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## **JOINT STAFF WORKING DOCUMENT**

**The EU Special Incentive Arrangement for Sustainable Development and Good Governance ('GSP+') assessment of Sri Lanka covering the period 2018 - 2019**

*Accompanying the document*

**Joint Report to the European Parliament and the Council**

**Report on the Generalised Scheme of Preferences covering the period 2018-2019**

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# Sri Lanka

## 1. Summary Assessment

In the reporting period 2018-2019, Sri Lanka engaged well with the EU on the GSP+ compliance issues. This was reflected in a strong cooperation with the government authorities and intensive dialogue regarding the effective implementation of the international conventions specified in the GSP Regulation.

Sri Lanka has embarked on a number of critical reforms during the last few years, trying to deal with challenges of unemployment, security, and corruption. An attempted ‘constitutional coup’ in October 2018 was resolved by the Supreme Court and Parliament. National security was a prominent theme in the election campaign for the presidential elections on 16 November 2019, with strong nationalist rhetoric, not least given the terrorist attacks on Easter Sunday 2019. This also brought religious and ethnic rifts to the fore.

Sri Lanka cooperated with the United Nations bodies, including a recent visit by the UN Subcommittee on prevention of torture. In recent years, Sri Lanka, in line with its standing invitation, received ten UN special rapporteurs (part of the Human Rights Council's independent fact-finding and monitoring mechanisms), including on torture; on minorities; on the promotion of truth, justice, reparation and guarantees of non-recurrence; on the promotion and protection of human rights and fundamental freedoms while countering terrorism; on the rights of freedom of peaceful assembly and association; and freedom of religion or belief. It will be important for this progress to continue under the new administration headed by President Gotabaya Rajapaksa, to ensure renewed commitment to strengthen recently established institutions, and to continue legislative reforms.

With regard to **human rights**, while the space for civil society and media to operate has improved post-2015, challenges remain. An issue of serious concern is the Prevention of Terrorism Act (PTA), which has not yet been repealed nor amended, despite the new draft Counter Terrorism Act (CTA) having been with the relevant parliament oversight committee since early 2019. The new government of Gotabaya Rajapaksa stated that the current version of the CTA will not go through parliament as it stood. It remains to be seen what will happen after the Parliamentary elections in late April/early May 2020.

Sri Lanka has taken several positive steps: the Office on Missing Persons and the Office for Reparations are in place; the accession to the Optional Protocol to the UN Convention Against Torture (OPCAT) came into effect; the adoption of Enforced Disappearances Act and the Right to Information Act reflect strong commitments to democracy and transparency. Yet, progress is fragile, especially with regard to accountability. In the aftermath of the Easter Sunday terrorist attacks, the situation of minorities has become tense. Prevention of torture is on the agenda, but actions need to be stepped up in terms of accountability.

It is crucial that following the election of the new President in November 2019, civil society space and the capacity of human rights defenders to pursue their regular activities are preserved. It will also be important to maintain continued engagement with the UN as well as to demonstrate full commitment to the implementation of the Human Rights Council resolution 30/1 on Promoting reconciliation, accountability, and human rights.

With regard to **labour rights**, substantive progress has been made on the eradication of child labour and the pledge to completely eliminate it by 2022; as well as the ratification of the Protocol supplementing the Convention No 29 on Forced Labour of the International Labour Organisation (ILO). Employers and worker organisations insisted on the need for effective tripartite consultations on the reform of labour laws and practices. In this context, Sri Lanka should make stronger efforts to take the benefit of the strong potential of social dialogue and tripartite consultations for enhancing decent work and sustainable enterprises.

In the area of **good governance**, there has been progress through the implementation of a number of commitments from the Open Government Partnership. Sri Lanka adopted appropriate measures on anti-money laundering and countering terrorist financing, resulting in its removal from the Financial Action Task Forces (FATF)'s grey list.

## Priorities

The EU conducted a GSP+ monitoring mission in Sri Lanka from 26 August to 3 September 2019. During the reporting period 2018-2019, monitoring focused on several priority areas such as: the moratorium on the death penalty; the repeal of the Prevention of Terrorism Act (PTA); adoption and implementation of legislation against domestic violence; combating sexual exploitation of children; prevention of torture; and anti-discrimination legislation.

## Human Rights

Overall, the human rights and good governance situation in Sri Lanka has improved since 2015. Still, several concerns remain. The Government's proposal to introduce new Constitutional and Statutory provisions relating to public security and national emergencies has stalled. Minorities have come under pressure following the Eastern Sunday terrorist bombings, including through mob attacks against Muslim communities. There have been recent announcements regarding a possible abolishment of the 19<sup>th</sup> Constitutional Amendment, which reformed the executive Presidential system and enhanced the independence of certain institutions that are instrumental for democracy and justice. Recent statements by Sri Lanka on the implementation of the Human Rights Council Resolution 30/1 have also raised questions.

The Prevention of Terrorism Act (PTA), which is reported to facilitate detentions without charge, has not been repealed yet, despite Sri Lanka's commitment to do so under GSP+ and UN Human Rights Council Resolution 30/1. Its possible replacement, the draft **Counter Terrorism Act (CTA)**, has not been approved yet by the Parliament.

Sri Lanka has maintained a de facto **moratorium on the death penalty** since 1976 and has not executed anyone since then, though more than 400 people have received confirmed death sentences. In 2018, Sri Lanka voted in favour of UN resolution on a moratorium. In October 2019, Sri Lanka's Supreme Court prevented any attempt by the Executive to order the execution of drug convicts.

Cooperation with the UN on the **prevention of torture** has increased, including Sri Lanka's accession to the Optional Protocol to the Convention Against Torture (OPCAT) and the first visit of the UN Subcommittee on the Prevention of Torture in 2019. There has been positive engagement in the development of a National Preventative Mechanism. However, allegations of use of torture and lack of accountability for reported acts of torture remain an issue of concern. While the National Human Rights Commission of Sri Lanka has been formally designated as National Prevention Mechanism in line with OPCAT, the Government will have

to ensure that adequate resources are allocated for the Commission to properly undertake functions related to such role.

During the reporting period, some progress has been noted on **reconciliation, transitional justice, and accountability** including through the Enforced Disappearances Act and the Right to Information Act. The Office on Missing Persons and the Office of Reparations have been established. In its 2019 budget, the Government has allocated LKR 500 million to pay a monthly allowance of LKR 6,000 (~€30) to the families of disappeared persons, who have already received a Certificate of Absence. The issuing of Certificates of Absence remains a polarising and sensitive issue. Further progress has been registered regarding land previously under military control and now released to its owners (80% of land released since 2010). The appointment as Army Commander in 2019 of an individual facing credible allegations of involvement in crimes under international humanitarian law shows that sustained efforts in these areas are still needed to fully address national reconciliation and UN recommendations.

There has been progress on the **prevention of domestic violence** through a legal amendment that broadens the scope of the law, simplifies application processes, and increases protection and support provision. The National Action Plan on prevention of domestic violence is implemented by the National Committee on Women (NCW). In addition, an Action Plan on Prevention of Sex and Gender Based Violence (2016-2020) is being implemented and five shelters for victims of domestic violence have been set up in collaboration with CSOs.

The authorities further continued efforts to fight against the **sexual exploitation of children**. These include a new draft Child Protection Policy, an Action Plan in collaboration with the United Nations Children's Fund (UNICEF) on ending violence against children, and awareness-raising and training activities on the ground.

## **Labour Rights**

In April 2019, Sri Lanka became the second country in Asia to ratify the 2014 ILO Protocol to the ILO Forced Labour Convention No 29.

Substantive progress was made on the eradication of child labour. Sri Lanka has shown strong commitment to the elimination of **child labour** and has managed to reduce it to 1% of the children population. There was also the pledge for zero child labour by 2022 made in the context of the UN Sustainable Development Goal 8.

The Constitution of Sri Lanka provides for the right to equality without discrimination on the basis of race, religion, language, caste, sex, political opinion, or place of birth. The realisation of this right requires effective legislation and its application in practice. However, despite repeated requests by the ILO, there is still no specific **anti-discrimination law** in place, nor a law guaranteeing prohibition of discrimination with respect to employment and occupation. The Government has stated that provisions addressing discriminatory practices in employment and on equal pay for work of equal value for men and women will be included in the new **Single Employment Law**.

Employers and worker organisations insisted on the need for effective **tripartite consultations** on the reform of labour laws and practices. The Department of Labour has indicated that it was pursuing tripartite consultations through the National Labour Advisory Council. The effective realisation of this commitment will require the review of the list of hazardous child labour work, finalising other legislation such as increasing the minimum working age, improving the regulation and organisation of youth apprenticeships and an effective and integrated follow-up system on child protection, including at district level.

## Environment

Sri Lanka has remained committed to its international environmental obligations, while continuing to face challenges with implementation. Sri Lanka has improved in its reporting requirements; introduced an electronic reporting system e-CITES; created a national coordination committee for the Basel Convention; and submitted climate change adaptation plans. Sri Lanka has also engaged with the CITES Secretariat around aligning national legislation with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) requirements. The GSP+ monitoring mission noted the garment and tourism industries' awareness of the importance of sustainable processes for long-term economic success.

