

# Delayed or Denied?



## Sri Lanka's Failing Transitional Justice Process



People for Equality and Relief in Lanka (PEARL) is a Tamil advocacy group, based in Washington DC and registered as a 501(c)3 non-profit organization in the United States. PEARL advocates for human rights, justice and a political solution for Tamils in the North-East of Sri Lanka.

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May 2018

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## **Acknowledgements**

This report was only possible due to the remarkable strength and courage of the Tamil communities of the North-East who continue to demand justice and accountability for the atrocities they have endured. We hope that this report will focus attention on the shrinking prospects for transitional justice in Sri Lanka.

This report was drafted by Anjali Manivannan. Mario Arulthas conducted the field research and Thiviya Navaratnam and Akkila Thirukesan contributed secondary source research. Dr. Kate Cronin-Furman provided advice on aspects of the research design and drafting. Design assistance was provided by Shibanee Sivanayagam and Athavarn Srikantharajah.

All pictures in the report were taken by Tamil Guardian.

## **Glossary**

CAT	UN Committee Against Torture
CID	Criminal Investigation Department
CTF	Consultation Task Force
FCO	Foreign and Commonwealth Office
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
Maaveerar Naal	Annual LTTE Remembrance Day on November 27
NFZ	No Fire Zones
OHCHR	Office of the High Commissioner for Human Rights
OISL	OHCHR Investigation on Sri Lanka
OMP	Office of Missing Persons
ONUR	Office of National Unity and Reconciliation
PTA	Prevention of Terrorism Act
UNHRC	United Nations Human Rights Council

## Delayed or Denied? Sri Lanka's Failing Transitional Justice Process by the Numbers

**9** years since the end of the War.

**0** atrocity crimes prosecutions (or even investigations).

**0** fully functional transitional justice mechanisms.

**0** states calling for a special court with foreign judges at 37th UNHRC (March 2018).

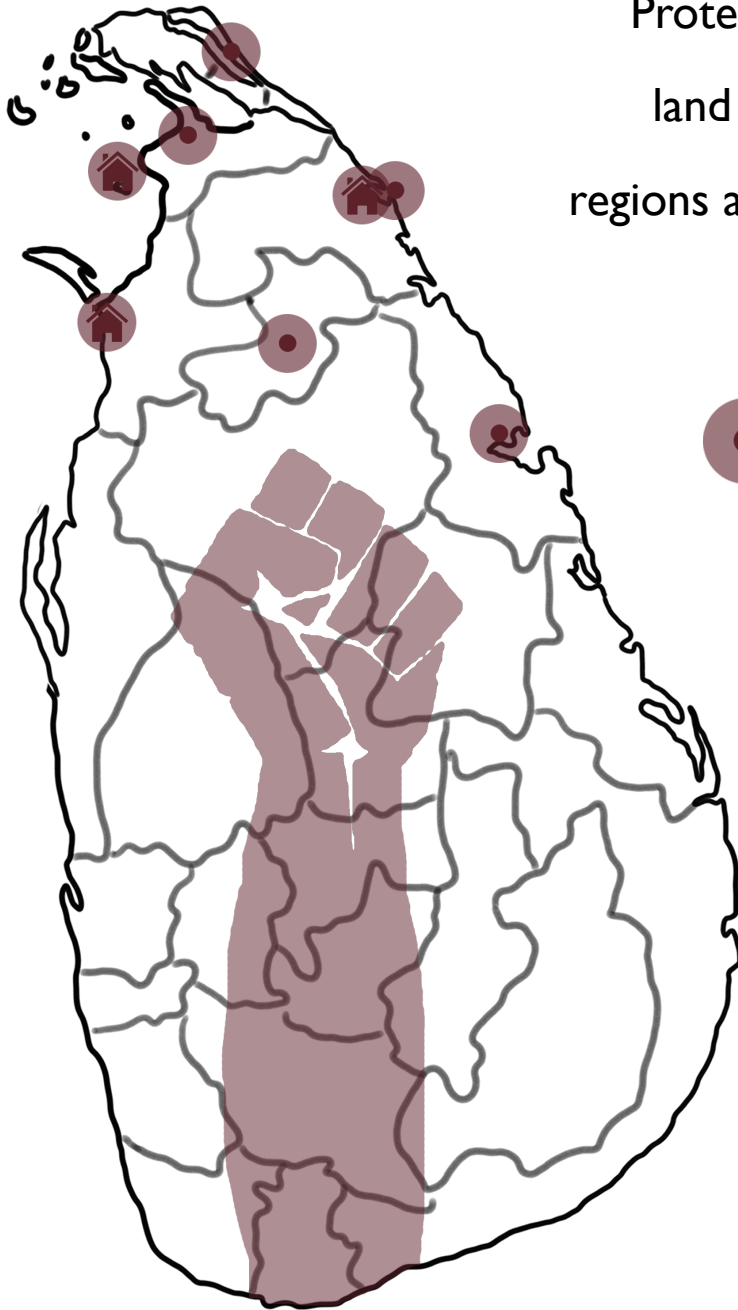
**44** US-Sri Lanka Military Engagements since 34th HRC (March 2017).

**30** times Sri Lanka has repudiated its UNHRC commitments since Resolution 34/I (March 2017).

Broken promises on...	President Sirisena	Other Sri Lankan Government Officials	Total
Atrocity crimes prosecutions.	7	9	<b>16</b>
Foreign judges.	8	4	<b>12</b>
Devolution or federalism.	3	1	<b>4</b>



Protests relating to the disappeared and land grabs have been taking place in **7** regions across the North and East for over **365** days.



Protests relating to disappearances have taken place in:

- Kilinochchi (*since Feb 20, 2017*)
- Maruthankerny (*since March 14, 2017*)
- Mullaithivu (*since March 7, 2017*)
- Trincomalee (*since March 3, 2017*)
- Vavuniya (*since Feb 23, 2017*)



Protests relating to land grabs have taken place in:

- Iranaitivu (*since May 1, 2017*)
- Keppapilavu (*since Jan 31, 2017*)
- Mullikulam (*March 23 - April 29, 2017*)

PEARL's new report documents Sri Lanka's failure to fulfill its transitional justice commitments and the complacency with which its intransigence has been received by members of the international community. Sri Lankan officials have publicly repudiated their promises on at least 30 occasions in the last year alone. Nevertheless, members of the international community continue to treat Sri Lanka as a good faith actor, ignoring glaring red flags that it is unwilling to pursue a meaningful accountability process. PEARL's interviews with the victim-survivor community show that they are growing frustrated with the international community's lenience towards Sri Lanka's endless delays and broken promises and are increasingly willing to mobilize in defense of their rights.











## Introduction

Nine years after the end of Sri Lanka's civil war, victims and survivors of state-perpetrated atrocities are still waiting for justice. Despite clear and compelling evidence that the Sri Lankan security forces engaged in serious human rights violations both during and after the war, almost no one has been held accountable.<sup>1</sup> High-ranking military officials implicated in ordering atrocity crimes continue to serve in cabinet positions, diplomatic posts abroad, and UN peacekeeping missions. Although Sri Lanka has repeatedly flouted UN Human Rights Council resolutions calling for action on accountability and post-war human rights issues, international pressure urging Sri Lanka to comply has gradually dissipated. Members of the international community appear to have accepted Sri Lanka's assurances that it is "making haste slowly," turning a blind eye to clear statements and signals to the contrary. And Western governments have restored preferential trade benefits and increased ties with the yet-to-be vetted military and despite Sri Lanka's failure to meet human rights benchmarks.

Meanwhile, Tamils victims and survivors of state-perpetrated crimes, who have long relied on the international community as a guarantor of their rights, are watching their last hope for justice disappear. For some, hopelessness has brought despair; for others, anger. Sri Lanka's North-East today is seeing an unprecedented level of post-war political mobilization. Widespread protests on a variety of issues, including—most prominently—the still-uncertain fate of thousands of disappeared persons, demonstrate the victim-survivor community's rejection of a status quo in which Sri Lanka perpetually evades consequences while continuing to violate the rights of war-affected individuals and communities.

