

Evaluation of the

## **Centre for Policy Alternatives**

(Colombo, Sri Lanka) core-funded by the Human Security Division of the Swiss Federal Department of Foreign Affairs (2008-2011)



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**BARTKLEM  
RESEARCH**

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**Pictures on the front page by the authors.**

The pictures are intended for illustration; the sites and people displayed are not directly related to CPA.

## **Executive Summary**

This evaluation reviews the Centre of Policy Alternatives (CPA) in Colombo, Sri Lanka. It was commissioned by the Human Security Division (HSD) of the Swiss Federal Department of Foreign Affairs (FDFA), which has supported the organisation for a total of CHF 400,000 (48,000,000 Sri Lankan Rupees) over the period 2008-2011. On the basis of document perusal and 46 interviews, this report evaluates the overall relevance and quality of CPA's work. Four fields of activity were subjected to closer scrutiny: public interest litigation, international human rights advocacy, election monitoring, and post-war peacebuilding.

The evaluation concludes that CPA's activities are highly relevant, both to the present Sri Lankan context and to Swiss policies. The organisation stands out as a strong advocate of human rights, rule of law and democratic checks and balances, while most other civil society organisations take a more cautious, accommodative stance towards the present Sri Lankan government. The evaluation identified positive outcomes of CPA's efforts. Many of the organisation's activities, however, concern the "watchdog" and "witness" roles of civil society. Under the present political circumstances it is extremely challenging for Sri Lankan civil society to bring about major changes with regard to key political trends. However, the few positive steps that the government has taken can plausibly be attributed to the pressure and inducements of the network of international actors and civil society, in which CPA plays a crucial role. Whether these action plans, commissions and resolutions will result in ground-level improvements remains to be seen.

The evaluation also identifies some institutional weaknesses with regard to CPA's record in project management and reporting, and it identifies three significant challenges to CPA's sustainability: lack of political space, declining donor funding, and preserving a core of high-quality staff.

The evaluation team recommends HSD continues supporting CPA, and considers a funding modality that satisfies HSD's needs for profile and accountability, while preserving CPA's flexibility and space for manoeuvre. It encourages CPA to address its institutional weaknesses and longer-term challenges, and calls for HSD's support in that regard.

## **1. Introduction**

This evaluation concerns the Centre for Policy Alternatives, a research-based civil society organisation in Colombo dedicated to human rights, liberal democracy, constitutional reform and the search for a balanced political settlement to Sri Lanka's protracted ethno-political crisis. More specifically, this report concerns the core funding provided by the Human Security Division (HSD) of the Directorate of Political Affairs of the Swiss Federal Department of Foreign Affairs (FDFA) over the period 2008 to 2011. In this period a total of CHF 400,000 (48,000,000 Sri Lankan Rupee) was granted. As elaborated in the terms of reference of this study (Annex 3), the evaluation was commissioned to review CPA's performance and take a forward-looking perspective to inform pending and forthcoming decision-making at the HSD. In brief, the evaluation reviews the relevance and suitability of CPA's activities – both in relation to Sri Lanka's present context and in relation to Swiss foreign policy – the organisation's cost accountability in relation to the core funding, and assesses some of the outputs and outcomes of CPA's work during the study period.

Switzerland is not a major player in Sri Lanka and it has not been one in the past. However, it has continued to be active with regard to human security issues, using both diplomatic and aid channels. Switzerland's profile in relation to peace, human rights and humanitarian law (along with its own fine-grained composition of confederal structures and direct democracy), its position as a small, non-EU country, without a colonial legacy or salient geo-strategic interests, and the fact that several other donors have downscaled their efforts bestows it with some significance as a niche player at the present juncture. The Swiss Medium Term Plans for Human Security (SMTP I, II and – for the coming period – SMTP III) provide a concise basis for Swiss engagement in Sri Lanka. In relation to this evaluation, programme component 2 of SMTP I and II, and domain III of SMTP III are most directly relevant, in brief: human rights (and International Humanitarian Law), conflict transformation and peace building (including political dialogue). More specifically, Switzerland aims to work on international humanitarian law (IHL) and human rights through engagement with the government, international advocacy, and the fostering Sri Lankan capacities for advocacy, documentation and awareness raising (strategic outcome 2.1 in SMTP II), and contribute to a political solution of Sri Lanka's minority conflict through state reform by engaging with both government and civil society actors (strategic component 2.2).

The bid of the evaluation team – comprising Mr. Bart Klem, Prof. Shahul Hasbullah and Dr. Oliver Walton<sup>1</sup> – was selected by the HSD after consultation with CPA. Upon selection, the team submitted an inception report, which spelled out the team’s approach to the evaluation, on which it received feedback from both HSD and CPA. Similarly, comments from both parties on the first draft of this report were accommodated.

## **2. Methodology**

Evaluating the kind of work that CPA does is not straight-forward. Summarizing the observations stipulated in our bid and the inception report, politically sensitive activities in the fields of peace and human rights raise some well-established conundrums, including the attribution problem, the lack counterfactuals, non-tangible objectives, and long impact chains. Many of CPA’s activities concern the “watchdog”, “witness” and “voice” role of civil society, the value of which cannot simply be reduced to an input-output analysis. This report seeks to place CPA’s activities in its challenging political context and endeavours to provide a reasoned assessment of the relevance, suitability and plausible effects of the organisation’s activities.

The findings of this evaluation are based on a perusal of documents and interviews. The former comprises a study of CPA project documentation, CPA research reports and FDFA documents in relation to funding CPA. With regard to interviews Annex 1 provides a full list. We interviewed 46 people, including CPA staff and board members (14), civil society activists and academics, both in (15) and outside Sri Lanka (7), staff at donor agencies or embassies (4), members of parliament (2), at the Attorney General’s office (1), and within the Swiss administration (3). Interviewees were selected after discussion with CPA.

As also elaborated in the inception report, the scope of this evaluation is limited. Given the time constraints and the wide range of activities that CPA engages in, it is not possible to assess the organisation’s portfolio and its ramifications in Sri Lankan society in an in-depth manner. However, the interviews (bolstered by the

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<sup>1</sup> The division of labour within the team was as follows. Bart Klem acted as the team leader and lead author. Shahul Hasbullah collaborated in the research as a Sri Lankan expert and was co-responsible for interviews and document analysis. Oliver Walton had a supportive and advisory position and provided inputs and feedback on all stages of the evaluation.

team's familiarity with the context and CPA's work) provide us with a reasonably strong basis to review CPA's overall programme. The people interviewed represent an array of backgrounds, political affiliations, and identities (class, ethnicity). Yet, it is not an altogether balanced sample. In brief, there are three sample biases that we need to acknowledge. Firstly, our research in Sri Lanka was confined to Colombo and our respondents belong to the group of English-speaking, well educated people living there. To some extent the evaluation thus replicates CPA's relatively elitist and internationally-oriented profile. Within this group of people we have actively sought (and found) people who expressed criticism on (parts of) CPA's work. Secondly, though some of our respondents advocated positions that were – in part – sympathetic of the government, we did not interview people who officially represent the government, and neither did we talk to people who can be considered Sinhala ultra-nationalists (though the MP of the JVP may be considered as such). Given the polarised and hostile political climate, however, we feel this is defensible. The team was concerned the evaluation itself might have adverse effects if the authorities would be approached for this evaluation. Moreover, the critical – not to say damning – public statements concerning CPA from powerful people in these circles make their general view pretty clear. Thirdly, within the CPA, we spoke with staff in senior positions, not with the lower-level employees. Given the focus on the larger, substantive and strategic issues, we feel this choice is also defensible.

### **3. Background to CPA**

While this evaluation is confined to the period 2008-2011, it is important to briefly take CPA's origin and track record into account. The nature of the organisation – its approach, staff and institutional culture – as well as its perceived legitimacy and political space are strongly shaped by this historical background. CPA emerged from the initiative of a small number of academics, including lawyers, associated with the University of Colombo in the mid-1990s. Some of these initiators are still active within CPA. The first initiative was a small unit within the university called the Centre for Policy Research and Analysis (CEPRA), but institutional support decreased with the replacement of the Vice Chancellor (prof. GL Peiris, presently Sri Lanka's foreign minister). In 1996, the researchers thus founded the Centre for Policy Alternatives, with Dr. Paikiasothy Saravanamuttu as its executive director. Technically, the organisation is registered as a company (as are other "NGOs"), but it is widely understood as a civil society organisation. Importantly, the people associated with the initiation of

CPA represented divergent ethnic and political backgrounds. Some of them, the executive director in particular, are considered to be part of the Colombo elite, whose family trees branch out to some of the key political figures of Sri Lanka's late colonial and post-colonial history.

