

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	661
Land:	Sri Lanka
Kilde:	Australian Government Department of Foreign Affairs and Trade
Titel:	DFAT Country Information Report Sri Lanka
Udgivet:	23. december 2021
Optaget på baggrundsmaterialet:	5. maj 2022



Australian Government

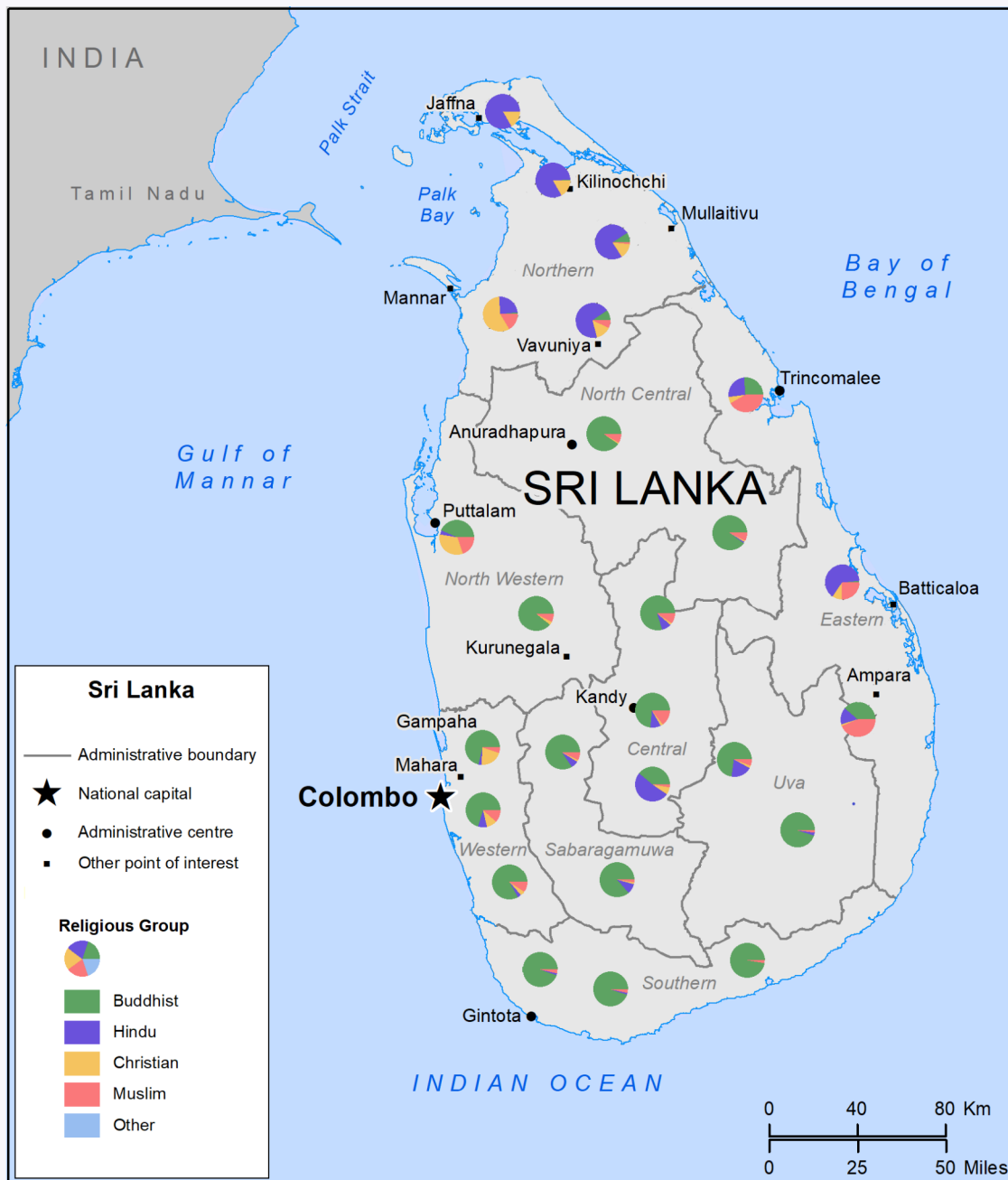
Department of Foreign Affairs and Trade



DFAT COUNTRY INFORMATION REPORT SRI LANKA

23 December 2021

MAP



This map is presented for information only. The Department of Foreign Affairs and Trade accepts no responsibility for errors or omission of any geographic feature. Nomenclature and territorial boundaries may not necessarily reflect Australian Government policy. Provided by the Commonwealth of Australia under Creative Commons Attribution 3.0 Australia licence.

CONTENTS

ACRONYMS	4
GLOSSARY	6
1. PURPOSE AND SCOPE	7
2. BACKGROUND INFORMATION	8
Recent History	8
Demography	8
Economic Overview	9
Political System	12
Human Rights Framework	15
Security Situation	16
3. REFUGEE CONVENTION CLAIMS	18
Race/Nationality	18
Religion	20
Political Opinion (Actual or imputed)	24
Groups of Interest	28
4. COMPLEMENTARY PROTECTION CLAIMS	38
Arbitrary Deprivation of Life	38
Death Penalty	40
Torture	40
Cruel, Inhuman or Degrading Treatment or Punishment	41
5. OTHER CONSIDERATIONS	44
State Protection	44
Internal Relocation	46

Treatment of Returnees	47
Documentation	49
Prevalence of Fraud	51

ACRONYMS

BBS	Bodu Bala Sena
EPDP	Eelam People's Democratic Party
HRCSL	Human Rights Commission of Sri Lanka
ICRC	International Committee of the Red Cross
ITJP	International Truth and Justice Project
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
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
ONUR	Office for National Unity and Reconciliation
PCOI	Presidential Commission of Inquiry into Political Victimisation
PTA	Prevention of Terrorism Act
SLFP	Sri Lanka Freedom Party
SLMC	Sri Lanka Muslim Congress
SLPFA	Sri Lankan People's Freedom Alliance
SLPP	Sri Lanka Podujana Peramuna party



CTID	Counter-Terrorism Investigation Department (of the Sri Lanka Police) – formerly Terrorism Investigation Department (TID)
TMVP	Tamil Makkal Viduthalai Pulikal
TNA	Tamil National Alliance
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNP	United National Party
UPFA	United People's Freedom Alliance

GLOSSARY

<i>Burqa</i>	Female Islamic dress, covers head and face except eyes
<i>Grama niladhari</i>	Village officer
<i>Hijab</i>	Female Islamic dress, covers head but not face
<i>Niqab</i>	Female Islamic dress, a veil for the face
<i>Samurdhi</i>	Sri Lankan social welfare system
<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, issued 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, including 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 4 November 2019.

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. After independence, successive Sinhalese-led governments introduced measures to promote the primacy of the Sinhalese community. 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, commonly known as the Tamil Tigers), formed in 1976 and launched an armed insurgency against the Sri Lankan state in 1983. Government forces re-took the north and east of the country from 2007-09, culminating in the military defeat of the LTTE in May 2009. The UN and human rights organisations documented serious violations in the final stages of the war when Mahinda Rajapaksa was President, 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. Civil society groups and NGOs have criticised the Rajapaksas for enabling and covering up alleged war crimes and atrocities against civilians.

2.3 In 2015, Maithripala Sirisena, who defected from the Mahinda Rajapaksa Government to a rival political grouping, was elected President. Sirisena promised a new era of "clean" government, free of corruption, and embarked upon a path of reconciliation with the Tamil minority that appeared to make some progress. His government faced a constitutional crisis when he briefly appointed Mahinda Rajapaksa as his Prime Minister in a move that was not approved by parliament.

2.4 On 21 April 2019, local Islamic extremist groups inspired by Daesh (also known as Islamic State), carried out coordinated terrorist attacks against Christian churches and hotels. 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 (see [2019 Easter Sunday Terrorist Attacks](#)).

2.5 In November 2019, Gotabaya Rajapaksa was sworn in as Sri Lanka's President, choosing his elder brother Mahinda Rajapaksa, a former two-term President, as his Prime Minister. The UN Office of the High Commissioner for Human Rights (OHCHR), in its report of January 2021, said: 'Sri Lanka seemed to be on a new path towards advancing reconciliation, accountability and human rights. The developments since November 2019, however, have reversed that direction and, instead, threaten a return to patterns of discrimination and widespread violations of human rights experienced in past decades' (see [Political System](#)).

DEMOGRAPHY

2.6 Sri Lanka has a population of 21.8 million. 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 (within Colombo). Ethnic Sinhalese constitute 75 per cent of Sri Lanka's total population, with Tamils at 15 per cent, followed by Muslims at 9 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. Muslims in Sri Lanka are considered to be both an ethnicity and a religion. The Sinhalese and Tamil languages have official status, with Tamil used mostly in the north, east and hill country. English is widely spoken.

2.7 Sri Lankans practise four major religions: Buddhism (70 per cent of the population, mostly Sinhalese in the Southern, Central, Western and Eastern provinces); Hinduism (12 per cent, mostly Tamils); Islam (10 per cent, this figure includes ethnic Malays); and Roman Catholic and other Christian denominations (8 per cent) (see [Religion](#)).

ECONOMIC OVERVIEW

2.8 In 2020, the World Bank classified Sri Lanka as a lower middle-income country, downgrading it from upper middle income status. Amid the COVID-19 pandemic, its Gross Domestic Product (GDP) has reduced by 3.6 percentage points. While government health measures helped contain the impact of the pandemic, these measures negatively affected sectors like tourism, construction and transport especially hard. Similarly, collapsing global demand for Sri Lanka's manufacturing output, especially textiles, caused further harm.

2.9 The manufacturing and services sectors account for nearly 80 per cent of GDP. Agriculture, previously the backbone of the Sri Lankan economy, contributes approximately 8 per cent of GDP. The Colombo Metropolitan Region generates 45 per cent of total GDP. In 2019, Sri Lankans working abroad remitted approximately USD6.7 billion, the equivalent of 8 per cent of GDP.

2.10 In 2021, Sri Lanka's economy has been further troubled by the country's low foreign-exchange reserves and high and rising government debt. Over 70 per cent of government revenue is being spent on interest payments and the risk of default remains a real possibility. Since March 2020, the Government has imposed severe import restrictions to reduce use of foreign reserves, creating further issues, including soaring prices for basic foodstuffs. Furthermore, in April 2021, President Rajapaksa announced that Sri Lanka would immediately replace all chemical fertilisers with organic substitutes, without an adequate transition period, supply of organic alternatives or supporting education. The move is expected to lower agricultural sector productivity; negatively impacting local food production and key exports such as tea. Following extensive protests against the policy, the Government announced on 25 November 2021 that it would partially lift the ban and allow private enterprises to import chemical fertilisers, weedicides and pesticides and sell them in the local market.

