



**INFORM**

Sri Lanka

Joint Submission to the UN Universal Periodic Review

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Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General  
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And

INFORM : Human Rights Documentation Centre

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## **1. (A) Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.
- 1.2** INFORM: Human Rights Documentation Centre (hereafter INFORM) was established in 1990 to monitor and document the human rights situation in Sri Lanka, especially in the context of the ethnic conflict and civil war. We work by reporting on the situation through written and oral interventions at the local, national and international level. In the recent years, INFORM has more focused on protection of human rights defenders at Risk in Sri Lanka and other Asian Countries.
- 1.3** In this document, CIVICUS and INFORM examine the Government of Sri Lanka's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Sri Lanka's fulfilment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in November 2012. To this end, we assess Sri Lanka's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.4** During the 2<sup>nd</sup> UPR cycle, the Government of Sri Lanka received eleven recommendations relating to civic space. Of these recommendations, one was accepted and nine were noted. An evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Sri Lanka has partially implemented seven recommendations relating to civil society space and three have been fully implemented and one not at all. While the government has made significant strides in addressing associational issues, acute implementation gaps were found with regard to the right to freedom of assembly and civic space issues relating to the demilitarisation of the North and Eastern areas of Sri Lanka. Sri Lanka is rated as 'obstructed' by the CIVICUS Monitor which evaluates protection of the freedoms of expression, association and peaceful assembly globally.
- 1.5** CIVICUS and INFORM are deeply concerned by continued threats, intimidation, surveillance and harassment for Human Rights defenders and restrictions on freedom of assembly, and expression.
- 1.6** CIVICUS and INFORM are further alarmed by impunity, slow progress of justice and the lack of willingness from the government to investigate crimes committed against HRDs during the last phase of war and post-war period, including since the last UPR process in 2012.

**1.7** CIVICUS & INFORM are dismayed by the proposal to renew counter terrorism legislation in Sri Lanka which could undermine the fragile peace in the country and exacerbate ethnic tensions. These proposals should be immediately amended.

- In Section B, CIVICUS and INFORM examine Sri Lanka's implementation of UPR recommendations and compliance with international human rights standards concerning freedom of association.
- In Section C, CIVICUS and INFORM examine Sri Lanka's implementation of UPR recommendations and compliance with international human rights standards related to the protection of human rights defenders, civil society activists and journalists.
- In Section D, CIVICUS and INFORM Documentation Centre examine Sri Lanka's implementation of UPR recommendations and compliance with international human rights standards concerning to freedom of expression, independence of the media and access to information.
- In Section E, CIVICUS and INFORM Documentation Centre examine Sri Lanka's implementation of UPR recommendations and compliance with international human rights standards related to freedom of assembly.
- In Section F, CIVICUS and INFORM Documentation Centre make a number of recommendations to address the concerns listed.

## **2. (B) Freedom of association**

**2.1** During Sri Lanka's examination under the 2<sup>nd</sup> UPR cycle in November 2012, the government received four recommendations on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). Among other recommendations, the government committed to "take action to facilitate greater participation by citizens and civil society in helping to implement human rights action plans." Of the recommendations received, the government accepted two and noted two. However, as evidenced below, the government has failed to take adequate measures to realize many of these recommendations. Of the four recommendations on freedom of association, the government has partially implemented two and fully implemented two.

**2.2** Article 14C of the Sri Lankan Constitution<sup>1</sup> guarantees the right to freedom of association. Moreover, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Sri Lanka is a state party, also guarantees freedom of association. Despite an improvement in the operating environment for civil society across the country and greater space for dissent, inadequate de-mobilisation from the civil conflict remains an obstacle to the enjoyment of civic freedoms across Sri Lanka. In particular, the continued presence of security forces in Northern and Eastern Sri Lanka has restricted the operations and activities of civic groups in these areas. Of particular concern are surveillance, harassment and reprisals against CSOs deemed critical of the authorities.<sup>2</sup>

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<sup>1</sup> Constitution of Sri Lanka available here: <http://www.parliament.lk/files/pdf/constitution.pdf> (Accessed 6th March 2016).

<sup>2</sup> The Office of the High Commissioner for Human Rights' (OHCHR) investigation on Sri Lanka (OISL) through [A/HRC/25/1](https://www.ohchr.org/en/press-releases/2017/03/20170301) concluded by recommendations under Institutional Reform, article 10. (Accessed 6<sup>th</sup> March 2017).

