

Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights' Compilation Report

Universal Periodic Review: 3rd Cycle, 28th Session

SRI LANKA

I. BACKGROUND INFORMATION

Sri Lanka has not acceded to the *1951 Convention relating to the Status of Refugees* nor to its *1967 Protocol* (hereinafter jointly referred to as the *1951 Convention*). Furthermore, Sri Lanka has not acceded to the *1954 Convention relating to the Status of Stateless Persons* (the *1954 Convention*) nor the *1961 Convention on the Reduction of Statelessness* (the *1961 Convention*).

As of February 2017, there were 601 asylum-seekers and 612 refugees registered with UNHCR in Sri Lanka. In the absence of a national asylum framework, asylum-seekers and refugees are treated as irregular immigrants and may be subject to arrest, detention, and deportation under the *Immigrants and Emigrants Act*.¹ While the present Government ensures minimum necessary asylum space and tolerates asylum-seekers and refugees on its territory, the previous Government, in a bid to curtail the growing number of foreigners in the country, arbitrarily arrested, detained and deported large numbers of asylum-seekers and refugees in breach of the principle of *non-refoulement* (from June to November 2014).

The 2005 *Memorandum of Understanding (MoU)* with the Government allows UNHCR to fulfil its protection and solutions mandate for asylum-seekers and refugees, internally displaced persons (IDPs) and IDP and refugee returnees within the Sri Lankan territory. Under this *MoU*, and the *Terms of Reference* agreed upon in 2006, UNHCR is responsible for conducting registration, documentation and refugee status determination (RSD) procedures for asylum-seekers. UNHCR also facilitates refugees' durable solutions, primarily in the form of resettlement to third countries given that refugees' voluntary repatriation remains almost non-existent and local integration is not permitted by Sri Lankan authorities. Refugees and asylum-seekers registered with UNHCR are afforded free health care in State hospitals in Sri Lanka. However, children do not have access to free education, nor are adults allowed to seek employment. UNHCR provides limited monthly financial support to all recognized refugees for their basic needs and to assist with children's education.

Despite not being a signatory to either the *1954 Convention* or *1961 Convention*, since 1986, Sri Lanka assumed positive steps towards reducing statelessness. Additional legislative reforms followed in 2003 and 2009. With the adoption of the *1986 Grant of Citizenship to*

¹ *Sri Lanka: Immigrants and Emigrants Act No. 20 of 1948* [Sri Lanka], 1 November 1949, available at: http://www.hrcsl.lk/PFF/Library_Domestic_Laws/Legislations_related%20to_Migrants_Workers/1948%20No%2020%20Immigrants%20and%20emigrants.pdf.

*Stateless Persons Act*² and the *2003 Grant of Citizenship to Persons of Indian Origin Act*³ more than 190,000 Tamil persons of Indian origin benefitted from the legislative reform and have been granted nationality. The 2009 amendments⁴ removed the uninterrupted residency requirement making it possible for those displaced to India as refugees who would otherwise have fallen within the ambit of the acts⁵ to avail themselves of its benefits upon return to Sri Lanka. In 2008, Sri Lanka also granted a path to citizenship to long term ethnic Chinese residents (estimated to affect a few hundred individuals).

Sri Lanka has undergone a considerable transition as a result of the 2015 Presidential and Parliamentary elections. The new coalition Government, faced with consequences arising from a long-term internal conflict, has been actively engaging in peace building and reconciliation; durable solutions to internal displacement; determining the fate of missing persons; and, transitional justice and the rule of law. The Government reached out to the UN, civil society and international development partners to address some of these issues. On 16 August 2016, the Cabinet of Ministers adopted the *National Policy on Durable Solutions for Conflict-Affected Displacement (National Policy)*,⁶ which paves the way to address durable solution needs for IDPs and refugee returnees, in accordance with the international standards. Furthermore, the Government redoubled efforts to release land from High Security Zones⁷ and to deliver necessary housing/shelter and livelihood assistance effectively enabling return and realization of durable solutions for a significant number of IDPs. Despite these encouraging developments, monitoring in return areas in the North and East indicates persistent livelihood, housing/shelter, land and property needs. In addition, although there has been a modest increase in interest and number of Sri Lankan refugees choosing voluntary repatriation, challenges still exist, particularly given the protracted nature of the refugee situation in Tamil Nadu, India.

