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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

**Replies of Sri Lanka to the list of issues in relation to its sixth
periodic report^{*,**}**

[Date received: 6 May 2022]

* The present document is being issued without formal editing.

** The annexes to the present report may be accessed from the web page of the Committee.



Constitutional and legal framework within which the Covenant is implemented (art.2)

Reply to question 1 of the list of issues CCPR/C/LKQ/Q/6

Constitution reform process

1. The Government of Sri Lanka wishes to refer to the update provided since the submission of the 6th Periodic Report and highlight the following:

(a) In November 2019, President Gotabaya Rajapaksa was elected by the people of Sri Lanka to pursue a national policy framework titled '*Vistas of Prosperity and Splendour*' aimed at achieving the "fourfold outcome of a productive citizenry; a contented family, a disciplined, just society and a prosperous nation". It is envisaged to ensure sustainable development and peace in the country, firmly anchored in safeguarding "national security without compromising the democratic space available to our people";

(b) The Constitutional and other reforms that the GoSL has undertaken since November 2019 constitutes the execution of this mandate conferred by Sri Lankans on its Government;

(c) It may be noted that the 19th Amendment to the Constitution was replaced by the 20th Amendment in October 2020;

(d) The GoSL also wishes to note that the sovereign right to propose and make changes to the supreme law of the land and other legislation and policies of Sri Lanka lies exclusively with its people and in accordance with the process established in terms of the Constitution of Sri Lanka;

(e) It may also be noted that the Right to Life recognized in the covenant has been guaranteed through judicial pronouncements in the context of the present Constitution;

(f) In 2020, a nine-member expert Committee was appointed by the President to make proposals pertaining to Constitutional amendments /draft a new Constitution.¹ The public has been invited to submit their proposals under nine themes including Fundamental Rights.² The Expert Committee report on constitutional reforms has been handed over to President in April 2022.³

Reply to question 2 of the list of issues

20th Amendment

2. It may be noted that the 19th Amendment to the Constitution was replaced by the 20th Amendment to the Constitution which was adopted with a 2/3 majority of the Parliament on 22 October 2020.

3. In respect of the 20th amendment to the Constitution, the GoSL wishes to point out that the amendment concerned was enacted in full compliance with the procedure set out in the Constitution with regard to enacting legislation, which contains a number of in-built safeguards relating to transparency and judicial review aimed at preventing the passage of bills that are in contravention of the Constitution including its fundamental rights chapter.

4. It is recalled that the Bill was challenged in the Supreme Court of Sri Lanka by several petitioners in special determination no. 1-39 of 2020, with a number of other petitioners also intervening in the proceedings. The Supreme Court submitted its determination on the Bill

¹ Cabinet decision taken on 2020.09.02 - http://www.cabinetoffice.gov.lk/cab/index.php?option=com_content&view=article&id=16&Itemid=49&lang=en&dID=10594.

² http://documents.gov.lk/files/egz/2020/10/2198-13_E.pdf.

³ <https://www.dailynews.lk/2022/04/26/local/277695/committee-constitutional-reforms-report-handed-over>.

to the Parliament of Sri Lanka. Having considered the determination of the Supreme Court, amendments were moved at the Committee Stage of Parliament before the 20th Amendment to the Constitution was enacted with a 2/3 majority of the Members of Parliament voting in its favour. Further details regarding the 20th Amendment are at Annex 1.

Reply to question 3 of the list of issues

Judicial review of the constitutionality of legislation

5. Under Article 75 of the Constitution, the Parliament has the power to make laws.
6. Article 78(2) provides that “the passing of a Bill or a Resolution by Parliament shall be in accordance with the Constitution and the Standing Orders of the Parliament.”
7. The Constitution has provided the right for citizens and the civil society to actively engage in the affairs of the country by challenging the Bills. Any citizen can invoke the jurisdiction of the Supreme Court in terms of Article 121 of the Constitution to determine whether a Bill or any provisions of the Bill are inconsistent with the Constitution:

“121. (1) “The jurisdiction of the Supreme Court to ordinarily determine any such question as aforesaid may be invoked by the President by a written reference addressed to the Chief Justice, or by any citizen by a petition in writing addressed to the Supreme Court. Such reference shall be made, or such petition shall be filed, within one week of the Bill being placed on the Order Paper of the Parliament and a copy thereof shall at the same time be delivered to the Speaker. In this paragraph “citizen” includes a body, whether incorporated or unincorporated, if not less than three-fourths of the members of such body are citizens”.

121. (2) “Where the jurisdiction of the Supreme Court has been so invoked no proceedings shall be had in Parliament in relation to such Bill until the determination of the Supreme Court has been made, or the expiration of a period of three weeks from the date of such reference or petition, whichever occurs first.”

121. (3) “The Supreme Court shall make and communicate its determination to the President and to the Speaker within three weeks of the making of the reference or the filing of the petition, as the case may be.”

8. In terms of the Constitution, the Supreme Court of Sri Lanka has jurisdiction in respect of Constitutional matters.
9. Hence, the Supreme Court has the power to review whether a Bill is inconsistent with the Constitution or whether it requires a special majority in Parliament or whether it requires approval at a referendum.

Reply to question 4 of the list of issues

Status of deliberations in the Supreme Court relating to the Nallaratnam Singarasa v. Attorney General decision of 2006

10. The Supreme Court on 24 July 2020 granted special leave to appeal against the decision of the Court of Appeal writ 697 of 2010, in the case of Jegatheeswaran Sharma Vs. Attorney General and others. The Court further directed that the matter taken before a divisional bench of the SC of 5 judges, in view of the judgement on Nallarathnam Sinharasa. The judgment in the case has been reserved by a divisional bench of the Supreme Court pursuant to conclusion of hearing of the application.

Non-discrimination and equality between men and women (arts. 2, 3, 25 and 26)**Reply to question 5 of the list of issues***Land Development Ordinance*

11. The Land Ordinance Act was amended by Land Development Ordinance (Amendment) Act No 11 Of 2022 certified on 19th March 2022.⁴

Amendment to the Muslim Marriage and Divorce Ordinance:

12. Sri Lanka's legal system is a unique blend of customary and personal laws enriched by history, culture and sacred beliefs of the people who are subject to such laws. This includes laws provided for the self-management of Islamic religious institutions, marriage, divorce and succession laws particular to Sri Lankan Muslims.

13. The objective of introducing amendments is to bring the personal laws into conformity with prevailing international and domestic standards. Personal laws will remain in operation as an integral part of the country's legal system.

14. In this manner, the Muslims of Sri Lanka are governed by their own laws in keeping with their religion and culture.

15. Currently, the Legal Draftsman is in the process of drafting the relevant amendment to the Civil Procedures Code. The General Marriages Ordinance which prohibited those professing Islam to register their marriages under its provisions is to be amended. This will provide an option for Muslims, to either register their marriages under the Muslim Marriage and Divorce Act, or to register their marriages under the General Law, thus expanding the option open to those professing Islam. The purpose of the proposed innovation is to introduce a compulsory requirement relating to the minimum age of marriage. This is to address the serious anomaly of underage girls being given in marriage contrary to basic principles relating to independence of judgment, an out of step with the general laws of the country. This initiative is required to give effect to the country's Treaty obligations.