- 2.3** Under the Voluntary Social Services Act,<sup>3</sup> CSOs in Sri Lanka are required to register with the National Secretariat for Non-Governmental Organisations which operates under the purview of the Ministry of National Co-existence, Dialogue and Official Languages.<sup>4</sup> The decision in 2016 to place the NGO Secretariat under the auspices of the Ministry of National Co-existence, Dialogue and Official Languages rather than Ministry of Defence was broadly welcomed and viewed as indicative of improving conditions for associational freedoms in Sri Lanka.<sup>5</sup> However, despite these positive measures, public stigmatisation of civil society groups by politicians and attacks against religious associations have marred an improving situation for freedom of association in Sri Lanka.<sup>6</sup>
- 2.4** CIVICUS and Inform are dismayed by the effects of religious violence on the freedom of association of religious associations. In particular, acts of violence directed against members of the Islamic community appear to have increased since Sri Lanka's last review.<sup>7</sup> On 16 June 2014, clashes between Buddhist nationalists and members of the Islamic community in Aluthgama and Beruwela left 3 people dead and at least 80 people injured.<sup>8</sup> The violence escalated after Buddhist Nationalist movement Bodu Bala Sena or Buddhist Force attempted to protest in a predominantly Muslim neighbourhood of Welipitiya.<sup>9</sup> Protesters chanted anti-Islamic slogans, threw missiles and vandalised Muslim-owned homes and businesses. Multiple civic groups condemned the chilling effect of the attack on the free operation of religious associations across Sri Lanka.<sup>10</sup>
- 2.5** LGBTI organisations operating in Sri Lanka have also suffered purposefully prohibitive bureaucratic delays to impede their activities.<sup>11</sup> The NGO Equal Ground has suffered repeated harassment for organising events that promote the rights of LGBTI people in Sri Lanka, including experiencing unjustified delays in gaining permission from authorities when

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<sup>3</sup> Voluntary Services Act (1980) is available here:

<http://www.icnl.org/research/library/files/Sri%20Lanka/service2.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>4</sup> National Secretariat for Non-Governmental Organisations is available here:

[http://www.ngosecretariat.gov.lk/web/index.php?option=com\\_content&view=article&id=46&Itemid=27&lang=en](http://www.ngosecretariat.gov.lk/web/index.php?option=com_content&view=article&id=46&Itemid=27&lang=en) (Accessed 6<sup>th</sup> March 2017).

<sup>5</sup> "EU's Human Rights Initiative 2016 to Sri Lanka, Maldives unveiled", News First, 12<sup>th</sup> May 2016

<http://newsfirst.lk/english/2016/05/eus-human-rights-initiative-2016-sri-lanka-maldives-unveiled/136525> (Accessed 6<sup>th</sup> March 2017).

<sup>6</sup> Please see article 2.6

<sup>7</sup> Minority Rights Group "Confronting Intolerance: Continued Violations Against Religious Minorities in Sri Lanka" available here: [http://minorityrights.org/wp-content/uploads/2016/12/MRG\\_Rep\\_SriLan\\_Dec16.pdf](http://minorityrights.org/wp-content/uploads/2016/12/MRG_Rep_SriLan_Dec16.pdf) (Accessed 6<sup>th</sup> March 2017).

<sup>8</sup> "Muslims killed in Sri Lanka mob attacks", Al Jazeera, 16<sup>th</sup> June 2014, available here:

<http://www.aljazeera.com/news/asia/2014/06/muslims-killed-sri-lanka-mob-attacks-201461663841177637.html> (Accessed 6<sup>th</sup> March 2017).

<sup>9</sup> "Buddhist-Muslim Unrest Boils Over in Sri Lanka", The New York Times, 16<sup>th</sup> June 2016 available here:

[https://www.nytimes.com/2014/06/17/world/asia/deadly-religious-violence-erupts-in-sri-lanka.html?\\_r=0](https://www.nytimes.com/2014/06/17/world/asia/deadly-religious-violence-erupts-in-sri-lanka.html?_r=0) (Accessed 6<sup>th</sup> March 2017).

<sup>10</sup> "Religious Leaders Call for Restraint and Tolerance as Clashes Leave Three Dead", The Daily FT, 17<sup>th</sup> June 2014, available here: <http://www.ft.lk/2014/06/17/religious-leaders-call-for-restraint-and-tolerance-as-clashes-leave-three-dead/> (Accessed 7<sup>th</sup> March 2017).

<sup>11</sup> The Human Rights Situation in Sri Lanka, Inform Human Rights Documentation Centre available here:

<https://ihrcdc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf> (Accessed 6<sup>th</sup> March 2017).

coordinating activities. When organising events around the International Day Against Homophobia, Transphobia and Biphobia (IDAHOTB), Equal Ground suffered delays in gaining approval from the authorities. While members of the organisation have suffered harassment and its events have been threatened with attack, no physical attacks have taken place. The lack of legislative provisions to protect LGBTI rights in Sri Lanka continue to be an obstacle to accessing justice.<sup>12</sup>

- 2.6** Despite the improved conditions for associational freedoms, CIVICUS and INFORM are concerned by the verbal attacks on civil society groups in Sri Lanka. On 24 November 2016, President Maithripala Sirisena was quoted<sup>13</sup> as saying “...it appears, some media organisations, journalists, NGOs and various traitorous forces do this [compromise on national security].” The unjustified demonization of civil society groups as “traitorous” for airing legitimate concerns over the continued and unnecessary military presence in Northern and Eastern Sri Lanka, as well as the misuse of counter-terrorism legislation, taints the evident progress made in securing associational freedoms.

