



INFORM

Sri Lanka

Consolidated Joint Submission to the UN Universal Periodic Review
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**Submission by CIVICUS: World Alliance for Citizen Participation,
NGO in General Consultative Status with ECOSOC**

And

INFORM : Human Rights Documentation Centre

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1. (A) Introduction¹

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

¹ The full version of this submission can be found [here](#).

2. (B) Freedom of association

- 2.1. During Sri Lanka's examination under the 2nd UPR cycle in November 2012, the government received four recommendations on the right to freedom of association and creating an enabling environment for civil society organizations (CSOs). Among other recommendations, the government committed to "take action to facilitate greater participation by citizens and civil society in helping to implement human rights action plans." Of the recommendations received, the government accepted two and noted two. However, as evidenced below, the government has failed to take adequate measures to realize many of these recommendations. Of the four recommendations on freedom of association, the government has partially implemented two and fully implemented two.
- 2.2. Article 14C of the Sri Lankan Constitution² guarantees the right to freedom of association. Moreover, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Sri Lanka is a state party, also guarantees freedom of association. Despite an improvement in the operating environment for civil society across the country and greater space for dissent, inadequate de-mobilisation from the civil conflict remains an obstacle to the enjoyment of civic freedoms across Sri Lanka. In particular, the continued presence of security forces in Northern and Eastern Sri Lanka has restricted the operations and activities of civic groups in these areas. Of particular concern are surveillance, harassment and reprisals against CSOs deemed critical of the authorities.³

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

- 3.1. Under Sri Lanka's previous UPR examination, the government received five recommendations on the protection of human rights defenders, journalists and civil society representatives. The government committed to several relevant recommendations including "Take immediate steps to prevent attacks on the human rights defenders and media and take action to investigate such acts." Of the five recommendations received, none were accepted and five were noted. However, as examined in this section, the government has failed to effectively operationalize these recommendations. Of the five recommendations on protection of HRDs, the government has partially implemented five recommendations.
- 3.2. Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure protection of human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections a well-

² Constitution of Sri Lanka available here: <http://www.parliament.lk/files/pdf/constitution.pdf> (Accessed 6th March 2016).

³ The Office of the High Commissioner for Human Rights' (OHCHR) investigation on Sri Lanka (OISL) through [A/HRC/25/1](https://www.ohchr.org/en/hrbodies/hrc/docs/a/hrc/25/1) concluded by recommendations under Institutional Reform, article 10. (Accessed 6th March 2017).

documented culture of enforced disappearances or “white-van” abductions⁴ has continued since Sri Lanka’s last review; such tactics have been used to silence political dissidents and critical civil society voices. Credible evidence of mistreatment perpetrated by Sri Lankan security forces against activists in detention such as torture⁵, sexual violence and rape are yet to be fully investigated.⁶

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

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

4.2. Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 14(1) (a) of the Constitution of Sri Lanka⁷ also guarantees the right to freedom of expression. Previously cited as one of the most dangerous countries for journalists in the world⁸, Sri Lanka has made significant progress in upholding the right to free expression. During the Rajapakse administration (2005 -2015), state-owned media outlets were a de facto extension of the government, with all critical outlets either banned or cowed into submission.⁹ While the change of government in 2015 provided greater space for independent media outlets and critical dissent, slurs from politicians and government officials on critical media outlets continue.¹⁰ In addition, the practice of censoring content on the internet as well as restrictions on foreign journalists

⁴ “UN committee told ‘white van’ abductions continue”, Colombo Gazette, 15th November 2016 available here: <http://colombogazette.com/2016/11/15/un-committee-told-white-van-abductions-continue/> (Accessed 6th March 2017).

⁵ International Truth and Justice Project Sri Lanka, “Forgotten: Sri Lanka’s Exiled Victims” is available here: http://www.itjpsl.com/assets/press/ITJP_report_v7.pdf (Accessed 6th March).

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

⁷ Constitution of Sri Lanka available here: <https://www.parliament.lk/files/pdf/constitution.pdf> (Accessed 6th March 2017).

⁸ CIVICUS Monitor, Sri Lanka, 1st November 2016, available here: <https://monitor.civicus.org/country/sri-lanka/> (Accessed 6th of March).

⁹ The Human Rights Situation in Sri Lanka, Inform Human Rights Documentation Centre available here: <https://ihrdc.files.wordpress.com/2016/12/human-rights-in-sl-one-year-after-parliamentary-elections-inform-18aug20161.pdf> (Accessed 6th March 2017).

¹⁰ On several occasions politicians have derided the work of independent journalists, please see: <http://www.ft.lk/article/521931/Ranil-rips-up-the-press->

have been removed completely and the passing of access to information legislation in 2016¹¹ has improved the efficacy of investigative journalism in Sri Lanka.

5. (E) Freedom of peaceful assembly

1. During Sri Lanka's examination under the 2nd UPR cycle, the government did not receive any recommendations specifically addressing freedom of assembly in the country. However, despite the lack of recommendations during the last review we remain concerned by ongoing restrictions on freedom of peaceful assembly.
2. Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 14 (1) (b) of the Sri Lankan Constitution also guarantees the right to freedom of assembly. However, in practice and policy, Sri Lankan security forces have a well-documented track record of using excessive force to quell protests, particularly in the North and East of Sri Lanka.

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

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

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

1. Regarding freedom of association

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

2. Regarding the protection of human rights defenders

¹¹ Parliament of the Democratic Socialist Republic of Sri Lanka, Right to Information Act: no, 12 of 2016 available here: <https://monitor.civicus.org/country/sri-lanka/> (Accessed 6th of March).

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offenses to justice.
- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Senior politicians and government officials should stop verbal condemnation of human rights defenders and NGOs, and instead, publicly condemn instances of harassment and intimidation of civil society activists and organisations.
- The Government should apply systematically legal provisions that promote and protect human rights and establish mechanisms that protect human rights defenders by adopting a specific law on the protection of human rights defenders in accordance with Council resolution 27.31 of the Human Rights Council.
- The Government of Sri Lanka should immediately revise proposed counter terrorism legislation that replaces the Prevention of Terrorism Act. Civil society groups should be consulted in the formulation of new provisions in order to ensure that they align with international best practice standards.

3. Regarding freedom of expression, independence of the media and access to information

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

4. Regarding freedom of assembly

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

investigated.

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

6.6 Regarding State engagement with civil society

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