

Observations on the [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020

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About us

Asylum Research Centre Foundation (ARC) is a UK charity working to improve standards in refugee determination procedures by ensuring that decision makers have access to high quality Country of Origin Information (COI).¹ ARC Foundation specialises in the production and use of COI in the refugee status determination process and the promotion of COI research standards and methodologies.

Rationale for this briefing

The Home Office fact-finding missions to Sri Lanka took place between 28th September to 5th October 2019 and was conducted to gather “accurate and up-to-date information from a range of sources about a number of issues concerning the treatment of Tamils” and “the treatment of members of diaspora groups” in order to “complement existing publicly available material”.² Findings from the fact-finding mission report have been heavily cited in both the *Assessment* and *Country information* sections of the May 2020 Home Office’s [Country Policy and Information Note, Sri Lanka: Tamil Separatism](#). Whilst reviewing this policy note, inconsistencies were observed between the mission report’s interview notes, its summary thereof and how these notes and summaries were relied upon in the policy note, which warranted further investigation from a COI methodological point of view.

Key observations

It is recommended that to promote transparency, that the Home Office’s internal guidelines for conducting Fact Finding Missions is made public and is revised to take account of the following observations and recommendations:

- The use of an *Executive summary* invites an additional layer of subjectivity and distorts the interviewees interview. In order to minimise subjectivity it is recommended that such a succinct summary should not be used. Legal terminology should not be used (e.g. persecution);
- Several examples of inaccurate summaries of interview notes were observed in the *Summary report* section of the Fact Finding Mission report, some of which were then repeated in the May 2020 Country Policy and Information Note on Tamil Separatism. It is recommended that additional care be taken when drafting the *Summary report*, and that external peer review is considered. It is also recommended that when a Country Policy and Information Note cites excerpts from a Fact Finding Mission report, it only does so from the full interview notes and not the *Summary report*;
- Discrepancies between the *purpose of the mission* and the *terms of reference* were observed and should be kept to a minimum so as to avoid confusion with potential interviewees and users of the fact-finding mission report;

¹ Asylum Research Centre was set up in 2010 and ARC Foundation was incorporated as a UK registered charity in 2016.

² See Home Office, [Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019](#), 20 January 2020, *Introduction, Purpose of the mission*, p. 5

- A set list of questions or topic guides based on the Terms of Reference should have been compiled and more consistently used to gauge agreement on particular topics and this should have been externally consulted;
- Some interview questions are considered to be 'leading', be overly closed, go beyond the expertise of the interviewee, use legal terminology (e.g. risk, persecution, reasonable fear);
- A greater range of interviewees should have been interviewed and it should have been made clearer how the interviewees were selected, what they based their expertise on and how many individuals from which organisation were interviewed;
- More detailed note taking of interviewees should have been undertaken to avoid ambiguities and only in the first person to promote accuracy;
- More information should have been provided on the officials involved in the fact-finding mission, the location of interviews, and who was present at each interview, the authors of the fact-finding mission report, and the intended time frame of the mission;
- Notes of visits should have been published, including questions posed;
- The process by which interlocutors signed off transcriptions (or not), should have been clarified;
- Greater clarity as to the consultation of country of origin information in preparation/drafting the report should have been provided.

General methodological observations on the Home Office fact-finding mission report on its mission to Sri Lanka

Officials involved in the fact-finding mission and location of interviews

The fact-finding mission took place in Colombo in September/October 2019 by members of the Home Office's Country Policy and Information Team with "support from the British High Commission in Colombo":

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Introduction [...]

Background

The FFM was conducted between 28 September and 5 October 2019 by 3 officials from the Country Policy and Information Team (CPIT), with support from the British High Commission in Colombo. The team visited Colombo. [...]

No further information is provided as to the roles of the 'three officials' (e.g. COI researchers, administrative staff etc.) and whether the support provided by the British High Commission in Colombo included being present during the interviews. Moreover, it has not been specified whether the three Home Office officials conducted all interviews and were also the main authors of the fact-finding mission report. This is important as their observations/impressions may have a bearing on the summaries of notes drafted.

Given the information provided in the report it can only be assumed that all interviews took place in Colombo, but no further information is provided as to the specific location. Given that "support" was provided by the British High Commission, it may have been the case that all interviews were conducted at the British High Commission itself. This would have been highly relevant to detail, given that this would likely have an impact on both whom was willing to be interviewed at such a location, and also potentially on the answers that the interlocutors were willing to give. It would also have been relevant to have detailed whether precautionary measures had to be taken to meet the interlocutors at a neutral location (i.e. not at the British High Commission in Colombo) or whether the interviews were conducted over the phone in case their movements were monitored.

The fact-finding mission took place in the knowledge that the presidential elections were to be held six weeks later on 16th November 2019. This is all the more surprising given that the *Terms of Reference* of the report encompassed the following four broad themes: Entry/Exit procedures; Reports of torture and abductions; Arrests warrants; and the Transnational Government of Tamil Eelam, i.e. all issues that relate to state ill-treatment and thus highly politicised.

Purpose and Terms of reference of the fact-finding mission

The report sets out that the purpose of the fact-finding mission was to gather information on the "current country situation, with particular regard to the Tamil community" on a range of topics including:

- Treatment of Tamils
- Government's attitude to diaspora activities

- Treatment of members of diaspora groups, in particular the Transnational Government of Tamil Eelam (TGTE)
- Treatment of members and former members of the Liberation Tamil Tigers of Eelam (LTTE)

See below the relevant excerpts from the *Purpose of the mission* and *Annex C* of the report, which was also the background information provided to potential interviewees:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Introduction [...]

Purpose of the mission

The purpose of the mission was to gather accurate and up-to-date information from a range of sources about a number of issues concerning the **treatment of Tamils** including the government's attitude to **diaspora activities** and the **treatment of members of diaspora groups**, in particular members of the **Transnational Government of Tamil Eelam (TGTE)**. The mission was also interested in gathering information about the **treatment of members and former members of the Liberation Tamil Tigers of Eelam (LTTE)**. This information is to complement existing publicly available material. A full Terms of Reference (ToR) is available at Annex A [...]

Annex C: FFM background explained to sources

FFM info to sources

Officials from the UK Home Office, the government department responsible immigration and asylum, **are undertaking a Fact-Finding Mission (FFM) to Sri Lanka to better understand the current country situation, with a particular regard to the Tamil community**. We would [therefore] like to interview you. If you kindly agree, we will:

- take [detailed] notes of the interview
- use the information you give in a report which will be placed on the Home Office website and made available to the public.
- only publish information you provide with your consent.
- also give you an opportunity to review the notes of the interview to ensure they are an accurate reflection of the conversation; and
- ask if you are willing to be identified as the source of the information you may provide. You may not wish to be publicly identified.

If so, we will ask if you are willing to be identified in more general terms – for example, by the name of your organisation or in another way.

We may also ask about the background to your organisation (where appropriate) and your role to help us understand the context of the information you provide. The FFM team will be seeking to look at the [see Annex A: Terms of reference (ToRs)]. [...]

The background of the mission explained to potential interlocutors is more general than that detailed in either the *purpose of the mission* (see excerpt above) or the *Terms of Reference* (see excerpts below). It is considered that the background of the mission should have been more specific about its purpose given it went beyond understanding the “current country situation for the Tamil community”.

Moreover, the themes listed as the *Terms of Reference* of the mission report do not fully correspond to the topics detailed in the *purpose of the mission*: [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex A: Terms of reference (ToRs)

• **Entry/Exit procedures**

- Exit checks
- Bribery (prevalence, investigation, punishment)
- “Stop” list

- o “Watch” list
- o Entry checks. Are returnees checked for scarring?
- o Detention at airport
- o Monitoring following return from abroad
- **Reports of torture and abductions.**
 - o Abductions- do these occur still/how frequently, profile of those abducted. How long are people held for and where (official/unofficial)
 - o Conditions / treatment in detention
 - o Allegations of ill-treatment
 - o Reporting conditions
 - o Ongoing monitoring following release
 - o Prison conditions
- **Arrest warrants**
 - o Process of issuing arrest warrants- who would they issue them to if the person was not in the country
 - o Examples o Prevalence of forged arrests warrants
- **TGTE o Sur Place activities- attitudes of government towards them**
 - o Support for TGTE
 - o Government interest in diaspora groups (and the level of involvement/profile of those they are interested in)
 - o Evidence of monitoring of the diaspora
 - o Treatment of returnees who have been involved with diaspora groups

For example, whilst the *purpose of the mission* details that information was sought on the treatment of Tamils and former Liberation Tamil Tigers of Eelam (LTTE) members, these issues are not included in the *Terms of Reference*. It is not explained why the scope differs, or whether different actors were involved in the drafting of these two lists.

It is further not clear who devised the *Terms of Reference* and whether any consultations took place as it appears that some relevant to the treatment of these profiles would have warranted inclusion, for example on the prevalence of torture and other forms of ill-treatment, detention conditions, and treatment of family members of specific profiles. We strongly recommend that the Home Office consult not only internally with decision-makers but also with relevant external bodies, institutions, civil society actors or country experts who are not linked to a state during the Terms of Reference drafting process, modeled on the Dutch practice which involves civil society actors in drafting the Terms of Reference for the Netherlands Ministry of Foreign Affairs *Ambtsbericht*.

Moreover, no information is provided on the specific time period the fact-finding mission was interested in i.e. the last two years or since the previous parliamentary and presidential elections held in 2015. As it has also not been specified how the interviewees were selected (see further below under ‘Sources interviewed’) it is not known what expertise the interviewees were asked to base their answers on.

Research standards

In the methodology of the Sri Lanka fact finding mission report, reference is made to both the EU Guidelines and the Home Office’s internal guidelines on conducting fact-finding missions:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)
 [...] Methodology

Research standards

The FFM was undertaken with reference to the EU [European Union] common guidelines on (Joint) Fact Finding Missions: a practical tool to assist member states in organizing (joint) Fact Finding Missions, November 2010 (EU Guidelines 2010), and the Home Office's internal guidelines for conducting FFMs [...]

Whilst a link has been provided to the EU Guidelines, no further information is included on the Home Office's guidelines. For transparency reasons it is recommended that the Home Office's internal guidelines be made public.

