

Her Excellency the High Commissioner of Human Rights and to the participants of the 40th Session of the UN Human Rights Council!

UN Adopt a New Resolution on Sri-Lanka to Promote Democracy, Equal Treatment, Justice, Non-recurrence and Human Rights

The UN Resolution 30/1 on Sri-Lanka was adopted by the Council along with the co-sponsorship of Sri-Lanka to ensure truth, justice, reparation and non-recurrence based on the international human rights law and international humanitarian law. But the Sri-Lankan government has given up these international standards and the objectives of the Resolution 30/1 and uses it as a tool to promote its political and economic interests. Whenever the UN sittings take place the government implements a name sake action to satisfy the UN and the international community. Under the banner of good governance, the Sri-Lankan government is continuously promoting racisms, non-democracy, human rights violations and explicitly violating the promises which were made under the Resolution 30/1.

Therefore, we North East Coordination Committee (NECC)¹ present our pleas before H.E. the High Commissioner of Human Rights and to the participants of the 40th Session of the UN Human Rights Council to consider our following requests and to adopt a new and time binding resolution on Sri-Lanka.

1. Ensure Non-recurrence for Reconciliation

The root causes of the conflict are racism and ethnic discrimination against minorities. It was immensely expected that the present National Unitary Government would eliminate all sort of ethnic and religious discriminations and establish reconciliation. But, the government itself represents these oppressive characteristics and satisfies the discriminatory agendas of the Sinhala Buddhist majoritarian forces. Therefore, racism is systematically spread against minorities and language discrimination, Buddhisization and systematic Sinhala colonialization are taking place in North and East minority areas:

¹ North East Coordinating Committee (NECC) is a coalition of 14 grass root human rights organizations and women's organizations that function in the Northern and Eastern provinces of Sri Lanka

- **Racism:**

The activities of the Sinhala Buddhist racist elements against the minority communities are increasing. These groups are creating fear and threat among the minorities on safety and security of their lives. There are several incidents where minorities who live in the Sinhala majoritarian areas were verbally abused and physically attacked. Therefore, immediate actions must be taken to eliminate the activities of such Sinhala Buddhist racist elements and to create an environment where the minorities could live with dignity and with equal status.

During the recent political turmoil period several veteran parliamentarians publicly addressed that the demands of the Tamil National Alliance (TNA) were against to the Sri-Lankan nationalism and they attempted to create negative attitudes among Sinhala public on Tamil community and their political representatives.

- **Language discrimination:**

Even though the Constitution has ensured that the Tamil language shall be the administrative language in Northern and Eastern provinces but, in reality the language policy is not implemented accordingly. Government administrative bodies are dealing with the Tamil speaking people in Sinhala language. Tamil civilians' complaints are recorded in Sinhala language at police stations and the complainers have to sign in the Sinhala document to ensure their statements where the language is unknown to them.

Especially Tamil speaking women who go to the police stations and government hospitals in North and East areas face difficulties in communication. So, they depend on others to get their work done. Therefore, Tamil speaking government officers, police officers and doctors should be appointed in areas where Tamil people densely live to ensure the usage of Tamil language in government administration.

- **Buddhisization:**

There are various methods used by the extremist Buddhist elements and military by the backing of the state to construct Buddhist Stupas and temples in North East areas. Where ever the military occupies they build such icons in private and common lands. Other than that, with the support of the archeological department without any gazette notifications public/private lands and Hindu worship places are acquired by the state as "archeological protected areas" and interpreted as

traditional Buddhist areas. Government institutions and police are assisting these encroachments.

Recent examples:

Mullaitivu district, Chemmalai village: In January 2019, when Tamil Hindu villagers engaged in rituals in Lord Murugan Temple of Chemmalai village, a Buddhist monk with others went to the location and claimed that it was a historical Buddhist place and had argument with the villagers. When villagers wrote to the Right to Information Commission (RTI) to verify it, the RTI confirmed that the location was belonged to the Hindu temple. However, the officer attached to the archeological department claimed that there was a Buddhist temple situated and which had a 2000 years history.

