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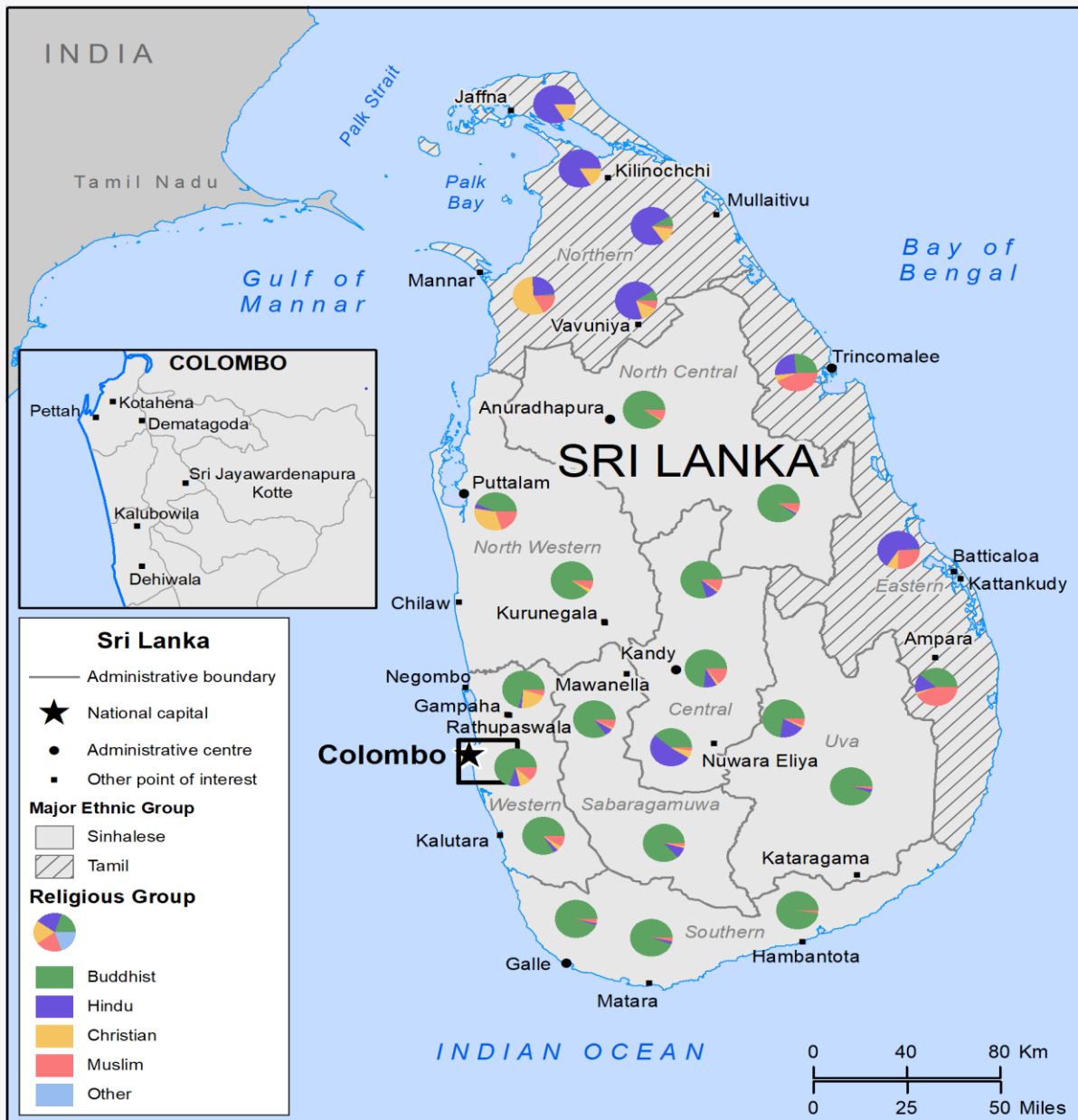
Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT SRI LANKA

4 November 2019

MAP



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ACRONYMS

AUD	Australian Dollar
BBS	<i>Bodu Bala Sena</i> (Sinhalese Buddhist extremist group)
CEFM	Child, early and forced marriage
CSD	Civil Security Department
CTA	Counter-Terrorism Act
CTF	Consultation Task Force on Reconciliation Mechanisms
EPDP	Eelam People's Democratic Party
GDP	Gross Domestic Product
ICRC	International Committee of the Red Cross
IDAHOT	International Day Against Homophobia and Transphobia
IDPs	Internally Displaced Persons
ILO	International Labour Organization
ITJP	International Truth and Justice Project
IOM	International Organization for Migration
HRC	UN Human Rights Council
HRCSL	Human Rights Commission of Sri Lanka
ISIL	Islamic State in Iraq and the Levant (also known as ISIS, IS or Daesh)
JMI	Jamaat-al Mullathu Ibrahim
JVP	Janatha Vimukthi Peramuna
LGBTI	Lesbian, Gay, Bisexual, Transgender and/or Intersex
LKR	Sri Lankan Rupee
LTTE	Liberation Tigers of Tamil Eelam
MMDA	Muslim Marriage and Divorce Act
NCEASL	National Christian Evangelical Alliance of Sri Lanka
NIC	National Identity Card
NGO	Non-Governmental Organisation
NTJ	National Thawheed Jammath

ONUR	Office for National Unity and Reconciliation
OfR	Office for Reparations
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 on Missing Persons
PTA	Prevention of Terrorism Act
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLPP	Sri Lanka Podujana Peramuna party
TMVP	Tamil Makkal Viduthalai Pulikal
TNA	Tamil National Alliance
UK	United Kingdom
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UNSC	United Nations Security Council
UPFA	United People's Freedom Alliance
US	United States
USD	US Dollar
WAS	Willaayath as Seylani
WHO	World Health Organization

GLOSSARY

<i>grama niladhari</i>	village officer
<i>sharia</i>	Islamic law
<i>Quazi</i>	a judge without formal legal training who presides over a court in accordance with <i>sharia</i> 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 84 of 24 June 2019 under section 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 purposes, 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 US Department of State, the UK Home Office, the World Bank and the International Monetary Fund; 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 Development Programme (UNDP), the United Nations Population Fund (UNFPA) and the International Organization for Migration (IOM); leading human rights organisations such as Human Rights Watch, Amnesty International and Freedom House; Sri Lankan non-governmental organisations (NGOs); 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 23 May 2018.

2. BACKGROUND INFORMATION

RECENT HISTORY

2.1 Sri Lanka, formerly Ceylon, achieved independence from the United Kingdom (UK) in 1948. Historically, relations between Sri Lanka's majority Sinhalese and minority Tamil communities have been tense. Tamils received preferential treatment during British rule, including in education and civil service employment. To address this imbalance, in the period following independence successive Sinhalese-led governments introduced measures to promote the primacy of the Sinhalese community, including: making Sinhala Sri Lanka's sole official language; favouring Sinhalese students in higher education admission; granting special constitutional status to Buddhism; and denying citizenship to Tamil migrant plantation workers from India (see [Demography](#)). Against a backdrop of growing Sinhalese nationalism, Tamils were also the target of large-scale countrywide riots, including in July 1983 ('Black July'). These developments created a sense of marginalisation within the Tamil community and encouraged calls for an independent Tamil state, Tamil Eelam, in the predominantly Tamil-populated north and east of the country.

2.2 A number of militant groups emerged to advance the cause of Tamil statehood. The most prominent of these, the Liberation Tigers of Tamil Eelam (LTTE), was formed in 1976 and launched an armed insurgency against the Sri Lankan state in 1983. The LTTE – commonly known as the Tamil Tigers – established and maintained de facto control of Tamil-populated areas in the north and east. The LTTE gained notoriety for its recruitment of children and, in particular, use of suicide bombings. It was proscribed as a terrorist organisation by the United States (US), Canada, the European Union, Australia and India, among others. A ceasefire between the Sri Lankan Government and the LTTE, signed in 2002, reduced the intensity of fighting but failed to yield a political settlement. The ceasefire broke down in 2005 and internationally-mediated peace talks collapsed in 2006. Government forces re-took the eastern part of the country from the LTTE in July 2007 and, in January 2008, launched a major offensive to capture remaining LTTE-controlled areas in the north, culminating in the elimination of most of the LTTE's senior ranks, including its leader, Velupillai Prabhakaran. The LTTE surrendered in May 2009. The UN and human rights organisations have documented serious violations during the final stages of the war, during which up to 40,000 civilians may have been killed. In total, Sri Lanka's 26-year civil war is estimated to have claimed 100,000 lives and displaced over 900,000 people.

2.3 Separate to the LTTE, Marxists belonging to the Janatha Vimukthi Peramuna (JVP, or People's Liberation Front) waged armed insurrections against the Sri Lankan state in 1971 and from 1987 to 1989. The JVP comprised mostly rural Sinhalese. Its insurrection was defeated in 1989. The JVP has since become a political party, and currently holds six seats in Sri Lanka's Parliament.

2.4 On 21 April 2019, the National Thawheed Jammath (NTJ) and the Jamaat-al Mullathu Ibrahim (JMI), local Islamic extremist groups inspired by the Islamic State in Iraq and the Levant (ISIL, also known as ISIS, IS or Daesh), carried out coordinated terrorist attacks against Christian churches and hotels in Colombo, Negombo and Batticaloa. The attacks, comprising suicide bombers, killed more than 250 people and injured another 490 — the deadliest bout of violence and the first known terrorist attacks in Sri Lanka since the end of the civil war in May 2009. Anti-Muslim sentiment has subsequently increased across Sri Lanka, and there

have been reprisals against the Muslim community. Countrywide Emergency Regulations, introduced on 22 April 2019 and subsequently extended three times, lapsed on 22 August 2019 (see [Security Situation, Muslims and Christians](#)).

2.5 Sri Lanka's current President, Maithripala Sirisena, and Prime Minister, Ranil Wickremesinghe, were elected in 2015 on a platform of democratic renewal, post-war reconciliation, accountability for war crimes, anti-corruption and economic reform. Ethnic minorities voted in large numbers for Sirisena and Wickremesinghe, though both are Sinhalese. While there has been some progress, the overall pace of reform has been slow. A 52-day constitutional crisis beginning on 26 October 2018, triggered by Sirisena's decision to dismiss Wickremesinghe and dissolve parliament, placed Sri Lanka in a state of political paralysis. The Supreme Court overturned Sirisena's dissolution of parliament on 13 December 2018 and Wickremesinghe was reinstated on 16 December 2018 (see [Constitutional Crisis](#)).

DEMOGRAPHY

2.6 Sri Lanka has a population of 21 million. Between 2010 and 2019, the population grew at an average rate of 0.4 per cent. Nearly 30 per cent of Sri Lankans are concentrated in the Western Province, home to the country's commercial capital, Colombo, and its administrative capital, Sri Jayawardenapura Kotte (a suburb of Colombo). Other important urban centres include Kandy (Central Province), Galle (Southern Province), Trincomalee (Eastern Province), and Jaffna and Kilinochchi (Northern Province). The Eastern Province accounts for 7.6 per cent of the population. The Northern Province has the lowest share of the population, at 5.2 per cent. A majority of Sri Lankans (almost 80 per cent) live in rural areas. The median age is 32.3 years.

2.7 According to the most recent national census, held in 2012, ethnic Sinhalese comprise 74.9 per cent of Sri Lanka's total population. Tamils constitute the largest ethnic minority, at 15.3 per cent of the population, followed by Muslims at 9.3 per cent. Over one-quarter of the Tamil population (and 4.1 per cent of Sri Lanka's total population) are of Indian origin and are known as Plantation Tamils, Hill Country Tamils or Up-Country Tamils. 'Muslim' in Sri Lanka denotes both ethnicity and religion. The Sinhalese and Tamil languages enjoy official status, with Tamil used mostly in the north and east. English is widely spoken.

2.8 According to the 2012 national census, Sri Lankans practise four major religions: Buddhism (70.1 per cent of the population, mostly Sinhalese in the Southern, Central and Eastern provinces); Hinduism (12.6 per cent, mostly Tamils in the Northern and Eastern provinces); Islam (9.7 per cent, predominantly in the Eastern, Western and North Western provinces. This figure includes ethnic Malays); and Roman Catholic and other Christian denominations (7.6 per cent, concentrated in the Western and North Western provinces). Fewer than 7,000 people claim membership of other religions.

ECONOMIC OVERVIEW

2.9 The World Bank classifies Sri Lanka as an upper middle-income country. Gross national income on a per capita basis was USD4,102 in 2018. Sri Lanka's economy has expanded significantly since the end of the war. Spurred by post-war reconstruction efforts, large infrastructure projects and an increase in tourism, the economy grew at an average rate of 5.8 per cent between 2010 and 2017. The pace of growth has since slowed, owing to prolonged drought conditions in many parts of the country, monsoon floods in 2017 and 2018, rising inflation, sluggish reform implementation and political instability. The economy grew by 3 per cent in 2018 — its slowest expansion in 17 years. The IMF projects growth of 3.5 per cent in 2019 and 4 per cent in 2020, although the terrorist attacks of April 2019 have impacted negatively on Sri Lanka's tourism sector and will affect future growth prospects.

2.10 Sri Lanka's economy is heavily dependent on the manufacturing and services sectors — collectively, these account for nearly 80 per cent of Gross Domestic Product (GDP). Agriculture, previously the backbone of the Sri Lankan economy, contributes approximately 8 per cent of GDP. Economic growth is driven largely by the Colombo Metropolitan Region, which generates 45 per cent of total GDP. Remittances are Sri Lanka's largest source of foreign exchange earnings. In 2017, Sri Lankans working abroad remitted approximately USD7.2 billion, the equivalent of 8 per cent of GDP.

2.11 Sri Lanka's unemployment rate (4.4 per cent in 2018) is relatively low, although regional variations exist. The Western Province has the lowest unemployment rate in the country, at 3.2 per cent, while the Northern Province has the highest, at 7.7 per cent. Unemployment in the Southern (5 per cent) and Eastern (6 per cent) provinces is also higher than the national average. Youth unemployment (those aged 15-24) is 20.7 per cent nationally. The labour force participation rate for men (74.1 per cent) is more than double that for women (35.1 per cent). The services sector employs 47.7 per cent of Sri Lanka's labour force, while the agriculture sector employs 26.7 per cent. Approximately 212,000 Sri Lankans left to work abroad in 2017, mostly for the Middle East. Departures for foreign employment in 2017 were down 12.6 per cent from a year earlier.

2.12 Sri Lanka's social and human development indicators are among the best in South Asia. The United Nations Development Programme (UNDP) ranked Sri Lanka 76 out of 189 countries in its 2018 Human Development Index — the highest ranking of all South Asian countries. Poverty rates are relatively low and extreme poverty is rare. According to Sri Lanka's most recent Household Income and Expenditure Survey, just over 4 per cent of the population was living below the national poverty line (defined as those living on LKR4,166, or approximately AUD34, per month) in 2016. This was down from 15.3 per cent in 2007, although a large share of the population live just above the national poverty line. Wealth and economic development are not evenly distributed. Colombo and the Western Province, as the main engines of economic growth, are relatively prosperous, while the Southern Province and former war-affected areas in the north and east are less developed (see [Economic conditions in the north and east](#)).

2.13 Sri Lanka ranked 89 out of 180 countries in Transparency International's 2018 Corruption Perceptions Index, up two places from 2017. The government established a Presidential Commission of Inquiry to 'Investigate and Inquire into Serious Acts of Fraud, Corruption and 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. The Commission submitted its final report to President Sirisena in January 2018. The most serious cases of alleged fraud and corruption are with the Attorney-General for further investigation and action. In May 2018, parliament approved a new law establishing courts to handle cases specifically relating to bribery and corruption, in order to accelerate delayed cases. In September 2018, Gotabaya Rajapaksa, a former Defence Secretary and brother of ex-President Mahinda Rajapaksa, was indicted in an anti-corruption court for allegedly misusing public funds to build a memorial for his parents (on 15 October 2019, the Special High Court suspended the case until 9 January 2020). In January 2019, Sirisena established a separate presidential commission of inquiry into alleged fraud and corruption by public officials during the period 2015-2018. It delivered its findings on 27 September 2019. Bribes were allegedly solicited by, and offered to, members of parliament in exchange for their allegiance during the 2018 constitutional crisis.

2.14 Sri Lanka has a high stock of public debt, equivalent to almost 80 per cent of GDP. This includes loans taken out by the previous government to fund large infrastructure projects, including as part of China's Belt and Road Initiative. In 2017, the government's debt repayments were the equivalent of 4.8 per cent of GDP, exceeding the proportion of GDP spent on health and education. To avert a balance of payments crisis, in June 2016 Sri Lanka entered into a three-year, USD1.5 billion bail-out program with the International Monetary Fund. Investor confidence in Sri Lanka's economy plummeted following Sirisena's ouster of

Wickremesinghe in October 2018, prompting international capital flight and causing the value of the local currency, the rupee (LKR), to plunge.

2.15 DFAT assesses that, despite the relatively strong rates of economic growth and low formal unemployment statistics overall, Sri Lankans – particularly in the less developed Northern and Eastern provinces – continue to perceive a lack of economic opportunities, including access to university education (see [Education](#)). DFAT assesses that economic reasons, particularly access to employment, act as a ‘push factor’ for external migration.

Economic conditions in the north and east

2.16 Agriculture and fishing dominate the economies of the Northern and Eastern provinces. These provinces reported the lowest median household income per capita in Sri Lanka’s most recent Household Income and Expenditure Survey (2016). Adverse weather conditions, particularly drought, and poor water resource management have reduced agricultural income and served as a drag on economic growth. Remittances from the Tamil diaspora are important to the economies of the north and east. In the case of the north, up to 40 per cent of households sustain their livelihoods through remittances from family living overseas.

2.17 Post-war reconstruction has benefited the majority of the population in the Northern and Eastern provinces, particularly in areas isolated during the war, although the dividends of reconstruction have waned in recent years. Livelihood opportunities in the north and east are more limited relative to the rest of the country, including because of a lack of industry, and unemployment rates are higher than the national average. Young people in the north and east are particularly vulnerable to joblessness, although this is a national trend. According to local sources, southern firms that had secured major contracts in the north tended to source labour from the south, primarily due to a lack of capacity among the local workforce. The government has announced economic support packages for the north and east, including, on 27 May 2019, the Palmyra Fund to create greater employment opportunities. In consultation with the Central Bank, the government has also devised an Economic Development Framework for the long-term growth and development of the Northern Province through to 2030.

2.18 There are high levels of indebtedness in the north and east. This is largely the result of an extensive take-up of self-employment loans from banks and micro-finance companies at high interest rates in the post-war period, and unscrupulous lenders locking low-income earners into unsustainable debt arrangements. Measures have been introduced to address indebtedness. In December 2018, the Central Bank of Sri Lanka barred licenced finance companies from charging more than 35 per cent interest per annum on micro-finance loans. The government allocated LKR750 million (approximately AUD6.1 million) in debt relief for the north and east in the 2019 national budget, including LKR500 million (approximately AUD4.1 million) for 45,000 women in drought-affected areas.

2.19 The military is active in the economy and operates a number of commercial businesses, primarily in the Northern Province. The Army is involved in agriculture (farms), construction (roads, schools, irrigation dams, houses) and tourism (hotels). The Navy and Air Force also have economic interests (fishing and a domestic airline, respectively), albeit on a lesser scale than the Army. Local communities in the north report that military involvement in commercial enterprises undercuts local businesses and deprives civilians of employment opportunities. The military claims these activities provide jobs for the local civilian population, including former LTTE members. While the government has overseen the return of most land occupied by the military during the war, 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](#)).

2.20 DFAT assesses that the poorer economic conditions in the Northern and Eastern provinces act as the main driver for migration – internal and external – from these areas.

Education

2.21 Sri Lanka has a free primary to tertiary education system (up to the undergraduate level). This has enabled Sri Lanka to achieve universal access to education at the primary level (99 per cent enrolled, with a completion rate of 95 per cent) and high enrolment at the secondary level (89 per cent). An equal proportion of boys and girls are enrolled in primary education, with girls slightly outnumbering boys at the secondary level. Education is compulsory up to 16 years of age. According to the UNDP, Sri Lankans, on average, spend 13.9 years in school. Sri Lanka's literacy rate is 91.2 per cent. The literacy rate for those aged 15-24, at 98 per cent, is the highest in the region. Public primary and secondary schooling is of a high standard, although education outcomes are worse in the north and east (see [Children](#)).

2.22 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-language education, and limited numbers of Sinhala- and English-speaking teachers in the north and east also affect education and employment options. To help address this, the government allocated LKR400 million (approximately AUD3.3 million) in the 2019 budget for Tamil-language teacher training. Muslims can choose to attend Islamic schools (madrassas), which follow the national curriculum but include dedicated religious tuition. Following the 2019 Easter Sunday terrorist attacks, the government announced it would regulate madrassa schools that do not follow the national curriculum.

2.23 University entrance in Sri Lanka is merit-based, with entrance scores modified to take account of a district's socioeconomic indicators. Demand for university places far outstrips supply.

2.24 DFAT assesses that Sri Lankans are able to access the education system without discrimination, regardless of their ethnic or socioeconomic profile.

Health

2.25 Sri Lanka inherited a well-developed health care system at independence. The health care system has a long record of strong performance, including in maternal and child health and infectious disease control. On 9 July 2019, the World Health Organization (WHO) announced that Sri Lanka had eradicated measles. Investment in the health sector has increased since the end of the war, and Sri Lanka currently spends about 3 per cent of GDP on health annually. The public health system offers universal free health care; however, regional disparities exist in the quality of care and facilities, particularly between urban and rural areas. 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 war. 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.