As for the EU Guidelines, in our view the following principles have not been fully followed and no further explanation provided as to why, as is set out below in this note:

- Trying to secure a variety of sources³;
- Visiting places outside of the capital where additional relevant interlocutors may be easier to locate⁴;
- Compiling a set list of questions or topic guides based on the Terms of Reference that can be adapted for each interlocutor but ensures consistency for cross-referencing of answers received⁵;
- Limiting suggestive/leading questions during interviews⁶;
- Detailed note taking to avoid any ambiguities including the specific questions asked or indicating where an unstructured interview approach was taken⁷;
- Securing consent for all meeting notes included in the final fact-finding mission report⁸;
- Clarifying in the final report when alterations have been added to the meeting notes during the sign-off phase⁹;
- Providing detailed referencing about the interlocutors, place of interview, details of other attendees etc., where applicable and possible¹⁰;

³ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 2.1.3. Deciding between potential sources

⁴ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 2.1.4. Choice of locations

⁵ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, Question phrasing and prompting

⁶ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, III. Annexes, 3. Examples of interview conduct and technique and 4. Question phrasing and prompting

⁷ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 4.1.2. Level of detail

⁸ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 4.1.4. Writing up and approving interview notes and 4.2.2. Approving notes during mission

⁹ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 4.2.2. Approving notes during mission

¹⁰ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 4.2.3. Writing up notes: best practice

- Refraining from using *Executive summaries* to maintain as much as possible the transparency of the information found and minimize risk of bias¹¹;

Sources interviewed

The fact-finding mission report noted that it met with “more than 50 people during 18 face to face interviews”:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Methodology [...]

Arranging and conducting interviews

The FFM team met more than 50 people during 18 face to face interviews [...]

No further information is provided on who these 50+ people were and in what capacity they interacted with the interviewers and authors of the fact-finding mission report. Inferences can be drawn though as *Annex B: List of sources* lists 18 sources the fact-finding mission met:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex B: List of sources

Diplomatic source

Secretariat for Coordinating Reconciliation Mechanisms (SCRM)

Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern province Development and Youth Affairs (MNPEA)

Human Rights Activist

Criminal Investigations Department (CID)

Human Rights Commission of Sri Lanka (HRC)

Immigration Officials Bureau of the Commissioner General of Rehabilitation

Northern province politician

Journalists 1& 2

NGO

Visit to National Mental Health Institute of Sri Lanka

Representative from the Northern province community

IOM

UNHCR

Attorney General Department

Visit to arrivals Colombo Airport [...]

Of the 18 sources listed under *Annex B: List of sources* two include ‘visits’ to the National Mental Health Institute of Sri Lanka and arrivals at Colombo Airport respectively. No further information is provided as to how many individuals were spoken to from each ‘source’ or at each location. The only indication is the “more than 50 people” the fact-finding mission team met during the course of their mission. From the plural language used, it is presumed that more than one person was interviewed from a particular organisation; for example *Members of Criminal Investigation Department*.

¹¹ See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 5.1.4. Methodology/type of Report

Comparing the Annex's *B List of sources* with Annex's *D Notes of meetings with sources*, the following list of interlocutors can be inferred:

Table 1: List of sources and Notes of meetings with sources as provided in the fact-finding mission report, including type of source and number of interviewees inferred

	Annex B: List of sources	Annex D: Notes of meetings with sources [incl. dates of interview]	Type of source	Number of interviewees
1.	Diplomatic source	Diplomatic Source, 2 October 2019	State	1
2.	Secretariat for Coordinating Reconciliation Mechanisms (SCRM)	Secretariat for Coordinating Reconciliation Mechanisms (SCRM) 30 September 2019	State	?
3.	Ministry of National Policies, Economic Affairs, Resettlement and Rehabilitation, Northern province Development and Youth Affairs (MNPEA)	Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA) 30 September 2019	State	?
4.	Human Rights Activist	Human Rights Activist, 30 September 2019	Civil society	1
5.	Criminal Investigations Department (CID)	Members of Criminal Investigation Department (CID) 1 October 2019	State	? [likely to be multiple]
6.	Human Rights Commission of Sri Lanka (HRC)	Human Rights Commission (HRC) 1 October 2019	Independent human rights body [government funded]	? [likely to be multiple]
7.	Immigration Officials	Representatives from the department of Immigration and Emigration, 1 October 2019	State	? [likely to be multiple]
8.	Bureau of the Commissioner General of Rehabilitation	Bureau of the Commissioner General of Rehabilitation, 1 October 2019	State	? [likely to be multiple]
9.	Northern province politician	Tamil National Alliance (TNA), 1 October 2019	State	1
10.	Journalist 1	Journalist 1, 2 October 2019	Media	1
11.	Journalist 2	Journalist 2, 2 October 2019	Media	1
12.	NGO	NGO, 2 October 2019	Civil society	? [likely to be multiple]
13.	Visit to National Mental Health Institute of Sri Lanka	[N.A. as no notes of the visit included in the report]	Medical facility	? [likely to be multiple]
14.	Representative from the Northern province community	Representative from the Northern province community, 2 October 2019	Civil society	1
15.	IOM	IOM, 3 October 2019	International organization	? [likely to be multiple]
16.	UNHCR	UNHCR Sri Lanka, 3 October 2019	International organization	? [likely to be multiple]
17.	Attorney General Department	Attorney General Department, 3 October 2019	State – Judiciary	? [likely to be multiple]

				multiple]
18.	Visit to arrivals Colombo Airport	[N.A. as no notes of the visit included in the report]	State	? [likely to be multiple]

Accordingly, of the 18 sources listed, six were individuals. 10 were organisations/individuals, although it is unclear how many people were interviewed. Two were ‘visits’, presumably with multiple individuals. Of these 18 sources, eight are considered state-sources, three represent civil society, two the media, two international organisations, one an independent human rights body, one the judiciary and one a medical facility. In total, 16 sets of interview notes were included in the published fact-finding mission report [Note that further analysis on the meeting notes are provided further below under section [Interview questions and Notes of interviews/meetings](#)].

The fact-finding mission report outlines that a “wide range of informed sources” were sought and identified by reviewing existing “documentary material on Sri Lanka, and consultations with the British High Commission” [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Methodology [...]

Identification of sources

The FFM team (FFT) **sought to interview a wide range of informed sources**, including Sri Lankan government officials; journalists and non-governmental organisations. That a particular source was interviewed, and the notes of that interview have been included should not be considered as endorsement of that source or the information provided. Rather, all sources and information provided needs to be critically assessed and considered against other publicly available material. **Sources were identified by a review of existing documentary material on Sri Lanka, and consultations with the British High Commission.**

The sources contacted and interviewed are those that the FFT were able to identify as relevant to the mission. But, as with any FFM, factors including time constraints and availability of sources mean that the list of sources consulted, and information provided are not exhaustive. A list of sources interviewed is at Annex B [...]

The “documentary material on Sri Lanka” consulted to identify possible interviewees could have been made clearer. It is interesting to note that the list of “wide range of informed sources” includes Sri Lankan government officials, journalists and non-governmental organisations, but not for example research institutes, diaspora organisations, community leaders or representatives of ethnic minorities.

It is recommended that in order to engage a range and balance of sources for interview, that fact-finding missions consult with relevant civil society actors both internationally and nationally prior to any mission to identify relevant interlocutors, including those ‘harder to reach’ individuals and organisations.

It becomes evident from the above review that the majority of sources consulted were state officials or linked to the Sri Lankan government and therefore do not fulfil the aim of the fact-finding mission to interview a “wide range of informed sources”.

Interview questions and Notes of interviews/meetings

With regards to the questions asked to interviewees, a lack of consistency is observed. Whilst most of the interviewees seem to have been asked a set of specific questions, though not the same, no questions are provided for other interviewees, but rather the notes contain just a summary of what was discussed. For example, the following interlocutors were not asked specific questions and their interview notes only contain summary notes:

- Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA)
- Representatives from the department of Immigration and Emigration
- Bureau of the Commissioner General of Rehabilitation
- Diplomatic Source
- Journalist 2
- NGO [the notes include a mix of meeting notes and answers to specific questions]
- Attorney General Department

Nowhere in the report is this inconsistency explained. This makes it very difficult to assess the level of convergence in interlocutors' answers.

Table 2. sets out the type of questions asked arranged under topic themes, as well as to whom the questions were asked.

Table 2. Type of questions asked

Topic	Research question asked	Interlocutors asked
Treatment of minorities		
	Has that [discrimination against minorities] increased since the Easter attacks?	Tamil National Alliance (TNA)
	Who are committing the attacks [against Muslims]?	Tamil National Alliance (TNA)
State protection		
	Why don't police act [against violence against Muslims and Tamils]?	Tamil National Alliance (TNA)
	If a Tamil person was being threatened would police offer protection, or if they report a crime?	Tamil National Alliance (TNA)
Accountability		
	Is there a complaints procedure [in relation to arbitrary arrests, police or prison custody]?	Members of Criminal Investigation Department (CID)
	Are police accused of ill-treatment prosecuted?	Human Rights Commission (HRC)
Witness protection		
	If a person is giving evidence against the military, could they receive witness protection?	Secretariat for Coordinating Reconciliation Mechanisms (SCRM)
	Persons testifying against security forces?	Representative from the Northern province community
Treatment of journalists and human rights defenders		
	Have you heard of any recent harassment of journalists and HR activists?	Journalist 1
Information on Tamils		
	Are Tamils still arrested and detained?	Human Rights Activist
	Is there a genuine fear among young Tamils of persecution?	Tamil National Alliance (TNA)

	Are Sinhalese moving into Tamil areas?	NGO
	Are Sinhalese moving to the North?	Representative from the Northern province community
	What is the situation for Tamils in Sri Lanka?	UNHCR
	Do you feel Tamils are equal in the country?	UNHCR
Information on the TGTE		
	Is there interest in the TGTE in Sri Lanka?	Human Rights Activist
	Would TGTE members be at risk?	Human Rights Activist
	How are people [TGTE members] who have been arrested treated?	Human Rights Activist
	Are people connected to proscribed groups of interest, eg. TGTE?	Members of Criminal Investigation Department (CID)
	Are supporters of proscribed groups of interest?	Members of Criminal Investigation Department (CID)
	Have you heard of the TGTE, do they have any recognition in Sri Lanka?	Journalist 1
	Is there support for the TGTE?	NGO
	Do Tamil youth support the TGTE?	NGO
	Are you aware of the TGTE?	UNHCR
Information on the LTTE		
	Are former LTTE still of interest?	Members of Criminal Investigation Department (CID)
	If former LTTE arrived back in Sri Lanka, what would happen?	Members of Criminal Investigation Department (CID)
	Are former LTTE members still of interest/arrested?	Human Rights Commission (HRC)
	Are police just looking for LTTE with criminal convictions or would just a supporter be of interest?	Human Rights Commission (HRC)
	If someone was a supporter of the LTTE would they still be of interest?	Tamil National Alliance (TNA)
	Are those with perceived links to LTTE still arrested?	Journalist 1
	Is supporting the LTTE enough to be arrested?	NGO
	Interest in former LTTE cadres	Representative from the Northern province community
	Do you feel the government is interested in former LTTE cadres, are they monitored	UNHCR
Information on rehabilitation & reintegration programmes for former LTTE cadres		
	Did the rehabilitation and reintegration scheme work?	Tamil National Alliance (TNA)
	The Government are saying that the rehabilitation and reintegration scheme has been successful, what are your views?	Tamil National Alliance (TNA)
	Have they been given schooling during rehabilitation?	Tamil National Alliance (TNA)
	Was rehabilitation of former LTTE cadres successful?	Journalist 1
	How are rehabilitees treated in the community?	Representative from the Northern province community
	Do refugees have to go through rehab?	UNHCR