Corruption

2.11 Under Transparency International's Corruption Perception Index 2020, Sri Lanka is rated 94th out of 180 countries. According to the Global Corruption Barometer, 79 per cent of Sri Lankans think government corruption is a big problem while 16 per cent report having paid a bribe to receive a public service in the last 12 months. Local sources indicate that while much corruption in Sri Lanka is at a senior enough level so as not to affect the lives of ordinary people (such as corruption in relation to government procurement or

money laundering), there does exist petty corruption, such as the bribes paid by some parents for their children to attend a good school. Similarly, Transparency Sri Lanka states that, in a country with a large and inefficient public service, often “personal connections mean regulations are bypassed”.

2.12 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. 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. Official statistics on the uptake of this service are not publicly available.

Welfare

2.13 As a result of the impact of COVID-19, Sri Lanka has expanded its existing social protection schemes. This includes an increase of recipients under its existing five key welfare systems (Samurdhi – total of 2.39 million recipients; Farmers Insurance Scheme Pensions – total of 160,000 recipients; Senior Citizens Allowance – total of 559,000 recipients; Disability Allowance – total of 35,000 recipients; and Chronic Illness Allowances – total of 39,000 recipients). Since April 2020, the Government has made four ad hoc announcements of a one-off payment of 5,000 LKR, in addition to existing payments, to low-income families, senior citizens and others.

2.14 The largest social welfare program, Samurdhi, was introduced in Sri Lanka in 1995, and remains in operation today, providing millions of households with cash transfers (along with other empowerment programs). Analysis by UNICEF (the UN Children’s Fund), however, assesses that Samurdhi does not include a high enough proportion of intended recipients due to poor quality targeting, and that an estimated 3 million households in need are excluded. Around 85 per cent of children who are meant to receive Samurdhi, do not. In 2021, food security is a growing concern. Even before the impact of COVID-19 on food supply chains, the World Food Programme and the Food and Agriculture Organization, using 2016 data, reported that children aged five years or under showed high rates of stunting (17.3 per cent), wasting (15.1 per cent) and undernourishment (20.5 per cent) for Sri Lanka.

Economic conditions in the north and east

2.15 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 (2019). 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.

2.16 COVID-19 has compounded existing inequalities and barriers to livelihoods, particularly in vulnerable communities in the east. While tourism is a growing industry in Eastern and North Central Provinces, it has been badly impacted by the pandemic. Households reliant on tourism as a source of income have not diversified or adapted, and are waiting for tourists to return.

2.17 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, but promises of debt relief by the Government have not eventuated.

2.18 The military is active in a number of commercial businesses, mostly in the Northern Province. Local communities in the north told DFAT that competition from the military in commercial enterprises, undercuts local businesses and deprives civilians of employment opportunities. The military has returned some land it occupied during the war, but retains some important agricultural and fishing land (see [Security situation in the north and east](#)). There are claims from activists that, with the recent proliferation of checkpoints in the north and east, attributed to COVID-19, the military is once again acquiring private land. In August 2021, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence noted 'Sri Lanka is yet to set up a land commission to document and carry out a systematic mapping of military-occupied private and public land for effective and comprehensive restitution.'

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

Education

2.20 Education is free from the primary to undergraduate tertiary level. Education is near universal (99 per cent enrolment in primary school and 89 per cent enrolment in secondary school). 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.

2.21 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. Muslims can choose to attend private Islamic schools (madrasahs, a term which may also refer to weekend schools) or attend state schools and study Islam instead of Buddhist studies. In March 2021, as a 'security measure' in light of the 2019 Easter Sunday terrorist attacks, the Government announced that it would close 'more than 1,000 madrasahs', however, at the time of publication, this decision had not been implemented. (see [Muslims](#)).

2.22 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 outstrips supply. DFAT assesses that Sri Lankans are able to access the education system without discrimination, regardless of their ethnic or socioeconomic profile, however, language constraints can limit access to education for some Sri Lankans.

Health

2.23 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. 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 lower in the north and east. According to the World Health Organisation (WHO), the health system provides access to all 'required medicines' prescribed in the state system in Sri Lanka free of charge. However, the WHO also notes that the overall system 'has not evolved and transformed appropriately to meet the changing demands of the demographic and epidemiological transitions.' It notes that 26 per cent of out-of-pocket expenses for patients in the health system are for medicines. A local source reported that this leaves considerable expense for medicines acquired privately.

2.24 The overall incidence of cancer in Sri Lanka has reportedly doubled over the past 25 years with a consequent rise in cancer-related mortality. Cancer has become the second most common cause of hospital mortality in Sri Lanka. Local sources suggest Sri Lanka has reasonably good programs for prevention, screening, and treatment of cancers, though there is room for improvement. Both government and NGO health services provide a range of cancer treatments, though these tend to be located in larger centres. DFAT assesses that there is no discrimination on the basis of religion or ethnicity with regard to health services.

Mental Health

2.25 Sri Lanka offers some mental health services but there are gaps. Local sources suggest the health system has a strong mental health focus with a good cohort of trained counsellors, and a number of NGOs active in the sector. However, there are limited numbers of qualified psychologists and psychiatrists. The Ministry of Health operates the National Institute of Mental Health in Colombo which is the only state-run hospital dedicated to treating mental illness with 1,200 full-time staff and 1,500 beds. The National Institute of Mental Health admits over 8,000 patients annually.

2.26 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). A local NGO reports that, among those being treated for mental illness, 37 per cent have depression, 17 per cent have psychosis, and more than 40 per cent have pre- or post-natal depression.

2.27 Local sources report that mental illness still carries a stigma and elicits a strong sense of pity in Sri Lankan society. Such stigma deters sufferers from revealing and seeking treatment for mental illness, and is likely worse the more a mental illness is 'visible' to outsiders. Stigma can have a strong impact upon families in particular. Additionally, according to a local NGO, a family unit may bear primary responsibility for caring for those with mental health problems, due to the lack of adequate services in most parts of the country. Families reportedly fear mental illness will mean their daughter is not able to get married or that children may be bullied in school. Such social estrangement is reportedly even worse in the case of suicide. Understanding of the causes of mental illness can be limited. Mental illness is sometimes attributed to black magic and curses. Some families seek traditional methods to 'cure' mental illness, including through use of local healers. Despite this context, overall, stigma has declined considerably in the last fifteen years and Sri Lankans now access counselling services more freely, where available.

2.28 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. Some drug and alcohol counselling is available in Sri Lanka, typically offered by NGOs, but is inadequate to the scale of the problem, with authorities typically taking a punitive approach to drug users.

POLITICAL SYSTEM

2.29 Sri Lanka is a democracy with a mixed parliamentary and presidential form of government. 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. President Rajapaksa is also the current Minister of Defence. International and domestic election observers deemed the last parliamentary election, held in 2020, to be mostly credible, although some incidents of voter intimidation were reported.

2.30 In August 2020, the Sri Lanka People's Freedom Alliance (SLPFA), a coalition under President Gotabaya Rajapaksa (which includes his own party, the Sri Lanka People's Front (SLPP)), won a two-thirds majority in the Sri Lankan Parliament led by Prime Minister Mahinda Rajapaksa.

2.31 On 20 October 2020, the Sri Lankan Parliament endorsed the 20th Amendment to the Sri Lankan Constitution. The amendment reversed some measures introduced by the previous government, largely dismantling pro-transparency and accountability reforms in the 19th Amendment, as well as enhanced executive control over the legislature and judiciary. In January 2021, the UN High Commissioner for Human Rights expressed her concern that 'the amendment has fundamentally eroded the independence of key commissions and institutions, including the Human Rights Commission of Sri Lanka (HRCSL), the Election Commission, the National Police Commission and the judiciary in terms of procedure for the selection, appointment and dismissal of senior judges and other high-ranking officials.' The amendment also allowed dual citizens to enter Parliament.

2.32 In July 2021, Basil Rajapaksa, a dual-Sri Lankan-US citizen, was sworn in as Sri Lanka's Minister of Finance, becoming the fourth Rajapaksa brother and fifth member of the first family to enter the Cabinet. The move further consolidated the family's control over the machinery of government. The family's return to government has seen greater centralisation of power in the executive branch and the increased militarisation of civilian government (such as the filling of civilian positions with former military officers). Some observers have called these measures 'democratic backsliding'; the weakening of institutions that provide democratic accountability (see [Recent History](#)).

2.33 Prime Minister Mahinda Rajapaksa's earlier 10-year presidency (2005-2015) was also marked by allegations of democratic backsliding and accusations of corruption and human rights violations, including alleged war crimes against the Tamils, and harassment, arrest and disappearance of government critics. The current government of Gotabaya Rajapaksa has sought to retain popularity within the majority Sinhalese community by highlighting their role in the defeat of the LTTE and by promoting strong state security, particularly following the 2019 Easter Sunday terrorist attacks. Local sources, Tamil and non-Tamil, told DFAT that the human rights improvements achieved under the government of Maithripala Sirisena (2015-2019), including in relation to freedom of expression, are now being reversed. Such sources regard the increasing militarisation of the civilian government, the 20th Amendment's centralisation of power in the hands of the executive, and the increasing use of the Prevention of Terrorism Act and other means to silence critics, as vindication of their fears. Presidential elections are next scheduled to be held in 2024. In July 2021, President Rajapaksa stated his intention to run for a second term in office.

Reconciliation

2.34 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 of Maithripala Sirisena committed to implementing a range of truth, justice and reconciliation measures under a UN Human Rights Council (HRC) resolution (Resolution 30/1) adopted in October 2015. The then-Government of Sri Lanka co-sponsored these resolutions.

2.35 In 2015, the then- Government approved the formation of 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.

2.36 In 2015, an Office for National Unity and Reconciliation (ONUR) was established and the Government appointed former President Chandrika Bandaranaike Kumaratunga as chair. She left the position in November 2019 and was not replaced. In-country sources do not regard ONUR as having fulfilled its mandate of promoting reconciliation in 2021.

2.37 The OMP was formally established in September 2017 with seven commissioners including two Tamils and one Muslim. The OMP was 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, including periods of violent political disturbance in the 1970s and 1980s. While some optimism occasioned the OMP's establishment and initial operations, local sources regarded it as compromised in 2021; the 20th Amendment permitted the Government to appoint commissioners implicated in historical abuses, such as former Inspector General of Police (IGP) Jayantha Wickramaratne. Ahimsa Wickrematunge, daughter of slain journalist Lasantha Wickrematunge said of Wickramaratne that, as IGP in 2009, Wickramaratne had 'derailed' investigations into her father's murder. As at November 2019, the Government was paying Interim Relief (worth LKR6,000 per month) to 153 families of missing or disappeared persons up. Family members who possessed either a Certificate of Absence (CoA) or a Certificate of Death (CoD) which stated that the person has been missing or had been disappeared for over one year were entitled to this payment. However, in September 2021, sources advised that the payment of Interim Relief had ceased, along with the issuance of Certificates of Absence.