Equitable representation of women in political and public life

16. In 2017, in order to promote female representation in local government, the Cabinet approved a 25 per cent quota for women in nominations at the Provincial Council Elections. Accordingly, the Local Authorities Elections (Amendments) Act No 16 of 2017 confirms 25% female representation in local government bodies. Women's representation in Local Government bodies has risen to 22% in 2018 with the introduction of a quota for women. Since the introduction of the quota for women, 3 elections were held: Parliament election (2020), Presidential elections (2019) and Local government election (2018).

17. One important feature in the Presidential Elections was that a female candidate contested at the Presidential election after 20 years and secured the 7th place out of 35 contestants. At the Parliamentary elections held in August 2020, 59 female candidates contested, 8 got elected and 4 female candidates were selected on the national list. However, female representation in the Parliament has decreased from 5.8% (2015) to 5.3% in 2020.

18. Advocacy mechanisms have been strengthened to request for quota for women in the Parliament and in Provincial Councils. The number of women political representatives, women's participation in the formulation of government policy, holding public office and performing public functions at all levels of the Government has increased. It is to be noted that when it comes to professional services, participation of women is increasing, but it is purely based on merit, not by quotas on the basis of gender. On the other hand, active leadership roles in politics do not seem to be a preferred choice by the majority of women.

⁴ Land Development Act. No. 11 of 2022 is available at <https://www.parliament.lk/uploads/acts/gbills/english/6245.pdf>.

Reply to question 6 of the list of issues

19. Article 12 of the Sri Lankan Constitution guarantees the right to equality and non-discrimination. Article 12(1) states that “*all persons are equal before the law and are entitled to the equal protection of the law.*” Article 12 (2) specifies that “*no citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any of such grounds*”. In view of Article 12(3), “*no person shall, on the grounds of race, religion, language, caste, sex or any one of such grounds, be subject to any disability, liability, restriction or condition with regard to access to public places.*”.

20. In 2014, Sri Lanka clarified before the Human Rights Committee (under the ICCPR) that the scope of article 12 (1) of the Constitution guarantees equality to persons without exception. In addition, Sri Lanka clarified before the Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Economic, Social and Cultural Rights Committee that the prohibited grounds of discrimination under article 12 (2) of the Constitution are non-exhaustive, and discrimination on the grounds of sexual orientation is implicitly prohibited. Thus, acts that deny equal protection of the law or discriminate on the grounds of sexual orientation are prohibited under the Sri Lankan Constitution. The Government has emphasized before numerous UN treaty bodies, the general right to equality and non-discrimination reflected in the Constitution which implicitly includes non-discrimination on the grounds of sexual orientation. Accordingly, the Government is committed to ensuring that no provision in the law would be applied to persons of the LGBTIQ community in a discriminatory manner.

21. The Supreme Court of Sri Lanka has made a recent pronouncement on Penal Code offences that may be applied to same sex sexual conduct. In SC Appeal 32/11 (2016), the Court acknowledged: “contemporary thinking, that consensual sex between adults should not be policed by the State nor should it be grounds for criminalization.” “While acknowledging that such offences are part of Sri Lanka’s criminal law, the court held that imposing custodial sentences would be inappropriate in cases where the impugned acts were between consenting adults.

Gender-based violence (arts. 2, 3, 6, 7 and 26)**Reply to question 7 (a) of the list of issues***Prevention of Domestic Violence Act*

22. The Prevention of Domestic Violence Act expressly prohibits acts of domestic violence, and complaints made are dealt with by the law enforcement authorities. This law is in force now in redressing the complaints on domestic violence since its enactment in 2005.

23. The Amendments made to the Prevention of Domestic Violence Act No. 34 of 2005 submitted to the Cabinet on the 11th December 2020 are as follows:

- Broadened the categories of public officials who may take legal action on behalf of the aggrieved person;
- Ensuring safety of not only the aggrieved person but also the dependents by issuing an interim order;
- Arrangement of safe housing to the aggrieved person, counseling to address the emotional and mental distress of the aggrieved person;
- Inclusion of “undue hardships the aggrieved person may suffer as a result of any domestic violence if protection order is not issued for the safety of the aggrieved person;
- Focusing not only on the aggrieved person but also their children and dependents in issuing an interim order;
- Securing any minor child from the custody of the respondent temporarily, taking into consideration the best interest of the child.

24. Cabinet sub Committee appointed for scrutinizing the Amendments has cleared it and instructed the Legal Draftsman to go ahead with the procedures.

Reply to question 7 (b) of the list of issues

Measures taken to address gender-based violence

25. The State Ministry of Women and Child Affairs (MWCA) acts as the key line Ministry in prevention of sexual and gender-based violence (SGBV). In 2016, the GOSL adopted a National Action Plan to address Sexual and Gender Based Violence (SGBV), which adopts a three-pronged approach of prevention of sexual and gender-based violence (SGBV), intervention in situations of SGBV, and advocacy for policies and laws to combat and address SGBV. The National Plan of Action to address SGBV (2017-2021) was developed by the Ministry in cooperation with several line Ministries with regular monitoring and providing updates with regard to its activities. Further updates in this regard are at Annex 2.

States of emergency and counter-terrorism measures (arts. 2, 7, 9, 10, 14, 18, 19, 21 and 26)

Reply to question 8 of the list of issues

Public Security Ordinance

26. Notwithstanding the existence of Section 8 in the PSO (Public Security Ordinance), in the field of Public Law of Sri Lanka, the Judiciary has interpreted the said provision in a manner that enables courts to judicially review and take appropriate action with regard to decisions and actions taken by the Executive in terms of the PSO. Thus, both the declaration of emergency in terms of section 5 of the PSO as well as individual regulations made in terms of section 5 have come up for judicial review both from the perspective of the vires of the exercise of statutorily conferred power by the President, as well as from the perspective of compliance with fundamental rights. In such situations, courts have never held that judicial review of executive decision-making was excluded by the PSO.

27. For example, in *Kumaratunga v. Samaratunga* [1983] 2 Sri. L.R. 63, it was held by the Supreme Court that notwithstanding section 8 of the PSO and the immunity conferred on the President by Article 35 of the Constitution, the lawfulness of regulations made by the President in terms of section 5 of the PSO can be challenged by invoking the fundamental rights jurisdiction of the Supreme Court on the footing that the impugned regulation is inconsistent with the provisions of the Constitution (including fundamental rights).

28. This position has been reiterated in *Siriwardene and others v. Liyanage and others* [1983] 2 Sri. L.R. 164, where the court held that such clauses (such as Section 8) cannot hamper the operation of judicial scrutiny.

29. There is a firm judicial policy against allowing the Rule of Law to be undermined by weakening the power of court. Statutory restrictions on judicial remedies are given the narrowest possible construction, sometimes even against the plain meaning of the words. The court held that finality is good, but justice is better.

30. Thus, the finality clause in section 8 does not preclude superior courts from examining and ruling upon the validity of an order made under any Emergency Regulation.

