

Sri Lanka's Potemkin Peace: Democracy Under Fire

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Table of Contents

Executive Summary.....	i
Recommendations.....	iii
I. Introduction	1
II. Northern Province Elections and the Future of Devolution	2
A. Implementing the Thirteenth Amendment?	3
B. Northern Militarisation and Pre-Election Violations.....	4
C. The Challenges of Victory	6
1. Internal TNA discontent	6
2. Sinhalese fears and charges of separatism.....	8
3. The TNA’s Tamil nationalist critics.....	9
D. The Legal and Constitutional Battleground	12
E. A Short- and Medium-term TNA Strategy	15
1. Getting the council off the ground	16
2. Creative initiatives.....	17
3. A broader agenda	18
III. Domestic Restiveness, Government Repression.....	20
A. Army Rampage in Weliveriya	20
B. Economic Discontent.....	21
C. Impunity for Politically-Connected Violence	24
D. Repression of Dissent and Freedom of Expression.....	26
IV. Militant Buddhism and the Anti-Muslim Campaign	27
V. Public Relations Gestures Make No Dent in Impunity.....	31
VI. Challenges for a Weak Opposition	34
A. The UNP’s Troubles	34
B. Building a Strong Opposition	35
VII. The Role of International Actors	38
A. CHOGM	38
B. UN Human Rights Council.....	40
C. Support for the Northern Provincial Council	41
VIII. Conclusion	42
APPENDICES	
A. Map of Sri Lanka	43
B. Map of Sri Lanka’s Northern Province.....	44
C. Glossary of Terms.....	45
D. About the International Crisis Group	47
E. Crisis Group Reports and Briefings on Asia since 2010	48
F. Crisis Group Board of Trustees	51

Executive Summary

Sri Lanka's ethnically-exclusive regime continues to close political space and consolidate its power. Recent moves that create a perception of progress have not weakened the power of the president, his family or the military or brought reconciliation, ended human rights abuses or reduced impunity. The Tamil National Alliance (TNA) won a landslide victory in September's long-awaited northern provincial council elections. Yet, President Mahinda Rajapaksa's administration is reluctant to allow devolution to begin, preferring to maintain de facto military rule in the north. It faces increasing social and communal pressures elsewhere, too. Journalists, human rights defenders and critics of the government are threatened and censored. With opposition parties weak and fragmented, continued international pressure and action are essential to stem the authoritarian turn and erosion of rule of law, realise the devolution of power promised in the constitution and start a credible investigation of alleged war crimes by government forces and the Tamil Tigers (LTTE).

The long-awaited northern province elections – the result of intense pressure from India, Japan and the U.S. – are welcomed internationally. However, the TNA-controlled council will almost certainly have to battle the president to claim even its limited powers, which can be enjoyed only with central government cooperation. No provincial council has ever been permitted to exercise all powers granted by the constitution's thirteenth amendment, which established a degree of devolution. The constitutional and legal context is not favourable to the TNA, especially under the current chief justice, appointed after his predecessor was unconstitutionally dismissed in January 2013. The TNA will also be under pressure from a restive Tamil constituency that was wooed during the campaign with strongly nationalist, sometimes pro-Tamil Tigers statements but is sceptical the council offers northern Tamils real power. For the election to be a meaningful step toward resolving the ethnic conflict, Colombo would have to abandon its hostility to devolution and reverse its policy of militarisation, centralised control and creeping Sinhalisation of the north.

To succeed, the northern provincial council requires financial, technical and political support from the international community. India, the U.S. and other influential governments should make clear to Colombo that diplomatic pressure will intensify if it pushes through constitutional changes that weaken or eliminate provincial councils. Working with multilateral development agencies, those governments should aim to prevent further regression through state- and military-assisted demographic change in the north and east.

Devolution in the north is unlikely to make real progress while the rest of the country suffers from democratic deficit. The TNA would do well to frame its struggle for demilitarisation, security and democratic rights in both the north and east in ways that resonate with growing unhappiness elsewhere at how Sri Lanka is being governed. Increasing numbers of Sinhalese are questioning the high cost of living, corruption, economic mismanagement, land grabs and apparently politically-connected violence. Faced with popular discontent and protests on a range of social and economic issues, the government has frequently responded with repression and violence, using the Prevention of Terrorism Act to jail critics and the army to attack protesters. This has

led to unprecedented public criticism of the army, police and ruling family. There is also evidence of serious discontent within the president's own party and cabinet.

The government has given tacit – at times explicit – support for militant Buddhist attacks on mosques, as well as Muslim businesses and cultural practices. These have continued with impunity for almost two years. Many believe leaders use fear of “Muslim extremism” to shore up Sinhalese support. Despite occasional tensions, the two communities have traditionally maintained cordial relations. Violence against Christian churches and worshippers also appears to be on the rise in 2013, with no serious government efforts to prevent or punish attacks.

Prior to the late August visit to Sri Lanka by the UN High Commissioner for Human Rights, the government announced legal and administrative moves to address some of the recommendations of its own Lessons Learnt and Reconciliation Commission (LLRC) and the UN Human Rights Council's March 2013 resolution on reconciliation and accountability. These have been too weak to help restore the independence of the judiciary or police, curb militarisation or ensure accountability for alleged war crimes. If anything, institutionalised impunity has increased, and power remains firmly concentrated with the president and his family.

Participants should use the November 2013 meeting of Commonwealth leaders in Colombo (CHOGM) to press the Sri Lankan government to address human rights abuses, prevent attacks on religious minorities and restore the independence of the judiciary. Leaders should also publicly insist on a credible process of accountability for end-of-war events and a political solution built on deepened devolution of power within a united Sri Lanka. UN Human Rights Council members should begin designing an international mechanism empowered to investigate the many credible allegations of violations of international law by both sides in the civil war and to monitor continuing human rights violations and attacks on the rule of law.

The government's policies have badly damaged the rule of law and democracy, undermined the rights of Tamils, Muslims and Sinhalese alike and rendered all Sri Lankans insecure. If it continues to close off avenues of peaceful change, the risks of violent reaction will grow. International vigilance and pressure are essential to keep the situation from getting worse.

Recommendations

To support establishment of an effective northern provincial council and lay the groundwork for more substantial devolution of power

To the government of Sri Lanka:

1. Support establishment of an effective northern provincial council by:
 - a) giving it an adequate budget and allowing it to receive international development assistance through the national treasury;
 - b) refraining from using the president's and governor's powers to block or delay enabling legislation for council ministries;
 - c) appointing a provincial governor who has the council's confidence and a provincial chief secretary chosen by its majority, and ensuring that the provincial administration is adequately staffed with competent professionals; and
 - d) establishing the national land commission, or similar mechanism, to lead an inclusive national dialogue on land use and land rights.
2. Reduce the number of troops and military camps in the northern province, remove the military from involvement in civilian administration and return all arbitrarily seized land.
3. Implement the thirteenth amendment fully and abandon plans to reduce provincial powers and resume talks with the TNA on constitutional reforms for meaningful self-rule in the north and east, with adequate protections for Muslims and Sinhalese.

To the Tamil National Alliance (TNA):

4. Establish and develop the northern provincial council's credibility carefully and professionally by:
 - a) passing the necessary legislation needed to establish its full powers under the thirteenth amendment;
 - b) appointing qualified personnel to the provincial administration and arranging training for its administrators and council members of all parties, including in drafting legislation and overseeing the provincial administration;
 - c) inviting UN agencies to assist in conducting a humanitarian and early recovery needs assessment in the north and to collaborate on other ways of meeting the northern population's needs;
 - d) preparing with international development agencies and the central government constitutionally permissible ways to receive donor financial aid; and
 - e) conducting surveys of land use and ownership; the number and extent of army camps; reported population movements and demographic changes along the edges of the northern province; and the extent of psycho-social needs and war-induced trauma.
5. Continue to pursue significant constitutional reform, within the framework of a united Sri Lanka, to ensure meaningful self-rule for Tamil-speaking communities in the north and east, with adequate protections for Muslims and Sinhalese.

6. Work with Muslim community and political leaders in the north and east to develop cooperative, inclusive procedures for mediating land disputes, taking into account the rights of displaced northern Muslims; and to develop common positions on constitutional reforms for meaningful devolution of power.

To the United National Party (UNP):

7. Encourage the government publicly to cooperate with the northern provincial council in establishing its full range of thirteenth amendment powers and to re-enter bilateral negotiations with the TNA for more extensive devolution.

To bilateral and multilateral development agencies:

8. Begin discussions with the central and provincial governments on constitutionally appropriate ways of providing development assistance to the northern council and establishing project-based partnerships with provincial ministries.
9. Establish a donor working group on the north and east to coordinate capacity-building assistance to the provincial councils and administration, beginning with a comprehensive needs assessment for the north.

To end impunity and restore the rule of law and democratic institutions

To the government of Sri Lanka:

10. Cease all support for anti-Muslim and anti-Christian harassment and give clear instructions to the police to prevent and punish any threats or violent attacks.
11. Reestablish an autonomous constitutional council to appoint senior judges, the attorney general and independent commissions on police, human rights, judicial services, public services and bribery.
12. Reestablish the attorney general's independence and create an independent public prosecutor to conduct credible investigations into enforced disappearances and violations of international humanitarian law by government forces and the LTTE from 2006 to 2009.
13. File indictments in a high court for those responsible for the "Trinco Five" killings in 2006 and other cases of apparently extrajudicial killings.
14. Publish the reports of the Udalagama commission of inquiry into serious human rights violations and implement the major recommendations of previous commissions on enforced disappearances.

To the UNP, TNA, Sri Lanka Muslim Congress (SLMC), Janatha Vimukthi Peramuna (JVP) and Democratic Party:

15. Campaign for reestablishment of an autonomous constitutional council to appoint senior judges and independent public commissions and for creation of an independent public prosecutor tasked to investigate serious human rights violations, including of international humanitarian law and enforced disappearances.

To the Commonwealth member states:

16. Use the Heads of Government Meeting (CHOGM) to raise concerns about the government's attack on judicial independence, growing authoritarianism and failure to investigate alleged war crimes; prevent Sri Lanka from serving as the chair-in-office for the next two years; and request the secretary general to terminate his good-offices initiatives.

To the UN Human Rights Council (UNHRC) member states:

17. Lay the groundwork to establish at the March 2014 session, if the government is unable to demonstrate progress, a strong international mechanism empowered to investigate credible allegations of violations of international law by both sides in the civil war and to monitor continuing human rights violations and attacks on the rule of law.

Brussels/Colombo, 13 November 2013

Sri Lanka's Potemkin Peace: Democracy Under Fire

I. Introduction

Facing considerable international concern over attacks on the rule of law, human rights violations and lack of post-war reconciliation, the Sri Lankan government has taken steps in 2013 designed to present a more positive picture. It has been particularly careful to appear in a good light in advance of the Commonwealth Heads of Government Meeting (CHOGM) that it hosts in mid-November. It has also been mindful of ongoing scrutiny by the UN Human Rights Council (UNHRC), which in March 2014 will consider implementation of the recommendations in its March 2013 resolution on reconciliation and accountability. This report examines the government's moves and places them in the context of its overall approach to governance and recent political developments inside the country and out. Interviews were conducted in Sri Lanka and by phone and email with politicians, diplomats, aid workers, journalists, and community and civil society activists; security concerns limited access to government officials and to some areas of the country.

The decision to hold the first-ever elections for the northern provincial council was central to the attempt to show respect for international obligations and prove that ethnic reconciliation is on track. The report assesses the September election and the victory of the Tamil National Alliance (TNA) in light of the council's limited powers and the hostility of senior government officials to devolving power from Colombo to the provinces. These legal and political constraints narrow the range of realistic options for making the new council effective on what will at best be a long, difficult road to power sharing and lasting reconciliation. The northern council and the TNA will have to navigate between the demands of their Tamil constituencies and the fears of many Sinhalese and Muslims that Tamil nationalist control of the north could threaten their own rights.

The government has also sought to show the international community that it is improving its human rights record and complying with the UNHRC resolution. The report places its moves in the context of a worsening rule-of-law situation across Sri Lanka, as power continues to be centralised, the military's role expands, the judiciary and police are ever more politicised, and a campaign of hate and violence is conducted by militant Buddhist groups against religious minorities, particularly Muslims. While the Muslim community has reacted with restraint, the risk of communal violence increases with each attack.

The report concludes by looking at what others might do to shift the political dynamics in more positive directions. It looks at the challenges to uniting the weak and fragmented opposition and examines the possible international role in rebuilding democratic institutions and ensuring a lasting peace.

II. Northern Province Elections and the Future of Devolution

The overwhelming TNA victory in the 21 September northern provincial council elections sent a strong message from Tamil voters that they want to be able to live on their own land, with dignity, free of military control and safe in their homes. It was a resounding rejection of the Colombo government's model of militarised development, in which economic and infrastructure improvements substitute for political progress and human rights protection.¹ Despite systematic harassment of TNA candidates and their supporters by the troops stationed in the northern province, voter turnout – some 68 per cent – increased considerably over previous post-war elections.² The TNA won 78 per cent of the vote and 30 of 38 council seats.³ The voting generated unexpected enthusiasm, but also a strong outpouring of Tamil nationalism that Colombo was quick to use in mobilising its own supporters in the rest of the country.

While the anti-Colombo message was clear, the election was something of a paradox: the result reflected the democratic will of northern Tamils, but the first-ever northern provincial council will be able to use its limited powers only if the central government allows it. Only now, after the election, can the central political questions facing Tamil-majority regions begin to be answered: will the government permit the north, and eventually the east, to have real power, beginning with what the thirteenth constitutional amendment offers?⁴ Will influential foreign governments and interna-

¹ For detailed analysis of the central government's political and development policies in the north, see Crisis Group Asia Reports N°219, *Sri Lanka's North I: The Denial of Minority Rights*, 16 March 2012; and N°220, *Sri Lanka's North II: Rebuilding under the Military*, 16 March 2012. For an overview of post-war political challenges Tamils face, see Asia Report N°239, *Sri Lanka: Tamil Politics and the Quest for a Political Solution*, 20 November 2012. For other Crisis Group reporting, see Asia Reports N°217, *Sri Lanka: Women's Insecurity in the North and East*, 20 December 2011; N°209, *Reconciliation in Sri Lanka: Harder than Ever*, 21 July 2011; N°206, *India and Sri Lanka after the LTTE*, 23 June 2011; N°191, *War Crimes in Sri Lanka*, 17 May 2010; N°165, *Development Assistance and Conflict in Sri Lanka: Lessons from the Eastern Province*, 16 April 2009; N°159, *Sri Lanka's Eastern Province: Land, Development, Conflict*, 15 October 2008; and N°141, *Sri Lanka: Sinhala Nationalism and the Elusive Southern Consensus*, 7 November 2007.

² This was a significant increase in turnout in the north from the 2010 presidential and parliamentary and 2011 and 2012 local government elections. For debate over the meaning of the increased turnout, see Niran Anketell, "Whodunnit? Did the TNA win or did the government lose?", *Colombo Telegraph*, 23 September 2013; and Gibson Bateman and Rathika Innasimuttu, "Behind the numbers: A closer look at voting trends in Jaffna", *Colombo Telegraph*, 7 October 2013.

³ Under provincial council election rules, the party with the most votes wins two bonus seats. The ruling United People's Freedom Alliance (UPFA) won seven seats – three of these Tamil Eelam People's Democratic Party (EPDP) members and four with the All Ceylon Muslim Congress (ACMC). The Sri Lanka Muslim Congress (SLMC), which ran on its own though a member of the government in Colombo, captured a single seat. Muslims make up about 3 per cent of the northern population. For full council election statistics, see www.slections.gov.lk.

⁴ The thirteenth amendment, adopted in 1987, followed the terms of the 1987 accord with India. Largely designed to address Tamil demands for autonomy in Tamil-majority northern and eastern provinces, it established councils for all nine provinces. The limited powers granted to provinces and continued unitary nature of the constitution limited the amendment's ability to address Tamil nationalist aspirations. It allowed temporary merger of the virtually all Tamil-speaking north with the closely balanced, multi-ethnic east. A council elected for the merged north east in 1988 fell apart in 1990 amid a return to war with the LTTE. In 2008, following a Supreme Court decision that separated north and east, the first eastern provincial council was elected. Colombo has governed the north directly since 1990. For provincial powers and their relationship with the centre, see Section

tional institutions press consistently enough for this to happen? Will the TNA and Tamil community as a whole have the tactical and political acumen to seize and ultimately expand the narrow political space they have won?

A. Implementing the Thirteenth Amendment?

In the four and a half years since the end of the war, the central government has administered the northern province. This has been done directly through the military and the Presidential Task Force, headed by Basil Rajapaksa, the president's brother and economic development minister, and by the provincial governor, a retired general who has run the provincial administration as the constitutional representative of the president.

Continued rule by the military and Colombo ran counter to promises made repeatedly since mid-2009 that northern council elections would be held soon. They were to be the first step in fulfilling the larger commitment – made formally to both the UNHRC and the UN Secretary-General – to implement the thirteenth amendment, which established the provincial council system but has never been put fully into practice.⁵ The government has repeatedly made stronger promises, especially to India, to “go beyond” or “build upon” that amendment.⁶

The long-delayed decision to have the elections that the president formally set in motion on 5 July was the result of intense international pressure, including repeated interventions by Indian officials. It followed weeks of public attacks on the thirteenth amendment by senior government members, including the president's powerful brothers, Basil and Gotabaya, and its Sinhala nationalist coalition members.⁷

Unprecedented opposition from Muslim and leftist members blocked approval of an early June proposal in cabinet for a constitutional amendment to weaken provin-

II. D below; on the thirteenth amendment and provincial council system, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 4-5, 18-22.

⁵ On 27 May, a UN Human Rights Council resolution “welcomed ... the President of Sri Lanka's ... commitment to a political solution with implementation of the thirteenth amendment to bring about lasting peace and reconciliation in Sri Lanka”. “Assistance to Sri Lanka in the promotion and protection of human rights”, Resolution S-11/1. A joint statement with the UN Secretary-General in Colombo on 26 May 2009, President Rajapaksa “expressed his firm resolve to proceed with the implementation of the 13th Amendment, as well as to begin a broader dialogue with all parties, including the Tamil parties in the new circumstances, to further enhance this process and to bring about lasting peace and development in Sri Lanka”. “Joint Statement by UN Secretary-General, Government of Sri Lanka”, SG/2151, 26 May 2009. See also Section II.D below.

⁶ Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., p. 10.

⁷ On Indian interventions, see below. Pressure to hold the election grew as the dates neared for the August visit of UN human rights chief Navi Pillay and the November Commonwealth meeting. Pillay was in Sri Lanka to assess progress on implementing the March 2013 UNHRC resolution that includes a call for a political solution based on devolution. Many in and close to the government sought to launch a pre-emptive constitutional strike, designed to prevent a TNA-controlled northern council from claiming the modest powers available under the thirteenth amendment. While some urged constitutional changes to weaken provincial powers prior to the election, Defence Secretary Gotabaya Rajapaksa and Sinhala nationalist parties in government sought to abolish the provincial council system. Gotabaya Rajapaksa first called publicly for repeal of the thirteenth amendment in October 2012. See Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., p. 11. The government also encouraged opposition to the amendment from its radical coalition partners, the National Freedom Front (NFF) and the Jathika Hela Urumaya (JHU), as well as the anti-Muslim Bodhu Bala Sena (BBS). Meera Srinivasan, “Monks protest outside Indian mission in Colombo”, *The Hindu*, 3 July 2013; Crisis Group interviews, Colombo, July 2013.

cial powers.⁸ India weighed in publicly days later, expressing concern about the prospect of the thirteenth amendment being rolled back. Its officials reminded Sri Lanka of promises to New Delhi and the UN that its full implementation would be the starting point for further reforms.⁹ While the election went ahead, the president and his brothers have since repeated strong opposition to councils being allowed to use their constitutional powers over land and policing.¹⁰ Attempts from Colombo to weaken devolution are widely expected to resume not later than the March 2014 UNHRC meeting.¹¹

B. Northern Militarisation and Pre-Election Violations

The TNA's victory was impressive, given the heavily militarised environment in which it had to campaign, with troops pressuring Tamils not to vote for it and actively working for the government alliance.¹² Political control asserted by the army and other state security forces runs deep in the Tamil areas of the north and, to a lesser extent, the east. Since the end of the war, the military has directly monitored civilian activities, including through frequent information-gathering visits to homes and to the

⁸ The proposed amendment would have removed provincial powers over state land and policing, the right of contiguous provinces to merge and a province's ability to block central government legislation that affected its powers. Justice Minister and SLMC chief Rauff Hakeem, three leftist leaders, and a number of other cabinet members publicly defended full implementation of the thirteenth amendment. With unexpected opposition in cabinet, the president lacked the two-thirds majority needed to amend the constitution. On 13 June, the cabinet approved a more limited amendment that would have removed the right of provinces to merge. "Fireworks at Cabinet meeting on 13 A", *The Sunday Times*, 16 June 2013. Following further pressure from India, the government decided not to proceed with constitutional changes prior to the elections, instead tasking a long-delayed parliamentary select committee (PSC) with debating and preparing any changes to the thirteenth amendment. For more on the PSC, see Section II.D below.

