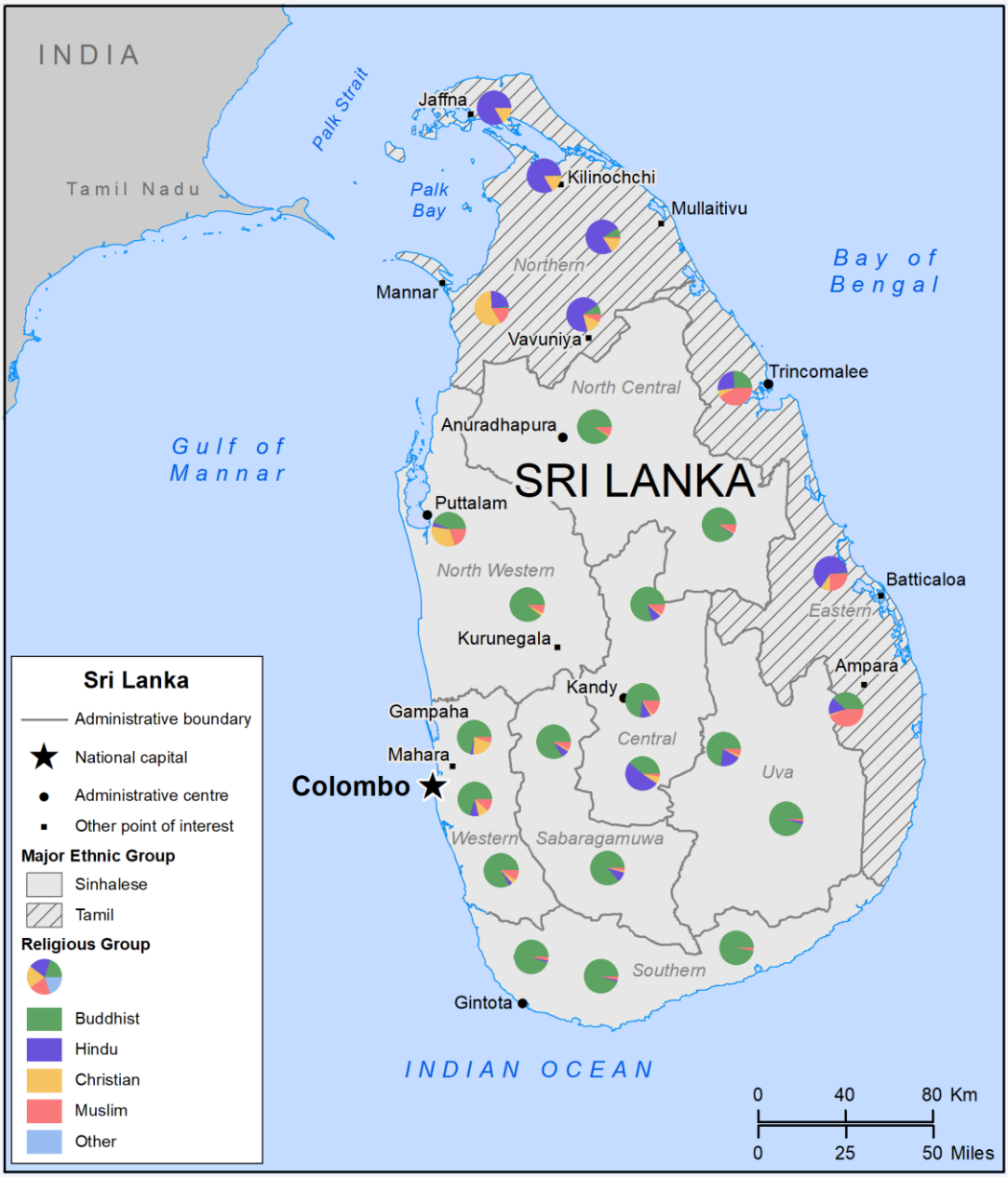
Australian Government

Department of Foreign Affairs and Trade

DFAT COUNTRY INFORMATION REPORT SRI LANKA

23 May 2018

MAP



CONTENTS

ACRONYMS

BBS	*Bodu Bala Sena*, an extremist Buddhist group
CEFM	Child, early and forced marriage
CSD	Civil Security Department
CTF	Consultation Task Force on Reconciliation Mechanisms
GDP	Gross Domestic Product
IDAHOT	International Day Against Homophobia and Transphobia
IDPs	Internally Displaced Persons
ITJP	International Truth and Justice Project
IOM	International Organization for Migration
HRCSL	Human Rights Commission of Sri Lanka
LGBTI	Lesbian, gay, bisexual, Transgender and Intersex
LTTE	Liberation Tigers of Tamil Eelam
MMDA	Muslim Marriage and Divorce Act
NCEASL	National Christian Evangelical Alliance of Sri Lanka
NIC	National Identity Card
OISL	Office of the United Nations High Commissioner for Human Rights Investigation on Sri Lanka
OHCHR	Office of the United Nations High Commissioner for Human Rights
OMP	Office of Missing Persons
PTA	Prevention of Terrorism Act
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLPP	Sri Lanka Podujana Peramuna party
TNA	Tamil National Alliance
UNHCR	United Nations High Commissioner for Refugees
UNHRC	United Nations Human Rights Council
UNODC	United Nations Office on Drugs and Crime
UNP	United National Party
UPFA	United People's Freedom Alliance

GLOSSARY

grama niladhari	village officer
sharia	Islamic law
Quazi	a judge without formal legal training, who presides over a court in accordance with *sharia* law

Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers).

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 informed by DFAT's on-the-ground knowledge and discussions with a range of sources in Sri Lanka. 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 Organization for Migration (IOM); those from relevant UN agencies, including the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Office on Drugs and Crime (UNODC), 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 24 January 2017.

2. BACKGROUND INFORMATION

RECENT HISTORY

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

2.2 In July 1983, conflict broke out between the Sri Lankan military and the separatist Liberation Tigers of Tamil Eelam (LTTE – formed in the 1970s). In May 2009, the Sri Lankan government announced its military victory over the LTTE and complete territorial control over Sri Lanka. The long civil conflict displaced hundreds of thousands of people and killed tens of thousands of people on both sides.

2.3 The current president, Maithripala Sirisena, was elected in January 2015 on a platform of post-conflict reconciliation, transitional justice, good governance, anti-corruption and economic reform. Progress on these commitments has been slow, and the Sri Lankan public and other observers are increasingly uncertain that the coalition government will manage to deliver reform during the remainder of its political term.

DEMOGRAPHY

2.4 Sri Lanka had a population of 21.2 million in 2017, growing at an annual rate of 1.1 per cent in 2016. Approximately 29 per cent of the population lives in the Western Province where Sri Lanka's commercial capital, Colombo, and official capital, Sri Jayawardenapura Kotte (a suburb of Colombo), are located. Five per cent of Sri Lankans live in the Northern Province, and 7.6 per cent in the Eastern Province.

2.5 Sri Lanka's most recent census in 2012 estimated that 74.9 per cent of the population was ethnic Sinhalese, 15.4 per cent was Tamil, 9.2 per cent was Muslim or Moors, and 0.5 per cent were 'others'. Over a quarter of the Tamil population (4.2 per cent of the total population) are of Indian origin and are known as Plantation Tamils, Hill Country Tamils or Up-Country Tamils. 'Muslim' in Sri Lanka describes both ethnicity and religion. Sinhalese and Tamil are the two official languages, with Tamil used mostly in the north and east. English is widely spoken.

2.6 Sri Lankans practise four major religions: Buddhism (70.2 per cent of the population, mostly Sinhalese in the Southern, Central and Eastern Provinces); Hinduism (12.6 per cent, mostly Tamils in the Northern Province); Islam (9.7 per cent, predominantly in the Eastern, Western and North-Western Provinces); and Roman Catholic and other Christian denominations (7.4 per cent, concentrated in the Western and North-Western Provinces). Fewer than 7,000 people claim membership of other religions.

ECONOMIC OVERVIEW

2.7 The World Bank classifies Sri Lanka as a lower middle-income country. Real GDP growth in 2017 was 4.7 per cent. Gross national income per capita was approximately USD 3,800 in 2016. Sri Lanka's economy has shifted from a reliance on agriculture (8 per cent of GDP in 2016) to growing services and manufacturing sectors (62 per cent and 17 per cent respectively in 2016). Public debt is high; some loans arranged to cover the cost of large infrastructure projects are subject to commercial rates of interest (or higher). Remittances are Sri Lanka's major source of foreign exchange earnings. Sri Lankans working abroad remitted approximately USD 7.2 billion in 2016. While poverty rates are relatively low (6.7 per cent of the population below the national poverty line), wealth and economic development are not evenly distributed. Colombo and the Western Province are relatively prosperous, while conflict-affected areas in the north and east remain economically vulnerable (see Economic conditions in the north and east).

2.8 Transparency International ranked Sri Lanka 91st out of 180 countries in its 2017 Global Corruption Perceptions Index, down eight places from 2015. International and local observers report high levels of corruption in the public sector, including involving senior members of former President Rajapaksa's administration. The Sri Lankan government established the Presidential Commission of Inquiry to Investigate and Inquire into Serious Acts of Fraud, Corruption as Abuse of Power, State Resources, and Privileges in March 2015 with a mandate to investigate large-scale acts of fraud and corruption between 2010 and 2015; it submitted its final report to President Sirisena in January 2018.

2.9 DFAT assesses that, despite the relatively strong rates of economic growth and low formal unemployment statistics overall, Sri Lankans perceive a lack of economic opportunities, including university education (see Education). DFAT assesses that economic reasons, particularly access to employment, act as a significant 'push factor' for external migration (see Employment).

Economic conditions in the north and east

2.10 Agriculture and fishing dominate the economies of the Northern and Eastern Provinces. In 2016, these two provinces reported the lowest median household income per capita across Sri Lanka. The drought of 2016 (which continued until early 2017) likely contributed to higher poverty levels through reduced agriculture income. There are high levels of indebtedness in both provinces, anecdotally reported to be higher in the east than the north. This is largely a result of a high take-up of self-employment loans from banks and microfinance companies at high interest rates in the post-war period.

2.11 Post-conflict reconstruction has benefitted the majority of the population, particularly in areas isolated during the conflict, although local companies have struggled to compete with companies from the south and abroad. The military operates a number of commercial businesses, including a domestic airline, hotels and roadside rest stops, in the Northern Province and in other parts of the country. Local communities in the north reported military involvement in commercial enterprises undercuts local businesses. The Sri Lankan government claims these activities provide employment opportunities for the local civilian population. While the government has overseen the return of some land occupied by the Sri Lankan military during the conflict, the military continues to occupy some fertile farming land in the north and restricts access to some fishing areas (see Security situation in the north and east). DFAT assesses that the poorer economic conditions in the north and east act as a driver for migration, both within Sri Lanka and abroad.

Education

2.12 Sri Lanka has a free primary to tertiary education system, which has contributed to high enrolment rates (98 per cent) and literacy levels (92.3 per cent). Public primary and secondary schooling in Sri Lanka is of a high standard, although education outcomes are worse in the north and east (see Children). Students can choose to be educated in either Sinhala or Tamil and all students study English from grade one. A lack of Tamil-speaking teachers hinders access to Tamil-medium education, and limited Sinhala and English-speaking teachers in the north and east also affects education and employment options. Muslims can choose to attend Islamic schools, which follow the national curriculum but include dedicated religious tuition. University entrance in Sri Lanka is merit-based, with entrance scores modified to take account of a district's socio-economic indicators. Demand far outstrips supply for university places.

Employment

2.13 Unemployment in Sri Lanka is relatively low at 4.4 per cent in 2016, but regional variations exist. The government's post-war infrastructure investment in conflict-affected areas generated few jobs, and unemployment in the Northern Province, 6.3 per cent, remains the highest in the country. Unemployment in the Southern (5.6 per cent), Eastern and Sabaragamuwa Provinces (both 5.5. per cent) is also higher than other parts of the country. Youth unemployment, at 21.6 per cent for 15 to 24 year olds in 2016, is high, and formal female labour participation, at around 36 per cent of females over 15 years of age, is low. In 2016, the agriculture and public sectors employed more than 25 per cent and 14 per cent of the workforce respectively. Foreign employment has trended downwards since 2014, with around 233,000 Sri Lankans departing to work abroad in 2016, mostly as skilled workers in the Middle East, compared with around 293,000 in 2013.

Health

2.14 Investment in the health sector increased following the conflict, and Sri Lanka has spent approximately 3.5 per cent of GDP per annum on health in recent years. The public health system offers universal free health care, but facilities vary between geographic locations because of decentralised service delivery. Some medicines and treatments are available only from private providers. Some specialist services are available in Colombo and district-level hospitals, including in the north and east. There are few hospitals in the war-affected interior areas of the east, and those in need of treatment must travel to district hospitals in Ampara and Trincomalee.

2.15 According to the World Bank, life expectancy in Sri Lanka in 2015 was 74.9 years and the infant mortality rate in 2016 was eight per 1,000 live births. Health outcomes are worse in the north and east, partly because of the delay in rebuilding destroyed infrastructure and diminution of human capital during the conflict.

2.16 Mental health services are scarce and institutional capacity to respond to mental health needs is weak. Mental illness is not widely discussed in Sri Lankan society and the stigma attached to those who seek treatment discourages others from doing so. Anecdotal evidence suggests a high incidence of trauma-related illnesses following the conflict, especially in the Northern and Eastern Provinces. Collective trauma, a lack of mental health support and high unemployment, especially among the young, have contributed to an increase in alcohol and drug abuse, suicide, domestic and societal violence in recent years.

POLITICAL SYSTEM

2.17 Sri Lanka is a democracy with a mixed parliamentary and presidential form of government. The Constitution was promulgated in 1978 and last amended in April 2015. The President is directly elected for a five-year term (limited to two terms) and is the Head of State, Head of Government and Commander-in-Chief of the Armed Forces. In January 2015, Maithripala Sirisena defeated Mahinda Rajapaksa, who had been president since 2005, with 51.3 per cent of the vote and a historically high voter turnout of 81.5 per cent. Sirisena had been a member of Rajapaksa's Cabinet. A split in the Sinhalese vote and a strong Tamil vote secured his victory. He appointed Ranil Wickremesinghe, leader of the former opposition United National Party (UNP), as prime minister.

