



**Submission from People for Equality and Relief in Lanka
4th Universal Periodic Review of Sri Lanka**

“Sri Lanka’s Increasing Impunity and Ongoing Violations of Tamil Rights”

Justice and Accountability

1. In its previous Universal Periodic Review, the Government of Sri Lanka (GOSL) supported recommendations¹ to hold accountable perpetrators of wartime human rights violations, including government officials and security forces.²
2. Sri Lanka supported recommendations to continue and/or expedite the process of national reconciliation.³ It supported a recommendation to prevent acts of violence and intimidation against ethnic minorities to promote reconciliation.⁴
3. Sri Lanka supported recommendations to implement its commitments under UN Human Rights Council (UNHRC) Resolution 30/1 (2015),⁵ including recommendations to fully investigate enforced disappearances⁶ and to provide the Office of Missing Persons (OMP) with sufficient resources and independent commissioners to be operational and effective.⁷
4. In contrast to these commitments, GOSL has empowered many individuals credibly accused of international crimes to the highest levels of its current government; failed to create any independent justice mechanisms regarding wartime crimes, including enforced disappearances; and continued to permit, encourage, and even perpetrate acts of violence and intimidation against Tamils and Tamil-speaking Muslims.

PEARL notes the following areas of regression:

5. The Gotabaya Rajapaksa government, elected in 2019, further entrenched impunity in Sri Lanka. President Rajapaksa, the former president Mahinda Rajapaksa’s brother and Defense Secretary, oversaw the military’s alleged war crimes, crimes against humanity, and genocide during the final phase of the war and has engaged in postwar violations.
6. Following his election, President Rajapaksa appointed more than 28 former military personnel accused of international crimes to high-level positions: Mahinda Rajapaksa as Prime Minister, Shavendra Silva as now Chief of Defense Staff, Kamal Gunaratne as Secretary of Defense, and K. Jagath Alwis as Chief of National Intelligence. Shavendra Silva also led Sri Lanka’s pandemic response as head of the National Operation Centre for Prevention of COVID-19 Outbreak,⁸ despite having no public health experience.
7. In February 2020, the administration withdrew from its commitments under Resolution 30/1, including its previously declared support for an independent judicial mechanism with foreign judges.
8. In contrast to its international commitments, Sri Lanka has neither investigated nor resolved cases of enforced disappearances since the 1980s. Instead, it suppresses civil society calls for truth and justice for the victims and their families. February 2022 marked the fifth year of a

continuous public protest by Tamil families of the disappeared who have received no information about the fates or whereabouts of their loved ones. These families report being photographed by government agents during protests, facing direct and indirect interrogation and police harassment.⁹

9. The following cases are emblematic of the persistent impunity for wartime crimes:
 - a. In 2008 and 2009, eleven Tamils were forcibly disappeared, with evidence pointing to the Sri Lankan Navy as perpetrators. In August 2021, the Attorney General dropped the charges against then-Commander Wasantha Karannagoda, despite having named him a suspect for his knowledge about the abduction, command responsibility over the perpetrators, and failure to take action to prevent the disappearances. No other alleged perpetrators have been named, and no other action taken to locate the victims or investigate alleged perpetrators.¹⁰
 - b. Previously, GOSL has pointed to the conviction and death sentence against Staff Sergeant Sunil Ratnayake for the murder of eight Tamils in the 2000 Mirusuvil massacre as an example of accountability. However, in March 2020, he was pardoned by the President and released.
 - c. The OMP, created in response to UNHRC Resolution 30/1, does not meet the needs of victims and families, and has failed to make any meaningful progress. Tamil activists in the country also note that the OMP processes are long, cost prohibitive, and that the few families who engaged with the OMP were subjected to state surveillance and harassment.
 - d. The 20th amendment to the Constitution, passed in 2020, worsened impunity for disappearances by empowering the President to make all OMP appointments, further diminishing the OMP's credibility.

