

OPENING A CONVERSATION: JUSTICE AND REPARATIONS NEEDS OF EXILED TAMIL SURVIVORS OF CONFLICT-RELATED SEXUAL VIOLENCE



SRI LANKA



Cover picture: Survivors' drawing showing life before, during, and after the conflict in Sri Lanka. The first part shows a peaceful past with nature, a cow, and a bird in a tree. The second shows a bare tree, dry ground, and a fallen bird's nest, reflecting aridity, suffering, and violence. The third looks to the future in the UK with some people standing and looking towards the future, while some still drifting in the uncertain waters. A path runs through all three parts, and gradually narrows, indicating the loss of lives along the way. 2023 © SAST



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ABC

ACRONYMS

CAT	Committee against Torture	NURC	National Unity and Reconciliation Commission
CEDAW	Committee on the Elimination of Discrimination against Women	OfR	Office for Reparations
CID	Criminal Investigation Department	OHCHR	Office of the United Nations High Commissioner for Human Rights
Col	Commission of Inquiry	OISL	OHCHR Investigation on Sri Lanka
CPA	Centre for Policy Alternatives	OMP	Office on Missing Persons
CRC	Convention on the Rights of the Child	ONUR	Office for National Unity and Reconciliation
CRSV	Conflict-Related Sexual Violence	PCICMP	Presidential Commission to Investigate into Complaints Regarding Missing Persons
CTUR	Commission for Truth, Unity and Reconciliation	PVCW	Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015
GRS	Global Reparations Study	REPIA	Rehabilitation of Property and Industries Authority
GSF	Global Survivors Fund	REPPIA	Rehabilitation of Persons, Properties and Industries Authority Act No 19 of 1987
ICC	International Criminal Court	SAST	Support A Survivor of Torture
ICCPR	International Covenant on Civil and Political Rights	SLA	Sri Lankan Army
ICPPED	Convention on the Protection of All Persons from Enforced Disappearance	SLAP	Sri Lanka Accountability Project
IICI	Institute for International Criminal Investigations	TID	Terrorism Information Division (police)
IO	International Organisation	TJRNRC	Truth, Justice, Reconciliation and Non-Recurrence Commission
IPKF	Indian Peace Keeping Force	UK	The United Kingdom
ITJP	International Truth and Justice Project	UN	United Nations
JVP	Janatha Vimukthi Peramuna	UNHRC	United Nations Human Rights Council
LGBTQIA+	Lesbian, gay, bisexual, transgender, queer, intersex, and asexual	UTHR-J	University Teachers for Human Rights (Jaffna)
LLRC	Lessons Learnt and Reconciliation Commission	WGEID	Working Group on Enforced and Involuntary Disappearances
LTTE	Liberation Tigers of Tamil Eelam		
NGO	Non-Governmental Organisation		



Stand up for me.
Protect me.
Educate others.
Advocate for me.
Know the signs.
Understand it.
Prevent...

Survivor artwork with a strong call to stand up, protect, educate, advocate, understand and prevent.
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1. INTRODUCTION

In July 2022, the International Truth and Justice Project (ITJP) began a two-year participatory consultation with Tamil survivors from Sri Lanka who had recently arrived in the United Kingdom. This report focuses on studying and documenting the reparative needs of survivors of conflict-related sexual violence in Sri Lanka during and after the country's 26-year long civil war. The report captures and analyses survivors' perspectives on the impact of the conflict and their expectations for reparation and examines opportunities to seek and deliver reparations through various judicial and administrative mechanisms. It seeks to increase awareness of survivors' right to reparation and generate momentum for the provision of survivor-centred reparations by the Government of Sri Lanka.

The victims who participated in this consultation experienced conflict-related sexual violence during the civil war between the separatist Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka, as well as in its aftermath.¹ Since the war ended on 19 May 2009, there has been no resolution of the underlying causes of the armed conflict and no credible accountability process.

The armed group, the LTTE (also known as the Tamil Tigers), fought for the independence of the north and east of the island, aspiring to create a separate Tamil homeland. The LTTE was proscribed in many countries as a terrorist group due to their use of suicide bombers and child soldiers. In 2009, at the culmination of the war, hundreds of thousands of Tamils were bombarded by the Sri Lankan Armed Forces and herded into an ever-diminishing coastal strip. Survivors were arbitrarily detained, executed or subjected to enforced disappearance. Suspected ex-combatants were often subjected to sexual violence while in state custody. Even after release from detention, some were abducted again by security forces, tortured and raped again. A United Nations investigation in 2015 concluded that sexual violence was used against Tamils during and after the conflict as a matter of state policy:

"All of the information gathered by OISL indicates that incidents of sexual violence were not isolated acts but part of a deliberate policy to inflict torture (to obtain information, intimidate, humiliate, inflict fear). The practices followed similar patterns, using similar tools over a wide range of detention locations, time periods, and security forces, reinforcing the conclusion that it was part of an institutional policy within the security forces."²

Everyone involved in the consultation described its 'extraordinary' significance and value in bringing together a large group of Tamil war survivors outside the country – male and female – to have a difficult, vital and informed conversation about CRSV and reparations.³ This was a remarkable achievement in the face of the pervasive effects of CRSV on the Tamil community in Sri Lanka, and the interlinked silence and silencing of victims due to cultural constraints, societal pressure, stigma, and ongoing violence and persecution by the state security forces in a highly militarised environment.

This achievement must be viewed in the context of extreme denial and erasure of CRSV and other wartime and post-war human rights violations by the state security forces and some civil society actors in Sri Lanka. This denial is politically instrumentalised by the Sri Lankan state to reject and contest demands for justice and accountability, thereby maintaining a socio-political hierarchy of victors and losers.⁴

Furthermore, the dialogue between male and female survivors of CRSV – the first of its kind – takes place in a context where discussions about male victims of sexual violence are virtually absent in Sri Lanka. This absence is partly due to the risk that colonial-era laws criminalising homosexuality could be used to target male victims of CRSV if they attempt to report the crime.⁵

1 This is not to exclude conflict-related sexual violence during the two Janatha Vimukthi Peramuna (JVP) uprisings in Sri Lanka; however, the focus of this consultation was on recent and living witnesses who have disclosed violations and are accessible. Parallels with the JVP era are explored in an internal briefing study on CRSV in Sri Lanka, prepared at the end of Phase 1 of the consultation (on file with ITJP and GSF).

2 OHCHR, 'Report of the OHCHR Investigation on Sri Lanka (OISL)' A/HRC/30/CRP.2 (16 September 2015) para. 591 <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session30/list-reports> consulted 15 November 2024.

3 External Evaluation of the Project (April–May 2024), conducted by an independent evaluator. The review was carried out with the purpose of documenting the process behind the project and consultation with survivors.

4 External Evaluation of the Project (April–May 2024).

5 ITJP, 'Unsilenced: Male Survivors Speak of conflict related sexual violence in Sri Lanka' (2018) p. 29 https://itjpsl.com/assets/ITJP_unsilenced_report-final.pdf accessed 15 November 2024.

According to the external evaluation of this project:

"The restorative aspects of sharing, mutual acknowledgement and finding strength and support within the community towards finding confidence, greater self-respect and reviving a sense of sociality were determined as important outcomes that outweighed the difficulties faced. This is especially meaningful because there is no known equivalent initiative in Sri Lanka where psychosocial support for conflict-affected communities is virtually non-existent or elsewhere. A respondent observed that it is also explicitly dangerous to carry out such an activity in Sri Lanka, and organizations are compelled to use the cover of skills training and capacity building."⁶

In his August 2024 report to the UN Human Rights Council (UNHRC), the UN High Commissioner for Human Rights emphasised the lack of accountability noting that:

"The United Nations previously established that there are reasonable grounds to believe that grave violations of human rights, war crimes and crimes against humanity were committed during the conflict. To date, the Government has rarely even acknowledged the serious violations that occurred in the conflict or provided victims with adequate redress. Numerous commissions of inquiry appointed by successive governments, often in response to international pressure, have failed credibly to establish truth and advance accountability and reconciliation."⁷

While the denial or minimisation of CRSV is not uncommon globally, Sri Lanka is arguably an outlier country in terms of the extent to which CRSV is denied or downplayed by some of the majority community and, consequently, overlooked by parts of the international human rights community. Victims participating in the GSF consultation were living in the UK – some sexually violated within the previous year, others up to a decade earlier. All had experience living in post-war Sri Lanka and remained in constant touch with parents, spouses, and children living in the most inaccessible villages of the former conflict areas. As new arrivals in the UK, they maintained very close connections with communities in rural Sri Lanka, which

live under militarisation and are highly distrustful of any outsiders. Some participants were former combatants in the LTTE who had undergone a so-called 'rehabilitation' process in Sri Lanka, typically involving arbitrary detention and torture; others were civilians.

This report is part of the Global Reparations Study, launched by the Global Survivors Fund (GSF) in 2020, which examines the status of and opportunities for reparation for survivors of conflict-related sexual violence (CRSV) in over 20 countries. A collaborative effort involving more than 40 local and international partners, including survivors' networks, the study makes recommendations for action based on survivors' needs and expectations, identifying potential resources and concrete measures to enhance access to reparation worldwide. While this report aligns with the Global Reparations Study's objectives, it takes a distinct approach. Its main section is devoted to the consultation findings with survivors, while contextual information on CRSV and reparation is presented in the annexes.

The survivors involved in the Sri Lanka consultation naturally started from the position that their experiences of CRSV were accepted and believed, and this is how the findings section of this report is framed. Survivors should not have to justify their experiences or the veracity of their accounts, as this does not align with a 'do no harm' approach. However, the ITJP recognises that the extent of past and ongoing CRSV in Sri Lanka is not widely accepted. As a result, a decision was made to include, in Annex 1, the context for understanding CRSV in Sri Lanka, citing independent confirmation from United Nations reports. This serves to substantiate the claim that widespread and systematic sexual violence occurred during and after the civil war in Sri Lanka, which ended in 2009, and that CRSV is still ongoing. This addition is meant to counter the denial and lack of knowledge, but it is an adjunct composed by country experts and lawyers, not survivors themselves. Annex 2 outlines the context regarding reparations generally and reparations specifically for survivors of CRSV.

Although the findings of the consultation reflect the voices of survivors, the preamble describes the consultation process. This was significant, as it required developing an approach to tackle a taboo subject and creating the language necessary to discuss it with survivors in Tamil.

6 External Evaluation of the Project (April–May 2024).

7 UNHCHR, 'Situation of human rights in Sri Lanka. Comprehensive report of the United Nations High Commissioner for Human Rights' A/HRC/57/19 (22 August 2024) para. 36 <https://www.ohchr.org/en/documents/reports/ahrc5719-situation-human-rights-sri-lanka-comprehensive-report-united-nations> accessed 15 November 2024.



2. THE CONSULTATION PROCESS

The process of this consultation proved to be far more complex and long-running than anyone had anticipated. Holding the consultation outside Sri Lanka eliminated one major obstacle: security concerns. Inside the country, it was deemed impossible to identify and convene groups of victims of sexual violence for group discussions about reparations without exposing participants and staff to unnecessary risk. The United Kingdom was chosen as the venue because the ITJP has spent a decade there gathering in-depth testimony from Sri Lankan victims of CRSV and working with them in a rehabilitation project. However, even with the ITJP's expertise and experience in legal documentation of CRSV for criminal accountability, conducting a survivor-led victim consultation posed significant challenges.

2.1. Design

Designing the project in advance presented considerable complexities, particularly in preparing for the intensity and intimacy of the engagement and the multi-layered impact it would have on all ITJP staff and survivor participants. These challenges were exacerbated by the fact that the staff leading the consultation were survivors themselves. In retrospect, it was also difficult to foresee how the consultation would unfold regarding the number of meetings and participants. The deeply personal and emotional nature of the process required it to proceed at its own organic to avoid causing harm. This, however, placed substantial pressure on the administration of the grant and serves as a key lesson for future consultations that aim to be 'victim-centric' and adhere to a 'do no harm' approach.

The process consisted of two broad phases: an initial period of preparation for the four Tamil staff members (themselves survivors) who would lead the consultation, followed by the consultation itself with a group of approximately 50 male and female survivors.

2.2. Phase 1: Preparatory phase

The preparatory phase lasted far longer than anticipated – six months in total. The original schedule did not account for the personal crises that can arise in people's lives. For instance, one staff member experienced the loss of a parent, making it unrealistic to expect him to tackle such

a sensitive and challenging subject as CRSV during this period. Additionally, the project did not foresee that staff would need to confront their own traumatic experiences of witnessing or directly suffering CRSV during the war.

The safe space created during this phase led to new disclosures from staff, which required time to process, and further delayed the implementation phase. Broadly speaking, anyone working on CRSV with survivors must first become comfortable with the topic themselves. This need was even greater for survivor staff who had been exposed to a multitude of traumatic incidents over decades of war. It is important to note that the consultation process placed demands on staff that far exceeded the usual requirements of an aid project or job, and the grant lacked sufficient flexibility built to accommodate this reality.

Staff prepared for the engagement with the survivors through existing weekly clinical supervision sessions with a psychologist with whom they had a longstanding relationship. As one staff member summarised:

"We had to learn how to support ourselves so that we're able to support others."⁸

During this period, staff also received training in gender and patriarchy from a Tamil-speaking international lawyer and gender expert. They found the training so helpful that they requested it to be provided to the wider group of participants at the outset of the CRSV consultation. They felt that clarifying terminology and concepts related to sex, sexual violence and gender was necessary before the consultation could proceed.

It is also worth noting that throughout the project, staff found it challenging to focus exclusively on CRSV while excluding the multitude of other violations experienced by participants.⁹ They were concerned that this focus risked stigmatising survivors of CRSV or appear to prioritise CRSV above other deeply traumatic experiences. This approach risked sending a message to victims that the international community views sexual violence as the worst violation endured, even though many had suffered profoundly in other ways – such as losing 15 family members in the final month of the war or enduring the ongoing trauma of

⁸ Interview with staff member (April–May 2024) in External Evaluation of the Project.

⁹ According to the External Evaluation of the Project: "Given that the scope of the GSF study on CRSV, a respondent noted that other harms of conflict and ongoing precarity were excluded, entailing that the approach was not holistic or victim-centred."

loved ones being subjected to enforced disappearance. This tension remained a persistent challenge in a study designed to focus solely on one single type of violation.

The preparatory phase of the consultation was rooted in the ITJP's mental health offering and thus, took a predominately psychological approach to reparations from the outset, focusing on the inner repair of victims of CRSV. This approach made sense given the climate of denial in Sri Lanka regarding the extent of CRSV and the low likelihood of more conventional forms of reparation being offered by the government. However, it also skewed the conversation toward psychosocial interventions rather than criminal and non-criminal accountability measures.¹⁰ As a result, tensions later emerged between the legal and psychological approaches to reparations. One key takeaway from this phase is the need to reconcile these twin approaches and the difficulty in doing this.

2.3. Phase 2: Implementation phase

The implementation phase spanned six months and involved 11 large mixed-gender group meetings with survivors. Staff deliberated extensively on whether large group meetings or smaller focus groups were the right approach. The large group format offered the advantage of *"allow[ing] participants to move from a place of internalised individual shame and guilt to recognising the value of group sharing and assigning guilt to perpetrators."*¹¹ Symbolically, the large group represented the wider Tamil community. However, the disadvantage was that some participants, especially women, remained silent until breakout sessions were introduced which encouraged everyone to find their voice and contribute.

The group consisted of approximately 10 women and 40 men, reflecting the composition of the population of survivors of CRSV from Sri Lanka in the UK. They nevertheless focused on the needs of survivors both in Sri Lanka and within the diaspora. This focus was made possible because most had recently arrived from Sri Lanka and had lived there for more than a decade during the post-war period. Survivors also closely follow events in their home country, speak daily to family members

in the villages of the former conflict areas, and can articulate how their diaspora experience has further re-traumatised them.

THE ROLE OF ITJP AND SAST

The ITJP's psychosocial project Support A Survivor of Torture (SAST) was established in 2016 following consultations with exiled Sri Lankan Tamil survivors in four countries. More than 50 per cent of those consulted had experienced CRSV. That year, ITJP conducted a consultation exercise with 75 exiled Sri Lankan victims in four European countries – France, Norway, Switzerland and the United Kingdom (UK) – to contribute to the Government of Sri Lanka's transitional justice consultation that ultimately failed.¹² Among the 75 victims interviewed, 20 were female and 55 were male. 15 victims were civilians, and the rest had some association with the LTTE. Of the total, 37 had been sexually violated. Half the group were refugees, and the other half were asylum seekers. All had left Sri Lanka after 2009 war, and all were Tamil.

The 2016 consultation revealed that survivors of torture in the UK were worse off than those in France, Norway and Switzerland in terms of access to medical and social services, including language classes to help them communicate their needs. Initially, ITJP offered to connect survivors to existing services but found it more effective to provide these services directly. It started with a small pilot programme involving eight people to assess their willingness to attend basic language classes. Seven years after the war, many people, as well as their families in Sri Lanka, had not even had basic medical care for war injuries such as shrapnel wounds. Doctors in the UK were, in fact, horrified by what was revealed in the X-rays of some of the asylum seekers working with ITJP.

Over the years, SAST has discreetly provided material support, English language and art classes, and group and individual counselling. The GSF project marked the first time that people had talked together as a group about their experiences of CRSV. As the time of writing, SAST has lost 90% of its funding and is at risk of closure.

10 The External Evaluation of the Project indicated that "[...] there is some concern here about the preparation being overly focused on individuated, psychiatric interventions in dealing trauma and experiences of conflict and CRSV that were detached from the socio-cultural and political dimensions of conflict as well contextual specificities [...] Vitally, legal and justice-oriented processes require a kind of legibility and language that warrants equal preparatory attention so that staff can grasp the full scope of the programme and are satisfactorily equipped to explain these components and their interconnections to the participants."

11 External Evaluation of the Project (April–May 2024).

12 ITJP, 'Forgotten: Sri Lanka's Exiled Victims' (June 2016) p. 87 https://itjpsl.com/assets/press/ITJP_report_v7.pdf accessed 25 November 2024.

Each meeting began and ended with breathing exercises and meditation conducted in Tamil. These activities bonded staff and participants in a common activity, and were extraordinarily powerful in creating a sense of presence and shared community.¹³

It took a while for survivor participants to understand the purpose of the consultation. In the feedback session, many spoke of being initially confused. Some thought they were expected to disclose the violations they had suffered and said they did not want to revisit traumatic experiences. Staff explained that they were being consulted because of their lived experience as survivors – they were not being asked to recount what happened to them individually, but rather to reflect on the issues with the aim of potentially designing reparations for others in Sri Lanka and abroad.

The staff were aware that mixed-gender sessions might inhibit open discussion of sensitive topics. Over time, however, even taboo subjects such as menstruation were discussed – a development Tamil staff described as an “extraordinary achievement”.¹⁴ It helped that the women participants were an already close-knit group who had spent years in group counselling together and that other external women were present as moral support.

The staff decided the participants would benefit from the same gender and patriarchy training they had received earlier. Dedicated sessions were facilitated by a Tamil-speaking gender expert who travelled from Geneva to deliver the training in person. These sessions were essential for examining language and norms around themes of stereotyping, shame, stigma, and social expectations. According to a later independent evaluation of the project, the training “helped provide a language for structural barriers and violence, recognise gendered power relations and arising inequality, risk and vulnerabilities and articulate individual and collective needs”.¹⁵

However, when the training moved beyond gender and patriarchy to address legal definitions and understandings

of reparations and sexual violence, tensions arose. Splits emerged between the clinical supervisor and other staff, reflecting underlying differences between the legal and psychological approaches. This divergence highlighted the unforeseen challenge of integrating these two disciplines effectively within the consultation process.

Another challenge in the process was understanding how to use the template provided by GSF for the findings report. While the template aimed to standardise the format of results, it was perceived as imposing a certain homogeneity on the reporting process.¹⁶ The staff viewed the framing as:

[...] overtly individualistic, failing to accommodate questions of interpersonal relationships, community, belonging, and relevant cultural and political nuances. There was no recognition of the current and future precarity of participants. Where experiences of trauma are ongoing for many but historicised for the purpose of data collection and conducted through an interrogative and prescriptive format, processes can be damaging and harmful to both participants and staff members who feel responsible for the wellbeing of those they support.”¹⁷

Overall, the consultation process had to be extended to accommodate unexpected developments, including the sensitivity of the topic, the integration of new participants, bereavement, and practical considerations such as train strikes.¹⁸ The process was also adapted in response to emerging challenges. For example, during one session, participants expressed anger over the lack of justice and accountability for the crimes committed by the state in Sri Lanka. In response, an additional session which arranged at short notice, during which the ITJP’s executive director, an international transitional justice expert, explained the work of the UN and other stakeholders on these issues and provided a broader context of accountability. Many participants said they greatly appreciated this session.¹⁹

13 “The involvement of movement and breathing exercises and art and creative activities-related initiatives in these group activities as a mode of expression was greatly appreciated and seemed to provide necessary respite and release to those involved, especially where a trauma-related failure or absence of language among the participants was observed. The breathing exercises at the beginning and end of the meetings and workshops were repeatedly noted as an important addition to this process as it had a calming influence and provided some degree of closure at the end.” [External Evaluation of the Project (April–May 2024)].

14 External Evaluation of the Project (April–May 2024).

15 Ibid.

16 “The data collection framework, practicalities and pressures of project funding and timelines were repeatedly mentioned as challenging. These failed to recognise that victimhood was an even more complex category in this scenario due to participants’ migration status, continued connections to Sri Lankan and collective aspirations of justice and self-determination.” [External Evaluation of the Project (April–May 2024)].

17 VB report.

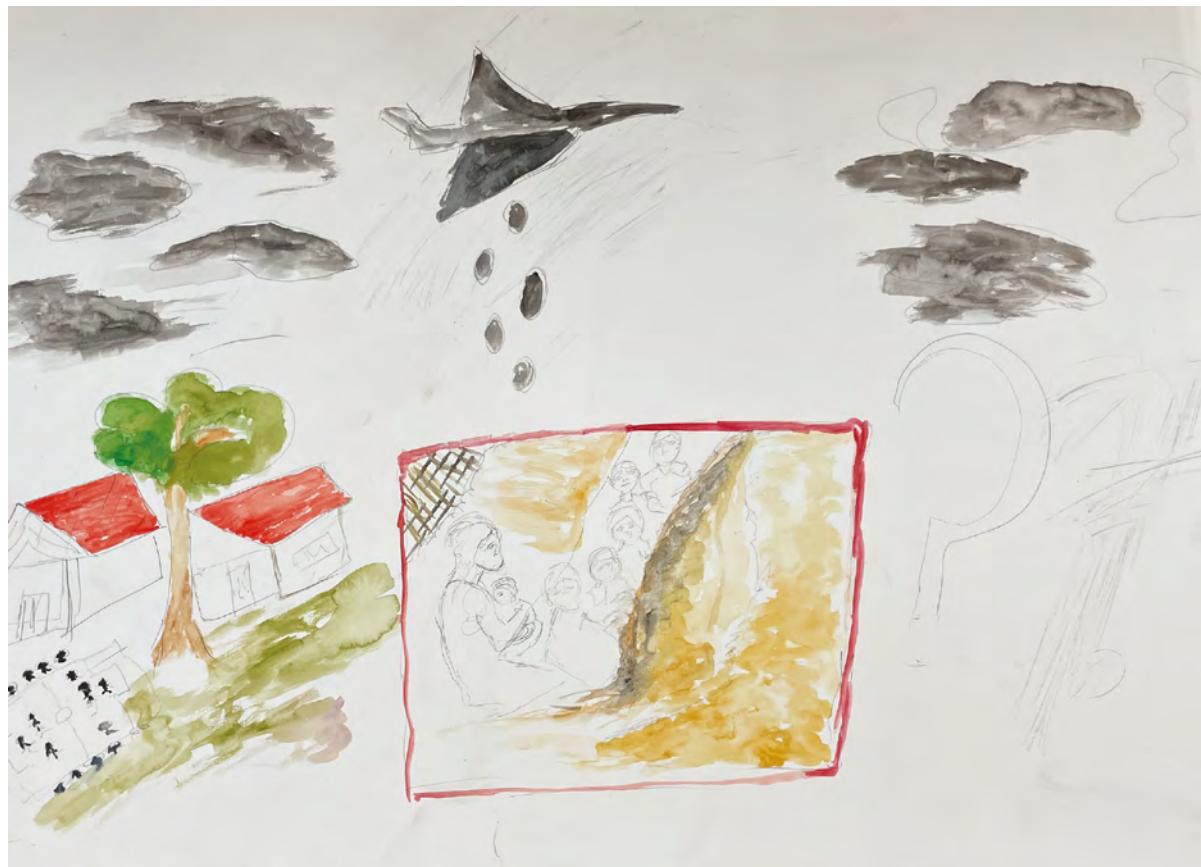
18 VB report.