## Good Governance

In a positive effort to follow a **coordinated anti-corruption policy**, the Government put in place an Anti-corruption Strategy 2019-2023. Sri Lanka is also implementing 15 commitments from the Open Government Partnership's 2019-2021 National Action Plan, including an asset declaration system and the appointment of integrity officers.

Sri Lanka also demonstrates commitment to support international drug control regimes through significant illegal drug seizures and demand reduction programmes, thus attempting to address the increased illegal drug traffic flows through the country. However, statements on the possible implementation the death penalty for drug trafficking are worrying and are not supported by UN Office on Drugs and Crime (UNODC), and almost universally deemed to be unsuitable as a solution to drug trafficking issues.

## Status of ratification and reporting

Sri Lanka maintained ratification of all 27 GSP+ relevant convention. The country is up to date with all reporting obligations, except under one human rights (the Convention on the Elimination of All Forms of Racial Discrimination - CERD), one labour rights convention (Convention No. 105 on the Abolition of Forced Labour) and two environmental conventions (CITES and UN Framework Climate Change Convention - UNFCCC)<sup>1</sup>.

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<sup>1</sup> See Annex for full details

## 2. Recent Developments

GSP+ preferences for Sri Lanka were withdrawn in 2010 due to significant shortcomings in the country's implementation of three UN human rights conventions. Sri Lanka was readmitted to GSP+ as of 19 May 2017.

Sri Lanka is a multi-ethnic and multi-religious nation with a population of 21 million. Longstanding tensions between the majority Sinhalese and minority Tamil community spiralled into a civil war from 1983 to 2009. Since the end of the civil war in 2009, efforts were made to address grievances between communities but the root causes of the conflict remain.

The election of Maithripala Sirisena as President in January 2015 was seen as a turning point, reflecting a desire for change, and led to the formation of a National Unity Government in August 2015 based on an agenda of good governance and national reconciliation. The Government then embarked on an ambitious reform agenda, recalibrated its foreign policy to re-engage with the wider international community, instituted significant improvements in fundamental freedoms, and committed to the development of a sustainable macroeconomic strategy.

After initial achievements in delivering reforms, progress has slowed down. Souring relations between the parties to the Government – the Sri Lanka Freedom Party (SLFP) and the United National Party (UNP) – came to a head in October 2018, when President Sirisena attempted to oust Prime Minister Ranil Wickremesinghe and appoint former President Mahinda Rajapaksa instead, triggering a constitutional crisis. While a landmark Supreme Court decision reversed the President's attempt, the crisis marked the end of the National Unity Government and the formation of a UNP Government, relying now on smaller parties for its majority.

The Easter Sunday attacks in 2019, carried out by radicalised individuals of a Sri Lankan Muslim group, the National *Thowheed Jamath*, for which the Islamic State claimed responsibility, further degraded the already brittle relations between the majority Sinhala community and Sri Lanka's Muslim minority. In the aftermath of the terrorist attacks, there were mob attacks against Muslims. Other minority groups have also come under increased pressure and tensions between the Muslim community and other minorities (Catholic and Tamil in particular) increased.

While Sri Lanka re-engaged with the international community in recent years and made a series of grand commitments to national reconciliation, as articulated in its co-sponsorship of Human Rights Council Resolution 30/1 on Promoting reconciliation, accountability and human rights, there has been slow progress in implementing the resolution. In 2019, Sri Lanka was granted a further two years to implement its commitments in full.

Since 2015, EU-Sri Lanka relations have been rejuvenated and regular dialogue takes place under the 1995 Cooperation Agreement, including annual meetings of the Joint Commission and its working groups, including the Working Group on Governance, Rule of Law and Human Rights. This was the first time a Sri Lankan government has entered into a human rights dialogue with the EU, which is at its fourth iteration in 2019.



Presidential elections were held on 16 November 2019, in which Gotabaya Rajapaksa of the SLPP won the vote with 52% of the vote. National security was a prominent theme in the election campaign with strong nationalist rhetoric, also related to the terrorist attacks on

### **EU – Sri Lanka Bilateral Development Assistance**

The Multi-annual Indicative Programme 2014-2020 for Sri Lanka (€ 210 million) focuses on **integrated rural development** and **democratic governance and reconciliation**. Thematic and regional programmes also provide **Aid for Trade** and support for internally displaced persons, housing construction, sustainable consumption and production, investments in water and sanitation, and good governance and fundamental rights. Support to the Justice sector, Food Safety and Quality and for Sri Lanka implementation of its Nationally Determined Contribution are in preparation.

EU Development cooperation supports Sri Lanka's Trade capacity and strengthens Sri Lanka compliance with core international conventions notably on human rights, good governance, and climate change.

#### **Trade Related Assistance - € 8 million (2015-2023)**

The EU supports Sri Lanka trade competitiveness of Small and Medium Size Enterprises (SMEs) in regional and European Union (EU) markets, and value chains of several food and spice commodities, and support the IT Business Process outsourcing (BPO) sector. A major milestone achieved during 2018 is the establishment of the National Export Strategy (NES) for which the Government allocated USUSD 113 million from its 2018 national budget. The challenge now lies in the implementation of the export strategy - which seeks to diversify Sri Lanka's export basket and markets. The project also deals with trade and non-trade barriers, working with the National Trade Facilitation Committee, dealing with sanitary and phyto-sanitary (SPS) issues to help maximize the benefit of the GSP+.

A former Trade Related Assistance project (€ 5.5 million) assisted Sri Lanka in modernising the regulatory framework for trade and investment, and encouraged wider EU-Sri Lanka business linkages and investment - specifically focusing on the sectors of garments, gems, and jewelry.

Easter Sunday 2019,

The election brought religious and ethnic rifts to the fore. Gotabaa Rajapaksa received large support from the Sinhalese majority, while the incumbent Sajith Premadasa was largely supported by the minorities.

Former president Mahinda Rajapaksa was appointed Prime Minister together with an interim government of 16 Cabinet Ministers until parliamentary elections could be held. Parliamentary elections are expected to be held in April or May 2020.

### **3. EU-Sri Lanka Trade and GSP**

External shocks and a political crisis in late 2018 created challenges to Sri Lankan economy's performance. The constitutional crisis that began in October delayed the 2019 budget and

intensified market pressures, while concerns arose over the government’s ability to refinance upcoming debt maturities in early 2019. This led to additional reserve losses and a marked slowdown in growth (the real GDP growth slowed to 3.2% in 2018).

Sri Lanka's overall trade grew by 3% between 2017 and 2018 to € 29.1 billion, with an overall trade deficit of € 9 billion. In 2018, the EU was Sri Lanka's largest trading partner with 16% of the total (€ 4.7 billion), ahead of India (14.6%), China (13.4%) and the USA (10.2%). The EU is by far Sri Lanka's main export destination with over 30% of the total (€ 2.8 billion), followed by the USA (26%) and India (6.6%). In terms of imports, China is the largest source with 19%, followed by India (18.5%) and the EU (9.2%).

Sri Lanka's Foreign Direct Investment (FDI) is expected to have reached an all-time high at around USD 2.0 billion in 2018, thanks to the long term leasing of the Hambantota port. FDI inflows were channelled largely to projects related to ports, telecommunications, housing and property development, and hotels, while FDI inflows to the manufacturing sector remained moderate.

The faster implementation of reforms to privatise the state owned enterprises, and measures to strengthen accountability, increase transparency, and improve the ease of doing business in Sri Lanka could make Sri Lanka more competitive.

Figures 1-3 below describe Sri Lanka’s’s utilisation of GSP+ in the context of the EU's overall imports from Sri Lanka<sup>2</sup>. A majority (84% in 2018) of Sri Lankan imports to the EU are GSP+ eligible. However, the utilisation rate (the proportion of EU imports from Sri Lanka that actually benefitted from GSP+ preferences) has room for improvement at under 60%. Nonetheless, there has been an upward trend in utilisation rates over the past three years. Sri Lankan imports under GSP+ are concentrated in apparel and clothing (54%) and rubber (19%).

