



## THIRTY YEARS OF FAILURE: SRI LANKA'S DOMESTIC ACCOUNTABILITY AND HUMAN RIGHTS PROCESSES

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**SRI  
LANKA  
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A brief overview of Sri Lanka's history of domestic accountability and human rights processes, from 1989 to the present day.

## Introduction

Whenever the possibility of an international investigation of human rights violations is raised, representatives of the Sri Lankan government are quick to shoot it down. The representatives will reject such investigations as ‘unconstitutional’ or [unacceptable to the people of Sri Lanka](#),<sup>1</sup> and instead refer to their own [domestic accountability processes](#), including a proposed Truth and Reconciliation Commission (TRC) based on the [South African](#) model.<sup>2</sup>

In reality, victim-survivor communities have [consistently demanded](#)<sup>3</sup> an international probe into wartime atrocities and other violations, and many have long rejected the idea of a purely domestic accountability process. For decades, victims and their families have dealt with dozens of Commissions and investigative bodies, ostensibly established to provide justice and accountability for past violations, only to then watch those bodies totally fail to produce any tangible results. Successive Sri Lankan governments have manipulated these domestic bodies for their own ends and failed to heed most of the often-meagre recommendations they have offered, allowing the cycle of violence and abuse to continue. An excellent study by the [International Commission of Jurists](#)<sup>4</sup> has shown that these failed mechanisms date back to at least 1977. Victims and families who have engaged with these processes are highly vulnerable, as Sri Lanka lacks any proper witness protection infrastructure.

The government of Sri Lanka has also [consistently rejected](#)<sup>5</sup> the idea of any hybrid court in the country, saying that such measures ‘are against the Constitution’. However, for decades, Sri Lanka’s domestic courts have failed to deliver real accountability for victims. A confidential source has examined 303 incidents of disappearances in Mannar, Jaffna, and Vavuniya in the Northern Province between 1990 and 2000, which represent only a fraction of the complaints registered with various domestic Commissions of Inquiry during this period. Of these cases, at least 67 identified either an individual perpetrator or a military camp where the alleged disappearance took place. In three incidents, the complainants specifically identified the perpetrator as belonging to a state-supported group. Of the 83 criminal cases filed in the courts, only the rape and murder of [Krishanthy Kumaraswamy](#)<sup>6</sup> resulted in any convictions.

Our source also investigated 560 further incidents of disappearances in Jaffna, Vavuniya, and Mannar between 2001 and 2009. Of these, 110 incidents identified either a military camp or individual who they alleged was involved in an enforced disappearance; of these, only one reported incident has resulted in both a court case and a conviction. The convict in this case, Sunil Ratnayake, was [released via Presidential pardon](#)<sup>7</sup> by Gotabaya Rajapaksa, having served only five years in prison for the murder of eight Tamil civilians, including three children. Sri

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<sup>1</sup> <https://www.thehindu.com/news/international/will-not-accept-external-mechanism-on-war-time-accountability-says-sri-lanka/article65853362.ece>

<sup>2</sup> <https://mfa.gov.lk/ohchr-statement-sl-fam/>

<sup>3</sup> <https://www.theguardian.com/world/2022/jul/30/fall-of-sri-lankan-president-gotabaya-rajapaksa-raises-victims-hopes>

<sup>4</sup> [https://www.icj.org/wp-content/uploads/2010/01/srilanka\\_impunity\\_18\\_01\\_20102.pdf](https://www.icj.org/wp-content/uploads/2010/01/srilanka_impunity_18_01_20102.pdf)

<sup>5</sup> <https://www.tamilguardian.com/content/sri-lanka-cant-agree-international-accountability-mechanism-says-foreign-minister>

<sup>6</sup> <https://www.colombotelegraph.com/index.php/schoolgirl-rape-four-murders-the-1996-rape-murder-of-krishanthy-kumaraswamy-in-jaffna/>

<sup>7</sup> <https://www.aljazeera.com/news/2020/3/27/sri-lanka-pardons-soldier-who-killed-tamil-civilians>

Lanka's courts have not proved to be reliable routes for accountability for these victims. Should President Wickremesinghe's proposed TRC follow the South African model, it will totally lack an accountability mechanism.