19 “Those interviewed emphasised how widely appreciated this intervention was, especially in clarifying how these contributions might inform future actions towards accountability.” VB report.

Given that the existing rehabilitation project included therapeutic art and English classes, the teachers were involved in the group consultations. As a result, survivors used word maps and individual and collective drawing/painting during the breakout groups to convey some of the concepts.

The ITJP saw this project primarily as an opportunity to initiate a new and difficult conversation about CRSV in Tamil with survivors – both direct and indirect – thus breaking a taboo. In this regard, the project was successful. The discussions allowed participants to reflect not only on individual trauma but also on collective trauma

and community, and to find some healing in solidarity. However, staff expressed concerns that this was an insufficient outcome, noting the absence of tangible results or conclusions for participants, particularly in relation to the justice and reparations-oriented objectives. The project was concluded by survivor staff due to a lack of funding, though they felt there was still a need for a “longer, more in-depth, careful process” to give some closure to all involved.²⁰ One possible future outcome identified is to share the insights gained from this process with the Tamil community to benefit others, as well as to create “a community-focused handbook by survivors of sexual violence aimed at medical professionals”²¹



Survivors' drawing depicting a family with children taking cover in the rubble as bombs fall from the sky.
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20 “The somewhat arbitrary and abrupt ending to the process necessitated by the funding constraints was repeatedly observed as it demonstrated a lack of care and concern for those involved.” [External Evaluation of the Project (April–May 2024)].

21 External Evaluation of the Project (April–May 2024).

VISUAL INTERPRETATION OF SURVIVORS' DRAWING OF LIFE BEFORE, DURING, AND AFTER THE CONFLICT IN SRI LANKA

"Artwork created during the consultation divided into three sections – representing life before back in Sri Lanka, the present time of now with aridity and nothing able to grow, future life with some people in the water – those who have received their status – and those waiting at the pool's edge.²²

[...] three images in one – the beautiful past in Sri Lanka with nature and a cow, bird in the tree and predominance of the colours green and white. Second is of a bare tree in unbearable heat, where the ground is parched and the bird dying with its nest fallen to the ground. This section is both the present and experiences of torture and sexual violence. The third is the future with life in the UK, technology (shown by a tv satellite dish) and where some participants receive status and some stand, waiting still.

The path through the three images shows the journey. I observed that it narrows as it progresses, perhaps indicting the loss of people along the way [...]”²³



Survivors' drawing of life before, during and after conflict in Sri Lanka.

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22 Session 7. Gmail – MC Notes on 22 and 29 June 23 and 6 July, p. 4.

23 Session 10. MS notes and pictures from 13.7.23 meeting, p. 1.



Survivors drawing to express ideas during consultations.
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3. FINDINGS

3.1. The impact of CRSV on victims, families, and communities

Survivors of CRSV in Sri Lanka are not just survivors of a single violation but rather find themselves at the intersection of multiple violations. Typically, they have been forcibly recruited to fight, repeatedly displaced, bombed, shelled, starved, denied medical aid, arbitrarily detained, tortured, and have witnessed enforced disappearances or summary executions. They are also highly likely to have a family member who has been subjected to serious violations of their rights, including, in many cases, a parent affected during past decades of conflict.²⁴

3.1.1. The multi-dimensional effects of CRSV

During the consultation, survivors described the nature of individual suffering as being rooted in the family and community, as recounted by this staff member:

"They highlighted the multi-dimensional effects experienced by victims, families, and communities on various levels. From their perspective, the physical impact on victims manifests as scars, pain, infections, and even life-threatening breathing difficulties. When discussing the psychological impact of CRSV, they emphasised that victims suffer from stress, fear, frustration, suicidal thoughts, and insomnia. Furthermore, the repercussions extend to the immediate family, and victims also encounter the social impact of social exclusion, stigma, feelings of guilt, and the denial of their rights when they disclose their problems. Economically and legally, victims face unemployment, a lack of justice, viable solutions, and inadequate protection."²⁵

Even physical scars from conflict and torture were viewed in terms of their impact on close family relationships.

Participants in the consultation detailed the types of physical harm they suffered after torture and CRSV, including visible scarring and long-term body pain, which can be severe and exacerbated in cold weather. They also described the impact on their loved ones:

"One participant said that sometimes when he had a bath his son had seen his scars and asked him why he didn't hit back – he always tried to reply, but instead he cried within himself – so it's not just a scar on the body that he has, but scars deep in his heart."²⁶

Those who suffered anal rape – many of them men – described it in terms of the pain of passing stool afterwards:

"We continue to have problems in our body after sexual violence – it is hard to pass stools in the morning – there is pain – we worry we might have this problem forever."²⁷

Women reported incidents where their breasts were targeted during sexual violence, resulting in trauma that causes pain and tenderness, making any form of intimacy uncomfortable. Cigarette burns on the upper arms or back – a common torture practice in Sri Lanka – become visible to everyone when a Tamil woman wears a sari blouse, revealing to the community that she has been sexually assaulted.

The trauma and physical violence lead to conditions where participants described experiencing chronic difficulties in breathing, due to injuries or panic attacks,²⁸ which health professionals may identify as a cultural manifestation of trauma, rather than a standard response. Participants also expressed concern about contracting sexually transmitted infections, which often go undiagnosed due to stigma and the lack of adequate healthcare in Sri Lanka.

24 ITJP, 'Forgotten: Sri Lanka's Exiled Victims' (June 2016) p. 30: 44% of the close family members of torture victims who were consulted for this 2016 study had themselves also been tortured. This included multiple generations being subjected to torture and/or CRSV.

25 RN, 'Reflections on Breakout Group Meeting, Session 6' (25 May 2023) p.1.

26 VL, 'Minutes, Session 6' (25 May 2023) p. 2.

27 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 3.

28 Ibid: "After we have experienced sexual violence our mental state deteriorates or worsens – we have suicidal thoughts, we cut ourselves with knives, we have flashbacks in the day time, heart palpitations, and shortness of breath."



- * I have many scars on my body
- * whenever I see this
- * I remember the tortures again and again
- * I am unable to leave the house
- * mentally physically pain me to commit suicide
- * I can't get out of this

Drawing by a male participant showing 'someone totally isolated from people, not able to live like a normal person'.
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One man recounted the trauma of being sexually abused in front of family members and the long-term impact it has had on him:

"I arrived 7 or 8 years ago and have been attending the counselling for many years. I have unforgettable memories of what happened to me in terms of sexual violence – especially in the army-controlled area when we were checked and sexually abused in front of our brothers and sisters and kids and family members. I am unable to forget [he said this twice] or get rid of this for many years."²⁹

The group reported psychological symptoms such as stress, fear, frustration, suicidal ideation, 'deadly nightmares' and insomnia, as well as loneliness³⁰ and poor self-worth.³¹ One staff member identified a shared sense of powerlessness that everyone felt:

"During the discussion on this we identified that the powerlessness is the common ground which links all of us together although we expressed about our feelings in different ways."³²

Survivors spoke about being socially excluded as victims in the recent post-war period while simultaneously facing a broader array of threats and discrimination:

"As a result of sexual violence, families are separated. When we experience sexual violence, we are marginalised in society, and even if we attend a function or celebration we will be ostracised – others are hesitant to talk to us, and we will always be under the influence of our memories of our traumatic experience. And we still face threats from the army, including threats to our families, and sometimes detention. We experience repeated nightmares about

what happened. Although we were released from detention, [the Criminal Investigation Department] will question us again and again, watching our activities and tapping our phones – we face all sorts of threats. Even if we approach the Human Rights Commission, they do not record our complaints properly. There is militarisation going on in the north, via the army camps, and we are not able to move freely. If we come out of detention in jail, we cannot continue our studies, and they will see and treat us differently. So, we are forced to do manual labour like masonry work. Though we go to the Human Rights Commission they do not document what happened, and so for years and years no action has been taken."³³

Survivors also described facing stigma and 'disgrace', as well as feelings of guilt, alongside the difficulties they encounter in disclosing the crime:

"The impact is like shellshock. It creates a problem for our own family – we are criticised and marginalised by our own family, and society does the same. The way society treats us also has a big impact on victims – sometimes victims have to kill themselves as a result of treatment by society."³⁴

Survivors also cited their problems in finding jobs, their inability to obtain redress and the lack of protection or solutions to problems:

"[...] if you are victims of sexual violence in Sri Lanka, people refuse to give you employment. Sexual violence will directly affect our income. Sometimes we will be forced to accept work we don't like. I feel like I am a victim. I feel shame, and that people will not listen to my voice. Our victim's voice will be refused, or not heard properly."³⁵

29 FH, 'Conversations about Sexual Violence, Session 1' (19 January 2023) p. 1.

30 "We feel loneliness after we came here – we are not willing to socialise with our people, we end up feeling hopeless, in a disturbed state, confused what to do next. We don't talk to people much, we try to be alone, not mingling with others, not hungry" [VL, 'Minutes, Session 6' (25 May 2023) p. 2].

31 "When we experience sexual violence, it happens beyond our ability and strength – we are helpless at the time, we cannot fight against it, and afterwards we have difficulties fighting against things and fear. This has a deep impact on our mental and physical state, and sometimes this experience makes us think we are dirt." [VL, 'GSF Meeting, Session 8' (29 June 2023) p. 3].

32 MK, 'SAST GSF Report' (18 November 2022) p. 9.

33 VL, 'Minutes, Session 6' (25 May 2023) p. 3.

34 Ibid.

35 Ibid.

Further victimisation by Tamil society was raised as a risk by a male survivor:

"It took some time to come back to a normal life. There are lots of difficulties looking for a job and looking after a family. Sometimes, when we are subjected to sexual assault by the Sri Lankan services, other people in the Tamil community try to abuse us and do the same. Even in the workplace we become objects of sexual abuse. We should take the necessary steps to pressurise the Government of Sri Lanka to do something. Workplaces are militarised."³⁶

The trauma is not confined solely to the victim. All the participants expressed a fear about the impact of CRSV on their children: the possibility of passing their trauma down to another generation; or the potential harm to sexual relations between husband and wife, as touch and acts of intimacy inevitably carry associations with the victim's experience of sexual violence:

"Afterwards we find we are unable to function when someone tries to be friendly or touch us in a friendly manner; we feel embarrassed or ashamed or angry as it brings back bad memories of our past experience of sexual violence. It is difficult for us to go into a marriage – it is very hard to enter into this. Sometimes we worry we are infected with an STD as a result of the violence, and we start to think that inside us we have lost the ability to be a man anymore."³⁷

The lack of justice for the crimes suffered returned as a theme again and again. On a flipchart, survivors drew a lopsided pair of weighing scales to illustrate that 'We don't have justice' (see drawing below). They said:

"There is virtually no legal system to deal with victims of sexual violence. The legal system does not have a solution to our problems. And even when we try to make someone accountable, they find another 10 ways to escape the legal system, and perpetrators are not punished, and they have impunity."³⁸

Betrayal trauma emerges when those trusted or relied upon for protection fail to provide it.³⁹ Participants repeatedly expressed deep feelings of betrayal:

"We have a long history of betrayal in our Tamil history. We were betrayed at the end of the war by the UN and other international organisations. We were even betrayed by some of our own Tamil politicians."⁴⁰

The experience of betrayal – whether rooted in the past, present, or the apprehension of its resurgence in the future – was an omnipresent and often unspoken trauma interwoven into the fabric of the group discussions on CRSV:

"People thought the UN would protect them from attacks and intervene. They did not; the Sri Lankan government could not have won the war unless they were supported by the rest of the world. There is a belief that the whole world united itself to defeat us. It was a big betrayal."⁴¹

3.1.2. Collective trauma

Psychologists specialising in the study of war-affected communities in Sri Lanka refer to the concept of 'collective trauma' and its implications for reparative efforts. Their research highlights the importance of addressing trauma at the community level:

"[...] Tamil families, due to close and strong bonds and cohesiveness in nuclear and extended families, tend to function and respond to external threat or trauma as a unit rather than as individual members. [...] Simple interventions at the individual level were not sufficient. The problems at the community level too had to be understood and addressed if the individuals were to be helped. Further, families and communities had to recover if any meaningful socio-economic rehabilitation programmes were to succeed."⁴²

36 Ibid, p. 4.

37 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 3.

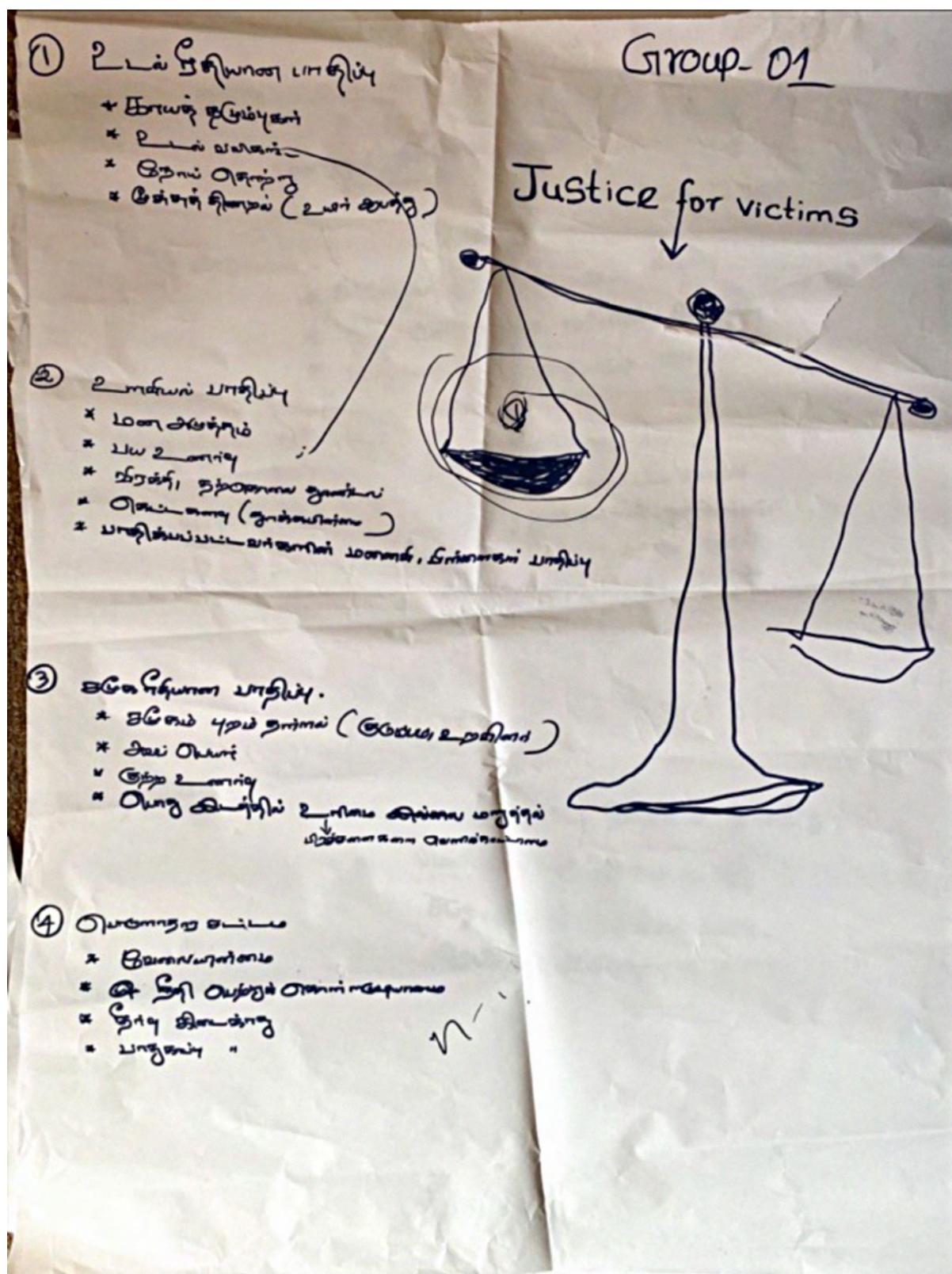
38 VL, 'Minutes, Session 6' (25 May 2023) p. 3.

39 This study argues that the LTTE made use of the concept of a traitor: Sharika Thiranagama, 'In praise of traitors: Intimacy, betrayal, and the Sri Lankan Tamil community' (January 2010), https://www.researchgate.net/publication/293215182_In_praise_of_traitors_Intimacy_betrayal_and_the_Sri_Lankan_Tamil_community accessed 15 November 2024.

40 Staff recollection (29 June 2023).

41 Ibid.

42 Daya Somasundaram, 'Collective trauma in northern Sri Lanka: a qualitative psychosocial-ecological study' (2007) 5 International Journal of Mental Health Systems, pp. 2, 3 and 5.



A lopsided pair of weighing scales and the need to balance it. In the left is a list of physical, psychological and socio-economic impacts. 2023 © SAST

Studies among Tamil refugee populations also emphasise the collective experience of trauma in Tamil society:

"The impact of exposure to war was typically experienced and expressed as a collective, and as presented below, included the sharing of collective memories and identity, collective numbness expressed as becoming 'stone-hearted' and 'thick-skinned,' and collective anger that was seen as leading to creative writing and artistic expression or to getting recruited to fight for the cause. The underlying commonality in these expressions were that participants voiced their distress collectively as 'Tamils' and as resulting from belonging to a group—that is, Tamils as an ethnic group—rather than as individuals."⁴³

3.1.3. Survivors' perceptions and agency

A special group session focusing on survivor agency was held for one week. The discussion on 'agency' triggered deep-seated emotions, culminating in fervent appeals for tangible solutions to an almost intractable sense of betrayal and injustice. One participant in the discussion exclaimed to the counsellor:

"I have lost all the members of my family to the war and the international community did nothing to hold the Sri Lankan government accountable. And you want to talk to me about agency. If the international community did nothing, what can I do? What is the GSF going to do? What is the ITJP going to do? What is the UN going to do? Who has the power?"⁴⁴

This intensity of emotion, at times directed towards one of the counsellors facilitating the discussion, was a powerful manifestation of the survivors' collective sense of powerlessness and betrayal. Their pleas echoed their frustrations with the perceived inaction of international bodies, including the UN and civil society organisations, and their scepticism regarding these entities' roles in seeking justice for the atrocity crimes perpetrated by the state against the Tamils.

The question was repeated over and over again: "Express my agency to who? Who has the power? WHAT does AGENCY MEAN!?"

The group discussions revealed that this feeling of disillusionment was not an isolated sentiment, as it recurred in several discussions:

"You said there has been 40 years of sexual abuse—but there are people in our community who have always known that this sexual abuse was going on. It's been going on for so long now that I don't think anything can be done about it, at this stage, in this room. How can we make a difference after 40 years?"⁴⁵

"Victims are not delivered justice in Sri Lanka; victims are still suffering physically and mentally as the consequences of the violence. Most of the victims are left with no option than to attempt to end their lives by jumping into the wells and hanging themselves."⁴⁶

The group raised the issue of accountability for past crimes. The notion of offering reparations without acknowledging the truth or holding those responsible accountable was distressing. Survivors expressed their frustration with the international community and state authorities, questioning how justice had continued to elude them. They were vociferous about wanting to know whether efforts had been made to address their violations, including issues of truth and justice, asking why the ITJP had not secured a separate state for Tamils.

Survivors repeatedly expressed frustration with the lack of legal redress. A male survivor said: "It is great that all the staff are here not just the victims".⁴⁷ He added that there are many victims of sexual violence in Sri Lanka, and they should raise their voices – that is, speak about their problems and step up to help. He cited legal actions brought against perpetrators and noted:

"The impact of the CRSV remains with us. There is a need to have a permanent solution to repair the damage. We also need to see the perpetrators punished as that will give us some satisfaction."⁴⁸

43 P Kanagaratnam, JA Rummens, and B Toner, "'We Are All Alive... But Dead': Cultural Meanings of War Trauma in the Tamil Diaspora and Implications for Service Delivery' (2020) SAGE Open, 10(4), <https://doi.org/10.1177/2158244020963563>

44 MK, 'GSF Meeting Notes' (14 April 2023) p. 9.

45 VL, 'Minutes of GSF Meeting, Session 7' (22 June 2023) p. 2.

46 NK, 'Feedback, Session 7' (22 June 2023) p. 2.

47 FH, 'Conversations about Sexual Violence, Session 1' (19 January 2023) p. 2.

48 Ibid.

A female survivor also expressed her frustration:

"We are working hard to punish those who are not punishable. There are many people around who could be punished. Even the small fry are not punished."⁴⁹

Survivors noted that legal complaints in Sri Lanka are frequently disregarded or merely recorded on paper without any substantive legal follow-up. As one survivor put it:

"There is no protection for people who experience sexual violence in Sri Lanka because the perpetrators are the Sri Lanka authorities themselves – victims and survivors are not able to take action against them. Victims can only file a case if it is a domestic rape case but not against the military. And even in domestic cases, most perpetrators are fined and [there are only] short sentences such as 3-6 months sentences."

Survivors articulated specific needs to address their ongoing struggles, both in Sri Lanka and in exile. During the consultation the group provided detailed accounts of how their current needs, arising from CRSV, remain unmet, reflecting both their personal experiences as well as the requirements of the wider section of CRSV survivors. The needs highlighted included:

- Access to legal advice and support in exile;
- Access to health services, including timely psychosocial support;
- Access to adequate housing;
- Societal reconnection;
- Opportunities for finding a meaningful role and regaining one's status within the family and community through work;
- Opportunities for personal growth;
- Community integration.

Recognising the urgency of the situation, the counsellors took proactive measures, including requesting that Yasmin Sooka provide a comprehensive briefing on strategies for accountability for serious crimes in Sri Lanka, also situating the ITJP's role within the broader international framework of justice and accountability. She explained the work of the UN Secretary-General's Panel of Experts

in 2010, the OHCHR Inquiry (OISL) established in 2015, the establishment of UN's SLAP accountability project in 2019, as well as the work of the UN Special Procedures, including the Working Group on Enforced and Involuntary Disappearances (WGEID), the Committee on Torture (CAT), and the work of the UN Special Rapporteurs. In her presentation, she outlined how the ITJP had pursued diverse accountability initiatives in the absence of recognition of criminal accountability by the Sri Lankan government. She detailed how the ITJP had used its documentation to file universal jurisdiction cases, civil claims for damages for victims of torture and sexual violence, and sanctions as well as vetting measures.

The presentation was followed by an animated question and answer session, including discussions on CRSV perpetrated during the war. The discussion was significant for survivors as they gained a deeper understanding of accountability measures taken to date and how the statements, documented by the ITJP, had been used in holding the Sri Lankan government to account for the wide array of crimes. The impact on survivors was profound and transformative. One said:

"Having a clearer understanding of how you're leveraging our experiences to hold Sri Lanka accountable, I'm confident more individuals will step forward. We now possess the ability to explain the process, and this knowledge will encourage others to share their stories."⁵⁰

The presentation not only highlighted the importance of survivors' voices in seeking justice but also empowered them by demonstrating that their narratives have the potential to catalyse change. This newfound understanding has the potential to motivate survivors to step forward and contribute to a collective effort to shed light on the crimes committed, promote accountability, and foster healing for both themselves and their community.

A key consideration for survivors in discussing reparations was the denial by the Sri Lankan government and security forces of the violations they had perpetrated:

"We all acknowledge that reparation is impossible when we focus on the Sri Lanka government. How do we begin to talk about the reparations given the disappeared and missing and while perpetrators remain unaccountable [...]."⁵¹

49 Ibid.

50 Staff recollection (29 June 2023).

51 Ibid.



I don't like to see anyone
I don't like to hearing anything
Leave me alone
why?
I am mentally
and physically
affected.

Survivors' drawing on the mental and physical effects of the violence.
2023 © SAST

In the group sessions, survivors expressed their strong desire for criminal accountability and punitive justice, even referencing severe punishment models such as those in Saudi Arabia. However, the obstacles to justice were not limited to the legal system but also included victims' willingness to come forward, as explained by this male participant:

"The honour of the family is of the utmost importance in our society. Without considering the honour, even if the affected people seek legal action, they will not get justice immediately. So, the affected people and their families get frustration, mental exertion and even humiliation."⁵²

A significant issue for survivors was the need for protection, not only for themselves but also for their families in Sri Lanka. These included concerns around ongoing threats, arrests, abductions, unlawful detentions, torture (including sexual violence), and retaliation against their families. Survivors described the retraumatising effect of seeing photographs of violations and stressed the urgent need for the violations to stop:⁵³

"[...] the whole community is affected by sexual violence and what I went through in the final days of the war and when I was arrested by the Sri Lankans – you can see the videos of how the Sri Lankan Army abused women – even the corpses of women. This has a big impact on our community. Regarding Isaipriya,⁵⁴ see how they treated her even after she surrendered. This continues in our community – even recently a close relative of mine was arrested and when the mother approached the authorities, they had tried to sexually abuse her. This is very serious. It still continues – they use sexual violence on our people."⁵⁵

3.1.4. Restoring dignity and confronting denial

Survivors noted that reparations are also about restoring their reputation. They noted that addressing their needs could mitigate the negative impacts of unmet expectations. A significant challenge raised was the lack of funds to meet their health needs, including for

psychosocial support. Survivors also highlighted the importance of education⁵⁶ and employment opportunities for young people who have experienced sexual violence. They explained that, in Sri Lanka, accessing employment as a former cadre or detainee also requires that a victim's good name and reputation be restored.