This report chronicles Sri Lanka's abject failure to fulfill its transitional justice commitments and the leniency shown by members of the international community, who continue to treat Sri Lanka as a good-faith actor despite the government's obvious reluctance to pursue accountability. It highlights the toll this is taking on the war-affected population in the North-East and the high stakes of ignoring their demands for truth and justice. The report proceeds as follows: Part II details the report's research methodology and Part III provides a brief overview of the engagement between Sri Lanka and the international community on transitional justice issues prior to the passage of UN Human Rights Council Resolution 30/1 in October 2015. Part IV chronicles the disconnect between Sri Lanka's assurances of progress to the international community and its statements and actions at home during the 18 months following Resolution 30/1's passage. Part V covers events in the aftermath of the two-year extension granted to Sri Lanka in March 2017, including Sri Lanka's growing complacency as Western governments have strengthened bilateral ties. Lastly, Part VI documents members of the victim-survivor

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<sup>1</sup> A very small number of individuals have been convicted for wartime and post-war abuses of Tamil civilians (e.g. the 2015 convictions of four soldiers for a 2010 gang rape and a single Army Staff Sergeant in the Mirusuvil massacre case). These cases have moved slowly through the court system and have been plagued by problems, including harassment of victims and witnesses.

community's increasing frustration with the international community's tolerance for Sri Lanka's inaction. The report concludes by discussing the potential impacts of transitional justice in Sri Lanka falling off the international agenda.

*“Everyone seems to be supporting Sri Lanka on this. Who is listening to us?”*

*(Mullaitivu, October 2017)*

## **Methodology**

This report is based on a combination of desk and field research conducted in late 2017 and early 2018.

Using the online archives of Sri Lankan government bodies (Presidency, Ministry of Foreign Affairs, Ministry of Defense, and branches of the military), and English-language Sri Lankan media, as well as of Tamil Guardian as a backstop, PEARL's researchers compiled and analyzed over 170 English language statements made by Sri Lankan government officials on the subject of transitional justice between the adoption of Resolution 30/1 on October 1, 2015 and the beginning of April 2018. Additionally, PEARL staff conducted primary source research on Sri Lanka's transitional justice progress, including an analysis of statements and actions from members of the international community engaged on the issue.

In July–August 2017 and February 2018,<sup>2</sup> PEARL researchers interviewed approximately 50 war-affected individuals in the North-East about transitional justice. These conversations were conducted both one-on-one and in small groups in seven of the eight districts of Sri Lanka's Northern and Eastern Provinces.<sup>3</sup> The majority of the interviewees were family members of disappeared persons; however, PEARL's researchers also spoke to former combatants, members of civil society, and politicians.<sup>4</sup> Using a semi-structured approach and observing the interviewee's preference of Tamil or English, the researchers asked a series of questions about engagement with past commissions of inquiry, knowledge of the commitments made in Resolution 30/1 and the government's progress toward fulfilling them, expectations regarding the current transitional justice process, and attitudes toward participating in any new mechanisms.

PEARL's researchers also conducted extensive field observations at the protest sites of the families of the disappeared. The researchers visited three of the five continuous protests, spending approximately 14 days in total with the families.

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<sup>2</sup> A handful of additional interviews were conducted by telephone in October and November 2017.

<sup>3</sup> Jaffna, Kilinochchi, Mullaitivu, Vavuniya, Trincomalee, Batticaloa and Amparai.

<sup>4</sup> Because the security situation in the North-East remains volatile and activists continue to face threats and harassment, respondents are identified only by location and month of interview.



## Background

Massive violations of international law accompanied the end of the armed conflict between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE). The government's take-no-prisoners approach to defeating the LTTE killed at least 40,000 Tamil civilians through the deliberate shelling of government-established "No Fire Zones" (NFZs) and protected structures, like hospitals, as well as other unlawful conduct. In addition to shelling and extrajudicial executions, there is credible evidence that the government was responsible for arbitrary arrests and detentions; enforced disappearances; torture and cruel, inhuman, or degrading treatment; sexual violence; and the denial of humanitarian assistance—all of which targeted Tamils. These acts are serious violations of international law and almost certainly constitute war crimes and/or crimes against humanity—maybe even genocide.

Shortly after the end of the war, then-President Mahinda Rajapaksa and then-UN Secretary-General Ban Ki-moon made a joint statement committing Sri Lanka to pursue accountability for wartime abuses. Instead of taking steps toward accountability, however, Rajapaksa's Sri Lanka became increasingly authoritarian and repressive. Sinhalese nationalism and Buddhist extremism grew more virulent, targeting Muslims as well as Tamils. The North-East remained heavily militarized despite the elimination of the threat of the LTTE. In the South, the government closed civic spaces for journalism and the exchange of ideas while surveilling and harassing human rights defenders and civil society organizations. The Rajapaksa regime refused to acknowledge the occurrence of violations of international law, let alone provide justice for them.

As evidence mounted that the Sri Lankan security forces had perpetrated widespread and systematic human rights violations, the government came under increasing international pressure to pursue accountability. In May 2010, the Rajapaksa regime established the domestic Lessons Learnt and Reconciliation Commission (LLRC) in a bid to appease the international community. But a Panel of Experts appointed by the UN Secretary-General determined that the commission was neither independent nor impartial. The LLRC's conclusion that the security forces "had not deliberately targeted civilians in the NFZs" met with widespread criticism from international audiences.

Nevertheless, members of the international community encouraged Sri Lanka to implement the LLRC's recommendations on reconciliation and ethnic relations. UN Human Rights Council Resolutions passed in March 2012 and March 2013 foregrounded the LLRC instead of calling for an international investigation of wartime abuses. Ultimately, the Rajapaksa regime's continuous failure to deliver on its own mechanism's recommendations, coupled with its refusal to address human rights issues, led the international community to take a harsher stance. In March 2014, the Human Rights Council passed Resolution 25/1, which requested that the Office of the High Commissioner for Human Rights (OHCHR) "undertake a comprehensive investigation"

and report back in March 2015.

The OHCHR Investigation on Sri Lanka (OISL) began its work in June 2014. The Rajapaksa regime refused to cooperate and barred investigators from entering the country. But in January 2015, Sri Lanka's political atmosphere changed dramatically with the unexpected victory of Maithripala Sirisena over the incumbent Rajapaksa in the presidential election. The international community enthusiastically welcomed this development, praising President Sirisena's initial moves to roll back repression and surveillance in the South and shift to a more cooperative diplomatic posture.

In March 2015, capitalizing on the international community's relief at Rajapaksa's ouster and the new administration's professed willingness to pursue transitional justice, Sri Lanka successfully requested that the Human Rights Council delay the release of the OISL report. After a six-month deferral granted by the High Commissioner for Human Rights, the report was publicly released in September 2015. Its conclusions tracked those of the UN Panel of Experts. It found "persistent and large scale violations of international human rights and humanitarian law." Sri Lanka's new government responded without any of the previous administration's customary intransigence, taking note of the report and pledging to "facilitate the right to know, right to justice, reparations and guarantee[s] of non-recurrence."<sup>5</sup>

To this end, Sri Lanka cosponsored Human Rights Council Resolution 30/1. The resolution, which the Council unanimously adopted without a vote on October 1, 2015, pledged Sri Lanka to pursue transitional justice. Importantly, it envisioned a special judicial mechanism that would involve international experts, including foreign judges, lawyers, and investigators. It also formalized Sri Lanka's commitments to demilitarize and return occupied land; address ongoing torture and sexual violence; vet and reform the security sector; review and repeal harmful legislation, such as the Prevention of Terrorism Act (PTA); and take necessary constitutional measures to devolve political authority and reach a political settlement. It called for the High Commissioner for Human Rights to assess Sri Lanka's implementation progress in March 2017.<sup>6</sup>

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5 The Ministry of Foreign Affairs of Sri Lanka, Note Verbale No. UN/HR/1/30. Ref: 279/2015; Ref: HR/3T. 15 September 2015. Colombo, Sri Lanka. <http://www.ohchr.org/Documents/HRBodies/HRCouncil/OISL/ResponseSriLanka15092015.pdf>.

6 For an in-depth analysis of Sri Lanka's progress on each of the 25 key commitments in Resolution 2015, please see: Sri Lanka Campaign for Peace & Justice. "Keep the Promise: Monitoring the Government of Sri Lanka's Commitments for Achieving Justice & Reconciliation." <https://www.srilankacampaign.org/take-action/keep-the-promise/>.

## Making Haste Slowly or Not at All?

Over the next 18 months, Sri Lanka repeatedly assured the international community that transitional justice progress was imminent. But while Sri Lankan officials' statements to external audiences reiterated the commitments made in Resolution 30/1 and emphasized the need to "make haste slowly," their message to domestic audiences was very different. The Sirisena government consistently reassured its military and Sinhalese voters that it would not pursue accountability for wartime violations. This section documents the disjuncture between the Sri Lankan government's statements abroad and at home, its systematic failure to keep its word, and members of the international community's puzzlingly optimistic responses to the lack of progress.