10. PEARL recommends that Sri Lanka

- a. **Immediately remove political and security force leaders credibly accused of international crimes from positions of power;**
- b. **Immediately recommit to the implementation of UNHRC Resolution 30/1, including by ensuring the independent and timely investigation and prosecution of alleged international crimes;**
- c. **Prioritize justice for emblematic cases of serious and widespread human rights violations in order to demonstrate a strong commitment to human rights, accountability, and reconciliation;**
- d. **Where domestic action does not proceed immediately, submit to and/or cooperate fully with any accountability efforts, including by the Sri Lanka Accountability Project, International Criminal Court, states exercising universal jurisdiction, and the International Court of Justice;**
- e. **Support the establishment of a UN Special Rapporteur for Sri Lanka to monitor and report on justice, accountability and ongoing human rights violations, and invite the Rapporteur to visit;**

- f. **Ensure representation of minority and marginalized groups in the drafting of a new constitution and formation of a new government that reflects the plurinationalist nature of the state.**

Violations Stemming from the PTA

11. Sri Lanka supported a recommendation to review and align counterterrorist legislation with international standards and obligations¹¹ as well as recommendations to prevent torture, especially against detainees.¹² This aligns with Sri Lanka's commitment under UNHRC Resolution 30/1 to review and repeal the PTA and replace it with a human rights-compliant counterterrorism law.
12. Sri Lanka supported recommendations (*see infra* ¶ 2) to continue and/or expedite the process of reconciliation, including a recommendation specifically to prevent acts of violence and intimidation against ethnic minorities to promote reconciliation.
13. In contrast to its international commitments, Sri Lanka continues to use the PTA to target Tamil-speaking people for arbitrary detention and torture, including extensive sexual and gender-based violence (SGBV).¹³

PEARL notes the following areas of regression:

14. Torture and SGBV against Tamil detainees, considered “endemic” and “systemic” by a UN expert,¹⁴ is consistently highlighted by the UN High Commissioner for Human Rights.
15. PTA prisoners, who are held separately from other inmates, are referred to within the prison system as “LTTE” prisoners, in reference to the Liberation Tigers of Tamil Eelam, and report significant levels of discrimination from guards and other prisoners.¹⁵ Tamil-speaking PTA detainees are often physically coerced into signing confessions in a different language. Numerous reports suggest that assigned Judicial Medical Officers often collude with the police to cover up torture.¹⁶

16. PEARL recommends that Sri Lanka:

- a. **Immediately suspend, and speedily repeal, the PTA, while ensuring that any proposed replacement legislation complies with international human rights obligations;**
- b. **Immediately release all political detainees;**
- c. **Create a process to provide fair, timely, and gender-sensitive reparations and financial assistance for abuses perpetrated under the PTA, including through the recognition and renouncement of the deliberate targeting of Tamils and Tamil-speaking Muslims, and the provision of financial assistance to civil society organizations offering legal and other support to detainees and their families.**

Repression of Journalists and Civic Space

17. Sri Lanka accepted recommendations to protect civil society actors and human rights defenders, specifically including journalists.¹⁷
18. In contrast, security forces under the Rajapaksa administration have increasingly surveilled, intimidated, harassed, threatened with death, and forced into exile activists, lawyers, journalists, and political dissidents.

PEARL notes the following areas of regression:

19. Intelligence officials questioned activists and victims about their advocacy plans leading up to the February 2020 UNHRC session. Human rights groups were also questioned by police in the Terrorist Investigation Department, who claimed the activists used money from abroad for terrorist activities.
20. Examples of official intimidation of Tamil speakers include:
 - a. Military demands that Prabakaran Thangarajah, the editor of Tamil newspaper *Uthayan*, reveal his sources, alongside threats against the newspaper's reporters and freelancers.
 - b. In February 2021, Forest Department officers harassed Tamil journalist Kanapathipillai Kumanan while he was covering a local incident, photographing him and demanding his personal information. Four months before, Kumanan and another reporter had been physically attacked after reporting on illegal logging and timber smuggling involving the Forest Department.
 - c. Ahnaf Jazeem, a Muslim poet, was arrested in May 2020 under the PTA for allegedly promoting religious extremism in his 2017 Tamil-language poetry anthology and was investigated for links to the Easter Sunday attacks. The police forced him to confess by threatening to imprison him for 20 years and to arrest his fiancée.

