



## CONFIDENCE BUILDING MEASURES IN SRI LANKA – STATUS AS OF JUNE 2016

- It has been 18 months since President Sirisena was elected and 9 months since the government of Sri Lanka co-sponsored HRC Resolution 30/1.
- While the government has implemented some notable measures to build confidence, distrust continues to run high among the victim community. 10 Confidence Building Measures were identified in October 2015, the majority noted by Foreign Minister Samaraweera in his September 2015 address to the HRC and agreed to by the government in HRC Resolution 30/1. These measures would help to alleviate the suffering of victims and foster an environment of trust so that all Sri Lankans can participate in the proposed transitional justice mechanisms with confidence and in safety.
- Member states and others in the international community must increase incentives and pressure on the government through the HRC process and in bilateral engagements because it is only through incentives and pressure that progress occurs. While the internal political situation is noted, this cannot be an excuse for inaction or renegeing on commitments. The strong application of carrots and sticks by states and other international actors can help bypass obstructionist government entities to advance the reform agenda, provide hope for the future and, most vitally, improve the lives of victims.

*[This chart is to be read with the October 2015 Confidence Building Measures.](#)*

<b>Orange-Measure partially implemented</b> <b>Red-Measure not implemented</b>
<p><b>1. Enact Comprehensive Witness and Victim Protection.</b></p> <ul style="list-style-type: none"> <li>• UN Working Group on enforced and involuntary disappearances (WGEID) recommended the government review the Witness and Victim Protection Act to incorporate better safeguards for independence and effectiveness in line with international standards (<a href="#">19 November 2015</a>).</li> <li>• National Authority articulated in Act established (<a href="#">8 January 2016</a>).</li> <li>• Special Rapporteur on torture recommended amending the Act (<a href="#">7 May 2016</a>).</li> <li>• Efforts to amend the Act are stalled in the Attorney General’s Office.</li> </ul>
<p><b>2. Repeal the Prevention of Terrorism Act (PTA) and the Public Security Ordinance Act.</b></p> <ul style="list-style-type: none"> <li>• No repeal of the PTA. No review or repeal of the Public Security Ordinances.</li> <li>• The National Law Commission drafted a law to replace the PTA. The draft legislation has been blocked by the Attorney General’s Office since at least March 2016 (<a href="#">11 March 2016</a>).</li> <li>• Special Rapporteur on torture called for repeal of the PTA (<a href="#">7 May 2016</a>).</li> <li>• A few dozen PTA detainees released on bail; the remainder (at least 200) are still incarcerated.</li> <li>• 48 people arrested under the PTA in 2015-2016, including 25+ in March-April 2016 (<a href="#">18 May 2016</a>).</li> </ul>
<p><b>3. Reform the Security Sector.</b></p> <ul style="list-style-type: none"> <li>• No reform of security sector. No efforts to disentangle military, police and intelligence services.</li> <li>• Military continues to act independently of civilian control.</li> <li>• Defence budget during the war in 2009 was \$1.2 billion; the 2016 defence budget is \$2.13 billion.</li> </ul>
<p><b>4. Stop Ongoing Violations by Security Forces.</b></p> <ul style="list-style-type: none"> <li>• Reports of torture and sexual violence continue and no security forces have been charged with torture (<a href="#">July 2015</a>, <a href="#">January 2016</a>, <a href="#">6 January 2016</a>).</li> <li>• No instructions issued to military that torture, rape, sexual violence and other human rights violations will be investigated and punished. The government claimed that the Inspector General of the Police issued instructions to the police (<a href="#">24 January 2016</a>). These instructions are not public so there is no basis for assessing adequacy or impact.</li> <li>• An estimated 89,000 war widows live in the North and East and are particularly at risk for harassment and sexual violence by the unreformed security forces.</li> <li>• WGEID (<a href="#">18 November 2015</a>), High Commissioner for Human Rights (<a href="#">9 February 2016</a>), and Special</li> </ul>

Rapporteur on torture ([7 May 2016](#)) noted intimidation, harassment, and surveillance by security forces.