### *Sri Lanka Promises Progress Abroad While Guaranteeing Impunity At Home*

In the immediate aftermath of Resolution 30/1's passage, Sri Lankan officials signaled that the government was ready to move on transitional justice, with its Ambassador to Geneva promising to begin consultations with the public immediately.<sup>7</sup> Later that month, Foreign Minister Mangala Samaraweera announced that the government would create four new institutions, as agreed to in the resolution: a truth commission, a judicial mechanism, an Office of Missing Persons, and an Office for Reparations.<sup>8</sup> In November 2015, the head of the Office of National Unity and Reconciliation (ONUR), former president Chandrika Kumaratunga, guaranteed that a special court would be up and running by January 2016.<sup>9</sup>

Samaraweera, the public face of the Sri Lankan government to the international community, struck a consistent refrain, stressing the government's detailed transitional justice agenda<sup>10</sup> and willingness to involve international experts.<sup>11</sup> As the months went by without any action, he began to ask for more time, highlighting the size of the task and the need to proceed carefully.<sup>12</sup> Despite the pattern of inaction, he continued to promise results, affirming in July

7 Tamil Guardian. "Sri Lanka says it is ready to begin consultations." 01 October 2015. <http://www.tamilguardian.com/content/sri-lanka-says-it-ready-begin-consultations>.

8 Tamil Guardian. "Sri Lanka's Foreign Minister announces four new institutions to deal with truth, accountability and reparations." 23 October 2015. <http://www.tamilguardian.com/content/sri-lankas-foreign-minister-announces-four-new-institutions-deal-truth-accountability-and>.

9 Tamil Guardian. "CBK announces plan to set up Sri Lanka war crimes court by January." 30 November 2015. <http://www.tamilguardian.com/content/cbk-announces-plan-set-sri-lanka-war-crimes-court-january>.

10 United States Institute of Peace. "Advancing Recondition and Development in Sri Lanka." 25 February 2016. <https://www.youtube.com/watch?v=aCYB3hT034A&feature=youtu.be>.

11 Tamil Guardian. "Sri Lanka FM reaffirms commitment to UNHRC resolution." 03 March 2016. <http://www.tamilguardian.com/content/sri-lanka-fm-reaffirms-commitment-unhrc-resolution>; Ministry of Foreign Affairs Sri Lanka. "Speech by Foreign Minister Mangala Samaraweera at the Norwegian Institute for International Affairs (NUPI), Oslo, 21 June 2016." <http://www.mfa.gov.lk/index.php/en/media/ministers-statements/6519-fm-nupi>.

12 Tamil Guardian. "Support our journey with patience says Sri Lanka at UNHRC." 29 June 2016. <http://www.tamilguardian.com/content/support-our-journey-patience-says-sri-lanka-unhrc>.



2016 that the structure of the judicial mechanisms would be tabled for discussion in early 2017.<sup>13</sup> These transitional justice pledges were accompanied by assurances that Sri Lanka was moving forward with demilitarization,<sup>14</sup> land return,<sup>15</sup> and reconciliation.<sup>16</sup>

But even as Sri Lanka convinced members of the international community of its intention to meet its obligations prescribed by Resolution 30/I, officials were busy telling their domestic audiences that the country’s “war heroes” would never stand trial. After the adoption of Resolution 30/I, high-ranking cabinet members, including Prime Minister Ranil Wickremesinghe, met with members of the security forces to reassure them that they were not under threat of investigation or prosecution. Acting Defense Minister Ruwan Wijewardene emphasized to the Army that it had conducted a “legitimate” counter-terrorist operation, and it was the government’s duty to protect the military’s “good reputation.”<sup>17</sup> President Sirisena consistently reiterated his commitment to protect “war heroes,”<sup>18</sup> criticizing the Rajapaksa government for exposing the military to international censure.<sup>19</sup> He also met with senior military officers to allay their concerns.<sup>20</sup>

Official statements rejecting the possibility of atrocity crimes trials were particularly common around UN Human Rights Council sessions. During the September 2016 session, Justice Minister Wijewayadasa Rajapaksa threatened legal action against anyone alleging that members of the security forces had perpetrated atrocity crimes.<sup>21</sup> In the run-up to the March 2017 session,

13 Daily Mirror Sri Lanka. “Mangala Samaraweera on judges.” 6 July 2016. <https://www.youtube.com/watch?v=uijThVqIDU&feature=youtu.be>.

14 Tamil Guardian. “De-militarisation to be complete by next year’s end says Sri Lanka’s foreign minister at UNHRC.” 28 June 2016. <http://www.tamilguardian.com/content/de-militarisation-be-complete-next-years-end-says-sri-lankas-foreign-minister-unhrc>.

15 ColomboPage. “Sri Lanka President promises land to war displaced in camps within six months.” 3 January 2016. [http://www.colombopage.com/archive\\_15B/Jan03\\_1451837827CH.php](http://www.colombopage.com/archive_15B/Jan03_1451837827CH.php).

16 Lanka Business Online. “Reconciliation a priority for Sri Lanka’s government: Harsha De Silva.” 15 November 2016. <http://www.lankabusinessonline.com/reconciliation-a-priority-for-sri-lankas-government-harsha-de-silva/>.

17 The Sunday Times. “PM assures security forces chiefs over Geneva resolution.” 04 October 2015. <http://www.sundaytimes.lk/151004/columns/pm-assures-security-forces-chiefs-over-geneva-resolution-166706.html>.

18 Tamil Guardian. “Sri Lanka president vows he will ‘not allow anyone to disgrace war victory.’” 20 October 2015. <http://www.tamilguardian.com/content/sri-lanka-president-vows-he-will-%E2%80%98not-allow-anyone-disgrace-war-victory%E2%80%99>;

Tamil Guardian. “Sri Lankan president vows to protect ‘hard-earned dignity’ of army.” 25 October 2015. <http://www.tamilguardian.com/content/sri-lankan-president-vows-protect-hard-earned-dignity-army>;

Tamil Guardian. “Investigations against ‘war heroes’ will never take place states Sri Lankan president.” 25 January 2016. <http://www.tamilguardian.com/content/investigations-against-war-heroes-will-never-take-place-states-sri-lankan-president>;

Tamil Guardian. “Sri Lankan president ‘determined to face UN resolution to protect pride of armed forces’.” 3 February 2016. <http://www.tamilguardian.com/content/sri-lankan-president-%E2%80%98determined-face-un-resolution-protect-pride-armed-forces%E2%80%99>.

19 The Official Website of the President of Sri Lanka. “Govt is determined to solve problems inherited in 1948 as well as unsolved post-conflict issues – President.” <http://www.president.gov.lk/govt-is-determined-to-solve-problems-inherited-in-1948-as-well-as-unsolved-post-conflict-issues-president/>.

20 The Sunday Times. “Divisions within divisions in the UPFA and SLFP.” 29 November 2015. <http://www.sundaytimes.lk/151129/columns/divisions-within-divisions-in-the-upfa-and-slfp-173101.html>.

21 News Radio. “Government rejects war crimes allegations against armed forces.” 17 September 2016. <https://www.newsradio.lk/2016/09/17/government-rejects-war-crimes-allegations-armed-forces/>.

Kumaratunga, who had earlier promised a special court by January 2016, contended that atrocity crimes trials were unnecessary.<sup>22</sup> Sirisena went even further, telling members of the security forces in Jaffna that they would never face charges.<sup>23</sup>

When officials did admit to the possibility of prosecutions, they insisted that no foreigners would be permitted to sit in judgment over Sri Lankan military personnel. Immediately after saying the opposite to the international community, both Kumaratunga<sup>24</sup> and Wickremesinghe<sup>25</sup> ruled out the possibility of international participation. Sirisena repeatedly undermined Samaraweera's statements to the international community, telling domestic audiences that Sri Lanka would not allow any foreign judges.<sup>26</sup> Other ministers echoed his edict,<sup>27</sup> including Samaraweera, who contradicted his own statements on at least three occasions, promising domestic audiences that any prosecutions would be purely domestic.<sup>28</sup>

22 Colombo Telegraph. "CBK Drops Bombshell, Says No Need For War Crimes Probe." 2 February 2017. <https://www.colombotelegraph.com/index.php/cbk-drops-bombshell-says-no-need-for-war-crimes-probe/?platform=hootsuite#lka>.

23 Tamil Guardian. "President Sirisena visits Jaffna, promises to protect his troops." 05 March 2017. <http://tamilguardian.com/content/president-sirisena-visits-jaffna-promises-protect-his-troops>.

