

**JOINT CIVIL SOCIETY SUBMISSION TO THE UN PERIODIC REVIEW OF SRI LANKA (28TH
SESSION)**

March 30, 2017

Signatory Civil Society Organizations

1. Adayaalam Centre for Policy Research (Jaffna)
2. Centre for Human Rights and Development (Colombo)
3. Centre for Promotion and Protection of Human Rights (Trincomalee)
4. Jaffna Press Club (Jaffna)
5. Maatram Foundation (Vavuniya)
6. Mannar Citizens' Committee (Mannar)
7. Tamil Civil Society Forum (Jaffna)
8. Tamil Lawyers' Forum (Vavuniya)

Summary

1. Since Sri Lanka's last UPR second-cycle review in 2012, there has been a change in Government from the authoritarian government led by then President Mahinda Rajapaksa, to the self-proclaimed 'National Unity Government' led by President Maithripala Sirisena. Shortly after the regime change in January 2015 (consolidated in August 2015), the Government of Sri Lanka (GoSL), co-sponsored Resolution 30/1 at the UN Human Rights Council, which among other things, included commitments to creating a credible hybrid court, undertaking meaningful security sector reform, releasing military-occupied lands, and repealing the Prevention of Terrorism Act (PTA). The election of the national unity government alongside Resolution 30/1 inspired cautious optimism across the country that perhaps Sri Lanka could move to a positive trajectory that would allow for accountability for atrocity crimes committed during the war, meaningful reconciliation and better promotion and protection of human rights, leading to more sustainable peace. Unfortunately, in the period since the election and the resolution was passed, the GoSL has not demonstrated the strong leadership necessary to put Sri Lanka on the right trajectory, and instead has continued to allow or even promote the culture of impunity and lack of respect for human rights that existed under the previous regime and during the war.
2. As seen in appendix I to this submission containing a completed matrix of recommendations from the previous UPR cycle on Sri Lanka, the GoSL has given the appearance of taking some steps towards implementing recommendations and

addressing human rights issues, however many of these steps remain at the level of superficial engagement or cooperation with UN mechanisms and mandate-holders, while domestically the GoSL's messaging contradicts these seemingly positive steps.

3. As this submission will highlight, the following pressing human rights issues continue to particularly affect the North-East of the island: (1) heavy militarization; (2) illegal land acquisitions and displacement; (3) the continued operation of the Prevention of Terrorism Act and detention of political prisoners; (4) lack of investigations into/accountability for enforced disappearances and the 'Office of Missing Persons Act'; (5) repressed freedom of expression and freedom of assembly; and (6) lack of accountability for atrocity crimes committed during the war. The United Nations and its member states play a critical role in pushing Sri Lanka towards meeting its human rights obligations and the UPR will serve as an important opportunity to issue recommendations on these six key issues which directly and significantly affected the war-affected victim communities in the North-East.

(1) The North-East of Sri Lanka continues to remain heavily militarized

4. The North-East of Sri Lanka remains a disproportionately heavily militarized region, with five of seven Sri Lankan security force headquarters located in the two provinces.ⁱ In 2014, there were a reported 160,000 troops stationed in the North-East, and since then the government has repeatedly professed that it has not decreased the number of military personnel in the region.ⁱⁱ Further, military involvement in civilian activities has continued under the post-2015 'National Unity Government'.ⁱⁱⁱ
5. The involvement of the military in civilian activities, particularly in the Vanni region through the Civil Security Department (CSD), has created an inhospitable environment for local industry growth and has also resulted in increased vulnerability of victim-survivor populations. For example, former female combatants have been recruited to work on CSD-run farms in the Vanni region, to and from which access is greatly restricted. These women have reportedly faced sexual harassment and assault by military personnel within the confines of these farms.^{iv}
6. Many pre-schools in the Vanni are reportedly administered by the military, placing military forces who stand accused of horrific atrocity crimes in close proximity to the most vulnerable section of society, war-affected Tamil children. The military is often involved in awards ceremonies, sports days and cultural events at these schools.^v

