

**ALTERNATIVE REPORT TO THE COMMITTEE ON THE ELIMINATION OF  
RACIAL DISCRIMINATION (CERD)**

**NATIONAL CHRISTIAN EVANGELICAL ALLIANCE OF SRI LANKA (NCEASL)  
CENTRE FOR HUMAN RIGHTS DEVELOPMENT (CHRD)  
MINORITY RIGHTS GROUP INTERNATIONAL (MRG)**

**REVIEW OF THE PERIODIC REPORT OF SRI LANKA**

90<sup>th</sup> Session of CERD  
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**National Christian Evangelical Alliance of Sri Lanka**, formerly the Evangelical Fellowship of Ceylon, NCEASL was founded in 1952. The NCEASL works actively in three broad areas: Mission and Theology; Religious Liberty and Human Rights; and Relief and Development. The NCEASL is affiliated to the World Evangelical Alliance (WEA), a worldwide network of over 620 million Christians in 129 countries. For over two decades, the Religious Liberty Commission (RLC) of NCEASL has monitored and documented incidents of violence, intimidation, and discrimination against Sri Lanka's Christian community. The aim of the Religious Liberty Commission is to advance religious liberty for all Sri Lankans through advocacy and lobbying, research and documentation and training and education.

**The Centre for Human Rights and Development (CHRD)** is a non-profit organization initiated in 1997 by a group of human rights lawyers and activists for the protection and promotion of human rights in Sri Lanka. The objective of CHRD primarily is to ensure protection of human rights of ethnic minorities, mostly indigenous Tamils, Indian origin Tamils and Muslims. CHRD's main two work areas are providing legal assistance and civic engagement the district level.

**Minority Rights Group International (MRG)** is an international non-governmental organisation working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. MRG works with over 150 organisations in nearly 50 countries. MRG has consultative status with the United Nations Economic and Social Council, observer status with the Africa Commission on Human Peoples' Rights, and is a civil society organisation registered with the Organization of American States.

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## I. Introduction and Background

1. Sri Lanka is a country with a diverse demographic and cultural composition, comprising three main ethnic groups and four major religious traditions. A majority of the Sri Lankan population is Sinhalese (74.9%), followed by Tamils (15.4%) and Sri Lankan Moor (9.3%). Other ethnic groups include Burghers, Malays and Sri Lankan Chetty which comprise 0.5% of the total population. The primary religious groups include Buddhists (70.2%), Hindus (12.6%), Muslims (9.7%), Roman Catholics (6.1%) and Protestant Christians (1.3%).<sup>1</sup>
2. The year 2009 saw the conclusion of a 30-year long civil war which resulted in a legacy of human rights abuses. A comprehensive account of serious violations and abuses of human rights and related crimes covering the period from 21 February 2002 to 15 November 2011 was released in September 2015, following the OHCHR Investigation on Sri Lanka which was mandated by the Human Rights Council in March 2014.<sup>2</sup>
3. This report was released in the context of a changing political climate in Sri Lanka, following the presidential election of Maithripala Sirisena in January 2015, a transition further consolidated following parliamentary elections later that year. Following the publication of the aforementioned report and as part of an ambitious reform agenda, the Government of Sri Lanka (GoSL) co-sponsored resolution 30/1 at the UN Human Rights Council in September 2015 mandating reconciliation and transitional justice mechanisms.
4. At present Sri Lanka is undergoing a process of transitional justice, with the GoSL pledging to implement four mechanisms to facilitate transition; namely, an Office of Missing persons; an Office for Reparations; a Special Judicial Mechanism; and a Commission on Truth, Justice, Reconciliation and Non-Recurrence. Nevertheless, an effective implementation of these mechanisms is yet to be realized as the entire process is currently in its embryonic stages, which has meant that little change has been felt by war-affected communities in the North and East of the country.
5. Ethnic, religious, and ethno-religious minorities in Sri Lanka continue to experience discrimination and myriad human rights violations— to some extent, even at the hands of the State. Religious and ethno-religious minorities are particularly susceptible to violations of religious freedom. For instance, since the election of the new government, the National Christian Evangelical Alliance of Sri Lanka (NCEASL) has documented a total of 132 incidents<sup>3</sup> faced by Christians belonging to both Sinhala and Tamil ethnic groups. Similarly, the Secretariat for Muslims has documented over 141 incidents against the Muslim minority.<sup>4</sup> This reflects a continuation rather than break from the religious intolerance which has risen in the post-war era, and manifested in a range of different incidents, some of which have been more frequent but of a lower intensity, as well as higher intensity episodes including riots against Muslims in Aluthgama in 2014.<sup>5</sup> It is important to note that ethnic and