24 Tamil Guardian. "CBK announces plan to set up Sri Lanka war crimes court by January." 30 November 2015. <http://www.tamilguardian.com/content/cbk-announces-plan-set-sri-lanka-war-crimes-court-january>.

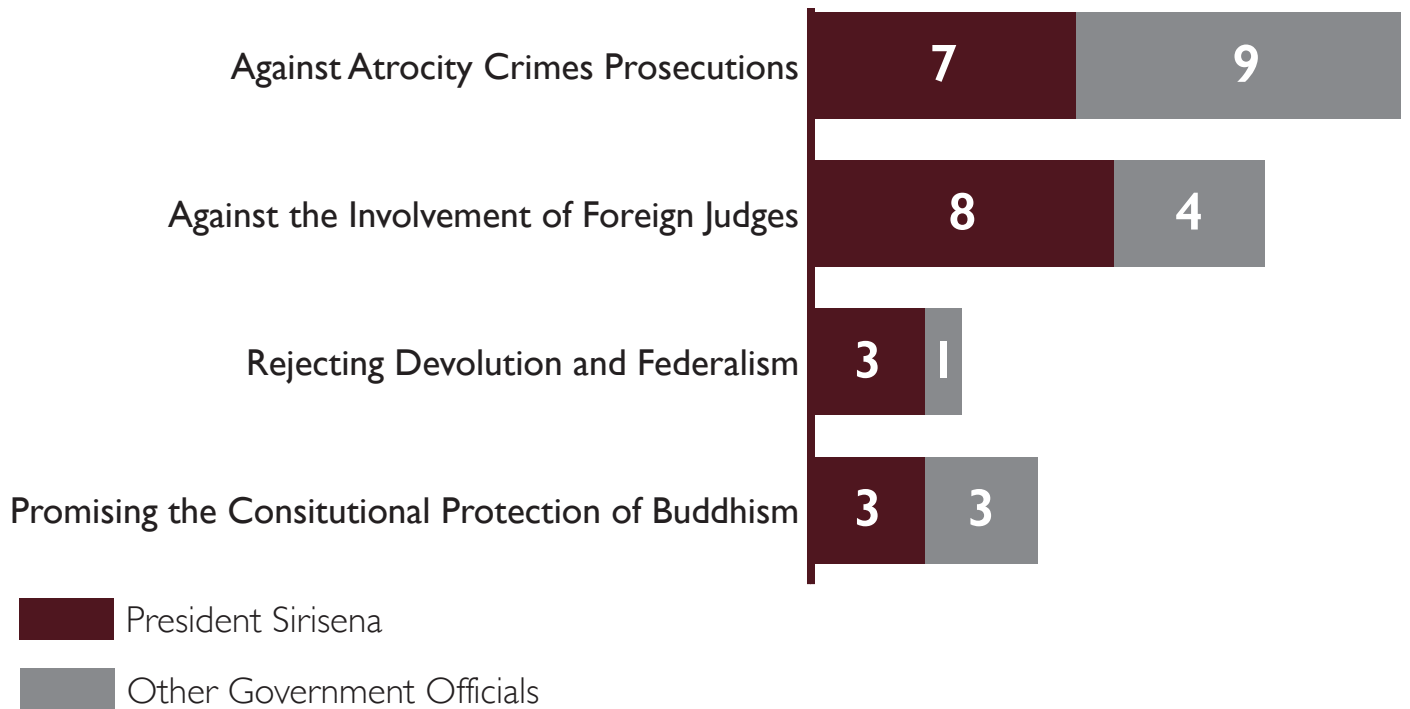
25 The Sunday Times. "Alleged war crimes: PM announces probe will be domestic, no foreign judges." 29 May 2016. <http://www.sundaytimes.lk/160529/columns/alleged-war-crimes-pm-announces-probe-will-be-domestic-no-foreign-judges-195284.html>.

26 Tamil Guardian. "Sri Lanka's president reiterates rejection of international judges in presence of prime minister." 08 July 2016. <http://www.tamilguardian.com/content/sri-lankas-president-reiterates-rejection-international-judges-presence-prime-minister>; Tamil Guardian. "Sirisena slams media for false reporting on 'foreign judges'." 09 July 2016. <http://www.tamilguardian.com/content/sirisena-slams-media-false-reporting-foreign-judges>; The Sunday Times. "President promises urgent action to reduce CoL, vows to strengthen economy." 12 June 2016. <http://www.sundaytimes.lk/160612/columns/president-promises-urgent-action-to-reduce-col-vows-to-strengthen-economy-197072.html>; ColomboPage "Sri Lankan President reiterates stance of no foreign judges in war crime probes." 26 February 2017. [http://www.colombopage.com/archive\\_17A/Feb26\\_1488096666CH.php](http://www.colombopage.com/archive_17A/Feb26_1488096666CH.php); Tamil Guardian. "Sri Lankan president: 'I have backbone to reject foreign judges'." 04 March 2017. <http://tamilguardian.com/content/sri-lankan-president-i-have-backbone-reject-foreign-judges>.

27 Colombo Gazette. "President's decision on foreign judges in war probe will be final." 12 July 2016. <http://colombogazette.com/2016/07/12/presidents-decision-on-foreign-judges-in-war-probe-will-be-final/>.

28 Sunday Observer. "Foreign role where needed: without judges." 9 October 2016. <http://www.sundayobserver.lk/business/2016/10/10/foreign-role-where-needed-without-judges>; Sri Lanka Mirror. "Govt. stance is no foreign judges – Mangala." 14 July 2016. <http://archive2.srilankamirror.com/news/item/11573-govt-stance-is-no-foreign-judges-mangala>; Ada Derana. "New draft Constitution could be presented in parliament by November." 29 August 2016. <http://www.adaderana.lk/news.php?mode=beauti&nid=36709>; Daily Mirror. "Govt. can't bring in foreign judges under existing constitution: Mangala." 16 March 2017. <http://www.dailymirror.lk/article/Govt-can-t-bring-in-foreign-judges-under-existing-constitution-Mangala-125632.html>.

## Sri Lanka's Statements Relating to Transitional Justice since March 2017



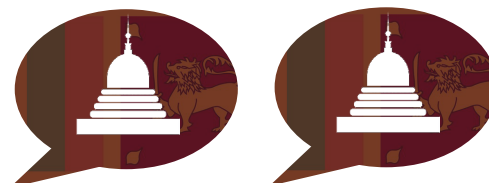
## Sri Lanka's Statements Promising the Constitutional Protection of Buddhism

Since the adoption of Resolution 34/1, the number of government statements on the foremost place of Buddhism in the constitution has increased. In total, the government has made 6 statements on this issue, half of which were made by Sirisena.

**3** statements by  
**President of Sri Lanka**  
 Maithripala Sirisena



**2** statements by  
**Prime Minister**  
 Ranil Wickremesinghe



**1** statement by  
**Foreign Minister**  
 Ravi Karunanayake





## Sri Lanka's Statements Against Atrocity Crimes Prosecutions

The government continued the trend of rejecting atrocity crimes prosecutions since the extension was granted in March 2017. In total, government officials have made 16 statements on this issue, the majority of which were made by Sirisena.



## *One Step Forward, Two Steps Back? Sri Lanka’s Minimal Transitional Justice Progress Leading Up to the March 2017 UNHRC Session.*

The dichotomy between Sri Lanka’s outward- and inward-facing rhetoric during this period was reflected in its actions as well. Following the passage of Resolution 30/1, Sri Lanka substantially increased its cooperation with the international community, allowing visits from four UN Special Rapporteurs,<sup>29</sup> the UN High Commissioner for Human Rights, and the UN Secretary General. It also launched a consultation process, the Consultation Task Force (CTF), on the design of the four transitional justice mechanisms. Although the consultations resulted in broad and meaningful participation, the government chose to preempt its results and exclude victim-survivor perspectives from consideration by announcing the creation of an Office of Missing Persons in May 2016 just as the CTF was starting its work.

When the CTF released its final report, both the President and Prime Minister were absent from its launch. The Justice Minister immediately dismissed its findings, which included a recommendation to empanel a hybrid court with both domestic and foreign judges.<sup>30</sup> Meanwhile, the government pushed ahead with the OMP, emphasizing to its domestic audiences that the body would be toothless. In the words of Prime Minister Wickremesinghe: “The responsibility of this office is to search for missing persons and issue a certificate. There is no other power.”<sup>31</sup>

The August 2016 passage of the OMP bill, which was not signed into law until July 2017, was the only observable progress Sri Lanka made on its transitional justice commitments before the March 2017 Human Rights Council session. Although officials promised throughout late 2015 and 2016 that the establishment of the truth commission and Office for Reparations were imminent and that the plans for the prosecutorial mechanism were underway,<sup>32</sup> there were no visible steps taken to establish any of these institutions.