UNHCR welcomes the improved operational environment and encourages the Government to embrace the key principles of international refugee protection as it assumes greater responsibility for different populations in need of protection.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Positive developments linked to 2nd cycle UPR recommendations

Linked to 2nd cycle UPR recommendation no. 127.91: “Develop a comprehensive policy with regard to all aspects of internal displacement (Azerbaijan).”

² *Grant of Citizenship to Stateless Persons Act, No. 5 of 1986* [Sri Lanka], 21 February 1987, available at: <http://www.refworld.org/docid/3ae6b5081c.html>.

³ *Grant of Citizenship to Persons of Indian Origin. Bill No. 153, to Make Provision for the Grant of Status of Sri Lanka Citizen to Persons of Indian Origin.* [Sri Lanka], 153, 23 September 2003, available at: <http://www.refworld.org/docid/45af77952.html>.

⁴ *Grant of Citizenship to Stateless Persons (Special Provisions) Act No. 5 of 2009* and *Grant of Citizenship to Persons of Indian Origin (Amendment) Act, No. 6 of 2009* [Sri Lanka], 18 February 2009, available at: <http://www.refworld.org/pdfid/4c515bfe2.pdf> and <http://www.refworld.org/docid/4c516c5b9.html>

⁵ *Grant of Citizenship to Stateless Persons Act No.5 of 1986 as amended by Grant of Citizenship to Stateless Persons (Special Provisions) Act No. 39 of 1988* and the *Grant of Citizenship to Persons of Indian Origin Act No. 35 of 2003*.

⁶ *National Policy on Durable Solutions for Conflict Affected Displacement* [Sri Lanka], adopted on 16 August 2016, available at: <http://resettlementmin.gov.lk/site/images/stories/pdf/final%20policy.pdf>.

⁷ Areas that were placed under the purview of the Sri Lankan Army as security zones during and after the conflict; often incorporating privately owned land.

UNHCR welcomes the adoption of the *National Policy*. The *National Policy*, developed by the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs (MoR) with the technical assistance of the United Nations Country Team (UNCT), underlines the Government's commitment to re-build the lives of the conflict-affected families using a rights-based approach. It is framed to ensure that rehabilitation, peace-building, reconciliation and social harmony are at the centre of all resettlement policies and all national planning processes aimed at securing durable solutions for conflict-affected IDP and refugee returnees.

Linked to 2nd cycle UPR recommendation no. 127.93: “Continue providing assistance to IDP returnees in particular with housing, livelihoods and economic empowerment (Cuba).”

UNHCR notes with appreciation redoubled efforts by the MoR to ensure appropriate housing and livelihoods assistance to IDP returnees in 2015 and 2016. UNHCR is encouraged and commends the MoR for announced continuation of such assistance in 2017 and appreciates inclusion of refugee returnees into the existing food, livelihoods and housing support schemes.

Linked to 2nd cycle UPR recommendation no. 127.95: “Ensure legal ownership and return and restitution of houses and lands to internally displaced persons, according to international standards (Holy See).”

UNHCR commends the Government's action to ensure the return of 3,755 acres of land to IDPs, including in High Security Zones and Board of Investors-Economic Zones in Jaffna and Trincomalee, enabling return as a durable solution to IDPs' protracted displacement.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Challenges linked to outstanding 2nd cycle UPR recommendations

Issue 1: Implementation of the *National Policy*

Linked to 2nd cycle UPR recommendation no. 127.94: “Ensure the protection of IDP's rights to voluntary and safe return to adequate restitution by, inter alia, putting in place and implementing long-term housing and property restitution policies that comply with international standards (Finland).”

