



**Convention against Torture  
and Other Cruel, Inhuman  
or Degrading Treatment  
or Punishment**

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**Committee against Torture**

**Forty-sixth session**

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Agenda item 5

**Consideration of reports submitted by States parties  
under article 19 of the Convention**

**List of issues in relation to the third and fourth periodic  
report of Sri Lanka**

**Addendum**

**Replies of Sri Lanka to the list of issues\*, \*\***

[Date received: 20 October 2011]

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\* The present document is being issued without formal editing.

\*\* The annexes to the present report are on file with the Secretariat and are available for consultation.

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## **Abbreviation**

CID	Criminal Investigation Division
GoS	Government of Sri Lanka
HRCSL	Human Rights Commission of Sri Lanka
IDPs	Internal Displace Persons
LLRC	Lessons Learnt and Reconciliation Commission
TID	Terrorist Investigation Division

## **Responses to list of issues to be considered during the examination of Sri Lanka's 3<sup>rd</sup> and 4<sup>th</sup> combined periodic reports on the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

### **Articles 1 and 4**

1. In view of the statement in the Appendix to the State party's periodic report, paragraph 9, that the definition of torture in the article 12 of the Convention against Torture Act, No. 22 of 1994 would "necessarily include any suffering that is caused to any person," please clarify whether any person has been charged or prosecuted under the Act for inflicting suffering or mental pain. If so, please provide details. Does the State party specifically criminalize enforced disappearance? If so, please provide the text of the relevant legislation.

1. The definition of torture is set out in section 12 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 2 of 1994. The Act states in terms of the definition "torture" with its grammatical variations and cognate expressions, means any act which causes severe pain, whether physical or mental, to any other person, being an act which is

(a) Done for any of the following purposes that is to say

I. Obtaining from such other person or a third person, any information or confession; or

II. Punishing such other person for any act which he or a third person has committed, or is suspected of having committed; or

III. Intimidating or coercing such other person or a third person; or

(b) Done for any reason based on discrimination, and being in every case, an act which is done by, or at the initiation of, or with the consent or acquiescence of, a public officer or other person acting in an official capacity.

2. In terms of the definition of torture, the qualitative nature of the pain and suffering as contemplated by law should be of such a nature as to assure the victim of some temporal advantage. It is only the mental pain and suffering inflicted in those circumstances as set out in Section 12 that would constitute torture. It must however be noted that the assurance to the victim that he would benefit from a temporal advantage and consequently be free from legal sanctions is a cardinal feature of the offence and this may be inferred from circumstances. The Supreme Court has even gone further and held that mental pain and suffering outside the realms of the strict definition of torture.

3. Although the standard of proof required to establish the offence of torture is proof beyond reasonable doubt and the burden of proving the commission of the offence is on the prosecution, Sri Lankan Courts have taken the view that the circumstances under which the victim is alleged to have been subject to torture, being matters peculiarly within the knowledge of the victim and the perpetrator, it is incumbent upon the custodians of the victim to offer an explanation as to the circumstances in which the victim was held in custody. In the ordinary course of events having regard to the manner in and the circumstances under which the offence is committed, the only direct evidence that would be available is that of the victim which may only find corroboration in the medical and other circumstantial evidence.

4. However it should be pointed out that in cases where there is no medical evidence to establish pain or suffering, either physical or mental, it may be difficult to establish a case beyond reasonable doubt, which is the standard of proof required in a criminal prosecution.

5. It must be noted that the charges are preferred under the Torture Act in the context of the offence captured in terms of section 2 of the said Act. Accordingly it would not be possible to specifically disaggregate the indictments preferred under the offence of torture from those indictments preferred for causing mental suffering which is construed as being captured within the definition of torture. Thus it would not be possible to give statistics in the context with regard to the basis of prosecutions based upon the specific element of suffering captured in the terms of the offence of torture referred to in the Act, however, many law enforcement officers and officers of the armed forces have been charged under this Act.

6. The Penal Code does not specifically describe a particular act as one of enforced disappearance but does criminalize the act complained of by the following wide range of offences:

- Section 330-wrongful restraint
- Section 331-wrongful confinement
- Section 337-wrongful confinement in secret
- Section 338-Wrongful confinement for the purpose of extorting confession or of compelling restoration of property
- Section 341-Criminal force
- Section 348-Assaulting or criminal force in attempt to wrongfully confine a person
- Section 350-Kidnapping
- Section 352-Kidnapping from lawful guardianship
- Section 353-Abduction
- Section 355-Kidnapping or abducting in order to murder
- Section 356-Kidnapping or abducting with intent secretly and wrongfully to confine a person
- Section 359-Wrongfully concealing or keeping in confinement a kidnapped person
- Section 360-Kidnapping or abducting a child under 10 years with intent to steal movable property from the person of such child

7. It may be noted that the offence under section 355 referred to above entails a sentence of up to 20 years rigorous imprisonment and a fine.

8. It is therefore clear that the offence of enforced disappearance is adequately provided for and criminalized.

9. This has been addressed in the National Human Rights Action Plan.

## Article 2

2. **According to the State party's periodic report (para. 17), the Presidential Directions issued in July 2007 detail the steps that should be taken to guarantee rights of persons in police custody from the very outset of detention. Please provide information on the content of these directives, measures taken to implement them, and the role of various bodies including the National Human Rights Commission (HRCSL) in monitoring their effectiveness. With reference to paragraphs 27 to 32 of the State party's periodic report and paragraphs 13 to 38 of its Supplement, please provide further information on the steps taken, and procedures in place, to ensure, in law and in practice that:**

10. Implementation of the Presidential directions of 7<sup>th</sup> July, 2006 (which was reissued in 2007) is monitored by National Human Rights Commission (HRCSL) by way of visiting Police Stations and perusing the records and also the conditions of detained persons. These directives were widely disseminated to reach the entire Police Force and the three Armed Forces. (Presidential Directives – Annex A)

11. When a suspect is arrested under the laws of Sri Lanka:-

1. The reason of arrest has to be informed.
2. The next of kin has to be informed.
3. Facilities would be made available for the person to contact a lawyer.
4. There are Police departmental orders with regard to the safe custody of the person including many other relevant instructions to Police Officers.

(Departmental Order A20 of the Sri Lanka Police – Annex B)

- (a) **All persons deprived of their liberty are guaranteed the right to be informed of the reason for arrest, the access to a lawyer of their choice, and the right to be assisted by an interpreter, when required. Please clarify how the State party assesses whether, in practice, all persons detained are afforded the right to inform a family member of their arrest within a short period of time following their apprehension. Please clarify whether all detainees have the right to have a lawyer present during all interrogations. Please indicate whether legal aid is made available to all detained persons and the number of legal aid attorneys in the territory of the State party, disaggregated by location. Please comment on allegations that there is a shortage of Tamil-speaking court-appointed interpreters in many locations in the State party's territory. Please comment on these allegations.**

12. The presidential directions of 7<sup>th</sup> July, 2006 have provided for the rights of the arrested person. Every member of the armed forces and the police force shall assist and facilitate the HRCSL and any person authorized by the HRCSL in the exercise of its powers, duties and functions and also ensure that the fundamental rights of person arrested or detained are respected.

13. No person shall be arrested or detained under any Emergency Regulation<sup>1</sup> or the Prevention of Terrorism Act, No. 48 of 1979 except in accordance with the law and proper procedure and by a person who is authorized by law to make such arrest or order such detention. (Refer also paragraph 20 of this response)

<sup>1</sup> Emergency Regulations lapsed on 30<sup>th</sup> August 2011.

14. At or about the time of the arrest or if it is not possible in the circumstances, immediately thereafter as circumstances permit:

- The person making the arrest or detention shall identify himself to the person arrested or any relative or friend of such person upon inquiry being made, by name and rank;
- Every person arrested or detained shall be informed of the reason for the arrest;
- The person making the arrest or detention shall issue, to the spouse, father, mother or any other close relation as the case may be a document in such form as specified by the Secretary to the Ministry of the Minister in charge of the subject of Defence, acknowledging the fact of arrest. The name and rank of the arresting officer, the time and date of arrest and the place at which the person will be detained, shall also be specified. It shall be the duty of the holder of such document to return the same to or produce the same before, the appropriate authority when the person so arrested or detained is released from custody.
- When a child under 18 years or a woman is sought to be arrested or detained, a person of their choice should be allowed to accompany such child or woman to the place of questioning. As far as possible, any such child or woman so sought to be arrested or detained, should be placed in the custody of a Women's Unit of the Armed Forces or the Police Force or in the custody of another woman military or police officer.
- A statement of a person arrested or detained should be recorded in the language of that person's choice. Such person, having read over and understood the contents of the statement should be requested to place his/her signature. A person who desires to make a statement in his or her own handwriting should be permitted to do so.
  - (i) The member of the HRCSL or any person authorized by it should be permitted access to the person arrested or detained under the Prevention of Terrorism Act, No. 48 of 1979 or under a Regulation made under the Public Security Ordinance (Chapter 40)<sup>2</sup>, and should be permitted to enter at any time any place of detention, police station or any other place in which such person is detained in custody or confined.
  - (ii) An officer who makes an arrest or order of detention as the case may be, shall forthwith, and in any case not later than forty-eight hours from the time of such arrest or detention, inform the HRCSL or any person specially authorized by the HRCSL, of such arrest or detention as the case may be, and the place at which the person so arrested is being held in custody or detention.