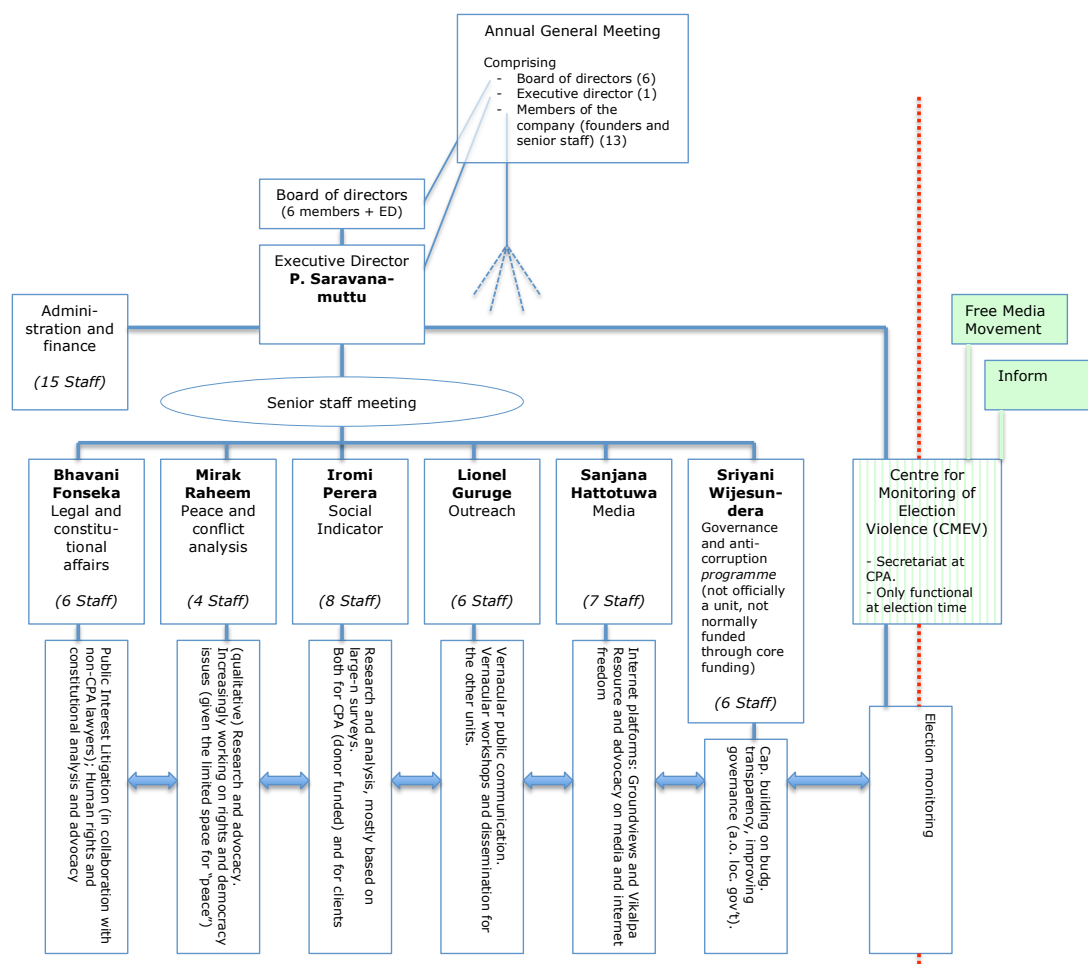
The period in which CPA was founded was marked by the inception of Chandrika Kumaratunga's presidency (SLFP). Following seventeen years of UNP rule and eleven years of separatist war, her central electoral promise was to seek a negotiated settlement premised on the devolution of power and the acknowledgement of minority rights. CPA's mission of exploring "policy alternatives" and its strong emphasis on issues of constitutional reform, federalism, democratic checks and balances and the rule of law was embedded in this political context. Some of CPA's members had good access to then president Kumaratunga and the organisation fitted in well with her strategy of developing broad civil society action in support of her political strategy. International donors were also increasingly willing to engage with these endeavours. CPA's inception thus benefited from a significant political tailwind.

This conducive political climate changed when CPA fell out with president Kumaratunga in 1999. Irregularities in the North-Western Provincial Council elections caused CPA and its partners to call for an annulment of the polls, which invoked in government agony and (unsuccessful) attempts to file criminal defamation charges. While the organisation has remained remarkably persistent in its focus and approach, its evolution over the past decade and a half has been strongly marked by the ebb and flow of Sri Lankan politics. It has been most productive and able to contribute to its mission under governments that were open to reform. Each of these reformist phases, however, was followed by stalemates, stagnation and escalating violence and this has minimised CPA's space for engagement; it was confronted with political criticism and questions about its patriotic credentials and domestic legitimacy.

With the coming to power of the UNP and the inception of the Norwegian-mediated peace process in 2002, CPA entered a new reformist phase. It was closely associated with these peace efforts and it found a receptive audience both among key political figures and international donors. It is also in this period that the organisation consolidated its institutional trappings. What had started as a relatively informal group of activist academics had become an organisation with units, administrative structures and procedures. The resulting institutional

architecture has remained largely unchanged since. The figure on the next page provides a brief overview of CPA's institutional architecture and activities. It is also in this period that the organisation managed to attract and nurture what we may call a second tier of staff, below its original founders. Partly because of the peace process, CPA now avails of a group of senior researchers (each heading one of the units) who are considered to be experts with a public persona. In this respect, CPA differs from most of its "peers": Sri Lankan civil society tends to gravitate to singular charismatic leaders, whose shadow does not always provide fertile ground for junior staff to grow.<sup>2</sup>

**Graphic 1: Organogram of CPA  
(with senior staff and summary of activities)**



With the gradual collapse of the peace process and the coming to power of the Rajapaksa government in 2005, a new phase commenced. The subsequent military victory in 2009 reinforced the government's militarised and centrist outlook, its fear for foreign interference, and its antipathy towards dissenting civil

<sup>2</sup> Meanwhile, CPA lost some of the first tier staff (directors who were responsible for particular issue fields). Ketesh Loganathan left to join the government peace secretariat and was subsequently murdered.



society associated with it. To the extent that Sri Lanka has seen post-war reform, this has bolstered the government's executive powers, centralised patronage, and backtracked on minority provisions. CPA thus finds itself in the most hostile environment of its history, a point to which we turn below.

The boxes at the bottom of the figure on the previous page provide a nutshell overview of CPA's activities (additional detail can be found in CPA's annual reports). As illustrated by the arrows between them, there is a lot of interaction (as well as some overlap) between these different fields of activity. To some extent, this results in a dissolution of the boundaries between the units. For example, the research of Social Indicator feeds into the analyses of the peace and conflict unit. This unit, in turn, provides input into the cases filed by the legal unit. All units collaborate with Outreach as well as debates on the internet platforms Groundviews or Vikalpa (see the box below). Staff from all units participates in election monitoring. And in turn, some of the malpractices that CMEV observes results in cases that are subsequently filed by the legal unit. These interactions and collaborations strengthen CPA's activities as a flexible and integrated whole. At times, however, it leads to confusion among outsiders, including donors (some of whom we interviewed) who need to provide their bureaucratic hierarchies with clearly delineated activities and associated budgets. The fact some of the units have become brand names in their own right, for example, can be a source of puzzlement.

### **Groundviews and Vikalpa**

CPA's two moderated internet platforms Groundviews (English) and Vikalpa (Sinhala) did not receive any special attention in this evaluation, but because many of our respondents – the international ones in particular – referred to these initiatives, it is worthwhile to briefly discuss their significance. Both sites attract a significant readership, respectively an average of 2700 and 750 readers daily. Groundviews posts often get picked up by international news wires (between 5-25% of the content). Many respondents considered the site one of their primary sources of information on current affairs in Sri Lanka. The value of the site lay in its independence (most print media being amenable to government influence), its policy of filtering out mud-slinging efforts, and the fact that discussants represent a wide array of political backgrounds.

Constraints of the site include the limited audience reached, with internet penetration estimated at 14%, and only 17% of Groundviews' 15400 Facebook friends being non-Colombo based Sri Lankans (44% Colombo; 39% abroad). The Sinhala platform Vikalpa is complementary in this regard, but even this website faces some of the above constraints.

Having said that, the audience that both websites *do* reach represents an influential readership in terms of political debate and policy-making. CPA's media unit does not run a Tamil-medium platform (though some contributions get translated), mainly because capacity is limited and there is less need to lubricate exposure, given the many ties to the Tamil diaspora (which is very active on the internet).

#### **4. Sri Lanka's changing political landscape**

The period covered in this evaluation (2008-2011) was a very turbulent one. The military defeat of the LTTE marks a dramatic breakpoint in Sri Lanka's post-colonial history. However, the military victory has transformed – rather than ended – Sri Lanka's ethno-political conflict. While the war is over, the ethno-political conflict is not. Many of the underlying conflict structures persist in the present context. The humanitarian excesses at the end of the war loom large, the country's (Tamil and Muslim) minority question remains unaddressed, and prospects towards that end are bleak. Alongside the lack of political compromise and state reform, there are concerns around the way the government is consolidating its victory in the north and east of the island: militarization, settlement politics and shifting ethnic demography, the nature of governance, claims on sacred sites and special zones, and controversial development plans.

Conflict dynamics are not confined to ethnic antagonism: between the Sinhala majority and minorities. The post-victory context is characterised by a much more uni-polar political landscape with a feeble Sinhala opposition (UNP, JVP), targeted intimidation and elimination of dissenting voices, an unprecedented autonomous role of the armed forces in many walks of life (the civil service, diplomacy, private enterprise, politics), and increased concerns over the independence of the judiciary and the rule of law. While the ethnic issue continues to be acutely relevant, many of these issues concern the country at large, not just the minorities.

There have been shifts in the international engagement with Sri Lanka. This includes: the rising presence and significance of non-Western/non-South Asian players, most obviously China; mild, but persistent Indian pressure on a political solution to the ethnic issue (partly driven by domestic criticism over Delhi's support to the "military victory"); and a gradual departure of traditional (mainly European) development donors. Some Western countries (including Switzerland) continue to apply some diplomatic pressure on issues of human rights, justice in

connection to the humanitarian issues at the end of the war, and pro-minority reform. Some of these efforts came to a head in the resolution adopted at the UN Human Rights Council earlier this year (with both western and Indian support). Internationalised civil society networks play a significant role in these dynamics, but Sri Lankan governments have always been very adept at rebuking foreign pressure.

