

International Covenant on Civil and Political Rights	Legislative Compliance
Article 1- Right of Self determination	<p>As established by the Human Rights Committee under the ICCPR, the rights to self determination does not require enforcement through legislative means. However Sri Lanka's Consistent position has been that the concept applies only in a decolonization context and cannot be applied or be interpreted in a manner prejudicial to the sovereignty and territorial integrity of and Independent State. This position is fortified by the Declaration of principles of International Law contained in UNGA Resolution 2625(XXV)</p> <p>Articles 3 and 4 of the Constitution, vest the Sovereignty in the People</p>
Article 2 & 3 – Equal protection of rights in the Covenant without distinction of any kind	<p>Constitution of Sri Lanka, 1978</p> <p>Article 12(1)- Fundamental right of equality before the law and equal protection of the law</p> <p>Article 12(2)- Fundamental right of non discrimination based on grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds</p> <p>Article 12(3)- Fundamental right of freedom from subjection to disabilities, liabilities, restrictions, or conditions with regard to public places</p> <p>Article 27 - The directive principles of state policy provides for equal opportunity to all citizens to prevent any disability being suffered on grounds of race, religion, language, caste, sex, political opinion or occupation</p> <p>Article 126-The Supreme Court of the State shall have sole and exclusive jurisdiction to determine any question relating to any alleged violation of a fundamental or language right , be it by an executive or administrative action, and it shall have the power to grant such relief or make such directions as it may deem just and equitable</p> <p>Supreme Court has expanded the Locus Standi – Corporate bodies and Public Interest Litigation.</p> <p>Parliamentary Commissioner for Administration Act No. 17 of 1981 as amended by Act, No. 26 of 1994 :</p> <p>Section 10 – While the act provides for the establishment of the office of the Parliamentary Commissioner for Administration (Ombudsman) who through this section has the capability to investigate into alleged violations of fundamental rights, and if such rights are violated is capable of reporting his findings to the Public Petitions Committee for the requisite action to be taken thus providing for an added safeguard against the violation of fundamental rights</p> <p>Human Rights commission of Sri Lanka Act, No. 22 of 1996 :</p> <p>Section 2 – Provides for the establishment of a human rights Commission</p> <p>Section 10 – The functions of the commission include conducting of investigations and inquires into procedural compliance of provisions in the Constitution for the protection of fundamental rights, alleged infringements of</p>

	<p>those rights, advise in the formulation of legislation and procedure and ensure compliance with international standards and to provide education and awareness of these rights</p> <p>Section 11 – Makes provision for a wide use of power in order to meet the above objectives</p> <p>Section 14 – Provision for the investigation of alleged infringements of rights even on the Commission's own motion</p> <p>Section 26 – Protects the Commission against suit for actions done in good faith for the above stated purposes. Thereby this legislation provides for an independent organ to strengthen the protection and safeguarding of these rights</p> <p>Grant Citizenship to persons of Indian Origin Act, No. 35 of 2003:</p> <p>Section 2- All persons qualifying are of Indian Origin and are granted the full rights that a citizen of the State shall have, ensuring the safeguarding of rights indiscriminate of Social origin</p>
Article 4	Article 15 (7) of the Constitution
Article 5	Impose a Negative obligation
Article 6 – Right to life and restrictions on capital punishment	Article 125 and 126 – Supreme Court having sole and exclusive jurisdiction to interpret the Constitution has held that Article 11 read with Article 13(4) recognized the right to life
Article 6.1 Right to life and no one to be arbitrarily deprived of life	<p>In the Case of <u>Sriani Silva v. Iddamaligoda</u>[2003] 2 Sri.L.R.63,75-77</p> <p>The Supreme Court has held that the right to life is implied in Chapter III of the Constitution.</p> <p>Court has held "Although the right to life is not expressly recognized as a fundamental right that right is impliedly recognized in some of the provisions of Chapter III of the Constitution. In particular, Article 13(4) provides that no person shall be punished with death or imprisonment except by order of a competent court. That is to say that a person has a <i>right</i> not to be put to death because of wrongdoing on his part, except upon a court order. ...Expressed positively, that provision means that a person has right to live unless a court orders otherwise. Thus Article 13(4) by necessary implication recognises that a person has a right to life – at least in the sense of mere <i>existence as distinct from the quality of life</i> – which he can be deprived of only under a court order. If, therefore without his consent or against his will a person is put to death, unlawfully and otherwise than under a court order, clearly his right under Article 13(4) has been infringed.Article 11 guarantees freedom from torture and from cruel and inhuman treatment or punishment. Unlawfully to deprive a person of life, without his consent or against his will, would certainly be <i>inhuman</i> treatment, for life is an essential precondition for being human.... I</p>

