

# THE UPR PROJECT AT BCU

## Submitted by:

The UPR Project at BCU  
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## About the UPR Project at BCU:

Birmingham City University's Centre for Human Rights was created in 2014 to promote human rights, ensure access to justice, and enhance the rule of law around the world. We seek to achieve this through leading research, education, and consultancy. We submit expert reports to international human rights regions, provide advisory services to governments and nongovernmental organisations, and draft legal opinions and file legal briefs in domestic courts and international human rights courts.

The Centre for Human Rights established the UPR Project in 2018 as part of our consultancy service. We engage with the Human Rights Council's review process in offering support to the UPR Pre-sessions, providing capacity building for UPR stakeholders and National Human Rights Institutions, and the filing of stakeholder reports in selected sessions. The UPR Project is designed to help meet the challenges facing the safeguarding of human rights around the world, and to help ensure that UPR recommendations are translated into domestic legal change in member state parliaments. We fully support the UPR ethos of encouraging the sharing of best practice globally to protect everyone's human rights. The UPR Project at BCU engages with the UPR regularly as a stakeholder and is frequently cited by the OHCHR. You can read more about the UPR Project here: [www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu](http://www.bcu.ac.uk/law/research/centre-for-human-rights/projects-and-consultancy/upr-project-at-bcu)

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## INTRODUCTION

1. The Democratic Socialist Republic of Sri Lanka [hereinafter Sri Lanka] is party to all nine core international human rights treaties for which it should be commended.<sup>1</sup> This includes the International Covenant on Civil and Political Rights (ICCPR) and in line with the Covenant's protection of the right to life and the prohibition against inhuman punishment, this Stakeholder Report focuses upon capital punishment.
2. We make recommendations to the Government of Sri Lanka on this key issue, implementation of which would also see Sri Lanka moving towards achieving Sustainable Development Goal 16 which aims for peaceful and inclusive societies, access to justice for all and effective, accountable and inclusive institutions at all levels.
3. We urge the State to make practical commitments in the fourth cycle of the UPR for the abolition of the punishment. As an initial step, we call for the suspension of the capital judicial process through the initiation of an official moratorium on the death penalty. This will enable the government to make a positive commitment towards domestic *de jure* abolition.

## CAPITAL PUNISHMENT

### A. Sri Lanka and International Law on the Death Penalty

4. The death penalty remains a legal punishment in Sri Lanka's penal system and has a long standing history from its colonial period under British rule. Post-independence, then Prime minister S.W.R.D. Bandaranaike abolished the punishment in 1956 however it was reinstated only three years later following Bandaranaike's assassination. Following its amendment in 1978, death sentences could only be imposed if unanimously authorised by the trial judge, the Attorney General and the Minister of Justice otherwise the sentence would be commuted to life imprisonment. The last known state execution was that of 'Maru Sira' in 1976.<sup>2</sup>
5. Despite Sri Lanka's *de facto* moratorium, there have been proposals to resume executions in response to rising crime rates. Furthermore, the death penalty continues to remain a lawful punishment for twenty-two offences including conduct which contravenes the evolving jurisprudence on the 'most serious crimes' under international law.<sup>3</sup> For example, robbery, kidnapping, and drug trafficking are all capital crimes which can be found under the Sri Lanka Penal Code of 1855 and the Poisons, Opium and Dangerous Drugs (Amendment) Act of 1984.<sup>4</sup>
6. The inclusion of the death penalty in other domestic laws is based on its presence in Article 12(4) of the Sri Lankan Constitution of 1978 which states: "No person shall be punished

with death or imprisonment except by order of a competent court, made in accordance with procedure established by law.”

7. Although Sri Lanka has not executed anyone for the past four decades, it has continued to hand down death sentences every year and has more than 1000 people awaiting execution. At least 117 death sentences were handed down in 2020 which is a 46% increase compared to 2019.<sup>5</sup> Statistics for 2021 reveal at least 8 death sentences were reported however the true figure is likely to be much higher.<sup>6</sup> Figures for 2022 are yet to be released at the time of submission.

