

Convention on the Rights of the Child
Shadow Report Submission:
**Indigenous Children's Rights
Violations in Sri Lanka**

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Violations of Indigenous Children's Rights in Sri Lanka

I. Reporting Organization

Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC since 2005. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous Peoples' rights in countries throughout the world and publishes its findings in its magazine, the *Cultural Survival Quarterly*; and on its website: www.cs.org.

II. Background Information

Sri Lanka, officially the Democratic Socialist Republic of Sri Lanka, is an island state in South Asia located southeast of India in the Indian Ocean. Sri Lanka gained independence from the British on 4 February 1948.¹ Sri Lanka is home to many cultures, languages and ethnicities. The majority of the population is from the Sinhalese ethnicity, with a large minorities of Tamils and Sri Lankan Moors.² Contemporary politics in Sri Lanka has been dominated by the question of resolving minority rights, in particular the Tamil population.³ The country is still recovering from the effects of a civil war fought primarily between the Sinhalese government and the Liberation Tigers of Tamil Eelam from 1983 to 2009.⁴

The *Wanniyala-Aetto* (forest-dwellers), commonly referred to as Veddhas, comprise a very small community of Indigenous Peoples in Sri Lanka.⁵ They live mostly as nomadic forest-dwellers in the remote eastern parts of the country, and their entire community is under threat.⁶ According to legend and oral tradition, the Wanniyala-Aetto can trace their ancestry to the island's original Neolithic community dating from at least 14,000 BCE. They lived on the island before both the Sinhalese and the Tamils.⁷ To this day the Wanniyala-Aetto are distinguished by their traditional hunting and gathering practices, their oral language (which is closely related to but distinct from

¹ "World Directory of Minorities and Indigenous Peoples - Sri Lanka." *Refworld*, Minority Rights Group International, 2007, www.refworld.org/docid/4954ce2c23.html. [hereinafter: MRGI Sri Lanka Report]

² *Census of Population and Housing*. Department of Census and Statistics - Sri Lanka, 2012, <http://www.statistics.gov.lk/PopHouSat/CPH2011/Pages/Activities/Reports/FinalReport/Population/FinalPopulation.pdf>. [hereinafter 2012 Census]

³ MRGI Sri Lanka Report.

⁴ Bajoria, Jayshree. *The Sri Lankan Conflict*. Council on Foreign Relations, 18 May 2009, www.cfr.org/background/sri-lankan-conflict.

⁵ *Indigenous People in Sri Lanka*. Lanka.com, 2 Mar. 2017, www.lanka.com/about/Indigenous-people/.

⁶ MRGI Sri Lanka Report.

⁷ "World Directory of Minorities and Indigenous Peoples - Sri Lanka: Veddhas." *Refworld*, Minority Rights Group International, 2008, www.refworld.org/docid/4954ce2c23.html. [hereinafter: MRGI Veddhas Report]

Sinhalese), their beliefs in traditional gods and ancestor spirits, and by the spiritual importance that they place on their ancestral lands, which affects all aspects of life.⁸ The traditional nomadic lifestyle of the Wanniyala-Aetto is under threat today. Wanniyala-Aetto leaders complain that the government continues to encourage encroachment and seizure of their lands.⁹

The many in the majority Sinhalese population regard Wanniyala-Aetto as evil and unwanted, both as part of their culture and as a result of the island's mythical and legendary history. According to legend, Prince Vijaya (6th-5th century BCE), who led the original colonists from north India and founded the first Sinhalese kingdom, married Kuveni, a woman of the Indigenous Yakkha community, as his first wife. However, he later cast her aside along with their two children for a higher-caste princess from south India. Kuveni then returned to her "demon people" and her children fled into the forest and became the primogenitors of the Wanniyala-Aetto.¹⁰

Wanniyala-Aetto are not distinguished in the most recent census in Sri Lanka, which was carried out in 2012. Similarly, the other two most recent censuses, from 1981 and 1971, do not provide any figures regarding the Wanniyala-Aetto population.¹¹ Instead they are included in the "other" category, which was numbered at 2,000 individuals in 1981¹² and 18,215 individuals in 2012.¹³ The numerical strength of the Wanniyala-Aetto is dwindling quickly, primarily because many are being assimilated into Sinhalese and Tamil society. Although no precise figures are available, the estimated population in 2006 was just below 2000.¹⁴ According to the 2012 census, the total population of Sri Lanka was 20,359,439.¹⁵ 5,131,666 (25.2%) of the population were aged 14 or under, the mean age was 32 years and the median age was 31 years.¹⁶

Sri Lanka became a party to the Convention on the Rights of the Child in 1991.¹⁷ According to UNICEF, despite significant gains for children since the adoption of the Convention on the Rights of the Child, the world has not delivered upon its commitments to Indigenous children. Whether they live in low-, middle- or high-income countries, Indigenous children continue to face glaring disparities across all human development indicators.¹⁸

⁸ MRGI Veddhas Report.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ 2012 Census at 19.

