



Australian Government

Department of Foreign Affairs and Trade



DFAT Country Information Report

Sri Lanka

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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 judgement 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 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 released on Sri Lanka, published on 16 February 2015, and the October 2014 DFAT Thematic Report on People with Links to the Liberation Tigers of Tamil Eelam.

2. Background Information

Recent History

2.1 Ceylon achieved independence from the United Kingdom in 1948. As a result of a constitutional change in 1972, the country became an independent republic and changed its name to Sri Lanka. Relations between Sri Lanka's majority Sinhalese and minority Tamil communities have been highly strained since independence. Sinhalese have traditionally believed that Tamils received preferential treatment under British rule. Discriminatory policies, including making Sinhala the country's only official language (*Official Language Act 1956*) and restricting access to higher education for Tamils, contributed to a sense of marginalisation in the Tamil community and provoked calls for a separate Tamil state, Tamil Eelam, in the north and east of the country. In July 1983, a full-scale 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. Over the course of the conflict hundreds of thousands of people were displaced and tens of thousands of people were killed.

2.2 On 8 January 2015, Maithripala Sirisena defeated President Mahinda Rajapaksa in the presidential election winning 51.3 per cent of the vote, with a historically high voter turnout of 81.5 per cent. Analysis of the election indicated that the Tamil vote was significant in Sirisena's victory. Sirisena campaigned on a platform of democratic reform, good governance and anti-corruption. A peaceful parliamentary election on 17 August 2015 reinforced the outcomes of the presidential election and ushered in a 'national unity government' of major parties. The Tamil National Alliance (TNA) now formally leads the opposition.

Demography

2.3 Sri Lanka has a population of approximately 22 million. Sri Lanka's reported average population growth rate was one per cent per annum between 1981 and 2012, now estimated to be 0.84 percent.

2.4 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. Approximately five per cent of Sri Lankans reside in the Northern Province and 7.6 per cent in the Eastern Province. The remainder of the population live in Sri Lanka's six other provinces.

2.5 Sri Lanka is a multi-ethnic society consisting of 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 (also referred to as Moors–9.2 per cent), Burgher and Malay. Ethnic groups can be identified by their language, religion or race.

2.6 Four major religions are practiced in Sri Lanka: Buddhism; Hinduism; Islam; and Christianity (mainly Roman Catholicism). According to the 2012 census, 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 Hindu (mostly Tamils and the dominant religion in the Northern Province), 9.7 per cent Muslim (predominately located in the Eastern, Western and North-Western provinces), and 7.4 per cent Roman Catholic and other Christian denominations (concentrated in the Western and North-Western provinces), with less than 7,000 from other religions.

Economic Overview

2.7 Sri Lanka is currently classified by the World Bank as a lower middle income country and is on the cusp of becoming an upper middle income country. Its average annual GDP growth from 2005 to 2014 was 6.11 per cent. Gross Domestic Product (GDP) in 2014 was approximately USD 74.9 billion—approximately

USD 3,630 per capita—putting it ahead of most other South Asian countries. Sri Lanka is the only South Asian nation ranked 'high' (at 73 of 188 countries) on the UNDP's Human Development Index. After the end of the conflict in 2009, Sri Lanka experienced strong levels of economic growth of approximately eight per cent in 2010 and 2011, falling back to about seven per cent in 2014. The rate of inflation has varied greatly in recent years, but fell to approximately three per cent in 2014.

2.8 Sri Lanka's economy has shifted from a reliance on agriculture to an increasing emphasis on the manufacturing sector, which accounts for almost 30 per cent of GDP, and the services sector, which accounts for almost 60 per cent of GDP. The agriculture sector, though decreasing in economic importance, accounts for approximately 11 per cent of GDP and employs more than one-third of the workforce. The public sector remains large, and continues to dominate in the financial, utilities, health and education sectors.

2.9 Despite economic progress Sri Lanka faces competition from lower wage countries, declining exports and tax revenues that are heavily reliant on tariff income. In January 2015, the IMF reported that Sri Lanka's public debt and debt service remain high by international comparison, with debt servicing taking almost a third of government revenue. Sri Lanka also had a large trade deficit in 2013. Its exports (mainly tea, garments and rubber) were valued at USD 10.4 billion, while its imports (mainly oil, machinery, cotton and food) were valued at USD 18 billion.

2.10 Sri Lanka's major source of foreign exchange earnings are based on remittances. Sri Lankans working abroad returned approximately USD 6.4 billion in remittances in 2013.

2.11 In December 2014, Transparency International ranked Sri Lanka 85th out of 174 countries in its Global Corruption Perceptions Index. There are credible reports of corruption in the public sector and the government. The Sirisena government, which campaigned on an anti-corruption platform, has established a Presidential commission headed by a High Court Justice to look into numerous allegations of corruption and misuse of power.

2.12 There is a continued imbalance in economic development and the distribution of wealth in the country. Although conflict-affected areas in the north and east are recovering, many people in these and other areas remain economically vulnerable.

Economic conditions in the north and east

2.13 During the conflict, there were very limited trade and investment links between the north and the east and the rest of the country. However, since the end of the conflict and the subsequent opening of the economy, economic growth has been strongest in the Northern Province (off a relatively low base). This growth is due largely to post-conflict reconstruction, particularly in the infrastructure, transport, agriculture and fishery sectors. The economic growth has resulted in broad benefits for the majority of the population living there, particularly through reductions in the cost of living.

2.14 With the opening of the economy, the introduction of competition has meant that some industries in the north are now only marginally viable. The agriculture sector, in particular, has 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.

2.15 Local communities in the north have also complained about military involvement in commercial enterprises, which they allege undercut local enterprises. DFAT has observed a number of commercial businesses in the north operated by the military, including an internal airline, hotels and road-side rest-stops, though these are also found in other parts of the country. A survey by the Office of the United Nations High Commissioner for Refugees (UNHCR) of returned Internally Displaced People (IDPs) in the north in June 2013 indicated the military was involved in commercial enterprises and 18 per cent of respondents said the military was involved in fishing or farming in their area. Since he was elected in January 2015, President Sirisena has overseen the return of some land previously held by the Sri Lankan army.

Health

2.16 Free health care is available to all through the public sector health system but facilities vary and some medicines or treatments may need to be purchased from private providers. Sri Lankans have high life expectancy (76.5 years) and a low rate of infant mortality (8.8 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 loss of human capital during the conflict.

Education

2.17 Public primary and secondary schooling in Sri Lanka is generally very good. Very high rates of primary school enrolment (98 per cent) and completion (97 per cent) have resulted in high levels of literacy (91 per cent). Education outcomes tend to be lower in the north and east, mainly as a result of the destruction of infrastructure and loss of human capital during the conflict.

2.18 Where qualified teachers are available, schools offer students and their families the choice of education in either Sinhala or Tamil. Tamil-language tuition is available nationally but can be hindered by the lack of Tamil-speaking teachers. English is a course of study for all students from grade one.

2.19 University entrance in Sri Lanka is awarded both according to merit and by entrance scores modified to take account of a district's socio-economic indicators.

Employment

2.20 The formal unemployment rate in Sri Lanka fell from 5.9 per cent in 2009 to around 4.2 per cent in 2013. This drop was primarily the result of public investment in infrastructure since the end of the conflict. However, youth unemployment is high and there is limited formal female labour participation. Between 2005 and 2012, the rate of unemployment in the north fell from 6.1 per cent to 5.2 per cent and in the east from 15.5 per cent to 4.9 per cent. However, using a different methodology, the independent Sri Lanka-based Point Pedro Institute estimated in 2014 that actual rates of unemployment are much higher, ranging from 21 per cent in Sri Lanka's Western Province to 33 per cent in the Eastern Province.

2.21 More than 250,000 Sri Lankans leave every year to seek employment abroad. As of 2013, more than two million Sri Lankans were working abroad, mostly as unskilled and semi-skilled labour in the Middle East, to seek higher wages and more reliable work. 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.

2.22 DFAT assesses that relatively strong rates of economic growth and formal unemployment statistics mask a broader frustration in Sri Lanka about a lack of economic opportunities, including well-paid employment, access to government jobs and university education. These sentiments were expressed frequently during the campaign for the January 2015 presidential election. This view is also supported by the October 2013 ANU Development Policy Centre survey, which found that a majority of those intending to leave Sri Lanka and travel to Australia by irregular means cited economic reasons for their decision.

2.23 Based on its analysis and in-country interviews, DFAT assesses that these perceptions of a lack of economic opportunity in Sri Lanka, particularly in the north and east, continue to act as a significant 'push factor' for external migration.

Political System

2.24 The President is directly elected and is the Head of State, Head of Government and Commander-in-Chief of the armed forces. The Sri Lankan Parliament consists of 225 members, of whom 196 are directly elected from electorates based on districts and the remainder by proportional representation (effectively being appointed by the party). At the January 2015 presidential election, Mahinda Rajapaksa was defeated by Maithripala Sirisena, who had resigned from Rajapaksa's Cabinet to run against him. Sirisena had the support of the leader of the then opposition United National Party (UNP), Ranil Wickremesinghe, who he subsequently appointed as Prime Minister.