The above-described trends make CPA's activities extremely relevant, but they also warrant modesty with regard to effectiveness. The literature on Sri Lankan civil society suggests that it is often closely connected to the state and has a weak record acting as a watchdog or counterforce. It has been effective as an auxiliary force, buttressing governments with converging political views (CPA's engagement with government peace efforts in 1996-1999 and 2002-2004 being a good example). The present context thus poses a major challenge for civil society engagement. This raises questions about what an organisation like CPA can be expected to accomplish beyond bearing witness, voicing opposition and precipitating international pressure. The latter is vital in bringing about government concessions on key political and human rights dossiers (the Commission of Inquiry, the All Parties Representative Committee, the Lessons Learnt and Reconciliation Commission, and negotiations between the government and the Tamil National Alliance), but none of these have moved much beyond rhetoric, reports, and the creation of more commissions and committees. Moreover, a confrontational approach brings along major challenges, reprisals and staff security risks.

The changing political climate has not left Sri Lanka's current civil society (in the general field of human rights, peacebuilding, governance and political reform) unaffected. Organisations can be placed on a spectrum of more confrontational and more constructive forms of engagement. It is beyond the scope of our research to discuss any particular organisation in detail, but it is clear that there are few critical and powerful voices left in Sri Lanka's civil society landscape. This has implications for one of our evaluative questions: whether there are organisations other than CPA who would be better able to accomplish positive results. The vast majority of our respondents confirmed that CPA stands out on a number of counts. Firstly, there are very few organisations operating within Sri Lanka that provide reliable research and intellectual resources on key issues like the massacre at the end of the war, power abuse, the need for a political solution to the minority question and the erosion of democratic and judiciary institutions.

Secondly, there are also very few organisations that take public outspoken positions on these issues, and which have the courage and the ability to resist government pressure. Finally, there are few Sri Lankan organisations with the skills and the network required to operate effectively in the international arena. On each of these aspects, CPA has a strong record, as we will discuss in the next sections, and it is arguably the only organisation left in Sri Lanka that combines these three sets of capabilities.

## **5. Assessment of specific fields of activity**

In view of the wide range of CPA's activities and the limited time available for the evaluation, it was agreed to strike a balance between some of the overall issues and dynamics around CPA and a selected set of activities, which are reviewed in a slightly more in-depth manner. These are:

- *public interest litigation* (because the legal channel is central to CPA's identity and few other organisations engages in litigation on national legislation and public policy);
- *international advocacy on human rights and humanitarian issues* (because these have plausibly been the most pertinent and controversial issues at the present juncture);
- *election monitoring* (because a significant portion of Swiss funding was spent on this, see the overview under 6.4);
- *post-war peacebuilding*, more specifically CPA's role as resource in relation to the search for a solution to the country's unresolved ethno-political crisis (at explicit request of the FDFA, and because this issue remains centrally important to the island's political future).

### **5.1. Public interest litigation**

CPA has always had strong affinity with constitutional issues and human rights and has always had lawyers among its ranks. Unlike some other human rights organisations – e.g. Home for Human Rights, Centre for Human Rights and Democracy – which focus on individual cases, CPA tends to focus on issues that concern wider public policy. Sri Lanka does not have a history of public interest litigation. CPA has become one of its main proponents. While the main purpose of public interest litigation is to block or adjust particular government legislation or conduct on legal grounds, it can be used for purposes of public diplomacy as well. That is, even when the verdict does not endorse the critique, public interest

litigation provides a channel for clarifying government positions and publicly communicating arguments against them.

CPA typically hires or collaborates with senior lawyers (such as M.A. Sumanthiran, currently an MP for the Tamil National Alliance) to appear in court as senior counsel. The legal and constitutional affairs unit, however, is responsible for maintaining a network with people who suggest cases. It remains vigilant in identifying cases and it prepares all the legal arguments and necessary documents. Some of their staff appear in court as junior counsel. Other units provide input and advice on the substance of these cases and some of them are prompted by the CMEV's election monitoring. In the study period CPA filed twenty-four (sets of) cases. We will discuss four of the most salient ones.

CPA raised alarm about Menik Farm and other camps for people displaced by the final battles. The main concerns raised related to the conditions in the camp and the fact that the military were effectively detaining 300,000 people. In June 2009, a month after the LTTE defeat, CPA filed a fundamental rights petition with the Supreme Court arguing that people were being subjected to arbitrary and illegal detention. The case is still pending in the Supreme Court, but the filing of a petition did contribute to the awareness of these practices and highlighted the fact that they contravened both national and international law.

The 18<sup>th</sup> Amendment to the constitution repealed a whole set of provisions to protect public bodies against political interference (the 17<sup>th</sup> Amendment) and enabled the president to be re-elected after his second term. Rather than using the window of opportunity after the LTTE defeat to address some of the core political issues with constitutional reform, this amendment further entrenched some of the main challenges: over-centralisation of power; erosion of democratic checks and balances. Along with five other petitioners, CPA moved to challenge the amendment, but the Supreme Court ruled the amendment constitutional and the bill was passed in September 2010.

Land is one of the key issues in post-war northeastern Sri Lanka and it will be for some time. The Land Circular introduced by the Government in 2011 required the registration of land in the northeast, so as to sort out the land issues resulting from years of war: death, displacement, "colonization", loss of land documents (all of which are complicated by the context of ethnic rivalry). There were several issues regarding the circular, including the role of the military in the process, the

sidelining of Provincial Councils on a key issue of shared responsibility, concerns about consolidating land capture in the wake of military offensives, and the minimal time provided for people to register their land. Given the many complexities at stake in the region, the circular would in effect enable the military and central government to decide on land ownership in the area, possibly dispossessing those who owned or inhabited lands for decades. This bolstered existing concerns about militarization and a shifting ethno-demographic balance in the region. CPA supported the filing of two petitions in the Court of Appeal and the Supreme Court challenging the circular. This resulted in the government withdrawing the circular; a new circular is yet to emerge.

A related case concerned the Town and Country Planning Amendment Bill, which empowered ministers to declare particular lands as “sacred areas”, “conservation areas”, “architectural areas” or “protection areas”. These qualifications have far-reaching implications for what can and cannot be done in these spaces and lend themselves to manipulation, particularly when the criteria for declaring such zones are not clearly defined. The northeast in particular is rife with controversial examples of sacred sites and special zones, but the Bill if enacted would have a broad reach across Sri Lanka. Moreover, the bill side-lined the Provincial Councils, which have been battling with the central government over land issues, ever since they were created as a concession to calls for Tamil autonomy (under the Indo-Lankan Accord). CPA challenged the bill in the Supreme Court arguing Provincial Councils had to be heard (since some of its issues fell under their constitutional responsibility) and highlighted tensions with people’s constitutional rights. The court declared the former point valid: the bill was sent to the Provincial Councils and subsequently withdrawn by the Government.

There were several cases on issues that were less directly related to the ethno-political conflict, such as the abuse of counter-terrorist laws for extending the Colombo Municipal Council’s term in office, and the assault of protestors in the Katunayake Free Trade Zone (next to Colombo’s international airport) by the police. Apart from their intrinsic importance, these cases are significant, because they deflect the criticism that CPA only engages in “political cases” and pro-minority issues.

The issues addressed in the above-mentioned cases are highly pertinent to Sri Lanka’s current transition, and they are very relevant for Swiss policy priorities in the field of human security (as specified in the Swiss Medium Term Plans). In

terms of immediate effectiveness, there were some remarkable successes (e.g. the land circular) as well as cases where the judge rejected CPA's arguments (e.g. the 18<sup>th</sup> Amendment). More widely, however, the "un-successful" cases also served a role in the public discourse on key political issues. Particularly among the educated elite, CPA's cases are well-known. At the start of our interviews in Colombo, CPA encountered a controversial bill and filed a case; many of our interviewees in the following days were telling us all about it. All of the respondents who commented on public interest litigation expressed appreciation for CPA's efforts, including those who were considered more pro-government or Sinhala nationalist. Many of them underlined the courage required to challenge the government on major politico-constitutional issues and credited CPA for saying the things that they themselves were unable to voice. To the extent that there was criticism, it concerned the fact that CPA is becoming such a political and oppositional label that it adversely affects some of its other activities (see section 6.1). In some cases, judges made it known to CPA that they would have to publicly remove themselves from the process for it to stand a chance. Some respondents argued that CPA ought to re-focus its attention on some of the poverty and rights related issues in the South.

## ***5.2. International advocacy on human rights***

CPA's activities in the field of human rights comprise: public reports based on field visits and research, personal briefings and confidential notes for decision-makers, and public statements. In the period between 2008 and 2009, many of the salient human rights issues were war-related. For example, CPA participated in the UN Security Council Working Group on Children and Armed Conflict and published critical reports on both the preparatory manoeuvres<sup>3</sup> and the final stages of the war in the north. On human rights more generally, Sri Lanka's first Universal Periodic Review (UPR, a voluntary framework for all UN member states) was started in 2008. Along with 27 other organisations and leading individuals, CPA gathered data and contributed to the formal submissions and shadow reports. One of the UPR outcomes has been the government's "National Action Plan for the Protection and Promotion of Human Rights 2011-2016". Currently, preparations for the next UPR are underway.