The international community should encourage all accountability processes in Sri Lanka, and demand that future **they must not accept any domestic process as a substitute for an international or hybrid mechanism.** To do so would ignore the wishes of victim-survivor groups, Sri Lanka's faltering legal system, the government's long history of broken promises, and the decades-long failure of the domestic system. These domestic mechanisms – whether police investigations or commissions of inquiry – have time and again served only to delay justice for the victims for so long that both victims and perpetrators pass away before accountability has been achieved.



## RANASINGHE PREMADASA

### 3 FAILED COMMISSIONS

1989 - 1993

#### CONTEXT

Premadasa became President of Sri Lanka during the height of the **war with the LTTE** in the North and East, and the final stages of the **JVP insurrection** in the South.

Both conflicts were marked by **killings** and large-scale **enforced disappearances**. Three separate commissions were formed to investigate these crimes.

#### ACCOUNTABILITY

Two of the three reports were submitted to the President or Ministry of Defence, but the reports and their recommendations were **never made public**.

The report on the Kokkadicholai massacre was published, and the responsible commanding officer dismissed from service; the other soldiers were **acquitted**.

#### ENFORCED DISAPPEARANCES

A **Presidential Commission of Inquiry into the Involuntary Removal of Persons** was formed in January 1991 to identify and locate disappeared persons, to recommend actions against those responsible for those disappearances, and take steps to prevent future disappearances.

The Commission submitted reports into **at least 142 cases** to President Wijetunga in March 1994. The reports were **never made public**.

#### KOKKADICHOLAI

A Commission was established in June 1991 to investigate the **Kokkadicholai Massacre**, where 67 Tamil civilians were killed by Sri Lankan soldiers near Batticaloa.

The Commission released their full report in March 1992, recommending that the army investigate the incident and impose military sanctions, but **did not investigate the role of senior officers**. The Commission cross-examined civilian witnesses, but **did not** cross-examine army personnel.

Whilst 1 commanding officer was dismissed for failing to control his troops, the other **19 soldiers** under trial were all **acquitted** by military tribunal and **re-deployed**.

#### POLLONARUWA

In April 1992, a 3-member committee was appointed to look into the **killings at Pollonaruwa**, where conflict between Sri Lankan security forces, LTTE cadres, and Muslim home guards resulted in a **massacre** of Tamil and Muslim civilians.

Their report was submitted to the Ministry of Defence in May 1992, but **was never released to the public**.



## CHANDRIKA KUMARATUNGA

### 6 FAILED COMMISSIONS

1994 - 2005

#### CONTEXT

As President, Kumaratunga negotiated a truce with the LTTE in 1995. This quickly collapsed, and the civil war resumed.

Kumaratunga's Presidency featured several **commissions of inquiry** into human rights violations which had occurred in Sri Lanka since the 1980s.

#### ACCOUNTABILITY

During Kumaratunga's lengthy Presidency, several commissions investigated **enforced disappearances**; 1 investigated **ethnic violence** in the early 1980s; and 2 investigated **specific detention centres** associated with abuse.

Whilst several of these published reports, **few prosecutions** were forthcoming, and most recommendations were **not implemented**.

#### ENFORCED DISAPPEARANCES

Kumaratunga established several commissions to investigate **enforced disappearances**, which **failed to deliver** real accountability.

- The Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons (1994-97) included **three different commissions**, which dealt respectively with disappearances in South, Central, and Northeastern Sri Lanka, respectively. **19,079 cases** were registered, and whilst proceedings were initiated in some of these cases, most remain **unresolved**.
- The 'All Island Commission' into Enforced Disappearances (1998-2000) investigated 13,000 cases which were not covered by the previous Commissions. **Only 5** military personnel were convicted; Brigadier Parry Liyanage, the highest-ranking amongst the accused, was **acquitted on appeal**.