2.25 A central commitment of Sirisena's election manifesto has been to reduce the powers of the President. On 28 April 2015 parliament approved the 19th Amendment (19A) to the Sri Lankan Constitution, devolving some executive powers exercised by the President to the Prime Minister, the Cabinet of Ministers and Parliament. The amendment also reduced the terms of President and Parliament from six years to five years, re-introduced a two-term limit for the position of President (which had been removed by former President Rajapaksa in 2010), re-established a Constitutional Council and created a series of independent commissions for the judiciary, police, elections, auditing institutions and the office of the Attorney-General.

2.26 A parliamentary election was held on 17 August 2015. The election itself was deemed credible by international and domestic election observers. Prime Minister Wickremesinghe's United Front for Good Governance (UNFGG), contesting as the United National Party (UNP), won 106 of parliament's 225 seats, while Rajapaksa's United People's Freedom Alliance (UPFA) secured 95 seats. The Tamil National Alliance

(TNA), contesting as the Ilankai Tamil Arsu Kachchi (ITAK), won 16 seats, with smaller parties receiving the remaining 8 seats. Wickremesinghe campaigned on a good governance platform, committed to economic growth, transparency, ethnic reconciliation, and protection of individual freedoms and rights. Cabinet was sworn in from 4 September 2015; Tamil National Alliance (TNA) leader Rajavarthiam Sampanthan was appointed Opposition Leader. Rajapaksa conceded defeat, issuing a statement accepting the result of the election and vowing to work within the parliament.

2.27 The Sri Lankan political structure consists of provincial councils governing the nine provinces and over 300 local councils. The TNA has a majority of seats in the Northern Provincial Council. After the January 2015 presidential election, a Sri Lanka Muslim Congress (SLMC) Chief Minister took over the Eastern Provincial Council. All other provincial councils and most local councils are governed by the UPFA.

Reconciliation

2.28 In May 2010, then President Rajapaksa appointed a Lessons Learnt and Reconciliation Commission (LLRC) to investigate events from the failure of the ceasefire agreement in February 2002 to the end of the conflict in May 2009. The LLRC report was tabled in Parliament on 16 December 2011. A National Action Plan for the implementation of LLRC recommendations was released on 26 July 2012. The LLRC process received significant criticism; in 2011 Amnesty International reported that the LLRC was not a credible accountability mechanism due to its inadequate mandate, insufficient guarantees of independence and a lack of witness protection.

2.29 The new Sirisena government established a Special Presidential Task Force on Reconciliation, chaired by former President Chandrika Kumaratunga, mandated with 'healing the wounds of mistrust and social and cultural stress generated from extended conflicts and violence between different communities in Sri Lanka'. The Task Force has since evolved into the Office of National Unity and Reconciliation (ONUR).

2.30 President Sirisena's *Declaration for Peace*, delivered in Sinhala, Tamil and English at February 2015 Independence Day celebrations, paid respect to all victims who had lost their lives due to the civil conflict and contained a pledge to advance reconciliation, justice and equality for all. The 2015 Independence Day ceremony was attended by Tamil National Alliance (TNA) leaders for the first time since 1972. Sirisena's government also amended the name of the anniversary of the end of the war from 'Victory Day' to 'War Heroes Remembrance Day' and allowed memorial events to take place in the north and east.

2.31 The Sirisena government has a more proactive approach to human rights and reconciliation than the previous government. Since January 2015, the new Government has replaced military governors in the Northern and Eastern Provinces with civilians; reduced High Security Zones and released land held by the military; released some individuals held under the *Prevention of Terrorism Act 1979 (PTA)*; engaged constructively with the Tamil National Alliance and the UN and other international partners; and established the ONUR.

2.32 In September 2015, a report by the UN's Office of the High Commissioner for Human Rights found grave violations, including possible war crimes and crimes against humanity, were likely committed by both sides of the 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 full range of judicial and non-judicial mechanisms. These included independent judicial and prosecutorial institutions with Commonwealth and other foreign judges, defence lawyers and authorised prosecutors and investigators. DFAT assesses that these proposals would provide a platform to achieve genuine reconciliation, if effectively implemented.

Security Situation

2.33 The security situation in Sri Lanka has greatly improved since the conflict ended in May 2009. Sri Lankan security forces—military, intelligence and police—exercise effective control over the entire country.

2.34 On 31 August 2011, the Government lifted the *Emergency Regulations*, which had given security forces broad powers of arrest and detention, including the ability to hold suspects for up to two years without charge. Several elements of the emergency regulations remain in force under the PTA, including the ability to detain individuals without charge.

2.35 Some Tamil militant groups, such as the Eelam People's Democratic Party (EPDP) and the Tamil Makkal Viduthalai Pulikal (TMVP), switched their allegiance to the then Government during the conflict and played a key role in supporting it in the north and east. While these groups have reportedly renounced

paramilitary activities, DFAT is aware of credible reports that these groups continue to be active in Sri Lanka, including in criminal activity. However verifying these reports is difficult.

2.36 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 throughout has fallen sharply in recent years and is now comparable with other South Asian countries, UNODC estimated a murder rate of 3 per 100,000 in 2011, but 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 has been told that these reports of GBV have not been met with an effective response.

Security situation in the north and east

2.37 The security situation in the north and east has greatly improved since the end of the conflict. However, military and security forces maintain a significant presence in the Northern Province, including 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 July 2015, DFAT observed a low-level but visible military presence in the north, with most of the military confined to the Security Forces Cantonment on Jaffna Peninsula, also known as the 'High Security Zone'. The High Security Zone occupies fertile land and is well-established, with permanent structures and well-tended agricultural land. Most check-points have been removed in the north, and the main checkpoint on the highway between the north and south, the Omanthai checkpoint, was removed on 29 August 2015. Restrictions placed on persons, including foreigners, visiting the north that were introduced in October 2014 have been lifted.

2.38 The Sirisena government appointed two retired senior civil servants as Governors in the Northern and Eastern provinces to strengthen civilian administration. These posts were previously held by retired military personnel. The Government has also commenced discussions on progressively reducing High Security Zones in the Northern Province and to date, over 1,000 acres of land has been released.

2.39 Under the Rajapaksa government the security and intelligence forces in the north and east were known to monitor any possible LTTE activity and any form of civil resistance or anti-Government sentiment. Some community members were questioned by authorities after they were visited by Non-Government Organisations (NGOs) or foreign government officials. Although not officially mandated to do so, in many areas military officers and personnel took a visible and active role in aspects of civilian life. This included participating in community functions, opening development projects such as schools and houses and undertaking community work. The Sirisena government has publicly claimed that military involvement in civilian activities has ceased. DFAT assesses that there has been an overall decrease in monitoring in 2015, but some individuals in the north and east still report being questioned and observed by the military and report that the sizeable military presence remains a factor in aspects of civilian life.

3. Refugee Convention Claims

Race/Nationality

Ethnicity

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 is highly politicised in Sri Lanka and tends to be bound together with related issues of language and religion. These three issues are defining features of day-to-day life in Sri Lanka. Most Sri Lankans tend to live alongside members of their own ethnic groups 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. This high level of integration is due in part to internal relocation by Tamils and Muslims from other parts of the country during the conflict but also to the economic opportunities available in Colombo. Because the north and east were isolated from the rest of the country during the conflict, these areas tend to be less well integrated. Relatively few Sinhalese or Muslims who left these areas during the conflict have returned.

3.2 Tamil was recognised as the second official language in 1987. Under the ‘*Trilingual Policy*’, introduced in 2012, all people have the right to communicate in Sinhala, Tamil or English in all parts of Sri Lanka. The Ministry of National Dialogue is responsible for implementation of the *Trilingual Policy* and all civil servants employed after 1 July 2007 must obtain proficiency in the other national language—either Sinhala or Tamil—within five years of employment in order to receive annual salary increments. The Official Languages Commission (OLC) has only reported low-level violations of the *Trilingual Policy*.

3.3 Overall, DFAT assesses that there are currently no official laws or policies that discriminate on the basis of ethnicity or language (‘official discrimination’), including in relation to access to education, employment or access to housing and that implementation of laws and policies by the Sirisena government is generally without discrimination. More generally, there is a moderate level of discrimination between ethnic groups (‘societal discrimination’), largely as a result of the civil conflict and its causes.