Notwithstanding positive developments, the actual implementation of the *National Policy*, in all its comprehensive aspects, is still pending and the Government is encouraged to capitalize on positive dividends achieved thus far. The UN Country Team in Sri Lanka has included support for resettlement and durable solutions in its strategic planning related to Sri Lanka's broader peace-building transition and has envisaged providing technical support to the MoR in order to operationalize the implementation of the *National Policy*. Housing, land and property issues in Sri Lanka are extremely complex as a result of long-term internal conflict and associated population movement. Multiple laws exist and a number of State institutions and ministries are mandated to manage state owned land. Given these challenges, a number of IDP and refugee returnees remain unable to achieve durable solutions as a result of landlessness.

Recommendations:

UNHCR recommends that the Government of Sri Lanka:

- a) Ensure full implementation of the *National Policy* in coordination with all stakeholders, including by the comprehensive surveying of all the remaining conflict-induced IDPs and support to their durable solutions; and
- b) Review national land legislation, policies and administrative practices, with a view of effectively addressing the durable solutions needs of IDPs and refugee returnees, in particular those who never had access to state land.

Additional protection challenges

Issue 2: Legal framework relating to asylum-seekers and refugees

UNHCR commends the Government's continued commitment to host people in need of international protection on its territory, despite not being a state party to the *1951 Convention*.⁸ However, we note that the lack of legal framework and associated legal status leaves refugees and asylum-seekers in a legal and administrative limbo during their stay in Sri Lanka. Documentation issued by UNHCR (such as Asylum-seeker and Refugee Certificates) is generally recognized by the State authorities, however, risks of abuse and self-imposed limitations on freedom of movement (out of fear of travelling without documentation) exist as a result of the lack of a formally recognized status.

Recommendations:

UNHCR recommends that the Government of Sri Lanka:

- a) Accede to the *1951 Convention relating to the Status of Refugees*; and
- b) Establish a national legal framework for the protection of asylum-seekers and refugees and develop a national asylum system.

Issue 3: Non-refoulement, access to asylum, and immigration detention

Sri Lanka generally observes its obligations under customary international law in respect to the principle of *non-refoulement*. However, in a departure from this general practice, in 2014, 385 asylum-seekers were *refouled* over a period of 5 months. UNHCR is also aware of cases where entry and access to asylum procedures were refused at the Bandaranaike International Airport.

Furthermore, as of November 2016, 7 refugees (including 2 children) and 1 asylum-seeker were held at the Mirihana Immigration Detention facility. The detention of asylum-seekers and refugees should normally be avoided and be a measure of last resort. Alternatives to detention should be sought and given preference in all circumstances. If detained, individuals should be entitled to minimum procedural guarantees, including the right to seek asylum.

Recommendations:

UNHCR recommends that the Government of Sri Lanka:

- a) Enact legislation guaranteeing strict observance of the principle of *non-refoulement*;
- b) Ensure individuals at all border entry points, including airports, are able to seek asylum;

⁸ It should be noted that the Human Rights Commission of Sri Lanka in its 2016 report to the UN Committee Against Torture recommended that Sri Lanka accedes to the *1951 Convention*: See Report of the Human Rights Commission to the Committee Against Torture: Review of the 5th Periodic Report Review Sri Lanka, October 2016, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCAT%2fNHS%2fLKA%2f25601&Lang=en.

- c) Ensure that, when necessary, alternatives to detention are sought and given preference for asylum-seekers and refugees, with detention being considered only as a measure of last resort and for as short a period as possible; and
- d) Allow UNHCR unimpeded access to detained individuals facing deportation and ensure that these individuals have access to asylum procedures.

Issue 4: Right to employment and public education services

Access to employment is of paramount importance; it supports refugees' economic self-sufficiency, development of their professional skills and facilitates the realization of durable solutions. Under Sri Lanka's *Immigrants and Emigrants Act* any employment by non-resident foreigners, such as asylum-seekers and refugees, is considered unlawful and makes violators subject to arrest. A number of asylum-seekers and refugees have been arrested and placed in protracted detention for employment related offences. Their "illegal status", and lack of access to legal employment, heightens the risk of exploitation and abuse.

Furthermore, while UNHCR provides financial support for refugee children to access primary education through enrolment in private schools, refugee and asylum-seeking children cannot access the national education system in Sri Lanka.

