

# Short-Term Benchmarks for Peace and Reconciliation in Post-War Sri Lanka



CENTRE FOR POLICY ALTERNATIVES  
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The anniversary of the end of the war provides an annual landmark for reflection on the achievements and continuing problems in the post war context, as well as an occasion for devising benchmarks for the necessary transition from a post-war to a post-conflict society. While on a number of fronts the Government has taken steps towards normalisation and post-war reconstruction, which have had a bearing on the space for peace and reconciliation, there continue to be problems on the ground that need to be addressed. Incidents over the last two months, including high-profile abductions, an attack on a place of religious worship and harassment and intimidation of civil society actors involved in national and international human rights advocacy,<sup>1</sup> highlight the continuing violations and the need to deal with structural challenges, in particular, the lack of a political solution and the culture of impunity. While the Government has repeatedly expressed interest in developing a framework for reconciliation, there are also concerns that the Government is opting for a post-war model of economic development to consolidate peace rather than substantively address issues of democracy, a political solution, human rights and accountability. As highlighted in this document, there is a clear need to address the broad thematic issues of peace and governance.

The Government has taken a series of initiatives including the Lessons Learnt and Reconciliation Commission (LLRC), the National Human Rights Action Plan (NHRAP), draft policies<sup>2</sup> and policy statements including voluntary pledges made in the Universal Periodic Review (UPR) in 2008 on a wide spectrum of issues, which provide an approximate framework of the Government's vision and benchmarks for dealing with post-war Sri Lanka. In addition the statements made by politicians and officials also indicate state policy, the most recent being the speech made by President Mahinda Rajapakse at the victory day parade on 19<sup>th</sup> of May 2012. CPA welcomes some of the recommendations and pledges in these initiatives, several of which were raised by CPA and others in the past. However, CPA has concerns regarding initiatives such as the LLRC and NHRAP. These relate to process, mandate and the content of the reports or action plans, including in the limitations of the recommendations. Notwithstanding this, CPA has referenced these initiatives and their recommendations, as these are benchmarks formulated by the Government and/or processes implemented by the Government and used in statements nationally and internationally to demonstrate progress made in Sri Lanka.

There are three fundamental problems with these various initiatives:

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<sup>1</sup> Political activists and leaders of the People's Struggle Movement in Sri Lanka, Premakumar Gunaratnam and Ms. Dimithu

<sup>2</sup> Draft National Reconciliation Policy prepared by the Office of the Presidential Advisor on Reconciliation <http://www.peaceinsrilanka.org/human-rights/national-policy-on-reconciliation-working-document-draft-one>; National Policy Framework on Social Integration prepared by the Ministry of National Languages and Social Integration <http://www.dailymirror.lk/opinion/18753-diversity-demands-social-integration.html>.

**Firstly**, while the existing documents are a valuable resource, there are concerns not just about the process through which some of these policies were devised but also the gaps in terms of issues and recommendations covered in these key policy documents.<sup>3</sup> For instance, the NHRAP fails to recognise or respond to key issues such as disappearances and missing persons. The Government must address these issues and take note of problems affecting all communities in order to move forward, including those highlighted by previous commissions of inquiry and investigations. Failure to do this will negatively impact initiatives aiming to strengthen peace and reconciliation in the country.

This note is prepared in the wake of media reports indicating the sharing of an action plan by the Government with key Government actors in the United States for the implementation of the LLRC recommendations<sup>4</sup> although information on the content and process of drafting are limited.<sup>5</sup> Based on the limited information available it is clear that the process of formulating the said action plan<sup>6</sup> is problematic. The level of consultation even with constituent members of the UPFA is not clear and the views of opposition political parties, civil society, among others have not been considered.<sup>7</sup>

**Secondly**, while some positive steps on specific issues are being made, the lack of substantive progress on critical issues and the absence of a long-term strategy are all too apparent. Above all there are serious questions with respect to the implementation of key government policies and initiatives, including the LLRC. Contradictory statements by several senior ministers and officials have raised questions as to the Government's stance on the final report.<sup>8</sup> While there have been repeated statements by the Government that it

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<sup>3</sup> The Centre for Policy Alternatives (CPA), Public Statement, "Release of the Lessons Learnt and Reconciliation Commission Report", January 2012, (<http://cpalanka.org/release-of-the-lessons-learnt-and-reconciliation-commission-llrc-report/>)

<sup>4</sup> Political Editor, "Peiris going to US with secret Action Plan", The Sunday Times, 22 April 2012, (<http://sundaytimes.lk/120422/Columns/political.html>).

<sup>5</sup> Political Editor, "LLRC recommendations go to Weeratura committee", The Sunday Times, 6 May 2012, (<http://www.sundaytimes.lk/120506/Columns/political.html>); Mandana Ismail Abeywickrema, "MR Asks Coalition Partners For Their Stances By Tomorrow", The Sunday Leader, 22 April 2012, (<http://www.thesundayleader.lk/2012/04/22/mr-asks-coalition-partners-for-their-stances-by-tomorrow/>); Rasika Somarathna, "LLRC recommendations: Action Plan being finalized", The Daily News, 8 May 2012, (<http://www.dailynews.lk/2012/05/08/news11.asp>).

<sup>6</sup> According to media reports constituent parties of the UPFA Government have been asked to submit their observations on the LLRC recommendations. These observations would then be forwarded to a Presidential committee which is to decide which recommendations are appropriate for implementation.

<sup>7</sup> Ceylon Today.lk, "UNP wants 17th amendment, RI bill in LLRC roadmap", last accessed on 14 May 2012, (<http://www.ceylontoday.lk/16-5948-news-detail-unp-wants-17th-amendment-ri-bill-in-llrc-roadmap.html>).

<sup>8</sup> Minister Nimal Siripala de Silva the Leader of House in the Sri Lankan Parliament and a member of the Government delegation to the 19<sup>th</sup> Session of the UN HRC stated that "The LLRC has gone beyond the mandate given to it by President Mahinda Rajapaksa at certain points. The government has to consider what parts of the recommendations can be implemented immediately and what parts of the recommendations need further attention, in depth study etc and how they make an impact on the country's future." [ N.G, "'Constitution allows state to hold referendum only for single reason', Daily News, 27 March

is implementing the LLRC, it has not been able to present a coherent statement of policy on what has been implemented or will be implemented, raising concerns as to whether it will be selective in its implementation of the LLRC recommendations or even as to whether they will be disregarded.<sup>9</sup> It is this lack of progress that resulted in the adoption of a Resolution on Sri Lanka at the 19<sup>th</sup> Session of the United Nations Human Rights Council (UNHRC), which called on the Government of Sri Lanka to implement the ‘constructive recommendations of the report of the (LLRC) and to present a comprehensive action plan detailing steps taken and to be taken to implement the same’<sup>10</sup>.

