



Australian Government

Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT SRI LANKA

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CONTENTS

ACRONYMS	2
1. PURPOSE AND SCOPE	3
2. BACKGROUND INFORMATION	4
Recent History	4
Demography	4
Economic Overview	5
Political System	7
Human Rights Framework	9
Security Situation	10
3. REFUGEE CONVENTION CLAIMS	11
Race/Nationality	11
Religion	12
Political Opinion (Actual or imputed)	14
Groups of Interest	20
4. COMPLEMENTARY PROTECTION CLAIMS	26
Arbitrary Deprivation of Life	26
Death Penalty	27
Torture	27
Cruel, Inhuman or Degrading Treatment or Punishment	29
5. OTHER CONSIDERATIONS	31
State Protection	31
Internal Relocation	32
Treatment of Returnees	33
Documentation	35
Prevalence of Fraud	37

ACRONYMS

IDPs	Internally Displaced Peoples
HRCSL	Human Rights Commission of Sri Lanka
ITAK	Ilankai Thamil Arsu Kachchi
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
OISL	UN's Office of the High Commissioner for Human Rights Investigation into Sri Lanka
OMP	Office of Missing Persons
SLMC	Sri Lanka Muslim Congress
TMVP	the Tamil Makkal Viduthalai Pulikal
TNA	Tamil National Alliance
UAE	United Arab Emirates
UNFGG	United Front for Good Governance
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UPFA	United People's Freedom Alliance

1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to Sri Lanka.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the Migration Act 1958 states that:
Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in Sri Lanka including in Colombo, Jaffna and Kilinochchi. It takes into account relevant and credible open source reports, including those produced by the UK Foreign and Commonwealth Office, the US Department of State, the World Bank, the International Organisation for Migration; those from relevant UN agencies, including the Office of the United Nations High Commissioner for Refugees, the United Nations High Commissioner for Refugees, the United Nations Office on Drugs and Crime, the United Nations Children's Fund, and the United Nations Development Programme; recognised human rights organisations such as Human Rights Watch and Amnesty International; Sri Lankan non-governmental organisations and reputable news organisations. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated Country Information Report replaces the previous DFAT report on Sri Lanka published on 18 December 2015.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Ceylon achieved independence from the United Kingdom in 1948; in 1972 it became the Democratic Socialist Republic of Sri Lanka. Historically, relations between Sri Lanka's ethnic majority—the Sinhalese—and the minority Tamil community have been tense. Tamils received preferential treatment during British rule, including through employment and education advantages. Following independence, the balance shifted and successive Sinhalese-led governments introduced discriminatory policies, including making Sinhala the country's only official language (from 1956-1987) and restricting access to higher education for Tamils. These actions contributed to a sense of marginalisation in the Tamil community and led to calls, from the 1950s onwards, for a separate Tamil state, Tamil Eelam, in the north and east of Sri Lanka.

2.2 In July 1983, conflict broke out between the Sri Lankan military and the separatist Liberation Tigers of Tamil Eelam (LTTE). In May 2009, the Sri Lankan Government announced its military victory over the LTTE and complete territorial control over Sri Lanka. During the course of the long civil conflict, hundreds of thousands of people were displaced and tens of thousands of people were killed on both sides of the conflict.

2.3 Under the leadership of current President Maithripala Sirisena, who was democratically elected in January 2015, the Sri Lankan Government is focused on post-conflict reconciliation, transitional justice, and governance and economic reform.

DEMOGRAPHY

2.4 In 2015, Sri Lanka had a population of 22 million and an annual population growth rate of 0.9 per cent. Approximately 29 per cent of the population lives in the Western Province where Sri Lanka's commercial capital, Colombo, and official capital, Sri Jayawardenapura Kotte (a suburb of Colombo), are located. Five per cent of Sri Lankans live in the Northern Province (of which Tamils make up 93 per cent of the population) and 7.6 per cent live in the Eastern Province (of which Tamils are 39 per cent of the population).

2.5 Sri Lanka's ethnic groups include Sinhalese (74.9 per cent), Tamil (15.4 per cent, of which 4.2 per cent represent Tamils of Indian origin – also known as Plantation Tamils, Hill Country Tamils or Up-Country Tamils), Muslim or Moors (9.2 per cent, noting that in Sri Lanka 'Muslim' is viewed as an ethnicity and not only a religion) and others (0.5 per cent). There are two official languages; Sinhalese and Tamil (although Tamil is mostly used in the north-east). English is widely spoken.

2.6 Four major religions are practised in Sri Lanka. According to the most recent census in 2012, 70.2 per cent of the population are Buddhist (mostly Sinhalese and concentrated in the southern, central and eastern areas of Sri Lanka), 12.6 per cent are Hindu (mostly Tamils, with Hindu being the dominant religion in the Northern Province), 9.7 per cent are Muslim (predominately located in the Eastern, Western and North-Western provinces), and 7.4 per cent are Roman Catholic and other Christian denominations.

(concentrated in the Western and North-Western provinces). Fewer than 7,000 people claimed membership of other religions.

ECONOMIC OVERVIEW

2.7 The World Bank classifies Sri Lanka as a lower middle-income country. The average annual GDP growth from 2010 to 2015 was 6.4 per cent. Real GDP growth in 2015 was 4.8 per cent. GNI per capita was approximately USD 3,800 in 2015. Sri Lanka is the only South Asian nation ranked 'high' (at 73 of 188 countries) in UNDP's 2015 Human Development Index. Based on the most recent Asian Development Bank data from 2014, only 6.7 per cent of the population were below the national poverty line, compared to 21.9 per cent in India and 31.5 per cent in Bangladesh. However, there is an imbalance in economic development and distribution of wealth throughout Sri Lanka. Colombo and the Western Province are more economically prosperous, while conflict-affected areas in the north and east remain economically vulnerable (see paragraph 2.11 below).

2.8 Sri Lanka's economy has shifted from a reliance on agriculture to an increasing emphasis on the manufacturing sector (almost 30 per cent of GDP in 2015) and the services sector (over 60 per cent of GDP in 2015). However, the agriculture sector (11 per cent of GDP) still employs more than one-third of the workforce. The public sector employs one in seven Sri Lankans, and dominates the financial, utilities, health and education sectors. Public debt is high; loans arranged to cover the cost of large infrastructure projects are not all concessional and some are subject to commercial rates of interest. Sri Lanka's tax revenue base is low, and Sri Lanka has one of the lowest tax revenue-to-GDP ratios in the world.

2.9 Despite being slightly better than some of its other South Asian neighbours, the World Bank has ranked Sri Lanka 110 out of 189 countries in its 2016 'Ease of Doing Business' index. High import tariffs and poor economic policies dissuade foreign investment. Sri Lanka's major source of foreign exchange earnings are based on remittances. Sri Lankans working abroad returned approximately USD 7 billion in remittances in 2015.

2.10 Transparency International ranked Sri Lanka 83rd out of 168 countries in its 2015 Global Corruption Perceptions Index. There are credible reports of corruption in the government and public sector, including several high profile members of former President Rajapaksa's administration. Sri Lanka has several anti-corruption bodies, including; the Presidential Commission of Inquiry to Investigate and Inquire into Serious Acts of Fraud, Corruption as Abuse of Power, State Resources, and Privileges (PRECIFAC), Commission to Investigate Bribery or Corruption (CIABOC) and the Financial Crime Investigation Division (FCID). Established in March 2015, during its first 12 months of operation PRECIFAC received over 1,000 complaints of fraud and corruption relating to the period between 2010 and 2015. Investigations are reportedly underway.

Economic conditions in the north and east

2.11 Parts of the north and east were economically isolated during the conflict. Since the end of the conflict, growth has been strongest in the Northern Province due largely to post-conflict reconstruction, particularly in the infrastructure, transport, agriculture and fishery sectors. This economic growth has resulted in broad benefits for the majority of the population, however, some industries in the north, especially the agriculture sector, have struggled to compete with lower-cost imports from the south and elsewhere. Many major infrastructure projects have been awarded to foreign companies or those based in the south due in part to their greater capacity to undertake major works.

2.12 Local communities in the north have also complained about military involvement in commercial enterprises, which they allege undercut local businesses. DFAT has observed a number of military-operated commercial businesses in the Northern Province, including an internal airline, hotels and road-side rest-stops, though these are also found in other parts of the country. President Sirisena has overseen the return of some land occupied by the Sri Lankan army during the conflict to its original owners. However, the military continues to occupy fertile farming land in the north and restricts access to some of the more abundant fishing areas.

Health

2.13 Sri Lanka spends approximately 3.5 per cent of GDP per annum on health. Universal, free health care is available through the public sector health system but facilities vary and some medicines or treatments may need to be purchased from private providers. According to the World Bank, life expectancy in Sri Lanka in 2015 was 74.8 years of age and the infant mortality rate was 8.4 per 1,000 live births. Health outcomes tend to be worse in the north and east, partly as a result of the destruction of infrastructure and diminution of human capital during the conflict.

2.14 Mental health services are scarce and there is a general lack of institutional capacity to respond to mental health care needs. Mental illness is not widely discussed in Sri Lankan society; this can act as a barrier against individuals seeking proper treatment. Anecdotally, DFAT understands that the prevalence of trauma-related illnesses following the civil conflict is high, especially in the Northern Province. There has reportedly been a rise in substance abuse (both drugs and alcohol) in the Northern Province. DFAT understands that collective trauma and an absence of effective coping mechanisms, coupled with high unemployment, especially amongst the youth population, have contributed to the increase in substance abuse.

Education

2.15 Public primary and secondary schooling in Sri Lanka is generally of a high standard. High rates of primary school completion (98 per cent) have resulted in high levels of literacy (91 per cent). However, regional variations exist and education outcomes tend to be lower in the north and east.

2.16 Schools offer students and their families the choice of education in either Sinhala or Tamil, subject to the availability of qualified teachers. Tamil-language tuition is available nationally but access is hindered by the lack of Tamil-speaking teachers. English is a course of study for all students from grade one. Muslims are able to attend Islamic schools, which follow the national curriculum but include dedicated religious tuition.

2.17 University entrance in Sri Lanka is awarded according to merit and by entrance scores modified to take account of a district's socio-economic indicators. Demand far outstrips supply for university places.

Employment

2.18 Unemployment in Sri Lanka is relatively low (4.7 per cent in 2015) however modest regional variations exist. The 2015 unemployment rate in the Northern Province was 5.3 per cent and 5.7 per cent in the Eastern Province. Youth unemployment is high (20.8 per cent for 15 to 24 year olds in 2015) and there is limited formal female labour participation (around 35 per cent of females over 15 years of age).

2.19 According to Sri Lanka's Central Bank, 43,000 Sri Lankans travelled to the United Arab Emirates for employment in 2015. A total of 300,000 Sri Lankans left to work abroad for higher wages and more reliable work, mostly as unskilled and semi-skilled labour in the Middle East in 2014. Low rates of formal

unemployment and the high numbers of Sri Lankans seeking employment abroad have resulted in upwards wage pressures, particularly in certain high-skilled sectors.

2.20 DFAT assesses that despite the relatively strong rates of economic growth and low formal unemployment statistics (overall), there is a broadly-held perception amongst Sri Lankans that there is a lack of economic opportunities, including well-paid employment, access to government jobs, and university education. DFAT assesses that economic reasons, particularly access to employment, acts as a significant 'push factor' for external migration.

POLITICAL SYSTEM

2.21 Sri Lanka is a democratic socialist republic with a mixed parliamentary and presidential form of government. The Constitution was promulgated in 1978 and last amended in April 2015.

2.22 The President is directly elected for a five-year term (limited to two terms) and is the Head of State, Head of Government and Commander-in-Chief of the Armed Forces. At the January 2015 presidential election, Maithripala Sirisena defeated Mahinda Rajapaksa who had been President since 2005. Sirisena won 51.3 per cent of the vote. The election had a historically high voter turnout of 81.5 per cent. Subsequent analysis indicated that the split in the Sinhalese vote (Sirisena had resigned from Rajapaksa's Cabinet to run against him, dividing the Sri Lanka Freedom Party (SLFP) into a Sirisena faction and a Rajapaksa faction), combined with a strong Tamil vote were significant to Sirisena's victory. Sirisena, widely viewed as a consensus opposition candidate, also had the support of Ranil Wickremesinghe who was the leader of the United National Party (UNP), an opposition party at the time. Sirisena subsequently appointed Wickremesinghe as Prime Minister.