### *International Law Promoting the Restriction and Abolition of the Death Penalty*

8. The United Nations’ framework for regulating the application of the death penalty comprises a corpus of international human rights law and jurisprudence. Of particular relevance are Articles 6, 7, and 14 ICCPR,<sup>7</sup> its Second Optional Protocol,<sup>8</sup> the ECOSOC Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty,<sup>9</sup> the Secretary General’s quinquennial reporting,<sup>10</sup> the Secretary General’s Question on the Death Penalty,<sup>11</sup> and the Human Rights Committee decisions.<sup>12</sup> Other relevant treaties include the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment<sup>13</sup> and the Convention on the Rights of the Child.<sup>14</sup>
9. The General Comment on the Right to Life<sup>15</sup> provides an interpretive lens on the death penalty and concerning ICCPR Article 6(6), which states, ‘[n]othing in this article shall be invoked to delay or to prevent the abolition of capital punishment,’ it:

reaffirms the position that States parties that are not yet totally abolitionist should be on an irrevocable path towards complete eradication of the death penalty, de facto and de jure, in the foreseeable future. The death penalty cannot be reconciled with full respect for the right to life, and abolition of the death penalty is both desirable [...] and necessary for the enhancement of human dignity and progressive development of human rights.<sup>16</sup>
10. The growing international consensus against capital punishment is reflected in the UN General Assembly’s biennial resolution to impose a global moratorium on the use of the death penalty. The eighth and most recent iteration, passed on 16 December 2020, had a total of 123 votes in favour with 38 votes against and 24 abstentions. Sri Lanka has voted ‘yes’ in all such resolutions to date, with the exception of the 2012 and 2014 resolutions in which it abstained.<sup>17</sup>
11. Sri Lanka’s voting record is also reflected in its absence as a signatory to the Joint Permanent Missions’ most recent *note verbale* of dissociation, which records a formal objection to the Secretary General of the United Nations on the attempt to create a global moratorium on the death penalty.<sup>18</sup> Both its support for adopting the UNGA resolution and absence from the *note verbale* indicates an anti-death penalty trajectory for which it should

be commended. However, this does not seem to mirror what is happening on the ground as seen from the outcome of its third UPR and beyond.

## **B. Implementation of Recommendations from Cycle Three in 2017**

12. Sri Lanka received 230 recommendations in the Third Cycle of which 177 were accepted and 53 were noted.<sup>19</sup> A total of 13 recommendations focused on the death penalty of which only three were supported.<sup>20</sup>

### *Recommendations concerning Sri Lanka's Adoption of International Law*

13. **Uruguay** (para 116.1), **Montenegro** (para 117.1), **Spain** (para 117.1), **Poland** (para 117.2) and **New Zealand** (para 117.3) recommended Sri Lanka to ratify the Second Optional Protocol to the ICCPR. Except for Uruguay's recommendation, **these were all noted and Sri Lanka has not indicated any change to its position.** It is possible that the State may have supported Uruguay's recommendation in error as it did not accept other identical recommendations.

### *Recommendations concerning Abolition*

14. A number of States recommended the abolition of the death penalty. This included **Italy** (para 116.53), **Timor-Leste** (para 116.54), **New Zealand** (para 117.3), **Australia** (para 117.28), **Portugal** (para 117.30) and **Namibia** (para 117.33), with **Slovakia** (para 117.31) and **Holy See** (para 117.32) also recommending commutation of death sentences to prison sentences. **Norway** (para 117.29) further recommended Sri Lanka "take concrete measures" to abolish the death penalty. Italy and Timor-Leste's recommendations were supported whilst other identical recommendations were not. Nonetheless, **these recommendations have not been implemented.**
15. Whilst such recommendations are welcomed, it is crucial that they remain specific and measurable in order to assess the level of implementation. Broad recommendations, whilst easy to accept, lack any impetus to bring about real change.<sup>21</sup> It is recommended that States adopt a SMART approach to recommendations as recognised by UPRinfo.<sup>22</sup> This would help Sri Lanka initiate an incremental approach to reducing the scope of the punishment and map out the process for abolition.
16. Additionally, it would prove more beneficial if recommending States make reference to the review criteria which includes "human rights instruments to which a State is party."<sup>23</sup> For example reference to Article 6 and/or 14 ICCPR, a treaty the State under Review has ratified, would strengthen any death penalty recommendations.
17. In response to the death penalty recommendations, Sri Lanka emphasised to the Working Group that "it was abolitionist in practice and that no one had been put to death in the past 40 years. Sri Lanka recognized that all rights were interconnected and indivisible, and expressed its commitment to promoting all rights for all citizens and realizing its Vision