Survivors expressed the need for the Sri Lankan state and security forces to acknowledge the crimes perpetrated against them. Denial of their complicity in CRSV re-traumatises survivors, exacerbates societal stigma, and intensifies survivors' feelings of isolation and mistrust. This denial makes it more difficult for victims abroad to be acknowledged. As a result, it hinders access to justice, medical care, and psychological support, both within Sri Lanka and in host countries, for refugees seeking reparation and for plaintiffs demanding action against Sri Lanka under universal jurisdiction or sanctions regimes.

The denial of CRSV perpetuates systemic misconceptions and contributes to the intentional rewriting of the historical fact. It manifests in the negation of the crime, casting doubt on the veracity of survivor testimonies. This form of institutional denial not only re-victimises survivors but also fortifies a culture of impunity, hindering the pursuit of justice and the overall healing of society. When survivors see the denial or minimisation of their experiences at the state level, it becomes increasingly impossible for their trust in institutions to be restored.

Survivor participants listed the following needs:

1. Immediate needs for returning to a normal situation:
 - Psychosocial support/counselling
 - Establishing connections with society
 - Protection, and a sense of warmth, love, and belonging (home)
 - Health and medical assistance and advice
 - Yoga and spiritual guidance
 - Legal remedies and justice
 - Affiliation with organisations that provide life guidance
 - Opportunities to gather with fellow victims
 - Identification of the perpetrator(s) and ensuring they are brought to justice.

52 'Minutes, Sexual Violence Workshop, Session 3' (23 February 2023) p. 5.

53 MK, 'FdL Minutes, Session 1' (19 January 2023) p. 1.

54 An identified deceased victim of rape who is Tamil. She was a very well-known figure because she was a TV presenter.

55 FH, 'Conversations about Sexual Violence, Session 1' (19 January 2023) p. 1.

56 Survivors in the UK and abroad face huge barriers in accessing education and employment. Lack of language skills, coupled with their traumatic experiences, stigmatise and exclude. Uncertain legal status often results in survivors being relegated to menial jobs [RN, 'Reflections on Breakout Group Meeting, Session 6' (25 May 2023) p. 3].

2. The need to develop the social, economic and livelihood aspects:
 - A life filled with happiness
 - A safe environment
 - A healthy state of mind
 - Access to quality education
3. The need for remedies from the survivors' perspectives (self-view):
 - Dread/angst: 'Why my existence?'
 - Shame/humiliation
 - Marginalisation/ loneliness
 - Depression/stress
 - Self-guilt
 - Aversion to the environment, location, and individuals associated with the incident and fear
 - Lack of hope/trustworthiness
 - Inability to recover from the shock
 - Deadly nightmares and cruel faces
 - Fear of armed military personnel
 - Anger within our society⁵⁷

3.1.5. Male survivors

Some male participants suggested that in the UK, it would be beneficial to have same-gender staff for important situations such as medical examinations, interpretation sessions, counselling, and appointments with GPs and nurses. They explained that patients might feel more comfortable and forthcoming when communicating with someone of their own gender. However, they acknowledged that in emergencies, the gender of the provider or interpreter may not be as significant, and that it was also necessary to recognise professionals for their expertise regardless of their gender.⁵⁸

3.1.6. Participation and breaking taboos

Being able to participate in a conversation about sexual violence was a completely new experience for the participants, who were clear they couldn't discuss such topics within their families or wider society:

"We don't talk about this to our children and wives, but we have cleared a safe space here."⁵⁹

Other participants noted that this level of openness was only possible after a certain level of comfort had been established within the consultation group, where participants supported one another:

"Male participant: We need to get to know each other, otherwise we can't talk about it.
 Male participant: None of us have talked about it before, we don't want to.
 Staff: We will manage to little by little.
 Male participant: It's hard in front of others.
 Woman Participant: Some of us are shy and scared.
 Staff: How can we move forward without being shy...?
 Male participant: We have moved forward and are able to talk about it.
 Staff: Why couldn't you before?
 Male participant: In our community we don't talk about these things, our feelings are suppressed, and now they are coming out a little bit. Now after the sessions I've realised it's ok to talk about these things, but I'm not sure how others feel.
 Male participant: Back home we can't talk about these subjects at all; even here in our community culturally we don't talk about this.
 Male participant: Culturally we are all tied up and restricted, how can we break that?"⁶⁰

Another male participant pointed out that this sort of engagement was only possible abroad:

"Sexual violence is happening not only for women but also for men. More victims are in our home country than here. Here we could speak about it openly but in our home country there is no atmosphere like here."⁶¹

One survivor spoke of the 'taint' that talking about sexual violence brings to the family of the victim.⁶²

57 'Translation of Presentation, Session 6' (25 May 2023) p. 2.

58 JK, 'Report on Gender and Patriarchy, Session 4' (27 April 2023).

59 VL, 'Minutes, Session 6' (25 May 2023).

60 VL, 'Minutes, Session 5' (11 May 2023) p. 1.

61 'Minutes, Sexual Violence Workshop, Session 3' (23 February 2023) p. 7.

62 Ibid p. 6: "Most people hesitate to speak about this openly as they feel it will make a taint on their family."

However, the gender expert also noted that not everyone abroad had the opportunity to attend such sessions:

"I note those who are absent, as they are working to pay off debts to traffickers or support their families. What is reparations to them when they can't even attend these sessions?"⁶³

Participants who took part said the process of breaking the silence, in itself, had a reparative effect:

"As I am speaking openly now, the burden in my mind is being reduced. Two years ago, I attempted to do suicide three times. But now I can see changes in myself."⁶⁴

3.1.7. Mental health and re-traumatisation

Survivors said that psychological support, such as counselling, should be accessible and should include the right to choose a doctor and/or counsellor, as well as the ability to select the preferred gender of professionals. They said that psychological and physical support, along with opportunities for education, medical assistance and compensation without discrimination, must be provided to enable victims to heal.⁶⁵ One of the counsellors also stressed the need for internal repair as well as criminal accountability:

"For me, reparations primary means internal reparations – helping survivors heal internally and therapeutically. Secondly, reparation also means holding the Sri Lankan regime accountable for these atrocities."⁶⁶

He also added that the onus fell on Tamil society to tackle issues of stigma and treat victims better:

"While challenging the Sri Lankan authorities for the atrocities committed to Tamil men and women (and to others too), we also need to challenge our own Tamil society to treat people affected by sexual violence with more understanding and compassion."⁶⁷

A female participant expressed that more mental health care – whether in Sri Lanka or abroad – would help survivors:

"It is very difficult for victims to come out of this experience – it will be little by little that we can share this experience. If we approach a counsellor, perhaps over time the counsellor would gradually be able to help us repair ourselves. Generally, when we are with other people then we will feel more secure than if we are alone, so if we can have access to mental health services it will help us; as victims we should be able to talk about our experience, only then will we be able to repair ourselves. By talking about our experience, we can bring the perpetrators to justice and punish them."⁶⁸

Concerns were raised about re-traumatisation during the asylum process abroad. Survivors described the distress of having to repeatedly disclose their experiences of torture and/or CRSV. They noted that immigration interviewers often asked inappropriate questions, possibly due to a lack of training or understanding of how to work with traumatised people, as well as insufficient knowledge about Sri Lanka. The use of unknown interpreters in these interviews was also a significant barrier, as it inhibited survivors and stopped them from disclosing experiences of trauma or violence. Survivors also noted the need for interpreters with a strong understanding of the language, slang and regional variations, particularly in the case of Sri Lankan Tamils. Additionally, the issue of those who arrive in the UK by boat being treated differently was also raised: *"We came in a boat and we didn't get recognition."⁶⁹*

3.2. Survivors' views and priorities on forms and modalities of reparations

Survivors were asked to break into smaller discussion groups and then report back to the larger group on their ideas for reparation. Below are the bullet points they came back with as possible solutions, expressed in their own words:

1. "There should be an independent international organisation which victims can approach and make complaints to without being afraid."
2. "The Government of Sri Lanka should acknowledge what is going on and that their people have been responsible."
3. "The perpetrators of sexual violence should be punished – the law should be reformed."

63 PG, 'Notes, Session 3 – Group 8' (23 February 2023) p. 1.

64 'Minutes, Sexual Violence Workshop, Session 3' (23 February 2023) p. 8.

65 Ibid.

66 MK, 'SAST GSF Report' (18 November 2022) p. 13.

67 Ibid.

68 VL, 'Minutes, Session 6' (25 May 2023) p. 3.

69 VL, 'Minutes of GSF Meeting, Session 7' (22 June 2023) p. 1.

4. "There should be psychosocial support for victims."
5. "There should be help to enable them to improve their livelihood."
6. "We should have some education in our community so young people understand about sexual violence and what can happen, as these things sometimes happen with them realising what's happening."
7. "When young people experience sexual violence, they should be helped to continue with their education and should also be given employment opportunities because normally victims are refused employment because the employer thinks it will bring a bad name to the company. The victim should have full access to health services so they can talk to the right people and get help."⁷⁰

Survivors said that the Sri Lankan government did not recognise survivors of CRSV, let alone provide them with help or interim relief:

"If a shop got burnt there was help available in the form of repayments, but there have never been reparations for sexual assault, which was not even acknowledged."⁷¹

They also said that neither the UN nor the international community has provided interim reparations, and the violations continue:

"It still continues – they use the Sexual Violence on our people. My personal opinion is this is a good step – no organisation in Sri Lanka is doing this work for victims so outside, this organisation (GSF) has decided to do meaningful things for victims and so we welcome this."⁷²

3.2.1. Legal complaints in Sri Lanka

Although this was a group now based outside Sri Lanka, they were articulate and well informed about the problems of reporting CRSV within the country. In terms of official complaints to the authorities in Sri Lanka, the group identified these as essential for any legal action to be taken against perpetrators. They said that the police and

the Human Rights Commission of Sri Lanka refused to accept victims' complaints and/or threatened them to withdraw them. In cases where victims have been able to file complaints, either no action is taken or victims are asked the same questions about sexual violence multiple times, re-traumatising them. Another challenge is the use of Sinhala language by the police when taking complaints, leaving Tamil victims uncertain as to whether the complaints have been properly made. Their suggestions to address these problems were as follows:

1. "All obstacles in lodging official complaints must be thoroughly investigated and appropriate action taken. All perpetrators should be served with punishments and no protection granted even for high-ranking officials. Some proposed harsh punishments for the perpetrators as a deterrent: 'If a harsh punishment will be issued for those involved in sexual violence, it will help to stop this incidence. Also, this will protect without happening. It is important.'
2. "In cases of sexual violence, perpetrators' protection and also promotions must be stopped immediately."
3. "Survivor groups in Sri Lanka should be permitted to be in contact with independent organisations and receiving their support when lodging complaints."
4. "Victims highly distrust the police and government forces; victims want independent investigations to support their claims and complaints."
5. "When it comes to punishment, no discrimination should be made, for example where Sinhala complainants are prioritised. Victims should have opportunities to report crimes, be protected when doing so, and strict confidentiality should be kept."
6. "When reporting sexual violence offences, victims must have the right to speak in Tamil rather than through an interpreter."
7. "In Sri Lanka there is a long history of sexual violence and suffering. Putting pressure on Sri Lanka and sanctions on government officials (mentions names) through ITJP and international governments will put fear to perpetrators."⁷³

70 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 7.

71 VL, 'Minutes, Session 6' (25 May 2023) p. 1.

72 FH, 'Conversations about Sexual Violence, Session 1' (19 January 2023), p. 1.

73 VL, FdL and NK, 'Combined Minutes, Session 10 – GSF Meeting' (13 July 2023) p. 7.

3.2.2. Prevention

Several survivors said they wanted to stop the ongoing use of CRSV against future victims in Sri Lanka:

"We couldn't find the solutions to sexual violence. The damage is done. We can only improve ourselves and prevent this from happening to others. After the violation we couldn't stand in front of and look ourselves in the mirror and now we can. This is a great achievement."

*"We must seek legal assistance for sexual violence and trauma, to prevent this happening to other people and so therefore we also need to bring what's happened to the attention of the international community. Finally, we should receive assistance to improve our livelihood and so improve our lives."*⁷⁴

3.2.3. Security and witness protection

In light of the proposed Truth and Reconciliation Commission (CTUR – refer to Section 9, Annex 2), the need for witness protection for survivors in Sri Lanka was emphasised.

*"There is no protection even in the place where the protection should be provided. A woman committed suicide [...] as she was sexually abused by police when she went to complain about an offence."*⁷⁵

*"Most people don't know where and to whom to complain about it. There are incidents in which even the police who are responsible to take action have misused and sexually abused the victims."*⁷⁶

Others emphasised the importance of victims being brave enough to seek justice:

*"How to take action if the victim did not come forward to complain? Like here, awareness about this should be brought in our home country through posters, and media advertisements. The law doesn't always bring about justice. Sometimes, the lawyers' power of argument makes it impossible to get justice for women. So, parents must nurture their children, especially male children with discipline from childhood."*⁷⁷

3.2.4. Advocacy and sustaining momentum

The relationships and interactions between and among people in the group, based on their gender, have been shaped by their socio-cultural ideas and the power relations that define them:

*"Approximately 50 survivors and staff sat in a large circle in the church – at the beginning there was misunderstanding and trepidation, people's knees or hands were trembling or twitching with nervousness. The women initially self-segregated – many listened with tears in their eyes which in itself told the whole gathering of predominantly men that they too were victims."*⁷⁸

Once trust and confidence in the process had been achieved, the male and female survivors stood together in a group as the survivors of CRSV presented their findings. While initially silent, by the last three sessions, the women had taken on leadership roles, guiding many of the processes.

*"The big open group was very useful, regardless whether female or male, it was openly discussed and views given and presented in the large group. After attending all the sessions, I had clarity but was anxious but also had good knowledge and came out of it feeling less anxious and fearful."*⁷⁹

The art teacher referred to a conversation in which a female survivor told her, "[...] how profound this process has been for her and that she 'liked herself now'"; another participant said, "[...] it has made a deep change in our Sri Lankan selves".

There was a palpable sense of achievement in coming together as a mixed gender group to discuss a taboo subject:

1. "We are the victims of torture and sexual violence but for the first time we were given the opportunity to talk about it in these sessions. It is really appreciated – we men and women gathered together and discussed the sensitive topic. In the past I was feeling ashamed even with my friends but after this I also realized it is not my fault to be ashamed of what has been forced on me. So I feel relieved and that I came out of it. Thank you everyone for spending time and making this happen to me."

74 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 5.

75 Ibid.

76 'Minutes, Sexual Violence Workshop, Session 3' (23 February 2023) p. 7.

77 Ibid.

78 FH, 'Conversations about Sexual Violence, Session 1' (19 January 2023) p. 1.

79 MK, 'GSF Meeting Notes' (14 April 2023) p. 12.

2. "The achievement here in this group is that we – men and women – gathered and talked about sexual violence. In Sri Lanka it is still going on and the authorities use sexual violence as a weapon against Tamils. We discussed these topics. Sometimes it evoked emotions and different feelings and we felt hurt – even then the other participants and the staff were very supportive. I see this as a space where we can talk about very sensitive and difficult experiences which cannot be done openly so I should thank everyone who set it up."
3. "We discussed how we can recover from sexual violence. We need to have a safe environment for support – we need to understand this is not our fault, it has been imposed by someone else – we must not lose our dignity and self-respect. We should not stay away from people. We need people who can help us, not people who criticise and disrespect us. We need to look after ourselves after this violence: we might have injuries, our bodies might be affected, we might be affected mentally – we must seek assistance and not keep everything inside us. We have to prepare ourselves to move on in our lives – we shouldn't be thinking about the past – instead we must take the initiative, move on, focusing on education, employment opportunities, etc."⁸⁰

One of the staff members announced to the gathering:

*"[...] this is a very special moment for us and our community – up till now men and women have not been able to discuss these topics on an equal footing – we have already arrived at a [very] special place – but we have to take it further."*⁸¹

Survivors were elated by the progress made in opening up a conversation on a taboo subject but wanted to know how the process would look moving forward:

***"We hope for strong support from ITJP in order to take this matter to the international arena to express our suffering and hardship."*⁸²**

The group wanted to continue the discussion, but said they needed to:

- Consolidate and strengthen the efforts of ITJP by working with other survivors;
- Collaborate with survivors, victims and witnesses from other groups to find the truth. For example, by collecting testimonies and giving evidence to help prevent violence against others.

The need for education on the issue of sexual violence was also emphasised by a female survivor who wanted to help others:

*"After attending I was able to understand the difference between men and women and the impact of sexual violence is actually the same on men and women. It's an important fact. In our culture as you know men and women are affected by sexual violence but women are treated worse as victims of sexual violence. After these sessions I hope everyone understood that the extent of the impact is the same for men and women. So in our community sometimes people approach victims with sympathy but for most victims we are seen as the embodiment of humiliation. I expect sexual violence victims should be treated with respect and given regard and the right level of care and assistance to recover. Sexual violence perpetrators are mainly the Sri Lankan army or soldiers but at the same time we also experience sexual violence within our community from our own people – it happens at different levels in schools with teachers with people in the community. We should have a good education about sexual violence and these topics then we can change the situation in our community. We have a certain number of people here – if we try to help ten people each then they can help more so by doing so we can bring a big change in our own community. We shouldn't feel ashamed or embarrassed talking about sexual violence – we should talk about it and help other people. Thank you ITJP."*⁸³

80 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 5.

81 Ibid p. 7.

82 Ibid p. 2.

83 FdL, 'Notes, Session 11 – GSF Meeting' (27 July 2023) p. 3.

A male participant was also keen to use his experience to help new victims:

"Based on our cultural structure people say 'don't talk about this don't talk about this don't talk about this' so we have to bury this in ourselves. Now you gave us an opportunity to talk about this and come out of the impact. As a result of this project, we have a good awareness about conflict related sexual violence. And as far as how do we help the next group of participants who join the project – I think we can help them as victims. My expectation is that this violation should not be repeated – the perpetrators must be punished to prevent future violence. Sadly, conflict related sexual violence still continues in Sri Lanka and there is no stopping."⁸⁴

Another male participant wanted to reach out to survivors in other countries beyond Sri Lanka:

"I want to thank ITJP for the chance to share our feelings about the hard times we had – no other organisations have given us this opportunity. We have a history of torture, sexual abuse and suffering over 40 years in our country, but no solution. We are aware we need to improve our knowledge in terms of technology and science, so we can bring this problem to the arena of international politics, science, technology, and law etc. There are many survivors in other countries today – we should reach out to them and bring them into the discussion. We need legal advice on how we can move forward with this issue in the country we are living in – we need help understanding the laws here in the UK."⁸⁵

Overall, this participatory approach has led to a new willingness on the part of survivors to speak out if the right environment is created:

"Unless victims speak out about the violence, the violence will continue. We need genuinely safe protection because at the moment people will come to help and say they are protecting us but then again abuse them. We have a good safe environment here at ITJP – we can expect that here. We should thank ITJP, but we have no words to thank them – they are not just building a home – we are using our feelings and emotions to build something for us – it's very difficult – I would like to thank ITJP for doing it so carefully and slowly."⁸⁶

Two survivors from the group went on to attend a US government consultation on the needs of CRSV survivors in The Hague in 2023 – something that wouldn't have happened without the GSF project.

3.2.5. Memorialisation

One of the issues discussed was what kind of memorial the survivors would want to see, and where. What transpired was a depiction of a sculpture that survivors had seen in Mullivaikkal – blue hands reaching out from a rock representing war victims. Very initial conversations also touched upon a Tamil monument destroyed by the army, or focused on two hands holding up a rock – signifying the strength of the Tamil people.

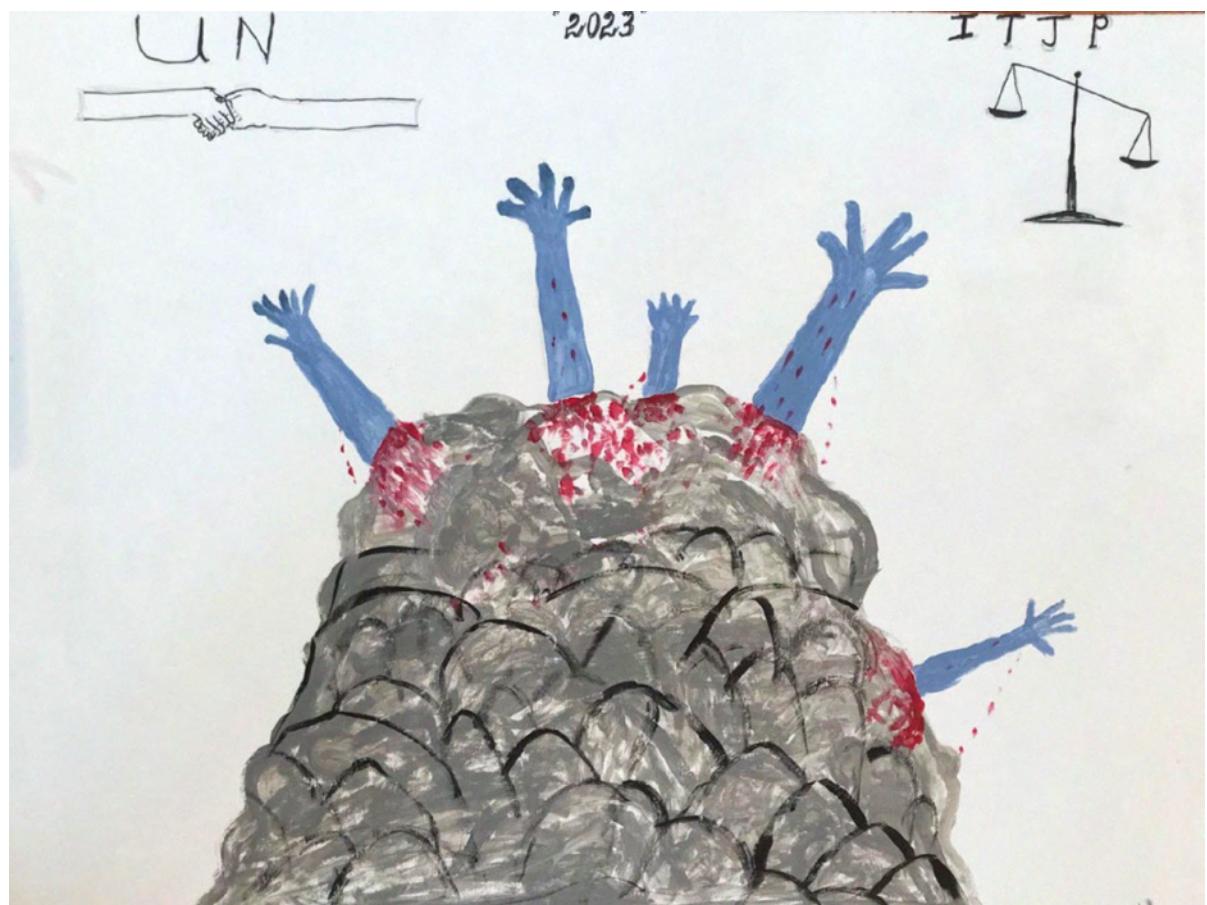
"The second image they created (below) indicates that, although there is a forum from the GSF to move towards modes of reparation and repair, we are not yet at that stage of healing. It suggests that there is more yet to surface of stories and pain and what people have been through."⁸⁷

84 Ibid p. 5.

85 VL, 'Minutes of GSF Meeting, Session 8' (29 June 2023) p. 2.

86 Ibid.

87 MS, 'Notes and Images, Session 10 – GSF Meeting' (13 July 2023).



Artwork from the consultation process depicting a possible monument for survivors.
2023 © SAST



4. RISKS AND SECURITY ASSESSMENT

In summary, the main risks identified by participants were:

Persecution of Tamils after the end of the war: While the war may be officially over, the conflict continues through the ongoing persecution of Tamils. From a psychosocial perspective, the continued oppression of Tamils, even after the end of the civil war in 2009, signifies deep-rooted structural and systemic issues of impunity, triumphalism, and lack of security sector reform.

This oppression is compounded by deliberate state actions aimed at eroding the distinct Tamil cultural identity, resulting in collective cultural trauma. Of particular concern is the targeted surveillance of rehabilitated former LTTE members and civilians peripherally associated with the LTTE, which perpetuates a climate of mistrust and fear. Persistent harassment, threats, and intimidation against Tamils exacerbate the collective psychosocial distress.

Young activists with no connection to the LTTE who have protested against the Sri Lankan government are constantly targeted for rights violations. They are often detained and subjected to psychological and physical torture on the mere suspicion of LTTE affiliation, including accusations of wanting to revive the LTTE.