2.26 Life expectancy in Sri Lanka is 75.5 years (78.8 years for females and 72.1 years for males). According to the United Nations Population Fund (UNFPA), 99 per cent of births are attended by skilled health personnel, resulting in a low maternal mortality rate (30 deaths per 100,000 live births). The infant mortality rate is eight per 1,000 live births.

2.27 The government is devoting progressively greater attention and resources to mental illness. A National Mental Health Policy, adopted in 2005 and subsequently renewed in 2015, sits alongside a

National Mental Health Action Plan. The Ministry of Health operates the National Institute of Mental Health in Colombo. The only state-run hospital dedicated to treating mental illness, it has 1,200 full-time staff and 1,500 beds. The National Institute of Mental Health admits over 8,000 patients annually. It operates a National Mental Health Helpline, launched in October 2018, and offered psychosocial support to those affected by the 2019 Easter Sunday terrorist attacks.

2.28 Improving access to mental health services, including at the community level, is a government priority. As part of this effort, the government has deployed cadres of mental health workers to the district level and rolled-out a Training of Trainers in Mental Health and Psycho-Social Wellbeing Programme in the Northern Province. District-level hospitals have mental health facilities and some non-governmental organisations (NGOs) (e.g. Women In Need and Women's Action Network) provide psychosocial support services, including in Tamil-populated areas. The International Committee of the Red Cross (ICRC) provides psychosocial support to the families of missing persons, including peer-to-peer counselling in the north, east and south. The families of missing government soldiers receive some psychosocial support from the Ministry of Defence. The Office on Missing Persons (OMP, see [Reconciliation](#)), established in September 2017, will provide mental health and psychosocial care for the families of missing persons as part of its functions.

2.29 According to local sources, there is significant, ongoing need for psychosocial support in the north and east, particularly for former combatants, the families of missing persons and those affected by the 2004 Indian Ocean tsunami (which also affected people in the south and west). Despite some improvements, mental health services, overall, are considered inadequate, particularly in former conflict areas, and there remain ongoing challenges in accessing mental health care. Mental illness is not widely discussed in Sri Lankan society and carries stigma at the community level. This, in turn, deters victims from revealing and seeking treatment for mental illness. Some families seek traditional methods to "cure" mental illness, including through use of local healers.

2.30 DFAT assesses that, while there has been some improvement in the availability and quality of mental health services, they remain inadequate overall, particularly in war-affected areas, where demand is greatest. DFAT further assesses that traditional attitudes toward mental illness act as a significant barrier to treatment.

2.31 Collective trauma, inadequate mental health support and high unemployment, especially among young people, have contributed to an increase in alcohol and substance abuse, suicide, and domestic and societal violence in the post-war period. Local sources told DFAT that alcohol and substance abuse was a growing problem in the north and east.

POLITICAL SYSTEM

2.32 Sri Lanka is a democracy with a mixed parliamentary and presidential form of government. The current Constitution was adopted in 1978. It has been amended 19 times, most recently 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. The most recent presidential election was held in January 2015. Maithripala Sirisena of the Sri Lanka Freedom Party (SLFP) defeated his erstwhile ally, Mahinda Rajapaksa, president since 2005. Sirisena, previously a member of Rajapaksa's Cabinet, contested the 2015 election as the common candidate of an opposition alliance led by the United National Party (UNP), the SLFP's historic rival. A split in the Sinhalese vote and support from the Tamil and Muslim communities secured Sirisena's victory. Sirisena appointed Ranil Wickremesinghe, leader of the UNP, as prime minister.

2.33 Sri Lanka has a unicameral parliament with 225 members: 196 members directly elected from districts, and 29 elected through national proportional representation. International and domestic election observers deemed the last parliamentary election, held in August 2015, to be credible. The results reinforced

the outcomes of the January 2015 presidential election and ushered in a government of national unity. The United Front for Good Governance, a coalition of parties including the UNP and Sirisena's 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 Rajapaksa's then-SLFP faction, secured 95 seats. The Tamil National Alliance (TNA), the largest political party representing the Tamil community, won 16 seats, and smaller parties won the remaining eight seats. TNA leader Rajavarothingiam Sampanthan became the formal leader of the opposition in parliament.

2.34 Relations in the national unity government fractured in February 2018, when the SLFP and the UNP suffered losses in local government (council) elections. Rajapaksa's faction contested these elections as the newly-formed Sri Lanka Podujana Peramuna (SLPP) party. The SLPP performed strongly, emerging as the single largest party, underlining Rajapaksa's ongoing popularity within the Sinhalese community.

2.35 Sri Lanka has nine provincial councils, with members elected for five-year terms. Provincial councils are led by a chief minister. Each provincial council also has a governor, appointed by the president to represent the central government for a period of five years. The tenure of governors roughly aligns with the term of the president. Sirisena replaced all nine governors following the January 2015 presidential election. There have been several gubernatorial reshuffles and new appointments since January 2015. Provincial council elections were last held in 2014. They are next likely to be held in 2020, having been postponed in 2017 and 2018. At the time of publication, the terms of all provincial councils had expired.

2.36 Presidential elections will be held on 16 November 2019. Sirisena will not contest. Parliamentary elections will be held between April and August 2020 (the president can dissolve parliament after 17 February 2020, or earlier if they secure the support of a two-thirds majority).

Constitutional crisis

2.37 On 26 October 2018, Sri Lanka was plunged into political turmoil when President Sirisena dismissed Prime Minister Wickremesinghe and replaced him with former President Rajapaksa. Sirisena attributed his decision to perceived economic mismanagement on the part of Wickremesinghe, untenable working relations and an alleged assassination plot against him that Sirisena perceived was not investigated properly. Wickremesinghe refused to resign on the grounds his dismissal was unconstitutional. Sirisena temporarily suspended parliament on 28 October, in what was widely seen as an attempt to prevent Wickremesinghe from proving his parliamentary majority and shore up support for Rajapaksa in the meantime. Several members of parliament claimed they were offered bribes to switch their allegiance to Rajapaksa. After failing to secure sufficient parliamentary support for Rajapaksa, on 9 November 2018 Sirisena dissolved parliament and called a snap election for 5 January 2019.

2.38 On 13 November 2018, the Supreme Court temporarily suspended Sirisena's dissolution of parliament pending a final decision. Parliament reconvened on 14 November. It passed two no-confidence motions against Rajapaksa, on 14 and 16 November, despite efforts by pro-Rajapaksa members to disrupt the votes. On 13 December, a full bench of the Supreme Court ruled unanimously that Sirisena's decision to dissolve parliament and schedule new elections was unconstitutional. On 14 December, the Supreme Court upheld an order of the Court of Appeal preventing Rajapaksa from functioning as prime minister. Rajapaksa resigned as prime minister on 15 December and Wickremesinghe was re-appointed the following day. A new UNP-dominated Cabinet was sworn in on 20 December. On 11 July 2019, Wickremesinghe defeated a no-confidence motion tabled by opposition members of parliament.

2.39 Rajapaksa retains popularity within the Sinhalese community, particularly for overseeing the defeat of the LTTE. However, Rajapaksa's 10-year presidency was also marked by democratic backsliding and

accusations of corruption and human rights violations, including war crimes against the Tamils and harassment and arrest of government critics. On his appointment as prime minister in October 2018, Rajapaksa said he would protect the human rights of all citizens. Local sources, Tamil and non-Tamil, expressed concern to DFAT that the human rights improvements achieved since 2015, including in relation to freedom of expression, could be reversed if Rajapaksa or an individual close to him returned to power. The SLPP formally announced Mahinda Rajapaksa's brother, former Defence Secretary Gotabaya Rajapaksa, as its candidate for president on 11 August 2019. Mahinda Rajapaksa assumed leadership of the SLPP and accepted its nomination to be the party's next prime ministerial candidate on the same day. Mahinda Rajapaksa has led the opposition in parliament since December 2018. He is ineligible for the presidency, having served the maximum two terms.

Constitutional reform

2.40 In line with a Sirisena election commitment, in April 2015 parliament amended the constitution to devolve some executive powers from the president to the prime minister, 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 these commissions. The 10-member Constitutional Council includes the prime minister, speaker of parliament and the leader of the opposition.

2.41 The pace of constitutional reform has since slowed. A parliamentary steering committee, established in April 2016 to prepare a new constitution and chaired by Prime Minister Wickremesinghe, submitted an interim report to parliament in September 2017, including in relation to the devolution of power to the provinces, electoral reform and powers of the presidency. Parliament debated the interim report in October and November 2017. In January 2019, Wickremesinghe tabled a report prepared by a Panel of Experts for the Steering Committee to parliament. The work of the steering committee, including preparation of draft text, is ongoing. On 26 June 2019, Sirisena, speaking to the media, attributed Sri Lanka's recent political instability to the 19th Amendment and suggested it be scrapped.

2.42 Devolution of power is particularly contentious in relation to the north and east. The Tamil community considers devolution non-negotiable. Many Sinhalese, in contrast, fear greater devolution could threaten the unitary character of the Sri Lankan state. A new constitution would require the support of two-thirds of parliament and a majority vote in a referendum. Local observers told DFAT that constitutional reform is not a priority for the current government. Sri Lanka's uncertain political outlook further complicates the constitutional reform process. Mahinda Rajapaksa has publicly rejected the need for a new constitution. DFAT assesses that a new or amended constitution is unlikely in the near-term.

Reconciliation

2.43 The report of the Office of the UN High Commissioner for Human Rights (OHCHR) Investigation on Sri Lanka (OISL), released in September 2015, found that government and LTTE forces likely committed grave violations, possibly amounting to war crimes and crimes against humanity, between 2002 and 2011. In response, the Sri Lankan Government committed to implement a range of truth, justice and reconciliation measures under a UN Human Rights Council (HRC) resolution (Resolution 30/1) adopted in October 2015. In March 2019, the HRC granted Sri Lanka an additional two years to implement its commitments, having granted it an earlier two-year extension in March 2017. Sri Lanka co-sponsored these resolutions.

2.44 In December 2015, the Sri Lankan Cabinet approved the formation of a Secretariat for Coordinating Reconciliation Mechanisms within the Prime Minister's Office. The Secretariat is responsible for designing and implementing four transitional justice and reconciliation mechanisms, in line with Sri Lanka's HRC commitments: (1) an Office on Missing Persons (OMP); (2) an Office for Reparations (OfR); (3) a Truth, Justice, Reconciliation and Non-Recurrence Commission; and (4) a Judicial Mechanism with a special counsel to investigate allegations of violations of human rights and international humanitarian law during the war. To inform this process, in January 2016 Prime Minister Wickremesinghe appointed an independent Consultation Task Force on Reconciliation Mechanisms (CTF) to conduct public consultations on the design of the four mechanisms. The government has not formally endorsed the CTF's findings, which were released in January 2017. DFAT assesses that, if implemented effectively, these mechanisms could facilitate genuine reconciliation, although their full implementation is unlikely in the near- to medium-term. The current mandate of the Secretariat for Coordinating Reconciliation Mechanisms ends in March 2020. It was allocated LKR200 million (approximately AUD1.6 million) in the 2019 budget.

2.45 While there has been some progress, implementation of the government's transnational justice and reconciliation commitments pursuant to HRC Resolution 30/1 has been slow and uneven to date. In 2015, the government established an Office for National Unity and Reconciliation (ONUR) and appointed former President Chandrika Bandaranaike Kumaratunga as chair. In May 2017, the government approved Sri Lanka's first National Policy on Reconciliation and Coexistence. The OMP was formally established in September 2017 and commissioners appointed by President Sirisena on the recommendation of the Constitutional Council in February 2018 (the OMP's seven commissioners include two Tamils and a Muslim). The OfR has also been formally established, and is in the process of being stood up: enabling legislation was passed by parliament on 10 October 2018 and commissioners from a range of ethnic and professional backgrounds were appointed by Sirisena on 4 April 2019. The 2019 national budget allocated the OfR LKR700 million (approximately AUD5.7 million) in funding. The OfR will have a mandate to provide reparations to persons affected by conflict, not only in the north and east, but also in the south, in connection to the Marxist insurrections of the 1970s and 1980s. A priority for the OfR is to develop a national policy on reparations. The timeframe for the enactment of legislation establishing a Truth Seeking Commission is not clear. There has been minimal progress on accountability for serious human rights violations committed during the war, including during its final stages. A judicial mechanism to investigate and prosecute war-era crimes is not currently under active consideration.

2.46 The OMP is the first permanent and independent body to address the issue of missing persons in Sri Lanka. The OMP is tasked with determining the status of all missing persons in Sri Lanka and clarifying the circumstances under which they disappeared. Its mandate includes cases that occurred before, during and after the war through to the end of Rajapaksa's presidential term, including periods of violent political disturbance in the 1970s and 1980s. The OMP has the power to investigate disappearances and trace missing persons, search detention centres, request information (including from the military) and summon people within Sri Lanka. The OMP does not have prosecutorial powers. The previous Presidential Commission to Investigate Complaints Regarding Missing Persons collected over 23,000 cases during its term from August 2013 to May 2016. The OMP has no time limit on its mandate, and is likely to take years to complete its work. The OMP helped with the excavation of a mass grave in Mannar (Northern Province), where over 350 skeletons were discovered in March 2018 (bone samples were sent to the US for testing; this determined the bones pre-dated Sri Lanka's civil war). The OMP plans to establish 12 regional offices throughout Sri Lanka. At the time of publication, the OMP had opened three regional offices, in Matara (Southern Province) (opened March 2019); and in Mannar (opened May 2019) and Jaffna (opened August 2019) in the Northern Province. In addition to the Sri Lankan Government, the OMP receives funding and technical assistance from the UN.

2.47 The OMP presented an Interim Report to President Sirisena on 5 September 2018. The report includes recommendations for interim relief for the families of missing persons, including a monthly allowance and debt relief, pending resolution of their claims by the OfR. In line with OMP interim recommendations, the government allocated LKR500 million (approximately AUD4.1 million) in interim relief for the families of missing persons in the 2019 budget, including a monthly allowance of LKR6,000 (approximately AUD50) for those families in possession of a ‘certificate of absence’ (see [Birth and Death Certificates](#)), and preferential access to ‘Enterprise Sri Lanka’, a government-run concessionary loan scheme. Sirisena has undertaken to appoint a cabinet sub-committee to consider fully the recommendations of the OMP’s Interim Report, but there had been no public update on this process at the time of publication. Local Tamil sources told DFAT the Tamil community lacked confidence in the OMP process and the government’s sincerity to investigate war-time disappearances. As a result, families of disappeared Tamils have been reluctant to engage with the OMP. Earlier commissions established by the government to investigate disappearances have not contributed significantly to accountability.

2.48 The current government has committed to address past abuses, and taken some steps to investigate and prosecute members of the security forces for alleged human rights violations during the war. In August 2018, two senior military intelligence officers were sentenced to death for the 1998 killing of an LTTE member in their custody. In the most high-profile case, the current Chief of the Defence Staff (head of the Sri Lankan military), Admiral Ravindra Wijegunaratne, was remanded in custody on 28 November 2018 for allegedly threatening a witness and attempting to remove the lead police investigator in a case involving the abduction and murder of 11 Tamil youths by Navy personnel in Colombo in 2008 and 2009. Separately, Wijegunaratne is accused of helping the main suspect in the case, Chandana Prasad Hettiarachchi, evade arrest and leave Sri Lanka. Wijegunaratne, who is not implicated in the disappearances themselves, was released on bail on 5 December 2018. Investigations involving Wijegunaratne were ongoing at the time of publication, and he remained in position. Wijegunaratne is the highest-ranking military official to face charges for alleged war-era crimes. Hettiarachchi, a naval intelligence officer, returned to Sri Lanka in August 2018 and has been in custody since. The bodies of the 11 men, who came from wealthy families and were allegedly abducted for ransom, have never been found.

2.49 The lead investigator in a number of ‘emblematic cases’ involving high-profile disappearances and other serious human rights violations where some progress has been made, Inspector Nishantha Silva of the Police Criminal Investigation Department, was transferred from his role on 18 November 2018, during the constitutional crisis. Nishantha Silva’s transfer was widely interpreted as an attempt to preclude further progress in the investigations for which he was responsible. Nishantha Silva was reinstated on 20 November 2018 following widespread criticism of his transfer.

2.50 Overall, the government has not made significant progress on accountability for abuses committed against the Tamil community. President Sirisena has repeatedly pledged to protect “war heroes” from prosecution and the government has rejected the involvement of foreign judges in any future special judicial mechanism. Speaking to the UN General Assembly in September 2018, Sirisena thanked Sri Lanka’s security forces ‘for their great sacrifices in ushering peace and ensuring... [Sri Lanka’s] territorial integrity’ and requested the international community give Sri Lanka space to resolve its own issues. On 19 August 2019, Sirisena appointed Lieutenant-General Shavendra Silva, whom the OISL has implicated in human rights violations in the final stages of the war, as Commander of the Sri Lanka Army. Michelle Bachelet, the UN High Commissioner for Human Rights, claimed in a statement that Silva’s appointment compromised Sri Lanka’s commitment to promote justice and accountability in the context of HRC Resolution 30/1 and undermined reconciliation efforts. In its Interim Report, the OMP noted that individuals suspected of criminal responsibility in cases of enforced disappearances continued to occupy senior positions of power, particularly within the military and police. Local sources questioned the government’s willingness to hold the

military to account for war-time abuses. DFAT assesses that substantive progress on accountability for war-era violations is unlikely in the near-term.

HUMAN RIGHTS FRAMEWORK

2.51 Sri Lanka is a party to the core international human rights conventions. It has ratified: the Convention on the Elimination of all Forms of Racial Discrimination; the International Covenant on Civil and Political Rights and its First Optional Protocol; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 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 and its Optional Protocol.

2.52 Sri Lanka's Constitution guarantees many internationally-recognised human rights. Sri Lanka underwent its third Universal Periodic Review (UPR) at the HRC in November 2017. Of the 230 recommendations made, the Sri Lankan Government accepted 177, noted 53 and undertook 12 voluntary pledges. The government released a five-year National Action Plan for the Protection and Promotion of Human Rights in 2011. A successor National Action Plan, prepared in consultation with civil society and the public, was released in November 2017.

2.53 A *Right to Information Act* was passed in June 2016 and is being used actively by citizens to access official information, including in relation to military-held land in the north and east. The University of Jaffna trains northern-based journalists in how to request information through the *Right to Information Act*.

National Human Rights Institution

2.54 The Human Rights Commission of Sri Lanka (HRCSL) was established by an Act of Parliament in 1996 with a mandate to investigate alleged violations of fundamental rights, advise the government in formulating laws and policies that comply with international human rights standards, and promote human rights awareness across the country. The HRCSL has unfettered access to places of detention and makes regular prison visits to monitor the welfare of detainees. The HRCSL has some capacity to undertake independent investigations, but does not have prosecutorial powers (it can refer cases to the Attorney-General for prosecution). The HRCSL has a head office in Colombo and 10 regional offices across the country, including in the Northern and Eastern provinces. It publishes quarterly reports in Sinhala, Tamil and English on the number of complaints received and resolved. Complaints can be lodged with the HRCSL in Sinhalese, Tamil or English. The HRCSL received 5,614 complaints in the period January-September 2017, 2,015 of which had been resolved as at January 2018. Many complaints allege discrimination in school admissions and public sector promotions, but complaints also allege torture, threats, monitoring and harassment, arbitrary arrest and detention, and inaction by government entities, including the police. The role of the HRCSL in overseeing the detention of individuals suspected of terrorism would be strengthened under proposed new counter-terrorism legislation currently before parliament. This legislation remained in draft form at the time of publication and may be subject to amendments (see [Monitoring, harassment, arrest and detention and Arbitrary Arrest and Detention](#)).

2.55 The Global Alliance for National Human Rights Institutions downgraded the HRCSL to Status B accreditation in 2007 for not being fully compliant with the Paris Principles, the international standard for national human rights institutions. The HRCSL was downgraded over concerns about its independence,

including in the appointment of commissioners. The HRCSL has since made strong gains in consolidating its independence, and was assessed as being fully compliant with the Paris Principles and granted Status A accreditation in May 2018. 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 of new commissioners with legal, academic and UN experience. But resource constraints remain an ongoing challenge, hindering the HRCSL's ability to respond to complaints in a timely manner and fulfil its mandate to ensure new laws are human rights-compliant. Sources told DFAT the government did not always consult the HRCSL adequately in the drafting of legislation, despite its mandate.

SECURITY SITUATION

2.56 The security situation in Sri Lanka, particularly in the north and east, has improved significantly since the end of the civil war in May 2009. The Sri Lankan Government exercises effective control over the entire country, including Tamil-populated areas. Security has been heightened across Sri Lanka following the Easter Sunday terrorist attacks of 21 April 2019, including through the establishment of roadblocks and security checkpoints. Countrywide Emergency Regulations were introduced on 22 April 2019. These gave the police and military broad powers of detention and search and entry, and included provisions for the death penalty. The Emergency Regulations lapsed on 22 August 2019, although a gazette issued by President Sirisena on the same day allows the military to remain deployed across the country to assist police in maintaining law and order upon request. Under the gazette, security forces cannot, by themselves, arrest or search people or properties, as was permitted by the Emergency Regulations.

2.57 The 2019 Easter Sunday terrorist attacks, carried out by local Islamic extremists inspired by ISIL, targeted three luxury hotels in Colombo (Western Province) and three Christian churches in Colombo, Negombo (Western Province) and Batticaloa (Eastern Province). Three further explosions occurred on 21 and 22 April on the outskirts of Colombo, during counter-terrorism operations: at Dehiwala; Dematagoda; and Kotahena. According to the Sri Lankan Government, more than 250 people were killed as a result of the bombings, including 42 foreigners, with another 490 injured. On 22 April, police recovered 87 low-explosive detonators from a bus station in Pettah, in central Colombo. On 26 April, at least 15 people were killed during a security operation at a property linked to the suicide bombers in Ampara (Eastern Province).

