

SRI LANKA

by the International Coalition of Sites of Conscience (updated May 2018)

Summary of Reparations Efforts and Programs

Sri Lanka needs to redress the gross and serious violations that occurred during the internal armed conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE) (1983–2009). In a United Nations (UN) Human Rights Council Resolution in 2015, the government committed to create transitional justice mechanisms, including a truth and reconciliation commission, an office on missing persons, and an office for reparations. Due to a lack of political will, the government has only made progress on the office on missing persons.

Context

Since its independence in 1948, Sri Lanka saw a rise in Sinhalese ethnic nationalism and discrimination against the Tamil minority through repressive legislation and a series of violent anti-Tamil riots. The Prevention of Terrorism Act (PTA) (1978) has allowed security forces to perpetrate human rights violations against Tamils, including arbitrary and administrative detentions, abductions, enforced disappearances, torture, and sexual violence, many of which continue to date. After decades of discrimination and impunity for violence against Tamils, an internal armed conflict broke out between the government and the LTTE, which aimed to establish a separate state and greater self-determination for the Tamil people. The armed conflict began in July 1983 and ended in May 2009, when then-President Mahinda Rajapaksa's government defeated the LTTE in a take-no-prisoners military offensive. The UN estimated that the final five months of hostilities and alleged atrocity crimes killed 70,000 Tamil civilians, while Local Government Offices in the predominantly Tamil North-East determined that 146,679 Tamils in the Vanni were unaccounted for after the end of the war.¹ Another 300,000 Tamils were internally displaced.

Months later, after his reelection and his party's landslide victory in the 2010 parliamentary elections, Rajapaksa centralized power and began instituting increasingly repressive legislation and employing the PTA to further limit civil and political rights, particularly of Tamils. In order to alleviate mounting international pressure for an independent inquiry, the Rajapaksa government appointed the domestic Lessons Learnt and Reconciliation Commission (LLRC) one year after the end of the war. However, a UN Panel of Experts, members of the international community, and local civil society organizations heavily criticized the LLRC for its limited mandate; lack of independence, impartiality, and witness protection; and failure to deliver meaningful justice to victims.² Accountability seemed unlikely, if not impossible, for many conflict-affected victims.

The situation appeared to change in January 2015, when the presidential victory of Maithripala Sirisena over Rajapaksa opened the door for greater international cooperation and brought cautious hope to conflict-affected communities and victims. In October 2015, Sri Lanka cosponsored UN Human Rights Council Resolution 30/1 on “Promoting Reconciliation, Accountability and Human Rights in Sri Lanka,” pledging to pursue transitional justice. Resolution 30/1 set the groundwork for Sri Lanka’s domestic actions toward truth, justice, and reconciliation.

Overall, Sri Lanka’s reparations and other transitional justice efforts have entailed numerous commissions, inquiries, and reports that produced viable recommendations on justice and reconciliation, which successive governments have repeatedly sidelined or ignored. In fact, governments have consistently failed to apply domestic recommendations, such as those by Presidential Commissions or a government-appointed consultation process, let alone international ones, such as those by UN inquiries and the government’s cosponsored commitments in Resolution 30/1. Unfortunately, the lack of political will to execute a comprehensive transitional justice policy has fostered an environment in which state actors have continued to abduct, arbitrarily detain, rape, and torture Tamils as well as militarize and grab land in the North-East.³

Sources of Reparations

Sri Lanka has created various mechanisms that could deliver reparations, but the government’s absence of political will and follow through on findings and recommendations has hindered implementation. While President Sirisena’s government agreed in Resolution 30/1 to actualize four transitional justice mechanisms—all of which would contribute to reparations—it has made little meaningful progress.

Rehabilitation of Persons, Properties and Industries Authority (REPPIA): Sri Lanka established REPPIA in 1987, mandating the body to rehabilitate persons, properties, and industries through compensation, loans, and grants. REPPIA has also resettled displaced persons.⁴

LLRC: Rajapaksa appointed the LLRC on May 15, 2010.⁵ The LLRC’s final report made some reasonable suggestions regarding land issues, good governance, and the need for a political solution with respect to Tamil grievances.⁶ However, its findings indicated bias in favor of the government, which the LLRC largely cleared of responsibility for casualties by blaming the LTTE. In addition to failing to adequately investigate heavy artillery and shelling, the LLRC omitted extrajudicial killings, sexual violence, and torture.⁷ According to a UN Panel of Experts, the LLRC did not meet international standards of independence and impartiality.⁸ Ultimately, the report exacerbated victims’ lack of faith in the government’s ability and willingness to achieve accountability.