2.38 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, fled Sri Lanka to Switzerland after the Presidential election in 2019, fearing reprisals. The Government has now issued two warrants for Silva's arrest, including one for murder, and is reportedly seeking his extradition from Switzerland. Other former CID officers, such as former Director Shani Abeyesakara, have been targeted by the Government for their role in high-profile cases.

2.39 The OfR was established by legislation passed by parliament on 10 October 2018 with commissioners from a range of ethnic and professional backgrounds. The OfR has been given a mandate to provide reparations to persons affected by conflict, not only in the north and east, but also in the south, and in connection to the Marxist insurrections of the 1970s and 1980s. Local sources claimed in 2021 that the OfR's work had come to 'a standstill'. However, the Government of Sri Lanka stated in September 2021 that the Office continues to function, settling a total of around 5,000 claims (with more than 10,000 remaining) for a total of LKR323.6 million (AUD2.2 million). This amounts, as HRW notes, to approximately USD500 per missing person. In August 2021, Sri Lanka's Cabinet approved the National Reparations Policies and Guidelines. The document, which is publicly available, was formulated within the legal framework set out by the Office of Reparations Act and covers both collective and individual reparations. However, at the time of publication, details on practical implementation of the policy were still evolving.

2.40 The Government withdrew its co-sponsorship of Resolution 30/1 in February 2020, announcing instead, a policy of pursuing reconciliation through domestic processes. In March 2021, the UN Human Rights Council, following a report by UN High Commissioner for Human Rights, Michelle Bachelet, adopted resolution 46/1, deciding 'to strengthen the capacity of the Office of the High Commissioner to collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction.' A statement delivered by the Foreign Minister (Peiris) during the Human Rights Council's 48th Regular Session in September 2021 noted the Government's rejection of the proposal for any external initiatives established by Resolution 46/1 while

domestic processes were underway. Local and international sources suggest that the Sri Lankan Government is concerned about this OHCHR evidence gathering process, and are seeking to stifle and suppress critics with knowledge of historical abuses that would be of use to the OHCHR. Sources claim senior figures principally fear the exercise of universal jurisdiction by other states with regard to such abuses.

2.41 In her January 2021 report, Bachelet said: ‘Sri Lanka remains in a state of denial about the past, with truth-seeking efforts aborted and the highest State officials refusing to make any acknowledgement of past crimes’ (see also [Media and Civil society organisations and government critics](#)). In 2021, there has been little progress on so-called ‘emblematic cases’ of historical abuses related to the civil war. In one high-profile case, the recently retired 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. As of 2021, he is yet to face trial. The bodies of the 11 men, who came from wealthy families and were allegedly abducted for ransom, have never been found. The current Chief of the Defence Staff and Chief of Army, General Shavendra Silva, is banned from travelling to the United States due to accusations of civil war-era war crimes.

2.42 DFAT assesses that progress on accountability for war-era violations is unlikely in the near-term. DFAT further assesses that Sri Lankan journalists, investigators, activists and former police officers probing historical abuses face a high risk of official harassment and a moderate risk of violence.

Presidential Commission of Inquiry into Political Victimisation

2.43 In January 2020, President Rajapaksa established the Presidential Commission of Inquiry (PCOI) into political victimisation to investigate so-called ‘acts of political victimization’ that occurred as part of investigations against people connected to his Government, carried out in the past by the Sri Lankan police or other agencies. Domestic and international human rights observers regard the PCOI as a mechanism to ‘derail investigations’ of President Rajapaksa’s relatives and allies begun by the previous administration in 2015-19.

2.44 The Bar Association of Sri Lanka has said that the PCOI’s report, which has been approved by Cabinet but not publicly released, ‘may undermine the Rule of Law in this country, impair the independence of the Judiciary, and erode the impartial and efficient functioning of the Attorney General’s Department.’ The OHCHR notes that the Government’s PCOI has ‘had the effect of undermining the police and judiciary in several high-profile human rights and corruption-related cases.’ Among the historical cases affected by the PCOI is the 2008-09 enforced disappearance and suspected murder of 11 men and boys by alleged members of naval intelligence. Fourteen former and serving naval officers including Adm. (ret.) Ravindra Wijegunaratne, a former Chief of Defence Staff, were due to stand trial in 2020 before it was postponed. Other historical cases include the 2008 abduction and torture of a journalist, Keith Noyahr; the 2010 disappearance of a journalist, Prageeth Ekneligoda, in which a criminal trial is proceeding; and, the 2012 Welikada Prison massacre, in which security force personnel are currently facing trial. According to Human Rights Watch, a common element in all these cases is that evidence produced in court by the police has implicated President Gotabaya Rajapaksa and/or his family and allies. Among other recommendations, the PCOI recommended withdrawal of around 75 cases pending in Sri Lankan courts (all linked in some way to the Rajapaksa family members or their loyalists), on the basis that the cases constituted political victimisation.

HUMAN RIGHTS FRAMEWORK

2.45 Sri Lanka's Constitution guarantees many internationally-recognised human rights, under Chapter III 'Fundamental Rights', including freedom of thought, religion and conscience, freedom from torture and freedom from arbitrary detention. Article 17 of the Constitution provides the right for any individual to petition the Supreme Court for a remedy. Such fundamental rights petitions are used in Sri Lanka and have resulted in positive outcomes for the petitioner.

National Human Rights Institution

2.46 The Human Rights Commission of Sri Lanka (HRCSL) was established 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 received 6,548 complaints in 2018, the last year for which data is available, with no figure given for how many had been resolved. 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.

2.47 Prior to 2021, the Global Alliance for National Human Rights Institutions (GANHRI) rated the HRCSL as Status A in its accreditation process, the highest rating available. However, in-country sources now consider the HRCSL to be potentially biased in favour of the Government that has directly appointed Commissioners and thus no longer an effective accountability institution. This follows the passage of the 20th Amendment to the Constitution, the resignation of key personnel including the respected then-chairperson, and consequent appointments by the Government (including, as chair, but since now resigned, a former minister of successive Rajapaksa governments). In June 2021, GANHRI announced it was initiating a Special Review of the HRCSL to determine its ongoing compliance with the Paris Principles governing human rights institutions, with potential implications for its accreditation.

SECURITY SITUATION

2.48 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 was heightened across Sri Lanka following the 2019 Easter Sunday terrorist attacks (see also [2019 Easter Sunday Terrorist attacks and Aftermath of Anti-Muslim Violence](#)).

2.49 The 2019 Easter Sunday suicide bombing terrorist attacks, carried out on 21 April 2019 by local Islamic extremists (National Thawheed Jammath (NTJ) and Jamaat-al Mullathu Ibrahim (JMI)) and inspired by Daesh (ISIL/Islamic State), targeted three luxury hotels in Colombo (Western Province) and three Christian churches in Colombo, Negombo (Western Province) and Batticaloa (Eastern Province). More than 250 people were killed in the bombings with another 490 injured. A Commission of Inquiry has investigated the bombings but, as at the time of publication, the Commission's report had not been publicly released. The Catholic Church in Sri Lanka has repeatedly raised concerns about the ongoing lack of justice for victims and the Government's handling of the investigations. The Commission's work and broader efforts to seek accountability have become highly politicised, including due to allegations of links between intelligence

personnel and the groups that carried out the attacks, and of negligence by high-ranking officials including former President Sirisena.

2.50 The Sri Lankan Government claims it has killed or apprehended all those directly involved in the 2019 Easter Sunday terrorist attacks. Nearly 2,300 individuals were arrested in connection with the attacks, up to 300 of whom reportedly remain in police custody at the time of publication. The Sri Lankan Government proscribed the NTJ, the JMI and a third local Islamic extremist group, Willaayath as Seylani (WAS), as terrorist entities. According to media reporting, in May 2021, the Sri Lankan Ministry of Defence said it had no information about any current terrorist threat in Sri Lanka. See also [Muslims](#) with regard to the treatment received by Muslims in Sri Lanka following the 2019 Easter Sunday terrorist attacks.

2.51 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 2,421 per 100,000 people in 2018, the last year for which data is available. A number of local sources told DFAT of substantial gang violence in Jaffna (Northern Province), including random sword attacks allegedly carried out by Jaffna-based motorcycle gang the Aava Gang. A number of chiefly Tamil sources have suggested the Aava gang was enabled by Sri Lankan military intelligence but DFAT cannot verify this.

2.52 Elections have historically been volatile periods in Sri Lanka; however, independent election monitors found no significant security problems with the running of the 2019 Presidential and 2020 parliamentary elections, even amid COVID-19 restrictions for the 2020 election.

2.53 States of Emergency have also been in place for much of Sri Lanka's recent history, including throughout the war and for four months after the 2019 Easter Sunday terrorist attacks, and have been used as a tool to extend executive and military control. The most recent State of Emergency, declared on 30 August 2021 reportedly to control rapidly rising food prices, sparked concerns in some quarters. Media reports state that the recent declaration lapsed in early November 2021 with little fanfare.

Security situation in the north and east

2.54 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 some security checkpoints re-established in the north post 21 April 2019 have since been removed. Local sources report that roadblocks were significantly re-established in 2020-21, ostensibly to combat COVID-19 and drug trafficking. However, sources note these roadblocks are common in the north and east, and far less common around Colombo, which does not reflect relative COVID-19 risks in these locations.

2.55 The military maintains a significant presence in the north. Military involvement in civilian life has decreased overall since the end of the war, although military involvement in some civilian activities, particularly the economy, continues in the Northern Province (see [Economic conditions in the north and east](#)). The Sri Lankan military comprises approximately 350,000 active and reserve service members; 280,000 Army, 50,000 Navy and 30,000 Air Force. Approximately 160,000 – 200,000 joined between 2006 and 2009. Retirement is permissible after 22 years of service. Much of the work currently done by the military includes: construction of roads, hospitals and houses; the renovation of dams; hospitality (such as running resorts or other tourism activities); and growing food (dairy farming, rice and vegetable cultivation).

3. REFUGEE CONVENTION CLAIMS

RACE/NATIONALITY

3.1 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, mean ethnicity and language are sensitive issues in Sri Lanka. Since 1987, Tamil has become an official language and English is, in practice, a lingua franca between communities.

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. 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 (the most recent available), Tamils comprised 39.2 per cent of its population, Muslims 36.9 per cent and Sinhalese 23.2 per cent.

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. 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 employment or housing (see [Religion](#)). Language constraints can limit access to education for some Sri Lankans (see [Education](#)).

Tamils

3.4 According to the most recent census (2012), Tamils are the second largest ethnic group in Sri Lanka (15.3 per cent of the population). Tamil political parties are active, with the largest coalition of parties operating under the umbrella of the Tamil National Alliance (TNA). In the 2020 parliamentary elections, the TNA won 10 seats (of a total 225) during the landslide victory of President Rajapaksa’s Sri Lanka People’s Freedom Alliance (SLPFA). There are two Tamil parties in the Government’s ruling SLPFA coalition: the Tamil Makkal Viduthalai Pulikal (TMVP) (formerly known as the Karuna group), and the Eelam People’s Democratic Party (EPDP), which have a combined total of three seats in the Sri Lankan Parliament. There is one Tamil cabinet minister as of November 2021: Minister for Fisheries, Douglas Devananda of the EPDP. This represents a decline in political influence for Tamils from the previous Sirisena Government.