⁹ On 18 June, during a visit to Delhi by TNA leaders, the external affairs ministry issued a statement conveying the prime minister's "dismay" at "reports suggesting that the Government of Sri Lanka planned to dilute certain key provisions of the 13th Amendment to the Sri Lankan Constitution ahead of elections to the Northern Provincial Council". In early July, a senior Indian official publicly reminded Sri Lanka that the Indo-Lanka accord was an "international agreement" that cannot be unilaterally cancelled. "Rajapaksa regime bows to India and world community", *The Sunday Times*, 7 July 2013. Following continued internal discussion of constitutional changes, the Indian national security adviser, Shiv Shankar Menon, visited Colombo on 9 July, and "emphasised the need for adhering to the commitments made by the Sri Lankan Government to India and the International Community on a political settlement in Sri Lanka that would go beyond the 13th Amendment". "National Security Adviser's visit to Sri Lanka", external affairs ministry, 9 July 2013; Meera Srinivasan, "Clear message on 13th Amendment conveyed to Sri Lanka: Menon", *The Hindu*, 10 July 2013. Menon also reportedly warned that failure to hold the northern elections or any attempt to change the thirteenth amendment prior to the poll would result in a more hostile Indian policy, including reduced presence at CHOGM and support for stronger UNHRC action, as well as possibly more punitive moves. Crisis Group interviews, diplomats, July 2013. See also "Indian pressure forces Govt. to put off crucial amendments", *Sunday Times*, 23 June 2013.

¹⁰ See, for instance, "Police and land powers in Sri Lanka will remain with the government, President reiterates", ColomboPage, 30 July 2013; and "Cannot risk a parallel army in North: Basil", *The Hindu*, 19 July 2013.

¹¹ Crisis Group interviews, journalists, politicians, diplomats, October 2013.

¹² Commonwealth election observers criticised "the heavy presence and influence of the military" as "a significant obstacle to a credible electoral process". "Sri Lanka's Northern Provincial Council Elections 2013: Preliminary Findings", Commonwealth Observer Mission, 23 September 2013. The army's deep involvement undermined government claims before and after the Pillay visit that its role in the north had been reduced.

meetings and offices of community and non-governmental organisations.¹³ Organisations and activists suspected of sharing information with journalists, diplomats or human rights bodies are targeted for harassment.¹⁴ Staying on the good side of the security forces is important not least as they are among the few sources of well-paying jobs. Increasing numbers of Tamils in the Vanni are employed as labourers on military-run farms or in the civil security department.¹⁵

As the de facto and unchecked power in the north, it is not surprising that the military extended its reach directly into the election process. Poll monitors and sources in the north reported seeing troops put up posters for candidates of the governing United People's Freedom Alliance (UPFA) and participate in and even host UPFA campaign events.¹⁶ TNA leader R. Sampanthan wrote to President Rajapaksa in September to complain of the military's role.¹⁷ The army was widely accused of responsibility for attacks and threats against TNA supporters and candidates, including Ananthi Sasitharan, wife of missing Liberation Tigers of Tamil Eelam (LTTE) Trincomalee district leader Ellilan, that many believed were designed to suppress turnout.¹⁸ Sasitharan received the second highest number of preference votes.

¹³ In August 2013, for instance, military intelligence units visited NGO offices in Trincomalee to request information on staff and activities. The army also reportedly informed the Trincomalee NGO Consortium that it is now responsible for NGO supervision, and regular reports must be submitted directly to it. Crisis Group email correspondence, August 2013. For more on military surveillance and control of NGOs in the north, see Crisis Group Reports, *Sri Lanka's North I*, op. cit., pp. 8-17, and *Sri Lanka's North II*, op. cit., pp. 12-17.

¹⁴ Crisis Group interview, activists and diplomats, September 2013. Community leaders and activists who meet with visiting diplomats and other international representatives are routinely questioned afterwards, often in threatening ways. This extended to those who met Pillay during her visit. "Opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Sri Lanka", 31 August 2013.

¹⁵ The Civil Security Department (CSD), formerly known as the home guards, has expanded its activities considerably since the war. "[C]ommunity[B]ased[O]rganisation[s] and civil society activists in Killinochchi stated that job opportunities have been provided in [CSD-] run farms and for pre-school teachers who are paid by the CSD to teach in pre-schools in the district. Several individuals alleged that recruitment of farmers and pre-school teachers are overseen by two well know UPFA candidates in the Killinochchi district". "Northern Provincial Council Election 2013 – Communiqué no. 1", Centre for Monitoring Election Violence (CMEV), 13 September 2013, pp. 2-3.

¹⁶ Commonwealth observers noted "persistent reports of overt military support for particular candidates, reported cases of the military actually campaigning for selected candidates, and military involvement in the intimidation of the electorate, party supporters and candidates". "Preliminary Findings", op. cit. Evidence for these claims can be found in "Northern Provincial Council Election 2013 – Communiqué no 1", CMEV, op. cit. 13 September 2013 and "Northern Provincial Council Election 2013 – Mullaitivu District Situation Report", CMEV, 20 September 2013.

¹⁷ "Take Steps To Confine Military To Barracks Now: Sampanthan Writes To Mahinda", *Colombo Telegraph*, 10 September 2013. Sampanthan wrote: "It is clear that there cannot be a free and fair election if the military continues its interfering presence in the Northern Province. It has thus become imperative for me to ask you to relegate the army and the other security forces to the barracks immediately and leave the maintenance of law and order in the hands of the Police".

¹⁸ This included a 19 September attack on Sasitharan by large numbers of armed, uniformed men, whom witnesses identified as soldiers. Supporters escorted her to safety, but eight of them and an election observer were injured and her house damaged. "Eve of violence as war-torn Tamils tipped to scoop poll", *The Australian*, 21 September 2013; "Candidate's home attacked ahead of historic Sri Lanka poll", BBC News, 20 September 2013. Eyewitnesses reported seeing soldiers and members of the rival Tamil party, the Eelam People's Democratic Party (EPDP), taking part in the attack. Crisis Group interview, September 2013. Sasitharan was also reportedly investigated and threatened by police from the Terrorist Investigation Department hours after she submitted her

Direct military interference came on top of other forms of state support to UPFA candidates. There were many reports that government candidates and their supporters routinely used official vehicles and resources for campaigning.¹⁹ The governor of the north, retired General G.A. Chandrasiri, attended UPFA election rallies.²⁰ Senior government officials reportedly told Tamil voters that continued development funds depended on voting for the UPFA. Local area military officials are reported to have done the same.²¹

Despite the serious pre-election malpractices, voting itself went smoothly, with few reported incidents of violence or rigging. As a Tamil academic observed, “the government could have behaved far worse These elections were the freest and fairest in the north since 1982”.²² The close international attention paid to the vote may have been a contributing factor.

C. *The Challenges of Victory*

The TNA won more than three quarters of the vote and seats on the council. The UPFA was soundly defeated, along with government claims that major infrastructure improvements in the north would be enough to win support.²³

1. Internal TNA discontent

The weeks following the election, however, have seen the TNA struggling with the challenges of victory. Most visible have been squabbles over choosing the province's four ministers that have divided the coalition along party, regional, caste and gender lines.²⁴ Leaders of some smaller parties in the coalition have denounced what they

electoral nomination papers in August. “TNA candidates intimidated by Army”, *Ceylon Today*, 30 July 2013. On 10 September, the car she was in was attacked by two men on a motorcycle that followed closely behind a convoy of government officials. “Northern Provincial Council Election 2013 – Communique no. 1”, CMEV, op. cit., p. 16. Crisis Group email correspondence, human rights activists, August 2013.

¹⁹ This was also true in the campaigns for the north-western and central provinces. See the reports by the Campaign for Free and Fair Elections (CAFFE), at www.caffesrilanka.org.

²⁰ “CAFFE asks Northern Governor to choose between public service and politics”, *Adaderana*, 10 September 2013. See also “Northern Provincial Council Election 2013 – Communique no. 1”, CMEV, op. cit., pp. 5-6.

²¹ “Northern Provincial Council Election 2013 – Mullaitivu District”, CMEV, op. cit. See also Dhari-sha Bastians, “The northern election and historical stumbling blocks”, *DailyFT*, 12 September 2013.

²² Crisis Group telephone interview, November 2013. Elections held in the north during the war and during the ceasefire were marred by violence and rigging by both the LTTE and the military, as well as pro-government parties like the EPDP. See, for instance, “Sri Lanka Parliamentary Elections, European Election Observation Mission, Final Report”, 2 April 2004.

²³ The pro-government EPDP, previously able to win significant support in Jaffna through a combination of patronage politics and intimidation, lost even in its stronghold in the islands off Jaffna. Two dozen TNA supporters there were attacked on 23 September, allegedly by EPDP members angry at the TNA's victory. “EPDP attacks civilians”, *Lanka Sri News*, 23 September 2013.

²⁴ Arthur Wamanan, “TNA constituent parties tussle over ministries”, *The Nation*, 6 October 2013. The four provincial ministers, like the chief minister, are chosen by the majority party on the council. The ministries correspond to the main areas of considerable provincial responsibilities: health, education, agriculture and fisheries/transport/rural development. Many were disappointed that Ananthi Sasitharan was not made a minister. There were also fierce debates over who would get the two bonus seats – eventually given to a defeated female TNA candidate, Mary Kamala Gunaselan, and Ayub Asmin, a Muslim candidate from Mannar associated with the People's Movement for Good Governance. DBS Jeyaraj, “Wrangling in TNA over Provincial Ministry Posts in North”, dbsjeyaraj.com.

consider the undemocratic decisions of its leader, R. Sampanthan, and the continued dominance of his party, the Illankai Tamil Arasu Katchchi (ITAK).²⁵

Internal party competition is not likely to endanger the TNA in the near term said a Tamil activist:

Disgruntlement within the TNA is bound to grow, and it will take up a lot of space in the media and in websites. But in the end, it won't matter much unless there is an alternate formation that has the capacity to mobilise people. So far the dissenters don't have this kind of support. The split from the TNA would have to be severe – it would have to be everyone other than ITAK – otherwise it's highly unlikely there could be a real challenge to the TNA.²⁶

Nonetheless, while Sampanthan's forceful decision-making has arguably been important in steering the TNA through a difficult post-war situation, complaints about lack of democratic decision-making and his domineering style need to be taken seriously and ways found to open procedures.²⁷

As it now tries to make the most of its small foothold in the north, the TNA faces twin challenges: while the government and Sinhala nationalists will claim a separatist agenda exists behind even modest attempts to claim the council's constitutional powers, many in its own constituency will see some of the necessary tactical compromises and moderation as an abandonment of the Tamil freedom struggle. As it discovered during the provincial campaign, the TNA will need to walk a careful line between these.

com, 4 October 2013; Dharisha Bastians, "TNA names councillors for bonus seats", *DailyFT*, 30 September 2013.

²⁵ The TNA is a five-party coalition: ITAK; Eelam People's Revolutionary Party (EPRLF); Tamil Eelam Liberation Organisation (TELO); People's Liberation Organisation of Tamil Eelam (PLOTE); and the Tamil United Liberation Front (TULF). ITAK, also known as the Federal Party, is by far the dominant member; all TNA candidates ran under its banner. The ITAK leader, R. Sampanthan, is also the TNA leader. EPRLF leader Suresh Premachandran strongly criticised him and ITAK for marginalising the other parties when choosing ministers. Eight councillors, from EPRLF, PLOTE and TELO, boycotted the swearing-in ceremony in protest over ministry appointments. Ananth Palakidnar, "TNA sidelined", *Ceylon Today*, 11 October 2013; Kelum Bandara, "TNA plays musical chairs", *Daily Mirror*, 7 October 2013; Dharisha Bastians, "NPC ruling party members sworn in to office", *DailyFT*, 12 October 2013. TNA members have long complained of ITAK domination and lack of internal democracy. For more on TNA, see Crisis Group Report, *Sri Lanka: Tamil Politics* op. cit., pp. 6-8.

²⁶ Crisis Group telephone interview, Tamil civil society leader, October 2013. A lawyer close to the TNA said, "there is obviously going to be wrangling between parties over ministries, and bickering is always going to be there. It's just the way this party makes decisions. It's a loose alliance, with very different personalities, not all of whom like each other. For example, the decision over Wigneswaran (see below) took four days, but eventually a decision was made, and the party came together". Crisis Group telephone interview, October 2013.

²⁷ Tamil intellectuals and political activists across the political spectrum, including supporters of the TNA, have long argued the alliance is too dependent on a small circle around Sampanthan and organisationally very weak. Many contend its long-term health will require expanding its activist base and addressing caste and class differences. Crisis Group interviews, October 2013. For an earlier discussion of the TNA's need to strengthen itself, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., p. 30.

2. Sinhalese fears and charges of separatism

Though the TNA is a loose coalition of distinct parties and political sensibilities, its policy since the end of the war has been set largely by a moderate leadership with little sympathy for the LTTE.²⁸ The leadership has made clear its commitment to finding a political solution within a united Sri Lanka, beginning with enjoyment of the full powers available under the thirteenth amendment, but that Tamils ultimately need significantly greater autonomy if they are to be treated as equals.²⁹

Tamil society as a whole, especially in Jaffna and the diaspora, has many who are more strongly nationalist, some of whom look back favourably on the LTTE and its armed struggle. To galvanise popular support in the face of large-scale, military-led efforts to suppress the vote, the TNA's campaign adopted a distinctively nationalist tone. Candidates were able to tap into deep reservoirs of anger and frustration in the north at the military's rule, as well as continuing desire among many for a separate state. This helped win votes, but at a cost. The TNA's candidate for chief minister, retired Supreme Court Justice C.V. Wigneswaran,³⁰ was attacked by officials and commentators in Colombo for his reported campaign statements praising the late LTTE leader, Vellupilai Prabhakaran, as a hero, not a terrorist.³¹ He and the TNA have argued his statements were taken out of context, and they were almost certainly meant as emotive vote-winners rather than expressions of separatist sentiment. Nonetheless, they were politically unwise and have likely strengthened Sinhala support for the government's opposition to devolution.³²

²⁸ This includes TNA leader Sampanthan, who was never comfortable having to follow the LTTE line while it was active. That said, the TNA was born of LTTE pressure and followed that line closely until its military defeat. TNA leaders and the alliance as a whole have yet to unequivocally distance themselves from the LTTE's legacy. For more on the TNA's complex relationship with the LTTE, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 6-7.

²⁹ See, for instance, "Sumanthiran responds to criticism of TNA's election manifesto", Adaderana.lk, 14 September 2013.

³⁰ The TNA's selection of retired Supreme Court Justice C.V. Wigneswaran was initially viewed as inspired. Widely seen as an exponent of a moderate version of Tamil nationalism, he has the intelligence and reputation of integrity to be a formidable champion of TNA ideas in Sri Lanka and abroad. Originally from Jaffna, he has lived in Colombo most of his professional life as part of its liberal cosmopolitan elite. His selection, however, had to be pushed through by TNA leader Sampanthan, against opposition from the constituent parties to the TNA, most of whose leaders preferred the veteran ITAK politician Maavi Senitharajah. While Sampanthan and his close ally, lawyer and parliamentarian M.A. Sumanthiran, eventually persuaded the others to accept Wigneswaran, it appears there was a price. According to some reports, Senitharajah and other TNA leaders attempted to isolate Wigneswaran during the campaign and to push their own candidates. See D.B.S. Jeyaraj, "How 'Mavai' Senathirajah Gained the Upper Hand in Selecting TNA Candidates for Northern Provincial Poll", dbsjeyaraj.com, 10 August 2013.

³¹ In one interview, Wigneswaran was quoted as saying, "Prabhakaran was a freedom fighter. He may have been brutal, but so is the government". Kartick S., "Lanka Tamil party's CM nominee wants India to take part in Commonwealth Heads of Government Meeting", *Times of India*, 20 September 2013. For a trenchant critique of an earlier Wigneswaran statement on Prabhakaran, see Dayan Jayatilaka, "No Tiger symbolism, no troop withdrawal", *Island*, 17 September 2013. TNA candidates were reported to have made extensive use of songs and imagery with clear LTTE associations. D.B.S. Jeyaraj, "Why and How Ex- SC Judge CV Wigneswaran Praised LTTE Leader Prabhakaran as a Great Hero", dbsjeyaraj.com, 19 September 2013.

³² In many of his public statements, Wigneswaran has been careful to stress the alliance's commitment to remaining within "one country". "There is absolutely no necessity for us to separate", he has been quoted as saying. "War-scarred Sri Lankan Tamils see hope in election", Associated Press, 20 September 2013.

The statements took on added weight for many Sinhalese critics of the TNA in light of what they argue was the essentially separatist nature of the alliance's election manifesto. It reiterated the coalition's longstanding claim that Tamils are a distinct people with a right to "self-determination" and "self-rule" in a merged north-eastern province within a federal system.³³ Despite the manifesto's clear language that this right would be enjoyed within a united Sri Lanka, President Rajapaksa and other senior officials attacked it as evidence that the alliance still pursues the LTTE's separatist goal.³⁴ A minister spoke of "another means of offering the cyanide capsule once again to the Tamil youth".³⁵

The government's excessive attacks appear designed to feed Sinhalese mistrust of the TNA and the provincial council system. The TNA demand for a merged north and east is unrealistic in the short- or medium-term, and its campaign language of nation and self-determination is uncomfortable for most Sinhalese, even those supportive of a more pluralist state.³⁶ Its positions are not separatist, however, but well within established democratic discourse of federalism and power sharing. While politically unwise, campaign statements praising Prabhakaran and the LTTE were an effect of electoral dynamics in a community long denied an equal share of power.

What many Sinhalese critics miss is that the Tamil polity's move away from separatist language and dreams will necessarily be slow and require a government in Colombo open to compromise and meaningful dialogue.³⁷ The TNA leadership needs to be seen as an ally in this process. Over the past eight years, however, the Sinhala public has heard from its leaders a relentless discourse not only opposed to federalism, or even modest devolution, but also denying the existence of an ethnic conflict in need of a political solution. Sinhalese opinions have hardened as a result.

3. The TNA's Tamil nationalist critics

The TNA will have to navigate a political terrain made challenging not only by Sinhalese nationalist attacks on it as untrustworthy separatists, but also by Tamil nationalists, especially but not only within the diaspora. Since the end of the war, the alliance

³³ The text of the TNA manifesto can be found at tnapolitics.org/en/policies/northern-provincial-council-manifesto/. On 17 September, five Sinhala nationalist organisations filed legal challenges in the Supreme Court to the TNA's manifesto, arguing that it espoused separatism and so violated the sixth constitutional amendment. They called for the northern province election to be cancelled. The court declined to issue such an injunction but agreed to hear arguments in the case in December. "SC decides to take up petition on TNA manifesto", ITN News, 30 October 2013.

³⁴ The president accused the TNA of pursuing the LTTE's separatist agenda and vowed, "I will not let anyone divide this country, the same way I did not allow Prabhakaran to do it". "MR accuses the TNA", *Colombo Gazette*, 11 September 2013. His brother Basil was reported by state media to have accused the TNA of trying to "arouse racial feelings of the southern people and create a terror situation in the country again". "Minister Basil Rajapakse says the election manifesto presented by the TNA is aimed at creating conflicts", Sri Lanka Broadcasting Corporation, 6 September 2013. "Sumanthiran responds to criticism of TNA's election manifesto", Lanka News Web, 15 September 2013.