2.18 Sri Lanka has a unicameral parliament with 225 members: 196 members directly elected from districts, and 29 elected through proportional representation. International and domestic election observers deemed the most recent parliamentary election in August 2015 to be credible. The results reinforced the outcomes of the presidential election, ushering in a 'national unity' government. The United Front for Good Governance, a coalition of parties including the UNP and Sirisena's Sri Lanka Freedom Party (SLFP) faction, won 106 seats on a 'good governance' platform promising economic growth, transparency, anti-corruption, ethnic reconciliation, and protection of individual freedoms and rights. Former President Rajapaksa's United People's Freedom Alliance (UPFA), including the Rajapaksa SLFP faction, secured 95 seats. The Tamil National Alliance (TNA) won 16 seats and smaller parties won the remaining eight seats. TNA leader Rajavarothiam Sampanthan became Opposition Leader.. Rajapaksa's faction contested local government elections on 10 February 2018 as the newly formed Sri Lanka Podujana Peramuna (SLPP) party. The SLPP performed strongly, emerging as the single largest party. The election result has put President Sirisena and Prime Minister Wickremesinghe under considerable pressure. Presidential elections are due in 2019, and parliamentary elections in 2020.

2.19 Sri Lanka has nine provincial councils, each led by a Chief Minister, whose members are elected for five-year terms. The president also appoints a governor to each province, to represent the central government for a period of five years. The tenure of governors roughly aligns with the term of the president. President Sirisena replaced all nine governors following the January 2015 presidential election.

2.20 The most recent provincial council elections were held in 2014. Under the Constitution, the governor directly appoints as Chief Minister the council member who is 'best able to command the support' of the majority of members. The TNA currently holds a majority of seats in the Northern Provincial Council and the Chief Minister is a prominent Tamil leader. There has not been Chief Ministers in the Eastern, Sabaragamuwa and North-Central Provincial Councils since September 2017. UPFA members dominate all other provincial councils, through which Rajapaksa continues to exercise significant influence. The central government postponed provincial elections due to be held in 2017 to a date to be determined in late 2018 (although further delays are possible).

2.21 The SLPP governs most of Sri Lanka's over 300 local councils.

Constitutional reform

2.22 On 28 April 2015, parliament fulfilled a Sirisena election commitment by amending the Sri Lankan Constitution to devolve some executive powers from the president to the prime minister, the cabinet and parliament. The 19th Amendment reduced presidential and parliamentary terms from six years to five, re-introduced a two-term limit for the president (removed in 2010), created independent commissions to oversee the judiciary, police, elections, human rights and the office of the Attorney-General, and re-established a Constitutional Council to make appointments to the new commissions.

2.23 The pace of constitutional reform slowed in 2017. In November and December 2017, the Constitutional Assembly debated recommendations of a steering committee addressing devolution of power in the provinces, electoral reform and powers of the presidency; at the time of publication, no decision had been reached. Devolution of power is particularly contentious in relation to the north and the east. A new Constitution would require the support of two thirds of the parliament and a majority vote in a referendum.

Reconciliation

2.24 In September 2015, the report of the UN's Office of the High Commissioner for Human Rights (OHCHR) investigation on Sri Lanka (OISL) found that both sides of the conflict likely committed grave violations, including possible war crimes and crimes against humanity. In response, the Sri Lankan government co-sponsored resolution 30/1 in the UN Human Rights Council (UNHRC), which, while recognising the progress Sri Lanka had made on reconciliation, committed the government to implementing a range of transitional justice and reconciliation initiatives. The UNHRC granted Sri Lanka an additional two years in March 2017 to implement its commitments under resolution 30/1.

2.25 On 18 December 2015, the Sri Lankan Cabinet approved the formation of the Secretariat for Coordinating Reconciliation Mechanisms within the prime minister's office to oversee mechanisms for advancing truth, justice and reconciliation in Sri Lanka: an Office of Missing Persons (OMP); an Office for Reparations; a Truth, Justice, Reconciliation and Non-Recurrence Commission; and a Judicial Mechanism with a special counsel. The Secretariat's mandate runs until March 2019. In January 2016, Prime Minister Wickremesinghe appointed an eleven-member Consultation Task Force on Reconciliation Mechanisms (CTF) to conduct public consultations on the design of the four mechanisms, but at the time of publication neither the government nor parliament had endorsed the report published by the CTF in January 2017. DFAT assesses that, if implemented effectively, these mechanisms can facilitate genuine reconciliation.

2.26 In October 2017, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence reported slow progress on the government's transitional justice agenda. In 2017, the government implemented the *Right to Information Act* (2016) in February, approved Sri Lanka's first National Policy on Reconciliation and Coexistence in May, and formally established the OMP in September.

2.27 The OMP is the first permanent and independent body to address the issue of missing persons in Sri Lanka. It has the power to investigate disappearances and trace missing persons, to search detention centres, to obtain documents and to summon people within Sri Lanka. It does not have prosecutorial powers. Its mandate includes cases that occurred before, during and after the conflict until the end of Rajapaksa's presidential term, including periods of violent political disturbance in the 1970s and 1980s. The previous Presidential Commission to Investigate into Complaints Regarding Missing Persons collected over 23,000 cases during its term from August 2013 to May 2016; the OMP may be asked to deal with a higher number. The OMP has no time limit on its mandate, and is likely to take years to complete its work. The 2018 budget allocated LKR 1.4 billion (approximately AUD 11.7 million) to establish the OMP, and the president appointed OMP commissioners in February 2018 on the recommendation of the Constitutional Council. The 2018 budget did not include allocations for the Office of Reparations, the truth commission, or the judicial mechanism.

HUMAN RIGHTS FRAMEWORK

2.28 Sri Lanka is a party to all major international human rights conventions, having ratified: the Convention on the Elimination of all Forms of Racial Discrimination, the International Covenant on Civil and

Political Rights and its First Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment and its Optional Protocol; the Convention on the Rights of the Child (and its Optional Protocols); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families; the International Convention for the Protection of all Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.

2.29 Sri Lanka's Constitution guarantees many internationally recognised human rights. Sri Lanka underwent its third Universal Periodic Review at the UNHRC in November 2017. Of the 230 recommendations made in the Universal Periodic Review, the government accepted 177, noted 53 and undertook 12 voluntary pledges. The government published a five year National Action Plan for the Protection and Promotion of Human Rights in 2017.

National Human Rights Institution

2.30 The Human Rights Commission of Sri Lanka (HRCSL) has a head office in Colombo and 10 field offices. The HRCSL has the authority to investigate infringements of fundamental rights and monitor the welfare of people in detention. The HRSCL has some capacity to undertake independent investigations, but does not have prosecutorial powers. It publishes quarterly reports in Sinhala, Tamil and English on the number of complaints received and resolved. Many complaints allege discrimination in school admissions and public sector promotions, but complaints also allege torture, threats and harassment, arbitrary arrest and detention, and inaction by government entities including the police. The HRCSL is mandated to advise government in formulating legislation and policy, to ensure domestic law and administrative practice comply with international human rights standards.

2.31 The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights downgraded the HRCSL to Status B accreditation in 2007 for failure to adhere to the Paris Principles, the international standards for national human rights institutions. This was on the grounds of the HRCSL not taking sufficient measures to ensure its independence in appointments, and failing to meet its annual reporting requirements. The HRCSL now considers itself fully compliant and at the time of publication is applying for Status A accreditation. The 19th Amendment to the Constitution in 2015 strengthened the independence of the HRCSL by removing the president's discretion to appoint members. The Constitutional Council now recommends appointments. The capacity of the HRCSL has also improved with the appointment in 2015 and 2016 of new commissioners with legal, academic and UN experience. The HRCSL has limited human and physical resources and inadequate procedures for complaint handling, which constrains its ability to provide timely responses to complaints and prioritise serious human rights cases. DFAT is not aware of individuals receiving threats for seeking HRCSL assistance to investigate disappearances.

SECURITY SITUATION

2.32 The security situation in Sri Lanka, particularly in the north and east, has significantly improved since the conflict ended in May 2009. The Sri Lankan government exercises effective control over the entire country.

2.33 Crime rates across Sri Lanka vary but are highest in Colombo District. The incidence of homicide has fallen sharply in recent years and is now comparable with other South Asian countries. UNODC estimated a murder rate of 2.9 per 100,000 in 2013. DFAT is aware of increased reports of gender-based violence in the north and east in recent years (see Conditions for women in the north and east).

2.34 Elections have historically been volatile periods in Sri Lanka. Violent incidents spiked in the weeks preceding the 2015 parliamentary elections, but reports of political violence have declined since the 2015 election. Independent election monitors recorded fewer violent incidents in the February 2018 local government elections, compared to previous elections.

Security situation in the north and east

2.35 The government no longer restricts travel to the north and east. It removed military checkpoints on major roads in 2015. Military involvement in civilian life has diminished, although military involvement in some civilian activities continues in the north (see Economic conditions in the north and east).

2.36 In 2017, the government reported it had released 24,336 acres of private land in the north and east since the end of the conflict, while the military continued to occupy 6,051 acres. Slow progress on land return and missing persons is driving continuing protests in the north, over ongoing military occupation of private land, and conflicting claims over private land by displaced people. In October 2017, the UN Special Rapporteur on truth, justice, reparation and guarantees of non-recurrence recommended relieving the security forces of the sole decision-making authority on the location and timing of land releases. The government has committed to pay compensation where security forces retain private land. Most of the remaining modest military presence in the north is confined to the Security Forces Cantonment on Jaffna Peninsula (also known as 'High Security Zones') or smaller surrounding military camps. The government has released most land from the High Security Zones in the Northern Province.

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 Sri Lanka is a party to the International Convention on the Elimination of All Forms of Racial Discrimination. 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'. The ethnic dimensions of the civil conflict, and Sri Lanka's previous discriminatory language policy, the 1956 *Official Language Act* (also referred to as the 'Sinhala Only Act') which listed Sinhala as the only official language, have shaped ethnicity and language as sensitive issues in Sri Lanka. An amendment to the Constitution in 1987 recognised Tamil as the second official language. In 2012, the Trilingual Policy gave Sri Lankans the right to communicate in Sinhala, Tamil or English throughout Sri Lanka. Under this policy, all civil servants employed after 1 July 2007 must be proficient in both official languages within five years of employment in order to receive annual salary increments. Ethnicity and language are fundamental considerations in the reconciliation process.

3.2 Most Sri Lankans tend to live within their own ethnic communities, although different ethnic groups live within close proximity in major urban areas. Colombo has roughly equal populations of Sinhalese, Tamils and Muslims. This is the outcome of Tamils and Muslims moving from other parts of the country to access greater economic opportunities in Colombo, and internal relocation due to the conflict. Tamils comprise most of the population of the Northern Province, and the isolation of the region during the conflict has left it less ethnically diverse.

3.3 DFAT assesses that Sri Lankans of all backgrounds face a low risk of official or societal discrimination based on ethnicity, including in relation to access to education, employment or housing.

Tamils

3.4 Tamils are the second largest ethnic group in Sri Lanka. According to the most recent census, the Tamil population was 3.1 million in 2012, compared to 2.7 million in 1981. Tamils live throughout Sri Lanka, concentrating in the Northern Province, where they comprise 93 per cent of the population, and the Eastern Province, where they comprise 39 per cent of the population.

3.5 Tamils have a substantial level of political influence and their inclusion in political dialogue has increased since the change of government in 2015. Tamil political parties are numerous, with the largest coalition of parties operating under the umbrella of the TNA. The Tamil Makkal Viduthalai Pulikal (formerly known as the Karuna Group) contested and won some seats in the February 2018 local government elections. The TNA's vote share dropped with a noticeable swing towards more hard-line Tamil groups in the local elections. Tamils faced less harassment during the 2015 presidential and parliamentary elections than in the 2010 elections. DFAT understands Tamils do not receive unwarranted attention from authorities

because of their political involvement, including with the TNA. DFAT assesses there are no barriers to Tamil political participation.

3.6 Some members of the Tamil community report discrimination in employment, particularly in relation to government jobs. Even the Tamil-dominated north and east have relatively few Tamil public servants. Despite government incentives, the number of Tamil-speaking police officers and military in the north and east remains small, and monolingual Tamil speakers can have difficulty communicating with authorities.

3.7 DFAT assesses that there is no official discrimination on the basis of ethnicity in public sector employment. Rather, limited Tamil appointments are a result of a number of factors, including disrupted education because of the conflict and language constraints.

Monitoring, harassment, arrest and detention

3.8 Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested or detained by security forces during the conflict. While LTTE members and supporters were almost all Tamil, security forces also imputed LTTE support based on ethnicity, and emergency regulations were, at times, applied in a discriminatory manner (see Political Opinion (Actual or imputed)).

3.9 Members of the Tamil community in the north and east continue to claim that authorities monitor public gatherings and protests, and practise targeted surveillance and questioning of individuals and groups. In the north, security forces are more likely to monitor people associated with politically sensitive issues, including missing persons, land release and memorial events (see Civil society organisations and government critics and Media). Police increased their presence following a rise of criminal activity and violent attacks that authorities attributed to the Avaa group (alleged to comprise former LTTE members recruited by military intelligence) in Jaffna and other parts of the Northern Province in 2016 and 2017. One measure was the establishment of security checkpoints on the A9 highway (the major road into Jaffna from the south) in November 2017, where authorities stopped private and public vehicles and searched luggage.

3.10 Communities in both the north and east report that monitoring is undertaken by military intelligence and the Police Criminal Investigation Department, though in many cases officers dress in plain clothes and do not identify themselves. Some members of the Tamil community reported they felt more empowered to question monitoring activities. In the east, local informants within the community (including neighbours and business owners) reportedly undertook monitoring on behalf of the authorities. Intelligence agencies also monitor links to foreign groups, including some in the Tamil diaspora.

3.11 DFAT assesses that, while monitoring of Tamils in day-to-day life has decreased significantly under the current government, surveillance of Tamils in the north and east continues, particularly those associated with politically sensitive issues.

3.12 During the conflict, authorities detained more Tamils under the *Prevention of Terrorism Act* (1978) (PTA) than any other ethnic group. Since 2015, the government has reviewed some cases of persons still detained under the PTA and released some detainees, mostly Tamils (see Arbitrary Arrest and Detention). The PTA is currently suspended but remains legally in force.

RELIGION

3.13 Religion plays a significant role in daily life in Sri Lanka and strongly correlates with ethnicity: most Sinhalese are Buddhist and most Tamils are Hindu. A minority of each ethnicity is Christian. Muslims are considered a separate ethnic group. The government has publicly declared its commitment to religious and ethnic reconciliation.

3.14 Article 10 of the Constitution provides for freedom of religion, and Article 14 for freedom of public and private worship. However, Article 9 of the Constitution grants Buddhism a 'foremost place'. In 2003, the Supreme Court ruled that the state was constitutionally required to protect only Buddhism. The constitutional reform process has included discussion of amending Article 9. Acts intended to insult religion are punishable by a fine and/or a maximum of one year in prison. Attacking places of worship or religious objects is punishable with a fine and/or a maximum of two years' imprisonment.