15. Regulations have now been made in terms of Section 27 of the PTA for the treatment of detainees and surrendees consequent to the lapsing of the emergency regulations. According to the current regulations,

1) Detainees under the lapsed regulations shall be produced forthwith before a Magistrate who will bring the suspect under the Code of Criminal Procedure Act.

2) If this production does not take place within 30 days from 30<sup>th</sup> August 2011 and the Magistrate does not take steps to remand him on material available, the detainee shall be released.

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<sup>2</sup> Emergency Regulations lapsed on 30<sup>th</sup> August 2011.

3) If a detention order either under Part II or Part III has been issued in respect of the detainee before the expiry of 30 days, the detainee shall not be released subject to the availability of the right of bail in given circumstances.

4) Those who were remanded by the magistrate under the provisions of the lapsed regulations will be deemed to have been remanded under the Prevention of Terrorism Act.

16. As of 1<sup>st</sup> September 2011 any person arrested or detained are given the above guarantees in terms of Code of Criminal Procedure Act or in the appropriate case under the Provisions of the PTA.

17. The Human Rights Commission of Sri Lanka makes unannounced and scheduled periodic visits to places of detention. They have been allowed access to all places of detention.

18. Legal Aid is made available through the Legal Aid Commission to persons whose monthly income is below 8,000/-rupees. There are 66 legal aid offices spread throughout the country including in the Northern and Eastern Provinces. There are many lawyers working in these centres and at least 2 lawyers in each centre work on a fulltime basis. In addition, legal aid is provided by the State at its expense for accused and appellants in the High Court and the Court of Appeal respectively, if they are unable to retain a lawyer of their choice. The Bar Association of Sri Lanka also assists persons with legal aid mainly in forwarding Fundamental Rights petitions to the Supreme Court. Legal aid is also available for civil matters.

19. The Constitution guarantees in Article 13 that any person arrested shall be informed of the reason for his arrest. Article 13(2) mandates that every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the Judge of the nearest competent court according to procedure established by law and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such Judge made in accordance with procedure established by law. Article 13(3) states that any person charged with an offence shall be entitled to be heard in person or by an attorney-at-law at a fair trial by a competent court.

20. The Supreme Court in the exercise of its epistolary jurisdiction is entitled to examine a complaint of an infringement of a fundamental right merely on a communication submitted to Court by a concerned party.

21. It is important to note that a significant amendment is presently under consideration which would signify a paradigm shift of procedure in this area of law. What is under consideration in the main is:

1) The setting up of a duty attorney scheme to make available to those taken into custody, immediately upon arrest

2) The mandatory visitation by an investigatory magistrate within a specified time after arrest

3) A statutory right to legal representation by an attorney at law at the time of making of a statement

4) The statutory right to a medical examination

5) The admissibility in evidence of the statement made by the suspect to the police

6) The right of an Attorney at Law to visit a client in custody, as of right

22. Sri Lanka has taken into account the comparative jurisprudence on arrest and detention, in framing these amendments. It is believed that these new procedures would fully address and put paid to the alleged incidence of torture, cruel, inhuman or degrading treatment or punishment whilst in the custody of police personnel during the investigatory process. Furthermore it is pertinent to note that the State of Emergency lapsed on 30<sup>th</sup> August 2011. Majority of the detainees who were on administrative detention orders were held under the Prevention of Terrorism Act. Regulations promulgated under the Prevention of Terrorism Act, which came into effect on 29<sup>th</sup> August 2011 has further ensured judicial supervision of those persons detained.

- (b) **All detainees promptly receive an independent medical exam and any medical records noting injuries which are consistent with allegations of torture and ill-treatment are systematically brought to the attention of the relevant prosecutor. How are detainees provided information on their right to demand an independent medical examination by a doctor and to ensure the accuracy of medical reports, including the right to see the reports?**

23. Visits by parents, next of kin and legal representatives will ensure the protection of the rights of the detainee and the detainee is legally entitled to apply to court for medical and other forensic examinations and reports. He is also entitled to engage the services of medical and forensic experts privately. The material emanating from the examination can be adduced in court which evidence will be treated in law with equal weight. It is also to be noted that the detainee is entitled to make a statement to the examining medical officer providing a clinical history that would set out any injury or bodily harm. Implementations of Presidential Directives are monitored by the HRCSL by way of visiting Police Stations and perusing the entries and conditions of detained persons.

24. There are only 876 persons under administrative detention orders. All such persons are detained at the Bossa Detention center. The following facilities are available at the Bossa detention center.

- Visited by magistrate once a month.
- Medical treatment is provided by in house doctors based at the center.
- On request or when required detainees are produced before the Judicial Medical Officer.
- Family members can visit the detainee once a week. Such visits can be availed during any week day.
- Recreational facilities both indoor and outdoor are provided at the center.
- Meditation facilities and facilities for religious observances are made available.
- ICRC and Human Rights Commission make periodic visits and are given facilities to interview the detainees.
- Lawyers have access to visit the detainees with prior permission.

Figure 1  
**Suspects in custody – Ethnicity, male and female**

<i>Ethnicity</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Tamil	845	18	<b>863</b>
Sinhala	7	-	<b>7</b>
Muslim	6	-	<b>6</b>
<b>Total</b>	<b>860</b>	<b>18</b>	<b>876</b>

Source: Terrorist Investigation Division (TID).



25. As noted above, with effect from 30<sup>th</sup> August 2011, the State of emergency has lapsed pursuant to H.E the President not issuing a proclamation to extend the state of emergency under the Public Security Ordinance.

- (c) **All detained persons are guaranteed the ability to challenge effectively and expeditiously the lawfulness of their detention through habeas corpus. Please also indicate the number of claims for habeas corpus filed during the reporting period and the number that were successful.**

26. There are 131 Habeas Corpus applications pending in total. The breakdown is as follows: Colombo (2010 – 3; 2011 – 3), Vavuniya (2010 – 122; 2011 – 2) and Trincomalee (2011 – 1). In addition the detainee can also challenge the grounds of detention in the Supreme Court by way of a fundamental rights application.

- (d) **Please specifically indicate whether persons held in administrative detention enjoy the same rights as persons awaiting trial, particularly access to attorneys and the right to contact family members.**

27. Yes, please refer conditions of detention in paragraph 20 above. Sri Lanka reiterates that with the lapse of the emergency regulations no person will henceforth be placed in administrative detention under the Public Security Ordinance. Those detainees hitherto in custody enjoy the same rights and more as persons awaiting trial. More particularly, access to attorneys, the right to contact family members and the privilege of visitations by family members are accorded to them. All those held in custody under the laps of emergency regulations will forthwith be produced before a magistrate who is mandated to remand the suspect to custody or to bail in terms of Code of Criminal Procedure Act. In the event the suspect is not produced within 30 days, the suspect will be released. Consequent to being produced in Court, if they are found guilty they are imprisoned. Prison authorities take appropriate action when the court orders are given to discharge or release/commit the suspects to custody. The number of the detainees in the above category in prisons is 485.

3. **According to the information before the Committee, lawyers who represent individuals alleging human rights abuses by the government face threats and intimidation, for example in the case of lawyer Amitha Ariyaratne, who reportedly received death threats from police officers in January 2009. Please comment on these allegations and clarify the number of complaints against such officials for attacks, harassment, or intimidation and the administrative sanctions or prosecutions initiated and completed in such cases.**

28. We have been unable to trace any formal complaint made by the lawyer referred to above to law enforcement authorities in 2009. There have also been no reported complaints of threats to lawyers on the basis of their representing individuals in alleged human rights violations. Many lawyers who regularly appear in cases pertaining to human rights continue to appear without any fear of reprisal. However, certain complaints made of overzealous police conduct have been the subject of police investigation which in some instances has led to legal sanctions being imposed on recalcitrant police and armed forces. These events have also resulted in the Inspector General of Police issuing official communiqués with regards the manner in which the police must deal with the legal fraternity, consequent to a direction made by the Supreme Court on representations made by the Bar Association. Sri Lanka reiterates that this is an instance which would be addressed once the proposed legislative amendments contemplated above come into operation.

4. According to paragraph 21 of the Supplement to the State party's report, "persons arrested under Emergency Regulations and Prevention of Terrorism Act (PTA), for certain offences could be detained up to a maximum of one year, for investigation and interrogation purposes". Please indicate the number of individuals currently detained pursuant to this law, how many have been charged with a crime, and how many have been prosecuted, with what result. Please indicate what measures have been taken to review the need for maintaining the emergency regulations. Please comment on allegations that these provisions have had the effect of denying fundamental safeguards such as the right to access a lawyer, the right to inform members of one's family of one's apprehension, the right to appear promptly before a judge and the right to be informed of the reasons for arrest. Please comment on reports that numerous prisoners have been held in custody under the PTA for several years without trial, and that as of May 2010 more than 1,900 people previously arrested and detained under the PTA were being held in detention without charge or trial. Please comment on the report of the United Nations Secretary-General's Panel of Experts on Accountability in Sri Lanka that as of February 2011, 1,306 individuals from the former conflict zone suspected of being Liberation Tigers of Tamil Eelam (LTTE) members remained detained facilities pursuant to the PTA. Please indicate whether these individuals been charged with an offense and permitted to contact attorneys and family members.

29. Please see the responses on Emergency Regulations. Eight hundred and twenty four (824) suspects are currently under the Prevention of Terrorism Act (PTA) and all suspects are detained under the Emergency Regulations. Additionally suspects are provided facilities to consult lawyers when needed, as well as when being produced before the Magistrate. The records of the Police do not indicate that suspects have been detained for more than the period stipulated for detention.