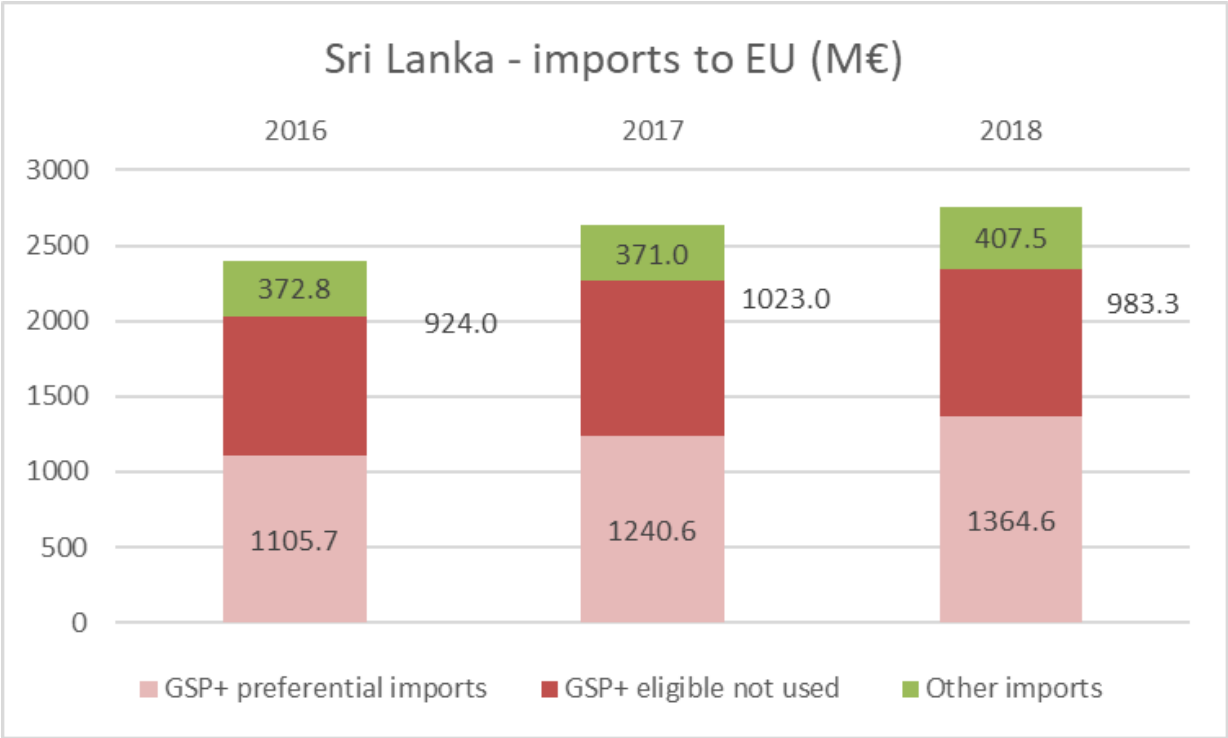
**Figure 1: Imports to the EU 2016-2018 – GSP+ utilization rate**

Sri Lanka - imports to the EU 2016-2018 (M€)				
	2016	2017	2018	trend 2016-2018
<b>Total imports</b>	2402.5	2634.6	2755.4	14.7%
<b>GSP+ eligible</b>	2029.6	2263.6	2347.9	15.7%
<b>GSP+ preferential</b>	1105.7	1240.6	1364.6	23.4%
<b>Utilisation rate</b>	54.5%	54.8%	58.1%	6.7%

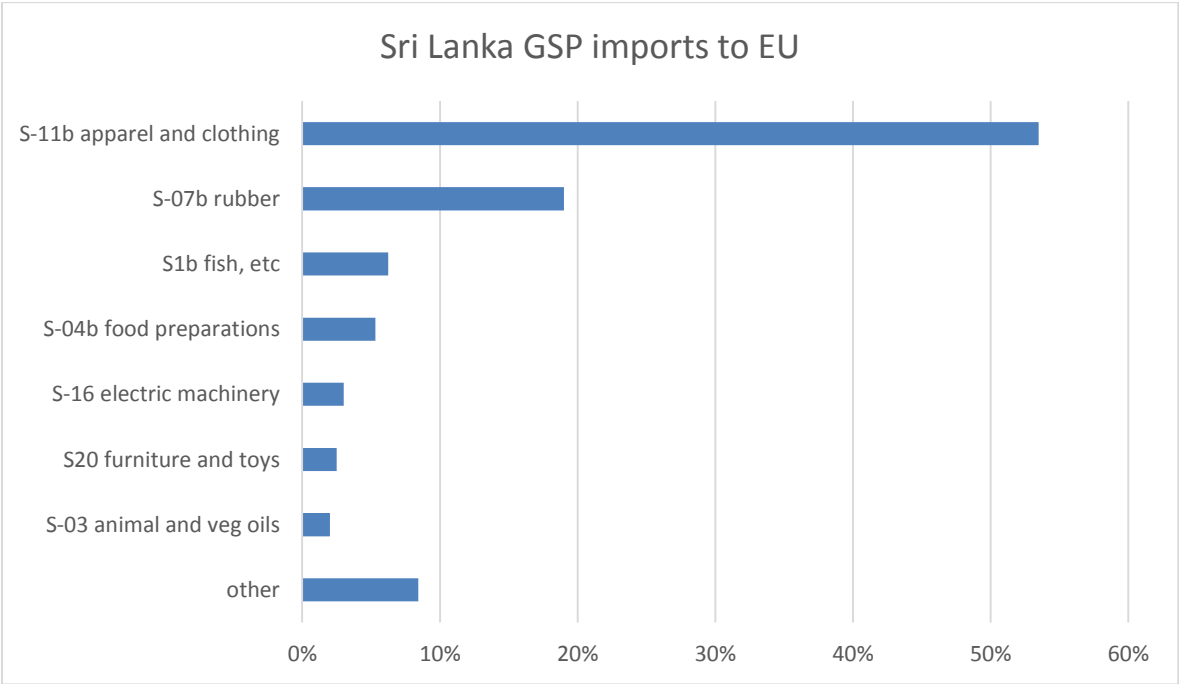
<sup>2</sup> GSP-statistics only cover goods imported in the EU market, i.e. goods released for free circulation in the EU. The GSP statistics do not cover other EU-imports, like goods imported for the customs inward processing procedure or re-imports after the customs outward processing procedure



**Figure 2: Imports to the EU 2016-2018 by regime**



**Figure 3: Product Diversification of GSP+ Preferential Imports, 2018**



## 4. Compliance with GSP+ Obligations

### 4.1 UN Human Rights Conventions

Overall, the human rights situation in Sri Lanka has improved since 2015 and during the reporting period. In terms of reconciliation and transitional justice, landmark institutions have been set up, such as an Office for Missing Persons and an Office for Reparations, although challenges remain regarding their operational capacity. At the same time, there has been insufficient progress on a number of issues, such as the continued use of torture and lack of accountability; the repeal of the PTA and its replacement with counter-terrorism legislation in line with international standards; the full demilitarisation of the former conflict areas; and the establishment of the truth about the fate of the missing and disappeared persons during the civil war and its aftermath.

Following the election of a National Unity Government in 2015 and the significant opening up of **democratic and civil society space**, the Human Rights Commission of Sri Lanka (HRCSL) was reappointed and strengthened as an independent oversight body. In 2018 the Global Alliance of National Human Rights Institutions accredited the HRCSL with A Status, i.e. fully compliant with the Paris Principles. The HRCSL appears to be well resourced, but not systematically consulted by the Government. A National Action Plan for the Promotion and Protection of Human Rights 2017-2022 is in place.

Emergency Regulations (ER) made operational in the aftermath of the Easter Sunday bombings, had potential impact on several fundamental rights laid down in Sri Lanka law. The regulations also had a bearing on the implementation of international conventions, notably the ICCPR. The Regulations were lifted in August 2019.

The Government has sustained **cooperation with the UN** and since 2015 has extended a standing invitation to all UN thematic special procedures. Seven special rapporteurs have already visited Sri Lanka. In 2018-2019, those included the Independent expert on the effects of foreign debt and other international financial obligations on the full employment of all human rights; the Special Rapporteur on the Right to Freedom of peaceful Assembly and Association (July 2019); and the Special Rapporteur on Freedom of Religion and Belief (August 2019). The UN Sub-Committee on the Prevention of torture (SPT) visited in April 2019.

Sri Lanka's last Universal Periodic Review was in November 2017. Delegations called for the establishment of all truth and reconciliation mechanisms foreseen in Human Rights Council Resolution 30/1, operationalisation of the Office of Missing Persons, repeal of the PTA, and abolition of the death penalty. Sri Lanka accepted 177 recommendations, and noted 53.

#### *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*

The report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka at the 40<sup>th</sup> session of the Human Rights Council (February-March 2019)<sup>3</sup> expressed deep concern at the aggravation of **intercommunal tensions**, in particular at several attacks conducted by militant Buddhist groups targeting cultural, religious, or sexual minorities.

Intercommunal tensions increased further in the aftermath of the Easter Sunday terrorist attacks on 21 April 2019, which targeted two Catholic Churches and one evangelical Christian church in Colombo, Negombo, and Batticaloa respectively, as well as three hotels in

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<sup>3</sup> doc. A/HRC/40/23

Colombo. 258 people were killed and over 500 were injured. The Islamic State claimed responsibility for the attacks, carried out by radicalised individuals from the National *Thowheed Jamath*. Three weeks after the Easter Sunday attacks, anti-Muslim violence broke out in the North Western Province and the Gampaha police division in the Western Province.