3.5 Some members of the Tamil community report discrimination in employment, particularly in relation to government jobs, though other sources suggest this is because many Tamils speak neither

Sinhala nor English. 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. In April 2021, Sri Lanka Police announced plans to recruit 2,000 Tamil speakers for the north and east, given that very few of the mostly Sinhalese officers (with around 700 police officers working in the Northern Province and 1,100 in the Eastern Province) speak fluent Tamil. All police basic training is reportedly conducted in Sinhala limiting accessibility to most Tamils.

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

3.7 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.

Monitoring, harassment, arrest and detention

3.8 Many Tamils, particularly in the north and east, reported being monitored, harassed, arrested or detained by security forces during the 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 [Liberation Tigers of Tamil Eelam](#)).

3.9 Members of the Tamil community and NGOs report 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, including those related to the war, such as missing persons, land release and memorialisation events (see [Civil society organisations and government critics](#) and [Media](#)).

3.10 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 (see [Liberation Tigers of Tamil Eelam](#)).

3.11 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), or Maaveerar Naal ('Great Heroes' Day' in Tamil, 27 November), although some Tamils are known to defy this ban. The public display of LTTE symbols, including the LTTE flag and images of Prabhakaran, is also banned.

3.12 Tamils have been arrested in 2021 under the *Prevention of Terrorism Act* (PTA) for commemoration of the war (see [Prevention of Terrorism Act](#)). In May 2021, on the eve of commemoration of the end of the civil war in Mullaithivu district, the location at which various estimates suggest up to 40,000 civilians died in the closing phase of the war, authorities placed the district under strict COVID-19 quarantine isolation. According to local sources, Tamils who tried to commemorate the day were harassed or arrested by police. For example, 10 Tamils including two women were detained from 19 May 2021 until at least late July for holding a socially-distanced candle-lit vigil on a beach in Batticaloa, Eastern Province. On 19 May 2021, the Government of Sri Lanka, including President Rajapaksa, celebrated the same occasion as War Heroes Day.

3.13 DFAT assesses that surveillance of Tamils in the north and east continues, with particular surveillance of those associated with politically-sensitive issues. DFAT also assesses that physical violence against those being monitored is not common, and that ordinary Tamils living in the north and east of Sri Lanka are at low risk of official harassment.

RELIGION

3.14 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 as well as a religious group. Most Muslims speak Tamil.

3.15 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. DFAT assesses that any attempt to remove Buddhism's special status as part of constitutional reform is unlikely to succeed in the foreseeable future. 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. This applies to all religions.

3.16 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. 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.

3.17 The Government adheres to a 2008 ministerial circular, introduced by the Ministry of Buddha Sasana, Religious, and Cultural Affairs (though later revoked, according to the US Department of State). According to local sources, the circular is used as the basis to restrict the construction of new places of worship by religious minorities. 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.

3.18 According to local sources, the Rajapaksa Government maintains the support of its largely Buddhist Sinhalese base by engaging in religious polarisation, including by supporting extremist Buddhist groups. A number of these operate in Sri Lanka, including the *Bodu Bala Sena* (BBS), *Sinha Le* (Lion's Blood), *Sinhala Ravaya* (Sinhalese Roar) and the *Mahason Balakaya*. These groups emerged in response to perceived threats to Sri Lanka's Buddhist identity posed by religious minorities, mostly during the time of President Mahinda Rajapaksa's Government (2005-2015). 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. The US Department of State reported that in April and May 2020, there was a 'vast outpouring' of anti-Muslim hate speech on social media and in other media related to the COVID-19 pandemic and the purported role of Muslims in spreading it, which the Government did not 'adequately refute'. On 12 September 2021, a spokesperson for the BBS said the Government needed 'to prevent the emergence of terrorists through Islamic extremism and the Government must take meticulous and expeditious actions in the same way that LTTE terrorism was wiped out from the country.'

3.19 In 2020, Sri Lanka's National Christian Evangelical Alliance of Sri Lanka (NCEASL) reported 50 'incidents of attacks on churches, intimidation of and violence against pastors and their congregations, and

obstruction of worship services' including groups led by Buddhist monks accosting evangelical Christians on their way to church or interrupting church services.

3.20 In 2019, then-President Sirisena pardoned the jailed prominent Buddhist extremist, Galagoda Aththe Gnanasara Thero. Sources noted that, while Gnanasara had been jailed, it was for contempt of court, and he had never been prosecuted for inciting violence against religious minorities. In late 2021, minority communities expressed concern that Gnanasara had been appointed as Chair of a new Presidential Task Force (PTF) to make recommendations in respect of the 'One Country, One Law' concept, with a view to coming up with proposals to implement one law for all Sri Lankans (currently personal status laws apply to some groups, such as Muslims).

3.21 DFAT assesses that, while laws or official policies generally do not discriminate on the basis of religion, adherents of religions other than Buddhism face a low to moderate risk of official discrimination from government authorities, which can affect their ability to build places of worship, seek recourse for religiously-motivated attacks, and practise their faith freely.

Muslims

3.22 Muslims are the third largest religious group in Sri Lanka (9.7 per cent of the population identified as practising Islam at the time of the 2012 census, the most recent census available). 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.

3.23 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 businesspeople throughout Sri Lanka.

3.24 Muslim parties have historically been active in Sri Lankan politics. However, following the 2020 parliamentary elections, such parties hold few seats. The Sri Lanka Muslim Congress (SLMC), traditionally the largest Muslim political party, has a single seat in parliament, as do each of the All Ceylon Makkal Congress (ACMC) and the new Muslim National Alliance. There is one Muslim party in the governing coalition, the SLPFA. There is a single Muslim minister in Cabinet: Minister for Justice Ali Sabry, who was previously President Gotabaya Rajapaksa's long-term legal counsel.

3.25 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 and most especially since the 2019 Easter Sunday terrorist attacks but also earlier in 2014 and 2018. Extremist Buddhist groups, such as the BBS, have targeted the Muslim community, including through social media. While freedom of expression has declined overall, greater impunity for hate speech, together with the growth of social media use, has 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. Sources from within the Muslim community told DFAT Muslims did not receive adequate state protection from the BBS and other

extremist Buddhist groups, but DFAT is not aware of any recent acts of violence that resulted in a lack of state protection.

3.26 In March 2020, the Sri Lankan Government announced compulsory cremations for those who had died from COVID-19, claiming the measure would limit the spread of the disease. Without any medical basis and against the advice of the World Health Organisation, the Government contended that burial in accordance with Islamic tradition posed a public health risk. The policy, which was ended in February 2021 when the Sri Lankan Government came under sustained international pressure, was highly traumatic for Sri Lankan Muslims. Sources said the policy reinforced Sinhalese beliefs that Muslims had spread COVID-19 and were outsiders to Sri Lanka. Local sources said some Muslims avoided COVID-19 testing and medical treatment for fear they might be cremated upon death.

2019 Easter Sunday terrorist attacks and aftermath of anti-Muslim violence

3.27 Anti-Muslim sentiment in Sri Lanka increased following the 2019 Easter Sunday terrorist attacks (see [Security situation](#)). Under the Emergency Regulations promulgated following the attacks, clothing that covered the face and prevented identification was banned in public places, which was interpreted as a clear reference to Islamic dress for women. Some shops, hospitals, courts and universities banned women wearing the hijab from entering their premises, until the Government clarified that the ban did not extend to the hijab. In 2021, Minister for Public Security, Sarath Weerasekera, again called for a ban of face coverings on 'national security' grounds. This proposal appears to have stalled (as at the time of publication).

3.28 Local sources told DFAT that, after the attacks, Muslim shop owners, stallholders, mobile vendors and daily labourers in the Eastern Province were obstructed from carrying out their daily business. Leaflets were also distributed promoting boycotts of Muslim businesses, and some Muslims were denied access to shops and transport.

3.29 The Muslim community came under increased scrutiny as part of the then-government's counter-terrorism efforts following the attacks, including monitoring for signs of radicalisation. According to media reporting, up to 2,000 Muslims were questioned and, in many cases, detained for 'extremism' on the basis of limited evidence. Muslims were reportedly also targeted for vehicle searches at security roadblocks throughout the country. The Government has indicated it will work to 'de-radicalise' Muslims suspected of extremist views, including, potentially, through a rehabilitation process modelled on Tamil rehabilitation. It is unclear what such a process, if it were introduced, would entail.

3.30 After the attacks, the Muslim community has been the subject of reprisals, including physical assault and property damage. According to an NGO report examining online hate speech between March and June 2020, 58 per cent of online hate speech in all national languages (Sinhala, Tamil, and English) attacked Muslims or Islam on a variety of grounds, while of the Sinhala-language posts surveyed, 79 per cent attacked Muslims or Islam. In late 2021, data collected in similar reports indicates this percentage has declined substantially, though Muslims remain the most-targeted religious or ethnic group by hate speech.

3.31 DFAT is not aware of any significant episodes of anti-Muslim violence in 2021. DFAT assesses that Muslims face a low risk of violence. DFAT also assesses that 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. DFAT further assesses that Muslims critical of the Government face a moderate risk of harassment and arbitrary detention.

Christians

3.32 About 7 per cent of Sri Lankans are Christian. Around 80 per cent of those 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.

3.33 In recent years, documented incidents of violence and intimidation against Christians have primarily involved intimidation (including physical and verbal threats against pastors and their congregations), disruption of worship services, demands for closure of churches and legal challenges. In some cases, local officials requested evangelical Christian churches to register as places of worship, although no law or regulation requires registration. Buddhists were the perpetrators of most of the reported incidents, followed by Hindus and, to a lesser extent, Catholics against other Christian denominations. DFAT is not aware of reported incidents of violence or visible hostility against Christians perpetrated by Muslims.

3.34 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. In September 2020, Christians in a village were told they could not worship; their complaint was initially rejected by local police but later accepted. Of the incidents of violence and intimidation against Christians documented by a local NGO since 2015, nearly half involved state agents, either implicitly or explicitly, including police, village officers (*grama niladhari*) and Divisional Secretariats (a form of local government). 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.