30. The Prisons Ordinance and rules made thereunder provide for the procedure with regard to admission, removal and discharge of prisoners. Upon court orders given to rehabilitate suspected persons, prison authorities hand them over directly to the designated rehabilitation centre. In cases of alleged assault or cruelty to a suspect after admission to prison, immediate medical attention is given and action initiated. If a suspect needs legal aid, lawyers of his choice are contacted. If he cannot afford legal counsel, Government and non-governmental organizations (NGOs) are contacted. The assistance of voluntary organizations is made accessible for those confronted with financial and economic difficulties for purposes of payment of bail and fines.

31. Authorized Government agencies and NGOs (international and local) are permitted to visit places of detention with prior approval. These NGOs educate prison inmates on their human rights, fundamental rights and inmates are also provided with legal advice. Any person under custody is free to complain to any person, organization/ international body of any grievance, personal problems or complaints.

5. **Please clarify what measures have been taken to prevent torture and ill-treatment of women in places of detention or confinement, including sexual violence. Please provide statistical data on the number of complaints, investigations, convictions and sentences imposed in cases of violence against women in places of detention or confinement, including sexual violence, since 2006, as well as preventive measures taken by the police and judicial authorities in this regard.**

32. Services are in place where by female staff is provided for the female detainees who are housed in separate buildings with other infrastructure facilities. There have been no complaints about sexual violence. Security of female suspects is maintained having regard to their welfare and the provision of necessary safeguards.

6. With reference to the information provided in paragraph 18 of the State party's report, please provide information on the measures taken to ensure that the constitution and activities of the HRCSL comply with the Principles relating to the Status of National Institutions (Paris Principles, adopted by General Assembly resolution 48/134 of 20 December 1993), including the requirement that Commissioners be selected pursuant to a transparent and broad consultative process. What other measures have been taken to guarantee the Commission's independence from the executive branch, for instance by ensuring that it has an adequate budget for the performance of its duties? How many complaints have been filed with the Commission over the past five years and what action has been taken on them? Please indicate whether HRCSL members are able to make unannounced visits to all places of detention and how many such visits have been made during the reporting period. Please comment on allegations that although by law the Commission must be informed of an arrest and of the place of detention within 48 hours, this is not being done in practice. Please elaborate on the respective mandates of the HRCSL and the additional official commissions to investigate "alleged disappearances" and "serious violations of human rights", and describe how these mechanisms coordinate their activities.

33. In terms of the 18<sup>th</sup> Amendment to the Constitution (certified and in effect from 9 September 2010 – Annex C), the Chairman and Members of the Human Rights Commission of Sri Lanka are appointed by H.E. the President after seeking the observations of a Parliamentary Council. This Council consists of the Prime Minister, the Speaker, the Leader of the Opposition and a nominee each of the Prime Minister and the Leader of the Opposition. The aforementioned nominees have to belong to communities other than those to which the Prime Minister, Speaker and Leader of the Opposition belong, ensuring a wide representation by all communities.

34. Other safeguards to guarantee the independence and integrity of the Human Rights Commission are incorporated into the constituting legislation, in terms of Act No. 21 of 1996. The independence so guaranteed is similar to the independence of the judiciary, in that they are not removable prior to the expiration of their term.

35. Section 29 of Act No. 21 of 1996 casts a positive duty on the State to provide the Commission with adequate funds to discharge its statutory functions and duties. This is subject to supervision by the legislature.

36. Complaints filed with the Human Rights Commission in Colombo and its network of regional offices in the principal towns from 2006 (including complaints of torture &c.) are as follows:

Figure 2

**Numbers of complaints have been filed with HRCSL over the past 5 years**

<i>Year</i>	<i>Complaint</i>
2006	7 617
2007	7 611
2008	6 574
2009	5 454
2010	4 205
2011 up to June	4 073

*Source:* Human Rights Commission Sri Lanka (HRCSL).

37. When complaints are received an initial review is made and a decision is taken whether or not it falls within the Commission's mandate. If it does, it is referred to the relevant agency calling for a report containing their observations on the complaint. Subsequently investigations and inquiries are conducted concluding with the Commission's determination and recommendations to the relevant agency.

38. The Human Rights Commission of Sri Lanka is empowered to make regular as well as unannounced visits to places of detention. Periodic unannounced visits are carried out by the staff of the HRCSL to all places of detention. These visits take place at least once a month.

39. In addition, ICRC representatives made the following visits:

Figure 3

**Visits of the ICRC Representatives (2009-2010)**

<i>No</i>	<i>Year 2009</i>	<i>Year 2010</i>	<i>Year 2011</i>
1	2009.01.01	2010.02.10	2011.01.28
2	2009.01.30	2010.02.11	2011.03.04
3	2009.02.18	2010.03.17	2011.04.29
4	2009.03.25	2010.04.06	2011.06.03
5	2009.04.29	2010.05.20	2011.07.20
6	2009.05.21	2010.06.17	
7	2009.06.05	2010.06.18	
8	2009.07.05	2010.09.15	
9	2009.08.20	2010.10.26	
10	2009.09.16	2010.12.12	
11	2009.09.17		
12	2009.10.15		
13	2009.11.25		
14	2009.12.22		

*Source: CID/SL.*

- 7. Please provide information on measures in place to fully ensure the independence of the judiciary in conformity with the Basic Principles on the Independence of the Judiciary. Please provide details on the procedure for the appointment of judges, the duration of their mandate, the rules governing their removability and the ways in which they may be dismissed from office. Please provide information on the number of female judges and prosecutors and the number of judges and prosecutors from religious and ethnic minority communities.**

40. The Constitution incorporates provisions designed to secure the independence of the judiciary. Thus the sittings of every court, tribunal or other institutions established under the Constitution or by Parliament shall be held in public. Article 107(2) states that every Judge of the Superior Courts shall hold office during good behavior and shall not be removed except by an order of the President made after an address of Parliament supported by a majority of the total number of Members of Parliament (including those not present) has been presented to the President for such removal on the ground of proved misbehavior or incapacity.

41. Provided that no resolution for the presentation of such an address shall be entertained by the Speaker or placed on the Order Paper of the Parliament unless notice of such resolution is signed by not less than 1/3 of the total number of members of Parliament and sets out full particulars of the alleged misbehavior or incapacity.

42. The age of retirement of Judges of the Supreme Court shall be 65 years and of Judges of the Court of Appeal shall be 63 years. The Chapter 15, Articles 107 to 111M deal with the independence of the judiciary. Article 108 states that -

- The salaries of the Judge of the Supreme Court and of the Court of Appeal shall be determined by Parliament and shall be charged on the consolidated fund.
- The salary payable to, and the pension entitlement of, a Judge of the Supreme Court and a Judge of the Court of Appeal shall not be reduced after his appointment.

43. There are three female Supreme Court Judges and one female Court of Appeal Judge. The former Chief Justice was a Catholic and there are four Supreme Court Judges from religious minority groups and ethnic minority communities. There are five Court of Appeal Judges from religious minority groups and two Court of Appeal Judges from ethnic minority groups.

44. It is pertinent to note that currently the Chief Justice, the Attorney General and the Legal Draftsmen of Sri Lanka are all females. The Supreme Court today is constituted of three female judges which includes the Chief Justice. The number of female officers of the Attorney General's office number over 70, which consists of officers at the level of State Counsel, Senior State Counsel, Deputy Solicitor's General and Additional Solicitor's General and , Assistant State Attorneys, Senior Assistant State Attorneys, and State Attorneys. Moreover, it must be noted that in view of the specific prohibition based on discrimination on grounds of race, language, caste, sex, political opinion, place of birth or any one of such grounds guaranteed by Article 12 (2) of our constitution, selection of prosecutors or judges are based on merit and merit alone.

45. The Chief Justice, the President of the Court of Appeal and every other judge of the Supreme Court and Court of Appeal are appointed by the President by warrant under his hand. No judge of the Supreme Court or Court of Appeal shall perform any other office (whether paid or not) or accept any place of profit or emolument, except as authorized by the Constitution or by written law or with the consent of the President.

46. A person who has held office as a permanent Judge of the Supreme Court or of the Court of Appeal, cannot appear, plead , act or practice in any court, tribunal or institution as an attorney-at-law without the written consent of the President.

47. Article 111 (A) makes provision for the appointment of High Court Commissioners, by the President on the recommendation of the Judicial Commission. The High Court Commissioners and the High Court Judges exercise the jurisdiction and powers of the High Court. High Court Judges are removable and are subject to disciplinary control by the President on the recommendation of the Judicial Service Commission.

48. High Court Commissioners too are removable and are subject to disciplinary control by the President on the recommendation of the Judicial Service Commission. High Court Commissioners hold office for the period specified in their warrant of appointment. There is a Judicial Service Commission which consists of the Chief Justice who is Chairman and two Judges of the Supreme Court appointed by the President.

49. A Judge of the Supreme Court, appointed as a member of the Judicial Services Commission, shall unless he earlier resigns his office or is removed by the President for cause assigned , or cease to be a judge of the Supreme Court hold office for three years from the date of his appointment.

50. The salary or allowance of a member of the Judicial Services Commission is determined by Parliament, and is charged on the Consolidated Fund. Such salary or allowance cannot be diminished during his term of office and such salary or allowance is, in addition to the salary and other emoluments received from his substantive appointment.

51. The Judicial Service Commission has the power to make rules regarding schemes of recruitment and procedure for the appointment of judicial officers and scheduled public officers as defined in Article 111H of the Constitution .