Tamils

3.4 The combined Sri Lankan and Indian Tamil population in Sri Lanka has grown from 2.7 million in 1981 to 3.1 million in 2012. However, both populations have fallen as a percentage of the total population, due in part to large-scale emigration as a result of the conflict. According to the 2012 Census, 43 per cent of Sri Lankan Tamils reside in the Northern Province, where they constitute approximately 93 per cent of the residents. Just over a quarter of Sri Lankan Tamils reside in the Eastern Province and 14.8 per cent in the Western Province (which includes the district of Colombo). 57 per cent live in the Central Province. During the 1970s and 1980s, Indian Tamils were progressively granted Sri Lankan citizenship rights or voluntarily repatriated to India.

3.5 There are a number of Tamil political parties, with the largest alliance 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 Sampanthan is leader of the Opposition.

3.6 In practice, monolingual Tamil speakers, including in the Tamil majority Northern Province, can sometimes have difficulty communicating with the police, military and other Government authorities. DFAT assesses that these practical difficulties are not due to official discrimination as such, but are the result of a lack of qualified language teachers, the disruption to civilian life caused by the conflict, and the legacy of previous discriminatory language policies.

Monitoring, harassment, arrest and detention

3.7 Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested and/or detained by security forces under the Rajapaksa government. For example, during the civil conflict, more Tamils were detained under emergency regulations and the PTA than any other ethnic group. 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. There are no published statistics on the numbers or ethnicity of those arrested under the PTA. However, DFAT assesses that there are currently fewer individuals detained under the PTA than there were during the conflict. The Sirisena government has undertaken to review the list of detainees under the PTA and has released some detainees, including Tamils. The government has said it is willing to work with the International Committee of the Red Cross (ICRC) to provide greater access to detainees for welfare monitoring and to establish a comprehensive database on detainees (see: 'Arbitrary arrest and detention' below).

3.8 The cessation of the forced registration of Tamils suggests the trend of monitoring and harassment of Tamils in day-to-day life has generally eased since the end of the conflict.

3.9 DFAT assesses that monitoring and harassment of Tamils has decreased under the Sirisena government and, on a day-to-day basis, the Tamil community feels more confident to refuse or question the motives of monitoring activities undertaken by authorities, if such activities occur.

Religion

3.10 The Sri Lankan Constitution guarantees freedom of religion and belief while giving Buddhism a 'foremost place'. Attacking places of worship or religious objects is punishable with a fine and/or a maximum of two years imprisonment. Acts intending to insult religion are punishable by a fine and/or a maximum of one year imprisonment.

3.11 There is a place for religions other than Buddhism in public life. Prominent Buddhist, Hindu, Muslim and Christian leaders are invited to all national functions, although only Buddhist rituals are performed at most events. Government dignitaries host and attend important events for different religions and Sri Lanka recognises religious holidays for all four religions. In successive governments, including the current government, there are four Ministers with portfolio responsibilities for each of the four major religions. These Ministers are practising followers of the faith they have responsibility for.

3.12 School students are able to study their choice of Buddhist, Hindu, Muslim and Christian religions in most public and private schools, depending on the availability of teachers. There are also public schools for Hindu and Muslim students.

3.13 Inter-marriage between religious groups sometimes takes place in Sri Lankan society but is generally not common practice.

3.14 DFAT assesses there is little official discrimination on the basis of religion as there are no official laws or policies that discriminate on the basis of religion. DFAT is aware of reports that the former Rajapaksa government sanctioned religious discrimination, particularly through support provided to Buddhist group *Bodu Bala Sena* (the Buddhist Power Force or BBS) (see 'Muslims' below), but is not aware of any similar reports since the change of government in 2015.

3.15 In a 2013 report, the Centre for Policy Alternatives (CPA) listed 65 cases of attacks on places of worship throughout the country between May 2009 and January 2013. The majority of cases reported by CPA were against evangelical Christian churches. The majority of incidents, where perpetrators were identified, were instances of Sinhala Buddhist attacks on other religious places of worship. The Sirisena government has publicly said it is committed to ethnic and religious reconciliation.

3.16 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 or to carry out 'unethical conversions' which generally involves a financial inducement to convert religion.

Muslims

3.17 The Muslim community is the fastest growing ethnic community 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. 98% of Muslims are Sunni. There are a small number of Shias, including members of the Bohra community, 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, based mostly in Colombo who are Muslims of Indian or Pakistani descent and speak Urdu. 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.

3.18 At the date of this report, the Sri Lanka Muslim Congress (SLMC), the largest Muslim political party in Sri Lanka, has seven members of parliament and is part of Sirisena's coalition government. The SLMC's leader, Rauff Hakeem, serves as Minister of City Planning and Water Supply and is a Cabinet Minister. The All Ceylon Muslim Congress is another Muslim party with elected members of parliament. Its leader, Rishad Bathiudeen, is currently Minister for Industry and Commerce. There are also Muslim Members of Parliament in the two major parties, the SLFP and the UNP, including in ministerial positions.

3.19 Although most Muslims sided with the Sinhalese Government forces during the civil conflict, there has been a recent rise in religious tensions between Muslims and the Sinhala-speaking Buddhist majority, particularly with nationalist groups such as *Sinhala Ravaya* (Sinhalese Roar) and the BBS. 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. The apex religious body of Muslims in Sri Lanka, the All Ceylon Jamiyyathul Ulama (ACJU), agreed in March 2013 to stop issuing Halal certification, other than for products produced for export to Islamic countries.

3.20 There have been a number of incidents of verbal and physical attacks on Muslims and Muslim businesses. According to the SLMC there were at least 241 anti-Muslim attacks and 69 anti-Christian attacks during 2013, some of which involved physical violence or the destruction of property. For example, in March 2013, a Buddhist mob attacked the warehouse of a Muslim-owned business at Pepiliyana near Colombo. The alleged perpetrators were released without charge. In August 2013, Buddhist monks attacked a mosque at Grandpass in Colombo, resulting in several injuries. Charges were laid in some cases and other cases were settled between the parties, but many alleged attacks were not investigated. In April 2014, the former Government established a special police unit to investigate 'complaints relating to religious matters'. Reported anti-Muslim attacks have dropped in 2015.

3.21 In June 2014, Galagoda Aththe Gnanasara, General Secretary of BBS, 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. At the time, the BBS operated with support from the Rajapaksa government. Its activities have drastically decreased in 2015 as a result of the change of government.

3.22 Although many Muslims are employed in agriculture and fisheries, many are also employed in business, industry and the civil service. DFAT has no evidence to indicate that Muslims are economically disadvantaged in Sri Lanka.

3.23 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.

3.24 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. DFAT was told that religious tensions and violence described above have reduced in 2015, but DFAT assesses that there remains a moderate risk of societal discrimination against Muslim Sri Lankans.

Political Opinion (Actual or Imputed)

3.25 Democratic elections have been held on a regular basis since independence in 1948. Elections have not been marred by large-scale violence or rigging but have not always been described as entirely free and fair. For instance, in March 2014, provincial council elections were held in the Western Province and Southern Province. The UPFA maintained a clear majority in both provincial councils. Although more than 1,100 election law violations were reported across both provinces, independent Sri Lankan observers reported that the elections were conducted in a relatively free and fair manner. The Uva Provincial Council elections were held in September 2014 and, according to the 2014 US Department of State human rights

report, were characterised by extensive violations of elections laws, especially the use of public resources in favour of ruling party candidates.

3.26 The Presidential election on 8 January 2015 was relatively 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

3.27 There are no constitutional, legal or other restrictions barring minorities from participating in politics on the same basis as any other citizen. Sri Lanka has a diverse political landscape, with 64 registered political parties representing ethnic, religious or ideological interests. Often, to gain a majority in Parliament, parties group together into broad coalitions, in which ethnic and religious minority parties sometimes hold the balance of power.

3.28 Political representation in Parliament is broadly proportional to the overall population. At the date of this report there were 29 Tamils and 21 Muslims out of a total of 225 members. President Sirisena presides over a diverse coalition, consisting of more than a dozen political parties, including Muslim, Tamil and Buddhist parties. As at the date of this report, there were three Tamil and five Muslim Ministers in the Cabinet. Two Tamils and two Muslims serve as State Ministers and three Muslims serve as Deputy Ministers in the current Government.

3.29 There are currently no banned political parties in Sri Lanka. Political parties are generally free to operate, subject to legal restrictions. This applies both to high-profile elected representatives and office holders and low-profile party members, supporters and volunteers, including people putting up fliers or handing out leaflets. There is no evidence to suggest this differs between representatives of Sinhalese, Tamil, Muslim or other parties. However, a number of organisations have been listed as terrorist groups by the government under United Nations Security Council (UNSC) Resolution 1373. These organisations and individuals may be subject to legal constraints on their activities in Sri Lanka. They include the LTTE and Tamil diaspora groups and numerous Sri Lankan individuals now residing in India, Malaysia and western countries. As per an election promise, the Sirisena government reviewed its UNSCR 1373 list in November 2015 and delisted several prominent diaspora organisations and some individuals.