The trauma is transnational; families of those who have sought safety abroad are ensnared in an ongoing cycle of threat and surveillance. Such conditions lead to heightened anxiety among the Tamil diaspora, with many fearing even remote communication with their families because of potential reprisals against family members.

Survivors identified the continued militarisation of the former conflict areas as a major problem for them and their family members:

"The presence of armed personnel threatens the lives of survivors, and this risk extends not only to the survivors themselves but also to their family members and neighbours, who face intimidation and potential harm. The establishment of numerous military camps in the area imposes

restrictions on movement for both men and women, especially during the night. This situation makes them feel fear among survivors as they are concerned about potential threats such as abduction, arrest, and sexual violence/abuse, particularly when they have to travel at night."⁸⁸

Being marginalised and excluded by family members/society:⁸⁹ For example, survivors reported being subjected to exclusion and 'hated glances' (indifference, difficulty in making friends, exclusion from auspicious events).

"They discussed a deeper exploration of the profound concern and distress experienced in which, beyond the trauma and pain caused by CRSV, they were compelled to endure the distressing impacts of their families, communities and the military. They expressed their suffering of facing intimidation from the military or CID, family pressure, and marginalisation from their own families and communities. Consequently, they experience feelings of shame and isolation, along with the burden of stigmatisation. The group emphasised that the recurring nightmares further exacerbate their suffering, evoking fear, while they carry a profound sense of guilt and shame. It was stressed that these factors intensify the survivors' suffering and lead to self-harming tendencies and suicidal thoughts."⁹⁰

Limited educational opportunities and high unemployment rates: Survivors of CRSV often struggle to rebuild their lives due to limited access to education and employment. These barriers are compounded by the stigma and discrimination they face within their communities, which marginalise them further. As explained by survivors:

"[...] present significant obstacles to survivors' ability to lead normal lives. CRSV survivors frequently face challenges in finding decent employment due to the stigmatisation associated

88 'Breakout Group Meeting Summary – Exploring Themes and Outcomes' (25 May 2023).

89 "We all experienced the risk, but that risk is threatening to our life as we are the CRSV victims, we all one point or another, faced a lot of risk and intimidation. We felt shame to attached with the families as we had been affected by the CRSV. we would be avoided the good and auspicious even into relatives, family also seen us in differently, we prefer to been alone, neighbours also marginalised us even without knowing what had happened." "Translation of Presentation, Session 6" (25 May 2023) p. 3.

90 RN, 'Reflections on Breakout Group Meeting, Session 6' (25 May 2023) p. 3.

with their identity within the community, often resulting in forced employment in unskilled labour positions. The shame and isolation imposed by the community further impede their access to education and their right to pursue it.”⁹¹

Self-harming and suicidal ideation⁹² and being haunted by distressing memories and fear:

“Group four discussed the ‘survivors’ view of their own remedy and risk’ to consider their own healing and remedy as crucial, such as addressing shame, marginalisation, depression, self-guilt, fear, lack of hope, and loss of trustworthiness. They expressed concerns about the presence of armed military personnel and the prevailing anger within society. Remembering memories and the fear they experienced led to terrifying nightmares that intensified the anxiety.”⁹³

In addition to the trauma of CRSV inflicted on survivors by state-sponsored violence, the impunity enjoyed by the security forces – despite their complicity in gross human rights violations during the three-decade-long civil war – has had a profound impact. Furthermore, the government’s denial and lack of accountability for serious crimes, including CRSV, has resulted in an overwhelming sense of guilt for survivors who feel responsible for having been sexually violated, deepening feelings of shame, isolation, and stigmatisation. Most survivors described feeling guilty for being alive, which aggravates their anguish, and pushes some toward self-harm and even suicide.

Restricted freedom of movement for both women and men (military camps, patrol actions, incidents of white van abductions,⁹⁴ frequently used during, and after the conflict and currently used to seize men and women and take them to unknown places of torture). The establishment of numerous military camps in the area restricts the movement of both men and women, especially at the night. This situation creates a sense of fear as they are concerned about potential threats such as night-time abduction, arrest, and sexual violence/abuse.

Structural violence and impunity: The collective memory of the Tamil people, stemming from the civil war in Sri Lanka and characterised by gross human rights violations, including CRSV, committed by the Sri Lankan Army, forms a significant facet of their shared social reality. As one survivor said,

“We, Tamils have suffered from long history of sexual violence in the hands of Sri Lankan Authorities. As [a staff member] mentioned, we have the violence going on for more than 40 years.”⁹⁵

Their ongoing persecution at the hands of the government and security forces is perceived as structural violence aimed at annihilating their identity:

“Mainly the Sri Lankan authorities play key role committing mass and grave sexual violence on our community. This is systematic and deliberate on our community, mostly taking place as part of the torture in order to destroy the morale, unique and cultural identities of Tamils and to humiliate the individuals and for their sexual gratification.”⁹⁶

91 Ibid.

92 “Terrifying by the nightmares, which intimidate and mentally make us anxious, which stimulates to involve self-harming and other suicidal thoughts.” [Translation of Presentation, Session 6’ (25 May 2023) p. 3].

93 RN, ‘Reflections on Breakout Group Meeting, Session 6’ (25 May 2023) p. 2.

94 ITJP, ‘Silenced: Survivors of Torture and Sexual Violence’ (2016) p.11 <https://itjpsl.com/assets/Silenced-jan-2016.pdf> accessed 15 November 2024: “Being ‘white vanned’ has become shorthand in Sri Lanka for abduction by the security forces. The vehicles, usually HiAce and white in colour, belong to the country’s police and military intelligence services. Usually between three and five plain clothes officers are involved in the initial abduction. There are rarely witnesses except sometimes the immediate family. Though the abduction has been planned and the victim specifically targeted, the officers generally check the identity of the detainee, asking for an identity card, before bundling them, blindfolded and handcuffed, into the back of the van. ‘White van’ detainees are almost always kept in solitary confinement so their accounts cannot be corroborated by each other. Those who survive and are released are handed over to relatives in exchange for money in remote quiet spots where nobody can witness the exchange. The victim is always blindfolded until arriving at the predetermined release site. Generally, victims do not seek medical attention after being abducted in a ‘white van’ even though all badly need it [...] The notoriety of ‘white van’ abductions has become so ingrained in Sri Lanka that politicians openly refer to the practice.”

95 Project Manager, ‘Notes, CRSV Session’ (22 June 2023).

96 Ibid.

The discourse in the sessions was that such acts of violence are not merely individual acts of sadism, but structural violence intended to send a message of dominance and subjugation. In essence, the public and brutal nature of these violations serves as a powerful message to the entire Tamil community, aimed at reshaping their collective consciousness and denying their humanity by instilling fear and feelings of degradation and powerlessness. That helplessness was expressed in the following way:

“Most of the victims are left with no option than to attempt to end their lives by jumping into the wells and hanging themselves. Let’s think together as a community as to how we can change this.”⁹⁷

Fear within the Tamil community – revealed in the early stages of the GSF process – is exacerbated by the fact that perpetrators remain unpunished and continue to hold positions of authority in the public sphere. The continuity of power and state repression against the Tamil community serves as a constant reminder of their traumatic past, reinforcing the idea that Tamils are a subjugated people, living under the shadow of a triumphalist government.



5. CONCLUSION

The insights presented in this report underscore the critical importance of addressing the reparative needs of survivors of conflict-related sexual violence in Sri Lanka. Through this two-year participatory process, the ITJP has amplified survivors’ voices, highlighting the profound impact of the civil war on their lives, their strength, resilience and an unwavering demand for justice and reparations. In the annexes below, the report contextualises the conflict-related sexual violence in Sri Lanka and identifies existing opportunities within judicial and administrative frameworks to pursue survivor-

centred reparations, while strongly emphasising the urgent need for the Sri Lankan Government to prioritise these measures.

This report is a call to policymakers, advocates, and the international community to ensure that Sri Lankan Tamil survivors’ rights are upheld, and their needs are placed at the forefront of reparative efforts. This, however, comes at a time of massive cuts to international aid budgets. The SAST project has lost most of its funding and is now at risk of closure.

97 Ibid.



ANNEX 1: POLITICAL CONFLICT AND CONTEXT

Key points

- Abduction, torture and sexual violence by the security forces against Tamils in the former conflict areas has continued since the end of the war in 2009 – this has been corroborated by the UN, including in its latest 2024 report.⁹⁸
- CRSV has been used by state forces and their allies for decades, in multiple conflict eras and areas, and as a result has destroyed the lives of multiple generations in Sri Lanka, both men and women.

1. The conflict nexus

A key issue is the conflict nexus for post-war incidents of sexual violence that occur many years after the guns have fallen silent.

Although Sri Lanka declared victory over the LTTE in the war in May 2009, the conflict against Tamil civilians continues. The UN Secretary General's Panel of Experts, in its March 2011 report, highlighted ongoing issues such as “exclusionary policies, [...] the continuation of wartime measures, including not only the Emergency Regulations and the Prevention of Terrorism Act, but also the continued militarization of former conflict zones”, creating a climate of fear, intimidation, and violence.⁹⁹

The conflict nexus is downplayed by those who argue that torture and sexual violence are routine occurrences for all communities in police detention. This perspective overlooks the role of the military in perpetrating sexual violence during the war and post-war periods. It also fails to acknowledge the way in which Tamils connected to the conflict, and later the accountability processes for the conflict, have been systematically targeted, abducted, tortured and sexually violated. These acts occurred under a clandestine ‘black’ system that places Tamil victims outside the protection of the law.

Additionally, many victims of post-war sexual violence are ex-combatants or associated with ex-combatants or the former LTTE administration. Typically, they are targeted

for abduction after campaigning for accountability for war crimes or protesting about disappearances, and are routinely accused by security forces illegally detaining them of trying to ‘restart the LTTE’.

In 2024, the northeast remains heavily militarised, with intensified security and slow return of land to Tamils. The lack of security sector reform has shielded security forces from accountability for ongoing violations against Tamil civilians, who continue to face abductions, arbitrary detention, torture, sexual violence, and disappearances. Tamils have not been allowed to mourn their dead or commemorate anniversaries of the war. Instead, they continue to be persecuted, tortured and subjected to sexual violence, reflecting a policy of triumphalism aimed at spreading terror, shifting the ethnic balance, enforcing population displacement, and rewarding security personnel.

This direct link between the war crimes committed during the final phase of the civil war and the ongoing violations, perpetuates a silent conflict against Tamils. This reality is further underscored by the UN reports referenced below.

2. Denial

The Government of Sri Lanka has consistently downplayed allegations of rape and sexual violence by the security forces.¹⁰⁰ Dismissing allegations by a UN agency in 2009, a senior government official said there was ‘a lot of sex’ in the internment camps, but claimed that most reports were of abuse by fellow detainees. In an interview with Al Jazeera in 2013, the Commander of the Security Forces in Jaffna laughed off reports of torture, abduction, and rape. “I suppose my smile tells the story”, he said, suggesting that such ‘lies’ were fabricated by those hoping to gain asylum abroad.¹⁰¹ Such denial, coupled with offensive remarks, typifies the Sri Lankan security forces’ attitude toward these allegations.

Despite an array of fact-finding panels and accountability processes, widespread impunity for perpetrators is entrenched and perpetuates structural violence in

⁹⁸ UNHCHR, ‘Situation of human rights in Sri Lanka. Comprehensive report of the United Nations High Commissioner for Human Rights’ A/HRC/57/19 (22 August 2024), para. 27.

⁹⁹ UNSG, ‘Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka’ (31 March 2011) p. vi <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20Rep%20on%20Account%20in%20Sri%20Lanka.pdf> accessed 19 November 2024.

¹⁰⁰ UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) para. 581.

¹⁰¹ Ibid, para. 583.

Sri Lanka. Allegations of sexual violence have been met with derision and denial in a general climate that has no intention of addressing accountability for these violations or providing any measure of justice for survivors. This undermines the inalienable right of victims to truth, justice and reparation – an established norm of international law.¹⁰²

Responses to international calls to address the issue have been largely superficial, adopting a tick-box approach. For example, as part of the post 2015 transitional justice initiative, the UN asked Sri Lanka to issue instructions to its security forces not to commit sexual violence.¹⁰³ The Sri Lankan Ministry of Defence issued a letter¹⁰⁴ in English that never mentioned the issue, but spoke vaguely of 'allegations which have surfaced from time to time on offences committed by Armed Forces Personnel'. There was no mention of sexual violence and no translation into Sinhala, ensuring it would have zero impact.

Another questionable move, was Sri Lanka's inclusion in the UN's Circle of Leadership on the prevention of sexual exploitation and abuse in peacekeeping, despite having never held a single soldier criminally accountable for the systematic child sexual exploitation and abuse perpetrated by Sri Lankan peacekeepers in Haiti from 2004-2007, as investigated by the UN.¹⁰⁵

In Sri Lanka, denial also involves obscuring or overlooking the ethnic dimension of the sexual violence and its relationship to the conflict, and conflating it with domestic violence.¹⁰⁶ While issues like marital rape and domestic violence are extremely important and may, in part, be consequences of the conflict, they are distinct from what is meant by conflict-related sexual violence.

3. Documenting CRSV in Sri Lanka

The main organisations that have publicly reported on CRSV in Sri Lanka are the OHCHR and UN Special Mandate Holders, Human Rights Watch, Freedom from Torture and the ITJP. Additionally, human rights groups in Sri Lanka have been quietly gathering information on CRSV, which is more commonly described as sexual torture. These groups have collected affidavits from survivors over the decades as part of legal and social support processes. Some of the testimony dates back to the 1980s and provides specific details of locations, documenting rape and other forms of sexual violence by the army and police, which could be used to identify alleged perpetrators if matched with security force records. However, as time passes, this becomes increasingly difficult.

In recent years, very detailed testimony and supporting medical evidence have been collected mainly by international groups from predominantly Tamil victims who have fled the country. Surprisingly, seeking asylum has given rise to suspicion regarding the survivors' motivation for disclosing CRSV and an irrational disbelief of the evidence, simply because it is collected outside of Sri Lanka; most victims who fled the country after the end of the civil war do not disclose their violations while in Sri Lanka due to security concerns, which could result in re-victimisation for themselves and their families. Additionally, most human rights organisations inside Sri Lanka do not document sexual violence for criminal accountability purposes because of the security risks, not only to themselves but also to the family members of survivors who have fled the country. This lack of recent documentation of sexual violence inside Sri Lanka has led to further denial, resulting in further marginalisation and victimisation of survivors abroad.

102 See UN Commission on Human Rights, Diane Orentlicher, 'Report of the independent expert to update the Set of Principles to combat impunity', E/CN.4/2005/102 (18 February 2005) <https://www.refworld.org/reference/themreport/unchr/2005/en/37943> accessed 12 June 2024.

103 Follow up to the recommendations made by the Working Group on Enforced or Involuntary Disappearances, following its visit to Sri Lanka in November 2015: "77. *The Working Group recommends that the Government of Sri Lanka: (a) Take decisive actions and give clear orders at the highest level to stop surveillance, threats, intimidation, harassment — including sexual harassment — and abuses against relatives of disappeared persons and those acting on their behalf*" [UN Human Rights Council, 'Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka' A/HRC/33/51/Add.2 (8 July 2016) paras 77–84 <https://docs.un.org/en/A/HRC/33/51/Add.2> accessed 12 June 2024]; UN Human Rights Council, 'Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka' (10 February 2017) A/HRC/34/20 para 66a <https://docs.un.org/en/A/HRC/34/20> accessed 12 June 2024: "Publicly issue unequivocal instructions to all branches of the military, intelligence and police forces that torture, sexual violence and other human rights violations are prohibited and will be investigated and punished."

104 Ministry of Defence, *Circular Instructions from the Secretary to the Heads of the Armed Forces* (18 March 2016) MOD/DEF 2/1/620 (on file with ITJP).

105 United Nations, 'Membership of the Secretary-General's Circle of Leadership' (1 November 2023) <https://www.un.org/preventing-sexual-exploitation-and-abuse/content/membership-circle-leadership> accessed 28 May 2025; ITJP, 'Sri Lanka is not a world leader in the Prevention of Sexual Exploitation and Abuse' Statement Protesting Sri Lanka's Inclusion in the UN Circle of Leadership (19 September 2017) <https://itjpsl.com/assets/press/UN.pdf> accessed 28 May 2025.

106 A striking example of this was an event hosted by the British High Commission in Colombo to mark the UK's Global Summit to End Sexual Violence in Conflict in 2014. The keynote speaker was from the majority Sinhala community and focused on marital rape, conceding from the outset that, 'My story is a little different to sexual violence in conflict' [Anoja Weerasinghe, 'PSVI Sri Lanka Event: Veteran actress speaks about sexual violence' (11 June 2014) <https://www.youtube.com/watch?v=RqGBn92X7qg>].

While there are Sri Lankan NGOs that support survivors of CRSV and acknowledge its occurrence, they are unable to address it openly due to the heightened environment of intense insecurity. It is unsafe for organisations working in Sri Lanka to spend days collecting testimony that names or implicates alleged perpetrators still in power. While a number of lawyers focus on trying to get their clients released from detention, they indicate that it is impossible to take detailed witness statements about ongoing sexual violence during detention. Victims abroad repeatedly state that they are able to testify about their violations only because they are safe from reprisals by the security forces:

*"If people were to speak out from Sri Lanka they would be signing their own death warrant. I have an opportunity to do this as I am outside Sri Lanka."*¹⁰⁷

Domestic advocacy reports by Sri Lankan NGOs often focus on defining the legal aspects of CRSV rather than documenting specific occurrences of CRSV,¹⁰⁸ although they do highlight 'sexual bribery' as a problem for women.¹⁰⁹ Several NGOs have advocated for alternatives to criminal justice for survivors of CRSV – acknowledging pursuing accountability in the current political context is not feasible, and that "CRSV victim survivors must be provided with support systems and forms of relief to move on with their lives until justice and accountability can be achieved."¹¹⁰

Since 2014, the ITJP has been documenting CRSV in Sri Lanka for the purposes of truth recovery and criminal accountability, bringing the issue to the international stage. International experts working for the ITJP have conducted four day-long witness interviews with survivors abroad, whose testimony is supported by independent medico-legal reports by specialist doctors and psychiatrists from organisations such as Freedom from Torture in the UK.

Notably, Freedom from Torture has reported that Sri Lankans have constituted their largest case load for many years post-war. The ITJP's testimony and case files have also supported numerous UN processes related to Sri Lanka.

4. The conflict

4.1. The civil war

The victims who participated in the GSF consultation were Sri Lankan Tamil men and women who had experienced the war. Some were former combatants, many of whom had undergone a so-called 'rehabilitation' process in Sri Lanka that typically involved arbitrary detention and torture; others were civilians.

Sexual violence, while consistently under-reported during the civil war, peaked at the end of the fighting in 2009 when thousands of former combatants were taken into state custody where they were vulnerable to sexual violence. There was also considerable sexual mutilation and desecration of corpses in the context of the end of the conflict, which the UN investigated through photographs and videos of primarily female victims.¹¹¹

The end of the war in 2009 did not mark the end of sexual violence. Reports continue to this day of systemic and widespread intimidation, torture, sexual violence, arbitrary detention and abductions.¹¹² Impunity and denial have persisted for many decades, prompting the UN High Commissioner for Human Rights in 2021 to state that:

*"Sri Lanka remains in a state of denial about the past, with truth seeking efforts aborted and State officials at the highest level refusing to acknowledge past crimes."*¹¹³

107 ITJP witness statement.

108 This OHCHR- and UN Peacebuilding-funded report by the Centre for Equality and Justice is a prime example: although it draws on examples from multiple countries, it omits Sri Lanka itself despite its title: Centre for Equality and Justice, 'Defining Conflict-Related Sexual Violence in Sri Lanka' (2018) <https://cejsrilanka.org/wp-content/uploads/Defining-Conflict-Related-Sexual-Violence.pdf> accessed 22 November 2024. See also: Centre for Equality and Justice & Global Fund for Women, 'Defining Conflict Related Sexual Violence' <https://cejsrilanka.org/wp-content/uploads/CRSV.pdf> accessed 22 November 2024.

109 Centre for Equality and Justice, 'Asking for my soul a study of sexual bribery in the health and justice sectors in Sri Lanka' (January 2023) <https://cejsrilanka.org/wp-content/uploads/Asking-For-My-Soul-A-study-of-sexual-bribery-in-the-health-and-justice-sectors-in-Sri-Lanka-English.pdf> accessed 22 November 2024; Consultation Task Force on Reconciliation Mechanisms, 'Final Report of the Consultation Task Force on Reconciliation Mechanisms' Vol. 1 (17 November 2016), Cross-cutting Recommendations on the Mechanisms 2.15, p. 437.

110 Shyamala Y M Gomez, 'A Measure of Justice: Alternatives to Pursuing Criminal Accountability for Conflict-Related Sexual Violence in Sri Lanka' (2022) 28(8) Violence Against Women.

111 UN Human Rights Council, 'Report of the OHCHR Investigation on Sri Lanka (OISL) A/HRC/30/CRP.2 (16 September 2015) para. 325: "These videos should be considered in the broader context of the humiliating and degrading sexual abuse to which detainees were treated when alive".

112 'Concept Note, Reinvigorating the fight against impunity - the case of Sri Lanka, Roundtable hosted by the Foundation for Human Rights in South Africa, the International Truth and Justice Project Sri Lanka and Journalists for Democracy Sri Lanka' (15 February 2022).

113 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka. Report of the United Nations High Commissioner for Human Rights' A/HRC/46/20 (9 February 2021) para. 52 <https://docs.un.org/en/A/HRC/46/20> accessed 22 November 2024.

CRSV has occurred in multiple locations both during and after the war, as detailed in the JDS-ITJP torture map of sites spanning three decades.¹¹⁴

1. At military checkpoints¹¹⁵ and army garrisons,¹¹⁶
2. In detention settings – during interrogations, in holding cells at night,¹¹⁷ or in prisons;¹¹⁸
3. Upon surrender at the frontline or in bunkers;
4. In Manik Farm and other IDP camps for civilians – in tents and offices, by the showers and the river;
5. In sexual slavery army camps;
6. In militarised areas post-conflict – through ‘sex for survival’ or ‘sexual bribery’;
7. In ‘rehabilitation’ camps;¹¹⁹
8. While signing in at police/army camps after release from ‘rehabilitation’;
9. In off-books or black detention sites – including military camps,¹²⁰ police stations, the back rooms of police stations,¹²¹ navy camps,¹²² abandoned buildings (including schools) in high security Zones,¹²³ private houses (including in Colombo), hotel premises, empty

offices, underground dungeons at the Trincomalee navy base, and cells at other navy sites;

10. In unidentified sites - abandoned school buildings, and houses, offices, military barracks.

In terms of geographical location, reported cases of CRSV have occurred not only in the conflict areas of the north and east but also in areas in the south such as Colombo (in prisons and police stations) and Galle (at the Boosa camp).

4.2. CRSV outside the civil war

While the civil war is a significant context in which CRSV has occurred in Sri Lanka, it is not the only one.

4.2.1. 1971 – THE FIRST JVP UPRISING

CRSV also occurred during two armed insurrections in the south of Sri Lanka. This is significant because it took place outside the ethnic context of the Tamil civil war and predominantly involved Sinhalese perpetrators and Sinhalese victims.

In 1971, the youth movement Janatha Vimukthi Peramuna (JVP) staged its first revolt against the Sri Lankan state. This uprising prompted the imposition of a state of emergency and a crackdown by state security forces that “went far beyond legitimate counter-terror action”.¹²⁴ The crackdown resulted in

114 Tamil Guardian, ‘ITJP and JDS map three decades of torture in Sri Lanka’ (20 June 2020) <https://www.tamilguardian.com/content/itjp-and-ids-map-three-decades-torture-sri-lanka> accessed 22 November 2024.

115 According to several sources, sexual violence occurred toward women, men, and children in detention, at checkpoints or during interrogation, based on the suspicion that either the victim or their family members were collaborators of the LTTE. See Human Rights Watch, ‘World Report 2013’ (2013) p. 368 https://www.hrw.org/sites/default/files/media_2023/01/HRW%20World%20Report%202013.pdf accessed 22 November 2024; M Peel, A Mahtani, G Hinshelwood and D Forrest, ‘The Sexual Abuse of Men in Detention in Sri Lanka’ (2000) 355(9220) *The Lancet*; EJ Wood, ‘Armed Groups and Sexual Violence: When Is Wartime Rape Rare?’ (2009) 37(1) *Politics & Society*; D. B. S. Jeyaraj, ‘Sexual Violence Against Tamil Women’ Sangam https://www.sangam.org/ANALYSIS_ARCHIVES/Jeyaraj_7_8_01.htm accessed 22 November 2024; Richard Traumüller, Sara Kijewski and Markus Freitag, ‘The Silent Victims of Sexual Violence during War: Evidence from a List Experiment in Sri Lanka’ (2019) 63(9) *Journal of Conflict Resolution*; and Kishali Pinto-Jayawardena and Kumari Jayawardena (Eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016) p. 6.