The massacre at the end of the war raised human rights concerns to a whole new level, and resulted in the Human Rights Council becoming a primary arena for

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<sup>3</sup> E.g. international organisations being pushed out of the Vanni.

addressing the controversial issues spawned by it. These contentions came to a head in the resolution UNHRC 19/2 of 22 March 2012, in which the council called on the government to act on the Lessons Learnt and Reconciliation Commission (LLRC) and encouraged the office of the UNHRC to support this process (and report on its support). CPA was very active in the process running up to "Geneva". It teamed up with other organisations researching legal frameworks and the government's track record. Staff travelled to various capitals across the world to engage in advocacy, countering the government's diplomatic overtures.

All of the above-mentioned efforts took place within a wider network of Sri Lankan and international human rights organisations. CPA functioned as one of the key brokers in connecting the domestic and international parts of these networks. It acted as co-ordinator among Sri Lankan organisations in taking common stances and releasing joint reports, and it considered a crucial and highly reliable resource for international players, some of whom have difficulty getting their staff into Sri Lanka. Our international respondents invariably credited CPA as one of the very few organisations that is able to speak the language of the international community in the higher echelons (be it in Geneva, Brussels or Washington DC) when raising Sri Lankan issues.

They are "very clear and strategic", while some others activists get emotional, start stumbling or contradict each other; "they really get the message across", one of them said. They have a "totally different impact", because they provide an authoritative voice based on research, another non-Sri Lankan civil society activist confirmed. He considered them a "heavy weight" with an overall credibility that was unmatched by any other Sri Lankan agency.

CPA's activities in the field of human rights and the humanitarian issues to do with the end of the war are highly relevant to Swiss policies, in general and with regard to Sri Lanka. In terms of effectiveness, there is no firm ground to argue human rights advocacy has improved the human rights situation in Sri Lanka. Most of the reports, commissions, resolutions and actions plans have mainly led to more reports, commissions, resolutions and actions plans. Having said that, it is unrealistic to expect civil society to leverage that kind of change, certainly under the present circumstances. Some of our respondents reminded us, however, that the human rights situation could be much worse. And it is reasonable to say that the positive steps that the government *has* taken in this



regard would not have taken place without the pressure from the international networks to which CPA makes an important contribution.

### **5.3. Election monitoring**

The Centre for the Monitoring of Election Violence (CMEV) is not a permanent organisation. It is brought back to life for every election that it decides to monitor. As becomes clear from CPA's organogram above, the CMEV is a coalition of three organisations: CPA, the Free Media Movement (FMM) and INFORM Human Rights Documentation. CPA holds the secretariat of CMEV.

Sri Lanka does not have an electoral calendar; elections are called by the president. The moment that happens the three leaders of CMEV's constituents meet and decide whether they will do monitoring. In most cases the answer is "yes": CMEV monitored all but one election in the study period.<sup>4</sup> This includes presidential, parliamentary, provincial and local (Pradesha Sabhas, Municipal Councils and Urban Councils) elections. In most cases, CMEV will seek dedicated funding for each round of elections (including US, German, Australian and Japanese funds). Swiss core funds were only used for the 2009 Provincial Elections.

Election monitoring is a large and labour intensive operation. From the moment electoral lists are drawn up, CMEV fields about 200 monitors (at least one in each electorate) to monitor any malpractices in the weeks before the elections. On election day itself, the organisations has a permanent presence in 30% of the polling stations, sixty mobile units, provincial desks to process the observations, and a central office in Colombo for tabulation and public dissemination. In total, about 5000-6000 people (including about 15 international experts) are involved. CMEV acts on violations in the following manner. It makes public statements, disseminates comprehensive reports on each election, helps victims register their complaints with the relevant authorities, and in some cases, joins hands with the legal unit to file cases in court.

It is beyond the scope of this evaluation to assess the performance of this enormous operation at field level. We thus confine ourselves to CMEV's reports and the observations of selected respondents. The reports of CMEV make a robust impression. They are systematic, well written and underpinned by concrete

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<sup>4</sup> The only exception was the second phase of the local government elections in 2011.

evidence. Those named and shamed in the report have not been able to successfully refute the evidence. PAFFREL (People's Action for Free and Fair Elections) is the best-known peer monitor of CMEV. Most of our respondents considered PAFFREL closer to the government. A comparative perusal of CMEV and PAFFREL reporting of the 2010 Presidential election (the key election in the reporting period) leads us to conclude that CMEV reports make more concrete statements, which are better substantiated with evidence.

The effects of election monitoring are difficult to assess in view of the many powerful factors that affect electoral politics. One of CMEV's staff observed that there is a declining trend in electoral violence over recent years. That is commendable, but we have been unable to verify this trend. Moreover, it is hard to attribute it to monitoring. After all, the same respondent underlined that ruling administrations no longer need to use much violence in election time, because they use their various tactics all the way through their period in office. However, it is plausible to say that vigorous election monitoring is an important democratic institution in itself, it raises the bar for electoral violations and it provides voters as well as outside observers with an independent assessment of the legitimate base of governments at various levels.

#### ***5.4. Post-war peacebuilding***

There is a whole set of CPA activities that could be categorized as peacebuilding, because they seek traction on structural issues underlying Sri Lanka's ethno-political conflict. This includes CPA's research on constitutional reform, the programmes on improving governance and strengthening Provincial Councils, the advocacy on land issues, the outreach unit's efforts to raise awareness on key issues among all layers of society, and the facilitation of dialogue and debate through the (English) internet platform Groundviews and its Sinhala coequal Vikalpa. In this section, we confine ourselves to a much narrower form of peacebuilding: CPA's role in contribution to the rather troublesome search for a political agreement on the conflict's core political issues in the post-war era. Right from the start, it must be acknowledged that there is no process to contribute to in this regard; there is a stalemate, at best.

With the LTTE out of the equation, the Tamil National Alliance (TNA) – freshly elected in 2010 – is widely seen as the main and most legitimate advocate of the Tamil cause to be bargained with on a political settlement (notwithstanding

several claimants to this role in the diaspora). Under international (including Indian) pressure, the government and the TNA had eighteen rounds of talks. Reflecting the shift in the realpolitical bargaining positions, the TNA dropped many of the demands it had posed throughout the war, and made former proposals of its adversary – government positions presented during earlier peace efforts – the basis of their argument. The government, however, seems to take the position that there is no longer any real ethno-political issue to resolve. Some of its constituents argue that the minorities face development issues, which require no solution special to Tamils or Muslims. Government-TNA talks have thus not moved forward.

Meanwhile, the government has reneged on its agreement with the TNA to broker a bilateral understanding first and then include other parties. The recently initiated Parliamentary Select Committee (PSC) will provide a forum for all political parties to participate in the discussion and the government is pressuring the TNA to collaborate with this more inclusive approach (which corresponds with the claim that the Tamils have no special issue or bargaining position). The TNA, however, fears being drawn into a conduit with Sinhala hardliners, Muslim parties and rival Tamil splinter parties. This will expectably enable the government to eschew taking a position, while resting assured that a PSC pandemonium will not result in consensus.

Along with other organisations, CPA acts as informal advisor to the TNA. While there are no institutionalised activities in this regard, TNA leader Sampanthan and MPs like Sumanthiran are part of CPA's network. When relevant issues arise either in parliament or on the ground, informal consultation takes place between the two entities. Sumanthiran also collaborates in CPA's public interest litigation. Though the TNA managed to survive the war and win successive elections, it is not a well-developed party with strong structures. It has limited capacity to develop sound proposals, bargaining strategies and operate in international diplomatic arenas. Our TNA respondent acknowledged these weaknesses, and underlined that CPA plays a significant role for the party: "they are our most experienced counsel. [...] CPA is our first stop." For example, CPA is a major resource with regard to the constitutional dimensions of federalism and devolution of power and it is able to draw on the many legal documents and proposals that were produced to resolve the minority question over the last six decades. Some respondents argued that CPA provides a counterweight of sorts against more radical diaspora influences on the TNA. Clearly, however, the TNA

remains an independent political formation, which may or may not adopt the advice it is given.

CPA's expertise and network are very relevant to the ambition voiced in the most recent Swiss Medium Term Plan (III), which explicitly stipulates political dialogue in search of a longer-term solution to Sri Lanka's conflict. Importantly, however, relatively little is done with these capacities at the moment given the protracted political stalemate. One of CPA's staff member explained: "We could organise a session to bring TNA and government together, but what's the point when the government is in denial. [...] The government strategy is to drown everything by saying we have to talk about everything with everybody, thus negating the minority issue, assuring no progress is made, keeping up a façade of a domestic process and avoiding having to take position itself." In terms of effectiveness, one thus has to be very modest at this juncture. Yet, although the present political configuration is rather entrenched, Sri Lankan politics has never remained static for very long. If new scope for political negotiations emerges in the future, one of our most senior respondents reminded us, there will be a need for inputs and expertise, which draws on Sri Lanka's previous failures and is geared towards policy options and alternatives which are sensitive to Sri Lanka's specificities.

## **6. Strategic considerations**

In this final chapter, we address some of the strategic and cross-cutting issues regarding CPA's work, the challenges and dilemmas that it faces, and its funding relationship with FDFA.

### **6.1 Complementarity: confrontational and constructive approaches**

Civil society organisations in Sri Lanka take divergent positions in relation to the government and can be placed on a spectrum of more confrontational approaches to more constructive engagement. Both styles imply different, but complementary theories of change. Though CPA overall is positioned on the confrontational end of the spectrum, the organisation in fact represents different approaches. Its constituent units and activities belong on different places of the spectrum. While most of CPA's advocacy and public interest litigation tends to directly confront the central government's actions and policies, the governance programme and the outreach unit collaborate with government institutions, either at ministerial level, or with provincial and local government entities. Similarly,

Social Indicator takes a more neutral academic stance, and the moderated internet forums hosted by the media unit (Groundviews, Vikalpa) provide a platform for different shades of opinion, including well-known government proponents. These diverse interventions are complementary, but they also confront CPA with some major tensions and dilemmas.