2.58 The Sri Lankan Government attributed the attacks to the NTJ and the JMI on 23 April, and claimed the groups had received foreign support. Neither the NTJ nor the JMI previously had a high profile. The NTJ's leader, Mohammed Zaharan, was known to promulgate extremist content, including through social media, from his base in Kattankudy (Eastern Province). Zaharan was one of the Colombo suicide bombers. ISIL claimed responsibility for the attacks shortly after the government's attribution. According to local investigators, the NTJ and the JMI drew inspiration from – but had no direct links to – ISIL.

2.59 On 22 April 2019, President Sirisena appointed a three-member committee, headed by a retired Supreme Court judge, to investigate the cause of and background to the Easter Sunday attacks. The Committee presented its final report to the president on 10 June 2019. On 22 May, a multi-party Parliamentary Select Committee was established to investigate the intelligence lapses that led to the attacks, chaired by Deputy Speaker J.M. Ananda Kumarasiri. It released its findings on 23 October 2019. Sirisena and Prime Minister Wickremesinghe have made public calls for unity and restraint, and urged Sri Lankans to dissociate the broader Muslim community from the perpetrators of the attacks. Muslims have been the subject of reprisals and widespread discrimination and vilification since the Easter Sunday attacks (see [Muslims](#)).

2.60 The Sri Lankan Government says it has killed or apprehended all of those directly involved in the Easter Sunday attacks and diminished the capability of the NTJ and the JMI to carry out future mass-casualty attacks. Nearly 2,300 individuals were arrested in connection with the attacks, up to 300 of whom reportedly remained in police custody at the time of publication. The NTJ and the JMI are not thought to have large memberships. Both groups were banned by the Sri Lankan Government on 27 April. This allows the Sri Lankan authorities to curb the groups' activities and seize their assets. Separately, on 23 May, the Sri Lankan Government proscribed the NTJ, the JMI and a third local Islamic extremist group, Willaayath as Seylani (WAS), as terrorist entities under domestic legislation implementing UN Security Council (UNSC) Resolution 1373 (2001) relating to the prevention and suppression of terrorist acts and terrorism financing. Little was known about WAS, and the extent of its involvement in the Easter Sunday attacks, at the time of publication.

2.61 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. The United Nations Office on Drugs and Crime estimated a murder rate of 2.55 per 100,000 people in 2016. A number of local sources told DFAT of an increase in gang violence in Jaffna (Northern Province), including random sword attacks allegedly carried out by the Aava gang (see [Security situation in the north and east](#)). Sources in the Northern Province also told DFAT of a growing propensity within the Tamil community in the north to address disputes, including minor neighbourhood disputes, through violence.

2.62 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 elections. Independent election monitors recorded fewer violent incidents in the February 2018 local government elections compared to previous elections.

2.63 Supporters of former President Rajapaksa surrounded some government ministries and forcibly occupied state-owned television stations following his appointment as prime minister on 26 October 2018. On 28 October, one Rajapaksa supporter was killed and two wounded after the bodyguard of Arjuna Ranatunga, Wickremesinghe's Petroleum Minister, opened fire into a crowd of pro-Rajapaksa supporters who were preventing Ranatunga from entering his ministry. This incident and some physical clashes in parliament notwithstanding, the constitutional crisis played out peacefully. Large-scale rallies were held without incident. The military was visible on the streets of Colombo during the course of the crisis but remained neutral throughout.

Security situation in the north and east

2.64 The government no longer restricts travel to the north and east. It removed security checkpoints on major roads in 2015, although some were re-established following the 2019 Easter Sunday terrorist attacks. DFAT understands that some security checkpoints re-established in the north since 21 April 2019 have since been removed.

2.65 The military maintains a significant presence in the north, including approximately 30,000 personnel in the Jaffna Peninsula (some NGOs cite higher numbers). Most military personnel are confined to the Security Forces Cantonment on Jaffna Peninsula and smaller surrounding military camps. Military involvement in civilian life has decreased, although military involvement in some civilian activities, particularly the economy, continues in the Northern Province (see [Economic conditions in the north and east](#)). Ongoing military occupation of some land and slow progress on the fate of missing persons continue to drive protests in the north. As they are elsewhere in Sri Lanka, security forces are in a heightened state of alert in the north and east in the aftermath of the 2019 Easter Sunday terrorist attacks. The military presence in the north and east increased after 21 April 2019 and, consistent with the Emergency Regulations

introduced on 22 April 2019, the military and police enjoyed expanded powers of detention, search and entry. The Emergency Regulations lapsed on 22 August 2019. Local sources told DFAT that the heightened security posture in the north since 21 April 2019 has subsequently eased.

2.66 The military appropriated substantial amounts of private- and state-held land in the Northern and Eastern provinces during and after the civil war in order to establish bases and associated buffer zones (known as 'High Security Zones'). As part of the government's transitional justice efforts, President Sirisena pledged to return all land appropriated by the military in the north and east by the end of 2018. While there has been significant progress on land return, Sirisena's pledge had not been met at the time of publication. According to the Sri Lankan Government, as of 2 April 2019, 89,263 acres (or more than 75 per cent) of land held by the military had been released, including 5,797 acres in 2018.

2.67 Incremental land returns continue, although there have been issues with how some land has been released. For example, in some cases farmers have been returned their land but not their houses, and fishermen have been returned their land but denied access to the ocean. The government has committed to pay compensation where land is not returned for national security reasons. DFAT understands the military retains sole decision-making authority on which land to return and how people should be compensated. Sources told DFAT that the military continued to hold land considered economically valuable, including for fishing and farming purposes. According to the OHCHR, as at 30 September 2018, the military retained 17,793 acres in the Northern Province (4,162 acres of which was private land) and 12,520 acres in the Eastern Province (of which 131 acres was private land). According to military sources, only 1.37 per cent of the land in the Jaffna Peninsula is occupied by the military today. Official sources attributed delays in releasing remaining land to the complexity and financial cost associated with closing existing bases and relocating military personnel elsewhere. The government and the military say they remain committed to land return.

2.68 According to local sources, the Aava gang is active in Jaffna and other parts of the Northern Province. The Aava gang mostly comprises young Tamil men. Its size is unknown. Police attributed a spike in criminal activity in Jaffna in recent years, including sword attacks and robberies, to the group and arrested many of its members, including its purported leader, Kumareshwaran Vinodan. The Aava gang's origins are disputed. In November 2016, then-Health Minister and Cabinet Spokesperson Dr Rajitha Senaratne claimed the Aava gang was a war-time creation of the military as a counter-insurgency tool against the LTTE and was being used to justify a large ongoing security presence in Tamil areas in the post-war period. DFAT is unable to verify these claims. Multiple local sources told DFAT that members of the Aava gang were influenced by characters in Tamil gangster movies, who they tried to imitate, and dismissed purported links to the military.

2.69 A senior police officer told the Sri Lankan media in October 2018 that gang violence was occurring in only four of 53 police areas in the Northern Province, and that most of these incidents were between rival gangs. According to local media reporting, the police launched special operations to eliminate the Aava gang in October 2018. Local sources told DFAT that the police regularly stopped cars in Jaffna to check for swords and that crime levels in the north had fallen with the increase in security since the 2019 Easter Sunday terrorist attacks.

2.70 DFAT assesses that gangs, including the Aava gang, are active in the Northern Province but pose a low threat of violence to the local community.

2.71 Former Tamil paramilitary groups who were aligned with the previous government during the war, like the Tamil Makkal Viduthalai Pulikal (TMVP, formerly the Karuna Group) and the Eelam People's Democratic Party (EPDP), remain active, but have disarmed and are now engaged in politics. The TMVP, which operates in the east, registered as a political party in 2007. It won a majority in provincial council elections in the Eastern Province in 2008 and some seats in the February 2018 local government elections. The TMVP's founder, Vinayagamorthy Muralitharan (*nom de guerre* Karuna Amman), the LTTE's senior

commander in the Eastern Province before his defection to the government in March 2004, served as a member of parliament for the UPFA/SLFP from 2008 to 2015 and as Deputy Minister of National Integration under former President Rajapaksa (Muralitharan launched a new political party, the Tamil United Freedom Party, in February 2017).

2.72 The EPDP, which operates largely in the north, was formed in 1990 and entered politics as early as 1994. Its founder, Douglas Devananda, has served in parliament for the Jaffna District since then (Devananda held several ministerial positions under former presidents Chandrika Bandaranaike Kumaratunga and Rajapaksa). The Karuna Group/TMVP and the EPDP have been accused of committing serious human rights violations both during and after the war. The OISL found that both groups committed – with the alleged collusion of the authorities – unlawful killings and enforced disappearances of suspected LTTE members, attacked and kidnapped civilians, and recruited children during the war. Post-war, the TMVP has been accused of harassing and intimidating suspected former members of the LTTE and supporters of the TNA and UNP, its political rivals.

2.73 DFAT understands the influence of the TMVP and the EPDP has waned considerably since the current government took office in 2015, and they no longer maintain armed wings. Local sources told DFAT that the TMVP ‘re-emerged’ and was visible in the east following the appointment of Rajapaksa, to whom it is aligned, as prime minister on 26 October 2018, although there were no reports of violence attributed to it. According to local sources, while some Tamils, particularly those with past links to the LTTE, continue to fear the TMVP and the EPDP, these groups no longer pose a major concern. Sources told DFAT that the TMVP had no formal presence in the north. DFAT assesses that, under the current government, the TMVP and the EPDP present a low threat of violence and intimidation to members of the Tamil community.

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 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 war, coupled with previous language policy that was discriminatory toward the Tamil community (the 1956 *Official Language Act*, also known as ‘Sinhala Only Act’, recognised Sinhala as the sole official language), mean ethnicity and language are sensitive issues in Sri Lanka. The 13th Amendment to the Constitution, passed in 1987, granted the Tamil language official status alongside Sinhalese, as well as recognising English as a ‘link 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. As Sri Lanka’s commercial centre, Colombo has attracted Tamils and Muslims from other parts of the country in search of greater economic opportunities. Many Tamils and Muslims also moved to Colombo during the war, to escape the fighting in the north and east. Tamils comprise most of the population in the Northern Province, with the region’s isolation during the war – and the ouster of Muslims by the LTTE in 1990 – making it less ethnically diverse. The Eastern Province, in contrast, is mixed – at the time of the 2012 census, Tamils comprised 39.2 per cent of its population, Muslims 36.9 per cent and Sinhalese 23.2 per cent. Sources told DFAT of ongoing tensions between the Muslim and Tamil communities in the Eastern Province dating from the civil war, when the LTTE allegedly perpetrated attacks on the Muslim community. These tensions have become more acute following the 2019 Easter Sunday terrorist attacks. In contrast, Muslim sources told DFAT that the Muslim and Tamil communities co-existed peacefully in the Northern Province.

3.3 Caste remains important in Sri Lankan society, although its influence has decreased over time. Sources told DFAT that caste retains particular significance within the Hindu community. Anecdotal evidence suggests that, for Hindus, caste outweighs religion in relation to marriage – Hindus prefer to marry from within their own caste above all else and inter-caste marriage is frowned upon. Sources told DFAT that discrimination based on caste still occurs, but takes a more subtle form today.

3.4 DFAT assesses that non-Muslim Sri Lankans, including Tamils, face a low risk of official or societal discrimination based on ethnicity or caste, including in their ability to access education, employment or housing. DFAT assesses that, following the 2019 Easter Sunday terrorist attacks, Muslim Sri Lankans face a low – but increasing – risk of official discrimination and a moderate risk of societal discrimination (see [Easter Sunday terrorist attacks and aftermath of anti-Muslim violence](#)).

Tamils

3.5 Tamils are the second largest ethnic group in Sri Lanka (15.3 per cent of the population). 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 but are concentrated in the Northern and Eastern provinces; according to the 2012 census, Tamils comprise 93.8 per cent of the population in the Northern Province and 39.2 per cent of the population in the Eastern Province. Tamils account for 6.8 per cent of the population in the Western Province. Tamils of Indian origin have a large presence in the Central, Sabaragamuwa and Uva provinces.

3.6 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 TMVP and the EPDP are also active politically. The TNA's vote share dropped with a noticeable swing towards more hardline Tamil groups in the last local government elections (February 2018). 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.

3.7 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 personnel in the north and east remains small, and monolingual Tamil speakers can have difficulty communicating with authorities.

3.8 DFAT assesses there is no official discrimination on the basis of ethnicity in public sector employment. Rather, Tamil's under-representation is largely the result of language constraints and disrupted education because of the war.

3.9 DFAT is aware that some Sinhalese from the south have resettled in the north and east with government assistance in the post-war period. Local sources in the north expressed concern about the construction of Buddhist statues and temples in non-Buddhist populated areas. DFAT is unable to verify claims that Sinhalese settlers in the north and east have received preferential treatment to establish businesses. Some Tamil sources claimed Sinhalese had been resettled on desired coastal land and that Sinhalese fishermen in the north were supported by the Navy.

Monitoring, harassment, arrest and detention

3.10 Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested or detained by security forces during the war. 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 \(Actual or imputed\)](#)).

3.11 Members of the Tamil community claim that authorities continue to monitor public gatherings and protests in the north and east, and practise targeted surveillance and questioning of individuals and groups. Security forces are most likely to monitor people associated with politically-sensitive issues related to the war, including missing persons, land release and memorial events (see [Civil society organisations and government critics](#) and [Media](#)). Local sources told DFAT that the method of monitoring today was more subtle (see [Monitoring of former LTTE members](#)).

3.12 Communities in 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. According to local sources, those participating in public gatherings and protests are often photographed. In the east, local informants within the community (including neighbours and business

owners) reportedly undertake monitoring on behalf of the authorities. Intelligence agencies also monitor links to foreign groups, including some in the Tamil diaspora.

3.13 The current government has relaxed some restrictions on the public commemoration of events associated with the Tamils' armed struggle for statehood. While sources told DFAT there is monitoring by the authorities, Tamils have been free to hold public ceremonies marking Maaveerar Naal (Great Heroes' Day) since 2016. Maaveerar Naal commemorates those who died fighting for the LTTE. A local source told DFAT the atmosphere at war commemorations was 'constructive' and Tamils were increasingly comfortable marking such events. A memorial event to mark the 10-year anniversary of the end of the war was held in Mullivaikkal (Northern Province) on 18 May 2019, albeit with a high security presence. Sources told DFAT that heightened security and fear levels under the Emergency Regulations introduced on 22 April 2019 discouraged some people from attending. The Emergency Regulations lapsed on 22 August 2019.

3.14 LTTE cemeteries in the north and east were destroyed by government forces during and after the war. Some have subsequently been restored. It is illegal to commemorate the birthday of LTTE leader Prabhakaran (26 November), although some Tamils are known to defy this ban. Seven Tamils, including a TNA provincial councillor, were arrested for planning to commemorate Prabhakaran's birthday in 2018, but later released. The public display of LTTE symbols, including the LTTE flag and images of Prabhakaran, is banned. On 2 May 2019, the president and secretary of the Student Union at the University of Jaffna, along with the university's canteen manager, were arrested under the *Prevention of Terrorism Act* (PTA) for displaying a photo of Prabhakaran and being in possession of LTTE literature. They were subsequently released on bail.

3.15 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. Physical violence against those being monitored is not common.

3.16 The PTA was enacted as a temporary measure in 1979 to counter separatist insurgencies. It was made permanent in 1982. The PTA is not part of regular criminal law, and contains special provisions on detention and the admissibility of confessions. The PTA allows arrests for unspecified "unlawful activities", permits detention for up to 18 months without charge and provides that confessions are legally admissible. The PTA was used mainly to target those suspected of involvement with the LTTE. During the war, authorities detained more Tamils under the 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](#)).

3.17 The PTA remains legally in force. It was effectively suspended between 2016 and April 2019, following the government's commitment to repeal and replace the PTA under HRC Resolution 30/1 (2015). However, the PTA has been used – along with the now-lapsed Emergency Regulations – to detain persons allegedly involved in the 2019 Easter Sunday terrorist attacks. DFAT is unable to verify how many individuals have been detained under the PTA since 21 April 2019.

3.18 The PTA was used sporadically between 2016 and April 2019. It is known to have been used on three separate occasions in 2018 (in July, in relation to an alleged assassination plot against TNA Spokesperson M.A. Sumanthiran; in September, in relation to an alleged assassination plot against Sirisena and former Defence Secretary Gotabaya Rajapaksa; and in November, in relation to the murder of two police officers in Batticaloa) and twice between January and April 2019 (in January and March, in cases involving the seizure of explosives and the trafficking of drugs, respectively). Sources told DFAT the PTA was used for specific reasons in these instances, including, in the case of the alleged assassination plot against Sumanthiran, to enable the case to be heard in Colombo rather than in the Northern Province (where the alleged offence took place) for security reasons. The Tamil individual arrested for the alleged murder of the two police

officers in Batticaloa in November 2018 was released in May 2019 (the NTJ is suspected of the murders). The PTA is not known to have been used in 2017.

3.19 The government committed to repeal and replace the PTA with counter-terrorism legislation that is human rights compliant as part of its broader reconciliation and transitional justice undertakings. Draft replacement legislation, the *Counter-Terrorism Act* (CTA), was approved by cabinet in September 2018 and presented to parliament on 9 October 2018. The Supreme Court subsequently considered several petitions challenging the constitutionality of certain clauses of the CTA, and declared a number of them to be unconstitutional and requiring amendment. One amendment required by the Court was to include provision for the death penalty.

3.20 The constitutional crisis and 2019 Easter Sunday terrorist attacks have stalled enactment of the CTA. Draft legislation remains with parliamentary oversight committees, but it is unclear when it will be tabled for parliamentary vote. UNP elements and Opposition Leader Rajapaksa spoke out against the CTA following the Easter Sunday terrorist attacks. In July 2019, cabinet appointed a ministerial committee headed by the Foreign Minister to submit recommendations to it on 'introducing an effective legal framework to counter terrorism'. DFAT understands this process may involve amending the draft CTA. Against this backdrop, DFAT assesses that repeal and replacement of the PTA is unlikely in the near-term.

RELIGION

3.21 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 current government has publicly declared its commitment to religious and ethnic reconciliation.

3.22 The constitution provides for freedom of religion, including the freedom to change religion. The constitution also provides for freedom of public and private worship. However, Article 9 of the Constitution grants Buddhism a 'foremost place' and obligates the state to 'protect and foster' Buddhism while protecting the rights of religious minorities. In 2003, the Supreme Court ruled that the state was constitutionally required to protect only Buddhism. The constitutional reform process has included discussion on amending Article 9, although DFAT assesses that any attempt to remove Buddhism's special constitutional status would be politically controversial, meet significant pushback from the Sinhalese community and likely fail. Acts intended to insult religion are punishable by a fine and/or a maximum of one-year imprisonment. This is applicable to all religions, not just Buddhism. Attacking places of worship or religious objects is punishable with a fine and/or a maximum of two years' imprisonment. Similarly, this applies to all religions.

3.23 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 adherents of the faith for which they are responsible. Religion is a compulsory subject in both public and private schools. Students are able to study their choice of Buddhist, Hindu, Muslim or Christian religious classes, depending on the availability of teachers. There are some Hindu and some Muslim public schools.

3.24 The former Rajapaksa Government sanctioned religious discrimination, including by supporting the extremist Buddhist group *Bodu Bala Sena* (BBS, Buddhist Power Force in English), and has continued to do so in opposition. In 2013, then-Defence Secretary Gotabaya Rajapaksa was the keynote speaker at the inauguration of a BBS academy in Galle. Incidents targeting religious minorities were reported throughout 2018 and 2019. Some local government officials and police continue to refer to a 2008 circular of the Ministry of Buddhasasana and Religious Affairs, revoked in 2015, which states that all new constructions of places of worship require the approval of the Ministry. According to local sources, the circular is used to

restrict the construction of new places of worship by religious minorities. 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. Local sources allege that police and government officials at the local level, who are predominantly Buddhist, are prejudiced against religious minorities and are not responsive to instances of religiously-motivated attacks against them. Religious minorities told DFAT they were losing faith in the state's ability to provide them with protection against Buddhist extremists, particularly at the local government level.

3.25 A number of extremist Buddhist groups operate in Sri Lanka, including the BBS, *Sinha Le* (Lion's Blood), *Sinhala Ravaya* (Sinhalese Roar) and the *Mahason Balakaya* (Strong Ghost Regiment). These groups emerged in response to perceived threats to Sri Lanka's Buddhist identity posed by religious minorities, mostly during the time of the Mahinda Rajapaksa Government. The BBS is the most prominent; founded in 2012, it has engaged in acts of violence and hate speech against religious minorities, particularly Muslims. Hate speech against religious minorities, particularly Muslims, is prevalent on social media.

3.26 Under the current government, state authorities have taken a relatively less tolerant approach toward Sinhala Buddhist extremism, and groups such as the BBS have met some pushback. In August 2018, the General Secretary of the BBS, Galagoda Aththe Gnanasara, was given a six-year prison sentence for contempt of court following a 2016 incident in which he interrupted a court hearing on the 2010 disappearance of anti-Rajapaksa cartoonist Prageeth Eknaligoda and threatened Eknaligoda's wife. On 19 November 2018, police used tear gas and water cannons on BBS monks protesting outside the Presidential Secretariat in Colombo for Gnanasara's release. But impunity for hate speech and incitement of violence against religious minorities, particularly Muslims, is an ongoing issue, and there remains an overriding lack of political will to confront Buddhist extremism, including in the context of forthcoming elections. Sirisena pardoned Gnanasara on 22 May 2019. Since his release, Gnanasara has actively promulgated anti-Muslim rhetoric and advocated for the government to dismiss Muslim ministers and provincial governors, who Gnanasara has claimed, without evidence, were complicit in the 2019 Easter Sunday terrorist attacks. Sources noted that, while Gnanasara was jailed for contempt of court, he has never been prosecuted for inciting violence against religious minorities.