Recommendation:

UNHCR recommends that the Government of Sri Lanka:

- a) Provide asylum-seekers and refugees access to the labour market and to nationally available education services.

Issue 5: Statelessness

UNHCR notes the Government has undertaken progressive legislative reforms to provide citizenship to stateless populations. Sri Lanka is globally recognized and cited as exhibiting good practices with respect to resolving cases of statelessness and populations formerly stateless or at risk of statelessness have, to a great extent, managed to obtain Sri Lankan nationality. However, the exact number of stateless persons in Sri Lanka remains unknown. Reports indicate that people in some areas of the country still lack basic civil documentation. Reasons for this phenomenon are unclear. Analyses of Sri Lanka's citizenship legislation, indicate that statelessness may also persist because the Government does not automatically provide citizenship to children born in its territory who would otherwise be stateless.⁹

Recommendation:

UNHCR recommends that the Government of Sri Lanka:

- a) Accede to the *1954 Convention relating to the Status of Stateless Persons* and to the *1961 Convention on the Reduction of Statelessness*.

Human Rights Liaison Unit
Division of International Protection
UNHCR
March 2017

⁹ It is notable that the *Sri Lankan International Covenant on Civil and Political Rights (ICCPR) Act*, No. 56 of 2007, in its Section 5, referring to rights of the child ascertains that every child has the right to: a) have his or her birth registered and to have a name from his or her date of birth; and b) acquire nationality.

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

SRI LANKA

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Sri Lanka.

I. Universal Periodic Review (Second Cycle – 2012)

Recommendation ¹⁰	Recommending State/s	Position ¹¹
IDPs		
128.73 Work on the elimination of the causes of minor's recruitment by armed groups and guarantee full rehabilitation, social reintegration and school reintegration of those children who participated or were affected by the conflict, including those who had to be accommodated in internal displaced camps and to take into account the linguistic, cultural, and religious diversity in Sri Lanka;	Uruguay	Supported
128.91 Develop a comprehensive policy with regard to all aspects of internal displacement;	Azerbaijan	Supported
128.93 Continue providing assistance to IDP returnees in particular with housing, livelihoods and economic empowerment;	Cuba	Supported
128.94 Ensure the protection of IDP's rights to voluntary and safe return to adequate restitution by, inter alia, putting in place and implementing long-term housing and property restitution policies that comply with international standards;	Finland	Supported
128.95 Ensure legal ownership and return or restitution of houses and lands to internally displaced persons, according to international standards;	Holy See	Supported
128.96 Strengthen efforts to implement the recommendations of the National Reconciliation Committee and work towards the repatriation of the internally displaced affected by the war to their cities and villages, and to guarantee the means of stability for them;	Sudan	Supported
128.97 Invest more resources towards a better service delivery mechanism that will also ensure that the remaining internally displaced citizens return safely to their territories;	Swaziland	Supported

¹⁰ All recommendations made to Sri Lanka during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Sri Lanka" (18 December 2012), A/HRC/22/16, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LKSession14.aspx>.

¹¹ Sri Lanka's views and replies can be found in: *Addendum* (21 February 2013), A/HRC/22/16/Add.1, available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/LKSession14.aspx>.

128.98 Continue the resettlement of all internally displaced persons as a result of the conflict and guarantee the transfer or compensate those people who cannot return to their places of origin;	Syrian Arab Republic	Supported
129.93 Create a mechanism to ensure that all internally displaced persons, including 66,151 “Old IDPS” and further 37,123 living with host communities, receive a written statement detailing their entitlements and plans for return to their original homes;	Canada	Noted ¹²
Gender equality and SGBV		
128.66 Adopt necessary measures to ensure that gender equality is a legal and practical reality, combating particularly gender violence;	Spain	Supported
129.16 Fully incorporate the Convention on the Elimination of Discrimination against Women into its domestic system;	Slovenia	Noted
Trafficking in persons		
128.2 Consider ratifying the Palermo Protocol on human trafficking;	Philippines	Supported
128.70 Increase its efforts on strengthening protection of children’s rights in such areas as child labor, domestic violence, trafficking and sexual exploitation;	Iran (Islamic Republic of)	Supported
SOGI		
129.24 Decriminalize consenting homosexual relationships between persons over the age of consent by repealing Section 365A of the penal code;	Canada	Noted
129.53 Strengthen the measures to eliminate all discriminatory treatment based on sexual orientation or gender identity;	Argentina	Noted

