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State of the World's Minorities and Indigenous Peoples 2016 - Sri Lanka

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Events of 2015

The year 2015 ushered in fresh hopes for Sri Lanka's minorities with the surprise defeat of Mahinda Rajapakshe in the 8 January presidential elections and the appointment of former health minister Maithripala Sirisena as the country's Executive President. Rajapakshe, whose government had been widely accused of serious human rights violations, including war crimes during the last stages of the armed conflict in 2009, was defeated in large part due to minority voters, who voted against him in significant numbers. The defeat of Rajapakshe brought new hopes and aspirations for the country's Tamils, who had faced increasing incidents of targeted human rights violations since he took office in 2005, as well as Muslims, who since the end of the armed conflict have been victims of hate campaigns and attacks by Sinhalese Buddhist nationalist groups. Rajapakshe had been exceptionally popular among the majority Sinhalese after leading the country's military, in May 2009, to defeat the Liberation Tigers of Tamil Eelam (LTTE), who were fighting for a separate homeland for minority Tamils in the north and east. Hundreds of thousands of Tamil civilians were trapped in the last stages of fighting and both parties have been accused of violating international human rights and humanitarian laws.

Sirisena formed his cabinet with the leadership of the main opposition United National Party (UNP) and immediately pledged to work towards reconciliation between all communities. In July, Sirisena dissolved parliament and called for a parliamentary election. Rajapakshe attempted to make a return to power by suggesting he would have to be appointed prime minister if his political party gained the largest number of seats in parliament. Despite a tense and closely fought, yet remarkably peaceful, election campaign, the opposition UNP secured 106 seats of the 225 available and its leader Ranil Wickremasinge, together with Sirisena, formed a 'national unity' government. In a significant and reconciliatory move, the new parliament appointed Rajavarthiam Sampanthan, leader of the Tamil Nationalist Alliance (TNA) – considered the political proxy of the Tamil Tigers during Sri Lanka's armed conflict – as opposition leader. Other immediate measures taken by the Sirisena government to win the confidence of minorities included appointing the country's first Tamil chief justice and removing a controversial Sinhalese former military official from the post of governor of the Northern Province.

In February 2015, the new Sri Lankan government successfully postponed a vote on a UN Human Rights Council (HRC) resolution that, building on previous resolutions, was expected to call for

an international mechanism to investigate and prosecute violations of international laws in the last stages of the armed conflict. Mandated by the HRC to investigate these violations, the UN Office of the High Commissioner for Human Rights (OHCHR) on 15 September released its long-awaited report to the Council. The OHCHR report confirmed victim accounts of war crimes and reported that, from 2002 to 2011, 'horrific levels of violations and abuse' had been committed by all parties to the conflict in Sri Lanka. Additionally, it concluded that the country's judicial system is incapable of investigating and prosecuting such crimes, nor could it be trusted by victims to do so following the failure of similar investigative mechanisms in the past. The report proposed a hybrid court formed of national and international judges. Just days preceding the release of the report, Sri Lanka's new Foreign Minister Mangala Samaraweera, addressing the HRC, accepted the limitations of the local judicial system and outlined an ambitious plan towards ensuring justice for victims, including appointing a truth and reconciliation commission (TRC). On 1 October 2015, the HRC unanimously adopted a landmark resolution that committed the government to a series of critical steps towards transitional justice, including meeting their own pledges to form a TRC and to set up an office of missing persons and reparations, while in addition calling for the setting up of an investigative mechanism on the lines of OHCHR's recommendations.

While the government of Sri Lanka has taken steps towards meeting some of their commitments under the resolution, it is still unclear if and how such a hybrid accountability mechanism will be set up. In December, a former commission investigating disappearances accepted that some breach of international laws had taken place, but went on to argue they were not systematic. The Sri Lanka Campaign for Peace and Justice has warned that such comments are dangerous and may undermine the transitional justice process. Recent contradictory statements from the country's president and prime minister have caused further confusion, and cast doubts over the government's commitment towards a transitional justice process. While noting the progress made by the government towards such a process following his visit to Sri Lanka, the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, warned in April that there could be 'no shortcuts' to reconciliation and called for a state policy centred on human rights.