	Has the Government rehabilitation programme worked?	UNHCR
	Were children schooled [as part of the rehabilitation process]?	UNHCR
Information on abductions		
	Recent reports of white van abductions?	Human Rights Commission (HRC)
Arrest procedure and treatment at point of arrest		
	Arrest warrants	Human Rights Activist
	How are arrests made? Who has power of arrest?	Members of Criminal Investigation Department (CID)
	How long are people detained before charge?	Members of Criminal Investigation Department (CID)
	Process for issuing an arrest warrant	Members of Criminal Investigation Department (CID)
	Do you have a list wanted persons?	Members of Criminal Investigation Department (CID)
	Is there a watch list?	Members of Criminal Investigation Department (CID)
	Are you aware of counterfeit arrest warrants/receipts?	Members of Criminal Investigation Department (CID)
	How long are people held before trial?	Members of Criminal Investigation Department (CID)
	How are those who are arrested treated?	UNHCR
Detention conditions; Detention visitors		
	Can family visit people held in custody?	Members of Criminal Investigation Department (CID)
	Can family visit detainees?	Human Rights Commission (HRC)
	Are political detainees held separately?	Human Rights Commission (HRC)
	Could a person bribe their way out of prison?	Human Rights Commission (HRC)
	Is there torture in detention?	NGO
	Are you aware of detention facilities?	UNHCR
Scarring		
	Are you aware of deliberate scarring?	Human Rights Activist
	Are people still scared through torture?	Human Rights Commission (HRC)
	Are returning LTTE cadres checked for scarring?	UNHCR
Reasons for migration		
	Could you tell us about Tamil youth who leave country today, do they have a fear for their lives, or do they want to build a better future?	Tamil National Alliance (TNA)
	Why are Young Tamils leaving Sri Lanka today?	Tamil National Alliance (TNA)
	Does this ['enjoying luxury lives'] encourage youth to leave the country?	NGO
Information on exit procedures		
	Are individuals questioned on exiting the country?	IOM
Information on monitoring of Sri Lankans abroad		
	Is the Sri Lankan government aware of diaspora activities?	Secretariat for Coordinating Reconciliation Mechanisms (SCRM)

	Are Tamils monitored abroad?	Human Rights Activist
	Do the Gov monitor activities in London?	Tamil National Alliance (TNA)
	Does the Government monitor activities of the diaspora?	Tamil National Alliance (TNA)
	Does the government monitor diaspora groups	Representative from the Northern province community
	Are persons involved in protests abroad of interest?	IOM
Treatment of returnees		
	How are Tamils treated on return to Sri Lanka	Secretariat for Coordinating Reconciliation Mechanisms (SCRM)
	Would someone previously detained still be of interest if they'd left then reentered the country?	Members of Criminal Investigation Department (CID)
	Do people [returnees and particularly those previously detained] have to register with the local police?	Members of Criminal Investigation Department (CID)
	If someone returns who previously supported LTTE or TGTE what would happen	Tamil National Alliance (TNA)
	Someone who has claimed asylum in UK would they have a reasonable fear when they return	Tamil National Alliance (TNA)
	Would members of the TGTE be arrested if they returned?	Tamil National Alliance (TNA)
	Would a Tamil returning from abroad face difficulties?	Journalist 1
	Are you aware of monitoring of returning Tamils?	Journalist 1
	What would happen to returning Tamils?	NGO
	Treatment of returning FAS [Failed asylum seekers]?	Representative from the Northern province community
	How are returnees treated?	IOM
	Do former LTTE cadres face problems on return?	IOM
	Tamil refugees returning from India- do they feel safe to come back?	UNHCR
	What is the perception on the situation of returnees coming back from Europe?	UNHCR
	How are LTTE members viewed when they return?	UNHCR
Compensation		
	Would a failed asylum seeker be able to apply for compensation?	Secretariat for Coordinating Reconciliation Mechanisms (SCRM)
Water sanitation		
	Why is water sanitation an issue?	UNHCR
Mental health		
	Are there facilities for PTSD [Post-traumatic stress disorder]?	Human Rights Commission (HRC)
Tamil National Alliance (TNA)		
	How many MP's does the TNA have?	Tamil National Alliance (TNA)

Table 2 illustrates six potential concerns:

- i) The use of suggestive/leading questions;

- ii) Closed questions were sometimes used potentially leaving little room for the interlocutors to provide fuller insights;
- iii) Some questions were framed in such a way as to go beyond the expertise of the interlocutors;
- iv) Some questions were phrased in legal terminology placing the interlocutors in a position of assessing 'risk';
- v) Some questions were only asked to one interlocutor;
- vi) Some questions were asked on topics beyond the presented purpose of the mission and the set Terms of Reference.

Examples for each concern are presented below:

Suggestive / leading questions

- i) The following question might suggest that a specific answer was being sought [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Human Rights Activist, 30 September 2019 [...]

Q. Are you aware of deliberate scarring? [...]

A more appropriate question would have been 'Are you aware of how people might sustain/become scarred'?

Closed questions

- ii) Examples of closed-ended questions where limited or unspecific answers are provided with no follow-up questions by the interviewer(s):

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Tamil National Alliance (TNA), 1 October 2019 [...]

Q. If a Tamil person was being threatened would police offer protection, or if they report a crime?

Not always. It would depend on the circumstances if the offenders are influential people, then no

Q. Did the rehabilitation and reintegration scheme work? [...]

The Sri Lankan government have not kept their commitment. They have a notorious reputation of not keeping commitments. Leaders come from abroad and the government here make commitments but do not keep them. The Government has committed things, but they have not done them [...]

Members of Criminal Investigation Department (CID) 1 October 2019 [...]

Q. Are former LTTE still of interest?

There's a voluntary rehabilitation process; not enforced [...]

Where limited answers are provided they should be probed and/or the intended question asked again/rephrased (and this detailed in the interview notes).

Questions beyond the expected expertise

- iii) The following examples demonstrate that some questions were framed in such a way that they go beyond the expected expertise of the interlocutors, especially as these were questions about other people's emotions and intentions:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Tamil National Alliance (TNA), 1 October 2019 [...]

Q Could you tell us about Tamil youth who leave country today, do they have a fear for their lives, or do they want to build a better future? [...]

NGO, 2 October 2019 [...]

Q. Do Tamil youth support the TGTE? [...]

Does this ['enjoying luxury lives'] encourage youth to leave the country? [...]

UNHCR Sri Lanka, 3 October 2019 [...]

Q Tamil refugees returning from India- do they feel safe to come back? [...]

Questions using legal terminology

- iv) The following examples highlight this point [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Human Rights Activist, 30 September 2019 [...]

Q. Would TGTE members be **at risk**? [...]

Tamil National Alliance (TNA), 1 October 2019

Q Is there a **genuine fear** among young Tamils of **persecution**? [...]

Q Someone who has claimed asylum in UK would they have a **reasonable fear** when they return [...]

This phrasing is problematic as it asks interlocutors to assess risk, the purview of decision-makers. A more appropriate question would have been 'How would TGTE members be treated on return to Sri Lanka'.

Questions only asked once

- v) Although interview questions were not always provided, it appears that some were only asked to one specific interlocutor thereby not providing as full a picture as possible or being able to indicate convergence and divergence of views. In the following examples it would have been very useful to elicit replies from a range of sources:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Human Rights Commission (HRC) 1 October 2019 [...]

Q Recent reports of white van abductions? [...]

NGO, 2 October 2019 [...]

Q Is there torture in detention? [...]

Questions asked outside of the purpose of the mission

- vi) The following questions were asked on topics beyond the intended purpose of the mission with no explanation provided as to why:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources [...]

Human Rights Commission (HRC) 1 October 2019

Q. Are there facilities for PTSD [Post-traumatic stress disorder]? [...]

UNHCR Sri Lanka, 3 October 2019 [...]

Q Why is water sanitation an issue? [...]

Of separate and particular mention is the issue surrounding ‘scarring’, and in particular, ‘deliberate scarring’. Three interlocutors, a Human Rights Activist, the Human Rights Commission and UNHCR, were specifically asked about scarring and it was also raised during the mission’s visit to Colombo airport [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] 8. Airport procedures

The FFT visited Colombo airport on 4 October 2019 and were escorted around the various sections of the arrivals’ hall. The FFT were taken around the airport in the order that arriving passengers would be. The following information contains observations made by the FFT and information given to the FFT by immigration officials, members of CID and healthcare professionals based at the airport [...]

8.1 Arrivals process [...]

8.1.13 [...] The CID officer confirmed no one was checked for scarring [...]

[...] Annex D: Notes of meetings with sources [...]

Human Rights Activist, 30 September 2019 [...]

Q. Are you aware of deliberate scarring?

He said he was not aware of anyone deliberately scarring themselves or being singled out at the airport because of scarring. The assumption is that any scar or injury is a result of fighting for the LTTE [...]

Human Rights Commission (HRC) 1 October 2019 [...]

Q. Are people still scared [sic] through torture?

A UK NGO published pictures of people allegedly tortured by branding but the HRC has seen no such cases; none have been brought to their attention in Sri Lanka [...]

UNHCR Sri Lanka, 3 October 2019 [...]

Q Are returning LTTE cadres checked for scarring?

Yes, they are during screening checks at the airport. It could lead to additional questioning although we don’t know why - probably to do with the profile of the person [...]

The *Terms of Reference* only set out to investigate whether ‘returnees are checked for scarring’. Only one interlocutor was asked this directly (UNHCR Sri Lanka) and interestingly all three interviewees were asked different questions in relation to scarring – again something which hasn’t been explained anywhere in the report. The Human Rights Activist is the only interlocutor questioned in relation to *deliberate* scarring.

In relation to meeting notes, as mentioned above, the fact-finding mission report explained that it met with “more than 50 people” during 18 interviews, for which 16 sets of interview notes are included in the final report. It is possibly the case that multiple persons were interviewed at one setting, but this is not made clear in the report.

However, out of 18 sources interviewed for the report, only 11 approved the notes the fact-finding mission team had taken of their interviews, one source retracted from the process, and six sources did not provide a response [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Methodology [...]

Arranging and conducting interviews

The FFM team met more than **50 people during 18 face to face** interviews [...]

Notes of interviews/meetings

The FFT took notes at all the meetings with sources. These were subsequently sent by email, for review and approval. **Of the 18 sources, 11 approved the notes with a number making amendments to the original drafts. One source did not want us to use the notes at all and the remaining 6 sources were emailed the notes of the interviews, but did not provide a response.**

All sources were asked how they would prefer to be referenced. A number of sources requested varying degrees of anonymity to protect their professional privacy and/or to protect their safety. In these cases, the FFT asked sources to provide a description of how they preferred to be referenced. All sources are described according to their own request where this was specifically made.

The notes of all interviews with sources are available at Annex D. [...]