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<sup>1</sup> Department of Census and Statistics

<sup>2</sup> <http://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx>

<sup>3</sup> Refer annexure 1 & 2—NCEASL Incident Reports 2015 & 2016

<sup>4</sup> Refer annexure 1, 2, & 3—Secretariat for Muslims Incident Reports 2015 & 2016

<sup>5</sup> Gehan Gunatilleke, 'The Chronic and the Acute: Post-War Religious Violence in Sri Lanka', *International Centre for Equity Studies and Equitas – International Centre for Human Rights Education* (Colombo, 2015)

religious discrimination in Sri Lanka are closely intertwined. As the International Centre for Ethnic Studies recently detailed in a report focused on religion and identity in Sri Lanka: “[b]eing Buddhist...is intimately tied to Sinhala cultural and political identity. Similarly, being Muslim in Sri Lanka is to be both an ethnic category as well as a religious one.”<sup>6</sup> Moreover, while not all Tamils are Hindu, a significant proportion of Hindus in Sri Lanka are Tamil. Therefore, ethnic and religious discrimination in Sri Lanka are always intersecting (along with other factors, such as gender and class), and cannot be seen as independent from one another.

6. This report is submitted by the National Christian Evangelical Alliance of Sri Lanka (NCEASL), the Centre for Human Rights and Development (CHRD), and Minority Rights Group International (MRG) in advance of the review of the periodic report of Sri Lanka by the Committee on the Elimination of Racial Discrimination (CERD) at its 90<sup>th</sup> session. It primarily focuses on the situation of religious minorities and their right to religious freedom, but will also address related issues and the circumstances of other particularly marginalized groups, including minority women and plantation Tamils. Bearing in mind the ongoing political transition, this report also includes recommendations on how CERD should encourage the GoSL to address these issues.

#### **Article 5(d) (7) & 5(d) (9)**

#### **Right to religious freedom, peaceful assembly and association**

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7. The GoSL in its combined tenth to seventeenth State parties periodic report to CERD submitted in 2015, stated that it is committed to ensuring that all ethnic communities have the right to their chosen faith without hindrance.<sup>7</sup>
8. In reality, however, religious minorities in Sri Lanka have experienced a number of restrictions on their religious practices and observances. Notably, with the election of the new government a total 132 incidents have been documented against the Christian minorities (approximately 18 incidents involve Tamil Christians) and 141 incidents against the Muslim minorities. Notably, over 50 reported incidents from a total of 90 incidents in 2015 involved the participation of State officials. High-level police officials such as the Senior Superintendent of Police and the Assistant Superintendent of Police have been directly involved in a number of incidents.<sup>8</sup>
9. Similarly, the GoSL also mentioned that it remains committed to build a society where the rights of communities will be respected and equal treatment will be provided to all, irrespective of their

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<sup>6</sup> Dhammika Herath and Harshana Rambukwella, ‘Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka’, *International Centre for Ethnic Studies*, (Colombo: November 2015).

<sup>7</sup> Committee on the Elimination of Racial Discrimination, Combined tenth and seventeenth periodic reports of States parties due in 2015 (Sri Lanka)—General Information, comment 6: *The Government has been focusing on engagement with ethnic minorities as an important aspect in the process of overall national unity and reconciliation. The Government is committed to ensure that all ethnic communities are able to practice their chosen faiths without hindrance. In keeping with Sri Lanka’s societal, cultural and historical norms, regular dialogue continues to take place at various levels to ensure interethnic harmony and understanding amongst all communities.*

<sup>8</sup> Refer to Annexures 1-5 with incidents reports from NCEASL and Secretariat for Muslims

religion, ethnicity or race<sup>9</sup>. Furthermore, this undertaking is reflected in Article 12(2) of the Constitution of Sri Lanka which provides for the same.<sup>10</sup>

10. However, a circular issued by the *Ministry of Buddha Sasana and Religious Affairs* in 2008 has been used by local government authorities to curtail the religious worship activities and the construction of places of worship of religious minorities. Notably, this Circular has no legal validity. Article 15 (7)<sup>11</sup> of the Constitution states that any restrictions placed on the right to manifest and observe a religion must be founded in law. This Circular, however, has no legal basis and is, therefore, void. Nevertheless, it has been applied with extreme prejudice against religious minorities in Sri Lanka—including Muslims and Protestant Christians groups.<sup>12</sup> It is important to note that the Protestant Christian community in Sri Lanka comprises members of both the ethnic Sinhala majority as well as the ethnic Tamil minority.