2025.”<sup>24</sup> It has since continued to hand down death sentences every year in contravention to international law.

18. Seventeen death sentences were reported in 2018,<sup>25</sup> 34 in 2019,<sup>26</sup> 16 in 2020,<sup>27</sup> and 8 in 2021.<sup>28</sup> At the end of 2021, more than a thousand people were under sentence of death.<sup>29</sup>
19. It is deeply concerning to note that on 26 June 2019, then President Maithripala Sirisena sought to resume executions. Sirisena signed the execution warrants of four death row prisoners with drug-related offences, claiming it would serve as a powerful message to those involved in drug trafficking.<sup>30</sup> The State subsequently hired two hangmen following a recruitment drive for executioners with “strong moral character”<sup>31</sup> as part of the country’s crackdown on drug smuggling.
20. Notwithstanding the above, we welcome the decision of the Supreme Court of Sri Lanka to extend the interim injunction that it had put in place to halt the resumption of executions authorised by Sirisena. The injunction was issued to allow for deliberation of petitions arguing the violation of rights of those facing the death penalty, due to the arbitrary selection of four prisoners and the secrecy surrounding the execution order and preparations. At least 16 men, including one foreign national, were sentenced to death during the year. Three had been convicted of drug-related offences.<sup>32</sup>
21. It is, however, promising that the State amended its laws on capital punishment for minors. In October 2021, a legislative amendment to the Sri Lankan Penal Code was adopted. The existing uncertainty regarding the imposition of the punishment on a person under the age of 18 at the time of the offense has been removed.<sup>33</sup>
22. On 12 January 2022, the Colombo High Court convicted Sri Lankan Prisons Commissioner, Emil Lamaheewage, for the execution of 27 prisoners in November 2012 and sentenced him to death.<sup>34</sup> This appears to be an attempt to avoid addressing the events and inadequate prison conditions that led to the Welikada Prison incident, and we strongly condemn the ongoing use of the death penalty. Furthermore, using the death penalty, as a form of state-sanctioned killing, to sentence someone convicted of state-enabled killing, underlines the illogical premise of the state being empowered to take the lives of individuals.
23. As long as the death penalty remains a lawful punishment, the possibility of an execution is a reality for the 1,284 persons on death row (as of September 2020).