3.27 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 government authorities, which can affect their ability to practise their faith freely. Muslims have experienced some discrimination following the 2019 Easter Sunday terrorist attacks, including restrictions on Islamic dress under the Emergency Regulations. These lapsed on 22 August 2019 (see [Easter Sunday terrorist attacks and aftermath of anti-Muslim violence](#)).

Muslims

3.28 Muslims are the third largest religious group in Sri Lanka (9.7 per cent of the population were practising Islam at the time of the 2012 census). 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 (Ampara, Batticaloa and Trincomalee), north (Mannar) and northwest (Puttalam). Nearly all Sri Lankan Muslims (98 per cent) 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 (see

Muslim women). Although many Muslims work in agriculture and fisheries, many also work in business, industry and the civil service. There are many wealthy Muslim businessmen in the east. In November 2017, some Muslim businesses were temporarily boycotted because of tensions between the Tamil and Muslim communities in Batticaloa. Muslim businesses have also been boycotted following the 2019 Easter Sunday terrorist attacks (see [Easter Sunday terrorist attacks and aftermath of anti-Muslim violence](#)).

3.29 The Sri Lanka Muslim Congress (SLMC), the largest Muslim political party, has seven members of parliament. Another Muslim party, the All Ceylon Makkal Congress (ACMC), holds five seats in parliament. Both the SLMC and the ACMC are part of the United National Front for Good Governance, the UNP-led governing coalition. The SLFP and the UNP have Muslim members in parliament. Muslims held nine ministerial-level positions – including cabinet positions – in the current government, although they resigned *en masse* from their portfolios on 3 June 2019 in protest over the government's perceived failure to protect the Muslim community following the 2019 Easter Sunday terrorist attacks. On the same day, and in response to public pressure, the Muslim provincial governors of the Western and Eastern provinces also tendered their resignations. Eight of the nine Muslim ministers subsequently returned to their ministerial and cabinet positions (two on 19 June, four on 29 July and two on 23 August 2019).

3.30 Although most Muslims sided with (Sinhalese) government forces during the war, religious tensions between Muslims and the Sinhala Buddhist majority have risen in the post-war period. Extremist Buddhist groups such as the BBS, *Sinha Le*, *Sinhala Ravaya* and *Mahason Balakaya* have targeted the Muslim community, including through social media. Greater freedom of expression under the current government and growth in social media use have enabled an increase in hate speech against Muslims and other religious minorities. Buddhist extremists have advocated for a boycott of Muslim-owned shops and businesses. President Sirisena has committed to investigate anti-Muslim hate crimes and bring perpetrators to justice, although local sources claim that, for political reasons, the government is reluctant to address violence perpetrated by religious clerics due to concerns of a public backlash. Sources from within the Muslim community told DFAT that Muslims did not receive adequate state protection from the BBS and other extremist Buddhist groups.

Easter Sunday terrorist attacks and aftermath of anti-Muslim violence

3.31 Anti-Muslim sentiment in Sri Lanka has increased following the 2019 Easter Sunday terrorist attacks. DFAT is aware of reports of Muslims being subjected to discrimination on the basis of their religion since 21 April 2019, including within the context of Emergency Regulations promulgated following the attacks. Under these regulations, clothing that covered the face and prevented identification was banned in public places. While it did not refer explicitly to Muslim female garb such as the burqa and niqab (which cover the face), the ban was interpreted as a clear reference to this type of dress. Following reports that some shops, hospitals, courts and universities were banning women wearing the hijab from entering their premises, on 13 May the government issued a gazette clarifying that the ban did not extend to the hijab (which does not obscure the face). The Emergency Regulations lapsed on 22 August 2019. Though there are no longer legal restrictions on face coverings, there have been reports of women wearing the niqab continuing to be detained by the authorities.

3.32 Local sources told DFAT that, since the attacks, Muslim shop owners, stallholders, mobile vendors and daily labourers in the Eastern Province have been obstructed from carrying out their daily business, leaflets have been distributed promoting boycotts of Muslim businesses, and some Muslims have been denied access to shops and transport. DFAT has also heard anecdotally that some Muslim men in the north and east have been refused night travel passes, which has prevented them from fishing. On 24 May, Dr. Mohamed Shafi, a Muslim doctor in Kurunegala (North Western Province), was detained on allegations he sterilised thousands of Sinhalese women without their consent. The arrest followed a front-page story in

a nationalist newspaper claiming an unidentified doctor had sterilised 4,000 women after performing caesarian sections. Dr Shafi was released on bail on 25 July after police found no substantial evidence against him.

3.33 On 30 April 2019, the Minister of Education, Akila Viraj Kariyawasam, said foreign teachers working at madrassas in Sri Lanka without valid visas would be deported immediately. On 7 May, the Ministry of Home Affairs said it had deported 600 foreigners who had overstayed their visas, including 200 Muslim clerics.

3.34 The Muslim community has come under increased scrutiny as part of the government's counter-terrorism efforts following the Easter Sunday terrorist attacks, including monitoring for signs of radicalism. The government has indicated it will work to de-radicalise Muslims suspected of extremist views as part of these efforts, including, potentially, through a rehabilitation process. It is unclear what such a process, if it were introduced, would entail. According to media reporting, up to 2,000 Muslims have been questioned and, in many cases, detained for 'extremism' on the basis of limited evidence. Muslims have reportedly also been targeted for vehicle searches at security roadblocks throughout the country. Military checkpoints along the main travel routes used by Muslims (Puttalam to Mannar and Vavuniya) remained in place at the time of publication.

3.35 The Muslim community has been the subject of reprisal attacks, including physical assault and property damage, since 21 April 2019. Known reprisals have occurred in the Western (Negombo, Gampaha, Kalutara), North Western (Puttalam, Chilaw, Kurunegala) and Northern (Mannar) provinces. In the most serious incident, on 12-13 May, scores of Muslim-owned businesses, mosques, houses and vehicles were targeted by Sinhalese mobs in several towns and cities across North Western Province, including Chilaw, Puttalam and Kurunegala. Many properties were torched and destroyed or badly damaged (450 in Kurunegala District alone, according to local contacts). One Muslim businessman was killed. The government declared a countrywide curfew and blocked social media in response to the unrest, to prevent the circulation of videos and posts inciting violence against Muslims. More than 100 people were arrested in connection with the violence, including high-profile Sinhalese Buddhist nationalist Amith Weerasinghe. The HRCSL expressed concern that the authorities did not do enough to stop the attacks. Weerasinghe, the leader of *Mahasana Balakaya*, was involved in anti-Muslim violence in Kandy in March 2018 and subsequently released on bail (see paragraph 3.37). It is unclear if the BBS was involved in the May 2019 violence. Inter-communal tensions, and the potential for further unrest, remain high. DFAT assesses there is potential for more reprisal attacks against the Muslim community and broader civil unrest following the Easter Sunday terrorist attacks.

3.36 Refugees and asylum seekers from South Asia were also threatened after the Easter Sunday terrorist attacks. According to Human Rights Watch and Amnesty International, 1,100 mostly-Muslim refugees and asylum seekers – primarily from Pakistan and Afghanistan – were evicted from their homes in Negombo following pressure on their landlords by local residents. DFAT understands those affected received assistance from UNHCR and protection from the Sri Lankan police and army. Some were temporarily accommodated in a rehabilitation centre in the Northern Province used to rehabilitate former LTTE members (see [Rehabilitation](#)).

3.37 The events of 12-13 May 2019 were the most serious case of anti-Muslim violence since 6 March 2018, when the government declared a 10-day countrywide State of Emergency and temporarily blocked instant messaging applications and social media platforms in response to clashes between members of the Sinhalese Buddhist and Muslim communities in Kandy (Central Province). The unrest was triggered by reports of a Sinhalese man being assaulted by a group of Muslims following a traffic accident (the Sinhalese man later died of his injuries). Despite the deployment of high numbers of military and police and extended curfews, violence continued in several towns around Kandy until 7 March 2018, and four people (two Muslims and two Sinhalese) were killed and dozens injured. A total of 280 people were arrested in relation

to the violence, including Amith Weerasinghe (Weerasinghe was released on bail on 1 November 2018). The events in Kandy followed a smaller incident on 27 February 2018 where 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. Muslims reported police inaction during these incidents.

3.38 Local groups have 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.

3.39 In December 2018, a group of Muslim youth allegedly belonging to the NTJ vandalised Buddhist statues in Mawanella (Sabaragamuwa Province), although this did not trigger communal unrest. Muslim leaders were quick to condemn the incident.

3.40 There are no reliable statistics on attacks on Muslims and Muslim places of worship. Incidents against Muslims have increased since the Easter Sunday terrorist attacks. Sinhala Buddhist nationalist groups have engaged in a sustained campaign of hate speech against Muslims in recent years, which remains ongoing. Following the Easter attacks, Muslims have been the subject of discrimination and vilification, and some non-Muslims hold the Muslim community collectively responsible for the events of 21 April 2019. With the exception of the anti-Muslim violence of March 2018 and May 2019, attacks on the Muslim community have been of a low-level nature.

3.41 DFAT assesses that, in the current environment, Muslims face a moderate risk of violence. DFAT further assesses that, in the current environment, Muslims face a low – but increasing – risk of official discrimination and a moderate risk of societal discrimination, including a growing threat to their freedom of religion.

Christians

3.42 Around 82 percent of Christians in Sri Lanka are Roman Catholic. Other Christian denominations include Anglican, Assembly of God, Baptist, The Church of Jesus Christ of Latter-day Saints (Mormon), the Dutch Reformed Church, Jehovah's Witnesses, Methodist and Pentecostal. Membership of evangelical Christian groups is small but growing. The Christian community encompasses both Sinhalese and Tamil ethnic groups.

3.43 The National Christian Evangelical Alliance of Sri Lanka (NCEASL) documented 88 incidents of violence and intimidation against Christians in 2018, 19 of which involved acts of violence. The NCEASL documented 96 such incidents in 2017, 90 in 2016 and 89 in 2015. These primarily involved intimidation, including physical and verbal threats against pastors and their congregations and disruption of worship services, demands for closure of churches and legal challenges. In some cases, local officials requested evangelical Christian churches 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. Prior to 2019, there were no reported incidents of violence or visible hostility against Christians perpetrated by Muslims. 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.

3.44 According to sources from the local Christian community, Christians who file complaints on the basis of perceived breaches of their right to religious freedom are often victimised and blamed by law enforcement officials, and some complaints are not investigated further. Of the incidents of violence and

intimidation against Christians documented by the NCEASL since 2015, nearly half involved state agents, either implicitly or explicitly, including police, village officers (*grama niladhari*) and Divisional Secretariats. Sources told DFAT that restrictions on Christians' religious liberties were particularly pronounced in rural areas and that, as a result, Christians in these areas were increasingly apprehensive about being open about their faith.

3.45 The NCEASL has documented over 50 incidents of anti-Christian violence and intimidation in 2019 to date, including the Easter Sunday terrorist attacks. Christians were deliberately targeted as part of these attacks. Most of those killed were parishioners attending Easter services at the St Anthony's Roman Catholic (Colombo), St Sebastian Roman Catholic (Negombo) and Zion evangelical (Batticaloa) churches. Public church services were suspended across Sri Lanka immediately following the attacks. They have since resumed, but with heightened security. Private Catholic schools reopened on 14 May.

3.46 DFAT assesses that Christians in Sri Lanka face a low risk of official discrimination. DFAT assesses that evangelical Christians in Sri Lanka face a moderate risk of societal discrimination, and that Roman Catholics and other mainstream Christian denominations face a low risk of societal discrimination. The number of incidents targeting evangelical Christians has remained largely static over recent years, and is highest in Buddhist-majority regions in the North Central, South and Western provinces. The NCEASL has attributed some instances of violence and intimidation against Christians to the BBS, although DFAT is not aware of any specific incidents perpetrated by the BBS against the Christian community in 2018. The primary focus of the BBS and other Buddhist extremist groups is the Muslim community. There were no reported incidents of attacks on Christians by radical Muslims in Sri Lanka prior to the Easter Sunday terrorist attacks. Future attacks against the Christian community by homegrown Islamic extremists are possible. DFAT assesses that Christians face a low threat of violence from homegrown Islamic extremist groups, although this could change if such groups were to expand in membership and strengthen their international links.

Hindus

3.47 Most Tamils in Sri Lanka are Hindu. Hindus account for a majority of the population in the Northern Province, and practise their faith freely there and elsewhere in Sri Lanka. Local sources told DFAT that the Department of Archaeology routinely sided with Buddhist monks claiming Hindu archaeological sites in the north and east as Buddhist sites. DFAT is not aware of any organisations in Sri Lanka that systematically document violations against Hindus and, as such, cannot verify this information (see [Tamils](#)).

Interfaith/interreligious marriages

3.48 There are no official data on the incidence of interfaith/interreligious marriage in Sri Lanka. Anecdotal evidence suggests that, while it occurs, particularly in urban areas, interfaith/interreligious marriage is not common overall. Sri Lankans are encouraged to marry from within their own religious community. While it is common for families to disapprove of interfaith/interreligious marriages, this does not generally manifest itself in physical harm to mixed couples or their children. Sources told DFAT that interfaith/interreligious marriage was more likely in the southern parts of the country (including Colombo) than in the north and east. State – rather than religious – law governs most mixed marriages.

3.49 Marriage between Christians and Hindus is more common than any other kind of interfaith marriage in Sri Lanka. Sinhalese Buddhists sometimes marry Christians. Sri Lankan Muslims are 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.

3.50 DFAT is not aware of official discrimination against people of mixed marriages and their children, including in relation to education.

POLITICAL OPINION (ACTUAL OR IMPUTED)

3.51 Sri Lanka has held regular 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’. The US deemed the 2015 presidential and parliamentary elections as free and fair. DFAT assesses that political parties are able to operate freely across Sri Lanka and contest elections.

Political representation of minorities, including ethnic and religious minorities

3.52 There are no constitutional, legal or other restrictions preventing minorities from participating in politics. Sri Lanka has a diverse political landscape, with 70 registered political parties representing ethnic, religious and ideological interests. Political representation in parliament is broadly proportional to the overall population. The current parliament includes 29 Tamils and 20 Muslims among its 225 members. Muslims and Tamils are represented in the current government.

3.53 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. The government has committed to repeal and replace the PTA with human rights compliant counter-terrorism legislation. This process was ongoing at the time of publication (see [Monitoring, harassment, arrest and detention](#)).

3.54 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)

3.55 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 of Kilinochchi (Northern Province). 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, primarily from the Tamil diaspora, and both voluntary and forced recruitment of Tamils. Funding from the Tamil diaspora was sometimes attained through means of intimidation and coercion, including threats against local family members and kidnapping for ransom. The LTTE also targeted middle- and upper-class Tamils within Sri Lanka for extortion. The LTTE was known not to tolerate dissent within areas under its control.

3.56 Towards the end of the war, 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. The government has publicly committed to reducing military involvement in civilian activities.

3.57 While the LTTE was comprehensively defeated, Sri Lankan authorities remain sensitive to its potential re-emergence. According to expert testimony provided to a 2013 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. DFAT understands these databases remain active. 'Stop' lists include names of those individuals that have an extant court order, arrest warrant or order to impound their Sri Lankan passport. 'Watch' lists include names of those individuals that the Sri Lankan security services consider to be of interest, including for suspected separatist or criminal activities. The UK Home Office reported in June 2017 that the 'watch list' comprised minor offenders and former LTTE cadres. DFAT assesses those on a watch list are likely to be monitored.

3.58 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 party and ran for election. While they did not win any seats, their participation demonstrated the openness of the electoral process.

3.59 The LTTE has not carried out any attacks since 2009. DFAT assesses that the LTTE no longer exists as an organised force inside Sri Lanka, and 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 de-listed eight Tamil diaspora organisations and 269 individuals banned in March 2014 under domestic implementation of UNSC Resolution 1373 (2001) for purported links to a terrorist organisation (the LTTE). Eight organisations and more than 170 individuals (26 of them proscribed on 23 May 2019) remain on the list (see [Former LTTE members living outside Sri Lanka](#)). Local sources told DFAT that the Tamil community had abandoned militancy and was committed to addressing its grievances through political means.

3.60 Some members of the LTTE (as well as government forces) may be ineligible for international refugee protection because of involvement in war crimes and serious violations of human rights committed during the war. 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

3.61 Since the end of the war, the Sri Lankan Government has managed a large-scale rehabilitation process for former LTTE members. The government established 24 rehabilitation centres in the Northern, Eastern and Western provinces for former LTTE members who surrendered in the final stages of the war. The Bureau of the Commissioner General of Rehabilitation used a 'three pronged approach' to manage arrested LTTE members: (1) those to be investigated and prosecuted under normal court of law; (2) those to be rehabilitated; and (3) those to be released upon confirmation by intelligence agencies of their peripheral involvement in the war. Sources told DFAT that those targeted for rehabilitation included not just former combatants, but also those who performed non-combat functions for the LTTE as part of its civilian administration in Tamil-populated areas.

3.62 According to Sri Lankan Government statistics from March 2019, 12,191 former LTTE members (including 2,265 women) had completed rehabilitation. At the time of publication, only one rehabilitation centre for former LTTE members remained operational (Poonthottam Rehabilitation Centre in Vavuniya,

Northern Province). DFAT understands this centre currently houses one former LTTE member. Some centres previously used to rehabilitate former LTTE members have been redeployed for the purposes of rehabilitating drug addicts (see [Rehabilitation of non-LTTE members](#)). Official sources told DFAT the Poonthottam centre would remain open for the foreseeable future and be used on a needs basis, including to rehabilitate drug addicts and non-rehabilitated former LTTE members that come to the attention of the authorities. Convicted former LTTE members currently held in other places of detention, including under the PTA, might – upon their release – also be sent for rehabilitation (local sources indicate there are more than 100 such individuals).

3.63 Former LTTE members undergo two forms of profiling: (1) psychosocial, including an assessment of their level of radicalisation; and (2) socioeconomic, including education, professional skills and vocational interests. Personal files assess the progress of former LTTE members in terms of rehabilitation and de-radicalisation. Rehabilitation is typically a one-year program, extended to up to two years for those assessed as highly radical. The first six months of the rehabilitation program usually focus on ‘rehabilitation of the mental and physical state’, including education, spiritual, religious and cultural training and sports; the last six months are dedicated to vocational training. The rehabilitation process includes field trips.

3.64 Although the activities undertaken in the rehabilitation centres vary, vocational training for men includes welding, masonry, plumbing, driving, tailoring, wiring, Sinhala language, computer skills and vegetable cultivation. Women are accommodated separately from men and receive training in cookery, beauty therapy, tailoring, Sinhala language and computer skills. DFAT understands that no women are currently undergoing rehabilitation. Former child soldiers undergo a separate rehabilitation program, with a focus on education. While many of those who have completed rehabilitation have reported difficulty finding regular employment upon 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, war-related disabilities and a reluctance by employers to hire known former LTTE members, for fear of inviting monitoring by the authorities.

3.65 Former LTTE members undergoing rehabilitation are permitted to make multiple visits to their family and receive family visits during their rehabilitation process. In 2016, the UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment assessed that conditions in rehabilitation were considerably more humane than in prison. Local sources told DFAT that rehabilitation centres compared favourably to prisons, including from the point of view they were not overcrowded like prisons (see [Detention and Prison](#)).

3.66 A July 2018 report of the UN Working Group on Arbitrary Detention assessed there were ‘systemic problems with deprivation of liberty’ in connection with the Poonthottam Rehabilitation Centre and described the detention of former LTTE members for the purposes of rehabilitation therein as ‘arbitrary’. The UN Working Group recommended that the Sri Lankan Government release detainees from the Poonthottam Rehabilitation Centre immediately and unconditionally, and close the centre as soon as possible.

3.67 Local sources estimate that between 4,000 and 6,000 former LTTE members are undisclosed and non-rehabilitated, some of whom would now be living overseas. Military sources believe the number of undisclosed and non-rehabilitated former LTTE members within Sri Lanka is low, including approximately 280 individuals in Jaffna (Northern Province). Former LTTE members are reluctant to identify for fear of rehabilitation or prosecution. One source claimed the authorities were not actively looking for non-rehabilitated former LTTE members. At the time of publication, DFAT was not aware of rehabilitation being imposed on any former LTTE members who have returned from Australia. DFAT assesses that a non-

rehabilitated returnee with links to the LTTE, particularly high-level links, could be subjected to a rehabilitation process should they return to Sri Lanka.

3.68 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. Military sources said the military had no system to monitor rehabilitated former LTTE cadres, unless police reported suspicious activities. Most individuals released from rehabilitation centres have returned to their places of origin 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. Those who complete rehabilitation are issued a certificate of completion as evidence they have been rehabilitated.

3.69 DFAT is aware of reports that more than 150 former LTTE members died of cancer after being in rehabilitation centres. Some Tamil political leaders, including former Northern Province Chief Minister C.V. 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 — it concluded there was no evidence of injections.

3.70 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 with the LTTE, 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.

High-profile former LTTE members

3.71 'High-profile' former LTTE members are individuals who held senior positions in the LTTE's military wing and civilian administration. 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 war. Although most of the LTTE's leadership died during the war, a number surrendered or were captured and sent to rehabilitation centres or prosecuted/detained. Some former leaders may have left Sri Lanka before, during or after the war (see [Former LTTE members living outside Sri Lanka](#)). Others considered 'high-profile' include individuals suspected of terrorist or serious criminal offences during the war, or of providing weapons or explosives to the LTTE.