21. PEARL recommends that Sri Lanka:

- a. Immediately suspend and speedily repeal ambiguous laws that are used to suppress and punish forms of internationally protected speech;**
- b. Immediately cease official targeting of journalists, civil society activists and human rights defenders, and release those who are unjustly detained and imprisoned;**
- c. Investigate and prosecute crimes against journalists and other human rights defenders.**

Sinhalization as Repression of Tamil Rights

22. Sri Lanka supported recommendations (*see infra* ¶ 2) to continue and/or expedite the process of reconciliation, including a recommendation specifically to prevent acts of violence and intimidation against ethnic minorities to promote reconciliation.
23. Sri Lanka has repudiated these commitments by systematically violating Tamils and Tamil-speaking Muslims' rights to property, freedom of religion, and freedom of speech and expression, in order to create a unitary Sinhala-Buddhist state, an aim that Rajapaksa publicly espouses.¹⁸
24. GOSL pursues its goal of Sinhalization through specially designated governing bodies—including the Mahaweli Authority and various executive Task Forces charged with religious and cultural matters—that centralize power at the expense of local governance structures. The courts are unable or unwilling to enforce meaningful checks against government-backed Sinhalization projects, thus eroding the rule of law.
25. GOSL has tried to achieve its vision through: (i) military occupation of Tamil lands and suppression of Tamils' free expression; (ii) confiscation of Tamil lands by the Mahaweli Authority and their repopulation by Sinhalese settlers from other areas; and (iii) conversion of Hindu and Muslim sites of worship to Buddhist monuments and temples under the auspices of the Presidential Task Force for Archaeological Heritage Management in the Eastern Province.¹⁹
26. In its 2017 review, Sri Lanka specifically committed to addressing each of the above issues as they related to:
 - a. **Land and economic rights.** Sri Lanka supported recommendations to end military involvement in economic and civilian activities in order to guarantee citizens' economic, social and cultural rights.²⁰ Sri Lanka supported recommendations to accelerate the restitution of land taken by the army,²¹ to review land laws,²² and to “significantly increase” the return of private land to its owners and address land-grabbing accusations.²³ It also noted a recommendation to consider a large-scale transfer of land in the North-East²⁴ to civilians.²⁵ Sri Lanka further supported recommendations to alleviate poverty, especially for vulnerable groups.²⁶
 - b. **Religious freedom.** Sri Lanka supported a recommendation to ensure the effective participation of minorities in decision-making institutions and processes²⁷ as well as recommendations to protect freedom of religion and end impunity for religiously motivated violence.²⁸

PEARL notes the following areas of regression regarding the above commitments, as a result of militarized repression, land grabs, and Buddhization:

Militarized repression of Tamil economic and civil activity

27. North-East Tamil areas remain heavily militarized, with an estimated one military official for every six civilians. Military occupation and land development have permanently displaced Tamil families from their traditional lands and sources of income, while the military steadily continues to convert North-East land into businesses and tourism sites and receive all related income.²⁹
28. Militarization is used to enforce policies of Sinhalization, violently and symbolically. The Rajapaksa government employs violence to enforce its ban on Tamil memorialization of the war dead. The military has likewise enforced pandemic-era restrictions disproportionately against Tamil civil protests. This suppression serves to erase Tamil historical identity while promoting Sinhalese perspectives, which perpetuates the root causes of conflict and is counterproductive to reconciliation.
29. Military surveillance continues to occur during major Tamil remembrance events, such as Tamil Genocide Remembrance Day (May 18) and Maaveerar Naal (November 27).
Examples include:
 - a. Murugupillai Kokulathanan, a freelance Tamil journalist, was arrested in November 2020 after social media posts about commemoration events.
 - b. Ten Tamils were arrested at a memorial event in May 2021 and accused under the PTA of commemorating the LTTE. They were released on bail after seven months with no indictment.
 - c. In 2021, the University Grants Commission demolished a Mullivaikkal memorial at Jaffna University, calling it a threat to national unity.
 - d. Armed troops forced out grieving families at a Mullaitivu memorial in November 2021 and assaulted Tamil journalists photographing the event.
 - e. Shanmugam Thavaseelan, a Tamil journalist, was stopped and harassed by the police in May 2022 while on his way to cover commemoration events

30. PEARL recommends that Sri Lanka:

- a. Immediately cease the military policing and suppression of Tamil memorialization activities;**
- b. Respect and protect Tamils' rights to free speech, assembly, and association;**
- c. Publicly commit to release all military-occupied private land back to their original Tamil-speaking inhabitants, and return military-run economic enterprises to local citizen control;**
- d. Ensure pledges on land return are time-bound, transparent, adequately reviewed and recorded, and publicly available.**

Land grabs

31. The government-appointed Mahaweli Authority exercises a sweeping legal mandate to designate “special areas” for land development through irrigation schemes and projects for “general welfare” or “cultural progress.”³⁰ GOSL then subsidizes the settlement of Sinhalese people into what are often historically Tamil lands to farm them, while refusing to recognize

Tamil land ownership claims.