116 UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) paras 371, 557 and 589 on Joseph Camp, the Security Forces Headquarters in Vavuniya.

117 Ibid, para 369: “In Colombo, many Tamils were held in Welikada (‘Magazine’) remand prison, Negombo prison, various police stations in the city, including Kessalwatta and Hultsdorf, TID facilities in Colombo (sometimes referred to as the ‘6th floor’), and at CID headquarters, in Colombo (known as the ‘4th Floor’). To the south of Colombo, Kalutara prison and Boosa detention centre in Galle, were used to hold hundreds of Tamils [...].”

118 Ibid, para 548.

119 Ibid, para 372, 547.

120 Ibid, para 370: “Victims interviewed by OISL had also been held at a number of SLA bases, including Achelu, Atchuvely, Kachcheri, Kodikamam, Thaddar Theru and Urelu”; para 546: “Army camps: Atchuvely-Atchelu SLA camp, near Jaffna; Joseph SLA camp, Vavuniya; an army base near Kurisutta Kulam; a navy base near Mannar; SLA base near Pulinewwa.”

121 Ibid, para 549, 550 and 551 on Criminal Investigation Department (CID) and Terrorism Investigation Department (TID).

122 Ibid, para 370: “a secret Navy detention centre in Trincomalee”; for details of other naval torture sites see also: ITJP, ‘The Sri Lankan Navy: A Collective Blind Eye’ (October 2019) <https://itjpsl.com/reports/the-navy-a-collective-blind-eye> accessed 22 November 2024.

123 UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) para 373.

124 Kishali Pinto-Jayawardena and Kirsty Anantharajah, ‘A Crisis of “Legal Indeterminacy” and State Impunity’ in Kishali Pinto-Jayawardena and Kumari Jayawardena (eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016) p. 37, cited in REDRESS and Institute for International Criminal Investigations, ‘Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Sri Lanka’ (March 2018) https://redress.org/storage/2018/03/20190315-Sri-Lanka-IP2-Supplement_Online.pdf accessed 22 November 2024.

the killing of an estimated 10,000–20,000 JVP members,¹²⁵ with “[s]exual violence a distinct aspect of that response”¹²⁶

The first illustration of wartime rape that imprinted on the country’s conscience was the public sexual degradation and murder of a 22-year-old Sinhalese woman, Premawathie Manamperi, who was “punished” by Sinhalese soldiers for allegedly being ‘associated’ with JVP revolutionaries during this period¹²⁷. Premawathie was a beauty queen who, after a JVP attack, was picked up by the army on suspicion of being JVP, interrogated, stripped naked, and forced to walk naked across the town. She was then sprayed with bullets from a submachine gun, dumped still alive into a pit, and then finally executed.¹²⁸

4.2.2. 1987-90 – THE SECOND JVP UPRISING

During the 1980s, the JVP led a second insurrection, targeting both state forces and predominantly Sinhalese civilians. Although regarded as a low-intensity conflict, it resulted in significant casualties, with estimates ranging between 30,000 and 60,000 deaths. This conflict was characterised by subversion, assassinations, raids, and attacks on military and civilian targets.¹²⁹

During this period, more than 23,000 people were forcibly disappeared by state security forces,¹³⁰ and a number of cases of sexual violence against Sinhalese women by state security forces were reported.¹³¹ A government-appointed inquiry into the widespread enforced disappearances in the western, southern and Sabaragamuwa provinces

between January 1988 and December 1994 found evidence of rapes and killings of women. The inquiry noted that “violence against women was used as a tool of control of a community (family, village, peers)”.¹³²

4.2.3. 1987-90 - THE INDIAN PEACE KEEPING FORCE PERIOD

Rape was extensively perpetrated by soldiers of the Indian Peace Keeping Force (IPKF) against Tamil women during their deployment to northern Sri Lanka in the late 1980s to disarm Tamil militants. The Tamil Centre for Human Rights listed 4,323 reported cases of rape between 1987 and 1990.¹³³ Medical professionals in Jaffna described rape during this period as an epidemic. A report by the University Teachers for Human Rights – Jaffna (UTHR-J) stated:

“Rape occurred mainly in November and December, when the families were trickling in from the refugee camps to their old homes. Many women were quite isolated, with few neighbours being around. It provided ample opportunity for the soldiers to rape. Many of the women were beaten before being raped.”¹³⁴

This pattern of violence mirrors the events at the end of the civil war in 2009, when tens of thousands of female-headed households were left in a heavily militarised area, making women and girls extremely vulnerable to sexual exploitation and violence.

125 The Asia Foundation, ‘The State of Conflict and Violence in Asia’ (2017) p. 162 <https://asiafoundation.org/wp-content/uploads/2024/08/The-State-of-Conflict-and-Violence-in-Asia-12.29.17.pdf> accessed 22 November 2024.

126 REDRESS and IICI, ‘Sri Lanka-Specific Guidance for Practitioners: Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict’ (March 2018) p. 3.

127 Kishali Pinto-Jayawardena and Kirsty Ananthalrajah, ‘A Crisis of “Legal Indeterminacy” and State Impunity’ in Kishali Pinto-Jayawardena and Kumari Jayawardena (eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016) p. 37, cited in REDRESS and Institute for International Criminal Investigations, ‘Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Sri Lanka’ (March 2018).

128 Wijjeuriya v The State (1973) CCA Appeals Nos 34–35, Applications 38–39, SC 623/71, MC Hambantota 65988 <https://www.lawnet.gov.lk/wp-content/uploads/2016/11/005-NLR-NLR-V-77-A-WIJESURIYA-and-another-Appellants-and-THE-STATE-Respondent.pdf> accessed 22 November 2024.

129 The Asia Foundation, ‘The State of Conflict and Violence in Asia’ (2017) p. 162.

130 Kishali Pinto-Jayawardena and Kirsty Ananthalrajah, ‘A Crisis of “Legal Indeterminacy” and State Impunity’ in Kishali Pinto-Jayawardena and Kumari Jayawardena (eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016) p. 37, cited in REDRESS and Institute for International Criminal Investigations, ‘Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Sri Lanka’ (March 2018).

131 Human Rights Watch, ‘We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces’ (26 February 2013) p. 21 <https://www.hrw.org/report/2013/02/26/we-will-teach-you-lesson/sexual-violence-against-tamils-sri-lankan-security-forces> accessed 22 November 2024.

132 Ibid p. 21, citing Government of Sri Lanka, ‘Final report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces, No V,’ (1997) p. 132.

133 Tamil Centre for Human Rights, ‘Recorded Figures of Arrests, Killings, Disappearances, Rapes, Displacements and Injuries to Tamils in the North East, Colombo and Other Regions (1956–2004)’ http://tchr.net/50_year_arrest_kill.htm accessed 22 November 2024.

134 R Hoole, D Somasundaram, K Sritharan and R Thiranagama, “No More Tears Sister”: The Experiences of Women, War of October 1987’ Chapter 4 in R Hoole, D Somasundaram, K Sritharan and R Thiranagama (eds), *The Broken Palmyra: The Tamil Crisis in Sri Lanka, An Inside Account*’ (1992) The Sri Lanka Studies Institute. <https://uthr.org/BP/volume2/Chapter5.htm> accessed 22 November 2024.

4.2.4. CRSV DURING THE ANTI-TAMIL POGROMS OF 1956, 1958,¹³⁵ 1977, 1981, 1983

The precursor to the full-fledged civil war was a series of anti-Tamil pogroms beginning in 1956¹³⁶ and culminating in 1983, during which incidents of sexual violence were perpetrated against Tamil women.¹³⁷ The 1983 pogrom followed the killing of 13 soldiers by the LTTE in retaliation for the killing of two of their fighters and the rape of a Tamil woman. In 1983 alone, one source reported 670 rape cases in Colombo,¹³⁸ while another documented at least 500.¹³⁹

5. Sexual violence

5.1. Studies on scale

A post-war academic study, using an unobtrusive survey method administered to a representative sample of 1,800 respondents, revealed that around 13 per cent of the Sri Lankan population had personally experienced sexual assault during the war – a prevalence ten times higher than could be obtained through direct questioning.¹⁴⁰ The study found, unsurprisingly, that members of the Tamil community with links to the LTTE were among the most vulnerable groups. According to its estimates, half (53%) of all Tamils who themselves or their family members had supported the LTTE were sexually assaulted during the war.

Notably, almost a third (29%) of male respondents who had to flee reported experiences of sexual violence, and men who suffered displacement had a significantly higher probability of experiencing sexual assault than displaced women, which runs counter to conventional perceptions. The study also identified inhabitants of the Eastern Province as more than three times as likely to have suffered personal sexual violence compared to

respondents from the Northern Province or other regions of Sri Lanka.

5.2. Emblematic cases of conflict-related sexual violence

There have been limited attempts made by rights groups inside Sri Lanka to prosecute perpetrators. Some emblematic cases are the following:

5.2.1. THE CASE OF KRISHANTHY KUMARASWAMY

In 1996, 18-year old schoolgirl Krishanty Kumaraswamy disappeared on her way home after being detained at the Chemmani checkpoint. Following unprecedented public outrage and media attention, eight soldiers and three police officers were arrested. Six of the accused were found guilty on multiple counts of rape, murder, and conspiracy. They were sentenced to death, though the sentences were later commuted to life imprisonment. Commentators describe this case as “*an example of the way in which political will operates, rather than as an example of judicial independence*”.¹⁴¹ However, it remains a rare instance where active military personnel were held accountable by local courts.

5.2.2. THE VISHVAMADU CASE

On 6 June 2010, two Tamil women suffered sexual violence allegedly at the hands of four Sri Lankan army soldiers stationed at the Vishvamadu army camp. Aaravi, a 28-year-old mother of two was gang raped. Banu, a 38-year-old mother of five, had her arms tied and was ‘checked’ to see if she was menstruating. Due to conflict-related displacement, both women had lived in a refugee camp in Vavuniya before returning to a house belonging to Aaravi in Vishvamadu on 4 June 2010 to continue their livelihood.¹⁴²

135 Noting this account cites the LTTE leader describing what an impact the accounts of violence in 1958 had on him: Tamil Guardian, ‘Remembering the 1958 pogrom’ (22 May 2021) <https://www.tamilguardian.com/content/remembering-1958-pogrom-0> accessed 22 November 2024.

136 Ibid; Stanley J. Tambiah, ‘Two Postindependence Ethnic Riots in Sri Lanka’ in *Leveling Crowds: Ethnonationalist Conflicts and Collective Violence in South Asia* (University of California Press 1997) pp. 82-100 <https://www.degruyter.com/document/doi/10.1525/978052091891-006/pdf> accessed 22 November 2024.

137 “Among the hundreds of acts of arson, rape, pillage, murder and plain barbarity some incidents may be recorded as examples of the kind of thuggery at work” in Tarzie Vittachi, ‘Emergency '58: The Story of the Ceylon Race Riots’ (1958) <https://tamilnation.org/books/jeelam/vitachi.pdf> accessed 22 November 2024; the 1980 ‘Report of the Presidential Commission of Inquiry into the Incidents which took place between 13th August and 15th August September 1977’ (Sansoni Commission report) lists multiple incidents of rape of Tamil women <https://lankafreelibrary.com/2019/10/15/sansoni-commission-1980/> accessed 22 November 2024; “In all, 25 people died, scores of women were gang raped, and thousands were made homeless, losing all their meagre belongings” in Tamil Nation, ‘Indictment against Sri Lanka - The Charge is Ethnic Cleansing, Continued Attacks on Tamils (July/August 1981)’ <https://tamilnation.org/indictment/indict020.htm> accessed 22 November 2024.

138 Tamil Centre for Human Rights, ‘Recorded Figures of Arrests, Killings, Disappearances, Rapes, Displacements and Injuries to Tamils in the North East, Colombo and Other Regions (1956–2004)’ http://tchr.net/50_year_arrest_kill.htm accessed 22 November 2024.

139 PEARL, ‘Black July: A Tamil Genocide’ <https://pearlaction.org/black-july-a-tamil-genocide/> accessed 22 November 2024.

140 Richard Traumüller, Sara Kijewski and Markus Freitag, ‘The Silent Victims of Sexual Violence during War: Evidence from a List Experiment in Sri Lanka’ (2019) 63(9) Journal of Conflict Resolution.

141 Kishali Pinto-Jayawardena and Kumari Jayawardena (Eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016).

142 The Gender, Justice and Security Hub, ‘Conjunctures of Silence: Aphonias in the Prosecution of Conflict Related Sexual Violence in Sri Lanka - The Vishvamadu Case’ (9 February 2022) <https://thegenderhub.com/publications/conjunctures-of-silence-aphonias-in-the-prosecution-of-conflict-related-sexual-violence-in-sri-lanka-the-vishvamadu-case/> accessed 22 November 2024.

In 2012, the military personnel involved were convicted of gang rape by the Jaffna High Court, in what became known as the Vishvamadu case.¹⁴³ On 7 October 2015, they were sentenced to 20 years of rigorous imprisonment, fined Rs.25,000 (approx. USD 178 in October 2015) and ordered to pay a compensation of Rs.500,000 (approx. USD 3554 in October 2015) to Aaravi. Their guilt was established “*beyond a reasonable doubt*” with the judge noting that Aaravi had shown “*maximum resistance*”, had not consented to sexual acts with the accused, that her evidence had not been rebutted, and that the medical evidence provided, despite its flaws, corroborated her account.¹⁴⁴

The convicted soldiers appealed under Section 331 of the Code of Criminal Procedure Act No. 15 of 1979. In a decision dated 10 October 2019, the Court of Appeal ruled that the trial judge had not “*considered the infirmities of the identification*” and that “*therefore it will not be safe to act on the evidence available*”.¹⁴⁵ As a result, the accused appellants were acquitted of all charges. In response, Aaravi lodged an appeal against the acquittals at the Supreme Court – a legal process that is still ongoing. In the meantime, fearing for her safety, Aaravi and her family felt compelled to flee Sri Lanka, seeking refugee status and relocation overseas.¹⁴⁶

5.3. Sanctions and conflict-related sexual violence

Sanctions submissions have been sent to the UK, Australia, and the EU, focusing on the role of former Army Commander Jagath Jayasuriya at Joseph Camp, where CRSV was endemic. Despite having policies that prioritise CRSV in sanctioning decisions, none of these countries has taken action. In 2017, a universal jurisdiction complaint

was filed in Brazil and Chile against Jayasuriya for his role in Joseph Camp, and a complaint was also made to the Australian Federal Police.¹⁴⁷

5.4. CRSV in the context of multiple other violations

Sexual violence is only one among many allegations of war crimes and crimes against humanity documented throughout the Sri Lankan conflict.¹⁴⁸ According to the UN High Commissioner for Human Rights,¹⁴⁹ the armed conflict in Sri Lanka involved a “*horrific level of violations and abuses*” that are “*among the most serious crimes of concern to the international community as a whole*.¹⁵⁰ These violations include enforced disappearance, summary executions, forced nudity, desecration of corpses, and the destruction of all LTTE graves. Civilian objects such as makeshift hospitals, food queues, and encampments were indiscriminately and deliberately targeted from air, land, and sea using heavy weapons and supersonic jets. Other documented violations include torture, denial of food and medicine, and forced recruitment. To date, no senior figure has been held criminally accountable for this huge array of atrocities. It is within this broader context of denial and impunity that conversations about reparations for CRSV have taken place.

5.5. Attitudes toward sexual violence victims in Sri Lanka

Attitudes toward sexual violence victims outside the conflict are very problematic, even without the additional element of ethnicity. Sinhalese male politicians have endorsed the idea that, in non-conflict cases that involve their own community, the rapist should marry his victim as a form of reparation – even when that victim is underage.¹⁵¹

143 Kishali Pinto-Jayawardena and Kumari Jayawardena (Eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016).

144 The Gender, Justice and Security Hub, ‘Conjunctures of Silence: Aphonias in the Prosecution of Conflict Related Sexual Violence in Sri Lanka - The Vishvamadu Case’ (9 February 2022) p. 9.

145 Ibid.

146 Ibid.

147 ITJP & Australian Centre for International Justice, ‘JOINT MEDIA RELEASE: AFP fails to investigate visiting Sri Lankan General for war crimes; groups now declare #TimetoSanction under Australia’s new Magnitsky regime’ (31 March 2022) https://acij.org.au/wp-content/uploads/2022/03/Website-Media-Release-TimeToSanction-Jayasuriya_FINAL.pdf accessed 22 November 2024.

148 UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) para. 49. See also OHCHR, ‘Comprehensive report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka’ A/HRC/30/61 (28 September 2015); UNSG, ‘Report of the Secretary-General’s Panel of Experts on Accountability in Sri Lanka’ (31 March 2011).

149 For summary and both paths of the report, see: OHCHR, ‘Zeid urges creation of hybrid special court in Sri Lanka as UN report confirms patterns of grave violations’ (16 September 2015) <https://www.ohchr.org/en/press-releases/2015/09/zeid-urges-creation-hybrid-special-court-sri-lanka-un-report-confirms?LangID=E&NewsID=16432> accessed 22 November 2024.

150 Ibid.

151 Sarah Yan, ‘The “Solution” to Sexual Assault in Sri Lanka’ (The Borgen Project, 9 May 2014) <https://borgenproject.org/solution-sexual-assault-sri-lanka/> accessed 22 November 2024: “*Sri Lankan Women’s Affairs and Child Development Minister Tissa Karaliyadda remarked that female victims should marry the males who sexually assaulted them to reduce the amount of rape in Sri Lanka. If the victim is underage, he suggests that the marriage be postponed until the victim reaches the age of eighteen, the legal age of consent in the country. [...] Sri Lanka’s President, Mahinda Rajapaksa, has a different viewpoint. He believes that underage female rape victims should not wait until age eighteen to be married. He is quoted saying ‘if under aged girls are statutorily raped and the sexual act was however with consent, it may be good to have legislation that allows the perpetrator to marry the victim with her consent.’ [...] Chamal Rajapaksa, current Speaker of the Parliament and also the elder brother of President Rajapaksa, believes that ‘nobody can make men responsible for the violence against women. Women are responsible for it.’ Firstpost, ‘Rapists should marry their victims: New shocker from SL President’ (29 April 2014) <https://www.firstpost.com/world/rapists-should-marry-their-victims-new-shocker-from-sl-president-1501431.html>* accessed 22 November 2024.

6. United Nations reporting on CRSV in Sri Lanka

This section references UN reporting on CRSV in Sri Lanka, authenticating the accounts of survivors while recognising the continuity of sexual violence from the wartime period to and present-day targeting Tamils seeking accountability. Several key UN reports emphasise the prevalence of CRSV during and after the war, which ended on 19 May 2009. For the purposes of full disclosure, it should be noted that the ITJP contributed information to the reports cited here.

In addition to the UN reporting, there have been NGO reports on CRSV, most notably Human Rights Watch's major report on the subject in 2013,¹⁵² and then a series of reports by the ITJP over the last decade.¹⁵³ On the medico-legal front, Freedom from Torture in the UK has taken the lead in reporting on Sri Lanka.

The UN reports below show that sexual violence during the conflict was noted by the UN as early as 2007 and has continued throughout the war and to the present day. Due to the denial of ongoing CRSV, relevant UN reports are summarised below, but this is not an exhaustive list.

1998: UN reports said the police enjoyed impunity from prosecution for torture but did not disaggregate sexual violence.¹⁵⁴

2005: The UN Committee Against Torture expressed "its concern about continued allegations of sexual violence and abuse of women and children in custody, including by law enforcement officials, as well as the lack of prompt and impartial investigations of these allegations (art. 12)."¹⁵⁵

2007: Early UN reports addressing torture, such as the UN Special Rapporteur's report in 2007, documented male sexual violence in detention sites, though the term 'sexual violence' was not explicitly used.¹⁵⁶

2011: The Committee Against Torture addressed the issue of conflict and post-conflict sexual violence.¹⁵⁷

2015: The OHCHR Investigation into Sri Lanka (OISL)¹⁵⁸ covering 2002-2011 has been definitive in its exposure of violations perpetrated in Sri Lanka.¹⁵⁹ The OHCHR also commented on ongoing CRSV and torture.¹⁶⁰

152 Human Rights Watch, 'We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces' (26 February 2013).

153 Reports that have been published by ITJP can be accessed at <https://itjpsl.com>.

154 United Nations, General Assembly, 'Report of the Committee against Torture' Supplement No. 44 A/53/44 (16 September 1998) <https://documents.un.org/doc/undoc/gen/n98/269/72/pdf/n9826972.pdf> accessed 22 November 2024.

155 CAT, 'Consideration of reports submitted by States parties under article 19 of the Convention Concluding observations of the Committee against Torture' CAT/C/LKA/CO/2 (15 December 2005) para 13 <https://docs.un.org/en/CAT/C/LKA/CO/2> accessed 22 November 2024.

156 UN Human Rights Council, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak. MISSION TO SRI LANKA** A/HRC/7/3/Add.6 (26 February 2008) <https://docs.un.org/en/A/HRC/7/3/Add.6> accessed 22 November 2024: "[...] three detainees reported that petrol was poured over their penis; and five explained that a rope or string was tied around their penis and then pulled" (para 26); "3 had a stick inserted into their penis; 3 had gasoline poured over their penis; 1 had his penis tied and pulled; 4 were held in a 'strappado' position on the ground; 11 were subjected to 'falaqa'; 4 had their penis squeezed in a drawer." (para 101); "According to the medical examination, he was kicked in the base of the penis, resulting in bruising and blood in the urine." (para 63).

157 CAT, 'Consideration of reports submitted by States parties under article 19 of the Convention Concluding observations of the Committee against Torture. Sri Lanka' CAT/C/LKA/CO/3-4 (8 December 2011) para. 22 <https://docs.un.org/en/CAT/C/LKA/CO/3-4> accessed 22 November 2024: "The Committee is also concerned about reported cases of war-time rape and other acts of sexual violence that occurred following the end of the conflict, in particular in military-controlled camps. (arts. 2, 12, 13 and 16)."

158 UN Human Rights Council, 'Report of the OHCHR Investigation on Sri Lanka (OISL)' A/HRC/30/CRP.2 (16 September 2015) para 600. For the sake of transparency, it is worth noting that OISL reported having conducted in-person interviews with 30 victims of sexual violence outside Sri Lanka. Of these, 20 survivors were introduced to the OISL team by the ITJP, and they were among more than 40 very detailed witness statements from survivors of CRSV that the ITJP also shared with OISL.

159 Ibid. The OISL report stated that one of its most disturbing findings was "the extent to which sexual violence was committed, often extremely brutally, by the Sri Lankan security forces, with men as likely to be victims as women." It further noted that "the prevalence of rape, often on repeated occasions, was particularly shocking" (para. 571), and concluded that sexual violence appeared to have been used deliberately as a method of torture to extract information, and to humiliate and punish individuals suspected of links to the LTTE (para. 1131). The seminal UN report on Sri Lanka, published in 2015, identified multiple units of the police, army and intelligence services as having been involved – over many years – in perpetrating very brutal forms of CRSV and torture, mainly against Tamils. OISL observed that the perpetrators had operated with impunity, stating: "Not one single perpetrator of sexual violence in relation to the armed conflict is so far known to have been convicted." This observation came six years after the end of the war, when there had been ample time to initiate a judicial process. OISL called for a comprehensive investigation into allegations of CRSV, which it described as likely being "much more widespread than reported to OISL or to other organisations" (para. 630). To date, no such investigation has been carried out by a UN body, either inside or outside Sri Lanka.

160 "Reports have continued to suggest the existence of secret and unacknowledged places of detention. These require urgent investigation. According to local civil society sources, from January to August this year, 19 people were arrested under the PTA. 12 of them remain in detention and 14 cases of torture have been reported to us by credible sources since January 2015." United Nations, 'Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein via videolink to the Human Rights Council: Sri Lanka investigation report' (30 September 2015) <https://www.ohchr.org/en/statements/2015/09/statement-un-high-commissioner-human-rights-zeid-raad-al-hussein-videolink-human?LangID=E&NewsID=16539> accessed 24 November 2024.