This extremely limited progress on transitional justice was matched by similar stalling on the other commitments included in Resolution 30/1. On the legal reform front, the constitutional process<sup>33</sup> did not move forward during this period. Additionally, the government failed to

29 The Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (from March 30 to April 3, 2015 and from January 26 to February 1, 2016); the Special Rapporteur on the independence of judges and lawyers (from April 29 to May 7, 2016); the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment (from April 29 to May 7, 2016); and the Special Rapporteur on minority issues (from October 10 to 20, 2016).

30 Hattoruwa, Sanjana. “A report on reconciliation.” 7 January 2017. The Island Online. [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=158417](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=158417).

31 World Socialist Web Site. “Sri Lankan government establishes phony Office on Missing Persons.” 21 August 2017. International Committee of the Fourth International. <https://www.wsws.org/en/articles/2017/08/21/omps-a21.html>.

32 For example, as cited in: Tamil Guardian “Proposed accountability mechanism ready for discussion by early 2017 – Mangala.” 05 July 2016. <http://www.tamilguardian.com/content/proposed-accountability-mechanism-ready-discussion-early-2017-mangala>.

33 Commitment made in Resolution 30/1, Operative ¶ 16.



criminalize atrocity crimes<sup>34</sup> or enforced disappearances.<sup>35</sup> The draconian Prevention of Terrorism Act remained on the books,<sup>36</sup> and the UN Special Rapporteur on the independence of judges and lawyers found that the judicial system remained severely compromised,<sup>37</sup> especially in its treatment of Tamils.<sup>38</sup> While Sri Lanka did pass a victim and witness protection act in 2015 (the Assistance to and Protection of Victims of Crime and Witnesses Act),<sup>39</sup> civil society criticized it on numerous grounds, including the fact that it does not protect victims and survivors of international crimes that have not been incorporated into domestic law.<sup>40</sup>

Human Rights Watch,<sup>41</sup> the International Truth and Justice Project,<sup>42</sup> and the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment<sup>43</sup> documented the routine commission of torture throughout this period. Sri Lankan officials steadily denied evidence that security forces continued to use torture and insisted at the UN Committee Against Torture (CAT)<sup>44</sup> that they had instructed the military and police to abide by international law as they had agreed to do in Resolution 30/1.<sup>45</sup> The government's decision to send Chief of National Intelligence Sisira Mendis to represent Sri Lanka at the November 2016 CAT review of Sri Lanka exemplified its failure to address allegations of torture. Mendis himself has faced allegations of torture during his tenure as Deputy Inspector General of the Criminal Investigation Department. At the CAT review, he refused to answer questions from the Committee, which subsequently issued a report expressing concern over "consistent reports of torture," including the sexual violence and rape of Tamil detainees with suspected LTTE ties.<sup>46</sup>

Linked to the ongoing use of torture is a security sector that Sri Lanka has taken no steps to

34 Commitment made in Resolution 30/1, Operative ¶ 7.

35 Commitment made in Resolution 30/1, Operative ¶ 13.

36 Commitment made in Resolution 30/1, Operative ¶ 12.

37 United Nations Human Rights Office of the High Commissioner. "Preliminary observations and recommendations of the Special Rapporteur on the independence of judges and lawyers - Ms. Mónica Pinto of the Official joint visit to Sri Lanka – 29 April to 7 May 2016." 7 May 2016. Colombo, Sri Lanka. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19942&Lang=E>.

38 Commitment made in Resolution 30/1, Operative ¶ 6.

39 Commitment made in Resolution 30/1, Operative ¶ 9.

40 South Asian Centre for Legal Studies. "Amending the Victim and Witness Protection Act - Submission by the South Asian Centre for Legal Studies." 4 September 2017. <http://sacls.org/blog/amending-the-victim-and-witness-protection-act-submission-by-the-south-asian-centre-for-legal-studies>.

41 Human Rights Watch. "We Live in Constant Fear: Lack of Accountability for Police Abuse in Sri Lanka." October 2015. <https://www.hrw.org/report/2015/10/23/we-live-constant-fear/lack-accountability-police-abuse-sri-lanka>.

42 International Truth & Justice Project. "Silenced: survivors of torture and sexual violence in 2015." January 2016. Sri Lanka. <http://www.itjpsl.com/assets/Silenced-jan-2016.pdf>; International Truth & Justice Project. "Forgotten: Sri Lanka's exiled victims." June 2016. [http://www.itjpsl.com/assets/press/ITJP\\_report\\_v7.pdf](http://www.itjpsl.com/assets/press/ITJP_report_v7.pdf).

43 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, Dec. 22, 2016.

44 Consideration of reports submitted by States parties under article 19 of the Convention: Sri Lanka, CAT/C/LKA/5, Dec. 11, 2015.

45 Commitment made in Resolution 30/1, Operative ¶ 17.

46 Concluding observations on the fifth periodic report of Sri Lanka, CAT/C/LKA/CO/5, Jan. 27, 2017.



reform and that still commits abuses with impunity.<sup>47</sup> The military remained heavily deployed in the North-East throughout this period.<sup>48</sup> And although the government made a handful of high-profile land releases in 2015 and 2016,<sup>49</sup> land grabs continued.<sup>50</sup> Statements made by the military confirmed that the security presence would not change in the North-East, and that despite the government’s commitments, it “would not return even an inch” of land to its rightful owners.<sup>51</sup>

## *International Pressure Dissipates*

In spite of a near total absence of meaningful action, members of the international community—especially the US—made frequent statements applauding Sri Lanka for its transitional justice progress throughout this period.

The passage of Resolution 30/1 was met with understandable praise from the US Ambassador to Sri Lanka, the US Ambassador to the UN, US Ambassador to the UN Human Rights Council, and the US Secretary of State, commending Sri Lanka’s “promising future”<sup>52</sup> and reform agenda.<sup>53</sup>

47 Commitment made in Resolution 30/1, Operative ¶ 8.

48 Commitment made in Resolution 30/1, Operative ¶ 10.

49 IRIN. “Sri Lanka returns land confiscated by military during decades-long war.” 19 June 2015. Tellipallai, Sri Lanka. <http://www.irinnews.org/report/101655/sri-lanka-returns-land-confiscated-military-during-decades-long-war>; Daily News. “More land released for resettlement in Jaffna.” 31 December 2015. <http://www.dailynews.lk/?q=2015/12/31/local/more-land-released-resettlement-jaffna>; Daily News. “Civilian lands in North will be returned by 2018 – FM.” 30 June 2016. <http://www.dailynews.lk/2016/06/30/local/86130>.

50 Tamil Guardian. “Continued threats of landgrab in Kilinochchi.” 02 October 2015. <http://www.tamilguardian.com/content/continued-threats-landgrab-kilinochchi>.

Tamil Guardian. “Kilinochchi land being sold illegally.” 19 January 2016. <http://www.tamilguardian.com/content/kilinochchi-land-being-sold-illegally>; Tamil Guardian. “Army attempts to legalise landgrab in Mannar village.” 4 November 2015.

<http://www.tamilguardian.com/content/army-attempts-legalise-landgrab-mannar-village>.

51 Daily Mirror. “Never, another war in SL- Maj.Gen Senanayake.” 12 June 2016. <http://www.dailymirror.lk/110809/Never-another-war-in-Sri-Lanka-General-Senanayake>;

ColomboPage. “Sri Lanka army says security in Jaffna not reduced.” 10 July 2016. [http://www.colombopage.com/archive\\_16B/Jul10\\_1468131751CH.php](http://www.colombopage.com/archive_16B/Jul10_1468131751CH.php);

The Island. “Security forces: No more releasing of lands from Palaly cantonment.” 11 September 2016. [http://www.island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=151905](http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=151905).

52 U.S. Embassy in Sri Lanka. “U.S. Trade Show 2015 Showcases Opportunities for U.S.-Sri Lankan Partnerships.” 17 November 2015. <https://lk.usembassy.gov/u-s-trade-show-2015-showcases-opportunities-u-s-sri-lankan-partnerships/>.

