

Contents

1 Introduction	1
1.1 The Sri Lankan Human Rights Infrastructure and International Human Rights Engagement	1
1.2 The United Nations Human Rights Machinery	6
1.3 Sri Lanka's Independence and the Introduction of Human Rights Law	8
1.4 Aims and Overview	10
1.4.1 Overarching Question and Aim of the Book	10
1.4.2 Overview	11
References	15
2 Sri Lanka's History: Colonialism, Independence and Conflict	17
2.1 Introducing to Sri Lanka's History	17
2.1.1 The History of the Island Before Its Independence in 1948	18
2.1.2 Migration and Indigenous Rule of the Island	19
2.1.3 A Myth Becoming an Essential Part of History and A Justification for Political Violence	24
2.1.4 The Actual History	26
2.1.5 Preparing Independence: The Constitutional Development of Sri Lanka	32
2.2 Post-colonial Sri Lanka, the Rise of Majoritarian Nationalism and the Creation of the "Other"	38
2.2.1 General Elections 1947—The Creation of Aristocratic Democracy and the Rise of Political Buddhism	38
2.2.2 General Elections 1956—The Rise of Linguistic Nationalism and Identity Formation	40
2.2.3 Inter-ethnic Riots 1956 and 1958	41
2.2.4 The Marxist Uprisings and the Violent Clampdown	44
2.2.5 The Presidential Elections 1982	46

2.2.6	Black July 1983 and the Beginning of the Civil War	49
2.2.7	The Absence of United Nations Peacekeeping Mission to Sri Lanka—A Planned Failure?	52
2.3	The Colonial Legacy and Imprint on the Contemporary Human Rights Infrastructure	54
2.3.1	Education Policy	56
2.3.2	Construction of Identities, Communal Representation and Unitary State	57
2.3.3	Creation of Dynastic Democracy	58
2.3.4	The Soulbury Constitution	59
2.4	Concluding Comments	60
	References	64
3	Sri Lanka's Human Rights Infrastructure	69
3.1	Introduction	69
3.2	Legal Instruments for the Promotion and Protection of Human Rights	71
3.2.1	First Republican Constitution	71
3.2.2	Second Republican Constitution 1978	76
3.2.3	Human Rights Legislation	81
3.2.4	The Third Republican Constitution	94
3.3	Institutions for the Promotion and Protection of Human Rights . . .	96
3.3.1	Human Rights Commission	96
3.3.2	Supreme Court	99
3.3.3	National Police Commission	103
3.3.4	Presidential Commission of Inquiries	104
3.3.5	Office on Missing Persons	105
3.3.6	Lessons Learnt and Reconciliation Commission	106
3.4	Institutional Impediments to the Development of a Human Rights Infrastructure	110
3.4.1	Executive Presidency	111
3.4.2	Public Security Ordinance Act 1947	112
3.4.3	Prevention of Terrorism Act 1979	114
3.5	Concluding Comments	116
	References	120
4	The United Nations Treaty-Based Bodies and Their Engagement with Sri Lanka	123
4.1	Introduction	123
4.2	The Role of the United Nations Human Rights Treaty Bodies	124
4.3	Sri Lanka's Human Rights Treaties Ratification and Implementation Record	133

4.4	Enabling an Open and Free Society: An Examination of Sri Lanka's Interaction with the United Nations Human Rights Committee	136
4.5	Human Rights for All Without Racial Distinction: An Exploration into Sri Lanka's Reporting to the Committee on the Elimination of Racial Discrimination	145
4.6	Torture and Decades of State of Emergency: Sri Lanka's Engagement with the Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	150
4.7	Concluding Comments	157
	References	160
5	The United Nations Charter-Based Bodies and Their Engagement with Sri Lanka	163
5.1	Introduction	163
5.2	From the United Nations Commission on Human Rights to the United Nations Human Rights Council	164
5.3	Sri Lanka and the United Nations Human Rights Commission	172
5.3.1	Sri Lanka's Interaction with the United Nations Human Rights Commission During the Ethnic Clashes of 1983	173
5.3.2	Sri Lanka and the Special Procedures Under the United Nations Commission on Human Rights	178
5.4	Sri Lanka and the United Nations Human Rights Council	186
5.4.1	Tackling Impunity and Achieving Accountability. Resolutions in the United Nations Human Rights Council: 2009–2016	188
5.4.2	Sri Lanka and the Special Procedures Under the United Nations Human Rights Council	199
5.5	Universal Periodic Reports of Sri Lanka 2008–2012: Words and Actual Actions Reviewed	207
5.6	Concluding Comments	211
	References	216
6	Conclusion	219
6.1	Introduction	219
6.2	Reasons for the Contemporary State of Human Rights in Sri Lanka	220
6.2.1	Majoritarian Insularity Dominating Public Discourse	220
6.2.2	Perpetuating Majoritarianism Through the Executive Presidency and the State of Exception: The Marginalisation of Human Rights	224
6.2.3	An Island of Violence	227

6.3	Assessment of the United Nations Human Rights Involvement in Sri Lanka	230
6.3.1	The United Nations and International Law as a Trojan Horse of Post-colonialism	230
6.3.2	The Impact of International Scrutiny on the Ground of Human Rights Violators	232
6.3.3	Sri Lanka Is United Nations' Nemesis	233
6.4	Final Remarks and Lessons from Sri Lanka	236
6.4.1	International Human Rights Law as the Law of Open States	236
6.4.2	The Necessity of International Human Rights Engagement in Situations of Poor or Non-existing Domestic and Regional Human Rights Infrastructures	237
6.4.3	International Legitimacy Through Human Rights Engagement	238
6.4.4	Human Rights Engagement as a Mobilizing Basis for Civil Society Actors and Development of Human Rights Infrastructure	240
6.4.5	Ireland and Sri Lanka: Two Islands of Violence	245
6.4.6	Pearl or Tear of the Indian Ocean—The Third World Approaches to International Law. Critique of International Human Rights Engagement From the Global South	246
	References	251
	Bibliography	255
	Index	265