

# SRI LANKA

## RESPONSE TO THE QUESTIONNAIRE ON FOLLOW UP TO RECOMMENDATIONS BY THE SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES OF NON-RECURRENCE

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Amnesty International submits the following document in response to the call for inputs issued by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence to inform his follow-up report on recommendations issued by the mandate when visiting Sri Lanka in October 2017.<sup>1</sup>

**Has the Government developed a comprehensive transitional justice strategy that includes a clear timeline for the establishment of the different transitional justice mechanisms, identifies needs regarding budget, staff and required expertise and outlines the links between the different elements of the strategy? Has the Government allowed the public to engage in consultations in the development of the strategy and seek, in particular, the views of women, given the differential impact that violations and the conflict have had on them and children? (1000 words)**

The former government did not develop or put in place a comprehensive transitional justice strategy with a clear timeline despite repeated calls from the UNHRC<sup>2</sup> and others.<sup>3</sup>

Since the Presidential elections in November 2019, the new government announced in February 2020 that it would withdraw its support for the UNHRC Resolution 40/1 and all linked resolutions.<sup>4</sup> More than a year into its tenure, the new government has not devised any plans for transitional justice, despite its promises close to a year ago to put in place “an inclusive, domestically designed and executed reconciliation and accountability process” comprising of a Commission of Inquiry (COI) “to review the reports of previous Sri Lankan COIs which investigated alleged violations of Human Rights and International Humanitarian Law (IHL), to assess the status of implementation of their recommendations and to propose deliverable measures to implement them keeping in line with the new Government’s policy.”<sup>5</sup> Sri Lanka has a litany of such failed

<sup>1</sup> OHCHR, Call for inputs - Follow up to country visits to Tunisia, Uruguay, Spain, Burundi, the United Kingdom of Great-Britain and Northern Ireland, and Sri Lanka, <https://www.ohchr.org/EN/Issues/TruthJusticeReparation/Pages/FollowUp-to-country-visits.aspx>

<sup>2</sup> UNHRC Resolution A/HRC/RES/40/1, <https://undocs.org/en/A/HRC/RES/40/1>

<sup>3</sup> Amnesty International, Sri Lanka: Need for time-bound plan for implementation of commitments to the Human Rights Council, 7 March 2019, <https://www.amnesty.org/en/documents/asa37/9983/2019/en/>

<sup>4</sup> Statement by Foreign Minister Dinesh Gunawardena in parliament on UNHRC Resolution 30/1 On 20 February 2020, <https://mfa.gov.lk/tam/statement-by-foreign-minister-dinesh-gunawardena-in-parliament-on-unhrc-resolution-301-on-20-february-2020/>

<sup>5</sup> Statement by Foreign Minister Dinesh Gunawardena in parliament on UNHRC Resolution 30/1 On 20 February 2020, <https://mfa.gov.lk/tam/statement-by-foreign-minister-dinesh-gunawardena-in-parliament-on-unhrc-resolution-301-on-20-february-2020/>

COIs that Amnesty International has extensively documented.<sup>6</sup> The UN High Commissioner for Human Rights herself noted that “Domestic processes have consistently failed to deliver accountability in the past and I am not convinced the appointment of yet another Commission of Inquiry will advance this agenda. As a result, victims remain denied justice and Sri Lankans from all communities have no guarantee that past patterns of human rights violations will not recur.”<sup>7</sup>

**Has the Government taken advantage of the report of the Consultation Task Force on Reconciliation Mechanisms, in which the Task Force provided information that could be invaluable to the Government’s efforts to align its intentions with the needs of victims? Has the Government used the network that the Task Force put in place in 2016 for continuing the dialogue and holding consultations on the design and implementation of reconciliation mechanisms? (750 words)**

No, the previous government passed legislation setting up the Office on Missing Persons (OMP) before the consultations by the Consultation Task Force (CTF) concluded. Many of the recommendations made in the interim report were not included in the legislation.<sup>8</sup>

Legislation setting up the Office on Reparations<sup>9</sup> had considered some of the suggestions made during the CTF consultations, including how the Office should be gender responsive, however not much else. Amnesty International wrote to the Prime Minister with further recommendations on the provisions of the bill.<sup>10</sup>

The rest of the mechanisms were not instituted by the time the government was voted out of power. Amnesty International issued an evaluation of the progress on the commitments made by the Government of Sri Lanka in Resolution 30/1.<sup>11</sup>

**Has the Government taken advantage of the expertise that could be provided by the OHCHR in the design and/or implementation of transitional justice measures? (500 words)**

To the knowledge of Amnesty International, the Secretariat for Coordinating Reconciliation Mechanisms (SCRM) employed two consultants for their expertise on transitional justice measures.