While a committee to implement the action plan has been appointed,<sup>11</sup> this has not restored public confidence that the LLRC will be implemented, given that an inter-agency committee was also established to implement the Interim Recommendations presented by the LLRC in September 2010 but, as highlighted in the Final Report, there was a lack of substantive progress on the five recommendations. It should be noted that this arises in a context in which no comprehensive action has been taken to implement the findings of previous commissions including those appointed by the present Government.<sup>12</sup>

There is also no information available regarding the implementation of any of the issues identified by the NHRAP, which received cabinet approval in October 2011. Further, no public information is available on progress made by past committees established by the present Government, including the committee to implement the NHRAP established prior to the 19<sup>th</sup> Session of the UNHRC.<sup>13</sup> It should be noted that time frames for the

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2012 (<http://www.dailynews.lk/2012/03/27/news03.asp>) ; Acting Media Minister and Cabinet spokesperson Minister Lakshman Yapa Abeywardana stated that “Government is committed to implement Lessons Learnt and Reconciliation Commission (LLRC) recommendations deemed acceptable to Sri Lanka but will not give in to undue pressure “ [BBC Sinhala.com “Parliament to decide LLRC implementation”, last accessed on 14 May 2012, ([http://www.bbc.co.uk/sinhala/news/story/2012/04/120405\\_yapa.shtml](http://www.bbc.co.uk/sinhala/news/story/2012/04/120405_yapa.shtml))]

<sup>9</sup> The possibility of both scenarios has been indicated in the statements made by Government ministers. See BBC Sinhala.com “Parliament to decide LLRC implementation”, last accessed on 14 May 2012, ([http://www.bbc.co.uk/sinhala/news/story/2012/04/120405\\_yapa.shtml](http://www.bbc.co.uk/sinhala/news/story/2012/04/120405_yapa.shtml)).

<sup>10</sup> See A/HRC/RES/19/2 Para 1,2 available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/G12/126/71/PDF/G1212671.pdf?OpenElement>.

<sup>11</sup> Political Editor, “LLRC recommendations go to Weeratunga committee”, The Sunday Times, 6 May 2012, (<http://www.sundaytimes.lk/120506/Columns/political.html>) ; The Times of India, “Sri Lanka appoints presidential committee for LLRC implementation”, last accessed on 14 May 2012, ([http://articles.timesofindia.indiatimes.com/2012-05-06/south-asia/31596736\\_1\\_presidential-committee-llrc-recommendations-tamils](http://articles.timesofindia.indiatimes.com/2012-05-06/south-asia/31596736_1_presidential-committee-llrc-recommendations-tamils)).

<sup>12</sup> Centre for Policy Alternatives, A List of Commissions of Inquiry and Committees Appointed by the Government of Sri Lanka (2006 – 2012), March 2012, (<http://www.scribd.com/doc/85007346/A-List-of-Commissions-of-Inquiry-and-Committees-Appointed-by-the-Government-of-Sri-Lanka-2006-%E2%80%93-2012>).

<sup>13</sup> The NHRAP received Cabinet approval in October 2011 which begs the question whether the clock started ticking regarding timelines for implementation of actions soon after. As noted some of the timelines for the various components are 3 and 6 months.

implementation of some action points in the NHRAP are three and six months. This has in turn increased public cynicism that these commissions, action plans and committees are merely tools for demonstrating commitment to the international community rather than to establish a process for making substantive progress in dealing with key post-war issues and strengthening peace and democracy in Sri Lanka. The limited progress has also increased concerns relating to the lack of political will on the part of the Government to substantively address issues of political solution, reconciliation, good governance, human rights protection, justice and accountability.

**Thirdly**, there is an overall issue of coherence given that there are multiple policies, action plans and committees. Given the overlap in terms of some of the issues, it may be useful for the Government to map out all recommendations and establish a clear division of tasks. There has to be some attempt to ensure coordination between these various initiatives to ensure clarity, efficiency and better outcomes. It is also vital that these initiatives are transparent and the public is informed of progress, if any.

Identifying a workable and effective action plan for the implementation of the LLRC and NHRAP action points with benchmarks is imperative for multiple reasons. In particular, it is critical for the Government to develop a comprehensive approach for addressing structural problems on the ground so as to ensure transition from post-war to post-conflict, while addressing the needs of those affected. The UPR process in November 2012 and the need to report back on the resolution at the 22<sup>nd</sup> Session of the UNHRC in March 2013 highlight the need for urgent action. In this regard, it would also be advantageous for the Government of Sri Lanka to seek the technical assistance of local and international actors including the Office of the High Commissioner for Human Rights (OHCHR) in its efforts to implement the findings of the LLRC. Further, assistance to improve human rights in Sri Lanka can be secured by allowing international experts to visit Sri Lanka and provide advice and technical expertise, including the facilitation of visits by UN special procedures. Unfortunately, media reports indicate the Government's refusal to engage with the OHCHR.<sup>14</sup>

## **Aim of the Document**

This short document is addressed to the Government and seeks to provide a set of key measures that need to be implemented in the short term<sup>15</sup> in order to achieve peace and reconciliation. It calls for actions on twelve thematic areas and lists recommendations

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<sup>14</sup> "Govt. slams door on UNHRC team", Sunday Times, 27 May 2012, [http://www.sundaytimes.lk/120527/News/nws\\_01.html](http://www.sundaytimes.lk/120527/News/nws_01.html)

<sup>15</sup> The short term is referred to as 10 months, corresponding to the reporting back at the 22<sup>nd</sup> Session of the UNHRC in March 2013 but could be up 1 year.

including those in the interim and final recommendations of the LLRC and other official documents such as the NHRAP and UPR pledges, as well as those identified by CPA as critical to facilitating the transition to a post conflict society. While the document identifies twelve thematic issues, several cross cutting themes such as human rights, justice, accountability, gender, minority rights and vulnerabilities have been treated together constituting an overarching framework. CPA hopes that this document can be used to consolidate the Government's action plan, and highlight the most urgent areas requiring the attention of political and civil society actors.