Paranagama Commission: The Paranagama Commission, established by Rajapaksa in August 2013, has had two mandates. The first mandate was to handle cases of missing or disappeared persons. The second mandate, given in August 2014, was to investigate allegations of atrocity crimes, which the Paranagama Commission attributed to “bad apples.” The report of the Office of the UN High Commissioner for Human Rights Investigation into Sri Lanka (OISL) criticized the Paranagama Commission’s work on atrocity crimes, finding clear evidence of systemic crimes—not simply “bad apples.” In the fall of 2015, the Paranagama Commission began advocating against Sri Lanka’s transitional justice and reconciliation commitments stemming from Resolution 30/1.⁹

UN Human Rights Council Resolution 30/1 (2015): The UN Human Rights Council unanimously adopted Resolution 30/1 on October 1, 2015. Sri Lanka cosponsored the resolution, pledging to pursue transitional justice by constituting four mechanisms: a truth commission, a special judicial mechanism with international involvement, an office on missing persons, and an office for reparations. In Resolution 30/1, Sri Lanka also agreed to demilitarize and return occupied land; address ongoing torture and sexual violence; vet and reform the security sector; review and repeal harmful legislation, such as the PTA; and take necessary constitutional measures to devolve political authority and reach a political settlement.¹⁰

Office on Missing Persons (OMP): Of the four transitional justice mechanisms, the government has only made progress on the OMP, which was created in May 2016 without promised consultations with the families of the disappeared.¹¹ Parliament passed the OMP bill in August 2016, which President Sirisena signed into law nearly one year later, in July 2017.¹² Due to international attention at the 37th UN Human Rights Council session, President Sirisena appointed OMP commissioners on February 28, 2018.¹³ However, his appointment choices ignored victims’ calls for the exclusion of military personnel and the inclusion of women and victims’ representatives. The OMP began meeting with the families of the disappeared in Mannar on May 12, 2018, but many remain wary of putting their faith in this office.¹⁴ The OMP is forming 12 offices, of which 8 will be in the North-East and 4 will be in the rest of the country, and is continuing its outreach meetings.¹⁵

Consultation Task Force on Reconciliation Mechanisms (CTF): The CTF held broad and meaningful consultations with 7,306 individuals on the four transitional justice mechanisms in Resolution 30/1, among other things.¹⁶ On January 3, 2017, the CTF released over 700 pages of findings and recommendations on the design of the OMP; Office of Reparations; Truth, Justice, Reconciliation and Non-Recurrence Commission (TJRNC); and special judicial mechanism; as well as on issues related to demilitarization, police and judicial reform, land, women, children and youth, civil society, and archiving.¹⁷ The CTF found that calls for reparations centered on the need for justice via state accountability and acknowledgment of victims’ suffering.¹⁸ Perhaps

unsurprisingly, Tamil and Sinhalese communities had different visions of justice. The overwhelming majority of Tamils in the North-East expressed their desire for a hybrid judicial mechanism with Tamil and international involvement, while submissions rejecting that construction came mostly from Sinhalese participants.¹⁹ Ultimately, the CTF favored international involvement, proposing that the government empanel a hybrid court with both domestic and foreign judges. With respect to reparations, it recommended that the government develop a reparations policy that would deliver financial compensation and other forms of material assistance, psychosocial rehabilitation, collective reparations, cultural reparations, and symbolic measures.²⁰ Notably, neither President Sirisena nor the Prime Minister attended the launch of the final report; the Minister of Justice even said he had “no confidence” in the report.²¹

National Policy on Durable Solutions for Conflict-Affected Displacement (2016): By the time Sirisena took office in 2015, there were still 40,000 IDPs and more than 100,000 refugees in India and elsewhere. To overcome the challenges of displacement, the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, in collaboration with the UN and national consultants, drew on the LLRC recommendations and international standards on displacement, return, and resettlement in order to draft this policy.²² The policy aims to delineate and ensure the rights of current IDPs, returning IDPs and refugees, and future IDPs.²³ It also directs the state to design a reparations framework for conflict-affected persons, including displaced persons, and calls for measures to address the specific needs of woman-headed and child-headed households.²⁴ The Cabinet approved this policy on August 16, 2016.²⁵

Reparations Efforts and Programs

The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by the UN General Assembly in 2005, directs states to provide victims with five forms of reparations: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.²⁶

1. Restitution

Restitution aims to restore the victim to their situation before they had been violated. For example, enabling a victim’s return to their place of residence, returning property, and restoring citizenship are acts of restitution.