**Has the Government repealed the Prevention of Terrorism Act and replaced it with new counter-terrorism legislation that adheres to international best practices? Has the Government dealt with long-standing cases pending under the Act and put in place a procedure to review convictions handed down under the Act that were based solely on the confession of the accused? (750 words)**

No, the previous government published a bill to repeal the Prevention of Terrorism Act (PTA). Amnesty

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<sup>6</sup> Amnesty International, Sri Lanka: Twenty years of make-believe. Sri Lanka’s Commissions of Inquiry, 11 June 2009, <https://www.amnesty.org/en/documents/ASA37/005/2009/en/>

<sup>7</sup> OHCHR, Oral updates and introduction to country reports of the Secretary-General and the High Commissioner (Colombia, Cyprus, Eritrea, Guatemala, Honduras, Iran, Nicaragua, Sri Lanka, Venezuela, Yemen), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25624&LangID=E>

<sup>8</sup> See Annex 15 of the Final CTF report available at <https://drive.google.com/drive/folders/OBxbk4wYolphwSXBKSEIMYnhlYTg>

<sup>9</sup> Office for Reparations Act, <https://www.parliament.lk/uploads/acts/gbills/english/6107.pdf>

<sup>10</sup> Amnesty International, Sri Lanka: Letter to Sri Lankan Prime Minister: Office for Reparations bill, 9 October 2018, <https://www.amnesty.org/en/documents/asa37/9219/2018/en/>

<sup>11</sup> Amnesty International, Sri Lanka: Flickering Hope: Truth, Justice, Reparations and Guarantees of Non-Recurrence in Sri Lanka, 24 January 2019, <https://www.amnesty.org/en/documents/asa37/9715/2019/en/>

International's analysis<sup>12</sup> of the Counter Terrorism Bill illustrated the substantial amendments required for the bill to be brought in line with international law. The government later shelved the bill and did not revisit it. Following the 2019 April 21 bombings, the government used the PTA extensively to arrest members of the Muslim minority community.

The new government continued with this practice through 2020. Amongst those arrested were prominent lawyer Hejaaz Hizbullah and Ahnaf Jazeem. Hejaaz Hizbullah<sup>13</sup> has been arbitrarily detained without charge under the PTA since April 2020.<sup>14</sup> For much of his period in detention, he was denied unrestricted access to his family and legal representation. Ahnaf Jazeem, a Muslim poet was also arrested under the PTA for a collection of poems he published under the title 'Navarasam.' The poems, written in Tamil, have seemingly been misinterpreted by Sinhalese-speaking law enforcement officers to presume that they contain "extremist" messages.<sup>15</sup> Ahnaf, who is still in custody had no legal representation for more than six months since his arrest.

**Has the Government ceased the continued harassment and surveillance by security and intelligence personnel of human rights defenders and other social actors, especially women? (750 words)**

The surveillance and harassment of human rights defenders which was continuing in the aftermath of the 2019 April 21 bombings, worsened since November 2019, with many human rights organisations in the north and the east receiving visits from law enforcement officers.<sup>16</sup> The practice was expanded to organisations in Colombo as well. Criminal Investigation Department (CID) the Terrorism Investigation Division (TID) also known as Counterterrorism and Terrorism investigation Division (CTID), as well as officials with State Intelligence visited the premises of, or summoned members of human rights organizations, making enquiries around project activities, donors and funding information, registration, and details of staff members.<sup>17</sup> These visits amount to acts of harassment of human rights organisations, and a form of reprisal for the work undertaken by these organisations. Between April 2019 – November 2020, Amnesty International recorded at least 18 such visits paid to human rights organisations in the western, eastern and northern provinces.