3.72 DFAT assesses that the number of high-profile former LTTE members living in Sri Lanka is small and that the vast majority would already have come to the attention of the authorities. DFAT further assesses that any remaining high-profile former LTTE members who came to the attention of the authorities would likely be arrested, detained and prosecuted through Sri Lanka's criminal courts and, once they had completed their prison sentences, be subjected to rehabilitation. The average judicial process in Sri Lanka, including appeal, is protracted (see [Judiciary](#)). High-profile former LTTE members would likely continue to be monitored by the Sri Lankan authorities following their release from prison and completion of any rehabilitation process.

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

Low-profile former LTTE members

3.74 '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 war. DFAT assesses that, although the great majority of low-profile former LTTE members have been released following their rehabilitation, any low-profile former LTTE members who came to the attention of the Sri Lankan authorities, particularly if suspected of having a combat function during the war, would likely be detained and may be sent to the remaining rehabilitation centre. Following their release from rehabilitation, a low-profile former LTTE member might be monitored but would generally not be prosecuted.

Monitoring of former LTTE members

3.75 Some Tamils with imputed LTTE links (including those who fought for the LTTE or were part of its civilian administration) continue to report police monitoring and harassment. Multiple sources in the north told DFAT that former LTTE members, including those considered low-profile, are monitored to guard against the LTTE's re-emergence, although monitoring today is less extensive and takes a more subtle form. A source that DFAT considers credible claimed the extent of monitoring depends on one's former seniority within the LTTE; ongoing involvement with politically-sensitive issues, including protests relating to disappeared persons; and links to the Tamil diaspora, particularly elements of the diaspora considered radical by the Sri Lankan Government. Former LTTE members that fit this profile are more likely to be monitored by the authorities. In contrast, those who maintain a low-profile are considered less vulnerable to monitoring.

3.76 Where monitoring did occur, local sources claimed the authorities – usually undercover police officers or intelligence agents – used more subtle methods, for example inviting individuals to tea in public places and asking questions about their activities. The questioning did not involve violence. Telephone calls were also common. Some sources claimed questioning was sometimes indirect, and involved questioning the neighbours of suspected former LTTE members. DFAT is unable to verify these claims. Sources told DFAT that monitoring of former LTTE members was less extensive in the Eastern Province, insofar as many there had defected during the latter years of the war and aligned with the government as part of the Karuna Group/TMVP (see [Security situation in the north and east](#)). Formal complaints of harassment and monitoring by former LTTE members to the HRCSL have decreased significantly; few such complaints were received in 2018.

3.77 DFAT assesses that under the current government, while they may be monitored, Tamils with links to the LTTE are generally able to lead their lives without concern for their security as a result of their past association with the LTTE.

Former LTTE members living outside Sri Lanka

3.78 At least one million Sri Lankan Tamils live outside Sri Lanka, mostly in Canada, Europe (with large communities in the UK and France), Australia and India. 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 provide an important source of income for family and community members in Sri Lanka.

3.79 Some members of the Tamil diaspora played a central role during the war, as a source of funding, weapons and other material support for the LTTE, and as political advocates for an independent Tamil state. The decision by some countries to designate the LTTE as a terrorist organisation after September 2001 made it more difficult for Tamil diaspora communities to raise funds on its behalf.

3.80 Some Tamil diaspora groups continue to hold public demonstrations in their countries of residence for an independent Tamil state. High-profile leaders of pro-LTTE diaspora groups, particularly diaspora groups banned under Sri Lankan law, may come to the attention of Sri Lankan authorities because of their participation in such demonstrations. The Sri Lankan Government continues to assess that elements of the Tamil diaspora remain committed to a separate Tamil state.

3.81 Approximately 95,000 Sri Lankan Tamils live as refugees in Tamil Nadu, India, which, at its closest point, is situated 35 kilometres from Jaffna. Of these, about 60,000 live in camps run by the Tamil Nadu Government (see [Returnees from Tamil Nadu](#)). DFAT understands that 44 Sri Lankan Tamil refugees reside in a 'special camp' in Tiruchirappalli, Tamil Nadu, managed by the Tamil Nadu Prisons Department. DFAT understands camp inhabitants include former LTTE members, refugees with formal criminal convictions and those awaiting court hearings. DFAT understands that, unlike other refugee camps in Tamil Nadu, special camp inhabitants are not permitted to leave, work or receive benefits entitled to other Sri Lankan Tamil refugees (including a monthly allowance). Similar 'special camps' in Chengalpattu and Cheyyar were closed in 2014 and 2016, respectively.

3.82 The Sri Lankan Government has 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. Those who hold leadership positions in Tamil diaspora groups, particularly groups deemed by the Sri Lankan Government to hold radical views; those who were formerly part of the LTTE, particularly in – but not necessarily limited to – high-profile roles; those who are suspected of raising funds for the LTTE during the war; and those who actively advocate for Tamil statehood would likely be of particular interest to the authorities. Those Tamils living abroad with links to the LTTE are unlikely to return to Sri Lanka voluntarily.

Family members of LTTE

3.83 The Sri Lankan Government acknowledges that former LTTE members and their families may continue to face discrimination both within their communities and from government officials. 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

3.84 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, police can detain suspects without charge for extendable three-month periods, not exceeding a total of 18 months. In practice, 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.

3.85 Modest numbers of former LTTE members continue to be detained and prosecuted within Sri Lanka's criminal justice system. According to local sources, more than 100 former LTTE members are currently being held in detention, including one who is undergoing rehabilitation (see [Rehabilitation](#)). DFAT is unable to verify independently the number of former LTTE members in places of detention other than rehabilitation centres.

3.86 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.

3.87 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

3.88 Most former LTTE members released from rehabilitation have been accepted back into their communities in the north and east, despite some suspicion that they may act as informants for Sri Lankan authorities. There is an acknowledgement within the Tamil community that many people were forced to participate in LTTE activities against their will. DFAT assesses that low-profile former LTTE members face a low to moderate risk of societal discrimination. Many have encountered difficulty finding employment, including because some employers are reluctant to hire former LTTE members out of fear it would invite increased police and military attention. Societal discrimination against former LTTE members is also related to caste, as the majority of former LTTE members are lower caste. Former LTTE members can readily access government services.

3.89 Local sources in the north characterised former LTTE members as the most vulnerable and neglected segment of the Tamil population. Former LTTE members face ongoing challenges reintegrating fully into society. Sources told DFAT that unemployment among this cohort is high. Many, including those that received vocational education as part of the post-war rehabilitation process, lack the skills to find and hold meaningful employment, and some have reportedly resorted to criminal activities. Anecdotal evidence indicates that mental illness linked to the war is prevalent among former LTTE members. Those with disabilities sustained during the war receive minimal state support, if at all.

3.90 Local sources report that female former LTTE members face additional hardships, including the risk of sexual harassment and difficulties finding marriage partners owing to their LTTE past. Women who were forcibly recruited by the LTTE are more likely to be accepted back into their communities than those who joined voluntarily.

3.91 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

3.92 DFAT is aware of reports that people with war-related scarring are more likely to attract adverse attention from the Sri Lankan authorities. An NGO, Freedom From Torture, reported in 2011 that an unidentified number of people were detained by the Sri Lankan authorities in April or May 2009 because their scarring was deemed evidence of LTTE membership. The cases raised by Freedom From Torture date from the immediate end of the war and DFAT is unaware of more recent evidence of individuals being detained because of scarring.

GROUPS OF INTEREST

Internally Displaced Persons (IDPs)

3.93 The war internally displaced over 900,000 people, mostly Tamils and Muslims in the Northern and Eastern provinces. The majority have been resettled. According to the Sri Lankan Government, 891,628 IDPs had been resettled as at 2 April 2019 (554,543 in the north and 337,085 in the east), with most returning to their places of origin. According to these statistics, 27,946 IDPs are yet to be resettled (26,936 in the

Northern Province, most of them in Jaffna, and 1,010 in the Eastern Province). Of those yet to be resettled in the north, 2,216 IDPs were living in 25 welfare centres, all in Jaffna, with the remaining (24,720) living in host communities in Jaffna, Kilinochchi, Mullaitivu and Vavuniya. Many of those who are yet to be resettled originate from High Security Zones and surrounding areas now run by the military. Those yet to be resettled in the east all live in host communities in Trincomalee and Batticaloa, with no IDPs remaining in welfare centres. IDPs have full freedom of movement.

3.94 IDPs living in host communities receive resettlement assistance from the government and military, including housing renovation and construction and livelihood support. IDPs must register with the government to receive assistance. IDPs in welfare centres are no longer eligible to receive government protection or assistance. According to the Sri Lankan Government, 150,857 houses had been constructed in former war-affected areas as at 2 April 2019. To promote resettlement of displaced persons, the government allocated LKR5.5 billion (approximately AUD45 million) in the 2019 budget for the construction of an additional 15,000 houses in the north and east. Official sources told DFAT that female-headed households, families with disabled members and former combatants are given priority for resettlement and housing assistance. UNHCR also provides some assistance to IDPs.

3.95 The Sri Lankan Government has committed to returning land to people displaced during the war, including people who were landless. The 'National Policy on Durable Solutions for Conflict-Affected Displacement', adopted in 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 not released all land in the north and east, and IDPs are not always able to select their preferred location (see [Security situation in the north and east](#)). It is not clear whether the released land will be sufficient to accommodate the remaining IDPs.

3.96 In addition to delays in returning military-held land, loss of deeds or other ownership documents, and the destruction or secondary occupation by civilians of land and property, have complicated IDP 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.

3.97 The IDPs in welfare centres 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. This includes most of the approximately 75,000 Muslims whom the LTTE forcibly expelled from the Northern Province in October 1990 and moved to Puttalam, North Western Province (Muslims were considered by the LTTE to be pro-government). Those expelled lost their homes, belongings, businesses and livelihoods. Only a minority has since returned to their places of origin. According to Sri Lankan Government statistics from March 2019, 21,292 Muslim families had been resettled in the Northern Province (mostly in Mannar) and 22,512 families in the Eastern Province (mostly in Trincomalee). According to these statistics, 1,465 Muslim families remained displaced in the north (all living in host communities in Jaffna) and 195 Muslim families remained displaced in the east (all living in host communities, mostly in Trincomalee). Sources told DFAT that most displaced Muslims were established where they were and were therefore unlikely to return to their places of origin. Displaced Muslims report they do not receive the same level of resettlement and livelihood assistance from the government and UN agencies as other IDPs and refugee returnees from Tamil Nadu. 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.

Returnees from Tamil Nadu

3.98 Approximately 95,000 Sri Lankan Tamil refugees live in the southern Indian state of Tamil Nadu, most of whom fled the war in the mid-1980s, or are the descendants of those who fled (almost 60 per cent are second- and third-generation). The majority of Sri Lankan Tamil refugees (approximately 60,000) reside in 107 camps administered by the Tamil Nadu Government. The remainder live in host communities outside the camps. Camp refugees are registered with India's Department of Rehabilitation and Welfare, and are provided education, health care, social security and amenities by the Indian Government. Refugees living outside the camps are required to register at their local police station and to re-register if they move between police precincts. In addition to this cohort, there is a smaller undocumented group of refugees residing outside the camps who have not registered for fear of police harassment. Refugees living outside the camps are generally better off than those in the camps, and often run successful businesses. They are unable to move into the camps, with camp registration having closed in 2011. DFAT understands there are regular illegal boat movements carrying Sri Lankan Tamil refugees from Tamil Nadu to Sri Lanka and back, in order to visit relatives, usually with the assistance of local fishermen.

3.99 Sri Lankan Tamils have limited work and education rights in India. They are not entitled to Indian citizenship, although in June 2019 the Madras High Court instructed the Indian Government to reassess the citizenship applications of 65 Sri Lankan Tamil refugees of Indian origin. The Indian Government was considering their claims at the time of publication. Following the High Court's judgement, 13,805 Sri Lankan refugee families (representing over 40,000 individuals) submitted a petition to the Indian Government seeking Indian citizenship.

3.100 Only a small number of Sri Lankan Tamils have returned from Tamil Nadu to Sri Lanka since the end of the war. According to Sri Lankan Government statistics from March 2019, 8,168 Sri Lankan Tamil refugees had returned from Tamil Nadu between 2011 and 2018, mostly with UNHCR assistance. UNHCR provides reintegration, transport and non-food item support to returnees, as well as legal advice in relation to housing, land and property issues. UNHCR support includes a free air ticket to returnees (to Colombo's Bandaranaike International Airport); a one-off reintegration grant of LKR10,000 (approximately AUD82) for persons over the age of 18 and LKR7,500 (approximately AUD61) for those below 18; and a one-off non-food item allowance of LKR10,000 per family or LKR5,000 (approximately AUD41) for singles. UNHCR also provides LKR2,500 (approximately AUD20) per person for transportation assistance from the airport to their destination of choice (with most returning to their place of origin). Colombo's Bandaranaike International Airport is currently the only entry point for returns, although discussions between India and Sri Lanka over the resumption of a ferry service between Chennai and northern Sri Lanka are ongoing. Those returning informally (i.e. outside of UNHCR processes) are not eligible for UNHCR cash grants or non-food items. The International Organization for Migration (IOM) also provides pre- and post-departure support services to Sri Lankan Tamil refugees from Tamil Nadu, including livelihood assistance.

3.101 Sri Lanka's Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern Province Development, Vocational Training and Skills Development and Youth Affairs provides returning families from Tamil Nadu LKR38,000 (approximately AUD311) in cash assistance. This includes: one-off food allowance of LKR5,000 (approximately AUD41); LKR25,000 (approximately AUD204) for temporary shelter; and LKR3,000 (approximately AUD25) for land preparation. The government also provides returnees with some livelihood assistance.

3.102 The tempo of returns increased after the change of government in Sri Lanka in 2015. In 2017, 1,520 Sri Lankan refugees repatriated voluntarily from India under UNHCR auspices, compared to 852 in 2016 and 452 in 2015. However, interest in air repatriation has declined since 2018, largely due to the political instability caused by Sri Lanka's constitutional crisis and the fallout from the 2019 Easter Sunday terrorist attacks. According to UNHCR, 1,283 refugees repatriated in 2018 — 16 per cent fewer than 2017. This trend continued in 2019, with only 670 refugees having repatriated as at 11 October (68 per cent fewer than the corresponding period in 2018). A small number of refugees are known to have returned spontaneously, outside of UNHCR processes. In addition to UNHCR and the IOM, NGOs like the Organisation for Eelam Refugees' Rehabilitation help refugees make informed decisions regarding repatriation, provide practical assistance to obtain documentation and navigate the approvals necessary for return to Sri Lanka, and render resettlement assistance upon return to Sri Lanka.

3.103 The resumption of a ferry service would likely encourage more returns, including by enabling refugees to return to Sri Lanka with more of their personal and household items accumulated in India (restrictions currently apply — see paragraph 3.104). DFAT sources estimate at least 2,000 refugees would be ready to return immediately if a ferry service were established. Others may consider the voyage if they received positive feedback from those refugees returning via this service, if and when established. India is also considering charter flights from Tamil Nadu to northern Sri Lanka, which, if introduced, could accommodate a larger baggage allowance than currently permitted under the UNHCR program, which relies on commercial flights into Colombo.

3.104 Significant administrative barriers hinder large-scale repatriation, including delays in obtaining Sri Lankan citizenship and National Identity Cards (NICs) and Indian exit permits. A change in rules in India's Foreigner Regional Registration Office for obtaining exit permits has increased the processing time from an average of three months (in 2017) to nine months (in 2019). This has discouraged returnees, who, in some cases, have abandoned their plans to return to Sri Lanka as a result. Logistical restrictions limiting returnees to 50 kilograms of luggage on their repatriation flight from Tamil Nadu is another barrier. Permitting additional baggage is expensive and logistically difficult under current UNHCR arrangements. Upon their return to Sri Lanka, refugees from Tamil Nadu have reported difficulties gaining access to government or non-government assistance. Returnees from Tamil Nadu report challenges in obtaining well-paid employment and adequate housing, and having educational qualifications obtained in India recognised in Sri Lanka. Increased cost of living compared to India and a slight difference in Tamil dialects in Sri Lanka and Tamil Nadu create additional 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.

3.105 Despite these challenges, returnees from Tamil Nadu that DFAT has spoken to report they are glad to have returned to Sri Lanka and would recommend return to other refugees. While there is some social stigma attached to returnees from Tamil Nadu, sources told DFAT that locals were generally welcoming and returnees did not feel they were treated differently. Anecdotal evidence suggests repatriation is not considered an attractive proposition for certain groups of Sri Lankan Tamil refugees, particularly those born in India (refugee youth have not been well-represented among voluntary returnees to date). Local sources said they were not aware of returnees from Tamil Nadu being subjected to rehabilitation for real or perceived links to the LTTE since 2015, although few former LTTE members are thought to have returned to Sri Lanka from Tamil Nadu. DFAT understands that a small number of low-profile former LTTE members, who performed low-level, non-combat functions for the group, returned to Sri Lanka from Tamil Nadu with UNHCR assistance in 2019. DFAT is unaware of any high-profile former LTTE members returning to Sri Lanka from Tamil Nadu in 2019. DFAT is unable to verify if any high-profile former LTTE members have returned to Sri Lanka from Tamil Nadu outside of official processes or attest to their treatment on return. According to a UNHCR survey, over 90 per cent of returnees from Tamil Nadu felt either generally or completely safe in

Sri Lanka. Credible sources were not aware of returnees from Tamil Nadu being subjected to monitoring or harassment by the authorities.

3.106 Children born to Sri Lankan Tamil refugees in Tamil Nadu are eligible for Sri Lankan citizenship. For a child born to refugee parents in Tamil Nadu to obtain Sri Lankan citizenship, their birth must be registered with the Sri Lankan Deputy High Commission in Chennai and a citizenship application form submitted. Citizenship is typically issued six months from the date of application. Citizenship applications for Indian-born refugee children over the age of 21 can only be made in Sri Lanka and involve the payment of a LKR25,000 (approximately AUD205) fine. Those not registered for Sri Lankan citizenship run the risk of statelessness. Sources told DFAT that NICs were issued within one month of the granting of citizenship.

3.107 Sworn affidavits attesting to identity from the Sri Lankan Deputy High Commission in Chennai are now being accepted by the Sri Lankan Government as supporting evidence for issuing civil documents to refugees, which has served to assist in processing times.

Civil society organisations and government critics

3.108 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. Some 1,500 NGOs were registered at the national level in 2019. 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. The space for civil society to operate has widened considerably since 2015, including in the north and east. Civil society played an important role during the 2018 constitutional crisis in calling for democratic rights and the constitution to be upheld, and large public protests and rallies were held with little violence.

3.109 The current government has publicly committed to allow freedom of speech and end surveillance of NGO workers and human rights defenders. NGOs operate relatively freely, although activists working on sensitive issues – including corruption, war-era human rights violations and missing persons – continue to report (predominantly low-level) surveillance, harassment and intimidation by security forces, particularly in, but not limited to, the north and east. In July 2018, human rights defenders Srishobana Yogalingam and Amitha Priyanthi were assaulted in separate incidents in Jaffna (Northern Province). DFAT understands that, in February 2019, a Tamil lawyer and human rights defender involved in a habeas corpus case in relation to enforced disappearances against Major General Duminda Kappetiwalana was attacked by an unknown assailant on a motorcycle immediately following a court hearing in Jaffna (the lawyer was targeted with a metal rod while driving; while uninjured, damage was inflicted on the lawyer's car). DFAT is further aware of reports of human rights defenders who attend sessions of the HRC in Geneva being questioned by the authorities upon their return to Sri Lanka.

3.110 The constitution guarantees freedom of speech and expression, freedom of peaceful assembly and freedom of association. Demonstrations occur regularly, although restrictions on public gatherings under the Emergency Regulations introduced on 22 April 2019 temporarily impacted on freedom of assembly. The Emergency Regulations lapsed on 22 August 2019. Protests are subject to a notification procedure. This requires protest organisers to notify the local police of their intention to hold a protest six hours in advance. Local sources told DFAT that participants in politically-sensitive protests in the north, particularly in relation to missing persons and land returns, are monitored and sometimes questioned by the authorities. DFAT

assesses that the post-2015 Sri Lankan Government has tolerated political dissent more than the former government, but some limits still apply.

Media

3.111 The government re-established the Sri Lanka Press Council, a regulatory body appointed by the president, in 2015. Any individual or entity can lodge a complaint with the Press Council against an ‘injurious article’ published in a newspaper in Sri Lanka for investigation and potential legal action. 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.

3.112 The constitution guarantees freedom of speech and expression. Sri Lanka ranked 126th out of 180 countries in Reporters Without Borders’ Press Freedom Index for 2019, up five places from a year earlier. In 2015, Sri Lanka ranked 165th. Formal censorship of national security and defence reporting was relaxed after the end of the war. Internet freedom has improved with the removal of blocks on many websites, although in November 2017 the Telecommunications Regulatory Authority restricted access to a diaspora website critical of President Sirisena (the website remained blocked throughout 2018). There are unverified reports that other websites have also been blocked. Social media platforms Facebook, WhatsApp, Instagram and Viber were temporarily suspended across Sri Lanka immediately following the Easter Sunday attacks in April 2019, and again in May, during associated inter-communal unrest, to prevent the spread of misinformation. Some social media platforms were likewise temporarily blocked or limited following communal unrest in March 2018, to restrict the spread of hate speech (see [Muslims](#)). On 6 June 2019, cabinet approved a proposal to criminalise fake news dissemination that hinders communal harmony or state security.

3.113 Since the change of government in 2015, internet bloggers have operated freely in Sri Lanka. Bloggers, particularly those engaged on sensitive issues associated with the war, may be monitored by the authorities, but are not the subject of physical violence. DFAT is not aware of recent instances of bloggers who are critical of the government or the military being targeted because of their views.