	<p>hold that Article 11(read with Article 13(4)) recognises a right no to deprive of life whether by way of punishment or otherwise – and, by necessary implication a right to life. That right must be interpreted broadly, and the jurisdiction conferred by the constitution on this Court for the sole purpose of protecting fundamental rights against executive action must be deemed to have conferred all that is reasonable necessary for this court to protect those rights effectively.</p> <p>Quality of life improved by the Supreme Court through cases pending on the regulation of Sound pollution SC/FR/38/2007 Air pollution in SC/FR/89/2007 Salinity of Water SC/FR/81/2006</p> <p>It may be further noted that Chapter XIV of the Penal Code elaborates the offences affecting the public health and safety.</p>
Article 6.2 – Death Penalty for most serious crimes	Penal Code of 1889 as amended : Murder
Article 6.4 – Right of convict to seek pardon or commutation	Article 34(1) of the Constitution – President has power to grant pardon Section 312 Code of Criminal Procedure Act, No.15 of 1979 as amended – President may commute sentence for sentences of death, rigorous imprisonment or simple imprisonment
Article 6.5 – No death sentence for below 18 years.	Penal Code as amended : Section 53 – Sentence of death not to be pronounced on persons under eighteen years of age Section 54 – Sentence of death not to be pronounced on pregnant woman.
Article 7 – Non subjection to torture or to cruel, inhuman and degrading treatment or punishment	Constitution of Sri Lanka, 1978 : Article 11 – Fundamental right of freedom from torture or cruel, inhuman or degrading or punishment. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994 : Section 2 – Any person who attempts, aids or abets, conspires or tortures any other person is guilty of an offence Section 3 – Threat or state of war, political instability, public emergency or order of a superior officer or authority would not constitute a defence for this offence creating a more stringent safeguard against torture
Article 8 – Non practice of slavery	Abolition of Slavery Ordinance, No 20 of 1844 Section 2 – Slavery shall no longer exist and all such persons would henceforth be free and entitled to all rights, privileges of free persons

<p>Article 9 – Right to liberty and security of person, not being subjected to arbitrary arrest, or detention</p>	<p>Constitution of Sri Lanka, 1978 :</p> <p>Article 13(1) – Fundamental right of freedom of arrest except according to the due procedure of law and right to information of reasons for arrest Article 13(2) – Fundamental right to be presented before the nearest competent court according to procedure established by law if being held in custody or otherwise deprived of personal liberty and for such not to be continued except upon terms of that court according to due process of law Article 13(3) – Fundamental right to a fair hearing before a competent court in person or by an attorney-at-law Article 13(4) – Fundamental right not to be imprisoned except by order of a competent court</p> <p>Code of Criminal Procedure Act, No. 15 of 1979 as amended : Section 17 – This section gives provision for the payment of compensation to victims of unlawful arrest or detention Section 23 – Any person to be arrested must be informed of the nature of the charge or allegation upon which he is being arrested Section 32 – 33 – Provides for specific and limited circumstances in which arrest can be conducted without a warrant of arrest. In all other circumstances arrest can only be conducted with a warrant of arrest, ensuring freedom from arbitrary arrest. Section 37 – Persons arrested without a warrant must be presented before a Magistrate within a reasonable time not exceeding 24 hours Section 53 – Provides for the substance of the warrant to be communicated to the party in question in executing an arrest under a warrant of arrest Section 54 – Provides for the due presentation of a person arrested under a warrant of arrest before court Chapter XXXIV – Makes provision for the granting of bail for certain offences</p>
	<p>Civil Procedure Code :</p> <p>Section 298 – Provides for specific and limited circumstances in which arrest can be made with the issue of a warrant which ensures that arbitrary arrest does not take place</p> <p>Bail Act, No.30 of 1997 : Section 2 – provides that the practice to be followed is that the grant of bail shall be the rule and its refusal shall be the exception Section 4 – 5 – Provides for granting of Bail for bailable and non-bailable offences (the latter being at the discretion of the court) Section 21 – Gives provision for anticipatory bail</p>