31. In *Janatha Finance & Investments Ltd. v. Liyanage and others* [1983] 2 Sri. L.R. 111, this position was reiterated specifically by the Supreme Court which held that neither the provisions of section 8 of the PSO nor section 22 of the Interpretation Ordinance operate to oust fully and finally the jurisdiction of courts. The same position was upheld by the Supreme Court in the case of *Karunathilaka v. Dayananda Dissanayake* [1999] 1 Sri. L.R. 157).

32. In *Wickremabandu v. Herath* (1990) 2 Sri. L.R. 348, the Court held that a detention order under the PSO could be judicially reviewed on the tests of improper purposes, unreasonableness and bad faith.

33. Moreover, persons acting under the PSO have not been afforded blanket immunity from suit and are regularly made party to the fundamental rights jurisdiction of the Supreme Court and the habeas corpus jurisdiction of the Court of Appeal.

Emergency Regulations in 2019 following the Easter Sunday Attack

34. On the Easter Sunday of 2019 (21 April 2019) Sri Lanka experienced a series of heinous terrorist attacks by persons inspired by the ISIS ideology, resulting in the loss of over 250 innocent lives and injuring several hundreds.

35. Sri Lanka took immediate action to respond to this grave threat, and a State of Emergency was declared with a view to ensuring the safety of the public and to uphold law and order. It must be noted that the Emergency Regulations were extended in the interest of public security and the preservation of public order, and also to enable those in custody to be kept in custody pending further investigations. Furthermore, as it was felt that road checks and guarding of vulnerable locations, including school, religious institutions and diplomatic missions was still necessary and that it be best attended to by the Security Forces. The Emergency Regulations were necessary to empower the Armed Forces to carry out their duties. It is important to acknowledge in this regard the understanding and support extended by all stakeholders, in particular members of the Muslim community, who have cooperated with the government and the security forces in identifying terrorist elements and preventing further attacks.

36. The continued resilience of Sri Lanka's security forces to protect the country and its people, while ensuring fundamental rights was witnessed during this time. These range from the speedy restoration of security which has minimized the impact on the country's socio-economic fabric, providing the ICRC full access to individuals detained, while taking steps to address hate speech and all forms of crimes directed against ethnic and religious communities and to counter religious radicalization and violent extremism.

Reply to question 9 of the list of issues

Prevention of Terrorism Act (PTA)

37. The Prevention of Terrorism Act (PTA) has been enacted in Sri Lanka in 1979 as a response to a developing terrorism threat. Taking cognizance of the concerns related to several provisions of the PTA, successive Governments have attempted to amend the provisions or repeal the PTA and to introduce comprehensive legislation with regard to Counter Terrorism Law in line with international standards.

38. While the previous Government too attempted to repeal the PTA and introduce new counter terrorism legislation, it had not been completed for over 04 years due to lack of consensus to pass the legislation in Parliament, and the resistance of trade unions, student and religious groups and others based on its impact on freedoms. Although the PTA had been placed in abeyance by the previous Government, with the Easter Sunday attacks in April 2019, the PTA became instrumental in the arrests that followed to stop a second wave of attacks.

39. The GoSL commenced the process of revisiting provisions of the PTA in order to identify the provisions of the PTA that are of concern, domestically and internationally, and ensuring that Sri Lanka's national security concerns are balanced with Sri Lanka's human rights undertakings as well as with international best practices.

40. The Cabinet of Ministers granted approval on 21st June 2021 to appoint a Cabinet Sub-committee and an Officials Committee to revisit the PTA. The Officials' Committee comprised representatives from the Ministries of Foreign Affairs, Justice, Public Security, Defence, and the Attorney General's Department and the Legal Draftsman. The report of the Officials' Committee was submitted to the President and the members of the Cabinet Sub-Committee and Secretary to the President on 15.11.2021. Having reviewed the proposals of the Officials' Committee, the Cabinet Sub Committee conducted further consultations with selected Parliamentarians and other government agencies and experts. The Cabinet Sub Committee also conducted discussions on the proposed amendments to the PTA with the

Law Commission of Sri Lanka, Bar Association of Sri Lanka and civil society groups. Proposals were received for consideration verbally and through written submissions.

41. On 22 March 2022, the PTA Amendment Bill was passed in the Parliament. The Bill amended the present PTA after almost 43 years. The Prevention of Terrorism (Temporary Provisions) (Amendment) Act. No. 12 of 2022 was certified on 29 March 2022.⁵ The reform of the PTA is an important pillar of the Governments priority to address human rights and reconciliation through domestic processes. The proposed amendments are an interim measure towards the promulgation of a more comprehensive anti-terror legislation.

Detainees under the PTA

42. The President of Sri Lanka has appointed the Advisory Board in terms of Section 13 of the PTA and two other members of the Advisory Board on 24 August 2021. Any person who has been issued a Detention Order or a Restriction Order under the PTA, or any person representing him/her, can make representations to this Advisory Board. The Advisory Board may then advise the Minister on the Order issued. This Board therefore, presents an opportunity for those detained or restricted under the PTA to request a review of the Order.

43. The legal and administrative process has been set in motion to release detainees who have been in judicial custody for extended periods under charges relating to the PTA. As at 18 February 2022, the GoSL has taken action to release 81 persons who were detained under the PTA. Furthermore, instructions have been issued to all Police Officers with regard to conducting of investigations in terms of the PTA, including treatment of suspects in detention.

44. Detention orders issued by the President under the Prevention of Terrorism Act (hereinafter referred to as the PTA) as qua Minister of Defence and all acts performed by other persons under the Prevention of Terrorism Act are amenable to judicial review before the Court of Appeal in the exercise of the Writ jurisdiction under Article 140 of the Constitution and under Article 126 of the Constitution in terms of the Fundamental Rights jurisdiction. Apart from the judicial oversight, it is also relevant to note the following administrative oversight that the PTA provides over person's subject to the Prevention of Terrorism Act.

45. In this regard, specific reference is made to the provisions of Section 28 of the Human Rights Commission Act of 1996 which provides as follows:

“Duty to inform the Human Rights Commission of arrest or detention under the PTA and power of the Commission. Section 28 of the Human Rights Commission Act No. 21 of 1996 provides as follows:

28. (1) Where a person is arrested or detained under the Prevention of Terrorism (Temporary Provision) Act, No. 48 of 1979 or a regulation made under the Public Security ordinance, (Chapter 40) it shall be the duty of the person making such arrest or order of detention, as the case may be, to forthwith and in any case, not later than forty-eight hours from the time of such arrest or detention, inform the Commission of such arrest or detention as the case may be and the place at which the person so arrested or detained is being held in custody or detention. Where a person so held in custody or detention is released or transferred to another place of detention, it shall be the duty of the person making the order for such release or transfer, as the case may be, to inform the Commission of such release or transfer, as the case may be, and in the case of a transfer to inform the Commission of the location of the new place of detention;

(2) Any person authorised by the Commission in writing may enter at any place of detention, police station, prison or any other place in which any person is detained by a judicial order or otherwise, and make such examinations therein or make such inquiries from any person found therein, as may be necessary to ascertain the conditions of detention of the persons detained therein;

⁵ Prevention of Terrorism (Temporary Provisions) (Amendment) Act. No. 12 of 2022 is available at <https://www.parliament.lk/uploads/acts/gbills/english/6246.pdf>.