Return to one’s place of residence

The conflict caused massive displacement and loss of land and homes. The final months of fighting displaced at least 284,000 individuals from their homes in the Vanni.²⁷ This number adds onto existing “old IDPs,” or persons displaced before April 2008, many of whom were first displaced in the 1980s. While most of the civilians displaced during the war were Tamil, the LTTE displaced the significant Muslim population of approximately 75,000 from the north in 1990.²⁸ As of October 31, 2017, the Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs has resettled 891,125 IDPs in the North-East: 555,545 IDPs in the Northern Province and 335,580 IDPs in the Eastern Province. Since Sirisena came to power, the Ministry has resettled 90,996 IDPs in the Northern and Eastern Provinces.²⁹

The National Policy on Durable Solutions for Conflict-Affected Displacement recognizes the right of displaced persons to make informed and voluntary choices about return or relocation. Notably, the policy specifically states that the preclusion of return by military occupation is unacceptable and that the government must give individuals whose land is occupied either the right to return or compensation.³⁰ It cites militarization as a “major obstacle” to resolving the situation of IDPs and directs the government to review military ownership of land, releasing all land used by the military for non-security purposes, such as for agriculture, tourism, and recreation.³¹ This has not occurred in practice.

Protests demanding the return of occupied land began in Pilakudiyiruppu on January 31, 2017, when the military told villagers they would receive their land later that day, which did not happen. Frustrated with the military’s broken promises, the villagers set up camp across from the Air Force Base, vowing to protest until the military returns their land.³² On March 1, 2017, the military released 42 of the 56 occupied acres, on which the villagers found their homes and wells to be destroyed, preventing their immediate relocation.³³ Shortly thereafter, 138 families of Keppapilavu village began their continuous protest to demand the return of their land.³⁴ Similarly, in Iranaitivu, an islet of Kilinochchi, 366 families began a continuous protest on May 1, 2017, condemning the navy’s occupation since the 1990s.³⁵ Like the protests by the families of the disappeared discussed below, these demonstrations have been met with hollow promises from the government. Recently, on April 23, 2018, women led Iranaitivu villagers in sailing back to the islet, refusing to leave until they are guaranteed land return.³⁶ Although the occupying navy has allowed the Tamil villagers to stay in their old homes, the navy’s presence as well as the absence of government-provided basic necessities and facilities indicates Sri Lanka’s lack of commitment to release the land.³⁷

The National Policy on Durable Solutions for Conflict-Affected Displacement acknowledges that persons who have endured protracted displacement may need new documentation to prove their ownership and to reduce their chances of losing their land again.³⁸ It directs the state to “facilitate the provision or replacement of key documents, such as those pertaining to identity, birth, marriage, death, land and property.”³⁹

Return of property

The main LLRC recommendation on reparations concerned the return of land and resettlement of displaced persons.⁴⁰ The LLRC proposed that the government give alternative land or pay compensation to individuals who lost land and/or homes due to the creation of High Security Zones (HSZs) or other security measures.⁴¹

The National Policy on Durable Solutions for Conflict-Affected Displacement allows the government to acquire land taken for public purposes. In exchange, the government must give the former occupants “acceptable alternative land, and/or appropriate compensation for their lost land/property” as well as shelter, livelihood, and essential services for those who had to relocate as a result of the acquisition.⁴²

Regarding the release of occupied land, the CTF recommended that the government undertake a “comprehensive mapping process with public involvement” and design a “detailed plan for release of [public and private] land” held by the military.⁴³ However, the government’s progress in returning law has been slow. From October 2010 through June 2015, the government released only 6,255 acres of the 11,629 acres in the north that the government confiscated and turned into an HSZ from 1990 through 2009.⁴⁴

2. Compensation

When damage is economically assessable, states should provide compensation.