2.23 The Sri Lankan Parliament is unicameral and consists of 225 members: 196 members directly elected from district electorates, with the remainder elected through proportional representation. The most recent parliamentary election was held on 17 August 2015 and was deemed credible by international and domestic election observers. The results reinforced the outcomes of the presidential election, ushering in a 'national unity' government. The United Front for Good Governance (UNFGG), a coalition of parties including the UNP and Sirisena's SLFP faction, won 106 seats after campaigning on a 'good governance' platform, expressing commitment to; economic growth, transparency, ethnic reconciliation, and protection of individual freedoms and rights. Former President Rajapaksa's United People's Freedom Alliance (UPFA), including the Rajapaksa SLFP faction, secured 95 seats (this bloc, along with other minor opposition parties, is now commonly referred to as the 'Joint Opposition'). The Tamil National Alliance (TNA), contesting as the Ilankai Tamil Arsu Kachchi (ITAK), won 16 seats and smaller parties won the remaining eight seats. Cabinet was sworn in on 4 September 2015. TNA leader Rajavaroatham Sampanthan was appointed Opposition Leader. Rajapaksa conceded defeat and issued a statement accepting the result of the election and vowing to work within the parliament.

Sub-national governance

2.24 At the sub-national level, Sri Lanka has nine provincial councils (led by a Chief Minister) and over 300 local councils. The President also appoints a Governor to each Province, as a representative of the central government, for a period of five years. The tenure of Governors roughly aligns with the term of the President. All nine Governors were replaced following the January 2015 presidential election.

2.25 The most recent Provincial Council elections were held in 2014, with members serving five-year terms. According to article 154F of the Sri Lankan Constitution, the Governor directly appoints the member of the Provincial Council who (in the Governor's opinion) is 'best able to command the support' of the majority of members of the Provincial Council. The TNA currently holds the majority of seats in the Northern

Provincial Council and the Chief Minister is a prominent Tamil leader. The current Chief Minister of the Eastern Provincial Council is a member of the Sri Lanka Muslim Congress (SLMC). Membership of all other provincial councils is dominated by UPFA members (Sirisena is formally the head of the UPFA political alliance, though Rajapaksa continues to wield significant influence, particularly at the grassroots level).

2.26 Currently, the majority of local councils are also governed by the UPFA. According to the Government, local council elections have been delayed until 2017 due to an electoral reform process, including changes to electoral boundaries.

Constitutional Reform

2.27 President Sirisena's 2015 election platform included a commitment to reduce the powers of the President. On 28 April 2015 the parliament approved the 19th Amendment to the Sri Lankan Constitution, devolving some executive powers exercised by the President to the Prime Minister, the Cabinet of Ministers and Parliament. The 19th amendment also reduced the terms of President and Parliament from six years to five years, re-introduced a two-term limit for the President (which had been removed by former President Rajapaksa 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 the new commissions.

2.28 Further constitutional reforms are underway with a view to finalising the text in 2017. The proposals include electoral reform and devolution of power in all nine provinces (which is particularly contentious in the Northern and Eastern provinces), but at the time of writing, a draft Constitution was yet to be released. If the new constitution is passed by a two-thirds majority in Parliament, it will need to be endorsed by a referendum.

Reconciliation

2.29 The Sirisena Government has prioritised human rights and reconciliation and has made significant progress, including: replacing military governors in the Northern and Eastern Provinces with civilians; returning some of the land held by the military since the conflict-era back to its former owners; releasing some individuals detained under the *Prevention of Terrorism Act* (PTA) and committing to reform the PTA; and engaging constructively with the United Nations. The Government also established an Office of National Unity and Reconciliation (ONUR) to develop a national policy on reconciliation.

2.30 Symbolic changes have also contributed to a more positive outlook for reconciliation. The 2015 Independence Day ceremony was attended by Tamil National Alliance (TNA) leaders for the first time since 1972 and President Sirisena delivered a trilingual *Declaration for Peace* in Sinhala, Tamil and English, paying respect to all victims who had lost their lives during the civil conflict (a significant step toward acknowledging losses on both sides). At the 2016 Independence Day ceremony the national anthem was sung in Tamil, as well as Sinhala. In 2015, the Government changed the name of the day commemorating the end of the conflict (held in May) from 'Victory Day' to 'War Heroes Remembrance Day' and for the first time gave official approval for memorial events to take place in the north and east.

2.31 In September 2015, the report of the UN's Office of the High Commissioner for Human Rights investigation into Sri Lanka (OISL) found that grave violations, including possible war crimes and crimes against humanity, were likely committed by both sides during the civil conflict. In response, the Sri Lankan Government co-sponsored a resolution in the UN Human Rights Council which, while recognising the

progress Sri Lanka had made on reconciliation, committed Sri Lanka to implementing a range of transitional justice mechanisms and reconciliation projects.

2.32 On 18 December 2015, the Sri Lankan Cabinet approved the formation of the *Secretariat for Coordinating Reconciliation Mechanisms* within the Prime Minister's Office to oversee mechanisms for advancing truth, justice and reconciliation in Sri Lanka; an Office on Missing Persons; an Office for Reparations; a Truth, Justice, Reconciliation and Non-Recurrence Commission; and a Judicial Mechanism with a Special Counsel. In January 2016, Prime Minister Wickremesinghe appointed an eleven-member *Consultation Task Force on Reconciliation Mechanisms* to conduct public consultations on the design of the four mechanisms, with a final report to the President expected in 2017. DFAT assesses that if implemented effectively these mechanisms will provide a platform to achieve genuine reconciliation.

2.33 On 11 August 2016, the Sri Lankan Parliament passed a Bill to establish the Office on Missing Persons (OMP), the first permanent and independent body established to address the issue of missing persons in Sri Lanka. Members of the OMP are appointed by the President on the recommendation of the Constitutional Council. The OMP has the power to investigate disappearances and trace missing persons, including the power to search detention centres, obtain documents and summon people within Sri Lanka. The OMP has a mandate to investigate cases that occurred in the lead-up to and during the civil conflict and in the post-conflict period when Rajapaksa was still President (May 2009 - January 2015). It will also cover earlier periods of violent political disturbance in the 1970s and 1980s. The OMP does not have a prosecutorial mandate. The previous Presidential Commission to Investigate into Complaints Regarding Missing Persons collected over 23,000 cases during its term; the volume of cases submitted to the OMP would likely exceed this amount. At the time of writing, the OMP was still being established and had not yet begun staff recruitment. The OMP does not have a pre-determined end date and is expected to take years to complete its work.

HUMAN RIGHTS FRAMEWORK

2.34 Sri Lanka is a party to all major international human rights conventions, having ratified the *Convention on the Elimination of all Forms of Racial Discrimination*, the *International Covenant on Civil and Political Rights* (and its First Optional Protocol), the *International Covenant on Economic, Social and Cultural Rights*, the *Convention on the Elimination of All Forms of Discrimination against Women* (and its Optional Protocol), the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, the *Convention on the Rights of the Child* (and its Optional Protocols), the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, the *International Convention for the Protection of all Persons from Enforced Disappearance*, and the *Convention on the Rights of Persons with Disabilities*. Many international human rights are guaranteed in Sri Lanka's Constitution under Chapter 3 on 'Fundamental rights'.

National Human Rights Institution

2.35 The Human Rights Commission of Sri Lanka (HRCSL) is the national human rights institution, is headquartered in Colombo and has 10 field offices. Citizens can petition the HRCSL about breaches of their fundamental rights. The HRCSL maintains comprehensive inquiry and investigation processes for matters involving executive or administrative action. It also publishes annual reports on the number of complaints received and resolved. The majority of complaints received refer to alleged discrimination in school admissions and public sector promotions but can include complaints about torture, disappearances, extra-judicial killings, deaths in custody and arrest and detention practices.

2.36 The HRCSL was granted a Status B accreditation in March 2009 by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights, meaning it is not fully compliant with the 'Paris Principles' (Principles Relating to the Status of National Institutions). The capacity of the HRCSL has improved since new commissioners, drawn from legal practice, academia and UN backgrounds, were appointed in October 2015. DFAT considers these commissioners operate with the independence required to undertake their mandate. The new commissioners are effective and the HRCSL has sufficient powers. But the Commission continues to suffer from a lack of staff. In a statement following his mission to Sri Lanka in early 2016, the United Nations High Commissioner for Human Rights noted that 'one of the most important achievements over the past year has been the restoration of the legitimacy and independence of Sri Lanka's Human Rights Commission'.

SECURITY SITUATION

2.37 Since the conflict ended in May 2009, the security situation in Sri Lanka has greatly improved. The Sri Lankan Government—through its military, intelligence and police—exercises effective control over the entire country.

2.38 Crime rates across Sri Lanka vary, but are highest in Colombo District and tend to be higher in the Western Province and the Northern Province. The incidence of homicide has fallen sharply in recent years and is now comparable with other South Asian countries—UNODC estimated a murder rate of 2.9 per 100,000 in 2013. The rates of many other serious crimes, including assault and rape have either remained steady or increased slightly. DFAT is aware of increased reports of gender-based violence (GBV) in the north and east and understands they have not been met with an effective response.

Security situation in the North and East

2.39 The security situation in the north and east has improved dramatically since the end of the conflict, with greater freedom of movement and a reduction in the military's involvement in civilian life. However, military and security forces maintain a significant presence in the Northern Province, including in Mannar, Vavuniya, Kilinochchi, Mullaitivu and Jaffna Districts. According to the Government of Sri Lanka, the number of personnel has reduced by approximately 30 per cent since the end of the conflict, but there may be up to 70,000 Sri Lankan Defence Force troops and up to 15,000 civilian police still stationed in the north. In September 2016, DFAT observed a low-level, visible military presence in the north, with most of the military confined to the Security Forces Cantonment on Jaffna Peninsula (also known as 'High Security Zones') or the smaller surrounding military camps. The High Security Zones occupy fertile land and are well-established, with permanent structures and well-tended agricultural land. The Government has begun reducing High Security Zones in the Northern Province and to date, over 1,000 acres of land have been released in Jaffna (not just in the High Security Zones). Military checkpoints on major roads leading to the north and east were removed in 2015 and there are no restrictions on travelling to the north and east.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 The Sri Lankan Constitution provides that ‘no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds’. However, ethnicity, along with communal issues surrounding language and religion, are a source of division in Sri Lanka. These three issues (ethnicity, language and religion) are defining features of day-to-day life in Sri Lanka and are fundamental to the reconciliation process.

3.2 Most Sri Lankans tend to live within their own ethnic communities but major urban areas are more integrated with ethnic groups living in close proximity to each other. Colombo is highly integrated with roughly equal populations of Sinhalese, Tamils and Muslims (noting that Muslims (alternatively referred to as ‘Moors’) are viewed as an ethnicity and not only a religious group in Sri Lanka). This higher level of integration is due to Tamils and Muslims moving from other parts of the country to access the greater availability of economic opportunities in Colombo or through internal relocation due to the conflict. Given the demographic prominence of Tamils in the Northern Province and the isolation of the north and east during the conflict, these areas are less integrated.

3.3 Official discrimination on the basis of language was historically an issue in Sri Lanka. The 1956 *Official Language Act* (also referred to as the ‘Sinhala Only Act’) listed Sinhala as the only official language but an amendment to the Constitution in 1987 recognised Tamil as the second official language. In 2012, the *Trilingual Policy* was introduced, which provides the right to communicate in Sinhala, Tamil or English throughout Sri Lanka. Under this policy, all civil servants employed after 1 July 2007 must obtain proficiency in the other official language (Sinhala or Tamil) within five years of employment in order to receive annual salary increments. However, the number of Tamil-speaking police officers and teachers in the north and east remains small.