3.15 Sri Lanka recognises religious holidays for Buddhists, Hindus, Muslims and Christians. Prominent Buddhist, Hindu, Muslim and Christian leaders attend national functions, although most events include only Buddhist rituals. Ministers with portfolio responsibilities for the four major religions are practising followers of the faith for which they are responsible. School students are able to study their choice of Buddhist, Hindu, Muslim and Christian religious classes in most public and private schools, depending on the availability of teachers. There are some Hindu and some Muslim public schools.

3.16 DFAT is aware of reports that the former Rajapaksa government sanctioned religious discrimination, including by supporting the extremist Buddhist group *Bodu Bala Sena* (BBS, English: Buddhist Power Force). DFAT is aware of reports from 2017 of local authorities seeking to close places of worship, questioning the status of religious registration, and inconsistently applying the law against perpetrators of discrimination and religious violence. Some local government officials and police continue to refer to a 2008 circular of the Ministry of Buddha Sasana and Religious Affairs, revoked in 2015, which states that all new constructions of places of worship require the approval of the Ministry. DFAT is aware of reports of children being denied admission to schools because of their religious background, and of children being forced to observe Buddhist rituals in state schools.

3.17 DFAT assesses that while no laws or official policies discriminate on the basis of religion, adherents of religions other than Buddhism face a low risk of official discrimination from local government authorities, which can affect their ability to practise their faith freely.

Muslims

3.18 Muslims are the third largest religious group in Sri Lanka. Between 1981 and 2012, Sri Lanka's Muslim population grew by over 40 per cent, from 1.12 million to 1.97 million. Most Muslims speak Tamil as their first language. Muslim communities live throughout Sri Lanka, including in Colombo and Kandy, with larger communities in the east in Ampara, Batticaloa and Trincomalee, and in the west in Mannar and Puttalam. The majority (98 per cent) of Muslims in Sri Lanka are Sunni. A small number of Shi'a, including members of the Bohra community from India, reside mostly in Colombo. The Malay community, largely comprising descendants of Malay members of the Ceylon Police Force, is Muslim and a few of its members hold senior positions in the Sri Lankan military and police. The Urdu-speaking Memon community of Indian or Pakistani descent mostly lives in Colombo. Sri Lanka also hosts a small number of Muslims who follow the Sufi tradition. Muslim property rights fall under state law while *sharia* (Islamic) law and cultural practice apply to marriages. Although many Muslims work in agriculture and fisheries, many also work in business, industry and the civil service. In November 2017, some Muslim businesses were temporarily boycotted because of tensions between the Tamil and Muslim communities in Batticaloa.

3.19 The Sri Lanka Muslim Congress (SLMC), the largest Muslim political party, has seven members of parliament and is part of the governing coalition. The SLMC's leader is a Cabinet Minister. In 2015, the All Ceylon Muslim (Makkal) Congress joined other anti-Rajapaksa parties to form the United National Front for Good Governance. The party holds five seats in parliament. The SLFP and the UNP both have Muslim members in parliament, including in ministerial-level positions.

3.20 Although most Muslims sided with the (Sinhalese) government forces during the conflict, religious tensions between Muslims and the Sinhala Buddhist majority have risen since the end of the conflict. Nationalist Buddhist groups such as the BBS, *Sinha Le* (English: Lion's Blood), and *Sinhala Ravaya* (English: Sinhalese Roar) continue to stoke religious and ethnic tensions, including through social media posts. Greater freedom of expression under the current government has enabled an increase of hate speech against Muslims and other religious minorities in Sri Lanka.

3.21 Minority Rights Group International reported 60 incidents of hate speech, discrimination or attempts to desecrate or destroy Muslim religious buildings in the first six months of 2016. The OHCHR reported 30 registered incidents of violence against Muslims across the country around May 2017, mostly against Muslim-owned businesses and mosques, and accompanied by anti-Muslim rhetoric from Sinhala Buddhist groups such as the BBS. In September 2017, a mob led by Buddhist monks reportedly belonging to the organisation Sinhalese Nationalist Front vandalised and attempted to storm a Colombo house where 31 Muslim Rohingya refugees were staying. Buddhist groups burned more than 70 Muslim shops and houses in Gintota, Southern Province, in November 2017. The Muslim Council of Sri Lanka wrote to Prime Minister Wickremesinghe in May and September 2017 urging the government to take action against the hate speech and violence targeting the Muslim community. President Sirisena has committed to investigate anti-Muslim hate crimes and bring perpetrators to justice, although local sources claim that for political reasons authorities are reluctant to address violence perpetrated by religious clerics due to concern of public backlash. According to the US Department of State, local police and local government officials sometimes tacitly support Sinhala Buddhist nationalist groups by failing to respond to complaints of harassment or property damage by Buddhist monks.

3.22 On 6 March 2018, the government declared a nationwide State of Emergency for 12 days in response to incidents of communal unrest between members of the Sinhalese Buddhist and minority Muslim communities in Kandy District, Central Province. Despite the deployment of high numbers of military and police, several arrests and extended curfews, violence continued in several towns around Kandy until 7 March, and four people (two Muslims and two Sinhalese) were killed and dozens injured. Police arrested the leader of the Buddhist extremist group *Mahason Balakaya* (English: Strong Ghost Regiment), Amith Weerasinghe, in relation to the violence. The events in Kandy represented the largest violent incident between Buddhist and Muslim communities since June 2014 when Galagoda Aththe Gnanasara, General Secretary of BBS, delivered a speech that many blamed for inciting riots in Aluthgama that lasted two days; Police arrested and subsequently released Gnanasara on several occasions. The events in Kandy followed a smaller incident on 27 February 2018 whereby Buddhist nationalist groups perpetrated arson attacks against Muslim-owned residences, shops and a mosque in Ampara, Eastern Province. Rumours that a Muslim restaurant was mixing 'sterilisation drugs' in its food to make Sinhalese women infertile triggered the attacks. Social media aggravated both the Kandy and Ampara incidents.

3.23 In 2016 and 2017, local groups reported the construction of Buddhist shrines in the north and east in Hindu and Muslim areas with few, if any, Buddhist residents. In some locations in the north, the military was reportedly involved. In 2016, *Sinha Le* reportedly orchestrated protests against the construction of a mosque in Kandy.

3.24 A lack of reliable statistics precludes an accurate assessment of whether incidents are increasing, but supporters of Sinhala Buddhist nationalist groups have engaged in a sustained campaign of hate speech against Muslims in recent years. While there have been incidents of property damage and personal violence, overall violence remains sporadic. DFAT assesses that Sri Lankan Muslims face a low risk of official and societal discrimination and a low risk of violence.

Christians

3.25 Around 82 percent of Christians in Sri Lanka are Roman Catholic. Other Christian denominations include Anglicans, Assembly of God, Baptists, The Church of Jesus Christ of Latter-day Saints (Mormons), the Dutch Reformed Church, Jehovah's Witnesses, Methodists, and Pentecostals. Membership of evangelical Christian groups remains relatively low, but is growing. There is a sizeable Tamil Christian community.

3.26 The National Christian Evangelical Alliance of Sri Lanka (NCEASL) documented 96 attacks against Christians during 2017, compared to 90 in 2016 and 89 in 2015. The incidents primarily involved violence, discrimination and intimidation, but also included demands for closure of churches, legal challenges and police inaction. In some cases, local officials requested evangelical Christian churches to register as places of worship, although no law or regulation requires registration. Buddhists were the perpetrators of most of the reported incidents, followed by Hindus and, to a lesser extent, Catholics against other Christian denominations. DFAT is aware of reports of Hindu and Buddhist mobs preventing Christians from burying their dead in public cemeteries in the North Central and Eastern Provinces in recent years.

3.27 In June 2017, the then Justice Minister, Wijeyadasa Rajapakshe, publically threatened to disbar human rights lawyer Lakshan Dias after Dias appeared on a talk show where he cited an NCEASL report on attacks on Christian places of worship.

3.28 DFAT assesses that Christians in Sri Lanka face a low risk of official and societal discrimination. The number of incidents targeting Christians has remained largely static over recent years, and is highest in Buddhist majority regions in the North Central, South and Western Provinces. DFAT is not aware of any specific incidents in 2017 attributed to the BBS.

Hindus

3.29 Most Tamils in Sri Lanka are Hindu. In December 2016, Minority Rights Group International reported allegations by activists and politicians of violations affecting Hindu places of worship. The 2017 report by the UN Special Rapporteur on minority issues reported allegations of '… systematic, government-sponsored movements of Sinhalese settlers to the Tamil-speaking areas [in the north and east] that are intended to change the demographics of the region, to the political disadvantage of the minorities.' This included the rapid development of new Sinhalese settlements and military-assisted construction of Buddhist statues and temples in areas that have no Buddhist population. DFAT is not aware of any organisations in Sri Lanka that systematically document violations against Hindus, and as such cannot verify this information.

Interfaith/interreligious marriages

3.30 No official data records the incidence or nature of interfaith/interreligious marriages, but anecdotal information suggests that they are rare. Sri Lankan Muslims seem more likely to marry Christians than members of other faiths. A non-Muslim wishing to marry a Muslim must convert to Islam and raise any children as Muslim. DFAT is aware of reports that such conversions are sometimes symbolic. The BBS has in the past raised concerns over marriages of Buddhist women to Muslim men, couched in terms of Muslim expansionism within Sri Lanka. Within the Muslim community, social stigmas attach to those who marry outside the faith. Marriage between Christians and Hindus is more common than any other kind of interfaith marriage in Sri Lanka, and Christians and Hindus co-exist peacefully in the north. Sinhalese Buddhists sometimes marry Christians. DFAT is not aware of any discrimination against children of mixed marriages. State, rather than religious, law governs most mixed marriages.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.31 Sri Lanka has regularly held democratic elections since independence. Large-scale violence and vote rigging have never been features of elections, but nor have they always been described as entirely free and fair. The Commonwealth Observer Group said the most recent (2015) national elections were '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

3.32 No constitutional, legal or other restrictions bar minorities from participating in politics. Sri Lanka has a diverse political landscape, with 70 registered political parties representing ethnic, religious or ideological interests. Political representation in parliament is broadly proportional to the overall population. The current parliament includes 29 Tamils and 21 Muslims among its 225 members. President Sirisena presides over a diverse coalition of more than a dozen political parties, which are comprised predominantly of Sinhalese Buddhists but also include Muslim and Tamil members.

3.33 Sri Lanka has no banned political parties and all parties operate freely within the same legal framework. DFAT is not aware of any evidence to suggest that Sinhalese, Tamil, Muslim or other parties face any differences in treatment. The PTA restricts certain actions by political parties or groups. Specifically, any person who 'causes or intends to cause commission of acts of violence or religious, racial or communal disharmony' can face a maximum of five years' imprisonment.

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

Liberation Tigers of Tamil Eelam (LTTE)

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

3.36 Towards the end of the conflict, government security forces arrested and detained a large number of LTTE members. Most were sent to government-run rehabilitation centres. A smaller number were prosecuted through Sri Lanka's court system. Security forces also questioned or monitored many civilians for possible LTTE activity, and for civil resistance or anti-government sentiment. Although not officially mandated, in many areas the military took a visible and active role in civilian life. Since 2015, the government has publicly committed to reducing military involvement in civilian activities.

3.37 Sri Lankan authorities remain sensitive to the potential re-emergence of the LTTE throughout the country. According to expert testimony provided to a hearing of the UK's Upper Tribunal on Immigration and Asylum, Sri Lankan authorities collect and maintain sophisticated intelligence on former LTTE members and supporters, including 'stop' and 'watch' electronic databases. 'Stop' lists include names of those individuals who have an extant court order, arrest warrant or order to impound their Sri Lankan passport. 'Watch' lists include names of those individuals whom the Sri Lankan security services consider to be of interest, including for suspected separatist or criminal activities. The UK Home Office reported that the 'watch list' comprised minor offenders and former LTTE cadres. DFAT assesses those on a watch list are likely to be monitored.

3.38 Former LTTE members face no legal barriers to participating in public life, including politics. In the August 2015 parliamentary elections, the TNA did not allow ex-LTTE members to run on their ticket, but ex-combatants established the Crusaders for Democracy group and ran for election. While they did not win any seats, their participation demonstrated the openness of the electoral process.

3.39 DFAT assesses that the LTTE no longer exists as an organised force in Sri Lanka. Any former LTTE members within Sri Lanka would have only minimal capacity to exert influence on Sri Lankans, including those returning from abroad. The government has demonstrated a commitment to easing restrictions: in November 2015, it reviewed its United Nations Security Council Resolution 1373 list and removed eight Tamil diaspora organisations and 269 individuals from its terrorist list.

3.40 Some members of the LTTE (and the Sri Lankan forces) may be ineligible for international refugee protection because of involvement in war crimes and serious violations of human rights committed during the conflict. Such crimes include: abductions and enforced disappearances; indiscriminate attacks on civilians; forced displacement; torture and other cruel, inhuman and degrading treatment; murder, including political assassination; mass killings; extrajudicial and summary executions; rape; and forced recruitment for the commission of attacks and/or military service and/or labour, including recruitment (sometimes through abduction) of children.

Rehabilitation

3.41 Since the end of the civil conflict, the Sri Lankan government has managed a large-scale rehabilitation process for former LTTE. The government established 24 rehabilitation centres in the Northern, Eastern and Western Provinces for approximately 12,000 former LTTE members who surrendered in 2009. The Bureau of the Commissioner General of Rehabilitation used a 'three pronged approach' to manage the arrested LTTE members: those to be investigated and prosecuted under normal court of law; those to be rehabilitated; and those to be released upon confirmation by intelligence agencies of their peripheral involvement in the conflict. LTTE members undergo two forms of profiling: psychosocial, including an assessment of their level of radicalisation; and socioeconomic, including education, professional skills and vocational interests. Personal files assess the progress of former LTTE in terms of rehabilitation and de-radicalisation. Rehabilitation is typically a one-year program, extended to up to two years for those considered to be highly radicalised. The first six months of the program focuses on 'rehabilitation of the mental and physical state', including education, spiritual, religious and cultural training and sports, and the last six months is dedicated to vocational training.

3.42 Although the activities undertaken in the rehabilitation centres vary, vocational training for men includes welding, masonry, plumbing, driving, tailoring, wiring, language, computer skills and vegetable cultivation. Women receive training in cookery, beauty therapy, tailoring, language and computer skills. Former child soldiers are able to complete their education. While many of those who have completed rehabilitation have reported difficulty finding regular employment following their release, others have said the vocational skills gained during rehabilitation made them more employable. The unemployment rate among rehabilitated former LTTE members, particularly women, is reportedly higher than the national average but this may reflect factors such as the weaker economic conditions in the north and east, conflict-related disabilities, and a reluctance to hire known former LTTE members. The 2018 budget allocated LKR 25 million (approximately AUD 209,000) for rehabilitated ex-combatants in the north and east to attain National Vocational Qualifications.

