



# Centre for War Victims and Human Rights (CWVHR)

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## Sri Lanka

### Centre for War Victims and Human Rights

#### Submission to the UN Universal Periodic Review

28th session of the UPR working group, Nov 6-17 2017

At the proceedings of the outcome of the Universal Periodic Review (UPR) on Sri Lanka in 2012, the special Envoy of the Sri Lankan President Mahinda Samarasinghe stated that Sri Lanka would accept 113 out of 204 recommendations. The international community accepted the full implementation of LLRC Action Plan and National Human Rights Action Plan (NHRAP) as welcoming steps towards addressing the grave human rights violations during the war and post war period.

Five years have passed, there has been no meaningful, significant and effective implementation towards those commitments. The vast majority of the enforced disappearance cases remain without any investigation or persecution. The state and military machinery responsible for the enforced disappearances remains intact. In 2016, UN Committee against Torture found torture to be common practice, routinely employed on large number of cases by the security forces. The evidence of systematic and continued sexual violence and existence of “rape camps” have been uncovered. The persecution of Muslim minority has intensified, manifesting in ransacking and burning of several Mosques. There has been no investigation or accountability with respect to serious human rights violations documented during the war. In short, Sri Lankan government has failed to deliver on any of its commitment to human rights.

The election of the President Sirisena government in 2015 was a welcoming change. The new government promised to uphold higher standards of human rights, and adopted a more accommodating strategy towards UN instruments and mechanisms. It promised undertake investigation with the involvement of international judges, implement transitional justice measures, implement full demilitarization, release all political prisoners and enact a decentralized constitution addressing the issues faced by minorities. After two years in power, the progress has been minimal. The militarization, torture and sexual violence has continued under the new government, while the constitution reform progress has stalled.

At this critical juncture, CWVHR calls for Sri Lanka to uphold its commitments to international human rights treaties, to fully and effectively implement its commitments to UNHRC and others.



## Enforced Disappearances

Enforced disappearances is a long term, ingrained, grave human rights issue in Sri Lanka. Sri Lanka has the second highest number of enforced disappearances in the world. The enforced disappearances have continued well after war ended in 2009.

Sri Lanka committed to setting up Office of Missing Persons in its various commitments to UPR, UNHRC and UN resolutions.[Ref 32/1] It committed to holding meaningful consultations with the affected families, expediently investigate and resolving the missing persons cases, and holding to account those responsible and compensating the victims. CWWVHR welcomes Sri Lanka ratifying the *International Convention for the Protection of All persons from Enforced Disappearance* and setting up the Office of Missing Persons. Various human rights organizations including Human Rights Watch noted lack of consultations in setting up the Office of Missing Persons.[1]

Office of Missing Persons is supposed to help with tracing of missing persons, protect the rights of the victims and their families, submit recommendations to authorities to take measures on missing persons, inform the affected families about relief channels and collate data related to missing persons obtained by various government institutions into a centralized database. However it has failed to advance these objectives. It has failed to investigate thousands of cases it received where people were taken by the security forces at the presence of witnesses during the last phase of the war. It has failed to undertake criminal investigations into complaints and to identify the whereabouts or fate of the victims, failed to protect witnesses and affected families, and failed to prosecute those against whom there was evidence of wrongdoing. The state and military machinery responsible for the enforced disappearances remains intact.[2] For instance, Sri Lanka has yet to criminalize Enforced Disappearances under the Sri Lankan Penal Code or revoke the draconian Prevention of Terrorism Act (PTA).

## Recommendations

1. CWWVHR calls for Sri Lanka to acknowledge the victims of enforced disappearances and make the status and information about the investigation accessible to the affected families.
2. Strengthen the victim and witness protection so that more affected families are able to report their grievances without fear of reprisals.
3. Develop effective mechanisms to investigate named entities responsible for enforced disappearances and bring them to justice.



4. Provide full compensation and support to affected families without any delay.

## Deepening Militarization

Sri Lanka committed to complete demilitarization in its LLRC Action Plan, National Human Rights Action Plan (NHRAP) and via various UPR and HRC resolutions. However, actions taken by Sri Lanka is increasing the militarization, military interference and extreme surveillance.

According to Center for Policy Alternatives (CPA), as of April 2016, Sri Lankan military occupied more than 51.60 km<sup>2</sup> of civilian land in Northern Sri Lanka alone.[3] Other estimations such as by the British Tamil Forum put this number much higher. CPA research showed that most people were not even officially informed of why their land was taken.