Trincomalee district, Thennamaravady village: In June 2018, the archeological department prevented the Tamil Hindus to go to the Lord Murugan's Temple which is situated on a rock in Thennamaravady village where Buddhist from Anuradhapura area encroached and claimed the place as a Buddhist place. Similarly, with the influence of Buddhist monks and extremist forces Hindu Temples such as Malaineethi Amman kovil in Verugal division and Sudaikuda Murugan kovil in Muthur division were brought under the control of the archeological department.

- **End systematic Sinhala colonialization of the government in minority Tamil areas under the Mahaweli authority: Violation against the 13th Amendment of the Constitution**

The present Sirisena – Wickremesinghe government has newly started systematic Sinhala colonization in Mullaitivu, Vavuniya and Northern part of Trincomalee districts. For this purpose, they are expanding the geographical area of Mahaweli “L” zone, originally the Welioya² Sinhala colonization area in Mullaitivu district. The

² Tamil families of Manalaru area (now Welioya) were forcefully evacuated by militarized violence which took place in 1984. Violence continued from 1st December 1984 to 15th December 1984 for 15 days. 170 Tamil people were shot dead including 21 children. When Tamils left the area Sinhala people were settled there. The Tamil name Manalaru was changed and a Sinhala name was given as Welioya and which area was brought under the Mahaweli authority by the gazette notification and included as “L” zone. 392 Tamil families lost their 1449 acres cultivation land to this colonization project and become landless. Names of the Tamil villages and names of the natural water tanks of the Manalaru area were given Sinhala names under the Welioya colonization. According to the recent official information of the Mullaitivu Kachchey, 1910 Sinhala families with 7640 members live only in Welioya. There are no Tamils or Muslims occupy in this location.

new colonization project covers 199,000 hectares land by taking 25% from Mullaitivu district, 15% from respectively Vavuniya and Trincomalee districts. Rest of the land (45%) has been taken from the Anuradhapura district and divided the “L” zone in to three development divisions namely Ethawetunuwewa, Kiriibbanwewa and Weheratanna. 7509. 17 Million rupees have been allocated for this massive settlement.

Creating three development divisions means creating three new Sinhala administrative divisions that penetrate Mullaitivu, Vavuniya and Trincomalee districts to discontinue the geographical landscape of the minorities.

It has been planned to settle 5268 Sinhala families and held Land Kachchery (a meeting held in the purpose for providing state land to landless people) for 5000 Sinhala families and 2000 Sinhala families have been newly settled mainly in the Tamil villages of Vavuniya North and Mullaitivu districts without providing lands to the native Tamil people of these districts who have been displaced. None of the Tamil families of these areas were included in the land Kachchery.

According to the map of the proposed “L” zone (see Appendix - I) all the village settlements are going to be Sinhala villages and particularly massive Sinhala village centers such as “Mayapura”, “Kotilanda”, “Pihitipura” and “Kokilapura” are going to be created in Mullaitivu district. Also, such settlements have been already developed in Nedunkerni division of Vavuniya North where 400 Sinhala families were settled in traditional Tamil villages (Vedivaithakallu, Kaliyanapuram, Katkulam, Pattikkudiyiruppu...etc.) of the Division. In Trincomalee district the village center is proposed to be established under a Sinhala name “Polmaduwa” in Pulmoddai area of Kutchaveli division in which 72.1 % of the population are Mulsim minorities³.

Basically, the government is violating Schedule 9, Rule 1, Appendix II, Item 18 Article 2.5 of the 13th Amendment of the Constitution, which says inter-provincial irrigation and land development projects should give priority to the landless of the district and thereafter the landless of the Province based on the national level eth-

³ Basic Population Information, Trincomalee District – 2007, <http://www.statistics.gov.lk/PopHouSat/Preliminary%20Reports%20Special%20Enumeration%202007/Basic%20Population%20Information%20on%20Trincomalee%20District%202007.pdf>

nic ratio when the distribution of land allotments of such projects take place. Further, Article 2.7 says, distribution of allotments of such projects should not disturb “very significantly the demographic pattern of the Province”

Mahaveli water should have been brought to the area to recognize it as an Inter-Provincial development project where water goes through one province to the other. But Mahaweli water has not yet been diverted to these areas. Basically this “L” zone project is just a mere colonization.