3.43 According to the Bureau of the Commissioner General of Rehabilitation, by November 2017, 12,882 people, primarily former LTTE, had completed rehabilitation. Only one centre with eight inmates remained open in Vavuniya in December 2017. In 2016, Vavuniya inmates reported conditions were significantly better than in prison. Other centres have redeployed for drug rehabilitation.

3.44 The rehabilitation program is expected to conclude once the last intake has completed the one-year program. The government estimates 5,000 undisclosed ex-combatants remain in the community. Ex-combatants are reluctant to identify as such for fear of rehabilitation or prosecution. A Sri Lankan official told DFAT that former LTTE members who are not already rehabilitated are unlikely to be rehabilitated now. Extension of the program would create an obligation for the government to support the families of new inmates while they undergo rehabilitation. DFAT is not aware of rehabilitation being imposed on any former LTTE members who have returned from Australia.

3.45 Although no formal parole arrangements apply, former LTTE members are required to register with the Civil Affairs Office of their local military unit and may be subject to monitoring, the level of which would depend on the degree of their assessed LTTE involvement. Most individuals released from rehabilitation centres have returned to their places of origin upon release and, like all other citizens, are required to register with a local *grama niladhari* (village officer) to receive financial and other support for repatriation and access to public services. Some international and domestic NGOs also provide post-release support. DFAT understands that no travel restrictions apply to rehabilitated former LTTE members, who may obtain a passport. Some may limit their own travel to avoid telling authorities of their movements.

3.46 DFAT is aware of reports that more than 150 former LTTE members died of cancer after being in rehabilitation camps. Some Tamil political leaders, including Northern Province Chief Minister Wigneswaran, raised allegations in 2015 and 2016 that former LTTE members received poisonous injections during rehabilitation resulting in fevers, heart disease and cancer. The Northern Provincial Council directed its health ministry to investigate over 200 allegations and concluded there was no evidence of injections.

3.47 The government has used the rehabilitation process to screen and profile LTTE members through interviews, informants and other relevant information to assess individuals' depth of involvement, period of involvement and activities. Security forces can use such information to categorise individuals and potentially to determine whom to prosecute for terrorism or other offences. DFAT is not aware of specific cases where this has occurred.

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

3.48 In 2012, UNHCR identified a range of people with real or perceived links to the LTTE:

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

3.49 Some Tamils with imputed LTTE links reported police monitoring and harassment in 2016. The UK Home Office assessed in 2017 that anyone actively promoting Tamil separatism could risk persecution.

High profile former LTTE members

3.50 The LTTE's former leadership face the highest risk of monitoring, arrest, detention or prosecution, regardless of whether they performed a combat or civilian role during the conflict. Although most of the LTTE's leadership died during the conflict, a number surrendered or were captured and sent to rehabilitation centres or prosecuted. Some former leaders may have left Sri Lanka before, during or after the conflict (see Former LTTE members living outside Sri Lanka). Others considered 'high profile' include former members suspected of terrorist or serious criminal offences during the conflict, or of providing weapons or explosives to the LTTE.

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

3.52 DFAT assesses that the number of high profile former LTTE members living in Sri Lanka is small and the vast majority would already have come to the attention of the authorities. DFAT further assesses that any remaining high profile former members who came to the attention of Sri Lankan authorities would likely be arrested, detained and prosecuted through Sri Lanka's criminal courts. Following their release from prison, high profile former LTTE members would likely continue to be monitored by Sri Lankan authorities.

Low profile former LTTE members

3.53 'Low profile' former LTTE members include former combatants, those employed in administrative or other roles and those who may have provided a high level of non-military support to the LTTE during the conflict. DFAT assesses that, although the great majority of low profile former members have already been released following their rehabilitation, any other low profile LTTE members who came to the attention of Sri Lankan authorities would be detained and may be sent to the remaining rehabilitation centre. Following their release from rehabilitation, low profile former LTTE members may be monitored but generally are not prosecuted.

Former LTTE members living outside Sri Lanka

3.54 At least one million Sri Lankan Tamils live outside Sri Lanka, mostly in Canada, Europe, Australia, Malaysia, and the Indian state of Tamil Nadu. Members of the Sri Lankan Tamil diaspora may be citizens or legal residents of those countries, or dual nationals. Some members of the Tamil diaspora return to Sri Lanka to visit family members, for holidays and for business. Remittances from the Tamil diaspora continue to provide an important source of income for family and community members in Sri Lanka.

3.55 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 to raise funds from Tamil diaspora communities.

3.56 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 because of their participation in such demonstrations.

3.57 A large number of Sri Lankan Tamil refugees live in camps in Tamil Nadu; in September 2017, the population of these camps was 62,209 (see Returnees from Tamil Nadu). Of this number, 20 people reside in a 'special camp' in Tiruchirappalli, Tamil Nadu, managed by the Tamil Nadu Prisons Department. DFAT cannot verify the profile of the Tiruchirappalli camp population, but understands this camp houses former LTTE members. After the end of the conflict, the camp population has included Sri Lankan Tamils travelling without valid identity documentation and other foreigners arrested under the provisions of India's *Foreigners Act* (1946). DFAT understands that, unlike other refugee camps in Tamil Nadu, special camp

inhabitants are not permitted to leave, and they may not be eligible for benefits that other Sri Lankan Tamil refugees receive.

3.58 The government has publicly encouraged all Sri Lankans living overseas to return or invest in the Sri Lankan economy. DFAT assesses Sri Lankan authorities may monitor members of the Tamil diaspora returning to Sri Lanka, depending on their risk profile.

Family members of LTTE

3.59 The Sri Lankan government acknowledges that ex-combatants and their families may continue to face discrimination both within their community and from government officials. The TNA and the Tamil Civil Society Forum reported in 2016 that authorities continued to follow and monitor former LTTE cadres and their families. DFAT cannot verify claims that people have been arrested and detained because of their family connections with former LTTE members, but understands that close relatives of high profile former LTTE members who are wanted by Sri Lankan authorities may be subject to monitoring.

Arrest, Detention and Prosecution

3.60 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. Under the PTA, which is currently suspended but still in legal force, authorities can hold suspects without charge for extendable three-month periods, not exceeding a total of 18 months, though some persons have been held for more than 10 years. In addition to those arrested under the PTA, some former LTTE members have faced other criminal charges.

3.61 Modest numbers of former LTTE members continue to be detained and prosecuted within Sri Lanka's criminal justice system. In November 2015, then Justice Minister Wijeyadasa Rajapakshe publicly reported that 204 suspected LTTE cadres (including around 50 in rehabilitation centres) remained in government custody, 56 had been convicted, and trials were in process for 124. DFAT is unable to verify independently the number of former LTTE members in places of detention other than rehabilitation centres.

3.62 The Attorney-General may seek a person's admission to a rehabilitation program, a prison sentence, or dismissal of a case. Case dismissals have been rare, and recommendations for rehabilitation alone have applied only to low profile detainees. Some high profile detainees have received prison sentences following their release from rehabilitation centres.

3.63 DFAT has no information on conviction rates for LTTE members, but the lower standards required for cases brought under the PTA suggests the potential for a higher rate of conviction.

Societal discrimination

3.64 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. Tamil populations in these areas understand that many people were forced to participate in LTTE activities, and DFAT assesses that societal discrimination against low profile LTTE members is low, although some have faced difficulty finding employment, as some potential employers are concerned about increased police and military attention (see Rehabilitation). Societal discrimination against former LTTE members is also related to caste, as the majority of former LTTE members are lower caste.

3.65 Local NGOs report that female former LTTE members face additional difficulties, including the risk of sexual harassment and stigmatisation within the community, and difficulties finding a marriage partner or securing employment. DFAT has been unable to verify these claims. Women who were forcibly recruited are more likely to be accepted back into their communities than LTTE volunteers.

3.66 DFAT assesses that members of the LTTE suspected of serious human rights violations against Tamils face a moderate risk of societal discrimination. This includes those believed to be responsible for forced recruitment, particularly of children, or those suspected of torture or other mistreatment of Tamil civilians.

Scarring

3.67 DFAT is aware of reports that people with conflict-related scarring are more likely to attract adverse attention from the Sri Lankan authorities. Freedom from Torture's 2011 report 'Out of the Silence' documents an unidentified number of people detained by Sri Lankan authorities in April or May 2009, because their scarring was deemed evidence of LTTE membership. The cases raised in the report date from the immediate end of the conflict and DFAT is unaware of more recent evidence of people being detained because of scarring. DFAT is aware of the conclusions of the UK Court of Appeal in 2017 of self-inflicted scarring in the case of an asylum claimant who alleged torture because of his previous links to the LTTE.

GROUPS OF INTEREST

Internally Displaced Persons (IDPs)

3.68 The conflict displaced 930,986 individuals (269,117 families), mostly Tamils and Muslims. By July 2017, the government had resettled 890,258 IDPs (256,323 families), with most returned to their original places of residence in the Northern and Eastern Provinces. According to the Ministry of Resettlement, Rehabilitation, Hindu Religious Affairs, and Prison Reforms, 40,728 IDPs (23,794 families) from the Northern and Eastern Provinces are still to be resettled. Substantial numbers of IDPs remain in the north, with 2,998 individuals (765 families) still living in 29 welfare camps, and 35,915 individuals (11,245 families) in host communities, mostly in Jaffna, Kilinochchi and Puttalam. Numbers are lower in the east, with 1,815 individuals (784 families) in host communities, mostly in Trincomalee, and no IDPs remaining in welfare camps. IDPs living in host communities receive government resettlement assistance, which includes housing renovation and construction and livelihood support. They must register with the government to receive assistance. IDPs in welfare camps no longer receive government protection or assistance.

3.69 The Sri Lankan government has committed to returning land to people displaced during the civil conflict, including people who were landless. The 'National Policy on Durable Solutions for Conflict-affected Displacement', released on 16 August 2016, '…commits the State to release in a timely manner all state-held land from which people were displaced or which they owned, retaining only that land legitimately required for public purposes in exceptional cases.' In reality, the military has been slow to release the land in the north and east, and IDPs are not always able to select their preferred location. By November 2017, the government had identified land it would retain, for which compensation would be provided. It is not clear whether the released land will be sufficient to accommodate the remaining IDPs.

3.70 In addition to delays in returning military-held land, loss of deeds or other ownership documents, and the destruction or new occupancy of land and property have complicated resettlement. Most returning IDPs have lost most of their physical and financial assets. Without a registered, permanent address, displaced communities are unable to vote. They also report difficulties in accessing education, employment and public services, due to discrimination from both majority host communities and local officials, and limited government financial assistance, including for housing. Protracted displacement and scarcity of resources have also created conflict between and within minority groups and displaced and host communities. In March 2017, the government declared four forest areas in the Northern Province as

conservation reserves; this land has been contested as the place of origin of a number of Muslim IDPs evicted by the LTTE in the 1990s.

3.71 The IDPs in welfare camps in the north initially had priority for resettlement over other categories of IDPs. Many long-term IDPs have established their lives in their area of displacement, and some have chosen not to return, or have been unable to return, to their areas of origin. These include 75,000 to 100,000 Muslims whom the LTTE moved to Puttalam. The UN Special Rapporteur on minority issues reported in January 2017 that fewer than 20 per cent of Muslim IDPs had resettled, and 33,974 Muslims continued to reside in displacement camps. DFAT assesses that the low rate of Muslim IDP resettlement is partly attributable to the exclusion of Muslim IDPs from various forms of government resettlement assistance, and to the prioritisation of more recent IDPs. The 2018 budget allocates LKR 2.5 billion (approximately AUD 20.9 million) to resettle Muslim IDPs evicted from the north, including housing and infrastructure development.

Returnees from Tamil Nadu

3.72 An estimated 102,000 Sri Lankan Tamils reside in the southern Indian state of Tamil Nadu, most of whom fled the conflict in the mid-1980s, or are the descendants of those who fled. The majority (62,209 as at September 2017) resides in one of 108 Tamil Nadu government-administered camps in 24 districts, with the remainder living freely outside the camps. The Indian government provides education, healthcare, security, social security and amenities. Sri Lankan Tamils have limited work and education rights in India, and have no pathway to citizenship.

3.73 Since the end of the conflict, the number of Sri Lankan Tamils returning from Tamil Nadu to Sri Lanka has been low: fewer than 7,000 have returned with UNHCR assistance. UNHCR support includes a one-off cash grant of LKR 10,000 (approximately AUD 80) per person or LKR 50,000 (approximately AUD 415) per family, and LKR 5,000 (approximately AUD 40) per person or LKR 10,000 per family for non-food items. UNHCR also provides LKR 2,500 (approximately AUD 20) per person for transportation assistance from Colombo airport to their place of origin. Colombo airport is currently the only entry point for returns, but Indian and Sri Lankan officials have had some discussion on the resumption of a ferry service. Informal returns are not eligible for UNHCR cash grants or non-food items.

3.74 Since the change of government in 2015, more Sri Lankan Tamils are considering repatriation. In 2016, 850 Sri Lankan refugees voluntarily repatriated from India through UNHCR's programme (and an additional 49 refugees, known to UNHCR, returned spontaneously), compared with 452 in 2015. In May 2017, UNHCR in Tamil Nadu held an event to inform Sri Lankan refugees of repatriation processes. The Indian government agreed to fund returnees' daily needs for at least three months in Sri Lanka.

3.75 Significant administrative barriers hinder large-scale repatriation, including difficulties obtaining identity documentation, access to government or non-government assistance in Sri Lanka, recognition of qualifications gained in India, and logistical restrictions limiting returnees to 50 kilograms of luggage on their repatriation flight. Returnees from Tamil Nadu report challenges in obtaining well-paid employment and housing, due to unclear official processes and social stigma, and in meeting the cost of basic needs that the Indian government provides to refugees in Tamil Nadu camps. A slight difference in Tamil dialects in Sri Lanka and Tamil Nadu causes further challenges. DFAT assesses that returnees can have difficulty obtaining access to official support to facilitate return from Tamil Nadu to Sri Lanka, and this lack of access is the primary cause of administrative and lifestyle difficulties upon return.

Civil society organisations and government critics

3.76 A broad range of NGOs and civil society groups are active in Sri Lanka. NGOs are required to register with the National Secretariat for NGOs. DFAT assesses that, under the previous Rajapaksa government, NGOs and their staff, especially those working on human rights issues, risked official harassment, 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 of being backed by 'foreign' or 'western' powers. NGO and civil society workers reported threats (including death threats) and intimidation. Authorities detained and questioned NGO workers, searched their offices and equipment, and seized documents. International NGO staff sometimes faced difficulties obtaining or renewing work visas.