The list of benchmarks are provided to initiate a conversation as to what is possible in the short term with further study required as to what is required and achievable in the medium and long term. This document is directed at the Government but is also intended to widen the public debate on the issue of reconciliation. This is part of a larger initiative by CPA to address issues of peace and reconciliation in Sri Lanka. The current policy debate on reconciliation is extremely limited with little public participation in identifying issues and recommendations. While full implementation of the benchmarks may not be possible during the short term, it is paramount that there is genuine and measurable progress made to commence implementation. CPA notes that short, medium and long-term plans should be initiated by the Government with the participation of a cross section of actors including civil society to compliment the goal of peace and reconciliation in Sri Lanka. As such, CPA also reiterates the importance of examining past recommendations made by CPA, other civil society groups and actors identifying specific actions on the culture of impunity, constitutional and legal reform, marginalised groups, the initiation of investigations into past violations of human rights and international humanitarian law.

## **Process for Implementation**

Given the delays and confusion relating to implementation of the various initiatives as highlighted above, it is imperative that the process is clarified and clearly delineated. CPA identifies several principles that should be factored in by the Government in the implementation of their action plans:

- **Responsibility:** The Government has the primary responsibility for the implementation of recommendations contained in the various initiatives listed in this document. This also entails the full disclosure of action plans and any other programmes that have been formulated for moving forward.
- **Time lines:** The Government should specify time lines for the implementation of its action plans and any other initiatives introduced on reconciliation. This information should be shared with the public and presented to Parliament.

- **Oversight and monitoring committee:** An oversight committee should be established to monitor the implementation processes, such as a Parliamentary Oversight Committee.
- **Sharing of Information:** Steps should be taken by the Government to inform the public of the implementation processes of the various initiatives. This should also include the translation of all documents in to Sinhala and Tamil including the full LLRC report and the dissemination of such documents and actions plans.
- **Public participation:** It is important to ensure greater public participation in the implementation process including through the establishment of a civil society consultative body to engage with the committees in charge of the implementation of the LLRC and the NHRAP. This measure could increase public confidence in the process. This should not duplicate the LLRC process which had elements of public participation.

### Issues Requiring Attention

The following twelve thematic issues are identified as areas for action and demonstrable progress in the short term.<sup>16</sup>

#### 1. Political Solution

Despite the Government's repeated statements committing itself to devising a political solution, there has been little progress in the post-war context in reaching a consensus on the political solution. The Government's proposal of a Parliamentary Select Committee (PSC) to arrive at a consensus has yet to commence. The failure to move forward is due to the United National Party (UNP) and Tamil National Alliance (TNA) not having nominated individuals to the PSC, largely due to the lack of progress in the bilateral talks between the Government and TNA who were engaged in eighteen rounds of talks since January 2011.<sup>17</sup> The TNA's stance is to initially reach an agreement on a broad framework and specific issues between the two parties, which can then be submitted to the PSC subsequently. The Government has not agreed to such a position resulting in a stalemate. While there is a clear need for an inclusive and consultative process for reaching a consensus, there are fears that the PSC will merely serve as a mechanism to prove that there is a political

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<sup>16</sup> This time frame is with reference to the reporting back at the 22<sup>nd</sup> session of the UNHRC.

<sup>17</sup> The JVP has indicated that it will boycott the PSC.



dialogue rather than one that is committed to arriving at a solution. The experience of the All Party Representative Conference (APRC) has intensified such concerns. The current Government established the APRC in July 2006.<sup>18</sup> It met 126 times over three years. The final report was presented to the President in July 2010 but there has been no response to date. In addition, the Government's inability to fully implement the Thirteenth Amendment to the Constitution has raised questions of the Government's commitment to devolution and to implementing a political solution.

While the LLRC states that a political solution is "imperative" it does not suggest a framework or a process for arriving at a consensus, apart from suggesting that it should be a people-centric form of devolution<sup>19</sup> and that a second chamber should be established.<sup>20</sup> CPA proposes the following:

- a) Re-commence bilateral discussions between the Government and TNA and for the TNA to agree to join the PSC, based on the proviso that the consensus reached at the Government-TNA talks which would also include a set of principles setting out the basis for a political solution be used as the basis for deliberations at the PSC.
- b) The discussions at the PSC should draw upon previous proposals for a political solution and include the Mangala Moonesinghe Select Committee Report, the 1995, 1997 and 2000 Proposals for constitutional reform and the majority Report of the APRC experts committee appointed by the President.<sup>21</sup>
- c) The terms of reference of the PSC should include a timeline during which to develop a final report such as a period of six months. An interim report should be issued within three months of the time period listing out progress made and should be made public. The final report of the PSC should also be made public.

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<sup>18</sup> The APRC was established to reach a consensus on the political solution.

<sup>19</sup> The Commission takes the view that the root cause of the ethnic conflict in Sri Lanka lies in the failure of successive Governments to address the genuine grievances of the Tamil people. [LLRC - 9.184], a political solution is imperative to address the causes of the conflict. Everybody speaks about it, though there is no agreement about the diagnosis and the prescription [9.185]. Devolution should necessarily be people-centric in nature [LLRC - 9.231].

<sup>20</sup> An additional mechanism that may be considered is the possibility of establishing a Second Chamber comprising Representatives from the Provinces. Such a mechanism is likely to generate a sense of confidence among the political leadership and among the people in the Provinces, that they too have a vital role to play in the legislative decision making process, *inter alia*, by examining legislative measures that may have a bearing on issues of particular relevance to the Provinces. [LLRC - 9.232].

<sup>21</sup> Tamil National Alliance, "Broken Promises: TNA response to the position of the Government of Sri Lanka at the 19th session of the UN Human Rights Council", March 2012, ([http://tnamediaoffice.blogspot.com/2012/03/broken-promises\\_17.html](http://tnamediaoffice.blogspot.com/2012/03/broken-promises_17.html)).



## 2. Provincial Councils and the Thirteenth Amendment

There is speculation that elections for the Northern Provincial Council (NPC) will be held in the near future, which will be a significant step in the re-establishment of democracy in the post-war North, while snap polls for the Eastern Provincial Council (EPC) established in 2008 and due in 2013 are also expected later this year. The main concerns about advancing the polls without addressing the fundamental problems with the provincial council (PC) system and the non implementation of the Thirteenth Amendment through which the PC system was established is that it would result in elected authorities without substantive powers. Despite repeated pledges by the Government to fully implement the Thirteenth Amendment<sup>22</sup> there has been no progress in this regard. The experience of the EPC since 2008 demonstrates both the lack of political will on the part of the central government in empowering the EPC as per the Thirteenth Amendment and the serious limitations of the system of devolution as established by the Thirteenth Amendment particularly the overriding power of the central government which severely hampers the EPC in its day-to-day functions including the passing of statutes, appointing of officers and securing funds.<sup>23</sup> There have been accusations that previous elections were not been free and fair for a variety of reasons including the non appointment of the Elections Commission prior to holding any elections.

