

# Briefing Notes



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*People of Sri Lanka gathered in large numbers to listen and cheer the common opposition candidate Maithripala Sirisena*

## **SRI LANKA 2012- 2014: ACCOUNTABILITY FAILURE OF THE MINIMUM EXPECTATIONS & CHALLENGES BEFORE THE NEW GOVERNMENT**



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For further information, [mailto: srilankabrief@gmail.com](mailto:srilankabrief@gmail.com) or see <http://www.srilankabrief.org/>



## 1. THE CHRONOLOGY: FAILURE OF THE MINIMUM EXPECTATIONS

**May 2009:** The war between the Government of Sri Lanka (GoSL) and the Liberation Tigers of Tamil Eelam (LTTE) came to an end on 19<sup>th</sup> May 2009, more than five years ago. Both sides to the war stand accused of crimes against humanity and gross violations of human rights. The issues of accountability for those crimes and justice for the victims have been subjects of ongoing discussions locally and internationally.

**May 2010:** Sri Lankan President Mahinda Rajapaksa appointed the Lessons Learned and Reconciliation Commission (LLRC)<sup>1</sup>. After an 18-month inquiry, the commission submitted its report to the President in November 2011. The report determined that the LTTE had committed serious violations of international humanitarian law. While the report also concluded that Government security forces had killed civilians, the killings were found not to be deliberate.<sup>2</sup>

**June 2010:** The Secretary-General of the United Nations (UN) appointed a Panel of Experts to advise him on the implementation of the joint commitment included in the statement issued by the President of Sri Lanka and the UN Secretary-General at the conclusion of the Secretary-General's visit to Sri Lanka on 23<sup>rd</sup> March 2009. Its report was presented on 31<sup>st</sup> March 2011. The Panel of Experts found credible allegations against the GoSL and the LTTE.<sup>3</sup>

**March 2012:** UNHRC adopted the resolution A/HRC/19/L.2/Rev.1<sup>4</sup> on 'Promoting Accountability and Reconciliation in Sri Lanka'.

**July 2012:** In order to take forward the recommendations made in the LLRC Report, a National Plan of Action (NPOA) was prepared to monitor the implementation of the recommendations of the Commission. The Cabinet of Ministers approved this National Plan of Action.<sup>5</sup>

**March 2013:** UNHRC adopted the resolution A/HRC/22/L.1/Rev.1<sup>6</sup> on 'Promoting Accountability and Reconciliation in Sri Lanka'.

**April 2012:** The United Nations Secretary-General established an Internal Review Panel on UN actions in Sri Lanka in April 2012 and the Panel presented its report in November 2012. The report said that "[t]he UN should continue to support implementation of the recommendations of the Panel of Experts on accountability".<sup>7</sup>

**August 2013:** President Rajapaksa appointed the Commission to Investigate Missing Persons.<sup>8</sup> The Commission was authorised to conduct inquiries and investigations necessary, and submit a report to the President within six months. President Rajapaksa, in July 2014, appointed a four member International Advisory Council to advise the Commission. Its term has been extended and the report is expected in August 2015.<sup>9</sup>

**March 2014:** UNHRC adopted the resolution A/HRC/25/L.1/Rev.1<sup>10</sup> on 'Promoting Accountability Reconciliation and Human Rights in Sri Lanka'.

**December 2014:** A detailed report on the implementation of LLRC recommendations compiled by Verité Research showed the frail implementation of the minimum expectations of accountability and reconciliation in Sri Lanka as set out by the LLRC recommendations.

**January 2015:** Sri Lanka elected a new President Mr. Maithripala Sirisena.

1 <http://www.llrc.lk/en/>

2 <http://www.llrc.lk/en/llrc-report.html>

3 [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf)

4 <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement>

5 <http://www.llrcaction.gov.lk/en/>

6 <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G13/122/61/PDF/G1312261.pdf?OpenElement>

7 [http://www.un.org/News/dh/infocus/Sri\\_Lanka/The\\_Internal\\_Review\\_Panel\\_report\\_on\\_Sri\\_Lanka.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf)

8 <http://www.pcicmp.lk/>

9 <http://www.pcicmp.lk/>

10 <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G14/125/71/PDF/G1412571.pdf?OpenElement>



The Presidential Commission appointed by the former President Rajapaksa to investigate cases of persons who went missing from the Northern and Eastern Provinces during the period 1990–2009 concluded its public sittings in Jaffna on 17th February 2014. After extensions of its timeframe, the report of the Commission is now due in August 2015. The Commission has received 15,106 complaints from civilians and 5,000 from the security forces by the end of 2014. (www.pcicmp.lk) Photo: www.pcicmp.lk

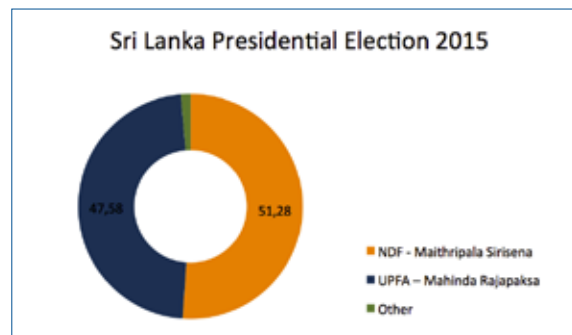
## 2. THE NEW GOVERNMENT

The people of Sri Lanka elected Mr. Maithripala Sirisena as their President on 8th January 2015. The presidential elections were held two years ahead of schedule. The incumbent President, Mr. Mahinda Rajapaksa, was seeking a third term in office.