3.30 Under the 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.

3.31 Other than the listing of certain organisations and individuals described above, 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)

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

3.33 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. According to a 2010 report by the International Commission of Jurists, any association with the LTTE at that time was grounds for arrest. The majority of those arrested were sent to Government-run rehabilitation centres. A smaller number were prosecuted through Sri Lanka's court system. In addition to those arrested, many civilians were also questioned or monitored towards the end of the conflict.

3.34 DFAT assesses that, as of October 2015, the LTTE no longer exists as an organised force. Any former LTTE members within Sri Lanka would have only minimal capacity to exert influence on Sri Lankans, including those returning from abroad.

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

3.35 The UNHCR's December 2012 Eligibility Guidelines for Sri Lanka 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:

- 1) 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;
- 2) former LTTE combatants or 'cadres';
- 3) 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);
- 4) 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;
- 5) 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;
- 6) persons with family links or who are dependent on or otherwise closely related to persons with the above profiles.

Accurately identifying people according to these categories can be difficult. The Guidelines for Sri Lanka 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.

Monitoring

3.36 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 for whom there is an extant court order, arrest warrant or order to impound their Sri Lankan passport while 'watch' lists include names of those for whom Sri Lankan security services consider to be of interest, including for 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.

3.37 In the north and east, Sri Lankan security forces maintain a significant presence and a high level of awareness of the civilian populations of the area. For example, according to a 2013 UNHCR survey, 87 per cent of mostly Tamil IDPs who had returned to their homes in the north and east had been registered by the military and 71 per cent had been visited by the military or the Police Criminal Investigation Department (CID) for interviews. Sri Lankan authorities have also increased their security presence in the north and east from time to time. For example, in March 2014, a number of check-points were established due to an alleged resurgence of LTTE activity. DFAT is aware of credible reports of people being stopped, detained and questioned by security forces in 2014 but assesses that these incidences decreased in 2015, since Sirisena came to power. After initially retaining the police powers granted to the military by Rajapaksa, in March 2015 Sirisena did not renew them, thus making military checkpoints in the north technically illegal.

3.38 Most public gatherings in the north and the east are monitored by the police or military. The Government remains sensitive to those expressing views that could be considered sympathetic to the LTTE. In May 2015, the Government allowed Tamils to hold public memorial ceremonies in the north and east to honour dead civilians on the anniversary of the end of the war, however there was a heavy police presence and any other form of demonstration was banned.

High-profile former LTTE members

3.39 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 military, political and administrative leadership were killed during the conflict, a number either 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). In addition to the LTTE's former leadership, a number of other former members were suspected to have committed terrorist or serious criminal acts during the conflict, or to have provided weapons or explosives to the LTTE.

3.40 On 11 April 2014 the military killed three suspected LTTE members in Vavuniya district, following a manhunt. It was a government response to the alleged posting of pro-LTTE flyers in Kilinochchi. No evidence or investigation results related to the case were publically released.

3.41 DFAT assesses that these high-profile ('high risk' or 'hardcore') former members would likely be arrested, detained and prosecuted through Sri Lanka's criminal courts, often following a period of detention in a rehabilitation centre. Although many high-profile members may have already been released following their detention and prosecution, any other high-profile members who remain at large or return to Sri Lanka would likely be arrested, detained and prosecuted in this way. Following their release from rehabilitation or prison, high-profile former LTTE members are likely to be intensely monitored by Sri Lankan authorities.

Low-profile former LTTE members

3.42 In addition to a relatively small number of high-profile LTTE members, many thousands of LTTE members have been arrested and detained in rehabilitation centres since the end of the conflict. Generally, this includes former combatants, those employed in administrative or other roles and those who may have provided a high level of non-military material support to the LTTE during the conflict.

3.43 DFAT assesses that, although the great majority of these low-profile ('low-risk') former members have already been released following their detention, 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 centres. 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

3.44 There are at least one million Sri Lankan Tamils living outside Sri Lanka, including in Canada, the UK, the Indian State of Tamil Nadu, France, Germany, Switzerland, Australia, Malaysia, the Netherlands, Norway and Denmark. 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 Tamil diasporas have traditionally been, and continue to be, an important source of income for family and community members in Sri Lanka.

3.45 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 the organisation to raise funds from Tamil diaspora communities.

3.46 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.

3.47 The Sirisena government has publicly encouraged all Sri Lankans living overseas to return. 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.

International sanctions and warrants

3.48 The LTTE was first designated as a proscribed organisation in Sri Lanka in 1998. The proscription was lifted in 2002, but re-imposed since 2009 under Sri Lanka's Public Security Ordinance.

3.49 In March 2014, Sri Lanka listed the LTTE and 424 individuals under UNSC Resolution 1373 for their alleged association with terrorism. Under Sri Lankan law, the gazettal imposes targeted financial sanctions on those listed, most of whom live outside of Sri Lanka. The Sirisena government has undertaken to review these listings.

3.50 Through Interpol's 'Red Notices', Sri Lankan authorities have also sought the arrest of a number of Tamils currently living outside Sri Lanka for terrorism offences. In issuing these Red Notices, Sri Lankan authorities must provide certain assurances to Interpol prior to the publication of Red Notices, including that the offence is a 'serious ordinary law crime'.

3.51 Although these measures do not, in and of themselves, compel third countries to arrest or detain those listed, DFAT assesses that they are likely to increase the risk for these individuals travelling abroad, particularly to Sri Lanka. Because of close inter-personal connections and a high level of awareness of the political situation in Sri Lanka within the Tamil diaspora, those groups and individuals listed are likely to be aware of their listing.

3.52 In some cases, suspected former LTTE members wanted by Sri Lankan authorities have been arrested and deported to Sri Lanka. In May 2014, three Sri Lankans were arrested by Malaysian authorities outside Kuala Lumpur. The three were returned to Sri Lanka in July 2014. A further four suspected former LTTE members were arrested by Malaysian authorities in and around Kuala Lumpur in July 2014.

Family members

3.53 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 the LTTE members, particularly high-profile members, who are wanted by Sri Lankan authorities are likely to be subject to monitoring.

Arrest and detention

3.54 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 PTA, which is still in place. 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. 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. The majority of those in rehabilitation have since been released and DFAT understands that only 45-50 former ex-LTTE members remain in rehabilitation as of July 2015.

3.55 DFAT is unable to independently verify the number of former LTTE members in detention other than rehabilitation. Former LTTE members continue to be identified and arrested, detained and prosecuted within Sri Lanka's criminal justice system. In a June 2015 interview for *The Island* newspaper, Minister of Justice Wijeyadasa Rajapakshe stated that there were only 273 convicted or suspected LTTE cadres in government custody, including those in rehabilitation centres.

Rehabilitation

3.56 Originally, those undergoing rehabilitation were interned at 24 rehabilitation centres located across Sri Lanka. DFAT understands that in many cases, civilians were detained alongside admitted or alleged combatants in rehabilitation centres. According to the Office of the Commissioner General of Rehabilitation, only one rehabilitation centre in Vavuniya still has ex-LTTE combatants, whereas the two other functioning rehabilitation centres in Welikanda and Kandakadu are now used to rehabilitate drug addicts.

3.57 Although the activities undertaken in rehabilitation programs vary, there has been a focus on vocational education and training. Adult males are given training in welding, masonry, plumbing, driving, tailoring, wiring, language, computer skills and livelihood opportunities such as vegetable cultivation. Adult females are given training in cookery, beauty therapy, tailoring, language and computer skills. The rehabilitation program also includes sporting activities. Former child soldiers have been tutored for Ordinary Level and Advanced Level examinations.

3.58 According to the website of the Bureau of the Commissioner-General for Rehabilitation, in addition to these education and training activities, those in rehabilitation programs have also undertaken 'Spiritual, Religious and Cultural Rehabilitation' focused on 'returning to cultural and family norms' and 'Psychological Development and Counselling', which aims to correct 'distorted mind sets of ex-combatants to effect attitudinal change'.

3.59 DFAT assesses that a further purpose of rehabilitation programs has been to allow Sri Lankan authorities to screen high-profile from low-profile LTTE members, to determine those who should be

prosecuted for terrorism or other offences. This has been done using interviews with detainees, information provided by informants and other relevant information to categorise former LTTE members based on their depth of involvement, period of involvement and the activities they conducted.

Prosecution

3.60 Consistent with Sri Lanka's 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 are usually tried by a panel of judges in cases brought under the PTA. Evidentiary requirements are governed by Sri Lanka's *Evidence Ordinance 1896*, but there are exceptions for cases under the PTA which admit 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.

3.61 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.

3.62 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 prosecutors frequently sought life imprisonment for cases brought under the PTA. However, most of those convicted were sentenced to only two years imprisonment.

Experience following release from rehabilitation

3.63 The majority of former LTTE members who have been released from rehabilitation centres have returned to their places of origin. Upon release, detainees, like all other citizens throughout Sri Lanka, are required to register with a local civilian Grama Niladhari (Village Officer) to be eligible to receive financial and other support for repatriation, access public services and enrol to vote.