Thus it is imperative that the Centre implements the following:

- a) Fully implement the provisions of the Thirteenth Amendment.
- b) Amend the Provincial Councils Act to establish a balance of power between the Governor and the Chief Minister and the Board of Ministers in relation to the day-to-day administration of the PC.<sup>24</sup> This could be achieved by giving the Governor more of an oversight role rather than tasking him with day-to-day administrative functions and by making the exercise of the Governor's powers expressly subject to the advice

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<sup>22</sup> "Sri Lanka will take measures for the effective implementation of the 13th Amendment to the Constitution" (Human Rights Council, Report of the Working Group on the Universal Periodic Review: Sri Lanka, 5 June 2008, Para 103): "President Rajapaksa expressed his firm resolve to proceed with the implementation of the 13th Amendment, as well as to begin a broader dialogue with all parties, including the Tamil parties in the new circumstances, to further enhance this process and to bring about lasting peace and development in Sri Lanka" [Joint statement by UN Secretary-General, Government of Sri Lanka, 26 May 2009, (<http://www.un.org/News/Press/docs/2009/sg2151.doc.htm>)].

<sup>23</sup> Centre for Policy Alternatives, "Devolution in the Eastern Province: Implementation of the Thirteenth Amendment and Public Perceptions, 2008-2010", August 2010, (<http://cpalanka.org/devolution-in-the-eastern-province-implementation-of-the-thirteenth-amendment-and-public-perceptions-2008-2010/>).

<sup>24</sup> Centre for Policy Alternatives, "Devolution in the Eastern Province: Implementation of the Thirteenth Amendment and Public Perceptions, 2008-2010", August 2010, pp. 72-75.

of the Chief Minister and the Board of Ministers. The areas that need to be reviewed include the Governor's powers with regards to,

- Conduct of business of the PC including those of a symbolic nature.<sup>25</sup>
- Provincial finance under Part III of the Provincial Councils Act.<sup>26</sup>
- Provincial public service and Provincial Public Service Commission under Part IV of the Provincial Councils Act.<sup>27</sup>

### **3. Rule of Law Issues**

There has been a steady erosion of the rule of law in Sri Lanka including the politicisation and lack of independence of key institutions such as the judiciary, National Human Rights Commission (NHRC), police and other institutions that are essential to uphold the rule of law and democracy, in the post-war period. While there are issues relating to capacity and challenges in implementation, there are also systemic flaws in the Constitutional, policy and institutional framework, which have been exacerbated by the passing of the Eighteenth Amendment to the Constitution. This Amendment provides the Executive greater powers to make appointments and further constrains the limited checks and balances that are in place. Hence there is a need for urgent reform including the revisiting of debates around the Seventeenth Amendment, exploring further constitutional and legal reform and policy actions that can ensure greater independence of institutions and the upholding of the rule of law. It is also paramount that the Government initiates independent processes for justice and accountability in Sri Lanka for violations of human rights and international humanitarian law (IHL). CPA believes that justice, accountability and addressing the culture of impunity are central to a genuine process towards reconciliation and peace. Other issues that need attention include addressing the problems related to the law making process in Sri Lanka which provide limited scope for the public to critique and challenge legislation impacting their lives.

The lack of independence has resulted in perpetrators not being held accountable, thereby adversely affecting investigations and inquiries and institutionalizing the culture of impunity. Numerous committees and commissions appointed in the past have had limited or no progress in human rights cases including low levels of convictions. This has

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<sup>25</sup> Provincial Councils Act, No. 42 of 1987, Sections 11, 15 (1), 15(2), 16(1).

<sup>26</sup> Provincial Councils Act, Sections 19 (5), 20 (3), 23 (2), 24 (1), 24 (3), 25 (1), 26 (3), 28 (1), 30.

<sup>27</sup> Provincial Councils Act, Sections 32, 33.

intensified the loss of public confidence in institutions and related processes that are meant to investigate violations and hold perpetrators accountable.

The LLRC, the NHRAP and the UPR pledges all include constructive recommendations that should be taken up. CPA lists out the following recommendations, most of which are addressed in at least one of the above three initiatives and which should be implemented:

## **I Issues Related to Laws, Policies and the Law-Making Process**

- a) Initiate the implementation of the NHRAP which was approved by Cabinet in October 2011 and publicly share progress made so far with implementation.
- b) Share information on progress made to introduce a Bill of Rights/Charter on Human Rights, which was initiated previously,<sup>28</sup> while increasing public consultation on the provisions of the Bill before it is introduced over the coming months.
- c) Amend or remove legislation such as the Prevention of Terrorism Act (PTA) and related regulations that violate the fundamental rights of citizens.
- d) Introduce a witness and victim protection bill and establish a corresponding mechanism.
- e) Address gaps within the law-making process in Sri Lanka. Ensure the public is able to challenge Bills and legislation and there is greater transparency in the law-making process. Review the concept of 'Urgent Bills'. Criteria to be introduced by the legislature on what constitutes an 'Urgent Bill', so as to better ensure that citizens of Sri Lanka are able to critique and challenge potential legislation. [LLRC - 9.228]

## **II Independent Institutions**

- f) Build capacity of and empower the NHRC including supporting its district offices to investigate and inquire into violations and take action as provided in the legal framework.
- g) The Police Department should be de-linked from the institutions dealing with the armed forces.[LLRC - 9.214]

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<sup>28</sup> This is a voluntary pledge made at the UPR in 2008 (Human Rights Council, Report of the Working Group on the Universal Periodic Review: Sri Lanka, 5 June 2008, Para 93).

- h) Ensure the Police Commission is independent and empowered to monitor the performance of the Police Service and ensure that all Police officers act independently and maintain a high degree of professional conduct. [LLRC - 9.215]
- i) Establish an independent Public Service Commission without delay to ensure that there is no political interference in the public service and that recruitment and promotions in the public service are in conformity with the equality provisions in the Constitution. [LLRC - 9.226]
- j) Appoint an independent elections commission with powers to prevent the use of state resources for election campaigns and to ensure free and fair elections.
- k) Strengthen the independence of the Attorney General's Department including removing direct executive control over it.