II. Treaty Bodies

Committee on the Elimination of Racial Discrimination

Concluding Observations, (26 August 2016), [CERD/C/LKA/CO/10-17](#)

Hate speech and hate crimes

16. The Committee is alarmed by reports of hate speech, incitement to violence, and violent attacks including riots against ethnic and ethno-religious minority groups, which have resulted in deaths, injuries and destruction of property. The Committee is further concerned that groups or individuals inciting violence and undertaking violent attacks against ethnic and ethno-religious minorities are not held accountable. The Committee notes recent efforts by the State party to introduce draft legislation to criminalize hate speech (art. 4 and 5).

17. Bearing in mind its general recommendations no. 35 (2013) on combating racist hate speech the Committee recommends that the State party:

¹² *Addendum*: “With reference to the “old-IDPs” mentioned in 128.93, mechanisms are in place to count, consult and resettle these IDPs, especially those forcibly removed by the LTTE.”

- (a) **Take immediate measures to protect the safety and security of ethnic and ethno-religious minorities and their places of worship, in accordance with article 5 of the Convention.**
- (b) **Adopt comprehensive legislation on hate speech fulfilling the requirements of article 4 of the Convention which requires State parties to ensure the prohibition of ideas based on racial superiority and hatred, the incitement to racial hatred, acts of violence against any race or groups of persons of another colour or ethnic origin, and incitement to such acts. The Committee also recommends that the State party ensure that its criminal legislation defines racial motivation as an aggravating circumstance.**
- (c) **Enforce legislative provisions to prosecute perpetrators of hate speech, incitement to violence, and hate crimes to deter further crimes and prevent impunity of perpetrators. Provide information in its next periodic report, on numbers of cases reported, investigations, prosecutions, convictions of perpetrators, and remedies for victims.**
- (d) **Foster tolerance and unity through facilitating dialogue between communities in conflict to eliminate tensions.**

Freedom of religion of ethnic and ethno-religious minorities

18. The Committee is alarmed by the difficulty faced by ethnic and ethno-religious minority groups, such as Moors, or Muslims, Hindus and Christians of Tamil or Sinhala ethnicity, to freely practice their right to freedom of religion. In particular it is concerned by reported cases of desecration of places of worship, disruptions of religious services, denials of building permits to construct religious buildings, and denials of burials in public cemeteries of members of ethnic or ethno-religious groups (art. 5).

19. The Committee recommends the State party urgently undertake effective measures to protect the rights of ethnic and ethno-religious minorities, including their right to freedom of thought, conscience and religion, without any discrimination based on race, colour, descent or national or ethnic origin, as specified in article 5 of the Convention.

Situation of internally displaced persons

25. The Committee is concerned by the situation of internally displaced persons, a majority of whom belong to the Tamil, Moor, and Muslim ethnic and ethno-religious minority groups, who continue to remain displaced, and face challenging living conditions in camps and delays in reintegration into society. Once reintegrated, these communities also face challenges in access to basic services, employment, and adequate housing. The Committee notes efforts by the State party to de-mine and release land, but is concerned by reports that land is also still being held by the military in the North and East (art. 5).

26. The Committee, acknowledging efforts undertaken this far, recommends the State party step up efforts to address the challenges faced by internally displaced persons in terms of reintegration, including in accessing employment, housing, and basic services and resolution of land claims, as well as hasten efforts to release land in the North and East to facilitate further resettlement. The Committee requests the State party continue to communicate with all affected communities with regards to efforts for resettlement, in a transparent manner, to avoid tensions.

Situation of minority women in war affected areas

27. The Committee expresses concern at the situation of women from ethnic and ethno-religious minority groups, in areas affected by the war in particular in the North and East, who are now female heads of households, and are reportedly experiencing high rates of poverty and unemployment. The Committee is further concerned by information that these women are vulnerable to sexual and gender based violence, including rape, by security forces.