(3) Any person on whom a duty is imposed by subsection (1), and who willfully omits to inform the Commission as required by subsection (1), or who resists or obstructs an officer authorized under subsection (1) in the exercise by that officer of the powers conferred on him by that subsection, shall be guilty of an offence and shall on conviction after summary trial by a Magistrate, be liable to imprisonment for a period not exceeding one year or to a fine not exceeding five thousand rupees, or the both such fine and imprisonment.”.

46. Apart from the said power conferred on the Human Rights Commission, it also pertinent to note that pursuant Sri Lanka’s accession to the OPCAT on 5th December 2017, the Human Rights Commission of Sri Lanka has been designated as the National Preventive Mechanism in terms of Articles 3 and 17 of the OPCAT.

47. Further the provisions of Section 12 of the OFFICE ON MISSING PERSONS [ESTABLISHMENT, ADMINISTRATION AND DISCHARGE OF FUNCTIONS] ACT, No. 14 OF 2016 that provides for the powers of investigation of the Office of Missing Persons envisages thus:

“12 (f) to authorize in writing a specified officer of the OMP, to enter without warrant, at any time any place of detention, police station, prison or any other place in which any person is suspected to be detained, or is suspected to have previously been detained in, whether by judicial order or otherwise and make such examinations therein or make such inquiries from any person found therein, to ascertain the conditions of detention and retain any documents or objects, as may be necessary;

For the purposes of this paragraph, the Minister assigned the subject of Justice shall make guidelines for the conduct of the search and place it before Parliament within a period of three months;

The OMP shall inform the Inspector General of Police within twenty-four hours of conducting the search without a warrant;”.

48. As such, the Office for Missing Persons has also been conferred the powers to enter without warrant, at any time any place of detention, police station, prison or any other place in which any person is suspected to be detained and make such examinations therein or make such inquiries from any person found therein, to ascertain the conditions of detention.

49. The above are a few of the statutory safeguards available in addition to other administrative procedures available to protect the rights of persons subject to the PTA.

Accountability for serious human rights violations and the right to an effective remedy (arts. 2, 6, 7, 9, 14, 16, 18, 19 and 26)

Reply to question 10 of the list of issues

Status of transitional justice and other measures

50. Taking into consideration domestic priorities and in accordance with the mandate received by H.E the President at the Presidential Election held in November 2019, Sri Lanka has withdrawn from the co-sponsorship of Resolution 40/1 of March 2019 on ‘Promoting reconciliation, accountability and human rights in Sri Lanka’, which also incorporates and builds on preceding Resolutions 30/1 of October 2015 and 34/1 of March 2017.

51. With regard to resolution 30/1, the GoSL wishes to highlight that Sri Lanka’s withdrawal from the said resolution was based on the serious constitutional, substantive and procedural issues which the country and its people had to encounter pursuant to the then Government’s decision to co-sponsor the resolution without the concurrence of the Parliament on a matter concerning the sovereignty of the nation and in contravention of its Constitution. These grounds were explained in detail in the statement delivered by the Hon. Minister of Foreign Affairs of Sri Lanka at the High Level Segment of HRC43.

52. It is reiterated that the present Government, which was elected to Office with a clear mandate of the people of Sri Lanka, undertook to look at deliverable measures of reconciliation as backed by the mandates given by the people, in the interest of Sri Lanka,

within its constitutional framework instead of opting to continue on a framework driven externally that has failed to deliver genuine reconciliation for over four and half years.

53. HRC Resolution 46/1 adopted in March 2021 was presented to the HRC without the consent of Sri Lanka as the country concerned following a divided vote in the Council. This resolution politicized and divided the Council by flouting its founding principles of impartiality, objectivity and non-selectivity as enshrined in the UNGA resolution 60/251 and the IB package HRC Resolution 5/1 and 5/2. Sri Lanka rejects the Resolution 46/1 containing the external evidence gathering mechanism in operative paragraph 06 (OP6). Sri Lanka is of the view that this mechanism is unhelpful to the people of Sri Lanka, will polarize Sri Lankan society and adversely affect economic development, peace and harmony at a challenging time. It created opposition and division in the Council on North –South lines and is contrary to the objective of dialogue and international cooperation in the promotion and protection of human rights. It is an unhelpful and unproductive drain on Member State resources at a time of severe financial shortfalls across the entire multilateral system including in the High Commissioner’s Office arising from one of the most severe economic recessions faced by Member States in recent history aggravated by the pandemic.

54. Notwithstanding this Resolution, Sri Lanka will continue its decades-long policy of engagement with the United Nations as well as with the international community in a spirit of cooperation and dialogue with regard to the promotion and protection of human rights. We will abide by our human rights obligations guaranteed by our Constitution and the international obligations we have voluntarily undertaken.

55. The GoSL will also continue to demonstrate to its people and to the international community including through the Office of the High Commissioner for Human Rights our progress on matters related to reconciliation, accountability and human rights through domestic processes. A note on progress made with regard to human rights and reconciliation as of March 2022 is at Annex 3.

Review of the Protection of Victims of Crime and Witnesses Act No. 4 of 2015

56. The process of reviewing the present Victims & Witness protection Authority Act No. 04 of 2015 has been completed. Section 31 of the principle enactment has already been amended in terms of Assistance to and Protection of Victims of Crime and Witnesses (Amendment) Act, No.27 of 2017 by incorporating the necessary provisions to record any evidence or statement of any victim of crime or witness from any remote location outside Sri Lanka at the diplomatic mission in the country from where such victim of crime or witness seeks to testify or make the statements through contemporaneous Audio-Visual Linkage. The Assistance to Protection of Victims of Crime and Witnesses Act No. 4 of 2015 as amended provides for adequate legal protection for victims and witnesses and currently the said provisions has been thoroughly reviewed for the purpose of introducing new safeguards, to be on par with international best practices and norms.

57. Further, a draft Bill was prepared assuring the provisions of the Act to be in par with international best practices and standards. The proposed new Legislation to replace the Assistance to and Protection of Victims of Crime and Witness Act mainly focuses on the following: The purpose of the Bill is for the setting out of rights and entitlements of victims of crime and witnesses and their protection and promoting such rights and entitlements, to give effect to appropriate international norms, standards and best practices, relating to the assistance and protection of victims of crime and witnesses. In addition, for the purpose of establishing the National Authority for the Protection of Victims of Crime and Witnesses and to provide for the creation of the victims and witnesses assistance and protection fund and for the payment of compensation.

Progress made in investigations

58. The Criminal Investigation Department (CID) arrested 13 suspects in this connection and proceedings have been initiated against the suspects on 18.07.2013 under the Trincomalee M/C Case No; NS4634/PC/13 in terms of the sections 296 and 300 of the Penal Code as advised by Hon. Attorney General. The main witness of this case was one Dr. K. Manoharan, a parent of one of the missing students and the CID was trying to trace him as

he is staying in a foreign country but the CID was unable to locate him or his whereabouts. Therefore, on 03.07.2019, the Chief Magistrate of Trincomalee discharged the accused as there is no prima-facie case due to insufficient evidence. However, the Magistrate has stated that the discharge of the accused doesn't prevent Attorney General from re-initiating a non-summary if new material evidence is discovered.