7. In the Vanni region, the CSD is not filling a vacuum, but rather actively repressing and replacing civilian administration in areas ranging from education to agriculture. Though a civilian heads the CSD, the remainder of its senior structure and its workforce is made up of primarily of military personnel.^{vi}
8. The military has also problematically engaged in the tourism industry in the East, often on private lands or res communes. For example, in Nilaveli, Trincomalee, the navy occupies approximately 25 acres of land including one kilometer of beachfront where they run a guesthouse. The land includes private land as well as a 6-acre community cemetery. The beachfront also used to be prime fishing area for the area's predominantly Tamil and Muslim fishermen. The navy now only permits tourists staying at the guesthouse entry to the beachfront and only permits restricted entry for local villagers to the occupied cemetery.^{vii}
9. The military's involvement in tourism activities is also present in the Northern Province. For example, in Valikamam North, Jaffna, the military has similarly opened a hotel, Thala Savena, on land which includes occupied private lands and prime fishing anchor points.^{viii}
10. As will be discussed in section 5 of this submission, the military even after the regime change of January 2015, continues to conduct intense surveillance of civil society actors and victim populations across the North-East. Intelligence officers are commonly spotted taking photographs at peaceful protests and attending civil society organized events. Intelligence officers even entered or stood outside consultations conducted by Zonal Task Forces of the National Consultation Task Force in the North-East.
11. While the number of incidents of harassment by the military has gone down following the January 2015 regime change, they have been on the increase in the early part of 2017. During the Human Rights Council session in March, the Air Force actually took out a reprisal against a lead protestor from the Keppapilavu, Mullaitivu land protests by denying her entry to land previously given back to her.^{ix} It has also been reported that at least one civil society actor has faced interrogation from military intelligence on multiple occasions about their time spent in Geneva, including questions about other civil society actors engaged in lobbying from the North-East.^x
12. In general, Sri Lanka has failed to undertake meaningful security sector reform, including demilitarizing the North-East, and putting an end to military involvement in civilian activities which were both commitments under HRC Resolution 30/1, and the latter of which was included in recommendations 128.40, 128.33, and 128.84, of the Second Cycle of the UPR on Sri Lanka.

13. Recommendations to the Government of Sri Lanka regarding militarization (note that some of these are repeated in the section on freedom of expression and assembly):
- a) Develop and implement a plan to reduce the number of troops in the North-East to a number in accordance with its population size and comparable to the ratio of soldiers to civilians in the rest of Sri Lanka.
 - b) Put an end to the military's involvement in civilian activities in the North-East, particularly those conducted by the Civil Security Department, and those pertaining to agriculture, education, cultural activities and tourism.
 - c) Put an end to all surveillance activities conducted by the military and/or military intelligence of peaceful protests and civil society actors/activities and ensure that those personnel who continue to carry out such activities are appropriately disciplined.
 - d) Create and adopt legislation prohibiting surveillance without a warrant by military and intelligence personnel, particularly of peaceful protests, civilians, and civil society actors and activities.
 - e) Issue clear directives to the military on national and international human rights standards and law they are expected to uphold and swiftly charge and punish personnel who commit violations.
 - f) Have the Ministry of Defence develop and implement a plan for systemic security sector reform to promote and protect human rights and put an end to the culture of impunity by the armed forces following meaningful consultation with a wide-range of stakeholders but with priority given to the perspectives of: war-affected victim communities in the North-East, civil society, the Northern and Eastern provincial councils, and the elected members of parliament of the Northern and Eastern Provinces.
 - g) As part of the plan for security sector reform and to promote accountability, have senior officials in government, including the President and Prime Minister, directly address the military about the importance of accountability, as a part of a broader communications strategy to the military addressing past atrocity crimes.