Therefore, the new Mahaweli “L” zone expansion project violates the fundamental rights of the minorities of Northern and Eastern Provinces.

2. Political resolution for sustainable reconciliation

The Tamil minority community of Northern and Eastern Provinces of Sri-Lanka is being discriminated by the Sinhala majoritarian governments since the independence (1948). Systematic colonization and territorial violation, violation of language rights, denial of political power, ethnic violence ...etc. are the root causes of the conflict. In-order to positively solve the conflict and to promote reconciliation Constitutionally guaranteed political resolution is compulsory.

The existing 13th Amendment which was adopted 32 year ago is not addressing the democratic political needs of the contemporary society. Therefore, a more meaningful political resolution with reasonable power sharing and equality should be guaranteed.

3. Government should not approve the draconian Counter Terrorism Act and should remove the Prevention of Terrorism Act

The government is in the process of adopting the CTA which is far worse than the present PTA. Though the government says that the CTA is better drafted according to the international human rights standards but basically it is against to the principles of ICCPR. Accordingly,

- There is no compulsion to protect an arrested person from physical harm but only to take practicable measures.
- Conveying information about the arrest to the arrested person in her or his mother tongue is not compulsory at time of arresting and Saving acknowledgement of an arrest to family members is not compulsory

- It's not compulsory for arrest and questioning the female to be by or even in presence of female officer
- Decision on the medical examination of the suspect or detainee vested with OIC and the report has to be given to the OIC, not to Magistrate, it may leads to arbitrary torture violations
- If Magistrate or HRCSL decides detention or remand doesn't satisfy humane conditions, is not compulsory to take steps to rectify
- The police also can seek the order from Magistrate to stop a gathering, having a meeting and rally or activity without a chance for affected party to be heard. It restricts the freedom of assembly
- CTA reduces the judicial oversight and discretion and Grant the massive discretionary powers to a Minister, police, military and home guards

Therefore, CTA should not be adopted by the government and should remove the PTA as well. In-order to prevent any sort of terrorist initiatives including international terrorist intrusions the prevention mechanisms could be taken under the existing criminal justice system of Sri-Lanka.

4. Continuing issues of resettlement and land encroachments

According to the very recent official information there are 9752 families have not yet been resettled in Jaffna district. Military and police are occupying in 936 acres lands. Details of land occupation by military in Thellipalai, Uduvil and Kayts are not revealed by the authorities.⁴

Other than this there are several other locations where military occupies civilian's land in Northern Province including,

- Mannar District:
 - Mullikulam village: Military controls 1800 acres land of Mullikulam village which is belonged to more than 300 families. Children are taken to school which locates in the military controlled area, by the military bus by the armed guarded men. This violates the Article 14 (1) (h) of Sri-Lankan Constitution on the freedom of movement.⁵

⁴ Data received under the Right to Information procedure

⁵ The Constitution of the Democratic Socialist Republic of Sri Lanka (As amended up to 15th May 2015), Published by the Parliament Secretariat, <https://www.parliament.lk/files/pdf/constitution.pdf>

- Pallimunai village: 2 acres and 2 perch land of 19 families
 - Chilavathurai village: 36 acres land of 118 families
 - Sannar area: 3000 acres land taken for an Army training base. This includes both state land and private lands
- Mullaitivu District: Land belong to 243 families of Keppapulavu

The government departments such as Forest Department, Coconut Development Board and Archeological Departments also controlling the lands of civilians (See Appendix – II).

5. Justice for enforced disappeared persons and for their families

Enforced disappearances is a burning issue in North and East areas of the country. The families of disappeared persons engaged in continuous campaigns to find out the truth about their disappeared beloved ones. But still the government maintains silence. The government has the obligation to become an ally in the process of finding the truth about the status of the disappeared persons and to ensure justice for the victims and their families.