³⁵ Sandasen Marasinghe, "A cyanide capsule courtesy TNA – Dullas", *Daily News*, 11 September 2013. In slightly less confrontational language, a militant Buddhist group with links to government declared that in retaliation for the separatist manifesto, Wigneswaran would not be allowed to return to Colombo after the election. "Justice Wigneswaran will not be permitted to return to Colombo – Ravana Balaya", *Colombo Telegraph*, 12 September 2013.

³⁶ See, for instance, Gnana Moonesinghe, "Pluralism, the essential chant for post war Sri Lanka", *Island*, 22 September 2013.

³⁷ For an argument along these lines, see Dharisha Bastians, "The northern election", *op. cit.*

leadership has faced an ideological challenge, mostly from outside its membership, from Tamils who favour a more confrontational approach and criticise any willingness to work within the constitutional order's constraints, especially as regards the provincial councils.

Since the election victory, some Tamils have strongly criticised TNA leaders for unnecessarily acknowledging the legitimacy of the central government and the unitary state. For instance, the decision of Chief Minister Wigneswaran to take his oath of office in front of President Rajapaksa was called by some incompatible with demands for self-rule.³⁸ More nationalist Tamils have also objected to the cooperative tone of post-victory statements.³⁹

The TNA has been criticised in the past for abandoning the struggle for Tamil national self-determination. A loose grouping of Tamil intellectuals and activists,⁴⁰ initially pressed the alliance not to contest the northern elections, asserting that would legitimise the thirteenth amendment and the unitary conception of the state it is founded on. They argued that the only power Tamils would have is what the Sinhala-dominated central government offered.⁴¹

This grouping contends that that TNA owes its large victory to its late decision to campaign on a strongly nationalist platform and its clear endorsement of the right to self-determination, not to any popular belief in the political possibilities offered by the provincial council. According to the Tamil National People's Front (TNPf), the Tamil people "once again, resolutely voted for the right to self-determination, seeking the reaffirmation of our nationhood, and unanimously for the freedom of a nation ... in a vote that has no historic precedence".⁴² These critics fear the TNA victory

³⁸ "Tamil lawyers condemn Wigneswaran's decision", *Island*, 7 October 2013; "Mullaitivu Residents Burn Wigneswaran Effigies, EPRLF And Ananthi To Boycott Oath Ceremony", *Colombo Telegraph*, 11 October 2013. Under Sri Lankan law, Wigneswaran could have taken his oath of office before any judge or justice of the peace.

³⁹ Following Wigneswaran's swearing in, TNA leaders promised to "cooperate" with the government. Dasun Edirisinghe, "TNA ready to cooperate with govt.", *Island*, 8 October 2013. The TNA sought "cooperation" from the government to fulfil the people's "democratic verdict": "Within the framework of a united, undivided country, they want to live in security, safeguarding their self respect and dignity with adequate self-rule, to be able to fulfil their legitimate political, economic, social and cultural aspirations The results of this election offer everyone an opportunity which should be fully utilised in a positive manner". "Statement released by the Tamil National Alliance on the results of the Northern Provincial Council Election 2013", 22 September 2013.

⁴⁰ Foremost among the group are the Catholic bishop of Mannar, Rayappu Joseph, former parliamentarian Gajen Ponnambalam's Tamil National People's Front (TNPf), which broke from the TNA before the 2010 parliamentary elections, and others associated with statements released under the banner of "Tamil civil society". See Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 14-15. More strongly nationalist positions are also held by some TNA parliamentarians, as well as the newly-elected provincial councillor, Ananthi Sasitharan.

⁴¹ One proposal was for the TNA to endorse an independent slate of candidates who would run on an aggressive 180-day action program and be prepared to resign if the central government blocked them. The group later issued a statement calling for northern Tamils to vote for the TNA, but also endorsing a more nationalist and confrontational approach by the alliance, including through large-scale popular mobilisation of Tamils in the north and east. "Civil Society censures wrong politics of TNA but urges people to vote for it", TamilNet, 18 September 2013. For a condensed version of the critique of working within the thirteenth amendment, see Kumaravadivel Guruparan, "Much ado about nothing", *Colombo Telegraph*, 21 April 2013; and "Geneva basing on LLRC unfortunate, 13A never a starting point: Guruparan", Tamilnet, 30 May 2013.

⁴² "Tamil vote for self-determination must be respected – TNPf", *Tamil Guardian*, 15 October 2013. That influential newspaper, based in London, argued that the TNA victory was a result of its

will be Pyrrhic, as the alliance and provincial council find themselves without either the powers necessary to protect Tamil rights and interests or the international support needed to go beyond the limitations of the thirteenth amendment.⁴³

To avoid this trap, the critics argue, the alliance must challenge the thirteenth amendment and the unitary state more robustly, while building a broad political movement that can harness political energies for a renewed freedom struggle beyond the TNA's current limited social base. In the words of an activist, "the northern provincial council offers possibilities, but only if the TNA is willing to push the boundaries. I fear the TNA is unwilling and incapable of doing this".⁴⁴

While the worries about being trapped in a powerless provincial council are well-founded, the TNA leadership has been right so far to resist calls for a more confrontational approach with the central government and maintain its moderate, pragmatic stance. The political reality is that meaningful autonomy, to be possible, must be accepted by a significant portion of the Sinhalese public, and the government would be happy if it could push the TNA into positions that further alienate Sinhalese, as well as Muslims in the north and east.⁴⁵ Tamils and the TNA can succeed in their larger goals only if they present themselves convincingly to open-minded Sinhalese and the international community as acting in good faith and the interests of the northern population. Only then would they be able to claim convincingly that the provincial council system is inadequate, and power needs to be devolved outside the constraints of the unitary system.

At the same time, TNA well-wishers outside Sri Lanka should recognise the northern council will be hard-pressed to deliver tangible benefits to its people, much less to serve as a step towards more meaningful autonomy. While the TNA seeks to use the council's powers to improve at least to some extent the lives of northern Tamils, it should be encouraged to use strengthened democratic legitimacy to challenge the most damaging of the government's military-led development and land policies and to maintain its legitimate quest for self-rule within a united Sri Lanka.

decision to embrace the rhetoric and demands of the LTTE's liberation struggle: "Tamil nationalist sentiment was emphatically embraced ... key candidates ran a campaign which focused on the fundamental issues of nationhood, homeland and self-determination; rejected the unitary constitution of the Sri Lankan state Grass-roots candidates with Tamil nationalist views and associations to the LTTE were actively promoted". "Vote for liberation: Editorial", *Tamil Guardian*, 27 September 2013. Many other Tamil and non-Tamil analysts see the TNA vote as a rejection of government policies, in particular the oppressive presence of the military, and a qualified endorsement of the TNA's stated goal of negotiating meaningful autonomy within a united Sri Lanka. Crisis Group interviews, October 2013.

⁴³ There is fear the government has won significant international credit simply for holding the northern elections, without having to cede any real power. While India has consistently called for Sri Lanka to go beyond or "build on" the thirteenth amendment, many Tamils are sceptical this will extend to support for a federal system, outside the constraints of the unitary state. Many of the TNA's Tamil critics prefer a negotiated path to self-determination, based on recognition of the Tamil nation and its "parity of status" with the Sinhala nation, to be guaranteed internationally, even against the resistance of Sinhalese majorities. In the current context, this is a non-starter. Crisis Group interviews, Tamil activists, November 2013.

⁴⁴ The activist added: "The TNA's well-known capacity problems are also at root a fear of empowering others". Crisis Group interview, November 2013. An idea being proposed is to create a "Tamil National Council", modelled on the Palestinian National Council, that would draw on a wide range of Tamil organisations and pursue a broad political agenda beyond that of the provincial council.

⁴⁵ That they can gain their rights only with cooperation of the Sinhala majority is what angers many Tamils about a united Sri Lanka's constraints and contributes to separatism's attractiveness.

For any progress at all, sustained political pressure on Colombo will be required. The government may currently feel itself under enough attention from the international community that it needs to appear cooperative, at least through CHOGM, and possibly through March 2014. Yet, it has shown no interest to date in sharing even modest power. Moreover, the constitutional and legal terrain on which the struggle between the council and the government over the functioning and powers of the council will be fought is not favourable to the TNA.

D. *The Legal and Constitutional Battleground*

The TNA will face formidable legal and political obstacles to creating an effective northern provincial council.⁴⁶ The thirteenth amendment and subsequent legislation give councils few powers and fewer resources.⁴⁷ As limited as these powers are, no council has ever tried to exercise them all.⁴⁸ Policy on all issues, including in areas supposedly under provincial authority, is set by the central government, with the provincial administration reduced largely to implementing national priorities. Provinces depend on the president and national treasury for virtually their entire budget, with authority to raise only limited revenues through sales and excise taxes.⁴⁹ The thirteenth amendment also gives central government, acting through either the provincial governor, the president or parliament directly, or the supreme court, numerous means to block or undermine a council's decisions or take away its powers.⁵⁰

Provincial powers established by the thirteenth amendment are tenuous and can be used effectively only if the central government is willing to cooperate and share

⁴⁶ For an overview of these challenges, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 18-21. Two useful references on the complexities and disappointments of the provincial council system and the thirteenth amendment are Ranjith Amarasinghe et al., *Twenty-two years of Devolution: an evaluation of the working of provincial councils in Sri Lanka*, Institute for Constitutional Studies (Colombo, 2010); and Lakshman Marasinghe and Jayampathy Wickramaratne (eds.), *13th Amendment: Essays on practice*, Institute for Constitutional Studies, 2010.

⁴⁷ The amendment establishes three lists of powers: "reserved" powers held by the centre; "concurrent" powers that both provinces and centre can legislate on; and "provincial" powers. The latter list includes powers over education, housing, agriculture and agrarian services, health, rural development, cooperative development, local government, land use and land development and internal law and order. But in practice provinces have no exclusive legislative authority. They are unable to legislate on the concurrent list – national legislation trumps provincial – and parliament has regularly eroded provincial powers by invoking its right to set "national policy on all subjects and functions", even topics on the provincial list. There is no way for provinces to challenge these moves. For a short overview of provincial powers in practice, see G.R. Tressie Leitan, "Overview of decentralization and local governance in Sri Lanka", Swiss Agency for Development Cooperation, July 2010.

⁴⁸ This is most notable with regard to policing and land powers. The northern council is the first of the nine provincial councils since 1993 to be controlled by an opposition party. Provincial politicians from ruling parties or coalitions are not encouraged to claim their constitutional powers. The closest to this happening had been the Eastern provincial council, controlled since its 2008 inception by coalitions of Tamil and Muslim parties aligned with the ruling UPFA. Its attempt to claim its constitutional powers have brought it into repeated conflict with the governor and Colombo. See Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., p. 19.

⁴⁹ In the words of a very useful study, "the provincial tax base is miniscule". Asoka Gunawardena, "Fiscal Devolution: Operational Issues", in *Twenty-two years of Devolution*, op. cit. The thirteenth amendment establishes a finance commission, which recommends to the president levels of provincial allocations, but the president makes the final decision on transfers from the central treasury.

⁵⁰ See below for the main ways this is possible. For a brief précis of limitations on provincial powers, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 18-19.

some of its authority. This is unlikely at present. While they may appear cooperative in the immediate aftermath of the northern election, President Rajapaksa and his brothers have made clear their opposition to devolution under the thirteenth amendment and their mistrust of the TNA. "Getting rid of the thirteenth amendment is a clear part of the president's strategy", argued a Muslim politician. "The president believes only in democracy as majoritarianism. He doesn't accept the parity of status of the different communities".⁵¹

The Supreme Court ruling four days after the election that appears to reduce provincial councils' control over state land might be the first salvo in an attack on provincial powers. A panel headed by Chief Justice Mohan Peiris, former attorney general and senior government adviser appointed in the wake of the January 2013 impeachment of Shirani Bandaranayake, handed it down, with each of the three judges issuing a separate opinion. It remains to be seen how it will affect TNA strategy for claiming powers, but many express frustration at a decision they see as political.⁵²

Although powers over land and policing have been much discussed, even simple acts of the council could spark conflict with the centre. Financing is likely to be an early source of tension. To claim its limited financial powers, the newly elected council needs to pass legislation that the centre has various means to delay or block. Other potential hindrances to the council's room for manoeuvre are discussed immediately below.

The governor, appointed by the president, technically wields executive power in the province, though until recently this was understood as merely ratifying the actions of the provincial chief minister and board of ministers and the legislative decisions of the council. The governor can block council actions in two ways:⁵³

- delaying provincial legislation by refusing consent. The legislation is then sent back to the council for reconsideration. If it is sent again to the governor, and consent is refused a second time, it goes to the president, who passes it to the Supreme Court for a ruling on its constitutionality; and

⁵¹ Crisis Group interview, Colombo, July 2013.

⁵² The ostensible issue to be determined by the court was the limited one of whether certain disputes over state land were properly heard before a provincial high court. The judgment went beyond this, however, and broke with precedent to restrict provinces' ability to influence the centre's decisions on state land, "narrowing down ... the consultative process contemplated by the 13th Amendment between the Centre and Provincial Councils in respect of dealing with state land". Kishali Pinto Jayawardene, "No tectonic shift in 'state land being vested in the Republic'", *Sunday Times*, 6 October 2013. The TNA criticised the judgment, but argued that it is not a binding precedent for future decisions. M.A. Sumanthiran, "Was Rajiv Gandhi deceived by Jayewardene?", *Colombo Telegraph*, 6 October 2013. For the text of the three separate opinions, see "Full Texts: All Three Judgements Of The SC On Land Rights", *Colombo Telegraph*, 28 September 2013. A lawyer commented: "We have never seen a pro-government C[hief] J[ustice] like this To me, there's very little daylight between the regime and the court now, which is not too surprising given the role he has played in the past". Crisis Group telephone interview, October 2013.

⁵³ The governor also enjoys near complete power over provincial finance. Among other things, "[t]he Governor makes the rules governing all aspects of provincial finance, including the Provincial Fund and the Emergency Fund of the Province. No provincial statute involving revenue or expenditure may be introduced, moved or passed by the Provincial Council except on the recommendation of the Governor". Asanga Welikala, "Devolution within the Unitary State: A Constitutional Assessment of the Thirteenth Amendment with reference to the experience in the Eastern Province", in "Devolution in the Eastern Province: Implementation of the Thirteenth Amendment and Public Perceptions, 2008-2010", Centre for Policy Alternatives, August 2010, pp. 51-52.

- while the governor is expected to take actions presented to him “on the advice of” the chief minister, he can refuse to do so. When this happens, the chief minister can do little, as the eastern provincial council has recently learned.⁵⁴

The supreme court is the final arbiter of legal disputes. Few analysts expect the claims of a TNA-led council to be upheld by the present court.⁵⁵ TNA advisers acknowledge that in the post-impeachment context, there is little to be gained from litigating decisions of the governor or central government.⁵⁶

Parliament can pass new legislation to reclaim powers devolved to the provincial council, by amending the Provincial Councils Act or passing various other forms of legislation, including bills that declare a given activity a “national policy”.⁵⁷

The president can dissolve or take over powers of the council on grounds of financial instability, administrative failure or public security.⁵⁸ Given the claims made about the TNA manifesto by senior officials, this threshold may not be hard to reach.

Constitutional change is the final option. While the government has agreed to preserve the thirteenth amendment for now, it is widely expected to revive proposals hostile to it, most likely after CHOGM and the March 2014 session of the UNHRC.⁵⁹ As a result of opposition from India and his own cabinet in June and July 2013, President Rajapaksa put plans for a constitutional amendment on hold and returned to his earlier idea of a Parliamentary Select Committee (PSC) to consider devolution issues. Originally mooted in 2011 as way of avoiding direct negotiations with the TNA without appearing to reject a negotiated settlement, the PSC was in effect tasked to

⁵⁴ Eastern provincial council members have long complained about interference from the eastern governor, as in the north a retired army general. For a valuable analysis of these tensions and of the experience of the eastern council in general, see Welikala, “Devolution within the Unitary State”, *op. cit.*, especially pp. 59-62. In 2009, a move to formally request the president to remove the governor was abandoned in the face of political pressure from Colombo, though the board of ministers did write an official letter of complaint to President Rajapaksa. See Welikala, “Devolution within the Unitary State”, *op. cit.*, p. 62. For an analysis of governors’ powers, see Ranjith Amarasinghe, “The Working of Provincial Councils: Centre/Province Relations”, in *Twenty-two Years of Devolution*, *op. cit.*, pp. 150-157.

⁵⁵ Crisis Group interviews, October 2013. It is widely believed Chief Justice Peiris’s predecessor, Shirani Bandaranayake, was impeached in part because of judgments that respected the limited constitutional powers of provinces. In 2011, the government introduced the Town and Country Planning (Amendment) Bill, which would have given it significant new powers to expropriate land. On 2 December 2011, a bench headed by Bandaranayake ruled parliament could consider it only after all provincial councils approved it, since land is a devolved subject under the thirteenth amendment. The legislation was withdrawn. See Crisis Group Report, *Sri Lanka’s Authoritarian Turn*, *op. cit.*, p. 22, fn. 97.

⁵⁶ Crisis Group interviews, October 2013.

⁵⁷ On “national policy”, see fn. 47 above. In principle, the thirteenth amendment requires consent of all provincial councils for national legislation that affects powers on the provincial list. This power is one that was due to be removed in the package of anti-devolution reforms proposed by the cabinet in June 2013 but not presented to parliament.

⁵⁸ See Jayampathy Wickramaratne, “The Constitutional Framework,” in *Twenty-two years of Devolution*, *op. cit.*, pp. 13-15, 28-30. In 1990, following the withdrawal of Indian peacekeeping forces and the decision of the north-eastern province chief minister to issue a “unilateral declaration of independence”, the council was dissolved.

⁵⁹ A Tamil northern lawyer said, “March is our D-Day. Anything we need to get from the government will have to be done before then. The TNA will have to think strategically about how to use this window”. Crisis Group interview, October 2013.

decide on ways to further weaken the thirteenth amendment and report to parliament by the end of 2013.⁶⁰ All opposition parties in parliament – not only the TNA, but also the United National Party (UNP) and the leftist Janatha Vimukthi Peramuna (JVP) – refused to take part in the process. A pro-devolution government politician said, “the whole PSC process lacks credibility, and violates all parliamentary norms. In my opinion, it’s only a cabinet subcommittee”.⁶¹

The government appears undecided on its tactics: whether to fatally weaken the thirteenth amendment by an overtly confrontational stance, pushing again for constitutional changes or undermining the council through more subtle legal means. It would face significant opposition from Muslim and leftist cabinet ministers and appears worried about frontally challenging India and other foreign powers. While Gotabaya Rajapaksa is pressing to abolish the amendment, the president is not yet willing to pay the domestic and international political price.⁶² On the other hand, having cultivated Sinhala nationalist opposition to the amendment, the government risks angering the more hardline of its Sinhala Buddhist supporters if it allows the northern provincial council to function effectively.⁶³

E. *A Short- and Medium-term TNA Strategy*

The TNA will need a clear and careful plan for governing in the face of a hostile central government, while possessing few powers and little money. The council and its leaders will need to be cautious in their language to avoid giving critics ammunition to claim they are seeking a separate state. The initial post-election decisions and statements from TNA leadership indicate commitment to avoiding this trap, while maximising the powers and effectiveness of the council so it can assist northern Tamils, particularly on socio-economic issues. Much remains to be done to rebuild the lives and livelihoods of those displaced by the war. A well-functioning council could play

⁶⁰ The official title of the panel is the “Select Committee to Recommend and Report on Political and Constitutional Measures to Empower the Peoples of Sri Lanka to Live as One Nation”. For more on the PSC, see Crisis Group Report, *Tamil Politics*, op. cit., pp. 9-11.

⁶¹ Crisis Group interview, Colombo, July 2013. The PSC, which included none of the many pro-devolution government parliamentarians, met for the first time on 9 July, the same day the Indian national security adviser arrived for talks, but does not seem to have met since July. The president reiterated his commitment to the PSC when he met the Indian foreign minister in Colombo in October. “President reveals govt. position on national issue to Indian FM: PSC the only way out”, *Island*, 9 October 2013.