The methodology of the fact-finding mission report doesn't make clear whether the interlocutors were aware that their interview notes would be published without approval, which happened in the case of five sources. Presumably interlocutors were aware of this in advance of engaging in the interview. However it is recommended that the process by which interlocutors sign off transcriptions (or not), should have been clarified.

Moreover, during the two visits to the National Mental Health Institute and the arrivals at Colombo Airport listed in *Annex B*, the fact-finding mission team met with relevant staff and were provided with presentations. However no notes of these visits have been included in the final report nor have the interview questions or the roles of the individuals they met been specified. Instead the fact-finding team's individual impressions, as well as discussions held have been interweaved into the report as follows [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] 8. Airport procedures

The FFT visited Colombo airport on 4 October 2019 and were escorted around the various sections of the arrivals' hall. The FFT were taken around the airport in the order that arriving passengers would be. **The following information contains observations made by the FFT and information given to the FFT by immigration officials, members of CID and healthcare professionals based at the airport.** [...]

9. Medical facilities

9.1.1 The FFT visited the National Mental Health Institute (NMHI) in Angoda on 2 October 2019. **The FFT were given a presentation by health care professionals and were shown some of the facilities available at the hospital. The following contains information obtained during the presentation and information given, during questions and answers, to the FFT by health care professionals based at the hospital** [...]

It is not clear if these impressions were shared in advance of publication.

Annex D: Notes of meetings with sources neglects to include comprehensive information about the interlocutors' professional background, which ideally should have been included as per the EU Guidelines¹². For example either no person is mentioned but only the place of work (e.g. 'Secretariat for Coordinating Reconciliation Mechanisms (SCRM)', 'Ministry of National Policies, Economic Affairs Resettlement and Rehabilitation (MNPEA)') or a number of individuals are referred to (e.g. 'Members of Criminal Investigation Department (CID)', 'Representatives of the department of Immigration and Emigration) omitting the number, grade/seniority, job title.

It is also observed that the notes of the meetings contain different styles; whilst some are presented as meeting notes, others have detailed the responses provided by the interviewees either in first or third person. Nowhere is this inconsistency explained. Presenting meeting notes in third person or as 'summaries' provides a further level of subjectivity and possible distortion of the original meaning of the words used by the interviewees [Note that an example of such is provided further below under [Relevant points from the fact-finding mission omitted from the country information section of the May 2019 Country Policy and Information Note on Tamil Separatism](#)].

'Source assessment and commentary' of the fact-finding mission report

The fact-finding mission set out how it intended to conduct source assessment:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Source assessment and commentary

In trying to establish the various issues set out in the Terms of reference, the Home Office has sought to assess the reliability of sources and information provided. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information; and, to a lesser extent given this report is limited to information gathered on the mission,
- whether the COI is consistent with and/or corroborated by other sources.

This report has focused primarily on the information given to the fact-finding team during the mission [...]

Whilst the report states that it conducted source assessments based on the above criteria, very little COI is included; in fact only two media sources provide contextual background [see further below]. It is therefore not clear whether the views included here of the interlocutors are consistent with other sources' findings and views. This is all the more important due to the limited range/balance of sources interviewed for this fact-finding mission.

'Executive summary' of the fact-finding mission report

The fact-finding mission report contains 26 pages of interview notes, an 18 page summary of these entitled 'Summary report' as well as a one-page long *Executive summary* without

¹² See European Union, [EU common guidelines on \(Joint\) Fact Finding Missions: a practical tool to assist member states in organizing \(joint\) Fact Finding Missions](#), November 2010, I. Methodology, 2.1.3. Deciding between potential sources and 4.2.3. Writing up notes: best practice

subheadings. As very few direct quotes of COI are presented throughout the summary report, the interview notes have been heavily synthesised. The *Executive summary* marks a further heavy synthesis of already condensed material.

It is concerning that such an *Executive summary* is included for the following reasons:

- It provides an additional layer of unavoidable subjectivity by the authors in deciding what information is pertinent to condense from the 26 pages of interview notes to one page;
- Further condensing summaries distorts the original language from the source material even more;
- It may encourage decision-makers of the report to only engage with the *Executive Summary* and not the full text, and even less likely the full meeting notes.

It is surprising to see the language of risk assessment i.e. persecution used in this *Executive Summary* as this might be read to imply guidance to decision makers on how to assess cases:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Executive summary

[...] Most Tamils do not suffer **persecution** simply for being a Tamil but there remains **some** discrimination towards them and other minority groups. [...]

This is the same language used in the *Summary report* on this issue, which is the first example addressed below under [Inaccurate summaries of the fact-finding mission interview notes and how these are dealt with in the May 2020 Country Policy and Information Note on Tamil separatism](#).

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 2. Treatment of Tamils

2.1.1 **Most sources noted that Tamils are not specifically targeted and do not suffer persecution just for being a Tamil^{21 22 23} but they do suffer discrimination along with other minorities²⁴.** According to one source there is more freedom and opportunities in the north compared to the situation pre2015²⁵. Whilst there are increased opportunities in the north, job opportunities remain limited with the war having destroyed factories and other livelihoods and the promised economic development not happening²⁶. Housing and land for returnees remains a problem and there were a number of reintegration issues such as access to water and sanitation^{27 28}. [...]

21 Tamil National Alliance (TNA), 1 October 2019

22 Journalist 1, 2 October 2019

23 Attorney General Department, 3 October 2019

24 UNHCR, 3 October 2019

25 UNHCR, 3 October 2019

26 NGO, 2 October 2019

27 UNHCR, 3 October 2019

28 NGO, 2 October 2019

It is observed that the above excerpt of the *Executive Summary* has also slightly amended the text that was used in the *Summary report* - introducing the qualifier that there remains 'some discrimination', whereas in the *Summary report* this was reported more emphatically that 'they do suffer discrimination'.

The following is an illustrative example of where the *Executive Summary* has not fully accurately summarised the *Summary report*:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Executive summary

[...] It is likely that some monitoring of political diaspora groups occurs outside of Sri Lanka although this was likely to be of the more prominent members [...]

The *Summary report* illustrates that there was convergence in several sources about monitoring of political diaspora groups outside of Sri Lanka. However only one source, the representative from the northern province, thought that such monitoring was likely to be of more prominent members. Other sources detailed photos taken of protestors at an overseas embassy and monitoring of social media without this qualification [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

5.2 Monitoring of the diaspora

5.2.1 Several sources acknowledged that they were aware or believed that there was **some monitoring of the diaspora** by the Sri Lankan authorities^{135 136 137 138}. Journalist 1 stated that this was **common practice** as the government and military are fearful of an uprising and so place officers amongst protestors in the UK to monitor them¹³⁹. Journalist 2 was aware of **protesters having their photos taken** by those inside the Sri Lankan High Commission¹⁴⁰.

5.2.2 The representative from the northern province community stated that activists were probably monitored, and he had heard reports of members of the diaspora facing intimidation when they return to Sri Lanka although he noted this was not the case for everyone and was **more likely to be prominent activists**. The same source did also note that members of UK/US Tamil groups and Global Tamil Forum (GTF) members have been able to come and go within Sri Lanka and travel to the north to cover the war heroes' event and have faced no problems. He went on to note that there may be a degree of self-censorship amongst active diaspora groups and some may not feel comfortable returning. Although he stated that some diaspora groups do what they do to raise their asylum profile¹⁴¹.

5.2.3 IOM stated that persons involved in protests abroad are of no interest as demonstrating abroad is not an offence although if links can be found to banned organisations then it may increase the risk on return¹⁴².

5.2.4 Monitoring on return to Sri Lanka is also a possibility if you are deemed to have done something against the government and **monitoring of social media** also occurs¹⁴³. A human rights activist and Journalist 1 both mentioned that former cadres and others employed by the authorities monitor protests and communities in the north and east^{144 145}. Journalist 1 also stated that in Jaffna many media organisations were penetrated by excadres, paid by the military and that during the war, **journalists in league with the government were placed in countries abroad to monitor activities**¹⁴⁶.

135 Journalist 1, 2 October 2019

136 Human Rights Activist, 30 September 2019

137 Representative from the northern province community, 2 October 2019

138 Journalist 2, 2 October 2019

139 Journalist 1, 2 October 2019

140 Journalist 2, 2 October 2019

Interestingly, whilst the human rights activist is cited above in paragraph 5.2.4, that they mentioned that Sri Lankan representatives had taken photos of human rights activists in the UN building in Geneva was omitted [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Human Rights Activist, 30 September 2019

Some people are employed by the Sri Lankan authorities to take photos and videos of protestors. This is common in the North and East. There is a network of informants in the North and East made up of former cadres and others. So it would be no surprise if such monitoring occurred abroad. The source cited official and unofficial Sri Lankan representatives had taken photos of human rights activists in the UN building in Geneva. [...]

‘Summary report’ of the fact-finding mission

The *Introduction* of the report notes that this section is a “thematically arranged narrative, including some direct quotes from the sources interviewed” [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Introduction [...]

Structure of the report

The report is split into:

- An introduction explaining the purpose of the mission and how it was planned and undertaken
- An executive summary
- **A thematically arranged narrative, including some direct quotes from the sources interviewed**
- Annexes [...]

As set out in the *Purpose of the mission*, the fact-finding mission was to gather information on the “current country situation, with particular regard to the Tamil community” on a range of topics including:

- Treatment of Tamils
- Government’s attitude to diaspora activities
- Treatment of members of diaspora groups, in particular the Transnational Government of Tamil Eelam (TGTE)
- Treatment of members and former members of the Liberation Tamil Tigers of Eelam (LTTE)

These broad issues have been included as section headings in the *Summary report* as follows:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report [...]

2. Treatment of Tamils

3. Tamil Groups

3.1 Transnational Government of Tamil Eelam (TGTE)

3.2 Liberation Tigers of Tamil Eelam (LTTE)

3.3 Rehabilitation

3.4 Societal treatment [...]

4.2 Treatment of returnees with reutnrees with links/perceived links to the LTTE

- 4.3 Treatment of returnees with TGTE links
- 5. Diaspora and sur place activities
- 5.1 Government attitude [...]

The additional section headings included in the *Summary report*, whilst in and of itself are useful for an understanding of the situation of Tamils, diaspora groups, TGTE and LTTE members and those perceived as such, are not all reflected in the *Terms of Reference* as laid out in *Annex A* [for further discussion on this see [Purpose and Terms of reference of the fact-finding mission further](#) above].

In two instances information from media sources (i.e. Al Jazeera and BBC news) was included in the *Summary report* to provide contextual background at paragraphs 1.1.2 and 1.1.3 [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

1. General situation [...]

1.1.2 Several sources noted that whilst the situation improved post-2015, following the October coup (**where Maithripala Sirisena sacked Ranil Wickremesinghe from his role as Prime Minister, replacing him with the former President Mahinda Rajapaksa¹⁰**) and the bombings (reportedly carried out by Islamist extremist suicide bombers) which took place in Easter 2019, intimidation and monitoring has increased^{11 12} with some civil society actors experiencing increased monitoring of their activities and multiple visits by the intelligence service or military who have collected details on their programmes and funding¹³. After the bombings took place check points were reinstated, although at the time of the mission these had all been removed^{14 15}.