3.4 DFAT assesses that Sri Lankans of all backgrounds generally have a low risk of experiencing official discrimination as there are currently no official laws or policies that discriminate on the basis of ethnicity, including in relation to access to education, employment or access to housing. However, DFAT further assesses that societal discrimination on the basis of ethnicity can occur (see sections on individual ethnic groups below).

Tamils

3.5 Tamils are the second largest ethnic group in Sri Lanka. According to the most recent census in 2012, the Tamil population was 3.1 million compared to 2.7 million in 1981. Thirty-two per cent of Tamils reside in the Northern Province, where they constitute approximately 93 per cent of the population. Twenty per cent of Tamils reside in the Eastern Province and 12 per cent in the Western Province (which includes the district of Colombo). Twelve per cent live in the Central Province. The remaining Tamil population is present in small numbers in the Southern, North Western, North Central, Uva and Sabaragamuwa provinces.

3.6 Tamils have a substantial level of political influence and their inclusion in political dialogue has increased since Sirisena came to power in 2015. There are a number of Tamil political parties, with the largest coalition of parties operating under the umbrella of the Tamil National Alliance (TNA). The TNA currently has 16 members of parliament and holds the majority of seats in the Northern Provincial Council. The TNA leader, Rajavaroatham Sampanthan, is leader of the National Opposition.

3.7 Monolingual Tamil speakers, including in the Northern Province, can have difficulty communicating with the police, military and other government authorities. DFAT assesses that these practical difficulties are the result of a lack of qualified language teachers, the disruption to civilian life caused by the conflict, and the legacy of earlier discriminatory language policies rather than official discrimination.

Monitoring, harassment, arrest and detention

3.8 During the civil conflict more Tamils were detained under emergency regulations and the *Prevention of Terrorism Act* (PTA) than any other ethnic group. Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested and/or detained by security forces during the conflict and the Rajapaksa Government. While this was primarily due to LTTE members and supporters being almost entirely Tamil, there were also likely instances of discrimination in the application of these laws, with LTTE support at times imputed on the basis of ethnicity (see 'Political Opinion' below). Since 2015 the Sirisena Government has reviewed and released some PTA detainees, including Tamils. DFAT assesses that there are currently fewer individuals detained under the PTA than there were during the conflict.

3.9 DFAT assesses that monitoring and harassment of Tamils in day-to-day life has decreased significantly under the Sirisena Government. The Sri Lankan police are now responsible for civil affairs across Sri Lanka. While a sizeable (and largely idle) military presence remains in the north and east, armed forces personnel are generally restricted to their barracks. While some cases of monitoring continue to be reported, such as the military or police observing public gatherings or NGO forums, the overall prevalence of monitoring has greatly reduced. Members of the Tamil community have also described a positive shift in the nature of interactions with authorities; they feel able to question the motives of, or object to, monitoring or observation activities.

RELIGION

3.10 Religion plays a significant role in daily life in Sri Lanka and is directly linked to ethnicity: Sinhalese are mostly Buddhist and Tamils are mostly Hindu, and Christians are a minority of each. Muslims are seen as an ethnicity. The Sirisena Government has publicly said that it is committed to religious (as well as ethnic) reconciliation.

3.11 Article 10 of the Sri Lankan Constitution provides for freedom of religion and Article 14 provides for freedom of public and private worship. However, Article 9 of the Constitution grants Buddhism a 'foremost place': the possible amendment of this article has been a topic of consideration in the ongoing constitutional reform process. Sri Lanka's Supreme Court has twice reached judgements that upheld a secular interpretation of the Constitution. Acts intending to insult religion are punishable by a fine and/or a maximum of one year imprisonment. Attacking places of worship or religious objects is punishable with a fine and/or a maximum of two years' imprisonment.

3.12 There is a place for religions other than Buddhism in public life. Sri Lanka recognises religious holidays for all four religions. Prominent Buddhist, Hindu, Muslim and Christian leaders are invited to national functions, although at most events only Buddhist rituals are performed. There are four Ministers with portfolio responsibilities for the four major religions (the Ministers are practising followers of the faith they have responsibility for). School students are able to study their choice of Buddhist, Hindu, Muslim and

Christian religious classes in most public and private schools, depending on the availability of teachers. There are also Hindu and Muslim public schools.

3.13 DFAT assesses official discrimination on the basis of religion is rare as there are no official laws or policies that discriminate on that basis. DFAT is aware of reports that the former Rajapaksa Government sanctioned religious discrimination, particularly through support provided to the extremist Buddhist group *Bodu Bala Sena* (BBS / English: 'Buddhist Power Force'), the most serious recent example being the Aluthgama Riots which occurred between Buddhists and Muslims in 2014. This example and the isolated reports since then are discussed further below (see 'Muslims' below).

3.14 DFAT assesses that most members of religious groups in Sri Lanka are able to practise their faith freely. However, the risk of harassment or violence increases where practitioners attempt to proselytise/convert others.

Interfaith marriages

3.15 There is no official data on the incidence or nature of interfaith marriages but based on anecdotal information DFAT understands that interfaith marriages can occur but are relatively rare. Sri Lankan Muslims seem to be more likely to marry Christians than members of other faiths but would require the non-Muslim to convert to Islam and raise any children as Muslim. DFAT is aware of reports that these conversions to Islam are sometimes symbolic. Marriage between Christians and Hindus is more common than any other kind of interfaith marriage in Sri Lanka, and Christians and Hindus live relatively peacefully in the north. Sinhalese Buddhists sometimes marry Christians.

Muslims

3.16 Muslims are the third largest religious group (and are also regarded as an ethnic group) in Sri Lanka. Between 1981 and 2012, Sri Lanka's Muslim population grew by over 40 per cent, from 1.12 million to 1.97 million. The majority (98 per cent) of Muslims in Sri Lanka are Sunni. There are a small number of Shias, including members of the Bohra community (a Muslim community originating from India, including Tamil Nadu), who reside mostly in Colombo. The Malay community (largely made up of 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. There is also a Memon community (Muslims of Indian or Pakistani descent that speak Urdu) based mostly in Colombo. Finally, there are a small number of Muslims who follow the Sufi tradition. Most Muslims speak Tamil as their first language. Muslim communities are found throughout Sri Lanka, including in Colombo and Kandy, but larger communities exist in the east in Ampara, Batticaloa and Trincomalee, and in the west in Mannar and Puttalam.

3.17 The Sri Lanka Muslim Congress (SLMC), the largest Muslim political party, has seven members of parliament and is part of the governing coalition. The SLMC's leader is a Cabinet Minister. The All Ceylon Muslim Congress is another Muslim party with elected members of parliament and its leader holds a ministerial position. There are also Muslim Members of Parliament in the two major parties, the SLFP and the UNP, including in ministerial positions. Although many Muslims are employed in agriculture and fisheries, many are also employed in business, industry and the civil service. DFAT is not aware of any evidence to indicate that Muslims are economically disadvantaged in Sri Lanka. In early 2013, Sinhalese Buddhist nationalist groups called for the removal of Halal certification of food produced in Sri Lanka, which they objected to on religious and economic grounds, and in March 2013 Halal certification ceased, other than for products produced for export to Islamic countries.

3.18 Although most Muslims sided with the Government (Sinhalese) forces during the civil conflict, there has been a recent rise in religious tensions between Muslims and the Sinhala Buddhist majority. Nationalist

Buddhist groups such as *Sinhala Ravaya* (English: Sinhalese Roar) and *Bodu Bala Sena* continue to stoke religious and ethnic tensions and are known to post religiously-motivated attacks on social media. During the Rajapaksa Government, these groups enjoyed a level of state protection of their activities, support which ended when Sirisena came to power in 2015. According to the US Department of State, these groups can sometimes have support from local police or local government officials, whereby they fail to respond to complaints of Buddhist monks harassing or damaging property. However, there has not been a large-scale incident since June 2014 when Galagoda Aththe Gnanasara, General Secretary of *Bodu Bala Sena*, delivered a speech that was blamed by many for inciting violent riots between Buddhists and Muslims in Aluthgama. The violence lasted two days and resulted in four deaths and more than 80 injuries. Three of those killed were Muslims; the fourth was a Tamil security guard at a Muslim-owned farm. Following the riots, police imposed a two-day curfew and acted to prevent further protests in the area. Gnanasara continues to assert anti-Muslim sentiment publicly and is under ongoing judicial investigations.

3.19 There have been a number of incidents of verbal and physical attacks on Muslims and Muslim businesses or religious sites. According to the Secretariat for Muslims there were 82 incidents of hate speech, verbal insults or physical force, or attempts to desecrate Muslim religious property in 2015, however this was a reduction of over 60 per cent compared to 2014.

3.20 DFAT assesses that, given the size of the Muslim population in Sri Lanka and the relatively low number of incidents of violence, there is a low risk of political or religious violence for Muslims in Sri Lanka.

3.21 DFAT assesses that, like other religious groups, Muslims in Sri Lanka are not subject to official discrimination and are generally able to practise their faith freely. Muslims in Sri Lanka are able to exercise their political will to elect representatives of Muslim parties. The reduction in religious tensions and violence described above means that DFAT assesses there is a low risk of societal discrimination against Muslim Sri Lankans.

Muslim IDPs

3.22 During the civil conflict, Muslims were expelled from the north and east by the LTTE and became internally displaced. They have not been prioritised in the land returns process, which is a source of grievance (see 'land returns' below).

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.23 Democratic elections have been held on a regular basis since independence. While elections have never been marred by large-scale violence or rigging they have not always been described as entirely free and fair. That said, the most recent elections have proceeded relatively smoothly: the Presidential election on 8 January 2015 was generally peaceful and orderly and the parliamentary election held on 17 August 2015 was described by the Commonwealth Observer Group as 'credible, met the key criteria for democratic elections, and the outcome reflected the will of the people'.

Political representation of minorities, including ethnic and religious minorities

3.24 There are no constitutional, legal or other restrictions barring minorities from participating in politics. Sri Lanka has a diverse political landscape, with 64 registered political parties representing ethnic, religious or ideological interests. Political representation in Parliament is broadly proportional to the overall population. At the time of publication, there were 29 Tamils and 21 Muslims out of a total of 225 members. Parties often group together into broad ethnic and religious coalitions. President Sirisena presides over a

diverse coalition, consisting of more than a dozen political parties, including Muslim, Tamil and Buddhist parties.

3.25 There are currently no banned political parties in Sri Lanka and all parties operate freely, subject to general legal restrictions. This freedom applies both to high-profile elected representatives and office holders and low-profile party members, supporters and volunteers. DFAT is not aware of any evidence to suggest this differs between representatives of Sinhalese, Tamil, Muslim or other parties. However, under the *Prevention of Terrorism Act (PTA)*, certain actions by political parties or groups can be restricted. According to the PTA, any person who 'causes or intends to cause commission of acts of violence or religious, racial or communal disharmony' can be sentenced to a maximum of five years' imprisonment.

3.26 DFAT assesses that there are no official laws and policies that discriminate on the basis of political opinion nor is there systemic political discrimination against any particular group.

Liberation Tigers of Tamil Eelam (LTTE)

3.27 At its peak in 2004, the LTTE had an armed force of approximately 18,000 combatants. The LTTE had an intelligence wing, a political wing and an extensive administrative structure based in its de-facto capital in Kilinochchi in north-east Sri Lanka. The majority-Tamil civilian populations of the areas controlled by the LTTE were required to interact with the LTTE as a matter of course. The LTTE was supported by foreign funding and both voluntary and forced recruitment of Tamils.

3.28 Towards the end of the conflict, a large number of LTTE members were arrested and detained by Government security forces following their surrender or capture. The majority of those arrested were sent to Government-run rehabilitation centres. A smaller number were prosecuted through Sri Lanka's court system. Aside from those arrested, many civilians were also questioned or monitored for any possible LTTE activity and any form of civil resistance or anti-Government sentiment. Although not officially mandated to do so, in many areas the military took a visible and active role in aspects of civilian life. The Sirisena Government has publicly claimed that military involvement in civilian activities has ceased.