**Has the Government carried out a comprehensive mapping of land occupied by the military and land recently released? Has the Government produced a strategy with deadlines for restitution and plans for compensating former landowners whose land will not be returned? Has the Government considered establishing a procedure that does not make the armed forces the sole voice in deciding this question? (750 words)**

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<sup>12</sup> Amnesty International, Sri Lanka: Countering Terrorism at the expense of Human Rights: Concerns with Sri Lanka's Counter Terrorism bill, 31 January 2019, <https://www.amnesty.org/en/documents/asa37/9770/2019/en/>

<sup>13</sup> Amnesty International, On Hejaaz Hizbullah: The latest victim of Sri Lanka's draconian Prevention of Terrorism Act, 15 July 2020, <https://www.amnesty.org/en/latest/news/2020/07/sri-lanka-on-hejaaz-hizbullah-and-the-prevention-of-terrorism-act/>

<sup>14</sup> Amnesty International, Sri Lanka: Prominent human rights lawyer arbitrarily detained for six months must be released, 16 October 2020, <https://www.amnesty.org/en/latest/news/2020/10/sri-lanka-prominent-human-rights-lawyer-arbitrarily-detained-for-six-months-must-be-released/>

<sup>15</sup> Daily FT, Poetic injustice: Another writer languishes in prison under PTA, 14 December 2020, <http://www.ft.lk/news/Poetic-injustice-Another-writer-languishes-in-prison-under-PTA/56-710172>. Amnesty International has reviewed the poems and have found that his writings generally speak against violence and the use of weapons.

<sup>16</sup> Amnesty International, Sri Lanka: Attacks on Human Rights organisations, Media organisations and Journalists in Sri Lanka, 16 January 2020, <https://www.amnesty.org/en/documents/asa37/1678/2020/en/> and Amnesty International, Sri Lanka: Joint Letter to President Rajapaksa on the Harassment and Intimidation of Journalists, 25 February 2020, <https://www.amnesty.org/en/documents/asa37/1860/2020/en/>

<sup>17</sup> Amnesty International, Sri Lanka: Attacks on Human Rights organisations, Media organisations and Journalists in Sri Lanka, 16 January 2020, <https://www.amnesty.org/en/documents/asa37/1678/2020/en/>

The SCRM set up by the previous government, released some data of the extent of land release,<sup>18</sup> however we have no further information on this front for now.

**Has the Government moved to terminate military involvement in commercial activities and reduce military presence in those areas, such as the North and East? (500 words)**

The armed forces have recently established a new directorate for Agriculture and Livestock. According to the official Army website, the directorate “will remain responsible for full conduct of all Army-run farms in Ella-Kantale, Kuttigala, Diyatalawa, Paanaluwa, Habarakada, Ekala, Kandakadu, Udayarkattukulam, Menik Farm, Nachchikuda, Kohilawaguruwatta, Palali and Wellakulam areas covering land extent of 2196 acres in total.”<sup>19</sup> According to the webpage, soldiers “actively engaged in these projects island-wide and sell the harvest to the public at reasonable price.”

**Given continued apprehensions about surveillance and security, has the Government ensured that the transitional justice process incorporates witness and victim protection instruments and strengthens the existing (but incipient) witness and victim protection scheme? (750 words)**

Section 13(1)(g) of the OMP Act provides for power to develop and enforce a system for victim and witness protection. According to its annual report for 2019, the OMP appointed a Head of Protection and a Management Assistant to the unit in July 2019 and is in the process of recruiting additional staff for the Protection Unit.<sup>20</sup> The OMP also developed procedures regarding documentation of protection concerns and management of cases. In response to complaints from families of the disappeared regarding physical and verbal attacks, threats and or intimidation, surveillance, and attacks and threats via social media platforms, the OMP reportedly made interventions to relevant authorities to address these concerns.<sup>21</sup> On complaints received concerning attacks against legal representatives, family members and others who are party to ongoing court proceedings related to disappearances, the OMP reportedly intervened in specific cases and followed up with the authorities to ensure the security of the concerned individuals and the progress of the investigations and legal proceedings.<sup>22</sup>

**Has the Government published all reports of previous commissions and made their records and archives available to any future transitional justice mechanism? (500 words)**

To the knowledge of Amnesty International, not all reports of previous Commissions of Inquiry are publicly available. In particular, the findings from the following Presidential Commission Reports are yet to be made public:<sup>23</sup>