### **3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

- 3.1** Under Sri Lanka’s previous UPR examination, the government received five recommendations on the protection of human rights defenders, journalists and civil society representatives. The government committed to several relevant recommendations including “Take immediate steps to prevent attacks on the human rights defenders and media and take action to investigate such acts.” Of the five recommendations received, none were accepted and five were noted. However, as examined in this section, the government has failed to effectively operationalize these recommendations. Of the five recommendations on protection of HRDs, the government has partially implemented five recommendations.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections a well-documented culture of enforced disappearances or “white-van” abductions<sup>14</sup> has continued since Sri Lanka’s last review; such tactics have been used to silence political dissidents and critical civil society voices. Credible evidence of mistreatment perpetrated by Sri Lankan security forces against activists in detention such as torture<sup>15</sup>, sexual violence and rape are yet to be fully investigated.<sup>16</sup>

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<sup>12</sup> Homosexuality is still illegal in Sri Lanka and authorities recently rejected a move to recognise homosexuals see: <http://www.dailymirror.lk/article/Cabinet-rejects-moves-to-decriminalize-homosexuality-122311.html>

<sup>13</sup> “President slams some NGOs, media, traitorous forces”, DailyMirror.lk, 27<sup>th</sup> November 2016, available here: <http://www.dailymirror.lk/article/President-slams-some-NGOs-media-traitorous-forces-118241.html> (Accessed 6<sup>th</sup> March 2017).

<sup>14</sup> “UN committee told ‘white van’ abductions continue”, Colombo Gazette, 15<sup>th</sup> November 2016 available here: <http://colombogazette.com/2016/11/15/un-committee-told-white-van-abductions-continue/> (Accessed 6<sup>th</sup> March 2017).

<sup>15</sup> International Truth and Justice Project Sri Lanka, “Forgotten: Sri Lanka’s Exiled Victims” is available here: [http://www.itjpsl.com/assets/press/ITJP\\_report\\_v7.pdf](http://www.itjpsl.com/assets/press/ITJP_report_v7.pdf) (Accessed 6<sup>th</sup> March).

<sup>16</sup> “Stop Torture and Rape by the Sri Lankan Security Forces in Sri Lanka, 2009 - 2014” available here: <http://www.stop-torture.com> (Accessed 6<sup>th</sup> March 2017).

- 3.3** Sri Lankan authorities have continued to rely on overbroad provisions in the Prevention of Terrorism Act (PTA)<sup>17</sup> to arbitrarily arrest, detain and harass human rights defenders. From 1979 – 2017, under provisions 9.1 Sri Lankan authorities could legally detain any person suspected of “unlawful activity” for a period of three months. Furthermore, under provisions 11.1 (A –E) & 14.1 of the PTA, Sri Lankan authorities could prohibit international travel, freedom of association, freedom of speech and sanction surveillance of an individual under suspicion of “unlawful activity.” Despite renewed guidelines<sup>18</sup> and the eventual repeal of the PTA in March 2017<sup>19</sup>, CIVICUS and INFORM Documentation Centre remain concerned over wilful misapplication of national security legislation to target ethnic minorities<sup>20</sup> and civil society activists working on human rights issues.
- 3.4** In a crackdown by Sri Lankan authorities between March 2016 and June 2016, local human rights groups documented the use of the PTA to arrest at least 24 people.<sup>21</sup> In this period, 23 individuals were held without charge under the counter-terrorism’s provisions. All of those arrested were of Tamil ethnicity and from Northern and Eastern Sri Lanka. Several of the individuals arrested in this spate of detentions were involved in civic organisations active in Northern and Eastern Sri Lanka.<sup>22</sup>
- 3.5** The continued use of enforced disappearances or “white-van” abductions by Sri Lankan authorities is of grave concern. In June 2016, British national Velauthapillai Renukaruban was abducted from his ancestral home in Jaffna by security forces and held without charge for several days.<sup>23</sup> Renukaruban was arrested for allegedly having links to the Liberation Tigers of Tamil Eelam (LTTE), a claim which is refuted due to his exile in the UK.<sup>24</sup> Upon his release, Renukaruban had injuries consistent with mistreatment during detention such as torture.