¹⁴ MRGI Veddhas Report.

¹⁵ 2012 Census.

¹⁶ 2012 Census.

¹⁷ *Reporting Status for Sri Lanka*. UN OHCHR, http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=LKA&Lang=EN.

¹⁸ UNICEF. "UNICEF: Indigenous children left behind in their countries' progress" August 9, 2014.

It also joined the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2000, and the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography in 2006.¹⁹ Sri Lanka voted in favor of the UN Declaration on the Rights of Indigenous Peoples,²⁰ but the government has not passed any domestic legislation to ensure these rights.²¹ Sri Lanka is not a party to ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries.²²

III. Ongoing Rights Violations

A. General Discrimination (Article 2)

Human rights reporting in Sri Lanka is overwhelming focused on the Tamil-Sinhalese conflict and the Wanniyala-Aetto have not been given attention.²³ The invisibility of Indigenous Peoples is a problem throughout the world and it frequently leads to laws and policies that ignore their presence and thus perpetuate systems of structural discrimination against them. Often, the only visibility of Indigenous Peoples in society comes in the form of stereotypes, such as in Sri Lanka where the word “Veddha” is sometimes used in common parlance as an insult.²⁴ A call in outcome document of the World Conference on Indigenous Peoples to disaggregate data to shed light on the situation of Indigenous has been left unheeded in Sri Lanka.

B. Cultural, Religious, and Linguistic Rights (Articles 14, 29, and 30)

Assimilation into Sri Lankan society is probably the biggest threat to the Wanniyala-Aetto community today--some experts believe that traditional hunter-gatherers and forest-dwellers may

¹⁹ Ibid.

²⁰ *General Assembly Adopts Declaration On Rights Of Indigenous Peoples*. United Nations, 13 Sept. 2007, www.un.org/press/en/2007/ga10612.doc.htm.

²¹ Uthayakumar, Prasha. *The Rights of Indigenous Peoples in Sri Lanka*. The Law & Society Trust, 16 Sept. 2015,

www.lawandsocietytrust.org/content_images/publications/documents/Indigenous%20people%20in%20sri%20lanka%20-report%20-%20issue%2016.pdf.

²² *Ratifications of C169 - Indigenous and Tribal Peoples Convention, 1989 (No. 169)*. International Labour Organization,

www.ilo.org/dyn/normlex/en/f?p=1000%3A11300%3A0%3A%3ANO%3A11300%3AP11300_INSTRUMENT_ID%3A312314.

²³ Childs, Kevin. *The Last Veddhas of Sri Lanka*. New Internationalist, 10 Jan. 2017,

www.newint.org/features/web-exclusive/2017/01/10/the-last-veddhas-of-sri-lanka. [hereinafter: New Int'l]

²⁴ Ibid.

become extinct within a generation.²⁵ The discrimination faced by the Wanniyala-Aetto pressures them into a process of “Sinhalization and Tamilization.”²⁶ Indigenous children are now taught the Sinhalese language and the Indigenous Wanniyala-Aetto language is functionally extinct.²⁷ Many Wanniyala-Aetto children (as well as adults) are also being converted to Buddhism or Christianity.²⁸ Those Wanniyala-Aetto who continue to practice their Indigenous traditions are tokenized by the government and treated as a tourist attraction by the Ministry of Culture.²⁹

Yet, according to research from Professor Premakumara De Silva, 64% of the Wanniyala-Aetto wish to remain true to their Indigenous roots.³⁰ According to T.B Gunawardena, an Indigenous community member from Pollebedda, “We will be respected only if we remain as Veddas. If we become identical to the common Sinhalese, we will lose the pride of being Veddas. Therefore, we prefer to carry on our ancestry.”³¹

The assimilation process has been accelerated by the displacement of Wanniyala-Aetto from their traditional lands into government reserve villages where they are unable to maintain their traditional practices and livelihood as hunter-gatherers. This process has been going on since Sri Lanka obtained independence in the 1950s when Indigenous territories were first opened up for Sinhalese settlement, and forests and hunting grounds were bulldozed and flooded.³² Then, in the 1980s the Wanniyala-Aetto’s last remaining forest refuge was turned into the Maduru Oya National Park.³³ Indigenous Peoples were banned from entering the park without a permit and forbidden from hunting the park--even fishing requires a permit.³⁴ The loss of their forests robbed the Wanniyala-Aetto of their means of subsistence, and of much what gave their lives meaning. The Environment and Natural Resources Ministry was supposed to issue special Maduru Oya National Park identity cards for the Wanniyala-Aetto, but very few permits were ever issued, leaving many Wanniyala-Aetto vulnerable to the whims of the park guards.³⁵

Many Wanniyala-Aetto have been killed, beaten or arrested by park guards for hunting on their ancestral land. In March 2013, a 26 year old Wanniyala-Aetto man named Tale Warige Sunila

²⁵ Ibid.