- Presidential Commission of Inquiry appointed to probe the circumstances surrounding the mass graves discovered at Matale (2013)- Commissioned by President M. Rajapaksa
- Final report of the 1st Mandate of the Presidential Commission to Investigate into Complaints Regarding Missing Persons (2013) - Commissioned by President M. Rajapaksa

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<sup>18</sup> Secretariat for Coordinating Reconciliation Mechanisms, Land Release Statistics - as of May 31, 2019, [https://www.facebook.com/scrmsl/photos/?tab=album&album\\_id=1430114467128736](https://www.facebook.com/scrmsl/photos/?tab=album&album_id=1430114467128736)

<sup>19</sup> Sri Lanka Army, Army Establishes Its New Directorate for Agriculture and Livestock, <https://www.army.lk/news/army-establishes-its-new-directorate-agriculture-and-livestock>

<sup>20</sup> Office on Missing Persons, Annual Report 2019, <http://www.ompsrilanka.org/storage/app/uploads/public/5fd/2c0/d52/5fd2c0d52385d504869364.pdf>

<sup>21</sup> Office on Missing Persons, Annual Report 2019, <http://www.ompsrilanka.org/storage/app/uploads/public/5fd/2c0/d52/5fd2c0d52385d504869364.pdf>

<sup>22</sup> Office on Missing Persons, Annual Report 2019, <http://www.ompsrilanka.org/storage/app/uploads/public/5fd/2c0/d52/5fd2c0d52385d504869364.pdf>

<sup>23</sup> Amnesty International, Sri Lanka: Flickering Hope: Truth, Justice, Reparations and Guarantees of Non-Recurrence in Sri Lanka, 24 January 2019, <https://www.amnesty.org/en/documents/asa37/9715/2019/en/>

**Concerning the Office on Missing Persons, has the government, (a) Ensured that the Office can establish its presence at the provincial and district levels, to facilitate access by victims and their families, as planned? (b) Required all State institutions to collaborate with the Office? (c) Enabled the Office to strengthen its capacity on crucial skills, including forensic investigations, through training provided by national, regional and international experts? (d) Supported the Office's plan to incorporate psychosocial support for victims to avoid re-traumatization? (1500 words)**

(a) The OMP has managed to establish regional offices in Batticaloa in the Eastern Province, in Jaffna and Mannar in the Northern Province and in Matara in the Southern Province.

(b) We have no information on this.

(c) According to its Annual Report for 2019, the OMP has been able to participate in a range of meetings and training programmes with national and international stakeholders with expertise and knowledge in investigations into missing and disappeared persons and human remains, archiving and database management.<sup>24</sup>

(d) According to its Annual Report for 2019, the OMP finalised a Psychosocial Support Strategy (PSS), including an operational framework, to offer psychosocial support to families of missing and disappeared persons.<sup>25</sup> We have no further information on this.

**Concerning the establishment of a truth commission, has the Government: (a) Ensured that such a truth commission can act as a crucial tool to establish patterns of violations and abuses over many cycles of violence, demonstrating that all communities have victims, and to uncover the root causes of discriminatory practices leading to conflict? Has the commission been given a broad temporal scope? Has legislation establishing a truth commission been adopted with adequate consultation with civil society? (b) Ensured the independence of its commissioners and ensured that victims are adequately represented among the commissioners and the commission's staff? (c) Ensured support to victims in terms of security and psychosocial services? (1500 words)**

The truth commission was not established before the change of government.

**Concerning criminal justice, has the Government: (a) Addressed the lack of tangible progress on emblematic cases, which points to the serious limitations of the current justice system in addressing human rights violations? (b) Strengthened the accountability system, including in respect of police investigations, forensics, and the articulation of prosecutorial strategies to improve current and future justice initiatives? (d) Focused the discussions about accountability on the means and preconditions for the establishment of credible procedures that guarantee the rights of victims and the accused? (e) Preserved records, information documenting violations and the results of mapping out the existing archives of previous relevant mechanisms? (1500 words)**

(a) The former government set up a permanent high court trial-at-bar which began the trial of the forcibly disappeared journalist Prageeth Eknaligoda. The Attorney General's department re-opened the investigation into the 'Trinco 5' case.<sup>26</sup> However there has not been any further tangible progress on emblematic cases. In both the Raviraj MP's and Joseph Pararajasingham MP's assassination cases, suspects have been acquitted.