CPA's constructive activities with government entities and its more neutral activities in the field of research and public debate are at times adversely affected by the organisation's oppositional public stance towards the government. To execute these activities, CPA staff needs access to the field and to key institutions as well as a level of perceived legitimacy and credibility. CPA has become a major subject of controversy since it explicitly denounced some of the government's actions, both domestically and in international forums that the government sees as threatening (like the UNHRC), while many other civil society organisations operating in Sri Lanka tread more carefully. Not only did this result in government condemnation, it also attracted fierce criticism from many layers of Sri Lankan society, the Sinhalese community in particular. Many people have come to see CPA as an unpatriotic, foreign-funded organisation that strives for regime change, and some of our relatively unpartisan respondents who were sympathetic to CPA, underlined that such interpretations were not completely baseless. CPA is seen to align itself with opposition parties like the TNA and UNP, against a government that has received a broad electoral mandate, while CPA itself does not have a clear domestic constituency.

One CPA staff commented: "we should not be worried about bothering the government. They will be annoyed anyhow. But we should be worried about our perception among the wider public. Are we so certain of our moral superiority that we don't worry about what the Sinhala community thinks at all? Or are we going to be a little less idealistic and appreciate the fact that there is very little appetite for positions that go against the grain of the Sinhala opinions?" The controversy around CPA came to a head at the March 2012 resolution of the UNHRC in Geneva. CPA was attacked and discredited in state and non-state media alike. Adverse effects for CPA's more constructive lines of activity also reached a high. The brand CPA became reason for dignitaries to cancel their presence at public events; a support letter with CPA letterhead and the executive director's signature became a liability rather than a door-opener. These difficulties have spawned heated debate within CPA.

In the words of one of our (non-CPA) respondents, CPA is faced with an “existential paradox”. On the basis of its foundational principles, it has little choice but to challenge the state. “Governments come and go, but principles must stand.” Not speaking out on some of the key human rights issues, the erosion of democratic checks and balances, and the massacre at the end of the war would amount to betraying the fundamentals of CPA’s mission. Yet, by doing so, it invokes criticism of being anti-democratic and constrains its ability to contribute to positive change. Part of this tension could possibly be eased somewhat by more savvy public communication. Examples mentioned included a more pro-active media strategy around “Geneva”, avoiding unnecessarily harsh phrasings in public statements (e.g. “the Rajapaksa regime”, rather than “the government”). Others argued that CPA should have been more forthcoming when the government initiated the LLRC when it was first initiated, and that CPA’s director should steer clear of the very visible engagement with opposition politicians in the Platform for Freedom. These suggestions should be taken seriously, but such tactical manoeuvring would not solve the basic problem. CPA faces a strategic dilemma of either following suit with some of the other civil society organisation in taking less outspoken positions and biting its tongue on the most sensitive issues, to preserve optimal space for its wide array of activities, or taking its loss and accept that adherence to its foundational principles will adversely affect the space of manoeuvre for some its activities and may isolate the organisation. The organisation’s leadership has ventured on the latter path.

Our respondents – both within and outside CPA – were divided on this matter. Most of our international respondents expressed support for CPA’s present course. Their basic reasoning was that many of CPA’s more constructive activities bore semblance with the portfolios of other agencies. Downscaling them would be unfortunate, but it would not cause any irreparable damage. Compromising CPA’s principled position on some of the key moral, political and legal issues on the other hand, would take away one of Sri Lanka’s most powerful domestic voices on questions that are centrally important to the country’s future predicament. “We cannot lose them,” a person working for an international NGO summed up this perspective. Moreover, to some extent CPA acts as a lightning rod, thus preserving some space for less outspoken organisations to function. The evaluation team concurs with this basic reasoning, but also observes that it is easy for outsiders to take such a position. Issues of staff security and long-term domestic legitimacy should not be taken lightly. Based on internal consultation

and debate, CPA will have to devise an appropriate strategy in coping with these challenges.<sup>5</sup>

## **6.2 Gender dimensions**

CPA has no unit or programme that is explicitly geared to gender issues, one reason being the existence of other civil society organisations that are dedicated to this subject. The organisation considers gender concerns part of its overall rights discourse. In the running of the organisation, CPA assures an even male-female balance at all levels of its staff. Both in the board and at the level of senior researchers, CPA can pride itself with strong female leadership.

There are, of course, important gender-dimensions to many of its endeavours. CPA's work on land, for example, has many gender aspects.<sup>6</sup> Similarly, there are specific gender issues related to displacement and resettlement. The reporting the Universal Periodic Review on human rights includes entries on women's rights and violence against women.<sup>7</sup> In relation to governance and electoral politics, CPA has taken issue with the proportion of women in elected positions.

Perhaps the most interesting example concerns a project by the Social Indicator unit, which is still on-going. The unit participates in a cross-country study on masculinity (funded by Care). It executes a survey among 2000 men and 1000 women with questions concerning sexuality and gender relations, as well as domestic violence and rape. While we have not looked at this study in any detail and there is no report out yet, we were impressed by the level of rigour and methodological sophistication displayed in our interview with the staff member concerned. The study seems to be well tailored to the cultural sensitivities, possible biases and ethnical dilemmas, for example through the use of tablet computers on which respondents can independently fill out their answers, which get uploaded to a foreign server, without interference of CPA staff.

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<sup>5</sup> Staying tuned for possible interventions that suit CPA's mandate, but engage with some of the island's non-minority issues is arguably an important part of this deliberation. Current ideas of developing a democracy index – much in line with the preceding peace/conflict monitor – could be an example of such an endeavour.

<sup>6</sup> One of them being the fact that land passes through the male or female lineage (depending on the community).

<sup>7</sup> See for example the national report of the UPR of 2008 (A/HRC/WG.6/2/LKA/1), mainly section III.D on the "Convention on the Elimination of all forms of Discrimination Against Women (CEDAW)".

## 6.3 Challenges to institutional sustainability

There are concerns about CPA's future prospects. The organisation has some major strengths and a reputed track record to draw from, but there are three longer-term trends that will confront the organisation with some major challenges.

**1. Political space.** As discussed above, there is very limited political space in Sri Lanka at the moment for the kind of work the CPA does. The organisation has become very exposed as one of the few organisations that speaks out. CPA has received critical treatment in the media for some of its controversial work (most recently its advocacy at the UNHRC in Geneva), it has been subject to intimidating language from key government figures and some of its staff have received death threats or more subtle forms of intimidation. Sri Lanka has a record of activists and journalists who were murdered or disappeared, some of them for activities and publications very similar to those of CPA. The political climate is expected to continue troubling CPA in the foreseeable future.

**2. Deteriorating donor climate.** During the heyday of the Norwegian-mediated peace process, CPA had relatively easy access to donor funding. These days are over. Development donors have started to pull out of Sri Lanka, which is now a post-war, middle-income country with a government that many donors see as uncooperative. Particularly the set of donors that has shown interest CPA in the past (northern European donors, Canada, Australia) has started to thin. Several have terminated their development programmes or are expected to do so in the near future. This has already started to affect CPA.

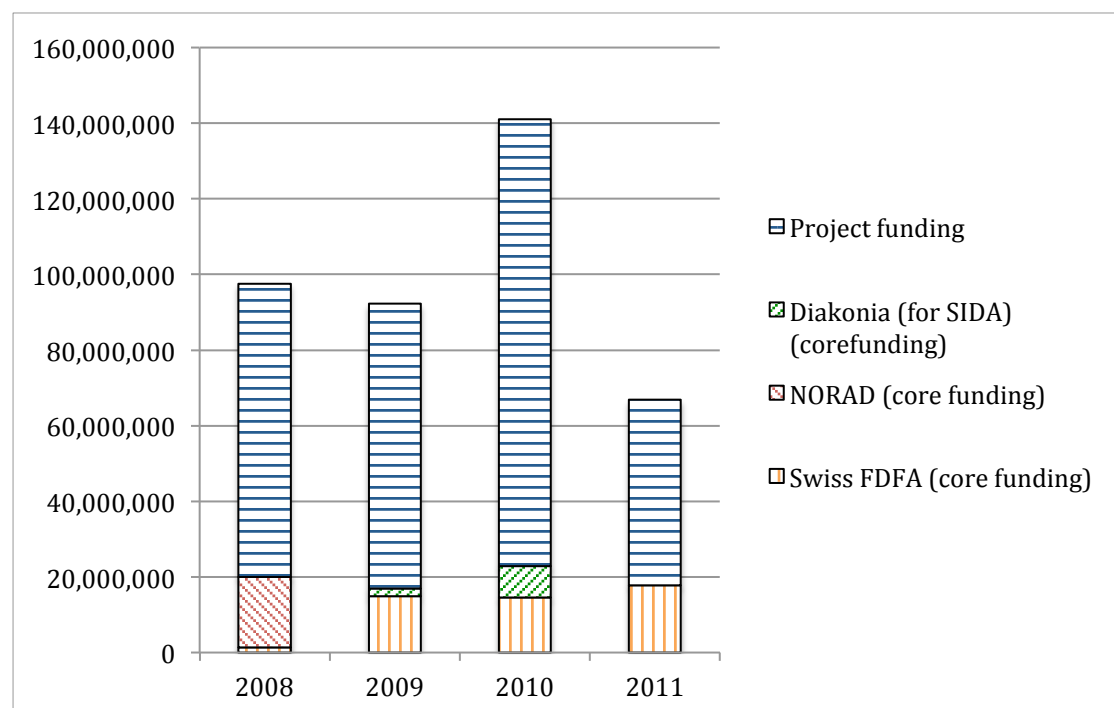
A significant share of the project funding during the previous years came from donors like the UK and the Netherlands, which have now phased out of Sri Lanka. There are some potential donors remaining, such as the EU, sources like the Ford Foundation and some of the larger international NGOs, but budgets are expected to continue to decline. At present, Switzerland's FDFA is the only core funder of CPA. Sweden (via Diakonia) has ceased core funding to CPA, because it has terminated its aid relationship with Sri Lanka; Norway intends to continue its core funding next year.