In May 2019, President Sirisena pardoned the monk Gnanasara Thera, the General Secretary of the Sinhala Buddhist organisation *Bodu Bala Sena* (Army of Buddhist Power). Gnanasara Thera received a six-year prison term after being found in contempt of court but only served approximately eight months of his sentence. His pardon sent a worrying message to Sri Lanka's judiciary and to the country's Muslim community who have been victims of mob violence instigated by Gnanasara Thera and the *Bodu Bala Sena*. In addition, hate speech by a leader of the Buddhist clergy in mid-June 2019 was widely condemned as an incitement to violence against Muslims.

The High Commissioner's report also noted that accounts of incidents targeting Christians continued. Since January 2018, a non-governmental organization working on freedom of religion had documented 86 such incidents, including threats and disruption of religious services. A Methodist prayer center was pelted with stones and firecrackers on 14 April 2019.

### *International Covenant on Civil and Political Rights (CCPR)*

UN Special Rapporteur Clément Nyaletsossi Voule visited Sri Lanka in July 2019 to assess rights to freedom of peaceful assembly and of association in the country. The Special Rapporteur noted that Sri Lanka had made significant strides over the last four years with regard to the democratisation of the country and the enjoyment of human rights of those under its jurisdiction. This progress has been marked by a significant opening of civic space, the reform of state institutions, and earnest steps towards transitional justice and reconciliation.

According to the Special Rapporteur, it is, however, necessary for the Government to ensure that the gains that it has made with regards to democracy and reconciliation are not undermined by the discriminatory application of legislation, extremism, or the propagation of hate speech among the public, both online and offline. Furthermore, it is important that the Government act to address the root causes of protests, dealing head on with the issues raised by participants in the course of their demonstrations, take steps to identify gaps in legislation which may allow for its discriminatory use, and make concerted efforts to close these gaps.

The PTA remains problematic for the enjoyment of the rights to freedom of peaceful assembly and association. Similar concern has been expressed by civil society over the contents of its potential successor, the Counter-Terrorism Act. While it is clear that there are legitimate security concerns to take into consideration, any law enacted with regards to counter-terrorism should be drafted in continuous consultation with civil society, who can play an important role in ensuring that the law is human rights compliant and addresses the concerns of all sectors of society, including those of the security community.

In a resolution (A/HRC/40/L.1) on promoting **reconciliation, accountability and human rights** in Sri Lanka, adopted without a vote at the 40<sup>th</sup> session of the UN Human Rights Council (February – March 2019) and co-sponsored by Sri Lanka, the Council granted Sri Lanka another two year extension to fully implement the measures identified by the Council in its resolution 30/1. The Council requested the Office of the High Commissioner to continue to assess progress on the implementation of its recommendations and other relevant processes relating to reconciliation, accountability, and human rights in Sri Lanka. Th HRC further

requested Sri Lanka to present a written update to the Council at its 43<sup>rd</sup> session, and a comprehensive report, to be followed by a discussion on the implementation of Council resolution 30/1, at its 46<sup>th</sup> session. The core group sponsoring the resolution encouraged Sri Lanka to accelerate its efforts to achieve the full implementation of the 2015 undertakings on the 10<sup>th</sup> anniversary of the war's end in 2019 by setting up a time bound implementation plan and to strengthen its engagement with the Office of the High Commissioner for Human Rights through annual reports. Following the presidential elections of 16 November 2019 and the formation of a new interim government, Foreign Minister Dinesh Gunawardana has announced a review of the resolution.

The repeal of the PTA is an important commitment under GSP+ and UN HR Council resolution 30/1. Draft legislation, in the form of a **counter-terrorism act (CTA)**, on which the UN noted serious shortcomings, was approved by the Cabinet on 25 April 2017 and later withdrawn for revision. A revised version was presented to parliament on 9 October 2018. In November 2018, the Supreme Court ruled that the death penalty had to be included in the revised bill to prevent inconsistencies with the Penal Code. The Supreme Court also found that a reference in the bill relating to its compliance with the law, including international human rights instruments to which Sri Lanka is a party, was incompatible with the Constitution, which does not regard 'international instruments' as law.

The new government of Gotabaya Rajapaksa stated that the current version of the CTA would not go through Parliament, since the PTA had proven useful to deal with the terrorist attacks last April. The new government made it clear that the PTA will remain in place until an improved draft has a chance to be adopted by Parliament, probably after the April/May 2020 Parliamentary elections.

The draft counter-terrorism bill remains before the relevant parliament oversight committee since early 2019. Various hearings have been held, including with civil society. A mechanism was added to the draft bill to ensure parliamentary oversight of its implementation. The government has stated the CTA should be 'in accordance with international standards and best practices, and conscious of Sri Lanka's human rights obligations'. The future of the legislation is uncertain following the November Presidential elections.

The issue of amending the Code of Criminal Procedure (CCP) to ensure that arrested persons have **access to legal counsel** was raised consistently with the Government. The Government's position is that the provision in the International Convention for the Protection of all Persons from Enforced Disappearance (ICPPED) Act No. 5 of 2018, outlining the right of an arrested person to communicate with their attorney-at-law, applies to any and all arrests, and that an amendment of the CCP is no longer required. The relevant provision in the ICPPED Act states: 'Any person deprived of liberty shall have the right communicate with and be visited by his relatives, attorney-at-law or any other person of his choice, subject only to the conditions established by written law'. According to the Government, there are no conditions prescribed by law limiting this right.

To help the reconciliation and accountability process, and clarify the fate of thousands of missing persons in the immediate aftermath of the civil war, the Commissioners of the Office for Missing Persons were appointed in February 2018. In its first interim report of August 2018, the Commission identified a number of challenges in operationalising the Office, which is the first mechanism for **transitional justice**. The Office conducted six consultations with stakeholders throughout the country and made progress towards establishing the 12 regional offices it plans to open.

The **Office for Reparations** Act was passed by Parliament on 9 October 2018 and its five Commissioners were appointed for a three year term in April 2019. In the 2019 Budget, the Government has allocated LKR. 500 million to pay a monthly allowance of LKR 6,000 (~€30) to the families of disappeared persons, who have already received a certificate of absence. Prior to the approval of the Act, the legislation was revised to give effect to the Supreme Court ruling that provisions in the bill requiring the Office for Reparations to assess whether a person had suffered a violation of human rights or humanitarian law were contrary to the Constitution.

**Freedom of expression** improved notably after the January 2015 Presidential elections. Censorship in the form of website blocking was rolled back, and media self-censorship went down. Freedom of movement for journalists improved. However, the Government temporarily blocked social media platforms in response to anti-Muslim violence in 2018 and 2019 and following the Easter Sunday attacks in 2019. After the bombings, the reinstatement to active duty of a military intelligence officer linked to attacks on journalists, has been condemned by local civil society and international rights groups. Owing to the heavy militarisation in the North and East of the country, surveillance continues to be used as a tool of control and intimidation.

Emergency Regulations became operational on 22 April 2019 following the Easter Sunday terrorist attacks. The regulations, issued by President Sirisena under section 5 of the Public Security Ordinance, include provisions for search, arrest and detention, control of meetings, processions and publications, and the requisitioning of private property. The Regulations were lifted in August 2019.

In April 2019, award-winning writer Shakthika Sathkumara was arrested, following complaints by Buddhist groups claiming that he defamed Buddhism in a story posted on his Facebook page. The story contained (indirect) references to homosexuality and child abuse within the Buddhist clergy. He is currently out on bail.

Sri Lanka voted in favour of the UN General Assembly resolution on a universal moratorium on the death penalty in 2018, and is a *de facto* abolitionist state, although the death penalty remains on the statute books and death sentence convictions continue. The debate on the death penalty is ongoing with a private members' bill calling for abolition pending in Parliament and many politicians and a majority of the population in favour of applying the death penalty.

#### *International Covenant on Economic, Social and Cultural Rights (CESCR)*

Sri Lanka was ranked 76th in Human Development Index (HDI) in 2017, continuing the positive trend and reflecting previous progress on most Millennium Development Goals such as poverty reduction, health, and environmental sustainability, as well as increased school coverage and low maternal and infant mortality rates.

Following Sri Lanka's last (fifth) periodic report from June 2017, the Committee on Economic, Social, and Cultural Rights welcomed a number of implementation instruments and recommended expediting the constitutional reform process, including the adoption of a **comprehensive Bill of Rights**, fully incorporating economic, social, and cultural rights.

**Land release** remains a key issue for reconciliation and long term peacebuilding efforts. The military has yet to present a release plan with benchmarks and timelines. According to the Foreign Minister's statement before the UNHRC, as of 12<sup>th</sup> March 2019, the Government has released 88.87% (63,257.48 acres) of state land and 92.16% (26,005.17 acres) of private land

held by security forces since May 2009. Total land released as of 12 March 2019 is 89,262 acres (up from 81,908 acres as at 31 August 2017).

There is no substantial progress regarding the adoption of a **comprehensive anti-discrimination law** and **decriminalisation of consensual same-sex conduct**, following recommendations by the Committee.