#### **5. Criminalize War Crimes and Crimes against Humanity.**

- No criminalization of war crimes or crimes against humanity despite magnitude and systematic nature of crimes identified in OISL report ([16 September 2015](#)).

#### **6. Demilitarize the North and East.**

- No progress. Security Force Headquarters list 17 of 21 divisions as stationed in the Tamil-dominated North and East. The average division has 10,000-30,000 troops, indicating that at least 170,000-510,000 troops are in these provinces, compared to 40,000-120,000 in the rest of Sri Lanka.
- The military is embedded in the economic and civilian life of the North and East, operating shops and hotels and running pre-schools.
- The World Bank reported that surveillance and military engagement in the economy negatively affects IDPs and civilians ([9 February 2016](#)).
- The government claims of a 37% reduction in troop strength, primarily through retirement, is not substantiated and is not reconcilable with the continued increase in defence budget.

#### **7. Accelerate Return of Land and Resettle IDPs.**

- The government reported that it released approximately 3,400 acres of land in the North and East ([18 May 2016](#)). The Ministry of Resettlement claimed 8,000 acres in the North and East are under military control. Think tank CPA stated that the military occupies about 12,500 acres of private land in the North ([31 March 2016](#)). Field data collected by the British Tamils Forum found that the military occupies 67,427 acres of private and state land in the North ([18 April 2016](#)).
- Locals struggle to resettle due to lack of economic opportunities and infrastructure on previously occupied land ([1 January 2016](#)).
- No land dispute mechanism established; necessary according to the World Bank ([15 February 2016](#)).
- President Sirisena instructed the Ministries of Defence and Lands to finalize the process of land identification for resettlement by 3 June 2016 ([31 May 2016](#)).
- National Dialogue Minister Ganesan announced all IDPs to be resettled by end of 2016 ([5 June 2016](#)).
- The government has accepted assistance from the international community.

#### **8. Acknowledge the Plight of Missing Persons.**

- WGEID found “the most absolute impunity” on most cases of disappearances ([18 November 2015](#)).
- Prime Minister Wickremesinghe stated that the government considers those from the North and East who went missing during and after the war to be dead ([16 January 2016](#)).
- ICRC completed a needs assessment of the missing; shared with government ([11 March 2016](#)).
- Cabinet of Ministers approved Office of Missing Persons (OMP), but didn’t consult families of the missing. Draft legislation for the OMP is expected to be presented to Parliament soon ([24 May 2016](#)).
- Sri Lanka ratified the Convention on Enforced Disappearances ([25 May 2016](#)). The Attorney General’s Office doesn’t believe it’s necessary to reflect the Convention in the domestic penal code due to existing legislation on kidnapping and abduction.
- Cabinet of Ministers approved draft legislation to issue certificates of absence ([7 June 2016](#)).

#### **9. Identify and Protect Evidence of Crimes.**

- No action. No public record of accepting international assistance.
- The military and police are ignoring court ordered appearances and requests to provide evidence in investigations and court proceedings ([22 May 2016](#)) and ([25 May 2016](#)).

#### **10. Cooperate fully with OHCHR and Member States.**

- No OHCHR office established in Sri Lanka.
- WGEID ([18 November 2015](#)), High Commissioner for Human Rights ([9 February 2016](#)), Special Rapporteur on truth, justice, reparations and guarantees of non-recurrence ([10 February 2016](#)), Special Rapporteur on torture ([7 May 2016](#)) and Special Rapporteur on the independence of judges ([7 May 2016](#)) visit Sri Lanka. Recommendations in their statements have not been not fully implemented.
- No visit by SRSG on conflict-related sexual violence, SRSG on Children and Armed Conflict, Special Rapporteur on extrajudicial killings, or Working Group on Arbitrary Detention. The Special Rapporteur on extrajudicial killings requested a visit and is waiting for approval ([13 December 2015](#)).