The funding situation is thus not acutely life-threatening, but the longer-term trends are reason for CPA to be concerned, given that it is very difficult for the



organisation to generate funding domestically. So far, CPA has retained its core; permanent staff has varied between 57 and 51 over the past five years, but this may come under pressure in the future.

**Graphic 2. Donor contributions to CPA (SL Rupees) as graph and as table**



Donor	2008	2009	2010	2011
Project funding	77,430,494	75,284,050	118,148,308	49,020,100
Diakonia (SIDA) (core f.)	-	1,993,802	8,344,785	-
NORAD (core funding)	18,708,551	-	-	-
Swiss FDFA (core f.)	1,353,878	14,932,520	14,514,048	17,792,950
<b>TOTAL</b>	<b>97,492,923</b>	<b>92,210,372</b>	<b>141,007,141</b>	<b>66,813,050</b>

**3. Attracting and retaining high quality staff.** CPA's single most important asset is its staff. Both its leadership and the senior staff were seen as committed and highly capable by our respondents, and we concur with that assessment. Several people within the organisation expressed concern, however, about the organisation's ability to preserve this. Firstly, the present core of senior researchers flourished during the peace process when CPA was able to engage in many activities and had influence. The present working climate is much more frustrating. In the words of one CPA respondent, they "have had quite an adventure. But now they suffer from exhaustion and high expectations."

Secondly, CPA salaries are relatively low, and there have been no salary increments for several years despite high inflation. We asked two experienced donor staff about common salaries in the sector and compared that with CPA's salary scales, which resulted in this graph (in SL Rupees).

**Graphic 3. Table with salary scales**

Position	Donor respondent 1	Donor respondent 2	CPA salaries
Senior staff	up to 200,000	100,000 - 150,000	60,000 - 87,000
Director	200,000 - 400,000	200,000	152,000

The staff all explained they were very committed to CPA's mission and enjoyed the challenging nature of the work, but given the many over-hours (and postponed holidays) as well as the fact that some of them face threats and intimidation, these salaries were considered unfairly low. All of the senior staff would be well-qualified for better-paying jobs with embassies and international organisations and some of them considered going for higher studies.

Thirdly, it is important for CPA to cultivate a new tier of staff below the present senior staff. This will require senior staff to create a talent-fostering climate, but more importantly, CPA needs attract new junior staff, who have strong skills and are willing to work for a highly controversial, but poorly paying organisation. This will not be easy. At present, CPA is very reliant on its senior staff, but they may not remain with the organisation indefinitely. This concern is even stronger with regard to the executive director, who will be very difficult to replace, because of his skills and public profile. It will be hard to find a suitable candidate from the outside or from the present group of senior staff (without upsetting working relations between them).

## **6.4 The question of core funding**

At present the FDFA is reconsidering its core funding relationship with CPA. In this closing paragraph we will briefly summarize how CPA has used Swiss core funding, before reviewing the main arguments for and against that funding modality.

During the review period, FDFA donated 48 mn. Sri Lankan Rupees to CPA. For this evaluation we have not examined the audited annual financial reports, which review the exact details of this expenditure. The table below provides a concise

composite overview with the biggest expenditure categories to sketch the overall picture.

#### **Graphic 4. Usage of Swiss core funding**

<b>Type of expenditure</b>	<b>Expenditure</b>
Office related costs (rents, security, audits) in 2010 and 2011.	16,000,000
Salaries (including related fees) in 2010 and 2011 On the basis of the basis of a detailed overview of salary payments in two random months, the breakdown was as follows: 57% went to administrative staff 26% to the governance programme 12% to the peace unit 5% to the outreach unit	15,000,000  (± 8,550,000) (± 3,900,000) (± 1,800,000) (± 750,000)
Provincial Council elections monitoring by CMEV in 2009.	9,000,000
Overheads of the legal, peace and outreach unit in 2008 and 2009.	6,800,000
Other costs	1,200,000
<b>Total Swiss donation</b>	<b>48,000,000</b>

The bulk of Swiss funding was spent on the institutional core of the organisation, including basic infrastructure like the office and salaries of the administrative staff (especially in 2010-2011, when other core funders phased out). Smaller parts of the funding were spent on the salaries of more substantive units and election monitoring.

**Arguments to move towards project funding.** The Human Security Division of the FDFA reserves core-funding relationships to a select group of strategic partners. CPA has been an exception, as it is does not belong to that category, and the department considers terminating this exception by transforming (possible) future support to CPA into a more projectised format. In addition to this general issue, respondents working for FDFA expressed a number of concerns that were specifically related to CPA. Dissatisfaction was expressed about CPA's reporting: several reports were submitted too late and the quality of the reports did not always give a to-the-point insight into what was done with Swiss funds in relation to CPA's main activities. These concerns were shared by other respondents with a donor background: in fact, all respondents who had interacted with CPA on behalf of a funding agency had at least one negative experience in this regard. While our FDFA respondents were very appreciative of CPA's overall efforts, the organisation was considered a bit of a "black box" and questions arose whether Swiss funds were being spent well. There were also concerns that CPA could sell the same product twice, for example if staff are earning full-time

salaries, while also doing consultancy. Project-based funding – so the argument goes – would enable FDFA to exercise tighter control in response to these concerns.

We have explored the validity of this criticism by studying project documentation and questioning CPA staff. Financial reporting is either very concise (specifically on Swiss funds) or rather elaborate (the audited annual reports). The concerned CPA staff explained they would be happy providing something in the middle, more tailored to FDFA's needs, but the department would have to indicate its precise wishes. In terms of narrative reporting, the department receives the reports of CPA as a whole. These documents comprise relatively long bullet lists of activities, but are relatively non-analytical. They could provide more insight into what is new or different, they could better prioritise key issues or activities and include more reflections on the (plausible) effects of CPA's work. In addition, one could imagine a more tailored document, specifically for the Human Security Division of FDFA, spelling out the added value of its funds to CPA's programme.

Our evaluation has not found any indication that Swiss funds have been used inefficiently or inadequately. While some other respondents expressed similar concern about CPA's administrative capacity, they typically underlined their confidence in CPA's integrity and commitment. With one important exception. In 2008, CPA's then media director Sunanda Deshapriya was found responsible for financial irregularities and malpractices on a USAID-funded project. The matter was audited, the media director had to leave the organisation and the funds were paid back. No Swiss funding was involved. Apart from this blot on CPA's reputation, it is our impression that CPA uses its funds efficiently. As mentioned, salaries are low and office space is used very intensively.

In terms of CPA staff earning additional funds, the organisational policy is as follows. Any additional paid activity needs to be declared to the executive director (or to the board if it concerns himself). Minor income earned in free time (e.g. a 5000 SL Rupee fee for a lecture in a weekend) will go without consequences. More substantive income, or work that involves CPA time or resources will require the staff member concerned to either cede a proportion of the income to CPA or take unpaid leave. In practice, only a handful of senior staff are in a position to take on such assignments and it does not happen often. The above arrangements are reported in CPA's audited financial report, but are (thus far) not highlighted in the narrative report.

**Arguments to preserve core funding.** CPA staff, who are of course not unbiased in this matter, emphasized that core funding is vital to the nature of their work. The non-CPA respondents who commented on this matter also underlined this point and expressed concern that both the quality and legitimacy of the organisation would suffer if it were to become a more donor-driven, project-broker. The basic argument runs as follows. Firstly, CPA's work is tightly connected to the unpredictable dynamics of Sri Lankan politics. Public interest litigation responds to new legislation or state misconduct; human rights advocacy is shaped by shifting diplomatic space for manoeuvre and evolving ground realities; election monitoring depends on when the president decides to call for elections. It is thus difficult to plan ahead for CPA and core funds enable the organisation to be flexible and initiate activities quickly. This is important, because, even when project donors are supportive, grant applications processes are too time-consuming for rapid response. Secondly, while the bulk of CPA's grants are project-based, these activities are enabled by core funding. Project donors often do not cover all costs (e.g. audits, office, or pregnancy leave) and core funding is instrumental in preserving continuity. It helps CPA to give its staff a longer-term perspective and prevents the organisation from having to sack people when there are gaps between project grants. Thirdly, several respondents credited CPA for staying loyal to its course and its mandate. Unlike several other NGOs, it has not delved into activities beyond its capacity for opportunistic financial reasons. Core funding helps CPA to develop its own agenda and engage in or continue activities, which may not be covered by the donor preferences of the day.