3.29 Sri Lankan authorities remain sensitive to the potential re-emergence of the LTTE throughout the country. According to expert testimony provided to a hearing of the UK's Upper Tribunal on Immigration and Asylum, Sri Lankan authorities collect and maintain sophisticated intelligence on former LTTE members and supporters, including 'stop' and 'watch' electronic databases. 'Stop' lists include names of those individuals that have an extant court order, arrest warrant or order to impound their Sri Lankan passport. 'Watch' lists include names of those individuals that the Sri Lankan security services consider to be of interest, including due to separatist or criminal activities. Those on a watch list are not likely to be detained, although there have been some media reports claiming that individuals, mostly Tamils, travelling from the United Kingdom have been detained on arrival at the airport. DFAT has not been able to verify these reports but notes that those on a watch list are likely to be monitored.

3.30 There are no legal barriers to former LTTE members participating in public life, including in politics. In the August 2015 parliamentary elections, the TNA denied ex-LTTE members from running on their ticket, but ex-combatants established the *Crusaders for Democracy* group and ran for election. While they did not win any seats their participation was demonstrative of an open, democratic process

3.31 DFAT assesses that the LTTE no longer exists as an organised force in Sri Lanka. Any former LTTE members within Sri Lanka would have only minimal capacity to exert influence on Sri Lankans, including those returning from abroad. DFAT further assesses that there has been an overall decrease in monitoring in the north and east (see paragraph 3.9). Under Sirisena, the Sri Lankan Government has demonstrated a commitment to easing restrictions, reviewing its United Nations Security Council Resolution 1373 list in

November 2015 and lifting its terrorist listing for eight Tamil diaspora organisations and 269 individuals in November 2015. However, high profile individuals with links to the LTTE would continue to be of interest to Sri Lankan authorities and may be subjected to monitoring.

Imputed membership of the Liberation Tigers of Tamil Eelam (LTTE)

3.32 The most recent UNHCR Eligibility Guidelines for Sri Lanka (December 2012) note that a person's real or perceived links with the LTTE may give rise to a need for international refugee protection. Although the nature of these links can vary, this may include:

- persons who held senior positions with considerable authority in the LTTE civilian administration, when the LTTE was in control of large parts of what are now the northern and eastern provinces of Sri Lanka;
- former LTTE combatants or 'cadres';
- former LTTE combatants or 'cadres' who, due to injury or other reason, were employed by the LTTE in functions within the administration, intelligence, 'computer branch' or media (newspaper and radio);
- former LTTE supporters who may never have undergone military training, but were involved in sheltering or transporting LTTE personnel, or the supply and transport of goods for the LTTE;
- LTTE fundraisers and propaganda activists and those with, or perceived as having had, links to the Sri Lankan diaspora that provided funding and other support to the LTTE;
- persons with family links or who are dependent on or otherwise closely related to persons with the above profiles.

3.33 Accurately identifying people according to these categories can be difficult. The UNHCR Guidelines state that some members of the Sri Lankan forces and the LTTE may be excluded from international refugee protection on the basis of involvement in war crimes and serious violations of human rights committed during the conflict. This can include: abductions and enforced disappearances; indiscriminate attacks on civilians; forced displacement; torture and other cruel, inhuman and degrading treatment; murder, including political assassination; mass killings; extrajudicial and summary executions; rape; and forced recruitment for the commission of attacks and/or military service and/or labour, including recruitment (sometimes through abduction) of children.

Rehabilitation

3.34 Since the end of the civil conflict, the Sri Lankan Government has managed a large-scale rehabilitation process for former LTTE. There were 24 rehabilitation centres across Sri Lanka and according to Sri Lanka's then Minister for External Affairs, GL Peiris, as of March 2014, a total of 12,288 LTTE members had been arrested and sent to rehabilitation centres since the end of the conflict in 2009. DFAT understands that only one centre remains in operation in Vavuniya (Northern Province), housing approximately 50 ex-LTTE combatants. The two previous rehabilitation centres in Welikanda and Kandakadu are now used as drug rehabilitation centres.

3.35 The rehabilitation process was not transparent but, although the activities undertaken in the centres varied, there was a focus on vocational education and training. For men this included welding, masonry, plumbing, driving, tailoring, wiring, language, computer skills and livelihoods such as vegetable cultivation. Women received training in cookery, beauty therapy, tailoring, language and computer skills. Former child soldiers were also able to complete their education. While many rehabilitees have reported difficulty finding regular employment following their release, many others have commented that the vocational skills gained during rehabilitation have made them more employable. The unemployment rate among rehabilitated

former LTTE members is reportedly higher than the national average but this may be due to a number of factors, including: the weak economic conditions in the north and east; conflict-related disabilities; a reluctance to hire known former members; or the reporting requirements for former LTTE preventing their ability to pursue work opportunities elsewhere. Some post-release support is provided to rehabilitees by the Sri Lankan Government and international and domestic NGOs.

3.36 According to the website of the Commission-General for Rehabilitation, in addition to education and training opportunities, rehabilitees also undertook 'spiritual, religious and cultural rehabilitation' to correct 'distorted mind sets of ex-combatants to effect attitudinal change'. DFAT assesses that the rehabilitation process was also used to screen high-profile from low-profile LTTE members through interviews, information provided by informants and other relevant information that demonstrated the depth of involvement, period of involvement and activities conducted. This information would be used to categorise individuals and in some cases determine who should be prosecuted for terrorism or other offences.

3.37 The majority of individuals released from rehabilitation centres returned to their places of origin upon release and, like all other citizens, were required to register with a local Grama Niladhari (Village Officer) in order to receive financial and other support for repatriation and access to public services. Although there are no formal parole arrangements following release, former LTTE are required to register with their local military unit's Civil Affairs Office and may be subject to ongoing monitoring and reporting requirements; the level of which would depend on whether they are low-profile or high-profile former members.

High-profile former LTTE members

3.38 Those at highest risk of monitoring, arrest, detention or prosecution include the LTTE's former leadership, regardless of whether they performed a combat or civilian role during the conflict. Although most of the LTTE's leadership were killed during the conflict, a number surrendered or were captured and sent to rehabilitation centres or prosecuted. Some former leaders may have left Sri Lanka before, during or after the conflict (see also 'Former LTTE members living outside of Sri Lanka', below). Former members who were suspected to have committed terrorist or serious criminal acts during the conflict, or to have provided weapons or explosives to the LTTE may also be considered high-profile.

3.39 On 11 April 2014, following the alleged posting of pro-LTTE flyers in Kilinochchi, the military killed three suspected LTTE members in Vavuniya district. DFAT is not aware of any similar cases since 2014.

3.40 DFAT assesses that any remaining high-profile ('high risk' or 'hardcore') former members who came to the attention of Sri Lankan authorities would likely be arrested, detained and prosecuted through Sri Lanka's criminal courts, often following a period of detention in a rehabilitation centre. Following their release from rehabilitation or prison, high-profile former LTTE members would likely be heavily monitored by Sri Lankan authorities. DFAT notes that the number of high-profile former LTTE members is small and the vast majority would already have come to the attention of the authorities.

Low-profile former LTTE members

3.41 Since the end of the conflict, thousands of LTTE members have been arrested and detained in rehabilitation centres. Generally, this includes former combatants, those employed in administrative or other roles and those who may have provided a high level of non-military support to the LTTE during the conflict.

3.42 DFAT assesses that, although the great majority of these low-profile ('low-risk') former members have already been released following their rehabilitation, any other low-profile LTTE members who came to the attention of Sri Lankan authorities would be detained and may be sent to the remaining rehabilitation

centre. Following their release from rehabilitation centres, low-profile former LTTE members may be monitored but generally are not prosecuted.

Former LTTE members living outside Sri Lanka

3.43 There are at least one million Sri Lankan Tamils living outside Sri Lanka, including in Canada, Europe, Australia, Malaysia, and the Indian State of Tamil Nadu. Members of the Sri Lankan Tamil diaspora may be citizens of those countries, dual-nationals or have arrangements to stay legally in their country of residence. Many members of the Tamil diaspora return to Sri Lanka to visit family members, for holidays and for business. Remittances from the Tamil diaspora continue to be an important source of income for family and community members in Sri Lanka.

3.44 Some members of the Tamil diaspora played a central role during the conflict, as a source of funding, weapons and other material support for the LTTE and as political advocates for a separate Tamil state in Sri Lanka. Many countries designated the LTTE as a terrorist organisation after September 2001, which made it more difficult for these organisations to raise funds from Tamil diaspora communities.

3.45 Some Tamil diaspora groups continue to hold public demonstrations in their countries of residence to support a separate Tamil state in Sri Lanka. High-profile leaders of pro-LTTE diaspora groups may come to the attention of Sri Lankan authorities as a result of their participation in such demonstrations.

3.46 The Sirisena government has publicly encouraged all Sri Lankans living overseas to return or invest in the Sri Lankan economy. In general, DFAT assesses that Sri Lankan authorities may monitor any member of the Tamil diaspora returning to Sri Lanka, depending on their risk profile.

Family members

3.47 DFAT is aware of but cannot verify reports where close relatives claim to have been arrested and detained because of their family connections with former LTTE members. DFAT assesses that close relatives of high-profile former LTTE members who remain wanted by Sri Lankan authorities may be subject to monitoring.

Arrest, Detention and Prosecution

3.48 Under Regulation 22 of Sri Lanka's *Emergency Regulations 2005* (repealed in 2011), administrative detention in rehabilitation centres or elsewhere was possible for up to two years without judicial review or access to legal representation. Some of these provisions were replaced by similar regulations under the *Prevention of Terrorism Act* (PTA), which is still in place but is under review. Under the PTA, suspects can be held without charge for three-month periods, not exceeding a total of 18 months. In addition to those arrested under the PTA, some former LTTE members have been arrested and detained on other criminal charges.

3.49 DFAT is unable to independently verify the number of former LTTE members in places of detention other than rehabilitation centres. Modest numbers of former LTTE members continue to be detained and prosecuted within Sri Lanka's criminal justice system. In November 2015 *The Island* newspaper reported that, according to Minister of Justice Wijeyadasa Rajapakshe, there were only 204 suspected LTTE cadres in government custody (including those in rehabilitation centres, of which there are approximately 50) and that 56 had been convicted while trials were ongoing for 124.

3.50 Consistent with the Sri Lankan Constitution, in criminal cases, a person is presumed innocent until proven guilty and the onus of proof is on the prosecution. However, for offences under the PTA, the onus is on the accused to prove their innocence. Suspects are tried by jury in criminal cases; but a panel of judges generally hears cases brought under the PTA. The PTA also allows certain kinds of confessions that would not

be admitted in other criminal cases. All suspects have access to legal representation and the right to appeal convictions.

3.51 Depending on a suspect's profile and the evidence available, the Attorney-General may seek admission to a rehabilitation program, a prison sentence, or, in rare cases, dismissal of a case. Recommendations for rehabilitation alone are usually only made for low-profile detainees. Some high-profile detainees have been given prison sentences following their detention in rehabilitation centres.

3.52 DFAT has no information on overall conviction rates for LTTE members, but the lower standards required for cases brought under the PTA would suggest the potential for a higher rate of conviction. In a December 2012 report, Norwegian Country of Origin Information Centre Landinfo stated that most of those convicted under the PTA were sentenced to only two years' imprisonment.

Societal discrimination

3.53 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 understanding among the Tamil populations in these areas that many people were forced to participate in LTTE activities, and DFAT assesses that societal discrimination against low-profile LTTE members is generally low, however some can face difficulty finding employment for reasons outlined in paragraph 3.35.

3.54 Former members who are female face some additional difficulties, including the risk of sexual harassment and stigmatisation within the community, such as the inability to find a marriage partner or secure employment. While credible NGOs have reported on these issues, it is very difficult to verify complaints. Women who were forcibly recruited are more likely to be accepted back into their communities.