### *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*

Following Sri Lanka's last (8<sup>th</sup>) report in 2017, the Committee on the Elimination of Discrimination against Women welcomed several positive legislative and implementation developments. The concerns of the Committee included deficiencies in the domestic legal framework and discriminatory provisions in several laws regulating ownership and inheritance, as well as legal capacity, marriage, divorce, and child custody. The Committee has recommended Sri Lanka to prepare a **unified family code**, guaranteeing equal rights for men and women and increasing the minimum age of marriage for all women to 18 years of age.

The reform of the Muslim Marriage and Divorce Act (MMDA) has progressed. However, a Cabinet-approved proposal to amend the MMDA setting 18 years as the minimum age of marriage for both men and women still provides for 16 to 18-year-olds to wed with Qazi<sup>4</sup> permission. Muslim women activists continue to highlight other issues with the reform proposals.

The 25% quota for women elected in office in Local Government bodies and Parliament, as well as for women on political parties' nomination papers for each province, was operationalised in 2018. Implementation of the National Human Rights Action Plan (2017-2021) and its chapter on women's rights, the National Strategic Plan to Monitor and Combat Human Trafficking, and the National Action Plan to Address Sexual and Gender-Based Violence (2016-2020) is ongoing. Further projects during the reporting period included Gender-Mainstreaming Programmes and Coordinating Officers in each ministry and a policy on women-headed households.

The prevalence of **violence against women** is high and widespread, cutting across class, ethnicity, and religion, but is drastically underreported. Proposals to strengthen the Domestic Violence Act, to decriminalise abortion, and to allow the medical termination of pregnancies in specific circumstances have now reached the Prime Minister's office.

The Attorney General approved an amendment to the Prevention of Domestic Violence Act (2005) on 29 May 2019. The amendment includes provisions on broadening the categories and expanding the mandate of persons who can initiate legal action on behalf of an aggrieved person; simplifying the application process; ensuring access to interim protection orders, including for dependents; and increasing enforcement and support services.

### *Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*

Sri Lanka's last (fifth) periodic report was considered in November 2016. The Committee against Torture raised continued issues of accountability for past violations, investigation of torture allegations, and fundamental legal safeguards and forced confessions, where follow up

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<sup>4</sup> The judge of a Shari'a Islamic court of law.



is still required. Serious concerns were raised at the lack of institutional reform of the security sector and the prevailing impunity in cases of torture. The Committee recommended the establishment of an independent complaints body for law enforcement.

The United Nations Working Group on Arbitrary Detention visited Sri Lanka in December 2017 and in September 2018 issued a number of recommendations on the national human rights framework; criminal justice; the PTA; the rehabilitation of ex-combatants, drug users, and women; anti-discrimination measures; and on asylum seekers, refugees, stateless persons, and migrants and immigration detention facilities<sup>5</sup>.

The final report of the Special Rapporteur on torture notes that while the practice of torture is less prevalent today than during the conflict and the methods used are at times less severe, a ‘**culture of torture**’ persists. Physical and mental coercion is used against suspects during interviews by both the Criminal Investigations Department in regular criminal investigations and by the Terrorism Investigation Division in investigations under the PTA. The High Commissioner was deeply concerned over serious allegations in foreign media about ongoing abductions, extreme torture and sexual violence as recently as in 2016 and 2017. The Office of the High Commissioner for Human Rights (OHCHR) is exploring options for how best to pursue further investigations of these allegations<sup>6</sup>. The report of OHCHR in March 2019 said her Office continued to receive credible information about cases of abduction, unlawful detention, torture, and sexual violence by Sri Lanka security forces, which allegedly took place between 2016 and 2018.

The Optional Protocol to the CAT, ratified by Sri Lanka on 5<sup>th</sup> December 2017, entered into force on 4<sup>th</sup> January 2018. Authorities designated the Human Rights Commission of Sri Lanka (HRCSL) as the National Preventative Mechanism. According to the HRCSL, it has access to places of detention and receives on average 350-400 complaints per year related to torture. Arrests under the PTA are reported to the Commission within 48 hours. The Human Rights Commission was reaccredited with ‘A’ status by the Global Alliance of National Human Rights Institutions in 2018.

Furthermore, according to the Government, the National Police Commission, an independent body outside the police force, can receive and investigate complaints from the public. However, greater awareness is needed regarding this redress possibility.

**Prison overcrowding** remains a concern and an obstacle for fulfilling the basic human needs of detainees. The Government outlined plans to construct new prisons, use drug rehabilitation centres, and strengthen the community-based correction system.

### *Convention on the Rights of the Child (CRC)*

In its concluding observations (March 2018) on the fifth and sixth periodic reports of Sri Lanka, the Committee noted that urgent attention was required to address violence against children, including corporal punishment, sexual exploitation and abuse; economic exploitation, including child labour; administration of juvenile justice; and reconciliation, truth and justice.

While noting that the Government had accepted a recommendation issued in the course of the Universal Periodic Review in November 2017, that **corporal punishment** should be prohibited in all settings, the Committee remained deeply concerned that high numbers of children are subjected to abuse and violence, including corporal punishment; and that corporal

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<sup>5</sup> <https://undocs.org/A/HRC/39/45/Add.2>

<sup>6</sup> <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/018/53/PDF/G1801853.pdf?OpenElement>



punishment remains legal in the home, alternative care settings, penal institutions, and schools.

A high number of cases of **sexual exploitation** and abuse of children, including in alternative care institutions, religious institutions, the community, and the home, continue to be reported. This is in addition to child prostitution and online child sexual exploitation and abuse, including child pornography, with regard to which a climate of impunity frequently prevails.

While Sri Lanka has made efforts to eliminate **child labour**, including the National Policy on Elimination of Child Labour, the Committee noted with deep concern that a considerable number of children are economically active, including as street vendors and in domestic service, agriculture, mining, construction, manufacturing, transport, and fishing; and that children are reportedly trafficked for the purposes of forced domestic work.

The Committee recommended that the Government take steps to ensure the Convention is transposed into its national legislation to ensure applicability of all its principals and provisions, expedite the bill on judicial protection for children, and ensure that domestic legislation, including customary laws, are in compliance with the Convention.

The National Child Protection Authority (NCPA) has finalised a new Child Protection Policy. A five-year national implementation plan was to follow in the second quarter of 2019. Furthermore, the government, in partnership with UNICEF, is drafting a National Action Plan for National Partnership to End Violence against Children, which was expected to be finalised for implementation in 2019. The government is also developing a draft National Action Plan on Child Abuse and Sexual Exploitation.

Practically, the NCPA runs public awareness programmes focused on the tourism industry and estate/ plantation sector; cyber safety programmes to increase capacity on identifying and investigating online violence against children; manuals and training for law enforcement on child trafficking; vocational training for youth over 16 years old in the hospitality industry; and a 24/7 children helpline available in three languages.

## **Conclusions and priorities**

*Sri Lanka has continued to make progress on human rights in the past two years. It is of particular importance to consolidate and preserve these achievements, notably in the new political context. The EU will continue to monitor the evolution of the situation.*

*After 2015, Sri Lanka has restored the independence of key oversight institutions. There has been a significant opening of democratic and civil society space. A process of constitutional reform, including a Bill of Rights began but stalled. Action is underway towards transitional justice and remedy for families of victims for enforced disappearances. A national human rights action plan has been prepared; women will have a larger stake in local governments; a National Plan of Action for Children has been adopted and reform of the juvenile justice system is being prepared.*

*The Government has engaged with the UN system. With the co-sponsorship of UNHRC Resolution 30/1, Sri Lanka made far-reaching commitments on promoting reconciliation, accountability and human rights. Nevertheless, according to UN reports, relevant reforms have stalled or slowed down considerably. Measures taken so far to fulfil Sri Lanka's transitional justice commitments have brought insufficient progress, including on bringing*

*perpetrators of war crimes to justice and resolving longstanding emblematic cases. It will be important that the new presidential administration remains fully committed to the full implementation of UNHRC Resolution 30/1 on promoting reconciliation, accountability, and human rights in Sri Lanka.*

*The Government still has to deliver on a number of important reforms that are of direct relevance for the effective implementation of the human rights conventions listed in the GSP+ Regulation. The Prevention of Terrorism Act (PTA) remains in place. Legislation to replace the PTA that aims to be in line with international human rights law, including ICCPR and CAT, has been discussed at Parliament, but stands little chance to go forward. The Government should ensure that torture allegedly committed by the police and security forces comes to an end, that perpetrators are brought to justice, and should implement its policy of zero-tolerance to the use of torture. This is essential in addressing reports of prevalent impunity in most cases of torture.*

*The operationalisation of the Office on Missing Persons (OMP) is welcome and should deliver truth and accountability to the families of those that disappeared during and at the end of the armed conflict. The OMP needs to be equipped with the necessary resources and capabilities to fully carry out its functions and mandate. Transposing the Convention on Enforced Disappearances into national law will contribute to this process. Whilst significant progress has been made in the return of land in the former conflict areas, the Government should finalise this process. In 2019, the legislative base for the Reparations Commission has been enacted and Commissioners appointed.*

*The government should, in line with recommendations from the UN Treaty Bodies, actively take forward the Children (Judicial Protection) Bill, provisions on the minimum age of marriage, the amendments to the Land Development Ordinance, and other laws that discriminate against women. The Government should take steps to amend laws that discriminate against Sri Lankans from the LGBTQI community.*

## **4.2 ILO Labour Rights Conventions**

### *Freedom of Association and Collective Bargaining*

Key outstanding labour legislation shortcomings related to the fundamental rights at work as reported by the ILO are: (1) ensure access to judicial complaints in cases of anti-union discrimination and unfair union practices, in particular related to the exercise of strike; (2) ensure the collective bargaining mandate in cases when the required representation threshold of 40% is not reached; (3) address compulsory arbitration for collective disputes; and (4) strengthen further freedom of association and collective bargaining in export processing zones.