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<sup>17</sup> Prevention of Terrorism Act (1979) is available here:

[http://www.satp.org/satporgtp/countries/shrilanka/document/actsandordinance/prevention\\_of\\_terrorism.htm](http://www.satp.org/satporgtp/countries/shrilanka/document/actsandordinance/prevention_of_terrorism.htm) (Accessed 6th March 2017).

<sup>18</sup> “Sri Lankan President Issues New Directives to Police and Armed Forces on Arrests Under PTA”, Colombo Page, 19<sup>th</sup> June 2016, available here: [http://www.colombopage.com/archive\\_16B/Jun19\\_1466353649CH.php](http://www.colombopage.com/archive_16B/Jun19_1466353649CH.php) (Accessed 6<sup>th</sup> March).

<sup>19</sup> “The PTA No Longer Operational”, Sri Lanka Brief, 3<sup>rd</sup> March 2017 available here: <http://srilankabrief.org/2017/03/sri-lanka-pta-no-longer-operational-scrm-chief-mano-tittawella/> (Accessed 6<sup>th</sup> March 2017).

<sup>20</sup> Please see point 3.10 – proposed legislation to replace the PTA grants the authorities broader powers.

<sup>21</sup> “Continuing abuse under PTA: Abductions, Arbitrary Arrests, Unlawful Detentions and Torture”, Groundviews: Journalism for Citizens, 28<sup>th</sup> June 2016 available here: <http://groundviews.org/2016/06/28/continuing-abuse-under-pta-abductions-arbitrary-arrests-unlawful-detentions-and-torture/> (Accessed 6<sup>th</sup> March).

<sup>22</sup> Sankaralingam Sasikaran was involved with an NGO working with war affected households and providing education to children see more here: <http://www.tamilguardian.com/content/tamil-ngo-worker-arrested-tid-kilinochchi?articleid=20039> (Accessed 7<sup>th</sup> March 2016) & Subramaniyam Sivakaran Secretary of the Ilankai Tamil Arasu Kachchi (ITAK) Northern Province Youth Organisation was arrested and then later released see more here: <https://www.youtube.com/watch?v=E9GRBrTt7P4>

<sup>23</sup> “British Tamil ‘Tortured and Detained’ During Sri Lanka Wedding Trip”, Guardian, 11<sup>th</sup> June 2016 available here: <https://www.theguardian.com/law/2016/jun/11/sri-lanka-british-tamil-velauthapillai-renukaruban-tortured-wedding> (Accessed 6th March 2017).

<sup>24</sup> British Groom Detained in Sri Lanka has been Arrested and Tortured, says Family, The Independent, 11<sup>th</sup> June 2016 available here: <http://www.independent.co.uk/news/world/asia/british-groom-detained-in-sri-lanka-has-been-arrested-and-tortured-say-family-a7076891.html> (Accessed 7th March 2017).

- 3.6** The lack of independent investigation into the systemic use of torture in Sri Lanka during and after the civil conflict<sup>25</sup> has stymied the countries' progress towards meaningful reconciliation. So far, Sri Lankan authorities have rejected calls to create a "hybrid" court where foreign judges<sup>26</sup> would conduct an enquiry into abuses committed during the conflict and the years after. The testimonies of exiled Sri Lankan dissidents, ex-LTTE cadres<sup>27</sup> and human rights defenders remain largely unheard for fear of reprisal.<sup>28</sup>
- 3.7** During a visit to Sri Lanka in May 2015, the United Nations Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Juan E. Mendez noted that the use of torture by Sri Lankan authorities has had a chilling effect on civil society groups. The Sri Lankan authorities' harassment frequently extended to civic groups working to rehabilitate victims of torture or investigate victims of enforced disappearances.<sup>29</sup>
- 3.8** Despite evidence that attacks on journalists have decreased in prevalence since Sri Lanka's last review, security forces still use physical violence to intimidate critical journalists. On 3 September 2016, a journalist from "Lanka News Web", was attacked by Sri Lankan security forces. Ruwan Nelugolla was assaulted<sup>30</sup> after attending a protest against the security forces' role in the disappearance of Madhushka de Silva in 2013.<sup>31</sup> According to Nelugolla, security forces assaulted him by beating him during his arrest and detention.
- 3.9** On 13 December 2016, Roshan Gunasekara was assaulted<sup>32</sup> by a member of the Sri Lankan security forces while reporting on a protest in Hambantota. Gunasekara, a correspondent for "The Island" and "Divaina", was assaulted after he produced his media accreditation card to security personnel. Even though the incident was captured on camera, there is yet to be a thorough investigation into the assault.

