoSL has likely been reluctant to declare a curfew under the PSO because to declare a curfew longer than a month it needs Parliament’s approval. This is currently impossible unless the President’s decision

¹³⁹⁰ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Brief timeline of COVID-19 in Sri Lanka*, p. 1/2

¹³⁹¹ Amnesty International, [South Asia: As COVID-19 spreads, fears rise for people at higher risk](#), 26 March 2020

to dissolve the Parliament is reversed and the Parliament is reconvened. The President has repeatedly stated that he will not call back the dissolved Parliament.¹³⁹²

In report covering May 2019 to April 2020, the International Federation of Journalists noted that “In Sri Lanka, the anti-minority rhetoric whipped up by the Sinhala nationalist media and social media users blaming a particular community for the epidemic prompted the Ministry of Health and Indigenous Medical Services to issue guidelines for reporting Covid-19, requesting the media not to mention race or religion of infected persons or of those who die of it; not to publish photographs or show videos of infected persons without their permission and not to report in a manner that causes hatred among people”.¹³⁹³

Reporting in March 2020, Journalists for Democracy in Sri Lanka stated that:

Journalists and media outlets readily published those photographs of the kids who have been accused of evading quarantine measures when entering the country from Italy, the country with the most recorded Covid-19 deaths.

One website sponsored by a powerful minister under President Gotabaya Rajapaksa ran the police notice with the headline “Here are the Italian Corona bombs evading quarantine measures”.

“The people in this list are wanted to be handed over for quarantine for not providing information for quarantine when they arrived in this country from Italy,” said the notice issued to the media by police headquarters.

Wide publicity

It further requested journalists to publish the accompanying photographs of nine children and three adults, “to identify these people”. The youngest of them had been born in October last year according to the information made available by the police.

Several senior journalists working in local and international media have complied with the police request by widely publishing the photographs.

The journalists or police have not made clear how the easily identifiable children will be protected from harm by members of the public who have increasingly become unfriendly towards those suspected of coming to contact with the coronavirus.

Earlier, army commander Shavendra Silva who heads the national Coronavirus National Operations Center, announced that the security forces are monitoring of 15,000 Sri Lankans who have arrived in Sri Lanka since the outbreak of the deadly virus.¹³⁹⁴

Sunanda Deshapriya writing on Groundviews reported at the end of May 2020 that

When the pandemic began to spread in Sri Lanka, instead of establishing necessary legal mechanisms and instruments to deal with it, the President decided to take action that lacked a clear legal basis. He imposed an unconstitutional “police curfew” to shut down the country while the Parliament remained dissolved, making it impossible to establish constitutional mechanisms. The “curfew” was made public by the Presidential Media Unit rather than by a Gazette notification. Nearly 50, 000 citizens and more than 10,000 vehicles have been taken into custody under this illegal “police curfew”.¹³⁹⁵

¹³⁹² Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, A. The legality (or lack thereof) of the curfew*, p. 3 and 4

¹³⁹³ International Federation of Journalists, [States of Control: IFJ launches 18th South Asia Press Freedom Report](#), 3 May 2020, *Overview*, p.10

¹³⁹⁴ Journalists for Democracy in Sri Lanka, [Four month old baby in Sri Lanka police wanted list](#), 24 March 2020

¹³⁹⁵ Groundviews, [Sri Lanka: 10 Political mistakes that shouldn’t have been committed during the pandemic](#), 30 May 2020

INFORM issued a report on 'Repression of Dissent in Sri Lanka' which covered 'before and during curfew 1st February 2020 - 30th April 2020' which also recorded that "41,700 persons have been arrested, 10,700 vehicles having been seized for violating curfew regulations as reported on 29th April".¹³⁹⁶ By early May 2020 Tamil Guardian reported that "Sri Lanka's police have stated that over 45,000 people will be prosecuted for violating the state-imposed curfew. The Daily Mirror has reported that the police have arrested members of the government as well as opposition. This includes the Mayor of Dambulla who was accused of violating curfew and abusing his position. Those prosecuted may face imprisonment for up to two years months and face a fine if they knowingly spread false information. Over 45,000 people who have been arrested have been released on bail".¹³⁹⁷