59. With regard to the death of 5 students in Trincomalee, it is noted that the Parliament of Sri Lanka, in 2017, passed an amendment to the Protection of Victims of Crime and Witnesses Act. The amendment was aimed at enabling the leading of evidence from remote locations through an audio-visual linkage, particularly in cases such as that of Dr. Kasipillai Manoharan, the father of one of the deceased students and a key witness in the case who was unwilling to visit Sri Lanka to testify at the trial in the Trincomalee High Court. However, the said witness has yet to avail of the above facility afforded through a legislative amendment.

60. 13 suspects had been arrested in respect of the incident and non-summary proceedings had been initiated in Trincomalee Magistrate Court. However, the suspects have been discharged by the Magistrate on 03.07.2019 due to insufficient evidence.

61. With regard to investigation on the death of 17 Humanitarian workers of the non-governmental organization action contre la faim, in Muttur in August 2006, the Criminal Investigation Department has initiated investigation and 21- LMG Weapons, 188- T56 Weapons have been taken from the First Commando Regiment of Sri Lanka Army and sent to Government Analyst for ballistic examination. The report has now been received and is receiving consideration. The facts have been reported to Muttur Magistrate Court under BR 843/2008.

Reply to question 12 of the list of issues

62. The GoSL has consistently refuted the credibility of the false and unsubstantiated allegations leveled against General Shavendra Silva, the present Commander of Sri Lanka Army and Actg. Chief of Defence Staff (CDS), which have been repeated in the Report of the High Commissioner for Human Rights by citing "the United Nations Secretary-General's Panel of Experts on Accountability in Sri Lanka and the OHCHR Investigation on Sri Lanka".

63. In this regard, the GoSL wishes to highlight the following important facts:

(a) It must be reiterated that Gen. Silva was appointed as the Commander of the Army by the then Head of State, taking into account his seniority and that there were no substantiated or proven allegations of human rights violations against him. His elevation as the Actg. Chief of Defence Staff (CDS) by the current Head of State President Gotabaya Rajapaksa was on account of his being the senior most serving military officer, on the retirement of the previous CDS;

(b) The statements in this regard are based on much disputed ex-parte reports. The OISL Report of 2015 also made clear that it was "a human rights investigation and not a criminal investigation" and that "the names provided in the description of the chain of command do not imply criminal responsibility for those particularly alleged violations listed in this report, either as direct responsibility or under command or superior responsibility. Individual criminal responsibility can only be determined by a Court of Law with all necessary due process guaranteed." The Darusman Report of 2011 was so seriously flawed that the Human Rights Council at the time had rejected to issue it with a formal number, as a UN document;

(c) The Lessons Learnt and Reconciliation Commission (LLRC) as well as the Paranagama Commission reports, which were domestic processes that examined the allegations particularly with regard to the last stages of the conflict, have not found substantive evidence against the conduct of the current Army Commander, who has testified in person before both Commissions.

64. In view of the foregoing, Sri Lanka considers that the continued arbitrary accusations made against Lt. Gen. Silva in OHCHR Reports and other statements made in this Council and unilateral actions by certain countries, are unacceptable and a violation of the principles

of natural justice. We also stress that there are no proven allegations against individuals on war crimes or crimes against humanity in the OISL report or in any subsequent official document. It is an injustice to deprive any serving or retired officer of the Sri Lankan security forces or the police of their due rights.

65. After the end of the Humanitarian Operation, General Shavendra Silva held the appointment with the rank of Ambassador and the Deputy Permanent Representative of Sri Lanka to the United Nations in New York from 2010-2015. In addition, he was the alternative representative of Sri Lanka to the United Nations Special Political and Decolonization Committee from 2010 to 2015 and also the Advisor of the Sri Lankan delegation to the United Nations Social, Humanitarian and Cultural Affairs Committee. During his tenure of office in the UN, he represented the Sri Lankan delegation in the UN General Assembly sessions on several occasions. During the period of the UN engagement, no accusations were made against Lieutenant General Shavendra Silva personally. But the alleged accusations came into light with his appointment as the actg. Chief of Defence Staff in particular.

66. A person cannot be found guilty of any offence in the absence of adopting the principles of natural justice, the rules against bias and right to fair hearing. In terms of Article 13(5) of the Constitution of Sri Lanka, a person is presumed to be innocent until he is proved guilty by a competent court which is a fundamental principle of any legal system. The Commander of the Army is alleged to have accused without considering the aforesaid fundamental principles of law.

67. Further, the following two Presidential Commissions at national level and a Court of Inquiry at Army level were appointed to probe into the alleged incidents against security forces after the end of Humanitarian Operation:

- (a) Second Mandate of the Presidential Commission of Inquiry into Complaints of Abductions and Disappearances (Paranagama Commission);
- (b) Report of the Commission of Inquiry on Lessons Learnt and Reconciliation (LLRC);
- (c) Court of Inquiry appointed by the Army Headquarters.

68. None of the aforesaid commissions or the Inquiry has made any accusations against Lieutenant General Shavendra Silva individually or collectively.

69. When Army officers are promoted/ appointed to higher ranks/ appointments based on their performance and conduct through a well-established vetting procedure. Accordingly, officers recommended for promotions/appointments should be free from any conviction or pending inquiry of human rights violations. Prior to Army officers being recommended for promotion to higher ranks/appointments, officers are screened through clearance procedure from the relevant authorities.

Reply to question 13 of the list of issues - Office for Reparations (OR)

70. Reparations Policy: The Reparations Policy has been tabled in the Parliament on 09 February 2022. The Policy and Guidelines were approved by the Cabinet previously in August 2021 and implementation of activities to support aggrieved persons had commenced even prior to that, in compliance with the statutory provisions. As set out in the Policy, the OR has identified several initiatives under the 8 support areas which are – Provision of Livelihood Support, Compensation and Financial Support, Restitution of Land Rights, Provision of Housing, Development of Community Infrastructure, Administrative Relief, Psychosocial Support and Measures to advance unity, reconciliation and non-recurrence of violence. Currently, the OR has engaged in developing required programmes for field level implementation.

71. Payment of monetary compensation: the Office for Reparations (OR) processed 5,964 claims for payment by the end of 2021 and paid a sum of Rs. 399.8 million in settlement, and Out of the allocated sum of Rs. 800 million (88.9% of its total Recurrent expenditure budget), the OR needed only Rs. 399.8 million to make payments to the claimants of files that were processed and hence requested only that sum from the Treasury. The restrictions imposed

during the COVID-19 pandemic to ensure the safety and the health of the staff affected the capability of the Office to complete the processing of more claims.

72. Disaggregation of data regarding compensation payment: The OR records disaggregated data only according to the incident of violence (ie. whether North East conflict, Easter Bomb attack, or other incidents from 2006 to 2019) and the category of the claim, ie, whether for death, injury or damage to property. The concept of reparations is based on the need to provide relief for violations that breach human rights and hence any other disaggregation is not possible.

73. The OR Act provides for the appointment of the five Members of the Office for Reparations to be made by the President, on the observations of the Parliamentary Council. All the powers, duties and functions of the OR are subject to judicial oversight and as such the OR is required to perform all its powers and functions according to its statutory mandate.