### **C. Further Points for Sri Lanka to Consider**

*Prison Conditions on Death Row and Dealing with the Drug Problem in Sri Lanka*

24. Individuals continue to be sentenced to death and serve indefinite sentences without an effective process in place for their eventual release, thus increasing the burden on the prison system. Prisons in Sri Lanka are highly congested; by December 2020, the country had a total prison population of 28,915 occupying space intended for a maximum capacity of 11,762.<sup>35</sup>
25. Prisoners on death row are held in particularly adverse detention conditions due to severe overcrowding, limited infrastructure, poor sanitation, very limited access to healthcare and mental health facilities, and being locked in cells for 23 hours a day. These conditions violate the United Nations' Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)<sup>36</sup> and have led to an increase in the number of deaths in custody without being judicially executed.<sup>37</sup>
26. As a result of the COVID-19 pandemic, the prison population in Sri Lanka is now increasingly susceptible to the possibility of becoming seriously ill or dying in prison. Since October 2020, the outbreak of COVID-19 in prisons has resulted in over 13,000 cases of infection and at least 21 deaths (as of August 2021).<sup>38</sup> As Sri Lanka and the rest of the world grapple with the COVID-19 pandemic, early release of prisoners becomes critical to preventing and containing infectious diseases in prison, an option unavailable to those on death row.
27. Furthermore, the majority of prisoners are charged on drug related offences. According to former president Sirisena, in 2019 there were 200,000 drug addicts in the country and 60% of inmates were convicted on drugs charges.<sup>39</sup>
28. Given the severely overcrowded prisons, there needs to be a greater utilization of Sri Lankan drug treatment facilities. The government could implement a three-pronged approach which would involve undertaking a comprehensive review of the State's approach to its illegal drug problem; allocating a larger proportion of the national budget for health to specifically focus on drug rehabilitation; and funding sociological research that assesses the effectiveness of local programs given the specific challenges drug users face in Sri Lanka.<sup>40</sup> The drug problem should be viewed from "a public health perspective and not viewed solely as a law enforcement problem to address a policy of criminalization and punishment."<sup>41</sup>

#### *The Role of the National Human Rights Institution*

29. **Afghanistan** (para 116.17) recommended Sri Lanka to "ensure the full alignment of the Human Rights Commission of Sri Lanka in accordance with the Paris Principles" and **Philippines** (para 116.16) urged for its "adequate funding and manpower." Whilst both were supported by the State, this is yet to be implemented.
30. Furthermore, in the context of capital punishment, the Human Rights Commission Sri Lanka (HRCSL)<sup>42</sup> can undertake important work on pushing for the abolition of the death

penalty from Sri Lanka's legal system, starting by limiting the types of crimes that attract the punishment. HRCSL could advise the government on the abolition process, provide public education on how capital punishment renders harmful effects upon society, and demonstrate its ineffectiveness as a penological policy on deterrence.

31. We call upon the government to ensure HRCSL complies with the Paris Principles and to provide it with a mandate to advise on legislative amendment for abolition.

*Adopting the UPR Recommendations to Enable the People of Sri Lanka to Benefit from Advances in Effective Penology*

32. The right to benefit from scientific advancement should also apply to the progress in social science research on the death penalty. The Universal Declaration of Human Rights, Article 27, states, "[e]veryone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits,"<sup>43</sup> and the ICESCR article 15 (1)(b) recognises the right of everyone, "[t]o enjoy the benefits of scientific progress and its applications."

33. Roger Hood and Carolyn Hoyle have produced the leading social science and criminological investigations into the death penalty worldwide and have concluded:

[t]hose who favour capital punishment 'in principle' have been faced with yet more convincing evidence of the abuses, discrimination, mistakes, and inhumanity that appear inevitably to accompany it in practice. Some of them have set out on the quest to find the key to a 'perfect' system in which no mistakes or injustices will occur. In our view, this quest is chimerical.<sup>44</sup>

34. Social science investigations now demonstrate that reflecting appropriate government means that whilst capital punishment could be created within a legitimate parliamentary process,<sup>45</sup> it is now clear that the application of the death penalty renders an illegitimate and inhumane outcome.<sup>46</sup> Abolition in Sri Lanka would enable the people of the country to benefit from the advancement of the leading social scientific research on punishment policies.

*The Universal Periodic Review Recommendations and the Contribution to the Sustainable Development Goals*

35. Sri Lanka should consider adopting the UPR recommendations as an expression of mutual reinforcement of the government's commitment to promoting the Sustainable Development Goals.<sup>47</sup> The human rights values expressed in both the UPR and the SDGs can be woven together to promote policy coherence.<sup>48</sup>

36. SDG 16 provides for "Strong Institutions and Access to Justice and Build Effective Institutions," but the application of the death penalty is inconsistent with this goal.