General compensation

The LLRC explored monetary compensation as a remedy for victims, particularly with respect to facilitating resettlement and reconciliation.⁴⁵ Since the huge number of victims and the extreme financial backlog of cases—as of May 2011, LKR 2.3 billion (approximately US\$14.5 million as of 2018) was needed to resolve it⁴⁶—has precluded financial compensation by REPPIA on a large scale, the LLRC proposed that the government pay compensation through “complementary schemes to ensure rebuilding and resettlement.”⁴⁷

The LLRC observed that compensation should be viewed in the context of the overall resettlement and development strategy being operationalized in the Northern and Eastern Provinces, which has offered basic national welfare services, such as health, education, food, water, agriculture, infrastructure, and livelihood and village development programs.⁴⁸ While the LLRC focused on development-type reparations, the CTF stressed the need to recognize the right to reparations as distinct from the right to development.⁴⁹

Physical or mental harm

REPPIA has offered compensation for physical harms, including the deaths of loved ones. In 2016, REPPIA compensated 866 deaths (LKR 86,475,000, or approximately US\$547,970 as of 2018), 270 injuries (LKR 8,102,500, or approximately US\$51,343 as of 2018), and 164 missing (LKR 16,400,000, or approximately US\$103,922 as of 2018).⁵⁰

The dependents of public servants and state employees killed by “terrorist/subversive activities,” are eligible for LKR 200,000 (approximately US\$1,265),⁵¹ but the dependents of others killed by “terrorist violence, ethnic riots, civil unrest and related security operations” are entitled to receive only half that amount (LKR 100,000).⁵² Under this scheme, members of the general public injured by “terrorist violence, ethnic riots, civil unrest and related security operations” may apply for LKR 50,000.⁵³ However, injured public servants and state employees may obtain up to twice that amount, based on their loss of earning potential.⁵⁴ There is no clear explanation for the discrepancies between compensation for state employees and for other victims.

Individuals seeking compensation for deaths or personal injury must produce a letter certifying their non-involvement with the LTTE.⁵⁵ Although the LLRC proposed that REPPIA should compensate former LTTE and the next-of-kin of deceased LTTE based on their need, the implementation of REPPIA continues to exclude them.⁵⁶

The CTF recommended that the Office of Reparations, which has yet to be established, give one-time payments to the families of deceased persons, noting that compensation for the deaths of civilians should be commensurate to the compensation for the deaths of public servants or members of the military.⁵⁷ In addition, the CTF suggested financial reparations for physical harms and psychosocial trauma.⁵⁸

Lost opportunities, including employment, education, and social benefits

The CTF recommended the one-time distribution of scholarships for children and employment opportunities for family members of the deceased and family members of the disappeared.⁵⁹

Material damages and loss of earnings, including loss of earning potential

REPPIA has granted public servants and state employees injured by “terrorist/subversive activities” up to LKR 100,000, which is based on their loss of earning potential.⁶⁰

REPPIA is also empowered to compensate individuals for property damage. Public servants and state employees whose property was damaged by “terrorist violence of July/August 1987 and

thereafter” may receive up to LKR 150,000.⁶¹ Meanwhile, the property compensation available to members of the general public whose property was damaged by “ethnic violence, terrorist activities, civil war, communal violence and related activities” since July 1983 is capped at LKR 100,000.⁶² Again, there is no clear explanation for the discrepancies between compensation for state employees and for other victims.

The CTF recommended financial reparations for loss of a family member, breadwinner, property, and assets.⁶³

3. Rehabilitation

Rehabilitation involves redressing victims through, for instance, the provision of medical, psychosocial, and legal services.

General rehabilitation

As of 2013, the government “rehabilitated” and “reintegrated” approximately 11,406 adult LTTE (9,374 men and 2,032 women) and 594 LTTE child soldiers (364 boys and 230 girls).⁶⁴ However, in 2010, the International Commission of Jurists (ICJ) condemned the government’s rehabilitation program as “what may be the largest mass administrative detention anywhere in the world.” According to the ICJ, the program failed to conform to international law and standards and even facilitated torture and enforced disappearances.⁶⁵ Civil society organizations have further criticized the military’s involvement in rehabilitation activities and the harassment of former LTTE by intelligence agencies, which have been documented in the last year.⁶⁶

4. Satisfaction

Satisfaction includes a wide range of measures, such as ceasefires, truth-seeking and documentation,⁶⁷ the search for missing or disappeared persons, and memorialization.