3.64 Former LTTE members are also required to register with the local military unit's Civil Affairs Office. Although there are no formal parole arrangements for those released from rehabilitation, many are subject to ongoing monitoring and reporting requirements. The level of this can vary from district to district, but generally depends on the background of the individual. For example, low-profile members may be required to report every week, especially when first returning to their places of origin; others report on a monthly basis; others do not have to report but receive irregular visits at home; and still others have no contact at all with local police or military. High-profile former members are likely to be intensely monitored and have higher reporting requirements.

3.65 DFAT understands that if a released detainee leaves their area of origin, they are expected to provide information about their destination, who they will visit and how long they will be away. Family members may have to lodge a security bond for their return. However, this requirement is not widely enforced. Families may be questioned if the released detainee fails to register or is found to have left the village when officials visit to check on them.

3.66 DFAT is aware of reports that some of those released from rehabilitation centres have been re-arrested. Such arrests have occurred for both high-profile and low-profile former LTTE members. The Government of Sri Lanka has said that re-arrests of LTTE members released from rehabilitation are generally made due to additional information about involvement in acts of terrorism. Despite the high level of monitoring of those released from rehabilitation centres, relatively few re-arrests have occurred.

3.67 Sri Lankan media has reported that persons who have undergone rehabilitation have been asked to take part in government-initiated activities in the north, such as rallies. Refusal to do so may result in harassment and intimidation. For example, according to media reports, a group that attacked a Tamil National Alliance (TNA) political meeting in Kilinochchi in March 2013 included former LTTE members who were employed in the Civil Defence Force. This kind of practice has not been reported since Sirisena became President.

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

3.68 Some former LTTE members who completed rehabilitation have been recruited to Sri Lanka's CDF. The US State Department's 2013 Human Rights Report suggested 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, around 3,600 members of the CDF have been recruited, the majority of which are rehabilitated members of the LTTE.

3.69 There has been some criticism of such recruitment by civil society who suggests that it is not always voluntary. DFAT assesses that, while it is unlikely the military forces individuals to join the CDF, it is credible that some individuals may feel pressured into signing up because they fear the consequences of not doing so. However, it is difficult to assess the proportion of recruits to whom this applies. Many recruits would likely also decide to join for economic reasons, mainly due to a lack of employment opportunities in many areas of the Northern Province.

Participation in public life

3.70 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. They did not win any seats but their participation was demonstrative of an open, democratic process.

Societal discrimination

3.71 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 low as a result.

3.72 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.

3.73 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.

Economic conditions for former LTTE members

3.74 Many former LTTE members have reported difficulty establishing businesses or finding regular employment following their release from rehabilitation while others have commented that the vocational skills gained during rehabilitation have made them more employable. According to the Bureau of the Commissioner General of Rehabilitation, many are employed in manual labour, fishing, farming, or in the CDF. However, the unemployment rate among rehabilitated former LTTE members is reportedly 11 per cent, more than double the official national unemployment rate. This may be due to a number of factors, including conflict-related disabilities suffered by former members, or reluctance to hire known former members due to an employer's fear of monitoring by authorities. As a result of reporting requirements following their release from rehabilitation, some former LTTE members may also feel compelled to remain close to their place of residence, which could limit their ability to pursue work opportunities elsewhere.

3.75 The difficulty in finding employment is also likely to relate to broader economic conditions in Sri Lanka, particularly in the north and east.

3.76 The Sri Lankan Government and both international and domestic NGOs have established a number of programs to assist those released from rehabilitation centres. In addition to undertaking vocational education programs in rehabilitation centres, many will also have had access to post-release programs run by the International Organization for Migration, the International Committee of the Red Cross and Sri Lankan Government agencies.

Groups of Interest

Attacks or restrictions on Government opponents, critics and civil society activists

3.77 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. Under the previous Rajapaksa government, active Government critics were often described as 'LTTE or terrorist sympathisers' and risked attracting adverse attention by Government authorities. This included monitoring, harassment, arrest and detention. The Sirisena government has publicly committed to ending the surveillance of NGO workers and journalists and allowing freedom of speech. Activists and journalists have reported to DFAT that surveillance has reduced since January 2015, particularly in Colombo.

Non-Government Organisations

3.78 There are a broad range of NGOs and civil society groups active in Sri Lanka. NGOs are required to register with the National Secretariat for NGOs. Under the former Rajapaksa government this operated under the Ministry of Defence and Urban Development. Under Sirisena, the NGO Secretariat has been moved to the Ministry of Justice.

3.79 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 and this has continued in 2015. NGOs, particularly in the north, reported 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 in the north and east continue to be monitored.

Media

3.80 Article 14(1) (a) of Sri Lanka's Constitution guarantees 'freedom of speech and expression, including publication'. 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. The Press Complaints Commission of Sri Lanka has a code of practice endorsed by the International Federation of Journalists. However, Sri Lanka ranked 165 of 180 countries on the Reporters Without Borders Press Freedom Index 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, in the north, continue to practice some form of self-censorship due to fears of reprisal.

3.81 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 may start to return.

3.82 On 2 July 2015, Sirisena announced the re-establishment of the Sri Lanka Press Council, a media regulatory body with members appointed by the President. The Committee to Protect Journalists has declared their concern given that the Council will have punitive powers. It is too early to tell what impact the Council may have on press freedoms. As part of his election manifesto, Sirisena publically vowed to strengthen the independence of the media.

3.83 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 attacks against particular media outlets in recent years, including police raids against the offices of media organisations, attacks against individual journalists and editors and arson and other attacks against media organisations. For example, the offices of Jaffna-based Tamil newspaper *Uthayan* were reportedly set alight by attackers in April 2013.

3.84 Cartoonist Prageeth Eknaligoda disappeared in January 2010. The Sri Lankan government launched an investigation into his disappearance in March 2015 and arrested four 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.

3.85 DFAT assesses that incidents of violence against journalists have reduced in frequency in recent years. The number of serious attacks and physical injuries has decreased since the change of government in January but 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. DFAT is aware of reports that, in the north, female journalists mostly stay in the office undertaking reporting and rarely venture out to cover events. As is the case for other parts of Sri Lankan society, journalists with prominent or powerful connections are less likely to suffer from harassment or intimidation.

Women

3.86 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 matters relating to divorce, custody of children and inheritance.

3.87 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, even compared with other South Asian countries. Of the 225 members of Sri Lanka's current Parliament, 12 are women (5.3 per cent). At the time of this report, the Sirisena government had two female Cabinet ministers, two female State ministers and two female deputy ministers.

3.88 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-year prison sentence. Reported incidents of sexual assault and rape have increased in recent years, and tend to be higher in remote areas. A majority of cases are likely to go unreported due to associated social stigma. Domestic violence is also reported to be high, but is also likely to be underreported given the stigma associated with it and conservative views that it is a family matter, especially in Tamil culture. 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's election manifesto committed to taking action to prevent the abuse of women (and children), including speeding up the trial process for these offences. It is too early to assess implementation of this commitment.

Conditions for women in the north and east

3.89 There are approximately 60,000 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.

3.90 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.

3.91 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.

Sexual Orientation and Gender Identity

3.92 There are numerous societal, cultural and legislative barriers to achieving freedom and equality for the lesbian, gay, bisexual, transgender and intersex (LGBTI) community in Sri Lanka. Under 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 there have been arrests, there have been no convictions since independence in 1948 but DFAT is aware of reports that the *Penal Code* provisions have been used by the military and law enforcement officials to pressure and intimidate the LGBTI community. Police harassment and extortion of money or sexual favours from LGBTI individuals has been reported to human rights organisations. There are anecdotal reports that the Tamil community is more conservative in its views of sexual orientation and gender identity. For example, the LTTE is understood to have executed some LGBTI people while it was operational. However, DFAT assesses that the vast majority of Sri Lankans have conservative views about sexual orientation and gender.

3.93 Since the Sirisena government came to power, space for public discussion of issues faced by Sri Lanka’s LGBTI community has opened up. The media discusses the issues surrounding LGBTI individuals more and there are a number of high-profile LGBTI individuals, particularly in Colombo. However, there are few support mechanisms for LGBTI individuals in the community. There are only a small number of NGOs working in support of LGBTI rights that undertake advocacy work and provide some support services. An NGO hosted the 11th Colombo Gay Pride festival in July 2015, which was widely advertised and open to anyone to attend but other events were invite-only and no media were present. There are no dedicated ‘gay bars’ in Sri Lanka but there are a few ‘LGBTI friendly spaces’ in Colombo and some tourist hotels can perform this role. International Day Against Homophobia and Transphobia events have been held in Colombo for the past two years but, again, the events were invite only and no media were present. Human rights organisations report regular harassment of LGBTI individuals, especially in rural areas outside Colombo. Such incidents generally go unreported to Sri Lankan authorities.