32. Due to years of displacement and under-documentation of their historical presence, Tamil land claims are broadly ignored by the Authority. In addition, Tamil women whose husbands were disappeared or killed are frequently blocked from their lands because they are unable to submit their husband's death certificate. As a result, thousands of Tamils remain displaced, unable to re-enter their lands or pursue their traditional livelihoods.³¹
33. The Authority has not promulgated any clear public standards by which it designates "special areas" and, in practice, its mandate has been interpreted to supersede Tamil land rights under the Constitution's 13th Amendment.³² For example, in 2018, a district court recognized the legitimacy of Tamil land claims in the Mukaththuvaram area of Kokkilai,³³ finding that Sinhalese fishermen had displaced local Tamil fishermen. Despite the court ruling, the Mahaweli Authority continued issuing land development permits and allocating housing to Sinhala families.³⁴

34. PEARL recommends that Sri Lanka:

- a. Create a transparent, accessible, and flexible process for the recognition of Tamil and other conflict-affected persons' land claims, notwithstanding any lack of formal documentation, in line with international best practices;**
- b. Immediately suspend the powers of the Mahaweli Authority pending the creation of said process for resolving land claims and providing land restoration;**
- c. Ensure the immediate implementation of existing court judgments against the Mahaweli Authority;**
- d. Allocate settlement land in the North-East in accordance with the Dudley-Chelva Pact of 1965;³⁵**
- e. Cease providing subsidies to new settlers in "unclaimed" land.**

Buddhisization

35. GOSL explicitly aims to make Buddhism the foremost religion in the country through "Buddhisization": deliberate, government-sponsored efforts to install Buddhist culture, sites, and practices in traditionally non-Buddhist areas, including through government-sponsored relocation of Sinhala-Buddhist families into these areas. This resettlement is often at the expense of Tamil speakers despite their longstanding, pre-existing ties to the land.
36. The Department of Archaeology, responsible for preserving heritage lands, has frequently used the justification of archaeological investigations and findings to take Tamil lands. In 2020, the Department acquired over an acre of land in the North, in Neduntheevu, using the Antiquities Ordinance because they had found a ruined Buddhist monastery there.
37. GOSL deploys the military to destroy non-Buddhist places of worship in Tamil-majority areas, including Hindu temples, and then builds Buddhist statues and viharas in their place. In 2020, Rajapaksa announced that 700 Buddha statues would be distributed across the island, on the advice of the Buddhist Advisory Council.
38. In October 2021, Rajapaksa created a Task Force on "One Country, One Law" to abolish Tamil and Muslim legal systems. He appointed Galagoda Aththe Gnanasara, a Buddhist

monk who has been accused of encouraging deadly anti-Muslim pogroms, as the Chair to draft the legislation.

39. During the pandemic, GOSL mandated that those who died from COVID be cremated, against the religious wishes of Muslim families. Due to international pressure, this policy was reversed in 2021 and Muslim burials were permitted, but only in a remote government-designated site without family attendance or religious rites. This policy ended in March 2022, as the UNHRC was preparing to discuss Sri Lanka.

40. PEARL recommends that Sri Lanka:

- a. Ensure that religious and ethnic minorities have adequate representation on governing bodies charged with religious and cultural matters;**
- b. Remove government-commissioned Buddhist statues and viharas that do not reflect the wishes of local communities;**
- c. Amend Article 9 of the Constitution to ensure that the security sector cannot be deployed for religious aims.**

¹ Universal Periodic Review of Sri Lanka, Third Cycle, UN Doc. No. A/HRC/37/17 (2017). All recommendations referred to herein are from the Third Cycle, in 2017.

² A/HRC/37/17, recommendations 116.72 (Palestine), 116.73 (United States), and 116.74 (Argentina).

³ A/HRC/37/17, recommendations 116.79 (Thailand), 116.82 (Japan), 116.83 (Nicaragua), 116.84 (Peru), 116.85 (Qatar), 116.86 (Brazil), 116.89 (New Zealand), 116.92 (Venezuela), and 116.93 (Algeria).

⁴ A/HRC/37/17, recommendation 116.94 (Holy See).

⁵ A/HRC/37/17 recommendations 116.87 (Ireland), 116.88 (Germany), 116.89 (New Zealand), and 116.90 (United States).

⁶ A/HRC/37/17, recommendations 116.66 (Slovakia) and 116.67 (Italy).

⁷ A/HRC/37/17, recommendations 116.63 (Germany) and 116.64 (Republic of Korea).