3.114 DFAT understands some journalists faced threats and intimidation by Rajapaksa-aligned elements in 2018. On 3 July 2018, the New York Times issued a statement condemning the public criticism of two local journalists, Dharisha Bastians and Arthur Wamanan, by members of parliament allied to Rajapaksa as an attempt to ‘silence critics and curb press freedoms’. Bastians and Wamanan had assisted a New York Times’ investigation into the financing of Hambantota Port, in Rajapaksa’s hometown. A number of state media outlets were forcibly taken over by Rajapaksa supporters immediately following his appointment as prime minister on 26 October, leading to a marked change in their editorial slant, and units of the paramilitary Special Task Force, a police entity, were deployed outside state-owned television stations and a state-owned newspaper publisher to ensure pro-Rajapaksa reporting. DFAT understands that some journalists and NGOs critical of Rajapaksa, including in the north, took precautions, including self-censorship, during the course of the constitutional crisis, for fear of reprisals.

3.115 On 1 April 2019, a local writer and poet, Shakthika Sathkumara, was charged under the Penal Code and the *International Covenant on Civil and Political Rights Act* (2007) for inciting racial hatred. The arrest followed the publication by Sathkumara of a short story on homosexuality and child abuse at a Buddhist temple. Monks from the Buddhist Information Centre brought the complaint against Sathkumara on the grounds his story had insulted Buddhism and was derogatory of the life of the Buddha. Sathkumara was released on bail on 5 August 2019, where he remained at the time of publication.

3.116 Despite ongoing challenges, media freedom in Sri Lanka has improved significantly since 2015, and journalists operate largely free of monitoring and reprisal, including in the north and east. Many media organisations maintained an independent editorial line throughout the 2018 constitutional crisis. Some media workers in the north told DFAT they exercised caution in their reporting because of past killings and disappearances of journalists. While it persists, journalists told DFAT that self-censorship is no longer common and they were confident in openly criticising the government and security forces, including in the north and east. Some journalists in the north reported ongoing monitoring by the authorities, including receiving anonymous telephone calls, particularly when covering sensitive issues, although they were not being subjected to physical violence. Local sources claim intelligence officers take photographs of journalists covering protests by the families of disappeared persons and memorial events. According to Reporters Without Borders, a Tamil journalist, Uthayarasa Shalin, was subjected to harassment and intimidation in 2018 for his coverage of a festival at a Hindu temple, including being summoned to Colombo for questioning by the Terrorism Investigation Division of the Sri Lanka Police. DFAT assesses that authorities may monitor media workers, especially those outside Colombo.

3.117 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.

3.118 Sri Lanka was one of the world's most dangerous places for journalists during the war, and journalists continued to face major challenges under the previous government in the post-war period, including threats, physical attacks and imprisonment. According to Reporters Without Borders, more than 20 journalists and media assistants were killed as a direct result of their work between 2004 and 2015. The current government has committed to investigate the past killing and abduction of journalists, although most cases remain unresolved. In April 2018, police arrested a retired former Chief of Staff of the Army, Major General Amal Karunesakara in relation to the 2008 abduction and assault of investigative journalist Keith Noyahr (Karunesakara was granted bail in September 2018). In February 2017, five military intelligence officers were arrested (then released on bail pending the outcome of the investigation) in connection with the January 2009 murder of Lasantha Wickrematunge, editor of the investigative newspaper *Sunday Leader* and an outspoken government critic. According to the Committee to Protect Journalists, one of these officers was restored to active duty on 11 May 2019. The police arrested several serving and retired Army officers in 2015 and 2018 in relation to the 2010 disappearance of anti-Rajapaksa cartoonist Prageeth Eknaligoda, although most have been released on bail (Eknaligoda is presumed dead). None of these investigations into past killings or abductions of journalists have concluded. DFAT is not aware of any murders, abductions or disappearances of media workers since the current government assumed power.

3.119 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 Deshapriya, 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

3.120 The 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. Sri Lanka ranks 80 out of 189 countries in the UNDP's 2018 Gender Inequality Index. Sri Lankan women are highly educated: more women graduate from university than men and, according to the UNDP, more than 82 per cent of Sri Lankan women aged 25 or over have received some secondary education.

3.121 Sri Lanka has the best social indicators for women in South Asia, including low rates of maternal mortality and high rates of educational attainment, although these have not translated into greater political or economic participation. Gender norms and other barriers to female engagement in society and the economy mean Sri Lankan women are significantly under-represented in the labour force and parliament, and over-represented in informal, low-skill and low-wage jobs. Nearly two-thirds of Sri Lankan women do not participate in the labour force. The government aspires to increase female labour force participation to 40 per cent by 2020, but societal pressures, particularly against Tamil and Muslim women seeking employment, are complicating efforts to reach this target. The government is also considering introducing a voluntary target of 30 per cent of women on director boards of listed companies. The IMF assesses that Sri Lanka could boost GDP by as much as 20 per cent over the long term by closing the gender gap in labour force participation. The World Economic Forum, in its 2018 Global Gender Gap Report, ranks Sri Lanka 125 out of 149 countries for economic participation and opportunity, indicating a high degree of inequality between men and women.

3.122 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, female political participation in Sri Lanka is low. Only 13 of Sri Lanka's current 225 parliamentarians (5.8 per cent) are women— one of the lowest rates of female parliamentary representation in South Asia. The current government has two female cabinet ministers, one female state minister 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, parliament 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 (Amendment) Act* mandated a 25 per cent quota for women's representation at the local government level.

3.123 Violence against women is prevalent in Sri Lanka. Local sources told DFAT that violence against women occurs throughout the country, across all ethnic groups and social strata. Violence against women is most common in domestic settings. Recent survey data by the UNFPA indicate that 28 per cent of women had experienced some form of physical or sexual violence in their lifetime and 18 per cent had experienced intimate partner violence within the last 12 months. According to Sri Lankan Government statistics from 2016, 17 per cent of married women had experienced intimate-partner violence. Kilinochchi (Northern Province) and Batticaloa (Eastern Province) had the highest rate of intimate-partner violence (50 per cent). Among women who suffered intimate-partner violence, only 18 per cent sought help from the police. The UNFPA, in February 2018, reported that more than one-third of female homicides in Sri Lanka were related to intimate-partner violence.

3.124 The UNFPA reported in 2016 that one in four women in Sri Lanka is sexually abused by the age of 18. 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; perpetrators of sexual harassment may also be ordered to pay compensation to their victims. Sexual harassment of women is common, particularly on public transport, but is rarely reported — according to a 2017 UNFPA study, 90 per cent of Sri Lankan women and girls had experienced sexual harassment on public buses and trains, only 4 per cent of whom sought help from the police. In October 2016, the National Police

Commission designated provincial senior female law enforcement officers to respond to sexual harassment claims. Anecdotal evidence suggests that victims of sexual violence are reluctant to report the matter to the police due to social stigma and out of fear they would be ostracised by their families and have difficulty marrying if the matter became widely known. According to police statistics, 345 cases of rape of women over 16 years were recorded in 2018, an increase from 2017 (294 cases). Sources told DFAT that police are not adequately trained in collecting evidence in cases of sexual assault, and lack rape kits for evidence collection.

3.125 According to the UN Committee on the Elimination of Discrimination against Women, most cases of gender-based violence are likely to go unreported due to inadequate legislation, women's limited access to justice, fear of reprisals, limited trust in the police and judiciary, delays in the investigation of cases and very low conviction rates. Sources told DFAT that domestic violence was being reported more frequently today, but remained underreported overall. Reporting and seeking legal recourse for domestic violence is considered socially and culturally taboo. Instances of domestic-based violence are therefore under-reported. Domestic violence is often seen as a normal part of married life, and sources told DFAT that women are expected to tolerate abuse by their husbands. Women are reluctant to have their partners prosecuted and incarcerated as this would carry social stigma and have an adverse economic impact. Economic dependence meant women often had little choice but to persevere in relationships with domestic violence and abuse. Local sources told DFAT that language barriers are a major deterrent to non-Sinhala speaking women reporting gender-based violence to the police, particularly in the north and east (most police are Sinhala speakers).

3.126 The government has committed to preventing the abuse of women and, in November 2016, launched a national action plan to address gender-based violence. A National Committee on Women makes recommendations for the formulation of policies and legislation that safeguards women's rights. The government provides legal aid and counselling for victims of gender-based violence, including through legal officers attached to the National Committee on Women and Assistant Counselling Officers attached to Divisional Secretariats. The Ministry of Women and Child Affairs operates a helpline – available in Sinhala, Tamil and English – for victims of gender-based violence. Complaints received through the helpline are referred to relevant state institutions, including the police. Separately, the Ministry of Women and Child Affairs operates a complaints centre for victims of gender-based discrimination and provides counselling to victims. The police have established Women's and Children's Desks at some police stations and hospitals, including in Tamil-populated areas. The Ministry of Health, in partnership with non-government organisations, maintains district hospital-based medical services for sexual assault victims. Local sources told DFAT that state-provided support services for women had improved, but gaps remained, which often had to be filled by NGOs.

3.127 NGOs like Women In Need and the Women's Action Network provide free psychological counselling and legal advice and shelter services to victims of gender-based violence. Women In Need operates a 24-hour hotline, available in Sinhalese, Tamil and English. Women In Need and the Women's Action Network have a countrywide presence, including in the Northern and Eastern provinces. While NGOs are increasingly active in this space, non-state support services for victims of gender-based violence are scarce and lack funding overall.

3.128 There are five women's shelters in all of Sri Lanka, including one in the Northern Province (in Jaffna, operated by Women In Need). The shelters are unmarked. According to sources, the women's shelter in Jaffna contains six rooms and can accommodate a maximum of 30 women (when the shelter is full, women are referred to an alternative safe space). Women can stay in the shelter for a maximum of three months. Children up to the age of five are allowed to stay with their mothers in the shelter; those older than five are sent to a children's home or placed under the care of other family members. This forced separation from one's children was cited by local sources as a major deterrent to women seeking shelter. The scarcity of women's shelters was seen as a major gap by sources. Local sources told DFAT that police and judicial

responses to gender-based violence were inadequate and, where instances of domestic violence were reported, women were often told to return to their partners and resolve the matter within the family unit.

3.129 Sources told DFAT that divorce is more common in Sri Lanka today than in previous generations, particularly in major urban areas like Colombo and among middle-class people. In contrast, divorce was less common in rural areas, particularly in more religious communities, owing to more conservative attitudes – and more pronounced social stigma attached – to divorce. The legal process for obtaining divorce can be lengthy (up to eight years according to the UN Special Rapporteur on the independence of judges and lawyers), and deters some women from seeking divorce from their husbands.

3.130 DFAT assesses that women throughout Sri Lanka face a moderate risk of societal discrimination, including violence, and that support mechanisms available to women in these circumstances are inadequate.

Conditions for women in the north and east

3.131 Thousands of women in the north and east lost husbands and other family members during the war. Some were active participants in the war: the LTTE had a dedicated female military wing and women had their own brigades. Some women who fought for the LTTE were forcibly recruited. The 2011 UN Secretary-General's Panel of Experts and the 2015 OHCHR investigation report outlined allegations of war-time sexual violence against Tamil women that would constitute war crimes. DFAT considers allegations of sexual violence against female former LTTE members held in detention camps in 2009 and 2010, and in military-run rehabilitation centres, to be credible. 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. DFAT is aware of reports of women living near military bases, particularly single women, reporting sexual harassment by military personnel. DFAT is unable to verify these claims. One local source told DFAT that sexual harassment in these circumstances was not prevalent.

3.132 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.

3.133 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 approximately 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 military 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 (see [Civil Security Department](#)).

3.134 A local source told DFAT that more opportunities exist today for women in the north and east to report gender-based violence but – consistent with the broader national trend – slow judicial processes and, in particular, cultural and social attitudes act as deterrents. For Tamil-speaking women in the north and east, language is an added barrier to women seeking state protection against domestic violence. While the government has made attempts to recruit more Tamil-speakers, most police officers in the north and east are not proficient in Tamil. According to local sources, there are few Tamil-speaking female police officers trained to respond to gender-based violence, and Women's and Children's desks at police stations in the north are often attended by Sinhala-speaking male officers. One source told DFAT that police sometimes solicit sexual favours from women who report complaints. Few cases of gender-based crimes involving a member of the security forces have resulted in convictions. In October 2015, the High Court in Jaffna

sentenced four military personnel to 25 years' prison for the gang rape of a Tamil woman in Kilinochchi in 2010.

3.135 Support services – state and non-state – are available for women in the north and east, but are generally not considered adequate. Tamil-speaking officers dedicated to women's affairs are attached to Divisional Secretariats, and provide counselling and other support services. Sources told DFAT that support services for women in the Northern Province were being provided primarily by NGOs, who had to cover large geographic areas yet lacked resources. A source in the Eastern Province told DFAT that support services for women there compared favourably to – and in some cases were even superior to – those services available in Colombo.

Female-headed households

3.136 High male death rates during the war have left a large number of female-headed households in Sri Lanka. The latest Household Income and Expenditure Survey (2016) estimates 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.

3.137 Female-headed households are vulnerable to poverty, gender-based violence and sexual exploitation, and face obstacles to accessing services and employment opportunities. Anecdotal evidence suggests female-headed households are at greater risk of mental illness. Government agencies and domestic and international NGOs provide some livelihood, housing and psychosocial support to female-headed households, but local sources claim that on-the-ground support is minimal and under-resourced. The Sri Lankan Government approved a national policy on women-headed households and associated national action plan in 2016, with the objective of strengthening protection, livelihood development and support services for female-headed households. Sources told DFAT that indebtedness was a growing problem among female-headed households: having lost the main breadwinner in the family, female-headed households were preyed upon by loan providers and entered into loans they could not repay. According to local sources, indebted female-headed households are at greater risk of mental illness and suicide.

3.138 The government runs economic empowerment projects for female-headed households, helps this cohort secure loans and provides some debt relief. A National Centre for the Empowerment of Widows and Women Headed Families was established in Kilinochchi in November 2015 and functions as a resource centre for female-headed households in the north and east. The Centre includes women development officers and counsellors. Observers have criticised many home-based income generation programs for female-headed households for failing to match market needs. While they are available, sources considered support services for female-headed households insufficient. Sources in the north claimed that military widows received more state support than LTTE war widows.

3.139 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 officials in exchange for information on missing family members or, in the case of Sinhalese war widows, government benefits for their deceased husbands' military service. The UN Special Rapporteur cited allegations that members of the Police Criminal Investigation Department intimidated and harassed these groups of women, particularly those connected to former LTTE members.

3.140 According to local sources, there is social stigma attached to single women in Sri Lanka. Traditional attitudes dictate that women marry by a certain age and bear children, and aspersions are cast on those women who fail to meet – including by choice – these societal expectations. Anecdotal evidence indicates stigma is attached to widows within the Tamil community. Conservative Hindus consider widows “bad luck”, leading to ostracism in some cases.

3.141 Local sources told DFAT that female former LTTE combatants faced particular hardships, including in relation to finding employment and marriage partners. Anecdotal evidence suggests female former LTTE combatants are viewed with suspicion within their communities, and there is a societal perception that they were the subject of sexual violence during the war.

3.142 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

3.143 Muslim family law, including marriage, divorce and inheritance, is codified in the *Muslim Marriage and Divorce Act* (1951) (MMDA). The MMDA is derived from *sharia* law and applies only to the Muslim community. The MMDA contains provisions that are considered discriminatory against women. 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 as *Quazis*). *Quazi* court rulings rarely favour women. A commission established in 2009 to investigate reforms of the MMDA, and which included female members, submitted its report in January 2018. The reform process has been slow, although Prime Minister Wickremesinghe and Muslim members of parliament have undertaken publicly to amend the MMDA to increase the minimum age of marriage (see [Children](#)). Sources within the Muslim community spoke in favour of the MMDA and the *Quazi* court system. Muslim women who advocate for reform of the MMDA and other rights risk harassment and ostracism from the Muslim community.

3.144 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.

3.145 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 moderate risk of societal discrimination from within the Muslim community.

Sexual Orientation and Gender Identity

3.146 Freedom of sexual orientation is not protected under the constitution and same-sex intercourse is a criminal offence, even when consensual in nature. Lesbian, gay, bisexual, transgender and intersex (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). Sri Lanka’s National Action Plan for the Protection and Promotion of Human Rights does not include sexual orientation and gender identity as a basis for protection against discrimination.

3.147 Reliable figures on the size of Sri Lanka's LGBTI community are not available. Equal Ground, a local NGO advocating for LGBTI rights, estimates that between 5 and 10 per cent of Sri Lanka's total population could be LGBTI.

3.148 Sections 365 and 365 (a) of the Penal Code make it a criminal offence to engage, respectively, in 'carnal intercourse against the order of nature' and 'acts of gross indecency'. These are commonly understood to apply to sexual acts between same-sex individuals and can attract sentences of up to 10 years' prison and a fine. Police have arrested individuals under these sections but no prosecutions have occurred in recent times. According to local LGBTI sources, police use sections 365 and 365 (a) of the Penal Code or the *Vagrants Ordinance* (which empowers authorities to detain people considered to be loitering in public) to threaten, harass, extort money and sexual favours, and arbitrarily arrest and detain LGBTI individuals. Transgender individuals, particularly individuals who are biologically male but have transitioned to female, by virtue of being more visibly identifiable, are considered particularly vulnerable. Equal Ground, in its 2017 mapping study, found that 46.7 per cent of LGBTI people experienced police harassment. LGBTI victims of abuse and harassment, including by the police, are generally unwilling to file complaints due to safety concerns and a reluctance to bring attention to their sexual orientation, meaning their incidence goes largely unreported.

3.149 No legislation exists to protect LGBTI individuals from discrimination or hate crimes. According to local sources, LGBTI individuals are widely seen as "sexual deviants" and routinely experience discrimination and bullying in the workplace and the education and health care systems. Local LGBTI sources told DFAT that openly-gay couples face obstacles to securing housing and accommodation. As a result, many homosexual persons seek to conceal their sexual orientation.

3.150 Transgender individuals are more likely to experience discrimination. Employers are reluctant to hire transgender individuals, and DFAT heard accounts of transgender individuals being dismissed from their jobs due to their sexual orientation and gender identity. Transgender individuals are also more likely to encounter obstacles gaining access to basic services that require identity documents. In 2016, the Ministry of Health established a Gender Recognition Certificate, which allows an individual to change their legal gender and amend government-issued identity documents, including NICs. This is a long and complex process; according to the International Lesbian, Gay, Bisexual, Trans and Intersex Association, one must undergo psychiatric evaluation by a medical professional, receive a diagnosis of 'trans-sexualism' based on the International Classification of Disease, and undergo hormone and surgical treatment before being issued a Gender Recognition Certificate. A Gender Recognition Certificate is available only to individuals 18 years or older. Hormone treatment and gender reassignment surgery services are scarce and expensive. 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.

3.151 According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and members of the community. Some middle and upper class, educated and urban Sri Lankans are 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 reports of violence in the home and public spaces to be credible, and many LGBTI individuals – especially Muslims – hide their identity to avoid harassment. Local sources told DFAT that some families pressure LGBTI individuals to seek treatment to 'cure' their homosexuality 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. Local sources told DFAT that hostility toward LGBTI individuals was 'across the board' and was not confined to a particular ethnic group or geographic area. Colombo (Western Province), Kandy (Central Province) and Galle (Southern Province) are considered more tolerant of sexual orientation relative to other parts of Sri Lanka. Some LGBTI individuals have chosen to relocate to these centres, which have larger LGBTI communities and support networks.

3.152 According to local LGBTI sources, homosexual women face added difficulties in being open about their sexuality. Sources told DFAT that being a woman in Sri Lanka, as a patriarchal society, was challenging in itself, and the challenge of being a homosexual woman was greater still. Homosexual women are reportedly pressured into heterosexual marriage and face harassment in public, including on public transport.

3.153 Local sources told DFAT that the current government is more open than the previous one to the concerns of the LGBTI community. The government accepted recommendations to combat discrimination against LGBTI individuals as part of its most recent Universal Periodic Review at the HRC (November 2017), including specific recommendations to amend sections 365 and 365 (a) of the Penal Code, although it rejected recommendations to decriminalise same-sex conduct. A Pride parade has been held in Colombo since 2005, albeit in a low-key manner because of security concerns. The Colombo Pride parade was not held in 2019, following the Easter Sunday terrorist attacks, although a festival of other LGBTI events did proceed. The media discusses LGBTI issues openly and some LGBTI individuals have adopted a high profile, particularly in Colombo. The LGBTI activist community is small but increasingly assertive; in November 2018, members held a press conference to protest remarks perceived as derogatory toward LGBTI individuals made by President Sirisena during a government rally in Colombo.

3.154 Hate speech against the LGBTI community is common on social media, including against those who advocate for LGBTI rights. In 2016, critics, notably *Sinha Le*, published threatening comments on social media relating to the 12th Annual Gay Pride Festival and prevented Equal Ground from holding a promotional event at the Good Market in Colombo. 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. According to local sources, police protection of LGBTI individuals at public events such as LGBTI marches has increased since 2015. Local sources identified extremist Buddhist and Muslim groups as posing particular threats to the LGBTI community.

3.155 LGBTI individuals have few support mechanisms. Only a small number of local NGOs support LGBTI rights, through advocacy or provision of services. The most prominent of these, Equal Ground, provides legal aid and advice to LGBTI individuals and mental health counselling. Equal Ground has operated a counselling hotline for LGBTI individuals since 2005, available in Sinhala, Tamil and English — the only such service in Sri Lanka. Support groups like Equal Ground are concentrated in urban areas.