The Adayaalam Centre for Policy Research noted in April 2020 with regards to those arrested:

Police have been arresting curfew violators without warrants though it unclear what the legal basis for those arrests are. Initially the police granted bail to all those arrested for allegedly violating curfew on their own accord but more recently the police have only been granting bail with the Magistrate's permission. Police also confiscate vehicles of those violating curfew and have warned that the vehicles will not be returned until the COVID-19 threat has subsided. ACPR finds the broad grant of arrest powers to the police and military extremely concerning, especially given the systemic prejudice both of these institutions have displayed in the past towards Tamil and Muslim communities on the island. Additionally, placing people even for short periods of time in already overcrowded and confined places of detention is not in the interests of public health [...]

In Jaffna, individuals engaged in relief work including local councillors have been arrested for not possessing a curfew pass while doling out aid and supplies to impoverished communities. Even volunteers in possession of valid curfew passes have been harassed and prevented from doing work slightly outside the zone delimited by their curfew passes. Some aid workers have reported that the supplies they were trying to distribute were confiscated by the military and police and then redistributed under the military banner. None of these actions have any basis in law.¹³⁹⁸

Moreover, the article written by Sunanda Deshapriya for Groundviews criticised that "The President placed the response to the pandemic under the Army Commander-in-Chief, rather than the leading health officials".¹³⁹⁹ Dr. Thusiyan Nandakumar, editor-in-chief of the Tamil Guardian, noted that with the appointment of the head of the Sri Lankan Army, Lieutenant general Shavendra Silva, "a credibly accused war criminal", "When someone such as Silva, who is greatly feared by Tamils, is selected to lead what even the military has acknowledged is a 'mega public health exercise', it will be difficult to build faith in the Tamil community in the measures his task force deploys. Instead, with this appointment, Sri Lankan president Gotabaya Rajapaksa showed his continued disregard of human rights. He has already come under criticism for his earlier insistence that parliamentary elections would continue despite the global health crisis, as he looks to ride a wave of Sinhala-nationalist populism".¹⁴⁰⁰ The Centre for Policy

¹³⁹⁶ INFORM, [Repression of Dissent in Sri Lanka: Before and during COVID19 curfew](#), 30 May 2020, *Executive Summary*

¹³⁹⁷ Tamil Guardian, [More than 45,000 to be prosecuted for breaking curfew](#), 4 May 2020

¹³⁹⁸ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka's militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, A. The legality (or lack thereof) of the curfew*, p. 4/5

¹³⁹⁹ Groundviews, [Sri Lanka: 10 Political mistakes that shouldn't have been committed during the pandemic](#), 30 May 2020

¹⁴⁰⁰ Dr. Thusiyan Nandakumar (The Polis Project), [A military mindset : Sri Lanka's response to the coronavirus pandemic](#), March 2020

Alternatives (CPA) highlighted that the Presidential Task Force established to “direct, coordinate and monitor the delivery of continuous services and for the sustenance of overall community life [...] the mandate and powers assigned to the Task Force are much wider in scope and range from ensuring the supply of essential goods and services to providing relief measures to vulnerable groups of society”.¹⁴⁰¹ The report further noted that:

While acknowledging that a situation of this nature is unprecedented and that the laws in place at present may not be sufficient to deal with all aspects of the situation, efforts should nonetheless first be made to utilise existing laws in order to deal with the crisis. The use of existing laws enacted by Parliament ensures that there is a certain level of oversight in the manner in which authorities exercise power.¹⁴⁰²

According to reporting by Journalists for Democracy in Sri Lanka, the Executive Director of the International Truth and Justice Project stated “Sri Lanka has an alleged war criminal heading its COVID-19 response, who served in the same army regiment as the President, raising questions about transparency, accountability and oversight”.¹⁴⁰³