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<sup>24</sup> Office on Missing Persons, Annual Report 2019, <http://www.ompsrilanka.org/storage/app/uploads/public/5fd/2c0/d52/5fd2c0d52385d504869364.pdf>

<sup>25</sup> Office on Missing Persons, Annual Report 2019, <http://www.ompsrilanka.org/storage/app/uploads/public/5fd/2c0/d52/5fd2c0d52385d504869364.pdf>

<sup>26</sup> Amnesty International, Sri Lanka: Justice for the Trinco 5, 9 August 2019, <https://www.amnesty.org/en/documents/asa37/0862/2019/en/>.

**Concerning reparations, has the Government: (e) Acknowledged responsibility when making reparations? (f) Made sure that all aspects of the design of a programme on reparations are gender sensitive and respond to the special needs of women, in particular those who are heads of households, who should be consulted at each step of the process? (1500 words)**

We have no information of this at the moment.

**Concerning land restitution, has the Government: (a) Carried out a comprehensive mapping of occupied land and, on the basis of its findings, defined a strategy with deadlines for the release of land? (b) Ensured that the Armed Forces retain only land that is strictly necessary for security purposes (narrowly and objectively interpreted)? (c) Ensured that decisions to retain land should not be within the sole purview of the military? To this end, has the government set up a body or procedure to broaden the scope of stakeholders and decision-makers on this issue? (d) Considered establishing a land commission as a specialized entity able to address the issue of military-occupied private and public land and the multiple conflicting claims over land by communities displaced at different times? (e) Strengthened its resettlement policy, as there continue to be camps where internally displaced persons have lived for almost 30 years and in conditions that do not befit a middle-income country? (f) Consulted beneficiaries on issues regarding new housing programmes to avoid future problems, including questions about suitability and indebtedness, in particular among vulnerable communities? (1500 words)**

We have no information of this at the moment.

**Concerning memorialization measures, has the Government supported memorialization efforts, provided that they are even-handed and not used by anybody as part of a zero-sum game in which the basic aim is to reaffirm a single-sided narrative? (750 words)**

On 19 May 2020, the government of Sri Lanka marked “National Heroes’ Day”<sup>27</sup> and promoted a military officer found guilty in the UK for threatening Tamil activists.<sup>28</sup> On the contrary, since November 2019, the government authorities have tried to stifle memorialisation efforts by victim groups.

Citing concerns around the pandemic, on 9 July 2020 the Police attempted to obstruct a memorial event commemorating victims of the Navalay church bombing. The police did so even after the court had denied the police’s request for an interim order to ban the commemoration.<sup>29</sup> Allegedly hundreds of civilians were killed by the Sri Lankan Air Force in 1995 when they bombed around Navalay, in Jaffna.<sup>30</sup> The church in Navalay at the time was housing Tamil IDPs seeking safe shelter.

The police repeatedly tried to obstruct protests organised by the families of the disappeared, most recently, protests held in Batticaloa in the Eastern province for the International Day of the Victims on Enforced

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<sup>27</sup> Video footage of National War Heroes’ Day Commemoration Ceremony, 19 May 2020, <https://www.youtube.com/watch?v=Qt9JbZKkAp8>

<sup>28</sup> Republic World, Sri Lankan Army Officer, Who Was Convicted In UK, Got Promoted On War Anniversary, 19 May 2020, <https://www.republicworld.com/world-news/rest-of-the-world-news/controversial-sri-lankan-army-officer-rewarded-with-promotion.html>

<sup>29</sup> Tamil Guardian, Sri Lankan police push back mourners at Navalay Church bombing remembrance, 9 July 2020, <https://www.tamilguardian.com/content/sri-lankan-police-push-back-mourners-navalay-church-bombing-remembrance>

<sup>30</sup> Amnesty International, Sri Lanka: Joint Oral Statement at the Interactive Dialogue with the Special Rapporteur on the Promotion of Truth, Justice, Reparation and Guarantees of Non-Recurrence at the 45th Session of the UNHRC, 24 September 2020, <https://www.amnesty.org/en/documents/asa37/3110/2020/en/>

Disappearances.<sup>31</sup> The police sought an interim order from a Magistrates court against the protests, citing, among other reasons, COVID-19 as a reason for the protests to be stopped.