²⁶ Ibid.

²⁷ *Wanniyala-Aetto*. Survival International, www.survivalinternational.org/tribes/wanniyala. [hereinafter Survival Int’l 1]

²⁸ New Int’l.

²⁹ Ibid.

³⁰ Ibid.

³¹ Ibid.

³² *Sri Lanka: Survival calls on UN to stand up for Wanniyala-Aetto*. Survival International, 13 Mar. 2013, www.survivalinternational.org/news/9021.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

was shot dead by a park guard for “poaching” on his ancestral land.³⁶ Three other Wanniyala-Aetto men were also killed around the same time for hunting in their traditional forests. All of the men had permits to be in the park, but not to hunt.³⁷ In effect, the Wanniyala-Aetto traditional livelihood and culture has been made illegal. Party to the Convention on Biological Diversity since 1994, Sri Lanka has not made sufficient steps to ensure Target 18, which provides that, by 2020, the traditional knowledge, innovations and practices of Indigenous peoples relevant for the conservation and sustainable use of biodiversity, and their customary use of biological resources, are respected with the full and effective participation of Indigenous peoples and local communities, at all relevant levels.

Dispossession of their traditional lands and practices has led to alcoholism and mental illness being common amongst the Wanniyala-Aetto living in government reserves.³⁸ A Wanniyala-Aetto man named Tapal Bandiaetto told Survival International that “If the next generation waits here, they will learn drinking, smoking and gambling. All the wrong things. They must go back to the jungle while they are still young, and go back to the traditional system. It is all being lost.”³⁹

The UN Declaration on the Rights of Indigenous Peoples states that “Indigenous Peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired[.]”⁴⁰ This right is being denied to the Wanniyala-Aetto who do not have meaningful access to their traditional lands. Land rights are particularly important to Indigenous communities globally, because land is often the only thing they have. States are required to provide redress in cases where Indigenous Peoples have been dispossessed of their lands, territories or resources.

Displacement has also disrupted Wanniyala-Aetto religious traditions. In 2007, park guards arrested four Wanniyala-Aetto men for collecting honey on their own land.⁴¹ Presentation of honey at the Tooth Temple in Kandy is central to the Wanniyala-Aetto’s participation in their annual Esala Perahera festival, and they believe that hunger, disease and other calamities will befall them if they do not comply with this yearly ritual.⁴² According to Uru Varige Sudu Banda of the Wanniyala-Aetto, “Officers promised to... allow us to use forest resources. Now we are losing those... He said that we will disuse our traditional ancestral worship. He was right. Now

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ *Sri Lankan Park Guard Kills Tribal Man*. Survival International, 27 Mar. 2012, www.survivalinternational.org/news/8227.

⁴⁰ UNDRIP Article 26.

⁴¹ *Four Wanniyala-Aetto Arrested for Collecting Honey*. Survival International, 23 Aug. 2007, www.survivalinternational.org/news/2491.

⁴² Ibid.

those traditions are not practiced.”⁴³ Ultimately, it is incredibly difficult for Indigenous children in Sri Lanka today to inherit their cultural traditions from the previous generation.

C. Sexual and Economic Exploitation (Articles 32 and 34)

Those Wanniyala-Aetto who are forced to assimilate frequently face challenges adapting to modern life, which leaves them vulnerable to exploitation. They are often involved in the informal economy. Professor De Silva has observed “Instances where women and children are alleged to have become in situ and ex situ sex workers [due to] extreme economic deprivation[.]”⁴⁴ Wanniyala-Aetto women and children are also coerced and trafficked into domestic servitude in the Middle East.⁴⁵ Some others perform dances and sell trinkets to tourists.⁴⁶ Even when Wanniyala-Aetto are able to get more conventional jobs such as rice farming or construction work, it has been to the detriment of their identity and culture.