3.77 The government has publicly committed to allow freedom of speech and end surveillance of NGO workers and journalists. NGOs operate freely but restrictions still apply to activities involving politically sensitive issues, particularly in the north and east. In May 2017, police summoned human rights defender Father Elil Rajan three times in one week in Mullaitivu, Northern Province, over his organisation of memorial events for Tamils killed in the conflict. Civil society groups, including in the north and east, report that, while operational conditions have improved under the current government, surveillance had increased in 2017, particularly in relation to missing persons, land release and memorials.

3.78 Article 14(1) of Sri Lanka's Constitution guarantees freedom of speech and expression, freedom of peaceful assembly and freedom of association. The UK Home Office in 2017 reported some incidents of harassment and monitoring of government critics, particularly activists involved in protests. Freedom House reported that harassment of student leaders and activists continued in 2016. DFAT assesses that the government increasingly tolerates political dissent in Sri Lanka, but limits still apply.

Media

3.79 The government re-established the Sri Lanka Press Council, a regulatory body appointed by the president, in 2015. The state owns two major television stations, radio networks and a large newspaper group publishing in Sinhala, Tamil and English. Many privately owned and operated television and radio stations, newspapers, magazines and websites broadcast and publish in Sinhala, Tamil and English. The *Right to Information Act* took effect in February 2017 and is being used by citizens seeking official information.

3.80 The Constitution guarantees freedom of speech and expression, and the government largely respects these rights. Sri Lanka ranked 141st of 180 countries on the 2017 Reporters Without Borders Press Freedom Index. This was the same ranking as 2016, but an improvement from 165th in 2015. The government relaxed formal censorship of national security and defence reporting after the end of the conflict, and the current government appears to have relaxed further. Internet freedom has improved with the removal of blocks on many websites, although in November 2017, authorities restricted access to a diaspora website critical of President Sirisena. In March 2018 following the declaration of a State of Emergency to address communal tensions, social media platforms were also temporarily blocked or limited across Sri Lanka to restrict the spread of hate speech (see Muslims). The UK Home Office reported in 2017 that press freedom had significantly improved since 2015, with journalists able to report freely without fear of reprisal. Media workers in Sri Lanka reported to DFAT that they no longer practised self-censorship in reporting, but that authorities continued to monitor them, particularly when covering sensitive issues, including political prisoners. DFAT assesses that authorities may monitor media workers, especially those outside Colombo.

3.81 In 2017, the UK Home Office reported a significant reduction in verbal and physical attacks on journalists. The US State Department in 2016 said that 'journalists reporting on sensitive topics were

sometimes subject to arrest, physical violence, harassment, and intimidation, particularly by the local police.' DFAT is aware of isolated threats against journalists, and assesses that journalists with prominent or powerful connections are less likely to suffer harassment or intimidation. DFAT is aware of historical attacks against particular media outlets, including police raids, attacks against individual journalists and editors, and arson, but is not aware of any recent reports of violence. As such, DFAT assesses that incidents of harassment and violence against journalists have reduced in frequency since 2015.

3.82 The government has committed to investigate journalist deaths and disappearances during the conflict. In February 2017, Sri Lankan police arrested three members of the military for the 2008 abduction and assault of journalist Keith Noyahr. In the same month, five military intelligence officers were arrested (then released on bail pending the outcome of the investigation) in connection with the 2009 murder of editor Lasantha Wickrematunge. The government also arrested several Sri Lanka Army officers in 2015 in relation to the disappearance of cartoonist Prageeth Eknaligoda in 2010. None of these investigations into past killings or abductions of journalists have yet concluded. DFAT is not aware of any murders of local journalists since the end of the conflict in 2009, nor of any abductions or disappearances of media workers since the current government assumed power.

3.83 In May 2015, the International Media Assessment Mission to Sri Lanka commended steps taken by the government to improve media freedom, including an invitation to all journalists in exile to return to the country. Few of the many Sri Lankan journalists who live abroad have returned to Sri Lanka. Sunanda Deshapryia, a high profile journalist who has lived in Switzerland since 2009, visited Sri Lanka for a short time in 2015. His visit was seen as a sign that exiled journalists could start to return. In January 2016, a Tamil journalist from Batticaloa who departed Sri Lanka for Australia in 2012 was arrested upon return to Sri Lanka for immigration offences. DFAT is not aware of any more recent arrests of exiled journalists.

Women

3.84 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) and its Optional Protocol. Although civil and criminal law regard women as equal, the law favours men in relation to divorce, custody of children, property distribution and inheritance.

3.85 Despite having the best social indicators for women in South Asia, Sri Lankan women are under-represented in the labour force and parliament, and over-represented in informal, low skill and low wage jobs. The government recently introduced a target to increase female labour participation from 36 per cent to 40 per cent by 2020, but societal pressures particularly against Tamil and Muslim women seeking external employment will work against it.

3.86 Sri Lanka's political history features several high profile women, including three-time former Prime Minister Sirimavo Bandaranaike and her daughter, former President Chandrika Bandaranaike Kumaratunga. The first female mayor of Colombo was elected in March 2018. Overall, however, female political participation in Sri Lanka is low. Only 13 of Sri Lanka's current 225 parliamentarians are women (5.8 per cent), one of the lowest rates of female parliamentary representation in South Asia. The government has two female Cabinet ministers, two female State ministers and one female deputy minister. The government has taken some measures to increase female political participation at the provincial and local levels. In September 2017, the government passed the *Provincial Councils Elections (Amendment) Act* to require 25 per cent female representation in provincial council elections. In August 2017, the *Local Authorities Elections (Amendments) Act* mandated a 25 per cent quota for women's representation at the local government level.

3.87 Violence against women occurs throughout Sri Lanka: the 2017 Report of the UN Secretary-General on Conflict-Related Sexual Violence reported gender-based crimes in all nine provinces. The United Nations

Population Fund reported in 2016 that one in four women in Sri Lanka are sexually abused by the time they are 18 years old. The *Prevention of Domestic Violence Act* (2005) criminalises rape and domestic violence, but marital rape is considered an offence only in cases where the individuals are legally separated. Sexual harassment is an offence under Section 345 of the *Penal Code* with a maximum penalty of five years' imprisonment. In October 2016, the National Police Commission designated provincial senior female law enforcement officers to respond to sexual harassment claims. According to police statistics, 294 cases of rape of women over 16 years were recorded in 2017, a slight decrease from 2015 and 2016. According to the UN Committee on the Elimination of Discrimination Against Women, the majority of cases of gender-based violence are likely to go unreported due to inadequate legislation, women's limited access to justice including fear of reprisals, limited trust in the police and judiciary, delays in the investigation of cases, and very low conviction rates. Few cases of gender-based crimes involving a member of the security forces result in convictions, though seven men were sentenced in the Jaffna High Court in September 2017 for the abduction, rape and murder of a schoolgirl in 2015. Only one case of post-war sexual violence by military personnel has proceeded to the courts, in Jaffna in 2015.

3.88 The government has committed to prevent the abuse of women, and in November 2016 launched a national action plan to address sexual and gender-based violence. Civil society organisations in Sri Lanka note, however, that no ministry is responsible for monitoring the implementation of the plan. The Ministry of Health, in partnership with non-government organisations, maintains district hospital-based medical services for sexual assault victims. The gender-based violence desk at a base hospital (smaller than a district level hospital) in the Eastern Province reported 82 cases to the end of November 2017, 84 cases in 2016 and 28 cases in 2015. Non-state support services for survivors of domestic violence, including crisis centres, legal aid and counselling, are scarce and lack funding nationwide.

3.89 DFAT assesses that women throughout Sri Lanka, including in the north and east (see below) face a moderate risk of societal discrimination, including violence, and that few support mechanisms are available to women in these circumstances.

Conditions for women in the north and east

3.90 International and local observers attribute the higher prevalence of sexual violence and domestic abuse in the north and east compared to other parts of Sri Lanka to the conflict and militarisation in these regions. The 2011 UN Secretary-General's Panel of Experts and the 2015 OHCHR investigation report outlined allegations of sexual violence against Tamil women that would constitute war crimes. DFAT considers credible allegations of sexual violence against women held in detention camps in 2009 and 2010, and in military-run rehabilitation centres for an estimated 3,000 female LTTE fighters. In 2017, the UN Special Rapporteur on minority issues reported a decrease in the incidence of sexual assault by the military as it drew down in the north and east, but Tamil women continue to fear sexual assault in locations where the military presence remains.

3.91 In 2017, the Foreign Correspondent Association of Sri Lanka quoted former President Chandrika Bandaranaike Kumaratunga as saying that Tamil women continue to face sexual exploitation both by the military and Tamil officials, the latter allegedly demanding sexual favours to carry out routine paperwork. The International Crisis Group in 2017 cited reports from a number of women of routine sexual exploitation by state officials and military personnel.

3.92 The UN Special Rapporteur on minority issues raised concerns in 2017 about reports that women in the north were experiencing harassment and sexual violence while employed by the Civil Security Department (CSD). Of the 3,000 CSD employees in Mullaitivu and Kilinochchi in 2016, more than two thirds were female and most were former LTTE members or women from female-headed households. Many female employees were required to work on farms in isolated locations under the direct management of

military personnel. The higher than average salaries offered by the CSD and the lack of other well-paid employment opportunities for war-affected women reportedly prevented women from seeking redress for harassment and violence in the workplace.

3.93 In 2017, the US Department of State reported a lack of Tamil speaking service providers for those experiencing domestic and gender-based violence in the north and east. The UN Special Rapporteur on minority issues reported that some women experience language barriers in reporting domestic violence to authorities. Very few domestic violence cases proceed to court, but some safe houses require a court order before accepting victims of domestic violence.

Female-headed households

3.94 High male death rates during the conflict have left a large number of female-headed households in Sri Lanka. The latest Household Income and Expenditure Survey of 2016 estimated 1.4 million female-headed households in Sri Lanka (representing 25.8 per cent of the population), mostly in the north and east. The definition of a female-headed household in Sri Lanka varies, but can include war widows, never married, disabled and elderly women, and family members of the missing or disappeared. The 2012 census found that widows led 50 per cent of female-headed households.

3.95 Female-headed households are vulnerable to poverty, gender-based violence, exclusion from inheritance and property rights, access to services and employment opportunities. Government agencies and domestic and international NGOs provide some livelihood, housing and psychosocial assistance to female-headed households, but local sources claim that on-the-ground support is minimal and under-resourced. The Sri Lankan Cabinet is yet to approve the National Action Plan for Women Headed Households, but the 2018 budget included a LKR 250 million (approximately AUD 2.1 million) allocation for a salary subsidy of LKR 10,000 (approximately AUD 80) for war widows (and former combatants). Women in the community described the National Centre for Empowerment of Women Headed Households established in Kilinochchi in 2015 as ineffective. Observers have criticised many home-based income generation programs for female-headed households for failing to match market needs and existing skills to train women. Women reported difficulties in gaining access to government services targeting female-headed households, due to a lack of awareness and to experiences of harassment and exploitation when seeking services. The social stigma of widowhood also reportedly impedes access to government and non-government services. The UN Special Rapporteur on minority issues assessed that war widows, female family members of the disappeared, and female activists who advocate on behalf of other women faced particular risks. Some women reported requests for money or sexual services from local officials in exchange for information. The UN Special Rapporteur cited allegations that members of the Criminal Investigation Department intimidated and harassed these groups of women, particularly those connected to former LTTE members.

3.96 DFAT assesses that female-headed households are vulnerable to societal discrimination and official harassment and exploitation. Authorities continue to monitor those believed to have family links to the LTTE (see Family members of LTTE).

Muslim women

3.97 The *Muslim Marriage and Divorce Act* (1951) (MMDA) includes unequal provisions for marriage and divorce for Muslim men and women. Article 16(1) of the Constitution affirms the validity of the MMDA and unwritten customary laws even where inconsistent with fundamental rights provisions, and Article 80(3) of the Constitution removes the possibility of challenging the legislation itself. The all-male *Quazi* court system implements the MMDA (women are not permitted to be appointed *Quazis*), and rulings rarely favour women. A commission established in 2010 to investigate reforms of the MMDA submitted its report in

January 2017, but the report has not been made public. Muslim women who advocate for reforms of the MMDA and other rights risk harassment from within the Muslim community.

3.98 The MMDA does not recognise marital rape, and the *Quazi* court system does not have jurisdiction for domestic violence cases. Anecdotal evidence suggests that *Quazis* often ask Muslim women to tolerate domestic violence from their husbands, which reflects a broader perception that solutions within the Muslim community are preferred to state remedies. Muslim women can access redress under the *Prevention of Domestic Violence Act*, but in practice many do not. Fewer Muslim women access protection orders as a domestic violence intervention compared to other groups of women.

3.99 DFAT assesses that Muslim women in Sri Lanka face a high risk of official discrimination in relation to personal status, as a result of the provisions of the MMDA and its implementation. DFAT also assesses that Muslim women who advocate for equitable rights face a low risk of societal discrimination from within the Muslim community.

Sexual Orientation and Gender Identity

3.100 The Sri Lankan Constitution does not recognise the rights of lesbian, gay, bisexual, transgender and intersex (LGBTI) people. LGBTI advocates have recommended, as part of the constitutional reform process, inclusion of gender identity and sexual orientation as a fundamental right in the Constitution's equality clause (Article 12.2).

3.101 Under Section 365 of the Penal Code, 'carnal intercourse against the order of nature' or 'acts of gross indecency' can attract sentences of up to 10 years' imprisonment and a fine. Police have arrested individuals under this section but no prosecutions have occurred since independence in 1948. Police allegedly use Section 399 of the Penal Code or the *Vagrants Ordinance* to threaten, harass, extort money and sex, arrest and detain LGBTI individuals. Reporting of police abuse against LGBTI individuals is low. Many reported cases occur in Colombo. Transgender individuals, sex workers and the poor are most vulnerable.

3.102 No legislation protects LGBTI individuals from discrimination or hate crimes. Individuals routinely experience discrimination in employment, housing and health care due to real or perceived sexual orientation or gender identity. Transgender individuals, who tend to be more visibly identifiable, are more likely to experience discrimination and difficulty gaining access to basic services that require identity documents. Transgender individuals are unable to self-identify and, since August 2016, have been required to obtain a 'Gender Recognition Certificate' from a medical professional to amend government issued identity documents. Legal recognition of a different gender identity requires both hormone treatment and surgery, which is expensive, unavailable outside large cities such as Colombo and Kandy, and not desired by some individuals. Local sources have identified the Kalubowila government hospital near Colombo as a transgender-friendly hospital; it conducted the first sex reassignment surgery in Sri Lanka in 2017.