Mr. Maithripala Sirisena, the former Health Minister and the Secretary General of the Sri Lanka Freedom Party (SLFP), the leading partner of the ruling coalition, defeated the incumbent President, Mr. Mahinda Rajapaksa, of the United People's Freedom Alliance (UPFA).

Mr. Sirisena, who broke away from the ruling coalition just days before the nomination day, became the common opposition candidate and contested for the New Democratic Front (NDF). The common opposition candidate was supported by the main opposition party, the United National Party (UNP), by break away sections of the ruling coalition, and more importantly, by major political formations among the minority Tamil and Muslim communities and some other smaller parties, as well as by civil society groups.

Mr. Sirisena and the NDF received 6,217,162 (51.28%) and incumbent President, Mr. Rajapaksa, and the UPFA received 5,768,090 (47.58%) of the total votes polled.<sup>11</sup>



Graphic: Sri Lanka Brief

The common opposition campaign was based on a '100 Day Political Reform Programme' and an anti-corruption publicity drive. The main components of the 100 Day Reform Programme were to abolish executive presidency, to re-establish independent commissions for good governance and to reduce the cost of living.

The President appointed the leader of the UNP, Mr. Ranil Wickremasinghe, as Prime Minister on 10th January 2015 and in consultation with Mr. Wickremasinghe, he also appointed a new Cabinet of Ministers. The new government does not have a majority in the Parliament. According to the 100 Day Reform Programme of the new government the Parliament will be dissolved on 23rd April 2015. Parliamentary elections are due in mid-2015.



### 3. THE 100 DAY REFORM PROGRAMME<sup>12, 13</sup>: GOVERNANCE BENCHMARKS



*President Maithipala Sirisena.  
Photo: India Times*

#### **ABOLISHING EXECUTIVE PRESIDENCY**

The Programme envisages the abolition of the authoritarian executive presidential system and aims at replacing it with an executive of a Cabinet of Ministers responsible to Parliament.

#### **ESTABLISHING INDEPENDENT COMMISSIONS**

It is also expected to repeal the 18th Amendment to the Constitution with legislation to establish strengthened and independent institutions, including a Judicial Services Commission, a Police Commission, a Public Service Commission, an Elections Commission, a Commission against Bribery and Corruption and a Human Rights Commission. This will be done through a 19th Amendment to the Constitution, which will be presented to Parliament and passed as swiftly as possible.

#### **ESTABLISHING OVERSIGHT COMMITTEES FOR THE MINISTRIES**

The Standing Orders will be amended and Oversight Committees will be set up so as to comprise of Members of Parliament who are not in the Cabinet. The chairmanship of Committees will be given to representatives of all Ministers in consultation with the leaders of all parties represented in Parliament.

#### **SPECIAL COMMISSIONS TO PROBE INTO CORRUPTION**

Special Commissions will be appointed to investigate allegations of massive corruption in the preceding period.

#### **NATIONAL AUDIT BILL**

The National Audit Bill will be introduced and passed by the Parliament.

#### **RIGHT TO INFORMATION BILL**

The Right to Information Bill will be introduced and passed by the Parliament.

#### **THE CONSTITUTIONAL COUNCIL**

The Constitutional Council will be set up and appointments to Independent Commissions will begin.

#### **GENERAL ELECTION**

The Parliament will be dissolved and free and fair elections will be held under a caretaker government. Following the elections, the Prime Minister will be appointed from the party receiving the highest number of seats at such elections; and a Deputy Prime Minister will be appointed from the party getting the next highest number of seats.

#### **The Missing Link: Accountability**

The 100 Day Reform Programme does not have any reference to the issue of accountability and to the recommendations of the Lessons Learned and Reconciliation Commission (LLRC). But the proposed steps towards re-establishing democratic governance cover the core recommendations of the LLRC.

<sup>12</sup> <http://indi.ca/2015/01/maithripalas-first-100-days/>

<sup>13</sup> <http://100days.lk/>



Family members of missing persons react during a meeting in the capital Colombo. Photo: © IRIN/ Amantha Perera

## 4. THE ISSUE OF ACCOUNTABILITY

The United Nations Human Rights Council (UNHRC) has adopted four resolutions on Sri Lanka since 2009. All these resolutions, i.e. the resolutions of May 2009, March 2012, March 2013 and March 2014, had one major theme: reconciliation and accountability in Sri Lanka.

In addition, the resolutions of 2012, 2013 and 2014 had two main expectations: The minimum expectation was the implementation of the core recommendations of the Lessons Learned and Reconciliation Commission (LLRC) and the maximum expectation was a credible and independent investigation into the alleged serious violations of human rights and crimes against humanity during the last phase of the war.

The LLRC report rejected the war crime charges levelled against the GoSL and its armed forces and charged the LTTE for war crimes.

The last three resolutions adopted by the UNHRC also acknowledged that the LLRC report does not cover all the issues of reconciliation and accountability in Sri Lanka.