3.55 DFAT assesses that members of the LTTE who are suspected of serious violations of human rights against the Tamil population in the north and east during the conflict, including those who are believed to have been responsible for forced recruitment, particularly of children, or those who are suspected of committing acts of torture and other cruel, inhuman or degrading treatment against the Tamil civilian population, are likely to be at a moderate risk of societal discrimination.

Civil Defence Force (CDF)—also referred to as the Civil Security Division

3.56 Some former LTTE members who completed rehabilitation have been recruited to Sri Lanka's Civil Defence Force (CDF). According to the US Department of State, a further reason for the creation of the CDF was to provide jobs to youths who were former LTTE members who may not otherwise be able to find steady employment. DFAT understands that as of mid-2015, there are around 3,600 members of the CDF, the majority of which are rehabilitated members of the LTTE.

3.57 Some civil society organisations have criticised the recruitment of former LTTE, suggesting that it is not always voluntary. DFAT assesses that, while it is unlikely the military forces individuals to join the CDF, it is possible that some individuals may feel pressured into signing up because they fear the consequences of not doing so. Many recruits would likely also decide to join for economic reasons, mainly due to a lack of employment opportunities.

GROUPS OF INTEREST

Internally Displaced Persons

3.58 Up-to-date figures on the number of internally displaced persons (IDPs) in Sri Lanka are difficult to locate. According to the Ministry of Resettlement, Rehabilitation, Hindu Religious Affairs, and Prison Reforms, there were 43,607 IDPs as at August 2016. The Norwegian Refugee Council and the Internal Displacement Monitoring Centre reported that 44,000 people remained internally displaced due to conflict as at 31 December 2015, but an additional 66,000 people had been displaced by natural disasters. In 2015 IOM reported that there were up to 90,000 IDPs.

3.59 At least 483,000 people have been resettled following the end of the conflict, mostly to their places of origin. Many IDPs who left resettlement camps have been housed with host communities due to an ongoing shortage of housing, which was either damaged during the conflict or is occupied by the military. Given that many IDPs have been displaced for several years and have re-established their lives in their area of displacement, a number of IDPs have chosen not to return, or have not been able to return, to their areas of origin. These include 75,000 members of the Muslim community who were moved by the LTTE during the conflict to Puttalam in the west.

3.60 The Sri Lankan Government is committed to returning land to people displaced during the civil conflict, including people who were landless; the 'National Policy on Durable Solutions for Conflict-affected Displacement' was released on 16 August 2016. At the time of publication, the IDPs in 31 welfare camps in the north were being prioritised over other categories of IDPs (for example, those that are residing with friends and family and Muslim IDPs who were displaced by the LTTE during the conflict). The resettlement process for other IDPs is slow and frustrating for those affected, as the military has been slow to release the land it holds in the north and east and individuals are not necessarily provided with the opportunity to select their preferred location. In Jaffna, some of the released land is located inside the High Security Zone so returnees have to transit through military checkpoints every time they access their land. Female-headed households reportedly do not feel secure living surrounded by the military and will opt to farm their land during the day, but not stay there overnight for fear of harassment. However, DFAT assesses that there is no credible evidence of official discrimination in the process of returning land to IDPs.

Returnees from Tamil Nadu

3.61 Approximately 104,000 Sri Lankan Tamils reside in the southern Indian state of Tamil Nadu, the majority of whom fled from Sri Lanka following the outbreak of conflict in the mid-1980s (or are the descendants of those who did so). The majority (around 70,000) reside within one of approximately 110 Tamil Nadu Government-administered camps, with the remainder residing freely outside the camps. The Indian Government supports camp residents, providing education, healthcare, security, livelihoods, social security and amenities. Sri Lankan Tamils have limited work and education rights in India, and do not have a pathway to Indian citizenship.

3.62 Since the end of the civil conflict, the number of Sri Lankan Tamils returning from Tamil Nadu to Sri Lanka has been low; only around 6,000 have returned with UNHCR assistance (the number of informal returns is not captured). Since the January 2015 change of government in Sri Lanka, more Sri Lankan Tamils are considering repatriation. The numbers of returns in 2016 increased slightly compared to 2015. However, significant administrative barriers remain that hinder large-scale repatriation, including difficulties obtaining identity documentation, accessing government or non-government assistance in Sri Lanka, and logistical

restrictions that only allow returnees to bring 50 kilograms of luggage on their repatriation flight. There is also a slight difference in the dialect of Tamil spoken in Sri Lanka as compared to Tamil Nadu.

3.63 DFAT assesses that, while the process of returning from Tamil Nadu to Sri Lanka can involve some administrative and lifestyle difficulties, there is no evidence to suggest that individuals would experience official or societal discrimination upon their return, noting that ex-LTTE returning from Tamil Nadu would likely be subject to monitoring (see paragraph 3.38-3.42).

Civil society organisations and Government critics

3.64 There is a broad range of NGOs and civil society groups active in Sri Lanka. NGOs are required to register with the National Secretariat for NGOs. Article 14(1) of Sri Lanka's Constitution guarantees freedom of speech and expression, freedom of peaceful assembly and freedom of association. DFAT assesses that while tolerance for political dissent in Sri Lanka can be limited, it is increasingly accepted. The Sirisena Government has publicly committed to allowing freedom of speech and ending the surveillance of NGO workers and journalists, a practice which was widespread during the previous Rajapaksa government. DFAT has received credible reports that surveillance, particularly in Colombo, has reduced since January 2015.

3.65 DFAT assesses that, under the previous Rajapaksa government, NGOs and their staff, especially those working on human rights issues, faced challenges, including arrest or abduction, while performing their duties. Sri Lanka's state-run media regularly accused NGOs and civil society activists of being traitors, LTTE sympathisers or supporters, or being backed by 'foreign' or 'western' powers. NGO and civil society workers often reported threats (including death threats) and intimidation. Some NGO workers were detained and questioned by the authorities and reported having their offices searched and equipment and documents seized. International NGO staff sometimes faced difficulties obtaining or renewing work visas. NGOs, particularly in the north, continue to report difficulties implementing projects relating to sensitive subjects, such as psychosocial counselling, governance issues and legal aid, with all project plans requiring approval by the NGO secretariat. DFAT has received credible reports from NGOs and their staff that, while operational conditions have improved under the Sirisena government, some of their activities, including in the north and east, continue to be monitored. However, DFAT was also told by some civil society organisations that while they had been subject to ill-treatment in the past, this had not happened recently.

Media

3.66 Freedom of speech is guaranteed in the Sri Lankan Constitution. The Sri Lanka Press Council, a media regulatory body with members appointed by the President, was re-established in 2015. State-owned media consists of two television stations, a radio station (with eight channels) and a large newspaper group (publishing newspapers in Sinhala, Tamil and English). There are also many privately-owned and operated television and radio stations, newspapers, magazines and websites which broadcast and publish in Sinhala, Tamil and English. Sri Lanka ranked 141 of 180 countries on the Reporters Without Borders Press Freedom Index 2016 (an improvement from 165 in 2015). The level of formal censorship of national security and defence issues has been relaxed since the end of the conflict and appears to have further improved since the change of government in 2015. Despite this, DFAT assesses that some Sri Lankan journalists and editors, particularly in the north, continue to practice some form of self-censorship.

3.67 In May 2015 the International Media Assessment Mission to Sri Lanka conducted consultations and observed positive steps taken by the Sirisena government to improve media freedom. These steps include discontinuing the previous government's practice of referring visas for clearance to the Ministry of Defence, particularly in relation to journalists reporting on the situation in the Northern Province and increased legal

protection around the right to information. The government has announced that all foreign media personnel are now welcome to freely travel to and report from any part of the country, without fear of intimidation. The government has also publicly stated that journalists are free to be as critical of the government as they wish. In addition, previously blocked websites have been unblocked and an open invitation extended to all media personnel living in exile to return to the country. However, of the large number of Sri Lankan journalists who live in exile abroad, few have returned to Sri Lanka. Sunanda Deshapriya, a high profile journalist who has been in exile in Switzerland since 2009, visited Sri Lanka for a short time in 2015. His visit was seen as a sign that exiled journalists could start to return. In June 2016 the Parliament passed the *Right to Information Act*, which will take effect from February 2017 and requires the Government to release official information more widely.

3.68 According to the Committee to Protect Journalists, there have been no journalists known to have been killed in Sri Lanka since the end of the conflict in 2009. However, DFAT is aware of a number of historical attacks against particular media outlets, including police raids against the offices of media organisations, attacks against individual journalists and editors and arson and other attacks against media organisations. DFAT is not aware of any recent reports of this kind of violence.

3.69 Cartoonist Prageeth Eknaligoda disappeared in January 2010. The Sri Lankan government launched an investigation into his disappearance in March 2015 and arrested several Sri Lanka Army officers in connection to his disappearance. To date, there have not been any conclusive investigations into past killings or abductions of journalists. In 2015 there have been no reported abductions or disappearances of media workers.

3.70 DFAT assesses that incidents of violence against journalists have reduced in frequency since 2015. However, journalists in the north and the east have reported that they still feel at risk because of their work. DFAT is aware of unverified reports of a small number of attacks on journalists in 2015 and in at least one case, victims described the severity as less than what they would have expected to experience in the past. Journalists with prominent or powerful connections are less likely to suffer from harassment or intimidation, however most would censor statements that directly criticised the President.

Women

3.71 Article 12(2) of Sri Lanka's Constitution guarantees that no citizen shall be discriminated against on the grounds of sex. Sri Lanka is a party to the *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*. Although women are considered equal under civil and criminal law, the law favours males in relation to divorce, custody of children and inheritance.

3.72 There have been several high-profile women in Sri Lanka's political history, including three-time former Prime Minister Sirimavo Bandaranaike and her daughter, former President Chandrika Bandaranaike Kumaratunga. Women have also featured in other important positions, such as former Chief Justice Shirani Bandaranayake. More generally though, women's participation in politics is very low; of the 225 members of Sri Lanka's current Parliament, 12 are women (5.3 per cent), which is the lowest rate of female parliamentary representation in South Asia. At the time of publication, the Sirisena Government had two female Cabinet ministers, two female State ministers and two female deputy ministers.

3.73 Violence against women occurs throughout Sri Lanka. UNFPA reported in 2015 that violence against women cut across all socioeconomic groups in Sri Lanka but was worst in areas affected by the conflict. Rape and domestic violence are criminalised under the *Prevention of Domestic Violence Act* of 2005. Marital rape is an offence only in cases where the individuals are legally separated. Sexual harassment is punishable under Section 345 of the *Penal Code* and can carry a maximum five years' imprisonment. Reported incidents of sexual assault and rape have increased in recent years, and tend to be higher in remote areas, but the

majority of cases are likely to go unreported due to social stigma. Incidence of domestic violence is high, especially in Tamil culture, and tends to be underreported. The Asian Human Rights Commission has said that most cases reported to authorities' result in 'settlements' which do not proceed to prosecution, although sentences are sometimes given in serious cases. President Sirisena has expressed a commitment to taking action to prevent the abuse of women (and children), including speeding up the trial process for these offences. Some recent high-profile cases of violence against women, including the gang rape and murder of a schoolgirl in Jaffna (Northern Province) in May 2015, sparked community outrage and led to calls to implement the death penalty (see paragraph 4.10 below).

Conditions for women in the north and east

3.74 There are approximately 90,000 female-headed households in the north and east, many of which are headed by women who were widowed during the conflict. Women in these situations face many challenges, including a lack of physical security for their family, a lack of permanent housing and economic opportunities and difficulties accessing health services. Women who are forced to seek employment outside the home face societal discrimination in Tamil and Muslim communities, who view these women with suspicion.

3.75 There have been a number of allegations of sexual assaults and rape attributed to the Sri Lankan military in the north and east. While the military has been blamed for taking advantage of economically vulnerable women, credible NGOs report that some women, particularly war-widows, may also have been forced into prostitution as an economic necessity.