3.103 According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Many middle and upper class, educated and urban Sri Lankans can be open about their sexuality within their family and community circles. However, risks are higher for lesbian and bisexual rural women due to more traditional familial expectations and values. DFAT considers credible reports of violence in the home and public spaces, and many LGBTI individuals, especially Muslims, hide their identity to avoid harassment. In rural areas, families pressure LGBTI members to seek 'treatment' at dedicated profit-making centres, or through witchcraft. In 2017, the UK Home Office identified one exclusively gay hotel near Colombo and several gay friendly bars in the area.

3.104 Since the government came to power, public discussion of issues faced by Sri Lanka's LGBTI community has expanded. The media discusses LGBTI issues openly and some LGBTI individuals have

adopted a high profile, particularly in Colombo. Conversely, freer speech has enabled hate speech, including by state officials, to appear in the media and hate campaigns on social media. In 2016, critics, notably *Sinha Le*, published threatening comments on social media relating to the Twelfth Annual Gay Pride Festival. Organisers cancelled some public events; police provided protection for participants at others. Authorities 'misplaced' paperwork for one public event celebrating International Day against Homophobia and Transphobia (IDAHOT) in 2016 and the event could not proceed; an IDAHOT event was also not held in 2017. The police offer limited protection to LGBTI individuals, primarily at public events such as LGBTI marches.

3.105 LGBTI individuals have few support mechanisms. Only a small number of NGOs support LGBTI rights, through advocacy or provision of services. These groups report difficulties in operating openly in rural areas.

3.106 The vast majority of Sri Lankans holds conservative views about sexual orientation and gender identity, and many prioritise collective values over individual rights. DFAT assesses that lesbian, gay, bisexual and intersex individuals in Sri Lanka face a moderate risk of official discrimination and a moderate level of societal discrimination on a day-to-day basis. The level and frequency of discrimination differs, depending on the socio-economic status, religion and geographic location of the individual. DFAT further assesses that transgender individuals face a high level of official and societal discrimination compared to other members of the community, and a moderate risk of violence.

Children

3.107 Sri Lanka ratified the Convention on the Rights of the Child on 12 July 1991 and established a presidential task force on child protection in 1996, which recommended several legislative and administrative reforms. In 2006, the government created a National Child Protection Authority under the Ministry of Child Development and Women's Affairs. Sri Lanka has signed and ratified the International Labour Organization's Convention 138 on the Minimum Age for Employment and Convention 182 on the Worst Forms of Child Labour. Recent statistics suggest one per cent of 5 to 17 year-olds are engaged in child labour. According to the US Department of Labor, the government has improved its enforcement of Convention 182 in recent years by inspecting establishments with a high risk of hazardous child labour.

3.108 According to the most recent government statistics, 4.1 million children (90.1 per cent) attended school in 2016. In 2016, the government raised the compulsory school age from 14 to 16 years. The government funds textbooks, uniforms and lunches for all children, and subsidises transport. However, schools can require payments for school maintenance and 'donations' for school admission. Some social protection programs offer scholarships to poor children. Rural areas, where around 70 per cent of Sri Lanka's population resides, and the conflict-affected north and east have few well-resourced schools, and access to education can be difficult for children from lower caste groups. Children who participated in or were affected by the war face additional challenges. Children without birth certificates or other official documentation may be denied enrolment or access to free textbooks and other government subsidies. The government has recruited 2,631 Tamil speaking teachers for several provinces, but faces difficulty recruiting Sinhala and English teachers in the north and east.

3.109 Child, early and forced marriage (CEFM) occurs in Sri Lanka. The *General Marriages Ordinance* (1907) and the *Kandyan Marriage and Divorce Act* (1952) (for non-Muslims) set the legal age of marriage as 18 years but allow children younger than 18 years to marry with parental consent. The MMDA sets 12 years as the minimum age for marriage for Muslims, but younger children can marry with the approval of a *Quazi*. Twelve per cent of Sri Lankan girls are married before the age of 18, and rates of child marriage are higher in Tamil and Muslim communities. Records of marriage registration in Kattankudy, a predominantly Muslim town in the Eastern Province, indicated that the bride was younger than 18 in 22 per cent of all marriages, an increase from 14 per cent in 2014. Several factors have contributed to the high rates of CEFM in Sri Lanka.

During the conflict, parents offered girls for marriage to prevent forced recruitment by the LTTE, and parents in IDP camps gave daughters away to secure protection for the family and to lessen the risk of sexual violence. Following the conflict, poor female-headed households married off their daughters to gain financial support and a son-in-law to assist in land cultivation. In the context of a lack of family planning services and conservative social norms around extra-marital sex, marriage provides a way to salvage the reputation of girls who have engaged in sex outside marriage. (See also Women).

3.110 Some sections of the Muslim community, including the Bohra and Malay Muslims, perform genital cutting on girls from a few months old up to the age of seven. The form of female genital cutting undertaken in Sri Lanka fits the World Health Organization definition of mutilation. Advocates for child rights argue the Sri Lankan government has not taken sufficient action to address female genital mutilation.

Elderly

3.111 Sri Lanka's population is ageing, with people over 60 expected to comprise 25.7 per cent of the population by 2050. The National Secretariat for Elders is the primary administrative body for implementing government assistance to elderly Sri Lankans, including a monthly allowance of LKR 2,000 rupees (approximately AUD 17) for senior citizens over 70 years old with a monthly income below LKR3,000 (approximately AUD 25) . Legislation protects elder rights, but DFAT is aware of reports of mistreatment of the elderly by public officials. The Legal Aid Commission provides legal assistance to low-income elders.

3.112 Elderly Sri Lankans, like others, were displaced during the conflict, and the LTTE targeted the elderly for recruitment. At the end of the conflict, Sri Lanka's social security programs for the elderly were inadequate and family support systems generally weak. In 2014, the HRCSL reported that most elderly people were unable to gain access to formal social protection mechanisms, such as pensions. The elderly have high rates of employment in the informal economy and casual labour, providing low and unstable incomes. A large proportion of elderly people continue to work after retirement, partly because retirement benefits are inadequate to satisfy their basic needs. DFAT assesses that even when the elderly are able to obtain pensions, these are low and many elderly, lacking adequate savings or assets, depend on family to meet basic needs.

4. COMPLEMENTARY PROTECTION CLAIMS

ARBITRARY DEPRIVATION OF LIFE

4.1 The report of the UN's OISL, covering the period 2002 to 2011, found frequent occurrences of extrajudicial killings, disappearances and kidnappings for ransom during the conflict, particularly in the north and east. The report largely attributed these to Sri Lankan security forces, the LTTE and paramilitary groups, although some related to business or personal disputes. The number of incidents of extrajudicial killings, disappearances and abductions for ransom, including incidents of violence involving former LTTE members, has significantly reduced since the end of the conflict.

Extrajudicial Killings

4.2 In January 2018, Sri Lankan police shot a motorcyclist when he allegedly failed to stop at a police checkpoint. His death prompted public violent protests and the Criminal Investigation Department is undertaking an investigation into the shooting. In October 2016, five Sri Lankan police officers were arrested in connection with the killing of two Jaffna University students near a police checkpoint in Jaffna. In September 2017, Jaffna High Court released the five officers on bail following 11 months in custody.

4.3 No legal mechanism exists to initiate independent investigations for state violence, including extrajudicial killings. Numerous historical cases of extrajudicial killings remain unsolved, although the current government has pursued charges and convictions against perpetrators in some historical cases. In May 2016, police arrested former senior deputy inspector general of police Anura Senanayake and inspector Sumith Perera for allegedly concealing evidence relating to the 2010 murder of rugby player Wasim Thajudeen, which some observers suspect was ordered by members of the Rajapaksa government. In 2017, Senanayake and Perera were granted bail. In October 2016, a magistrate court ruled that the 2013 killing of three protesters in Rathupaswala was a crime, and three army personnel were remanded in custody. In December 2016, the courts acquitted five of the six persons (including three former naval officers) accused of killing TNA parliamentarian and human rights advocate Nadaraja Raviraj in 2006.

Enforced or Involuntary Disappearances

4.4 In May 2016, Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Parliament passed domestic legislation to implement the convention on 7 March 2018, following two postponements on the debate of the bill in 2017. In September 2017, the government issued a gazette to establish OMP, and appointed commissioners in February 2018 (see Reconciliation).

4.5 Many of the missing are from the north and east and are likely to have been members or supporters of the LTTE. In July 2017, the UN Working Group on Enforced or Involuntary Disappearances stated that 5,859 of the 12,000 cases of involuntary disappearances that it has reported to the Sri Lankan government remained outstanding. The Working Group attributed a number of child disappearances to the LTTE's recruitment of child soldiers during the conflict. Approximately 800 tracing applications for children are

recorded in the Northern Province but only a small number of children have been reunited with their families. Some of the disappearances relate to people who have emigrated: a former LTTE member, Kathiravel Thayapararaja, was reportedly tortured and killed by Sri Lankan security forces in 2009, but emerged alive in Tamil Nadu in 2014.

4.6 Protests led by Tamil families demanding information on the disappeared began in the north and east in January 2017 and were continuing at the time of publication. President Sirisena met protest leaders in Jaffna in June 2017 and agreed to release a list of individuals who surrendered or were detained by the military in the final weeks of the conflict, and a list of detainees, but at the time of publication, a list had not been provided. The military has resisted previous requests for such information.

4.7 Systematic abductions using white vans, often leading to enforced disappearances, occurred during the conflict and post-conflict periods. The term 'white van abductions' describes instances where individuals were abducted by unknown perpetrators in unmarked vehicles and mostly never seen again. DFAT assesses that reports of a small number of abductions involving white vans in 2016 and 2017 referred to incidents where police did not follow protocol during arrest. DFAT understands that disappearances are no longer common.

Deaths in Custody

4.8 The Department of Prisons reported 74 deaths of prisoners in custody from January to November 2017. The US Department of State assesses that most deaths in custody are due to natural causes, and the report of the UN Special Rapporteur on torture assessed that the forensic procedures and expertise relating to deaths in custody were adequate.

4.9 The Asian Human Rights Commission reported nine extrajudicial killings in police stations and prisons from January to October 2017. The US Department of State reported two extrajudicial killings in 2016. In September 2016, the family of a man who died in custody disputed police claims of suicide. Following this incident, the Minister for Law and Order committed to installing cameras in cells but this had not occurred by October 2017. In February 2017, five prisoners and two wardens were killed when the bus transporting them to court was fired upon in Kalutara near Colombo. The Prisons Department described the incident as a feud between gangs.

DEATH PENALTY

4.10 Sri Lanka retains 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 sentences are automatically appealed and the court appoints a legal aid lawyer to defend the accused. Presidential ratification is required to implement a death sentence. The president commutes some death sentences to life imprisonment to mark religious and nationally significant events; President Sirisena commuted 60 death sentences on Sri Lanka Independence Day in 2017. In February 2017, Cabinet approved parliamentary consideration to replace the death penalty with life imprisonment. In December 2016, Sri Lanka voted in favour of the UN General Assembly sixth resolution on a moratorium on the use of the death penalty.

4.11 Amnesty International reported 218 new death sentences had been imposed in Sri Lanka and 2,717 people were under the sentence of death by the end of 2017. As at April 2018, the most recent death sentence had been handed down on 22 March 2018 from the Jaffna High Court in relation to a 2010 murder case.

TORTURE

4.12 Article 11 of the Sri Lankan Constitution and several other laws specifically prohibit torture. Sri Lanka has ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and in December 2017 acceded to its Optional Protocol. Torture is an offence punishable by imprisonment of between seven and ten years.

4.13 Several local and international organisations have alleged torture by Sri Lankan military and intelligence forces, mostly from the period immediately following the conflict and involving people with imputed links to the LTTE. The September 2015 OISL report found that 'victims of conflict-related torture perpetrated by Government forces… were generally Tamil, often arrested and detained in Government controlled areas… under the PTA and the Emergency Regulations'.

4.14 Some recent publications suggest that torture in Sri Lanka continues, including against members of the Tamil community and primarily perpetrated by the police. In October 2016, the HRCSL submitted a report to the UN Committee against Torture that claimed 'torture to be of routine nature… practiced all over the country, mainly in relation to police detentions' and that police use torture during interrogation and arrest regardless of the nature of the suspected offence. The UN Special Rapporteur on human rights and counter-terrorism concluded in July 2017 that 'all of the evidence points to the conclusion that the use of torture has been, and remains today, endemic and routine, for those arrested and detained on national security grounds. Since the authorities use this legislation [the PTA] disproportionately against members of the Tamil community, it is this community that has borne the brunt of the State's well-oiled torture apparatus.' The UK Home Office in 2017 reported a notable reduction in torture complaints, though highlighted new cases of Tamil victims where police had resorted to violence and excessive force to extract confessions.

4.15 The International Truth and Justice Project (ITJP) cited 24 cases of torture in 2016 and 2017. An Associated Press article published in November 2017 claimed 52 incidents of torture, which included the cases reported by the ITJP.

4.16 Several local sources in Sri Lanka, including from the north, were not aware of the specific alleged incidents of torture documented in the 2017 ITJP report or Associated Press article. By November 2017, human rights organisations in Sri Lanka had been unable to verify the claims nor obtain additional detail on the alleged cases. DFAT notes that verification of torture claims is complex as many allegations are made anonymously, often to third parties. They often involve individuals who are outside Sri Lanka and, in some cases, individuals who are in the process of seeking asylum. DFAT assesses that reports of torture carried out by Sri Lankan military and intelligence forces during the conflict and in its immediate aftermath are credible. However, DFAT is unable to verify allegations of torture in 2016 and 2017.

4.17 Evidence obtained through torture is generally inadmissible in courts in Sri Lanka. However, for suspects held under the PTA (currently suspended but still in legal force, see Arbitrary Arrest and Detention), all confessions obtained by officers at or above the rank of Assistant Superintendent of Police are admissible in court. Local sources, including Tamils, say ill-treatment and torture by police continues to occur, but is primarily due to outdated policing methods and is not ethnically biased. Senior police do not endorse ill-treatment or torture, but reform messages have been slow to filter down. Where police mistreat or torture an individual, such practices reflect low capacity, lack of training, poor arrest and detention procedures, and poor policing methods that focus on extracting confessions rather than undertaking thorough investigations.