### **Right to equality and non-discrimination (Art 2(1)(c) and 2(1)(d) of the Convention) Prevention of Terrorism Act**

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11. The Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 and No. 10 of 1982 (PTA) was widely used during the country's decades-long civil war. This was primarily against those suspected of involvement with the LTTE, therefore disproportionately targeting and acting as a tool for large-scale human rights violations against the minority Tamil population.<sup>13</sup> Under the Rajapakse regime, the post-war period saw the continued use of the PTA to target minority activists and stifle political dissent.<sup>14</sup> During its enactment in 1979, the Act was intended to function as a temporary measure, as part of the then government's political and military strategy to deal with the early stages of the low intensity insurgency in the north. Section 29 of the original enactment<sup>15</sup> expressly states that the duration of the Act will be for a period of three years. However, this was repealed by the

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<sup>9</sup> Committee on the Elimination of Racial Discrimination, Combined tenth and seventeenth periodic reports of States parties due in 2015 (Sri Lanka)—Article 2, Comment 13: The Government of Sri Lanka (GoSL) remains committed to build a society where the rights of all communities are secured and their safety and security is ensured. Thus, human dignity is valued and equal treatment to every person despite their religion, ethnicity or race is an accepted norm of public life.

<sup>10</sup> Article 12(2), The Constitution of the Democratic Socialist Republic of Sri Lanka: *No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds*

<sup>11</sup> Article 15(7), The Constitution of the Democratic Socialist Republic of Sri Lanka: *The exercise and operation of all the fundamental rights declared and recognized by Articles 12, 13(1), 13(2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.*

<sup>12</sup> Refer Annexure Incident Reports – concerning Circular 2008

<sup>13</sup> 'No War, no peace: the denial of minority rights and justice in Sri Lanka', *Minority Rights Group International*, (London: 2011)

<sup>14</sup> This includes, for example, the high profile case of Tamil journalist J.S. Tissainavagam who was sentenced to 20 years of imprisonment on account of accusing the government of war crime in 2009, as well as the the arbitrary arrest and detention of minority political and human rights activist, Mr Azarath Salley in 2013

(<http://minorityrights.org/2013/05/08/mrg-concerned-about-arrest-of-sri-lankan-minority-activist-calls-for-immediate-release/> ; <http://www.cpalanka.org/the-need-to-repeal-and-replace-the-prevention-of-terrorism-act-pta/>)

<sup>15</sup> Section 29, Prevention of Terrorism (Temporary Provisions) Act: *The provisions of this Act shall be in operation for a period of three years from the date of its commencement.*

Prevention of Terrorism (Temporary Provisions) Amendment Act No. 10 of 1982<sup>16</sup>, making it a permanent measure.

12. Sri Lanka's draconian PTA includes a number of highly controversial provisions, including:
  1. the power of entry, search, seizure and arrest without a warrant (Section 6(1));<sup>17</sup>
  2. the power to hold a suspect in remand until the conclusion of his trial (Section 7);<sup>18</sup>
  3. The ability to detain a suspect up to 18 months without trial (Section 9(1))<sup>19</sup>

The aforementioned provisions of the PTA are in direct contravention of some of the most significant fundamental rights provisions granted by the Sri Lankan Constitution, including Article 12(1)—the right to equality<sup>20</sup>; and Articles 13(1)<sup>21</sup> & (2)<sup>22</sup>—the freedom from arbitrary arrest, detention and punishment.

13. Furthermore, despite pledging to repeal the law in the United Nations Human Rights Council in Geneva in September 2015, the GoSL continues to utilise this piece of legislature to discriminate against and marginalize the country's ethnic minority through detentions and arbitrary arrests.
14. For instance, as at 28<sup>th</sup> June 2016, 28 persons have been arrested in connection with the discovery of a suicide jacket, explosives and other ammunition in Chavakachcheri, Jaffna and Kilinochchi<sup>23</sup>, all of whom have been Tamils from the north and east of the country. Of the 28 arrested, 24 were arrested under the PTA<sup>24</sup>. One of those arrested under the PTA was taken into custody while lodging a

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<sup>16</sup> Section 4, Prevention of Terrorism (Temporary Provisions) (Amendment) Act—*Section 29 of the principle enactment is hereby repealed.*