3.156 According to local sources, anti-LGBTI sentiment is deeply ingrained in Sri Lankan culture and society, particularly in rural areas. The majority of Sri Lankans hold conservative views about sexual orientation and gender identity, and many prioritise collective values over individual rights. DFAT assesses that LGBTI individuals in Sri Lanka face a moderate risk of official discrimination and a moderate level of societal discrimination on a day-to-day basis. The level and frequency of discrimination differs, depending on the socioeconomic 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

3.157 Sri Lanka ratified the Convention on the Rights of the Child in 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 (ILO) *Convention 138 on the Minimum Age for Employment* and *Convention 182 on the Worst Forms of Child Labour*. The minimum age of employment is 14, although the law permits the

employment of children under the age of 14 by their parents or guardians in limited family agricultural work or technical training. According to the US Department of Labor, 0.8 per cent of 5 to 14 year-olds were engaged in child labour in 2017, primarily in the agriculture sector. The US Department of Labor assesses that the Sri Lankan Government has improved its enforcement of ILO Convention 182 and established institutional mechanisms for the enforcement of laws and regulations to combat the use of child labour. In 2016, the government launched a National Policy on the Elimination of Child Labour. In May 2018, parliament amended the Penal Code to increase the minimum age of criminal responsibility from eight to 12 years of age.

3.158 According to the US Department of Labor, 98 per cent of 5 to 14 year olds were attending school in 2017. 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 and former war-affected areas 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 Tamil-speaking teachers for several provinces, but faces difficulty recruiting Sinhala and English teachers in the north and east.

3.159 Child, early and forced marriage (CEFM) occurs in Sri Lanka. According to the UNFPA's 2019 State of World Population report, 12 per cent of Sri Lankan children were married by the age of 18 in the period 2006-2017. Rates of child marriage are higher in the Muslim and Tamil communities. The *General Marriages Ordinance* (1907) and the *Kandyan Marriage and Divorce Act* (1952) (for Sinhala Buddhists in the Kandy District) set the legal age of marriage at 18 years, although children may marry at 16 with parental consent. The MMDA does not stipulate a minimum age of marriage for Muslims and allows for children younger than 12 to marry with the approval of the child's father and a *Quazi* — the child's consent is not required. Prime Minister Wickremesinghe has stated publicly that the government will amend the MMDA to increase the minimum age of marriage to 18 for Muslim women.

3.160 Several factors have contributed to the high rates of CEFM in Sri Lanka. During the war, some parents offered girls for marriage to prevent forced recruitment by the LTTE, while others in IDP camps gave daughters away to secure protection for the family and to lessen the risk of sexual violence. Following the war, 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.

3.161 Sexual intercourse with a girl younger than 16 years of age, with or without her consent, amounts to statutory rape under the law. This provision does not apply to married Muslim girls older than 12. Local sources told DFAT that statutory rape was a major concern in Sri Lanka. According to police statistics, 1,199 cases of statutory rape with the victim's consent were recorded in 2018; 248 cases of statutory rape without the victim's consent were recorded in the same period.

3.162 According to local sources, female genital circumcision is prevalent within the Muslim community. The form of female genital cutting undertaken in Sri Lanka fits the WHO definition of mutilation, and is performed on girls from a few months old up to the age of seven years. Muslim community sources told DFAT that female genital circumcision is performed primarily in the home, 40 days after birth. In 2018, the Ministry of Health issued a circular prohibiting medical practitioners from performing female genital cutting, although the practice is yet to be criminalised. In any case, sources claim that the procedure is normally performed by female Muslim elders (aged over 70), rather than medical professionals.

3.163 The NGO Save The Children ranks Sri Lanka 56 out of 176 countries in its 2019 End of Childhood Index (second only to the Maldives in South Asia). The Index reflects the average level of performance across a set of eight indicators related to child health, education, labour, marriage, childbirth and violence.

Elderly

3.164 Sri Lanka has an ageing population — the UNFPA projects that, by 2030, one in five Sri Lankans will be over the age of 60. According to the UNFPA, 11 per cent of the population is aged 65 or older. The retirement age for private sector employees is 55, and 60 for those working in the public sector.

3.165 In 2000, parliament enacted the *Protection of the Rights of Elders Act*. This established a National Council for Elders, which works to promote and protect the welfare and rights of the elderly. The National Secretariat for Elders is the primary administrative body for implementing government assistance to elderly Sri Lankans, including a monthly allowance of LKR2,000 (approximately AUD16) for senior citizens over 70 years old with a monthly income below LKR3,000 (approximately AUD25). Legislation protects elder rights, but DFAT is aware of reports of mistreatment of the elderly by public officials. The Legal Aid Commission has an elders' desk, which provides free legal advice to low-income elders.

3.166 Elderly Sri Lankans, like others, were displaced during the war, and the LTTE targeted the elderly for recruitment. At the end of the war, Sri Lanka's social security programs for the elderly were inadequate and family support systems generally weak. The elderly have high rates of employment in the informal economy and casual labour, providing low and unstable incomes. Anecdotal evidence suggests it is common for elderly Sri Lankans to continue to work after retirement, partly because retirement benefits are insufficient to meet their basic needs. DFAT assesses that even when the elderly are able to obtain pensions, these are low and many elderly people, lacking adequate savings or assets, depend on family to meet basic needs. Societal values stress filial responsibility in the care of ageing family members.

Persons with disabilities

3.167 According to the 2012 census, 8.7 per cent of Sri Lanka's population identifies as disabled. A significant proportion of those considered disabled are former LTTE members who sustained injuries during the war. The law forbids discrimination against any person with physical, sensory, intellectual or mental disabilities in employment, education, health care, public transportation and air travel. Administrative Circular No. 27/88, issued in 1988, sets a 3 per cent quota for employment of persons with disabilities in the public service.

3.168 In practice, persons with disabilities experience discrimination in accessing employment, education, justice and health services. Women with disabilities are particularly vulnerable. Most public buildings and public transport are not accessible for persons with disabilities. Children with disabilities attend school at a lower rate than other children. Support services for persons with disabilities are widely considered inadequate, particularly in the case of former LTTE members. Sources told DFAT that, while they received some support from NGOs, former LTTE members with disabilities received little support from the state. Female former LTTE members with disabilities face difficulty finding employment and, according to one local source, are ostracised by society.

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 war, particularly in the north and east. The report largely attributed these to government 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 war.

Extrajudicial Killings

4.2 Extrajudicial killings are still known to occur, but their incidence has decreased significantly since 2016. In January 2018, police shot a motorcyclist when he allegedly failed to stop at a police checkpoint in Kataragama (Uva Province). In October 2017, officers belonging to the Police Special Task Force shot and killed a motorcyclist in Jaffna (Northern Province). Three officers were subsequently arrested. Their court case was ongoing at the time of publication. In October 2016, five police officers were arrested in connection with the killing of two University of Jaffna students near a police checkpoint in Jaffna. The five officers were released on bail in September 2017 and reinstated into the police service in March 2018, pending the outcome of their trial. In October 2018, the Jaffna Magistrate Court found three of the officers not guilty and filed new indictments against the remaining two.

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 Mahinda Rajapaksa's Government. In 2017, Senanayake and Perera were granted bail. In October 2016, a magistrate court ruled that the 2013 killing of three protesters demanding clean drinking water in Rathupaswala (Western Province) was a crime. Three army personnel were remanded in custody in connection to this incident. In December 2016, the courts acquitted five of the six persons (including three former naval officers) accused of the 2006 killing of TNA parliamentarian and human rights advocate Nadaraja Raviraj.

4.4 In 2015, five police officers, including a Deputy Inspector General, Vaas Gunawardena, were charged with the 2013 murder of a wealthy businessman in Gampaha District (Western Province). The murder was allegedly carried out on the orders of a rival businessman. In January 2019, two businessmen, Manjula Asela and Rasheen Chinthaka, were reportedly abducted and killed by local police in Galle (Southern Province). Four police officers, including the officer-in-charge of the Southern Province Special Investigations Unit, were arrested in relation to the matter. A motive for the killings is not known. Investigations were ongoing at the time of publication.

Enforced or Involuntary Disappearances

4.5 In May 2016, Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Parliament passed domestic legislation (the *Enforced Disappearances Act*) to implement the Convention and criminalise enforced disappearances in March 2018. In September 2017, the government issued a gazette to establish the OMP and appointed commissioners in February 2018 (see [Reconciliation](#)).

4.6 While there is no agreed figure, the number of missing or disappeared persons in Sri Lanka is thought to rank among the highest in the world. In June 2016, the ONUR said 65,000 people were missing from the war with the LTTE and separate Marxist insurrections (including members of the armed forces and police identified as missing in action). The OMP estimates at least 20,000 people disappeared without explanation since 1983 and remain missing today. The majority of the missing or disappeared 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 attributed a number of child disappearances to the LTTE's recruitment of child soldiers during the war. A small number of disappearances relate to people who have emigrated. For example, Kathiravel Thayapararaja, a former LTTE member who was reported to have been tortured and killed by Sri Lankan security forces in 2009, emerged alive in Tamil Nadu in 2014. Most of those considered missing or disappeared are highly likely dead.

4.7 Protests led by Tamil families demanding information on the disappeared began in the north and east in January 2017, and are ongoing. President Sirisena met protest leaders in Kilinochchi in June 2017 and reportedly agreed to release a list of individuals who disappeared during the war but, at the time of publication, a list had not been provided. The military has resisted previous requests for such information.

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

4.9 Extortion and kidnapping for ransom was common during the war, particularly in the north and east. While they are still known to occur, their incidence has decreased considerably in the post-war period. Where extortion and kidnapping for ransom occurs, the motive is usually business-related. DFAT assesses that wealthy Sri Lankans face a low risk of extortion or kidnapping for ransom.

Deaths in Custody

4.10 The Department of Prisons reported 50 deaths of prisoners in custody in 2017 (the most recent period for which data are available). The US Department of State assesses that most deaths in custody are due to natural causes, and the 2016 report of the UN Special Rapporteur on torture assessed that the forensic procedures and expertise relating to deaths in custody were adequate. Well-placed local sources were not aware of recent deaths in custody beyond deaths from natural causes.

4.11 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 prison cells. DFAT understands cameras operate in the Police Criminal Investigation Department and Terrorism Investigation Division, but is not aware of cameras having been installed in prison cells. 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

4.12 Sri Lanka retains the death penalty for murder and drug trafficking, although, at the time of publication, it had not carried out an execution 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 events and days of national significance. President Sirisena commuted 247 death sentences between December 2015 and February 2017, although none in 2018 or 2019. In February 2017, cabinet approved parliamentary consideration to replace the death penalty with life imprisonment. In December 2018, Sri Lanka supported a UN General Assembly resolution calling for a universal moratorium on the use of the death penalty. Sri Lanka has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, which abolishes the death penalty.

4.13 According to Sri Lanka's Department of Prisons, 168 death sentences were imposed in 2018 (162 male; 6 female). According to Amnesty International, as of December 2018, 1,299 prisoners were on death row (1,215 male; 84 female). Of those currently on death row, 84 were convicted of drug offences.

4.14 While Sri Lanka remains abolitionist in practice, President Sirisena has vowed to implement the death penalty for convicted drug traffickers on death row who continue to traffic drugs from inside prison. In July 2018, Sirisena obtained cabinet approval to implement the death penalty in such instances and, in February 2019, told parliament he would implement the death penalty within two months. As president, Sirisena is empowered to order unilaterally the execution of persons sentenced to death. On 26 June 2019, Sirisena announced he had signed death warrants ordering the execution of four convicted drug traffickers. The Supreme Court issued an interim order on 5 July suspending the warrants until 30 October 2019. On 29 October, the Supreme Court extended the interim order, until 10 December 2019. Sri Lankan media has reported that Sirisena will not proceed with the executions until the multiple court cases challenging the death warrants are finalised (up to 14 'fundamental rights' petitions have been filed in the Supreme Court challenging the warrants on the basis they violate fundamental rights guaranteed by the constitution). On 1 August 2019, a parliamentarian belonging to the UNP presented a bill to abolish the death penalty. Sirisena claimed the bill was illegal, citing advice from the Attorney-General.

4.15 According to local media reporting, of the 84 death row prisoners convicted of drug offences, 13 have been identified by the Ministry of Justice and the Department of Prisons as eligible for execution. A further 30 launched legal appeals against their death sentences, 18 of whom, DFAT understands, had exhausted all appeal rights as of April 2019. Five foreign nationals thought eligible for execution (all reportedly from Pakistan) are not thought to be at risk of execution.

4.16 Local sources believe Sirisena is genuine in his wish to implement the death penalty as part of his 'war on drugs'. Logistical preparations to commence executions are ongoing: 79 candidates were interviewed for the position of hangman in April 2019, prison gallows were reportedly being prepared for hangings and steps have been taken to import a noose. Plans to commence executions of drug traffickers are taking place against a backdrop of rising domestic drug use and large drug seizures. Local sources told DFAT that implementation of the death penalty would 'play well' with the Sri Lankan public, although Prime Minister Wickremesinghe, Opposition Leader Rajapaksa and the TNA, among others, have stated publicly their opposition. The warrants are suspended until 10 December 2019. Presidential elections, which

Sirisena will not contest, will be held on 16 November 2019. In this context, DFAT assesses that it is uncertain whether executions will take place.

4.17 It was unclear at the time of publication whether individuals awaiting prosecution for alleged involvement in the 2019 Easter Sunday terrorist attacks would be charged with offences that carry the death penalty. In September 2018, Sirisena suggested the death penalty should be imposed on persons who ‘abuse state funds and public assets’.

4.18 In October 2019, the Supreme Court ruled that, in order to be constitutional, the draft CTA needed to include provision for the death penalty. The CTA was in draft form at the time of publication and may be subject to amendments (see [Monitoring, harassment, arrest and detention](#) and [Arbitrary Arrest and Detention](#)). The PTA does not provide for the death penalty.

TORTURE

4.19 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. In line with its treaty obligations, Sri Lanka received a visit by the UN Sub-Committee on Prevention of Torture in April 2019 and facilitated access to all requested places of detention. Torture is an offence punishable by imprisonment of between seven and 10 years.

4.20 Several local and international organisations have alleged torture by Sri Lankan military, intelligence and police forces, mostly from the period immediately following the war and involving people with imputed links to the LTTE. The 2015 OISL report found that ‘victims of war-related torture perpetrated by Government forces... were generally Tamil, often arrested and detained in Government controlled areas... under the PTA and the Emergency Regulations’. The OISL documented ‘particularly brutal use of torture by the Sri Lankan security forces’ in the immediate post-war period, following the LTTE’s surrender.

4.21 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 UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism found that 80 per cent of individuals arrested under the PTA in late 2016 had complained of torture and other mistreatment. 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.

4.22 The International Truth and Justice Project (ITJP) cited 76 alleged cases of torture between 2015 and 2017 involving individuals suspected of LTTE involvement, the majority of which followed ‘white van’ abductions. An Associated Press investigation, published in November 2017, claimed 52 incidents of torture, including some of the cases reported by the ITJP. Freedom From Torture, in a report released in February 2019, documented 16 alleged cases of torture of Tamils in the period 2015- 2017 (12 in the Northern Province, four in Colombo). According to this report, the individuals in question were allegedly detained either by the military or police and subsequently tortured in order to extract information or confessions about alleged LTTE or anti-government activities. Most were transported to detention in unmarked vehicles, including vans. All cases allegedly involved physical and psychological torture, including beatings, burning,

asphyxiation and rape. None were charged, and most were allegedly released after the payment of a bribe. All have subsequently sought asylum in the UK. In September 2019, the ITJP identified 58 alleged torturers in the Terrorism Investigation Division of the Sri Lanka Police. The ITJP's allegation was based on the testimony of 73 individuals, both Tamil and Sinhalese, who claimed to have experienced torture at the hands of the Terrorism Investigation Division between 2008 and 2017.

4.23 Several local sources in Sri Lanka, including from the north, were not aware of the specific alleged incidents of torture documented above and were unable to verify their claims. 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 war and in its immediate aftermath are credible; however, DFAT is unable to verify allegations of torture since 2016. Local sources told DFAT they were not aware of recent cases of former LTTE members being subjected to torture.

4.24 Local sources told DFAT that the police routinely mistreat suspects during criminal investigations, including as a way of extracting confessions. Sources also told DFAT that mistreatment was common in prisons. Mistreatment could range from a slap to the face to severe beatings, and, in some cases, may amount to torture. Sources told DFAT that mistreatment, where it occurred, was not confined to a particular geographic region or ethnic group, but was a problem countrywide that affected all communities. DFAT is unable to verify these allegations. In recent years, the HRCSL has received about 400 complaints of mistreatment and torture annually. According to local sources, some of these alleged violations were perpetrated by the Police Special Task Force. Individuals suspected of being involved in the drug trade were identified as being particularly vulnerable to mistreatment. Tamils, including those with imputed links to the LTTE, are no longer considered vulnerable to mistreatment and torture by virtue of their ethnicity or LTTE links.

4.25 Evidence obtained through torture is generally inadmissible in courts in Sri Lanka. However, for suspects held under the PTA (see [Arbitrary Arrest and Detention](#)), all confessions obtained by officers at or above the rank of Assistant Superintendent of Police are admissible in court. According to media reporting, only confessions made before a magistrate would be admissible in court under proposed new counter-terrorism legislation (the CTA). This legislation was in draft form at the time of publication and may be subject to amendments.

4.26 Local sources, including Tamils, say mistreatment and torture by police continues to occur, but is primarily due to outdated policing methods and is not ethnically-based. Senior police do not endorse mistreatment 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. Sources told DFAT that, with improvements in police training and greater monitoring of prisons by the HRCSL, the incidence of mistreatment and torture had contracted in absolute terms, but was still common.

4.27 Sri Lanka lacks independent and efficient mechanisms to address complaints of torture. The HRCSL can inquire into complaints of torture and make recommendations, including for prosecution, to the Attorney-General's Department. The HRCSL can also recommend disciplinary action against offenders by relevant state institutions and financial compensation for victims. 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 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. Complainants have difficulty gaining access to the Supreme Court, as it sits only in Colombo and legal costs can be prohibitive.

4.28 DFAT assesses that the risk of torture perpetrated by either military, intelligence or police forces has decreased since the end of the war and is no longer state-sponsored. Because few reports of torture are verified, it is difficult to determine the exact prevalence of torture.

4.29 Sri Lankans face a low risk of mistreatment on a day-to-day basis. In the case of individuals detained by the authorities, DFAT assesses the risk of mistreatment to be moderate. Where it occurs, some mistreatment may amount to torture. DFAT assesses that Sri Lankans face a low risk of torture overall.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.30 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 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, although, in practice, some have been detained without charge for considerably longer than the PTA allows (see [Arrest, Detention and Prosecution](#)). 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. According to media reporting, draft new counter-terrorism legislation (the CTA) would reduce the number of acts considered as terrorism and increase the power of the HRCSL to act as a check on abuses by security forces. The CTA would reportedly allow terrorism suspects to be detained for up to one year without charge. The CTA remained in draft form at the time of publication and may be subject to amendments.

4.31 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 101 complaints of arbitrary arrest and detention from January to June 2018.

4.32 Individuals continue to be held under the PTA, although the precise number is contested. A large number of Muslims were detained under the PTA following the 2019 Easter Sunday terrorist attacks. DFAT is unable to verify how many individuals, including Muslims, are currently detained for suspected PTA offences.

4.33 Prior to the Easter Sunday attacks, authorities had made progress in processing persons detained under the PTA. In August 2017, the Sri Lankan Government released a list of 84 people in custody under the PTA and facing trial, and 12 others who had not been charged. According to the Sri Lankan Government, as at 25 January 2019, 58 individuals detained under the PTA were facing trial and three suspects were awaiting indictment. DFAT is unable to confirm whether those arrested under the PTA in 2018 and 2019 have been

charged. Prior to the Easter Sunday attacks, the majority of individuals detained under the PTA 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. According to the US Department of State, individuals detained under the PTA have reported torture and mistreatment, forced confessions and denial of basic rights, including access to lawyers and family members.

4.34 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 mistreatment, 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 access any place of detention at any time.

4.35 In 2017, protests took place in the north to demand the release of PTA detainees held for protracted periods. In September 2018, some Tamils held under the PTA without charge undertook a hunger strike against their protracted detention.

4.36 The current government has taken limited action to deal with individuals detained without charge under the PTA by its predecessor. 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.

4.37 Draft replacement counter-terrorism legislation, the CTA, is currently with parliamentary oversight committees, although its enactment has stalled and the PTA has been used in connection with the 2019 Easter Sunday terrorist attacks. According to media reporting, the CTA would reduce the list of acts considered to be terrorist offences, reduce pre-charge and pre-trial detention periods, and contain safeguards against custodial torture and coerced confessions, including by granting greater oversight roles to the judiciary and the HRCSL. The CTA was in draft form at the time of publication and may be subject to amendments. It is unclear when it will be tabled for parliamentary vote (see [Monitoring, harassment, arrest and detention](#)).

Rehabilitation of non-LTTE members

4.38 With most former LTTE members now rehabilitated, the focus of rehabilitation has shifted to drug addicted individuals. As with former LTTE members, the rehabilitation program for drug addicts typically lasts one year. According to the UN Working Group on Arbitrary Detention, the first six months of the rehabilitation program focus on counselling, including psychological and medical therapy. The last six months are dedicated to vocational training. All who enter the program do so pursuant to a court order. The UN Working Group on Arbitrary Detention assessed that rehabilitation centres for drug addicts were akin to prisons, but that persons undergoing rehabilitation in these centres benefited from more relaxed rules than those in regular prisons. A local source told DFAT that drug addicts undergoing rehabilitation were vulnerable to mistreatment and that 'heavy-handed tactics' in these centres was common. According to Sri Lankan Government statistics from March 2019, 2,201 drug addicts had undergone rehabilitation, more than half of them in Colombo. The UN Working Group on Arbitrary Detention assessed, in July 2018, that there are 'systemic problems with deprivation of liberty' in connection with rehabilitation processes for drug addicts.