52. The appointment, transfer, dismissal and disciplinary control of judicial officers and scheduled public officers is vested with the Judicial Service Commission. The Chairman of the Judicial Service Commission or any Judge of the Supreme Court authorized by the Chairman of the Commission has full power and authority to inspect any court of first instance or the records, registers or other documents maintained in such court and to hold such inquiry as may be necessary.

53. Influencing or attempting to influence any decision of the Commission or of any member of the Commission is constituted an offence punishable with a fine not exceeding one thousand rupees or with imprisonment for a term not exceeding one year or with both such fine and imprisonment.

54. Interference with any judge, presiding officer, public officer or other person entrusted by law with judicial powers or with functions under Chapter XV or with similar functions under any law enacted by Parliament is an offence punishable by the High Court with imprisonment for a term which may extend to one year or with fine or with both such imprisonment and fine and may, in addition be disqualified for a period not exceeding seven years from the date of conviction from being an elector or from holding public office and from being employed as a public officer.

55. No suit or proceeding lies against any member of the Commission for any act which in good faith is done or is purported to be done by it in the performance of its duties and the discharge of its functions under the Constitution.

8. **According to the State party's periodic report (para. 38 of its Supplement), section 2(2) of the Convention against Torture Act stipulates that "an order from a superior officer or a public authority" may not be invoked as a justification of torture. Please provide examples in which this principle has been applied by the Sri Lankan courts and relevant statistics, if any.**

56. It has been clearly stated that the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act No 2 of 1994, specifically prevents "an order from a superior officer or a public authority" being invoked as a justification or defense for torture (per section 3 (b)). As such, the question of the above being used in court as a defense does not arise and therefore providing examples and statistics in this regard is not possible. Suffice to state that no judgment in a case dealing with torture has accepted "an order from a superior officer or a public authority" as a justification or defense in favour of an accused.

9. **Please provide information on the legal framework for combating violence against women in Sri Lanka and on the measures taken to eliminate this phenomenon, including domestic and sexual violence. Please provide statistical data covering the period 2006-2011 on the number of complaints filed concerning different forms of violence against women, the number that resulted in trial and the period of time that elapsed between the filing of a complaint and the conclusion of the trial. What measures are taken to facilitate the submission of complaints regarding sexual violence, to ensure the privacy of the complainant, and avoid retraumatization?**

**With regard to allegations claiming delays of five to twelve years in such cases in the context of the Universal Periodic Review of Sri Lanka, please provide information on any measures taken to expedite such cases. Please indicate whether domestic violence and marital rape are criminal offences, and if so, with what penalties. Please also comment on allegations that female victims of sexual violence are held in custody until the conclusion of cases against the alleged perpetrators.**

57. The Prevention of Domestic Violence Act, No 34 of 2005 and the Penal Code supplemented by the Women's Charter, sets the legal framework for combating violence against women in Sri Lanka. Domestic Violence and Marital Rape during the judicial separation are made criminal offences.

58. The Domestic Violence Act provides for combating violence against women including domestic violence. Penalties for domestic violence include granting of relief to a victim by way of a protection order for a year. The court would issue an interim order restricting the perpetrator from entering the premises of the victim or any other access.

59. If the Protection Order is not adhered to the respondent can be imprisoned for contempt of court. The Respondent can be charged under section 315, 316, 317 for grievous hurt and similar offences. There are provisions for the victim to obtain safe accommodation for the victim and her children.

**10. According to reports, the State party is a point of origin of and a destination of me, women and children victims of human trafficking for forced labour and forced prostitution. Please provide information on measures taken to prevent the trafficking of human beings and to provide appropriate care for the victims. Please also provide information on complaints, investigations, prosecutions and convictions, including penalties, for perpetrators of human trafficking.**

60. There have been 51 complaints of human trafficking received. Out of these complaints, two complaints relate to forced prostitution and all other complaints involve allegations of forced labour.

61. Some cases have been reported on forced prostitution. Two women of Uzbek nationality named Norbaeva Fotima and Toshkulova Mavivda made a complaint of forced prostitution on 10.07.2009 and, after the completion of investigations, the suspects named Tokhivora Tukhtabohu, Abdul Asees Ahamudu Makeer and Mohomad Baheer Husain were indicted by the Attorney General in High Court of Colombo. In this case, first suspect Tokhivora Tukhtabohu had trafficked the victim women to Sri Lanka and the victims have been used for forced prostitution. The other two suspects had facilitated the commission of this offence. After trial at the High Court, all three accused, were found guilty and sentences of five years rigorous imprisonment with a fine of Rs. 50000/= each were imposed.

62. Upon complaints being made by two victims against four suspects, investigations had been conducted and completed and the file had been referred to Hon. Attorney General and the case is pending for Attorney General's advice.

63. Measures have been formulated by the Sri Lanka Police to prevent human trafficking in the country. Investigations are being carried out with the cooperation of the Human Trafficking Task Force functioning under the Ministry of Justice. The International Organization for Migration (IOM) also extends their co-operation in these investigations. Awareness programmes are being conducted for the public to raise awareness on human trafficking offences.

64. In addition to the above Attorney General has set up a special branch to prosecute these cases expeditiously. Capacity building in this respect has been provided by the IOM.

65. All other complaints out of the 51 mentioned in the paragraph No: 56 fall under Human Trafficking for forced labour and these cases are still being investigated.

66. A victims' shelter is located in Kalutara. This centre is operated and maintained by the Government Agent in Kalutara with the assistance of the Ministry of Justice and the International Organization for Migration (IOM).

### **Article 3**

- 11. With reference to paragraphs 33 to 35 of the State party's report, please provide information on how the Extradition Law of Sri Lanka covers the situation envisaged by Article 3 of the Convention and ensures that no person is expelled, returned or extradited to another state where there are substantial grounds for believing that he or she would be subjected to torture.<sup>17</sup> What is the procedure followed when a person invokes this right? Are individuals facing expulsion, return, or extradited informed that they have a right to seek asylum and to appeal a deportation decision? If so, does such an appeal have suspensive effect?**

67. In this regard the Extradition Law No. 8 of 1977 provides in terms of section 7 for restrictions on Extradition. One of the grounds for restriction is the offence of which the person is accused or convicted being an offence of a political character. Another ground for restriction is if the person is to be prosecuted or punished on grounds of race, religion, nationality or political opinion. A third ground for restriction is where extradition would be prejudicial for his trial or if he is to be punished, detained, restricted in his personal liberty by reason of his race, religion, nationality or political opinion.

68. Section 4 of the said Law provides that no order for extradition is to be made unless it is in conformity in all respects with the provisions of this Law (including section 7).

69. Further, under section 12 of the said Law, the Minister has discretion to refuse granting an order for extradition if, the accusation against him is not made in good faith in the interest of justice or if it would be unjust or oppressive to extradite that person. As such, it would be inconceivable that an order for extradition would be made if there is a reasonable threat of such person being subject to torture in the event he is extradited.

70. The Minister's discretion in making an order for extradition is amenable to judicial review and the Court of Appeal (with an appeal to the Supreme Court) would be the final arbiter in such matters. It is also possible for a person aggrieved by an order of the Minister to have recourse to the Fundamental Rights jurisdiction on the basis that there is an imminent infringement of his right not to be tortured, guaranteed under Article 11 of the Constitution being violated.

- 12. Please provide detailed information on the number of cases of refoulement, extradition and expulsion carried out by the State party during the reporting period through the acceptance of diplomatic assurances or the equivalent thereof. Please include detailed information on what the State party's requirements are for such assurances and which post-return monitoring mechanisms have been adopted. Please provide also information on instances in which the State party has offered diplomatic assurances or guarantees.**

71. Under the Mutual Legal Assistance in Criminal Matters Act, No. 25 of 2002, there is provision for the rendering of assistance between Sri Lanka and certain other countries. Such assistance includes location and identification of witnesses or suspects, the service of documents, the examination of witnesses, the obtaining of evidence, documents or other articles, the execution of requests for search and seizure, the effecting of a temporary transfer of a person in custody to appear as a witness, the facilitation of the personal



appearance of witnesses, the provision of documents and other records, the location of the proceeds of any criminal activity and the enforcement of orders for the payment of fines or for the forfeiture or freezing of property.<sup>68</sup> Mutual Legal Assistance Agreements have been signed with Thailand, Hong Kong, India and Pakistan. Under these, a number of requests have been received and acceded to.

72. Under the Transfer of Offenders Act, No. 05 of 1995, a sentenced person may be transferred from the jurisdiction of the transferring party to the jurisdiction of the receiving party in accordance with the provisions of the treaty and applicable law of each Party, in order to serve the sentence imposed on him. Sri Lanka has signed treaties with Maldives, Pakistan, Kuwait, Hong Kong, India and U.K. Requests have been received from Pakistan, India and Maldives. One person was transferred from the U.K. to Sri Lanka. One person was transferred to the Maldives and six to Pakistan. There are also some pending requests.

73. Under the Extradition Law, provision is made for the extradition of fugitive offenders who are wanted for prosecution, trial, imposition or enforcement of a sentence in either country which have signed a Treaty. The Extradition Treaty places particular emphasis on terrorist related offences. Extradition could be denied if the offence for which extradition is sought is a "political offence" in keeping with the general laws of extradition.

74. With regard to post return monitoring fail asylum seekers whose Sri Lankan nationality has been confirmed by the relevant Sri Lankan Missions. Such returns are based on a bilateral agreement with the sending country. The agreement provides or stipulates the procedure to be followed to accept returnees who have no legal basis to stay in the sending country. Generally, such re-admission agreement includes the questioning of the returnees on arrival at the airport by the GOSL authorities.