But, contradictorily, the government appoints prosecutors from the Attorney General's Department to represent on behalf of the perpetrators in habeas corpus cases and trying to protect them. Moreover, racist politics is played to protect the perpetrators in the name of "national heroes". On the other hand, victims' families are threatened by the state elements to stop seeking justice. Families that have litigated habeas corpus cases and their lawyers are monitored by the state/military/police intelligence during the hearings and thereafter in the court premises. They are photographed by these elements as well.

- The government must provide all necessary assistance to families of enforced disappeared persons to file habeas corpus cases
- The government should not protect the armed personnel who are responsible for disappearances in the name of "national heroes"

- The recommendations made in the report of the UN Working Group on Enforced Disappearances should be fully incorporated to seek justice for the victim families⁶.
- Mass graves should be duly protected with the direct monitoring of the United Nations
- The Office of the Missing Persons Commission's autonomy should not be disturbed by any political influences

6. Ensure the security and safety of the human rights defenders and the civil society activists

Until to date continuous monitoring and inquiries are taking place against human rights defenders and civil society activists. Their movements are closely observed by the men attached to intelligence sections of the military and police. Without prior information they entered the offices of the civil organizations and question about their work and demand to give the details of the work and demand to check their security camera systems. In an incident where a higher rank police officer and intelligence men went to an office of a civil organization and checked the security camera system without prior notice or court order and stayed at the office over an hour. Activities of the women's organizations also under the monitoring of the intelligence and intelligence visit their offices. Women activists faced violent physical assault as well.⁷

Lawyers who engage in habeas corpus cases are watched inside the court premises by the intelligence. Their movements are closely monitored. A female activist who was assisting lawyers who filed habeas corpus case at the Jaffna High Court undergone a violent attack on 14th July 2019⁸ and hospitalized. As a continuity of this a female lawyer, who filed the habeas corpus case was caused an accident in front of Thurayappa Stadium in Jaffna, which is just 200 meters distance from the Jaffna High Court, after arriving from the court hearing on the respective case on 25 February 2019.

⁶ Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka, 8 July 2016, 33rd Session of the Human Rights Council, United Nations General Assembly, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/63/PDF/G1614663.pdf?OpenElement>

⁷ Interim Report of the Office of the Missing Persons, August 2018, <http://srilankabrief.org/wp-content/uploads/2018/09/OMP-inteerim-report-Sep-2018.pdf>

⁸ Interim Report of the Office of the Missing Persons, August 2018, <http://srilankabrief.org/wp-content/uploads/2018/09/OMP-inteerim-report-Sep-2018.pdf>

Village communities also under go continuous inquiries by the intelligence regarding their community activities. As majority of the village community leaders are women in war affected societies and they become more vulnerable by the activities of intelligence.

7. Justice for collective massacres

Between the period of 1984 to 1997 collective massacres, collective rapes and atrocities took place by the military and para military against the civilians in Northern and Eastern Provinces.

Kumarapuram, Mailanthanai, Kokkatticholai, Veeramunai... massacres of the Eastern Province and Manalaru massacre of Mullaitivu district , Kumudini boat of Delft massacre of Jaffna district, Kokkupadyan, Chilavathurai, Arippu, Thalai-Mannar, Vattakandal of Mannar district are some of the highlighted cases of Northern Province.

Victim families of Kumarapuram and Mailanthanai massacres did not get justice by the jury courts. The kumarapuram case was appealed by the Attorney General to the Court of Appeal in November 2016 and scheduled to be held in September 2017 which was also mentioned in the operative article 38 of the 34th Annual Report of the OHCHR on Sri-Lanka.⁹ But, any hearings have not yet taken place so far on the kumarapuram case. Other massacres were dropped down unheard.

Still the families and communities who endured the violent situation wait for justice.

All these cases should be re-heard (without dismissing based on the long-time gap) and justice must be granted.

8. End Militarization in North and East

Militarization that exists in North and East areas is continuously enforcing the Sinhala Buddhist majoritarianism over the minorities. The presence of military in these areas has placed the lives of individuals and communities to always being in fear and tension. It has abolished the independent and free day to day life of the civilians.