⁸ Until its dissolution in December 2021.

⁹ <https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>, p. 48.

¹⁰ For more detail, see also <https://www.amnesty.org/en/wp-content/uploads/2022/03/ASA3752782022ENGLISH.pdf>.

¹¹ A/HRC/37/17, recommendation 116.52 (Estonia).

¹² A/HRC/37/17, recommendations 116.56 (Iran) and 116.57 (Slovakia).

¹³ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>.

¹⁴ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Visit to Sri Lanka, UN Doc. No. A/HRC/40/52/Add.3 (2018), ¶¶ 24-27.

¹⁵ <https://www.hrsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>.

¹⁶ <https://www.hrsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>, p. 519

¹⁷ A/HRC/37/17, recommendations, 116.104 (Palestine), 116.105 (Norway), 116.106 (Finland), and 116.107 (Ireland).

¹⁸ <https://www.tamilguardian.com/content/gotabaya-speaks-sinhala-race-and-strengthening-security-televised-address>.

¹⁹ Directive No. 2178/17 - Tuesday, June 02, 2020, *Gazette of the Democratic Socialist Republic of Sri Lanka*, http://documents.gov.lk/files/egz/2020/6/2178-17_E.pdf; “Two Separate Presidential Task Forces to Ensure a Secure Country and for Archaeological Heritage Management;” *President of Sri Lanka*, June 3, 2020. <https://www.president.gov.lk/two-separate-presidential-task-forces-to-ensure-a-secure-country-and-for->

[archaeological-heritage-management/](#); Centre for Policy Alternatives. Publication. *The Appointment of the Two Presidential Task Forces*, June 2020. <https://www.cpalanka.org/wp-content/uploads/2020/06/Commentary-Two-Task-Forces-CPA-Final.pdf>.

²⁰ A/HRC/37/17, recommendations 116.130 (Switzerland) and 116.113 (Austria).

²¹ A/HRC/37/17, recommendation 116.131 (France).

²² A/HRC/37/17, recommendation 116.132 (Georgia).

²³ A/HRC/37/17, recommendation 116.133 (Haiti).

²⁴ The North-East constitutes the traditional homeland of the Tamil people in the northern and eastern parts of Sri Lanka.

²⁵ A/HRC/37/17, recommendation 117.47 (Ghana).

²⁶ A/HRC/37/17, recommendations 116.116-116.122 (Morocco, Saudi Arabia, Singapore, United Arab Emirates, Venezuela, Bhutan, and Brunei, respectively).

²⁷ A/HRC/37/17, recommendations 116.172 (Guatemala).

²⁸ A/HRC/37/17, recommendations 116.98 (Madagascar), 116.99 (Belgium), 116.101 (Poland), and 116.103 (Netherlands).

²⁹ For more information, see People for Equality and Relief in Lanka (PEARL), “Sinhalization of the North East: Kankesanthurai (KKS),” September 21, 2019, <https://pearlaction.org/2019/09/21/sinhalization-of-kokkilai/>.

³⁰ Mahaweli Authority of Sri Lanka Act No. 23 (1979). This Act concentrates a huge range of pre-existing state powers under the Mahaweli Authority. In particular, the Authority assumes powers under the Land Development Ordinance No. 19 of 1935 (LDO), which provides for the use, distribution, development, and alienation of state land through specific permit systems, as well as under the Land Acquisition Act. These terms grant the Mahaweli Authority the power to acquire any land compulsorily, so long as it can be related to the (ill-defined) development purposes of the MASA.

³¹ PEARL has reported in depth on these government policies and mechanisms in its report, *State-sponsored Sinhalization of the North-East* (2022), <https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>.

³² *Id.* See also the Sri Lankan Supreme Court case *Environmental Foundation Ltd v. Mahaweli Authority of Sri Lanka and others* (2010) 1 Sri LR (affirming the broad scope of the Authority’s power and providing no remedy for the Authority’s violation of land occupants’ rights).

³³ <https://www.tamilguardian.com/content/mullaitivu-court-rules-against-fisheries-department-and-declares-contested-coastal-land>

³⁴ PEARL, “Sinhalization of the North-East: Kokkilai” (2019), <https://pearlaction.org/sinhalization-of-the-north-east-kokkilai/>.

³⁵ “Dudley Senanayake - Chelvanayagam Agreement 1965.” Tamil Nation, n.d. <https://tamilnation.org/conflictresolution/tamileelam/65dudleychelvaagreement.htm>.