3.76 Women IDPs who have returned to their place of origin claim that corrupt police officers accept bribes to turn a blind eye to domestic violence. Many IDP returnee women also find that language is a barrier to accessing support as they speak Tamil and cannot communicate effectively with the mainly Sinhala-speaking police. A recent report found that there are few female officers, none of whom speak Tamil and it is difficult to find female translators. Staff answering the police hotline mostly speak Sinhala. There is only one safe house for women in the north and east, located in Jaffna.

3.77 Overall, DFAT assesses that women throughout all of Sri Lanka face a high risk of societal discrimination and violence, particularly domestic or intimate partner violence and there are few support mechanisms available to women in these circumstances.

Sexual Orientation and Gender Identity

3.78 Since the Sirisena government came to power, space for public discussion of issues faced by Sri Lanka's lesbian, gay, bisexual, transgender and intersex (LGBTI) community has expanded. The media discusses the issues surrounding LGBTI individuals more and there are a number of high-profile LGBTI individuals, particularly in Colombo. However, the LGBTI community in Sri Lanka faces numerous societal, cultural and legislative barriers. Few support mechanisms for LGBTI individuals exist. Only a small number of NGOs work in support of LGBTI rights; they undertake advocacy work and provide some support services. However, these groups report that it can be more difficult to operate openly in rural areas. In August 2016, Human Rights Watch released a comprehensive report that documented discrimination by state officials and broader society on the grounds of gender identity and sexual orientation. Local NGO contacts told DFAT in September 2016 that this report is an accurate depiction of the situation.

3.79 Under Section 365 of the *Penal Code*, persons can be given sentences of up to 10 years' imprisonment for 'carnal intercourse against the order of nature' or for 'acts of gross indecency'. While some arrests have taken place, no prosecutions have occurred since independence (in 1948). There is no anti-discrimination legislation in relation to sexual orientation or gender identity or hate crimes against LGBTI

individuals. LGBTI advocates have made recommendations, as part of the constitutional reform process, to include gender identity and sexual orientation as a fundamental right in the constitution's equality clause (Article 12(2)); at the time of publication, its inclusion is yet to be confirmed. In 2015, the US Department of State reported that police are known to harass, assault and extort money or sexual favours from LGBTI individuals but there are low reporting rates for police abuse in these cases. Some police are receiving training on LGBTI issues, delivered to by a local NGO in collaboration with the Human Rights Commission of Sri Lanka.

3.80 In 2016, the Twelfth Annual Gay Pride Festival was targeted by critics (in particular, *Sinhala-le*, an extremist, nationalist Buddhist group) publishing threatening comments on social media. Some public events were cancelled or police attended to provide protection for participants. Sri Lanka has no dedicated 'gay bars' but Colombo does have a few 'LGBTI friendly spaces', including in some tourist hotels. Discrimination also happens at an institutional level. Approval paperwork for one public event celebrating International Day against Homophobia and Transphobia (IDAHOT) in 2016 was "misplaced" by the relevant authorising authority and the event could not proceed.

Transgender individuals

3.81 Local NGO contacts reported that, as transgender individuals are visibly identifiable, it is difficult for them to obtain regular employment and some become prostitutes. Police officers have been known to arrest transgender individuals under the *Vagrancy Ordinance* or Section 399 of the *Penal Code* which criminalises 'cheating by personation'. In some instances, these arrests constitute harassment.

3.82 Until recently it has not been possible to self-select one's legal gender in Sri Lanka. Proof of full reassignment surgery was required to change one's gender on the national identity card. Gender reassignment is prohibitively expensive and of poor quality. A 'gender recognition certificate' not requiring such a high level of proof was proposed by the Human Rights Commission of Sri Lanka and the Ministry of Health issued *Administrative Circular 01-34/2016* in June 2016 to assist in changing gender on a birth certificate. The uptake of this directive across health providers is not yet clear. DFAT assesses that transgender individuals face a high level of official and societal discrimination and are at moderate risk of violence.

3.83 Overall, DFAT assesses that the vast majority of Sri Lankans have conservative views about sexual orientation and gender identity. On a societal level, collective values are prioritised over individual rights and anecdotally, sexual orientation and gender identity can be seen as shameful. DFAT assesses that LGBTI individuals in Sri Lanka face a moderate risk of official discrimination and a moderate level of societal discrimination, on a day-to-day basis. The level and frequency of discrimination faced by the LGBTI community differs, depending on the socio-economic status, the religion and the geographic location of the individual. For instance, many middle and upper class, educated and urban Sri Lankans can be open about their sexuality within their family and community circles. Many LGBTI individuals, especially Muslims, continue to hide their identity to avoid harassment.

Children

3.84 Sri Lanka ratified the *Convention on the Rights of the Child* on 12 July 1991 and established a Presidential Task Force on child protection in 1996, which made a number of recommendations regarding legislative and administrative reforms. In 2006 a National Child Protection Authority (NCPA) was established under the purview of the Ministry of Child Development and Women's Affairs.

3.85 Sri Lanka has signed and ratified the International Labour Organization's (ILO) *Convention 138 on the Minimum Age for Employment* and the *ILO Convention 182 on the Worst Forms of Child Labour*. A joint ILO,

UNICEF and World Bank survey in 2008-09 found that 9.2 per cent of children aged 5 to 14 in Sri Lanka (302,000 children) were engaged in child labour, mostly in the agriculture and manufacturing sectors. According to the US Department of Labor's 2015 Findings on Worst Forms of Child Labor, the enforcement power of the Sri Lankan Government is weak, particularly with regards to hazardous child labour.

3.86 Child, early and forced marriage (CEFM) is an issue in Sri Lanka. The *General Marriages Ordinance* and the *Kandyan Marriage and Divorce Act* (for non-Muslims) set the legal age of marriage as 18 years but include provisions for legalising marriage of children below 18 years with parental consent. As per the *Muslim Marriage and Divorce Act*, the legal age of marriage is 12 years for Muslims but can be younger with the approval of a Quazi (a lay Muslim leader). Rates of child marriage in Sri Lanka are lower than in other parts of South Asia. From 2005 to 2012, 1.7 per cent of Sri Lankans married before the age of 15 years, and 11.8 per cent of Sri Lankans were married by the age of 18. Rates of child marriage are higher in Tamil and Muslim communities (mainly Muslims in the east). DFAT is aware of anecdotal evidence that suggests CEFM has been on the rise in the north and east since the end of the civil conflict in 2009, with an increasing number of customary marriages of underage individuals performed in the presence of a Hindu priest.

3.87 There are several reasons for the prevalence of CEFM. During the conflict, girl children were offered for marriage to prevent forced recruitment by the LTTE, or parents in IDP camps would give their girl child away in return for protection and to lessen the risk of sexual violence. Following the conflict, vulnerable female headed-households sought financial support through marrying their girl child and gaining a son-in-law to assist in land cultivation. Another ongoing issue is the lack of family planning services and social norms around sex outside marriage; early marriage is seen as a way to salvage the reputation of girl children who have engaged in sex outside marriage.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

4.1 The report of the UN's Office of the High Commissioner for Human Rights investigation into Sri Lanka (which covered the period 2002-2011) found that incidents of extra-judicial killings, disappearances and kidnappings for ransom occurred frequently in Sri Lanka during the civil conflict, particularly in the north and east. These were largely attributed to Sri Lankan security forces, the LTTE and paramilitary groups. Some victims were also killed or abducted in relation to business or personal disputes. DFAT assesses that the number of incidents of extra-judicial killing, disappearances and abductions for ransom, including incidents of violence involving former LTTE members, has significantly reduced since the end of the conflict.

Extra-Judicial Killings

4.2 According to the US Department of State, there were no verified reports of extrajudicial killings in 2015. The most recent LTTE-related extra-judicial killing was in April 2014 when the Sri Lankan military shot and killed three Tamil men with alleged connections to the LTTE during a 'cordon and search' operation in Vavuniya District. Sri Lankan authorities reportedly retrieved arms, ammunition and explosives from those killed. DFAT is not aware of any other reported LTTE-related extra-judicial killings since this incident.

4.3 In some cases, perpetrators of historical extra-judicial killings have been charged and convicted. However, there are numerous historical cases of extrajudicial killings that remain unsolved. The Sirisena Government has made efforts to rectify this: in 2015 arrests were made in relation to several high-profile cases, including those involving suspects that were government or military officials at the time of the crime. In July 2015, persons convicted of the 2006 murder of five Tamil students in Trincomalee were re-arrested (including a former police officer) after having been released in 2009 – they were subsequently released on bail while the case is reheard. Also in 2015, seven suspects, including three naval officers and one former army soldier were arrested for the 2006 killing of a TNA parliamentarian. Suspects in the 2005 killing of another TNA parliamentarian were arrested in October 2015; one suspect was a former Chief Minister of the Eastern Province.

Enforced or Involuntary Disappearances

4.4 In December 2015, Sri Lanka signed the *International Convention for the Protection of All Persons from Enforced Disappearance* and in July 2016 the Government passed legislation to establish an Office on Missing Persons (see paragraph 2.33). According to the International Committee of the Red Cross's (ICRC) 2015 Annual Report, this office has received tracing requests for over 16,000 missing persons in relation to the conflict. Many of the missing are likely to have been members or supporters of the LTTE. Following its November 2016 visit to Sri Lanka, the UN Working Group on Enforced or Involuntary Disappearances stated that 5,750 of the 12,000 cases of involuntary disappearances that it has reported to the Sri Lankan Government remained outstanding. A number of disappearances of children were attributed to the LTTE's

recruitment of child soldiers during the conflict. Approximately 800 tracing applications for children had been recorded in the Northern Province but only a small number of children have been reunited with their families. DFAT notes the possibility that some of the cases of disappearances will relate to people who have emigrated. For example, a former LTTE member, Kathiravel Thayapararaja, who was reportedly tortured and killed by Sri Lankan security forces in 2009 was found to be alive in Tamil Nadu in 2014.

4.5 Reports of abductions and disappearances have dropped considerably. After a history of enforced disappearances occurring in a systematic way, several credible sources in Sri Lanka have told DFAT that disappearances are no longer a common occurrence.

Deaths in Custody

4.6 Although there are no reliable figures available, some criminal suspects have died while in custody. The Commissioner of Prisons reported a total of 58 deaths of prisoners in custody from January to October 2015. Deaths in custody are generally due to natural causes and isolated in nature. However, the UK's Foreign and Commonwealth Office's July 2015 report cites police involvement in four separate incidents of custodial deaths in 2015.

4.7 In addition to deaths in custody, there have been a number of incidents of prison riots (unrelated incidents in different prisons) which have resulted in deaths. Following a search of the Welikada Prison in Colombo in November 2012, a riot caused the deaths of 27 prisoners. A Commission of Inquiry completed their report on the Welikada Prison Riot in July 2015, but the report was not made public.

DEATH PENALTY

4.8 Sri Lanka retains the death penalty for murder and drug trafficking, although it has not carried out any executions since 1976. Under the *Criminal Procedure Code*, all death penalty sentences have to be appealed and a court appointed legal aid lawyer engaged to defend the accused. Presidential ratification is required for a death penalty to be implemented. The method of execution in Sri Lanka is hanging.

4.9 According to Sri Lanka's Commissioner General of Prisons, as at September 2015, there were 1,115 prisoners on death row. Amnesty International reported that at least 51 people were sentenced to death in 2015 but presidential ratification was not been issued. At the time of publication, the most recent death sentence had been handed down on 8 September 2016 to Duminda Silva (a former lawmaker and ally of then President Rajapaksa), and his four suspected accomplices, for killing a politician in 2011. The decision was seen as a sign of an increasingly independent judiciary.

4.10 In September 2015 President Sirisena indicated that he would implement the death penalty from 2016 should he obtain parliamentary approval to do so. This announcement was made in response to public calls to implement the death penalty following media reports of serious sexual assaults and murders. At the time of publication there was no indication that parliamentary approval for implementation of the death penalty would be provided.

TORTURE

4.11 Article 11 of the Sri Lankan Constitution, and a number of other laws, specifically prohibit torture. Sri Lanka has ratified the *UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Torture is an offence punishable by imprisonment of between seven and ten years.