*War Zone Vanni 2009.*  
Photo: <https://www.flickr.com/photos/tro-kilinochi/3187678890/>



The LLRC conclusion that the GoSL is not responsible for the alleged crimes against humanity was not acceptable to the international human rights community as represented by the United Nations and by international human rights NGOs. This was why the resolution of March 2014 called for a credible and independent investigation to be conducted by the Office of the High Commissioner of Human Rights (OHCHR).

The resolution A/HRC/25/L.1/Rev.1<sup>14</sup> adopted at the 25th session of the UNHRC in March 2014 noted that “[t]he national plan of action and the [LLRC] Commission’s report do not adequately address serious allegations of violations of international human rights law and international humanitarian law”.<sup>15</sup>

At the same time, the UNHRC has been calling for the implementation of the constructive rec-

<sup>14</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G14/125/71/PDF/G1412571.pdf?OpenElement>

<sup>15</sup> *Ibid.*, p. 3

ommendations of the LLRC since 2012. Those recommendations are related to reconciliation, democratic governance and rule of law. Indeed, democratic governance and rule of law are necessary pre-conditions for national reconciliation and accountability. Therefore, the implementation of the constructive recommendations of the LLRC became the basic and minimum expectations of the UNHRC initiated process of promoting reconciliation, accountability and human rights in Sri Lanka.

#### The Common Opposition: No Reference to LLRC Recommendations

The common opposition led by the present President, Mr. Maithripala Sirisena, did not make any commitments to implement the constructive recommendations of the LLRC in their 100 Day Reform Programme or in their election manifesto.



*Commissioners of the LLRC are posing for a photograph in Colombo. Third from the left is Mr. H.M.G.S. Palihakkara who has been appointed as the Governor of the Northern Province by the new government. Photo: LLRC*

## 5. THE IMPORTANCE OF THE LLRC RECOMMENDATIONS IN PROMOTING RECONCILIATION, ACCOUNTABILITY AND HUMAN RIGHTS IN SRI LANKA

### THE RESOLUTION OF MARCH 2014

Although the main focus the UNHRC resolution A/HRC/25/L.1/Rev.1<sup>16</sup> in March 2014 was to “establish an international inquiry mechanism to further investigate the alleged violations of international human rights law and international humanitarian law and monitor any domestic accountability processes”<sup>17</sup> in Sri Lanka, it reiterated the need for implementation of the constructive recommendations of the LLRC.

*“Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka, its findings and recommendations, and acknowledging its possible contribution to the process of meaningful national reconciliation in Sri Lanka, Recalling the constructive recommendations contained in the Commission’s report, including the need to credibly investigate widespread allegations of extrajudicial*

*killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all persons and enact rule of law reforms.”<sup>18</sup>*

The Human Rights Council reiterated “its call upon the Government of Sri Lanka to implement effectively the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission, and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans.”<sup>19</sup>

<sup>16</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G14/125/71/PDF/G1412571.pdf?OpenElement>

<sup>17</sup> Ibid., p. 3

<sup>18</sup> Ibid., p. 2

<sup>19</sup> Ibid., p. 3

### THE RESOLUTION OF MARCH 2013

The UNHRC resolution A/HRC/22/L.1/Rev.1<sup>20</sup> of March 2013 requested “the Office of the High Commissioner, with input from relevant special procedures mandate holders, as appropriate, to present to the Human Rights Council at its twenty-fourth session a comprehensive report followed by a discussion on the implementation of the present resolution at its twenty-fifth session.” The resolution maintained the previous call for the implementation of the LLRC recommendations intact.<sup>21</sup>



Former High Commissioner Navi Pillay addressing the 24th session of the UNHRC: her report on Sri Lanka recommended an international investigation. Photo: UN

*“Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka and its findings and recommendations, and acknowledging its possible contribution to the process of national reconciliation in Sri Lanka,*

*Taking note also of the National Plan of Action to implement the recommendations of the Lessons Learnt and Reconciliation Commission of the Government of Sri Lanka and its commitments as set forth in response to the findings and recommendations of the Commission,*

*Noting that the national plan of action does not adequately address all of the findings and constructive recommendations of the Commission, Recalling the constructive recommendations contained in the Commission’s report, including the need to credibly investigate widespread allegations of extrajudicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-*

*evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all and enact rule of law reform.”<sup>22</sup>*

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### THE RESOLUTION OF MARCH 2012

The UNHRC resolution A/HRC/19/L.2/Rev1<sup>24</sup> of March 2012 was mainly focused on the LLRC report.

*“Taking note of the report of the Lessons Learnt and Reconciliation Commission of Sri Lanka and its findings and recommendations, and acknowledging its possible contribution to the process of national reconciliation in Sri Lanka,*

*Welcoming the constructive recommendations contained in the Commission’s report, including the need to credibly investigate widespread allegations of extra-judicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all and enact rule of law reforms,*

*Noting with concern that the report does not adequately address serious allegations of violations of international law.”<sup>25</sup>*

The Human Rights Council called upon “the Government of Sri Lanka to implement the constructive recommendations made in the report of the Lessons Learnt and Reconciliation Commission and to take all necessary additional steps to fulfil its relevant legal obligations and commitment to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans;”<sup>26</sup> and requested “the Government of

<sup>22</sup> Ibid., p. 2

<sup>23</sup> Ibid., p. 3

<sup>24</sup> <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement>

<sup>25</sup> Ibid., p. 1

<sup>26</sup> Ibid.