<p>Article 10 – Rights of persons deprived of their liberty shall be treated with humanity and respect</p> <p>Article 10(2) – Persons only accused but not convicted to be separated from convicted persons. Juvenile offenders to be separated.</p>	<p>Constitution of Sri Lanka, 1978 : Article 11 – Fundamental right of freedom from torture or cruel, inhuman or degrading treatment or punishment</p> <p>Human Rights Commission of Sri Lanka, No. 22 of 1996 : Section 11(d) – Provides the commission with the power to inspect and monitor the welfare of detained persons and to make recommendations for the necessary improvements</p> <p>Code of Criminal Procedure Act, No. 15 of 1979 as amended : Section 14 – 30 – These sections give provision to ensure that all persons arrested or detained are treated with dignity and in a manner befitting with the inherent human dignity</p> <p>Subsidiary Legislation of General Application – Volume 1 – (Cap.54) General Rules Relating to Prisons – page 766 – 860</p> <p>Rule 177 – 181 – Rules as to separation and Classification of Prisoners Rule 190 – 216 – Rules relating to Unconvicted Prisoners and Civil Prisoners</p>
<p>Article 11 – No one shall be imprisoned <i>merely</i> for inability in fulfilling contractual obligations.</p>	<p>Imposes a Negative obligation Section 298 of the Civil Procedure Code</p>
<p>Article 12 – Right to liberty of movement, freedom to choose residence and freedom to leave and return to the state</p>	<p>Constitution of Sri Lanka, 1978 : Article 14(1)(h) – Fundamental right of freedom of movement and of choosing residence within the state Article 14(1)(i) – Fundamental right of freedom to return to the state</p> <p>Rodrigo Vs SI Kirulopona and others – SC/FR/297/07-S.C.Minutes 3 – 12 – 2007 (Road Block Case) Somawansa and 205 others Vs AG – SC SPL 1-205/2006-(Freedom to leave and return to the state under Immigration laws)</p>
<p>Article 14(3) (e) – To examine witness against him and obtain attendance of witness on his behalf</p>	<p>Act No. 56/ 2007 Section 4(1) (d)</p>

<p>Article 14(3) (f) – If language difficulty then assistance of interpreter</p>	<p>Act No. 56/2007 Section 4(1) (e)</p>
<p>Article 14(3) (g) – Not to be compelled to testify against himself or confess guilt.</p>	<p>Act No. 56/2007 Section 4(1) (f)</p>
<p>Article 14(4) – Procedure of juvenile persons – Rehabilitations</p>	<p>Act No. 56/2007 Section 5(1) and (2)</p>
<p>Article 14(5) – Right to have conviction and sentence reviewed by a higher court</p>	<p>Constitution of Sri Lanka, 1978 : Article 127 & 139 – Provision for the right to appeal against decisions of the courts of first instance and superior courts by the Supreme Court and the Court of Appeal of the State respectively</p> <p>Code of Criminal Procedure Act, No. 15 of 1979 as amended : Chapter XXVIII – Gives provision for an appeal process to have decisions reviewed by superior courts Judicature Act No. 2 of 1978 – Sections 14 and 16 – Right of Appeal in Criminal Cases granted</p>
<p>Article 14(6) – Compensation for malicious prosecution</p>	<p>Delictual liability under the common law (RDL) for malicious prosecution</p>
<p>Article 14(7) – No one shall be convicted for the same offence for which he has been convicted or acquitted.</p>	<p>Principles of Double Jeopardy (Code of Criminal Procedure Chapter XXVII Sections 314 and 315)</p>