## Articles 5, 7 and 8

13. **Please indicate whether domestic legislation establishes jurisdiction over acts of torture committed by non-Sri Lankan perpetrators outside the territory of Sri Lanka, if such persons are present in the territory of Sri Lanka and have not been extradited for prosecution elsewhere. Please provide information regarding all cases in which the State party has rejected, for any reason, a request by a State for extradition of an individual suspected of having committed torture. Please indicate whether such individuals were prosecuted in the courts of the State party, and the status and outcome of all such proceedings?**

75. Section 4 of The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994, provides that:

- (1) The High Court of Sri Lanka shall have the jurisdiction to hear and try an offence under this Act committed in any place outside the territory of Sri Lanka by any person, in any case where-
  - (a) The offender whether he is a citizen of Sri Lanka or not, is in Sri Lanka, or on board a ship or aircraft registered in Sri Lanka;
  - (b) The person alleged to have committed the offence is a citizen of Sri Lanka; or
  - (c) The person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka.
- (2) The jurisdiction of the High Court of Sri Lanka in respect of an offence under this Act committed by a person who is not a citizen of Sri Lanka, outside the territory of Sri Lanka, shall be exercised by the High Court holden in the Judicial Zone nominated by the Chief Justice, by a direction in writing under his hand.

## Article 10

14. Please provide further information on the training provided for law-enforcement officials and other public officials with respect to human rights, specifically the number and the content of training programmes on the treatment of detainees, the prohibition against torture and ill-treatment, and measures for the prevention of torture and ill-treatment. Please clarify whether these training programmes are also available in Tamil language. Please indicate if the State party has developed a methodology to assess the effectiveness of training and educational programmes on the reduction of cases of torture and ill-treatment, and, if so, please provide information on the methodology. Please describe training provided to police and military officials on proper forensic investigation and interrogation techniques.

76. A number of training courses are being conducted for Police Officers on Human Rights. This subject has also been incorporated in the syllabus of the basic Police training. It is also conducted in Tamil Language.

77. Police officers are trained on basic Investigation Techniques and Forensic Investigation by way of conducting regular and systematic training programme for Scene of Crime Officers (SOCO), islandwide.

78. These training programmes are aimed at enhancing professional skills of police officers in investigative techniques thereby reducing their reliance on improper methods of interrogation of suspects.

Figure 4

### Courses Conducted by the In-service Training Centers Island wide

<i>Name of the course</i>	<i>Number of Police Officers</i>	<i>In-service Training Centers</i>	<i>Period</i>
01. Human Rights	495	Maradana Badulla Galle Anuradhapuraya Rathnapuraya Mirihana Mahanuwara Nuwara Eliya Vaunia	January 2010 to 31.12.2010
02. Human Rights	829	Maradana Mirihana Galle Badulla	January 2011 to 31.07.2011
03. Human Rights	290	Maradana Badulla Galle Anuradhapuraya Rathnapuraya Mirihana Kurunegala Nuwara Eliya	22.08.2011 to 26.08.2011

Source: Sri Lanka Police.

Figure 5  
**Human Rights Training for Police Officers**

<i>Con: No</i>	<i>Number of Police Officers</i>	<i>Course/ Conducted by</i>	<i>Duration</i>
01.	60 - Officers In Charge of Crime Branches (Western Province South)	UNDP - Equal access to justice project. (Introduction to Human Rights)	20.11.2008 - 21.11.2008
02.	60 - Officers In Charge of Crime Branches (Western Province North)	UNDP - Equal access to justice project. (Introduction to Human Rights)	27.11.2008 - 28.11.2008
03.	43 Police Officers	Training of Trainers on Human Rights. (CARITAS)	20.08.2008 - 22.08.2008
04.	31 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	03.10.2008 - 04.10.2008
05.	42 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	10.10.2008 - 11.10.2008
06.	19 Police Officers	Post Graduate Diploma in Human Rights. (University of Colombo)	20.10.2008 - 20.04.2009
07.	40 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	17.12.2008 - 18.12.2008
08.	38 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	27.02.2009 - 28.02.2009
09.	30 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	28.03.2009 - 29.03.2009
10.	43 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	03.04.2009 - 04.04.2009
11.	32 Police Officers	Training of Trainers on Community Policing based on Human Rights. (Sri Lanka Foundation Institute.)	04.05.2009 - 14.05.2009
12.	37 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	15.05.2009 - 16.05.2009
13.	53 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	26.05.2009 - 27.05.2009

<i>Con: No</i>	<i>Number of Police Officers</i>	<i>Course/ Conducted by</i>	<i>Duration</i>
14.	72 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	22.07.2009 - 23.07.2009
15.	34 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	03.08.2009 - 04.08.2009
16.	92 Police Officers	Certificate Course in Human Rights.(Sri Lanka Foundation Institute.)	10.08.2009 - 18.08.2009
17.	36 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	24.08.2009 - 25.08.2009
18.	72 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	14.09.2009 - 15.09.2009
19.	59 Police Officers	Work shop on Prevention of Torture by education. (CARITAS)	21.10.2009 - 22.10.2009
20.	11 Police Officers	Post Graduate Diploma in Human Rights.(University of Colombo)	24.03.2010 - 25.03.2011
21.	87 Police Officers	Certificate Course in Human Rights.(Sri Lanka Foundation Institute.)	22.06.2010 - 01.07.2010
22.	06 Police Officers	Master's programme In Human Rights.(University of Colombo)	07.10.2010 - 07.10.2011
23.	142 Police Officers	Certificate Course in Human Rights. (Sri Lanka Foundation Institute.)	22.11.2010 - 30.11.2010
24.	147 Police Officers	Certificate Course in Human Rights.(Sri Lanka Foundation Institute.)	06.06.2011 - 14.06.2011

*Source:* Sri Lanka Police.

79. Sri Lanka Army is conducting human rights training programmes, seminars and workshops for Army personnel since 1997. (Annex D)

80. Workshops on human rights including prevention of torture are held throughout the year by Government and NGOs under a United Nations Development Programme (UNDP) Project for prison officers in all grades.

15. Please provide detailed information on training programmes for judges, prosecutors, forensic doctors, medical personnel and HRCSL staff members dealing with detained persons, on the definition of torture and on detection and documentation of the physical and psychological sequelae of torture. Do such programmes include specific training with regard to the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol)? What training do doctors receive on the treatment and rehabilitation of victims of torture?

81. In service training programmes are conducted by the Judges Training Institute under the auspices of the Judicial Services Commission. In-house training and workshops are conducted by the Attorney General's Department for prosecutors periodically. Special training programmes are conducted abroad for the benefit of prosecutors.

Figure 6

**Educational Training Programmes conducted by HRCSL on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the Years 2006 to 2011**

<i>Year</i>	<i>Target Group</i>	<i>Topics</i>	<i>No. of persons trained</i>
2006 - 2007	Police Officers	Prevention of Torture	300
	Officers of Department of Education, Health, District Secretariats, Provincial Councils, Prisons and NGO's	To Prevent all Cruel, Inhuman or Degrading Treatment or Punishment	200
	Principals and heads of Disciplinary Committees	To Eradicate all types of Punishments in Schools	around 1500
2008	Police Officers	Torture Prevention	200
	Prison Officers	Stress Management and How to Provide a Better Service	nearly 2000
2009	Newly recruited Trainee Police Officers (Male & Female)	Torture Prevention	150
	Police Officers	Stress Management and How to Provide a Better Service	250
2010	Newly Recruited Police Officers	Torture Prevention	23
	Inspectors of Police, Sub Inspectors of Police, Police Constables, Police Sergeants	Torture Act and Mandate of the HRCSL	50
	Chief Inspectors, Inspectors of Police, Sub Inspectors	Torture Act and Mandate of the HRCSL	50

Source: Sri Lanka Police.

## Article 11

16. According to the information before the Committee, over 280,000 civilians displaced by war were confined in military-controlled detention camps as of March 2008, and the Secretary-General's Panel of Experts on Accountability in Sri Lanka cited Government claims that as of September 2010, 25,795 civilians remained in detention in these camps. Please provide detailed information, including statistics, disaggregated by sex, age and ethnicity, on the number of internally displaced persons that continue to be held in these so-called "welfare centres or villages". Please explain the reasons for their continued detention and the steps taken to allow their voluntary return in accordance with the Guiding Principles of Internal Displacement (E/CN.4/1998/53/Add.2). Describe the measures taken to ensure safe access to basic services such as food, potable water, shelter, health facilities and sanitation, to internally displaced persons in the camps. Please indicate whether international bodies or humanitarian organisations are permitted to monitor conditions in the camps.

82. Sri Lanka entertains strong reservations as to the applicability of Article 11 of the Convention in the above context to the situation of displacement post-May 2009 in Sri Lanka. While contesting the accuracy of the factual assertions in the question (No. 16) and without prejudice to the foregoing, Sri Lanka wishes the following to be placed on the official record. After the end of the terrorist conflict in Sri Lanka, in May 2009, the GOSL received over 290,000 persons who were held hostage by terrorist forces. These persons who were liberated were housed in welfare facilities established and run by the Government in cooperation with UN agencies and non-governmental organizations. By August 2009, the Government launched a reconstruction and development process comprising resettlement, rehabilitation and reconciliation. In the immediate aftermath of the conflict, the GOSL's priority was catering to the immediate needs of the internally displaced persons (IDPs) prior to resettlement programmes being implemented. This included ensuring that they were provided with adequate shelter, food, security and other support. Therefore, it is totally erroneous to state that "as of September 2010, 25,795 civilians remained in detention in these camps." At no time did GOSL detain IDPs. It is emphasized that the IDPs were initially provided with a secure environment and cared for while they were screened to identify terrorist cadre who had infiltrated the civilian population that was rescued at the conclusion of the armed conflict. However, releases on humanitarian grounds commenced almost immediately thereafter. All IDPs were permitted free movement commencing 1 December 2009 – an action that was acknowledged by United Nations agencies and civil society groups. For a full account of the humanitarian operation, the hostage rescue and post armed conflict development please refer to "Sri Lanka: The Emerging Wonder of Asia" (2011), a publication of the Government of Sri Lanka annexed hereto as Annex E.