Disability

3.94 Sri Lanka has 3,279,967 people living with a disability. There are very few disability support mechanisms, with many people, especially individuals who became amputees as a result of the civil conflict, relying on international NGOs for access to physical aids.

Children

3.95 Sri Lanka ratified the *Child Rights Convention* 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.

3.96 Sri Lanka has signed and ratified the International Labor 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, in Sri Lanka, 9.2% of children aged 5 to 14 (302,000 children) were engaged in child labour, mostly in the agriculture and manufacturing sectors.

3.97 Child, early and forced marriage (CEFM) is an issue in Sri Lanka; the government currently does not have a CEFM policy. 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. The *Muslim Marriage and Divorce Act* prohibits the registration of marriage of a Muslim girl below the age of 12 years, except with the approval of the Quazi of the area where he deems it necessary. Rates of child marriage in Sri Lanka are lower than in other parts of South Asia. From 2005 to 2012, 1.7% of Sri Lankans married before the age of 15 years, and 11.8% of Sri Lankans were married by the age of 18. Rates of child marriage are higher in Tamil and Muslim communities. 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.

3.98 There are several reasons for the prevalence of CEFM. During the conflict, girl children were often 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 could gain financial support through offering their girl child for marriage 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. CEFM is also seen as a way to salvage the reputation of girl children who have engaged in sex outside marriage. Research conducted by UNICEF and the Centre for Women's Research (CENFOR) suggests that incest is customary in some areas of Sri Lanka.

4. Complementary Protection Claims

Arbitrary Deprivation of Life

4.1 Incidents of extra-judicial killing, disappearances and kidnappings for ransom occurred frequently in Sri Lanka during the civil conflict, particularly in the north and the east. These were attributed to Sri Lankan security forces, the LTTE and paramilitary groups, although 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 fallen considerably since the end of the conflict.

Extra-Judicial Killings

4.2 Extra-judicial killings continue to be an area of concern in Sri Lanka. In April 2014, three Tamil men with alleged connections to the LTTE were shot and killed by the Sri Lankan military conducting a cordon and search operation in Vavuniya District. Sri Lankan authorities reportedly retrieved arms, ammunition and explosives from those killed. These were reportedly the first LTTE-related killings since the end of the conflict in 2009. There have been no other reported LTTE-related extra-judicial killings since this incident.

4.3 In some cases, perpetrators of extra-judicial killings have been charged and convicted. For example, former Deputy Inspector-General of Police Vass Gunawardena was remanded in custody in June 2013 for his alleged involvement in the murder of businessman Mohamad Shiyam in May 2013. He was granted bail for this particular charge in June 2015 but was kept in remand as a suspect for other cases, including misuse of public funds. Gunawardena was also suspected to be involved in the execution killing of five people while he was stationed in Sabaragamuwa Province. He has been held on remand pending the establishment of a special trial by Sri Lanka's High Court. More recently, three Sri Lanka Navy officers were arrested in connection to the alleged murder of a fisherman in Trincomalee, and four Sri Lanka Army officers were arrested in connection with the disappearance of cartoonist Prageeth Eknaligoda in 2010.

Enforced or Involuntary Disappearances

4.4 According to the ICRC's 2014 Annual Report, over 16,000 Sri Lankans remain missing or unaccounted for since 1990. The great majority of these cases occurred during the 30-year civil conflict and many of the missing are likely to have been members or supporters of the LTTE. Although the number of abductions and disappearances has dropped considerably, there have been credible reports of enforced or involuntary disappearances since the end of the conflict, such as the case of cartoonist Prageeth Eknaligoda.

4.5 As of 2015, the UN Working Group on Enforced or Involuntary Disappearances believed 5,750 cases of involuntary disappearances remained outstanding in Sri Lanka, while 6,551 cases have been clarified on the basis of information provided by the Government. According to the Working Group, cases are clarified when the fate or whereabouts of a disappeared person is clearly established, irrespective of whether the person is alive or dead.

4.6 Sri Lanka's *Presidential Commission to Investigate into Complaints regarding Missing Persons* has a mandate until 15 February 2016 to receive complaints relating to persons who went missing during the war period between June 1990 and May 2009. As at 25 August 2015 the Commission had received 18,099 complaints from civilians and 5,000 from security forces. At the 30th session of the Human Rights Council (HRC) in September 2015, the UN High Commissioner for Human Rights stated that this Commission should be disbanded due to widespread concerns regarding its credibility and effectiveness. In their response at the same HRC session, the Government of Sri Lanka committed to establish an Office on Missing Persons 'based on the principles of the families' right to know, to be set up by Statute with expertise from the ICRC,

and in line with internationally accepted standards'. On 10 December 2015, Sri Lanka signed the *International Convention for the Protection of All Persons from Enforced Disappearances*.

4.7 A number of disappearances of children were also attributed to the LTTE's recruitment of child soldiers during the conflict. As of March 2014, 794 tracing applications had been recorded with a Family Tracing and Reunification Unit established in the Northern Province. A small number of children have been subsequently reunited with their families; others are still listed as missing.

4.8 There have also been credible reports of enforced or involuntary disappearances since the end of the conflict. A total of 15 complaints of disappearances were lodged with the Human Rights Council of Sri Lanka (HRCSL) in 2014, down from 135 in 2009. Some disappearances have been related to political activists. For example, Lalith Kumar Weeraraj and Kugan Muruganandan have not been seen since they disappeared in Jaffna in December 2011 while preparing a demonstration to mark World Human Rights Day. Tamil businessman Ramasamy Prabhakaran disappeared in February 2012, two days before a fundamental rights case challenging his detention and abuse during the conflict that he had filed against senior police officers was due to be heard by the Supreme Court. He has not been seen since.

4.9 The majority of disappearances remain unresolved. However, 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 2014 when he, along with his family and a number of other Sri Lankan Tamils, were arrested by Indian police after arriving illegally at Arichamunai in Tamil Nadu, India, in May 2014.

4.10 There have also been incidents of kidnapping for ransom and incidents of kidnapping that appear to be politically motivated. No particular group has been the target of these attacks and they do not appear to be ethnically-based.

Deaths in Custody

4.11 Although there are no reliable figures available, some criminal suspects have died while in custody. The UK's Foreign and Commonwealth Office's July 2015 report cites police involvement in four separate incidents of custodial deaths in 2015. Deaths in custody are generally unrelated and isolated in nature. Disciplinary and legal actions related to such incidents have been recorded.

4.12 Two LTTE suspects, Ganesan Nimalaruban and Dilrukshan Mariyadas, died after allegedly being assaulted while in custody during June 2012. Their deaths followed a prison mutiny at Vavuniya Prison during which a group of inmates, mostly LTTE-suspects, held hostage three prison guards. Sri Lanka's Supreme Court denied Ganesan Nimalaruban's family leave to proceed with a fundamental rights case in October 2013.

4.13 In addition to deaths in custody, there have been a number of incidents of prison riots (unrelated incidents in different prisons), resulting in deaths. For example, following a search of the Welikada Prison in Colombo in November 2012, a riot resulted in the deaths of 27 prisoners.

Death Penalty

4.14 Sri Lanka maintains the death penalty for murder and drug trafficking, although it has not carried out any executions since 1976. The method of execution in Sri Lanka is hanging. 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. According to Sri Lanka's Department of Prisons, 1,199 persons were sentenced to death during 2001–2011 but presidential ratification has not been issued.

4.15 In recent years, media coverage of serious sexual assaults and murders has sparked public calls to implement the death penalty. On 18 September 2015, President Sirisena pledged to implement the death penalty from 2016 should he obtain parliamentary approval to do so.

Torture

4.16 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 years and ten years.

4.17 In practice, DFAT assesses that there have been credible reports of torture carried out by Sri Lankan security forces during the civil conflict and in its aftermath. Reports of torture came from a wide range of actors, including political activists, suspects held on criminal charges and civilians detained in all parts of Sri Lanka, including in relation to suspected LTTE connections. According to the Asian Human Rights Commission and the 2013 US State Department report on Human Rights, incidents of torture were not confined to any particular ethnic, religious or political group. However, the September 2015 report by the UN Office of the High Commissioner for Human Rights found that ‘victims of conflict-related torture perpetrated by Government forces... were generally Tamil, often arrested and detained in Government controlled areas... under PTA and the Emergency Regulations’.

4.18 A number of publications, including Freedom from Torture’s (FFT) 2015 report *Tainted Peace: Torture in Sri Lanka since May 2009*, International Truth and Justice Project (ITJP) Sri Lanka’s 2015 report *A Still Unfinished War: Sri Lanka’s Survivors of Torture and Sexual Violence 2009-2015* and Amnesty International’s 2012 report *Locked Away: Sri Lanka’s Security Detainees*, have highlighted allegations of torture. Cases mostly relate to the period immediately following the civil conflict and include cases of people with imputed links to the LTTE, but are not reserved to this group. The 2015 ITJP report references 180 cases of abduction and subsequent torture since the end of the civil conflict, and both ITJP and FFT cite 8 cases in 2015. However, verifying the evidence presented in these reports is complicated by the fact that many allegations are made anonymously, often to third parties, including those outside Sri Lanka.