<sup>20</sup> <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G13/122/61/PDF/G1312261.pdf?OpenElement>

<sup>21</sup> Ibid., p. 3



*Sri Lanka to present, as expeditiously as possible, a comprehensive action plan detailing the steps that the Government has taken and will take to implement the recommendations made in the Commission's report, and also to address alleged violations of international law and international humanitarian law."*<sup>27</sup>

#### **UNHRC Member States That Opposed / Did Not Support the Resolutions on Sri Lanka Supported the LLRC Recommendations**

Not all the member countries of the Council (for instance the Philippines and Egypt) supported the resolutions. For instance, in March 2014 it was a minority of the Council Members who supported the resolution A/HRC/25/L.1/Rev.1. The member countries that voted against the resolution or abstained from voting cited the LLRC process within Sri Lanka as the domestic mechanism on reconciliation and accountability.

#### **THE POSITION OF THE GOVERNMENT OF SRI LANKA UNTIL DECEMBER 2014**



*Ambassador Ravinatha Pandukabhaya Aryasintha presents his credentials to Mr. Kassym-Jomart Tokayev, the Director-General of the United Nations Office in Geneva-10th July 2012. Photo: UN / Pierre Albouy*

Speaking at the 27th session of the UNHRC Mr. Ravinatha P. Aryasintha, Ambassador and Permanent Representative of Sri Lanka stated that “[t]he Government of Sri Lanka is continuing its own domestic process of reconciliation with utmost dedication towards all her people. The National Plan of Action (NPOA) to implement the recommendations of the LLRC, which was formulated

*for this very purpose, will continue to provide the basis for this process. A ‘Special Bureau for Reconciliation’ is being set up to facilitate the work of the Committee headed by the Secretary to the President to monitor the implementation of the NPOA. The ‘Special Bureau for Reconciliation’ will assist the line ministries and agencies vested with the responsibility of effectively implementing and monitoring the respective LLRC recommendations assigned to them in the NPOA.”*<sup>28</sup>

Various representatives continuously uphold the view that LLRC recommendations are being implemented satisfactorily.

#### **“Almost completed” – Human Rights Commission of Sri Lanka (Feb 2014)**

For instance one month before the 25th session of the UNHRC, on 3rd February 2014, Human Rights Commissioner, Dr. Prathibha Mahanamahewa, said: “[a]lmost all the recommendations of the Lessons Learnt and Reconciliations (LLRC) had been implemented”.<sup>29</sup>

#### **“99% Completed” – Sri Lanka’s Human Rights Envoy and Minister (May 2013)**

*“Sri Lanka deserves to be judged by the progress in implementing the recommendations of its own reconciliation commission than by any pre-conceived agendas against it”,* said Sri Lanka’s Human Rights Envoy and Minister, Mahinda Samarasinghe, speaking about his presentation made at the UN Human Rights Council sessions in Geneva on 26th February 2013. Furthermore it was reported that *“Samarasinghe was hopeful that the facts presented by him would be viewed with due care by the Council and its Member States, claiming that 99 per cent of the recommendations of the Lessons Learnt and Reconciliation Commission (LLRC) have been already implemented.”*<sup>30</sup>

#### **“No Deadline” – Cabinet Spokesperson and Media Minister (Oct 2014)**

Government spokesperson and Media Minister, Mr. Keheliya Rambukwella, told the weekly Cabinet news conference in October 2014: “[t]he government could not set a deadline for the full implementation.”<sup>31</sup>

<sup>28</sup> <http://sinhala.srilankabrief.org/wp-content/uploads/2014/07/8-Sept-2014-HRC-27-National-Statement-of-Sri-Lanka.pdf>

<sup>29</sup> <http://www.ceylontoday.lk/16-54763-news-detail-hrc-debunks-us-envoys-allegations-as-almost-all-llrc-recommendations-implemented.html>

<sup>30</sup> [http://articles.economictimes.indiatimes.com/2013-03-07/news/37532189\\_1\\_llrc-unhrc-tamil-eelam](http://articles.economictimes.indiatimes.com/2013-03-07/news/37532189_1_llrc-unhrc-tamil-eelam)

<sup>31</sup> <http://www.ceylontoday.lk/51-75151-news-detail-implementation-of-llrc-recommendations-no-deadline.html>