53 U.S. Embassy in Sri Lanka. “Readout of the Meeting between Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, and Sri Lankan President Maithripala Si.” 23 November 2015. <https://lk.usembassy.gov/readout-meeting-ambassador-samantha-power-u-s-permanent-representative-united-nations-sri-lankan-president-maithripala-si/>; Tamil Guardian. “Sri Lankan president’s pledges to shrink power are ‘striking’ says Power.” 01 December 2015. <http://www.tamilguardian.com/content/sri-lankan-president%E2%80%99s-pledges-shrink-power-are-%E2%80%98striking%E2%80%99-says-power>; United States Mission to the United Nations. “Remarks at a Press Conference on the December Program of Work for the UN Security Council.” 01 December 2015. <https://2009-2017-usun.state.gov/remarks/7015>; Secretary of State John Kerry. U.S. Department of State. “Remarks With Sri Lankan Foreign Minister Mangala Samaraweera.” 25 February 2016. Washington, D.C. <https://2009-2017.state.gov/secretary/remarks/2016/02/253685.htm>; and Mission of the United States in Geneva, Switzerland. “Ambassador Harper: Sri Lanka Resolution Supports Path to Lasting Peace.” 1 October 2015. <https://geneva.usmission.gov/2015/10/01/ambassador-harper-sri-lanka-resolution-supports-path-to-lasting-peace/>.

But this praise persisted even as it became clear over the following 18 months that Sri Lanka had established neither transitional justice institutions nor a clear timeline for doing so.

In April 2016, for instance, after Sri Lanka had already reneged on its promises to present plans for a judicial mechanism in January, the US Ambassador to the UN commended Sirisena's Sri Lanka as a "global champion of human rights and democratic accountability."<sup>54</sup> In September 2016, she conveyed the US's optimism for "enhanced military relations" with Sri Lanka and supported their efforts to deploy more peacekeepers to UN missions.<sup>55</sup> Around the same time, the US Ambassador to Sri Lanka and Maldives also commended the government for its "positive steps."<sup>56</sup> At a reception celebrating the 69<sup>th</sup> anniversary of Sri Lankan independence in 2017, the US Acting Under-Secretary of State for Public Diplomacy and Public Affairs welcomed Sri Lanka's contributions to UN peacekeeping operations,<sup>57</sup> despite widely-reported allegations that Sri Lanka's forces in Haiti had sexually exploited and abused minors. At the 34<sup>th</sup> Human Rights Council session, the Deputy Assistant Secretary of State of the US noted that the Council "catalyzed progress for reform" in Sri Lanka with no mention of how minimal that progress has been.<sup>58</sup>

The UK took a similarly supportive stance, although its public statements became more reserved over time. At the beginning of 2016, the UK set aside £6.6 million to support Sri Lanka's accountability and reconciliation agenda.<sup>59</sup> During the 31<sup>st</sup> Human Rights Council session, in March 2016, the UK stressed its commitment to the implementation of Resolution 30/1 without expressing concerns about Sri Lanka's progress, as it did regarding other named countries.<sup>60</sup> As time passed with no action on transitional justice, however, representatives of the Foreign and Commonwealth Office (FCO) began to underscore the need for further

54 U.S. Embassy in Sri Lanka. "Remarks by Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, at a United States-Sri Lanka Trade and Investment Framework." 28 April 2016.

<https://lk.usembassy.gov/remarks-ambassador-samantha-power-u-s-permanent-representative-united-nations-united-states-sri-lanka-trade-investment-framework/>.

55 U.S. Embassy in Sri Lanka. "Readout of the Meeting between Ambassador Samantha Power, U.S. Permanent Representative to the United Nations, and Sri Lankan President Maithripala Si." 23 November 2015. <https://lk.usembassy.gov/readout-meeting-ambassador-samantha-power-u-s-permanent-representative-united-nations-sri-lankan-president-maithripala-si/>.

56 U.S. Embassy in Sri Lanka. "Ambassador Atul Keshap's Remarks at the Reception Held in Jetwing Hotel, Jaffna." <https://lk.usembassy.gov/ambassador-atul-keshaps-remarks-reception-held-jetwing-hotel-jaffna/>.

57 U.S. Embassy in Sri Lanka. "Remarks by Ambassador Bruce Wharton at Sri Lanka National Day Reception." 6 February 2017. Organization of American States, Washington, D.C. <https://lk.usembassy.gov/remarks-ambassador-bruce-wharton-sri-lanka-national-day-reception/>.

58 UN Web TV. "United States of America, High-Level Segment - 7th Meeting, 34th Regular Session Human Rights Council." 1 March 2017. <http://webtv.un.org/watch/united-states-of-america-high-level-segment-7th-meeting-34th-regular-session-human-rights-council-5341236804001>.

59 The RT Hon Hugo Swire MP. Minister of State. 26 December 2015. <http://www.tamilguardian.com/files/File/scan.pdf>; Tamil Guardian. "UK £6.6 million to be used for implementation of UNHRC resolution and de-militarisation in Sri Lanka parliament." 11 January 2016. <http://www.tamilguardian.com/content/uk-%C2%A366-million-be-used-implementation-unhrc-resolution-and-de-militarisation-sri-lanka>.

60 United Kingdom of Great Britain & Northern Ireland. "Statement under Item 2 – Human Rights Council 31." 10 March 2016. [http://tamilguardian.com/files/File/HRC31/88\\_UnitedKingdom\\_HC\\_annualreport\\_mtg\\_28.pdf](http://tamilguardian.com/files/File/HRC31/88_UnitedKingdom_HC_annualreport_mtg_28.pdf)

progress, emphasizing that “much remains to be done.”<sup>61</sup>

Six months after the adoption of Resolution 30/1, the EU urged Sri Lanka to maintain and increase its cooperation with OHCHR.<sup>62</sup> Against the backdrop of the 34<sup>th</sup> Human Rights Council session and discussions around the restoration of Sri Lanka’s GSP+ status, discussions between the EU and Sri Lanka highlighted progress despite stressing the need for further efforts on reconciliation and ongoing human rights violations.<sup>63</sup>

Sri Lanka took the absence of sustained international criticism as a sign that the pressure was off. In June 2016, Sirisena told *The Sunday Times* that Sri Lanka no longer faced pressure from members of the international community to prosecute allegations of atrocity crimes.<sup>64</sup> He struck a similar note by telling Army personnel that Resolution 30/1’s provisions were proposals, not obligations, and that Sri Lanka was under “no compulsion” to implement them<sup>65</sup> and by assuring a crowd in Kurunegala that he would keep foreigners out of domestic affairs.<sup>66</sup> Both he and the Prime Minister repeatedly told domestic audiences that they had prevented

61 Tamil Guardian. “Much more to be done in Sri Lanka - Hugo Swire.” 24 May 2016. <http://tamilguardian.com/content/much-more-be-done-sri-lanka-hugo-swire>; Tamil Guardian. “‘It’s all about implementation of resolution’ says UK ambassador.” 17 June 2016. <http://tamilguardian.com/content/%E2%80%99s-all-about-implementation-resolution%E2%80%99-says-uk-ambassador>; Tamil Guardian. “International element needed in accountability process stresses UK govt.” 08 July 2016. <http://tamilguardian.com/content/international-element-needed-accountability-process-stresses-uk-govt>; GOV.UK. “Human Rights Council 33, statement delivered under Item 2, 14 September, 2016.” <https://www.gov.uk/government/news/human-rights-council-33-statement-delivered-under-item-2-14-september-2016>; UK Parliament. House of Commons Hansard. “Sri Lanka: UN Human Rights Council.” 28 February 2017. <https://hansard.parliament.uk/commons/2017-02-28/debates/FF2125D2-D3CF-4EBC-8E78-A89B828D2ACB/SriLankaUNHumanRightsCouncil>; UK Mission to the United Nations Geneva. “Human Rights Council 34: Human Rights situation in Sri Lanka.” 22 March 2017. <https://www.gov.uk/government/news/human-rights-council-34-human-rights-situation-in-sri-lanka>.

62 European Union, Permanent Delegation to the United Nations Office and other international organizations in Geneva. “United Nations Human Rights Council: 31st Session; Item 2: Interactive Dialogue with High Commissioner for Human Rights.” 10 March 2016. [http://tamilguardian.com/files/File/HRC31/3\\_EU\\_HC\\_annualreport\\_mtg\\_27.pdf](http://tamilguardian.com/files/File/HRC31/3_EU_HC_annualreport_mtg_27.pdf).