⁶² Some believe tensions between the Rajapaksa brothers are significant, with Gotabaya’s political ambitions leading him to cultivate militant Buddhist organisations like the BBS. Kumar David, “Is there a Gota-Mahinda split?”, *Island*, 21 July 2013. While it is important not to exaggerate the brothers’ differences, the government may not be able to play both sides indefinitely and will at some point have to choose.

⁶³ While this is a real factor, it also offers the government a convenient excuse and is largely a product of its own political choices. “The JHU is very small”, explained a senior Sri Lanka Muslim Congress (SLMC) official. “Their presence in government depends on M[ahinda] R[ajapaksa] believing they need all Sinhala votes and can survive only with Sinhala votes”. Crisis Group interview, July 2013. Some in government have proposed a referendum on whether to abolish the thirteenth amendment. While the government would likely want popular legitimation for dismantling provincial powers, a referendum would carry risks, since it would probably require open campaigning against the amendment and could force minority and left parties to leave the UPFA coalition. Sunanda Deshapriya, “Destiny of a Weerawansa referendum (Abolishing the 13th Amendment)”, Groundviews, 29 November 2013. The government may prefer more subtle means.

an important role in filling the large humanitarian and economic gaps created by the central government's infrastructure-centred and military-led form of development.⁶⁴

The TNA put forward an ambitious agenda during its campaign: de-militarisation of the north;⁶⁵ defending against and reversing arbitrary land seizures; expanding economic opportunities and social services; ending impunity for human rights violations; and supporting a measure of accountability for alleged war crimes at the war's end. Only a small fraction of the agenda can be achieved directly through the council. The bulk will have to be pursued by other political means. One of the TNA's most important challenges will be managing the tension between making the council work – which requires the cooperation of the president and the central government – and pressing a larger agenda that is profoundly at odds with government priorities.

1. Getting the council off the ground

Establishing the council as an effective body and gaining control over the provincial administration will be slow and complicated. TNA leaders reportedly want to negotiate an agreement with the president for the governor to revert to a traditional and constitutionally more correct limited and supportive role, without interference in council policies.⁶⁶ That would allow the council to pass the initial legislation it needs to establish itself, beginning with a finance bill, and provide adequate funding from the centre.⁶⁷

To ensure adequate finances, TNA and council leaders should also begin discussions with the government and donors on constitutionally acceptable ways for the council to receive international funds to supplement the provincial budget and for donor-funded projects to be implemented in partnership with provincial ministries.⁶⁸

⁶⁴ For a discussion of humanitarian needs neglected by government development policy in the north, see Crisis Group Report, *Sri Lanka's North II*, op. cit., pp. 4-12. For reports from the north that suggest the scale of unmet needs, see three IRIN papers: "Analysis: Greater investment needed in Sri Lanka's north", 14 October 2013; "Turning to sex work in Sri Lanka's north", 10 October 2013; "Analysis: Mental health cost borne by families of missing in Sri Lanka", 9 September 2013.

⁶⁵ The TNA manifesto called for "meaningful de-militarisation resulting in the return to the pre-war situation as it existed in 1983 before the commencement of hostilities by the removal of armed forces, military apparatuses and High Security/Restricted Zones from the Northern and Eastern Provinces". The removal of all military from the north is an impossible and provocative demand in the current political context that the TNA is unlikely to press. But significant reduction of troops and camps, return of land seized arbitrarily for camps and the army's removal from all civilian affairs are important demands that would find significant support in the south and internationally.

⁶⁶ The agreement, which would almost certainly remain unwritten, is needed in part because TNA leaders believe that, with Mohan Peiris as chief justice, they no longer have a chance to challenge central government obstruction in court. A lawyer close to the TNA said, "litigating these issues will be fraught with risks, and the TNA will be very reticent to do so given the dynamics on the court. Negative judgments also risk setting damaging precedents". Crisis Group interview, October 2013.

⁶⁷ The TNA also must pass legislation establishing control of the health, education, agriculture and fisheries/transport/rural development ministries. Until election of the council, the provincial administration has been under the governor's control. TNA sources say the province treasury is exhausted, with the governor having "gone on a spending spree" during the election. Crisis Group telephone interview, TNA lawyer, October 2013.

⁶⁸ An option the TNA is reportedly considering would route international money through a chief minister's fund. Crisis Group interview, political analysts, October 2013. Establishing a chief minister's fund, which other provincial councils have done, would require consent of the governor. This was denied to the eastern province. See "Devolution in the Eastern Province: Implementation of the

It should be possible to overcome the expected resistance to such funding – which would have to be run through the central treasury – especially if India, the U.S. and multilateral agencies make clear that this is necessary to prove the government's commitment to effective devolution.⁶⁹ To facilitate greater international assistance to the north, the government should consider designating the northern and eastern provinces as war-affected. This could make it easier to access donor aid that has been reduced because of Sri Lanka's status as middle-income country.⁷⁰

Establishing an effective provincial administration is another task that requires significant cooperation from the central government, ideally supported by the international community. Under the thirteenth amendment, the provincial chief secretary and senior members of the provincial civil service are appointed not by the chief minister or provincial public service commission, but by the president, through the public service commission he controls.⁷¹ This gives the centre considerable leverage. A civil society activist argued:

One of the biggest threats to the council is the weakness of the administration. There are lots of vacant positions that the central government may not allow the council to fill. There are also lots of EPDP [Eelam People's Democratic Party] cadres in key positions in the public administration, especially in Jaffna, who could complicate the TNA's work".⁷²

To strengthen its own technical capacity, the council should seek out national and international organisations able to train new council members of all parties, including in drafting legislation and overseeing the provincial administration.⁷³

2. Creative initiatives

Even as it works to build an effective provincial government able to deliver limited services to the northern population, the TNA should explore creative ways of using the council and the provincial administration to pursue its larger agenda. It should seek to leverage the legitimacy that comes with controlling and working through a democratically elected body. Among other possibilities, the council should consider surveying land use and ownership; the number and extent of army camps; reported population movements and demographic changes along the edges of the northern province; and the extent of psycho-social needs and war-induced trauma. All are issues on which there is little hard evidence but many politically explosive claims.

Thirteenth Amendment and Public Perceptions, 2008-2010", Centre for Policy Alternatives, August 2010, p. 41.

⁶⁹ The government blocked eastern provincial council attempts in 2008 to negotiate such an arrangement with the World Bank. Crisis Group Report, *Development Assistance and Conflict*, op. cit., pp. 12-13.

⁷⁰ See "Analysis: Greater investment needed in Sri Lanka's north", IRIN, op. cit.

⁷¹ While there is a provincial public service commission, it is responsible only for junior and mid-level provincial officials. See A.M. Navaratna-Bandara, "Provincial Public Administration and the Public Service", in *Twenty-two years of Devolution*, op. cit., pp. 163-192.

⁷² Crisis Group telephone interview, October 2013. On the EPDP, see Section II.B above and Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., p. 8.

⁷³ The U.S. Agency for International Development (USAID) has funded capacity training for local officials in the east; donors should explore similar projects with newly elected and appointed officials in the north.

Given the limited capacity of the TNA and the provincial administration, the council should seek to address these issues through creative partnerships with international agencies. It could, for instance, invite UN help in conducting humanitarian and early-recovery-needs assessments in the north, as well as collaboration on other ways of meeting the northern population's needs. It could also explore establishing its own registration system for NGOs, to allow work to be done in areas, such as psycho-social assistance, that the government has largely blocked.⁷⁴

3. A broader agenda

At the same time, the TNA, as distinct from the northern council, should continue to push the central government to deliver on the broader range of issues raised during the campaign, chief among these removal of the military from civilian affairs, return of troops to their barracks and return of lands taken for military camps and other government projects.⁷⁵ In advocating for these and the additional items on its agenda, the TNA should focus not on abstract, highly contentious demands for self-rule and self-determination, but on concrete, achievable matters that could resonate with both the international community and some Sinhala voters and that the government would find it more difficult to misrepresent as the pursuit of a separatist agenda.

When calling for provincial councils to be given a meaningful share of powers over land, for instance, TNA leaders should also seek establishment of the national land commission. Though required by the thirteenth amendment and tasked with setting national policies for equitable land use, the land commission has never been created.⁷⁶ The TNA should emphasise that strengthening provincial control over land, combined with more transparent and fair national land policies, would help protect all citizens against grabs by the central government and the politically well-connected, a problem experienced in all regions and by all classes.

Similarly, when calling for the northern council to be allowed to enjoy its limited constitutional powers over policing, the TNA should also make clear its support for broader depoliticisation of the police throughout the island.⁷⁷ It should press for

⁷⁴ Donors, bilateral and multilateral, will need actively to encourage the central government to allow creative partnerships that Colombo politicians and bureaucracy will almost certainly resist. NGOs are registered with the NGO secretariat, part of the defence ministry. Their projects also require approvals from local army commanders and the Presidential Task Force, led by Basil Rajapaksa and dominated by the military. See Crisis Group Report, *Sri Lanka's North II*, op. cit., pp. 12-14.

⁷⁵ A TNA adviser acknowledged: "The TNA will push on militarisation, but technically and legally, there's not much they or the council can do. They can only speak out about it. But I don't see this abating. So, too, on the question of accountability. The TNA leadership feels very comfortable talking about militarisation and accountability. They feel it's a matter of principle, even if it might alienate Sinhalese". Crisis Group telephone interview, October 2013.

⁷⁶ The mandate of the national land commission is described in appendix II to the list of provincial powers, found in the ninth schedule of the constitution: "The Government of Sri Lanka shall establish a National Land Commission which would be responsible for the formulation of national policy with regard to the use of State land. This Commission will include representatives of all Provincial Councils in the Island". For a valuable study of Sri Lankan land law and policy, see Kishali Pinto-Jayawardena, Jayantha de Almeida Guneratne & Radika Guneratne, *Not This Good Earth; Land Rights, Displaced Persons And The Law In Sri Lanka*, Law and Society Trust (Colombo, 2013).

⁷⁷ While police powers for provinces is hotly debated between supporters and opponents of devolution, the thirteenth amendment gives provinces only minimal powers over police. For a brief discussion, see M.A. Sumanthiran, "Intentional violation of the Constitution?", *Colombo Telegraph*, 4 August 2013.

reestablishment of an independent constitutional council and national police commission to oversee both national and provincial policing. Not only is this an idea supported by most Sri Lankans; it would also respond to government and Sinhala nationalist arguments that control over the police is too dangerous to be granted to chief ministers, especially in the north.⁷⁸

In these and other ways, the TNA could frame its demand for full implementation of the thirteenth amendment, followed by more fundamental constitutional reforms, as part of a larger struggle to reestablish democratic institutions and rule of law throughout Sri Lanka. This would increase the chance that Tamil political discourse contributes to, rather than undercuts, the growing discontent over the government's authoritarian rule, which has yet to find an effective political vehicle in the south.

Finally, TNA leaders at all levels should work to strengthen relationships with Muslims and their political parties, especially the Sri Lanka Muslim Congress (SLMC). At the provincial level, the TNA-controlled northern council should be careful that any involvement in land issues is done cooperatively with Muslim community leaders and, to the extent possible, politicians. Land policy and actions must take into account the large needs and just demands of northern Muslims, tens of thousands of whom are displaced from their homes and lands, either because they fled the war or were expelled by the LTTE in 1990.⁷⁹ The newly-formed council should actively seek to address the belief of many Muslims that Tamil administrators in the north deliberately undermine their interests and rights in favour of Tamils.⁸⁰

In the eastern province, the TNA should continue to reach out to SLMC councillors to form a cross-ethnic coalition. Given the deep discontent SLMC council members feel over interference by the governor and Colombo, there is certainly interest.⁸¹ A northern activist predicted, however, that "the SLMC is definitely unhappy in the east, but the government will use all its power to make sure a TNA-SLMC coalition doesn't work".⁸² Finally, SLMC support will ultimately be needed at the national level, if a broad coalition of democratic forces is to be built that can challenge growing authoritarianism and reestablish the independence of the judiciary, police and other public bodies.

⁷⁸ See, for instance, "Defence sec. opposed to police powers for PCs", *Daily Mirror*, 24 May 2013.

⁷⁹ This is particularly true in the Mannar district, which has seen long-running, at times violent Muslim-Tamil tensions over land and fishing rights. The TNA, working through the northern council, should consider establishing a working group to prevent and mediate land disputes. This would need to involve the powerful Muslim minister from the area, Rishad Bathiudeen, and the influential Catholic bishop for Mannar, Rayappu Joseph. For more on Muslim-Tamil tensions in the north, see Crisis Group Reports, *Tamil Politics*, op. cit., pp. 24-27; and *Sri Lanka's North I*, op. cit., pp. 26-30. On Mannar issues, see Mirak Raheem and Priya Thangarajah, "Tamil Muslim Tensions and Coexistence in Mannar: Land Disputes in Sannar and Uppukulam", Centre for Policy Alternatives, March 2013.

⁸⁰ Crisis Group interviews, Muslim rights activists, Colombo, July 2013.

⁸¹ On 1 October 2013, the eastern provincial council passed an SLMC-sponsored resolution calling for full implementation of the thirteenth amendment, the first council to reject central government proposals to dilute the amendment. TNA members voted for the resolution. SLMC members are threatening to withdraw support from the UPFA-led administration if action is not taken to stop government-supported land grabs of Tamil and Muslim lands in the east. "Eastern Province wants full implementation of 13A and SLMC threatens to withdraw support", *Eye Sri Lanka*, 2 October; also "EPC wants full implementation of 13th Amendment", *The Republic Square*, 2 October 2013.

⁸² Crisis Group telephone interview, October 2013.

III. Domestic Restiveness, Government Repression

The TNA can achieve its goals for the north and east and for Tamils elsewhere on the island only if the wider Sri Lankan state is democratised in significant ways. It will also likely find a much more receptive audience if it can frame many priorities as part of a larger Sri Lankan struggle for democracy. For this, it needs to connect its efforts on impunity and democratic rights with growing concern among Sinhalese about the same issues. While weakness and internal divisions have prevented the UNP from channelling popular discontent into votes, there is growing restiveness among Sinhalese at government abuses, corruption and economic mismanagement.

A. *Army Rampage in Weliveriya*

On 1 August 2013, the army shot dead at least three unarmed Sinhala protesters in Weliveriya, a Colombo suburb. Scores were injured, journalists were searched out and assaulted, and protesters were shot at and beaten as they sought refuge in the local Catholic church. The villagers had been demanding clean drinking water and closure of a latex-gloves factory they believed was contaminating their groundwater.⁸³

The army's violence, broadcast live on television and radio, provoked outrage across the political spectrum. The Catholic archbishop of Colombo, generally reluctant to criticise the government, condemned "desecration" of the church.⁸⁴ The incident was a particular shock for the many Sinhalese who view the army as the nation's saviour, convinced by years of government propaganda and the 2009 defeat of the Tamil Tigers. While this was not the first post-war incident in which security forces shot dead Sinhala protesters, the actions were especially brutal.⁸⁵ A resident was quoted as saying, "if they treated us like this for engaging in a demonstration, one can imagine the situation in the North. We thought they did something big by finishing the war in our country. Now it looks as if they just killed innocent people".⁸⁶

⁸³ The full extent of casualties, and possibly deaths, is not known, as doctors and hospitals were reportedly pressured by the military not to release details. Crisis Group email correspondence, human rights activists and journalists, August 2013. The factory is part of the conglomerate Hayley's group. It has denied responsibility for the contamination but agreed to relocate under a plan negotiated with President Rajapaksa. Tisaranee Gunasekara, "Bullets For Water: Militarization Comes Home", *Colombo Telegraph*, 4 August 2013; "Dipped products MD rejects pollution accusations, affirms quality control procedures, follows best practices", *The Island*, 3 August 2013; "Weliveriya water issue: Factory to be relocated to a BOI zone", *Lankanewspapers.com*, 13 August 2013.

⁸⁴ "Weliveriya church attacked and desecrated: Cardinal Malcolm slams and condemns", *Archdiocese of Colombo*, 7 August 2013.

⁸⁵ In June 2011, Roshan Chanaka was shot dead in Katunayake during a protest over changes to the government's pension scheme. In February 2012, Anthony Fernando was shot dead in Negombo by police during a protest by fishermen over the government's decision to increase the kerosene price. In the north and east, the army and police have also been brutal in responding to Tamil protests: participants were shot dead in at least two cases during the protests against "grease devil attacks" in mid-2011. Scores of protesters were dragged out of their homes in the northern village of Navanthurai in August 2011 and badly beaten. A protest by Jaffna students in November 2012 was dispersed violently by police and military. For more on all these attacks, see Crisis Group Reports, *Sri Lanka: Women's Insecurity*, op. cit., pp. 30-31; *Sri Lanka's North I*, op. cit., p. 15; and *Sri Lanka's Authoritarian Turn*, op. cit., p. 15.

⁸⁶ Tisaranee Gunasekara, "Bullets for water: Militarisation comes home", *Colombo Telegraph*, 4 August 2013. A young man who took part was quoted saying, "today for the first time, we understand what the suffering of the Tamil must have been. If they can kill people asking for water, the

The government responded with its usual mix of aggression and denial; senior officials suggested “external forces” provoked the army for political purposes.⁸⁷ Eventually, Economic Development Minister Basil Rajapaksa, in whose district the shootings took place, offered an apology.⁸⁸ An army inquiry, under Maj. General Jagath Dias, led to the suspension and possible courts martial of four senior officers.⁸⁹

B. *Economic Discontent*

The army's excessive reaction in Weliveriya was arguably motivated in part by government fears of unrest spreading and being seized on by opposition parties. There has been a succession of protests and strikes over the past two years, most expressing unhappiness at the rising cost of living, government belt-tightening and the absence of the expected post-war economic peace dividend. Contrary to government claims, there are reasons for economic worry. Although the economy continues to grow in 2013, albeit more slowly than in the first post-war years, pressures on most families are increasing. Prices of essential commodities are rising steadily; the real wages of nearly 75 per cent of the workforce have fallen since 2010. By April 2013, employment levels had contracted 2.5 per cent overall from the preceding year, with youth unemployment of nearly 20 per cent, more than four times the overall rate. In 2012, the International Labour Organisation (ILO) noted that, after China, Sri Lanka had the fastest rising income inequality in Asia.⁹⁰

There are growing concerns about macro-economic health, particularly foreign debt, which rose by 13.8 per cent in 2012 in U.S. dollar terms. Increased debt levels are worsened by falling revenues from exports, which have led to large trade deficits.⁹¹ Business interests and financial analysts have raised concerns about the scale and structure of the external debt, including increasing reliance on commercial borrow-

same people who supported and respected them, we can only imagine their conduct during the war in the north”. Dharisha Bastians, “We asked for water tanks, they sent us war tanks”, *DailyFT*, 4 August 2013. Despite government success in the central and north-western province elections, Weliveriya appears to have weakened its legitimacy among Sinhalese by raising doubts about army conduct in the war and its treatment of Tamil civilians. Continued violence against Sinhalese protesters could undermine a central government defence against international calls for accountability.

⁸⁷ Saman Indrajith “Security forces personnel fired in self defence – Govt.”, *Island*, 7 August 2013.

⁸⁸ J.T. de Silva, “Basil seeks pardon from public”, *Ceylon Today*, 10 August 2013.

⁸⁹ No criminal charges have yet been filed, though army officials have promised to cooperate with an investigation said to be ongoing by police and the magistrate's court. “Weliveriya shooting: Army exceeded its remit”, *Daily Mirror*, 4 October 2013.

⁹⁰ The economy grew at an annual rate of 6.8 per cent in the second quarter of 2013. “Sri Lanka's economy grows 6.8-pct in 2Q 2013”, Lanka Business Online, 13 September 2013. Between May 2011 and May 2013, the Colombo Consumers Price Index (CCPI-Base 2006/07=100) climbed from 151.5 to 173.9 points. “Rising costs of neoliberal economic policies”, Collective for Economic Democratisation, *The Sunday Times*, 23 June 2013. Asia-Pacific Labour Market Update, ILO Regional Office for Asia and the Pacific, April 2013, pp. 2-3. “Tax policy breeding inequality, injustice: DEW”, *Island*, 9 June 2013.