Specifically, SDG 16.1 aims to reduce death rates, promote equal access to justice, and “protect fundamental freedoms,” and to further this, SDG 16.A.1 identifies the importance of relevant national institutions, for building capacity at all levels, to prevent violence and combat terrorism and crime.

37. The use of the death penalty does not signal legitimate strength in institutions, but renders counterproductive and inhumane consequences, including a brutalising effect upon society. This was affirmed in the Special Rapporteur’s report on ‘pay-back’ violence and killings.<sup>49</sup> The death penalty is antithetical to strong institutional processes for the fostering of the human dignity of the people of Sri Lanka.

#### **D. Recommendations**

We recommend the government of Sri Lanka to:

- i. Uphold and enforce its international obligations to safeguard the right to life, pursuant to Articles 6, 7 and 14 of the ICCPR.
- ii. Whilst it retains the death penalty, ensure it complies with the ‘most serious crimes’ principle, under Article 6 ICCPR, restricting punishment to crimes of intentional killing only.
- iii. Ratify the Second Optional Protocol to the ICCPR aiming at the abolition of the death penalty.
- iv. Formalise its de facto moratorium, with a view to abolition, within the next three years.
- v. Affirm its commitment to SDG 16 on access to justice and strong institutions through its support at the next biennial vote on the UNGA Resolution on the moratorium on the use of the death penalty.
- vi. Ensure its NHRI, Human Rights Commission Sri Lanka, complies fully with the Paris Principles and provide it with a mandate on legislative abolition of the death penalty.
- vii. Ensure its prisons comply with the United Nations’ Standard Minimum Rules for the Treatment of Prisoners.
- viii. Enhance its support for the Asia Pacific Forum of National Human Rights Institutions in their important contribution to the regional abolition of the death penalty.

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<sup>1</sup> See <[https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=80&Lang=EN)>.

<sup>2</sup> Ameerah Salie, ‘Lifting the Moratorium on the Death Penalty: A Sri Lankan Perspective’ (*Ivint*, 30 June 2021) <[www.ivint.org/lifting-the-moratorium-on-the-death-penalty-a-sri-lankan-perspective/](http://www.ivint.org/lifting-the-moratorium-on-the-death-penalty-a-sri-lankan-perspective/)>.

<sup>3</sup> See UN Doc CCPR/C/GC/R.36/Rev.2.

<sup>4</sup> For a comprehensive overview of capital crimes in Sri Lanka, see Cornell Center on the Death Penalty Worldwide Database at <<https://deathpenaltyworldwide.org/database/#/results/country?id=70>>.

<sup>5</sup> Amnesty International, *Global Report: Death Sentences and Executions 2020* (2021) 28.

<sup>6</sup> Amnesty International, *Global Report: Death Sentences and Executions 2021* (2022) 36.

<sup>7</sup> International Covenant on Civil and Political Rights (1976) 999 UNTS 171, Article 6 (right to life); Article 7 (the prohibition against torture and inhuman or degrading treatment or punishment); and Article 14 (the right to a fair trial and the principle of equality of arms).

<sup>8</sup> The Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, GA Res. 44/128, December 15, 1989.



<sup>9</sup> Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, Economic and Social Council Resolution, 1984/50; Additions to the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic and Social Council Resolution 1989/64; and the Strengthening of the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty as Agreed by the Economic Council Resolution 1996/15.

<sup>10</sup> See eg, ECOSOC Capital Punishment and Implementation of the Safeguards Guaranteeing Protection of the Rights of those Facing the Death Penalty Report of the Secretary-General UN Doc E/2015/49 (13 April 2015).

<sup>11</sup> See eg, Report of the Secretary General, Question of the Death Penalty, A/HRC/27/23, 30 June 2014.

<sup>12</sup> For example, *Judge v. Canada*, Communication No. 829/1998, U.N. Doc. CCPR/C/78/D/829/1998 (2003).

<sup>13</sup> The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, 10 December 1984.

<sup>14</sup> Article 37(a) Convention on the Rights of the Child, G.A. Res 44/25, 20 November 1989.