(2) Failure to release illegally occupied lands and displacement in the North-East of Sri Lanka

14. According to the Spokesperson for the Tamil National Alliance, M.A. Sumanthiran, as of March 5, 2017, approximately 30,000 acres of land continues to remain occupied by the military in the Northern Province alone,^{xi} which is in line with calculations made by the Vavuniya-based Maatram Foundation in 2015, adjusted for the figure of land the

government states it has released.^{xii} There are at least 40,000 internally displaced persons (IDPs), the majority of whom are Tamil, and over 100,000 Sri Lankan Tamil refugees living in camps and communities in Tamil Nadu, India.^{xiii}

15. While the government has reportedly released approximately 4,780 acres of land since January 2015^{xiv}, there have been many issues with the conditions of the lands released, and the assistance or lack thereof provided for resettlement assistance.
16. In Valikamam North, Jaffna, in one village that was recently released, approximately 10 feet of soil was excavated by the military prior to the land being released to villagers. The village now faces greater flooding risks during the rainy season and a lowered quality of soil for any subsistence farming. With respect to resettlement assistance, many displaced persons returning to Valikamam North have had to take out major loans in order to finish building their homes, as the financial assistance provided by the government is inadequate. This is a community primarily consisting of impoverished day labourers who have been displaced for over 25 years in most cases.^{xv}
17. In Sampur, Trincomalee, after many years of protest, the government finally released close to 1000 acres of land in Sampur which was a step welcomed by the community. However, the navy then moved their camp to villagers' paddy fields and fishing pole areas, which composed their livelihood. Also, before releasing the villagers' housing land, the navy uprooted most of the coconut and fruit trees, moving them to their new camp on the villagers' livelihood lands, and destroyed all of the wells. The government has still failed to provide all villagers with homes to resettle into, despite the fact that it has been almost 2 years in some instances since the land was released. Many families are still living in temporary tin roof housing.^{xvi}
18. Further to the issues with land that is released, the process of land return continues to proceed very slowly in a seemingly ad-hoc fashion. Sri Lanka's cabinet did take the positive step of adopting the 'National Policy on Durable Solutions for Conflict-Affected Displacement' on August 16, 2016, but there appear to have been no steps taken to implement the national land policy. Instead, since August 2016, the government has continued a pattern of routinely making promises that land will be returned on certain dates, which they subsequently break or ignore. As a result, it appears over the last few months that the only land being released is in response to active protest by displaced persons, as opposed to any coordinated strategy on the part of the government.
19. For example, in Keppapilavu, Mullaitivu, villagers from Pilakudiyiruppu were told by officials that they would receive their land, which was being occupied by the air force, back on February 1, 2017. However, when they went to the lands on that date, the air

force said that was not the case. Only after villagers refused to leave and protested for over 28 days outside of their occupied lands did the government finally return their lands. Like the above-mentioned cases though, the military had destroyed the foundations of villagers' homes and many of the wells prior to releasing the land, and at the date of this submission, the government still has not provided villagers with resettlement assistance or communicated intentions that it ever will.^{xvii}

20. At the time of this submission, a protest continues in Mullikullam, Mannar, by displaced villagers demanding their land back amidst heavy surveillance.^{xviii} 400 families have been displaced from Mullikullam since September 2007 when the Government's forces took the area over. Since their displacement, the navy has developed its headquarters there, and has farmed the very fertile and irrigated land.^{xix}
21. Another important land issue that civil society is concerned about is the pattern of acquisition of lands being carried out by the Department of Forestry, sometimes of private lands, and sometimes without even gazetting any official acquisition notice. One CSO based in Trincomalee reports that since 2006, the Department of Forestry has acquired over 16,000 acres of land.^{xx} At the time of this submission, the Tamil and Muslim people of Musali south Marichukkatti, Mannar, are protesting over a recent gazette notification stating that the Department of Forestry is planning to take their lands.^{xxi}
22. Recommendations to the Government of Sri Lanka regarding land:
 - a) Swiftly release all private land occupied by the military and put an end to making false promises about land return dates.
 - b) Create a resettlement compensation scheme in consultation with displaced persons that accurately reflects the cost of building a house in the Northern and Eastern provinces (without military labour) and takes into account the impact of any land destruction conducted by the military.
 - c) Issue clear and direct instructions to the military to halt any destruction of the condition of occupied lands.
 - d) Instruct the Department of Forestry to stop acquiring lands without following proper gazetting procedures, and to consult local communities before deciding to pursue acquisition of any lands.
 - e) Fully implement the National Policy on Durable Solutions for Conflict-Affected Displacement in consistency with the above two recommendations; and
 - f) Release all state land occupied illegally by the military.