In November 2020, the Attorney General's department sought and obtained a prohibition order from the court against the commemoration of 'Heroes Day' to commemorate combatants who died in the war.<sup>32</sup>

As recently as 8 January 2021, members of the Army reportedly<sup>33</sup> destroyed the Mullivaikkal memorial which stood within the University of Jaffna premises,<sup>34</sup> claiming that it's a threat to national unity and that it was built without permission from university authorities<sup>35</sup> Days later, at the risk of continued hunger strikes, the Vice Chancellor of the University laid a foundation stone for a new 'peace monument'.<sup>36</sup>

**Concerning guarantees of non-recurrence, (b) Does the constitutional framework include: (i) The separation of the investigatory and prosecutorial roles from the State advocacy roles of the Office of the Attorney General and the establishment, for example, of an independent prosecutorial authority? (ii) Strengthened provisions on the independence of the judiciary? (iii) The articulation of a bill of rights for all Sri Lankans? (iv) The delimitation of functions of the different parts of the security system (armed forces, police and intelligence services) and establish multilayered civilian oversight systems? (1500 words)**

(b) (i) No there has been no change to the office of the Attorney General.

(ii) While the 19<sup>th</sup> amendment to the Constitution strengthened judicial and institutional independence, the 20<sup>th</sup> amendment which passed into law in October 2020 took away this independence. By way of the 20<sup>th</sup> amendment, the President is no longer required to make appointments to the senior judiciary (the Supreme Court and the Court of Appeal) based on nominations by the Constitutional Council (now replaced by the Parliamentary Council)- the president only needs to seek the observations of the Parliamentary Council.

(iii) No

**Have any further laws, regulations, policies, administrative decisions or other measures affecting the promotion of truth, justice, reparation and guarantees of non-recurrence been implemented following the Special Rapporteur's visit? (1000 words)**

The government in 2018 passed domestic legislation giving effect to the International Convention for the Protection of all persons from Enforced Disappearance.<sup>37</sup>

In 2017 the government signed up to the Optional Protocol of the Convention against Torture and named the Human Rights Commission as the National Preventive Mechanism.

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<sup>31</sup> Groundviews, Disappearances in Sri Lanka: Struggles by Families and Reprisals, 2 September 2020, [https://groundviews.org/2020/09/02/sinhalese-tamils-and-muslims-their-quest-is-the-same/?fbclid=IwAR0wmmg3Dje0UTYbeWTgIO9sy9tBLa\\_9U4olZhzERCuSiXlCAG3loFXR-o](https://groundviews.org/2020/09/02/sinhalese-tamils-and-muslims-their-quest-is-the-same/?fbclid=IwAR0wmmg3Dje0UTYbeWTgIO9sy9tBLa_9U4olZhzERCuSiXlCAG3loFXR-o)

<sup>32</sup> The Hindu, Courts ban remembrance events for LTTE cadre on 'Heroes Day', 27 November 2020, <https://www.thehindu.com/news/international/courts-ban-remembrance-events-for-ltte-cadre-on-heroes-day/article33195748.ece>

<sup>33</sup> Daily FT, War is in the air?, 14 January 2021, <http://www.ft.lk/columns/War-is-in-the-air/4-711570>

<sup>34</sup> The Hindu, Leaders condemn demolition of Mullivaikkal memorial in Jaffna, 10 January 2021, <https://www.thehindu.com/news/national/tamil-nadu/leaders-condemn-demolition-of-mullivaikkal-memorial-in-jaffna/article33540191.ece>

<sup>35</sup> BBC News, Sri Lanka: Tamil war monument to be rebuilt after hunger strike, 11 January 2021, <https://www.bbc.com/news/world-asia-55620079>

<sup>36</sup> BBC News, Sri Lanka: Tamil war monument to be rebuilt after hunger strike, 11 January 2021, <https://www.bbc.com/news/world-asia-55620079>

<sup>37</sup> International Convention for the Protection of All Persons from Enforced Disappearance Act, [http://documents.gov.lk/files/act/2018/3/05-2018\\_E.pdf](http://documents.gov.lk/files/act/2018/3/05-2018_E.pdf)

The former government disbursed interim relief to some members of the families of the “missing” in line with the recommendations made by the OMP, however this has been discontinued from 2020.