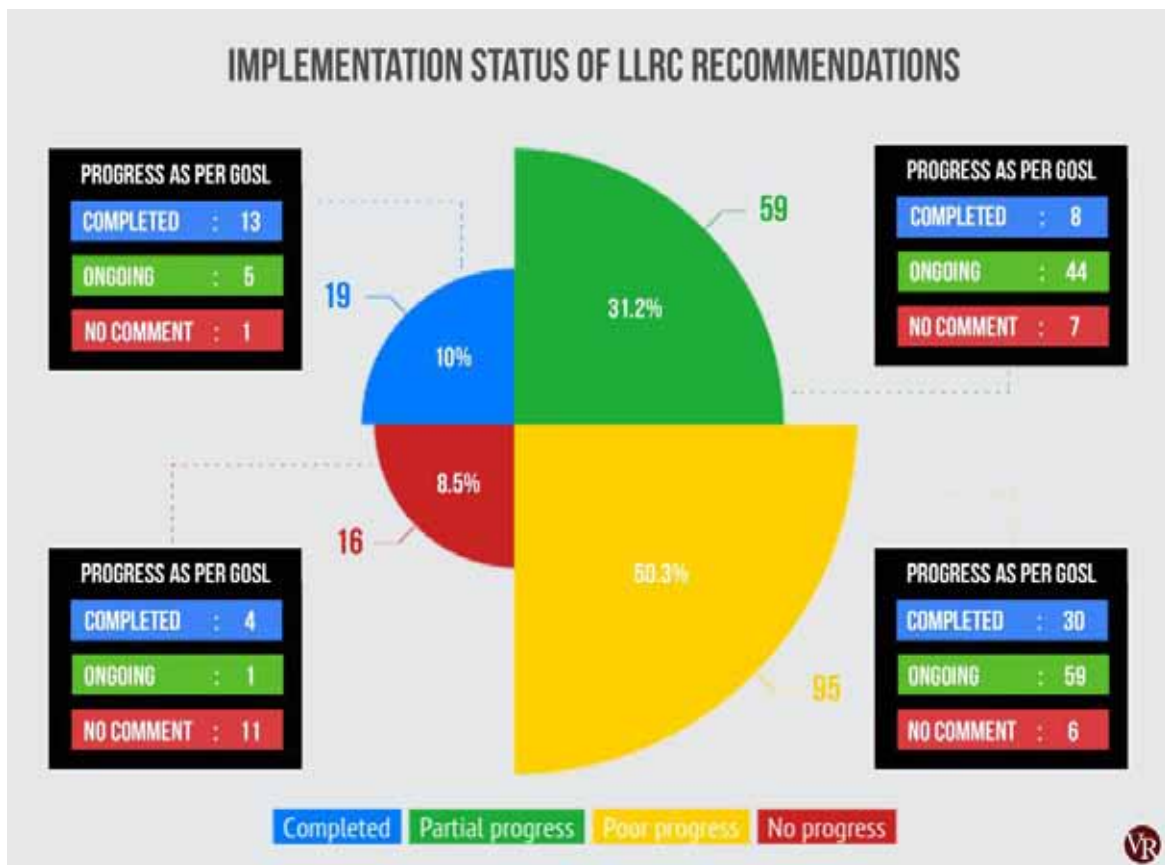
## 6. THE TRUTH: FAILURE

In 2014 Verité Research<sup>32</sup> published the LLRC Implementation Monitor – Statistical and Analytical Review No. 2. This report was a follow up to the first LLRC Implementation Monitor report published in November 2013 and it included a summary and an analysis of the overall progress made in the implementation of the recommendations.

The report concluded that:

- “Overall implementation of the 189 actionable LLRC recommendations is poor.
- Out of 189 actionable LLRC recommendations, only 19 (10.1%) have been completed.
- 59 (31.2%) of them have recorded a progress in implementation.
- 95 (50.3%) of them have recorded a poor progress in implementation.
- 16 (8.4%) of them have recorded no progress in implementation”<sup>33</sup>

The report mentioned that “[i]n January 2014, the Government of Sri Lanka claimed that the implementation of a significant number of constructive recommendations was ‘completed.’”<sup>34</sup> The research team of Verité Research has examined in a briefing note selected recommendations under each constructive category mentioned in the UN Human Rights Council Resolutions 19/2 and 22/1 in order to evaluate the credibility of the Government’s claims. The researchers then concluded that “[t]he aforementioned analysis accordingly raises serious doubts with regard to the credibility of the government’s claims. In each constructive category, it is possible to demonstrate with available facts that one or more of the LLRC recommendations listed as fully implemented (i.e. ‘completed’) by the government have not been fully implemented. In this context, it is reasonable to conclude that the government’s report on progress is inaccurate.”<sup>35</sup>



Source: Verité Research (2014)