Reply to question 14 of the list of issues - The Office on Missing Persons (OMP)

74. The Office on Missing Persons (OMP) continues to operate with financial provisions allocated for its statutory functions. In order to meet the grievances of those affected and to meet the reconciliation efforts, the Office on Missing Persons (OMP) takes a victim-centric approach in its public engagement and decision- making process.

75. The Commissioners have been appointed based on their expertise and experience, who have taken measures to expedite the OMP's work. The appointments of the chairperson and the commissioners are based on expertise and professional qualifications, with a view to effective implementation of the mandate of the OMP detailed in the Act and its Action Plan. The functions of the OMP are regulated by the OMP Act. The board of members of the OMP includes ethnic and gender diversity and professional experiences. The board takes decisions independently through consultations and discussions.

76. With regard to OMP's engagement with the public, the OMP has published a newspaper notification in which the general public were informed to view/verify the details of the complaints on the OMP website and it was requested that if the details of their complaints are not available in the website, to provide information no later than 03rd of February 2022. A high turnover was received in response to this newspaper notification. More than 68% (of 5,454 families) have responded to the OMP in which the families have submitted additional information. The OMP also conducted panels of inquiries on 583 complaints as a part of the verification process. There was a high turnout at the inquiries conducted by the OMP. More than 78% persons (323 of the people out of 412 applicants who have been invited for inquiries) have met the panel members and provided information. These examples show the level of confidence in the OMP, and the OMP will take efforts continuously in improving confidence, and building trust of the public by adopting strategies in the near future.

77. With regard to Certificate of Absence, a Gazette notification⁶ was issued on 2021.10.26 to extend the validity of the operation of the provisions of Registration of Deaths (Temporary Provision) Act, No. 19 of 2010, by another two years from 09th of December 2021 to 09th of December 2023. The OMP has requested the Central Bank of Sri Lanka to re-circulate guidelines to all the financial institutions, emphasizing the importance of recognizing Certificate of Absence (CoA) as a legal document. For further details regarding the work of the OMP, please refer to Annex 3.

⁶ Extraordinary Gazette No. 2251/21 dated 2021.10.26-
http://documents.gov.lk/files/egz/2021/10/2251-21_E.pdf.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 6, 7, 9 and 14)**Reply to question 15 of the list of issues***Moratorium on the death penalty*

78. Sri Lanka continues to maintain a Moratorium on the death penalty since 1976, despite statements on its re-imposition being made from time to time. Sri Lanka has voted in favour of the biennial UNGA Resolution on the universal Moratorium on the death penalty in 2007, 2008, 2010, 2016, 2018 and as recently as in 2020.

79. As a mature democracy, Sri Lanka believes in accommodating a diverse spectrum of views on any issue of public interest, and the discourse pertaining to the reimplementing of the death penalty. In contrast to serious and repeated concerns raised in 2019 on possible revoking of the moratorium on the death penalty, no firm decision has been taken by the Government, to date, to resume implementation of the death penalty and the execution of death penalty. While the de facto moratorium continues, the Supreme Court is presently considering several Fundamental Rights Cases on the implementation of the death penalty, and has issued an interim order staying execution.

Reply to questions 16, 17 and 18 of the list of issues

80. The Government of Sri Lanka takes allegations of torture very seriously and remains firmly committed to taking all steps to have such allegations investigated and prosecuted, to the full extent of the law. A significant step in this regard was Sri Lanka's accession to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, on 5 December 2017. The UN Sub Committee on Prevention of Torture (SPT) undertook a visit to Sri Lanka from 2-12 April 2019. During their visit, the SPT delegation had unhindered access to all places of detention.

81. The following legal safeguards inter alia are available for any person who has been taken into police custody to ensure that he/she is not subject to ill treatment:

i. Regulations published in Gazette No. 1758/36 dated 18 May 2012 entitles an Attorney-at-law representing the interest of a suspect held in police custody to meet with the Officer in Charge of the relevant police station;

ii. Section 15(3) of the Enforced Disappearance Act stipulates that the Human Rights Commission of Sri Lanka shall have access to the places where persons are deprived of liberty. The Commission is also mandated to 'monitor the welfare of persons detained either by a judicial order or otherwise, by regular inspection of their places of detention, and to make such recommendations as may be necessary for improving their conditions of detention.';

iii. On 17 June 2016 directions were issued, requiring the military and the Police to ensure that fundamental rights of persons arrested or detained are respected and that such persons are treated humanely; and to assist and facilitate the Human Rights Commission of Sri Lanka to exercise and perform its powers, functions and duties;

iv. In terms of the provisions of the Human Rights Commission of Sri Lanka Act, if an arrest or detention is made under the Prevention of Terrorism Act or the Public Security Ordinance, the Commission should be informed of such arrest/detention and the place at which the person is being held in custody/detention. The Commission should also be kept informed of any release or transfer to another place of detention;

v. Further, the Government of Sri Lanka entered into an agreement with the International Committee of the Red Cross (ICRC) on 7th June 2018 to inter alia ensure that ICRC gains access to all detainees;

vi. The OMP Act authorizes a specified officer of the OMP to enter without a warrant any time any place of detention in which any person is suspected to be detained

in, or is suspected to have previously been detained in whether by judicial order or otherwise and make examinations;

vii. The Criminal Procedure Code Act No. 15 of 1979 of Sri Lanka was recently amended by Criminal Procedure Code Amendment Act no. 14 of 2021 vesting the power to the relevant Magistrate to visit a police station at least once a month to personally see a suspect in police custody, to look into his well being and to record any complaints that the suspect may make.

82. Magistrates have the judicial discretion to either observe the person produced before him or for the person concerned or the Attorney-at-Law representing such person to draw the attention of magistrate of any potential ill treatment in custody.

83. Recognizing the importance of the matter, the Judicial Service Commission has already issued a circular to all Magistrates, requiring them to inquire and inspect as to whether the suspect has been subjected to torture during and after arrest and before production in Court. The Judges Training Institute has a training module on detection of custodial torture. Further details about steps taken to address prison overcrowding and treatment of detainees is at Annex 4.

Unlawful/unofficial detention:

84. The Government has categorically stated that no secret or unofficial detention centres operate in Sri Lanka. It is also important to note that the International Convention for the Protection of All Persons from Enforced Disappearance Act, which was enacted by Parliament, in Section 15, makes it a criminal offence for any person to be held in secret detention and provides for a number of safeguards for any person who is taken into legal detention as well.

Role of the Human Rights Commission of Sri Lanka

85. It is important to note that the Human Rights Commission of Sri Lanka was designated as the national preventative mechanism, in terms of the obligations under the Optional Protocol to the Convention against Torture. In the circumstances the Human Rights Commission too has access to places of detention.

Independent body to investigate complaints:

86. Acting in terms of its Constitutional mandate, the Police Commission has set in motion a procedure to investigate complaints against Police officers or the Police Force through the Rules of Procedure for Public Complaints Investigation. The National Police Commission has gazette the said procedure on 27 November 2017. Further the procedure to be followed and contact details have been also posted on the National Police Commission website.

87. With regard to allegations involving members of the armed forces, it is noted that, in addition to the remedies against torture available under the general law of the country, action under the military law can be instituted against the alleged perpetrators through Court Marshal under the Army Act, Navy Act and Air Force Act.