⁹¹ Annual Report 2012, Central Bank of Sri Lanka. An economist said, “the economy isn't going to tank. The question is whether we get 5 per cent or 7 per cent growth. But the government has a lot of fiscal constraints that bite and real balance of payments challenges. Crisis Group interview, Colombo, July 2013. Nirmal Sanderatne, “Structural weakness in trade and external finances”, *The Sunday Times*, 4 August 2013.

ings from volatile global capital markets. The IMF has also expressed worries about the sustainability of external borrowing.⁹²

Government economic responses to increasing pressures on the budget and a falling rupee have met significant resistance from sectors of the population, including urban middle class professionals, the urban poor, fishing communities, farmers and factory workers. While in some cases the government has been forced to backtrack and renegotiate, it has not hesitated to put down protests with force:

- ❑ in 2011, a young factory worker in a free-trade zone was killed and hundreds injured during a crackdown on workers protesting pension privatisation. The protest was followed by a military occupation of free trade zones;⁹³
- ❑ In February 2012, security forces opened fired on fishermen protesting hikes in kerosene prices, killing a 35-year-old;⁹⁴
- ❑ In mid-2012, the Federation of University Teachers Association (FUTA) launched a rare nationwide strike, forcing a three-month closure of universities. In addition to demanding higher salaries, the strike called for the government to safeguard public education by committing 6 per cent of GDP to the education budget, end plans for university privatisation and enact other reforms. Strong national support for the strike forced the government to negotiate; while FUTA did not win all its demands, the protest was a rare effective challenge to the government's socio-economic policies and style of governance;⁹⁵
- ❑ widespread protests by citizens groups, professionals and the urban middle classes forced the president to roll back a much criticised increase in electricity tariffs in May 2013;⁹⁶ and
- ❑ a move to cut the subsidy on fertilisers for rice farmers by 25 per cent led to widespread protests by farmers in August 2013.⁹⁷

Growing public doubt and criticism is being directed towards central aspects of the government's long-term economic strategy. A lynchpin of that policy is urban re-development in and around Colombo that officials claim attracts billions of dollars in investment, mainly in luxury hotels, apartments, high-end shopping malls and ca-

⁹² "CCC chairman red flags growing debt", *Island*, 9 July 2013; "Lanka's external and public finances a concern, macroeconomic performance stabilising: Fitch", *DailyFT*, 15 July 2013. Sri Lanka's ability to attract short-term investment is due in part to the substantial capital made available by U.S. and European "quantitative easing" policies. It could face significant repayment problems if these policies are reduced in the coming months. "Statement at the Conclusion of the IMF Staff Mission to Sri Lanka", press release no. 13/359, 25 September 2013.

⁹³ "Remove military from FTZ – trade unions", BBC Sinhala, 6 June 2011.

⁹⁴ Chris Kamalendran, "Fishermen's ire, police fire and a widow's tears", *The Sunday Times*, 19 February 2012.

⁹⁵ See "Federation of University Teachers' Associations' Continuous Strike of 2012 July-Demands", 14 June 2012, at futa-sl.org. "Higher education in Sri Lanka: School's out", *The Economist*, 24 August 2012.

⁹⁶ Sandun Jayawardana, "Protests against electricity tariff hike strengthen people's power", *The Nation*, 19 May 2013.

⁹⁷ "Govt. slashes supply of subsidised fertiliser", *The Sunday Times*, 30 June 2013; "Paddy farmers demonstrate over fertiliser issues", *News1st*, 2 July 2013; "Polonnaruwa farmers protest again", *Sri Lanka Mirror*, 1 July 2013.

sinos.⁹⁸ Serious concerns, however, have been expressed over the economic logic and costs of turning over prime urban property acquired by displacing thousands to speculative investment and debt-driven mega-projects, many mired in controversy and delayed.⁹⁹ Analysts are also beginning to question government claims of a major economic boost from the growing numbers of tourists, especially higher-spending ones.¹⁰⁰ Tourism development has involved government seizure of large tracts of land, at times with army support.¹⁰¹

Increasing public unease with the effects of these economic policies could fuel more protests and resistance. Given the marked militarisation of a number of economic and social sectors – from education and tourism to development and sports – the risk of more violence by the state is high.¹⁰²

⁹⁸ “Govt.’s urban development drive kick-starts \$ 2.5 b in new private sector investment”, *DailyFT*, 11 July 2013.

⁹⁹ “Urban Development: Where the World Bank Leads, Sri Lanka Follows”, Collective for Economic Democratisation, 24 Jun 2013. For a critique of post-war urban redevelopment, see “Cementing Hegemony Politics of Urban Transformation in Post-War Colombo”, *Economic and Political Weekly*, 24 August 2013. Some high-profile projects, such as Krrish Towers, have been caught up in allegations of corruption and mismanagement and stalled or much delayed. Crisis Group interviews, Colombo, July 2013. “Krrish scandal sets stage for a major shake-up at SEC”, *The Sunday Times*, 15 September 2013; Harsha De Silva, “Did Krrish Dupe Parliament? Cancel All Tax Breaks And Investigate Entire Transaction Immediately”, *Colombo Telegraph*, 30 August 2013. Krrish has strongly denied the allegations and insisted all transactions were proper. “Krrish group says Transworks projects intact”, *Daily Mirror*, 5 November 2013. See also “Shangri-La Hotel project at a standstill”, *The Sunday Times*, 25 August 2013; “Krrish, Shangri-La projects in Colombo clear hurdles”, *The Sunday Times*, 22 September 2013. The Colombo redevelopment plan, involving forced displacement of 70,000 families, provoked political and legal resistance. “Towards a World-Class Colombo: Development without Democracy”, Collective for Economic Democratisation, 17 June 2013. Residents on Slave Island, central Colombo, stalled demolitions for several months before the Supreme Court ruled against them, while granting some additional benefits. “Case pertaining to removal of Slave Island houses taken up”, *Newsfirst*, 23 September 2013; “Sri Lanka Supreme Court orders UDA to set up an office in Slave Island for public consultation”, *Colombo Page*, 7 March 2013; Kumala Wijeratne, “Residents express mixed emotions as historic Slave Island prepares for demolition”, *Global Press Journal*, 28 August 2013.

¹⁰⁰ Srilala Miththapala, “Where have all the tourists gone?”, *DailyFT*, 1 August 2013, and “Sri Lanka’s over-priced hotel boom ending: equities report”, *Island*, 9 February 2013.

¹⁰¹ Large-scale land acquisition and outright private leases on several islands off the Kalpitiya peninsula, north west of Colombo, to create a large, integrated tourist zone have led to protests by fishing communities against dispossession and threats to marine habitats. Herman Kumara, “Study of the issues on Land Grabbing and its Socio-Cultural, Economic and Political Implications on Kalpitiya Island Communities”, National Fisheries Solidarity Movement [NAFSO], April, 2013, www.scribd.com/fullscreen/142793606-Kalpitiya-Land-Grabbing-Research-Report-07-05-13&access_key=key-3szuxcd2ta36onmtijl; also “Orphans of Development – The Plight of Kalpitiya’s Fisher folk”, a film produced by NAFSO, at www.youtube.com/watch?v=OmXd8uGtBKM.

¹⁰² For analysis of the various aspects of militarisation, see Ahilan Kadirgamar, “Second Wave of Neoliberalism: Financialisation and Crisis in Post-War Sri Lanka”, *Economic and Political Weekly*, 31 August 2013; Shamala Kumar, “Sri Lanka: The Military Expansion into Education”, *Economic and Political Weekly*, 16 February 2013; “The rise of military-run tourism in Sri Lanka”, Sri Lanka Campaign for Peace and Justice, 12 February 2013; Ambika Satkunanathan, “Militarisation as panacea: development and reconciliation in post-war Sri Lanka”, opendemocracy.net, 19 March 2013; and Emil van der Poorten, “Recent Militarisation of Sri Lankan Life: The Elephant In The Room!”, *Colombo Telegraph*, 16 February 2013.

C. Impunity for Politically-Connected Violence

2013 has also seen growing public concern about crime and violence, especially impunity around alleged crimes involving those seen to have high-level political support. A July 2013 editorial in a prominent newspaper denounced “the wave of political killings – a ‘killing fields’ culture that appears to have engulfed Sri Lankan society under the Rajapaksa regime”.¹⁰³ Among the more widely reported cases illustrative of concerns regarding impunity:

- the October 2011 shooting deaths of four persons, including UPFA politician Bharatha Lakshman Premachandra, in election day violence eventually resulted in the March 2013 arrest of Duminda Silva, a rival parliamentarian from the president’s Sri Lanka Freedom Party (SLFP) and one-time defence ministry adviser.¹⁰⁴ He was initially allowed to leave the country for treatment of reportedly serious brain injuries due to gunshots. Upon his return and arrest, he was released on bail.¹⁰⁵ Since then, a chief prosecution witness has retracted his statement.¹⁰⁶ Silva continues to deny involvement in the shooting, and the case has yet to come to trial;
- the chairman of the Tangalle town council and other local SLFP politicians have been accused of the Christmas Eve 2011 murder of a British aid worker and the sexual assault of his girlfriend. After remaining free on bail for nearly two years, the suspects were indicted in October 2013, weeks before CHOGM and after sustained pressure from the aid worker victim’s family and the UK government;¹⁰⁷
- the murder of a manager of a tea estate in the central hill town of Deraniyagala in July 2013 led to news reports alleging that politicians on the town council were responsible for a decade of crime and terror against the local population, including rape, murder, abduction, assault, and illegal timber-felling and liquor production. Villagers who spoke up were subject to violent retribution, with the local

¹⁰³ “Editorial – Criminal Politics: End this reign of terror”, *Daily Mirror*, 15 July 2013.

¹⁰⁴ “Sri Lanka police arrest ruling party MP Duminda Silva”, *ColomboPage*, 5 March 2013; “A case for best legal brains – Editorial”, *Daily Mirror*, 30 April 2013; “Police and Judiciary ‘can do nothing’”, BBC Sinhala, 3 November 2011.

¹⁰⁵ Upon Silva’s return, his lawyers reportedly again told the court he was partially paralysed and brain-damaged. After being greeted by bussed-in supporters as he left hospital, he visited President Rajapaksa and resumed parliamentary duties. Wasantha Ramanayake, “Duminda leaves hospital amidst fire crackers and cheers of supporters”, *The Sunday Times*, 28 April 2013. Tisarane Gunasekara, “The ‘Miraculous’ Recovery of Duminda Silva in Mahinda Rajapaksa’s ‘Wonder of Asia’”, *dbsjeyaraj.com*, 28 April 2013.

¹⁰⁶ Silva denies involvement in the shooting of Premachandra. Mike Andree, “Chief prosecuting witness retracts his statement”, *Island*, 4 August 2013.

¹⁰⁷ The chairman has denied any involvement in the murder or the assault. “Politician linked to Briton’s murder”, *The Sunday Times*, 13 October 2013; “Khuram Shaikh: Sri Lanka urged to speed up death probe”, BBC News, 16 October 2013. Disciplinary action by the SLFP against the town council chairman was reversed within days, and he remained in office and politically influential in the area while free on bail. Shamindra Ferdinando, “Tangalle PS Chairman, seven others to be indicted in HC”, *Island*, 29 July 2013. Sam Jones, “Sri Lanka says men accused of killing Khuram Shaikh will face trial in weeks”, *Guardian*, 17 October 2013. Police told the court that witnesses had been threatened, though the suspects deny the allegations. “Suspect PC Chairman plays int’l conspiracy card”, *Ceylon Today*, 30 June 2013. Days before the indictment, the UK announced that Prime Minister David Cameron would raise the Shaikh murder at CHOGM. Nasir Shaikh, the brother of the victim, and the UK parliamentarian from Shaikh’s home town, Simon Danczuk, have both visited Sri Lanka and pressed the government for action.

police accused of doing nothing to prevent attacks or arrest suspects. The suspects are alleged to have had the backing of the provincial chief minister;¹⁰⁸

- the June 2013 arrest of the deputy inspector of police, Vaas Gunawardena, on charges of the contract killing of a Colombo businessman, sparked extensive discussion of longstanding allegations of high-level complicity between police, criminals and politicians. Police investigations and news reports have revealed details of his alleged involvement, along with police under his command, in numerous abductions and political killings, during the war and since. He and others implicated have denied the accusations;¹⁰⁹
- concerns have also been expressed about a much older case, prompted by the November 2012 discovery of a mass grave in the central hill town of Matale. Forensic tests indicate the more than 150 bodies date from the late 1980s, when the army was engaged in a ruthless counter-insurgency against JVP militants.¹¹⁰ More than 60 affidavits have been filed with the court from families of those who disappeared at the time. The magistrate and the judicial medical officer overseeing the case were transferred, and a presidential commission of inquiry was hastily appointed.¹¹¹ While much remains unconfirmed and further investigation is necessary, rights groups have expressed scepticism about the possibility of a truly

¹⁰⁸ "Police and political Horror & Terror", *Daily Mirror*, 30 July 2013; "Editorial: Protect the people", *Daily FT*, 31 July 2013. "Deraniyagala terror probe on police top brass", *Daily Mirror*, 1 August 2013. Following extensive media coverage, many were arrested, including former Pradeshiya Sabha (PS) chairman and chief suspect Anil Champika and lower-ranking police. "Newly appointed Deraniyagala OIC transferred", *Daily Mirror*, 2 August 2013. Allegations of a cover-up persist, however, as no senior police or politicians have been arrested, despite villagers' allegations that Champika and other suspects received support from senior police and politicians. "No seniors charged for Noori terror", *Daily Mirror*, 17 October 2013; "Noori villagers fear return of terror", *Daily Mirror*, 12 August 2013. Among others, Deputy Minister H.R. Mithrapala accused the Sabaragamuwa province chief minister, Maheepala Herath, and others of offering "political patronage" to the suspects. "Maheepala ensured Noori terror continued – Mithrapala", *Daily Mirror*, 21 August 2013. Herath said he does not know Champika and denied any wrongdoing". "Police and political Horror & Terror", *Daily Mirror*, 30 July 2013.

¹⁰⁹ "Top Sri Lanka police officer held over 'contract killing'", BBC News, 11 June 2013. Gunawardena is alleged to have been involved, among other crimes, in the extrajudicial execution of criminal suspects. "The arrest of Vaas Gunawardena and the descent into rulelessness", Asian Human Rights Commission, 14 June 2013; Nirmala Kannangara, "Mervyn Behind Kelaniya Crimes", *The Sunday Leader*, 23 June 2013. Ranga Jayasuriya, "Disgraced DIG Vass is only the tip of the iceberg", *Ceylon Today*, 17 June 2013. Gunawardena, his son and wife were also accused in the 2009 abduction and assault of a student, allegedly along with eleven other police. "Writ petition against arrested DIG of Sri Lanka over assaulting a student to be heard in September", ColomboPage, 6 August 2013. See also Tisarane Gunasekera, "Suba Anagathayak", *Colombo Telegraph*, 20 June 2013.

¹¹⁰ Steve Finch, "In Sri Lanka, will mass grave case be buried?", *The Diplomat*, 30 July 2013. A 1995 commission of inquiry into central province disappearances in the period uncovered strong evidence implicating the army in the abduction and disappearance of hundreds of Sinhalese youth, many associated with or suspected of association with the leftist JVP insurgents. "Sri Lanka: Whose remains are in the mass grave at Matale", Asian Human Rights Commission", 29 April 2013.

¹¹¹ "Matale Mass grave findings to China for Carbon dating", *Island*, 7 October 2013. "Judge hearing the Matale mass grave case transferred", *Sri Lanka Mirror*, 22 June 2013. The JVP was quick to criticise the commission. "The government is overlooking the Matale mass grave, says JVP", *Ceylon Today*, 25 June 2013.

independent probe, in part because Defence Secretary Gotabaya Rajapaksa was an army district coordinating officer in Matale in the second half of 1989.¹¹²

D. *Repression of Dissent and Freedom of Expression*¹¹³

In addition to direct violence against protesters, the government has used other means to silence dissent. Pressure remains strong on journalists and media organisations; critical journalists are regularly warned not to step out of line or challenge the regime too strongly. Reporting on the judiciary has become particularly difficult, given reported threats to cite journalists for contempt of court, punishable by a jail term.¹¹⁴ While 2013 has seen less direct violence against journalists than past years, at least one well-known figure left Sri Lanka for her safety.¹¹⁵ The government has also censored critical films and obtained agreement of other governments to cancel screenings of some it disagrees with.¹¹⁶ Numerous critical news and opinion websites remain blocked. Broadcasts of Al Jazeera on Sri Lankan satellite and cable systems were temporarily blocked after critical coverage of the northern province elections.

¹¹² See, for example, "SRI LANKA: Serious doubts on the inquiries into the mass graves at Matale", Asian Human Rights Commission, 21 May 2013.

¹¹³ For a comprehensive treatment of repression of political dissent under the current government through early 2013, see "Sri Lanka's Assault on Dissent", Amnesty International, 30 April 2013.

¹¹⁴ Crisis Group telephone interviews, journalists, October 2013.

¹¹⁵ Mandana Ismail Abeywickrema left in September after her house was ransacked by armed men, and she was threatened at knife-point. "Mandana Ismail Abeywickrema, Sri Lankan Editor, Flees After Attack", Associated Press, 19 September 2013. Her former colleague, *Sunday Leader* editor Frederica Jansz, fled into exile in 2012 after receiving threats. For more on attacks on the media and government restrictions on freedom of expression, see Crisis Group Report, *Sri Lanka's Authoritarian Turn*, op. cit., pp. 15-18.

¹¹⁶ In July 2013, the government blocked the annual French film festival in Colombo from screening the award-winning Sri Lankan feature film "Flying Fish", claiming it "insulted" the army. "Sri Lanka ban on film Flying Fish sparks anger", BBC News, 16 July 2013. It was cancelled at the last moment by the defense ministry without legal grounds, after approval by the Public Performances Board. For a thoughtful critique of the censorship, see Dayan Jayatileka, "'Flying Fish' and the Constriction of the Arts in Sri Lanka", Groundviews, 19 July 2013. In October, the government asked Nepal to prevent screening of three films at a Kathmandu festival. Two, by a Sri Lanka director and the British documentary on alleged war crimes, "No Fire Zone: The Killing Fields of Sri Lanka", were shown but outside the festival. "Nepal bans screening of three Sri Lankan documentaries at film festival", Colombopage, 4 October 2013. In July 2013, after Sri Lankan diplomats intervened, Malaysia police stopped a screening of "No Fire Zone". The event organiser, a director of a human rights NGO, was arrested and faces trial for violating film censorship laws. "Malaysia: Drop Charges for Film Screening", Human Rights Watch, 21 October 2013.

IV. Militant Buddhism and the Anti-Muslim Campaign

The government appears to be responding to growing public discontent among Sinhalese also by tacitly encouraging, and in some cases directly supporting, the anti-Muslim campaigns led by militant and often violent Buddhist organisations, as a way to distract from the pressures the President's Sinhalese constituency is facing.¹¹⁷ Reaching a high-point in the first three months of 2013, an initial campaign tapered off by the end of April, following interventions by the Organisation of Islamic Cooperation (OIC).¹¹⁸ Since then, however, anti-Muslim attacks and public protests have returned as a regular feature of politics. Militant Buddhists have regularly attacked Christian churches for years, but the vilification of Muslims is a new and dangerous development.¹¹⁹

The worst incident to date was the 10 August attack on a mosque in the Grandpass areas of Colombo.¹²⁰ A mob demanding its closure, including Buddhist monks, attacked it as prayers were being conducted, breaking windows and damaging the building. Both Muslims and Sinhalese were injured in communal clashes over the weekend, as Muslim youths from the neighbourhood fought back against Buddhist attackers. Police are accused of failing to stop the incident until there was significant damage. No one was arrested, despite photographs and video of the attacks. The affair provoked an unusually strong and united response from senior Muslim politicians in the government, who condemned police inaction and called for the perpetrators to be arrested and the president to halt the months-long anti-Muslim campaign.¹²¹

¹¹⁷ For a brief discussion of earlier anti-Muslim attacks, see Crisis Group Report, *Sri Lanka's Authoritarian Turn*, op. cit., pp. 23-24. Crisis Group interviews, politicians, lawyers, journalists, Colombo, July 2013. Many also expressed suspicions about the timing of the Grandpass attack (see below), just after the Weliveriya killings, which were an unprecedented public relations disaster for the president, particularly among his core Sinhalese constituency. Zacki Jabbar, "Grandpass attack to cover up Weliveriya killings – UNP", *Island*, 12 August 2013.