3.35 DFAT assesses that Christians in Sri Lanka face a low risk of official discrimination. DFAT also 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. Aside from the 2019 Easter Sunday terrorist attacks, 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

3.36 About 13 per cent of Sri Lankans are Hindu, including most Tamils. 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

3.37 There is no official data on the incidence of interfaith/interreligious marriage in Sri Lanka. One source has previously suggested 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 lead to physical harm to mixed couples or their children. State – rather than religious – law governs most mixed marriages (personal status laws govern marriage within religious communities (See [Muslim women](#))). Within the Muslim community, social stigmas attach to those who marry outside the faith, more so than other cultures. 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)

3.38 Sri Lanka has held regular democratic elections since independence. Large-scale violence and vote rigging have never been features of elections, but nor have elections always been described as entirely free and fair. DFAT assesses that political parties are able to operate freely across Sri Lanka and contest elections. 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 of each ethnicity is broadly proportional to the ethnic make-up of the overall population. The current parliament includes 27 Tamils and 19 Muslims among its 225 members. There is a single Muslim and Tamil respectively in the current cabinet, with another two Tamil state ministers.

Liberation Tigers of Tamil Eelam (LTTE)

3.39 At its peak in 2004, the LTTE had an armed force of approximately 18,000 combatants. The LTTE was proscribed as a terrorist organisation by a number of countries, including Australia. It 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. Within Tamil Eelam, the LTTE imposed its authority in a brutal fashion, reportedly murdering Tamil rivals and critics.

3.40 Towards the end of the war, in 2009, 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 previous Sirisena Government publicly committed to reducing military involvement in civilian activities, but observers have expressed concern that this has reversed and the military's role is growing again.

3.41 While the LTTE was comprehensively defeated, Sri Lankan authorities remain concerned over its potential re-emergence, and to separatist tendencies in general. Sources report that Sri Lankan authorities collect and maintain sophisticated intelligence on former LTTE members, supporters and other separatists, including 'stop' and 'watch' electronic databases. DFAT understands these databases remain active. 'Stop' lists include names of those individuals who have an extant court order, arrest warrant or order to impound their Sri Lankan passport. 'Watch' lists include names of those individuals whom the Sri Lankan security services consider to be of interest, including for suspected separatist or criminal activities.

3.42 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 the party did not

win any seats, its participation demonstrated the relative openness of the electoral process. The party did not contest the 2020 parliamentary elections.

3.43 The LTTE has not carried out any attacks since 2009; however, individuals linked to the LTTE have been involved in what are alleged to be thwarted attacks. 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. Local sources told DFAT that the Tamil community had abandoned militancy and was committed to addressing its grievances through political means.

3.44 The International Truth and Justice Project (ITJP), an NGO which documents torture and sexual violence by the security forces in Sri Lanka, claims that, while ex-LTTE cadres exist, they are no longer affiliated in any way with an extant LTTE, and are subject to harassment and discrimination by the Government. The Sri Lankan Government may not accept that the LTTE is finished, arresting several Tamils in 2021 under the Prevention of Terrorism Act (PTA) for alleged LTTE-supportive behaviour (see [Prevention of Terrorism Act](#)). In July 2021, a Tamil man was deported from Qatar to Sri Lanka at the request of Counter-Terrorism Investigation Department (CTID) for allegedly promoting the LTTE. In its May 2021 decision on the refugee status of Tamil activists in the UK, the UK Upper Tribunal found that the present Government of Sri Lanka was possessed of a 'determination to prevent any form of resurgent separatism'.

Rehabilitation

3.45 Since the end of the war, successive Sri Lankan Governments have managed a large-scale 'rehabilitation' process for former LTTE members. The aim of the 24 rehabilitation centres was to process LTTE members who surrendered in the final stages of the war and to assist them to adjust to a life after war, with a focus on vocational training. According to Sri Lankan Government statistics from March 2019, 12,191 former LTTE members (including 2,265 women) had completed rehabilitation. Some centres previously used to rehabilitate former LTTE members have since been redeployed for the purposes of rehabilitating drug addicts and possibly Muslim detainees under the PTA (see [Rehabilitation of non-LTTE members](#)).

3.46 Local sources have previously estimated that between 4,000 and 6,000 former LTTE members are undisclosed and non-rehabilitated, the majority of whom may now be living overseas. Military sources have previously estimated the number of undisclosed and non-rehabilitated former LTTE numbers within Sri Lanka as being low, including approximately 280 individuals in Jaffna (Northern Province).

High-profile former LTTE members

3.47 '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. Other former leaders, such as Karuna Amman (previously a leader of the TMVP, now a member of the Sri Lankan Freedom Party (SLFP), part of the President's ruling coalition), defected and are allied with the Government.

3.48 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 also 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 some form of 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.

Low-profile former LTTE members

3.49 '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 now, particularly if suspected of having a combat function during the war, would likely be detained and may be sent for rehabilitation. 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

3.50 Some Tamils with actual or 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. Testimonies provided to ITJP show that such harassment can include: frequent visits by police, visits to family members, threats and seizure of mobile devices.

3.51 Local sources also claimed the authorities – usually undercover police officers or intelligence agents – sometimes used more subtle methods, for example inviting individuals to tea in public places and asking questions about their activities. Such 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. 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](#)).

3.52 DFAT assesses that, while they may be monitored, Tamils with former links to the LTTE, and who are not politically active, 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

3.53 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.

3.54 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. 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. The UK Upper Tribunal in its May 2021 ruling on Tamils engaged in activities in the UK found that a range of political activities such as 'attending

meetings and demonstrations, holding flags or banners displaying the LTTE emblem, attendance at commemorative events, meaningful fundraising, any presence on social media, signing petitions' may be perceived by the Government of Sri Lanka as threatening and it may trigger official harassment upon return.

3.55 In March 2021, the Sri Lankan Government proscribed a number of Tamil diaspora groups including the Australian Tamil Congress and the Tamil Youth Organisation (Australia), as well as a number of individuals based in Australia, the UK, Germany, Italy, Malaysia and several other countries. The Australian Tamil Congress and the Tamil Youth Organisation are not proscribed in Australia, while the LTTE remains a proscribed organisation in Australia.

3.56 Approximately 95,000 Sri Lankan Tamils live as refugees in Tamil Nadu, India. (see [Returnees from Tamil Nadu](#)).

3.57 DFAT assesses Sri Lankan authorities may monitor members of the Tamil diaspora returning to Sri Lanka, depending on their security risk profile. DFAT assesses that following Tamils would be of particular interest to the authorities: 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. Those Tamils living abroad with links to the LTTE are unlikely to return to Sri Lanka voluntarily.

Family members of LTTE

3.58 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. The ITJP, based on interviews with Tamils who have fled the country and are resident overseas, states that family members of former or suspected former LTTE cadres have been subject to harassment and detention.

Societal discrimination

3.59 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 be pressured to 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. 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.

3.60 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, particularly the women, is high. Many, even those who 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. Reluctance by employers to hire known former LTTE members, for fear of inviting monitoring by the authorities, is also reported as a factor. In-country sources said that the lack of economic options experienced by former LTTE members meant that some had become paid informers for the authorities. 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 any at all.

3.61 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.

3.62 DFAT assesses that members of the LTTE suspected of serious human rights violations against other 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.

GROUPS OF INTEREST

Internally Displaced Persons (IDPs)

3.63 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 (the latest figures, with 554,543 in the north and 337,085 in the east), with most returning to their places of origin. IDPs have full freedom of movement.

3.64 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). Sources told DFAT that most displaced Muslims were established where they were and were therefore unlikely to return to their places of origin. 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

3.65 Approximately 92,900 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- or third-generation). The majority of Sri Lankan Tamil refugees (approximately 58,900) reside in 106 camps administered by the Tamil Nadu Government. Camp refugees are registered with Tamil Nadu's Commissionerate of Rehabilitation and Welfare (CoRW) who provide education, health care, social security and amenities. The state government in Tamil Nadu provides camp-based Sri Lankan Tamils with an allowance and allows them to send their children to school.

3.66 The remainder live in host communities outside the camps. 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, whether camp or non-camp, cannot obtain employment in the formal sector – options are limited to daily-wage labouring or self-employment. Pre-COVID-19, refugees living outside the camps were generally better off than those in the camps, and often ran successful businesses – however they were seriously impacted by COVID-19, exhausting most of their

savings. A one-off COVID-19 welfare payment was offered to 13,553 non-camp refugee families. They are unable to move into the camps, with camp registration having closed in 2011.

3.67 According to a recent survey by the CoRW, 90 per cent of camp-based Sri Lankan Tamil refugees continue to show interest in Indian citizenship and are prepared to stay in camps while this remains a possibility. The current Tamil Nadu Government is also a strong and vocal public advocate for citizenship options. But there is currently no provision under the Citizenship Act (1955) nor Citizenship Amendment Act (2020) providing a pathway to Indian citizenship.

3.68 DFAT understands there have been 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. After the end of the Sri Lankan civil war in 2009, India encouraged Sri Lankan Tamil refugees to return through voluntary repatriation – but only a small number have returned so far. For example, UNHCR has supported 5,266 returnees since 2015. Significant administrative barriers hinder large-scale repatriation, including delays in obtaining Sri Lankan citizenship and National Identity Cards (NICs) and Indian exit permits. In January 2021, the Tamil National Alliance requested that India facilitate the return of Sri Lankan Tamils from Tamil Nadu. However, media reports suggest that Tamils are reluctant to return due to fears of harassment by the Sri Lankan Government and limited economic opportunities. In October 2021, after an 18-month hiatus due to COVID-19 lockdowns, official voluntary repatriation recommenced for small numbers of people. DFAT understands that a few hundred refugees are interested in returning in the coming months (early 2022).

3.69 Tamils may return to Sri Lanka with UNHCR or International Organization for Migration (IOM) 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. Those returning informally (i.e. outside of UNHCR processes) are not eligible for UNHCR cash grants or non-food items. The IOM also provides pre- and post-departure support services to Sri Lankan Tamil refugees from Tamil Nadu, including livelihood assistance. The Sri Lankan Government provides returning families from Tamil Nadu with cash assistance.

3.70 A sample of returnees from Tamil Nadu told DFAT that 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 locals were generally welcoming and returnees did not feel they were treated differently. However a small number, around 100, had secretly returned to India over the past few years, after they had found their land had been reclaimed by the state, their properties were occupied by other families, and/or the resettlement support was not sufficient to build a new life in Sri Lanka.

3.71 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 the end of the war, 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 not aware of returnees from Tamil Nadu being subjected to monitoring or harassment by the authorities.

3.72 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.

Civil society organisations and government critics

3.73 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 1,600 NGOs were registered at the national level in

2021. Local sources say the environment for NGOs became increasingly difficult in 2021, and that the registration process is being used to hamper them: not only must they register nationally but with each of the 330 Divisional Secretariats in the district in which they work. A Government Gazette issued on 17 November 2021 advised that the Secretariat for Non-Governmental Organizations would now function under the authority of the Foreign Minister, having been previously overseen by the Minister of Defence. The Government is reportedly working on reforms to empower the Secretariat to investigate the work of NGOs.

3.74 Sri Lanka's state-run media regularly accuse NGOs and civil society activists of being traitors, LTTE sympathisers or supporters, or of being backed by 'foreign' or 'Western' powers. Some NGO and civil society workers have reported threats (including death threats) and intimidation. Authorities have detained and questioned some NGO workers, searched their offices and equipment, and seized documents. International NGO staff have sometimes faced difficulties obtaining or renewing work visas. Local sources advise that the space for civil society has narrowed since the last Presidential election, including in the north and east.