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<sup>25</sup> "Sri Lanka: UNCAT Committee Recommends the Government Appoint Independent Investigating Body to Inquire into Torture", Sri Lanka Brief, 12<sup>th</sup> December 2016 available here: <http://srilankabrief.org/2016/12/sri-lanka-uncat-committee-recommends-the-government-appoint-independent-investigating-body-to-inquire-into-torture/> (Accessed 6<sup>th</sup> March 2017).

<sup>26</sup> "Sri Lanka 'wavering' on human rights: Zeid", Ceylon News, 9<sup>th</sup> February 2016 available here: <http://www.ceylonnews.com/2016/02/sri-lanka-wavering-on-human-rights-zeid/> (Accessed 6<sup>th</sup> March).

<sup>27</sup> A body of evidence suggests that ex Liberation Tigers of Tamil Eelam (LTTE) combatants overseas are unwilling to testify about their mistreatment during detention for fear of reprisal.

<sup>28</sup> Please see "Forgotten: Sri Lanka's Exiled Victims".

<sup>29</sup> Preliminary observations and recommendations of the Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Juan E. Mendez\* on the Official joint visit to Sri Lanka – 29 April to 7 May 2016 available here:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19943&LangID=E> (Accessed 6<sup>th</sup> March 2017).

<sup>30</sup> Police Assaults Journalist to Mark 150<sup>th</sup> Anniversary, Sri Lanka Brief, 5<sup>th</sup> September 2016 available here: <http://srilankabrief.org/2016/09/police-assaults-a-journalist-to-mark-150th-anniversary/> (Accessed 6<sup>th</sup> March 2016).

<sup>31</sup> Senior Policeman Linked to SI's Killing in Kurunegala, Sri Lanka Mirror, 24<sup>th</sup> November 2016, available here: <http://srilankamirror.com/news/638-senior-policeman-linked-to-si-s-killing-in-kurunegala> (Accessed 6<sup>th</sup> March 2016).

<sup>32</sup> Sri Lankan Navy Commander Assaults Journalist, International Federation of Journalists (IFJ), 13<sup>th</sup> December 2016 available here: <http://www.ifj.org/nc/news-single-view/backpid/33/article/sri-lankan-navy-commander-assaults-journalist/> (Accessed 6<sup>th</sup> March).

**3.10** CIVICUS and INFORM Documentation Centre strongly condemn recent proposals to unnecessarily strengthen counter-terrorism laws in Sri Lanka. Draft copies of the bill<sup>33</sup> permit Sri Lankan authorities even broader powers to arbitrarily arrest, detain and harass individuals. Since the cessation of violent conflict and in a period of fragile peace, the unjustified strengthening of powers could be misused to further target ethnic minority activists and associations<sup>34</sup>, stifle political dissent or impede the crucial work of civil society groups.

#### **4. (D) Freedom of expression, independence of the media and access to information**

**4.1** Under the 2<sup>nd</sup> UPR cycle, the government received three recommendations relating to freedom of expression and access to information. For example, the government pledged to “Refrain from restricting access to and banning from websites and withdraw the Order of 5 November 2011 with requires news sites to be registered.” Of the recommendations received, three were noted. However, as discussed below, the government did not take effective measures to implement these recommendations. Of the three recommendations pertaining to these issues, the government has fully implemented two of these recommendations and one has not been implemented.

**4.2** Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 14(1) (a) of the Constitution of Sri Lanka<sup>35</sup> also guarantees the right to freedom of expression. Previously cited as one of the most dangerous countries for journalists in the world<sup>36</sup>, Sri Lanka has made significant progress in upholding the right to free expression. During the Rajapakse administration (2005 -2015), state-owned media outlets were a de facto extension of the government, with all critical outlets either banned or cowed into submission.<sup>37</sup> While the change of government in 2015 provided greater space for independent media outlets and critical dissent, slurs from politicians and government officials on critical media outlets continue.<sup>38</sup> In addition, the practice of censoring content on the internet as well as restrictions on foreign journalists have been removed completely and the passing of access

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<sup>33</sup> “Sri Lanka: Leaked Draft of the Proposed Counter Terrorism Act”, Sri Lanka Guardian, 18<sup>th</sup> October 2016 available here: <http://www.slguardian.org/2016/10/sri-lanka-leaked-draft-of-the-proposed-counter-terrorism-act/> (Accessed 6<sup>th</sup> March 2017).

<sup>34</sup> “Sri Lanka urged to drop new counter-terrorism draft law”, Ceylon Today, 11<sup>th</sup> November 2016 available here: <http://www.ceylonews.com/2016/11/sri-lanka-urged-to-drop-new-counter-terrorism-draft-law/> (Accessed 6<sup>th</sup> March 2017).

<sup>35</sup> Constitution of Sri Lanka available here: <https://www.parliament.lk/files/pdf/constitution.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>36</sup> CIVICUS Monitor, Sri Lanka, 1<sup>st</sup> November 2016, available here: <https://monitor.civicus.org/country/sri-lanka/> (Accessed 6<sup>th</sup> of March).