<p>Article 15 – Right not to be held guilty for actions which did not constitute an offence at the time of commission</p>	<p>Constitution of Sri Lanka, 1978 : Article 13(6) – Fundamental right not to be found guilty of an offence for an action which did not constitute an offence at time of its commission</p>
<p>Article 16 – Right to recognition as a person</p>	<p>Act No. 56/2007 Section 2</p>
<p>Article 17 – Right to privacy, family, reputation</p>	<p>Common law Delictual rights to sue for damages and for less of reputation. Also Sections 71 and 75 of Post Office Ordinance No. 11/1908 as amended. (CAP 520) Computer Crimes Act No 24 of 2007 Section 3 – unauthorized access to a computer an offence Section 8 – illegal interception of data an offence Section 10 – unauthorized disclosure of information enabling access to a service an offence</p>
<p>Article 18(1) – Freedom of Thought Conscience and Religion</p>	<p>Constitution of Sri Lanka, 1978 : Article 10 – Fundamental right of freedom of Thought, Conscience and Religion including freedom to adopt a religion or belief of choice Article 14(e) – Fundamental right of freedom to manifest religion or belief in worship, observance, practice or teaching</p>
<p>Article 18(2) – No one shall be subject to coercion which would impair his freedom to have a religion of his choice</p>	<p>SC Determination 2/2001 – Christian Sahane Doratuwa Prayers Centre 19/2003 New Wine Harvest Ministries Incorporation held Article 14(1) (e) and 14(1) (g) cannot be enjoyed together. “The freedom guaranteed by Article 10 to every person to adopt a religion or belief of his choice postulates that the choice stems from the free exercised of once thought and conscience without their been any fetter or allurements which in anyway distorts that choice.”</p>
<p>Article 18(3) – Permissible restriction on freedom manifest once religion or belief.</p> <p>Article 18 (4) – Respect for the liberty of parents to ensure the religious and moral education of their children.</p>	<p>Constitution Article 15 (7)</p> <p>Age of Majority Ordinance No.7 of 1865 as amended. Parents right to children’s upbringing – religious moral upbringing – common law, law of persons</p>

<p>Article 19 – Freedom of expression and right to hold an opinion</p>	<p>Constitution of Sri Lanka – Article 10 and 14 Constitution, Article 14(1) (a) and Article 27 – The directive principles of state policy provide for equal opportunity to all citizens to prevent any disabling being suffered on grounds of religion, language, political opinion, etc.</p> <p>Constitution of Sri Lanka, 1978 : Article 14 (1) (b) – Fundamental right of freedom of peaceful assembly</p> <p>Penal Code of 1889 as amended : Sections 290 – 292 – provides that actions of injuring defiling, insulting or otherwise, of a religion in general or a place of worship, religious assemblies, religious feelings, etc. Shall carry with it penal sanctions.</p> <p>Profane Publications Act – prohibits publications insulting or ridicule of any observances sacred to any religion.</p>
<p>Article 19 (2) – Freedom of Expression and Freedom of Information</p>	<p>Environmental Foundation Ltd. Vs. UDA. SC Minutes 23.11.2005. SC Expressed the view that the Fundamental Right relating to freedom of speech and expression including publication guaranteed by Article 14(1) (a) to be meaningful and effective should carry within its scope an implicit right of a person to seek relevant information from a public authority in respect of a matter that should be in the public domain. Court stressed that it should necessarily be so where the public interest in the outweigh the confidentiality that is attached to affairs of State and official communications.</p>
<p>Article 19(3)A – permissible restrictions in respect of rights under Article 19.</p>	<p>Construction, Articles 15(2) and 15(7)</p>
<p>Article 20(1) – Prohibition of propagandas for war</p>	<p>Act No. 56/ 2007 Section 3</p>
<p>Article 20(2) – Prohibition of advocacy of national, racial religious hatred</p>	<p>Act No. 56/2007 Section 3</p>
<p>Article 21 – Right to peaceful assembly</p>	<p>Constitution of Sri Lanka, 1978 : Article 14(1) (b) – Fundamental right of peaceful assembly.</p>