1.1.3 Several sources also noted that whilst a general feeling of more personal freedom prevails there remains a fear that things could change at any time as views can be influenced by the government in power and some people were anxious about a change of power in the (then forthcoming) November Presidential elections^{16 17 18 19}. **The elections in November saw the return to power of the Rajapaksa family, some of whom have been implicated in alleged war crimes and human rights abuses²⁰**. [...]

[...] 10 Al Jazeera, 'Sri Lanka president sacks prime minister, appoints Rajapaksa', 26 October 2018, url

11 Human Rights Activist, 30 September 2019

12 Representative from the northern province community, 2 October 2019

13 Representative from the northern province community, 2 October 2019

14 UNHCR, 3 October 2019

15 NGO, 2 October 2019

16 Representative from the northern province community, 2 October 2019

17 Diplomatic sources, 2 October 2019

18 Tamil National Alliance (TNA), 1 October 2019

19 Journalist 1, 2 October 2019

20 BBC news, 'Return to power for wartime leader brothers', 21 November 2019 ur [...]

The methodology, as outlined in the fact-finding mission report, does not specify that additional country information available in the public domain was consulted in drafting the report. The section on *Source assessment and commentary* sets out that in order to assess the reliability of sources and information it consults "COI" and whether it is "consistent with and/or corroborated by other sources" [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Source assessment and commentary

In trying to establish the various issues set out in the Terms of reference, the Home Office has sought to assess the reliability of sources and information provided. Factors relevant to the assessment of the reliability of sources and information include:

- the motivation, purpose, knowledge and experience of the source
- how the information was obtained, including specific methodologies used
- the currency and detail of information; and, to a lesser extent given this report is limited to information gathered on the mission,
- **whether the COI is consistent with and/or corroborated by other sources.**

This report has focused primarily on the information given to the fact-finding team during the mission [...]

Further observations on source assessment as described in the fact-finding mission report can be found further above under section 'Source assessment and commentary'.

Inaccurate summaries of the fact-finding mission interview notes and how these are dealt with in the May 2020 Country Policy and Information Note on Tamil separatism

Nine examples of inaccurate summaries of fact-finding mission interview notes which then appear in the CPIN are discussed here.

1. It is considered that the following fact-finding mission's summary is not fully reflective of the full interview notes [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 2. Treatment of Tamils

2.1.1 **Most sources noted** that Tamils are **not specifically targeted and do not suffer persecution just for being a Tamil**^{21 22 23} **but they do suffer discrimination along with other minorities**²⁴. According to one source there is more freedom and opportunities in the north compared to the situation pre2015²⁵. Whilst there are increased opportunities in the north, job opportunities remain limited with the war having destroyed factories and other livelihoods and the promised economic development not happening²⁶. Housing and land for returnees remains a problem and there were a number of reintegration issues such as access to water and sanitation^{27 28}. [...]

21 Tamil National Alliance (TNA), 1 October 2019

22 Journalist 1, 2 October 2019

23 Attorney General Department, 3 October 2019

24 UNHCR, 3 October 2019

25 UNHCR, 3 October 2019

26 NGO, 2 October 2019

27 UNHCR, 3 October 2019

28 NGO, 2 October 2019

Interestingly, whilst a similar summary was included in the CPIN, the CPIN amended the language as to how convergent the sources were, changing 'most sources' to 'several sources':

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 5. Treatment of Tamils

5.1 Overview

[...] 5.1.7 **Several sources told the UK Home Office Fact-Finding Mission that Tamils are not specifically targeted and do not suffer persecution just for being a Tamil**⁸¹ **but they do suffer discrimination along with other minorities**⁸². According to one source there is more freedom and opportunities in the north compared to the situation pre-2015⁸³. A representative from the northern province community said that prior to the forthcoming November presidential elections, Tamils have more freedom of speech than previously but were fearful of the return of former president Rajapaksa⁸⁴.

81 Home Office, 'HO FFM report', Annex D- TNA, Journalist 1, AG, 20 January 2020, url.

82 Home Office, 'HO FFM report', Annex D- TNA, UNHCR, 20 January 2020, url.

It is surprising to see the language of risk assessment i.e. persecution used to summarise interview notes.

Three sources are cited in footnote 81 to support the position that “Tamils are not specifically targeted and do not suffer persecution just for being a Tamil”: TNA [Tamil National Alliance], Journalist 1, AG [Attorney General’s Department]. Two sources are cited to support the statement that “they do suffer discrimination along with other minorities”. However, the references do not make clear on which page of the fact-finding mission report these responses were located. Having consulted the notes of the meetings with the Tamil National Alliance, Journalist 1 and the Attorney General’s Department, it is presumed that they are summaries of the following interview notes [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Tamil National Alliance (TNA), 1 October 2019

[...] **Q Do the Gov monitor activities in London?**

The TGTE exists outside of the country. It doesn’t function within the country. They complain about the plight of the Tamils. The plight of the Tamils is not altogether perfect we have many legitimate grievances and short comings. The TGTE claims to be a government in exile of the Tamil people comprising of ex patriots. We (TNA) are a political organisation representing the Tamil people of Sri Lanka and have been democratically elected into parliament we have no links to the TGTE but at the same time we acknowledge that there is discrimination against Tamils. **Violations of Human Rights, religious, social and cultural rights and other continuing phenomena and continue to inhibit the Tamils from living with dignity.** After the change in government post-2015 there have been some improvements. To discriminate against minorities is tolerated and is not dealt with under the law.

Q Has that increased since the Easter attacks? Yes, there have been attacks against the Muslims, unwarranted.

Q Who are committing the attacks

Extreme elements. When these forces join, they become **engaged in violence against Muslims and Tamils. The local enforcement authorities are paralysed (i.e. the police don’t act).** [...]

Q Why don’t police act?

The police don’t act because they are on the side of Sinhalese. They think they must be on the side of Sinhalese people. This type of action is encouraged by some political leaders and the minority people are left without any defence. We don’t have people abducted in white vans anymore. We don’t have people being killed such as journalists and political and human rights activists, we don’t have such violations happening in the big way it happened pre-2015. That was a whole different situation. Even now the minority people do not feel safe.

Q If a Tamil person was being threatened would police offer protection, or if they report a crime?

Not always. It would depend on the circumstances if the offenders are influential people, then no.

Q If someone returns who previously supported LTTE or TGTE what would happen

Depends on circumstance of each case.

Q If someone was a supporter of the LTTE would they still be of interest?

It needs to be viewed in the context of what happened during and after the war. People have gone missing, thousands of enforced disappearances and the government, former and present, are reluctant to carry out independent investigations on the issue of missing persons and the issue of enforced disappearances or in the case of grave violation of Human Rights committed by the armed forces during the war. **There is a government reluctance to do the right thing and Tamil people do not feel safe to come back particularly those who fled fearing persecution.**

Q Someone who has claimed asylum in UK would they have a reasonable fear when they return

It has to be viewed in context of what is happening- the rule of law is not enforced or observed, there have been thousands of cases where they have been no investigations. People have natural fear in country where they do not feel safe. **If they left because they fear**

persecution and been involved in some activity that puts them at risk then it needs to be understood in that context, that background. [...] **Q Would members of the TGTE be arrested if they returned?**

I don't know about the TGTE I know nothing about their activities. Tamils who left the country as a result of LTTE or as a result of fear of persecution are being identified somehow when they come back- they could fear that they might not be safe. [...]

Q Does the Government monitor activities of the diaspora?

I don't know.

Q Could you tell us about Tamil youth who leave country today, do they have a fear for their lives, or do they want to build a better future?

Depends on the circumstances of each case and how they left the country. Many Tamils left because they feared persecution.

Q Why are Young Tamils leaving Sri Lanka today?

Don't know about young Tamils who were not involved in war. You are not subject to persecution because you are a Tamil. Tamils who were involved in military conflict often know of other Tamils who were involved in the conflict and have disappeared then they have a genuine fear.

Q is there a genuine fear among young Tamils of persecution?

The situation at present is not as bad as it was some time ago, but it has certainly not improved to the point where everything is perfectly ok. Things can get worse at any point in time [...]

Whilst the Tamil National Alliance (TNA) source states that "You are not subject to persecution because you are a Tamil", they also make some further points that counter the CPIN's summary that they are of the position that Tamils are "not specifically targeted" and go beyond "suffering discrimination". As highlighted above, the TNA source state that "Violations of Human Rights, religious, social and cultural rights and other continuing phenomena and continue to inhibit the Tamils from living with dignity", that Tamils experience violence and that the police don't respond.

The following are the relevant excerpts of notes of the meeting with Journalist 1 that mention the treatment of Tamils [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Journalist 1, 2 October 2019

Q would a Tamil returning from abroad face difficulties?

Although the journalist hasn't faced any security related harassment whilst going to or returning from abroad at the airport, they have heard stories that persons of Tamil origin face harassment and intimidation at the hands of security sector for several reasons including for being wealthy.

Since 2012 and with the current government, security is generally relaxed. As a Tamil, the journalist has had no problems. Neither has his relatives. Many Tamils travel to Sri Lanka (from abroad) for Nallur, a Hindu festival held in August [Nallur temple is in Jaffna]. Hundreds of thousands attend each year and there have been no reports of problems.

Speaking to journalists from the North and following Twitter, the journalist was not aware of people facing additional scrutiny. People are free to protest, and they do. There are no repercussions. There is no direct action against Tamils. People protested following the issue with the Buddhist monk's cremation and nothing happened to them, the police took no action. Not aware of conditions in detention but understands political prisoners are still detained.

Q Are you aware of monitoring of returning Tamils?

Monitoring on return to Sri Lanka is possible if you are deemed to have done something against the government. Officers were placed amongst protesters in the UK to monitor and keep track of them. This is common practice as the government and military fear revenge.

Although the war ended in 2009, defence budgets continue to rise. Government monitoring of social media occurs. Ex-cadres are used to monitor communities. In Jaffna, many media organisations were penetrated by excadres, paid by the military. During the war, journalists in league with the government, were placed in countries abroad to monitor activities; it's possible this continues.

Tamils are not randomly stopped anymore. It happened briefly after the Easter bombings but not now. After experiencing such tight control [in the past] a more casual approach is now taken. A reason is needed to arrest someone now. [...]

No explicit mention is made of Tamils not experiencing persecution. The closest point to this is that "There is no direct action against Tamils", however, this appears to be a point about protests. The language is very unclear, exacerbated by the interview notes being written in the third person. The Journalist mentions "harassment and intimidation at the hands of security sector for several reasons", but this is not reflected in the CPIN summary, nor is Journalist 1 cited as one of the sources documenting discrimination against Tamils.