On a slightly different note, fourthly, some respondents – including those working for Human Security Division of FDFA – mentioned the strategic advantages of core-funding relationships. This modality helps the HSD to tap into CPA's network and intellectual resources with regard to on-going developments in Sri Lanka. HSD staff underlined that rapid access to reliable information and key individuals is important for its work. Looking at the HSD's profile and the Swiss Medium Term Plan, CPA occupies a rather important position. HSD aspires the role of a niche donor with know-how and commitment in the wider field of human rights and conflict resolution, both in relation to domestic actors and to the diplomatic community in Sri Lanka. A major reason behind the decision to enter into a core-funding relationship was that a close relationship with CPA helps the HSD secure "privileged access to information" – thus engaging with CPA "as a thinktank" – as

this was helpful in preserving Switzerland's profile and expertise on human rights, HSD staff explained to us. These continue to be relevant considerations.

**Possible scenarios.** On the basis of these arguments we believe there are three ways forward, if HSD decides to continue funding CPA.

1. Project funding. This would provide HSD with the opportunity to select specific fields of activity for funding and receive dedicated reporting on these activities. However, this would plausibly undermine CPA's overall institutional strength, its flexibility and its capacity for rapid response to on-going affairs. Some project activities may prove less relevant or difficult to implement when the situation changes.
2. Preserve core funding. This would preserve CPA's flexibility, institutional continuity and independence, but it also means much of HSD's funding is in effect used for administrative and infrastructural purposes. HSD could insist on improvements in the punctuality and quality of reporting, but some of the issues around showing the specific results and added value of Swiss funds are likely to remain.
3. Core funding with additional benchmarks. An in-between modality could be imagined, depending on what is possible within FDFA's administrative requirements. CPA and HSD could jointly agree on a number of priority areas for the (two-year) funding cycles – for example public interest litigation, advocacy on human rights, or the internet platforms Groundviews and Vikalpa – without spelling out the details of these activities in ways that would restrain operational flexibility. Part of the allocation could be allocated to core administrative costs or left open like the present core funding. This would enable CPA to preserve some of its independence and adaptability, while also providing the HSD with a clearer profile and a greater sense of accountability.

## **7. Conclusions and recommendations**

### **Conclusions:**

1. The activities undertaken by Centre for Policy Alternatives in the period 2008 – 2011 are very relevant, both with regard to the changing political context in Sri Lanka, and with regard to the objectives and principles of the Human Security Division of the Swiss Federal Department of Foreign Affairs.

2. CPA stands out in Sri Lanka's current civil society landscape. Many organisations have taken a lower profile or attuned themselves to government positions. Few organisations are able to provide robust analysis of human rights, democratic checks and balances (including governance, media, and the rule of law); few organisations have the ability and courage to take principled position against the current administration; and few organisations are able to engage with international actors convincingly. On the basis of our information, CPA is unmatched in combining these three sets of capacities.
3. The four fields that this evaluation studies in some detail – public interest litigation, international advocacy on human rights, election monitoring and peacebuilding – were all assessed positively in terms of the quality of the work done. All respondents assessed CPA's work as professional and reliable: though there was clearly some variance in the level of appreciation, no respondent was plainly negative.
4. CPA and its staff have shown great commitment to the organisations goals and principles, despite significant difficulties and – in some cases – intimidation and physical threats. International support has always been an intricate part of CPA's involvement and at present this backing is centrally important in deterring security threats. To some extent, there is therefore a moral imperative for the group of "likeminded" international actors that has associated itself with the organisation to preserve their backing.
5. In terms of effectiveness, the evaluation identified some significant outcomes. However, the received wisdom on Sri Lankan civil society suggests that it is traditionally poorly positioned to effect major positive changes on the ground without political tailwind. There are thus major constraints in terms of what an openly dissident organisation like CPA can accomplish under the present political circumstances on the island. This was clearest with regard to supporting dialogue between government and the Tamil National Alliance, which is facing a protracted impasse that CPA can do little about. More generally, CPA is facing an existential paradox between confrontational and constructive forms of engagement with the present government. It has allowed the confrontational approach to prevail and this limits some of the ground-level activities on structural conflict issues. The basic theory of change that remains is to leverage and complement international pressure on the government. In that regard, CPA can be credited for making a crucial contribution to bringing the

government to take some constructive steps (e.g. the Lessons Learnt and Reconciliation Commission or the recent human rights action plan). To what extent these initiatives will result in positive changes on the ground remains to be seen, however.

6. The evaluation identifies a number of minor weaknesses and challenges concerning CPA. Both staff at the Swiss FDFA and other donor agencies expressed concern of the organisation's ability to effectively manage projects and assure timely and high quality reporting. The evaluation agrees that the narrative reporting could be more analytical and better tailored to substantive donor needs. With regard to financial transparency and cost accountability, there could be clearer insight in the usage, relevance and added value of core funding. We have not found any indication that Swiss funds have been spent inappropriately or inefficiently.
7. CPA is a strong organisation with a good international reputation and track record of dealing with a challenging climate. However, in our assessment its sustainability is under pressure by three main factors: minimal political space, declining funding opportunities, and difficulties to retain a high-quality, committed staff.

### ***Recommendations:***

1. On the basis of the relevance of CPA's activities to HSD's policies and the positive assessment of CPA's work, we recommend HSD continue its support to CPA.
2. In terms of the funding modality (core funding or project funding), we suggest both parties consider the in-between option of core funding with benchmarks, thus preserving the flexibility that CPA's work requires, but enhancing the accountability and substantive profile that HSD needs.
3. We recommend CPA addresses the administrative and reporting issues observed above (assigning a senior office manager responsible for these issues and donor relations is one possibility). CPA needs to develop explicit strategies in relation to threats identified to its longer-term sustainability. There is scope for the board to adopt a more pro-active role with regard to CPA's future. It would be helpful if HSD would take a supportive attitude towards the risks associated with and investments needed for CPA's longer-term strategies.



## Annex 1: List of respondents

1	Sunila	Abeysekera	INFORM
2	A.H.M.	Aimeer	Former staff CPA
3	Raga	Alphonsus	ZOA
4	Vinya	Ariyaratne	Sarvodaya
5	Anushya	Coomaraswamy	CPA, board member
6	Radhika	Coomaraswamy	Former UN Special Representative for Children and Armed Conflict
7	D.M.	Dissanayake	CMEV
8	Rohan	Edirisinha	CPA, founding member
9	Nilan	Fernando	The Asia Foundation
10	Bhavani	Fonseka	CPA, legal and constitutional unit
11	Yolanda	Foster	Amnesty International
12	Suhada	Gamalath	Additional Solicitor General
13	Lionel	Guruge	CPA, Outreach department
14	Sanjana	Hattotuwa	CPA, media unit
15	Vijitha	Herath	MP, JVP (and chair of the former Parliamentary Select Committee on NGOs)
16	Ahilan	Kadirgamar	Member Friday forum
17	Alan	Keenan	International Crisis Group
18	Roshan	Lynman	European Commission
19	Farah	Mihlar	Minority Rights Group
20	Sascha	Müller	Swiss FDFA (former conflict advisor at Swiss embassy in Colombo)
21	Devanesan	Nesiah	Former board member of CPA
22	Iromi	Perera	CPA, Social Indicator
23	Jehan	Perera	National Peace Council
24	Mirak	Raheem	CPA, peace and conflict analysis unit
25	I. Vimaal	Ramesh	CPA, accounts unit
26	K.S.	Ratnavale	Centre for Human Rights and Democracy
27	Norbert	Ropers	Berghof Foundation
28	W.K.	Ruphika Chandrani	NPC, accountant
29	Paikiasothy	Saravanamuttu	CPA, executive director
30	Tony	Seniveratne	NPC, Chair

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31	Mark	Silva	USAID
32	Cyrene	Siriwardhene	CPA, board member
33	Sumathy	Sivamohan	University of Peradeniya
34	Martin	Stürzinger	Swiss FDFA (former conflict advisor at Swiss embassy in Colombo)
35	M.A.	Sumanthiran	MP, TNA
36	Thapa	Tej	Human Rights Watch
37	Marte	Torsekenaes	Norwegian embassy
38	Jayadeva	Uyangoda	Social Scientists' Association (and founding member of CPA)
39	Cynthia	Veliko	UN country team, senior human rights advisor
40	Davide	Vignati	Swiss embassy, first secretary
41	Shelton	Wannasinghe	CPA, chair of the board
42	Asanga	Welikala	CPA , legal and constitutional unit
43	David	Whaley	Former UN, active in HR lobby
44	Sriyani	Wijesundera	CPA, governance and anti-corruption programme
45	Joe	William	NPC, board
46	Javid	Yusuf	Muslim activist

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## Annex 2: List of Abbreviations

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CEPRA	Centre for Policy Research and Analysis
CMEV	Centre for Monitoring of Election Violence
CPA	Centre for Policy Alternatives
EU	European Union
FDFA	(Swiss) Federal Department of Foreign Affairs
HSD	Human Security Division (of FDFA)
IHL	International humanitarian law
JVP	Janatha Vimukthi Peramuna (People's Liberation Front)
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
MP	Member of Parliament
NGO	Non-governmental organisation
NORAD	Norwegian Agency for Development Cooperation
NPC	National Peace Council
PAFFREL	People's Action for Free and Fair Elections
PSC	Parliamentary Select Committee
SIDA	Swedish International Development Agency
SLFP	Sri Lanka Freedom Party
SMTP	Swiss Medium Term Plan
TNA	Tamil National Alliance
UK	United Kingdom
UN	United Nations
UNHRC	United Nations Human Rights Council
UNP	United National Party
UPR	Universal Periodic Review
US	United States
USAID	United States Agency for International Development

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## Annex 3: Terms of Reference



Schweizerische Eidgenossenschaft  
Confédération suisse  
Confederazione Svizzera  
Confederaziun svizra

Federal Department of Foreign Affairs FDFA

**Directorate of Political Affairs DP**

Human Security Division:

Peace, Human Rights, Humanitarian Policy, Migration

SFD/RKM April 27, 2012

### **Terms of Reference for the external evaluation of the Swiss funded Core Contribution to the non-for-profit civil society organisation Centre for Policy Alternatives (CPA), in Sri Lanka 2008 – 2011**

#### **1. Background, Context**

The Swiss Medium-Term Program for Human Security in Sri Lanka 2010-2012 (SMTP II) provides the strategic orientation for the concerted interventions and initiatives of the Swiss Government in the field of relief and protection, return and rehabilitation, human rights protection and promotion, peace building and conflict transformation and migration related activities. The annual targets of the Human Security Division (HSD) include, inter alia, the general promotion of the peace process, the inclusion of various interests in this very process, the improvement of the human rights situation or the strengthened cooperation with civil society organisations. Moreover, the appointment of a human rights advisor provides an active and substantial support for the human rights activities. The annual budget for Sri Lanka amounts to 500'000 CHF, of which approximately one quarter is spent on the Centre for Policy Alternatives (CPA). The partner can therefore be considered as crucial for the portfolio and the HSD engagement in the country.