<sup>17</sup> Section 6(1), Prevention of Terrorism (Temporary Provisions) Act: *Any police officer not below the rank of Superintendent or any other police officer not below the rank of Sub-Inspector authorized in writing by him in that behalf may, without a warrant and with or without assistance and notwithstanding anything in any other law to the contrary" (a) arrest any person ; (b) enter and search any premises ; (c) stop and search any individual or any vehicle, vessel, train or aircraft; and (d) seize any document or thing, connected with or concerned in or reasonably suspected of being connected with or concerned in any unlawful activity.*

<sup>18</sup> Section 7(1), Prevention of Terrorism (Temporary Provisions) Act: *Any person arrested under subsection (1) of section 6 may be kept in custody for a period not exceeding seventy-two hours and shall, unless a detention order under section 9 has been made in respect of such person, be produced before a Magistrate before the expiry of such period and the Magistrate shall, on an application made in writing in that behalf by a police officer not below the rank of Superintendent, make order that such person be remanded until the conclusion of the trial of such person*

<sup>19</sup> Section 9(1), Prevention of Terrorism (Temporary Provisions) Act: *Where the Minister has reason to believe or suspect that any person is connected with or concerned in any unlawful activity, the Minister may order that such person be detained for a period not exceeding three months in the first instance, in such place and subject to such conditions as may be determined by the Minister, and any such order may be extended from time to time for a period not exceeding three months at a time: Provided, however, that the aggregate period of such detention shall not exceed a period of eighteen months.*

<sup>20</sup> Article 12(1), The Constitution of the Democratic Socialist Republic of Sri Lanka: *All persons are equal before the law and are entitled to the equal protection of the law*

<sup>21</sup> Article 13(1), The Constitution of the Democratic Socialist Republic of Sri Lanka: *No person shall be arrested except according to procedure established by law. Any person arrested shall be informed of the reason for his arrest.*

<sup>22</sup> Article 13(2), The Constitution of the Democratic Socialist Republic of Sri Lanka: *Every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to procedure established by law and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with procedure established by law.*

<sup>23</sup> While articles cited on this issue only mention Jaffna, a human rights lawyer who has been involved with this case clarified to us that some of this was also found in Kilinochchi.

<sup>24</sup> "Continuing abuse under PTA: Abductions, Arbitrary Arrests, Unlawful Detentions and Torture", Groundviews, 28<sup>th</sup> June 2016: <http://groundviews.org/2016/06/28/continuing-abuse-under-pta-abductions-arbitrary-arrests-unlawful-detentions-and-torture/>

complaint at the Human Rights Commission office in Jaffna.<sup>25</sup> No arrest receipts were issued during the time of arrest in at least 10 cases and suspects were not produced before a Magistrate within 72 hours (as specified by the Act). Moreover, detainees were not allowed legal assistance for 48 hours after their arrest; with lawyers having restricted access even thereafter. A human rights lawyer working in the North of Sri Lanka further noted that, reportedly, out of the 28 arrested, 3 were produced before the Magistrate on the assurance given by the TID that they would be released if a statement was made before the Magistrate as instructed by the TID.

### Religious minorities and the right to non-discrimination

15. Incidents of discrimination against religious and ethnoreligious minorities have been on the rise since the conclusion of Sri Lanka's civil conflict.<sup>26</sup> Particularly disturbing is the number of incidents perpetrated by State actors who are known to deny religious minorities building permits, admission to State schools and burials in public cemeteries. A lack of land allocation for burial within public cemeteries is particularly an issue for Protestant Christians, who consists of both the Sinhala and Tamil ethnicities. Local government authorities and law enforcement have played both an active and implicit role in such cases.<sup>27</sup>

### Right to not be subject to hate speech or racial hatred (Article 4(a) and 4(b) of the Convention)

16. As mentioned in Sri Lanka's periodic reports to CERD under Article 4, Section 3(1) of the ICCPR Act No. 56 2007<sup>28</sup> provides restrictions against the propagation of war and proponents of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Furthermore, the Sri Lankan Constitution in its Chapter on Fundamental Rights carries safeguards against inflammatory speech and restricts the right to freedom of expression found in Article 14(1), "in the interest of racial or religious harmony or in relation to...incitement to an offence."<sup>29</sup> Moreover, the Penal Code of Sri Lanka, in Section 290<sup>30</sup> provides that anyone who intendeds to defile or insult any religion is punishable of an offence.
17. In spite of these various legislative safeguards, extremist elements such as the *Bodhu Bala Sena* (BBS), *Sinhala Ravaya*, *Ravana Balaya* have continued to instigate a number of violent attacks against ethnic and ethno-religious minorities, particularly with the use of hate-speech that incites violence and ill-will. <sup>31</sup> These groups have been responsible for the desecration of churches and mosques; a call for a

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<sup>25</sup> While the article cited mentions that this took place at the Human Rights Commission Office in Trincomalee, a human rights lawyer working on the case clarified to us that the Human Rights Commission office was in Jaffna.