83. At present, only an approximate number of around 7000 IDPs remain in the welfare villages in 2 locations in Vavuniya with most of them being out of the centres for work and to attend to other personal needs. It is envisaged to resettle this remainder by the end of this year with the completion of demining.

84. In addition to catering to the needs of the IDPs considerable action has been taken by the GOSL to facilitate the restoration of normalcy in the lives of the returning IDPs including livelihood support. Caring for IDPs in welfare centres alone cost the government USD 31 million. To support the returnees in their original areas of habitation, initially approximately 35,000 houses have been constructed in the former theatre of conflict and distributed among the resettling IDP families. A similar programme was also conducted to provide housing to displaced families in the Eastern Province.

17. Please provide detailed information including statistics, disaggregated by sex, age and ethnicity, on the number of detainees transferred to “rehabilitation centres”. Please indicate what rules exist relating to the right of detained persons to have access to a lawyer and a doctor of their choice, to be informed of their rights and to inform their relatives of their detention. For how long may a person be held in these detention facilities? 24 Are these detainees effectively guaranteed the ability to challenge the lawfulness of the detention before an independent court? Please also include information on the separate child detention centres to which 594 children suspected by the military of being LTTE members were reportedly sent following the conflict. How many children remain in these facilities?

85. The number of persons in rehabilitation programmes at end-August was as follows:

86. The rights of detainees have already been addressed in paragraph 16 of this response. It is incorrect to refer to those persons undergoing rehabilitation as “detainees”. Rehabilitation is catered for by a totally different legal regime to that governing detention. It must be stressed that the beneficiaries undergoing rehabilitation are voluntary participants and that the initial figure of over 11,900 has been reduced over time to a figure of 1000 as of 17th Oct. 2011.

87. Detailed statistical data on persons transferred to rehabilitation centres from detention, disaggregated by sex, age and ethnicity are given below (Table 9). Furthermore, the numbers of surrendered persons on rehabilitation voluntarily or on court order are indicated in Table 10.

Figure 7

**Suspects in the Terrorist Investigation Division’s custody transferred to the rehabilitation centres**

<i>Ethnicity</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
Tamil	860	131	991
Sinhala	2	-	2
Muslim	-	1	1
<b>Total</b>	<b>857</b>	<b>132</b>	<b>994</b>

Source: TID.

Figure 8

**Number of surrendered persons on rehabilitation voluntarily or on court order**

	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Civil Status</i>	<i>Religious Faith</i>
Children 12-18 years	363	231	594	Married 4 254	Hindu 10 114
Adults	9 305	2 052	11 357	Single 7 575	Christian 1 834
				Widows 122	Muslim 3
<b>Total</b>			<b>11 951</b>	<b>11 951</b>	<b>11 951</b>

Source: Ministry of Rehabilitation & Resettlement.

Figure 9  
Surrendered persons reintegrated as at 30 August 2011

	<i>Adults</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>
1	Vavuniya district	5 221	1 761	<b>6 982</b>
2	Jaffna district	245	96	<b>341</b>
3	Eastern province	193	0	<b>193</b>
4	University students	76	54	<b>130</b>
5	Total	5 735	1 911	<b>7 646</b>
<i>Children</i>				
6	Ratmalana hindu college – children parc	154	119	<b>273</b>
7	Child protection centre, poonthottam	209	112	<b>321</b>
8	Total	363	231	<b>594</b>
9	Grand total	5 839	2 130	<b>8 240</b>

Source: Ministry of Rehabilitation & Resettlement.

88. Under the former Emergency Regulation 22, the legal regime governing surrendees and the rehabilitation of ex-combatants was laid down in Regulation 22 in the Gazette Notification promulgated on 12 September 2006 by the President under section 5 of the Public Security Ordinance.

89. Regulation 22 further provides for rehabilitation on the following two grounds:

- On the basis of a written statement by the person that he/she is “surrendering voluntarily”
- In terms of a Court Order that a person convicted of offence mentioned in Regulation 22 should undergo rehabilitation

90. In case of a voluntary surrender (the first scenario mentioned above), access to lawyer does not arise. The person is entitled to legal protection under judicial supervision (in the second scenario above).

91. All persons undergoing rehabilitation programmes are entitled to meet relatives once every two weeks with the permission of the officer-in-charge of the rehabilitation centre. They are effectively guaranteed the ability to challenge the lawfulness of detention before an independent court and some beneficiaries undergoing rehabilitation have already taken such actions.

92. Supplementary to Regulation 22 Regulation 22A was promulgated by the President in December 15, 2008 under section 5 of Security Ordinance (Chapter 40), all children who were in special rehabilitation centres – Ratmalana Hindu College, Children PARC and Child Protection Centre – have been rehabilitated and reunited with their respective families. No minors are currently among the beneficiaries under rehabilitation.

18. **Please provide information about the State party’s efforts to establish an effective systematic review of all places of detention, including regular detention centers, police stations, Criminal Investigation Division (CID) and Terrorist Investigation Division (TID) facilities, military and military intelligence facilities, and other informal detention facilities; and a national system to react to the findings of the systematic review. According to paragraph 41 of the State party’s report all Magistrates are legally empowered to visit and inspect remand prisons. Please indicate how this provision is implemented in practice, and provide data on the number of such**



unannounced visits conducted by Magistrates, disaggregated by location and indicating their findings Please describe further steps taken to ensure the independent monitoring of detention facilities, including those containing individuals being held under the Emergency Regulations. Are representatives of non-governmental organizations including the International Committee of the Red Cross permitted to conduct regular and unannounced visits to all places of detention?

93. A Magistrate visits each detention centre once a month. Prisons in Colombo are visited by a Magistrate at least twice a week while Bogambara and Kalutara are visited regularly once a month. In this context, Magistrates and District Judges also pay occasional visits to the detention centres. Complaints have not been received with regard to the visits of the Magistrates, or lack thereof, until now. Officials of the Human Rights Commission of Sri Lanka, International Red Cross pay official visits to all prisons.

19. **Please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons, including minors, at regular detention centers, police stations, CID and TID facilities, military and military intelligence facilities, and any other informal detention facilities; and the occupancy rates for the detention facilities for the period 2006-2011. Please provide also information on the number of persons deprived of their liberty in psychiatric hospitals and institutions for persons with disabilities and the occupancy rates for those facilities for the period 2006-2011. Please comment on the reports of ill-treatment in detention centres, including severe overcrowding and inadequate facilities. Please describe measures taken by the State party to improve these material conditions, including measures have been taken to address the severe overcrowding in the Colombo Remand Prison, to ensure that remand prisoners and convicted prisoners are strictly segregated, and to establish an independent complaints system for persons deprived of their liberty and their family members.**

94. Sri Lanka maintains only one detention centre located in Boossa. Medical Facilities are available 24 hours and a doctor is present at the Boossa detention centre. In addition, medical treatment is provided by the Government Hospitals at any time. Vehicles are available in the centres for transportation when needed. [please also see GOSL response to the question 2 (b)]

95. The majority of remand prisoners are primarily detained at the Welikada and Colombo Remand Prisons. As there is an over-crowding issue at Colombo Remand Prison, measures have been taken to reduce the remand population by transferring them elsewhere.

96. Prisoners at Welikada are segregated on the basis gender as well as of their classification as remand and convicted prisoners. Initiatives are being proposed to reduce the number of those remanded to custody pending trial, by the line Ministry in consultation with the Chief Justice.

20. **Please provide information on the steps taken to ensure the special needs of children in detention and the measures taken to address the serious concerns expressed by the UN Special Rapporteur on torture (A/HCR/7/3/Add.6, para. 87) and the Committee on the Rights of the Child at the situation of prolonged detention of minors in counter-terrorism detention facilities.**

97. Children's Homes and Rehabilitation Centres have been established and maintained by GOSL and NGOs to house children who are arrested for offences or are in protective custody as victims of offences. No child is currently detained by Police for an offence involving terrorism. As far as possible, children of tender years are permitted to remain with their mothers, if the latter is in custody. Pregnant prisoners are afforded all facilities.

21. With reference to paragraph 65 of the Supplement to the State party's periodic report, please provide disaggregated statistical data regarding reported deaths in custody according to location of detention, sex, age, ethnicity of the deceased and cause of death for the period 2006-2011. Please include detailed information on the results of the investigations in respect of those deaths.

98. Statistics of deaths in custody while in detention are as follows:

Figure 10

**Death of Detainees under the Prevention of Terrorism Act**

<i>Con. No.</i>	<i>Sex</i>	<i>Age</i>	<i>Ethnicity of the Deceased</i>	<i>Cause of death</i>	<i>Results of the investigation in respect of death</i>
01	Male	28	Sinhala	Compression of neck by hanging	Inquiries revealed that deceased had committed suicide
02	Female	33	Tamil	Cyanide Poisoning	Inquiries revealed that deceased had committed suicide

*Source:* TID.