Following the observations made by the ILO, the Ministry of Labour and Trade Union Relations is in the process of amending existing legislation to raise the minimum age of

employment from 14 to 16 years in order to eliminate the discrepancy between the minimum age of employment (14 years) and minimum age for trade union membership (16 years).

The ILO also noted difficulties with regard to the exercise of workers' rights to organise and collective bargaining and access of labour inspectors to Economic Processing Zones (EPZs). Among the key observations was the need to take all the necessary measures to ensure a safe climate for the development of a free and independent trade union environment. According to the data provided by the authorities in 2019, there are 268 companies active in 12 EPZs employing 137,000 workers. Trade unions have been registered in 33 companies in these EPZs and seven company collective agreements have been concluded.

With ILO's technical assistance, a gap analysis of labour legislation in relation to the ILO Conventions has been carried out, resulting in establishment of the National Labour Advisory Council as a national tripartite consultative mechanism. Work relating to reforming of the National Labour Advisory Council, in particular with regard to how it will address the issues of application of the Convention with respect to workers in the Free Trade Zones (FTZs), has been initiated with technical assistance of the ILO.

The Government has stated it is making efforts to restructure the **labour inspection system** with ILO assistance, develop the prevention side of labour inspection, promote qualifications of labour inspection staff, and increase the number of both female and male labour inspectors.

Further actions are also required to ensure adequate **protection from anti-union discrimination**. The International Trade Union Confederation (ITUC) and the Free Trade Zones and General Services Employees Union (FTZ and GSEU) have reported allegations of anti-union dismissals in EPZs, acts of interference in union activities including the creation of parallel workers' organizations controlled by the employers, and the refusal to recognise unions and bargain collectively. Sri Lanka also needs to ensure the effectiveness and expeditiousness of the procedures on unfair labour practices, which encompass anti-union discrimination, and to take the necessary measures to ensure that workers and trade unions can lodge a complaint before judicial courts. In addition, the use of out-of-court settlement mechanisms should be encouraged, in particular in the public sector, to which the Industrial Disputes Act does not apply. The Government has indicated that work on the mechanism for dispute prevention and settlement in the public sector will continue, with technical assistance from the ILO and support of the Ministry of Public Administration.

The **high minimum requirement for trade union representativeness** of 40% to negotiate collective agreements remains a concern. The Committee has recommended that in cases where such a share of representativeness cannot be achieved, trade unions should be given the possibility jointly or separately to bargain collectively, at least on behalf of their own members. These amendments to section 32(A)(g) of the Industrial Disputes Act are needed to secure and promote the full development and utilisation of collective bargaining.

Recently, concerns have been raised by trade unions and civil society organisations that the draft Counter Terrorism Act includes the possibility to classify **strikes** as terrorist acts. The government has highlighted that consultations are still ongoing and that is not the intention to classify strikes as criminal acts.

### *Abolition of Forced Labour (Conventions 29 and 105)*

In April 2019, Sri Lanka became the second country in Asia to ratify the 2014 Protocol to the ILO Forced Labour Convention 29. The convention will enter into force in April 2020. The

Protocol strengthens the protection against modern forms of forced labour including trafficking.

Sri Lanka is confronted with labour shortages and is recruiting foreign workers. Preventing and addressing possible exploitation and ensuring the respect of fundamental rights at work of **migrant workers** in Sri Lanka will require a coordinated and coherent approach involving all relevant departments and services.

### *Minimum Age for Work and Worst Forms of Child Labour (Conventions 138 and 182)*

The Government is committed to eradicating child labour and there has been a significant decrease in child labour in Sri Lanka. Children engaged in child labour represent 1% of the total child population (43,714 children).

Sri Lanka has made the pledge for zero child labour by 2022 in its National policy on Elimination of Child Labour. The effective realisation of this commitment will require additional efforts both at national, sector and district level. Therefore, it is important to sustain the efforts to continue to eliminate child labour, including in hazardous work.

Sri Lanka also intends to increase the minimum working age from 14 to 16 years. The Government reports that the new minimum working age is expected to be effective from 2020. The laws that the Ministry is in the process of amending include the Employment of Women, Young Persons and Children Act No. 47 of 1956, the Shop and Office Employees Act No. 15 of 1954, the Factory Ordinance No. 45 of 1942, and the Employees' Provident Fund Act No. 15 of 1958.

Nevertheless, there are some outstanding legislative gaps on **hazardous forms of child labour**. Current legislation identifies 51 occupations and working conditions, but not activities, which fall into the category of hazardous labour. Furthermore, there is no specification of hours of work for different age groups, maximum weight a child can carry, maximum height to which a child can ascend, or prescribed leisure hours. In order to respond to these issues, the Department of Labour appointed a committee to review the list of hazardous work occupations. The government has prepared a proposal to increase the existing list of hazardous situations of employment to 77. The proposed regulation has been submitted for approval of the Cabinet of Ministers in August 2019, but has not yet been adopted.

The ILO has urged Sri Lanka to strengthen its efforts to combat **child sex tourism** and to ensure that the perpetrators are brought to justice. According to the Government, the National Child Protection Authority (NCPA) has finalised the Child Protection Policy of Sri Lanka (CPPSL), which addresses all forms of physical and mental abuse against children and details the Zero Tolerance Policy regarding the sexual exploitation of children, including child sex tourism. Cabinet approval for the draft protection policy is pending. The CPPSL and its Five Year Implementation Plan would be launched after cabinet approval. The Government further reports that the Cyber surveillance unit in the NCPA has been strengthened and more resources (Rs 0.5 million) would be allocated for it in 2019.

Children working in the **informal sector** remain out of the scope of legal protection. Sri Lanka has been encouraged to take further effective measures to strengthen the capacity and expand the reach of the **labour inspectorate** to better monitor children working in the informal economy. The National Policy on Elimination of Child Labour sets out a specific policy implementation strategy to enforce the outreach of labour inspection to the informal

sector, including in rural areas. The Government reports that plantation/estate sector programmes educating and empowering public officers and civil society in the estate/plantation sector to ensure protection of children in the sector have been operational since 2017.

### *Elimination of Discrimination (Conventions 100 and 111)*

The Constitution of Sri Lanka provides for the right to equality without discrimination on the basis of race, religion, language, caste, sex, political opinion, or place of birth. However, the realisation of this right requires effective legislation and remedies. Despite repeated requests by the ILO, there is still no specific **anti-discrimination law** in place, nor a law guaranteeing prohibition of discrimination with respect to employment and occupation. The ILO continues to express concerns about the absence of legislation ensuring **equal remuneration** for men and women for work of equal value and the absence of effective protection of workers against **sexual harassment**. The absence of discrimination and sexual harassment cases may also reflect the lack of an appropriate legal framework and practical difficulties of access to the procedures.

National legislation does not prohibit discrimination on the grounds of **national extraction** (leaving e.g. incoming migrant workers in a vulnerable position) or colour and does not specifically prohibit both direct and indirect forms of discrimination. The ILO has urged the Government to introduce specific legislative provisions to ensure that all men and women, citizens and non-citizens, are effectively protected from both direct and indirect discrimination. The Government considers that 'the need to introduce special provisions to existing national labour legislation to address non-discrimination issues has not arisen yet'. However, the Government reports that additional non-discrimination provisions will be included in the **Single Employment Law** currently discussed with social partners.

The **labour market participation of women** remains very low in comparison with that of men. In 2017, women represented only 37.3% of the economically active population (against 62.7% for men) and despite steady economic growth, the employment rate of women remained low at 36% in 2017, with more than one third of working women employed in the informal economy, characterised by low wages. Owing to the lack of equal access to employment, Sri Lankan women continue to be drawn into becoming domestic migrant workers.

Regarding assessment of **gender pay gap**, the ILO has noted that the statistical information forwarded by the Government does not allow for an assessment of the application of the principle of the Convention in practice. A 2016 survey by the Statistics Division of the Department of Labour, however, reports that the average earnings of women are lower than those of men in almost all economic sectors, even in the same occupational categories.

Taking into consideration the wide gender gap and the persistent gender segregation in the labour market, the ILO has requested the Government to take more proactive measures, including with employers and workers' organizations, to raise awareness, make assessments, and promote and enforce the application of the principle of **equal remuneration** for men and women for work of equal value. It remains important to address the gender remuneration gap by identifying and addressing the underlying causes of pay differentials such as vertical and horizontal job segregation and gender stereotypes, covering both the formal and informal economy, and by promoting women's access to a wider range of jobs with career prospects and higher pay.