<sup>26</sup> Refer annexure 1 & 2—NCEASL Incident Reports 2015 & 2016

<sup>27</sup> *ibid*

<sup>28</sup>Section 3(1), ICCPR Act No.56 of 2007: *No person shall propagate war or advocate national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.*

<sup>29</sup> Article 15(7), The Constitution of the Democratic Socialist Republic of Sri Lanka: *The exercise and operation of all the fundamental rights declared and recognized by Articles 12, 13(1), 13(2) and 14 shall be subject to such restrictions as may be prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society. For the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security.*

<sup>30</sup> Section 290, Penal Code: *Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class persons, with the intention of thereby insulting the religion of insult the any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.*

<sup>31</sup> "BBS makes hates speeches again, Muslim Council writes to IGP", *Ada Derana*, June 26<sup>th</sup> 2016: <http://adaderana.lk/news/35820/bbs-makes-hate-speeches-again-muslim-council-writes-to-igp>

ban on Halal<sup>32</sup> and Islamic banking; and full-scale riots that have resulted in injury, destruction of property, even death.<sup>33</sup>

18. Despite the clear and mounting evidence against them, these hardline groups continue to function with impunity<sup>34</sup> and are yet to face any legal action in relation to these incidents—in contravention to the Article’s call to prohibit such organizations. The BBS has in fact gone on to form its own political party.<sup>35</sup>
19. As a result, members of the minority perceive the States unwillingness to effectively take action against those perpetrators who incite hatred as a denial by the State of the minority’s legitimate group rights. Legislative inaction in these circumstances are essentially indicative of the States unwillingness to protect the minorities most basic rights to physical safety and other, more abstract collective identity rights.

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### **Right to Security and Adequate Protection (Article 5(b) of the Convention)**

20. The problems faced by minority women in post-war Sri Lanka are numerous and profound, and have been characterized by the ongoing threat of violence, including at the hands of the state. Contributing to their vulnerability have been economic deprivation coupled with limited opportunity, deteriorating community networks, and the impacts of displacement. The effects of these factors have been exacerbated in situations where women are widowed, head households, and/or are themselves ex-combatants.
21. Also central to the insecurity felt by minority women in the north and east of Sri Lanka is the ongoing high presence of security forces. While instances of sexual violence perpetrated by security forces against Tamil women have declined since their height in the immediate post-war period, past violations are extremely rarely addressed, in what has been a near systematic denial of justice for victims of sexual violence, attacks, rapes and other violations at the hands of security forces. However, a notable exception to this was in October 2015, when four soldiers were sentenced to 25 years in prison for the gang rape of a Tamil woman in 2010, in the north of the country.<sup>36</sup> Nevertheless, impunity persists and a coherent policy that acknowledges or addresses the security situation of minority women in the north and east remains to be seen.<sup>37</sup>

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### **Discrimination and marginalization of plantation communities (Article 1 of the Convention)**

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<sup>32</sup> “Sri Lanka hardline group calls for halal boycott”, BBC News, 17<sup>th</sup> February 2013: <http://www.bbc.com/news/world-asia-21494959>

<sup>33</sup> “Sri Lankan Muslims killed in Aluthgama clashes with Buddhists”, BBC News, 16<sup>th</sup> June 2014: <http://www.bbc.com/news/world-asia-27864716>

<sup>34</sup> “Another church attack to be swept under carpet”, Colombo Telegraph, 13<sup>th</sup> July 2013: <https://www.colombotelegraph.com/index.php/another-church-attack-to-be-swept-under-carpet-hc-judge-pressures-church-attack-victims-to-settle-with-bbs-gnasara/>

<sup>35</sup> “BBS to contest with ELMSP as BJP”, Ceylon Today, 2<sup>nd</sup> July 2015: <http://www.ceylontoday.lk/90-97128-news-detail-bbs-to-contest-with-elm-sp-as-bjp.html>

<sup>36</sup> “Four Sri Lankan soldiers convicted of raping Tamil woman”, BBC: <http://www.bbc.com/news/34470053>