¹¹⁸ "SL president meets with diplomatic heads of Islamic countries", government news portal, news.lk, 18 April 2013. A Muslim politician said, "yes, the OIC ambassadors had an effect. Things then were getting out of control. We met with them and asked them to represent our concerns to government". Crisis Group interview, July 2013. The OIC wrote the president in March to convey its worries about anti-Muslim attacks. "OIC expresses concern over Sri Lanka's ethnic tension", *Arab News*, 20 March 2013.

¹¹⁹ Violence against Christian churches and worshippers – often in the name of preventing "unethical conversions" of Buddhists – has escalated in number of instances and intensity in 2013. According to a report by the National Christian Evangelical Alliance of Sri Lanka, there have been at least 35 violent attacks from January to October. "35 Anti-Christian Incidents and Violence Reported and Published Already This Year", *Colombo Telegraph*, 22 October 2013; "Pastor beaten unconscious in church attack", *The Republic Square*, 20 September 2013. See also Camelia Nathaniel "The Fight Against Forced Religious Conversion", *The Sunday Leader*, 27 October 2013.

¹²⁰ The attack followed months of protests against the mosque by Buddhist groups that alleged it was illegally constructed in a "Buddhist area". It was a replacement for an old mosque due to be demolished as part of urban redevelopment. An agreement was subsequently reached to return the congregation to the original mosque, which will be expanded, though this requires cutting down a nearby Bo tree, considered sacred by many Buddhists. "Muslims close Sri Lanka mosque after Buddhist unrest", Agence France-Presse, 12 August 2013.

¹²¹ This was the first known instance of Muslims physically resisting a violent assault on a mosque or business. The young people were reportedly part of Towheed Jamaat, a growing neo-traditionalist piety movement. Industry and Commerce Minister Rishad Bathiudeen, a prominent Muslim politician, wrote to the police inspector general offering to share his video evidence of police failing to

Prior to Grandpass, radical Buddhist groups were responsible for violent attacks on other mosques, Muslim businesses and at least one dissenting member of the Buddhist clergy.¹²² Among the most serious since February 2013:

- on 28 March, a crowd of hundreds, including Buddhist monks, broke into and damaged the Muslim-owned “Fashion Bug” clothing store in a Colombo suburb. Video footage showed police standing by;¹²³
- on 19 June, a Muslim-owned shop selling beef in the southern town of Tangalle was attacked by monks and lay Buddhist protesters as they marched to Colombo to deliver a petition to the president calling for a ban on cattle slaughter;¹²⁴ and
- following attacks and threats, a small mosque in the central town of Mahiyangana was assaulted on 18 July by a mob demanding its closure. The mosque was damaged, desecrated with pig meat and later shut down by mosque officials.¹²⁵

What has been particularly worrying about the attacks, and for many people evidence of government support, is the impunity with which they have been carried out. No one has been prosecuted for a single attack on a mosque or Muslim business or any of the other acts of intimidation and threats that Muslims have faced over the past eighteen months. Police have generally stood by or done nothing to prevent the incidents or to hold the perpetrators responsible.¹²⁶ “They take the law into their own hands, and government institutions let them get away with it”, complained a Muslim politician.¹²⁷ In the few cases where suspects have been arrested, they have been quickly released. Most telling was the “Fashion Bug” case: police actively intervened in court to secure the owners’ consent to dismissal of the charges.¹²⁸

The impunity with which attacks have taken place and the support BBS and other radical Buddhist groups have received from the police lead many to believe the government is backing militant Buddhist actions against Muslims as part of its electoral strategy to shore up support among Sinhalese voters. This suspicion was strengthened by Gotabaya Rajapaksa’s widely reported attendance and speech at the inaugu-

intervene at the initial stages of the attack. “Police inaction: Rishad sends IGP CCTV footage”, *Island*, 16 August 2013.

¹²² Watchdog, “Buddhist Monk attacked by Bodu Bala Sena and Police inaction”, Groundviews, 9 October 2013. “Watchdog” is the pseudonym of a dissident columnist.

¹²³ “Sri Lanka crowd attacks Muslim warehouse in Colombo”, BBC News, 29 March 2013.

¹²⁴ “Muslim-Owned Beef Stall in Tangalle Set Ablaze by Sinhala Ravaya Extremists Marching Against Cattle Slaughter”, *dbsjeyaraj.com*, 19 June 2013. The president, accompanied by the inspector general of police, met the protest leaders and received their petition but made no comment on the violence. “Sinhala Ravaya hands over petition to President against cattle slaughter”, *DailyFT*, 27 June 2013.

¹²⁵ Megara Tegal, “Religious Intolerance Escalates”, *The Sunday Leader*, 28 July 2013. Justice Minister and SLMC leader Rauff Hakeem accused a province minister from the governing UPFA of pressuring the mosque to close. “Mahiyangana Mosque closed after threats”, *Ceylon Today*, 20 July 2013.

¹²⁶ Photos of one of the early violent attacks on Muslim sacred sites (September 2011) show police observing monks and lay Buddhists destroying an ancient sufi shrine near Anuradhapura. Charles Haviland, “Sri Lanka Buddhist monks destroy Muslim shrine”, BBC News, 15 September 2011.

¹²⁷ Crisis Group interview, Colombo, July 2013.

¹²⁸ Senior politicians and police reportedly pressured the owners not to object to charges being dropped against suspects arrested after video of the attack began to circulate on the internet. Crisis Group interviews, lawyers, Colombo, July 2013. See also Sunanda Deshapriya, “The Fashion Bug case: A turning point for Muslim rights in Sri Lanka”, Groundviews, 9 April 2013.

ration of a BBS training academy in the south.¹²⁹ A well-informed political activist summed up:

BBS and other radical Buddhist groups are crucial to continuance of the Rajapaksas' power. We can see their campaign has moved from just Muslim issues to a broader and even more important agenda of opposing the thirteenth amendment and devolution. The Rajapaksas will increasingly need anti-minority campaigns to consolidate their hold over [their] Sinhala constituency.¹³⁰

Some worry things could spin out of the government's control. "Gota's not looking for a war", said an academic, "but the BBS and others have minds of their own. They are volatile, and you can't be sure of controlling them. They are not guided by strong, cool, rational thinking".¹³¹

Some of the thinking underlying the government's response to the anti-Muslim campaign by militant Buddhists was clarified in an important Gotabaya Rajapaksa speech. On 3 September before an audience that included many foreign military officials and diplomats at the military's third annual "Defence Seminar", he listed the threat of Muslim extremism as one of the key challenges facing Sri Lanka and blamed the emergence of Buddhist anti-Muslim organisations on Muslims' "increasing insularity". Citing the "known fact that Muslim Fundamentalism is spreading all over the world", he expressed concern at "the possibility" that "extremist elements" from outside the island "may try to promote Muslim extremism in Sri Lanka". He gave no evidence of Muslim militancy, violence or criminal activity and neither criticised nor mentioned the many recent attacks on Muslims.¹³²

The speech provoked rare public challenges to the defence secretary by the two most prominent Muslim politicians in government. The justice minister and leader of the largest Muslim party, the Sri Lanka Muslim Congress (SLMC), Rauff Hakeem, said Muslims were "extremely disturbed by the specific reference to the Muslim community of Sri Lanka as possible breeding grounds of extremism within the country".¹³³

¹²⁹ Police reportedly escorted BBS and other Buddhist leaders to a rally after they gave the Indian high commission a petition against the thirteenth amendment. "Video: Rally in Maharagama", *Daily Mirror*, 2 July 2013. "The government is very careful about any protests or dissent", explained a Muslim businessman and activist. "They will nip it in the bud. Any public interest rallies will be stopped. But not BBS rallies. This is clear evidence of government patronage and support. The aim is to dominate minorities. The political agenda is this: the Rajapaksas see it as the only way to stay in power and cover up the administration's mistakes. After the war, what are the benefits people have gotten? Nothing in any field. So the government needs to keep up this campaign. And they need Sinhala votes". Crisis Group interview, Colombo, July 2013. "Defence Secretary Gotabhaya Rajapaksa Openly Supportive of 'Ethno Religious Fascist' Organization Bodhu Bala Sena", *dbsjyeraj.com*, 10 March 2013.

¹³⁰ Crisis Group interview, Colombo, July 2013.

¹³¹ Crisis Group interview, senior academic, Colombo, July 2013.

¹³² The speech added to suspicions among many in Sri Lanka and some Western diplomats that government support for the anti-Muslim campaign might be designed in part to provoke a violent response that could then be used to confirm fears of growing extremism and justify repressive measures, as well as gain support from other government's battling "Muslim extremism". Crisis Group interviews, Colombo, July 2013.

¹³³ "Statement by minister of justice and leader of Sri Lanka Muslim Congress Rauff Hakeem to the Secretary of Defence". 6 September 2013. Hakeem added: "I would like to publicly contradict the assertion of the Secretary of Defence that, 'One of the consequences of the increasing insularity amongst minority ethnic groups is the [e]mergence of hard line groups within the majority community'. On the contrary, I wish to say that, it is the intransigence and intolerance of a miniscule

Industry and Commerce Minister Rishad Badiudeen, speaking as leader of the All Ceylon Muslim Congress, said the party “deplored” the speech for lending credence to “the false claim” of Sri Lankan Muslim extremism being “cooked-up” by “invisible forces ... whipping up communal hatred”. Sri Lankan Muslims were “highly perturbed, particularly at a time when there is sudden eruption of hatred directed at Muslims by certain interest elements which we believe needs to be investigated to get to its root”.¹³⁴

These comments were stronger than any previous ones by Muslim leaders, who usually express concern at attacks on their community and call for tolerance and stronger police action. While attacks have increased pressure on the SLMC to leave the government, most Muslim political leaders, including those in that party, fear that challenging the government too directly would damage more than help the community.¹³⁵ With the exception of Azath Salley prior to his arrest on terrorism charges in May 2013, no Muslim leader has been willing to challenge the government strongly and consistently for in effect supporting anti-Muslim violence.¹³⁶

minority within the majority community who under the pretence of being defenders of the teaching of the greatest defender of human dignity and non-violence hold the entire populace in helpless anxiety while driving the hapless minorities into servile insularity”.

¹³⁴ “Muslims highly perturbed – Rishad”, industry and commerce ministry press release, 6 September 2013.

¹³⁵ Crisis Group interviews, Muslim politicians, Colombo, July 2013.

¹³⁶ As a UNP candidate for the central provincial council, Salley won the highest number of preference votes. “Salley challenges President to debate with Ranil”, *adaderana.lk*, 24 September 2013. “Salley got a lot of votes”, explained an SLMC official. “Even though he’s not from Kandy, he got almost as many preference votes as Hakeem did in the parliamentary election There’s a lot of unhappiness among Kandy SLMC voters at remaining with the government. Some are so disillusioned with SLMC that they aren’t running. There was a drop in SLMC votes despite it running alone; the party got fewer votes in both the central and northwestern provinces”. Crisis Group telephone interview, October 2013. In defence of the SLMC’s cautious approach, a senior party member argued: “Currently SLMC leaders are doing the right thing by telling the government that they can’t get votes running with the government because the government is so unpopular with Muslim voters. This is designed to get the president to realise the value of getting at least some minority votes”. Crisis Group interview, July 2013.

V. Public Relations Gestures Make No Dent in Impunity

Ahead of UN High Commissioner Navin Pillay's visit in late August and the mid-November CHOGM, the government announced measures designed to evidence progress toward reconciliation and post-war normalisation. These included:

- ❑ Adding new recommendations from the 2011 Lessons Learnt and Reconciliation Commission (LLRC) to its 2012 National Plan of Action to implement the LLRC recommendations;¹³⁷
- ❑ arresting twelve members of the police Special Task Force (STF) suspected of murdering five young unarmed Tamil men in the eastern city of Trincomalee in January 2006. The so-called Trinco five case has long been a focus of international human rights campaigns. It was mentioned specifically by the LLRC, and the government had promised action;
- ❑ appointing a commission of inquiry into wartime disappearances, an issue highlighted by both the LLRC and the UNHRC. On 13 August, the names of the three commissioners – two of whom were also on the LLRC – and the commission's terms of reference were released; and
- ❑ separating the police from the defence ministry, as recommended by the LLRC, and placing it under a newly created law and order ministry.

The government also promised during Pillay's visit laws to criminalise enforced disappearances and to establish a program for victims and witness protection.¹³⁸

In the face of deeply entrenched impunity and militarisation, and given the government's history of not matching rhetoric with action, there is little reason to believe these moves will provide justice for the many wartime and post-war atrocities. Instead, they appear part of an established pattern of promises made for international consumption but unsupported by political will. In the Trinco 5 case, for example, the government took the minimal action possible: arrests at the stage of preliminary, non-summary, proceedings at a magistrate's court. Though the case has been under investigation for years, including by the 2006-2009 Udalgama commission of inquiry monitored by international eminent persons, no indictments were issued,

¹³⁷ The government's progress report on implementation of its action plan is at www.llrcaction.gov.lk/. For a critique of the LLRC action plan, see Crisis Group Report, *Sri Lanka's Authoritarian Turn*, op. cit., pp. 3-21.

¹³⁸ On 24 October, draft legislation on victims and witness protection was referred to a cabinet sub-committee for consideration. "Sri Lanka cabinet approves Witness and Victim Protection Bill", ColomboPage, 24 October 2013. The government has promised such a law periodically since 2006. The draft law then under discussion, however, had serious inadequacies. Rosalind Sipos, "The Draft Bill for the Assistance and Protection of Victims of Crime and Witnesses: Critique and Recommendations", Centre for Policy Alternatives, 9 October 2007; Rebecca Buckwalter-Poza, "Without Witness and Victim Protection, No Hope for Justice in Sri Lanka", Huffington Post, 20 January 2011. Since the eighteenth constitutional amendment abolished police commission independence, the prospects for effective witness protection are dimmer. According to High Commissioner Pillay, the draft legislation "still needs improvement to meet both local challenges and international standards". "Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka".

and an expedited trial-at-bar was not established. None of the senior police commanders accused by activists of having ordered the killings were arrested.¹³⁹

Four-and-a-half years after the civil war's bloody end, there have been no independent investigations into any of the thousands of cases of alleged atrocities, including extrajudicial executions of surrendered fighters, shelling of hospitals and "no-fire zones" packed with civilians and mass disappearances.¹⁴⁰ The military has still not released its own investigation into some of these allegations that it claimed in February 2013 had found no evidence of any government violations.¹⁴¹

The new commission of inquiry announced to investigate wartime disappearances is the latest of many, none of which have brought justice in the tens of thousands of cases examined over 30 years. The terms of reference exclude it from considering the many post-war disappearances or the hundreds believed to have occurred outside the north and east. Presidential commissions of inquiry have no powers of arrest or indictment. In criminal cases they duplicate and delay police and attorney general efforts. Under previous governments, they have been unable to dent the culture of impunity. No administration has yet implemented the many recommendations of the four commissions on enforced disappearances appointed by President Kumaratunga in the mid-1990s. The current government has frequently used commissions of inquiry to deflect criticism. The president has still not made public the findings of a series of commissions he has appointed over the past seven years. Even the general secretary of the ruling SLFP has expressed frustration at lack of information on past inquiries.¹⁴²

The recent flurry of gestures highlights those actions the government still refuses to undertake, in particular, the establishment of an independent body that could place checks on the executive or military.¹⁴³ It has offered no reforms that would make it harder for state agents to violate human rights with impunity. Adding more LLRC recommendations to the National Plan of Action means little when the government resists implementing the LLRC's longstanding core recommendations.¹⁴⁴ Criminalis-

¹³⁹ For forensic analyses of the Trinco 5 case, see "The Five Students Case in Trincomalee", University Teachers for Human Rights (UTHR), 19 April 2007; and "Unfinished Business of the Five Students and ACF Cases – A Time to call the Bluff", UTHR, 1 April 2008. For a detailed analysis of the Udalagama commission, see Crisis Group Asia Report N°135, *Sri Lanka's Human Rights Crisis*, 14 June 2007, pp. 22-26.

¹⁴⁰ In her 25 September 2013 oral report to the UNHRC, High Commissioner Pillay said she had "detected no new or comprehensive effort to independently or credibly investigate the allegations [of war crimes] which have been of concern to the Human Rights Council". "Oral update", op. cit.

¹⁴¹ For more on the army court of inquiry, see Crisis Group Report, *Sri Lanka's Authoritarian Turn*, op. cit., p. 11.

¹⁴² This includes the Udalagama commission, at least two commissions on disappearances headed by retired Judge Mahanama Tillekeratne, commissions on the police killing of a protester in Katunayake in June 2011 and a host of others. For an overview of Sri Lanka's many commissions of inquiry, see "A List of Commissions of Inquiry and Committees Appointed by the Government of Sri Lanka (2006-2012)", Centre for Policy Alternatives, 12 March 2012.

¹⁴³ The decision to shift the police from the defence ministry will do little to give the force real independence from either the government or military: the law and order minister is the president, who is also defence minister; the ministry secretary is a retired army major general, Nanda Mallawarachchi. For a critique of the new ministry, see "Sri Lanka: New 'Law and Order Ministry' is a further step towards militarization", Asian Human Rights Commission, 23 August 2013.

¹⁴⁴ None of the newly added recommendations address the central questions of impunity and concentration of power. Among the 53 LLRC recommendations added to the action plan are promises, such as issuing receipts for anyone arrested by the police, made repeatedly and as early as Decem-

ing disappearances and promising to protect witnesses are unlikely to make a difference as long as the police, attorney general and judiciary are under the direct control of the president and subject to political pressure.

At the end of her week-long trip, High Commissioner Pillay said Sri Lanka “is showing signs of heading in an authoritarian direction”. She cited “the apparent politicisation of senior judicial appointments”, the lack of effective checks and balances on executive power and the “sustained assault” against freedom of expression.¹⁴⁵ Her oral report to the UNHRC expressed concern at the “continuing high levels of harassment and intimidation meted out to human rights defenders, lawyers and journalists” and also cited:

the recent surge in incitement of hatred and violence against religious minorities, including attacks on churches and mosques, and the lack of swift action against the perpetrators [as well as] the continued large-scale presence of the military and other security forces ... seen by many as oppressive and intrusive, with the continuing high level of surveillance of former combatants and returnees at times verging on harassment ... [and] the degree to which the military appears to be putting down roots and becoming involved in what should be civilian activities.¹⁴⁶

While welcoming the new presidential commission of inquiry into wartime disappearances, Pillay questioned the limitations on its mandate and, in a post-visit interview, expressed shock at the levels of trauma and emotional distress she encountered in the north and east, especially among families of those forcibly disappeared. “I have never experienced so many people weeping and crying”, she told a Sri Lankan newspaper. “I have never seen this level of uncontrollable grief”.¹⁴⁷

Sri Lankan officials criticised her statement’s “disturbing ... lack of fairness and balance”, arguing “her rejection of empirical evidence was further proof of her bias and prejudice”.¹⁴⁸ The government called her claim that it was increasingly authoritarian “a political statement” that “transgresses her mandate and the basic norms which should be observed by a discerning international civil servant The judgment on the leadership of the country is better left for the people of Sri Lanka to decide, than being caricatured by external entities influenced by vested interests”.¹⁴⁹

ber 2006 by the government but not implemented. “New emergency regulations have safeguards for Human Rights: Mahinda Samarasinghe”, *The Nation*, 10 December 2013.

¹⁴⁵ For an overview of the pressures on the media, see James Crabtree, “Censorship and threat of violence hang over Sri Lanka’s press”, *The Financial Times*, 8 November 2013.