Tamil Net reported in early April 2020 that “The Community Based Organisations and Non-Governmental Organisations involved in assisting the people, who have lost their livelihood due to the long-lasting curfew imposed to control the spread of COVID-19 pandemic, are complaining about military restrictions hampering their work in Jaffna. The occupying SL [Sri Lankan] military has beefed up its checkpoints on the main highways that connect peninsular Jaffna with the Vanni mainland and the rest of the island. The SL soldiers operating the Elephant Pass (EPS) and Poonakari (Pooneryn) checkpoints are refusing to accept the documents provided to the organisations even though the SL Police has sanctioned such permits at the request of Village (GS) and Divisional Secretaries in the public sector”.¹⁴⁰⁴

The Adayaalam Centre for Policy Research described the “military-run quarantine centres in the North-East:

Early on, the decision to place many of these quarantine centres in the North and East was met by significant resistance from local populations and critiqued by healthcare professionals who questioned why quarantine centres would be placed so far from where the actual spread of the virus was located at the time. Local politicians and doctors warned against the risk of bringing the virus to communities where the impact of the war was still felt in healthcare systems which lag behind other parts of the country. While GoSL officials deflected these criticisms, it is likely that quarantine centres were placed in the North-East at least in part due to the disproportionate presence of the armed forces there. Local communities also argued the placement of quarantine centres in predominantly Tamil and Muslim areas despite the lack of infections in those areas at the time was due to systemic discrimination.¹⁴⁰⁵

¹⁴⁰¹ Centre for Policy Alternatives, [Brief Guide II, Structures to Deal with COVID-19 in Sri Lanka: A Brief Comment on the Presidential Task Force](#), April 2020, *Executive Summary*

¹⁴⁰² Centre for Policy Alternatives, [Brief Guide II, Structures to Deal with COVID-19 in Sri Lanka: A Brief Comment on the Presidential Task Force](#), April 2020, *Existing Framework and Areas of Concern*

¹⁴⁰³ Journalists for Democracy in Sri Lanka, [International concerns raised over Sri Lanka militarizing response to COVID19](#), 10 April 2020

¹⁴⁰⁴ Tamil Net, [Colombo uses COVID-19 situation to militarise civil administration in North](#), 7 April 2020

¹⁴⁰⁵ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response, B. Militarisation of the COVID-19 Response, (ii) Military-run quarantine centres in the North-East, p. 6*

Tamil Net also reported at the end of April 2020 on the Sri Lankan military seizing schools in the North for quarantine purposes:

The occupying SL [Sri Lanka] military has seized around fifty schools in the Northern Province in recent days intending to convert these as Quarantine Centres (QCs) sparking protests from the public and educational organisations [...] While there was no identified pattern of COVID-19 spread in Mullaiththeevu, Ki'linochchi and Mannaar districts of the Northern Province as well as the islets off Jaffna, the militarised QCs in large numbers in the midst of densely populated areas have caused fear among the public.¹⁴⁰⁶

In addition, the same source reported that “Civil authorities in the North were not informed in advance about SL authorities in Colombo starting to bring a large number of people, around 1100 persons, to military-operated Quarantine Centres in the Northern Province”.¹⁴⁰⁷

The military’s role in contact-tracing was further criticised by the Adayaalam Centre for Policy Research as outlined below:

Worryingly in Sri Lanka contact-tracing efforts are being led by the State’s intelligence services who are notorious for their use of torture against primarily Tamil civilians and excombatants. They are using the assistance of telecommunication companies to trace individuals’ contacts and the places they have visited, in addition to looking through people’s immigration records. The military is also planning to use drones to monitor villages affected by COVID19. Already Tamil aid workers and activists in the North who have been distributing rations to impoverished communities including Tamil families of the disappeared and ex-combatants have reported being interrogated by the CID about where they got the aid. The CID has told them that they should be informed about any aid distributions even where activists had already informed local government officials. Reports have also emerged of the military leaking details of individuals they have traced discriminatorily against Tamils and Muslims. In a context where the military has consistently used surveillance as a tool of intimidation and harassment of human rights defenders, journalists, and the Tamil community, the broad powers and technology being given to them without any apparent oversight or end date is of grave concern to ACPR.¹⁴⁰⁸