### **III Investigations and Inquiries**

- l) Initiate independent investigations into violations of human rights and international humanitarian law (IHL) committed by Government forces, LTTE and other armed groups during the war, including the last stages. These should incorporate evidence and recommendations included in the LLRC Report, the Report of the Panel of Experts<sup>29</sup> and other documents that are publicly available. Investigations should be transparent to ensure that the public are aware of the process and status of investigations. This should also apply to processes commenced by the military.
- m) Take immediate steps to address torture in Sri Lanka including custodial torture, initiate independent inquiries and hold perpetrators accountable. This includes initiating more cases using provisions of the Torture Act.
- n) Increase the number of women's and children's desks and the number of female officers to staff such desks in police stations across Sri Lanka, ensuring that victims and family members are better able to report cases of sexual and other forms of violence.

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<sup>29</sup> Report by the Panel of Experts appointed by the UN Secretary General to advise him on the issue of accountability with regard to any alleged violations of international human rights and humanitarian law during the final stages of the conflict in Sri Lanka.

- o) Provide protection to places of worship in the event of threats and attacks, and initiate independent investigations in the event of an incident that threatens any religious practice.
- p) Implement the recommendations of previous commissions including the Report of the Presidential Commission of Inquiry Appointed to Investigate and Inquire into Alleged Serious Violations of Human Rights Arising Since August 2005, particularly those relating to further investigation and prosecution of offenders involved in the incidents of the death of 5 students in Trincomalee in January 2006 and 17 aid workers of the ACF in August 2006. [LLRC - 9.120] Investigations culminating in indictments should be initiated by the Attorney Generals Department.
- q) Independent investigations should be initiated in respect of allegations against illegal armed groups and institute criminal proceedings instituted against offenders where sufficient evidence is available. [LLRC - 9.73]

#### **4. Demilitarisation**

The heavy military presence in the North and parts of the East coupled with the involvement of the military in administrative and other functions in post-war Sri Lanka has intensified calls for substantive steps towards demilitarisation. In addition to the occupation of both public and private land, which is thwarting normalisation for affected communities and families, the military is involved in economic activities, which have a knock-on effect on livelihoods and incomes of the people and on the local economy of the area. The military is also involved in civilian administration including attempts to monitor beneficiary selection by humanitarian agencies and registering civilians, despite a commitment in court that it would stop doing the latter.<sup>30</sup> At a national level the military has assumed a more dominant role in governance with the Ministry of Defence taking over the Urban Development Authority and the NGO Secretariat, accounting for a substantive portion of the budget and maintaining its war-time man-power strength.

This is an issue that has also been raised in the LLRC Report, which calls for a “phasing out of the involvement of the Security Forces in civilian activities and use of private lands by

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<sup>30</sup> See SC FR 73/ 2011.

the Security Forces with reasonable time lines being given.”<sup>31</sup> [LLRC-9.171]. The Government should take substantive steps towards demilitarisation including:

- a) Provide an official list of all lands and properties currently occupied by the security forces and clear plans with timelines for the release of these areas.
- b) Release lands held as high security zones or occupied by the military so as to return land to their legal owners. Immediate steps should be taken to remove any remaining restrictions on visiting places of worship with the only exception being made in respect of the restrictions necessitated by the presence of mines and unexploded ordinances. [LLRC- 9.117] Mine clearance work should be expedited in such areas.
- c) In exceptional instances where the Government has decided the land is required for security purposes the land should be acquired in accordance with the legal framework, compensation provided to those affected [LLRC- 9.142] and due attention paid to the provision of land, assistance and basic services within a specific time frame to those who will have to relocate.
- d) Reduce the military presence in the North and hand over public security and law and order to the police.
- e) Allow the civilian administration to take the lead in administrative functions. Civilians and public administration officers should be appointed to administrative and governance positions. The practice of appointing retired military officials to such positions should cease.
- f) The military’s involvement in economic activities including the cultivation of crops should be curtailed so as to avoid competing with residents of the area. [LLRC - 9.227].

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<sup>31</sup> “It is important that the Northern Province reverts to civilian administration in matters relating to the day-to-day life of the people, and in particular with regard to matters pertaining to economic activities such as agriculture, fisheries land etc. The military presence must progressively recede to the background to enable the people to return to normal civilian life and enjoy the benefits of peace.” [LLRC- 9.227].

## 5. Demobilisation, Disarmament and Reintegration

The Government has initiated specific actions related to demobilisation, disarmament and reintegration (DDR) but does not deal with all armed groups and is not comprehensive in terms of covering key DDR components. It has focused largely on individuals associated with or suspected to be linked to the LTTE and the TMVP. Over 10,000 individuals have been rehabilitated by the Government, granted political amnesty and a majority have been provided some vocational training or catch-up education, however there are concerns regarding the overall legal framework, post-release security issues and limitations in socio-economic support. There has been no official DDR programme for all armed groups that continue to operate in the country, including EPDP, PLOTE, TELO among others, in addition to state auxiliaries like the Home Guards in the North, East and border areas. Furthermore, there are concerns of small arms proliferation within the civilian population.

This issue was examined in detail by the LLRC in its interim and final reports. The following action should be taken:

- a) Develop a comprehensive programme for DDR for dealing with all armed actors along the lines of the *National Action Plan of the National Framework Proposal for Reintegration of Ex-Combatants into Civilian Life in Sri Lanka (October 2009)*, and ensure legal safeguards for individuals who go through this process and in-community socio-economic assistance..
- b) Action should be taken to disarm and demobilise all armed groups, [LLRC - 9.74] and ensure adequate reintegration assistance of individuals associated with these groups. This process should include state auxiliary groups such as the Civil Defence Force (CDF).
- c) Take follow-up action to ensure the full implementation of the Action Plan between the TMVP, Commissioner General of Rehabilitation and UNICEF with immediate effect so that the practice of child recruitment by the TMVP ceases, children recruited are released and reintegrated with their families and communities after rehabilitation. [LLRC - 9.79]
- d) The Government should engage in a comprehensive disarmament process throughout the country, [LLRC - 9.204] that should include a time period for the handing in of unauthorized firearms and the registration of firearms, and subsequently the prosecution of persons in possession of unregistered firearms.



## 6. Abductions, Enforced or Involuntary Disappearances

Despite the end of the war, incidents of abductions and disappearances continue to be reported.<sup>32</sup> Even while the Government has taken some limited steps including establishing a special process for providing death certificates for those killed in the conflict zone and where the normal process to obtain a death certificate could not be followed, the continuation of abductions in the post-war context and the dearth of measures to address these issues in a comprehensive and sincere manner makes clear the need for further measures. There are numerous caseloads of missing persons including individuals abducted by the LTTE and other armed groups, those taken in by the security forces and the police who are unaccounted for, children abducted for recruitment purposes by the LTTE and TMVP and those who were abducted by ‘unknown groups.’