<sup>37</sup> The Human Rights Situation in Sri Lanka, Inform Human Rights Documentation Centre available here: <https://ihrc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>38</sup> On several occasions politicians have derided the work of independent journalists, please see: <http://www.ft.lk/article/521931/Ranil-rips-up-the-press->

to information legislation in 2016<sup>39</sup> has improved the efficacy of investigative journalism in Sri Lanka.

- 4.3** CIVICUS and INFORM are alarmed by the resurrection of Sri Lanka's Press Council.<sup>40</sup> The government regulatory body, which was reintroduced in 2015<sup>41</sup>, affords authorities overbroad powers to meddle in the operation of independent outlets and even sanction or arrest journalists and editors. Sections 14, 15 & 16 of the law<sup>42</sup>, enable the Sri Lankan authorities to penalise journalists, editors and newspaper owners for up to two years for publishing "any indecent or obscene statement or matter" or "any statement or matter concerning a person which will amount to defamation." The reintroduction of the Press Council is an unnecessary regulatory barrier that stains the Sri Lankan authorities' progress in promoting freedom of speech.
- 4.4** From the 31<sup>st</sup> March 2016, Sri Lankan authorities required all websites to register with The Ministry of Parliamentary Reforms and Mass Media.<sup>43</sup> Multiple unregistered websites have continued to operate without hindrance since.<sup>44</sup>
- 4.5** CIVICUS and INFORM welcome the domestic progress made to investigate the killing, abduction and torture of numerous journalists during the previous administration. Investigations into the death of Lasantha Wickrematunge in 2009, has led to the arrest of five military personnel in February 2017.<sup>45</sup> However, in the absence of independent and international scrutiny, the integrity of domestic inquiries will continue to be questioned. Furthermore, we are deeply concerned about overall climate of impunity regarding the large number of killings, disappearances, assaults, threats on journalists and media institutions.

## 5. (E) Freedom of peaceful assembly

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<sup>39</sup> Parliament of the Democratic Socialist Republic of Sri Lanka, Right to Information Act: no, 12 of 2016 available here: <https://monitor.civicus.org/country/sri-lanka/> (Accessed 6<sup>th</sup> of March).

<sup>40</sup> "Sri Lanka: Press Council Revival Controversial" in Global Legal Monitor, 16<sup>th</sup> July 2015, available here: <http://www.loc.gov/law/foreign-news/article/sri-lanka-press-council-revival-controversial/> (Accessed 6<sup>th</sup> March 2016).

<sup>41</sup> "Sri Lanka Moves to Re-Establish Restrictive Media Regulatory Body", Committee to Protect Journalists, 7<sup>th</sup> July 2015 available here: <https://cpj.org/2015/07/sri-lanka-moves-to-re-establish-restrictive-media.php>

<sup>42</sup> The Sri Lankan Press Council available here: <http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CI/1.%20Sri%20Lanka%20Press%20Council%20Act.pdf> (Accessed 7<sup>th</sup> March 2017).

<sup>43</sup> "News websites asked to obtain registration before March 31", Adaderana, 3<sup>rd</sup> March 2016 available here: <http://www.adaderana.lk/news/34412/news-websites-asked-to-obtain-registration-before-march-31> (Accessed 6<sup>th</sup> March 2017).

<sup>44</sup> Freedom of Association and Assembly in Sri Lanka 2014, Inform Human Rights Documentation Centre available at: <http://srilankabrief.org/wp-content/uploads/2014/09/Freedom-of-Assembly-+-Association-in-Sri-Lanka-INFORM-20Sep20141.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>45</sup> For example the recent arrest of security personnel on suspicion of killing Lasantha Wickrematunge please see: <http://www.aljazeera.com/news/2017/02/army-spies-arrested-lasantha-wickrematunge-murder-170220151437431.html>

- 5.1** During Sri Lanka’s examination under the 2<sup>nd</sup> UPR cycle, the government did not receive any recommendations specifically addressing freedom of assembly in the country. However, despite the lack of recommendations during the last review we remain concerned by ongoing restrictions on freedom of peaceful assembly.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 14 (1) (b) of the Sri Lankan Constitution also guarantees the right to freedom of assembly. However, in practice and policy, Sri Lankan security forces have a well-documented track record of using excessive force to quell protests, particularly in the North and East of Sri Lanka.
- 5.3** The Sri Lankan constitution stipulates that freedom of Assembly in Sri Lanka can be restricted<sup>46</sup> in the “interests of religious harmony”<sup>47</sup> as well as in the “interest interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society.”<sup>48</sup> Under Police Ordinance article 77(1) protesters need to seek permission from the local police before holding a protest.<sup>49</sup> Security forces have proactively sought to curtail the exercise of peaceful assemblies in North and Eastern Sri Lanka, while also restricting mobilisations organised by students and LGBTI organisations.
- 5.4** On 1 August 2013, Sri Lankan security forces opened fire using live ammunition on a protest demanding clean water in Weliveriya, Gampaha, Western Province.<sup>50</sup> At least three protesters were killed and many more were injured.<sup>51</sup> Despite an investigation, the perpetrators are yet to be brought to justice.
- 5.5** On 29 November 2015, Sri Lankan security forces used excessive force to quell protests organised by students over tuition fees. Security forces used water cannons and tear gas to