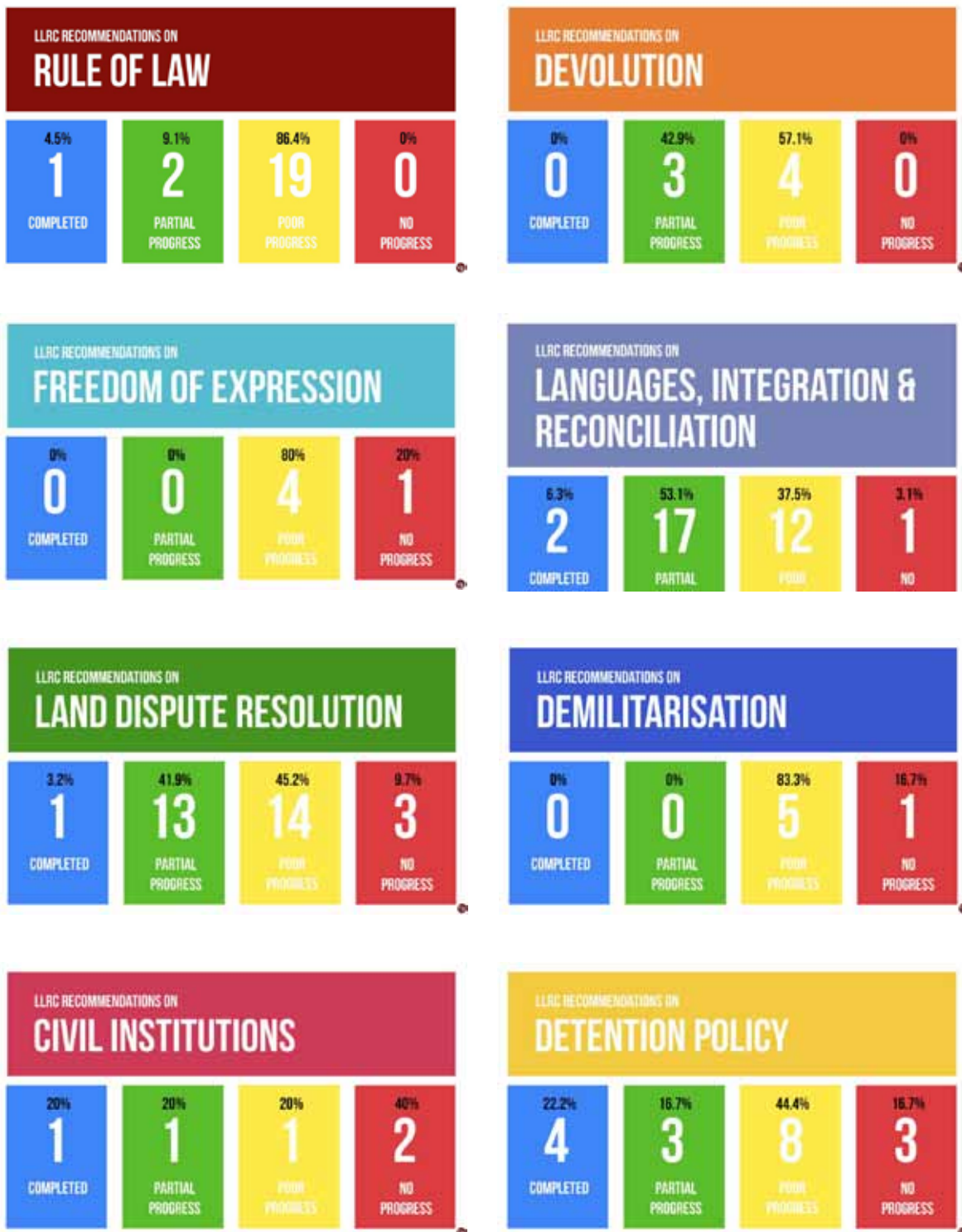
32 See <http://www.veriteresearch.org/> Verité Research is an independent multi-disciplinary think tank providing strategic analysis and advice to decision-makers and opinion-formers in Asia.

33 Verité Research (2014) The LLRC Implementation Monitor – Statistical and Analytical Review No. 2 at <http://www.veriteresearch.org>

34 Ibid.  
35 Ibid.



The following graphics<sup>36</sup> illustrate the conclusions of Verité Research and are self-explanatory:



Source: Verité Research (2014)

<sup>36</sup>From the 'The LLRC Implementation Monitor – Statistical and Analytical Review No. 2' at <http://www.veriteresearch.org>

<sup>37</sup> <http://www.scribd.com/doc/85007346/A-List-of-Commissions-of-Inquiry-and-Committees-Appointed-by-the-Government-of-Sri-Lanka-2006-2012>.

<sup>38</sup> Verité Research (2014) LLRC Implementation Monitor Statistical and Analytical Review No.2 at [www.veriteresearch.org](http://www.veriteresearch.org).

<sup>39</sup> <http://thecommonwealth.org/media/news/secretary-generals-departure-statement-following-official-visit-sri-lanka#sthash.hmMrEyz9.dpuf>

<sup>40</sup> <http://sinhala.srilankabrief.org/wp-content/uploads/2014/07/8-Sept-2014-HRC-27-National-Statement-of-Sri-Lanka.pdf>



## 7. TEN RECOMMENDATIONS TO THE NEW GOVERNMENT

1. **Make an official commitment to implement the constructive recommendations** of the LLRC with clear time lines and release the report of the Commission of Inquiry (2005) headed by Justice Udalagama.<sup>37</sup>

105 of the LLRC recommendations fall into one of the following eight constructive categories listed by the UNHRC:

1. Credibly investigating widespread allegations of extrajudicial killings and enforced disappearances;
2. Demilitarising the north of Sri Lanka;
3. Implementing impartial land dispute resolution mechanisms;
4. Re-evaluating detention policies;
5. Strengthening formerly independent civil institutions;
6. Reaching a political settlement on the devolution of power to the provinces;
7. Promoting and protecting the right of freedom of expression for all;
8. Enacting rule of law reforms.<sup>38</sup>

**Position of the current GoSL:** According to a statement of the Commonwealth Secretary-General following his official visit to Sri Lanka, *“the Government is currently considering the necessary steps to address Sri Lanka’s accountability and reconciliation needs, including fuller implementation of the recommendations of the Lessons Learned and Reconciliation Commission (LLRC).”*<sup>39</sup>

2. **Present the bill on ‘Assistance to and Protection of Victims of Crime and Witnesses’** to the Parliament and have it passed during the 100 Day Reform Programme.