4.18 Sri Lanka lacks effective, independent and efficient mechanisms to address complaints of torture. The HRCSL can inquire into complaints but can only make recommendations to the respective state institutions: it has no power to refer prosecutions, nor to recommend disciplinary action against offending officers. Sri Lanka's 2016 report to the UN Committee against Torture included three cases of torture in

2014. In the same year, the HRCSL received 481 complaints of torture, which suggests that the state is not investigating the majority of complaints. The government received 28 complaints of assault and torture from January to November 2017, compared to 271 complaints received by the HRCSL from January to September 2017. The police and the National Police Commission have authority to inquire and act upon allegations of torture involving police officers. In practice, police officers against whom complaints have been lodged are typically transferred and seldom suspended from service. From January to November 2017, disciplinary action was taken against 33 police officers, and one officer was dismissed for assault and torture. The Supreme Court has jurisdiction to hear and determine complaints of fundamental rights violations, including torture, but judgements can take many years. In January 2017, the Supreme Court ruled on a torture incident dating from July 2008. Complainants have difficulty gaining access to the Supreme Court, as it sits only in Colombo and legal costs can be prohibitive.

4.19 DFAT assesses that the risk of torture perpetrated by either military, intelligence or police forces has decreased since the end of the civil conflict and is no longer state-sponsored. Because few reports of torture are verified, it is difficult to determine the prevalence of torture but DFAT assesses that, irrespective of religion, ethnicity, geographic location, or other identity, Sri Lankans face a low risk of mistreatment that can amount to torture.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.20 Although Sri Lankan law prohibits arbitrary arrest and detention, it does not explicitly provide persons under arrest and detention the right to a lawyer or interpreter, or an obligation to inform family of an arrest. The PTA (currently suspended but still in legal force) allows authorities to detain suspects without charge for up to 72 hours. After this period has elapsed, a suspect either can appear before a magistrate, or can be held without charge under detention orders for three-month periods not exceeding 18 months. Suspects can be held in irregular places of detention, as well as at police stations, detention centres or prisons. The ICRC and the HRCSL have access to PTA detainees and can meet detainees without police escort. Lawyers and families cannot meet detainees unaccompanied.

4.21 The 2016 UN Committee against Torture fifth periodic report on Sri Lanka claimed that police powers to arrest suspects without a court warrant and the subsequent practice of detaining persons while conducting investigations were used to obtain information under duress. The report referenced allegations of police investigators failing to register detainees, or to bring them before a magistrate within the time limit prescribed by law. The HRCSL received 285 complaints of arbitrary arrest and detention from January to September 2017.

4.22 Estimates of the number of PTA detainees vary. According to government statistics, as at January 2018, 72 individuals detained under the PTA were pending trial, 11 individuals were pending indictment following investigations, and 61 individuals had indictments before the high courts. The majority of individuals detained pending trial were Tamil. The maximum penalty under the PTA is 20 years imprisonment. The UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism cited government statistics from July 2017 showing that 70 of more than 80 persons charged under the PTA had been detained for more than five years without trial, and 12 for more than 10 years. Local sources say PTA detainees often experience better prison conditions as they are separated from other prisoners. Human Rights Watch reported in January 2018 that the PTA

remained had not been used in 2017. DFAT understands that fewer individuals are currently detained under the PTA than during the conflict.

4.23 In June 2016, President Sirisena instructed the security forces to adhere to HRCSL directives to protect those arrested under the PTA. These include guarantees of medical and legal assistance, registration of arrest, right to language of the detainee's choice, protection from torture and other ill-treatment, and special protection for women and children. The directives reassert the requirement for security forces to inform HRCSL of all PTA arrests, and HRCSL's right to access any person arrested or detained under the PTA, and to any place of detention at any time.

4.24 In 2017, protests took place in the north to demand the release of PTA detainees held for protracted periods. Dozens of prisoners across Sri Lanka, including former LTTE members, most of whom who were being held under the PTA without charge, undertook hunger strikes in 2016.

4.25 The government has taken limited action to deal with individuals detained without charge under the PTA by the former government. In August 2016, the Minister of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs reported that the government had released 39 detainees on bail and had committed to streamlining judicial processes for PTA cases, including consideration of rehabilitation as an alternative to custody. Replacement counterterrorism legislation has been under draft since 2016; it is not yet clear how terrorism will be defined, what discretion will be given to authorities to detain individuals and the admissibility of confessions.

Corporal Punishment

4.26 Sri Lanka enacted the *Corporal Punishment (Repeal) Act* in 2005, repealing the Corporal Punishment Ordinance. The Act specifically excludes the sentence of whipping. The Ministry of Education prohibits corporal punishment in schools based on Section 2 of Administrative Circular No. 2005/17. The Ministry delivers training programs for teachers on non-violent methods of discipline.

5. OTHER CONSIDERATIONS

STATE PROTECTION

5.1 Sri Lanka has no laws or government policies that hinder access to state protection on the basis of religion or ethnicity. All citizens have access to avenues of redress through the police, judiciary and the HRCSL. In practice, these avenues may be limited by linguistic barriers and by a lack of resources. Some Tamils in the north and east lack confidence in police and security officers and may therefore be less likely to use these avenues to seek redress.

Military

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

5.3 In the last years of the conflict, military personnel numbers grew significantly. Since the end of the conflict, the military has actively engaged in agriculture and commerce, and in maintaining High Security Zones, mostly in the north. The Sri Lankan government continues to work to achieve a peacetime balance and slowly reduce military numbers.

5.4 The government has publicly claimed that military involvement in civilian activities has ceased. However, DFAT observed that the military continues to occupy prime agricultural land and maintains a presence in the north, although personnel are less visible than in the past (see Economic conditions in the north and east).

5.5 A nationwide State of Emergency was declared in Sri Lanka for 12 days in March 2018 in response to communal tensions (see Muslims). This represented the first State of Emergency since 2011 and provided the military with police powers, including an ability to arrest suspects without a warrant, impose roadblocks and curfews and limit public gatherings.

Civil Security Department (CSD) – also referred to as the Civil Defence Force

5.6 The military's CSD has provided well-paid employment to both former LTTE members and war-affected women in the Vanni area of the Northern Province since 2012. As of 2016, the CSD employed over 3,000 people in Mullaitivu and Kilinochchi, making it one of the largest employers in the region. While the military maintains the CSD is providing much-needed employment opportunities in conflict-affected areas, civil society groups argue that it also represents a means of normalising the continued military presence in the north, that recruitment of former LTTE is not voluntary and that the CSD provides a way to monitor former LTTE members and their families. The International Crisis Group reported in 2017 that some CSD employees had been asked to act as informants to the military.

5.7 DFAT assesses that, while it is unlikely the military forces individuals to join the CSD, some individuals may feel pressure to join because they fear the consequences of not doing so. Many recruits would likely

also join for economic reasons, notably higher than average salaries and a lack of other viable employment opportunities.

Police

5.8 The Sri Lankan Police is responsible for enforcing criminal and civil law, and maintaining general law and order. It operates under the purview of the Ministry of Law and Order. It has a notional strength of around 85,000 members, and maintains an additional approximately 6,000 member paramilitary Special Task Force. The 19th Amendment to the Constitution in April 2015 provided greater independence to appointments for the National Police Commission and Inspector-General of Police. Overall, the Sri Lankan Police is a trained and active force. However, most police joined the force and gained their experience during wartime. The police force requires significant institutional changes in order to transition to a community-policing framework.

5.9 Language remains a significant barrier to effective policing, particularly in the north and east. Police recruitment is national and officers rotate throughout the country during their careers. On average, 20 per cent of police officers in the Northern Province speak Tamil.

5.10 Very few police officers are female. Thirty-six police stations across Sri Lanka have 'Women and Child Bureaus', but local sources claim there are not enough female officers to staff the bureaus, reducing the ability of women to report crimes and seek support.

5.11 The Sri Lankan Police maintains a separate unit to deal with internal disciplinary action. Police officers are not well paid, and individual officers reportedly engage in petty corruption, such as taking bribes instead of issuing traffic fines, to supplement their income. The Sri Lankan government has promised to raise the basic police salary up to 40 per cent, but had not done so by the time of publication. There are several measures in place for the public to make complaints to the police including directly to the officer-in-charge at local stations, the public complaints department or via the internet. A 'Tell IGP' (Inspector-General of Police) service allows members of the public to elevate their complaints if no action is taken at local police stations in Sinhala, Tamil or English on a free call number or through a dedicated website. The public can also lodge complaints with the National Police Commission, which investigates complaints against individual police officers and against the police force as a whole. Official statistics on the uptake of this service are not publicly available.

5.12 The *Assistance to and Protection of Victims of Crime and Witnesses Act* (2015) established the National Authority for Victim and Witness Protection, and a Victims of Crime and Witnesses Assistance and Protection Division within the police. Domestic and international civil society groups have raised concerns about the Act with regard to the appointment process for the National Authority, and the lack of independence of the Division from the police hierarchy, which could lead to conflicts of interest in cases of victim and witness intimidation by police.

Judiciary

5.13 The Supreme Court is the highest judicial authority in Sri Lanka, followed by the Court of Appeal, provincial level High Courts and lower courts (including Magistrates Courts for criminal cases and District Courts for civil cases). The 19th Amendment to the Constitution bolstered judicial independence by requiring the president to obtain the approval of the Constitutional Council to appoint superior court judges. Local sources say politically motivated appointments have ceased under the current government. In January 2015, President Sirisena appointed the first Tamil Chief Justice in 15 years. A new Chief Justice, Priyasath Dep,

commenced in March 2017. The Sri Lankan judicial system allows victims of harm or ill-treatment to seek protection and redress from the state. This includes through 'fundamental rights' cases lodged directly with the Supreme Court. The Supreme Court has no power of judicial review over legislation.

5.14 Sri Lanka's courts are located across the country and Tamil-speaking judges are assigned to courts in majority Tamil-speaking areas. However, most judicial proceedings are conducted in Sinhala, including in the Northern and Eastern Provinces and, while interpreters are sometimes available, the quality can vary. The Sri Lankan judicial system is overburdened and lengthy legal procedures, large numbers of detainees, and a limited number of qualified police, prosecutors and judges combine to create long delays. In the north, a shortage of Tamil court interpreters contributes to delays in many cases. The UN Special Rapporteur on truth, justice, reconciliation and guarantees of non-recurrence cited a recent study finding that some cases in Sri Lanka take over 17 years to resolve.

5.15 In general, Sri Lankan law does not prescribe sentencing guidelines so judges have broad discretion to determine a sentence, depending on the facts of the case. In addition to custodial sentences, judges can issue fines or order suspended sentences, community service or probation. In practice, a lack of resources limits access to effective legal protection and redress for victims of crimes in Sri Lanka, irrespective of religion or ethnicity.

5.16 Sri Lanka does not have public defence services and legal services can be costly. The Legal Aid Commission provides legal advice and representation to Sri Lankans without financial means. In 2017, there were 76 legal aid centres across Sri Lanka, with the majority of cases related to labour and divorce. A special unit within the commission represents victims in human rights cases. In 2017, the UN Special Rapporteur on the independence of judges and lawyers reported that access to the justice system remained difficult for marginalised groups in Sri Lanka. DFAT is not aware of any recent cases of people being denied access to legal remedies based on ethnicity or religion, but understands language barriers and low socioeconomic status may hinder access to justice. DFAT assesses the judiciary in Sri Lanka exercises independence in criminal and civil cases. In some cases, disputes are settled outside the legal system.

5.17 Section 314 of the *Code of Criminal Procedure Act* (1979) states that no person can be tried twice for the same offence. Sri Lankan law has three requirements for double jeopardy: the accused must be tried and acquitted or convicted by a court; the acquittal or conviction must remain in force; and it must refer to the same offence, or the same facts for any other offence for a different charge.

Detention and Prison

5.18 In general, prison conditions in Sri Lanka do not meet international standards due to poor sanitary and other basic facilities, and overcrowding. The US Department of State reported in 2017 that only some of the larger prisons had hospitals; prisoners who could not be treated in prison medical units were typically transferred to the nearest local hospital. ICRC projects implemented in 2017 in the Mahara (Western Province) prison hospital and the Colombo Remand prison provided detainees with hospital-standard health screening and consultation services. The US State Department reported that some facilities do not segregate juveniles and adults, or remand and convicted detainees. In many prisons, inmates reportedly slept on concrete floors, and prisons often lacked natural light or sufficient ventilation.

5.19 Official statistics from 2016 estimate that the number of prisoners (approximately 17,500 convicted and remand detainees) exceeds prison capacity by around 49 per cent. In 2016, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment estimated prisons were up to 300 per cent over capacity. Over half of the prison population is reported to be awaiting trial; remand detention typically lasts years and is considered as part of the final sentence at the discretion of judges. In 2015, the government established a taskforce to analyse the legal and judicial causes of overcrowding in

prisons. Following Cabinet approval in February 2017, the taskforce is functioning as a central body for prison reform, including reviewing the Prisons Act.

5.20 The government commenced a process to relocate several large urban prisons to rural areas in 2016 to address overcrowding and improve prison facilities. The Minister of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs acknowledged in January 2017 that relocation would also free up valuable prison land for urban development. In 2017, the government allocated LKR 2.8 billion (AUD 23.4 million) for the construction of Angunukolapalessa Prison Complex in the Southern Province, which opened in October 2017 to ease congestion at Welikada Prison in Colombo. Human rights groups reported that many prisoners moved to rural prisons are requesting transfers back to urban prisons, primarily due to the lack of public transport to facilitate family visits and, in some locations, a lack of Tamil speaking prison officials.

5.21 The ICRC has access to all places of detention and all categories of detainees in Sri Lanka, including those held under the PTA. It receives notification of arrest but given resource constraints, can take some time to visit detainees to assess their welfare. The ICRC follows up with individuals after their release and provides support where possible. The HRCSL is also able to access a number of places of detention without restrictions from the authorities, including for unannounced visits.

INTERNAL RELOCATION

5.22 Sri Lanka's Constitution provides for freedom of movement for all citizens and no official restrictions apply to internal relocation in Sri Lanka. In 2011, a fundamental rights petition lodged in the Supreme Court ended the military's forced registration of residents in Jaffna and Kilinochchi. The military no longer compels registration of Tamils living in the south.

5.23 According to the 2012 census, 18 per cent of Sri Lankans were born in a different district to their current residence. The census reported the top five districts to which people had internally migrated were Colombo, Gampaha, Kurunegala, Anuradhapura and Puttalam. Internal relocation during the conflict has left large Tamil and Muslim communities in the south. Relatively few of the 35,000 Sinhalese who left their homes in the north of Sri Lanka during the conflict have returned, mainly because of better job prospects in the south.

5.24 An absence of family connections or a lack of financial resources can limit internal relocation options. Many returnees have reported difficulties in obtaining necessities such as shelter, food, water and sanitation, and in rebuilding livelihoods (see Conditions for Returnees). Continued military occupation of private land, difficulties establishing title to land, and uncleared land mines or unexploded ordnance also complicate internal relocation, particularly in the north.