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<sup>46</sup> Freedom of Association and Assembly in Sri Lanka 2014, Inform Human Rights Documentation Centre available at: <http://srilankabrief.org/wp-content/uploads/2014/09/Freedom-of-Assembly-+-Association-in-Sri-Lanka-INFORM-20Sep20141.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>47</sup> Sri Lankan constitution, articles 15 (3) available at: [http://www.priu.gov.lk/Cons/1978Constitution/Chapter\\_03\\_Amd.htm](http://www.priu.gov.lk/Cons/1978Constitution/Chapter_03_Amd.htm) (Accessed 6<sup>th</sup> March 2017).

<sup>48</sup> Sri Lankan constitution, articles 15 (7) available at: [http://www.priu.gov.lk/Cons/1978Constitution/Chapter\\_03\\_Amd.htm](http://www.priu.gov.lk/Cons/1978Constitution/Chapter_03_Amd.htm) (Accessed 6<sup>th</sup> March 2017).

<sup>49</sup> Police Ordinance article 77(1) available here: [http://www.vertic.org/media/National%20Legislation/Sri%20Lanka/LK\\_Police\\_Ordinance.pdf](http://www.vertic.org/media/National%20Legislation/Sri%20Lanka/LK_Police_Ordinance.pdf) (Accessed 6<sup>th</sup> March 2017).

<sup>50</sup> “Sri Lanka: Army Blamed for Death of Weliveriya Unarmed Protester and Firing Live Bullets into Crowd”, 3<sup>rd</sup> August 2017 available here: <http://www.lankastandard.com/2013/08/army-blamed-for-death-of-weliveriya-protester/> (Accessed 6<sup>th</sup> March 2017).

<sup>51</sup> “Sri Lanka: Investigate Clean Water Protest Deaths”, Human Rights Watch, 9<sup>th</sup> August 2013 available here: <https://www.hrw.org/news/2013/08/09/sri-lanka-investigate-clean-water-protest-deaths> (Accessed 6<sup>th</sup> March 2017).

disperse the crowd. Following clashes, at least 8 people were hospitalised and 39 arrested for participating.<sup>52</sup>

- 5.6 On 22 May 2015, Sri Lankan authorities banned protests in Jaffna, Northern Province<sup>53</sup> by issuing a court order to two civil society groups, Janatha Balaya Organisation (The National Movement for Reconciliation) and Jaffna Women's organisation after a violent protest outside Jaffna court. Over 130 people were remanded in custody in an unlawful assembly in the same location over the rape of an 18 year old girl from Punguditivu in Jaffna. Similar court orders banning public protests<sup>54</sup>, and arrests<sup>55</sup> of the protestors<sup>56</sup> have also been recently reported.
- 5.7 On 28 July 2016, Sri Lankan authorities used a series of court<sup>57</sup> orders to prevent an opposition march from Kandy to Colombo, organised by ex-President Mahinda Rajapakse. While civic groups in Sri Lanka have acknowledged<sup>58</sup> that the march was primarily aimed at inciting ethnic disunity, the unwarranted intervention by authorities constitutes a breach of the right to peaceful assembly.
- 5.8 On 7 January 2017, clashes between Sri Lankan security forces and protesters over a proposed new port in Hambantota, Southern Sri Lanka led to the excessive use of force by authorities.<sup>59</sup> An order banning the protests led to 32 individuals being remanded by authorities.<sup>60</sup> Local residents clashed with pro-government supporters and security forces over the appropriation of private land for an industrial zone. Authorities used tear gas to

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<sup>52</sup> "Police Attacks Protesting Students in Sri Lanka", Tamil Solidarity available here:

<http://www.tamilsolidarity.org/police-attacks-protesting-students-in-sri-lanka/> (Accessed 6<sup>th</sup> March 2017).

<sup>53</sup> "Protests Banned in Jaffna", Daily Mirror, 23<sup>rd</sup> May 2017 available here:

<http://www.dailymirror.lk/article/protests-banned-in-jaffna-73529.html> (Accessed 6<sup>th</sup> March 2017).