<sup>15</sup> UN Human Rights Committee, General Comment No. 36 (2018) on Article 6 of the International Covenant on Civil and Political Rights, on the right to life, CCPR/C/GC/36, 30 October 2018.

<sup>16</sup> *ibid* para 50.

<sup>17</sup> Resolution on the Moratorium on the use of the death penalty, UNGA Res. 62/149, 18 December 2007, *adopted by 104 votes to 54, with 29 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 63/168, 18 December 2008, *adopted by 106 votes to 46, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 65/206, 21 December 2010, *adopted by 109 votes to 41, with 35 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 67/176 20 December 2012, *adopted by 111 votes to 41, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 69/186 18 December 2014 *adopted by 117 votes to 37, with 34 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 71/187, 19 December 2016 *adopted by 117 votes to 40, with 31 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 73/175 17 December 2018 *adopted by 121 votes to 35, with 32 abstentions*; Resolution on the Moratorium on the use of the death penalty, UNGA Res. 75/183, 16 December 2020 *adopted by 123 votes to 38, with 24 abstentions*.

<sup>18</sup> UNGA, 'Note verbale dated 13 September 2019 from the Permanent Mission of Egypt to the United Nations addressed to the Secretary-General' (16 September 2019) UN Doc A/73/1004.

<sup>19</sup> UNHRC, 'Report of the Human Rights Council on its thirty-seventh session' (14 June 2018) UN Doc A/HRC/37/2, para 994.

<sup>20</sup> See UNHRC, 'Report of the Working Group on the Universal Periodic Review – Sri Lanka' (29 December 2017) UN Doc A/HRC/37/17.

<sup>21</sup> Amna Nazir, 'The Universal Periodic Review and the Death Penalty: A Case Study of Pakistan' (2020) 4(1) RSIL Law Review 126, 153.

<sup>22</sup> See UPRinfo, 'For impact on the ground the UPR needs SMART recommendations' <<https://www.upr-info.org/en/news/for-impact-on-the-ground-the-upr-needs-smart-recommendations>> (21 October 2015).

<sup>23</sup> UNHRC Res 5/1 (18 June 2007) UN Doc A/HRC/RES/5/1, para 1(c).

<sup>24</sup> UNHRC, 'Report of the Working Group on the Universal Periodic Review – Sri Lanka' (29 December 2017) UN Doc A/HRC/37/17, para 115.

<sup>25</sup> Amnesty International, *Global Report: Death Sentences and Executions 2018* (2019) 11.

<sup>26</sup> Amnesty International, *Global Report: Death Sentences and Executions 2019* (2020) 11.

<sup>27</sup> Amnesty International, *Global Report: Death Sentences and Executions 2020* (2021) 12.

<sup>28</sup> Amnesty International, *Global Report: Death Sentences and Executions 2021* (2022) 12.

<sup>29</sup> *ibid* 13.

<sup>30</sup> 'Sri Lanka planning executions after 43-year moratorium' (*Guardian*, 26 June 2019) <[www.theguardian.com/world/2019/jun/26/sri-lanka-planning-executions-after-43-year-moratorium](http://www.theguardian.com/world/2019/jun/26/sri-lanka-planning-executions-after-43-year-moratorium)>.

<sup>31</sup> 'Sri Lanka hires first two hangmen in 43 years' (*BBC*, 29 June 2019) <[www.bbc.co.uk/news/world-asia-48812576](http://www.bbc.co.uk/news/world-asia-48812576)>.

<sup>32</sup> 'Sri Lanka court suspends executions until October 30' (*Aljazeera*, 5 July 2019) <[www.aljazeera.com/news/2019/7/5/sri-lanka-court-suspends-executions-until-october-30](http://www.aljazeera.com/news/2019/7/5/sri-lanka-court-suspends-executions-until-october-30)>.

<sup>33</sup> Penal Code (Amendment) Act, No.25 of 2021, published on 29 October 2021 <[http://documents.gov.lk/files/act/2021/10/25-2021\\_E.pdf](http://documents.gov.lk/files/act/2021/10/25-2021_E.pdf)>.