2016: The UN Special Rapporteur on Torture confirmed that torture and sexual violence was ongoing in detention settings, stating that "*[t]he Special Rapporteur received credible testimonies from men, women and juveniles of torture of a sexual nature in custody, many of them supported by medical forensic evaluations. These abuses are not investigated or prosecuted, and may remain underreported owing to stigma. An example of a tragic testimony received by the Special Rapporteur was that of a young woman who spoke credibly of having spent 3 ½ years in sexual slavery at various military camps.*"¹⁶¹ The UN Committee Against Torture raised the issue of ongoing torture and sexual violence in the conflict context.¹⁶² The UN High Commissioner for Human Rights raised the issue of ongoing torture after visiting Sri Lanka.¹⁶³

2017: The High Commissioner for Human Rights raised the issue of ongoing torture and sexual violence in February 2017.¹⁶⁴

2018: The Deputy High Commissioner for Human Rights commented in March 2018 on "allegations of continuing use of torture" and "impunity for gross violations of

international human rights and international humanitarian law", urging member states to exercise universal jurisdiction.¹⁶⁵ In March 2018, the High Commissioner also reported sexual violence being ongoing.¹⁶⁶

2019: In the summer of 2018, the UN High Commissioner for Human Rights commissioned an independent inquiry, led by Professor Christine Chinkin and assisted by two UN staff/consultants. The full report was never made public, but the OHCHR confirmed that the allegations were credible.¹⁶⁷ The OHCHR also recommended that Sri Lanka invite the Special Representative of the Secretary-General on Sexual Violence in Conflict to visit Sri Lanka.¹⁶⁸ That visit never took place. No follow-up action was taken within the UN system to address the ongoing incidents of sexual violence.

2020: The OHCHR commented on the lack of action addressing CRSV, stating that "Very little action has been taken to remove individuals responsible for past violations, to dismantle structures and practices that have facilitated torture, enforced disappearances and extrajudicial killings, and to prevent their recurrence."¹⁶⁹

161 UN Human Rights Council, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka' A/HRC/34/54/Add.2 (22 December 2016) para 43 <https://docs.un.org/en/A/HRC/34/54/Add.2> accessed 24 November 2024: The latter reference is to an ITJP witness whose account was among scores of witness statements the organisation shared with the Rapporteur with witness consent; the witness in question was personally introduced to the Rapporteur when he visited the UK. This survivor went on to become one of the participants in the GSF consultation.

162 CAT, 'Concluding observations on the fifth periodic report of Sri Lanka**' CAT/C/LKA/CO/5 (27 January 2017) para 11 <https://docs.un.org/en/CAT/C/LKA/CO/5> accessed 24 November 2024: "The Committee expresses concern at credible reports indicating that the practice of so-called 'white van' abductions of Tamils has continued in the years following the end of the armed conflict. The Committee notes allegations of this practice documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) Investigation on Sri Lanka during the period 2002-2011 as well as by non-governmental organizations, which have identified 48 sites where torture allegedly occurred or which were used as transit points to torture locations between 2009 and 2015. The Committee notes the information received that numerous individuals suspected of having a link, however remote, with the Liberation Tigers of Tamil Eelam have been abducted and then subjected to brutal torture, often including sexual violence and rape of men and women. According to the information received, such practices are carried out by both military and police in unacknowledged places of detention, which have included law enforcement headquarters, army and internally displaced person camps and 'rehabilitation centres'."

163 OHCHR, 'Statement by UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, at the end of his mission to Sri Lanka' (9 February 2016) <https://www.ohchr.org/en/statements/2016/02/statement-un-high-commissioner-human-rights-zeid-raad-al-hussein-end-his-mission?LangID=E&NewsID=17025> accessed 24 November 2024: "The number of torture complaints has been reduced but new cases continue to emerge — as two recent reports [he is referring to Freedom from Torture and ITJP reports from Jan 2016], detailing some disturbing alleged cases that occurred in 2015, have shown — and police all too often continue to resort to violence and excessive force."

164 See UN Human Rights Council, 'Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka' (10 February 2017) A/HRC/34/20.

165 37th session of the Human Rights Council - Introduction to country reports/briefings/updates of the Secretary-General and the High Commissioner under item 2. On file with ITJP.

166 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka: Report of the Office of the United Nations High Commissioner for Human Rights' A/HRC/37/23 (25 January 2018) para. 44 <https://docs.un.org/en/A/HRC/37/23> accessed 24 November 2024: "The use of torture remains a serious concern. The High Commissioner was deeply concerned over serious allegations in foreign media about ongoing abductions, extreme torture and sexual violence, as recently as in 2016 and 2017. OHCHR is exploring options for how best to pursue further investigations of these allegations." For the purposes of transparency, the foreign media referred to is an investigation by Associated Press based on information shared by the ITJP. See Paisley Dodds, 'Dozens of men say Sri Lankan forces raped and tortured them' AP News (8 November 2017) <https://apnews.com/article/europe-immigration-migration-race-and-ethnicity-only-on-ap-ced017bd441f46ba838aaedf6ff5dbe2> accessed 24 November 2024.

167 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the Office of the United Nations High Commissioner for Human Rights' A/HRC/40/23 (08 February 2019) para. 56 <https://www.ohchr.org/en/documents/reports/ahrc4023-promoting-reconciliation-accountability-and-human-rights-sri-lanka> accessed 24 November 2024: "OHCHR has continued to receive credible information about cases of abduction, unlawful detention, torture and sexual violence by Sri Lanka security forces, which allegedly took place in 2016 to 2018. A preliminary assessment of the information received indicates that there are reasonable grounds to believe that accounts of unlawful abductions and detention and of torture, including incidents of sexual violence against men and women, are credible, and that such practices might be continuing in northern Sri Lanka. Such allegations should be the subject of prompt, effective, transparent, independent and impartial investigations. In the past, the Government has condemned any act of torture, and indicated that any allegation of torture would be properly investigated and prosecuted. OHCHR is not aware of any investigations undertaken to date into the above-mentioned allegations."

168 Ibid para. 66d.

169 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka: Report of the Office of the United Nations High Commissioner for Human Rights**' A/HRC/43/19 (26 February 2020) para. 34 <https://docs.un.org/en/A/HRC/43/19> accessed 24 November 2024.

2021: The OHCHR's annual report again highlighted ongoing sexual violence targeting Tamils.¹⁷⁰

2022: The UN reiterated previous recommendations on torture and CRSV.¹⁷¹

2023: The UN Human Rights Committee¹⁷² commented on the general lack of accountability, referencing in particular Joseph Camp, where CRSV occurred.

2024: The High Commissioner, in an oral update in March 2024, repeated concerns about credible accounts of ongoing sexual violence.¹⁷³

7. Victims

More than a decade after the end of the war, the profile of Tamil victims has changed. There are now fewer ex-LTTE cadres or high-profile human rights activists among them. Instead, the victims are often shopkeepers, electricians, farmers, labourers, construction workers, auto drivers and students. Their plight is ignored by the elites in a society where status is still defined by ethnicity, religion, caste, and class.

Currently, those being detained are generally young and of little intelligence value for the security forces. The ongoing repression appears aimed at the legitimate expression of identity and fundamental rights, such as protests or calls for accountability.¹⁷⁴

During interrogations, victims are confronted with the narrative that the LTTE is regrouping. This claim feeds into Sri Lanka's counter-terrorism strategy, both domestically and internationally. It is also used politically to justify the ongoing militarisation, increased resources for intelligence agencies, securitisation, and political fearmongering against minorities.¹⁷⁵

7.1. Sexual violence against men

Various studies and reports have documented the high prevalence of sexual violence against men in Sri Lanka, particularly among those in detention. In 1998, medical practitioner Peel found that 32 per cent of 41 tortured Tamil men reported being sexually assaulted, and 17 per cent reported being raped. This may reflect reporting biases, such as the LTTE's predominantly male composition, that men are more politically active in Sri Lanka, the greater ability of men to flee abroad, where they are more likely to become asylum seekers and have their accounts documented as part of their refugee claims. Subsequent reports, such as those by Freedom from Torture in 2012 and 2015, revealed high rates of sexual violence perpetrated among the men interviewed. Human Rights Watch, the UN's OISL investigation, and the ITJP¹⁷⁶ have all corroborated these findings. The Asian Human Rights Commission also reported cases of sexual torture of Sinhala men in the south of the country, including anal rape and genital beatings. However, it did not report on any cases of sexual violence of Tamil men in the north.

170 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka. Report of the United Nations High Commissioner for Human Rights' A/HRC/46/20 (9 February 2021) para 38: "[...] OHCHR has continued to receive credible allegations, through well-known human rights organizations, of abductions, torture and sexual violence by Sri Lankan security forces since the adoption of Human Rights Council resolution 30/1, including in the past year, which need to be credibly investigated."

171 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the Office of the United Nations High Commissioner for Human Rights' (11 April 2022) A/HRC/49/9 para. 40 <https://www.ohchr.org/en/documents/reports/ahrc499-promoting-reconciliation-accountability-and-human-rights-sri-lanka-report> accessed 24 November 2024. "The High Commissioner recalls the comprehensive observations made on Sri Lanka by the Committee Against Torture in 2016 and urges the Government to take concrete steps to implement those recommendations."

172 International Covenant on Civil and Political Rights, 'Concluding observations on the sixth periodic report of Sri Lanka*' CCPR/C/LKA/CO/6 (26 April 2023) para. 11 <https://docs.un.org/en/CCPR/C/LKA/CO/6> accessed 24 November 2024.

173 OHCHR, 'High Commissioner presents updates on human rights in Colombia, Guatemala, Honduras, Nicaragua, Cyprus and Sri Lanka' (1 Mar 2024) <https://www.ohchr.org/en/statements-and-speeches/2024/03/high-commissioner-presents-updates-human-rights-colombia-guatemala> accessed 24 November 2024: "I remain deeply concerned about recurring, credible accounts received by my Office of abductions, unlawful detention and torture, including sexual violence, by the Sri Lankan police and security forces, some of which allegedly took place in 2023, mainly in the north and east of the country."

174 ITJP, 'Sri Lanka: Torture & Sexual Violence By Security Forces 2020-21' (September 2021) pp. 4-5 <https://theleader.lk/images/PDF/ITJP-Torture-report-2021-Sep-English.pdf> accessed 24 November 2024.

175 Ibid.

176 ITJP, 'Disappearance, Torture and Sexual Violence of Tamils 2015 – 2022' (8 May 2024) <https://itjpsl.com/reports/disappearance-torture-and-sexual-violence-of-tamils-2015-2022> accessed 24 November 2024.

The ages of victims in the ITJP case files range from as young as 14 (in the case of one girl) to 65 years old, with the majority being in the bracket of 20-40 years old.

8. The alleged perpetrators

There is broad consensus that there have been no credible reports of the LTTE using sexual violence as a tactic during the conflict.¹⁷⁷ This is unusual among rebel groups, and various writers ascribe it to the presence of women in the LTTE movement and the need for community support. However, these assumptions have not been thoroughly investigated.

Reporting on conflict-related sexual violence has predominantly focused on its use by state forces – the police, including the paramilitary Special Task Force and counter-terrorism units, the navy, the army, the intelligence services and Tamil paramilitaries. While the majority of perpetrators have been largely Sinhala, some Muslims have also been involved, as well as Tamils who worked as informers and collaborators with the security forces. Some collaborators were themselves victims of sexual violence and torture.¹⁷⁸

The alleged perpetrators encompass a broad range of Sri Lankan security forces, from low-ranking guards to individuals who are believed to be senior officers, judging by “*the way other military staff reported to them*.¹⁷⁹ Women, as well as men, have been involved in the direct perpetration of sexual violence in detention settings.

The OISL reported that perpetrators of sexual violence against the LTTE during the conflict were members of the police (Criminal Investigation Department, CID and Terrorism Information Division, TID), the National Intelligence Bureau, Military Intelligence, the Sri Lankan Army (SLA) and the Navy.¹⁸⁰ The OISL report identified numerous detention centres where sexual violence was perpetrated, and provided clarity on who was in command at different time periods. The similar patterns observed across a wide range of detention facilities, time periods, and branches of the security forces reinforce the conclusion that such practices were systematic and widespread.¹⁸¹

¹⁷⁷ “The use of sexual violence has been described as highly asymmetric (Wood 2006, 2009), as there are no reports that the LTTE perpetrated this kind of violence (UN HRC 2015, 117). Information from different sources suggests that perpetrators of sexual violence risked harsh punishments by the LTTE (UN HRC 2015, 117)”: Richard Traunmüller, Sara Kijewski and Markus Freitag, ‘The Silent Victims of Sexual Violence during War: Evidence from a List Experiment in Sri Lanka’ (2019) 63(9) Journal of Conflict Resolution; and Kishali Pinto-Jayawardena and Kumari Jayawardena (Eds), *The Search for Justice: The Sri Lanka Papers* (Zubaan 2016) p. 6.

¹⁷⁸ ITJP testimony. Presence of informers mentioned in UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) para. 1101.

¹⁷⁹ UN Human Rights Council, ‘Report of the OHCHR Investigation on Sri Lanka (OISL)’ A/HRC/30/CRP.2 (16 September 2015) para. 588.

¹⁸⁰ Ibid, para. 588.

¹⁸¹ Ibid, para. 591.



ANNEX 2: LEGAL REMEDIES INCLUDING REPARATIONS FOR VICTIMS OF CRSV IN SRI LANKA

This section addresses the right to remedy and reparation for victims and survivors of CRSV under international norms and standards. It considers the dichotomy of attempting to enforce this right in a context characterised by impunity, fuelled by the Government of Sri Lanka's continued denial of the end of war violations, including torture and CRSV. The section also discusses Sri Lanka's obligations regarding reparations, and explores the legal avenues available to Sri Lankan victims of gross human rights violations, including CRSV. Finally, it examines the shortcomings in defining CRSV within Sri Lanka's existing legal framework.

1. International norms and standards

The right of victims of gross human rights violations to reparation has long been established in international law.¹⁸² 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, consolidates existing norms and standards. It defines full and effective reparation as encompassing restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.¹⁸³ The combination of these measures is referred to as 'comprehensive reparation', which includes material, financial, and symbolic elements, as well as individual and collective measures. Reparations aim not only to alleviate the effects of the harm suffered by victims, but also to restore victims' trust in the state and to reaffirm their status as equal citizens in society.¹⁸⁴

Despite the existence of international norms and standards, the reality for many victims around the world is that most reparation programmes do not meet the criterion of restitution *in integrum* and create expectations that are not fulfilled. Nevertheless, experiences in many countries have shown that when implemented in a holistic and comprehensive manner, reparation programmes have the potential to be transformative in the lives of victims and survivors, leading to state recognition of their rights, entitlement to the full protection of the state, and building trust among communities who were formerly discriminated against and marginalised.¹⁸⁵

2. Conflict-related sexual violence in Sri Lanka

The UN Secretary General noted in his 2014 'Guidance Note on Reparations for Conflict-Related Sexual Violence' that:

"Victims of conflict-related sexual violence face considerable obstacles in obtaining access to an effective remedy, including reparations. The devastating physical and psychological impact of sexual violence, compounded by the stigma attached to it, often prevents survivors from seeking or obtaining redress, including for fear of being ostracized by families and communities as a result of disclosing the facts, or of being further victimized by insensitive authorities or institutions."¹⁸⁶

¹⁸² Permanent Court of International Justice, *Case Concerning the Factory at Chorzów (Claim for Indemnity) (Merits)*, Judgment No. 13, 26 July 1927, PCIJ Series A, No. 9, p. 21: "it is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form." Article 2 of the International Covenant on Civil and Political Rights, for example, calls for an effective remedy for rights violations and was included in soft law as early as in the Universal Declaration of Human Rights, and General Comment 31 of the UN Human Rights Committee which clarifies that article 2, para 3, in fact, relates to reparations.

¹⁸³ United Nations, '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' A/RES/60/147 (21 March 2006) <https://www.refworld.org/legal/resolution/unga/2006/en/12095> accessed 24 November 2024.

¹⁸⁴ Pablo De Greiff, 'Articulating the Links Between Transitional Justice and Development: Justice and Social Integration,' in Pablo De Greiff and Roger Duthie (eds) *Transitional Justice and Development - Making Connections* (New York: Social Science Research Council 2009) pp. 28–75.

¹⁸⁵ Ibid.

¹⁸⁶ OHCHR, 'Guidance Note of The Secretary-General, Reparations for Conflict-Related Sexual Violence' (June 2014) p.5 <https://www.ohchr.org/sites/default/files/Documents/Press/GuidanceNoteReparationsJune-2014.pdf> accessed 24 November 2024.

Given the numerous obstacles to judicial accountability and reparations in Sri Lanka, the current domestic legal framework provides minimal remedies for survivors of CRSV.¹⁸⁷ Obstacles include widespread impunity, delays in court proceedings, poor investigations, lack of victim and witness protection, procedural barriers perpetuated by stigma, gender bias, and patriarchal attitudes of the authorities responsible for investigation and prosecution, all of which prevent survivors of sexual violence from accessing effective judicial reparation.¹⁸⁸

Rape is defined in Section 363 of the Penal Code and applies to all survivors of rape, including those affected by armed conflict.¹⁸⁹ Under the Penal Code, rape refers to forced sexual intercourse/penetration by a man of a woman without her consent.¹⁹⁰ The issue of consent is deemed immaterial in cases where the woman is under the age of 16 (statutory rape), is of unsound mind, or is in a state of intoxication caused by drugs or alcohol given to her by the perpetrator or another person. Consent is also considered immaterial if the woman believes the perpetrator to be her husband, or if her consent is obtained through force, threats, intimidation, fear of injury and/or death, or while she is in unlawful detention.¹⁹¹

However, Sri Lanka does not have a specific definition or recognition of CRSV in its legal framework, nor does its law refer to international definitions of the crime. The most significant legal protections against rape and sexual violence came with the 1995 amendments to the Penal Code, supplemented by the Evidence Ordinance and the Code of Criminal Procedure, which set out the procedure and rules of evidence for the prosecution of a rape offence. Constitutional safeguards, such as the prohibition of torture and all forms of inhuman or degrading treatment and punishment under Article 11, provide a formal avenue for redress.¹⁹²

Section 365(B) of the Penal Code deals with grave sexual abuse not amounting to rape and would apply to the many other forms of sexual violence committed during the conflict.¹⁹³

2.1. Same-sex relations

While amendments have been made to the definition of rape, they are regarded as inadequate.¹⁹⁴ The criminalisation of consensual same-sex relations creates a significant barrier for male survivors to disclose sexual violence and facilitates state persecution of lesbian, gay, bisexual, transgender, queer, intersex, and asexual (LGBTQIA+) individuals. Additionally, the prohibition of statutory rape only applies to girls (under 16), and not to boys.¹⁹⁵

2.2. Male survivors of sexual violence

Male survivors of sexual violence are not adequately protected under Sri Lankan law. The Penal Code's definition of rape excludes male survivors, and reporting violations risk prosecutions under laws criminalising homosexuality. The Penal Code of 1883 prohibits acts of "*carnal intercourse against the order of nature*" and "*gross indecency*", with penalties of up to ten years' imprisonment and a fine. These laws apply to both men and women,¹⁹⁶ and reflect colonial-era Victorian values imposed by Britain.

ITJP and UN reports consistently document that both men and women have been subjected to sexual abuse as a result of the war and ongoing conflict.¹⁹⁷ However, male survivors are reluctant to report sexual abuse due to "*a feeling of emasculation and of lack of sexual identity as a result of sexual violence*".¹⁹⁸ In 2023, the Sri Lankan Supreme Court ruled that a bill to decriminalise same-sex relations between adults was constitutional. The Court

¹⁸⁷ Centre for Policy Alternatives, 'Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka: Discussion Paper' (July 2016) <https://www.cpalanka.org/wp-content/uploads/2016/07/CSV-paper-June-2016.pdf> accessed 24 November 2024.

¹⁸⁸ Ibid.

¹⁸⁹ Penal Code of Sri Lanka (Ordinance No. 2 of 1883) enacts the Criminal and Penal law of Sri Lanka. The Act/Law was adopted in 1883. There were two amendments carried out as Penal Code (Amendment) Act.

¹⁹⁰ Ibid.

¹⁹¹ Penal Code of Sri Lanka, Sections 363 and 364.

¹⁹² Ibid.

¹⁹³ Ibid Section 365(B).

¹⁹⁴ Sri Lankan police statistics for rape trials, which are unlikely to pick up CRSV, show only 21 convictions, 27 acquittals for rape from 2006-2016 and more than 2000 cases pending. See MADSJS Niriella, 'Adequacy of the Contemporary Legal Framework to Avoid Secondary Victimization in the Criminal Justice System in Sri Lanka: Special Reference to Rape Victims' (2020) 57(3) Marriage & Family Review 191.

¹⁹⁵ ITJP, 'Unsilenced: Male Survivors Speak of conflict related sexual violence in Sri Lanka' (2018) p. 27.

¹⁹⁶ Ruwani Dantanarayana, 'A ray of hope: proposed decriminalisation of LGBTQI+ rights in Sri Lanka' (International Bar Association, 28 August 2023) <https://www.ibanet.org/sri-lanka-proposed-decriminalisation-lgbtqi-rights> accessed 24 November 2024; Human Dignity Trust, 'Sri Lanka: Types of criminalisation' (last updated 12 May 2025) <https://www.human dignitytrust.org/country-profile/sri-lanka/> accessed 30 May 2025.

¹⁹⁷ See OHCHR, 'Comprehensive report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka' A/HRC/30/61 (28 September 2015).

¹⁹⁸ OHCHR, 'Guidance Note of The Secretary-General, Reparations for Conflict-Related Sexual Violence' (June 2014) p. 11.

noted that the bill would ensure all people are equal before the law, regardless of their sexual orientation.¹⁹⁹

2.3. Criminal prosecutions of acts of sexual violence

Sri Lanka's current legal framework allows for the prosecution of acts of sexual violence in domestic courts under categories such as rape, custodial rape, gang rape, or grave sexual abuse.²⁰⁰ Rape includes intercourse where the woman is in detention or where "consent is obtained through intimidation, threat, or force."²⁰¹ Custodial rape is defined as acts committed by public officers or persons in positions of authority against women in official custody or against women who have been wrongfully restrained.²⁰²

Documented cases of sexual violence have occurred in detention centres, displacement camps, and in police custody.²⁰³ A criminal complaint can be submitted to the police by any person with information about an offence and is investigated by the police before being sent to trial.²⁰⁴ Under the 1949 Army Act, sexual offences, including rape, committed by serving military personnel may be tried by court martial. However, this does not preclude prosecution and punishment by civilian (criminal) courts for civilian offences.²⁰⁵

2.4. Civil claims applicable to sexual violence

Sexual violence also gives rise to a civil claim based on delict, which entitles a plaintiff to claim damages for wrongful damage caused to the plaintiff, or action *injuria* for wrongs inflicted on the plaintiff's reputation, dignity and status.²⁰⁶ If the alleged perpetrator is a state official, the state is also vicariously liable and can be sued.

Damages are awarded at the discretion of the court and may include compensation for physical harm and pain of the mind, including trauma and humiliation.²⁰⁷ If the injuries are long-lasting and affect the daily routine of the plaintiff, the defendant may be liable for loss of profits.

2.5. Fundamental rights violations

Sexual violence cases can also be filed as violations of fundamental rights under the constitution:

- In 2011, Yogalingam Vijitha filed a fundamental rights case after being tortured and raped in police detention. Although the court ordered compensation, the rapists were never prosecuted.²⁰⁸
- A Tamil woman was gang-raped by four soldiers in Vishwamadu in 2010. While initially a conviction was secured in 2015, the soldiers were acquitted on appeal and the victim was forced to flee the country.²⁰⁹ Despite the court ordering compensation from both the perpetrators and the state, the police officers were not convicted.²¹⁰

In the landmark *Yogalingam Vijitha v Wijesekara* case, the Supreme Court urged the Attorney General to take action under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act No. 22 of 1994 (Convention Against Torture Act).²¹¹ The unwillingness of the Attorney General to prosecute security force perpetrators of sexual violence is perceived as condoning such crimes, deepening impunity, and providing an incentive for the perpetrators to continue to perpetrate such crimes.

199 Uditha Jayasinghe, 'Sri Lanka Supreme Court clears path for decriminalisation of homosexuality' Reuters (9 May 2023) <https://www.reuters.com/world/asia-pacific/sri-lanka-supreme-court-clears-path-decriminalisation-homosexuality-2023-05-09/> accessed 24 November 2024.

200 Ibid.

201 Penal Code of Sri Lanka, Section 363.

202 Ibid, Section 364a.

203 Human Rights Watch, 'We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces' (26 February 2013) pp. 30-31; Refugee Documentation Center, 'Reports on existence in forest area etc of female only detention / torture camps during Tamil – Sri Lankan conflict (where internees were routinely tortured, raped etc in 'torture camps' by EPDP / Sri Lankan military)' (13 January 2012) https://www.ecoi.net/en/file/local/1261094/1930_1326790349_q14854-sri-lanka.pdf accessed 24 November 2024.

204 REDRESS and Institute for International Criminal Investigations, 'Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Sri Lanka' (March 2018).

205 Army Act 1949, Section 77 https://www.defence.lk/Publication/army_act accessed 24 November 2024.

206 Note: The husband of a woman who has been raped may also file an action for damages against the defendant for the *injuria* caused to the husband by the rape of his wife. See Nadarajah v Obeysekera 76 NLR 268.

207 Ibid.

208 Human Rights Watch, 'We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces' (26 February 2013) pp. 18-19; *Yogalingam Vijitha v Wijesekara*, Reserve Sub Inspector of Police, S.C. (FR), No186/2001, SCM 23.8.2002.