3.75 NGOs operate relatively freely, although activists working on sensitive issues – including corruption, war-era human rights violations and missing persons – continue in 2021 to report (predominantly low-level) surveillance, harassment and intimidation by security forces, particularly in the north and east. DFAT assesses that NGOs and their staff, especially those working on human rights issues, risk official harassment, including possible arrest, while performing their duties.

3.76 The Constitution guarantees freedom of speech and expression, freedom of peaceful assembly and freedom of association. Demonstrations have historically occurred regularly in Sri Lanka and continue to do so though are increasingly falling foul of COVID-19 regulations which, in some cases, are reportedly being used for political rather than health purposes. For example, during a protest in Colombo in July 2021 against the proposed Kotelawala National Defence University Bill, protestors were reportedly treated harshly by police and detained in quarantine facilities without a COVID-19 test in the same week that government supporters gathered to celebrate the swearing in of Finance Minister Basil Rajapaksa. The Bar Association of Sri Lanka said that this incident was a sign the Government was using COVID-19 rules as a means of suppressing protest.

3.77 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 Rajapaksa Government is increasingly intolerant of criticism or political dissent especially with reference to alleged historical abuses.

Media

3.78 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 also broadcast and publish in Sinhala, Tamil and English. Sri Lanka has vigorous and vibrant media and social media environments where criticism of the Government is not uncommon. This criticism has in the past sometimes resulted in prominent journalists and editors being subjected to state violence.

3.79 The Constitution guarantees freedom of speech and expression. Sri Lanka ranked 127th out of 180 countries in Reporters Without Borders' (RWB's) Press Freedom Index for 2021, unchanged from 2020. In 2021, RWB named President Gotabaya Rajapaksa as one of its 'Press Freedom Predators' for his role during the civil war as 'overseer of a death squad known as the "white van commando" because of the vehicles it used to kidnap and torture journalists'. While Sri Lanka has a vibrant social media environment, the

Government periodically blocks access to some social media platforms, such as following communal unrest in March 2018, reportedly 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. In August 2021, Media Minister, Keheliya Rambukella, stated that the Government was contemplating legislation that would target websites the Government deemed as defamatory and did not have visible owners.

3.80 Journalists told DFAT that self-censorship is common, though journalists and editors continue to openly criticise 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. The Committee to Protect Journalists also claims that journalists and editors routinely perform self-censorship in response to the prevailing media climate. In the last two years, some journalists have been interrogated for their stories (for example, Srilal Priyantha was interrogated for four hours in July 2020 about a 2017 article he wrote alleging that SIM cards connected to the murder of Lasantha Wickramatunge had been linked to security forces). In a separate incident, journalist and human rights defender, Dharisha Bastians, had her home raided and work computers seized in 2020, reportedly in relation to her stories and human rights work. Bastians had left Sri Lanka in November 2019. DFAT assesses that authorities may monitor and harass media workers.

3.81 A climate of impunity exists for historical crimes committed against journalists during the civil war. 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. None of those arrested have been tried and no progress has been made on the case. His daughter, Ahimsa Wickrematunge, continues to hold President Gotabaya Rajapaksa responsible for ordering the murder to cover up a defence procurement corruption scandal involving the then-Defence Secretary. 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 all have since been released (Eknaligoda's fate remains unknown but he is presumed dead). None of these investigations into past killings or abductions of journalists have concluded. DFAT assesses it is highly unlikely there will be progress on investigation of historical crimes against journalists.

3.82 While there has been harassment of the media, DFAT is not aware of any murders, abductions or disappearances of media workers since the last Country Information Report was published in 2019.

Women

3.83 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 ranked 90th out of 189 countries in the UNDP's 2019 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.

3.84 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. In practice, 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 World Economic Forum, in its 2021 Global Gender Gap Report, ranks Sri Lanka 116 out of 156 countries for economic participation and opportunity, indicating a high degree of inequality between men and women.

3.85 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. Of Sri Lanka's current 225 parliamentarians, 13 (5.8 per cent) are women—one of the lowest rates of female parliamentary representation in South Asia. The Government has one female cabinet minister and two female state ministers. The previous (Sirisena) Government took some measures to increase female political participation at the provincial and local levels. In August 2017, the *Local Authorities Elections (Amendment) Act* mandated a 25 per cent quota for women's representation at the local and provincial government levels (though there has not been a provincial election since 2014). Local sources told DFAT that this resulted in nearly 25 per cent female representation at the last local election in 2018-19.

3.86 Violence against women is common 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. Survey data from 2019 by the UNFPA indicated that 28 per cent of women had experienced some form of physical or sexual violence in their lifetime and 6 per cent of women and girls aged over 15 had experienced intimate partner violence within the previous 12 months. Among women who suffered intimate-partner violence, only 18 per cent had 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.

3.87 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 had sought help from the police. Anecdotal evidence suggests that victims of sexual violence, especially statutory rape of minors, 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. Local sources report that women fear a lack of empathy from the police, lack of support services, and sensationalist treatment of any case in print and social media. Sources told DFAT that police are not adequately trained in collecting evidence in cases of sexual assault, and lack rape kits for evidence collection.

3.88 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. A wide range of NGOs offer a number of services for women in need including legal, counselling and other forms of support.

3.89 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. While NGOs are increasingly active in this space, non-state support services for victims of gender-based violence are still relatively scarce and lack funding overall.

3.90 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 inability of women using the shelters to be accompanied by their children over the age of five was cited by local sources as a major deterrent to women seeking shelter. Sources considered the scarcity of women's shelters to be a major gap in the response to gender-based violence. 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.

3.91 Gender-based violence has increased significantly during the forced confinement of COVID-19 lockdowns according to the UNFPA. The number of calls made to the 24-hour Women's Help-Line (a national government hotline for complaints of discrimination, harassment and violence against women) and other such services have increased, but many women are reportedly afraid or unable to call, or are unaware of the help-line.

3.92 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 is 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. This makes it more difficult for woman to escape intimate partner violence.

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

Conditions for women in the north and east

3.94 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 report of the OHCHR investigation into serious human rights violations 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 some Tamil women continue to fear sexual assault in locations where the military presence remains.

3.95 For Tamil-speaking women in the north and east, language is an added barrier to state protection against domestic violence. 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.

3.96 Support services – state and non-state – are available for women in the north and east, but are generally not considered adequate. Local sources report that there are no particular services tailored to

single women but they are not barred from them. 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. One 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

3.97 High male death rates during the war left a large number of female-headed households in Sri Lanka. The latest available 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.

3.98 One source told DFAT that all widows face social stigma but that widows of Sri Lankan Army servicemen were much better looked after financially than widows of LTTE cadres. 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. Another source told DFAT that such households do at least benefit from the support of strong kinship networks.

3.99 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.

3.100 According to local sources, there is some social stigma attached to single women in Sri Lanka. Traditional attitudes dictate that women should 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. However, local sources report that single women are frequently able to live full lives in urban centres, and also in villages where they often have extended family networks and where their capacity to support family by looking after elders, and nieces and nephews is valued. Anecdotal evidence indicates stigma is attached to widows within the Tamil community. Conservative Hindus consider widows “bad luck”, leading to exclusion or even ostracism in some cases.

3.101 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.

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

Muslim women

3.103 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 Muslim women's activists consider 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 slow reform process continues under the current Government, with a draft bill yet to be introduced to Parliament. Sources told DFAT that Muslim women who advocate for reform of the MMDA and other rights risk harassment and ostracism from the Muslim community.

3.104 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, according to the Muslim Personal Law Reforms Action Group. In July 2021, the Sri Lankan Cabinet approved a proposal to permit Muslims to marry under the general Marriage Registration Ordinance because it held MMDA marriage provisions to be discriminatory against women. As at publication, this proposal has not progressed any further. In November 2021, the President appointed Buddhist extremist Thero Gnanasara as Chair of a new Presidential Task Force to make recommendations in respect of the 'One Country, One Law' concept, with a view to coming up with proposals to implement one law for all Sri Lankans, abolishing all other personal laws, including Muslim marriage provisions.

3.105 Government and societal harassment following the 2019 Easter Sunday terrorist attacks was particularly felt by Muslim women. (See [2019 Easter Sunday Terrorist attacks and Aftermath of Anti-Muslim Violence](#).)

3.106 DFAT assesses that the provisions of the MMDA (without proposed amendments), and its implementation, result in Muslim women in Sri Lanka facing a high risk of official discrimination in relation to personal status. 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

3.107 Freedom of sexual orientation is not protected under the Constitution and same-sex intercourse is a criminal offence, even when consensual. 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.

3.108 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. Human Rights Watch reports several prosecutions between 2017 and 2020, which included forced anal and vaginal inspections to 'prove' gay or lesbian sexual conduct. Local sources report

the recent conviction and jailing of two men, one of them a police officer, for same-sex sexual activity; the punishment was reduced to a fine upon appeal. 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.

3.109 Equal Ground, an LGBTI advocacy group, in its 2017 mapping study, found that 46.7 per cent of LGBTI people in Sri Lanka (willing to participate in the study) had 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 incidents go largely unreported.

3.110 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 sources told DFAT that openly-gay couples face obstacles to securing housing and accommodation. As a result, many LGBT individuals seek to conceal their sexual orientation (transmen and transwomen are sometimes less able to conceal their status). In its May 2021 study of LGBTI inclusion at work in Sri Lanka, Equal Ground found that 42 per cent of LGBTI workers were not 'out' at work; 58 per cent stated they had experienced verbal harassment, and 23 per cent reported leaving their job as a result.

3.111 Transgender individuals, particularly male-to-female transgender people, are considered particularly vulnerable and are more likely to experience discrimination. Employers are reluctant to hire transgender individuals, and DFAT has received accounts of transgender individuals being dismissed from their jobs due to their 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 someone to change their legal gender and amend government-issued identity documents, including National Identity Cards (NICs). However, to do so 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 aged 18 years or older. Hormone treatment and gender reassignment surgery services are scarce and expensive.

3.112 According to local sources, the LGBTI community faces threats, harassment and forced heterosexual marriage from family and other 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 same-sex sexual orientation at dedicated profit-making centres or through witchcraft. 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. Some LGBTI individuals have chosen to relocate to larger centres, especially Colombo, which have larger LGBTI communities and support networks.

3.113 According to local sources, lesbians 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 lesbian was greater still. Lesbians are reportedly pressured by their families into heterosexual marriage and face harassment in public, including on public transport.

3.114 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. According to local sources, police protection of LGBTI individuals at public events such as LGBTI marches has increased since 2015. One source identified conservative religious groups as posing particular threats to the LGBTI community.

3.115 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.

3.116 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 also 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.