**Position of the current GoSL:** The bill on ‘Assistance to and Protection of Victims of Crime and Witnesses’ which safeguards the rights of victims and witnesses and is popularly known as the Witness Protection Bill was approved by the Cabinet of Ministers and was gazetted on

8th August 2014. This Bill was due to be presented in Parliament on 9th September 2014.<sup>40</sup>

The Minister of Justice, Wijeyadasa Rajapakshe, tabled the Witness Protection Bill in Parliament on 19th February 2015, calling it “a timely need of the country”.<sup>41</sup> The bill was passed on 20th February 2015.<sup>42</sup>

3. **Release political prisoners or charge them before court of law and start the process within the 100 Day Reform Programme.**

**Position of the current GoSL:** According to Mannar’s Bishop Rt. Rev. Joseph Rayappu, President Sirisena has promised to release Tamil political prisoners who are being detained with no cases filed against them within the span of one year.<sup>43</sup>

4. **Expedite the process of resettlement of Internally Displaced Persons (IDPs)** in their original places of residence and make a public statement on this issue with timelines.

**Position of the current GoSL:** No clear policy on this matter has been established.

A committee is to be appointed on a directive of the President in order to commence a programme to release lands in the North back to civilians.<sup>44</sup>

The Cabinet has granted the approval to return 1,000 acres from the High Security Zone, which is remaining in the Palaly area in Jaffna to the original owners.<sup>45</sup> War displaced persons of Sampur, Trincomalee will be resettled in the land they owned as part of the government’s 100 Day Reform Programme, according to a statement of the Minister of Land, M.K.A.D.S Gunawardena, on 18th February 2015.<sup>46</sup>

<sup>37</sup> <http://www.scribd.com/doc/85007346/A-List-of-Commissions-of-Inquiry-and-Committees-Appointed-by-the-Government-of-Sri-Lanka-2006-2012>.

<sup>38</sup> Verité Research (2014) LLRC Implementation Monitor Statistical and Analytical Review No.2 at [www.veriteresearch.org](http://www.veriteresearch.org).

<sup>39</sup> <http://thecommonwealth.org/media/news/secretary-generals-departure-statement-following-official-visit-sri-lanka#sthash.hmMrEyz9.dpuf>

<sup>40</sup> <http://sinhala.srilankabrief.org/wp-content/uploads/2014/07/8-Sept-2014-HRC-27-National-Statement-of-Sri-Lanka.pdf>

<sup>41</sup> <http://www.ft.lk/2015/02/20/witness-protection-bill-finally-comes-to-parliament/>

<sup>42</sup> <http://jurist.org/paperchase/2015/02/sri-lanka-enacts-witness-protection-law.php>

<sup>43</sup> <http://www.srilankamirror.com/news/item/1874-tamil-detainees-to-be-released-within-a-year>

<sup>44</sup> <http://www.sundaytimes.lk/news-online/govt-appoint-committee-inquire-land-issue-north.html>

<sup>45</sup> <http://www.itnnews.lk/?p=60605>

<sup>46</sup> <http://ceylontoday.lk/51-85175-news-detail-sampur-war-displaced-to-get-back-land.html>



According to the Sunday Observer dated 22nd February 2015 and quoting Defence Ministry sources, the Government has decided to release the lands in the High Security Zones in the North and it is now conducting surveys on the lands that can be released to civilians in the future. Following the approval by the Cabinet to release 1,000 acres of land to the civilians in stages as of immediately, as a first step, the Government will release 220 acres in the J 284 Valalai Grama Niladhari Division of the Valikamam East Divisional Secretariat Division to set up a Pilot Village to resettle 1,022 families displaced by the war.<sup>47</sup>

**5. De-militarise the North and East** of the country to bring normalcy to civilian life.

**Position of the current GoSL:** No clear policy on this matter has been established.

Civilian governors have been appointed to both provinces replacing military governors.

According to ministerial statements, military camps in the North will remain. The Defence Minister, Ruwan Wijewardena, was quoted on 7th February 2015 that camps of the security forces in the North and East, which have been set up to protect the people, would not be removed.<sup>48</sup>

**6. Facilitate the visit of OHCHR investigators,** among others, by providing the necessary visa to visit Sri Lanka.

**Position of the current GoSL:** The new Government's position is not yet known. No clear commitment has been made yet.

**7. Establish a domestic investigative mechanism** that meets international standards.

**Position of the current GoSL:** According to a letter of Foreign Minister, Mangala Samaraweera, to the UN High Commissioner of Human Rights, the GoSL is committed to set up a credible domestic mechanism, taking into account the relevant preambular provisions in resolution 25/1 to ensure accountability, serve justice and provide remedies. The government furthermore looks forward to working with the Human Rights High Commissioner and OHCHR

to develop this mechanism and obtain technical assistance.<sup>49</sup>

President Maithripala Sirisena assured the diplomatic community on 13th February 2015 that his government will not hesitate to punish the offenders of human rights violations said to have taken place during the war after the conduct of a credible domestic inquiry.<sup>50</sup>

**8. Take immediate action on pending requests by Special Procedure Mandate Holders of the United Nations** to visit Sri Lanka and make a commitment to UNHRC on this setting clear timelines.