⁹ Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka, 34th Session of the Human Rights Council, A/HRC/34/20, <https://documents-dds-ny.un.org/doc/UN-DOC/GEN/G17/030/56/PDF/G1703056.pdf?OpenElement>

Militarization is a key reason for the militarized land encroachment, the territorial violations (exploitation of land and sea resources) by the Southern Sinhalese¹⁰ in North and East areas, the expansion of Buddhist places and ethnic based intimidations. The power of the military in these areas is a cause for the violations and violent activities of the police, the disorder of rule of law and threats against the judiciary. Further, militarization is the basic strength for the functions of the intelligence who interfere in the day to day social life of the civilians and have kept them under continuous surveillance. Specifically, the marginalized groups of the society (women and war affected people) are subjected to more violations by the militarization.

For example: The 57th Brigade of the Sri Lanka army which is based in Nedunkerni division of Vavuniya North encroached 172 acres of land of the area and engages in cultivation. Army men bring their cultivation regularly to the local market. This immensely violates the livelihood of the local farmers as army sells their product for less than the market value. Military has become the economic competitors of the local civilian.

Also military engages in various construction activities, businesses and hospitality such as running tourist hotels (eg: Thalsewana in KKS, Jaffna and tourist cottages in Marble beach of Trincomalee).

Therefore, the government must take measures to end militarization in North and East areas. Reformation and vetting are important in ending militarization:

- a) Immediate actions must be taken to terminate the military officers who are responsible for serious human rights violations and other military personnel who have engaged in these actions from their positions and to investigate them
- b) The Sri-Lankan military has been consisted with young men. Even though there is no war, the expenses for military is high and these men excessively stay in camps. Therefore, reducing the size of military by

¹⁰ Only 73 Sinhala fishers of Southern part of the country were granted permits to engage in fishing in Nayar, Salai, Kokkuthoduwai munai and in Kokkilai of the Mullaitivu district. But more than 500 fishers unofficially engage in fishing in these areas with the support of the military and use illegal fishing methods to collect more yield. Last August 2018 when Tamil fishers protest against the Sinhala fishers for using unlawful fishing methods a confrontation took place between both sides. On the same day night 8 fishing huts, boats and fishing equipment's of the Tamil fishers were burnt down by Sinhala fishers. (Athula Withanage, Journalists for Democracy in Sri Lanka, <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/799-sri-lanka-sinhalese-fishermen-leave-tamil-coast-after-arrests-for-arson>)

¹¹70% and using these young men's capacities for positive development of the country

9. Justice mechanisms to investigate the crimes against the international human rights and humanitarian rights

- Universal jurisdiction is necessary to investigate the individuals who are most responsible for war crimes. UN must play its role on this regard. As Sri-Lankan government want to protect their political interests, it would not investigate the individuals who are most responsible for war crimes.

President Sirisena emphasized that he would protect "War Heroes" from international tribunals.¹² Recently in his meeting with the government officials in Kilinochchi Prime Minister Wickramasinghe stated that it was necessary to forget and forgive the past for national development.¹³

The current government has promoted senior military officers who have been alleged for serious crimes:

- Major General Shavendra Silva has been appointed as the Chief of Staff of the Sri-Lanka Army in January 2019 ¹⁴ who was responsible for the 58th division of the SriLanka army during the final stages of the war in 2009

¹² President reiterates his pledge to protect war heroes from foreign tribunals, Daily FT, 11 November 2017, <http://www.ft.lk/front-page/President-reiterates-his-pledge-to-protect-war-heroes-from-foreign-tribunals/44-643195>

¹³ Time to Forget, Forgive in Lanka Reconciliation: PM Wickremesinghe, The Indian Express, February 25, 2019, <https://indianexpress.com/article/world/time-to-forget-forgive-in-lanka-reconciliation-pm-ranil-wickremesinghe-5586480/>

¹⁴ SRI LANKA: ALLEGATIONS AGAINST NEW ARMY CHIEF OF STAFF HIGHLIGHT THE URGENT NEED TO ADDRESS IMPUNITY , Amnesty International, 11 January 2019, <https://www.amnesty.org/download/Documents/ASA3796652019ENGLISH.pdf>

- Major General Duminda Keppetiwala was promoted as the Director General Infantry in June 2018¹⁵ while a habeas corpus case is going against him at Jaffna High Court and also is a suspect of the killing of Sunday Leader journalist Lasantha Wickramatunge

This is the continuing experience of Sri-Lanka. Therefore, individuals who are responsible for war crimes must face international investigation to end “impunity for war crimes”.