While the NHRAP has almost no specific action points to deal with the missing and disappeared,<sup>33</sup> the LLRC refers to these problems, including their continuation in the post-war context, and makes specific recommendations in both its interim and final reports. The following steps should be taken:

- a) Take immediate steps to ensure that allegations on abductions, enforced or involuntary disappearances, and arbitrary detention are properly investigated into and perpetrators brought to justice. [LLRC - 9.46]
- b) Immediately implement “recommendations made by past commissions appointed to investigate disappearances”. [LLRC - 9.48] Make reports of past commissions public.
- c) Appoint a Special Commissioner of Investigation to investigate alleged disappearances and provide material to the Attorney General to initiate criminal proceedings as appropriate. The Office of the Commissioner should be provided with experienced investigators to collect and process information necessary for investigations and prosecutions. The Office should have legal powers to call on state agencies and individuals to come before it. This mechanism should also devise a centralized system of data collection at the national level, integrating all information with regard to missing persons currently being maintained by different agencies, including the HRC [LLRC - 9.51]. The Office of the Commissioner should be accessible

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<sup>32</sup> During February and March 2012, 29 abductions and disappearances have been reported in the media. 19 of these incidents took place whilst the UN HRC session was in progress. Of the 29 cases, 24 have been reported as abductions and five are reported as “missing persons”. One person who was reported missing was later found dead. No individual(s) have been arrested in connection to these incidents sparking wide speculation of Government involvement.

<sup>33</sup> The only reference to the missing in the NHRAP is with regards to the children, where the need for family tracing is raised. See Sri Lanka, “National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016”, p 104.

to the public so that family members and others could provide information on the missing and request assistance to do so.

- d) Initiatives to assist relatives and friends of missing persons to help locate these individuals, including through a publicly accessible and responsive family tracing system. [LLRC - 9.49]
- e) Introduce domestic legislation to specifically criminalize enforced or involuntary disappearances. [LLRC - 9.59]
- f) A compensation scheme needs to be devised to provide assistance to family members of the disappeared.

## **7. Arrest and Detention**

In the post-war context there continue to be problems with arrest and detentions, parallel to the release and rehabilitation of at least ten thousand persons identified by the Government as being involved with the LTTE. A large number of persons continue to be under detention accused of a variety of crimes including involvement in the armed conflict, with some detained for prolonged periods without being charged. Further, arrests occur without adhering to established procedures. In a context where the State refuses to provide a list of detention centres and detainees there is confusion as to whether some missing persons may be actually held in detention, though not charged. In addition, there is confusion regarding individuals identified as 'surrendees' with instances of some individuals being transferred to detention centres, while some detainees have been sent for rehabilitation. Most recently hundreds of individuals were detained in Trincomalee district with no information on the reasons for detention and with procedures not being followed. Such examples demonstrate serious challenges to the rule of law and the continuation of problems with arrests and detentions.

In May 2012 the Government announced new procedures for the next of kin to approach the Terrorist Investigation Department to obtain information about family who may be detained, a significant move and a measure that can make a difference if actually implemented. At the time of writing this note, reports from family members who attempted to obtain information indicated that they faced obstacles, raising questions as to whether this initiative will actually be implemented. In addition, as a direct result of the fast by political prisoners, the Government announced the establishment of three new High Courts to expedite the prosecution of persons associated with the LTTE. At the time of writing

there was no information available regarding the process including when it would commence.

Both in the interim and final reports, the LLRC took serious note of detentions and highlighted the need for urgent action. The NHRAP also calls for some measures such as the amendment of specific laws and procedures and the need for adherence to correct procedures.<sup>34</sup>Some key steps that need to be taken include:

- a) Establish a centralised comprehensive database containing a list of detainees and record of transfers so that families have access to such information. [LLRC - 9.63]
- b) Applicable legal provisions should be adhered to by the law enforcement authorities when taking persons into their custody, such as issuing of a formal receipt regarding the arrest and providing details of the place of detention etc. [LLRC - 9.53]
- c) Such persons should be detained only at formal places of detention declared under the law. Adequate publicity should be given to such authorized places of detention, with access to next of kin. [LLRC - 9.53]
- d) An arrested person should be promptly produced before a Magistrate and dealt with in accordance with the law.<sup>35</sup>[LLRC - 9.54]
- e) Any change of the place of detention should be promptly notified to the family of the arrested person and the Human Rights Commission of Sri Lanka. [LLRC - 9.54] The relevant authorities in cooperation with the International Committee of the Red Cross (ICRC) and voluntary organizations enhance current facilities for the transportation of the next of kin to visit their family members at the places of detention. [LLRC - 9.65]
- f) The ICRC should be given access to all detention and rehabilitation centres.
- g) Magistrates should visit the places of detention every month. [LLRC - 9.54]

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<sup>34</sup> The NHRAP specifies amendments to the Code of Criminal Procedure, guidelines and circulars issued to the police in order to guarantee the right to an attorney and to ensure the security of those arrested. See Sri Lanka, "National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016", pp 21-22.

<sup>35</sup> The NHRAP specifies several activities to be concluded within 6 months in order to ensure strict adherence to rules that all persons arrested should be produced before a magistrate within 24 hours. However even though it has been over 6 months since the cabinet approved the NHRAP there is no publically available information that these activities have been carried out. See Sri Lanka, "National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016", p 20.

- h) Expedite prosecution or discharge detainees.[LLRC - 9.64]
- i) Release from detention should be done through courts. [LLRC - 9.54]
- j) Issue a certificate of discharge to persons released so they cannot be re-arrested unless new evidence is discovered against them. [LLRC - 9.64]
- k) Establishment of an Independent Advisory Committee to monitor and examine detentions and arrest of persons under the Public Security Ordinance (PSO) and Prevention of Terrorism Act (PTA). [LLRC - 9.57]

## **8. Internally Displaced Persons, Refugees and Post-War Reconstruction**

The Sri Lankan Government claimed that as of December 2011 there were only 6,647 Internally Displaced Persons (IDPs)<sup>36</sup>, but various communities mainly from the North and East continue to live in displacement even though they are not officially recognized by the authorities and may be unable to find durable solutions and return to their own land. This continued displacement may be due to a variety of reasons including the occupation of their land by the military or other civilians, or difficulties in securing services in resettlement areas and in reconstructing lives. There are different groups who may no longer be officially considered as IDPs, including “old” IDPs<sup>37</sup> or “new” IDPs living with host families. Hence, there is a lack of understanding among policy makers and the general public of the continuing issue of displacement, including the various caseloads and problems they face. In addition, there is a population of refugees, only a fraction of who have returned to their communities while the majority continues to live in displacement in South India. Returnees may find the process of rehabilitation daunting, both due to their limited resources and assistance and uncertainty upon returning. More attention is required by the authorities and non-state actors to ensure that durable solutions are provided for all those returning, and to avoid the politicisation or ‘ethnicisation’ of the issue.