The following are the relevant excerpts of notes of the meeting with the Attorney General Department that mention the treatment of Tamils [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Attorney General Department, 3 October 2019

When asked initially one senior member of the department was unaware that the TGTE is a proscribed organisation in Sri Lanka, however a colleague was able to confirm that they are.

The TGTE is proscribed in Sri Lanka due to its links with the LTTE. If returning TGTE supporters have committed an offence here then we can take action but if they arrived peacefully into the country, they wouldn't face any trouble. **Not aware of a single case of a person returning facing problems on return.**

There is no reason for people to move away for their safety now. There is less military presence in the North and former LTTE cadres have become politicians. If an ex member of the LTTE returned and they were a wanted person they would be questioned but mere membership of the LTTE would not be of interest. **Not aware of harassment of Tamils,** unless they are involved in illegal activities, e.g. illegal sand mining. [...]

The most relevant point to support the assertion that "Tamils are not specifically targeted and do not suffer persecution just for being a Tamil" is the Attorney General Department's point that they are "Not aware of harassment of Tamils". However, in comparison to the other interview notes cited above, no interview questions are detailed. This further compromises clarity and transparency and it is not clear whether the Attorney General Department's was directly asked a question about the treatment of Tamils. Moreover, these interview notes are written in the third person which further undermines clarity.

The summary included in the fact-finding mission and again in the *Country Information* section of the CPIN is all the more important as it also appears in the *Assessment* section of the CPIN [emphasis added]:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

[...] b) Former LTTE members/supporters

2.4.13 Available evidence suggests that whilst Tamils may sometimes be subjected to discrimination, they are unlikely to face persecution based on their ethnicity alone. People

returning to Sri Lanka after a long period of absence are, irrespective of their ethnicity, likely to be questioned on arrival by immigration officials. This is a standard procedure to confirm their identity, check for outstanding criminal offences and make relevant checks with local police in the area where the person claims to have previously lived. Where someone has had previous links to the LTTE they may be questioned further but it will depend on the individual case and may not necessarily mean that a person is detained. Tamils returning from abroad are generally monitored in the community and the period of monitoring by local police can vary. There is no evidence to suggest that all returning Tamils are at risk of being perceived to have links to the LTTE, or if they do have links that this is a problem for them on return, as the LTTE is viewed as a spent force with previous combatants having been rehabilitated and absorbed into society with some, for example, being employed by the security forces or civil defence force or given government employment as bus drivers and conductors (see Treatment of Tamils and Exit and return). [...]

2. The following is another example of an inaccurate summary of interview notes included in the fact-finding mission summary:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 2. Treatment of Tamils

2.1.3 **Certain Tamils may be subject to closer scrutiny:** for example, political activists and journalists and those returning from abroad **may be monitored**, although this was not the case for all Tamils³¹. One source noted that they had heard stories of returning Tamils who had faced harassment and intimidation for various reasons, including being wealthy³². Tamils do have more freedom of speech but fear the return of former president Rajapaksa³³. [...]

31 Human Rights Activist, 30 September 2019

32 Journalist 1, 2 October 2019

33 Representative from the northern province community, 2 October 2019

Compare the original interview notes with the human rights activist [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Human Rights Activist, 30 September 2019

[...] **Q. Are Tamils monitored abroad?**

There is some monitoring. Anecdotally, the source cited one person who was arrested and detained for a few hours who had participated in a protest abroad. He was picked up at the airport in 2017/18 for protesting about the war in 2008/09 and this is the first time he had returned.

A Norwegian-based Sri Lankan Tamil journalist (now a Norwegian citizen) was accused of writing against the government and judiciary and arrested in Jaffna in 2019. He was released but has a case pending against him. **Tamils returning from abroad are generally monitored to see what they are doing, especially in the North and East.**

Certain Tamils are subject to close scrutiny, e.g. political activists, journalists. But, in his experience, not all Tamils are monitored, and he knew of Tamils from the diaspora who had not encountered any difficulty.

Some people are employed by the Sri Lankan authorities to take photos and videos of protestors. This is common in the North and East. There is a network of informants in the North and East made up of former cadres and others. So it would be no surprise if such monitoring occurred abroad. The source cited official and unofficial Sri Lankan representatives had taken photos of human rights activists in

the UN building in Geneva. He could not recall a random Tamil being stopped at the airport. He was not aware of anyone on the Watch list being stopped but has heard this happens anecdotally.

The full interview notes state that “Certain Tamils are subject to close scrutiny” whilst this is changed in the summary to “Certain Tamils may be subject to closer scrutiny”. This distorts and dilutes the original meaning - the original asserts how close the scrutiny is, not just that certain Tamils may experience more scrutiny than others.

Moreover, the full notes state that “Tamils returning from abroad are generally monitored” whereas this is amended in the summary to “those returning from abroad may be monitored”, again a watering down of the original.

This is problematic because the CPIN cites the fact-finding mission’s summary and not the interview notes [emphasis added]:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 5. Treatment of Tamils

5.1 Overview

[...] 5.1.9 A Human rights activist told the UK FFT that Tamils returning from abroad are generally monitored but that **certain Tamils may be subject to closer scrutiny**: for example, political activists and journalists and those returning from abroad may be monitored, although this was not the case for all Tamils⁸⁶. [...]

86 Home Office, ‘HO FFM report’, Annex D- HRA, January 2020, url.

This illustrates how summaries can distort the original meaning. It is therefore considered that such summaries should not be included in fact-finding mission reports, or if they are retained, that the CPIN should rely on the full interview notes, not the summaries thereof.

3. The following is a further example of where the fact-finding mission report’s summary confuses the original meaning, which was then relied upon in the CPIN [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 3.3 Rehabilitation

[...] 3.3.3 Several sources who were asked about the rehabilitation process were unable to state whether it had been as success^{71 72 73}. Representatives from **UNHCR told the FFT that due to how the rehabilitation process was run it is difficult to assess its success⁷⁴. Two sources told the FFT that whilst they believed some rehabilitation may have occurred, they did not believe there had been a regular programme of rehabilitation^{75 76}**. [...]

71 UNHCR, 3 October 2019

72 Tamil National Alliance (TNA), 1 October 2019

73 Journalist 1, 2 October 2019

74 UNHCR, 3 October 2019

75 Tamil National Alliance (TNA), 1 October 2019

76 Journalist 1, 2 October 2019

In fact the reason that UNHCR gave for the difficulty in assessing the rehabilitation process was that it was “closed”, which gives a clearer picture than describing it as “how it was run” [highlighted]

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] UNHCR Sri Lanka, 3 October 2019

[...] **Q Has the Government rehabilitation programme worked?**

It's been a **closed process**, so most agencies did not want to engage. It is difficult therefore to assess the programme. [...]

Again, it is the fact-finding mission's report summary that is cited in the CPIN and not the full interview notes:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 6.3 Rehabilitation of former LTTE combatants

6.3.7 The UK FFT spoke to several sources who were unable to state whether the rehabilitation process had been as success¹³⁰. Representatives from **UNHCR told the FFT that due to how the rehabilitation process was run it is difficult to assess its success**¹³¹. Two sources told the UK FFT that whilst they believed some rehabilitation may have occurred, they did not believe there had been a regular programme of rehabilitation¹³² [...]

130 Home Office, 'HO FFM report', Annex D- UNHCR, TNA, Journalist 1, 20 January 2020, url.

131 Home Office, 'HO FFM report', Annex D- UNHCR, 20 January 2020, url.

132 Home Office, 'HO FFM report', Annex D- TNA, Journalist 1, 20 January 2020, url.

Moreover, it is considered that relevant information from Journalist 1 cited in reference 76 of the fact-finding mission above has been omitted from the summary report of the fact-finding mission and thus also from the CPIN [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

Journalist 1, 2 October 2019

[...] **Q Was rehabilitation of former LTTE cadres successful?**

Rehabilitation is not happening properly. Not heard of many success stories, although the journalist was aware of six Tamil girls who were successfully retrained as journalists. Reconciliation is more cosmetic than genuine.

Tamils who suffered at the hands of the army still have some respect for ex-cadres, but others discriminate against them, e.g. don't offer jobs for fear of reprisals. Security forces are dominated by Sinhalese Buddhists. Lands have not been fully returned and a sizeable portion remains with the government (military). [...]

As can be seen in the highlighted passage above, Journalist 1 did not mention whether the rehabilitation process had been “regular”, but specifically that it was “not happening properly”.

4. The following is a further example of where the fact-finding mission report's summary omits some of the interview notes, thereby distorting the meaning, which was then in turn relied upon in the CPIN [emphasis added/highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

6. Reports of torture and abductions

6.1 Allegations of torture

[...] 6.1.5 **An NGO told the FFT** that there is torture in police detention and there is a belief that the police have secret places where torture may occur within the police station. **They went on to state that torture is used to extract information particularly in sensitive cases where there is pressure to make an arrest.** The same source also noted that situation is better than the past and torture is not targeted against any specific group adding that ‘it’s random, widespread and across the board’, and that there is a saying ‘without assault you won’t get the truth’¹⁵¹. [...]

151 NGO, 2 October 2019

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] NGO, 2 October 2019

[...] **Q. Is there torture in detention?**

In police custody. There is some civil society monitoring of this. There is a belief that Police have ‘secret’ torture places in their police station. They may assault detainees to extract information even if they are innocent. If they want to solve a case, they may torture to extract a confession. They might target people who have previously committed a crime – that’s an easy target. The method of torture would depend on the crime or complaint. There is pressure to make arrests in sensitive cases, e.g. sexual assault. Individuals can bribe the police to torture their enemies. For example, if a maid was arrested for stealing, the employer would tell the police they must beat/slap the suspect to get the truth. But it’s not like in the past, the situation is much better than it was during the war. And police custody torture is not targeted against any particular group – it’s random, widespread and across the board. There is a saying “without assault you won’t get the truth”. [...]

The summary of the fact-finding mission neglects to mention that torture is used to extract information even when the detainee is innocent and might target those who have previously committed a crime, or that individuals can bribe the police to torture their enemies. As the CPIN relies upon the summary and not the interview notes, it too neglects to mention these points in its *Country Information* section:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 6.6 III-treatment/torture

[...] 6.6.10 An NGO told the UK FFT that there is torture in police custody and there is a belief that the police have secret places where torture may occur within the police station. They went on to state that torture is used to extract information particularly in sensitive cases where there is pressure to make an arrest. The same source also noted that situation is better than the past and torture is not targeted against any specific group adding that ‘it’s random, widespread and across the board’, and that there is a saying ‘without assault you won’t get the truth’¹⁶⁶. [...]

166 Home Office, ‘HO FFM report’, Annex D- NGO, 20 January 2020, url

It is therefore not surprising that these points are omitted from the *Assessment* section of the CPIN:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

[...] i) Treatment in custody

[...] 2.4.53 Police continue to resort to excessive force, particularly when extracting confessions. Such treatment is reported to be common in police detention, and not targeted against any specific group and occurs regardless of the offence committed (see Ill-treatment/ torture). [...]