- The Sri-Lankan government must pass a law to establish a justice mechanism with international judges, lawyers and prosecutors to investigate all who have committed and involved in war crimes. The executing authority of the law must be given to the Ministry of Transitional Justice.

10. Sri-Lankan government should give official recognition to the National Consultation Report

The national consultation was conducted in 2016 period by the Consultation Task Force on Reconciliation Mechanisms and the report was placed by the team in November 2016¹⁶. But still the government has not given official recognition to the report which is the primary obligation of government under the resolution. Several war victims, human rights defenders and civil society groups engaged in the consultation process under severe surveillance and some of them have faced pre / post meeting intimidations. The report which includes the voices of these groups is a basic document to design the transitional justice mechanisms and the process. Therefore, it is the primary obligation of the government to officially approve the National Consultation Report.

11. To promote transitional justice process in a comprehensive manner, Sri-Lankan government should establish a “Ministry of Transitional Justice” under “Transitional Justice Act”

¹⁵ Sri Lanka Army: Top brass accountable for violations further up the ladder, Athula Vithanage, 18 June 2018, <http://www.jdslanka.org/index.php/news-features/human-rights/785-sri-lanka-army-top-brass-accountable-for-violations-further-up-the-ladder>

¹⁶ Final Report of the Consultation Task Force on Reconciliation Mechanism, 17 November 2016, <http://www.scrm.gov.lk/documents-reports>

Ministry of Transitional Justice is a necessity for the **comprehensive** and **independent** function of the following structures: Office of the Missing Persons, Justice mechanism, Truth commission, Office for Reparations and Mechanisms that guarantees of non-recurrence. Further, such Ministry is important to implement the financial and administrative affairs of these structures, to maintain coordination between the transitional justice mechanisms and other governmental administrative bodies, to receive continuous international assistance and advices for its better function. Therefore, Transitional Justice Law need to be enacted to establish such a Ministry. By this, a legal foundation would be given to promote transitional justice mechanisms and any government that comes to power in future will be legally bound to continue the transitional justice process. It is also necessary to get the scholarly advices and assistance from the OHCHR and from relevant Special Rapporteurs to create the law.

12. Sri-Lanka must enact CEDAW Act comprising CEDAW General Recommendations 19, 26 and 30 to ensure gender justice

Women and girls of Sri-Lanka become more and more victims of sexual crimes, violence and discriminations. Transitional justice process should include women's voices to provide a highest legal protection and non-discriminatory social situation for women and girls. To end violence against women (GR 19), to protect the migrant women workers (GR 26) and to protect women's human rights in post conflict situation (GR 30) are crucial areas of Sri-Lankan women. Therefore, the government should take necessary measures to enact CEDAW Act comprising CEDAW General Recommendations 19, 26 and 30.

13. The necessity of UN's direct participation in the transitional justice initiatives of Sri-Lanka

Since 2010 UN has given more attention towards Sri-Lanka and since 2012 several resolutions were passed on Sri-Lanka. Resolution 30/1, the recommendation of the OISL report and the recommendations of the WGIED report are important among those. Even though an extension was given in March 2017 to Sri-Lanka to full fill its duties according to Resolution 30/1, the government does not give proper attention towards it.