4.19 DFAT assesses that torture has been used in some cases to extract information or confessions from suspects. Evidence obtained through torture is generally inadmissible in courts in Sri Lanka. However, for suspects held under the PTA, 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 HRCSL or directly to the Supreme Court about a violation of their fundamental rights. The HRCSL received 322 complaints of torture in 2014. However, it is difficult to determine the prevalence of torture with any accuracy, which means that few reports are proved or disproved. Disciplinary action can be taken when complaints are made against the police or prison officers, but there have been few recent cases where charges have been brought against police officers for torture.

4.20 DFAT has no information on the overall incidence of torture among people with suspected links to the LTTE. However, DFAT assesses that since the election of President Sirisena the risk of torture or mistreatment for high-profile former LTTE members who are suspected of committing serious crimes, including terrorism offences, has reduced, although it still remains higher overall than the risk for the majority of low-profile people with links to the LTTE.

4.21 Overall, DFAT notes the allegations of torture pertain to a relatively small number of cases compared to the total population of Sri Lanka.

Torture or mistreatment of returnees

4.22 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. Verification is complicated by the fact that many allegations are made anonymously, often to third parties.

4.23 There have been thousands of asylum seekers 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 (see also ‘Treatment of Returnees’, below). Although DFAT does not routinely monitor the situation of returnees, DFAT assesses that the risk of torture or mistreatment for the majority of returnees is low, including those suspected of offences under the *Immigrants and Emigrants Act*. Under the previous Rajapaksa government, DFAT assessed that the risk of torture or mistreatment for returnees was greater for those suspected of committing serious crimes, including terrorism offences. This was due mostly to the greater exposure these returnees had to authorities on their return which generally includes extended periods of pre-trial detention. While overall monitoring has reduced under the Sirisena government and general fears about mistreatment have reduced, it is difficult to verify if the intent to improve general conditions has yet led to a lower risk of torture or mistreatment of returnees.

Cruel, Inhuman or Degrading Treatment or Punishment

Arbitrary Arrest and Detention

4.24 Although Sri Lankan law prohibits arbitrary arrest and detention, the PTA allows authorities to detain suspects without charge for up to 72 hours. Following this, 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.

4.25 The Sirisena government has taken some limited action to deal with individuals detained without charge under the PTA by the former Rajapaksa government. As of the date of this report, 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.

4.26 Since the HRCSL began random visits in 2010-11 to police stations to check whether illegal detention or abuse was occurring there has been a significant drop in complaints. In 2014 there were three illegal detention complaints (in Anuradhapura) and 320 illegal arrest complaints.

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 for formal schools 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 which hinders access to state protection on the basis of religion or ethnicity. Any citizen can exercise 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 for court proceedings. 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 seek redress through them.

Military

5.2 The Sri Lankan military is comprised of three main branches, the Army (almost 200,000 personnel), Navy (55,000 personnel) and Air Force (30,000 personnel), and a Coast Guard. There is no conscription and the majority of the military is Sinhalese. In the last years of the civil conflict the military undertook a recruitment campaign which resulted in significant growth in numbers, surging from 120,000 personnel in 2005, to over 200,000 in 2009. Since the end of the war, the military has been actively engaged in agricultural and commercial interests and in maintaining High Security Zones, mostly in the north. However, the Sri Lankan military has begun to reduce recruitment and intends to increase its troop contributions to United Nations peacekeeping operations. Natural attrition will also be relied upon to reduce numbers.

5.3 In early 2015 the Sirisena Government was publicly claiming that involvement of the military in civilian activities in the north had 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 and more confined to barracks than in the past.

Police

5.4 The Sri Lankan Police Service (SLPS) has a notional strength of around 90,000 members. It has responsibility for enforcing criminal and civil laws and maintaining general law and order. The SLPS maintains a 6,000 member paramilitary Special Task Force (STF).

5.5 With the removal of the *Emergency Regulations* in 2011, the SLPS became responsible for maintaining law and order within Sri Lanka. In August 2013, the former Rajapaksa government reassigned ministerial responsibility for the SLPS from the Defence Secretary's portfolio to the President. Under the Sirisena government, portfolio responsibility for the SLPS has been given to the Minister of Law and Order and Prison Reform. The Sirisena government has identified the independence of the police as part of its agenda for constitutional reform.

5.6 Language remains a significant barrier for effective policing, particularly in the north and east. There are reportedly 900 Tamil police officers and 1,500 Tamil-speaking Sinhalese officers deployed to the north and east, which suggests that relatively few of the approximately 15,000 officers in the north and east can speak Tamil.

5.7 The SLPS maintains a separate unit to deal with the disciplinary issues of its members. The SLPS also offers a 'Tell IGP (Inspector-General of Police) service' where any member of the public can call a free number to discuss their engagement with the SLPS and register concerns or complaints. The public can also lodge complaints with the National Police Commission, which investigates complaints against individual police officers or the police force in general.

Judiciary

5.8 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, which is Sri Lanka’s final appellate court. The Supreme Court also has limited power to review the constitutionality of Acts of Parliament. Beneath the Supreme Court, the Court of Appeal hears appeals from the High Court of each province and lower courts, including Magistrates Courts for criminal cases and District Courts for civil cases. Sri Lanka’s courts are located across the country and Tamil-speaking judges are assigned to courts in majority Tamil-speaking areas.

5.9 As a result of lengthy legal procedures, the large number of detainees and a limited number of qualified police, prosecutors and judges, there can be long delays before a suspect’s case is brought to trial. Suspects are tried by jury in criminal cases but not in those brought under the PTA, which are usually heard by a panel of judges. All suspects have access to legal representation and the right to appeal convictions.

5.10 Where the law dictates, judges are able to exercise a broad degree of discretion in determining a sentence, depending on the facts of the case. For example, in addition to custodial sentences, judges can issue fines or order suspended sentences, community service, or probation. DFAT assesses that the judiciary in Sri Lanka is generally able to exercise its independence in most criminal and civil cases.

5.11 Former Chief Justice Shirani Bandaranayake was impeached in January 2013 following a controversial Parliamentary probe into her financial affairs, representing an erosion of the independence and impartiality of the Sri Lankan judiciary. Her replacement, Mohan Pieris, was dismissed in January 2015 after President Sirisena decreed that Bandaranayake had not been removed in accordance with the Constitution. Bandaranayake was reinstated but retired within 24 hours. Justice K. Sripavan, a Tamil, was appointed Chief Justice.

5.12 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. In some cases, disputes are settled outside the legal system.

Detention and Prison

5.13 In general, prison conditions in Sri Lanka do not meet international standards because of a lack of resources, overcrowding and poor sanitary conditions. Sri Lankan prisons are estimated to hold three times their capacity. On 27 February 2015, the Sri Lankan government held a ‘High Level Roundtable on the Legal and Judicial Causes of Prison Overcrowding’, from which a taskforce has been established to address the issues. The ICRC will be providing technical and logistical support to the Task Force.

5.14 The ICRC has access to all places of detention and 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.

National Human Rights Institution

5.15 Sri Lanka is a party to all major international human rights conventions. Many international human rights are guaranteed in Sri Lanka’s Constitution under Chapter 3 on ‘Fundamental rights’.

5.16 The Human Rights Commission of Sri Lanka (HRCSL) is the national body charged with protecting and promoting human rights in law, policy and practice. Citizens are able to 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. These include, for example, complaints about torture, disappearances, extra-judicial killings, deaths in custody and arrest and detention.

5.17 The HRCSL has a Status B accreditation, meaning it is not fully compliant with the *Principles Relating to the Status of National Institutions* (the Paris Principles). In its 2014 Sri Lanka Country Report on Human Rights Practices, the US Department of State noted that the HRCSL has wide powers and resources, but that it rarely used these powers. There were continued reports of inaction by the commission and concerns about a lack of independence and transparency.

5.18 On 28 April 2015 the 19th amendment to the Sri Lankan Constitution was passed, which re-introduced provisions of the 17th amendment (previously made defunct by the Rajapaksa government). This included

the establishment and strengthening of independent bodies, including the HRCSL. In October 2015 new commissioners, drawn from legal practice, academia and UN backgrounds, were appointed to oversight the work of the HRCSL. There are plans to work toward restoring HRCSL's 'A' grading under the Paris Principles. DFAT considers these commissioners will be able to operate with the independence required to undertake their mandate.

Internal Relocation

5.19 Article 14(1) (h) of Sri Lanka's Constitution allows any citizen 'the freedom of movement and choosing his residence within Sri Lanka' and there are no official restrictions to internal relocation in Sri Lanka. All citizens can relocate to any part of the country they choose. 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).