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 reduced since the end of the war. However, such violations are likely to have not ceased entirely. Furthermore, a culture of impunity exists with regard to those plausibly accused of such crimes (see [Political System](#)).

Extrajudicial Killings

4.2 Extrajudicial killings continue in Sri Lanka, though they have decreased since the end of the civil war in 2009, and local sources say the principal victims of state violence at present are underworld figures rather than politically-targeted victims. In May 2021, an apparent underworld figure, Tharaka Perera Wijesekara, was shot dead by police while in custody, allegedly while trying to attack police. In the same month, another criminal figure was killed in a similar fashion. In the former case, the victim's lawyer, reportedly upon learning the previous day that his client had been transferred to a different police unit and suspecting that he may be killed in custody, informed the Bar Association, the IGP, the Director CID and the Human Rights Commission of these concerns. Less than a day later his client was killed. DFAT is not aware of ongoing investigations in either case.

4.3 No legal mechanism exists to initiate independent investigations for state violence, including extrajudicial killings. Numerous historical cases of extrajudicial killings remain unsolved. 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, in which at least one member of the Rajapaksa family is allegedly implicated. In 2017, Senanayake and Perera were granted bail. Senanayake died in 2021, never having been convicted of that offence or his alleged role in the cover-up of other historical offences, including the murder of Lasantha Wickematurunge (see [Media](#)). Perera testified before the Presidential Commission of Inquiry into political victimisation (see [Presidential Commission of Inquiry into political victimisation](#)).

Enforced or Involuntary Disappearances

4.4 In May 2016, Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance. Parliament passed domestic legislation (the *Enforced Disappearances Act*) to implement the Convention and criminalise enforced disappearances in March 2018. In September 2017, a

gazette to establish the Office of Missing Persons (OMP) was issued and commissioners were appointed in February 2018 (see [Reconciliation](#)).

4.5 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). In 2018, OMP estimated at least 20,000 people had disappeared without explanation and remained missing since 1983. The majority of the missing or disappeared are from the north and east, and are likely to have been members or perceived 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.

4.6 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. In its September 2021 report, *Sri Lanka: Torture & Sexual Violence by Security Forces 2020-21*, the ITJP reported on 15 cases of abduction, torture and rape of Tamils in the north and east by security forces since the change of government in 2019, purportedly for participation in commemorative events, or protests, or for receiving funds from abroad. In September 2021, the UN Report of the Working Group on Enforced or Involuntary Disappearances noted that more than 6,000 cases remain outstanding in Sri Lanka (though most date back to war time) and criticised the Government for a lack of accountability with regard to such disappearances. It did not, however, have any disappearances reported to it in the last two years. One human rights defender claimed disappearances have been replaced with 'warrants, seizures and disinformation campaigns'; that is, mechanisms of the legal system have been used or arguably misused by the Government to suppress dissent rather than resort to extra-legal violence.

Deaths in Custody

4.7 The Department of Prisons reported 168 deaths of prisoners in custody in 2020, down from 183 in 2019, but up substantially from 50 in 2017. The HRCSL, in its landmark study of prisons in 2020, found examples of 'violence inflicted by prisoners and prison officers which ultimately caused death'. The US Department of State has assessed in the past that most deaths in custody are due to natural causes; however, 16 prisoners were reported to have been killed in 2020 and over 100 injured in multiple incidents in several prisons. According to the US Department of State 2020 Human Rights Report, on 29 November 2020, guards at the Mahara prison in Gampaha District opened fire on prisoners, who were attempting to escape during a riot sparked by panic over a COVID-19 outbreak. Eleven prisoners were killed and over 100 injured. Human rights activists noted Mahara prison was severely overcrowded, holding more than 2,000 inmates, despite its official capacity of 1,000, and said nearly half of the prisoners were COVID-19 positive. Police announced an investigation into the incident, but no public disciplinary action was taken nor arrests made in connection with the shooting. Consequently, there is an increasing sense of a lack of accountability with regard to deaths in custody in Sri Lanka.

DEATH PENALTY

4.8 Sri Lanka retains the death penalty for murder and drug trafficking, although it has 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.

4.9 According to Sri Lanka's Department of Prisons, 93 death sentences were imposed in 2018. According to Amnesty International, as of December 2020, over 1,000 prisoners were on death row. The HRCSL in its prisons study noted 'Condemned prisoners are held in adverse prison conditions; they are required to be inside the wards for the entire day and are only allowed thirty minutes outside time for exercise, and that too is dependent on the availability of adequate officers to guard them.'

4.10 The Supreme Court of Sri Lanka extended the stay order that had been put in place in July 2019 to halt the resumption of executions (which previous President Maithripala Sirisena had authorised in June 2019). While the number of death sentences imposed continues to rise, Sri Lanka's moratorium on the death penalty has been a policy maintained by successive governments. DFAT assesses that it is unlikely that Sri Lanka will resume executions in the foreseeable future.

TORTURE

4.11 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.

4.12 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.

4.13 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 ITJP cited 76 alleged cases of torture between 2015 and 2017 involving Tamils suspected of LTTE involvement, the majority of which followed 'white van' abductions, and were reportedly conducted by Counter-Terrorism Investigations Division (CTID), CID and members of the armed forces. All cases allegedly involved physical and psychological torture, such as beatings, burning, asphyxiation and rape. In its 2020 report on human rights, the US Department of State stated that 'torture and excessive use of force by police, particularly to extract confessions, remained endemic.'

4.14 Multiple local sources told DFAT police routinely mistreat suspects during criminal investigations, including using torture as a way of extracting confessions. Sources also told DFAT torture was common in prisons. Torture, where it occurred, was not confined to a particular geographic region or ethnic group, but was a problem countrywide that affected all communities, though more likely to affect the poor and marginalised, including members of criminal groups and LGBTI individuals, among others. In recent years,

the HRCSL has received hundreds of complaints of torture annually, chiefly claiming its use by various departments of the Sri Lanka police. Individuals suspected of being involved in the drug trade were identified as being particularly vulnerable to the practice.

4.15 Sri Lanka lacks independent and efficient mechanisms to address complaints of torture. While mechanisms exist, they are typically not effective in practice. For example, 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. According to the US Department of State reporting, the HRCSL documented 260 complaints of physical and mental torture from January to August 2020 in addition to 37 complaints from prisoners. In response to allegations of torture, the HRCSL carried out routine visits of detention centres, but DFAT cannot verify if such visits continue. 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.

4.16 Local sources told DFAT that when the HRCSL was independently investigating and documenting torture cases, while it could not bring about the prosecution of responsible state agents, it could offer some protection by scrutinising places of detention and putting perpetrators on notice. However, those sources maintained that with the passage of the 20th Amendment to the Constitution, the HRCSL had ceased to be truly independent and was thus much less effective in its anti-torture role.

4.17 DFAT assesses that the risk of torture perpetrated by either military, intelligence or police forces has decreased since the end of the war, but that it is still used, including as a routine tool of policing. Because few reports of torture are verified within Sri Lanka, owing to the lack of investigative avenues, it is difficult to determine the exact prevalence of torture, but multiple domestic and international sources consider it to be common. DFAT has no evidence that torture is state-sanctioned but sources claim with some confidence that the Sri Lankan state is not taking adequate measures to eradicate such treatment, while increasingly creating an environment of impunity for its agents accused of violence.

4.18 DFAT assesses that Sri Lankans face a low risk of torture overall. DFAT also assesses that Sri Lankans detained by the authorities face a moderate risk of torture. This is especially the case for the poor and criminal elements, and for those who challenge or are perceived to challenge the Government.

CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Arbitrary Arrest and Detention

4.19 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. Suspects can be held in irregular places of detention, as well as at police stations, detention centres or prisons. Local and international sources claim that arbitrary arrests have occurred in the last few years.

The Prevention of Terrorism Act (PTA)

4.20 The PTA was enacted as a temporary measure in 1979 to counter separatist insurgencies. It was made permanent in 1982 and remains legally in force. 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. Prior to the 2019 Easter Sunday terrorist attacks, the PTA was used mainly to target those suspected of involvement with the LTTE. It was used only sporadically between 2016 and April 2019 following the then-government's commitment to repeal and replace the PTA under HRC Resolution 30/1 (2015). During the civil war, authorities detained more Tamils under the PTA than any other ethnic group. The PTA has been used for many years to detain people in prolonged and often arbitrary detention. According to the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, in his 2017 report, 70 people had been in detention without trial for over five years and 12 had been in detention without trial for over 10 years. According to the HRCSL, as of 31 January 2018, about 15 per cent of PTA suspects had been in detention for 10 to 15 years, and about 41 per cent had been in detention for five to 10 years. As at 2021, many of these detainees are still being held.

4.21 DFAT is not able to verify the precise number of individuals currently held under the PTA. One local source estimated that 300 Muslims and 60 Tamils are being held under this legislation. A large number of Muslims were detained under the PTA following the 2019 Easter Sunday terrorist attacks. In 2021, the Sri Lankan police were still arresting Muslims in connection to the bombing. For example, in April 2021, opposition MP Rishad Bathiudeen and his brother Riyadh were arrested by CID for allegedly assisting the terrorists responsible for the 2019 Easter Sunday terrorist attacks. The brothers have claimed the arrest was political. The Government has not explained the nature of their alleged connection to the bombing. The brothers have since been released on strict conditions of bail.

4.22 The Government has used the PTA for purposes with arguably limited connection to terrorism. In May 2020, police arrested Ahnaf Jazeem, a 26-year-old teacher and Tamil poet, based on allegations that his poetry collection promoted 'religious extremism'. In December 2021, Jazeem was charged under the PTA and released on bail. Human rights observers have reported other cases with respect to Muslims, including: Hejaaz Hizbullah, a Muslim human rights lawyer in custody since 14 April 2020 and eventually charged with an offence under the International Covenant on Civil and Political Rights (ICCPR) Act; and, Ramzy Razeek, a retired government official, detained in April 2020 for posting on Facebook about religious extremism.

4.23 The PTA has also recently been used against Tamils. Media reported a Tamil man was arrested by Eravur police in April 2021 for allegedly sharing a photo of LTTE leader Prabhakaran, while Jaffna Mayor, V. Mannivannan, was arrested by TID in April 2021 under accusations of attempting to resurrect the LTTE, allegedly because the choice of uniforms for a municipal environmental enforcement team resembled those of the LTTE. DFAT is not aware of returnees from Australia to Sri Lanka being charged under the PTA.

4.24 In 2015, President Sirisena committed to repeal and replace the PTA with improved counter-terrorism legislation. This proposal, which was criticised by some human rights defenders as being as bad or even worse than the PTA, lapsed with that Government. In June 2021, the European Parliament adopted a resolution urging the EU Commission to consider temporary withdrawal of the Generalized System of Preferences preferential trade agreement from Sri Lanka, if it did not reform the PTA. In its response the Sri Lankan Ministry of Foreign Affairs rejected the claim that detention under the PTA had resulted in arbitrary detention but nevertheless promised to 'revisit' provisions of the Act to propose 'necessary amendments'.