### **Is there any relevant additional information you would wish to add? (1000 words)**

Like the judiciary, the independence of commissions like the Human Rights Commission, the National Police Commission and the Elections Commission can be compromised since the passage of the 20<sup>th</sup> Amendment to the Constitution.

A Presidential Commission of Inquiry on political victimization was created in January 2020 “to inquire into and obtain information in respect of the alleged political victimization during the period commencing 8th January 2015 and ending 16th November 2019.”<sup>38</sup> We fear the Commission may interfere with ongoing court proceedings, including in the case of the disappearance of Prageeth Ekmaligoda.<sup>39</sup> The Commission<sup>40</sup> has already ordered, without legal authority, the Attorney General to halt legal proceedings against navy officers accused of the enforced disappearance and alleged killing of 11 young men in Colombo and its suburbs in 2008 and 2009.<sup>41</sup>

Fearing that the work of Sri Lanka’s Office on Missing Persons will enable war crime charges to be brought against the Sri Lankan military, the government has also stated that it will review the Act establishing the Office.<sup>42</sup>

In December 2020, the President appointed a new Chairperson to the Office on Missing Persons. Retired Supreme Court judge Upali Abeyratne served as the Chairman to the Presidential Commission of Inquiry on political victimization, when the Commission attempted to interfere in the prosecution of state actors accused of enforced disappearances. Families of the forcibly disappeared have voiced concerns around the future, commitment and the independence of domestic mechanisms like the Office on Missing Persons.

In March 2020, Sergeant Sunil Rathnayaka, a convicted perpetrator of the Mirusuvil massacre in which eight Tamil civilians were killed, received a Presidential pardon and was released from jail. Among the victims of the Mirusuvil massacre were three children, one aged 15, one 13, and a five-year-old whose body sustained signs of torture.<sup>43</sup>

The government has promoted and appointed several military officials named in the 2015 OHCHR Investigation on Sri Lanka report to senior positions.

In January 2021 the Attorney General’s department informed the Batticaloa High Court that it will not continue the prosecution in the 2005 murder case of former Tamil National Alliance (TNA) Parliamentarian Joseph Pararajasingham. Accordingly, the court acquitted all five suspects in the case, including MP

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<sup>38</sup> Extraordinary Gazette No. 2157/44

<sup>39</sup> See <https://twitter.com/amnestysasia/status/1309039133772443648?s=20>

<sup>40</sup> Daily News, President appoints high-powered commission to probe previous govt, 11 January 2020, <https://www.dailynews.lk/2020/01/11/local/208087/president-appoints-high-powered-commission-probe-previous-govt>

<sup>41</sup> DailyFT, PCOI orders AG to halt investigations into former Navy Chief and Spokesperson, 28 January 2020, <http://www.ft.lk/news/PCOI-orders-AG-to-halt-investigations-into-former-Navy-Chief-and-Spokesperson/56-694500>

<sup>42</sup> Amnesty International, Sri Lanka: Commit funds to support transitional justice process for victims of conflict, 16 November 2020, <https://www.amnesty.org/en/latest/news/2020/11/sri-lanka-commit-funds-to-support-transitional-justice-process-forvictims-of-conflict/>

<sup>43</sup> Amnesty International, Sri Lanka: Amid pandemic, Sri Lanka pardons soldier convicted of massacre, 30 April 2020, <https://www.amnesty.org/en/documents/asa37/2247/2020/en/>.



Sivanesathurai Chandrakanthan (alias Pillayan), who is the leader of Tamil Makkal Viduthalai Pulikal (TMVP), a government-aligned political party.<sup>44</sup> At the time of the murder, MP Chandrakanthan was a member of the paramilitary group led by Karuna Amman, which broke away from the LTTE.

Please see further information in Amnesty's analysis of the government's implementation of UNHRC resolution 30/1.<sup>45</sup>

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<sup>44</sup> Amnesty International, Sri Lanka: Collapse of Joseph Pararajasingham murder case a failure of justice, 13 January 2021, <https://www.amnesty.org/en/latest/news/2021/01/sri-lanka-collapse-of-joseph-pararajasingham-murder-case-a-failure-of-justice/>

<sup>45</sup> Amnesty International, Sri Lanka: Flickering Hope: Truth, Justice, Reparations and Guarantees of Non-Recurrence in Sri Lanka, 24 January 2019, <https://www.amnesty.org/en/documents/asa37/9715/2019/en/>