5.20 In July 2015 the Norwegian Refugee Council and the Internal Displacement Monitoring Centre claimed that 73,700 people remain internally displaced in the Northern and Eastern provinces, with the highest numbers, up to 36,251, currently residing in Jaffna. 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 to their areas of origin. These include 75,000 members of the Muslim community who were displaced by the LTTE during the conflict to Puttalam in the west.

5.21 The Sirisena government has committed to releasing land and resettling IDPs where possible. So far, approximately 2,000 acres of land previously under military control has been released back to its owners; over 1,000 acres in Jaffna to accommodate 1,200 families and approximately 820 acres in Trincomalee to accommodate 800 families. The families who have been resettled have proven their valid claims to the land, through possession of title deeds. However, some concerns have been expressed regarding the land that has been released. 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.

5.22 Although relatively few of the 35,000 Sinhalese who left their homes in the north of Sri Lanka during the conflict have returned, there are large Tamil and Muslim communities in the south as a result of internal relocation during the conflict. Many in these Tamil and Muslim communities have chosen to not return to their former place of residence in the north, mainly due to better job prospects in the south.

5.23 In 2011, the Government agreed to stop the forced registration of residents in Jaffna and Kilinochchi by the military after a fundamental rights petition was lodged in the Supreme Court. Compulsory registration, by the military, of Tamils living in the south no longer occurs.

Limitations on internal relocation

5.24 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. 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.

5.25 Because Sri Lankan security forces maintain effective control throughout Sri Lanka, it is unlikely that individuals will 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. According to a 2013 UNHCR survey, 87 per cent of mostly Tamil IDPs who had returned to their homes in the north and east had been registered by the military and 71 per cent had been visited by the military or the police Criminal Intelligence Division (CID) for interviews. The level of monitoring has reduced under the Sirisena government but some individuals have reported that their movements continue to be recorded.

5.26 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.

Treatment of Returnees

5.27 Article 14(1) (i) of 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). Under Sections 34 and 45(1) (b) of the 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 are almost always a fine.

5.28 Returnees are generally considered to have committed an offence under the I&E Act if they departed Sri Lanka irregularly by boat. 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.

Entry Procedures

5.29 Upon arrival in Sri Lanka, involuntary returnees, including those on charter flights from Australia, are processed by the Department of Immigration and Emigration (DoIE), the State Intelligence Service (SIS) and a unit of the CID based at the airport. In the past, officers of the Australian Department of Immigration and Border Protection (DIBP) based in Colombo endeavoured to meet flights with involuntary returnees from Australia on arrival but no longer do so. DIBP has observed that processing arrivals can take several hours, primarily due to the administrative processes and staffing constraints at the airport. Voluntary returns eligible for an Australian Government Assisted Voluntary Return package are usually met by the International Organization for Migration.

5.30 During the processing of returnees, DoIE officers check travel document and identity information against the immigration database. SIS checks the returnee against intelligence databases. The CID verifies a person's identity to determine whether the person has any outstanding criminal matters.

5.31 For returnees travelling on temporary travel documents, police undertake an investigative process to confirm the person's 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 their processing at the airport.

Offences under the *Immigrants and Emigrants Act*

5.32 Most Sri Lankan returnees, including those from Australia, are questioned by police on return and, where an illegal departure from Sri Lanka is suspected, are 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. They are transported by police to the closest Magistrates Court at the first available opportunity after investigations are completed, after which custody and responsibility for the individual shifts to the courts or prison services. The Court then makes a determination as to the next steps for each individual. Those arrested can remain in police custody at the CID Airport Office for up to 24 hours. 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.

5.33 DFAT was informed in July 2015 by Sri Lanka's Attorney-General's Department, which is responsible for the conduct of prosecutions, that 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 joining boat ventures in the future. Fine amounts vary on a case-by-case

basis and can be paid by instalment. If a person pleads guilty, they will be fined and are then free to go. In most cases, when a returnee pleads not guilty, returnees are granted bail on personal surety immediately by the magistrate, or may be required to have a family member act as guarantor. Returnees may sometimes need to wait until a family member comes to court to collect them. If bailed, there are rarely any conditions, 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 boat venture. There is no general requirement to report to police or police stations between hearings. 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 assesses that ordinary passengers 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 (see 'Facilitators and organisers below').

5.34 DFAT has been advised that no returnees from Australia to Sri Lanka have been charged under the PTA. While credible, DFAT cannot verify this claim.

Facilitators and organisers

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

5.36 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. DFAT understands that, in several cases, returnees have been charged and convicted of immigration offences. As of March 2014, at least one charge had been upheld on appeal.

Conditions for Returnees

5.37 Since 2008-09, over 1,500 failed Sri Lankan 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.

5.38 Most returnees have incurred significant expenses or debt to undertake their outward journey. Many are apprehensive about finding suitable employment opportunities on return. Those who have skills which are in high demand in the labour market are best placed to find well-paid employment. Returnees who receive reintegration assistance on their return to Sri Lanka find it easier to resettle.

Documentation

Birth and Death Certificates

5.39 Births at hospitals are recorded at the hospital and forwarded to the Divisional Secretariat for registration. Births taking place at home must be registered through the Grama Niladhari (Village Officer) within seven days after birth and then the Divisional Secretariat within 42 days. Not registering a birth is a punishable offence. After registration a birth certificate is issued. Copies of birth certificates can be obtained from the divisional secretariat of the area where the certificate was originally issued.

5.40 The Grama Niladhari must be informed as soon as a death takes place, after which the Division Secretariat must be informed within five days. Copies of death certificates 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 Medical Officer must provide a report. A death certificate is required to resolve some issues, like transferring the title deeds for land ownership to widowed females. However, if individuals are listed as 'missing' rather than deceased, family members are sometimes reluctant to have an official death certificate issued as they remain hopeful that their relatives will be found alive. The ICRC is working

with Sri Lankan authorities to possibly introduce a Certificate of Absence that would provide legal status for the families of the missing and disappeared.

Marriage Certificates

5.41 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. The marriage certificates issued to Muslims are slightly different as they contain details about the dowry given by the groom and details about the nikah (the Muslim religious marriage ceremony). Under the general law, the dissolution of a marriage is adjudicated by the District Court. Muslim divorces are adjudicated by the Qazi court.

5.42 Marriage certificates do not have any security features and are sometimes identified as being fraudulent when they are verified by the Registry of Births, Deaths and Marriages, which normally takes more than a month as the system is not computerised.

National Identity Cards

5.43 Sri Lankans generally use the National Identity Card (NIC) as their primary identification card, although birth certificates, drivers licences, and passports are also frequently used. However, the NIC is considered by Government and commercial sectors to be the primary identity document in Sri Lanka. 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. The NIC does not specify a race, 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). The Government is working to issue computerised bilingual identity cards for all holders.

5.44 Sri Lankans are entitled to apply for and obtain identity documents regardless of their ethnicity, religion, language or geographic location. In the north and east, people have reported delays in obtaining identity documents due to insufficient numbers of Tamil-speaking officials to service applicants. People who reside in rural communities have reported difficulties in obtaining identity documents because of the need to travel to major townships to submit applications.

5.45 Sri Lankans residing overseas can apply for identity documents from any Sri Lankan overseas mission. The Sri Lankan Deputy High Commission office in Chennai, Tamil Nadu, provides services for Sri Lankan refugees living in camps to obtain their identity documents and to register births.

5.46 Former LTTE members can obtain an NIC. The Sri Lankan Government has facilitated the provision of NICs for those who have successfully completed the rehabilitation process.

Release certificates

5.47 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 the released detainee's detention.

Passports

5.48 The DoIE 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 NIC, a marriage certificate (to confirm change of name after marriage), biometrics and a letter, a professional certificate or licence to confirm the applicant's profession. Passports are machine-readable and are typically valid for a period of ten years.

5.49 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.

5.50 There are no legal restrictions on obtaining a passport that apply only to rehabilitated former LTTE cadres. Procedures for applying for a passport are consistent with those for other Sri Lankans.

Prevalence of Fraud

5.51 Document fraud is prevalent in Sri Lanka due in part to the lack of computerised databases to store information. Government departments continue to keep most records in hard-copy format. Applicants are able to obtain genuine identity documents by submitting forged supporting documents. Counterfeit documents are the primary cause of fraud within the NIC, passport and driver's licence issuance processes. DFAT is aware of fraudulent sponsor letters and employment letters being presented by asylum seekers, and fraudulently obtained land title deed documents have also been presented as evidence of financial accumulation.

5.52 Other asylum-seeker destination countries have received fraudulent documentation from applicants. Attempts to use fraudulent documents are common. DFAT has received anecdotal reports of the recent existence of a photography studio that took photos of individuals in old LTTE uniforms for use in asylum seeker applications but cannot verify the credibility of these reports.