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

5.26 Sri Lankan authorities retain comprehensive country-wide 'stop' and 'watch' lists of those suspected of involvement in terrorist or serious criminal offences (see Liberation Tigers of Tamil Eelam (LTTE)). Individuals on either list will 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.

TREATMENT OF RETURNEES

Exit and Entry Procedures

5.27 Sri Lanka's Constitution entitles any citizen to 'the freedom to return to Sri Lanka'. The *Immigrants and Emigrants Act* (1949) (the I&E Act) governs exit and entry from Sri Lanka. Sections 34 and 45(1) (b) of the I&E Act make it an offence to depart other than via an approved port of departure, such as a seaport or airport. Returnees who depart Sri Lanka irregularly by boat are considered to have committed an offence under the I&E Act. If a returnee voluntarily returns on their own passport on a commercial flight, they may not come to the attention of local authorities if they had departed Sri Lanka legally through an official port on the same passport.

5.28 Different agencies, including the Department of Immigration and Emigration, the State Intelligence Service and the Criminal Investigation Department and, at times, the Terrorism Investigation Department, process returnees, including those on charter flights from Australia. These agencies check travel documents and identity information against the immigration databases, intelligence databases and records of outstanding criminal matters. Australian officials based in Colombo may meet charter flights carrying voluntary and involuntary returnees. IOM meets assisted voluntary returns after immigration clearance at the airport. Processing of returnees at the airport can take several hours, due to the administrative processes, interview lengths, and staffing constraints at the airport. Returnees are processed in groups, and individuals cannot exit the airport until all returnees have been processed.

5.29 For returnees travelling on temporary travel documents, police undertake an investigative process to confirm identity, which would identify someone trying to conceal a criminal or terrorist background, or trying to avoid court orders or arrest warrants. This often involves interviewing the returning passenger, contacting the person's claimed hometown police, contacting the person's claimed neighbours and family, and checking criminal and court records. All returnees are subject to these standard procedures, regardless of ethnicity and religion. DFAT understands detainees are not subject to mistreatment during processing at the airport.

Offences under the Immigrants and Emigrants Act

5.30 Most Sri Lankan returnees, including those from Australia, are questioned (usually at the airport) upon return and, where an illegal departure from Sri Lanka is suspected, they can be charged under the I&E Act. DFAT understands the Sri Lankan Police Airport Criminal Investigations Unit at Colombo's Bandaranaike International Airport makes most arrests. In the process, police will take photographs, fingerprints and statements from returnees, and further enquire about activities while abroad if returnees are former LTTE members. At the earliest available opportunity after investigations are completed, police transport the individual to the closest Magistrate's Court, after which custody and responsibility for the individual shifts to the courts or prison services. The magistrate then makes a determination as to the next steps for each individual; crew and facilitators or organisers of people smuggling ventures are usually held in custody. Apprehended individuals can remain in police custody at the Criminal Investigation Department's Airport Office for up to 24 hours after arrival. Should a magistrate not be available before this time – for example, because of a weekend or public holiday – those charged may be detained for up to two days in an airport holding cell.

5.31 The Sri Lankan Attorney-General's Department has directed that all passengers of people smuggling ventures, not only those suspected of facilitating or organising irregular migration, be charged under the I&E Act and appear in court. Those charged are required to appear in court in the location where the offence occurred, which involves legal and transport costs. The frequency of court appearances depend on the

magistrate and vary widely, but those charged are required to return to court when their case is being heard, or if summonsed as a witness in a case against the facilitator or organiser of a people smuggling venture. Cases are taken forward in court only when all members of a people smuggling venture have been located, contributing to protracted delays. In November 2017, over 800 separate court cases were pending, with most involving several people. The I&E Act does not specify minimum mandatory sentences.

5.32 Penalties for leaving Sri Lanka illegally can include imprisonment of up to five years and a fine. In practice, most cases result in a fine and not imprisonment. The Attorney-General's Department, which is responsible for the conduct of prosecutions, claims no mere passenger on a people smuggling venture has been given a custodial sentence for departing Sri Lanka illegally. However, fines are issued to deter people from departing illegally in the future. Fine amounts vary from LKR 3,000 (approximately AUD 25) for a first offence to LKR 200,000 (approximately AUD 1,670). A guilty plea will attract a fine, which can be paid by instalment, and the defendant is free to go. Where a passenger returnee pleads not guilty, the magistrate will usually grant bail on the basis of personal surety or guarantee by a family member. Where a guarantor is required, returnees may need to wait for the guarantor to come to court. Anecdotal evidence suggests that most passengers of people smuggling ventures spend many years on bail, and that most are free to go after paying a fine. DFAT is unable to obtain any data to support this claim.

5.33 Bail is usually granted to voluntary returnees. Bail conditions are discretionary, and can involve monthly reporting to police at the returnee's expense, including for those who have subsequently relocated to other parts of the country. Facilitators and organisers of people smuggling ventures can be charged under section 45C of the I&E Act and are not usually released on bail. According to Sri Lankan Police information as at September 2017, all facilitators, organisers and skippers (captains of boats) convicted under section 45C had received prison sentences of one year. DFAT could not obtain information on the number of persons convicted.

5.34 The processes outlined above apply to returnees who travelled illegally to India and then onwards to a third country. Children over 14 can be charged; no bail or fines are imposed for children under 14. The Sri Lankan government claims no returnee from Australia to Sri Lanka has been charged under the PTA. DFAT cannot verify this claim. Some returnees from Australia have been charged with immigration offences and with criminal offences allegedly committed before departure. In October 2012, a court issued warrants for the arrest of a group of returnees for the theft of a vessel used to travel to Australia, for causing of grievous harm to persons, and for people smuggling.

5.35 DFAT assesses that the Sri Lankan government differentiates between fare-paying passengers and the facilitators and organisers of irregular migration. It is more likely to pursue those suspected of being facilitators or organisers of people smuggling ventures. DFAT is unable to assess if penalties for multiple illegal departures are higher. DFAT notes that, while the fines issued for passengers of people smuggling ventures are often low, the cumulative costs associated with regular court appearances over protracted lengths of time can be high.

5.36 DFAT understands the Sri Lankan parliament is expected to consider new legislation to replace the I&E Act by mid-2018.

Conditions for Returnees

5.37 Between 2008 and 2017, over 2,400 Sri Lankan nationals departed Australia for Sri Lanka. This includes nationals who were returned from the Australian community, and those removed from Australian onshore immigration detention centres. Many others returned from the US, Canada, the UK and other European countries, and most returnees are Tamil. Although individual experiences vary, many Tamil returnees choose to return to the north, either because it is their place of origin, or because they have

existing family links, or because of the relatively lower cost of living compared to the south. Around one quarter of approximately 5,000 IOM-supported voluntary returnees (including failed asylum seekers, irregular migrants and stranded migrants) from 2002 to January 2016 returned to Jaffna.

5.38 The government has consistently said that refugees are welcome to return to Sri Lanka, and announced in 2016 the 'National Policy on Durable Solutions for Conflict-Affected Displacement'. During a visit to Australia in February 2017, Sri Lankan Prime Minister Ranil Wickremesinghe stated publicly that failed asylum seekers from Australia would be welcomed back to Sri Lanka (see Offences under the Immigrants and Emigrants Act). Human rights groups greeted this statement with scepticism.

5.39 Despite positive government sentiment, refugees and failed asylum seekers face practical challenges to successful return to Sri Lanka. Most returnees have incurred significant expenses or debt to undertake their outward journey. Some refugee returnees receive reintegration assistance in the form of transport assistance and livelihood support upon return to Sri Lanka from the government, UN organisations and international NGOs, but this requires a returnee to meet strict eligibility guidelines and is minimal. Failed asylum seekers receive limited reintegration assistance. Many returnees have difficulty finding suitable employment and reliable housing on return. Those who have skills that are in high demand in the labour market are best placed to find well-paid employment. In 2016, the Sri Lankan government promised to recognise the educational and professional qualifications acquired by refugee returnees outside Sri Lanka, but returnees continue to report challenges in obtaining recognition for foreign qualifications.

5.40 While the government has reportedly decreased systematic surveillance of returnees, DFAT is aware of anecdotal evidence of regular visits and phone calls by the Criminal Investigation Department to failed asylum seekers in the north as recently as 2017. A UNHCR survey in 2015 reported that 49 per cent of refugee returnees in the north had received a visit at their homes for a purpose other than registration, with almost half of those visits from the police. Refugees and failed asylum seekers reported social stigma from their communities upon return; in some communities, people resent the financial support provided to refugee returnees.

5.41 Bureaucratic inefficiencies rather than official discrimination present the biggest challenge to reintegration for returnees. Refugee returnees, particularly those who returned without UNHCR facilitation, can experience delays in obtaining necessary identification documents and citizenship. Lack of documentation inhibits access to social welfare schemes and their ability to open bank accounts, find employment or enrol in educational institutions. Limited job availability in the north and east (see Employment) further contributes to difficulties in securing employment and housing. DFAT assesses that reintegration issues are not due to failure to obtain asylum, but rather due to the employment and accommodation difficulties they may face. Only 0.3 per cent of refugee returnees interviewed by UNHCR (including UNHCR-facilitated and voluntary returns) in 2016 indicated that they had security concerns following their return.

5.42 DFAT assesses that returnees may face some societal discrimination upon return to their communities, which could also affect their ability to secure housing and employment. DFAT further assesses that continued surveillance of returnees contributes to a sense of mistrust of returnees within communities.

DOCUMENTATION

5.43 Many individuals affected by the conflict, and particularly those in the east affected by the 2004 Indian Ocean tsunami, lack key identity documents. The 'National Policy on Durable Solutions for Conflict-Affected Displacement' commits the state to providing replacement identity documents, including birth, marriage and death certificates, to IDPs and refugee returnees, and free legal information and assistance in relation to the re-issuance of these documents.

Birth and Death Certificates

5.44 Hospitals record births and forward the information to the Divisional Secretariat (a government representative) for registration. Parents register home births with the *grama niladhari* within seven days, who forwards the information to the Divisional Secretariat within 42 days. Failure to register a birth is a punishable offence. The Divisional Secretariat issues a birth certificate on completion of the registration process and copies can be obtained from the Divisional Secretariat in the area where the certificate was first issued.

5.45 The *grama niladhari* must be informed immediately following a death and the Divisional Secretariat must be informed within five days. Copies of a death certificate can be obtained from the Divisional Secretariat in the division where the death took place, even if this is different to the area of residence. If the death occurs at home, the *grama niladhari* must provide a report to prove the death. If the death occurs in a hospital, the relevant medical officer must provide a report. A death certificate is required to transfer the title deeds for land to widowed females. In 2016, the *Registration of Deaths (Temporary Provisions) Act* was amended to allow the issue of 'certificates of absence' to families of missing persons. The certificate of absence provides families access to government benefits, land and bank accounts belonging to the missing person in lieu of a death certificate, which families are sometimes reluctant to seek if they hope to find their relative alive. The International Crisis Group reported in 2017 that few certificates of absence had been issued due to a lack of training at the local official level about the rules for issue, and the two-year validity of the certificates.

Marriage Certificates

5.46 Sri Lanka has several systems of marriage according to religious background and geographic location. National law applies 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, governing Buddhists, the Thesavalamai (Tamil) Law and the Muslim Law. Marriage certificates issued to Buddhists, Hindus and Christians are in the same format. Marriage certificates issued to Muslims are slightly different as they contain details about the dowry given by the groom and about the *Nikah* (Muslim marriage ceremony). Under the national law, the district-level court adjudicates the dissolution of a marriage. The *Quazi* court adjudicates Muslim divorces.

5.47 The system for issuing marriage certificates is not computerised and marriage certificates have no security features. The Registry of Births, Deaths and Marriages sometimes identifies marriage certificates as being fraudulent. The verification process usually takes more than a month.

National Identity Cards

5.48 Sri Lankans generally use the National Identity Card (NIC) as their primary identification card, although birth certificates, driver's licences, and passports are also frequently used. Sri Lankan citizens are required by law to register their identity under the *Registration of Persons Act* (1968). Following registration, persons over the age of 16 are eligible to apply for a NIC regardless of their ethnicity, religion, language or geographic location. The NIC can be used to obtain all other identity documents. NICs have few security features and several cases in recent years have involved fraudulent NICs, including through the replacement of photographs. The Sri Lankan Government is establishing an electronic central database using biometric data to replace existing NICs with electronic NICs, though coordination between the relevant government agencies has been limited to date.

5.49 People who reside in rural locations report that the requirement to travel to major townships to obtain identity documentation is prohibitive. In the north and east, documentation processes can be delayed due to the lack of Tamil-speaking officials. The NIC does not specify ethnicity or religion and is issued in Sinhalese or, in some instances such as for Tamils, or for those living in the north and east, in Tamil. There is no renewal period for the card.

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

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

Passports

5.52 The Department of Immigration and Emigration issues passports in Sri Lanka, and Sri Lankan diplomatic and consular missions issue 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), biometric data and a letter, and a professional certificate or licence to confirm the applicant's profession. Biometrics, including fingerprint data and the internationally accepted photograph standard, were introduced to passports in 2015. Passports are machine-readable and are typically valid for ten years. Electronic passports are planned in 2018.

5.53 Sri Lankans without passports can 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.

PREVALENCE OF FRAUD

5.54 The Central Registrar issues identity documents, including to populations in the north and east during the conflict. Most official records in Sri Lanka are kept in a centralised location in hard-copy format: government departments lack computerised information databases.

5.55 Genuine identity documents can be obtained with fraudulent supporting documents, including birth certificates and NICs. Counterfeit documents are the primary cause of fraud in the issue of NICs, passports and driver's licences. People seeking illegal passports include those on the 'stop' and 'watch' lists, those wishing to falsify age to obtain employment, or those wishing to return to a country from which they have previously been deported. In recent years, the Criminal Investigation Department disrupted an organised crime group that produced high quality European identity documents and visa labels on an industrial scale.

5.56 Attempts to use fraudulent documents are common and DFAT is aware of fraudulent sponsor letters and employment letters being presented by asylum seekers. Land title deeds that have been fraudulently obtained have also been presented as evidence of an individual's financial situation. Other asylum destination countries have reported receiving fraudulent documentation from asylum applicants, including anecdotal reports of a photography studio that took photos of individuals in old LTTE uniforms for use in asylum seeker applications. DFAT cannot verify the credibility of these reports.

5.57 DFAT assesses that document fraud is prevalent in Sri Lanka, and there is capacity for fraud in the process for reissuing lost documents.