209 The Gender, Justice and Security Hub, 'Conjunctures of Silence: Aphonias in the Prosecution of Conflict Related Sexual Violence in Sri Lanka – The Vishwamadu Case' (9 February 2022) <https://thegenderhub.com/publications/conjunctures-of-silence-aphonias-in-the-prosecution-of-conflict-related-sexual-violence-in-sri-lanka-the-vishwamadu-case/> accessed 22 November 2024.

210 Human Rights Watch, 'We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces' (26 February 2013) pp. 18,19; *Yogalingam Vijitha v Wijesekara*, Reserve Sub Inspector of Police, S.C. (FR) No186/2001, SCM 23.8.2002.

211 Ibid.

The Convention Against Torture Act is another mechanism that can be used to prosecute sexual violence at the domestic level. However, Sri Lanka has generally failed to implement the Act and there have been limited investigations or prosecutions.²¹² As with the prosecution of sexual violence more generally, a lack of witness and victim protection, proper investigations and medical examinations contribute to its poor implementation.²¹³ Shadow reports to the UN Committee Against Torture indicate instances where the police, when prompted, have failed to investigate or even sabotaged evidence or investigations.²¹⁴

2.6. Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015 (PVCW Act)

Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015 grants victims of crime the right to "receive prompt, appropriate and fair redress, including reparation and restitution, for and in consideration of any harm, damage or loss suffered as a result of being a victim of crime."²¹⁵ Under this act, the High Court and Magistrate's Court can order a convicted perpetrator to pay compensation to the victim or witness of a crime, up to a maximum of LKR 1,000,000 (approximately USD 8,550).

When determining the compensation amount, the court must consider all relevant information, including a statement from the Government Medical Officer, to determine the nature and extent of the "*damage, loss or harm that the victim of crime may have suffered*".²¹⁶ The court should also consider submissions from the

victim on the impact of the crime on them, as well as any compensation that has already been paid.²¹⁷ Criminal compensation under the PVCW Act does not preclude the victim from pursuing a civil claim for damages.²¹⁸ Although the Act provides for compensation, the amount and the sentence imposed are left at the discretion of the judges.

3. Sri Lanka's international human rights obligations

Sri Lanka is a party to nearly all the core UN human rights treaties and their protocols, including the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Protection of All Persons from Enforced Disappearance (ICPPED) and the Convention on the Rights of the Child (CRC). It has also accepted the competence of the Human Rights Committee and the Committee on the Elimination of Discrimination Against Women (CEDAW) to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by the state of any of the rights set forth in their respective conventions,²¹⁹ and the competence of the Committee Against Torture (CAT) to hear individual complaints under the CAT.²²⁰ In addition, Sri Lanka has also accepted the inquiry procedures under CAT and CEDAW, which allow the relevant Committee to initiate a confidential inquiry on receipt of reliable information on serious, grave or systematic violations by a state party of rights in those treaties.²²¹

212 'Submission from Lawyers' Rights Watch Canada to the Committee Against Torture, Sri Lanka: 3rd and 4th Periodic Report on the Implementation of the Convention Against Torture' (October 2011) https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/DownloadDraft.aspx?key=8EWS+etVheQe/LIGcadTpxhpYr9a9HsaSvB5C+hosDAsxU931Q2nsJDRxO2qKPB3 accessed 24 November 2024.

213 Janasansadaya and Asian Human Rights Commission, 'Review of Medico-legal Examination & Documentation of Torture in Sri Lanka: Proceedings of the workshop held in 12 – 14 December 2008 Sri Lanka' (December 2008) [https://www.janasansadaya.org/uploads/files/Torture%20ML%20Report-ed\[1\].pdf](https://www.janasansadaya.org/uploads/files/Torture%20ML%20Report-ed[1].pdf) accessed 24 November 2024.

214 Asian Center for Human Rights, 'Torture and Lawless Law Enforcement in Sri Lanka: A shadow report to the UN Committee Against Torture' (November 2005) p. 3.

215 Parliament of the Democratic Socialist Republic of Sri Lanka, 'Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015' Section 3(c) https://www.srilankalaw.lk/YearWisePdf/2015/ASSISTANCE_TO_AND_PROTECTION_OF_VICTIMS_OF_CRIME_AND_WITNESSES_ACT,_No._4_OF_2015.pdf accessed 24 November 2024.

216 Ibid, Section 28(2)(a).

217 Ibid, Sections 28(2)(b)-(c).

218 Ibid, Section 28(5).

219 UN General Assembly, 'Optional Protocol to the International Covenant on Civil and Political Rights' (adopted 16 December 1966, entry into force 23 March 1976), United Nations, Treaty Series, Vol 999, Art 1. <https://www.ohchr.org/sites/default/files/ccpr-one.pdf> accessed 24 November 2024; UN General Assembly, Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, (15 October 1999), United Nations, Treaty Series, Vol 2131, p.3 https://www.ohchr.org/sites/default/files/2021-08/OP_CEDAW_en.pdf accessed 24 November 2024.

220 CAT, 'Concluding observations on the fifth periodic report of Sri Lanka**' CAT/C/LKA/CO/5 (27 January 2017) para 4.

221 'Sri Lanka must also present periodic reports to the Committees monitoring implementation of the UN human rights treaties to which it is party. This provides an opportunity for non-government sources to submit information to the Committee, on which the Committee may question the state during its dialogue on human rights issues. REDRESS and Institute for International Criminal Investigations, 'Supplement to the International Protocol on the Documentation and Investigation of Sexual Violence in Conflict: Sri Lanka' (March 2018) p. 35.

3.1. International Criminal Court (ICC)

Sri Lanka is not a state party to the Rome Statute of the International Criminal Court (ICC).²²² However, a possible route to ICC jurisdiction may be if an alleged perpetrator is a national or dual national of a third country.

3.2. Dualist legal system

Sri Lanka operates under a dualist legal system. While international treaties may be ratified, they are not directly applicable at a domestic level unless enacted through domestic legislation. This was determined by the Supreme Court ruling in the 2006 *Singarasa* case,²²³ where the Sri Lankan Supreme Court ruled that it did not have the power to enforce decisions of the UN Human Rights Committee directly.²²⁴ The Supreme Court held that while the acceptance of the International Covenant on Civil and Political Rights (ICCPR) and its complaints procedure was valid and bound Sri Lanka to international law, in a dualist country such as Sri Lanka, Parliament had to enact legislation to incorporate these obligations into domestic law.²²⁵ The *Singarasa* judgement effectively means that individuals who receive favourable decisions from UN treaty bodies have no enforceable claim in the Sri Lankan courts without domestication.

Nevertheless, Sri Lankan courts have at times referred to principles of international law in their interpretation of Sri Lankan law.²²⁶ For example, the Supreme Court has referred to the UN Convention Against Torture when determining a fundamental rights application.²²⁷ The jurisprudence of international courts, other jurisdictions, and the UN Human Rights Committee has also been referred to in certain cases.²²⁸

3.3. Closing the accountability gap

While Sri Lanka's Penal Code provides a mechanism to prosecute individual cases of sexual violence, conflict-related sexual violence should be prosecuted as war crimes and crimes against humanity. However, Sri Lanka's domestic legal system does not provide for this, despite the enactment of the Geneva Conventions Act in 2006.

Human rights organisations in Sri Lanka have long recommended the adoption of language from international instruments, including the Geneva Conventions and Additional Protocol II, as well as the ratification and domestic incorporation of the Rome Statute. Both measures are aimed at enabling the domestic prosecution of CRSV as war crimes and crimes against humanity.²²⁹ Sri Lankan law also does not recognise command responsibility, allowing powerful politicians and the security forces to escape any accountability. This is why paragraph 7 of the UNHRC Resolution 30/1 references "*the trial and punishment of those most responsible*".²³⁰ The domestication of international law should also be made retroactive so that crimes preceding and during the conflict can be prosecuted under it.²³¹

Article 28 of the Rome Statute defines command responsibility, holding military commanders accountable for crimes committed under their command if they knew or should have known that forces were committing or about to commit such crimes and failed to take necessary and reasonable measures to prevent their commission or to report the matter to the authorities.²³² Additionally, superiors who are not military commanders can also be held criminally responsible for the crimes of their

222 The International Criminal Court (ICC), 'The States Parties to the Rome Statute' <https://asp.icc-cpi.int/states-parties> accessed 24 November 2024.

223 *Singarasa Nallaratnam v Attorney General*, Application for Judicial Review SC/Spl/LA/ No.182/1999 SC Minutes (15 September 2006); Singarasa was an ethnic Tamil tortured by the Sri Lankan security forces following his unlawful arrest and detention. Following the dismissal of his appeals, Singarasa lodged a complaint to the Human Rights Committee under the Optional Protocol to the ICCPR, who found that the conviction and sentence imposed on the Singarasa was in violation of some provisions of the ICCPR.

224 *Singarasa Nallaratnam v Attorney General*, Application for Judicial Review SC/Spl/LA/ No.182/1999 SC Minutes (15 September 2006).

225 Ibid.

226 Assistance to and Protection of Victims of Crime and Witnesses Act No. 4 of 2015, Section 28(2)(a).

227 *Yogalingam Vijitha v. Wijesekara*, Reserve Sub.Inspector of Police, S.C. (FR) No.186/2001, SCM 23.8.2002.

228 *Leeda Violet and Others v Vidhanapathirana OIC Police Station, Dickwella and Others* (1994) 3 Sri LR 377. See also *Channa Peris and Others v Attorney General and Others* (1994) 1 Sri L.R. 1; *Velmuguru v Attorney General and Another* (1981) 1 Sri L.R. 406.

229 Centre for Policy Alternatives, 'Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka: Discussion Paper' (July 2016) <https://www.cpalanka.org/wp-content/uploads/2016/07/CSV-paper-June-2016.pdf> accessed 24 November 2024; International Commission of Jurists, 'Challenges to Accountability for Human Rights Violations in Sri Lanka. A Synopsis of Findings from a Meeting with Lawyers and Human Rights Defenders in Colombo, November 2016' (March 2017) <https://www.icj.org/wp-content/uploads/2017/03/Sri-Lanka-FCO-Accountability-1-Advocacy-Analysis-brief-2017-ENG.pdf> accessed 24 November 2024.

230 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka: resolution / adopted by the Human Rights Council' A/HRC/30/L.29 (29 September 2015) <https://documents.un.org/doc/undoc/ltd/g15/220/93/pdf/g1522093.pdf> accessed 24 November 2024.

231 Ibid.

232 Rome Statute of the International Criminal Court, 17 July 1998, article 28 <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf> accessed 24 November 2024.

subordinates if they “[...] knew, or consciously disregarded information which clearly indicated” that crimes were being committed or about to be committed in connection with activities under their responsibility and control, and failed to take necessary and reasonable measures to prevent their commission or report them to the authorities.²³³ This is essential to ensure justice and accountability in cases of conflict-related sexual violence, as most reports indicate that sexual violence by the military and police has been systematic and widespread.²³⁴

3.4. Declaration of Commitment to End Sexual Violence in Conflict

in January 2016, the Government of Sri Lanka endorsed the Declaration of Commitment to End Sexual Violence in Conflict.²³⁵ The Declaration was launched in New York on 24 September 2013 during the United Nations General Assembly by the UK Foreign Secretary, William Hague and the UN Special Representative on Sexual Violence in Conflict, Zainab Bangura.²³⁶

The Government of Sri Lanka also appeared before the CEDAW in February 2017, where CEDAW reviewed the situation of women in Sri Lanka. The Committee questioned Sri Lanka’s adoption of a zero-tolerance approach to sexual violence by state agents and its adoption of a policy of no tolerance to torture by the police and the army.²³⁷ To date, Sri Lanka has not implemented the policy of zero-tolerance to torture and sexual violence, and the government has failed to fulfil the commitments made under the Declaration.

4. International accountability mechanisms regarding gross human rights violations in Sri Lanka

Since 2010, several international accountability mechanisms have established to examine gross human rights violations in Sri Lanka. These include: (1) the UN Secretary-General’s Panel of Experts, (2) the Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL), and (3) the UN Sri Lanka Accountability Project (SLAP). A brief description of the work of these bodies follows below.

4.1. The UN Secretary-General’s Panel of Experts (2010)

Following the end of the civil war in May 2009, UN Secretary-General Ban Ki-moon visited Sri Lanka. This visit resulted in a joint statement by the UN Secretary-General and Sri Lankan President, where the Sri Lankan government committed to taking measures on accountability for violations of international humanitarian and human rights law.²³⁸ The subsequent failure of the Sri Lankan government to take any meaningful steps toward accountability led to the UN Secretary-General appointing a three-member panel of experts in June 2010 to advise on these issues. The panel found credible allegations of serious violations committed by the government, including the killing of civilians through widespread shelling and the denial of humanitarian assistance, and serious violations committed by the LTTE, including the use of civilians as a human buffers

²³³ Ibid.

²³⁴ ITJP, ‘Silenced: Survivors of Torture and Sexual Violence’ (2016) p.11; Human Rights Watch, ‘We Will Teach You a Lesson: Sexual Violence Against Tamils by Sri Lankan Security Forces’ (26 February 2013).

²³⁵ ‘Sri Lanka endorses the Declaration of Commitment to End Sexual Violence in Conflict’ <https://mfa.gov.lk/tam/sri-lanka-endorses-the-declaration-of-commitment-to-end-sexual-violence-in-conflict/> accessed 24 November 2024.

²³⁶ ‘A Declaration of Commitment to End Sexual Violence In Conflict’ (24 September 2013): The Declaration contains a set of practical and political commitments to end the use of rape and sexual violence as a weapon of war, which terrorises and destroys communities during conflict, and is intended to send an important message to the survivors of CRSV that the international community has not forgotten them, and that perpetrators of rape will be held to account. <https://www.gov.uk/government/publications/a-declaration-of-commitment-to-end-sexual-violence-in-conflict> accessed 24 November 2024.

²³⁷ Committee on the Elimination of Discrimination against Women, ‘Committee on the Elimination of Discrimination against Women examines the situation of women in Sri Lanka’ (OHCHR, 22 February 2017) <https://www.ohchr.org/en/press-releases/2017/02/committee-elimination-discrimination-against-women-examines-situation-women> accessed 24 November 2024.

²³⁸ ‘Joint statement by UN Secretary-General, Government of Sri Lanka’ SG/2151 (26 May 2009) <https://reliefweb.int/report/sri-lanka/joint-statement-un-secretary-general-government-sri-lanka> accessed 24 November 2024.

and the killing of civilians attempting to flee LTTE control.²³⁹ The panel recommended that the Sri Lankan government respond to these allegations by initiating an accountability process, beginning with genuine investigations.²⁴⁰ The Sri Lankan government reacted angrily to the panel's appointment, calling it "*an unwarranted and unnecessary interference with a sovereign nation*" and refusing to allow the panel to visit Sri Lanka. The government outright rejected the report, dismissing it as "*fundamentally flawed*" and "*patently biased*".²⁴¹

4.2. Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL)

The Report of the OHCHR Investigation on Sri Lanka (OISL) recommended a comprehensive and holistic transitional justice programme, including the creation of a hybrid court integrating international actors. The report cited an earlier resolution which found that Sri Lanka's criminal justice system was "not yet ready or fully equipped to promptly conduct the '*independent and credible investigation* into the *allegations contained in this report*, or '*to hold accountable those responsible for such violations*', as requested by the Human Rights Council."²⁴² Meanwhile, survivors of sexual violence have expressed "*feelings of abandonment, both from the 2009 war and also since then, due to a lack of accountability at both the domestic and international levels*".²⁴³

4.3. The UN Sri Lanka Accountability Project (SLAP)

Following the defeat of the LTTE in 2009, there has been no accountability for large-scale violations amounting to serious crimes under international law committed by forces on both sides during Sri Lanka's 26-year internal armed conflict. This persistent impunity prompted the international community to mandate the OHCHR to strengthen its

capacity to promote accountability in Sri Lanka. This led to the establishment of the Sri Lanka Accountability Project (SLAP) in October 2022, pursuant to UN Human Rights Council resolution A/HRC/RES/51/1. SLAP's mandate is to collect, preserve, and share evidence with international prosecutors, and, with consent, with domestic bodies, and to make recommendations on accountability.²⁴⁴

In 2024, SLAP published a report on disappearances in Sri Lanka. On 10 October 2024, the Human Rights Council renewed the mandate of the OHCHR, including the SLAP, for an additional year.²⁴⁵ SLAP is regarded as a critical intervention established by the international community and human rights advocates, but it does not have the mandate to address reparations and rehabilitation or to initiate prosecutions. The leverage of the SLAP has ensured that the issue of accountability in Sri Lanka remains on the international agenda, even though more than 15 years have passed since the end of the civil war in 2009.

5. Domestic investigations

5.1. Numerous Commissions of Inquiry in Sri Lanka

Over the last three decades, the Government of Sri Lanka has established numerous commissions of inquiry.²⁴⁶ However, the reports of these Commissions have never been made public, and their recommendations have never been implemented.²⁴⁷

5.2. The Lessons Learnt and Reconciliation Commission

On 15 May 2010, President Mahinda Rajapaksa appointed the 'Lessons Learnt and Reconciliation Commission' (LLRC) ostensibly with the aim of looking back at the decades-long conflict in Sri Lanka.²⁴⁸ The LLRC was established at

239 UNSG, 'Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka' (31 March 2011).

240 The POE also recommended a review of the UN's actions regarding the implementation of its humanitarian and protection mandates during the war in Sri Lanka, particularly in the last stages and immediate aftermath.

241 Charles Haviland, 'Sri Lanka rejects secret UN war report as 'flawed'' BBC News (13 April 2011) <https://www.bbc.co.uk/news/world-south-asia-13069063> accessed 24 November 2024.

242 UN Human Rights Council, 'Report of the OHCHR Investigation on Sri Lanka (OISL)' A/HRC/30/CRP.2 (16 September 2015), citing A/HRC/RES/25/1, preamble.

243 Global Initiative for Justice, Truth and Reconciliation, 'Advancing a Holistic Approach to Justice and Accountability for Conflict-Related Sexual Violence (CRSV) Survivors: Case Study of Sri Lanka' (2024) <https://gjitr.org/wp-content/uploads/2024/03/Advancing-Holistic-Approach-to-Justice-Accountability-for-CRSV-Survivors-Case-Study-of-Sri-Lanka-EN.pdf> accessed 15 November 2024.

244 See Frequently Asked Questions on OHCHR's mandate under resolution HRC 46/1 https://www.ohchr.org/sites/default/files/2021-11/FAQ-accountability-project_EN.pdf accessed 24 November 2024.

245 UN Human Rights Council, 'Promoting reconciliation, accountability and human rights in Sri Lanka' A/HRC/57/L.1 (11 October 2024) United Nations. <https://digitallibrary.un.org/record/4063529> accessed 10 December 2024.

246 ITJP and others, 'Press release: Sri Lankan Government should Acknowledge Past Truth Commissions before establishing a new body' <https://itjpsl.com/assets/v2-20-Feb-2024-Joint-Press-Release-Publish-Past-Commissions-of-Inquiry-copy.pdf> accessed 24 November 2024.

247 Ibid.

248 High Commission of Sri Lanka in India, 'Report of the Lessons Learnt and Reconciliation Commission' (18 December 2011) https://slhcindia.org/index.php?option=com_content&view=article&id=535:report-of-the-lessons-learnt-and-reconciliation-commission-&catid=50:demo-category&Itemid=1 accessed 20 November 2024.

the same time as the UNSG's Panel of Experts. The LLRC held hearings in different parts of Sri Lanka to collect and gather information on alleged violations committed, however it took no steps to discuss CRSV violations, and survivors of CRSV were not given the chance to voice their concerns or expectations.²⁴⁹ In addition, most survivors live in highly militarised areas facing harassment from perpetrators who remain in control of these areas, and this raised issues of security and witness protection.²⁵⁰

5.3. Presidential Commission to Investigate into Complaints Regarding Missing Persons (Paranagama Commission or PCICMP)

The Paranagama Commission, established in August 2013, similarly failed to address cases of CRSV, leaving these violations unacknowledged within its mandate.

6. Reparations in Sri Lanka

The concept of reparations is not new in Sri Lanka. As early as 1983, the Sri Lankan government established the Rehabilitation of Property and Industries Authority (REPIA) as a temporary measure under Emergency Regulations following the 1983 'riots'.²⁵¹ REPIA was succeeded by a permanent government institution established by the legislative act – the Rehabilitation of Persons, Properties and Industries Authority Act No 19 of 1987 (REPPIA). REPPIA was intended to rehabilitate persons physically affected by riots or civil commotions and to compensate, repair, and restore property.²⁵²

6.1. Commissions of Inquiry (Cols) and Reparations

Over the last three decades, Sri Lanka has established several Commissions of Inquiry (Cols) to investigate disappearances. These Cols were also required to focus on reparation for survivors of enforced disappearances.²⁵³ The 2011 Lessons Learnt and Reconciliation Commission (LLRC) was mandated to discuss "restitution and

compensatory relief", indicating that these would be channelled through existing institutions such as REPIA.²⁵⁴

Although the Cols were supposed to deal with reparations, none of them focused on victims of CRSV. Furthermore, the reports of these bodies were not made public and any recommendations made were never implemented. Sri Lanka has a plethora of policies dealing with different forms of reparations, but civil society in Sri Lanka has noted that all of them are characterised by inconsistency and a lack of implementation.²⁵⁵

6.2. Office for Reparations

In 2015, following a UNHRC investigation into "alleged serious violations and abuses of human rights and related crimes" in the conflict, the Government of Sri Lanka co-sponsored the landmark UNHRC resolution, 30/1. This resolution committed the country to a transitional justice process that included the establishment of a number of mechanisms to deliver truth, justice, reparation, and guarantees of non-recurrence.²⁵⁶ The Government renewed these commitments in two further UNHRC resolutions in 2017 and 2019.

In 2015, the Government of Sri Lanka established the Consultation Task Force to seek the views and comments of the public on the proposed mechanisms for transitional justice and reconciliation, following resolution 30/1, which it co-sponsored with the UNHRC in October 2015. This comprehensive transitional justice programme included the establishment of:

1. An Office on Missing Persons (OMP)
2. An Office for Reparations (OfR).
3. A Truth, Justice, Reconciliation and Non-Recurrence Commission (TJRNC)
4. A Judicial Mechanism comprising a Special Court and an Office of a Special Counsel.

249 LLRC, 'Report of the Commission of Inquiry on Lessons Learnt and Reconciliation' (November 2011) p. 244 <https://reliefweb.int/report/sri-lanka/report-commission-inquiry-lessons-learnt-and-reconciliation> accessed 24 November 2024.

250 Centre for Policy Alternatives, 'Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka: Discussion Paper' (July 2016) pp. 19-20.

251 Parliament of the Democratic Socialist Republic of Sri Lanka, 'Rehabilitation Of Persons, Properties And Industries Authority' (2 June 1987) https://www.lawnet.gov.lk/wp-content/uploads/cons_stat_up2_2006/1987Y0V0C29A.html accessed 24 November 2024.

252 See Rehabilitation Authority, 'Annual Report & Statement of Accounts' (2012) https://www.parliament.lk/uploads/documents/paperspresented/annual_report_rehabilitation_authority_2012.pdf accessed 24 November 2024.

253 Amnesty International, 'Twenty years of make-believe: Sri Lanka's Commissions of Inquiry' (11 June 2009) p. 10 <https://www.amnesty.org/en/documents/asa37/005/2009/en/> accessed 24 November 2024.

254 LLRC, 'Report of the Commission of Inquiry on Lessons Learnt and Reconciliation' (November 2011) p. 244.

255 Centre for Policy Alternatives, 'Making the Case for an Office for Reparations: Discussion Paper' (June 2018) p. 5 <https://www.cpalanka.org/wp-content/uploads/2018/06/Reparations-report-FINAL.pdf> accessed 24 November 2024.

256 UN Human Rights Council, 'Promoting Reconciliation, Accountability And Human Rights In Sri Lanka: Resolution / Adopted By The Human Rights Council' A/HRC/RES/30/1(14 October 2015) <https://www.refworld.org/legal/resolution/unhrc/2015/en/108751> accessed 27 August 2024.

Out of these four, the Government established the Office on Missing Persons (OMP)²⁵⁷ and the Office for Reparations (OfR)²⁵⁸ as permanent institutions to fulfil its commitments under UNHRC resolution 30/1(2015). However, it failed to establish a Truth and Reconciliation Commission and the Special Hybrid Court, both of which were also mandated by Resolution 30/1.