4.12 A number of reputable organisations have, over the last couple of years, published allegations of torture perpetrated by Sri Lankan military and intelligence forces, mostly related to cases from the period immediately following the civil conflict and involving people with imputed links to the LTTE (but are not reserved to this group).

4.13 These reports include:

- International Truth and Justice Project's (ITJP) 2016 report, *Silenced: Survivors of torture and sexual violence in 2015*
- ITJP's 2015 report, *A Still Unfinished War: Sri Lanka's Survivors of Torture and Sexual Violence 2009-2015*
- Freedom from Torture's (FFT) 2015 report, *Tainted Peace: Torture in Sri Lanka since May 2009*
- Amnesty International's 2012 report, *Locked Away: Sri Lanka's Security Detainees*.

The 2016 ITJP report cited 20 cases of torture in 2015. FFT's report cited eight torture cases in 2015. DFAT notes that verification of the evidence presented in these reports is complicated by the fact that many allegations are made anonymously, often to third parties, including by individuals who are outside Sri Lanka, and in some cases individuals who are in the process of seeking asylum. However, DFAT assesses that there have been credible reports of torture carried out by Sri Lankan military and intelligence forces during the civil conflict and in its immediate aftermath.

4.14 Tamils faced a higher risk of torture during the conflict. The September 2015 report of the UN's Office of the High Commissioner for Human Rights investigation into Sri Lanka found that 'victims of conflict-related torture perpetrated by Government forces... were generally Tamil, often arrested and detained in Government controlled areas... under the PTA and the Emergency Regulations'.

4.15 DFAT is also aware of reported instances of torture carried out by the police. The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment visited Sri Lanka during April and May 2016 and reported that torture might be carried out by police in relation to regular criminal investigations, a risk which can increase when there is a perceived threat to national security.

4.16 In October 2016, the Human Rights Commission of Sri Lanka (HRCSL) submitted a report to the UN Committee Against Torture that claimed 'torture to be of routine nature... practiced all over the country, mainly in relation to police detentions' and that torture is used during interrogation and arrest and is used regardless of the nature of the suspected offence. A total of 208 torture complaints were received by the HRCSL as at 31 August 2016, compared to 600 in 2013. The geographic locations of torture reports are spread across Sri Lanka, with the most being reported in Colombo.

4.17 Evidence obtained through torture is generally inadmissible in courts in Sri Lanka. However, for suspects held under the *Prevention of Terrorism Act*, all confessions obtained by officers at or above the rank of Assistant Superintendent of Police are admissible in court. Victims of torture can complain to the Human Rights Commission of Sri Lanka or directly to the Supreme Court about a violation of their fundamental rights. Disciplinary action can be taken when complaints are made against the police or prison officers, but there have been few recent examples of this.

4.18 DFAT assesses that torture in Sri Lanka, perpetrated by either military, intelligence or police forces, is not presently systemic or state-sponsored. DFAT further assesses that the risk of torture from military and intelligence forces has decreased since the end of the civil conflict.

4.19 DFAT assesses that in cases where police are alleged to have mistreated or tortured an individual, such practices generally reflect low capacity, lack of training and due process in arrest and detention procedures, and poor policing methods that focus on extracting confessions rather than undertaking thorough investigations.

4.20 Because few reports of torture are proved or disproved it is difficult to determine the prevalence of torture but DFAT assesses that irrespective of their religion, ethnicity, geographic location, or other identity, Sri Lankans face a low risk of mistreatment that can amount to torture, in most cases perpetrated by the police. The incidence of torture has reduced in recent years, and therefore the allegations of torture pertain to a relatively small number of cases compared to the total population of Sri Lanka.

Torture and mistreatment of returnees

4.21 DFAT is aware of a small number of allegations of torture or mistreatment raised by asylum seekers who have been returned to Sri Lanka but cannot verify these reports given that many allegations are made anonymously, often to third parties and sometimes long after the torture is alleged to have occurred.

4.22 Thousands of asylum seekers have returned to Sri Lanka since 2009, including from Australia, the US, Canada, the UK and other European countries, with relatively few allegations of torture or mistreatment. Although it does not routinely monitor the situation of returnees, DFAT assesses that the risk of torture or mistreatment for the majority of returnees is low and continues to reduce, including for those suspected of offences under the *Immigrants and Emigrants Act*. Overall monitoring has reduced under the Sirisena Government and community fear of mistreatment has also decreased.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.23 Although Sri Lankan law prohibits arbitrary arrest and detention, the *Prevention of Terrorism Act* (PTA) allows authorities to detain suspects without charge for up to 72 hours. After this period has elapsed, a suspect must either be produced before a magistrate or can be held without charge under detention orders for three-month periods not exceeding 18 months. Suspects can be held in irregular places of detention, as well as at police stations, detention centres or prisons. The ICRC and the Human Rights Commission of Sri Lanka (HRCSL) have access to visit PTA detainees and can meet with detainees unaccompanied (without police escort). Lawyers and family of the individual cannot meet with them unaccompanied. As at October 2015, there were approximately 162 individuals detained under the PTA (160 men and 2 women). The majority are Tamil, with most suspected to have links to the former LTTE. In February 2016, 17 PTA detainees undertook hunger strikes in protest at their detention without charge. In September 2016, contacts told DFAT that PTA detainees often experience better prison conditions as they are held separately to mainstream prisoners.

4.24 The Sirisena government has taken some limited action to deal with individuals detained without charge under the PTA by the former Rajapaksa government. In August 2016, the Minister of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs reported that the Government had released 39 detainees on bail and has committed to streamlining judicial processes for PTA cases, including consideration of rehabilitation as an alternative to custody. The Government has undertaken to amend the PTA and replacement legislation is currently before the Parliamentary Oversight Committee.

Detention and Prison

4.25 In general, prison conditions in Sri Lanka do not meet international standards because of a lack of resources, overcrowding and poor sanitary conditions. The number of prisoners in Sri Lanka (approximately 20,000 in October 2015) is estimated to exceed prison capacity by 60 per cent. The Sri Lankan government established a taskforce on prison overcrowding in 2015 and has worked closely with the ICRC to address the issues. Several large urban prisons will be relocated to new prisons built in rural areas. This process commenced in 2016.

4.26 The ICRC has access to all places of detention and all categories of detainees in Sri Lanka, including those held under the PTA. It receives notification of arrest but given resource constraints it may be some time before it is able to visit detainees to assess their welfare. The ICRC follows up with individuals after their release and provides support where possible.

Corporal Punishment

4.27 Corporal punishment is technically lawful in Sri Lankan schools, as per article 82 of *the Penal Code*, but is prohibited by the Ministry of Education based on Section 2 of *Administrative Circular No. 2005/17*. The Ministry delivers teacher training programs on non-violent methods of discipline. In response to the examination of the Committee on the Rights of the Child in 2010, the Sri Lankan Government stated its intention to pursue law reforms to prohibit corporal punishment.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 DFAT assesses there is no law or Government policy in Sri Lanka which hinders access to state protection on the basis of religion or ethnicity. All citizens have access to avenues of redress through the police, judiciary and the Human Rights Commission of Sri Lanka. In practice, these avenues may be limited by linguistic barriers or by a lack of resources. In addition, some Tamils in the north and east may not have full confidence in police and security officers and may therefore be less likely to use these avenues to seek redress.

Military

5.2 The Sri Lankan military, under the purview of the Ministry of Defence, has 250,000 personnel across the Army, Navy, Air Force and Coast Guard. The majority of the military is Sinhalese but recruitment in 2015 and 2016 has focused on hiring Tamil speakers. There is no conscription.

5.3 In the last years of the civil conflict, military personnel numbers grew significantly. Since the end of the conflict, the military has been actively engaged in agricultural and commercial interests and in maintaining High Security Zones, mostly in the north. Achieving a peacetime balance and reducing the military's numbers is an ongoing challenge for the Sri Lankan Government.

5.4 The Government has publicly claimed that military involvement in civilian activities has ceased. However, DFAT observed that the military continues to occupy a large amount of prime agricultural land and maintains a strong military presence in the north, although military personnel are less visible than in the past.

Police

5.5 The Sri Lankan Police (SLP) has a notional strength of around 85,000 members. It has responsibility for enforcing criminal and civil laws and maintaining general law and order and operates under the purview of the Ministry of Law and Order. The SLP maintains an additional 8,600 member paramilitary Special Task Force (STF). The Sirisena Government has identified promoting the independence of the police as part of its agenda for constitutional reform. Overall, the SLP is a trained and active police force. However, the majority of SLP members were recruited and gained their experience during wartime and significant institutional changes are required during its transition to a community policing framework.

5.6 Language remains a significant barrier for effective policing, particularly in the north and east. There are reportedly 172 Tamil-speaking police officers out of approximately 6,000 based in the Northern Province. There are low numbers of female police officers. The SLP operates 36 'Women and Child Bureaus' at police stations across Sri Lanka but many contacts reported that there are not enough female officers to staff the

bureaus. Women's ability to report crimes such as domestic violence and seek support is therefore compromised.

5.7 The SLP maintains a separate unit to deal with the disciplinary issues of its members. Police officers are generally not well paid, and there have been reports of petty corruption such as issuing traffic fines to supplement the income of individual officers. The Sri Lankan Government has indicated that they will raise the basic police salary up to forty per cent, but at the time of publication this raise had not been implemented. The SLP also offers a 'Tell the IGP' (Inspector-General of Police) service where any member of the public can call a free number or dedicated website to discuss their engagement with the SLP and register concerns or complaints. The public can also lodge complaints with the National Police Commission, which investigates both complaints against individual police officers and the police force more generally. There are no official statistics on the uptake of this service.

Judiciary

5.8 The Supreme Court is the highest judicial authority in Sri Lanka, followed by the Court of Appeal, provincial level High Courts and lower courts (including Magistrates Courts for criminal cases and District Courts for civil cases). Supreme Court Judges are appointed by the President, other judges are appointed by the Judicial Services Commission. In January 2015, President Sirisena appointed the first Tamil Chief Justice in 15 years. Sri Lanka's courts are located across the country and Tamil-speaking judges are assigned to courts in majority Tamil-speaking areas.

5.9 The Sri Lankan judicial system allows victims of harm or ill-treatment to seek protection and redress from the state. This includes through 'fundamental rights' cases lodged directly with the Supreme Court. The Supreme Court has limited power to review the constitutionality of Acts of Parliament.

5.10 The Sri Lankan judicial system is overburdened and there can be long delays before a case is heard due to lengthy legal procedures; the large number of detainees; and a limited number of qualified police, prosecutors and judges.

5.11 In general, Sri Lankan law does not prescribe sentencing guidelines so judges are able to exercise a broad degree of discretion in determining a sentence, depending on the facts of the case. In addition to custodial sentences, judges can issue fines or order suspended sentences, community service, or probation. In practice, there can be a lack of effective legal protection and redress for victims of crimes in Sri Lanka. This is generally due to a lack of resources rather than ethnicity or religion. DFAT is not aware of any cases over the last few years where persons were denied access to legal remedies based on ethnicity or religion. DFAT assesses that the judiciary in Sri Lanka is generally able to exercise independence in criminal and civil cases. In some cases, disputes are settled outside the legal system.

INTERNAL RELOCATION

5.12 Sri Lanka's Constitution provides for freedom of movement for all citizens and there are no official restrictions to internal relocation in Sri Lanka. In 2011, a fundamental rights petition was lodged in the Supreme Court which led to the end of the military's forced registration of residents in Jaffna and Kilinochchi. The military's compulsory registration of Tamils living in the south no longer occurs.

5.13 According to the 2012 census, 18 per cent of the total population had relocated to their current district after being born in another district. The census reported the top five districts to which people had internally migrated were Colombo (593,942), Gampaha (563,363), Kurunegala (202,826), Anuradhapura (169,421) and Puttalam (140,690). There are large Tamil and Muslim communities in the south as a result of

internal relocation during the conflict. Many have chosen to not return to their former place of residence in the north, mainly due to better job prospects in the south. Relatively few of the 35,000 Sinhalese who left their homes in the north of Sri Lanka during the conflict have returned.