4.39 Following the 2019 Easter Sunday terrorist attacks, the government has suggested it might introduce a separate rehabilitation program to de-radicalise Sri Lankan Muslims considered to hold extremist views. It is unclear what such a program would entail, if it were introduced.

Corporal Punishment

4.40 Sri Lanka enacted the *Corporal Punishment (Repeal) Act* in 2005, which repealed the Corporal Punishment Ordinance. While corporal punishment is illegal, ambiguous provisions in the Penal Code mean few offenders are charged. Administrative circulars issued by the Ministry of Education – first in 2005 (Circular No.17) and most recently in 2016 (Circular No.12) – prohibit the use of corporal punishment in schools, although, in practice, it continues to be used. The Ministry delivers training programs for teachers on non-violent methods of discipline. Sri Lanka accepted a recommendation to prohibit corporal punishment in all settings as part of its 2017 Universal Periodic Review.

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 300,000 personnel across four branches: Army, Navy, Air Force and Coast Guard. The Army – at 200,000-strong – is the largest branch. The Navy and Air Force have approximately 55,000 and 40,000 personnel, respectively. The military is roughly the same size as at the end of the civil war in 2009. According to the CIA World Factbook, military spending in 2017 was the equivalent of 2.14 per cent of GDP. The military is overwhelmingly Sinhalese. Tamils, like other ethnic minorities, are significantly under-represented. Recent recruitment efforts have targeted Tamils, but with limited success. Military sources told DFAT the military had recruited some Tamils in the Jaffna Peninsula, and intended to recruit more. Military service is voluntary (the minimum age of recruitment is 18). There is no conscription.

5.3 The size of the military expanded significantly in the latter years of the war. Post-war, the military has engaged actively in agriculture and commerce, and in maintaining High Security Zones, mostly in the Northern Province (see [Security situation in the north and east](#)). The Sri Lankan Government continues to work to achieve a peacetime balance and slowly reduce military numbers.

5.4 The Sri Lankan Government committed under HRC Resolution 30/1 (2015) to ending military involvement in civilian activities. 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 Countrywide Emergency Regulations were introduced on 22 April 2019, in response to suicide and other bombings perpetrated by local Islamic extremists. The Emergency Regulations gave the military police powers, including the ability to arrest suspects without a warrant, impose roadblocks and curfews, and limit public gatherings (see [Security Situation, Muslims and Christians](#)). They lapsed on 22 August 2019. A countrywide State of Emergency, imposed over 10 days in March 2018 in response to communal tensions (see [Muslims](#)), granted the military similar powers. The latter represented the first countrywide State of Emergency since 2011. Sri Lanka was under a State of Emergency for most of the civil war period.

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

5.6 The military's Civil Service Department (CSD), also known as the Civil Defence Force, is a 20,000-strong national volunteer force that provides auxiliary support to the police. The CSD was disarmed in 2014 over weapon safety issues, but is believed to have been rearmed following the 2019 Easter Sunday terrorist attacks.

5.7 The 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. The CSD currently employs about 3,500 people in Mullaitivu and Kilinochchi, making it one of the largest employers in the region. Many work on military farms. While the military maintains the CSD is providing much-needed employment opportunities in war-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 for the military. Local sources told DFAT that Tamils who are employed by the CSD and their families are viewed with distrust by other Tamils. Those employed by the CSD are well-paid by Tamil standards.

5.8 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

5.9 Sri Lanka Police is responsible for enforcing criminal law and maintaining general law and order in the country. 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 8,100-member paramilitary Special Task Force. Like the military, most members of the Sri Lanka Police, including in Tamil-populated areas, are Sinhalese. The 19th Amendment to the Constitution in April 2015 provides greater independence in appointments to the National Police Commission and the Inspector-General of Police. Overall, the Sri Lanka Police is a trained and active force. 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.

5.10 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, only 20 per cent of police officers in the Northern Province speak Tamil. There is an ongoing effort to recruit more Tamil-speaking police officers.

5.11 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.

5.12 Sri Lanka 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. In 2018, the Sri Lankan Government raised the basic police salary by up to 40 per cent. 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. Complaints can be lodged 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.

5.13 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 respect 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

5.14 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, and the Constitutional Council has been impartial in vetting President Sirisena's judicial nominations for superior courts. In January 2015, Sirisena appointed the first Tamil Chief Justice in 15 years. The current Chief Justice, Jayantha Jayasuriya, commenced in April 2019. There is one Tamil justice on the current Supreme Court (S. Thurairaja), but none on the current Court of Appeal. The Sri Lankan judicial system allows victims of harm or mistreatment 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.

5.15 Sri Lanka's courts are located across the country and Tamil-speaking judges are assigned to courts in majority Tamil-speaking areas. Court proceedings in the north and east are conducted mostly in Tamil and English; most proceedings outside of the north and east are conducted in Sinhalese or English. Multiple sources reported a shortage of Tamil-speaking judges, which meant, in some cases, court proceedings in the north and east could not be conducted in Tamil. Translation services are available for Tamil-language speakers. Local sources told DFAT that Tamil-language interpreters were not always readily available, although the quality of Tamil-language translation had improved. Tamils and other ethnic minorities are under-represented in the judicial system, and Tamils continue to lack confidence in the impartiality of the judiciary.

5.16 The judiciary operates largely independently, particularly at the higher levels. The Supreme Court and the Court of Appeal stood up strongly during the 2018 constitutional crisis, and asserted their commitment to judicial independence and the rule of law in the face of political pressure. Yet major shortcomings persist. The 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-speaking judges and court interpreters contributes to delays in many cases. The average length of time between the commission of a serious criminal offence and the conclusion of the trial and appeal process is 17 years. There continue to be some reports of corruption in the lower courts.

5.17 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.

5.18 Sri Lanka does not have public defence services and legal services can be costly. The Legal Aid Commission of Sri Lanka, established in 1978, provides legal advice and representation in both criminal and civil matters to Sri Lankans without financial means. The Commission has 76 legal aid centres across the country, including in the north and east. Legal counselling is provided free of charge, while litigation services are available to those persons earning no more than LKR18,000 per month (approximately AUD147). 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 of the legal system.

5.19 While superior courts like the Supreme Court and the Court of Appeal are considered expensive for the average person to access, including because they are based in Colombo, local sources told DFAT that lower courts are not considered financially prohibitive for the average person.

5.20 Sri Lankan law protects against double jeopardy. Section 314 of the *Code of Criminal Procedure Act* (1979) states that no person can be tried twice for the same offence. Specifically, it prevents a person who has been tried and acquitted or convicted by a court of competent jurisdiction from being tried for the same offence on the same facts, or for another offence on the same facts, while the acquittal or conviction remains in force.

Detention and Prison

5.21 In general, prison conditions in Sri Lanka do not meet international standards, including due to old infrastructure, overcrowding, and a shortage of adequate health and sanitary facilities. The US Department of State reported in 2018 that only some of the larger prisons had hospitals, and that prisoners requiring medical care in smaller prisons were typically transferred to the nearest local hospital. Some facilities reportedly 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.

5.22 Overcrowding in Sri Lankan prisons is a major issue. According to official statistics, in 2017, the most recent year for which data are available, the number of prisoners (approximately 19,300 convicted and remand detainees) exceeded prison capacity by nearly 64 per cent. Over half of the prison population is estimated 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.

5.23 To address overcrowding, the government has relocated several urban prisons to more spacious rural locations. In 2017, the government allocated LKR2.8 billion (AUD23 million) for the construction of Angunakolapellasa 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.

5.24 The ICRC has access to all places of detention and all categories of detainees in Sri Lanka, including those held under the PTA and those undergoing rehabilitation for drug-related offences. The ICRC 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. The government permitted the ICRC and the HRCSL access to prisons on a regular basis throughout 2018, including, in the case of the latter, for the purposes of preparing a National Study on Prisons. In addition to the ICRC and the HRCSL, the Board of Prison Visitors, an internal governmental watchdog, examines detention conditions. The Board conducts regular visits to prisoners and accepts complaints as a part of its mandate.

5.25 Sources told DFAT that mistreatment possibly amounting to torture occurred in prison. According to sources, mistreatment in prison, where it occurs, does not discriminate on ethnicity.

INTERNAL RELOCATION

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

5.27 According to the 2012 census, 18 per cent of Sri Lankans were born in a different district from their current residence. The census reported the top five districts to which people had internally migrated were Colombo (Western Province), Gampaha (Western Province), Kurunegala (North Western Province), Puttalam (North Western Province) and Anuradhapura (North Central Province). Internal relocation during the war has left large Tamil and Muslim communities in the south. Relatively few of the 35,000 Sinhalese who left their homes in the north during the war have returned, mainly because of better job prospects in the south. Many Sri Lankans, including from the north and east, have relocated to Colombo for economic reasons.

5.28 There are no official barriers to internal relocation. In practice, an absence of family connections or a lack of financial resources can limit internal relocation options. An absence of Sinhala language skills can act as an additional barrier to internal relocation for those Sri Lankans for whom Sinhala is not their first language. 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.

5.29 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 observed.

5.30 Sri Lankan authorities retain comprehensive countrywide '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

5.31 The constitution entitles any Sri Lankan citizen 'the freedom to return to Sri Lanka'. The *Immigrants and Emigrants Act* (1948) (the I&E Act) governs exit and entry from Sri Lanka. Sections 34 and 35 (a) of the I&E Act make it an offence, respectively, to depart Sri Lanka other than via an approved port of departure,

such as a seaport or airport, and without a valid passport. Penalties for leaving Sri Lanka illegally can include imprisonment of up to five years and a fine. 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.

5.32 Different agencies, including the Department of Immigration and Emigration, the State Intelligence Service, the Criminal Investigation Department and, at times, the Terrorism Investigation Division process returnees at Colombo's Bandaranaike International Airport, 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. The IOM meets assisted voluntary returnees after immigration clearance at the airport and provides some cash and onward transportation assistance. Processing of returnees at the airport can take several hours, due to the administrative processes, interview lengths and staffing constraints. Returnees are processed in groups, and individuals cannot exit the airport until all returnees have been processed, although returnees are free to go to the bathroom and to talk to one another during this time.

5.33 For returnees travelling on temporary travel documents, police undertake an investigative process to confirm identity. This 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 police in their claimed hometown, contacting 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 (I&E Act)

5.34 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 Police Airport Criminal Investigations Unit at 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 suspected to be former LTTE members. At the earliest available opportunity after investigations are completed, police transport individuals charged with departing Sri Lanka illegally 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 on next steps for each individual; facilitators or organisers of people smuggling ventures, including the captain and crew of the boat, 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. DFAT is not aware of mistreatment of returnees during this process.

5.35 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. While the frequency of court appearances depends on the magistrate, DFAT understands that most individuals charged under the I&E Act appear in court every 3-6 months. In addition to their own court hearings, those charged may be summonsed as witnesses in cases against the facilitators or organisers of people smuggling ventures. Cases are taken forward in court only when all members of a people smuggling venture have been located, contributing to protracted delays.

According to local sources, some cases dating from 2015 are still ongoing. The IOM provides legal assistance to individuals charged under the I&E Act who returned to Sri Lanka with the IOM's assistance. Some returnees charged under the I&E Act report having to travel long distances to attend court hearings, and have found this disruptive to their livelihoods. At the time of publication, about 800 separate court cases were pending, with most involving several people. The I&E Act does not specify minimum mandatory sentences. Returnees who departed Sri Lanka legally are not required to face a court, as no offence under the I&E Act applies.

5.36 Bail is normally granted to fare-paying passengers of a people smuggling venture. 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. In contrast, facilitators or organisers of people smuggling ventures, including captains and their crew, are usually refused bail and are taken into custody. Facilitators or organisers of people smuggling ventures may be charged under Section 45 (c) of the I&E Act. DFAT understands that facilitators or organisers of people smuggling ventures convicted under Section 45 (c) normally receive prison sentences of between one and three years, depending on the extent of their involvement in the venture, with sentences usually closer to three years. DFAT could not obtain information on the number of facilitators or organisers of people smuggling ventures convicted.

5.37 The Attorney-General's Department, which is responsible for the conduct of prosecutions, claims no fare-paying passenger on a people smuggling venture has been given a custodial sentence for departing Sri Lanka illegally (as distinct from facilitators or organisers). However, fines are issued to fare-paying passengers as a way of deterring future illegal departures. Fine amounts vary from LKR3,000 (approximately AUD25) to LKR200,000 (approximately AUD1,633). Well-placed sources told DFAT this fine is usually between LKR15,000 and LKR20,000 (approximately AUD122 and AUD163). A guilty plea will attract a fine, which can be paid in instalments, 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.

5.38 The severity of the fine for fare-paying passengers charged under the I&E Act does not necessarily increase for those who have departed Sri Lanka illegally on more than one occasion. 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. Anecdotal evidence suggests there is an acceptance within the Tamil community that illegal maritime ventures to Australia in search of asylum would be futile at this point in time.

5.39 DFAT assesses that the Sri Lankan authorities differentiate between fare-paying passengers and the facilitators or organisers of irregular migration. The authorities are more likely to pursue those suspected of being facilitators or organisers of people smuggling ventures (generally those individuals who arranged the finances for a people smuggling venture and recruited the crew, and the crew themselves) than fare-paying passengers. Unlike facilitators or organisers, fare-paying passengers are usually released on bail and generally receive only a fine for breaking the I&E Act.

5.40 The minimum age of criminal responsibility in Sri Lanka is 12 years. Under Sri Lankan law, anybody over the age of 12 at the time of their alleged offence is treated as an adult. Children over the age of 12 can therefore be charged with breaking the I&E Act, so long as they were 12 or older at the time of the alleged offence. No charges are imposed against children under 12 years of age or those persons who were younger than 12 at the time of the alleged offence.

5.41 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.

5.42 The Sri Lankan Government is working to replace the I&E Act, including to introduce people smuggling offences. Under the proposed new legislation, the fine for departing Sri Lanka illegally would be paid upon return at Colombo's Bandaranaike International Airport, sparing returnees from going through often protracted and disruptive court processes. The proposed new legislation had yet to be considered by parliament at the time of publication.

Conditions for Returnees

5.43 Between 2010-11 and 2018-19, 3,716 Sri Lankan nationals returned from the Australian community or were removed from Australian onshore immigration detention centres to their country or origin or a third country. Many others returned from the US, Canada, the UK and other European countries. 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 and they have existing family links, or because of the relatively lower cost of living compared to the south.

5.44 The Sri Lankan Government has consistently stated that refugees are welcome to return and, in August 2016, released a 'National Policy on Durable Solutions for Conflict-Affected Displacement'. During a visit to Australia in February 2017, Prime Minister 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 caution.

5.45 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 agencies and 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 undertook to recognise the educational and professional qualifications acquired by refugee returnees outside Sri Lanka. This involves obtaining an equivalence certificate; however, returnees continue to report delays in gaining recognition for foreign qualifications. The IOM provides eligible returnees with livelihood assistance and makes regular visits to monitor the welfare of returnees.

5.46 DFAT understands that some returnees, including returnees in the north and east with suspected LTTE links, have been the subject of monitoring by the authorities, involving visits to returnees' homes and telephone calls by the Criminal Investigation Department. DFAT understands that most returnees, including failed asylum seekers, are not actively monitored on an ongoing basis. DFAT is unable to verify whether monitoring, where it occurs, is specific to former LTTE cadres. DFAT is not aware of returnees, including failed asylum seekers, being treated in such a way that endangers their safety and security. Tamils who had failed to secure asylum in Australia and since returned to the Northern Province told DFAT they had no protection concerns and had not experienced harassment by the authorities, nor received monitoring visits.

5.47 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 the ability to open bank accounts, find employment or enrol in educational institutions. Limited job availability in the north and east 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 returnees may face. Some Tamils who had failed to secure asylum in Australia and since returned to the Northern Province told DFAT they were able to reintegrate into their communities and find employment.

5.48 DFAT understands that returnees may face financial difficulties reintegrating into their communities, including due to sale of their belongings to fund irregular ventures overseas, but do not experience societal discrimination for seeking asylum elsewhere.

5.49 Some refugees and failed asylum seekers reported social stigma upon return to their communities, including for being beneficiaries of financial reintegration assistance. Overall, DFAT understands that societal discrimination is not a major concern for returnees, including failed asylum seekers. Some Tamils who had failed to secure asylum in Australia and since returned to the Northern Province told DFAT they had not experienced societal discrimination following their return.

5.50 DFAT assesses that returnees face a low risk of societal discrimination upon return to their communities. DFAT further assesses that, where it occurs, surveillance of returnees can contribute to a sense of mistrust of returnees within communities.

DOCUMENTATION

5.51 Many individuals affected by the war, 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 regarding the re-issuance of these documents.

Birth and Death Certificates

5.52 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.

5.53 Children born overseas to a Sri Lankan citizen must be registered at a Sri Lankan diplomatic mission in the country of their birth or at the office of the responsible government minister in Sri Lanka in order to receive Sri Lankan citizenship. At least one of the parents must be a Sri Lankan citizen for the child to qualify, including at the time of the child's birth. Documents to be submitted as part of the application include the child's local birth certificate, parent's birth certificates, parent's marriage certificate, evidence of residence status in the child's country of birth and a statutory declaration completed by one of the parents. Where the parents were not married at the time of the child's birth, an affidavit relating to Paternity and Declaration of Citizenship, certified by a Solicitor, is required. At the time of publication, the cost of registering a child born in Australia through a Sri Lankan diplomatic mission in Australia was AUD145. A fine applies where a child born overseas is registered for Sri Lankan citizenship after the age of one. In the case of an Australian-born child over the age of one being registered for Sri Lankan citizenship through a Sri Lankan diplomatic mission in Australia, at the time of publication the fine was AUD12 each year beyond the first year of birth. The citizenship of children born overseas becomes void on reaching the age of 21, at which time the child must

decide whether to retain Sri Lankan citizenship or the citizenship of the country of their birth, or both. Sri Lanka permits dual citizenship.

5.54 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.

5.55 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 attests to the absence of missing people and can be used by families, in lieu of a death certificate, to access government benefits and land and bank accounts belonging to the missing. According to the OMP, only a small proportion of families of missing persons currently possess certificates of absence, including due to a lack of awareness about its benefits. Some families are reluctant to seek a certificate of absence in the hope they find their relatives alive.

Marriage Certificates

5.56 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 parallel systems of personal law are the Kandyan Law (governing Sinhala Buddhists in the Kandy District), the Thesawalamai Law (covering Tamils in the Jaffna District) and the Muslim Law (covering Muslims). 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.

5.57 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 one month.

National Identity Cards (NICs)

5.58 Sri Lankans generally use the National Identity Card (NIC) as their primary identification document, 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. A NIC is obtained through one's *grama niladhari* or the Department for Registration of Persons, and is required to access government services, including public health and education services. The NIC can be used to acquire all other identity documents. A NIC can be obtained only within Sri Lanka.

5.59 NICs have traditionally had few security features and several cases in recent years have involved fraudulent NICs, including through the replacement of photographs. The Sri Lankan Government is in the process of establishing an electronic central database using biometric data to replace existing NICs with electronic NICs.

5.60 Each NIC contains a unique number determined by a mathematical formula. NICs issued before 1 January 2016 contain nine digits and one letter (either 'V' or 'X'), in the format 000000000A (where 0 is a

digit and A is a letter). The first two digits denote the cardholder's year of birth (e.g. 91xxxxxx for someone born in 1991). The next three digits denote the number of days in the year of the cardholder's birth. For females, 500 is added to the number of days. The next three digits are the serial number. The next and final digit is a check digit. The letter 'V' stands for voter, indicating the cardholder is eligible to vote. The letter 'X' indicates the cardholder is ineligible to vote (i.e. cardholders aged 16 to 18 years). NICs issued before 1 January 2016 contain a purple-coloured number at the top right, denoting the province in which the NIC application was lodged (1 for Western Province; 2 for Central Province; 3 for Southern Province; 4 for Northern Province; 5 for Eastern Province; 6 for North Western Province; 7 for North Central Province; 8 for Uva Province; and 9 for Sabaragamuwa Province). NICs issued since March 2014 contain printed Sinhala and Tamil text. Cardholder details on NICs issued before March 2014 are handwritten.

5.61 NICs issued after 1 January 2016 contain a 12-digit number. The first four digits denote the cardholder's year of birth (e.g. 1991xxxxxx for someone born in 1991). The next three digits denote the number of days in the year of the cardholder's birth. For females, 500 is added to the number of days. The next four digits are the serial number. The last and final digit is a check digit. NICs issued after 1 January 2016 do not contain a letter. All NICs issued since 1972 remain functional, irrespective of the introduction of the new numbering format.

5.62 The Department for Registration of Persons began issuing "smart" NICs in October 2017. In addition to a 12-digit number, smart NICs include an International Civil Aviation Organisation-standard photograph and a machine-readable barcode. The cardholder's name, place of birth, address and gender are printed in Sinhala, Tamil and English, and contain the cardholder's signature. Security features on smart NICs include infrared transparent ink, negative guilloche lines and a UV rainbow print.

5.63 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 NICs.

5.64 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 certificate of rehabilitation by the Commissioner-General of Rehabilitation. The certificate contains no information about the legal basis or reasons for rehabilitation.

Passports

5.65 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 with an electronic chip that includes the bio data of the recipient are planned for 2019.

5.66 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.

5.67 Sri Lankans residing overseas can apply for identity documents such as citizenship and passports from any Sri Lankan overseas mission. Sri Lankan refugees residing in Tamil Nadu can obtain identity documentation from the Sri Lankan Deputy High Commission in Chennai.

PREVALENCE OF FRAUD

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

5.69 Genuine identity documents can be obtained by submitting 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. Sri Lanka has a mature people smuggling industry. 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.

5.70 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.

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