99. The Judicial Medical Officer has confirmed that the above deaths were suicides.

## Articles 12 and 13

22. Please describe the mandate of the Lessons Learnt Reconciliation Commission (LLRC) established in May 2010 by the President and clarify whether it has investigatory powers and the capacity to refer matters to the courts. Please discuss any steps taken by the State party to address conflicts of interest posed by the appointment of former senior government officials as Commissioners. Please respond to information in the Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka indicating that a number of individuals have presented oral or written testimony to the Commission alleging serious human rights violations including torture, ill-treatment, and enforced disappearance. Please indicate how the LLRC has documented this testimony and what steps it has taken in response to its receipt, including whether the Commission has referred any incidents to the Attorney General for Criminal Investigations for further investigation. Please also indicate what steps the Government has taken to ensure protection for victims and witnesses seeking to testify before the LLRC following reports that victims have been intimidated following their testimony.

100. The LLRC was established by His Excellency the President of Sri Lanka in May 2010, prior to the establishment of the Advisory Panel of the UN Secretary General. In addition, the GOSL commenced discussions with Tamil political parties and this will be complemented by a Parliamentary Select Committee, which is tasked with formulating a series of measures, including amendments to the constitution that the vast majority of Sri Lankan people find acceptable. The focus of this process is to forge a national consensus that will support and sustain the solutions proposed.

101. The LLRC Commissioners are of high integrity, are independent and with significant experience and therefore the government has not encountered any conflict of interest on their part. It is a known practice internationally to utilize the services of former government officials if and when required and taking into cognizance independence, integrity, impartiality and proven credentials. The LLRC has gathered their information

through testimonies of those concerned by travelling throughout the country even to the former theatre of conflict.

The LLRC proceeds according to its mandate as follows: To inquire and report on the following matters that may have taken place during the period between 21st February, 2002 and 19th May, 2009, namely:

- The facts and circumstances which led to the failure of the ceasefire agreement operationalized on 21<sup>st</sup> February, 2002 and the sequence of events that followed thereafter up to 19th of May, 2009.
- Whether any person, group or institution directly or indirectly bear responsibility in this regard.
- The lessons we would learn from those events and their attendant concerns, in order to ensure that there will be no recurrence.
- The methodology whereby restitution to any person affected by those events or their dependants or their heirs, can be affected.
- The institutional administrative and legislative measures which need to be taken in order or prevent any recurrence of such concerns in the future, and to promote further national unity and the reconciliation among all communities, and to make any such other recommendations with reference to any of the matters that have been inquired into under the terms of the Warrant.

102. Pursuant to the interim recommendations of the LLRC in September 2010, the Inter Agency Advisory Committee (IAAC) was established to facilitate the expeditious implementation of LLRC recommendations. These included matters related to the detention of ex-combatants, land, law and order, administration, language, socio-economic and livelihood issues. The IAAC has facilitated the establishment of a speedy mechanism to which the LLRC can channel the complaints received with a possibility of immediate investigation and remedial action. In this regard, the Attorney General is empowered to institute criminal proceedings based on the material collected during the course of the recommendations made by the LLRC. The IAAC has directed the relevant authorities to commence investigations into several matters referred to by the LLRC in its interim report. Reduction of the persons in detention and the closure of the Omanthai detention centre was a direct result of an IAAC intervention which culminated in the centre being restored as an educational authority.

103. The draft Bill on Assistance and Protection of Victims of Crime and Witnesses was presented to Parliament and referred to the Consultative Committee. There, several recommendations were made to amend the Bill and it was referred to the Legal Draftsman's Department. It is at the moment in the Legal Draftsman's Department.

23. **Please indicate whether the allegations of serious violations of international human rights and humanitarian law, such as torture and ill-treatment, including enforced disappearances, during the end of Sri Lanka's armed conflict in May 2009 have been investigated outside the context of the LLRC process and whether appropriate judicial action has been taken. Please indicate how many cases were prosecuted, the identities of the alleged perpetrators, the charges against them, and the verdicts where applicable. Please provide examples of instances in which individuals have been prosecuted for acts of torture committed by their subordinates. Please specifically indicate whether the State party has conducted an investigation into the events depicted in video footage in an August 2009 UK Channel 4 news broadcast that appears to depict Sri Lankan Army soldiers executing Tamil captives, following the conclusion in January 2010 of an independent group of forensic experts commissioned**

by the UN Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, Mr. Philip Alston, that the footage is authentic. Please also respond to allegations in the Report of the Secretary-General's Panel of Experts that the CID and TID maintained units inside the Menik Farm detention camp which committed torture in the course of interrogating individuals detained in and working at the camp, and indicate whether these allegations have been investigated and with what result.

104. No complaints have been made against TID Officers. The Terrorist Investigation Division, Criminal Investigation Division, Police and Military Investigation Units have questioned persons, who were in the Menik-Farm welfare centres. However t no complaints were made against such officers and as such no inquiry has been conducted. CID has no unit in Menik – Farm. However, CID personnel have conducted investigations and questioned the suspects who have been housed at Menik Farm.

105. An independent body such as the LLRC has taken cognizance of the allegations. The GOSL will await LLRC's report before considering further action.

24. **Please indicate what steps have been taken to investigate allegations of sexual violence following the end of the conflict in the Northeast, in particular in the military-controlled detention camps, as noted by the Office of the Special Representative of the Secretary General for Children and Armed Conflict. Please comment on the information in the Report of the UN Secretary-General's Panel of Experts regarding photo and video footage from the final months of the conflict depicting dead female LTTE cadre and commentary by Sri Lanka Army soldiers raising a strong inference that sexual violence occurred either before or after their execution. Please indicate how many cases have been investigated, and how many individuals have been prosecuted and what penalties have been imposed, if any, on those responsible.**

106. With regard to the report by the UNSG's Panel of Experts, GOSL is of the view that unjust value-judgments about Sri Lanka had arisen from the report of the Panel of Experts appointed by the Secretary-General of the United Nations. The constant position of the GOSL is that assessed by any objective criteria, the report is deeply flawed. Among its most indefensible features are the opaque modalities of gathering evidence, involving recognition of anonymity for those providing vital information for a period of thirty years, arriving at the conclusion that there is "credible" evidence of grave wrongdoing by the Sri Lankan State when the Panel itself admits that it had no authority to investigate, and in fact did not investigate, and the presentation of unfounded allegations in the form of a narrative, the accuracy of which the Panel declares itself unable to vouch for.

25. **As requested in its previous concluding observations, please provide the Committee with detailed statistical data, disaggregated by age, sex and ethnicity of the victim, on all complaints made relating to torture, ill-treatment, and enforced disappearance committed by law enforcement officials and security personnel during the reporting period; whether an investigation resulted from the complaint, whether the investigation led to prosecution or disciplinary proceedings, and if not, the reason why not, and whether the accused was convicted and the penal and/or disciplinary sanctions applied. Please indicate in each case whether the alleged perpetrator was reassigned, suspended, or dismissed from public service pending the outcome of an investigation into the complaint.**

107. Sri Lanka reiterates the matters set out above and wishes to inform the Committee that there have been a number of indictments sent out in terms of Act No. 22 of 1994 and several petitions complaining of infringement of fundamental rights which have resulted in the imposition of varying degrees of sanctions that followed. Whenever a person is indicted, the accused officer is interdicted (suspended from service). In addition, when an

officer is entitled to promotion, the fact of having a pending indictment or a complaint to the Supreme Court within five years preceding the date of application, would be a complete bar to the application.

- 26. Please comment on the status of efforts to prosecute the perpetrators of the 2002 murder of Gerald Perera, who accused several police officers attached to the Negombo Police Station of torture. Please comment on reports by the Asian Human Rights Commission that six policemen charged with torturing Perera were acquitted in 2008 despite the fact that the court found that Perera incurred serious injuries while in their custody. Please also indicate whether the State Party has investigated allegations made by former detainees of the TID at Boosa Prison in Galle regarding the use of a variety of torture methods. If so, please indicate the results of these investigations.**

108. The Attorney General sent out an indictment against persons responsible for the torture of Gerald Perera while in custody at the Negombo police. All accused were acquitted after trial on the basis that the prosecution had not being able to prove beyond reasonable doubt, the individual liability of each accused. The prosecution case was hampered by the fact that Gerald Perera was killed prior to being able to give evidence in the case. Gerald Perera was allegedly shot by the sub Inspector Suresh Gunasena who was the main suspect in the case. Sub Inspector Suresh Gunasena has been charged for murder in case number 445/2005 in the High Court of Negombo. At the same time there was a department disciplinary inquiry conducted against Sub Inspector Suresh Gunasena and as a result of this inquiry, he was dismissed from the Police Service. On an appeal made by him to the National Police Commission, he was reinstated in the service. He is presently under interdiction as the case of murder of Gerald Perera is pending in the High Court of Negombo.

109. There is an appeal pending in the Court of Appeal against the acquittal in the charge of torture. The indictment against the police officers for the murder of Gerald Perera is pending in the High Court. The prosecution case has reached its concluding stages. The evidence to be led by the prosecution is that of the Magistrate who conducted the identification parade.

- 27. Please provide information on any investigations and any disciplinary/criminal proceedings related to the following cases reported by non-governmental sources:**

- (a) The January 2009 assassination of Lasantha Wickremetunga, editor of the *Sunday Leader* and *Morning Leader* newspapers;**

110. The TID is conducting further investigation into the murder of Lasantha Wickramaratunga on 08.01.2009. Two suspects have been arrested and produced before the Magistrate's court of Mt. Lavinia under the case No: 92/2009. Further investigation is being continued.