(3) Continued operation of 'Prevention of Terrorism Act' and detention of political prisoners

23. The Government of Sri Lanka has still failed to repeal and replace the draconian Prevention of Terrorism Act (PTA) with counter-terrorism legislation in compliance with international standards. For over a year the government has kept suggesting that new legislation, the Counter-Terrorism Act (CTA) is around the corner. However, a leaked initial draft version of the CTA was actually worse than the original PTA with respect to the broadness of its definition of terrorism and terrorism-related offences and arrest powers, and not much better on procedural safeguards for detainees.^{xxii}

Continuing detention

24. Approximately 160 persons still have cases pending under the PTA, of which only 73 have been released on strict bail conditions and have cases pending in various courts while the remainder continue to languish in detention. At least 21 of the political prisoners who remain detained have been detained for very lengthy periods of time. 35 political prisoners are detained at Magazine Prison under particularly terrible conditions.^{xxiii}

25. Following an island-wide strike by political prisoners in October 2015, and intense international and domestic pressure, the government released 32 political prisoners from Magazine Prison. However, sometime later, 18 of those released prisoners were ordered to attend rehabilitation without any justification provided and they refused. As a result, their cases are still pending before the courts which is causing intense hardship for them as the bail condition requires that they report to the Terrorism Investigation Department (TID) in Colombo biweekly. For many of them this means taking long and expensive trips from the North-East.^{xxiv}

PTA in the Courts

26. In January 2016, a Special High Court was set up to hear PTA cases with the stated intention that it would expedite the cases and help clear backlog.^{xxv} However, instead, the court has instead served to repeatedly postpone the PTA cases, while requiring the detainees to repeatedly appear in court.^{xxvi} For those that are out on bail, this creates an additional expense and they have to attend with great personal difficulty.

Continuing use of the PTA

27. Despite the government's assurance to the international community that it would impose a moratorium on the use of the PTA while its replacement was being drafted, it has continued to be used throughout 2016 and into 2017. For example, between March 30 and June 28, 2016, at least 24 persons were arrested under the PTA in connection to

the alleged discovery of a suicide jacket, explosives and ammunition found in Chavakachcheri, Jaffna. Many of their legal rights were violated during these arrests. As of June 23, 2016, at least 23 of the 28 people arrested had not been charged.^{xxvii}

28. The security forces, and specifically the TID, also continued to use the PTA to arrest former LTTE cadres trying to travel to work in the Middle East, despite the fact that these former cadres completed the notorious 'rehabilitation program' and despite the fact that they have secured jobs legitimately with Middle Eastern companies. This continued to occur following the January 2015 regime change, and between January to May 2016, over 20 individuals were arrested at the airport either during arrival or departure.^{xxviii}

29. Between October and November 2016, the police and TID arrested 38 individuals in alleged connection to the 'Aava' gang in Jaffna; many under the PTA. The alleged resurgence of the 'Aava' gang, which even the government admitted was linked to military intelligence, came after the police shot and killed two Jaffna university students. Many civil society activists and journalists had serious doubts about the veracity of the claims that the 38 arrested were all actually linked to gang activity. However, even if there was truth to the links between the 38 individuals arrested and gang activity in Jaffna, that is more appropriately a matter to be dealt with under the Penal Code, as even the Minister of Law and Order confirmed it was not terrorist activities.^{xxix} Ultimately, after pressure from Tamil civil society and politicians, the charges under the PTA were withdrawn and re-filed under the Penal Code.