28. While recalling its general recommendation No. 19 on gender-related dimensions of racial discrimination, the Committee emphasizes that women are particularly vulnerable to certain forms of racial discrimination, such as sexual violence during armed conflict. The Committee recommends the State party take measures to ensure the protection of these women, post-conflict, and ensure that any victims of violations have access to complaint mechanisms and judicial remedies, and that reported cases are investigated and perpetrators are prosecuted. The Committee further recommends that the State party implement measures to assist women heads of households in access to employment and basic services to improve their socio-economic condition.

Human Rights Committee

Concluding Observations, (21 November 2014), [CCPR/C/LKA/CO/5](#)

Non-discrimination

7. The Committee is concerned about discriminatory provisions against women in domestic legislation, including on rights of succession with respect to land permits and grants and the disposal of immovable property. It is also concerned about the low rates of participation by women in political and public life, perpetuated by the persistence of stereotypes regarding the roles, responsibilities and identities of women and men in all spheres of life (arts. 3, 23 and 26).

The State party should strengthen its efforts to guarantee de jure and de facto equality between men and women. In that respect, the State party should:

- (a) **Undertake a comprehensive review of its domestic laws, including those that govern rights of succession with respect to land permits and grants, the disposal of immovable property and the absence of a minimum age of marriage under Muslim law, in order to bring them into full conformity with articles 3, 23 and 26 of the Covenant;**
- (b) **Intensify its efforts to increase the participation of women in political and public life, including by considering temporary special measures for women in political structures at the local, regional and national levels;**
- (c) **Undertake measures to raise awareness about women's rights.**

8. While noting the confirmation of the State party that article 12 of its Constitution prohibits discrimination on the grounds of sexual orientation and gender identity, the Committee remains concerned at the continued applicability of Penal Code sections 365, 365A and 399 to criminalize lesbian, gay, bisexual, transgender and intersex (LGBTI) conduct and the widespread discrimination and stigmatization of persons on the basis of their sexual orientation and gender identity (arts. 2 and 26).

The State party should amend sections 365, 365A and 399 of its Penal Code to ensure full compliance with articles 2 and 26 of the Covenant. The State party should also consider amending article 12 of its Constitution to state explicitly that sexual orientation and

gender identity are prohibited grounds for discrimination. It should also strengthen measures to protect against violations of LGBTI rights and strengthen awareness-raising and training measures on such rights.

Violence against women

9. While welcoming the State party's adoption of the Prevention of Domestic Violence Act, the Committee is concerned about the persistence of sociocultural values that condone domestic violence, resulting in such violence remaining widespread and subject to impunity. Furthermore, it is concerned about allegations of sexual violence against women in the context of detention, resettlement and other situations that require contact with security forces (arts. 2, 3, 6 and 7).

The State party should adopt a comprehensive approach in order to prevent and address violence against women in all its forms and manifestations. It should adopt specific legislation that explicitly prohibits domestic violence and marital rape, regardless of judicial acknowledgement of separation. It should also ensure that cases of domestic violence and marital rape, as well as allegations of sexual violence by the security forces, are thoroughly investigated, that the perpetrators are prosecuted and punished with commensurate sanctions and that the victims are adequately compensated. Furthermore, it should provide training for State officials, in particular judges, prosecutors and security forces, in order to ensure that they are able to respond effectively and appropriately to all forms of violence against women.

Internally displaced persons

13. While noting the measures taken by the State party to address the situation of internally displaced persons, the Committee is concerned that there continues to be a significant number of persons in such situations, which is exacerbated by the acquisition of land for military purposes (arts. 12 and 26).

The State party should further strengthen its measures to address the needs of internally displaced persons, which, in addition to durable housing solutions, should provide support for local integration and sustainable income-generation opportunities in situations of resettlement, including for women. It should also ensure voluntary return or resettlement. Furthermore, it should accelerate the return of land currently occupied for military use to their owners/residents.