Military occupations have been flashing points between military and local populations. For example, military continues to occupy Keppapilavu and Puthukkudiyiruppu villages despite sustained non-violent protests by the local people and civic society organizations. Another example is Mu'l'likku'lam. Around 276 families from Mu'l'likku'lam have been uprooted and languishing in the outskirts for almost five years without basic facilities. In 2009, SL Navy has transformed Mu'l'likku'lam into the Command Headquarters of its so-called "North Western Naval Area". This area contains 7 agricultural tanks, churches, schools, a fisheries jetty, a playground and a multipurpose cooperative building. There are 284 houses, where majority are stone houses. These houses are being occupied by the Naval Officers now. This is the situation prevails in most of the places where army occupied towns and villages.

Sri Lankan military continues to conduct extra judicial killings and activities. There are allegations by the Northern Provincial Council that the military used poison to slowly kill more than a hundred former militants.[4] As all people have come into contact with military at some point, people live under state of fear and suspicion that they could have been targeted.

Military is heavily involved in commercial activities including running of welfare centers, shops, tourist resorts, and manufacturing companies.[5] From commercial activities to land occupation to extreme surveillance and extra judicial killings the role of military in the North and East has been totalitarian. The immediate impact of militarization in North and East in terms of loss of homes, livelihood, torture, sexual violence is well known and documented. The long term collective psycho social impact on the Tamil population as a whole is also of



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deep concern. Moreover, pervasive militarization throughout the island nation's historically Tamil areas undermines any legitimate transitional justice agenda and the most basic precepts of a fully functioning democracy.

### Recommendations

1. CWWHR calls for the Sri Lankan government to respect its commitments to completely demilitarize North and East and throughout Sri Lanka.
2. Stop the Sri Lankan military from engaging in any commercial or civil governance related activities.
3. Conduct an international investigation into potential war crimes and crimes against humanity conducted by the military and bring those responsible to justice.
4. Set-up a strong civilian oversight mechanism that includes elected and civic members from the affected communities to prevent human rights violations by the military.

### Torture

In 2016, the UN Committee Against Torture found torture to be common practice, routinely employed on large number of cases by Criminal Investigation Department (CID) police and military agencies.[6] According to International Truth and Justice Project, torture methods included beatings, suffocation, sleep deprivation, asphyxiation, and rape of men and women. This is four years after Sri Lanka said to have addressed torture in its 2012 UPR state report via National Human Rights Action Plan (NHRAP) and almost two year after President Sirisena taking power in 2015. The OHCHR Investigation on Sri Lanka (OISL) listed 48 torture sites, and recent reports by International Truth and Justice Project, Freedom from Torture and other organizations show the continued existence and use of such torture sites.

Sri Lankan government has defended, denied or diverted from the issue of torture. For instance, National Human Rights Commission said it has received 3,404 complaints about torture. While Sri Lankan delegation reported only 150 incidents to the UN Committee Against Torture.[7] Despite Sri Lankan governments orchestrated cover-up, the continued existing and torture in Sri Lanka is undeniable.

UN Committee against Torture findings reinforce deepening concern among human rights activists that President Sirisena and Prime Minister Ranil Wickremesinghe are backpedaling on the promised institutional cleanup for fear of antagonizing the country's powerful security services. Many concerns were



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underscored, by the alarming presence of Sri Lanka's national intelligence chief, Sisira Mendis, in the delegation sent to meet the UN committee. Mr. Mendis had served as deputy inspector general of the Criminal Investigations Department for a period of 15 months up to June 2009. He was the person with command responsibility over the most notorious center for abuse in the country just at the end of the civil war.

Sri Lanka is a signatory to the UN Convention against Torture since 1994. Despite the commitments made by Sri Lanka to the international community in 2012 and in 2015, Sri Lanka has failed to effectively eradicate torture.

### Recommendations

1. CWWHR calls for Sri Lanka to acknowledge and investigate the torture sites and complaints received the National Human Rights Commission to full extent and bring those responsible to justice.
2. Provide effective and comprehensive victim and witness protection.
3. Provide compensation and medical, mental and community support for the victims.
4. Create a civilian oversight mechanism in accordance with international standards and with investigative powers to prevent torture, especially with respect to people under custody by the CID, police and military agencies.