Another challenge is the limited application of the National Minimum Wage Act No. 3 of 2016, which sets a **national minimum wage**. The Act does not cover workers in the informal economy, those not unionised, those on daily wages (e.g. plantation workers) and domestic workers, which are sectors characterized by a high proportion of women and particularly low wages.

While there have been no outstanding issues reported on gender **discrimination in recruitment** in the public sector, the number of women in management roles remains limited. As the main language of work in the public sector is Sinhala, people belonging to minorities who are not fluent in the Sinhala language are still at a disadvantage.

The Government has indicated that the establishment of **childcare** facilities, as well as encouraging more flexible work arrangements and promoting men's roles and responsibilities in childcare, is underway. The efforts already undertaken in this field should be sustained.

The government intends to consider ratification of the **Domestic Workers Convention** (C189) as indicated in the National Action Plan for the Protection and promotion of Human Rights 2017-2021. As a precursor, in 2018 the Cabinet of Ministers approved proposals for improving the labour protection of domestic workers. The proposed legal texts are currently going through the legislative process.

### **Conclusions and priorities**

*Sri Lanka has shown good level of engagement and commitment to address some of the key issues related to the implementation of the fundamental ILO Conventions. Particularly important is the fulfilment of reporting obligations to the ILO.*

*On some of the most pertinent issues, the authorities consider actions. On child labour, the list of hazardous occupations is in the process of being revised and the government has made the pledge for zero child labour by 2022. The government intends to include explicit provisions on non-discrimination in employment and on equal pay for men and women for work of equal value and to institutionalise the National Labour Advisory Council.*

*There is an opportunity to improve collective bargaining and freedom of association through the Sri Lanka Decent Work Country Programme (2018-2022). However, more commitment is needed to address shortcomings identified by the ILO. These are in particular: measures ensuring that compulsory labour is not imposed as a penalty for peaceful participation in strikes or expressing political opinions, lowering the minimum requirement of 40% to negotiate collective agreements, and ensuring that workers victim of anti-union discrimination can lodge a complaint before the judicial courts.*

### **4.3 UN Conventions on Environmental Protection and Climate Change**

*Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES)*

Sri Lanka has been a party to the Convention since 1979, but is yet to introduce national laws implementing CITES in the country. Implementing CITES would help close loopholes that allow Sri Lanka to be used as a wildlife trafficking route. Sri Lanka's national legislation, e.g.

Fauna and Flora Protection (Amendment) Act, No. 22 of 2009 and Customs (Amendment) Act. No. 2 of 2003, does not provide adequate legal provisions for apprehending illicit wildlife trafficking taking place in Sri Lanka.

Sri Lanka is still a Category 3 country, meaning that the country has ‘legislation that is believed generally not to meet requirements for the implementation of CITES’. Sri Lanka acknowledges that current legislation is insufficient to meet the requirements of CITES and has submitted a timeline for this work, but has not been able to maintain it. The CITES Secretariat reports in 2018 that draft legislation has been prepared and submitted for enactment and implementing regulation is under development. Next steps require the enactment of the draft legislation, and an agreement on the legislative analysis, which may include possible Category 1 status<sup>7</sup>.

Sri Lanka continues to be an advocate for the anti-poaching cause in the region, being the first South Asian nation to publicly destroy ivory obtained through elephant poaching. Sri Lanka planned to host the Committee of the Parties (CoP18) in May 2019 until the meeting had to be rescheduled following the Easter bombings.

#### *Basel Convention*

Import and transit of waste is restricted, and export is carried out under convention provisions. Sri Lanka has no facilities for hazardous waste disposal.

Sri Lanka ratified the amendment to the Basel Convention (Decision III/1), while national legislation for implementation of Basel Convention is yet to be prepared. A Cabinet decision has been taken to prohibit importation of List A waste from all countries and to keep the List B waste as the controlled list, to take decisions on case by case basis. Regulations have been published under Import and Export Control Act in order to control the importation of waste.

#### *Convention on Biological Diversity (CBD)*

There are no significant developments during the reporting period.

#### *Stockholm Convention on Persistent Organic Pollutants*

Sri Lanka drafted a National Implementation Plan (NIP) under the Stockholm Convention on POPs, under the guidance of Global Environment Facility (GEF)/ the United Nations Environmental Programme (UNEP). Sri Lanka transmitted its NIP's second update in May 2018. The updated NIP addressed ‘a change in national priorities’ and ‘a significant change in national circumstances’.

#### *Cartagena Protocol on Biosafety*

The Ministry of *Mahaweli* Development and Environment has begun work towards supporting Sri Lanka's implementation of the National Biosafety Framework in accordance with the Cartagena Protocol, with GEF as its resource partner and with technical support from the Food and Agriculture Organization of the United Nations (FAO).

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<sup>7</sup> Category 1 legislation is believed generally to meet the requirements for implementation of CITES.



## *Conventions on Climate Change*

Sri Lanka has ratified the Montreal Protocol, which seeks to cut the production and consumption of hydrofluorocarbons, and is up to date on reporting. Sri Lanka ratified the October 2016 Kigali Amendment to the Montreal Protocol on 28 September 2018.

Sri Lanka submitted its 1<sup>st</sup> Nationally Determined Contribution (NDC) in November 2016. The NDC intends to reduce the greenhouse gas emissions against business as usual scenario by 20% in the energy sector (4% unconditionally and 16% conditional to international support) and by 10% in other sectors (transport, industry, forests, and waste) of which 3% unconditionally and 7% conditionally by 2030.

## **Conclusions and priorities**

*Sri Lanka has remained committed to its international environmental obligations, while continuing to face challenges with implementation. Authorities have continued to face problems with reporting under environmental conventions. However, the authorities have engaged with the CITES secretariat around aligning national legislation with CITES requirements.*

## **4.4 UN Conventions on Good Governance**

### *International Drug Control Conventions*

Sri Lanka has an increasing drug problem. Narcotics continue to be smuggled into Sri Lanka on a large scale via sea routes from South India and from Pakistan. The government remains committed to targeting drug traffickers and implementing nationwide demand reduction programmes. Since 2015 Sri Lanka has become a major regional player in the field of prevention of illicit traffic in narcotic drugs, and considerable progress is seen in seizures of narcotic drugs by Sri Lankan authorities.

Sri Lanka has supported the United Nations Office on Drugs and Crime (UNODC) initiative to establish a South Asian Regional Intelligence Coordination Centre (SARICC) on transnational organised crime to strengthen law enforcement cooperation among South Asian states. The Cabinet of Ministers and the Attorney General approved the establishment of SARICC and are awaiting signature by the Minister in charge of Policing.

According to the latest data, most opiates are reportedly trafficked into Sri Lanka from India and Pakistan. Seizures of heroin carried out in the years prior to 2017 do not allow for a conclusive assessment of a particular trend, given significant year-to-year fluctuations. At the same time, in July 2018 alone, the country's Police Narcotics Bureau seized 103.9 kg of heroin in one of the department's biggest drug seizures ever.

As regards cannabis, Sri Lanka seized almost 5 t of cannabis herb in 2017. This represents a 20 per cent increase compared with 2016, making cannabis herb the narcotic drug seized in the largest quantity in the country during the period 2012 - 2017. Cannabis herb used in Sri Lanka is reportedly grown locally or trafficked into the country from Kerala State in India. With regard to cannabis resin, there are limited but increasing amounts seized over the past five years (from less than 500 g seized in 2012 to more than 40 kg seized in 2016). In addition, 23 out of 28 major cases of non-medical use of pharmaceutical preparations (ranging from the sale or possession of 6 to 70,000 capsules per case) detected by the National

Medicines Regulatory Authority in 2017 involved tramadol; the other 5 were related to pregabalin.

Residential care, treatment, and rehabilitation services are offered by four governmental and nine non-governmental service providers. The primary substance for which patients received treatment across providers operating in Sri Lanka was heroin (92% of all patients), followed by cannabis (69% of patients), indicating a significant level of poly-drug use.

An International Narcotics Control Board (INCB) mission visited Sri Lanka on 25-28 March 2018, with the objective to review the drug control situation in Sri Lanka and the full implementation of the three international drug control conventions to which Sri Lanka is a party, including reporting to and cooperation with INCB in accordance with the Conventions. The actions by the Government to counter drug trafficking, to prevent drug abuse, and to provide treatment and rehabilitation for drug dependent persons were also discussed. During its 125<sup>th</sup> session in Vienna in May 2019, the INCB agreed on recommendations to convey to the government of Sri Lanka with a view to safeguarding health and well-being through improved implementation of the three international drug control conventions.

Former President Sirisena indicated displeasure over convicted drug dealers engaged in enterprise from prison and announced that the moratorium on the implementation of the **death penalty** for drug trafficking might be lifted. In this regard, the EU made a statement on 27 June 2019, stressing that such a move would directly contradict Sri Lanka's commitment taken at the 73<sup>rd</sup> United Nations General Assembly in December 2018 to maintain the moratorium on death penalty. Resuming the death penalty would send a wrong signal to the international community, investors, and partners of the country.