Trafficking in persons

20. While noting that the State party has established an anti-trafficking task force under its Ministry of Justice, the Committee is nonetheless concerned at the lack of effective measures to protect victims and provide them with effective remedies, including compensation and rehabilitation. It is concerned that there has been low rates of prosecution and insufficient punishment of perpetrators (art. 8).

The State party should systematically, transparently, impartially and vigorously investigate allegations of trafficking in persons, prosecute and, if convicted, punish those responsible and provide compensation to victims. In doing so, it should take measures to ensure access to reporting mechanisms for victims of trafficking. Such mechanisms should ensure the protection of victims while also ensuring they are not punished for activities that result from their situation as victims of trafficking. It should also introduce a system to document such reports, in order that they may be used as a basis for the

regular evaluation of the impact of all initiatives and measures taken to combat trafficking in persons. Furthermore, the State party should strengthen its support and protection measures for victims and witnesses, including rehabilitation.

III. Special Procedures

Report of the Working Group on Enforced or Involuntary Disappearances

Mission to Sri Lanka (8 July 2016) [A/HRC/33/51/Add.2](#)

61. In the vast majority of cases, the disappeared persons are men and it is the women who are left alone. The gendered dimension of the phenomenon of enforced disappearances should be duly taken into consideration. The Working Group met with hundreds of women – mothers, wives, sisters, daughters — of disappeared persons. They shared their stories of suffering, economic hardship and despair resulting from the disappearance of their loved ones. For some of them, several members of their family have disappeared. Many of them referred to the violence, in particular sexual violence, to which they were subjected during the conflict or in their search for truth and justice. These women suffer multiple and intersecting forms of discrimination and violence, including owing to harmful traditional practices in their communities.

[...]

65. The Working Group was also informed that relatives of disappeared persons who were alleged to have had ties to terrorist organizations do not have the right to this compensation. Under the international obligations of Sri Lanka, every victim of enforced disappearance is entitled to receive full and integral reparation without any type of discrimination. The Working Group was also informed of the budgetary limitations of the Rehabilitation of Persons, Properties and Industries Authority, which has resulted in a large backlog. If resources are not increased, it would take at least five to six years before current applicants are compensated.

[...]

67. In the context of resettlement, the Working Group encourages the authorities to take into account, inter alia, the link between displacement and disappearance. The relatives of many of the disappeared are also suffering from displacement and are therefore suffering further victimization. Similar attention should be paid to the restitution of land for the families of disappeared persons who have been displaced. The Working Group was particularly disturbed at the extensive and continuing military occupation of private land, particularly in the Northern and Eastern Provinces. It was informed that a significant number of people in these provinces continue to be displaced, including owing to the failure on the part of the Government to release lands that are occupied by the military. The Working Group was also informed that the Government has not taken adequate steps to facilitate the voluntary return of Muslims who were forcibly expelled by LTTE from the Northern Province in 1990. The Working Group welcomes the commitment by the Government to give priority to families of missing persons in the housing programme of the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs and its recognition of the importance of releasing land in the Northern and Eastern Provinces.

Conclusions and recommendations:

72. Overall, the victims of enforced disappearances have very little faith in the justice system, the prosecution services, the police or the armed forces. The chronic pattern of impunity still exists with regard to cases of enforced disappearance and sufficient efforts now need to be made to determine the fate or whereabouts of persons who have disappeared, punish those responsible and guarantee the right to truth and reparation.

73. Any successful initiative must therefore be the result of a broad, inclusive, gendered and participatory consultative process. Any comprehensive policy should address all the enforced disappearances that took place in the country, regardless of the time of the disappearance and without any type of discrimination. The Government will need to adopt bold steps to reach out to and create confidence in the victims. In addition, good faith measures and concrete results are needed to restore trust between the State and all sectors of society as well as between all groups and communities.

[...]

Reparations

84. The Working Group recommends that the Government of Sri Lanka:

[...]

- (g) Formulate and adopt a national resettlement policy to adequately address the needs of displaced persons and victims of enforced disappearances and incorporate the existing national involuntary resettlement policy into domestic law;**
- (h) Pay equal attention to all victims, regardless of their ethnicity, in respect of memorials and consider integrating this principle into future activities related to this element of reparation;**