<sup>54</sup> 'Court order issued against plantation workers protest' Hiru news 2<sup>nd</sup> October 2016.

<http://www.hirunews.lk/144286/court-order-issued-against-plantation-workers-protest> (Accessed 23<sup>rd</sup> March 2017)

<sup>55</sup> Deshapriya, S (2016). 'Freedom of Expression, Association and Assembly' in Human Rights Situation in Sri Lanka, one year after parliamentary elections: August 17, 2015 - August 17, 2016, INFORM. Colombo. available at <https://ihrc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf> (Accessed 23<sup>rd</sup> March 2017)

<sup>56</sup> 'Around 10 students arrested: Court orders protesters not to obstruct public' Daily News, 3<sup>rd</sup> Feb 2017.

<http://dailynews.lk/2017/02/03/law-order/106629/around-10-students-arrested-court-orders-protesters-not-obstruct-public> (Accessed 23<sup>rd</sup> March 2017)

<sup>57</sup> "Stern Action Against Violators of Court Orders", Colombo Page, 28<sup>th</sup> July 2016 available here:

[http://www.colombopage.com/archive\\_16B/Jul28\\_1469686465CH.php](http://www.colombopage.com/archive_16B/Jul28_1469686465CH.php) (Accessed 6<sup>th</sup> March 2017).

<sup>58</sup> The Human Rights Situation in Sri Lanka, Inform Human Rights Documentation Centre available here:

<https://ihrc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf> (Accessed 6<sup>th</sup> March 2017).

<sup>59</sup> "Protest over Hambantota port deal turns violent", Al Jazeera, 7<sup>th</sup> January 2017 available here:

<http://www.aljazeera.com/news/2017/01/protest-hambantota-port-deal-turns-violent-170107080155843.html> (Accessed 6<sup>th</sup> March 2017).

<sup>60</sup> "Hambantota Protest: 32 Protesters Further Remanded", Adaderana, 9<sup>th</sup> January 2017 available here:

<http://www.adaderana.lk/news.php?nid=38554> (Accessed 6<sup>th</sup> March 2017).

disperse protesters in order to clear demonstrations to enable Prime Minister Ranil Wickeremesinghe to attend a ceremony.<sup>61</sup>

## **6. (F) Recommendations to the Government of Sri Lanka**

CIVICUS and INFORM call on the Government of Sri Lanka to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: freedom of association, freedom of expression, freedom of peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding freedom of association**

- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- Unwarranted disruptions to legitimate, conferences, seminars and other activities organized by CSOs should be stopped.
- Refrain from acts leading to the closure of CSOs or the suspension of their peaceful activities, and instead promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and others.

### **6.2 Regarding the protection of human rights defenders**

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offenses to justice.
- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.

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<sup>61</sup> "Sri Lanka Protest Over Chinese Investment Turns Ugly" BBC, 7<sup>th</sup> January 2017 available here: <http://www.bbc.co.uk/news/world-asia-38541673> (Accessed 6th March 2016).

- Senior politicians and government officials should stop verbal condemnation of human rights defenders and NGOs, and instead, publicly condemn instances of harassment and intimidation of civil society activists and organisations.
- The Government should apply systematically legal provisions that promote and protect human rights and establish mechanisms that protect human rights defenders by adopting a specific law on the protection of human rights defenders in accordance with Council resolution 27.31 of the Human Rights Council.
- The Government of Sri Lanka should immediately revise proposed counter terrorism legislation that replaces the Prevention of Terrorism Act. Civil society groups should be consulted in the formulation of new provisions in order to ensure that they align with international best practice standards.

### **6.3 Regarding freedom of expression, independence of the media and access to information**

- Ensure freedom of expression and media freedom by all bringing national legislation into line with international standards.
- Review and repeal the Press Council in order to ensure that the Press Council legislation is in line with the best practices and international standards in the area of freedom of expression.
- Allow international investigations to be conducted into the killing of journalists during the Rajapakse administration (2005 – 2015) and permit the use of foreign judges to preside over cases involving Sri Lankan security forces.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.

### **6.4 Regarding freedom of assembly**

- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.
- Dismantle regulations under the Police Ordinance Article that require protesters to seek permission from local police forces prior to holding a protest.
- Local authorities should desist from using court orders to ban protests on politically sensitive issues. Unnecessary use of court orders to restrict protests should be immediately investigated.

- Senior government officials should publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.
- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012) which calls for simple notification rather than explicit permission to assemble.
- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.

## **6.6 Regarding State engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Include civil society organizations in the UPR process before finalizing and submitting the national report.
- Systematically consult with civil society and NGOs on the implementation of the UPR including by holding periodical comprehensive consultations with a diverse range of civil society stakeholders.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.