111. Local Police and TID conducted investigation into this case and arrested two suspects in this connection. The case number 92/2009 at the Magistrate Court of Mt. Lavinia is pending and the investigation is being continued. Further investigations are being conducted by the TID and progress has been reported to Magistrate Court Mount Lavinia on 13.10.2011. Further progress will be reported to court on 27.10.2011.

- (b) The abduction and beating of Poddala Jayantha, general secretary of the Sri Lanka Journalist Association in June 2009;**

112. Special Police team led by the HQI Mirihana conducted investigation into the abduction of Poddala Jayantha on 01.06.2009 and arrested two suspects and produced them

before the Magistrate's court of Gangodawila, under case No: B/1738/09. On the basis of a statement made by Mr. Poddala Jayantha the two suspects have been released by the court on 01.02.2010, and the court case has been laid by.

(c) **The January 2009 attack on Upali Tennakoon, editor of the Sinhala-language weekly *Rivira*;**

113. Weliveriya Police has conducted investigations regarding the assault on Upali Tennakoon on 23.01.2009 at Imbulgoda. No suspects have been identified. Facts have been reported in the Magistrate's court of Gampaha under case No. B/294/2009 and this case has been now laid by. CID and TID are conducting further investigation into this case. No arrest has been made so far. No further progress has been made with regard to this investigation.

(d) **The abduction and enforced disappearance of Stephen Suntharaj, a staff member of the Centre for Human Rights and Development in May 2009;**

114. With regard to the alleged incident of disappearance, there are no details of any complaint made to a Police station.

(e) **The abduction of Sankarapillai Shantha Kumar, a member of the NGO consortium in Akkaraipattu, Ampara District in October 2009;**

115. No formal complaint has been made to Akkaraipattu Police station.

(f) **The enforced disappearances of Pattani Razeek, head of the Community Trust Fund in Puttalam, and Prageeth Eknaligoda, journalist and political cartoonist for Lanka-e-News, in January 2010;**

116. Two suspects who allegedly abducted Pattani Razik on 11.02.2009 for the purpose of ransom and killed him were arrested by the Colombo Crime Division (CCD). The remains of Pattani Razik were exhumed in Valachchenai, where he was allegedly killed and buried by the above suspects. Further investigation is being continued and further action will be taken once investigations are concluded.

117. An investigation into the abduction of Prageeth Eknaligoda is being conducted by the Homagama Police and by the CCD. Facts have been reported to the Magistrate's court of Homagama under case No: B/7417/10. Investigation is being continued. So far no one has been arrested in this connection. Further progress reports will be filed in Court on 24 October 2011.

(g) **The alleged death in police custody of B. Dinesh Tharanga Fernando and Dhanushka Udayanga Aponsu in Angulana in August 2009;**

118. The High Court of Colombo has imposed death sentence to the Police Officers who were charged with the murder of the above deceased. The High Court of Colombo has convicted and imposed the death sentence on the Police Officers concerned.

(h) **The September 2008 murder at Dalupotha junction, Negombo, of Mr. Siyaguna Kosgodage Anton Sugath Nishantha Fernando, who had made complaints of torture against a senior police officer and other officers.**

119. The Fundamental Right Application No: 446/2007, which was filed against Police officers of Negombo Police by S.K.A.S Nishantha Fernando is still pending in the Supreme Court. Investigation into the killing of Nishantha Fernando is being conducted by the Western Province (North) Crime Division and facts have been reported to courts under case No. B479/2008. Further investigations are in progress.

- 28. Please elaborate on the respective mandates of the various authorities that are empowered to investigate complaints of human rights violations committed by public officials, including reports of torture and enforced disappearances. Please provide details on the steps taken to establish an independent and external oversight body to investigate alleged unlawful acts committed by the police forces, as previously recommended by the Committee.**

120. The special investigation unit of the police has been entrusted the task of investigation into allegations of torture. Under the Sri Lankan Law, no prosecution could be initiated without a formal complaint and police investigation. In addition to the police investigation, the National Human Rights Commission of Sri Lanka also has statutory authority to make unannounced visits to any detention center and conduct any investigation pertaining to allegations of torture. The Supreme Court, although not having powers of investigation, can make directions to the appropriate authorities to conduct criminal investigations into allegations of torture and monitor the progress.

- 29. Please provide the Committee with updated information on the status of the draft bill on Witness and Victims of Crime Protection, which was presented to the Sri Lankan Parliament in 2008. Please provide the number of requests for protection or complaints of intimidation or harassment received from witnesses and victims in cases of torture and ill-treatment during the reporting period. Please indicate how many requests for protection were honored and how many complaints were subsequently investigated, and with what outcome.**

121. The draft Bill on Victims and Witness and Victims of Crime Protection which was presented in Parliament was referred to the Consultative Committee and several recommendations were made therein. Subsequently, Parliament was prorogued and thereafter the Bill has not been re-presented in Parliament. The recommendations and amendments are being incorporated into the Bill and the Bill is currently with the Legal Draftsman. (Please refer to the responses for the question 24)

## Article 14

- 30. Please indicate whether victims of torture have an enforceable right to fair and adequate compensation and the procedure for enforcing this right. Please provide statistical data on redress measures, including compensation and the means for rehabilitation, ordered by the courts and actually provided to the victims of torture, or their families, since 2006.**

122. Victims of torture have the right to obtain compensation through a normal damages suit in the District Court. However, the more common form of obtaining compensation expeditiously is by petitioning the Supreme Court for rights violations. The Supreme Court has made orders for substantive compensation to victims of torture.

- 31. Please indicate what programmes, if any, have been established to assist victims of torture and ill-treatment committed in the course of the armed conflict, and thereafter in the Northeast, and if so, the amount of funds that have been allocated and disbursed for such assistance.**

123. These matters are within the purview of the LLRC and a comprehensive answer will be submitted once the LLRC's report is finalized and published. The LLRC's mandate includes procedures for restoration including the recommendation for payment of compensation where substantial loss or harm has been suffered during the conflict. Please also refer to GOSL response to the question 33.

32. **Please clarify whether the right to compensation depends on the existence of a judgement in criminal proceedings ordering compensation. Can compensation be obtained by a victim of torture or ill-treatment if the perpetrator has been subjected to a disciplinary, but not a penal, sanction?**

124. Right to compensation either in the District Court or in the Supreme Court is not conditional to the perpetrator being either convicted or subjected to disciplinary sanctions. A person subjected to torture, may obtain compensation from the perpetrator or the State if he is able to prove his case on a balance of probability. This procedure is also available by serving notice on the Attorney General who may at his discretion recommend restitution in appropriate cases.

33. **Please indicate whether the State party makes physical, psychological, and social rehabilitation services available to all victims of torture. Please provide further information on the “integrated medical, psychological and counselling services for victims of torture” referenced in para. 76 of the Supplement to the State party’s report, including whether the Government is providing financial and/or other support for their effective functioning.**

125. All government hospitals provide free medical and health care and all such hospitals provide medical care which includes treatment for physical and psychological trauma.

## Article 15

34. **Please provide examples of cases in which individuals have alleged that state officials compelled them to confess to a crime under torture and inform the Committee of any measure taken to ensure that these statements were not admitted as evidence in court and that the burden of the proof rests with the prosecution to prove that such confessions were provided voluntarily. Please comment on reports that confessions obtained by coercive means, including torture, have been admitted as evidence in cases under the Prevention of Terrorism Act. Do Magistrates order independent medical examinations of suspects ex officio?**

126. It must be noted that prior to a confession of an accused person being admitted in a Court of Law, a *voir dire* inquiry is conducted. It is only upon satisfying the judge at the *voir dire* inquiry that the confession was made voluntarily that the confession is deemed admissible as evidence. It will be incumbent on the judge to assess the evidentiary value, i.e. the truth of the statement. The Magistrates have the power to order medical examinations and they have exercised this judicial power in appropriate cases.

## Article 16

35. **According to the information before the Committee, at least 15 journalists have been killed since 2006 and dozens others have fled the country after receiving death threats. Please comment on the reports that, following the presidential election in 2010, human rights defenders and critical civil society actors have suffered harassment, including in the form of arrests and death threats against several prominent newspapers editors, trade unionists and state employees who supported the opposition, and independent web-based media professionals. Please provide information on the measures taken to address such harassment and to protect persons engaged in such activities.**

127. Police is conducting investigations into the killing of one journalist and other alleged incidents.



- 36. Please indicate the measures taken to ensure that corporal punishment of children is explicitly prohibited in all settings, including in the home, schools, alternative childcare and places of detention for juveniles.**

128. The Ministry of Education has issued a Circular to all Chief Secretaries of Provinces, Secretaries of Education of the Provinces, Directors of Education of the Provinces, Zonal Directors of Education of the Provinces, Assistant/Deputy Directors of Divisional Directors of Education of the Provinces and to all School Principals in order ensure the explicit prohibition of Corporal punishment of Children.

129. Furthermore Child abuse has been criminalized in terms of the Penal Code with mandatory prison sentences for those found guilty of committing such offences.

### **Other**

- 37. Please indicate whether the State Party is considering accepting the competence of the Committee under articles 21 and 22 of the Convention.**
- 38. With reference to paragraph 100 of the State party's report, please provide information on measures taken to ratify the Optional Protocol to the Convention.**
- 39. Does Sri Lanka intend to ratify the Rome Statute of the International Criminal Court?**

130. So far, Sri Lanka has not accepted the Article 21 & 22 of the Convention. Ratification of the Optional Protocol of the Convention and the Rome Statute of the International Criminal Court would be considered by the State Party.

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