**Position of the current GoSL:** The letter of the Foreign Minister to the UN High Commissioner of Human rights also mentioned that the Government would invite "relevant Special Procedure Mandate Holders on a needs based early opportunity. [...] The Government will commence an intimate dialogue with the Special Rapporteur on the Promotion of Truth, Justice, Reparations and Guarantees of Non-Recurrence with a view to seeking his advice as necessary, including extending an invitation at an appropriate time."<sup>51</sup>

The below lists the pending requests of the different Mandate Holders:<sup>52</sup>

- Special Rapporteur on independence of judges and lawyers: requested in 1999; reminders were sent by the OHCHR in 1999, 2001 (two times), 2003, and 2006.
- Independent Expert on minority issues: requested in 2007; reminders were sent in 2008, 2009, 2010 and 2013.
- Working Group on enforced or involuntary disappearances: requested in 2006; reminders were sent in 2007, 2008, as well as on 20th July 2009, 16th August 2010, 20th July 2011, 8th November 2012 and on 11th October 2013.
- Special Rapporteur on human rights defenders: requested in 2008; a reminder was sent in 2010. RSG internally displaced persons
- Special Rapporteur on freedom of expression: requested in 2009.

49 <http://srilankabrief.org/2015/02/sri-lanka-foreign-ministers-letter-to-rights-commissioner-zeid-al-hussein>

50 [http://www.colombopage.com/archive\\_15A/Feb13\\_1423845415CH.php](http://www.colombopage.com/archive_15A/Feb13_1423845415CH.php)

51 <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx>

52 <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx>

47 <http://www.sundayobserver.lk/2015/02/22/new05.asp>  
48 <http://www.itnnews.lk/?p=60210>



- Special Rapporteur on enforced, summary or arbitrary executions: requested on 28th August 2009; reminders were sent in 2010 and 2012.
- Special Rapporteur on freedom of association and assembly: requested on 6th September 2011; a reminder was sent on 30th October 2013.
- Working Group on discrimination against women in law and in practice: requested on 6th December 2011.
- Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence: requested on 2nd December 2013.

**9. Invite United Nations Working Group on Enforced or Involuntary Disappearances** to Sri Lanka and fix a date as soon as possible for this visit.

**Position of the current GoSL:** The Foreign Minister's letter also mentioned that "[t]he Government will invite the Working Group on Enforced and Involuntary Disappearances at an early opportunity before the 30th Session of the UNHRC."<sup>53</sup>

**10. Appoint a high-powered committee to review and draw up an action plan for the implementation of the recommendations to the GoSL** by referring to the recommendations of the different United Nations human rights bodies, such as:

- the United Nations Human Rights Committee held in October 2014<sup>54</sup>;
- the Universal Periodic Review on Sri Lanka held in October 2012 and in April 2013<sup>55</sup>;
- the Concluding Observations of the Committee against Torture held in November 2011<sup>56</sup>;
- the Concluding Observations of the Committee on the Rights of the Child held in October 2010<sup>57</sup>; and
- the Concluding Observations of the Committee on the Elimination of All Forms of Discrimination against Women held in February 2011.<sup>58</sup>

#### **"Establish Credible Mechanisms That Meet International Standards"**

**UN Secretary General Ban Ki-moon**

The spokesperson for the UN Secretary-General, Stéphane Dujarric has stated on 12th February 2015 that "[t]he Secretary-General has stressed the importance of Sri Lanka establishing credible mechanisms that meet international standards. Advancing accountability, like other parts of the post-war agenda in Sri Lanka, will lay the basis for the country to make further progress on peace, democracy and development. The UN stands ready, as always, to support Sri Lanka's efforts to address the post-war agenda as we have consistently affirmed".<sup>59</sup>

<sup>53</sup> Ibid.

<sup>54</sup> <http://www.ccprcentre.org/country/sri-lanka/>

<sup>55</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G13/132/12/PDF/G1313212.pdf?OpenElement>

<sup>56</sup> <http://www.refworld.org/publisher,CAT,,LKA,,,o.html>

<sup>57</sup> [http://www.refworld.org/publisher,CRC,CO\\_NCOBSERVATIONS,LKA,4cdcfb112,o.html](http://www.refworld.org/publisher,CRC,CO_NCOBSERVATIONS,LKA,4cdcfb112,o.html)

<sup>58</sup> <http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-LKA-CO-7.pdf>

<sup>59</sup> <http://www.un.org/press/en/2015/db150212.doc.htm>



## LIST OF ABBREVIATIONS

GoSL	Government of Sri Lanka
HRCSL	Human Rights Commission Sri Lanka
IDPs	Internally Displaced Persons
IE	Independent Expert
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
NDF	New Democratic Front
NPoA	National Plan of Action
OHCHR	Office of the High Commissioner of Human Rights
SLFP	Sri Lanka Freedom Party
SR	Special Rapporteur
UN	United Nations
UN SG	UN Secretary-General
UNHRC	United Nations Human Rights Council
UNP	United National Party
UPFA	United People's Freedom Alliance
WG	Working Group



A call for justice in Batticaloa, Eastern province, Sri Lanka on 16th February 2015: Women held a seven hour fast displaying photographs and placards in the backdrop of clothing of the missing children and husbands.

*Photos: Tamil Guardian*