5.14 Internal relocation options can be limited by the absence of family connections or by a lack of financial resources. Many returnees have reported difficulties in accessing basic necessities such as shelter, food, water and sanitation, and in rebuilding livelihoods (see 'Conditions for Returnees' below). The continued occupation of private lands by the military, difficulties establishing title to land ownership or uncleared land mines or unexploded ordnance can also complicate successful internal relocation, particularly in the north.

5.15 Sri Lankan security forces maintain effective control throughout Sri Lanka and it is unlikely that individuals would be able to relocate internally with any degree of anonymity. In particular, the Sri Lankan military, intelligence and police continue to maintain a high level of awareness of returned IDPs to the north and east. The level of monitoring has reduced under the Sirisena Government but some individuals have reported that their movements continue to be recorded.

5.16 The UNHCR's December 2012 Eligibility Guidelines for Sri Lanka state that 'an internal flight or relocation alternative is not available in Sri Lanka in cases where the feared persecution emanates from the state itself or elements associated with it'. Sri Lankan authorities retain comprehensive country-wide 'stop' and 'watch' lists of those suspected of involvement in terrorist or serious criminal offences. Individuals in this category will generally not be able to avoid adverse attention from security forces. However, DFAT assesses that individuals seeking to relocate internally to minimise monitoring or harassment by local-level officials for petty issues can safely do so, subject to the limitations outlined above in paragraphs 5.14 and 5.15.

TREATMENT OF RETURNEES

5.17 Sri Lanka's Constitution entitles any citizen to 'the freedom to return to Sri Lanka'. Entry and exit from Sri Lanka is governed by the *Immigrants and Emigrants Act 1949* (the I&E Act, see below for more information). Under Sections 34 and 45(1) (b) of the I&E Act, it is an offence to depart other than via an approved port of departure, such as a seaport or airport. Penalties for leaving Sri Lanka illegally can include imprisonment of up to five years and a fine of up to 200,000 Sri Lankan rupees (around AUD 2,000). In practice, penalties are applied on a discretionary basis and most cases result in the issuance of a fine and not imprisonment.

5.18 Returnees who departed Sri Lanka irregularly by boat are generally considered to have committed an offence under the I&E Act. If a returnee is travelling voluntarily on their own passport on a commercial flight they may not come to the attention of local authorities if they departed Sri Lanka legally through an official port on the same passport, because they have not committed any offence under the I&E Act.

Exit and Entry Procedures

5.19 Upon arrival in Sri Lanka, involuntary returnees, including those on charter flights from Australia, are processed by different agencies, including the Department of Immigration and Emigration, the State Intelligence Service and the Criminal Investigation Department. These agencies check travel documents and identity information against the immigration databases, intelligence databases and the records of outstanding criminal matters. Officers of the Australian Department of Immigration and Border Protection (DIBP) based in Colombo may meet charter flights carrying involuntary returnees. DIBP has observed that processing returnees at the airport can take several hours, primarily due to the administrative processes,

interview lengths, and staffing constraints at the airport. Returnees are also processed en masse, and individuals cannot exit the airport until all returnees have been processed. Individuals who return to Sri Lanka voluntarily and are eligible for an Australian Government Assisted Voluntary Return package are usually met by the International Organization for Migration.

5.20 For returnees travelling on temporary travel documents, police undertake an investigative process to confirm identity, which would address whether someone was trying to conceal their identity due to a criminal or terrorist background or trying to avoid court orders or arrest warrants. This often involves interviewing the returning passenger, contacting the person's claimed home suburb or town police, contacting the person's claimed neighbours and family and checking criminal and court records. DFAT assesses that returnees are treated according to these standard procedures, regardless of their ethnicity and religion. DFAT further assesses that detainees are not subject to mistreatment during processing at the airport.

Offences under the *Immigrants and Emigrants Act*

5.21 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 that in most cases, these individuals have been arrested by the police at Colombo's Bandaranaike International Airport. As part of this process, most returnees will have their fingerprints taken and be photographed. At the earliest available opportunity after investigations are completed, the individual would be transported by police 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 as to the next steps for each individual. Those who have been arrested 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 held at a nearby prison.

5.22 According to the Sri Lankan Attorney-General's Department, which is responsible for the conduct of prosecutions, no returnee who was merely a passenger on a people smuggling venture had been given a custodial sentence for departing Sri Lanka illegally. However, fines had been issued to act as a deterrent towards departing illegally in the future. Fine amounts vary on a case-by-case basis (but can be up to 200,000 Sri Lankan rupees / AUD 2,000) and can be paid by instalment. If a person pleads guilty, they will be fined (which they can pay by instalment) and are then free to go. In most cases where a returnee pleads not guilty, returnees are immediately granted bail by the magistrate on the basis of personal surety or they may be required to have a family member act as guarantor. Where a guarantor is required, returnees may sometimes need to wait until a family member comes to court to collect them. There are rarely any conditions in relation to the bail, and if there are, they are imposed on a discretionary basis. An accused will only need to return to court when the case against them is being heard, or if summonsed as a witness in a case against the organiser/facilitator of a people smuggling venture. There is no general requirement to report to police or police stations between hearings.

5.23 The same processes outlined above are applied to returnees who travelled illegally to India and then onwards to a third country. Children are never subject to bail or fines. DFAT has been advised by the Sri Lankan Government that no returnee from Australia to Sri Lanka has been charged under the PTA. While credible, DFAT cannot verify this claim.

5.24 Some returnees from Australia have been charged with immigration offences and other criminal offences which they allegedly committed before departure. For example, in October 2012, warrants were

issued for the arrest of a group of returnees in regard to the robbery of a vessel used to travel to Australia; the causing of grievous harm to persons; and people smuggling.

5.25 The Sri Lankan Attorney-General's Department distinguishes between those suspected of being passengers and those suspected of facilitating or organising the irregular migration of people from Sri Lanka. Facilitators or organisers can be charged with an offence under Section 45C of the I&E Act.

5.26 DFAT assesses that ordinary passengers on a people smuggling venture are generally viewed as victims and penalties are more likely to be pursued against those suspected of being facilitators or organisers of people smuggling ventures. The Sri Lankan Government plans to review the I&E Act and produce new legislation in 2017 that better reflects this approach.

Conditions for Returnees

5.27 During 2008-2015, over 1,500 failed asylum-seekers were returned from Australia to Sri Lanka. This is in addition to the many Sri Lankan asylum seekers who have been returned from other countries, including the US, Canada, the UK and other European countries. The majority of these returnees are Tamil. Although the experiences of individual returnees will vary, many Tamil returnees choose to return to the north, either because it is their place of origin, because they have existing family links, or because of the relatively lower cost of living compared to Colombo and other urban areas in the south.

5.28 Most returnees have incurred significant expenses or debt to undertake their outward journey. Many are apprehensive about finding suitable employment opportunities and reliable housing on return. Those who have skills which are in high demand in the labour market are best placed to find well-paid employment. Some returnees receive reintegration assistance in the form of financial support and transport assistance on their return to Sri Lanka. DFAT assesses that any reintegration issues experienced by returnees are not based on their failure to obtain asylum, but rather due to the employment and accommodation difficulties they may face.

DOCUMENTATION

Birth and Death Certificates

5.29 Births that occur in hospital are recorded by the hospital and forwarded to the Divisional Secretariat (a government representative) for registration. Births that occur at home are registered with the Grama Niladhari (a village officer) within seven days, and are forwarded to the Divisional Secretariat within 42 days. Failing to register a birth is a punishable offence. A birth certificate is issued on completion of the registration process and copies can be obtained from the Divisional Secretariat in the area where the certificate was first issued.

5.30 The Grama Niladhari must be informed immediately following a death and the Divisional Secretariat must be informed within five days. Copies of a death certificate can be obtained from the Divisional Secretariat in the division where the death took place, even if this is outside the area of residence. If the death occurs at home, the Grama Niladhari must provide a report to prove the death. If the death occurs in a hospital, the relevant Medical Officer must provide a report. A death certificate is required to resolve some issues, including transferring the title deeds for land ownership to widowed females. Since September 2015 a 'certificate of absence' has been available to families of missing persons. The certificate of absence

provides families access to government benefits in lieu of a death certificate, which families are sometimes reluctant to seek given they remain hopeful that their relative will be found alive.

Marriage Certificates

5.31 Sri Lanka has several systems of marriage according to religious background and geographic location. The *General Law* is applied to every citizen except for those who have personal laws governing their marriage. The three other parallel systems of personal law are the *Kandyan Law*, the *Thesavalamai* (Tamil) *Law* and the *Muslim Law*. Marriage certificates issued to Buddhists, Hindus and Christians are in the same format. Marriage certificates issued to Muslims are slightly different as they contain details about the dowry given by the groom and the 'Nikah' (Muslim marriage ceremony). Under the *General Law*, the dissolution of a marriage is adjudicated by the district-level court. Muslim divorces are adjudicated by the Qazi court.

5.32 The system for issuing marriage certificates is not computerised and marriage certificates do not have any security features. Marriage certificates are sometimes identified as being fraudulent by the Registry of Births, Deaths and Marriages: this verification process usually takes more than a month.

National Identity Cards

5.33 Sri Lankans generally use the National Identity Card (NIC) as their primary identification card, although birth certificates, driver's licences, and passports are also frequently used. Every Sri Lankan citizen is required by law to register their identity under the *Registration of Persons Act 1968*. Following this registration all citizens over the age of 16 are eligible to apply for an NIC and there is presently no renewal period for the card. All Sri Lankans are entitled to apply for and obtain identity documents regardless of their ethnicity, religion, language or geographic location. People who reside in rural locations have reported that the requirement to travel to major townships to obtain identity documentation is prohibitive. In the north and east, documentation processes can be delayed due to the lack of Tamil-speaking officials. The NIC does not specify ethnicity or religion and is issued in Sinhalese or Sinhalese and Tamil in some instances (e.g. for Tamils, or for those living in the north and east).

5.34 Sri Lankans residing overseas can apply for identity documents from any Sri Lankan overseas mission. Sri Lankan refugees residing in Tamil Nadu can obtain identity documentation from the Sri Lankan High Commission office in Chennai.

5.35 Former LTTE members can obtain an NIC upon successful completion of the rehabilitation process. DFAT understands that suspected LTTE members released from rehabilitation and not detained for other reasons are issued a Release Certificate by the Commissioner-General of Rehabilitation. The certificate contains no information about the legal basis or reasons for rehabilitation.

Passports

5.36 The Department of Immigration and Emigration is responsible for issuing passports in Sri Lanka, and Sri Lankan diplomatic and consular missions are responsible for issuing passports to Sri Lankans overseas. Current requirements for adult passports are an existing passport (if available), an original birth certificate, an original National Identity Card, a marriage certificate (to confirm change of name after marriage), biometric data and a letter, professional certificate or licence to confirm the applicant's profession. Passports are machine-readable and are typically valid for a period of ten years.

5.37 Sri Lankans without passports are able to re-enter the country on temporary travel documents (also known as an Emergency Passport or a Non-Machine Readable Passport) issued by diplomatic and consular missions. Temporary travel documents are valid only for re-entry to Sri Lanka. Rehabilitated former LTTE members do not face any legal restrictions when obtaining a passport.

PREVALENCE OF FRAUD

5.38 DFAT assesses that document fraud is prevalent in Sri Lanka. Most official records in Sri Lanka continue to be kept in hard-copy format: government departments lack computerised information databases. Genuine identity documents can be obtained by submitting fraudulent supporting documents. Counterfeit documents are the primary cause of fraud within the issuance process for the NIC, passport or driver's licence. DFAT is aware of fraudulent sponsor letters and employment letters being presented by asylum seekers. Land title deeds that have been fraudulently obtained have also been presented as evidence of an individual's financial situation.

5.39 Attempts to use fraudulent documents are common and other asylum destination countries have reported receiving fraudulent documentation from asylum applicants, including anecdotal reports of a photography studio that took photos of individuals in old LTTE uniforms for use in asylum seeker applications. DFAT cannot verify the credibility of these reports.