5. The following summary of the fact-finding mission provides a more concrete picture than that given by one of the interviewees [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 6. Reports of torture and abductions

[...] 6.2 Abductions

[...] 6.2.1 **All sources** consulted stated that there had been no recent reports of white van abductions^{155 156 157 158 159}. [...]

155 SCRM, 30 September 2019

156 Human Rights Activist, 30 September 2019

157 Representative from the northern province community, 2 October 2019

158 HRC, 1 October 2019

159 Tamil National Alliance (TNA), 1 October 2019

The Human Rights Activist cited in footnote 156 of the fact-finding mission was more equivocal than the summary report suggests:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Human Rights Activist, 30 September 2019

[...] Q. How are people who have been arrested treated?

He had no specific examples of Tamils saying they'd been ill-treated on arrest in 2019. But he has met people who had made such complains to him in 2015 and possibly 2016. Most people who are arrested, regardless of the reason and irrespective of their ethnic group, are beaten by the police.

He had not heard of any white van abductions / disappearances since 2018, but there may be some that may have happened. The Human Rights Commission (HRC) have said they are not occurring, but he said there have been incidents reported in 2015-2017.

The source had written to the Chair of the HRCSL on this, pointing out incidents of disappearances in 2015-2016 that had been reported and/or he had heard of through family members, including one where a complaint had been made to the HRCSL. He had also pointed out that in 2016, there were also few incidents where people in North were arrested "abduction style", and that few were traced thanks to immediate and firm interventions of HRC. Some of these were mentioned in a report available at <https://groundviews.org/2016/06/28/continuing-abuse-under-ptaabductions-arbitrary-arrests-unlawful-detentions-and-torture/>

The source commented that in general, there is a high regard for the HRC and that their leadership is independent and competent.

There are regular reports of individual incidents of torture; in August 2019, a woman accused the police of beating her in Colombo. [...]

This summary was then relied upon in the CPIN:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 6.7 Abductions

[...] 6.7.2 The UK FFT met with several sources who all confirmed that there had been no recent reports of white van abductions¹⁷⁸. [...]

178 Home Office, 'HO FFM report', Annex D- SCRM, HRA, NPR, HRC, TNA, 20 January 2020, url.

6. It is considered that the following summary is not fully reflective of the full interview notes. Again, it is this summary that is relied upon in the CPIN [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 5.2 Monitoring of the diaspora

[...] 5.2.2 The representative from the northern province community stated that activists **were probably monitored**, and he had heard reports of members of the diaspora facing intimidation when they return to Sri Lanka although he noted this was not the case for everyone and **was more likely to be prominent activists**. The same source did also note that members of UK/US Tamil groups and Global Tamil Forum (GTF) members have been able to come and **go within Sri Lanka** and travel to the north to cover the war heroes' event and have faced no problems. He went on to note that **there may be a degree of self-censorship amongst active diaspora groups** and **some** may not feel comfortable returning. Although he stated that some diaspora groups do what they do to raise their asylum profile¹⁴¹. [...]

141 Representative from the northern province community, 2 October 2019

Whilst the summary is in the past tense, the full interview notes are in the present tense. This may be read to imply that the issues are no longer live, for example that prominent activists are currently monitored [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Representative from the Northern province community, 2 October 2019

[...] **Q. Does the government monitor diaspora groups**

Activists **are** probably monitored, have heard reports of diaspora activist facing intimidation when they return to Sri Lanka. TID/CID are at the airport and collect intelligence. It has not been the case for everyone and **now its more** prominent activists.

Some US/UK Tamil groups, GTF members, come and go **(into/out of Sri Lanka)** and face no problems. They travel to the North and cover the 'war heroes' event. **There is some self-censorship especially amongst active diaspora groups** and **they** may not feel comfortable returning. **There is an active threat but not at a high level**. Some diaspora groups do what they do to raise the asylum profile. [...]

Moreover, whilst the Representative from the Northern province community explains that "Some US/UK Tamil groups, GTF members, come and go (into and out of Sri Lanka)", this has been changed in the summary to "been able to come and go *within* Sri Lanka".

Furthermore, the summary states that "there may be a degree of self-censorship amongst active diaspora groups" whilst the original had a different meaning "There is some self-

ensorship especially amongst active diaspora groups”. That is to say, self censorship was documented more generally in the interview, but especially so amongst the diaspora groups, which has been watered down in the summary version.

Moreover, the summary states that “some may not feel comfortable returning”, however, the original was not qualified in this way, noting that “they may not feel comfortable returning”. Lastly, the summary neglects to mention that “There is an active threat but not at a high level”.

The CPIN has changed some minor wording, but relies upon the fact-finding mission report summary and not the full interview notes in its *Country Information* section:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 7.2.6 A representative from the northern province community told the UK FFT that activists were probably monitored, and he had heard reports of members of the diaspora facing intimidation when they return to Sri Lanka although he went on to note that this was not the case for everyone and was more likely to be prominent activists. He also stated that members of UK/US Tamil groups and Global Tamil Forum (GTF) members have been able to come and go within Sri Lanka and travel to the north to cover the war heroes’ event and have faced no problems. He stated that there may be a degree of self-censorship amongst active diaspora groups and some may not feel comfortable returning, although he noted that some diaspora groups do what they do to raise their asylum profile²⁰⁴. [...]

204 Home Office, ‘HO FFM report’, Annex D- Northern province representative, 20 January 2020, url

It is worth noting that these inaccurate summaries were not relied upon in the *Assessment* section of the CPIN:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

[...] 2.4.31 Diaspora groups who advocate for a separate Tamil state are likely to remain of interest to the Sri Lankan authorities and are likely to be the subject of some monitoring. Prominent or active individuals may be monitored on return to Sri Lanka, as the authorities are fearful of an uprising, although this is likely to depend on the individual person’s profile and is more likely to apply to prominent activists (see Treatment of Tamil separatist groups outside of Sri Lanka). [...]

7. In the following excerpt, two sources are relied upon for the statement “Two other sources stated that they were not aware of ordinary Tamils being targeted on return” [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

[...] 4. Treatment of returnees in general

[...] 4.1.5 When asked what would happen to returning Tamils an NGO told the FFT that they were aware of 5 cases where individuals were questioned on return about forged passports but then subsequently released¹¹². IOM stated that they did not believe there was a distinction between Tamil and Sinhalese returnees and whilst there may be isolated cases there was no systematic policy of discrimination¹¹³. **Two other sources stated that they were not aware of ordinary Tamils being targeted on return^{114 115}**, with several stating they were

aware of family members or members of the Tamil diaspora who have returned to Sri Lanka and not encountered any difficulty^{116 117 118}. A human rights activist told the FFT that he was unable to recall any cases of ordinary Tamils being stopped at the airport and was not aware of anyone on a watchlist being stopped although he had heard anecdotally that this happens¹¹⁹. [...]

112 NGO, 2 October 2019

113 IOM, 3 October 2019

114 Journalist 2, 2 October 2019

115 Human Rights Activist, 30 September 2019

116 Journalist 2, 2 October 2019

117 Human Rights Activist, 30 September 2019

118 Representative from the northern province community, 2 October 2019

119 Human Rights Activist, 30 September 2019

This is clearly the position of Journalist 2, cited in footnote 114 [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Journalist 2, 2 October 2019

[...] The journalist **was not aware of random Tamils being targeted on return**. His Tamil relatives have visited Sri Lanka from abroad and not faced any issues since 2015. However, if the government changes, they would not return. Returning failed asylum seekers would definitely be questioned by CID at the airport. If they were found to have connections with LTTE they would face further questioning at CID HQ. [...]

The other source cited as supportive of the statement that “they were not aware of ordinary Tamils being targeted on return” is the Human Rights Activist in footnote 115 of the summary of the fact-finding mission report. However, it is not clear where this is taken from, as illustrated by the following excerpt of their interview that related to the treatment of Tamils on return [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Human Rights Activist, 30 September 2019

[...] Q. Are Tamils monitored abroad?

There is some monitoring. Anecdotally, the source cited one person who was arrested and detained for a few hours who had participated in a protest abroad. He was picked up at the airport in 2017/18 for protesting about the war in 2008/09 and this is the first time he had returned.

A Norwegian-based Sri Lankan Tamil journalist (now a Norwegian citizen) was accused of writing against the government and judiciary and arrested in Jaffna in 2019. He was released but has a case pending against him.

Tamils returning from abroad are generally monitored to see what they are doing, especially in the North and East.

Certain Tamils are subject to close scrutiny, e.g. political activists, journalists. But, in his experience, not all Tamils are monitored, and he knew of Tamils from the diaspora who had not encountered any difficulty.

Some people are employed by the Sri Lankan authorities to take photos and videos of protestors. This is common in the North and East. There is a network of informants in the North and East made up of former cadres and others. So it would be no surprise if such monitoring occurred abroad. The source cited official and unofficial Sri Lankan representatives had taken photos of human rights activists in the UN building in Geneva. **He could not recall a random Tamil being stopped at the airport.** He was

not aware of anyone on the Watch list being stopped but has heard this happens anecdotally. [...]

The Human Rights Activist does not specifically mention the targeting of Tamils or the absence thereof. On the contrary they state that there is “some monitoring” of Tamils abroad and that “Tamils returning from abroad are generally monitored to see what they are doing” and that “certain Tamils are subject to close scrutiny”.

This inaccurate attribution is relied upon in the CPIN’s *Country Information* section [emphasis added]:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 8. Exit and return

8.1 Exit/returns (of FAS)

[...] 8.1.6 A journalist and a **human rights activist informed** the UK FFT that they were not aware of ordinary Tamils being targeted on return²³⁶, with the human rights activist further noting that he could not recall any cases of ordinary Tamils being stopped at the airport²³⁷. IOM told the UK FFT that they did not believe there was a distinction between Tamil and Sinhalese returnees and whilst there may be isolated cases there was no systematic policy of discrimination²³⁸. Several sources told the UK FFT that they were aware of family members or members of the Tamil diaspora who have returned to Sri Lanka and not encountered any difficulty²³⁹. [...]

236 Home Office, ‘HO FFM report’, Annex D- Journalist 2, HRA, 20 January 2020, url.

237 Home Office, ‘HO FFM report’, Annex D- HRA, 20 January 2020, url.

238 Home Office, ‘HO FFM report’, Annex D- IOM, 20 January 2020, url.

239 Home Office, ‘HO FFM report’, Annex D- Journalist 2, HRA, NPR, 20 January 2020, url.

8. Lastly, the summary of the fact-finding mission report neglects to mention an additional profile of persons who might appear on a stop list [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report

7.6 Stop/watch Lists and list of wanted people

[...] 7.6.2 A travel ban to prevent someone leaving the country can be obtained by a court order^{190 191} and the person’s name will then be added to a ‘stop list’. This stop list is not maintained by the police¹⁹². According to Representatives from Immigration and Emigration **this list is confidential and consists mostly of foreign passport holders although it can also include criminals who have been banned from travelling abroad**¹⁹³. Where someone is the subject of a travel ban and attempts to leave the country it will be flagged up by immigration pre-departure checks and the person will be passed to CID for further investigation¹⁹⁴. [...]