¹⁴⁶ “Oral update”, op. cit. While still in Sri Lanka, Pillay condemned as “utterly unacceptable” harassment of a number of the activists and community members in the north and east who met with her. “Opening remarks by UN High Commissioner for Human Rights Navi Pillay”, 31 August 2013. During the UNHRC’s March 2012 session, the council president took the unusual step of meeting the Sri Lankan delegation to “share information on defamatory media articles and express serious concern at reported incidents and intimidation measures by the Sri Lankan delegation in Geneva targeting Sri Lankan human rights defenders attending the nineteenth Council session”. “Report of the Secretary-General on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights”, A/HRC/21/18, 13 August 2012.

¹⁴⁷ Easwaran Rutnam, “Pillay pessimistic after visit”, *The Sunday Leader*, 1 September 2013.

¹⁴⁸ “Navi Pillay’s Sri Lanka report not the product of an open mind – Prof. G.L. Peiris tells media and think tanks in UK”, external affairs ministry (www.mea.gov.lk), 3 September 2013.

¹⁴⁹ “On the opening remarks by UN High Commissioner for Human Rights, Ms Navanetham Pillay at the Press Conference on 31 August, 2013”, government information department press release, 1 September 2013. The war of words continued a few weeks later. Pillay’s office released a statement

VI. Challenges for a Weak Opposition

Despite growing public discontent on socio-economic issues, the increasing uneasiness of key members of the ruling coalition and widespread calls for de-politicisation of the police and courts, the government remains politically strong.

A. *The UNP's Troubles*

The UNP's long-running internal power struggles and lack of clear public messages have prevented it from effectively channelling popular discontent. The president's strategy of frequent provincial council elections, in which voters have pragmatic incentives to elect representatives of the ruling coalition at the centre, has also contributed to crippling opposition in the south.¹⁵⁰ Despite its organisational weakness and its own internal divisions, the TNA has become the government's most forceful and coherent opposition.

All is not well within the broad UPFA ruling coalition that brings right-wing Sinhala nationalist parties together with left-wing Muslim and Tamil parties. Its significant internal divisions became public when opposition from leftist and Tamil and Muslim ministers blocked the government's June 2013 proposals to alter the thirteenth amendment so as to weaken provincial powers. The government's apparent support for radical Buddhist groups' anti-Muslim campaigns makes it hard for Muslim politicians – particularly the Sri Lanka Muslim Congress – to remain in the fold. There is also increasing evidence of dissatisfaction among senior ministers from the president's party, the SLFP, at both policy direction and their own marginalisation in a government dominated by the Rajapaksa family and crossovers from the UNP.¹⁵¹

What holds the UPFA together is increasingly the lack of a serious alternative. The UNP's results at September's provincial elections were its worst ever, 28 per cent in the central province and 24 per cent in the north west.¹⁵² Riven by attempts to unseat the unpopular ex-prime minister, Ranil Wickremasinghe, the party's local organising ability has collapsed, contributing to its inability to pose a credible alternative to the government.¹⁵³ In the absence of internal party democracy, Wickrema-

challenging the "extraordinary array of distortion and abuse" directed at her by Sri Lankan officials, which amounted to a "coordinated campaign of disinformation in an attempt to discredit the high commissioner or to distract from the core messages of her visit". This followed allegations by Gota-baya Rajapaksa about comments Pillay was said to have made to him in a private meeting. "UN Rights Chief Decries Sri Lanka Smear Campaign", Agence France-Presse, 20 September 2013

¹⁵⁰ The constitution gives the president the power to determine the date of provincial elections. With few financial resources and limited authority, provincial councils can function effectively only with funds and support from the central government. Voters have learned that such support only flows to councils controlled by the ruling coalition in Colombo and thus rarely vote in the opposition.

¹⁵¹ "There are a lot of senior SLFP members, including some in the cabinet, who are very frustrated at their lack of power", said a journalist, affirming what is widely discussed in political circles. "They see little for them to do and few resources to work with, as policy is set by the president and his brothers and many of the best positions held by ex-UNPers". Crisis Group interview, October 2013.

¹⁵² The UPFA won 60 per cent in the central province and 66 per cent in the north west. Full election results are available on the elections department website, www.slelections.gov.lk.

¹⁵³ Ranil is unpopular within the party for having won only one national or provincial election in nineteen years as party leader. He is widely seen as aloof, with little appeal to average Sinhalese Buddhists, in part for having championed the 2002 ceasefire agreement with the LTTE. Many have questioned whether there is a tacit agreement between Wickremasinghe and the government. Reflecting a widespread criticism of the UNP leader, a retired senior civil servant argued: "Ranil sup-

singhe has been able to use procedures to block multiple challenges to his leadership, while alienating many of his colleagues. An October 2013 march by party dissidents ended in violent clashes between pro- and anti-Wickremasinghe elements.¹⁵⁴ Replacing him with either of his two main rivals, Sajith Premadasa or Karu Jayasuriya, would likely give the party at least a short-term boost. But repairing the damage done by years of electoral defeats and bitter infighting will take time even under the most favourable scenario – and time is not on its side.¹⁵⁵

Most analysts expect national elections sometime in 2014, with the most discussed scenario being the presidency first, then parliament.¹⁵⁶ Renewed democratic credentials from a UPFA victory could strengthen the government in its dealings with the UN Human Rights Council.

B. *Building a Strong Opposition*

Democracy activists and leaders from various opposition parties are exploring a plan to select a single presidential candidate who would stand on a common constitutional reform platform: to abolish the executive presidency and reestablish independent commissions to depoliticise the judiciary, police and other public institutions.¹⁵⁷ The

ports the government from the outside. On the impeachment [of the chief justice], Ranil prevented the UNP's young turks from going out on the streets to protest. He's a one-man fifth column". Crisis Group telephone interview, October 2013.

¹⁵⁴ Anti-Wickremasinghe marchers in the southern town of Matara were allegedly set upon by supporters of ex-Foreign Minister and Wickremasinghe confidante Mangala Samaraweera, who was later arrested along with two dozen of his supporters, including Wickremasinghe's private secretary. At least one Wickremasinghe backer was shot by a UNP dissident. See Dharisha Bastians, "UNP: Dying from friendly fire?", *DailyFT*, 7 October 2013.

¹⁵⁵ Premadasa is the son of former President Ranasinghe Premadasa; Jayasuriya is a former UNP deputy leader. Both are seen as less open to meaningful devolution or power sharing than Wickremasinghe; Premadasa is more clearly nationalist than Jayasuriya, who many consider more likely to unify the party and more able to reach out to minority parties. For Premadasa's position on ethnic issues, see Dasun Edirisinghe, "Sajith breathes fire at TNA for rekindling separatist ideology", *Island*, 12 September 2013. A Tamil civil society leader said, "under Karu, some of the UNP's problems would be solved – he would be stronger with the Sinhalese [than Ranil], and could lead a good fight for independent commissions and rule of law. But the UNP problems go much deeper. They need to develop a sophisticated grass-roots operation. Right now, just getting people to come to meetings is hard". Crisis Group interview, October 2013. Many hoped that a newly established nine-member leadership council, designed to take over some of the functions of the party leader, could help rebuild party unity and revive its prospects, but in early November the initiative collapsed, with Sajith Premadasa pulling out in protest at what he believes is the pro-Ranil majority on the council. "UNP Leadership Appointments Farcical", *The Sunday Leader*, 10 November 2013.

¹⁵⁶ The constitution allows a new election to be called after four years of the six-year term. While most have believed this would mean the earliest possible date for a presidential vote is the end of November 2014, there are indications the government hopes the Supreme Court will declare that President Rajapaksa's term began in January 2010, thus allowing an election in early 2014, before the next meeting of the UNHRC. "Sri Lanka's Supreme Court asked to interpret 18th Amendment regarding presidential election", *Colombo Page*, 5 November 2013; Crisis Group telephone interviews, politicians and political analysts, November 2013.

¹⁵⁷ The demand to abolish the executive presidency has been a staple of opposition politics for decades, with presidential candidates routinely proposing to do away with the position but reversing themselves once in the office. Interest in offering a common presidential candidate elected solely on a platform of doing away with the post through adoption of a new constitution has increased in response to the greater concentration of power under President Rajapaksa. "Executive Presidency must be abolished... – National Movement for Social Justice", *newsfirst.lk*, 6 April 2013. For the

approach could have broad popular appeal, but it has been hard to find a viable candidate.¹⁵⁸ Ven. Maduluwawe Sobitha Thera, a popular Buddhist monk whose National Movement for Social Justice, launched in 2012, is a major player in the nascent coalition, has been mentioned frequently. But he has reportedly said he will not stand, and some have questioned selecting a Buddhist monk in the current context of militant Buddhist attacks on religious and ethnic minorities.¹⁵⁹

Ex-President Chandrika Kumaratunga has also been mooted as a possible joint opposition candidate. “If the opposition can field a strong common candidate”, said a senior Muslim politician, “the government dissenters will come out. Many senior ministers are loyal to Chandrika”.¹⁶⁰ While she would bring many strengths – including the potential to attract support from the more liberal wing of the SLFP – she also has baggage, including her unfulfilled promises to abolish the executive presidency.

While most doubt a joint opposition campaign for constitutional reform could defeat President Rajapaksa in 2014, it might perhaps prevent him from gaining an absolute majority in the first round. That would make it harder for the UPFA to obtain the two-thirds parliamentary majority that would allow it to further centralise power by amending the constitution at will.

Building an effective coalition would require unprecedented cooperation between parties that have been bitter rivals.¹⁶¹ The example of the 2010 presidential election, when the UNP and JVP joined to endorse Sarath Fonseka’s candidacy, suggests agreement is possible, but the tensions between these groupings, including Fonseka’s Democratic Party, have deepened since the failure of that campaign. Support from Tamil and Muslim parties would also be essential, but this faces significant obstacles. SLMC support would be difficult to achieve. While there is already pressure on that party from many of its voters to leave the government, this is likely to happen only if there is a real chance of defeating the UPFA. The TNA could find it difficult to join a coalition for constitutional change that did not include expanded devolution, beyond the thirteenth amendment. With the UNP’s 2013 constitutional proposals endorsing only the thirteenth amendment and Fonseka and Sobitha espousing Sin-

text of the constitution proposed by the National Movement for Social Justice (NMSJ), see “Call to abolish executive presidency of Sri Lanka”, Lanka On Globe (lankaonglobe.wordpress.com), 6 April 2013; for an interview with an architect of that draft, see Sachin Parathalingam, “Lanka has the strongest Executive Presidency – Jayampathy”, *Ceylon Today*, 18 June 2013. The UNP has made its own proposals for constitutional reform that would see the end of the executive president and the reestablishment of independent public commissions. “Sri Lanka’s main opposition releases draft Constitution, promises to abolish Executive Presidency”, ColomboPage, 29 May 2013.

¹⁵⁸ Following the September provincial council elections, the *Daily Mirror* newspaper, not known for anti-government positions, editorialised that the opposition should unite behind a single candidate on a platform of abolishing the executive presidency, “so that the people will have a credible alternative to turn around from authoritarianism to democracy, accountability, good governance and transparency, an independent judiciary and a free media”. “Give the people a credible alternative”, *Daily Mirror*, 25 September 2013.

¹⁵⁹ For analysis of Sobitha’s strongly Sinhala nationalist positions and possible risk in his candidacy, see Kusal Perera, “Heard of a Sinhala Buddhist ‘Khomeini?’”, Groundviews, 13 August 2012.

¹⁶⁰ Crisis Group interviews, Colombo, July 2013.

¹⁶¹ Sri Lanka’s small left parties have so far been unwilling to abandon the UPFA coalition, despite the government pursuing many policies they oppose, particularly with regard to devolution and ethnic issues. It is not impossible they would vote against constitutional changes designed to further entrench the Rajapaksa’s power, especially if these were part of a package to weaken or abolish the thirteenth amendment, which they have always supported.

hala nationalist positions, most expect a joint platform would exclude devolution or power sharing.¹⁶²

This raises something of a paradox: unity against the government does not guarantee unity of vision for a restructured state. While restoring the rule of law and accountability and establishing checks on executive power are necessary conditions for meaningful devolution, for many non-Tamil politicians they are simply ends in themselves. Sinhalese liberals and supporters of devolution have never, over decades, been able to build the necessary political coalition to reform the state.¹⁶³ The emergence of a pragmatic, moderate Tamil leadership should make this easier, but the political environment needed for establishing substantial autonomy in the north and east – especially if this involves moving beyond the unitary state – is in other ways more distant than ever. Nonetheless, for those desiring a lasting and fair solution to Sri Lanka's ethnic conflict through devolution of power, there seem few other options than working to restore liberal and democratic institutions throughout the island.

¹⁶² Some opposition activists believe Sobitha has significantly changed his position on ethnic issues. Crisis Group interviews, Colombo, July 2013.

¹⁶³ For a discussion of the long history of failed attempts at constitutional reforms to establish power-sharing, see Crisis Group Report, *Sri Lanka: Tamil Politics*, op. cit., pp. 4-6 and Appendix B.

VII. The Role of International Actors

The international community still largely fails to appreciate the grave risks posed by the deterioration of democratic institutions and the heightened ethnic and religious tensions that are a consequence of government policies. The primary forces for political change must come from within the country, however difficult this is given the weak and fractured nature of the opposition. Nonetheless, more international pressure is necessary to prevent further deterioration. Such attention is a lifeline for Sri Lanka's human rights defenders, journalists and opposition politicians. In the words of a journalist, "everything positive that happens here is because of international pressure, particularly at the Human Rights Council. We live from March to March [when the council meets]. Without international pressure, the regime will do whatever it wants. If the pressure is off, we are done for".¹⁶⁴ There is need to focus on three central aspects of the government's post-war policy:

- ❑ the desire to dismantle, not expand, devolution and the assault on the Tamil character of the north that risks escalating ethnic tensions and eventually sparking a return to violence;
- ❑ the support for violence and economic pressure against Muslims that has opened a new ethnic and religious fault line with potentially explosive long-term effects;
- ❑ the continued centralisation of power and use of intimidation and violence to silence protest from all communities that threatens to close the space for peaceful political opposition.

International engagement should be focused on helping all citizens pry open democratic space and preventing irreversible damage to the country's liberal-democratic institutions. Influential governments and multilateral institutions should also work to discourage legal, military, development and demographic policies that reduce the possibility of a just political solution to ethnic conflict built on meaningful devolution and power sharing. This involves:

- ❑ using the Commonwealth summit to speak out publicly against the government's attack on democratic norms and preventing it from using the CHOGM to burnish its international image;
- ❑ working through the UNHRC to establish an international commission of inquiry or other independent international mechanisms to investigate war crimes allegations and monitor continuing rights violations; and
- ❑ offering political, logistical and financial support to the northern provincial council, within the terms of the constitution, while reiterating the need for deeper devolution through constitutional reforms.

A. CHOGM

Hosting a controversy-free session of Commonwealth leaders is central to the government's defence against international criticism. It hopes to use CHOGM to regain enough international legitimacy, particularly from the global south and members of the non-aligned movement, to block stronger action at the UNHRC in March 2014.

¹⁶⁴ Crisis Group telephone interview, October 2013.

The decision to meet in Colombo was a mistake. The government's attacks on the rule of law and the rights of Tamils and Muslims, and its refusal to implement either the UNHRC's resolution or the core recommendations of its own LLRC, placed it at odds with central Commonwealth values.¹⁶⁵ As a modest gesture of disapproval, more member states should have followed the lead of Canada and downgraded their delegations.¹⁶⁶

Commonwealth leaders, before and during CHOGM, should make public their concerns about lack of judicial independence and impunity for abuses and attacks on Muslims. They should press for implementation of the core recommendations of the LLRC and the entire HRC resolution, including a credible, independent investigation into events at the end of the war. India and other influential governments should use CHOGM to insist that Sri Lanka live up to its promises and implement the thirteenth amendment fully, as a first step toward meaningful devolution of power. To limit the damage from holding CHOGM in Colombo, Commonwealth leaders should also act during the meeting to prevent Sri Lanka from assuming the chair-in-office position for the next two years, as is the traditional practice.¹⁶⁷

The refusal by the Commonwealth Ministerial Action Group (CMAG) to place Sri Lanka on its agenda or to shift the site of CHOGM has been aggravated by Secretary General Kamallesh Sharma's misguided attempts at "constructive engagement" with the government. Following the January impeachment of the chief justice, he announced a "good offices" initiative, designed to assist Colombo's efforts at post-war reconciliation.¹⁶⁸ It consists of technical assistance projects on elections and media freedom and with the human rights commission, and proposals for reforming the process by which senior judges, including the chief justice, can be removed.¹⁶⁹

¹⁶⁵ The Commonwealth's values are set forth in three major documents: the 1991 Harare Declaration, which committed member states to promoting democracy and good governance, human rights and the rule of law; the 2004 Latimer House Principles, which crystallised rules for the separation of powers between parliament, the judiciary and the executive; and the Commonwealth Charter, adopted in 2012, which recommits members to upholding, among other things, democracy, human rights, freedom of expression, separation of powers and the rule of law.

¹⁶⁶ Canadian Prime Minister Stephen Harper will not attend, as criticism of ongoing human rights abuses and Sri Lanka's failure to investigate allegations of war crimes. "Canada PM to miss Commonwealth summit, cites Sri Lanka rights", Reuters, 8 October 2013. Facing intense pressure from political parties and activists in Tamil Nadu, Indian Prime Minister Manmohan Singh announced on 10 November that he would not attend. James Crabtree, "Indian premier to boycott Commonwealth conference in Sri Lanka", *The Financial Times*, 10 November 2013. UK Prime Minister David Cameron has promised to "not hold back in being very clear about those aspects of the human rights record in Sri Lanka that we are not happy with". "Britain's Cameron to raise human rights with Sri Lanka at Commonwealth summit", Reuters, 9 October 2013.

¹⁶⁷ The chair-in-office sits on the Commonwealth Ministerial Action Group (CMAG), which addresses violations of human rights, democracy, judicial independence and media freedom in member states.

¹⁶⁸ "Statement by Commonwealth Secretary-General Kamallesh Sharma on conclusion of his official visit to Sri Lanka", 13 February 2013. In a statement a month earlier, Sharma had "reiterate[ed] the Commonwealth's profound collective concern" at the impeachment of the chief justice, which "will be widely seen ... as running counter to the independence of the judiciary, which is a core Commonwealth value". "Dismissal of the Chief Justice in Sri Lanka", 13 January 2013.

¹⁶⁹ "Statement by Commonwealth Secretary-General", *op. cit.*, 13 February 2013. The Commonwealth's election observer mission monitored the northern province elections. Its findings of direct military interference and systematic abuse of state resources by the ruling coalition, as well as the impotence of the election commissioner to prevent or punish infractions, provided evidence of why

Inadequate to the scale of the crisis of rule of law and impunity, these have inadvertently strengthened the government's claims to be engaged in a process of reform with international aid.¹⁷⁰ Sharma has been challenged for apparently not sharing with CMAG two legal opinions he commissioned on the impeachment that concluded it contravened Commonwealth values and principles of due process.¹⁷¹ It would be best if CHOGM member states concerned for Sri Lanka's long-term stability were to request that he abandon his "good offices" as counterproductive.

B. *UN Human Rights Council*

The UNHRC is the most effective source of pressure on the government to adjust policies and ensure accountability for rights violations. In view of its lack of enthusiasm for implementing the council's March 2013 resolution, council members should send strong signals that token gestures are insufficient, and backward movement on the thirteenth amendment is unacceptable: provincial councils, particularly in the north and east, need real powers. India, in particular, should make clear support for stronger council action so as to preserve the thirteenth amendment. Without the threat and, if necessary, actuality of such stronger action at the March 2014 session, there is a risk the government will repeal the provincial council system or at least further reduce its powers. Readiness to take stronger action if needed on accountability is also important. As High Commissioner Pillay told the council in September, the government has made "no new or comprehensive effort to independently or credibly investigate the allegations [of] violations of international human rights law and international humanitarian law" called for by the council in March 2013.¹⁷²

Pillay has "encourage[d] the Government to use the time between now and March 2014 to show a credible national process with tangible results, including the successful prosecution of individual perpetrators, in the absence of which she believes the international community will have a duty to establish its own inquiry mechanisms".¹⁷³ Meanwhile, member states that voted for the 2013 resolution should prepare the ground and canvass support for effective council action in March if the government is unable to demonstrate progress.¹⁷⁴ Such action could include the creation of a

capacity building for the election commissioner's office and similar institutions is premature until the deeper problem of their political independence is addressed.