Reply to question 19 (a) of the list of issues

Placement of persons with psychosocial or intellectual disabilities

88. The Ministry of Health has three types of residential care facilities for persons with mental conditions. In addition to acute psychiatric units, there are long stay units and medium stay units. Medium stay units are organized for people who can be rehabilitated and maximum stay in it is up to six months. Guidelines also have been prepared to streamline the functioning of these units. Further, Directorate of Mental Health aims to establish at least one such unit per district in the future. The long stay units are providing a service option with a long-term treatment and support in a residential setting for persons with severe mental illness, who are unable to live independently and who don't have a care taker to provide support. With regard to the judicial review of decisions relating to psychiatric treatments,

the Directorate of Mental Health had recommended some amendments to the existing Mental Health Act and they are under consideration.

Independence of the judiciary, administration of justice and fair trial (art. 14)

Reply to questions 20 and 21 of the list of issues

Independence of the judiciary

89. As per Article 107 of the Constitution of the Democratic Socialist Republic of Sri Lanka, the Chief Justice, the President of the Court of Appeal and every other judge of the Supreme Court and of the Court of Appeal shall be appointed by the President by warrant under his hand. All such appointments shall be subject to the process set out in Article 41 A of the Constitution in order to secure the independence of the judiciary.

90. Every such judge shall hold office during good behavior and shall not be removed except by the order of the President made after an address of Parliament supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehavior or incapacity:

91. Provided that no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of Parliament, unless notice of such resolution is signed by not less than one-third of the total number of Members of Parliament and sets out full particulars of the alleged misbehavior or incapacity.

92. The Parliament shall by law or by Standing Orders provide for all matters relating to the presentation of such an address, including the procedure for the passing of such resolution, the investigation and proof of the alleged misbehavior or incapacity and the right of such judge to appear and to be heard in person or by representative.

93. As per Article 111 of the Constitution, the Judges of the High Court shall, on the recommendation of the Judicial Service Commission, be appointed by the President by warrant under his hand and such recommendation shall be made after consultation with the Attorney General and be removable and be subject to the disciplinary control of the president on the recommendation of the Judicial Service Commission.

94. In view of chapter XV A of the Constitution of the Democratic Socialist Republic of Sri Lanka, the provisions relating to the Judicial Service Commission is included and as per Article 111D, the aforesaid Judicial Service Commission consists of the Chief Justice and the two most senior Judges of the Supreme Court appointed by the President, subject to the provisions of Article 41 A. The Judicial Service Commission is vested with the power to:

- (a) Transfer judges of the High Court;
- (b) Appoint, promote, transfer, exercise disciplinary control and dismiss judicial officers and scheduled public officers.

95. The Commission is empowered to make Rules regarding training of Judges of the High Court, the schemes for recruitment and training, appointment, promotion and transfer of judicial officers and scheduled public officers.

96. The aforesaid provisions contained in the Supreme Law of the country ensures the judicial independence.

97. According to Article 3 of the Constitution, sovereignty rests with the people, and includes the power of government, fundamental rights and franchise. Article 4 vests the exercise of the legislative power of the people in Parliament, and the exercise of the executive power of the People including the defense of Sri Lanka in the President. Except the powers pertaining to Parliamentary privileges and immunities, the judicial power of the people is exercised by Parliament through courts, tribunals and institutions created and established or recognized by the Constitution, or created and established by law.

98. The independent processes that are followed regarding appointment, transfer, disciplinary control of judges has ensured that that the persons who are appointed and who serve as judges are reputable and competent. In addition, members of the Sri Lanka judiciary participate in training programmes in Sri Lanka as well as abroad, and the Sri Lanka Judges Institute (an independent body) is engaged in providing capacity building programmes for members of the judiciary.

Composition of the judiciary

99. In Sri Lanka, judges are selected and appointed exclusively on a merit-based system, with a view to ensuring utmost reasonableness and recognition of excellence in the process. The independent procedure that is followed in the appointment of judges, supplements this merit-based system. As such, the composition of the judiciary, on lines of ethnicity, religion or other such grounds, may vary from time to time, depending on the candidates who are appointed to the judiciary based on merit.

100. By the introduction of Judicature (Amendment) Act, No. 26 of 2017, the numbers of High Court judges were increased from 75 to 110, enabling the expeditious disposal of cases and to ensure justice at the earliest.

101. As a measure of addressing the delays of justice, the 20th Amendment to the Constitution provided for an increase of the number of judges of the Superior Courts. Accordingly, on 1 December 2020, 6 new judges were appointed to the Supreme Court while 14 judges were appointed to the Court of Appeal.

102. Introduction of the ‘Permanent High Court at Bar’ in view of the enactment of the Judicature (Amendment) Act , No.9 of 2018, for prosecutions on indictment against any person , in respect of financial and economic offences specified in the 6th schedule of the Act.(The offences prescribed in the aforesaid schedule includes certain specified offences from the Penal Code, offences under the Prevention of Money Laundering Act, No.5 of 2006, Bribery Act, Offences against Public Property Act No. 12 of 1982, Convention on the Suppression of Terrorist Financing Act, No. 25 of 2005, Banking Act No. 30 of 1988 etc.)

103. The Sri Lankan Constitution provides and secures the language rights of the citizens. Accordingly, as per Article 18, the official language of Sri Lanka shall be Sinhala and Tamil shall also be an official language. Further, English shall be the link language.

104. In addition, the National languages of Sri Lanka shall be Sinhala & Tamil in view of Article 19 of the Constitution. As per Article 20 a member of Parliament or a member of a Provincial Council or a Local Authority shall be entitled to perform his duties and discharge his functions in Parliament or in such Provincial Council or Local Authority in either of the National Languages.

105. The Article 21 of the Constitution states that a person shall be entitled to be educated through the medium of either of the National Languages. The Article 23 of the Constitution specifies the language of legislation. Accordingly, all laws and subordinate legislation shall be enacted or made and published in Sinhala & Tamil, together with a translation thereof in English. In addition, all Orders, Proclamations, Rules, By-laws, Regulations and Notifications made or issued under any written law by any Provincial Council or Local Authority and the Gazette shall be published in Sinhala and Tamil together with a translation thereof in English. Article 24 of the Constitution specifies the languages of the Courts. Accordingly, Sinhala & Tamil shall be the languages of the Courts throughout Sri Lanka.

Internally displaced persons, refugees and asylum seekers (arts. 2, 7, 12, 13, 17 and 26)**Reply to question 22 of the list of issues***Land release and resettlement of IDPs*

106. A process is already in place, led by the Ministry of Defence, in order to expedite releasing of remaining private lands which are no longer required for security purposes, under a proper land release process.

107. More than 92 % of the private lands occupied by the military at the end of the conflict in year 2009 have been released to the legitimate civilian owners, through local government authorities. Total extent of private lands released by the Armed Forces from year 2009 to 25 January 2022 is 26,017.96 acres, which is 92.42%.

108. Once the final decision has been taken with regard to the exact number of private lands which could not be released due to national security concerns and requirements, necessary compensation mechanism will be initiated, in accordance with the procedures established by law.