As part of the United Nations Secretariat, the UNODC recalled on the same day (27 June 2019), in response to enquiries regarding reports from Sri Lanka on the application of the death penalty for four individuals convicted of drug related offences, that it does not support the use of the death penalty. In November 2018, the INCB encouraged all States that retain the death penalty for drug related offences to commute death sentences that have already been handed down and to consider the abolition of the death penalty for drug related offences. In December 2018, more countries than ever before - 121 Member States - supported a General Assembly resolution calling for a moratorium on the use of the death penalty.

### *UN Convention against Corruption (UNCAC)*

The latest UNCAC review report on Sri Lanka was finalised and published in September 2018. The report highlighted measures to promote the participation of civil society, including through the Open Government Partnership, as good practices, but called for implementation of an effective, **coordinated anti-corruption policy** with clearly stated goals and means to achieve them. The findings and recommendations from both review cycle reports have contributed to the drafting and finalising of the national anti-corruption strategic policy document and to the legislative capacity building by identifying the most relevant laws, which have been drafted and are pending in the Parliament.

The government and the President had anti-corruption measures among their main priorities and set up the Commission to Investigate Allegations of Bribery or Corruption (CIABOC), tasked to take measures to fully implement the UNCAC in Sri Lanka. CIABOC reports that in 2018 it investigated 2,157 of the 3,465 complaints received. In 2018, CIABOC also engaged in amending a number of important anti-corruption legislation, e.g. on establishing the integrity officers' network throughout the public sector and on establishing a more effective system of asset disclosures for public officials. Most notably, the CIABOC led the drafting of

the comprehensive National Anti-Corruption Strategy (2019-2023). The Strategy was publicly endorsed by the President, executive power, legislature and judiciary at its inauguration in March 2019.

The United Nations Office on Drugs and Crime (UNODC) released its country report on Sri Lanka in June 2018. In the report, UNODC gave a number of recommendations, including enhancing the independence and effectiveness of CIABOC, as well as continuing efforts to adopt a more structured approach towards the prevention work of CIABOC. The report also identified technical assistance needs in improving implementation of the Convention, namely legislative assistance, institution building, policy making, capacity building and research/data gathering and analysis.

A vast network of organisations are involved in the fight against corruption. This includes among others, the Presidential Commission of Inquiry to Investigate and Inquire into Serious Acts of Fraud, Corruption and Abuse of Power, State Resources and Privileges (PRECIFAC). A PRECIFAC report was forwarded to Parliament, but thereafter no action is reported. The Presidential Task Force on Stolen Assets Recovery was established to recover stolen assets belonging to the State.

Sri Lanka joined the Open Government Partnership (OGP) in 2015, and is currently implementing 15 commitments from their 2019-2021 National Action Plan. Among the commitments are appointing integrity officers to decrease bribery and corruption, as well as improving asset disclosure through an asset declaration system.

Sri Lanka's ranking in Transparency International's Corruption Perception in 2018 was 89 out of 180 countries, a slight improvement compared to 2017 when it was ranked 91st.

## **Conclusions and priorities**

*In a positive effort to follow a coordinated anti-corruption policy, the Government put in place an Anti-corruption Strategy 2019-2023. Sri Lanka is also currently implementing 15 commitments from the Open Government Partnership's 2019-2021 National Action Plan, including an asset declaration system and the appointment of integrity officers.*

*The authorities have also continued their significant efforts to aid illegal drug seizures and implement demand reduction programmes, thus attempting to address the increased illegal drug traffic flows through the country. However, intentions to implement the death penalty for drug trafficking are a worrying development and are not supported by UNODC and almost universally deemed not to be a solution to drug trafficking issues.*

# ANNEX

## Sri Lanka – Treaty Ratification and Reporting

Convention	Status of ratification / reservations <sup>8</sup>	Compliance with reporting obligations to monitoring bodies
1. Convention on the Prevention and Punishment of the Crime of Genocide	Ratified No reservations	<b>No reporting obligations</b>
2. International Convention on the Elimination of All Forms of Racial Discrimination	Ratified: 18.02.1982 No reservations	<b>Lack of compliance with reporting obligations</b> Last report submitted on 15.10.2015. Next report was due on 20.03.2019.
3. International Covenant on Civil and Political Rights	Ratified: 11.06.1980 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 22.02.2019.
4. International Covenant on Economic, Social and Cultural Rights	Ratified: 11.06.1980 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 07.10.2015. Next report due on 30.06.2022.
5. Convention on the Elimination of All Forms of Discrimination against Women	Ratified: 05.10.1981 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 30.14.2015. Next report due on 31.03.2021.
6. Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified: 03.01.1994 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 16.10.2015. Next report due on 07.12.2020.
7. Convention on the Rights of the Child	Ratified: 12.07.1991 No reservations	<b>Compliant with reporting obligations</b> Last report submitted on 08.06.2016.
8. Convention concerning Forced or Compulsory Labour, No. 29	Ratification: 1950	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation, Direct Request 2017. Last report received in 2019.
9. Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87	Ratification: 1995	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2018; Direct Request 2018. Latest (regular) report received in 2018. Next report due in 2021.
10. Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98	Ratification: 1972	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2018. Latest (regular) report received in 2018. Last report (out of cycle) received in 2019.

<sup>8</sup> Reservations do not apply in the ILO system, so there is no relevance to providing information on reservations under each of these conventions.

		Next regular report due in 2021.
11. Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100	Ratification: 1993	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2018; Direct Request 2018. Next report due in 2020.
12. Convention concerning the Abolition of Forced Labour, No. 105	Ratification: 2003	<b>Lack of compliance with reporting obligations</b> Latest CEACR comments: Direct Request 2017. Latest report was due in 2019 (requested). Next regular report due in 2022.
13. Convention concerning Discrimination in Respect of Employment and Occupation, No. 111	Ratification: 1998	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation, Direct Request 2018. Next report due in 2020.
14. Convention concerning Minimum Age for Admission to Employment, No. 138	Ratification: 2000	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation 2017. Last report received in 2019. Next report due in 2022.
15. Convention concerning Minimum Age for Admission to Employment, No. 182	Ratification: 2001	<b>Compliant with reporting obligations</b> Latest CEACR comments: Observation, Direct Request 2017. Last report received in 2019. Next report due in 2022.
16. CITES	Accession: 04.05.1979 No reservations	<b>Lack of compliance with reporting obligations</b> Last (2017) Annual Report submitted on 24.11.2018. Next (2018) Annual Report due 31.10.2019. No Biennial or Implementation Reports submitted to date. <sup>9</sup> No Annual Illegal Trade report submitted to date. <sup>10</sup>
17. Montreal Protocol	Accession: 15.12.1989 No reservations	<b>Compliant with reporting obligations</b> Most recent data for 2016 was submitted. No more recent reporting data is available.
18. Basel Convention	Ratification: 28.08.1992 No reservations	<b>Compliant with reporting obligations</b> Latest (2017) Annual Report submitted on 07.02.2019. No data on 2018 Annual National Report available.
19. Convention on Biological Diversity	Ratification: 21.06.1994 No reservations	<b>Compliant with reporting obligations</b> Last (Sixth) National Report published on 02.04.2019. National Biodiversity Strategy and Action Plan updated on

<sup>9</sup> Reporting mandatory, but not subject to compliance procedure.

<sup>10</sup> As above.

		17.10.2016.
20. UN Framework Convention on Climate Change	Ratification: 23.11.1993 No reservations	<b>Lack of compliance with reporting obligations</b> First National Communication submitted on 06.11.2000. Second National Communication submitted on 16.03.2012. Third National Communication due in 2016. Biennial Update Report for 2014, 2016, and 2018 due.
21. Cartagena Protocol on Biosafety	Ratification: 28.04.2004 No reservations	<b>Compliant with reporting obligations</b> Last (Third) National Report submitted on 01.12.2015. Next (Fourth) national report due on 01.10.2019. Interim National Report (2005) is due.
22. Stockholm Convention	Ratification: 22.12.2005 No reservations	<b>Compliant with reporting obligations</b> Latest (Fourth) National report submitted on 18.03.2019.
23. Kyoto Protocol	Ratification: 03.09.2002 No reservations	<b>No reporting obligations</b>
24. UN Single Convention on Narcotic Drugs	Ratification: 11.07.1963 No reservations	<b>Reviewing is fulfilled by the International Narcotics Control Board (INCB).</b>
25. UN Convention on Psychotropic Substances	Ratification: 15.03.1993 No reservations	INCB mission took place 25-28 March 2018. See report of the INCB for 2018.
26. UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances	Ratification: 06.06.1991 No reservations	
27. UN Convention against Corruption	Ratification: 31.03.2004 No reservations	<b>Reviewing is fulfilled by the UN Office on Drugs and Crime (UNODC).</b> Latest executive summary and country report published 28.05.2018.