63 Delegation of the European Union to Sri Lanka and Maldives. “Joint Press Release following the meeting of the working group on Governance, Rule of Law and Human Rights under the European Union-Sri Lanka Joint Commission, held 13-14 March 2017.” 14 March 2017. Colombo, Sri Lanka. [https://eeas.europa.eu/delegations/sri-lanka/22652/joint-press-release-following-meeting-working-group-governance-rule-law-and-human-rights-under\\_en](https://eeas.europa.eu/delegations/sri-lanka/22652/joint-press-release-following-meeting-working-group-governance-rule-law-and-human-rights-under_en).

64 *The Sunday Times*. “President promises urgent action to reduce CoL, vows to strengthen economy.” 12 June 2016. <http://www.sundaytimes.lk/160612/columns/president-promises-urgent-action-to-reduce-col-vows-to-strengthen-economy-197072.html>.

65 The Ministry of Defence Sri Lanka. “President graces 9th Defence Services Games Closing Ceremony.” 30 March 2018. [http://www.defence.lk/PrintPage.asp?fname=President\\_graces\\_9th\\_Defence\\_Services\\_Games\\_Closing\\_Ceremony\\_20160823\\_02](http://www.defence.lk/PrintPage.asp?fname=President_graces_9th_Defence_Services_Games_Closing_Ceremony_20160823_02).

66 ColomboPage. “Sri Lankan President vows to make SLFP strong, clean party for common people.” 4 September 2016. [http://www.colombopage.com/archive\\_16B/Sep04\\_1473003314CH.php](http://www.colombopage.com/archive_16B/Sep04_1473003314CH.php); Colombo Gazette. “President says will not bow down to external threats.” 4 September 2016. <http://colombogazette.com/2016/09/04/president-says-will-not-bow-down-to-external-threats/>; The Express Tribune. “Sri Lanka seeks more time for ethnic reconciliation.” 4 September 2016. <https://tribune.com.pk/story/1175885/sri-lanka-seeks-time-ethnic-reconciliation/>.



an international probe.<sup>67</sup> In October 2016, following the 33<sup>rd</sup> Human Rights Council session, Minister of Highways and Higher Education Lakshman Kiriella reported to an audience in Kandy that the government had successfully implemented most of Resolution 30/I and that the UN Human Rights Council was no longer pressuring Sri Lanka.<sup>68</sup>

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<sup>67</sup> For example: Daily News. “MR included SL in Geneva agenda - PM.” 2 October 2015. <http://www.dailynews.lk/?q=local/mr-included-sl-geneva-agenda-pm>.

<sup>68</sup> Colombo Gazette. “Government asserts no more pressure from UNHRC.” 13 October 2016. <http://colombogazette.com/2016/10/13/government-asserts-no-more-pressure-from-unhrc/>.

## Timeline: Sri Lanka's Backsliding

Two important timelines are examined side-by-side below from March 2017 to April 2018. On the left are evaluations of Sri Lanka's human rights situation by UN bodies, NGOs and civil society organizations, which are consistently critical. On the right are statements made by members of the Sri Lankan government, who dismiss and repudiate its transitional justice commitments.



16 May 2017

MAY

International Crisis Group, Report  
ICG found that “the military resists returning additional occupied land to its owners in these areas and continues to run shops and hotels and build Buddha statues in Tamil and Muslim communities.”<sup>33</sup>

23 June 2017

JUNE

Human Rights Council, 35th Session  
35th Human Rights Council session ends.<sup>37</sup>

14 July 2017

JULY

International Truth and Justice Project, Report  
Impunity for ongoing torture and sexual violence against Tamils

ITJP Executive Director Yasmin Sooka said the organization found that “torturing Tamils has become a highly lucrative business.”<sup>38</sup>

18 July 2017

Special Rapporteur on human rights and counter-terrorism, Preliminary Findings

Torture is routine, endemic, and uninvestigated  
Special Rapporteur Ben Emmerson found that “since the authorities use [the PTA] disproportionately against members of the Tamil community, it is this community that has borne the brunt of the State’s well-oiled torture apparatus.”<sup>39</sup>

19 August 2017

AUGUST

Freedom from Torture, Summary report  
Sri Lanka is top country of origin for torture victims in the U.K.  
Freedom from Torture reported that Sri Lanka was the top country of origin for torture victims referred to the organization from 2011 through 2016.<sup>40</sup>

JULY

6 July 2017

President Maithripala Sirisena, Speech at Temple Trees

No atrocity crimes prosecutions

“The current government performs to protect not only the freedom earned for the country by war heroes but also the war heroes themselves.”<sup>4</sup>

10 July 2017

Minister of Foreign Affairs Ravi Karunanayake, Speaking to the media in Colombo

No atrocity crimes prosecutions

“We are not ready at any time to betray tri-forces [the armed forces] and police.”<sup>5</sup>

No constitutional reform re: Buddhism

He said Sri Lanka needs a constitution that continues to protect, promote, and give due honor to Buddhism.<sup>6</sup>

15 July 2017

Secretary to the Ministry of Defense Kapila Waidyaratne, Speaking to the media

No atrocity crimes prosecutions

He said he would take measures to maintain the dignity of the armed forces and civil security forces.<sup>7</sup>

No meaningful legal reform re: disappearances

He said the proposed International Convention for the Protection of All Persons from Enforced Disappearance Bill would not affect “war heroes.”<sup>8</sup>

AUGUST

4 August 2017

Commander of the Army Mahesh Senanayake, Speaking to the media in Kandy

No atrocity crimes prosecutions

“Not a single soldier who fought bravely has been punished, nor will they be allowed to be penalised because we have not committed any offences.”<sup>9</sup>

11 August 2017

President Maithripala Sirisena, Speaking in Matara

No constitutional reform re: Buddhism

“He said that everyone must unite to build a society in this Buddhist country.”<sup>10</sup>

24 August 2017

President Maithripala Sirisena, Media Interview

No foreign judges

He said it was premature to discuss a domestic inquiry except to stress that no foreign judges or lawyers would be allowed to participate.<sup>11</sup>



## 11 September 2017

High Commissioner for Human Rights, Opening statement at the 36th Human Rights Council

High Commissioner calls for universal jurisdiction

UN High Commissioner Zeid Ra'ad Al Hussein noted the growing frustration of protesting victims and said that "the absence of credible action in Sri Lanka to ensure accountability ... makes the exercise of universal jurisdiction even more necessary."<sup>41</sup>

## 11 September 2017

Human Rights Council, 36th Session

36th Human Rights Council session begins.<sup>42</sup>

## 15 September 2017

UN Secretary-General, Report

Sri Lanka intimidates activists

The UN Secretary-General's report on Cooperation with the United Nations, its representatives and mechanisms in the field of human rights names Sri Lanka as a state that has intimidated and harassed activists for engaging with the Human Rights Council.<sup>43</sup>

## 29 September 2017

Human Rights Council, 36th Session

36th Human Rights Council session ends.<sup>44</sup>

## 31 August 2017

Minister of Justice Thalatha Athukorala, Press Conference in Colombo

No atrocity crimes prosecutions

"I will not give any room to anybody to prosecute our war heroes who have protected this country in a foreign court or punish them."<sup>12</sup>

## 9 September 2017

Minister of Housing and Construction Sajith Premadasa, Speech in Polonnaruwa

No atrocity crimes prosecutions

"Some claim our war heroes committed war crimes. None of them committed any such crimes. ... The yahapalana government would not permit anyone to lay their hands on our war heroes. ... The yahapalana government is dedicated to safeguarding the interests of war heroes."<sup>13</sup>

## 10 September 2017

President Maithripala Sirisena, Speech in Horowpathana

No atrocity crimes prosecutions

He said the government would protect "war heroes" at all ranks from foreign forces.<sup>14</sup>

## 16 September 2017

Prime Minister Ranil Wickremesinghe, Press Conference

No atrocity crimes prosecutions

"We don't need to take legal action against those who were engaged in the war or go to international courts. We can resolve any issue in Sri Lanka with the country's law. That promise, given by the President, will not be breached by any of us."<sup>15</sup>

No meaningful legal reform re: disappearances

"No one can take any step against enforced disappearances prior to October or November of 2017. If an incident of enforced disappearance takes place in the future, they can request the government to take action against it."<sup>16</sup>

## 29 September 2017

President Maithripala Sirisena, Speaking in Amparai

No devolution or federalism

"I must clearly say that we will never allow to make a constitution that will lead to destroy the unitary state of the country or separate the country."<sup>17</sup>

No constitutional reform re: Buddhism

He said he would not allow anyone to change the foremost place of Buddhism in the existing constitution.<sup>18</sup>