<p>Article 22 – Freedom of association and right to form and join trade unions</p> <p>Article 22(2) – Permissible restrictions</p>	<p>Constitution Article 14 (1) (e) – Fundamental right of freedom of association Constitution Article 14 (1) (d) – Fundamental right to form and join a trade union</p> <p>Constitution of Sri Lanka, Article 15 (4)</p>
<p>Article 23 – Protection of the family unit</p> <p>Article 23(2) & (3) – Right of Men and Women of Marriageable age to marry. No marriage without consent of spouses.</p> <p>Article 23(4) – equality of Spouse in Marriage</p>	<p>Constitution of Sri Lanka, 1978 : Article 27 – The directive principles of state policy provide that the State shall recognize and protect the family as the basic family unit</p> <p>Prevention of Domestic Violence Act No 34 of 2005 – Protection orders can be obtain in respect of offences committed within the environment of the home</p> <p>Evidence Ordinance Section 120(2),(3) and (4)-admissibility of evidence of husband and wife</p> <p>General marriage ordinance Penal Code</p> <p>Article 12(1) of the Constitution. Maintenance Ordinance as amended.</p>
<p>Article 24 – Rights of Children</p>	<p>Section 5 of Act 56 of 2007.</p> <p>Constitution of Sri Lanka, 1978 : Article 12(4) of the Constitution provides that subordinate law, legislation of executive action for the advancement of Children not precluded by Article 12</p> <p>Article 27 – The directive principles of state policy provides for the special care for the interests of children specially to protect against discrimination, and to ensure their full physical, mental. Moral, religious and social development</p>

	<p>Children and Young Persons ordinance – Makes provision for the establishment of Juvenile Courts, Supervision of Juvenile Offenders and for the protection of children and young persons.</p> <p>National Child Protection Authority Act No 50 of 1998-Makes provision for the prevention of child abuse and the protection and treatment of children who are victims of such abuse.</p>
<p>Article 25 – franchise and access to Public Affairs</p>	<p>Section 6(a) of Act No. 56 of 2007 Constitution of Sri Lanka, 1978: Article 4(e) – Sovereign Right o Freedom to exercise the right of franchise at the elections of the President, Members of Parliament and Referendums, by all qualified and registered electors over the age of 18.</p>
<p>Article 26- Equality before the law and equal protection of the law, without any discrimination</p>	<p>Supreme Court Determination 12/2003- Enhanced franchise to include Provincial Councils and Local Authorities</p> <p>Chapter XIV of the Constitution-Articles 88 and 90</p>
<p>Article 27 – Right of minorities to exercise rights in community</p>	<p>Constitution of Sri Lanka, 1978 :</p> <p>Article 12 (1) – Fundamental right of equality before the law and equal protection of the law Article 12 (2) – Fundamental right of non discrimination based on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any such grounds. Article 12 (3) – Fundamental right of freedom From Subjection to disabilities, liabilities, restrictions, or conditions with regard to public places.</p> <p>Constitution of Sri Lanka, 1978:</p> <p>Article 10 – Fundamental right of freedom of Thought, Conscience and Religion including freedom to adopt a religion or belief of choice.</p> <p>Article 14 (e) – Fundamental right of freedom to manifest religion or belief in worship, observance, practice or teaching, privately or in association.</p> <p>Article 14 (f) – fundamental right of freedom to enjoy and promote culture and use of own language, privately or by association.</p> <p>Articles 18 – 25 – Provisions are provided for the use and practice of the Tamil and English language although such languages are used by minority communities in the State. These practices include usage in Parliamentary proceedings, educational purposes, administrative purposes, legislation and judicial proceedings.</p>

Article 27 – The directive principles of state policy provide steps to be taken to promote co-operation and mutual confidence among all sections of the state, specifically in the field of education, teaching and education. It also provides for equal opportunity to all citizens to prevent any disability being suffered on grounds of race, religion, language, caste, sex, political opinion or occupation. Provision is also present for the assistance and development of cultures and languages.

Official Languages Commission Act, No. 18 of 1991 :

Section 2 – Provides for the establishment of an Official Languages Commission

Sections 6 – 7 – the Commission is charged with the task of recommending policy, conducting investigation and to take any other actions necessary for ensuring the compliance with the various rights pertaining to language as enshrined in the Constitution of the Republic as seen in Articles 18 – 25.

Penal Code of 1889 as mended :

Sections 290 – 292 - provides that actions of injuring, defiling, insulting or otherwise, of a religion in general or a place or worship, religions assemblies, religious feelings, etc. shall carry with it penal sanctions thereby ensuring that due respect are granted even to minority religious movements.