109. As at 25 January 2022, a total number of 8,090 persons (2,651 families) remain to be resettled. Out of these 963 persons (291 families) live in welfare centres while 7,127 persons (2,360 families) live with family or friends. Action is being taken to verify the final figure of the remaining IDPs and to find solutions to their problems.

Reply to question 23 of the list of issues*Situation of asylum seekers and refugees*

110. Following the incidents on 21 April 2019, the Government has guaranteed the safety and security of the displaced asylum seekers and refugees in collaboration with the UNHCR. Over 1,100 asylum-seekers and refugees were relocated to more secure venues, voluntarily, as a precautionary measure. Some have returned to their original places of residence in recent weeks. The Police and Army have provided security to the locations, where the refugees are currently housed and the GoSL, the UNHCR and NGOs are providing food, health and other services.

111. At present, there is no record or report of reprisals, physical attack, or any form of violence against asylum seekers and refugees. This clearly evidences the Government's commitment to ensuring the safety and well-being of these vulnerable persons, despite Sri Lanka not being a party to the 1951 Refugees Convention.

112. In view of space constraints at the Mirihana Detention Centre, measures have been taken to address some of the logistical issues including space and facilities.

Non-discrimination, prohibition of advocacy of national, racial and religious hatred, freedom of conscience and religious belief, and the rights of minorities (arts. 2, 18, 20, 26 and 27)**Reply to questions 24, 25, 26 and 27 of the list of issues Question**

113. The Government of Sri Lanka (GoSL) remains committed to building a society where the rights of all communities are secured and their safety and security is ensured. Thus, human dignity is valued and equal treatment of every person irrespective of their religion, ethnicity or race is an accepted norm of public life. Steps are continuously being taken to ensure that all communities have the space to express their identity, including the right to enjoy their own culture, profess and practice their own religion and use, nurture and promote their own language. All communities participate fully in the life of the nation, whether it be at national, provincial or local level.

114. Article 12 (1) of the Constitution of Sri Lanka guarantees to all persons equality before the law and equal protection of the law. Meanwhile Article 12(2) guarantees the fundamental right to non-discrimination on the grounds of “race, religion, language, caste, sex, political opinion, place of birth or any such grounds.”.

115. The Government does not condone any act of religious hatred or intolerance, and maintains a zero-tolerance policy on any such acts, and has taken measures to combat same. The laws are strictly enforced against those committing violence against religious groups and those practicing hate speech. Action has been taken to investigate and take legal action against perpetrators of alleged attacks on religious minorities, with parallel measures aimed at preventing tensions through awareness programmes.

116. With regard to reconciliation, the domestic institutions including ONUR, OR and OMP are carrying out their respective mandates to provide relief to those affected by the three decade old conflict. All Sri Lankan communities including Sinhalese, Tamils and Muslims have been beneficiaries of these domestic processes.

Rights to freedom of expression, peaceful assembly and freedom of association (arts. 19, 21 and 22)

Reply to questions 26, 27 and 28 of the list of issues

117. The Government is committed to protecting and promoting freedom of expression and civil society space. NGOs have over the years made a significant contribution towards the development and community enrichment of Sri Lanka. The Government is maintaining vigorous engagement with civil society to obtain their insights and to harness their expertise experience and support in achieving reconciliation and development.

118. All parties alleged to have experienced harassment can submit their complaints to the different national mechanisms that have the competence and jurisdiction to receive and investigate such claims. These include the law enforcement authorities as well as independent institutions such as the Human Rights Commission of Sri Lanka or the National Police Commission, so that action can be taken to investigate the alleged incidents.

119. There are no restrictions on civil society space in any part of Sri Lanka. Over the decades, a large number of community and national level civil society partners have assisted the Government in its development and other activities at grassroots level. This extensive outreach is demonstrated by the large number of NGOs operating in the Northern and Eastern Provinces.

120. The NGOs in Sri Lanka play a very robust and vibrant role including public interest litigation in advancing rights of the people. In this context, it may be noted that the NGOs in Sri Lanka have challenged Bills submitted to Parliament and taken the initiative to file Fundamental Rights Applications and Writ Applications in the apex Courts of the country.

121. For decades, civil society has been an important partner for Sri Lanka’s progress in matters related to social and human development as well as human rights issues. The government has maintained an active interaction with civil society at all times. At a recent meeting, civil society expertise was solicited to contribute to the process of reconciliation and implementation of the SDG 16 through engagement with the Office for National Reconciliation (ONUR) and the Steering Committee on SDG 16. As per the provision of the Extra-ordinary Gazette notification No. 2254/30 dated 17 November 2021, the functions, powers and administration of the NGO Secretariat has been placed under the scope of the Foreign Ministry.

Re. proposed revision of the existing Voluntary Social Services (Registration and Supervision) Act No. 31 of 1980

122. The proposed revision of the existing Voluntary Social Services (Registration and Supervision) Act No. 31 of 1980 is a routine process since the existing laws require revision and updating from time to time due to the emerging new socioeconomic conditions. With regard to possible further revision, the NGO Secretariat of Sri Lanka has adopted a process

by publishing a public notice in the official website calling for comments, views and suggestions from all registered NGOs/INGOs and general public on the existing law relating to the voluntary social service organizations. A broad-based subcommittee was appointed and they have met many times.

123. The review process will take into account general principles including ensuring accountability, transparency; facilitation of assistance and support to non-governmental organizations and compliance with the regulatory framework established by the National Secretariat, as well as laws and legal systems of the country, in the conduct of activities of NGO/INGOs. The scrutiny of financing is required in order to comply with Sri Lanka's Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT) strategy which is based on statutory obligations of the Financial Intelligence Unit of the Central Bank of Sri Lanka. A consultative process is continued to obtain the views of civil society on the revision of the existing Voluntary Services (Registration and Supervision) Act No. 31 of 1980.

Investigation into the killing of the journalist Lasantha Wickrematunge in January 2009

124. Journalist Lasantha Wickramatunga was killed on 08.01.2009. The facts have been reported to Mt. Lavinia MC under B 92/2009. The investigations were conducted by Criminal Investigation Department. Two police officers have been arrested for concealing evidence in respect of the assassination. Further investigations are being continued.

Investigation into the alleged disappearance of the journalist Prageeth Ekmaligoda

125. Seven persons have been arrested including the members of Sri Lanka Army and they have been charged under Homagama High Court Case No: 209/2019. The case is scheduled to be called on 09.12.2021. 9 members of SL army were arrested, and indictments have been filed for the alleged abduction on 24 .01 2010. The case is before a trial at bar under Colombo HC No. 725/19.

Participation in public affairs (arts. 25, 26 and 27)

Reply to question 29 of the list of issues

Incidents related to elections

126. The incidents of 2015 and 2019 have been caused due to the registration of displaced persons in Puttalam and Jaffna areas in the electoral districts outside the district where members reside. In this registration, the voter registration is done by looking for their ordinary place of residence. This will enable them to cast their ballots at the polling station closest to the place of residence in the forthcoming elections. This has prevented the recurrence of events of 2015 and 2019. Police Election Secretariat has been established to coordinate investigations into the complaints during the election period. The incidents mentioned in 2015 and 2019 were immediately reported to the Sri Lanka Police and further legal action is to be taken by the Sri Lanka Police.