In 1996, a Board of Investigation into Disappearances in the North and East (1996-97) received than **2,500 complaints** of disappearances, but **no one was ever charged** and the findings were **not made public**.

#### ETHNIC VIOLENCE

Between 2001-02, a **Presidential Truth Commission** investigated **ethnic violence** against Tamils between 1981-84. Aside from paying a small amount in compensation, the government **did not implement** any of the report's modest recommendations.

#### DETENTION CENTRES

A Commission of Inquiry (COI) into incidents of torture and disappearances at **Batalanda Housing Scheme** during the government's suppression of the 1987-89 leftist JVP uprising, which eventually led to **5-year sentences** for **just 5 police officers**.

A 2001 Commission investigated the massacre of Tamil youths at **Bindunuwewa Rehabilitation Centre** in 2000. It found that senior police officers had **not prevented the attacks**, whilst some junior officers **participated in the violence**. Despite this, all accused officers were **acquitted on appeal** by 2005.

## COMMISSIONS ON THE DISAPPEARED

Formed in **September 2006 and May 2007** under **Mahanama Thilakaratne**, these Commissions were tasked with investigating disappearances and killings, and identifying those involved.

The first Commission received **282 complaints**, and completed inquiries into 94 of these. Its final report was submitted in March 2007, but the **findings were never made public**.

### 'UDALAGAMA' COMMISSION

Appointed **November 2006**, this Commission investigated human rights violations since August 2005, including high profile cases such as the killing of **17 aid workers in Mutur** and the murder of **five Trincomalee youths**.

The Committee's report was submitted in June 2009. The report was **not tabled in Parliament until 2015**. The report made key recommendations regarding witness protection, which were only **partially implemented**.

### 'IIGEP'

The **International Independent Group of Eminent Persons** (IIGEP), established February 2007, consisted of international experts with a **limited mandate to observe investigations** carried out by the 'Udalagama' Commission.

The IIGEP found that the 'Udalagama' Commission lacked **independence, transparency, and effective witness/victim protection**. In April 2008, the IIGEP decided to **terminate its mission** due to the government's **'uncooperative atmosphere'**.

### MP JOSEPH PARARAJASINGHAM

In August 2006, a 2-member Commission was established to investigate the assassination of MP Joseph Pararajasingham. The findings of the Commission have **not been made public**, and in 2021, the Attorney-General **withdrew charges** against 5 men accused of the killing.



## MAHINDA RAJAPAKSA

### 5 FAILED COMMISSIONS BEFORE 2009

2005 - 2008

#### CONTEXT

In the first part of Mahinda Rajapaksa's Presidency, the four-year truce between the LTTE and the Sri Lankan government ended, and **full scale war** resumed.

In the **Eastern Province**, the LTTE, Sri Lankan army, and pro-government paramilitaries committed **widespread atrocities**.

#### ACCOUNTABILITY

**5 major Commissions** were appointed during the first part of Rajapaksa's Presidency. 3 of these investigated abductions and disappearances, one investigated the murder of MP Joseph Pararajasingham, and the remainder examined general human rights violations which had been committed during the 2000s,



## MAHINDA RAJAPAKSA

### 3 FAILED COMMISSIONS AFTER 2009

2009 - 2015

#### CONTEXT

In 2009, the government's final offensive led to the decisive defeat of the LTTE.

In the final assault, **tens of thousands** of civilians and surrendering combatants were killed or disappeared.

Government forces were accused of **deliberately targeting** Tamil civilians.

#### ACCOUNTABILITY

3 major Commissions were appointed during the latter part of Mahinda Rajapaksa's Presidency. These investigated enforced disappearances; killings during the 1987-89 JVP uprising; and alleged atrocities committed during the final stages of the war.

These Commissions are **not taken seriously** by experts or victims, and are generally seen as attempts by the government to **whitewash its own reputation**.