IV. CRC Concluding Observations 2010

The Committee on the Rights of the Child made the following observation and recommendation to Sri Lanka after its review in 2010:⁴⁷

- *The Committee expresses concern at the persistent discrimination against children belonging to the Veddha, Muslim and Tamil communities, among whom those living in tea plantations are in a particularly disadvantaged situation. The Committee is concerned that discrimination also persists against girls, rural children, refugee and internally displaced children, children of overseas workers, children in institutional care and children with disabilities. The Committee expresses further concern about caste discrimination, which affects 20 to 30 percent of the Sri Lankan population and contributes to their poor living conditions, rejection and marginalization.*
- *The Committee urges the State party to closely monitor the situation of children, in particular those belonging to the above mentioned disadvantaged groups, who are exposed to discrimination. The State party should develop, on the basis of the results of this monitoring, a comprehensive strategy containing specific and well-targeted actions, including affirmative social actions, aimed at eliminating all forms of discrimination against them. The Committee further calls upon the State party to investigate caste-based*

⁴³ New Int'l.

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Survival Int'l 1.

⁴⁷ United Nations, Committee on the Rights of the Child, Concluding Observations: Sri Lanka, CRC/C/LKA/CO/3-4 at 28-29 (19 October 2010), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/LKA/CO/3-4&Lang=En.

discrimination and to mobilize communities and government employees against such discrimination through awareness-raising programmes.

These brief passages were the only mentions of the Wanniyala-Aetto, Veddhas, or Indigenous Peoples in the Committee's entire Concluding Observations, again highlighting the effective invisibility of the Wanniyala-Aetto within their own country.

V. National Report

There was absolutely no mention of the Wanniyala-Aetto, Veddhas, or Indigenous Peoples in Sri Lanka's report to the Committee.⁴⁸

VI. Recommendations from UPR

The following recommendations from Sri Lanka's 2017 UPR Working Group are relevant to the Committee.⁴⁹

- *6.129. Ensure equal access to education of vulnerable people including women, children and persons with disabilities (Lao People's Democratic Republic);*
- *6.161. Adopt concrete initiatives to eradicate all kinds of discrimination against children, through the empowerment of their rights and fair mechanisms of reparation (Ecuador);*
- *6.162. Adopt special measures to ensure that persons in particularly vulnerable situations, such as children, have meaningful access to the justice system and other complaint procedures (Bahrain);*
- *6.163. Address discrimination against children on the basis of their ethnic origin or economic situation (Iraq);*
- *6.164. Continue efforts to protect effectively women, children, and ethnic minorities' rights, and combat discrimination they are facing (Poland);*
- *6.165. Prohibit corporal punishment of children in all settings, including at home (Montenegro);*
- *6.166. Continue its efforts for the protection of children and combating child labour (Tunisia);*
- *7.14. Ratify the Indigenous and Tribal Peoples Convention No. 169 of the ILO (Guatemala);*

⁴⁸ Sri Lanka, *Combined fifth and sixth periodic reports of States parties due in 2015*, CRC/C/LKA/5-6 (1 March 2017), available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/049/09/PDF/G1704909.pdf?OpenElement>.

⁴⁹ United Nations, Human Rights Council, *Draft Report of the Working Group on the Universal Periodic Review: Sri Lanka*, A/HRC/WG.6/28/L.14 (17 November 2017), available at https://www.upr-info.org/sites/default/files/document/sri_lanka/session_28_-_november_2017/a_hrc_wg.6_28_l.14.pdf.

Guatemala's recommendation regarding ILO Convention No. 169 was the only reference to Indigenous Peoples in the entire report. None of the state parties in the Working Group specifically mentioned the Wanniyala-Aetto.

VII. Questions

- What steps are being taken to reduce incidences of violence against Wanniyala-Aetto by National Park guards?
- What efforts are being undertaken by the Sri Lankan government to ensure the rights of the Wanniyala-Aetto to their language, culture, and spiritual practices?
- What efforts has the government undertaken to reduce economic exploitation of the Wanniyala-Aetto?
- How has the government addressed the sexual exploitation of the Wanniyala-Aetto in particular?
- What has the government done to assure that the Wanniyala-Aetto are able to live, hunt, and practice their traditions on their ancestral land

VIII. Recommendations

Cultural Survival recommends that the government of Sri Lanka:

- Collect disaggregated data on Indigenous Peoples in Sri Lanka in the next census.
- Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Sri Lanka.
- Ratify ILO Convention No. 169.
- Recognize the right of the Wanniyala-Aetto to customary sustainable use of biodiversity in the Maduru Oya National Park. Develop bilingual education programs in the Wanniyala-Aetto language for Indigenous children.
- Recognize the right of the Wanniyala-Aetto to practice their traditions and customs on their ancestral lands.