Verification of the facts and full and public disclosure of the truth

Ideally, the government-appointed LLRC would have performed independent truth-seeking and -telling functions. Instead, the LLRC’s findings favored the government and even justified its wrongdoing by blaming the LTTE.⁶⁸ Both the Paranagama Commission and the CTF recommended the creation of a truth commission, except the former believed a South Africa-model with an accompanying amnesty process was a viable option.⁶⁹ On the other hand, the CTF proposed that the government should prohibit the TJRNRC, which is a non-judicial mechanism, from granting amnesty.⁷⁰ The government has not taken steps toward initiating this mechanism, which was also promised in Resolution 30/1.

Search for the missing, disappeared, and killed

The government has established at least six different commissions on this issue since the 1990s, but little progress has been made on addressing missing or disappeared persons. Instead, successive governments have sidelined and even ignored commission findings and recommendations. This has led to victims' growing distrust in and frustration with the lack of political will regarding missing or disappeared persons.

Parliament passed the OMP bill in August 2016, which President Sirisena signed into law in July 2017.⁷¹ He appointed OMP commissioners on February 28, 2018,⁷² but his choices ignored victims' demands. The OMP began its ongoing outreach with the families of the disappeared in Mannar on May 12, 2018.⁷³

There are conflicting numbers of the missing or disappeared. The OMP estimates that 16,000 individuals are still missing, 5,100 of whom are members of the security forces.⁷⁴ In June 2016, current Chairperson of the Office for National Unity and Reconciliation and former President Chandrika Kumaratunga acknowledged receiving at least 65,000 complaints of disappearances. According to Amnesty International, the figure could be as high as 100,000 given underreporting because of distrust and lack of confidence in state machinery.⁷⁵ To date, the OMP has not set timelines, stating in April 2018 that it is too early to do so.⁷⁶ However, the OMP has started meeting with the families of the disappeared since May 12, 2018, is forming its 12 offices, and is continuing its outreach.⁷⁷

The most recent Presidential Commission regarding this matter was the Paranagama Commission. The Paranagama Commission received 24,000 complaints of disappearances, but it did not possess the resources to hear, let alone examine, them in a timely manner. Furthermore, witness intimidation, evidence tampering, mistranslations, and procedural partiality tainted its work, ultimately destroying victims' trust in the commission.⁷⁸ Unsurprisingly, most families felt that the Paranagama Commission did not adequately address their complaints.

The CTF recommended that the government provide a list of all detainees and detention centers as well as immediately release persons being held without charge under the PTA.⁷⁹ Beginning in 2017, women led protests spread across the North-East, seeking answers regarding the whereabouts and fates of their loved ones.⁸⁰ Due to domestic pressure and a presumable desire to end the protests, on June 12, 2017, President Sirisena met with representatives of the families of the disappeared from all eight districts in the North-East. They demanded the names of surrendees and detainees taken by the military; a list of all secret detention centers, their status, and the names of detainees held there; and the names of all detainees held under the PTA in legal, non-secret detention centers.⁸¹ Although President Sirisena denied the existence of secret

detention centers, he promised the families that he would issue directives to release the names of surrendees and detainees the following day.⁸² Nearly one year later, the National Security Council has yet to release the list.

Judicial and administrative sanctions against persons liable for the violations

The Paranagama Commission's report of September 2015 rejected international involvement in prosecutions, maintaining that the domestic system was both able and willing to investigate and prosecute allegations of atrocity crimes.⁸³ The Paranagama Commission rejected the possibility of a genocide based on the "low figure of casualties," even though the legal definition of genocide centers on intent—not scale.⁸⁴ Meanwhile, in a September 2015 interview, the UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein stated that genocide cannot be discounted at that time since a subsequent criminal investigation may determine that Sri Lanka committed genocide.⁸⁵

In Resolution 30/1, the government agreed to establish a hybrid judicial mechanism. The CTF reaffirmed the need for international involvement in prosecutions, proposing a majority of domestic judges and at least one foreign judge per bench.⁸⁶ Once faith and trust in the mechanism are won, the CTF recommended phasing out the international actors.⁸⁷ Since the release of the CTF's report, government officials—especially President Sirisena—have made statements backtracking on their commitments under Resolution 30/1 to prosecute allegations of atrocity crimes and to involve foreign judges.⁸⁸ As of May 2018, the government has made no progress on the hybrid court. Instead, in April 2018, the military inaugurated a new Directorate of Overseas Operations in Colombo to defend the military against allegations of atrocity crimes.⁸⁹