<sup>34</sup> 'Former prison commissioner Emil Ranjan sentenced to death over prisoners' killings' (*Colombo Page*, 13 January 2022) <[www.colombopage.com/archive\\_22A/Jan13\\_1642014983CH.php](http://www.colombopage.com/archive_22A/Jan13_1642014983CH.php)>.

<sup>35</sup> See <[prisonstudies.org/country/sri-lanka](http://prisonstudies.org/country/sri-lanka)>.

<sup>36</sup> UNGA Res 70/175, 'Resolution adopted by the General Assembly on 17 December 2015: United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)' (8 January 2016) UN Doc A/RES/70/175.

<sup>37</sup> Sri Lanka Human Rights Commission. *Prison Study by the Human Rights Commission of Sri Lanka* (January 2020) xx-xxi available at <[www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf](http://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf)>.

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<sup>38</sup> Zulfick Farzan, 'Over 3,500 COVID-19 deaths since 15th April in Sri Lanka' (*News First*, 27 July 2021) <[www.newsfirst.lk/2021/07/27/over-3500-covid-19-deaths-since-15th-april-in-sri-lanka/](http://www.newsfirst.lk/2021/07/27/over-3500-covid-19-deaths-since-15th-april-in-sri-lanka/)>.

<sup>39</sup> 'Sri Lanka planning executions after 43-year moratorium' (*Guardian*, 26 June 2019) <[www.theguardian.com/world/2019/jun/26/sri-lanka-planning-executions-after-43-year-moratorium](http://www.theguardian.com/world/2019/jun/26/sri-lanka-planning-executions-after-43-year-moratorium)>.

<sup>40</sup> Jose M Jose and Maria Corazon A De Ungria, 'Death in the Time of Covid-19: Efforts to Restore the Death Penalty in the Philippines' (2021) 2 *Forensic Science International: Mind and Law*, 1.

<sup>41</sup> *ibid* 2. See also Nymia Simbulan et al, 'The Manila Declaration on the Drug Problem in the Philippines' (2019) 85(1) *Annals of Global Health* 26.

<sup>42</sup> See <<https://www.hrcsl.lk/home/>>.

<sup>43</sup> It is further recalled that the Human Rights Council determined that the basis of the Universal Periodic Review includes consideration of the Universal Declaration of Human Rights, see, Institution-building of the United Nations Human Rights Council, A/HRC/RES/5/1 18 June 2007.

<sup>44</sup> Roger Hood and Carolyn Hoyle, *The Death Penalty: A Worldwide Perspective* (5th edn, Oxford University Press 2015) 7-8.

<sup>45</sup> John Rawls stated, "[a]t some point, the injustice of the outcomes of a legitimate democratic procedure corrupts its legitimacy," in, *Political Liberalism* (Columbia University Press 2005) 248.

<sup>46</sup> Austin Sarat stated, "law cannot work its lethal will and ally itself with the killing state while remaining aloof and unstained by the deeds themselves," in, *When the State Kills: Capital Punishment and the American Condition* (Princeton University Press 2001) 21.

<sup>47</sup> See the UN Sustainable Development Goals website, <https://sustainabledevelopment.un.org/?menu=1300>.

<sup>48</sup> The first two cycles of the UPR were reviewed under a data mining procedure and of the circa. 50,000 recommendations, it was possible to link more than 50% of those to SDG targets, see, The Danish Institute for Human Rights, Linking the Universal Periodic Review to the SGGs, p. 2.

<sup>49</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns, Mission to Papua New Guinea (3 to 14 March 2014), A/HRC/29/37/Add.1, 30 March 2015, para. 96, "...several interlocutors shared the opinion that the death penalty might actually lead to further killings... given the payback culture. While the Special Rapporteur condemns the existence of the payback culture, he acknowledges that payback-related killings might increase if the death penalty is carried out.