30. Recommendations to the Government of Sri Lanka regarding the issue of Political Prisoners and the PTA:

- a) Release all political prisoners detained under the PTA unconditionally following the precedent the government of Sri Lanka used with Sinhalese dissidents in 1971 and 1989.
- b) Review and repeal the PTA and replace it with legislation that is in compliance with international human rights and counter-terrorism law and standards.
- c) Place a firm moratorium on the use of the PTA while the process to review, repeal and replace it is underway.
- d) Overhaul the Special High Courts set up to handle PTA cases in 2014 and 2016, to ensure they actually handle cases expeditiously and do not serve to simply further indefinitely postpone cases.

(4) Lack of Investigations into/Accountability for Enforced Disappearances and the 'Office of Missing Persons Act'

31. Over 65,000 people were disappeared throughout the armed conflict, with several thousands disappeared during the last stage of the war (January 2008 to May 2009) after having surrendered or been captured by security forces. Many also were disappeared outside the battle zone, both before and after the end of the war, including in “white-van” abductions or after detention by the Army, Navy, military intelligence, or the police.
32. The families of the disappeared have continued to be at the forefront of protests and civil activism in order to obtain information about their loved ones. Over the years they have filed petitions with the police, with the Human Rights Commission of Sri Lanka, and with the ICRC, despite regular harassment and threats.
33. Successive governments have created commissions to look into the issue - nearly 10 commissions were formed by governments between 1991 and 2013.^{xxx} Most recently was the Paranagama Commission established by former President Rajapaksa. However, like the others before it, this Commission was deeply flawed and on February 28, 2015, the Coordinating Committee of the Families of the Disappeared sent a letter to the Commission explaining that families would be boycotting the Commission going forward and demanding that a credible inquiry with international oversight be set up.^{xxxi}
34. In a rare positive move, the government ratified the International Convention for the Protection of All Persons from Enforced Disappearances on May 25, 2016. A bill incorporating the crime of enforced disappearances was proposed as draft legislation by the Prime Minister and the Bill was gazetted on February 9, 2017.^{xxxii} However, it is has yet to be made a law by the parliament.
35. The GoSL committed under Resolution 30/1 in October 2015 that it would create an independent, impartial and transparent Office of Missing Persons. After a flawed consultation and drafting process, widely criticized for failing to adequately consult families of the disappeared and lacking transparency, parliament passed the Office of Missing Persons Act in August 2016. However at the date of this submission no further action has been taken. The government is yet to assign the Act to a particular ministry, which would begin the process of its establishment. Further, a bill introducing amendments to the Act was gazetted as recently as March 2017, causing concern among civil society that the Act may be re-opened for debate by parliament.
36. Families of the Disappeared remain frustrated by the lack of information and movement on credible investigations into disappearances. Because the OMP Act contains a large amount of discretionary powers and functions, the credibility and effectiveness of the

OMP will depend heavily on the people who are appointed as its commissioners, and the policies/guidelines they adopt. As a result, families of the disappeared remain skeptical of whether the OMP will be any different from previous commissions, if it is ever established.

37. Callous remarks by the Prime Minister stating that all of the disappeared are dead, have further disillusioned and angered these groups.^{xxxiii}

38. At the date of this submission, Families of the Disappeared in Kilinochchi are on the 39th day of a protest they commenced in February 2017, demanding the truth about the fates of their disappeared loved ones and justice for the disappearances.^{xxxiv}