4.25 In March 2021, the Government added 'de-radicalisation regulations' to the PTA which allow for arbitrary administrative detention of individuals for up to two years without trial. The Government also proscribed 300 Tamil and Muslim groups and individuals allegedly 'linked to terrorism.' On 5 August 2021, the Supreme Court, in response to Fundamental Rights Petitions filed by several activists, issued an Interim Order suspending the operation of Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021. These petitioners argued that individuals arrested under these new regulations could be subject to potentially indefinite detention under the guise of rehabilitation, without judicial review. A court hearing of the matter remains stalled at the time of publication.

4.26 In September 2021, during the UN Human Rights Council Session, the Sri Lankan Government announced a Cabinet sub-committee had been convened in June to 'review' the PTA within three months. Its report was not available at the time of publication, however, according to media reports, the committee presented its report to the President on 15 November 2021.

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.

Police

5.2 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. In a historic first for Sri Lanka, in October 2021, three female Senior Superintendents of Police were promoted to the rank of Acting Deputy Inspector General as part of a series of reforms to encourage greater female advancements in the police force.

5.3 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. Most police officers are Sinhalese and only around 20 per cent of police officers in the Northern Province speak Tamil. There is an ongoing effort to recruit more Tamil-speaking police officers.

5.4 The *Assistance to and Protection of Victims of Crime and Witnesses Act* (2015) established the National Authority for Protection of Victims of Crime and Witnesses, 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.

5.5 CID officers (for example, Nishantha Silva and Shani Abeysekara) who had investigated crimes involving the military, police or the Rajapaksa family have been harassed or forced to flee the country. Their investigations have been severely criticised as politically motivated victimisation by the PCOI, which itself is criticised by observers as a politically motivated institution designed to protect the present government.

Judiciary

5.6 The 20th Amendment to the Constitution reduced judicial independence by ending the requirement introduced by the now repealed 19th Amendment for the President to obtain the approval of the Constitutional Council to appoint superior court judges. There is one Tamil justice on the current Supreme Court (S. Thirairaja), and two Tamils and one Muslim 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.

5.7 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. Some translation services are available for Tamil-language speakers. Tamils and other ethnic minorities are under-represented as judges and other court officers.

5.8 Historically the judiciary has operated largely independently, particularly at the higher levels. Yet major shortcomings persist. The courts have no judicial review function and (increasingly) tend to defer to the executive on matters of national security. 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, the shortage of Tamil-speaking judges and court interpreters contributes to delays in many cases. According to a Sri Lankan study from 2017 by a committee of the Sri Lankan Parliament, the average length of time taken to conclude a criminal trial is 10.2 years, with the period between the date of commission of the offence and filing of the indictment at the High Court being 4.7 years. There continue to be some reports of corruption in the lower courts. The previous independence of the judiciary may be undermined by the effect of the 20th Amendment as senior judges are replaced by those appointed by the President.

5.9 Sri Lanka does not have public defence services and legal services can be costly. 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. 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 financially prohibitive for the average person.

Detention and Prison

5.10 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 HRCSL in its study of prisons in 2020 found that the ‘treatment and detention conditions of prisoners fall far below the threshold of basic living standards’. 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.

5.11 Overcrowding in Sri Lankan prisons is a major issue. According to official statistics, in 2020, the number of prisoners (approximately 90,000 prisoners on remand and 19,900 convicted 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. According to the HRCSL, the overcrowding of prisons is also impacted by the large number of convicted prisoners imprisoned due to the inability to pay fines and the non-payment of debt and maintenance payments.

5.12 The International Committee of the Red Cross (ICRC) has the right to 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 HRCSL also has the right to access a number of places of detention without restrictions from the authorities, including for unannounced visits. The Government continued to allow the ICRC and the HRCSL full access to prisons in 2020. 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.

INTERNAL RELOCATION

5.13 The Constitution provides for freedom of movement for all Sri Lankan citizens, and no official restrictions apply to internal relocation. Access to government services through the local village level office (*grama niladhari* office) is available to Sri Lankans who relocate; a person intending to relocate to another district only has to register himself/herself with the *grama niladhari* office and in the house-holders list, and obtain a police clearance.

5.14 In practice, relocation can be difficult. An absence of family connections or a lack of financial resources can limit internal relocation options. An absence of language skills can act as an additional barrier to internal relocation for those Sri Lankans for whom Sinhala is not their first language, as it may limit access to education and employment in some part of the country. 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.

5.15 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.

5.16 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

5.17 Unsuccessful asylum seekers, both those subject to removal or departing voluntarily, are returned to Sri Lanka either using commercial or charter flights. In some cases, they may be accompanied by security escorts. On arrival in Colombo, returnees will be presented to Sri Lankan Immigration where they will be interviewed by the Chief Immigration Officer. Depending on the circumstances of their departure from Sri Lanka and their personal history, they may be interviewed by other agencies including CID, Sri Lankan State Intelligence Service (SIS) and Sri Lankan Navy Intelligence (SLNI). These agencies check travel documents and identity information against the immigration databases, intelligence databases and records of outstanding criminal matters. Those who have departed illegally will be referred to CID at the airport and charged accordingly. Once charged they are taken to the courts at Negombo where they are bailed and released.

5.18 DFAT is not aware of returnees in 2021 being detained for matters other than illegal departure (such as, for former membership of the LTTE). However, due to COVID-19, returnees have been returned to Sri Lanka in smaller numbers overall than in previous years. According to the IOM, in 2021 up to September, there had been 107 returnees, 19 of these from Australia. Local sources also report that Tamils overseas are much less likely to return voluntarily to Sri Lanka under the current Government.

5.19 The IOM meets Australian-assisted voluntary returnees (i.e. not deportees) after immigration clearance at the airport and provides some cash and onward transportation assistance, along with legal assistance provided by the Sri Lankan Legal Aid Commission for those charged with illegal departure. Prior to departure from Australia, Australian Border Force provides removed returnees with cash to assist their return.

5.20 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. DFAT is not aware of detainees being subjected to mistreatment during processing at the airport.

Offences under the Immigrants and Emigrants Act

5.21 The *Immigrants and Emigrants Act* (1948) (the I&E Act) governs exit from and entry to Sri Lanka. Returnees who depart Sri Lanka irregularly by boat are considered to have committed an offence under the I&E Act. 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/or without a valid passport. Returnees who departed Sri Lanka legally are not required to face a court, as no offence under the I&E Act applies. Sri Lanka has a mature people smuggling industry. Penalties for leaving Sri Lanka illegally can include imprisonment of up to five years and a fine, though DFAT is unaware of a prison sentence being given for illegal departure by itself. Facilitators or organisers of people smuggling ventures, including captains and their crew, are charged with more serious offences and typically refused bail.

5.22 Those charged are required to appear in court in the location where the matter was first heard, reportedly Negombo Courts, near the airport, 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, regardless of their plea, for bail hearings. 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. The cases of those charged with illegal departure may take years to resolve, requiring on-going court appearances (and illegal departees have no reasonable prospect of a defence). It is unclear to DFAT why such cases take so long. One source suggested that cases are taken forward in court only when all members of a people smuggling venture have been located; while another local source suggested it was simply due to the workings of the Sri Lankan justice system. For many returnees, this means they are subject to the slow processes of the Sri Lankan legal system; some returnees told DFAT that it was difficult and stressful having to return periodically to Colombo for a further hearing in a case where they were uncertain of the outcome.

5.23 While those convicted of the offence of illegal departure may theoretically face a custodial sentence, in practice, local sources suggest, a fine is always imposed and typically this fine is LKR 50,000 - 200,000 (AUD350-1400). Sources suggest those who are unable to pay the fine are permitted to pay in instalments but, if still unable, may be imprisoned for 14 days.

5.24 The severity of the fine for those 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.

5.25 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.

5.26 DFAT is not aware of returnees from Australia to Sri Lanka being charged under the PTA. Some returnees from Australia have been charged with immigration offences and with criminal offences allegedly committed before departure.

Conditions for Returnees

5.27 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 of origin or a third country. Between 2002 and September 2021, the IOM has facilitated the return of 876 Sri Lankans from Australia. 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.

5.28 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 voluntary returnees receive reintegration assistance in the form of transport 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. The IOM

provides eligible returnees with livelihood assistance and makes regular visits to monitor the welfare of returnees.

5.29 Multiple local sources said that some returnees, especially those 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 CID. DFAT understands that most returnees, including failed asylum seekers, are not actively monitored on an ongoing or long-term basis. DFAT is unable to verify whether monitoring, where it occurs, is specific to former LTTE cadres. Some 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, but DFAT cannot determine if this is the case for all such returnees.

5.30 Bureaucratic inefficiencies present a significant challenge to reintegration for returnees. Refugee returnees, particularly those who returned without UNHCR or IOM facilitation, can experience delays in obtaining necessary identification documents and proof of 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. 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.

5.31 Some refugees and failed asylum seekers reported being pressured upon return to their communities, chiefly for being beneficiaries of financial reintegration assistance. Others experienced resentment upon return because they spent family funds on what proved to be a futile attempt at irregular migration. 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 significant societal discrimination following their return.

5.32 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

5.33 Many individuals affected by the war, and particularly those in the east affected by the 2004 Indian Ocean tsunami, have lacked key identity documents. DFAT cannot determine to what degree this remains a problem in 2021 but the Sri Lankan Government makes provision for 'probable age certificates' for those without birth certificates. The 'National Policy on Durable Solutions for Conflict-Affected Displacement,' with assistance from the UNDP, 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

5.34 Hospitals record births and forward the information to the Divisional Secretariat (a government representative) for registration. Parents are supposed to register home births with the *grama niladhari* office within seven days, which forwards the information to the Divisional Secretariat within 42 days. Failure to register a birth is a punishable offence. However, the Registrar General's Department also has procedures for the registration of past births and for 'certificates of probable age' for children under 14 who were never registered. 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. In 2020, Sri Lanka announced it would issue 'digital birth certificates' with unique serial numbers and which no longer include details of parental marriage or ethnic group, but at the time of publication digital birth certificates were not yet being issued.

5.35 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 at the time of the child's birth for the child to qualify. Documents to be submitted as part of the application include the child's local birth certificate, parents' birth certificates, parents' 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.

National Identity Cards (NICs)

5.36 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 aged 16 or over 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.

5.37 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.

5.38 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.

Passports

5.39 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 and made obligatory from 2018. Passports are machine-readable and are typically valid for 10 years. Electronic passports with an electronic chip that includes the biodata of the recipient were announced for 2019 but implementation of this upgrade is yet to be rolled out.

5.40 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.

5.41 Sri Lankans residing overseas can apply for identity documents such as citizenship and passports from any Sri Lankan overseas diplomatic mission.

PREVALENCE OF FRAUD

5.42 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.

5.43 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.

5.44 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 several years ago 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.

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