¹⁷⁰ Commonwealth engagement with Sri Lanka's national human rights commission is particularly problematic. The stated aim of the assistance is to help the commission regain its "A" status among National Human Rights Institutions, lost in 2007. "Commonwealth supporting Sri Lanka Human Rights Commission on role in national reconciliation", 25 September 2013. The approach obscures the commission's fundamental lack of independence, resulting from the eighteenth constitutional amendment (September 2010). No amount of technical assistance or seminars on the role of the commission in supporting reconciliation is likely to make a difference until the commission's institutional independence is constitutionally guaranteed. For a valuable study of the commission, see "Embedded in the State": The Human Rights Commission of Sri Lanka", *Law and Society Trust Review*, vol. 23, no. 298, August 2012.

¹⁷¹ The documents were later leaked to the public. "Expose: Full Text Of Sharma's Buried 2nd Report: CJ Impeachment Was Unlawful", *Colombo Telegraph*, 28 October 2013. See also "Commonwealth Ministers: Press Sri Lanka on Rights", Human Rights Watch, 26 September 2013.

¹⁷² "Oral update", op. cit.

¹⁷³ Ibid.

¹⁷⁴ OIC member states could play a pivotal role. Despite government-sanctioned impunity for attacks on Sri Lankan Muslims, OIC states provided more than half the thirteen votes in support of the government and against the resolution approved by the council in March 2013.

strong international mechanism empowered both to investigate the many credible allegations of violations of international law by both sides in the civil war and to monitor continuing human rights violations and attacks on the rule of law.

C. Support for the Northern Provincial Council

International institutions and influential governments should seek in an active and coordinated way to strengthen the political standing of the northern provincial council. This could begin with invitations to the chief minister and council of ministers to visit capitals, as well as diplomatic visits to provincial council offices in Jaffna. Governments and development agencies should also begin discussions with the central government and the northern council about constitutionally appropriate ways of providing budgetary aid to the province, as well as establishing project-based partnerships with provincial ministries. These would have to be channelled through the treasury, so should pose no challenge to the central government's authority. Nonetheless, the issue will be sensitive, and both the TNA-led council and prospective donors will have to tread cautiously.

Donors should also offer assistance to develop the technical capacity of the new council members, many of whom are holding office for the first time, and of the northern provincial administration. This should be coordinated by a donor working group on the north and east and include direct training as well as joint projects, beginning with an "early-recovery" needs assessment of the northern population conducted jointly by the northern council and the UN.

Sri Lanka's international partners should also press the government publicly, bilaterally and multilaterally, at the UNHRC and elsewhere, for full implementation of the thirteenth amendment, including real powers for councils over provincial land. It should likewise be told that the parliamentary select committee it controls is not an acceptable substitute for direct talks with the TNA leaders on expanded devolution.

Furthermore, bilateral and multilateral donors should develop procedures for closely monitoring the effects of development projects they fund on the demography and cultural character of the north and east.¹⁷⁵ Clear messages should be sent that they will not pay for projects that support, even indirectly, state-sponsored population movements that dilute a province's Tamil character, because if current policies continue, there is a risk that power sharing based on devolution could be rendered irrelevant and the chance of a lasting solution to the ethnic conflict lost.

¹⁷⁵ Monitoring is particularly important in the tense region of Maanal Aru/Weli Oya, on the border of Trincomalee and Mullaitivu provinces. There are increasing reports from there of significant state-supported movements of Sinhalese into areas where Tamils and Muslims are prevented from returning or are being forced off their lands. A number international agencies are working there. For an update on allegations of government-supported demographic changes in the north and east, see Watchdog, "State Facilitated Colonization of Northern Sri Lanka – 2013", Groundviews, 19 September 2013.

VIII. Conclusion

The government has presented its best face to the world in the run-up to CHOGM and with an eye to the March 2014 UNHRC session. Nonetheless, its central policy thrust is unchanged, with the rights and security of all communities under threat. Despite elections in the north, there is no sense of commitment to preserving the thirteenth amendment and no sign that the military's size or role will be reduced or steady Sinhalisation of the province ended.¹⁷⁶ Impunity for attacks on Muslims leaves that community insecure and encourages more violence. At the same time, the consolidation of executive power with no independent checks and reduced democratic space has weakened the rights of all citizens, many of whom have begun to doubt the possibility of an eventual peaceful transfer of power.

The situation poses a major test for the fractured political opposition. Tamil, Sinhalese and Muslim leaders will need to work together to address twin national challenges: to press for constitutional changes to restore the independence of the judiciary, police and other public institutions and cut back the executive presidency; and to give Tamil-speaking communities an equal status and stake in the society through strengthened devolution and power sharing.

At the same time, each potential member of an opposition coalition faces serious internal strains. The UNP needs to find consensus around a new leader or shared leadership structure and rebuild its once formidable organisation. The TNA needs to deepen and strengthen, even as it assumes the burdens of running the first-ever northern provincial council in a fraught environment. It needs also to resist calls – superficially appealing but ultimately self-destructive – to pursue Tamil secessionist claims. The SLMC needs to speak more consistently in defence of its community's rights, even if this ultimately requires leaving the government. Smaller parties need to contribute to whatever joint opposition efforts emerge.

Foreign governments and multilateral organisations have an important role, beginning by not accepting the government's narrative of post-war progress and reconciliation. However cosmetic recent government steps on human rights may be, that there have been any is not least due to the importance the government places on its international reputation.

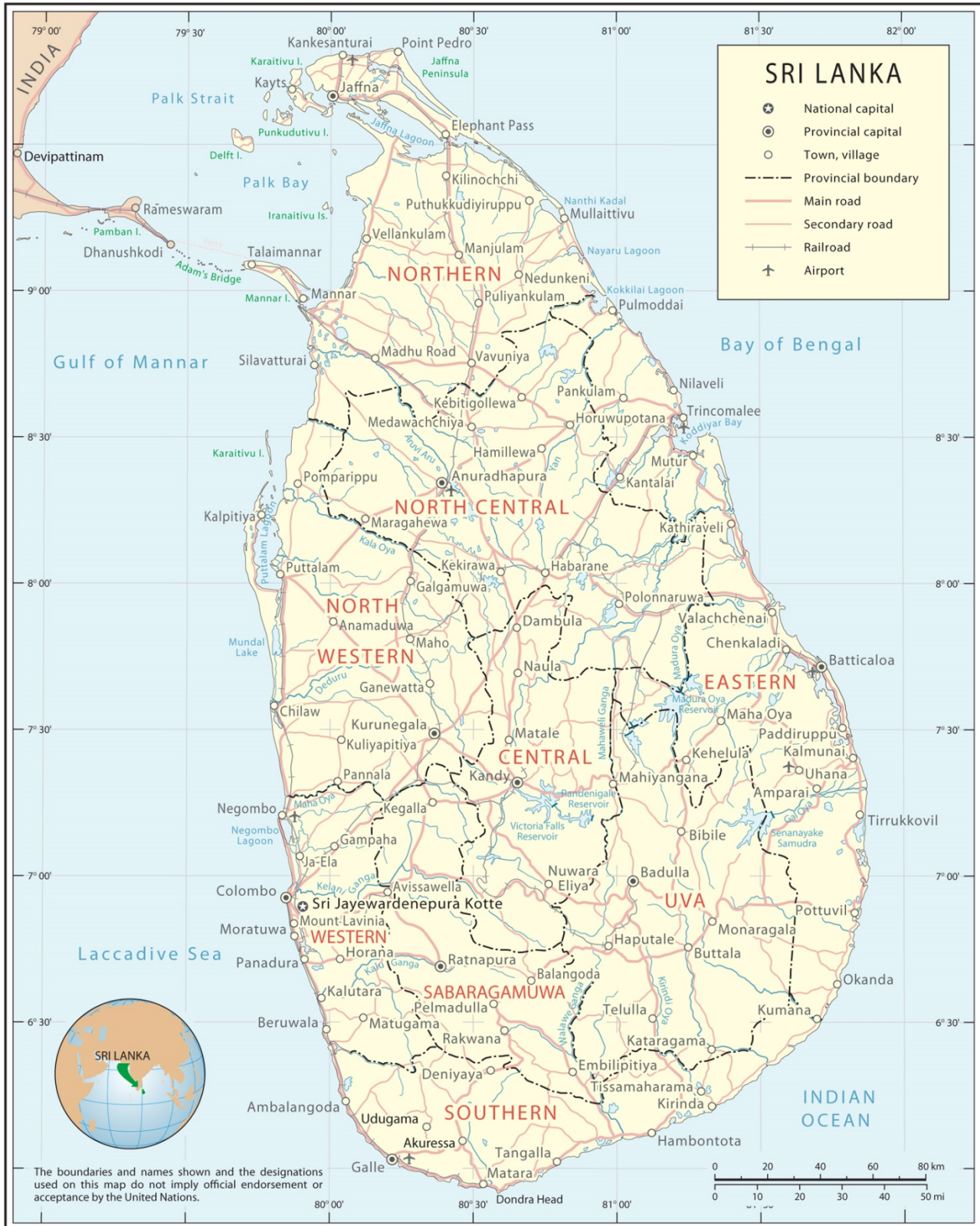
More importantly, the small window of opportunity that exists in the northern province shows that sustained, focused pressure can prevent backward movement and maintain options. The provincial council exists because of focused interventions by India, along with less public encouragement from Japan, the U.S. and others. Coordinated attention on the north is necessary to keep the window open and prevent the government from undermining the council and weakening devolution.

With opposition parties and civil society undermined by years of government intimidation, international pressure on Sri Lankan leaders is essential to preserve the remaining space for democratic dissent and prevent regression on ethnic issues and further growth of the authoritarian trend.

Brussels/Colombo, 13 November 2013

¹⁷⁶ On 17 October, Army Commander Lt. General Daya Ratnayake presided at the ceremonial completion of an army-sponsored Buddhist temple in the virtually all-Tamil town of Mankula, in Kili-nochchi. "Mankulam Sri Sugatha Vihara Dagoba Opened for Veneration after Enshrining Relics", www.army.lk, 17 October 2013.

Appendix A: Map of Sri Lanka



Appendix B: Map of Sri Lanka's Northern Province



Based on UN map No. 4172 Rev. 3 (March 2008) and OCHA map of Sri Lanka's Northern Districts Administrative Map (2006).
The boundaries, names and the designations used on this map do not imply official endorsement or acceptance by the United Nations or Crisis Group.

Appendix C: Glossary of Terms

BBS – Bodhu Bala Sena (Buddhist Power Force), a militant Buddhist organisation, led by Ven. Galagoda Aththe Gnanasara and other former members of the JHU, which has conducted a vitriolic campaign against alleged Muslim extremism in Sri Lanka.

CHOGM – Commonwealth Heads of Government Meeting, a biannual event that brings together leaders of the 53 member states of the Commonwealth.

EPDP – Eelam People's Democratic Party, a small former Tamil militant group, aligned with the national government since 1990. Led by cabinet minister Douglas Devananda, it is strongest in the Jaffna district of the northern province.

ITAK – Illankai Thamil Arasu Katchchi (Lanka Tamil State Party), also known as the Federal Party, is the main constituent member of the Tamil National Alliance and is headed by R. Sampanthan, a veteran Tamil parliamentarian.

JHU – Jathika Hela Urumaya (National Sinhala Heritage party), known from 2000 to 2004 as Sihala Urumaya (Sinhala Heritage). It promotes a strong Sinhala nationalist ideology, promises corruption-free politics and has three members in parliament, including two Buddhist monks, and one government minister.

JVP – Janatha Vimukthi Peramuna (People's Liberation Front), the largest and longest-standing Sinhala nationalist party. It led armed insurgencies against the state in 1971 and 1987-1989. It has four seats in parliament, down from the 39 it won in the 2004 elections. Its more nationalist and pro-government wing, led by Wimal Weerawansa, broke away in April 2008 to form the Jathika Nidahas Peramuna (National Freedom Front). The party split again in 2011, when a large part of its base left to form the Frontline Socialist Party.

LLRC – Lessons Learnt and Reconciliation Commission, appointed in May 2010 by President Rajapaksa in response to international pressure for an inquiry into alleged war crimes. Its final report in November 2011 recommended wide-ranging governance reforms.

LTTE – Liberation Tigers of Tamil Eelam (the Tamil Tigers), militant Tamil nationalist group founded in 1976, waged a brutal armed separatist struggle in the north and east. Defeated militarily in May 2009, almost all its commanders, including founder-leader Velupillai Prabhakaran, were killed. Remnants of its international support structure remain, but it has no known activity in Sri Lanka.

SLFP – Sri Lanka Freedom Party, centre-left party founded in 1951 by S.W.R.D. Bandaranaike after breaking with the UNP. It instituted socialist economic policies in the 1970s. In power under Bandaranaike's daughter, President Chandrika Kumaratunga, from 1994 to 2005 as the main constituent party of the People's Alliance coalition, it is now led by President Mahinda Rajapaksa and forms the main component of the ruling UPFA.

SLMC – Sri Lanka Muslim Congress, led by Justice Minister Rauff Hakeem and part of the ruling UPFA. It remains the premier party representing Muslim interests, despite having been weakened by a number of splits that led to the formation of the All Ceylon Muslim Congress, under Rishad Bathiudeen, and the National Congress, headed by A.L.M. Athallah, both of whom are government ministers.

TNA – Tamil National Alliance, a coalition of five Tamil parties: Illankai Thamil Arasu Katchchi (ITAK); Eelam People's Revolutionary Party (EPRLF); Tamil Eelam Liberation Organisation (TELO); People's Liberation Organisation of Tamil Eelam (PLOTE); and the Tamil United Liberation Front (TULF). Formed in 2001 under pressure from the LTTE, it now favours a federal solution based on the self-determination of "the Tamil nation" to allow Tamils substantial autonomy in the north and east of a united Sri Lanka. It has thirteen members in parliament from the north and east.

TNPF – Tamil National People's Front, a small Tamil nationalist party headed by Gajen Pon-nambalam, who also leads the All Ceylon Tamil Congress.

UNHRC – United Nations Human Rights Council, composed of a rotating membership of 47 countries. It has twice adopted resolutions critical of Sri Lanka's post-war policies and calling for major reforms to support reconciliation and accountability, including through implementation of the findings of the LLRC.

UNP – United National Party, centre-right and formed in 1946, it has been the main opposition party since 2004 and been led since 1994 by Ranil Wickremasinghe, prime minister from 2001 to 2004. It has been badly weakened by longstanding power struggles that have resulted in the majority of its parliamentarians and many other prominent members joining the government.

UPFA – United People's Freedom Alliance, the ruling coalition first formed in January 2004 and dominated by the SLFP. It includes leftist parties – the Lanka Sama Samaja Party (LSSP) and the Communist party; Muslim parties – the

SLMC, All Ceylon Muslim Congress (ACMC) and National Congress; Tamil parties – the EPDP, Tamil Makkal Viduthalai Pulikal (TMVP), Ceylon Workers' Congress (CWC) and Up-Country People's Front (UPF); and Sinhala nationalist parties – Mahajana Eksath Peramuna (MEP), National Freedom Front (NFF) and JHU.

Appendix D: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 150 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

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November 2013

Appendix E: Reports and Briefings on Asia since 2010

As of 1 October 2013, Central Asia publications are listed under the Europe and Central Asia program.

North East Asia

The Iran Nuclear Issue: The View from Beijing, Asia Briefing N°100, 17 February 2010 (also available in Chinese).

North Korea under Tightening Sanctions, Asia Briefing N°101, 15 March 2010.

China's Myanmar Strategy: Elections, Ethnic Politics and Economics, Asia Briefing N°112, 21 September 2010 (also available in Chinese).

North Korea: The Risks of War in the Yellow Sea, Asia Report N°198, 23 December 2010.

China and Inter-Korean Clashes in the Yellow Sea, Asia Report N°200, 27 January 2011 (also available in Chinese).

Strangers at Home: North Koreans in the South, Asia Report N°208, 14 July 2011 (also available in Korean).

South Korea: The Shifting Sands of Security Policy, Asia Briefing N°130, 1 December 2011.

Stirring up the South China Sea (I), Asia Report N°223, 23 April 2012 (also available in Chinese).

Stirring up the South China Sea (II): Regional Responses, Asia Report N°229, 24 July 2012 (also available in Chinese).

North Korean Succession and the Risks of Instability, Asia Report N°230, 25 July 2012 (also available in Chinese and Korean).

China's Central Asia Problem, Asia Report N°244, 27 February 2013 (also available in Chinese).

Dangerous Waters: China-Japan Relations on the Rocks, Asia Report N°245, 8 April 2013 (also available in Chinese).

South Asia

Sri Lanka: A Bitter Peace, Asia Briefing N°99, 11 January 2010.

Nepal: Peace and Justice, Asia Report N°184, 14 January 2010.

Reforming Pakistan's Civil Service, Asia Report N°185, 16 February 2010.

The Sri Lankan Tamil Diaspora after the LTTE, Asia Report N°186, 23 February 2010.

The Threat from Jamaat-ul Mujahideen Bangladesh, Asia Report N°187, 1 March 2010.

A Force in Fragments: Reconstituting the Afghan National Army, Asia Report N°190, 12 May 2010.

War Crimes in Sri Lanka, Asia Report N°191, 17 May 2010.

Steps Towards Peace: Putting Kashmiris First, Asia Briefing N°106, 3 June 2010.

Pakistan: The Worsening IDP Crisis, Asia Briefing N°111, 16 September 2010.

Nepal's Political Rites of Passage, Asia Report N°194, 29 September 2010 (also available in Nepali).

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Afghanistan's Elections Stalemate, Asia Briefing N°117, 23 February 2011.

Reforming Pakistan's Electoral System, Asia Report N°203, 30 March 2011.

Nepal's Fitful Peace Process, Asia Briefing N°120, 7 April 2011 (also available in Nepali).

India and Sri Lanka after the LTTE, Asia Report N°206, 23 June 2011.

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Reconciliation in Sri Lanka: Harder Than Ever, Asia Report N°209, 18 July 2011.

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Reforming Pakistan's Prison System, Asia Report N°212, 12 October 2011.

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Sri Lanka: Women's Insecurity in the North and East, Asia Report N°217, 20 December 2011.

Sri Lanka's North (I): The Denial of Minority Rights, Asia Report N°219, 16 March 2012.

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Talking About Talks: Toward a Political Settlement in Afghanistan, Asia Report N°221, 26 March 2012.

Pakistan's Relations with India: Beyond Kashmir?, Asia Report N°224, 3 May 2012.

Bangladesh: Back to the Future, Asia Report N°226, 13 June 2012.

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- Nepal's Constitution (I): Evolution Not Revolution*, Asia Report N°233, 27 August 2012 (also available in Nepali).
- Nepal's Constitution (II): The Expanding Political Matrix*, Asia Report N°234, 27 August 2012 (also available in Nepali).
- Afghanistan: The Long, Hard Road to the 2014 Transition*, Asia Report N°236, 8 October 2012.
- Pakistan: No End To Humanitarian Crises*, Asia Report N°237, 9 October 2012.
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- Indonesia: The Dark Side of Jama'ah Ansharut Tauhid (JAT)*, Asia Briefing N°107, 6 July 2010.
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Myanmar: Storm Clouds on the Horizon, Asia Report N°238, 12 November 2012 (also available in Chinese and Burmese).

The Philippines: Breakthrough in Mindanao, Asia Report N°240, 5 December 2012.

Thailand: The Evolving Conflict in the South, Asia Report N°241, 11 December 2012.

Indonesia: Tensions Over Aceh's Flag, Asia Briefing N°139, 7 May 2013.

Timor-Leste: Stability At What Cost?, Asia Report N°246, 8 May 2013.

A Tentative Peace in Myanmar's Kachin Conflict, Asia Briefing N°140, 12 June 2013 (also available in Burmese and Chinese).

The Philippines: Dismantling Rebel Groups, Asia Report N°248, 19 June 2013.

The Dark Side of Transition: Violence Against Muslims in Myanmar, Asia Report N°251, 1 October 2013.

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