39. Recommendations to Government of Sri Lanka regarding disappearances:

- a) Establish the OMP with the following key features that are critical to its credibility in the eyes of families of the disappeared and are all currently possible with the discretionary provisions of the OMP Act: (i) inclusion of significant international assistance in the form of investigators and forensics experts and in an oversight capacity to the OMP; (ii) inclusion of representatives of the families of the disappeared both as commissioners and in all of the units of the OMP; (iii) regional offices in the North and East with local and international staff permitting families of the disappeared to make submissions without having to travel to Colombo; (iv) an established and clear policy linking the OMP to prosecutions for enforced disappearances by the Special Court the government has also committed to establishing under Resolution 30/1; (v) a comprehensive reparations scheme determined in consultation with families of the disappeared which provides both for immediate needs and addresses long-standing loss of livelihood income due to a disappearance in the family; and (vi) a robust and independent witness and victim protection unit that does not contain any police or military personnel part of existing structures, but similar to the Guatemalan model, trains and hires completely new personnel alongside international personnel.
- b) Develop and make public a clear framework linking the OMP to the three other 'transitional justice' mechanisms the government committed to establishing under HRC Resolution 30/1, particularly the Special Court.
- c) Have Prime Minister Ranil Wickremasinghe issue an apology to families of the disappeared for his callous remarks.

(5) Freedom of Assembly and Freedom of Expression

40. Since Sri Lanka's last UPR in November 2012, the country has undergone political changes including changes to its president and central government. A notable change in the North-East since the new presidency, was the willingness of Tamils to engage in protests, which have been much more frequent and widespread in recent months. However surveillance and intimidation of protestors, and journalists reporting on protests, continues to be carried out by all arms of the Sri Lankan security forces, from local police, to intelligence officers, to army, navy and air force personnel.
41. In April 2015, three months into the new presidency, a journalist at Uthayan, Jaffna's most prominent Tamil-language newspaper was arrested and charged with defaming the police department. He had reported on the sexual assault of a schoolgirl by local police officers. Following the arrest, the Uthayan editor said that despite a new government, his team "do not feel terribly free. The police and other security institutions are still not willing to give us the space we need to do our job as reporters."^{xxxv}
42. A spate of arrests and incidents of intimidation of Tamil journalists in the same month showed the still dismal status of Sri Lanka's press freedom^{xxxvi} and created concern that Sri Lankan authorities were resuming [the old regime's] practices designed to intimidate Tamil journalists.^{xxxvii} In one incident three Tamil journalists who had been reporting on a protest against oil pollution were intercepted, threatened at knifepoint and chased by two police officers.^{xxxviii} Further, the arrest of a journalist and two Jaffna University students sparked on-campus protests in April 2015.^{xxxix} In a similar fashion in March 2017, three journalists reporting on protests in Maruthankerny were harassed by police at the protest and then intercepted and threatened with violence on their way home.^{xl}
43. Also in March 2017, two journalists in Batticaloa were assaulted while reporting on the opening of an ethanol distillery whose owners have links to the ruling UNP party. Although the attack was not directly tied to security or government forces, the culture of impunity for attacks against media workers has meant that the practice of violence against journalists has transmitted to other centres of power such as big businesses.^{xli}
44. In July 2016, a female journalist was sent abusive text messages by a high-ranking army official demanding to know which of her colleagues released news of the army engaging in leisure activities on occupied land in Valikamam North. The intersection of state violence against the media and sexual violence against Tamil women has been identified by media organisations as a key concern for women in journalism and a significant reason why Tamil women hesitate to enter the field.^{xlii} In May 2015, Sri Lanka's finance minister warned journalists to be careful about how they used their media freedom.^{xliii} In July 2015, the President re-established the Sri Lankan Press

Council, a media regulatory body which would give the government power to detain journalists over their reporting. The move was condemned internationally and domestically, both in regards to the perception of the body as restrictive and regressive, as well as the fact that the decision to reinstitute it was reached without any consultation of public or media organisations.^{xliv}