The Centre for Policy Alternatives has been contributing to the inclusion of the civil society to the public policy debate in Sri Lanka since 1996. The organisation established itself as the key civil society organisation focusing on peace, governance and human rights. CPA is an independent, non-partisan organization which receives funds from international and bilateral funding agencies and foundations.

CPA is the only civil society organization that combines research into policy alternatives on governance, conflict transformation and resolution through constitutional reform, with the dissemination of these ideas in the trilingual media and through outreach activities. As a consequence of the positive fulfilment of its mandate, CPA earned the reputation as being committed to high qualitative research and analysis and having the comparative advantage in combining research with advocacy in the areas of governance human rights and conflict resolution.

From 2008 to 2011 the HSD of the Swiss Federal Department of Foreign Affairs (FDFA) provided core-funding of a total of 400'000 CHF to maintain CPA's operations with two contributions:

- 2008/2009 - The first contribution (SAP 531628, 150'000 CHF) focused on strengthening of the civil society contribution to public policy through programs of research and advocacy.
- 2010/2011 - The second contribution (SAP 533361, 250'000 CHF) aimed to support the strengthening of human rights protection mechanisms and the reversal of the culture of impunity, a durable and democratic political settlement of the ethnic conflict and good governance.

According to the funding requests, the Swiss core-funding was employed to facilitate CPA's research and advocacy in general, to enable its institutional strengthening and further specific initiatives. By providing the funds, it was not intended to directly finance projects conducted by CPA, but rather to determinate if a multiplier effect was triggered which resulted in a new positioning within the changing circumstances.

## **2. Basis, objective and purpose of the evaluation**

### **a. Basis**

The HSD plans to conduct an independent external evaluation of CPAs performance. The evaluation should be **formative**. Based on the results of the evaluation, future actions will be assessed in order to enhance the achievement of CPAs goals. The evaluation is also sought to be **summative**, it should assess the postulated and the achieved objectives. The results should be taken into consideration when deciding about future engagement with CPA.

The requirement of the evaluation is based on a formal, but also on a substantial aspect. The formal requirement results from the credit proposal for the second financing (SAP 533361) which requires an external evaluation for the second half of 2012. The substantial aspect considers the altering circumstances in which CPA is carrying out its work. It is timely to conduct the evaluation at this stage of engagement, since it can be assumed that two and a half years after the end of the civil war, CPA had the opportunity to effect a change and to achieve at least some of its goals.

### **b. Objective**

This evaluation pursues various goals. In order to assess if the project fulfils the **appropriateness consideration**, the evaluation is supposed to review whether CPA with its activities is suitable to contribute to improve the situation in Sri Lanka or if there exist other, more suitable organisations to conduct the same results. Moreover, the cooperation with CPA must match the needs of the population in the country. The consideration of the **strategic orientation** it is necessary to ensure CPA correspondents to the specific mission and the mandate of the HSD. Since the offered support was provided in form of a core-funding, the evaluation should consider the **cost accountability** and assess if the financial resources were applied efficiently. Finally, the evaluation should **assess the output and the outcome** of the activities that were carried out during the period in which HSD supported CPA. It should assess the immediate and concrete results that were produced (outcome level?), and moreover it should look at the changes that were effected through the implementation of CPA activities.

### **c. Purpose**

The purpose of this external evaluation is to provide forward-looking recommendations and lessons learnt in the area of civil society inclusion in the public policy debate in Sri Lanka. Swiss FDFA will use the evaluation findings to assess past projects and potential future project proposals. The findings will also be made available to CPA in Sri Lanka and may be shared with other project stakeholders in order to improve future programming.

### 3. Questions for the evaluation

The evaluation is supposed to answer questions on the following specific criteria:

Objective	Criteria	Questions
Appropriateness Consideration and strategic alignment	Relevance	<p>For Sri Lanka</p> <ul style="list-style-type: none"> <li>➤ What is the additional value of the Swiss contribution of CHF 400'000 for CPA and for other donors?</li> <li>➤ What has been done to attract additional donors?</li> <li>➤ Are the activities of the project relevant for the needs of the society in Sri Lanka? Are research and advocacy in general important for the improvement of the situation in the country?</li> <li>➤ Has the end of the conflict changed the human rights / civil society situation in the country in a way so that CPAs activities have become no longer necessary?</li> <li>➤ Are other organisations also contributing to the same goal and are there any organisations existent that can fulfil the same goals better then CPA?</li> </ul> <p>For HSD</p> <ul style="list-style-type: none"> <li>➤ Was CPA the appropriate partner for HSD, given the HSD mandate of peace policy activities?</li> <li>➤ Are the activities carried out with the core-contribution consistent with HSD policies?</li> </ul>
Output and Outcome Identification	Effectiveness	<ul style="list-style-type: none"> <li>➤ Has CPA made achieved the goals suggested in the project proposal? <ul style="list-style-type: none"> <li>• Is CPA contributing to the inclusion of the civil society in the public policy debate?</li> <li>• Is CPA fostering the human rights protection mechanism?</li> </ul> </li> <li>➤ Have the defined goals been achieved with the undertaken activities? Are the activities suitable to achieve the goals?</li> <li>➤ Were changes effected by CPA engagement?</li> </ul>
Cost Accountability	Efficiency	<ul style="list-style-type: none"> <li>➤ Would it be more useful to support CPA through a project- instead a core-funding?</li> <li>➤ Were the available funds used economically?</li> <li>➤ For what purpose was the core-contribution used (e.g. salaries or activities that were not funded by other donors)?</li> <li>➤ Has the internal organisation of CPA been set up according to the goals, the standards and the performance of its work?</li> <li>➤ Was it possible to achieve the results with fewer resources?</li> <li>➤ Would other partners have achieved the same goals through a better assessment?</li> <li>➤ Has the core-contribution been used for goals that were defined in the funding request?</li> <li>➤ What are the strengths and weaknesses of CPA as a partner?</li> <li>➤ Were the produced reports informative and did they correspondent to the proposed activities?</li> </ul>
	Gender	<ul style="list-style-type: none"> <li>➤ What kind of efforts has CPA done to foster the gender balance within the public policy debate?</li> </ul>

### 4. Procedure and Organization

#### a. Requirements to the expert or team of experts

The evaluation team must be independent, have sound experience and assessments and a proven record of knowledge in the thematic and geographic area. Moreover, the members of the team should be familiar with the post war situation in Sri Lanka and they should be aware of the challenges arising from the political fragile situation in the country. Due to the sensitive topic of CPAs work, it is foreseen to involve the partner in the selection of the evaluators.

The team should be composed of one international and one local evaluator, supported by a local person who is responsible for logistic issues and for the translation. The evaluation team should be fluent in English and if possible in local languages in Sri Lanka (Tamil or Sinhalese).

Activity	Team Leader	Team Member 1	Team Member 2
Analysis of documents, briefing Presentation of evaluation outline	2 days	2 days	
Evaluation mission	5 days + travel	5 days	5 days
Drafting of the report	3 days	2 days	
Presentation of final report	1 day		

#### **b. Proposed Time Frame**

Activity	Deadline
Evaluation process Briefing in Bern Trip to Sri Lanka	End of May, 2012 Mid June, 2012
Draft report	June, 2012
Discussion of draft report	June, 2012
Incorporation of comments and finalizing of report	July, 2012
Debriefing	July, 2012
Adoption final report	July, 2012
Management response PD IV	End of July, 2012

### **5. Reporting**

In a first step, the evaluator is expected to deliver a technical and financial offer comprising the important elements of the evaluation.

Thereafter, the evaluation team is expected to deliver an inception report based on the present ToRs. The inception report is supposed to contain the theory of change and the provided evaluation's methodology.

The evaluation report, written in English, is to be delivered after the completion of the evaluation, and should not exceed 20 pages, plus annexes. The evaluation report should include the following

- Executive summary
- Evaluation Methodology
- Findings
- Recommendations and lessons learned
- Annexes

### **6. Other information**

The documents to be provided to the evaluation team consist of the project and budget proposals, the interim and final narrative reports, the relevant e-mail or general communication exchange, and the HSD internal credit proposals.

<b>Deadline for submission of offers: 14 May 2012.</b>
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