In October, Tamils detained under the Prevention of Terrorism Act (PTA) went on a five-day hunger strike demanding their release, highlighting the complex and vast range of minority rights violations needing redress by the government. According to a report by the human rights group Watchdog, of the 181 officially accounted for PTA detainees, 5 have been remanded for up to 19 years without a clear verdict, another spent 15 years in prison without a formal charge, while the large majority of those arrested recently have yet to be formally charged. Many have also reported being tortured while in detention. Towards the end of the year, the government announced it was looking into repealing the PTA and in December the government signed the UN Convention for the Protection of All Persons from Enforced Disappearance – both positive steps towards guaranteeing minority rights.

The legacy of Sri Lanka's bitter decades-long conflict continues to be felt, however, particularly in the north and east of the country where a large proportion of the country's Tamil minority reside. Over years of fighting between the forces of the Sinhalese majority government and LTTE militants, these regions experienced huge upheaval due to large-scale displacement, thousands of extra-judicial killings and the increasing militarization of public life – issues that are still affecting daily life in the areas today. In particular, since the end of the armed conflict there have been a number of reports by international and national human rights organizations documenting cases of sexual assault and violence against Tamil women. In May, violent clashes broke out between protesters and police in the northern city of Jaffna over failures to swiftly investigate the rape of a Tamil girl. Soon after the incident, President Sirisena visited the family of the victim and assured immediate action. In October, the Jaffna District court convicted four soldiers for the rape of a

Tamil woman in 2010, the first ever conviction of military personnel by a local court, making it a groundbreaking victory for minority women.

While the civil conflict was primarily between authorities and the Tamil minority, Sri Lanka's small Muslim minority were also deeply affected by the civil conflict and many are still in a limbo decades after being displaced from their homelands. October saw Sri Lanka's northern Muslims mark 25 years of being forcibly evicted by Tamil militants in what was the country's largest single case of ethnic cleansing during the conflict. Some of them, now numbering close to 300,000, remain in displacement camps in poor conditions, emphasizing the importance of including the concerns of the Muslim population in any transitional justice arrangement. Since the end of the conflict a hate campaign, led by the Buddhist extremist organization Bodu Bala Sena (BBS), has targeted Muslims and focused particularly on the community's religious and social practices, such as their dress codes, prayer rituals and *halal* slaughter methods. In December, the Sri Lanka Muslim Council warned that the BBS was attempting to reignite their campaign against Muslims by claiming that they were harbouring extremists who were planning a terrorist attack in the country.

While land rights and justice are central elements in the country's efforts at reconciliation, culture and freedom of expression have been marginalized, particularly after decades of repressive policies by the Sri Lankan government that saw religious practices prohibited and heritage destroyed. These problems persist to this day, with the Oakland Institute reporting in 2015 a 'silent war' replacing the armed conflict, with continuing militarization, displacement and Sinhalization in minority areas, reflected in the construction of Buddhist shrines and victory monuments that affirm Sinhalese control. Research by Minority Rights Group International has highlighted similar findings, including the taking over of land for Buddhist religious sites, the emergence of Buddhist symbols and places of worship in minority areas – in some cases where no Buddhists resided – and the denial of Tamils' access to Hindu places of worship and cultural sites. Protecting Tamil and Muslim culture in the north and east, as well as reducing the pressures posed by militarization and rapid in-migration, will therefore be an essential element in ensuring peace and reconciliation in the country. Measures adopted by Sirisena since the beginning of 2015, such as allowing the national anthem to be sung in Tamil in Colombo after years of unofficial restrictions, as well as reframing the commemoration of the end of the conflict not as a 'victory day' but a day of remembrance, are important steps forward.

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