45. Blatant photographing of protestors and journalists is a common intimidation tactic which continues to be used in protests currently ongoing in the North-East.^{xlv} In May 2016, plain-clothes intelligence officers forcibly entered the Uthayan office to scrutinise and photograph a private event held by the newspaper's staff in remembrance of the victims of the May 2009 atrocities.^{xlvi}
46. While Tamils have been less hesitant to engage in protests, this is mostly in spite of the fear of surveillance and reprisals. In March 2017, a women's group leader who helped lead land return protests in Mullaitivu had her farming land confiscated by the Sri Lankan air force in an apparent act of reprisal against her role in the demonstrations.^{xlvii} In February 2017, Tamil plans to protest Sri Lanka's Independence Day were blocked by court injunctions to allow for Sri Lankan military forces to hold parades on an unprecedented scale in Tamil towns. Those who protested anyway were harassed by police and special task force personnel.^{xlviii} Tamils protesting for the President to hear their grievances, and journalists reporting, during a presidential visit – for a scheme entitled 'Tell the President' – to Jaffna were verbally abused by police officers.^{xlix} In recent months, reporters and civil society members have been ejected by soldiers from atrocity crime sites such as Mullivaikkaal and its surrounding areas, despite these locations not falling under high security zones or military camp boundaries.^l
47. Although journalists and community organisers have capitalised on the opening of some democratic space, all do so tentatively with the fear that without institutionalised protections, any change in authority or policy could mean an easy revert to the draconian practices of earlier regimes. North-East journalists report that they have internalised the fear of reprisals and engage in varying levels of self-censorship, ever mindful of Sri Lanka's history of killing journalists with impunity. Journalists in the North-East report that they are now familiar with and easily able to identify several undercover intelligence personnel due to the consistent and blatant tracking of their activities. Although for now the surveillance is limited to being followed and photographed, and occasionally threatened with violence, having never witnessed a single prosecution for the killing of any Tamil journalists, journalists function with the fear that this could at any time escalate to serious violence or even assassinations.^{li}

48. Recommendations to the Government of Sri Lanka regarding freedom of expression and accountability (note that some of these are repeated in the section on militarization):

- a) Put an end to all surveillance activities conducted by the military and/or military intelligence of peaceful protests and assemblies and ensure that those personnel who continue to carry out such activities are appropriately disciplined.
- b) Create and adopt legislation prohibiting surveillance without a warrant by military and intelligence personnel, particularly of peaceful protests, assemblies, civilians, and civil society actors and activities.
- c) Issue clear directives to the military on national and international human rights standards and law they are expected to uphold and swiftly charge and punish personnel who commit violations.
- d) Put an end to deployment of intelligence personnel to track journalists operating in the North-East.
- e) Conduct credible independent investigations into murders of journalists in the past and credibly prosecute those cases.

(6) Lack of Accountability for Atrocity Crimes

49. Many of the recommendations from Sri Lanka's Second UPR Cycle centred on accountability for atrocity crimes, including recommending that Sri Lanka ratify the Rome Statute, and that Sri Lanka conduct an independent credible investigation into atrocity crimes committed during the war and prosecute those responsible. Sri Lanka has not completed any of these recommendations.

50. On October 1, 2015, Sri Lanka co-sponsored Resolution 30/1 at the UN Human Rights Council.^{liii} Among its commitments therein, Sri Lanka undertook to create a judicial mechanism including foreign judges, prosecutors, defense lawyers and investigators, to investigate and prosecute violations of human rights and international humanitarian law.

51. Numerous reports, including the OHCHR's Report on Sri Lanka by former High Commissioner for Human Rights Navi Pillay in March 2014, the OHCHR's Investigation on Sri Lanka (OISL) report in 2015 and the Report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka in 2011, found that no accountability had been provided for the tens of thousands of civilian deaths, and great number of credible allegations of atrocity crimes committed during the armed conflict.