Commemorations and tributes to the victims

In 2010, the Rajapaksa government began observing "Victory Day" on May 18 to celebrate Sri Lanka's "triumph and victory" over the LTTE. Under Rajapaksa, repression was overt and Tamils in the militarized North-East were unable to openly honor their dead due to police and military interference and threats.⁹⁰ In 2015, President Sirisena renamed the day "Remembrance Day" to remember all who died, regardless of ethnicity.⁹¹

Furthermore, three years after Sirisena's election and nine years after the end of the war, the government continues to prohibit commemorations of the LTTE, preventing the families of deceased LTTE from freely remembering their loved ones.⁹² Accordingly, the government has surveilled and blocked memorialization in the North-East on Mullivaikkal Remembrance Day (as May 18 is known among Tamils) and Maaveerar Naal (November 27).⁹³ In 2017, organizers of events for both Mullivaikkal Remembrance Day and Maaveerar Naal were watched and

threatened; in at least one case, the police pursued unfounded legal action.⁹⁴ These intimidation tactics have not stopped Tamils in the North-East from remembering their loved ones. For example, families of deceased LTTE organized Maaveerar Naal 2017 events on the largest scale since 2008.⁹⁵

In addition to preventing commemorations, the Rajapaksa and Sirisena governments systematically destroyed LTTE tributes and monuments, including cemeteries. By November 2016, all cemeteries had been destroyed.⁹⁶ Meanwhile, the government built victory monuments in the North-East, putting the most prominent memorials in the Vanni, which victims reported as re-traumatizing. Such victory monuments are less common in the predominantly Sinhalese South.⁹⁷

The LLRC highlighted the need for a National Day for the different communities in Sri Lanka to express solidarity and empathize with all victims of war. The LLRC believed that such an event would provide the necessary impetus for a national reconciliation process.⁹⁸ The government has not yet implemented this recommendation.

Inclusion of an accurate account of the violations in training and educational materials

The CTF recommended the reform of educational curricula and spaces, specifically citing the need for a revised history curriculum and for school history books to contain the TJRNRC's findings on historical incidents, such as the burning of the Jaffna Public Library by security forces and state-sponsored Sinhalese mobs in 1981, the anti-Tamil pogrom of 1983, the LTTE's expulsion of Muslims from the Northern Province in 1990, the LTTE's killing of over 600 police officers in the Eastern Province in 1990, and various other massacres.⁹⁹ Since the government has not established the TJRNRC, it remains to be seen if its findings will be incorporated into school curricula.

In March 2017, the Ministry of Education formed a new Peace Education and Reconciliation Unit (PERU) to lead the Ministry's efforts to promote reconciliation among students.¹⁰⁰ The unit's goals include training teachers on reconciliation and contributing to educational reform, student leadership programs, and cultural and religious diversity celebrations. Following anti-Muslim violence in March 2018, PERU has sought to increase peace education and worked to integrate its core concepts into mandatory subjects.¹⁰¹ To date, the unit has not produced any publications, new curricula, or updates on its progress.

5. Guarantees of non-repetition

Guarantees of non-repetition center on institutional reform, such as vetting and lustration processes.

Effective civilian control of military and security forces

The government committed to end military involvement in civilian life in Resolution 30/1, which was reaffirmed in the CTF's recommendations on demilitarization.¹⁰² The military's presence and infiltration into civilian life in the North-East has remained pervasive, including in religious, cultural, school, and tourism-related activities.¹⁰³ In July 2017, civil society organization found that one-fourth of the army was stationed in Mullaitivu District in the North-East, resulting in a ratio of nearly one soldier for every two civilians there.¹⁰⁴

Independence of the judiciary

The CTF made recommendations on judicial reform, including “systemic delays, lack of independence and politicisation, conflict of interest, lack of capacity and competence and overall lack of victim centeredness.”¹⁰⁵ The government has yet to address these issues and during a 2016 country visit, the then-UN Special Rapporteur on the Independence of Judges and Lawyers Mónica Pinto found that the judicial system was severely compromised, especially regarding its treatment of Tamils. Judges lack independence; in fact, Sri Lanka does not even have a code of conduct for judges.¹⁰⁶

Mechanisms for preventing and monitoring social conflicts and their resolution

Sri Lanka has made some progress in filling gaps in the reconciliation process. In May 2017, the government approved Sri Lanka's first National Reconciliation Policy to guide national reconciliation.¹⁰⁷ Among other things, this policy seeks to create a National Program and Action Plan for Reconciliation to be carried out by the Ministry of National Integration & Reconciliation and the Ministry of National Co-existence, Dialogue and Official Languages.¹⁰⁸