<sup>37</sup> ‘Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka’, *Minority Rights Group International*, 2013 <http://minorityrights.org/wp-content/uploads/old-site-downloads/download-1297-Living-with-insecurity-Marginalization-and-sexual-violence-against-women-in-north-and-east-Sri-Lanka.pdf>; ‘Rights and Reconciliation for Women in Sri Lanka’, *Minority Rights Group International*, 2015 <http://stories.minorityrights.org/srilanka/>

22. The Up-country Plantation Tamil form a minority community that consists of about 5.4 % of the total population in Sri Lanka. For several decades the plantation community has encountered discrimination in the areas of occupation, wages, ethnicity, language, education, economics, politics and human rights.
23. One of the primary contributory factors which has resulted in this unjust and unequal treatment of the plantation community is the issue of statelessness. Despite the introduction of the Grant of Citizenship to Persons of Indian Origin Act No. 35 of 2003<sup>38</sup> about 200,000 persons who registered for citizenship under this Act—and those who were granted citizenship under other Acts-- continue to face difficulty when engaging with local government officials (e.g. village officials at the grass-root level). They are denied the right to have their names in the registered voters list and demanded to furnish certificates of citizenship. However, those who registered under the 2003 Act were not granted certification but simply declared citizens.
24. Thus, persons of Indian origin in Sri Lanka face egregious exploitation due to this lack of understanding on the part of government officials and in, some cases, even among the plantation community itself. This has also led to other challenges including disenfranchisement and difficulty in obtaining basic legal documentations.
25. Furthermore, according to reports of the Household Income and Expenditure Survey of the Department of Census and Statistics<sup>39</sup> the estate sector is the most deprived sector in terms of social development indicators, including; access to education, health, nutrition, housing, safe drinking water, sanitation and women’s empowerment. These statistics are indicative of a severe disparity in resource allocation to this particular sector and community. The issue of housing and sanitation in particular is of grave concern. Members of the plantation community reside in ‘line houses’ that generally house 2-3 families simultaneously. Applying for and obtaining a separate line house is a tedious process and any construction has to first be approved by the estate management.

## **Recommendations**

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### **Article 5(d) (7) & 5(d) (9)**

#### **Right to religious freedom, peaceful assembly and association**

1. Cancellation of the Circular 2008
2. Take swift action to the full extent of the law, including sections 290-292 of the Penal Code against religiously motivated acts of violence or attempts to incite hatred towards any particular minority community, including disciplinary action against state officials and public servants who commit acts of discrimination or fail to perform their duty in a fair and impartial manner.

### **Art 2(c) and 2(d)**

#### **Right to equality and non-discrimination, Prevention of Terrorism Act**

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38 Submission for the Second Universal Periodic Review, May 2008, Sri Lanka:

[http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/LK/HDO\\_LKA\\_UPR\\_S2\\_2008\\_HumanDevelopmentOrganization\\_uprsubmission.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/LK/HDO_LKA_UPR_S2_2008_HumanDevelopmentOrganization_uprsubmission.pdf)

39 Household Income and Expenditure Survey 2012/2013—Final Report:

[http://www.statistics.gov.lk/HIES/HIES2012\\_13FinalReport.pdf](http://www.statistics.gov.lk/HIES/HIES2012_13FinalReport.pdf)

1. Repeal of the PTA and for the state to take measures to implement an alternative law which complies with international standards and laws
2. The GoSL to take effective legal measures against state officials who discriminate based on religion and ethnicity.

#### **Article 4 (a) (b)**

##### **Right not to be subject to hate speech or racial hatred**

1. Effective legal measures taken against those who perpetrate or incite hate speech etc.

#### **Minority women**

1. Female ex-combatants in the North need to be effectively reintegrated into society.
2. Introduction of income generation methods for female-headed households in war affected areas.
3. Security for women in the North and the freedom of movement in heavily militarized areas without fear
4. Compensation for the loss of bread-winners.

#### **Concluding Remarks**

Sri Lanka and its public needs to witness the effective and total implementation of the commitments made in the resolution co-sponsored by the GoSL and passed by the UNHRC, in order to truly move on from its violent past. However, there seems to be a lack of political will in implementing the mechanisms proposed for transitional justice and reconciliation, and an apparent difference of opinion between decision-makers as to the formulation and execution of the reconciliation process. This has led to a pervading sense of cynicism among the Sri Lankan public, particularly among the minority communities. There is therefore a marked need for exertion of international pressure on the GoSL in order to ensure an effective, inclusive, sustained and meaningful transition.