52. The OISL report found most recently that Sri Lanka's domestic legal system is incapable of credibly prosecuting atrocity crimes without significant international involvement.^{liiii}

53. Despite Sri Lanka's co-sponsorship of Resolution 30/1, and its extension in 2017, in the 18 months since Resolution 30/1 was adopted, the president, prime minister and other senior Sri Lankan officials have repeatedly rejected the notion that international actors, particularly foreign judges, should be involved in a judicial mechanism – despite agreeing to this component in operative paragraph 6 of Resolution 30/1.^{liv}
54. Recently, senior government officials appear to be making the argument that Sri Lanka's domestic legal system following the regime change in January 2015, is now capable of credibly prosecuting atrocity crimes domestically. However, this is categorically untrue. There are deep systemic issues within the legal system including a politicized and pro-military police force, a politicized pro-State Attorney General's department, procedural rules favouring the accused in cases of a Sinhala defendant against a Tamil victim, a partial judiciary, and a lack of robust witness and victim protection; all underlined by a lack of political will in the government to confront impunity for atrocity crimes and hold the security forces accountable.
55. Accountability is a non-negotiable necessary step in order to begin to heal the wounds of the past, enable meaningful reconciliation and ensure non-recurrence.
56. Recommendations to the Government of Sri Lanka on accountability:
- a) Establish a Special Court to try atrocity crimes committed during and after the armed conflict, composed with a majority of international judges and a Special Prosecutor's office composed with a majority of international prosecutors and investigators, all selected in consultation with and approval by the OHCHR.
 - b) Publish a time-bound plan to complete the above recommendation without delay and an attached prosecutorial strategy.
 - c) Immediately develop and launch a communications strategy targeting the Sinhala south about the importance, necessity and benefits of accountability.
 - d) Have senior government officials, including the President, Prime Minister and Foreign Minister stop issuing statements in contradiction to Resolution 30/1, and instead make clear publicly their support for it and a credible accountability mechanism with significant international involvement as described above.
 - e) Ratify the Rome Statute.

ⁱ Sri Lankan Army Website: <http://www.army.lk/establishment>

ⁱⁱ Oakland Institute, "The Long Shadow of War: the Struggle for Justice in Post-War Sri Lanka" (2015), accessed here: <http://www.army.lk/establishment>

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- iii Research conducted by the Adayaalam Centre for Policy Research in the period between December 2016 – March 2017; Report of the Office of the United Nations High Commissioner for Human Rights on Sri Lanka (10 February 2017).
- iv Field interviews with journalists and local communities in Mullaitivu and Kilinochchi by the Adayaalam Centre for Policy Research (January – March 2017); Report of the Special Rapporteur on minority issues on her mission to Sri Lanka (A/HRC/34/53/Add.3).
- v Tamil Guardian, “Sri Lanka military enrol pre-school Tamil children in Vanni”, (1 May 2016), accessed at: <http://www.tamilguardian.com/content/sri-lanka-military-enrol-pre-school-tamil-children-vanni?articleid=17840>; Sri Lankan Army News Website, “More than 100 Kilinochchi Students Entertained on Children’s Day” (4 October 2016) accessed at: <http://www.army.lk/news/more-100-kilinochchi-students-entertained-children%E2%80%99s-day>
- vi Civil Security Department Website, “Establishment of CSD Headquarters”, accessed at: http://www.csd.lk/images/PDF_Doc/Establishment.pdf
- vii Interviews in Nilaveli by Adayaalam Centre for Policy Research (October 2016, December 2016 and February 2017).
- viii Maatram Foundation, “Understanding Post-War Land Issues in Northern Sri Lanka” (November 2015), accessed at: <https://www.scribd.com/document/292130057/%E0%AE%A8%E0%AE%BF%E0%AE%B2%E0%AE%AE%E0%AF%81%E0%AE%AE-%E0%AE%A8%E0%AE%BE%E0%AE%99-%E0%AE%95%E0%AE%B3%E0%AF%81%E0%AE%AE>
- ix Interviews with protestor against whom reprisal was conducted by Adayaalam Centre for Policy Research (March 2017).
- x Interview with civil society in Jaffna by Adayaalam Centre for Policy Research (March 2017).
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