Therefore, for the true implementation of the transitional justice mechanisms UN's direct participation is necessary beyond to its expertise advices and monitoring. Because, there is no any assurances that the minority Tamil people who have been oppressed by the

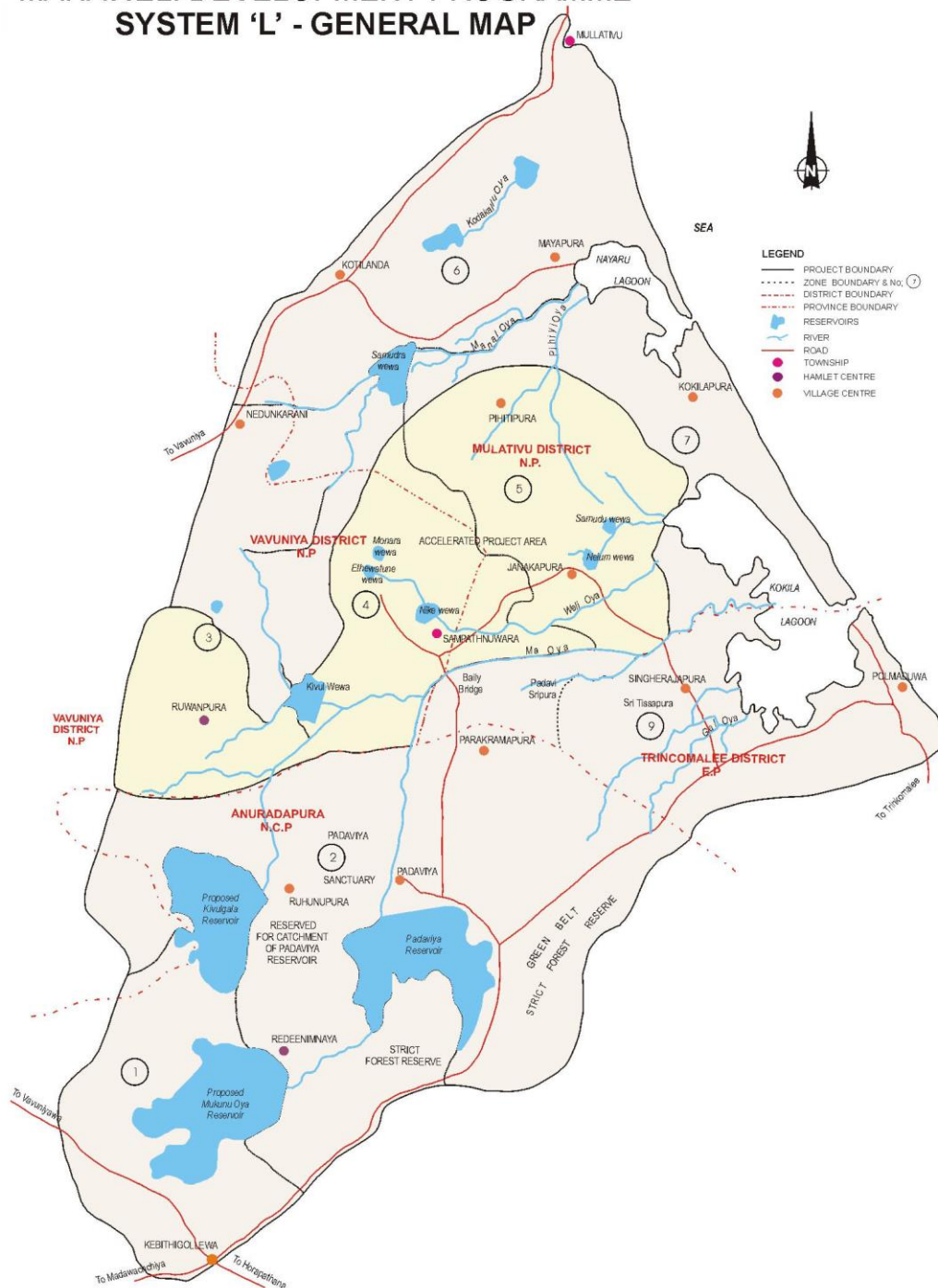
Sinhala Buddhist majoritarianism would get justice by the same state apparatus. Therefore, UN must sign a memorandum of understanding with Sri-Lanka.

North East Coordinating Committee (NECC)

Sri-Lanka

February 2019

MAHAWELI DEVELOPMENT PROGRAMME SYSTEM 'L' - GENERAL MAP



System L, Mahaweli Authority of Sri Lanka, Ministry of Mahaweli Development and Environment
<http://mahaweli.gov.lk/en/maps.html>, Lastly accessed on 17 February 2019