#### LESSONS LEARNT & RECONCILIATION

The **Lessons Learnt and Reconciliation Commission** (LLRC) was formed in May 2010 to investigate the failure of the 2002 ceasefire and the measures that ought to be taken to promote reconciliation. Despite this **restrictive mandate**, the LLRC also investigated alleged abuses committed by the military and LTTE.

The LLRC was **heavily criticised** for its **lack of independence**, limited mandate, and **failure to protect witnesses**. The LLRC's 2011 report minimised the military's responsibility for civilian casualties. It did call on the authorities to ensure allegations of enforced disappearances were **promptly addressed** and perpetrators **brought to justice**, which **has not happened**.

#### MATALE MASS GRAVE COMMISSION

In November 2012, a **mass grave** was found in Matale District, allegedly containing remains of those killed during the **1987-89 JVP uprising**. In June 2013, a Commission was established to investigate the gravesite.

The Presidential Commission sent remains to a US laboratory, and concluded they dated from the 1950s; however, forensic medical officer Dr. Ajith Jayasena **questioned** the Commission's chain of custody, and the skeletal evidence they sent to the laboratory. In 2015, the judicial inquiry was **suspended**.

#### 'PARANAGAMA' COMMISSION

In August 2013, a Commission under **Justice Maxwell Paranagama** was established to investigate complaints of missing persons. The Commission received **24,000 complaints**, but was mired in allegations of **witness intimidation** and **evidence tampering**, as war survivors began to **boycott sittings**.

In August 2014, the Commission was granted a **second mandate** to investigate alleged war crimes. A report was released in September 2015, which attempted to **shift responsibility** for any violations away from the government and on to a few 'bad apples'. The report's findings was **flatly rejected** by international experts.



## MAITHRIPALA SIRISENA

### 3 FAILED COMMISSIONS AND OFFICES

2015 - 2019

#### CONTEXT

In 2015, President Maithripala Sirisena and Prime Minister Ranil Wickremasinghe came to power promising '**Good Governance**', reform, and the investigation of wartime abuses. This government also supported **UN Resolutions** on Sri Lanka at the Human Rights Council.

#### ACCOUNTABILITY

Despite accepting the provisions of **Resolution 30/1**, the Sirisena-Wickremasinghe government **never created a Truth and Reconciliation Commission**.

Sri Lanka did establish **Offices of Missing Persons** and of **Reparations**, which have **not delivered** truth or justice for victims or families. A Presidential Commission to investigate the **Easter Bombings**, formed under Sirisena's Presidency, has also been **mired in controversy**.

#### OFFICE OF MISSING PERSONS

The **Office of Missing Persons (OMP)** was established in 2017 to trace those disappeared in Sri Lanka. As of September 2022, it had received **14,988 complaints**, according to the Minister of Judicial Prison Affairs.

The OMP's **mandate is limited** to finding the whereabouts of the disappeared, and includes **no accountability mechanism**. Even within this context, the OMP has **done very little** for families of the disappeared. During Sirisena's presidency, it **never began tracing** missing persons, and the OMP has **not helped a single family** learn the fate of their loved ones.

The OMP continues to operate, but **has not produced** any truth or justice for victims.

#### OFFICE FOR REPARATIONS

In October 2018, the **Office for Reparations (OFR)** was established to provide individual and collective reparations to the aggrieved.

The OFR was given **no decision-making power**, with all OFR policies requiring both ministerial and parliamentary approval. The OFR, OMP, and Sri Lankan government have attempted to offer **meagre reparations** in lieu of truth or justice, which has been **repeatedly rejected** by most families of the disappeared.

After Sirisena left office, President Gotabaya Rajapaksa appointed his **political ally** Major-General Palitha Fernando to the OFR, further undermining its independence and credibility.

#### EASTER BOMBINGS

In September 2019, shortly before he left office, President Sirisena formed a Commission to investigate the **Easter Sunday terrorist attacks** of April 2019. Whilst the Commission's final report was handed over to President Gotabaya Rajapaksa in February 2021, it **still not been released** to the public and **only a single volume** has been submitted to Parliament.