Regarding the OMP, the OHCHR noted in its 17 May 2024 report '*Accountability for Enforced Disappearances in Sri Lanka - OHCHR report*', that the OMP's failure to exercise its extensive legal powers cast serious doubts about its willingness to fulfil its mandate.²⁵⁹ It also noted that the OMP failed to earn the trust of victims and their representatives.²⁶⁰

The OfR, established in 2019 under the Office for Reparations Act No. 34 of 2018, became the primary mechanism established to manage Sri Lanka's reparations programme, which grants reparations to victims of conflict.²⁶¹ The OfR was authorised to provide monetary compensation, as well as to grant relief and make provisions for reparations to survivors of the armed conflict and its aftermath in the northern and eastern provinces, including those affected by political unrest, civil disturbances or enforced disappearances.²⁶²

The OHCHR reported that from 2023 to the end of June 2024, the OfR provided approximately Rs. 2.4 billion (USD 7,928,304, number provided on 22 August 2024) to 9,169 families, implemented through three main programmes:

monetary relief, livelihood support, and psychosocial support. The Government of Sri Lanka reported that data on monetary relief was not disaggregated by category of beneficiaries, including women-headed households.²⁶³ The OfR defended the low numbers, indicating that the COVID-19 pandemic had affected its ability to disburse compensation.²⁶⁴ The OHCHR also noted that the Government of Sri Lanka had reported that, following the establishment of the 'Victim Fund' within the Office for Reparations, 196 beneficiaries had received financial compensation.²⁶⁵

6.3. Compensating the victims of the Easter bombings

In January 2023, the Supreme Court of Sri Lanka ordered the former President Maithripala Sirisena to pay personal compensation of Rs 100,000,000 (USD 309,000) to victims of the Easter bombings.²⁶⁶ By July 2024, only Rs 134,975,588 (USD 446,393) had been paid to the respondents. The Supreme Court directed the former President to pay the full by 30 August 2024.²⁶⁷ On 16 August 2024, his lawyers announced that the full payment was completed.²⁶⁸

A recent report published by the OfR on 18 September 2024 noted that the respondents had paid a total of Rs. 246,000,000 to the Victims Fund.²⁶⁹ The fact that court orders in the Easter bombing cases have been implemented by some of the respondents shows that reparations are possible when the OfR demonstrates political will.

257 Parliament of the Democratic Socialist Republic of Sri Lanka, 'Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act, No 14' (2016). <https://www.srilankalaw.lk/o/1601-office-on-missing-persons.html> accessed 25 November 2024.

258 Parliament of the Democratic Socialist Republic of Sri Lanka, "Office for Reparations Act, No. 34 of 2018", (2018) [OfR Act] <https://www.parliament.lk/uploads/acts/gbills/english/6107.pdf> accessed 25 November 2024.

259 OHCHR, 'Accountability for Enforced Disappearances in Sri Lanka' (17 May 2024) para 81 [https://reliefweb.int/report/sri-lanka/accountability-enforced-disappearances-sri-lanka-ensita#:~:text=GENEVA%20\(17%20May%202024\)%20E%280%93,Office%20report%20released%20today%20says](https://reliefweb.int/report/sri-lanka/accountability-enforced-disappearances-sri-lanka-ensita#:~:text=GENEVA%20(17%20May%202024)%20E%280%93,Office%20report%20released%20today%20says) accessed 25 November 2024.

260 Ibid, para 83.

261 Ministry of Justice and National Integration, 'Office for Reparations Sri Lanka' <https://www.reparations.gov.lk/web/index.php?lang=en> accessed 25 November 2024.

262 Office for Reparations Act No. 34 of 2018, article 27.

263 UNHCHR, 'Situation of human rights in Sri Lanka. Comprehensive report of the United Nations High Commissioner for Human Rights' A/HRC/57/19 (22 August 2024) para. 37.

264 The Morning, 'Reparations Office devising psychosocial support prog.' (26 February 2021) <https://www.themorning.lk/articles/121687> accessed 27 November 2024.

265 UNHCHR, 'Situation of human rights in Sri Lanka. Comprehensive report of the United Nations High Commissioner for Human Rights' A/HRC/57/19 (22 August 2024) para. 47.

266 U.S. Department of State, '2023 Report on International Religious Freedom: Sri Lanka' (2023) p. 9 <https://www.state.gov/reports/2023-report-on-international-religious-freedom/sri-lanka/> accessed 27 November 2024.

267 Jurist News, 'Sri Lanka Supreme Court orders timely compensation from former president Sirisena to Easter Sunday attack victims' (15 July 2024) <https://www.jurist.org/news/2024/07/sri-lanka-supreme-court-orders-timely-compensation-to-easter-sunday-attack-victims-from-former-president-sirisena/> accessed 27 November 2024.

268 The Hindu, 'Easter Sunday bombings: Former Sri Lankan President Maithripala Sirisena settles compensation for victims' (21 August 2024) <https://www.thehindu.com/news/international/easter-sunday-bombings-former-sri-lankan-president-maithripala-sirisena-settles-compensation-for-victims/article68549449.ece> accessed 27 November 2024.

269 Ministry of Justice and National Integration, 'Easter Attack Victim Fund' (18 September 2024) https://reparations.gov.lk/web/index.php?option=com_content&view=article&id=153:action-taken-by-or-on-orders-made-by-the-supreme-court&catid=8&Itemid=306&lang=en accessed 27 November 2024.

7. The need for transformative reparations and rehabilitation

Reparations and rehabilitation should be transformative, addressing structural inequalities, rather than reinstating or reinforcing the structural conditions that uphold practices and beliefs that perpetuate CRSV.²⁷⁰ While reparations alone cannot address the root causes of CRSV or the structural conditions that make such violence possible, they have the potential to trigger important changes in the lives of survivors.

Rehabilitation is seen as essential for successfully addressing the past and ensuring that communities are enabled to rebuild their lives and improve their quality of life.²⁷¹ However, rehabilitation in Sri Lanka became controversial when the Government of Sri Lanka embarked on a programme of rehabilitation and reintegration of ex-LTTE cadres, which they argued was a form of reparations.²⁷² The full extent of the rehabilitation programme for female cadres included beautification or bridal make-up programmes, sewing, stitching clothes, and nothing more.²⁷³ The rehabilitation programme for female cadres was criticised by feminists and gender activists as being extremely damaging to former female cadres who fought as equals and were never segregated in battle – the LTTE prided itself on embracing gender equality.²⁷⁴

The Consultation Task Force mentioned in Section 6.2 conducted extensive consultations within Sri Lanka, publishing the Sri Lanka Consultation Task Force Report.²⁷⁵ However, the Task Force report was not formally received or acknowledged by the Government of Sri Lanka, nor were any of its recommendations implemented. In

addition, the Government of Sri Lanka reneged on its commitment to establish the TJRNRC and the Special Hybrid Court, as it had committed itself to do under UN resolution 30/1. Although the draft legislation for the proposed Commission on Truth, Unity and Reconciliation (CTUR) was finalised, the proposal was eventually shelved.

Regarding CRSV, the Task Force focused *only* on female victims. It included suggestions for the following important options:

Livelihoods: “Requests or demands for livelihood related reparations included sustained livelihood support and or training for people so that they can improve their living standards in the longer-term. This was raised by vulnerable groups such as the differently abled or disabled and survivors of sexual violence as well as torture.”²⁷⁶

An apology: “Women’s groups and collectives demanded an apology from the state for the history of sexual violence and its failure to prevent or respond to it effectively. This included the demand for the state to acknowledge the sexual violence that happened during the war and to recognise that both the act of violence as well as the impunity that followed, are forms of structural violence.”²⁷⁷

Collective reparations: The need for collective reparations, such as “building or rebuilding of community infrastructure”, “provision of grain, fertilizer and irrigation facilities for farming communities”, among others.²⁷⁸

Memorialisation: Living memorials such as trees for each missing person, garden of healing, etc., for women who died from sexual violence, so that their family members can come together to remember.²⁷⁹

270 UN Human Rights Council, ‘Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo’ A/HRC/14/22, (23 April 2010) para 31 <https://docs.un.org/en/A/HRC/14/22> accessed 27 November 2024; ICC, *Prosecutor v Thomas Lubanga Dyilo* (Judgment) ICC-01/04-01/06 Trial Chamber I (7 August 2012) https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2012_07872.PDF accessed 27 November 2024.

271 United Nations, ‘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’ (21 March 2006) A/RES/60/147.

272 The so-called state sponsored rehabilitation programme included six components: spiritual/religious/cultural, vocational/livelihood, psychological/creative therapies, sports extra-curricular, social/cultural, and educational programmes. See Bureau of the Commissioner General of Rehabilitation, ‘Rehabilitation of Ex Combatants’ (14 July 2021) p. 18 <https://www.un.int/srilanka/sites/www.un.int/files/Sri%20Lanka/2021/July/book.pdf> accessed 27 November 2024.

273 Hasangani Edema, Kelsey Rowe, Eric Smith and Cassandra Zavislak, ‘Tamil Tigers: Promises of Feminism and Liberation During and After Conflict’ (23 February 2021) Gender, Culture Conflict: Conference Paper <https://groundviews.org/wp-content/uploads/2021/02/Tamil-Tigers-Promises-of-Feminism-and-Liberation-during-and-after-the-conflict.pdf> accessed 27 November 2024.

274 ‘From soldiers to housewives: Women who fought as Tamil Tigers in Sri Lanka are forced into traditional roles’ The Washington Post (2018) https://www.washingtonpost.com/world/asia_pacific/the-women-who-fought-for-the-tamil-tigers-in-sri-lanka-are-being-forced-into-traditional-roles/2018/06/06/6894df7a-681a-11e8-bea7-c8eb28bc52b1_story.html accessed 27 November 2024.

275 See Consultation Task Force on Reconciliation Mechanisms, ‘Final Report of the Consultation Task Force on Reconciliation Mechanisms’ Vol. 1 (17 November 2016). <https://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf> accessed 27 November 2024.

276 Ibid 70.

277 Ibid 87.

278 Ibid 74.

279 Ibid 83.

Education: A suggestion that the Office for Reparations run “education and public awareness programmes to combat stigma in relation to victims of sexual violence.”²⁸⁰

Linkage: a written submission from a women’s collective emphasised that the idea that violations against women are only of a sexual nature should not be perpetuated: “*Women are victims of all forms of violence and crimes, not solely sexual violence. Over-emphasising wartime sexual violence risks ignoring that women suffered mass atrocities (such as arbitrary execution and mass killings, detention and torture, disappearance, eviction, denial of medical treatment for war injury, and starvation) apart from rape.*”²⁸¹

Due to security concerns and the fear of retaliation from the security forces, no human rights organisations in Sri Lanka, including those working on gender-based violence, have been actively engaged in advocacy work specifically focused on reparations for survivors of CRSV.

8. Office for Reparations (OfR) and victims of CRSV

In Sri Lanka, the Reparations Policies and Guidelines of 2021 was formulated in accordance with the Reparations Act of 2018, providing guidelines such as the definition of “aggrieved persons”. The survivors of CRSV are not included in the aggrieved persons category directly.²⁸² However, they are mentioned along with the “specific groups of aggrieved persons” for whom the “*reparations programme shall include specialized reparations to address the needs.*”²⁸³ The OfR has not consulted with survivors of CRSV regarding the violations they have suffered and the harm and consequences of the violations, including their needs. Access to reparations remains a challenge for survivors, given the risks of compromising their confidentiality and security.²⁸⁴ Most survivors of civil war-related CRSV do not report their violations for fear of retaliation, not only against themselves but also against their families.²⁸⁵ While there have been several initiatives,

none have specifically addressed survivors of CRSV.²⁸⁶ There are also no alternative institutions in Sri Lanka that deal with reparations for survivors of CRSV.

Moreover, the report expressed concerns that “lack of understanding on the importance of gender and reparations among the staff of the OfR, policymakers and organisations working on transitional justice and the general public can exacerbate the situation of victim survivors”, and therefore needed to be carried out in detail with a wide demographic.²⁸⁷

9. The ongoing pursuit of accountability in Sri Lanka

As detailed in this report, the prospects for reparations for male and female survivors of CRSV, both within and outside Sri Lanka, remain bleak. Ongoing violations make it unsafe for victims or witnesses to testify before the proposed CTUR or any other transitional justice mechanism in Sri Lanka.

9.1. Proposed Truth and Reconciliation bodies

In 2023, former President Ranil Wickremesinghe announced plans to establish two new transitional justice mechanisms: the Office for National Unity and Reconciliation (ONUR),²⁸⁸ gazetted on 4 September 2023, and enacted on 23 January 2024, and a Commission for Truth, Unity and Reconciliation (CTUR), gazetted on 6 January 2024.²⁸⁹

The proposals have been met with criticism by victims and human rights defenders, who view them as another questionable political stunt by the Government of Sri Lanka. The President’s Secretary, Saman Ekanayake, has openly stated that a domestic transitional justice mechanism in the form of a TRC would be a step towards removing Sri Lanka from the agenda of the UN Human Rights Council, and an opportunity to remove the investigative mandate given

280 Ibid 78.

281 Ibid 88.

282 Office for Reparations, ‘Reparations Policies & Guidelines 2021’ (2021) p. 4 https://www.reparations.gov.lk/web/images/2021/Policy_and_Guidelines_final.pdf accessed 27 November 2024.

283 Ibid 26; Office for Reparations Act No. 34 of 2018, p. 2.

284 Centre For Policy Alternatives, ‘Accountability and Reparations for Victims of Conflict Related Sexual Violence in Sri Lanka: Discussion Paper’ (2016) p. 25

285 Note various ITJP reports, including its report: ITJP, ‘Disappearance, Torture And Sexual Violence Of Tamils 2015 – 2022’ (8 May 2024).

286 Centre for Equality and Justice, ‘A Brief on Women and Reparations in Sri Lanka’ (March 2022) <https://cejsrilanka.org/wp-content/uploads/A-brief-on-women-and-reparations-in-Sri-Lanka-2.pdf> accessed 27 November 2024.

287 Ibid 10.

288 Parliament of the Democratic Socialist Republic of Sri Lanka, ‘Office for National Unity and Reconciliation Act, No 1 of 2024’ (23 January 2024) https://onur.gov.lk/wp-content/uploads/2024/05/01-2024_E.pdf accessed 27 November 2024.

289 Parliament of the Democratic Socialist Republic of Sri Lanka, ‘Commission for Truth, Unity and Reconciliation in Sri Lanka Bill’ (5 August 2024) <https://www.parliament.lk/uploads/bills/gbills/english/6373.pdf> accessed 27 November 2024.

to the Office of the High Commissioner for Human Rights to investigate impunity and promote accountability under the UN Sri Lanka Accountability Project (SLAP), which the Government of Sri Lanka perceives as a threat.²⁹⁰ The proposal for a TRC in 2023 came from the same political leader who failed to implement Resolution 30/1 in 2015, the only difference being that he was Prime Minister in 2015 and President in 2023.

In 2023, the Government of Sri Lanka formed a task team that circulated a concept note on the proposed TRC to a small circle of civil society organisations, excluding most victims' groups, including the families of the disappeared. While the legislation to establish the ONUR was passed by the Sri Lankan Parliament in September 2023,²⁹¹ legislation for the TRC remains pending. In January 2024, the bill to establish the commission was gazetted,²⁹² in which article 39 states that "*within one month from the date of publication of the first interim report or the making of interim recommendations by the Commission, the President shall establish a Monitoring Committee to monitor and facilitate the implementation of the recommendations of the Commission.*"²⁹³

The ONUR legislation does not refer to violations, but instead it refers to "complaints and harm suffered", framing the proposed Truth Commission as "[p]roviding the people of Sri Lanka with a platform and opportunity for truth telling and relating their narratives, including positive experiences and providing them the necessary protection".²⁹⁴ It is not clear whether this is intended to be

the overarching legislation or the chapeau legislation for a TRC. Neither the proposed TRC nor the ONUR addresses reparations or rehabilitation. Rather, as Human Rights Watch noted in a press release dated January 2024, "the new commission's proposed mandate would overlap in ill-defined ways with existing but nonperforming agencies, including the Office for Reparations, established in 2018, and the Office of Missing Persons, established in 2017."²⁹⁵

In its current form, the act does not comply with international and regional standards for the establishment of a transitional justice mechanism.²⁹⁶ The Centre for Policy Alternatives (CPA) has noted that while victims may be willing to come forward to submit their claims under a new TRC, effective protection measures for victims and witnesses would need to be put in place.²⁹⁷ The CPA has also noted that the state has failed in the past to implement the new Victim and Witness Protection Act, which it introduced in 2023.²⁹⁸

In September 2023, the International Crisis Group stated in its critique that "*[i]n present circumstances, a truth and reconciliation commission would have little to no chance of success.*"²⁹⁹ Human Rights Watch also rejected the proposal to establish these transitional justice mechanisms, stating that the "*[...] government's ongoing abuses are undermining the purported goals of its newly proposed truth and reconciliation commission.*"³⁰⁰ There is no political will to achieve accountability for the past, both because of the complicity of many top officials in the violations and because of the use of nationalist rhetoric to win elections among the majority community.

290 "The President's Secretary pointed out that there is a strong need to resolve the issues related to the reconciliation process, and that if this effort is successful, there will be no need for the country to go to the UN Human Rights Council in Geneva for another year." President's website [accessed 16 October 2023] "The President's goal is not to pass the task of reconciliation in Sri Lanka to the next generation – Says President's Secretary Saman Ekanayake" <https://www.presidentoffice.gov.lk/index.php/2023/07/12/the-presidents-goal-is-not-to-pass-the-task-of-reconciliation-in-sri-lanka-to-the-next-generation-says-presidents-secretary-saman-ekanayake/>.

291 Sri Lanka Brief, 'Sri Lanka: 21 member National Unity and Reconciliation Commission proposed (excerpts from the draft act)' (12 April 2023) [Excerpts from NURC draft act] <https://srilankabrief.org/sri-lanka-21-member-national-unity-and-reconciliation-commission-proposed-excerpts-from-the-draft-act/> accessed 27 November 2024.

292 Sri Lanka Brief, 'Sri Lanka govt's Truth, Unity, and Reconciliation Commission Bill gazetted' (3 January 2024) <https://srilankabrief.org/sri-lanka-govts-truth-unity-and-reconciliation-commission-bill-gazetted/> accessed 27 November 2024.

293 The Gazette of the Democratic Socialist Republic of Sri Lanka, 'Commission for Truth, Unity and Reconciliation in Sri Lanka Bill' (1 January 2024) https://srilankabrief.org/wp-content/uploads/2024/01/reconciliation-gazette432-2024_E.pdf accessed 27 November 2024.

294 Excerpts from NURC draft act.

295 Human Rights Watch, 'Sri Lanka: New Transitional Justice Process Lacks Credibility' (29 January 2024) <https://www.hrw.org/news/2024/01/29/sri-lanka-new-transitional-justice-process-lacks-credibility> accessed 27 November 2024.

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298 Parliament of the Democratic Socialist Republic of Sri Lanka, 'Assistance To And Protection Of Victims Of Crime And Witnesses Act, No 10 (2023)' (8 August 2023) <https://www.parliament.lk/uploads/acts/gbills/english/6297.pdf> accessed 27 November 2024.

299 International Crisis Group, 'Sri Lanka Needs Truth, but Not (Yet) a Truth Commission' (7 September 2023) <https://www.crisisgroup.org/asia/south-asia/sri-lanka/sri-lanka-needs-truth-not-yet-truth-commission> accessed 27 November 2024.

300 Human Rights Watch, 'Sri Lanka: Abuses Undercut Proposed 'Truth Commission'' (18 September 2023) <https://www.hrw.org/news/2023/09/18/sri-lanka-abuses-undercut-proposed-truth-commission> accessed 27 November 2024.

9.2. New threats to accountability and effective reparations for CRSV

In September 2024, Anura Kumara Dissanayake of the Janata Vimukthi Peramuna (JVP) party became the Executive President of Sri Lanka without securing 50 per cent of votes cast (the first step required by the Sri Lankan electoral law). Kishali Pinto-Jayawardena, a journalist and Rights Commissioner in Sri Lanka, noted that despite his victory, the President will have to 'win over' the as-yet unpersuaded voters, particularly by addressing the concerns of Sri Lanka's Tamil and Muslim minorities, rather than following the 'Gotabhaya way' and courting only the majority.³⁰¹

President Dissanayake came to power promising to tackle corruption and establish a new political culture. However, he has already informed the Human Rights Council that Sri Lanka opposes HRC Resolution 51/1 and the previous HRC resolution 46/1 which established SLAP, and that the new government rejects the draft resolution which seeks to extend the mandate of Resolution 51/1.³⁰²

It is, therefore, highly unlikely that Dissanayake will take any steps to address accountability or reparations for the end of war violations, which mainly affected the Tamil people in the northeast of the country, and even less so to address the rights of victims of CRSV. The ongoing exhumation of a mass grave in Mullaitivu in Sri Lanka is a test case for the country's ability to deal with its past in a credible manner. The grave contained the bodies of former ex-LTTE fighters, including a number of women who may have been subjected to sexual violence.³⁰³

The international community has an obligation to ensure that the Government of Sri Lanka provides justice and accountability for end of war survivors of CRSV, including reparations and rehabilitation. Any future transitional justice mechanism should include those measures. In addition, pressure should be brought to bear through CEDAW and the UN Human Rights Committee to ensure

that the definition of 'aggrieved persons' used by the Office for Reparations includes victims of CRSV, which would at least open up the possibility for them to access reparations.

10. Forgotten: Sri Lanka's Exiled Victims

The Sri Lanka Consultation Task Force only interviewed victims and civil society groups in Sri Lanka and excluded victims who were forced to flee Sri Lanka after the end of the war in 2009. To fill this gap, the ITJP conducted a parallel consultation in 2016 with 75 exiled victims in four European countries to feed into the government's consultations on the transitional justice.³⁰⁴ Among the victims interviewed, 20 were female. Of the total number of participants, 37 had been sexually violated, with 10 also describing family members being sexually violated.³⁰⁵

The victims who participated in the 2016 consultation made different recommendations:

- Those who were ex-LTTE veterans, especially the disabled, suggested that they receive a pension, like soldiers.
- Exiles emphasised the need for language classes, sports therapy, medical care, and trauma counselling.

When asked about the transitional justice mechanisms under consideration at the time – a Truth and Reconciliation Commission, a special hybrid court, an Office of Missing Persons, and an Office for Reparations – survivors overwhelmingly demanded criminal justice. 78 per cent supported a Truth Commission, provided they could testify anonymously from behind a screen with voices disguised and names and identities withheld. None would agree to have a Sri Lankan government official in the room with them or to testify in a Sri Lankan embassy. 20 per cent said it was too dangerous to testify before a court or commission, no matter what safeguards were in place, because the facts of their case would identify them. Some indicated they would only submit written testimony due to security risks.

301 The Sunday Times, 'From a 'wattle and daub' hut to the presidency; Sri Lanka's new president faces formidable challenges' (29 September 2024) <https://www.sundaytimes.lk/240929/columns/from-a-wattle-and-daub-hut-to-the-presidency-sri-lankas-new-president-faces-formidable-challenges-572721.html> accessed 27 November 2024.

302 UN Human Rights Council, 'Statement to be delivered by Sri Lanka during consideration of the draft resolution A/HRC/57/L.1 (9 October 2024) https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/81/OTH/81_18842137_903560d0-3163-4116-879a-ab0347cc38b3.docx

303 '13 bodies uncovered in Mullaitivu mass grave' Tamil Guardian (7 July 2023) <https://www.tamilguardian.com/content/13-bodies-uncovered-mullaivu-mass-grave> accessed 27 November 2024.

304 ITJP, 'Forgotten: Sri Lanka's Exiled Victims' (June 2016) p. 10.

305 The ITJP's psychosocial project was started as a result of this consultation process. The exercise revealed that survivors of torture in the UK were worse off than those in France, Norway, and Switzerland in terms of their inability to access essential medical and social services, including language classes needed to communicate their needs. The ITJP initially aimed to connect survivors with existing services but soon found it more effective to provide these services themselves. The ITJP began with a small pilot programme offering basic language classes to eight participants, to see if they would attend. Many people and their families in Sri Lanka had not received even basic medical care, even seven years after the end of the war, and despite suffering from serious physical injuries, such as those caused by shrapnel. In fact, ITJP knows of asylum seekers who, upon receiving X-rays in the UK, shocked doctors with the extent of untreated injuries inside their bodies.

All victims interviewed expressed the view that the lack of a credible witness protection scheme constituted a major obstacle, given the unchanged power structures, particularly with regard to the military. One survivor noted: *"Although the government has changed, they still have the same military structures in place."*³⁰⁶

When asked which crimes they could never accept an amnesty for, rape and other forms of sexual violence were the most common responses. When asked about barriers

to women's participation in transitional justice processes, many reinterpreted the question to mean how to persuade female sexual violence victims to come forward and testify. Survivors identified stigma and security as the main challenges. One of the male interviewees said that a woman's husband wouldn't allow her to testify. A solution proposed by both male and female survivors was the involvement of credible international organisations (including female officials for female survivors) and strict confidentiality.³⁰⁷

306 ITJP, 'Forgotten: Sri Lanka's Exiled Victims' (June 2016), p. 48.

307 Ibid p. 55.



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