190 CID, 1 October 2019

191 Representatives from the department of Immigration and Emigration, 1 October 2019

192 CID, 1 October 2019

193 Representatives from the department of Immigration and Emigration, 1 October 2019

This summary neglects to include that the Representatives from the department of Immigration and Emigration cited in footnote 193 above also mention that the stop list might also include other wanted persons, in addition to criminals, i.e. “someone such as an army deserter” [highlighted]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

[...] Representatives from the department of Immigration and Emigration, 1 October 2019

Border checks are automated and linked to Interpol to identify internationally-wanted persons. A database is shared with the police to identify criminals. Immigration works closely with SIS and shares information. The Stop list is confidential for data protection. It consists mostly of foreign passport holders. A person could be added to the Stop list following departure if further information comes to light that necessitates this.

Prior to departure checks are made on passports and visas to ensure they are genuine. Departing Sri Lankan nationals are asked about the purpose of their visit abroad, and must provide flight details, evidence of money for expenses, employment details etc If they have a job abroad, they must register with the Bureau of Foreign Employment.

If a criminal attempts to leave the country (or someone such as an army deserter) it will be flagged to Immigration if the person has been banned from travel abroad by the court. Immigration will pass identified criminal to CID after a preliminary investigation. [...]

Given that the CPIN relies upon the summary of the fact-finding mission and not the full interview notes, this is also omitted from the CPIN in its *Country Information* section [emphasis added]:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 8.2 Stop and watch lists

[...] 8.2.3 Representatives from CID told the UK FFT that a travel ban to prevent someone leaving the country can be obtained by a court order and the person's name will then be added to a 'stop list'. This stop list is not maintained by the police (but the watch list is)²⁴⁹. According to Representatives from the Immigration and Emigration department this list is confidential and **consists mostly of foreign passport holders although it can also include criminals who have been banned from travelling abroad**²⁵⁰. The same source also told the UK FFT that where someone is the subject of a travel ban and attempts to leave the country it will be flagged up by immigration pre-departure checks and the person will be passed to CID for further investigation²⁵¹. [...]

249 Home Office, 'HO FFM report', Annex D- CID, 20 January 2020, url.

250 Home Office, 'HO FFM report', Annex D-Rep from Immigration & Emigration, 20 January 2020, url.

251 Home Office, 'HO FFM report', Annex D-Rep from Immigration & Emigration, 20 January 2020, url.

It is therefore not surprising that this is omitted from the *Assessment* section of the CPIN:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

[...] h) Stop and watch lists

2.4.46 The airport maintains a list of persons-of-interest to law enforcement agencies that have violated Sri Lankan law, those on the 'stop list' are persons who have a warrant outstanding, or order to impound their Sri Lankan passport. This is monitored on exit and entry. Those on the 'watch list' are persons that are of interest to the authorities including for suspected separatist or criminal activity (see Stop and watch lists). [...]

2.4.49 The UK Home Office Fact-Finding team were able to confirm that the use of stop lists, and watch lists still occurs. Where someone on either list has an outstanding criminal offence, they will be arrested on return to Sri Lanka and processed through the criminal

system. Those on a watchlist may be stopped at the airport for questioning and are likely to face monitoring on return (see Exit and return). [...]

9. The following example shows a discrepancy in how the *Summary report* has inadequately summarised the interview notes of one source. In the following paragraph of the *Summary report*, it is not clear whether both sources found that the LTTE were ‘heavy handed’ [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Summary report [...]

3.4 Societal treatment

3.4.1 Several sources told the FFT that rehabilitees can struggle to reintegrate and face a lack of job opportunities and discrimination from their communities^{77 78 79 80 81 82 83}, **with 2 sources stating reintegration can be difficult as owing to the way that the LTTE were ‘heavy handed’ with their rule of the north not all Tamils were sympathetic to the them^{84 85}**. As some ex-cadres are subject to ongoing scrutiny and/or monitoring the ‘ordinary man’ does not want to associate with them^{86 87 88}, with some fearing they will be seen as guilty by association⁸⁹. One source noted that some people are hostile and view rehabilitees as informants as they are often required to check in with the army base as part of their release from rehabilitation⁹⁰ [...]

77 SCRM, 30 September 2019

78 Human Rights Activist, 30 September 2019

79 NGO, 2 October 2019

80 Representative from the northern province community, 2 October 2019

81 IOM, 3 October 2019

82 UNHCR, 3 October 2019

83 Bureau of the Commissioner General of Rehabilitation, 1 October 2019

84 SCRM, 30 September 2019

85 Human Rights Activist, 30 September 2019

86 Human Rights Activist, 30 September 2019

87 NGO, 2 October 2019

88 Representative from the northern province community, 2 October 2019

89 SCRM, 30 September 2019

90 UNHCR, 3 October 2019

Two sources, the Secretariat for Coordinating Reconciliation Mechanisms (SCRM) and a Human Rights Activist are cited in footnotes 84 and 85 to support the statement that reintegration can be difficult as the LTTE was ‘heavy handed’ with their rule of the north”. Whilst the SCRM interview notes indeed record this as being said, the Human Rights Activist listed in footnote 85 did not use those words to describe societal feelings towards the LTTE, but instead noted that “Ex-cadres have said that they are ostracized by their communities” [emphasis added]:

[Home Office, Report of a Home Office fact-finding mission to Sri Lanka, Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[\[...\] Annex D: Notes of meetings with sources \[...\]](#)

[Human Rights Activist, 30 September 2019 \[...\]](#)

Q. Are you aware of deliberate scarring? [...]

Ex-cadres have said they are ostracised by their communities, a) due to close monitoring they might be under, and b) because of their activities in the LTTE. Anger is not just directed to the army but also towards the LTTE who formed an authoritarian state [...]

It is worth noting that this inadequate summary was not relied upon in the *Country information* or *Assessment* section of the CPIN:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

[...] 2.4.31 Diaspora groups who advocate for a separate Tamil state are likely to remain of interest to the Sri Lankan authorities and are likely to be the subject of some monitoring. Prominent or active individuals may be monitored on return to Sri Lanka, as the authorities are fearful of an uprising, although this is likely to depend on the individual person's profile and is more likely to apply to prominent activists (see Treatment of Tamil separatist groups outside of Sri Lanka). [...]

Relevant points from the fact-finding mission omitted from the *Country information* section of the May 2020 Country Policy and Information Note on Tamil Separatism

Land repatriation

The following is the only excerpt cited in the CPIN subsection on *Land repatriation* from the fact-finding mission.

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 5.2 Land repatriation

[...] 5.2.10 Two journalists told the UK FFT that lands have not been fully returned and a sizeable portion remains with the military.¹⁰⁴ [...]

104 Home Office, 'HO FFM report', Annex D- Journalist 1 and 2, 20 January 2020, url.

However, only two journalists are cited and this neglects to include UNHCR's experience that there are "secondary occupation and other complications" as detailed in the full notes of the fact-finding mission [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

UNHCR Sri Lanka, 3 October 2019

[...] Q What is the situation for Tamils in Sri Lanka?

Tamils returning back to areas in the North are facing a number of reintegration challenges - shelter, livelihood and WATSAN. The government are meant to set aside a quota of housing assistance for returnees, but this doesn't happen uniformly in all districts. Housing and land is a problem across the North as there are people who never owned land prior to the war – **there is also secondary occupation and other complications.** [...]

This point is therefore also omitted from the *Assessment* section of the CPIN [emphasis added]:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Assessment

[...] 2.4 Risk

a) General points

[...] 2.4.7 President Sirisena had stated that more civilian lands would be freed from military control and this has happened gradually although not all seized land has been returned. He also said that all perpetrators of war crimes committed towards the end of the country's civil war in 2009 would be brought to justice, although virtually no progress was seen in this area (see War crimes investigations and Land repatriation). [...]

Treatment of family members of the LTTE

The treatment of family members of the LTTE is addressed in the following section of the Country Policy and Information Note (CPIN), which relies mainly on the Australian Department for Foreign Affairs and Trade report:

[UK Home Office, Country Policy and Information Note Sri Lanka: Tamil Separatism, May 2020](#)

[...] Country information

[...] 6. Treatment of Tamil separatist groups in Sri Lanka

[...] 6.4 Discrimination/harassment

6.4.1 DFAT noted in their 2019 that:

'Local sources told DFAT that female former LTTE combatants faced particular hardships, including in relation to finding employment and marriage partners. Anecdotal evidence suggests female former LTTE combatants are viewed with suspicion within their communities, and there is a societal perception that they were the subject of sexual violence during the war.

'DFAT assesses that female-headed households are vulnerable to societal discrimination and official harassment and exploitation. Authorities continue to monitor those believed to have family links to the LTTE.¹³⁵ 'While many of those who have completed rehabilitation have reported difficulty finding regular employment upon their release, others have said the vocational skills gained during rehabilitation made them more employable.

The unemployment rate among rehabilitated former LTTE members, particularly women, is reportedly higher than the national average but this may reflect factors such as the weaker economic conditions in the north and east, war-related disabilities and a reluctance by employers to hire known former LTTE members, for fear of inviting monitoring by the authorities.¹³⁶ [...]

6.4.4 With regards to family members of LTTE DFAT reported in November 2019 noted that 'The Sri Lankan Government acknowledges that former LTTE members and their families may continue to face discrimination both within their communities and from government officials. DFAT cannot verify claims

that people have been arrested and detained because of their family connections with former LTTE members but understands that close relatives of high-profile former LTTE members who are wanted by Sri Lankan authorities may be subject to monitoring.¹⁴²

6.4.5 Human Rights Watch noted in its annual report covering 2019 that 'Some families of people forcibly disappeared during the war reported intimidation by soldiers.'¹⁴³

135 DFAT, 'Country Report' (para 3.136- 3.142), 4 November 2019, url [...]

142 DFAT, 'Country Report' (para 3.83), 4 November 2019, url

143 HRW, 'World Report 2020', 13 January 2020, url.

However, this section of the CPIN neglects to mention the following point made by the human rights activist interviewed as part of the fact-finding mission that "Some family members may be harassed if the police are looking for someone who has fled abroad" [emphasis added]:

[UK Home Office, Report of a Home Office fact-finding mission to Sri Lanka Conducted between 28 September and 5 October 2019, 20 January 2020](#)

[...] Annex D: Notes of meetings with sources

Human Rights Activist, 30 September 2019

[...] Arrest warrants:

Upon arrest, the person and person's family is issued with a receipt, though in practice receipts may not always be issued. However, in recent years receipts are issued more regularly. The receipts show why they were arrested, the name of the arresting officer and the police station. **Some family members may be harassed if the police are looking for someone who has fled abroad.** [...]

This point is therefore omitted from the *Assessment* section of the CPIN. In fact, the treatment of family members of the LTTE is not addressed in this section of the CPIN at all.