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<sup>36</sup> Ministry of External Affairs, “Statement by the Minister Mahinda Samarasinghe at the 19th Session of the UNHRC High Level Segment”, 27th February 2012, (<http://www.mea.gov.lk/index.php/media/3345-statement-by-the-hon-mahinda-samarasinghe-mpminister-of-plantation-industries-and-special-envoy-of-the-president-on-human-rights-leader-of-the-sri-lanka-delegation-to-the-19th-session-of-the-unhrc-high-level-segment-27th-february-2012-geneva>). See also UNOCHA, Joint Humanitarian and Early Recovery Update 39, January 2012 for a more detailed breakdown while noting that the old IDP figures have not been included.

<sup>37</sup> IDPs in Sri Lanka have been categorized as old and new based on the year of displacement. Those identified as new are people displaced from 2008 onwards (largely from the Vanni) and those categorized as old are from older caseloads including the 1980s, the expelled Northern Muslims, Tamils displaced by the High Security Zones in Jaffna and Tamils displaced due to the Sampur High Security Zone/Special Economic Zone.

The LLRC highlights issues faced by displaced persons and refugees, and makes a number of recommendations to address challenges faced by returnees in particular. The NHRAP has a separate chapter on the IDP issue<sup>38</sup> but there are a number of additional basic recommendations that need to be included in order to comprehensively address this problem.

- a) A joint initiative by the Government, UN and other key actors to carry out a survey to ascertain the number of displaced persons, identify populations, to list out the key challenges they face to return and ascertain whether families will in the short term opt for return or local integration. This could serve as the basis for increasing recognition and understanding of displaced populations from all ethnic communities and areas, including the North, East and 'border areas'.
- b) A special committee should be appointed to examine durable solutions and to formulate a comprehensive State policy on the issue, after having extensive consultations with the IDPs and the host communities [LLRC - 9.113]. It is important to have the participation of humanitarian agencies and civil society in such a committee.
- c) Ensure equitable assistance between the various returnee populations, including in terms of housing assistance. Adopting a uniform state policy may prove useful in this regard.
- d) Make clear the assistance available for return or local integration and give displaced persons the option of choice [LLRC - 9.111].
- e) Establish confidence-building measures to increase information to and facilities to obtain documentation for refugees in India [LLRC - 9.108].
- f) Attention should be paid to the continuing needs of people who have been resettled and living in areas severely-affected by the war and are in the process of making efforts to rebuild their lives [LLRC - 9.101] including through extending livelihood [LLRC - 9.143] and other assistance programmes. Vulnerable populations need to be given specific attention, including those from poverty stricken areas and female-headed households, and individual programmes should be designed to meet their specific needs.

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<sup>38</sup> Sri Lanka, "National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016", pp 121-130.

- g) Devise a policy for compensation for all those affected by disasters, including but not limited to those displaced. In using existing frameworks it is necessary to broaden the scope of the Rehabilitation of Persons Property and Industries Authority (REPIA).
- h) Information should be publicly available regarding the terms of reference of the Presidential Task Force (PTF) for the North which was established in 2009 and has broad powers to control programmes and projects in the North. The PTF should be comprised of civil administrators and should have a sunset clause.

## 9. Land issues

Land in the post-war North and East continues to be a complex and critical issue impacting multiple aspects of family and community life, including the full enjoyment of rights, socio-economic recovery, peace and governance. There are a whole series of problems on the ground including the loss and damage of documentation, competing claims, landlessness, occupation of land by government, military or other civilians and land grabs.<sup>39</sup> Recognizing the scale of the problem, the Government introduced a policy titled “Regulating the Activities Regarding Management of Lands in the Northern and Eastern Provinces” that attempted to set out a process for addressing some of the basic problems. While there were some positive features in this policy and its implementation, there were also some problematic aspects including the involvement of the military, lack of information to government officers and the wider public regarding the process and a questioning of the status of land claims of those who received land from the LTTE. Following a legal challenge, the process was suspended and an undertaking given to withdraw the policy in January 2012.<sup>40</sup> Regardless, a new process for addressing land disputes relating to state land has been initiated in April 2012 in the Eastern Province, with questions raised as to whether this is in contravention of the undertaking given to court and as to the legal basis of such an initiative.

The LLRC makes recommendations on land in both their interim and final reports. Unfortunately the LLRC takes the Government policy at face value without proper examination and calls for improved implementation of this process. The NHRAP calls for specific actions to address land issues relating to the law and problems faced by the war

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<sup>39</sup> B. Fonseka and M. Raheem, *Land Issues in the Northern Province – Post-War Politics, Policy and Practices*, Centre for Policy Alternatives (CPA), December 2011.

<sup>40</sup> CA Writ 620/2011 (petition filed seeking an interim order restraining the Land Commissioner General and other respondents from implementing the Land Circular No. 2011/04).

affected.<sup>41</sup> CPA's own research and advocacy on this issue has raised several recommendations highlighted below:

- a) The Government should establish a National Land Commission (NLC) as provided in the Thirteenth Amendment. The NLC should formulate a national land policy with regards to the use of State land and equitable distribution of such State land.[LLRC - 9.150]
- b) The Government should formulate a National Land Policy with the participation of a cross section of actors at the district, provincial and central level including the involvement of civil society and others specialized on land issues.
- c) There should be initiatives to amend existing legislation that are archaic and discriminatory such as the Land Development Ordinance and the Prescription Ordinance and introduce and implement policies such as the concept of joint ownership of land.
- d) Policies and action plans for land at the provincial and district level should be designed involving actors from the area and should feed into national policies and be implemented.
- e) The circular introduced by the Government in 2011 but subsequently suspended should be improved through public consultations including to ensure a more effective communication strategy, remove military involvement in the mediation mechanisms, involve greater community leader participation in the mediation of land disputes, avoid penalizing families who may have secured land due to pressure from the LTTE. [LLRC - 9.139].
- f) The Government should initiate a comprehensive housing, land and restitution policy. This should be drafted with the participation of relevant line ministries, district actors, humanitarian agencies and civil society.
- g) The Government and state actors should not take actions that would effect unnatural changes in the demographic pattern of a given Province. [LLRC - 9.124].