Review and reform of laws contributing to human rights violations

As agreed to in Resolution 30/1, Sri Lanka passed the Assistance to and Protection of Victims of Crime and Witnesses Act in 2015. However, civil society organizations criticized this act for only protecting victims and witness of human rights violations that are domestic crimes. This is important because Sri Lanka has not defined international crimes like “war crimes” or “crimes against humanity” under domestic law.¹⁰⁹

In Resolution 30/1, the government committed to review and repeal the PTA, which enables ongoing human rights violations against Tamils, including arbitrary detentions, administrative detentions, abductions, enforced disappearances, torture, and sexual violence. The Cabinet approved the Counter Terrorism Act (CTA) to replace the PTA in May 2017, but international,

local, and diaspora civil society organizations have blasted the CTA for falling short of international standards.¹¹⁰ The government attempted, but failed, to pass the CTA in February 2018 before the 37th UN Human Rights Council session, at which Sri Lanka was on the agenda.¹¹¹ As of writing, the PTA is still on the books.

Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance in May 2016, and Parliament passed the International Convention for the Protection of All Persons from Enforced Disappearance Bill in March 2018, criminalizing “enforced disappearances.”¹¹² The bill is not retrospective, so only enforced disappearances committed after March 2018 can be prosecuted.¹¹³

Finally, constitutional reform is necessary to address the post-independence discrimination against the Tamil people that was a root cause of the conflict. While Sri Lanka is reforming its constitution, the current draft retains the centralized, unitary nature of the government and the prominent status of Buddhism, which Tamils and other minority communities typically do not practice.

¹ For a brief history of reported casualties and how mounting evidence led to an increase in internationally accepted figures, see sources in this thread: Thusiyan Nandakumar (@Thusi_Kumar), “We have to be clear - the final months of 2009 were not a ‘War Without Witness’. #Tamil sources provided almost constant coverage of what was happening, day by day, hour by hour. International governments and human rights organisations chose not to listen. #MullivaikaalDiaries,” Twitter, May 9, 2018, 5:24 a.m., https://twitter.com/thusi_kumar/status/994197103038599173?s=21.

² *Report of the UN Secretary-General’s Panel of Experts on Accountability in Sri Lanka* (March 31, 2011), available at http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf.

³ For some examples of human rights violations documented over the last year, please see: People for Equality and Relief in Lanka (PEARL), *Delayed or Denied? Sri Lanka’s Failing Transitional Justice Process* (Washington, D.C.: PEARL, 2018), 25–29, <http://pearlaction.org/wp-content/uploads/2018/05/PEARL-TJ-Report-Final-Portrait.pdf>.

⁴ “Establishment of REPPIA,” Ministry of Prison Reforms, Rehabilitation, Resettlement and Hindu Religious Affairs, accessed May 14, 2018, http://resettlementmin.gov.lk/site/index.php?option=com_content&view=article&id=146&Itemid=72&lang=en.

⁵ Government of Sri Lanka, “Sri Lanka: President Appoints Lessons Learnt and Reconciliation Commission,” May 17, 2010, available at <https://reliefweb.int/report/sri-lanka/sri-lanka-president-appoints-lessons-learnt-and-reconciliation-commission>.

⁶ International Crisis Group, *Statement on the Report of Sri Lanka’s Lessons Learnt and Reconciliation Commission* (New York: International Crisis Group, 2011), <https://www.crisisgroup.org/asia/south-asia/sri-lanka/statement-report-sri-lankas-lessons-learnt-and-reconciliation-commission>.

⁷ Human Rights Watch (HRW), “Sri Lanka: Report Fails to Advance Accountability,” December 16, 2011, <https://www.hrw.org/news/2011/12/16/sri-lanka-report-fails-advance-accountability>.

⁸ *Report of the UN Secretary-General’s Panel of Experts on Accountability in Sri Lanka*, v.

⁹ Sri Lanka Campaign for Peace & Justice, “The Paranagama Commission Has Done Great Damage. Now That Damage Must Be Repaired,” July 6, 2016, <https://www.srilankacampaign.org/paranagama-commission-done-great-damage-now-damage-must-repaired/>.

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¹¹ HRW, “Sri Lanka: Consultations Lacking on Missing Persons’ Office,” May 27, 2016, <https://www.hrw.org/news/2016/05/27/sri-lanka-consultations-lacking-missing-persons-office>.

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