In May 2019, Journalists for Democracy in Sri Lanka reported that:

The Defence Ministry of Sri Lanka had instructed officers of the 2nd Military Intelligence Corps “to scrutinise all Right to Information Requests filed by citizens with public authorities seeking information on the Covid-19 crisis,” reveals a group of professionals.

The purpose of this, according to the latest statement by the Alliance of Independent Professionals (AIP), was “to investigate these persons in search of links to foreign funded NGOs and journalists perceived to be critical of the government.” Alongside that the statement provided that “Sri Lanka’s pace of COVID -19 testing is the lowest of any country with an active outbreak” as well as various examples that racist

¹⁴⁰⁶ Tamil Net, [SL military seizes up to fifty schools in North for quarantine purposes amidst public objections](#), 28 April 2020

¹⁴⁰⁷ Tamil Net, [Colombo brings 1,100 persons from South to military-operated Quarantine Centres in North](#), 22 April 2020

¹⁴⁰⁸ Adayaalam Centre for Policy Research (ACPR), [Situation Brief No. 3 COVID-19: Sri Lanka’s militarised response poses grave threats to human rights](#), 30 April 2020, *Key Areas of Human Rights Concerns around COVID-19 Response*, B. Militarisation of the COVID-19 Response, (iv) Military’s role in Contact-Tracing, p, 8

outbreaks had proceeded in line with the attempts to stamp down on the growing pandemic's appearance on the island.¹⁴⁰⁹

Moreover, the same article cited the Alliance of Independent Professionals' statement as noting:

the government continues to racially profile COVID – 19 patients using digital files maintained by the intelligence agencies as well as health records held at district level collected from multiple sources "including local government officials".

Stating that "incitement to racial hatred is carefully architected to condemn the minorities in a subtle manner, blaming minorities for the outbreak of the virus," a specific list of examples were given. These included, amongst others, the stigmatisation of Muslims in the Kalutara District where those quarantined due to COVID – 19 were referred to as "Beruwela People". As the district is generally regarded as a Muslim dominant area, it was stated that Derana TV presenter Chatura Alwis mentioned that two patients from Beruwala had "deprived Sri Lanka of enjoying Sinhala New Year." Additionally, the statement also held that "The government is careful not to mention the religion or ethnicity of Sinhalese or Buddhist persons contracting the virus" and that a returnee Sinhala family who had been visiting India on a Buddhist pilgrimage were not checked at the airport which as a result led to 50 cases. The mother who has been since vilified by the press as a returnee from India with no mention of the pilgrimage has failed to disclose the symptoms to any authority. The statement makes mention of the fact that as she was simply a returnee from India the implication was that she was Tamil.¹⁴¹⁰

Furthermore, the article mentioned that "human rights groups have been silent on the issue of the demeaning treatment of the poor when 'forcibly taken into quarantine'. The statement has observed that "impoverished males were partly undressed and forcibly sprayed down with disinfectant in full view of media personnel taking pictures and video recording" in Pettah, whilst 'in the shanties of Bandaranayake Mawatha, the people were assaulted by military and police while being lined up at night'".¹⁴¹¹

¹⁴⁰⁹ Journalists for Democracy in Sri Lanka, [Sri Lanka accused of racism and increased militarisation amidst pandemic](#), 5 May 2020

¹⁴¹⁰ Journalists for Democracy in Sri Lanka, [Sri Lanka accused of racism and increased militarisation amidst pandemic](#), 5 May 2020

¹⁴¹¹ Journalists for Democracy in Sri Lanka, [Sri Lanka accused of racism and increased militarisation amidst pandemic](#), 5 May 2020