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<sup>41</sup> Sri Lanka, "National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016", pp 123-129.



## 10. Language Issues

Despite successive governments, including the current Government, committing to the implementation of language rights as per the Constitution of Sri Lanka, there continue to be problems faced by Tamil speakers in particular, in accessing public services.

The LLRC recommended a number of steps to be taken on the language issue both in its interim and final reports, while NHRAP mentions the issue.<sup>42</sup> Key recommendations include:

- a) The Official Languages Commission should be an authority with effective powers of implementation and include branches in every district. [LLRC - 9.248]. This body should have adequate representation from all communities. [LLRC - 9.241].
- b) The full implementation of the language policy should include action plans broken down to the community level, and covering the Divisions and Local Bodies with targets that can be monitored with citizen participation. [LLRC - 9.241].
- c) Conduct a language audit in government institutions and departments to ascertain the capacity for the implementation of the language policy.
- d) All Government documents in the public domain including circulars, gazettes, regulations and notices should be translated in Sinhala and Tamil and accessible to all.
- e) It should be made compulsory that all Government offices have Tamil-speaking officers at all times. In the case of Police Stations they should have bi-lingual officers on a 24-hour basis. A complainant should have the right to have his/her statement taken down in the language of their choice. [LLRC - 9.247].
- f) The Government should take measures to increase minority representation in the public sector, especially of the Up-Country Tamil population.
- g) Language Societies at a community level must be strengthened and promoted as a tool to raise awareness and conduct advocacy on language rights.
- h) The Government should allow the national anthem to be sung in Sinhala or Tamil. [LLRC - 9.277].

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<sup>42</sup> Sri Lanka, "National Action Plan for the Protection and Promotion of Human Rights 2011 – 2016", p 23, 29, 42.

## **11. Freedom of Speech, Association, Assembly and Dissent**

The space for the media and civil society actors and for dissent in general continues to be stifled in the post-war context, with a number of incidents of violence, intimidation and restrictions on actors attempting to exercise their democratic rights guaranteed under the Constitution. This is in a climate where those who are critical of Government policies and action have been attacked, threatened and labelled 'traitors'. In addition to the acts of violence and intimidation, there have been efforts at the policy level to target Non Governmental Organisations (NGOs) and media including the Parliament Select Committee to look into NGO activities, blocking of news websites, recurring calls to impose new restrictions on NGOs including legislation to control NGO activities and greater financial scrutiny over civil society and media actors. This is also in a context where the legal and policy framework needs to be revised and new laws and amendments introduced such as the Right to Information legislation. Civil society organizations, especially those involved in empowerment or rights work in the North find it challenging to secure permission to carry out activities. Placed under surveillance it is extremely difficult for them to function. There needs to be greater recognition of the role played by civil society and greater space for such actors in the country.

CPA makes the following recommendations including reiterating those made in the LLRC report:

- a) Steps should be taken to prevent harassment and attacks on media personnel and institutions. [LLRC - 9.115]. Similar measures should be taken to address the threats faced by civil society organisations, community groups and human rights defenders.
- b) Right to peaceful assembly and protest should be respected and steps taken to prevent violence being used to breakup meetings and demonstrations.
- c) Action must be taken to impose deterrent punishment for such offences and priority given to the investigation, prosecution and disposal of such cases, including those from the past. [LLRC - 9.115].
- d) Legislation should be enacted to ensure the right to information. [LLRC - 9.115].
- e) Civil society organizations both local NGOs and international humanitarian organizations should be allowed to engage in and support human rights, psycho-social and peace related programmes. ([LLRC - 5.94], [LLRC - 5.98], [LLRC - 5.125], [LLRC - 5.131].

- f) The NGO Secretariat and other institutions in charge of humanitarian and other NGOs should be de-linked from the Defense establishment.

## 12. Dealing with the Past

A critical element of reconciliation is recognizing the past and reflecting on it. This involves not only public recognition of events from the past but the ability to take part in events that commemorate the past including remembering the devastation caused by the conflict with recognition given to the suffering of victims, affected communities and the commemoration of the dead. The Government has initiated several state events including the victory day celebrations that are held on 19<sup>th</sup> of May each year, an event that has been used to showcase the military strength of the Government and the sacrifices made by security personnel. The events sponsored by the state provide no space to examine the impact of the war on civilians from across the country or to remember the loss of life of all citizens. Religious institutions and others who have attempted to hold remembrance ceremonies have faced problems such as visits by security and intelligence personnel.

This is in a context where accountability has been a fundamental problem in Sri Lanka over the last three decades<sup>43</sup> with specific relevance in post war Sri Lanka due to allegations of serious violations of human rights and IHL during the last stage of the war. While there are differences in opinion as to whether accountability is required and what it involves, a significant population, mainly from but not restricted to the North and East are determined to identify the whereabouts or the fate of those missing in the hope of securing closure and acknowledgement,<sup>44</sup> making clear the fundamental importance of this issue for achieving sustainable peace and reconciliation.<sup>45</sup> It is therefore imperative to provide space for communities to initiate and conduct their own programme, be it the recognition of missing persons and those killed in the war and for the State to officially commemorate the loss of so many of its citizens.

- a) A National Day to remember all the victims of the conflict should be declared. [9.285].

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<sup>43</sup> This is also applicable to the period of the war but also insurrections such as when the Janatha Vimukthi Peramuna (JVP) challenged the State through an armed rebellion.

<sup>44</sup> Many of the family members who lost loved ones and were witnesses to the horrors of the war indicated the need for the 'truth' and to know what happened to their loved ones including when some testified before the LLRC in the sessions held in the North and East. Many affected communities have reiterated this notion of wanting to know the 'truth' and having a 'justice' but not been able to always articulate what this form of accountability actually means.

<sup>45</sup> See recommendation "I", in Rule of Law, Investigations and inquiries, p 11.

- b) Space should be provided for citizens to express solidarity and empathy with all victims of the war, including through peaceful events and meetings organized by the general public, community leaders and religious leaders. [LLRC - 9.118], [LLRC - 9.285].
  
- c) A public apology should be made by the political leadership to prevent future violence, a process that should be supported by religious leaders, civil society and other local actors. [LLRC - 9.284].

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CENTRE FOR POLICY ALTERNATIVES

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மாற்றுக் கொள்கைகளுக்கான நிலையம்

The Centre for Policy Alternatives (CPA) is an independent, non-partisan organization that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

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