### Sexual Violence

Sexual violence was used as a weapon of war, as a torture technique and as a "spoil of war" by the Sri Lankan military and police forces. Rape is committed against Tamil women in army and navy camps, police stations, camps for the internally-displaced persons, interrogation centers and in Tamil homes.[8]

UN Panel of Expert and human rights lawyer Yasmin Sooka has documented the use of sexual violence in Sri Lanka after the war in her March 2014 report: "An Unfinished War: Torture and Sexual Violence in Sri Lanka, 2009 - 2014". It documents 40 sworn statements from witnesses and noted that all victims were sexually assaulted and most were raped violently.[9] A report by the International Truth and Justice Project (ITJP) published on Feb 2017 details "Sri Lanka military holding women as sex slaves in rape camps".[Cite10] It notes at least four such rape camps located in Vavuniya, near Puttalam, Colombo and outside Colombo. This evidence has been submitted by ITJP to UN Committee on the Elimination of Discrimination against Women (CEDAW). Despite these



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overwhelming evidence, Sri Lanka denies any systematic sexual violence by security forces and only notes of 12 incidents from Jan 2007 to May 2009 and 6 incidents from May 2009 to May 2012 implicating 17 personnel in total.[10]

Sexual violence, gender based violence, and domestic violence are systemic issues beyond and including war affected areas. By account of former state minister for women's and children's affairs Rosy Senenayake only a fraction of perpetrators are remanded and among them only a fraction get punished. She cited of the 300,000 rape cases, only 600 perpetrators are remanded and only 2% or 12 get punished.[11]

### Recommendations

1. CWWVHR calls for Sri Lanka to acknowledge the systematic nature of sexual violence and investigate the cases and evidence reported by ITJP, Yasmin Sooka and others.
2. Bring perpetrators to account and publically identify sexual criminals. This is needed for deterrence and for prevention.
3. As sexual crimes are often unreported due to associated cultural stigma, provide additional psychological, economical and community support to the victims to help them report and heal.

### Impunity

Sri Lanka accepted findings by UN agencies that possible war crimes and crimes against humanity could have been committed during the war against the LTTE by both sides. It pledged to set-up investigative and transitional justice mechanisms with the participation and input from international experts and justices. However, Sri Lanka has failed to bring a single individual to justice.

There are credible evidence that Sri Lankan military systematically targeted hospitals in the Tamil dominated Vanni region and executed hundreds of surrendered LTTE cadres and civilians, including the Catholic priest Rev. Francis Joseph. To date, there have been no investigations about the targeted hospital bombings or killing of the surrendered.

CWWVHR along with various other human rights organizations have presented witness and victim accounts and material evidence about use of chemical weapons against civilians by the Sri Lankan military. Again, there has been no efforts by the Sri Lanka to investigate these issues.

### Recommendations

**Protecting war victims and promoting human rights**





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1. Sri Lanka must fully implement the special court with foreign judges to independently investigate the possible war crimes and crimes against humanity committed by both sides of the conflict during and after the war.
2. Sri Lanka must fully implement the transitional justice mechanisms including criminal prosecutions and truth and reconciliation commission.

### Lack of Due Process, Rule of Law and Justice

Unconstitutional replacement of Chief Justice by the president[12], long languish of political prisoners without charge or trial, extrajudicial killing of journalists, arbitrary and lack of persecution of politicians on corruption cases are just few examples Sri Lanka's failure to uphold due process, rule of law and justice.

The President Sirisena government committed to addressing the political prisoner issue. Yet very few have been released.[13] There is lack of transparency with respect to how many are being held, where or for what reasons. The special courts set up to hear these cases in Anuradhapura (2012) and Colombo (2015). Yet, no cases have been taken so far for hearing. Only dates are given every time for further hearing.

As political prisoners are being held indefinitely, some such as Pushpakumar and Saman Sugivan are accepting charges even when they did not commit that crime in the hope that the sentence they would receive would be shorter than their indefinite detention.

### Recommendations

1. Implement the commitment to release "all political prisoners forthwith and to act directly without intermediaries."
2. Improve the independence of judiciary by removing political appointments and interference to judiciary.

### Freedom of Press

Sri Lanka ranks at the bottom of the World Press Freedom Index (141/180). The President Sirisena government has improved the environment for press notably. However, many killing and disappearances of journalists remains unresolved. Some prime examples such cases are the killings of Shoba (killed on May 18 or 19, 2009, in Mullivaikkal, Sri Lanka), Puniyamoorthy Sathiyamoorthy (Killed on February 12, 2009, in Mullaitheevu district, Sri Lanka), Lasantha Wickramatunga (killed on January 8, 2009, in an area outside



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Colombo, Sri Lanka), Rashmi Mohamed (killed on October 6, 2008, in Anuradhapura, Sri Lanka), Paranirupasingham Devakumar (killed on May 28, 2008, in Jaffna, Sri Lanka) and the disappearance of cartoonist Prageeth Eknelygoda (since January 2010). Sri Lanka ranks as one of the worst nations in the world in combating anti-press violence.

## Recommendations

1. Bring perpetrators of violence against journalist to justice and end the culture of impunity.
2. Guarantee safety and freedom for exiled journalist to return.
3. Stop extreme online surveillance of media and citizen activity.

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