30 September 2017

Prime Minister Ranil Wickremesinghe, Speaking at a UNP meeting in Anuradhapura

No devolution or federalism

He said the unitary status of the state would not be diluted.<sup>19</sup>

No constitutional reform re: Buddhism

He said no changes were made during the constitutional reform process that would change the foremost place of Buddhism and that all agree that Buddhism should retain this prominent status.<sup>20</sup>

4 October 2017

Prime Minister Ranil Wickremesinghe, Speaking at a conference of South Asian parliamentarians in Colombo

No constitutional reform re: Buddhism

He said all religions would be treated equally, but Buddhism would be given the foremost place.<sup>21</sup>

10 October 2017

President Maithripala Sirisena & Prime Minister Ranil Wickremesinghe, Statement to senior Buddhist monk

No devolution or federalism

They said the new constitution would protect the unitary status of the country.<sup>22</sup>

No constitutional reform re: Buddhism

They said the new constitution would continue to grant the foremost place of Buddhism status.<sup>23</sup>

9 November 2017

President Maithripala Sirisena, Speech at a gathering of military troops in Colombo

No atrocity crimes prosecutions / No foreign judges

“As long as I remain the head of the country, I assure you that none of you would be allowed to testify before any war tribunals. ... I, as the President of this country would not allow anyone to be subjected to interrogation by foreign judges as such.”<sup>24</sup>

28 November 2017

President Maithripala Sirisena, Speech at a gathering of Sri Lankans in Seoul, South Korea

No atrocity crimes prosecution

“There won’t be electric chairs, international war crimes tribunals or foreign judges. That book is closed.”<sup>25</sup>

No devolution or federalism

“I am not ready to give in to the federal demand or devolve power in any way that might result in a fracture of the country.”<sup>26</sup>

OCTOBER

OCTOBER

NOVEMBER

NOVEMBER

2018

JANUARY

4 October 2017

PEARL, Report

1 soldier for every 2 civilians in Mullaitivu District

PEARL’s joint research with Jaffna-based Adayaalam Centre for Policy Research (ACPR) found that one-fourth of Sri Lanka’s Army was stationed in Mullaitivu District.<sup>45</sup>

23 October 2017

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Delays undermine trust and indicate a lack of political will

Pablo de Greiff expressed concerns about how the government’s delays in implementing transitional justice commitments indicate a lack of political will.

He also called out the government for its “war heroes will never be brought to trial,” noting that a human rights violator should never be called “hero.”<sup>46</sup>

8 November 2017

Associated Press, Report

Sri Lanka rapes and tortures Tamil men

Associated Press reported on the brutal rape and torture of Tamil men by Sri Lanka’s security forces, as recently as July 2017. Sri Lanka denied the allegations.<sup>47</sup>

25 January 2018

OHCHR, Update on Sri Lanka

OHCHR continues to call for special court

The report found that Sri Lanka’s “failure to show major progress in these emblematic cases strengthens the argument for the establishment of a specialized court to deal with the most serious crimes committed by State actors in the context of conflict, ... staffed by specialized personnel and supported by international practitioners.”<sup>48</sup>

25 January 2018

Human Freedom Index 2017

Sri Lanka ranks in the bottom ten for personal freedom

According to the Human Freedom Index 2017, Sri Lanka ranked 150 out of 159 countries for personal freedom, which was determined from an assessment of the enjoyment of a range of civil and political rights.<sup>49</sup>

22 February 2018

Sri Lanka Campaign, Report

Security forces intimidate Tamils in the North-East

SLC found the persistence of a climate of fear and intimidation that targeted Tamils, namely ex-LTTE, civilian victims of the war, human rights activists, and everyday citizen-dissenters.<sup>50</sup>

26 February 2018

Human Rights Council, 37th Session

37th Human Rights Council session begins.<sup>51</sup>

5 March 2018

Society for Threatened Peoples, Report

Military occupies the Vanni and intrudes into Tamil livelihoods

STP reported on the ongoing militarization of civilian life, including the military's intrusion into commercial activities, which competes with Tamils' ability to make livelihoods in sectors such as such as agriculture, catering, and tourism.<sup>52</sup>

21-22 March 2018

General Debate on OHCHR Annual Report, 37th Human Rights Council session

Only OHCHR continues to call for special court

PUN Deputy High Commissioner for Human Rights Kate Gilmore noted that "the Authorities have yet to demonstrate with the willingness or the capacity to address impunity ... [which] strengthens the argument for the establishment of a specialized court to deal with serious crimes, supported by international practitioners." 53

Meanwhile, the Resolution 30/1's main co-sponsors expressed their faith that "this Government [of Sri Lanka] can deliver the reform and justice agenda, and take the actions needed to support long-term reconciliation."<sup>54</sup>

23 March 2018

Human Rights Council, 37th Session

37th Human Rights Council session ends.<sup>55</sup>

19 December 2017

President Maithripala Sirisena, Speech at a conference of domestic judicial officers in Colombo

No foreign judges

He said foreign judges should not be involved in Sri Lanka's affairs and that the judiciary is able to independent and impartially mete out justice. He further claimed that neither the UN Human Rights Council nor other states have given opinions about the participation of foreign judges.<sup>27</sup>

6 February 2018

President Maithripala Sirisena, Media Interview

No atrocity crimes prosecutions / No foreign judges

"I told them [heads of state and the UN Secretary-General] not to send foreign judges to my country. There will be no international war tribunals or electric chairs. ... At no point has the Human Rights Council said that we have committed international war crimes. There is clearly no such thing."<sup>28</sup>

25 March 2018

Anonymous Sri Lankan Diplomat, Speaking to the media

No atrocity crimes prosecutions

"This government has not allowed a single person to be investigated for their conduct of the war."<sup>29</sup>

6 April 2018

President Maithripala Sirisena, Press Conference at the President's House

No foreign judges

"In response to a question about the 37th UN Human Rights Council session, he said the government will not agree to appoint any foreign judges."<sup>30</sup>

FEBRUARY

MARCH

2018

FEBRUARY

MARCH

APRIL



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## Rewarding Failure? Granting Sri Lanka an Extension in 2017

Unsurprisingly, the UN High Commissioner’s progress report in early 2017 was discouraging. He concluded that Sri Lanka’s progress in implementing Resolution 30/I had been “elementary” and “worryingly slow.”<sup>69</sup> Nevertheless, at its 34<sup>th</sup> session, the Human Rights Council granted Sri Lanka a two-year extension, until March 2019, to perform. But one year later, there is little indication that it will do so. Rather than prompting Sri Lanka to rededicate itself to fulfilling its transitional justice commitments, the extension appears to have only emboldened further intransigence. In early 2018, the High Commissioner again decried the government’s pace, this time noting that “the authorities have not yet demonstrated the capacity or willingness to address impunity.”<sup>70</sup> This section documents the Sri Lankan government’s continued foot-dragging on Resolution 30/I obligations following the extension, amidst ongoing reports of serious human rights violations.

### *More of the Same*

Just one day after the extension was granted, Justice Minister Rajapakshe claimed that atrocity crimes investigations and prosecutions were “not realistic at all” for a country hoping to achieve reconciliation.<sup>71</sup> Head of the ONUR Kumaratunga told an audience in Jaffna that there would be no trials and that only Tamil diaspora organizations—not locals—wanted prosecutions.<sup>72</sup>

In the following months, government officials including Sirisena; the new Foreign Minister, Ravi Karunanayake; and the Commander of the Army all pledged that Sri Lanka’s “war heroes” would never stand trial.<sup>73</sup> As the 36<sup>th</sup> Human Rights Council session got underway in September 2017,

69 Report of the Office of the UN High Commissioner for Human Rights on Sri Lanka, to the Human Rights Council, UN Doc.A/HRC/34/20 (Feb. 10, 2017), ¶¶ 59, 61.

70 Promoting reconciliation, accountability and human rights in Sri Lanka: Report of the Office of the United Nations High Commissioner for Human Rights, UN Doc.A/HRC/37/23 (Jan. 25, 2018), ¶ 29, United Nations General Assembly. Human Rights Council Thirty-seventh session. “Promoting reconciliation, accountability and human rights in Sri Lanka Report of the Office of the United Nations High Commissioner for Human Rights.” 26 February – 23 March 2018. <https://reliefweb.int/sites/reliefweb.int/files/resources/G1801853.pdf>.

71 Daily Mirror. “Wijeyadasa blasts int’l community.” 24 March 2017. <http://www.dailymirror.lk/article/Wijeyadasa-blasts-int-l-community-126120.html>.

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the government was particularly keen to foreclose the possibility of foreign involvement in any transitional justice process. The new Justice Minister, Thalatha Athukorala, reaffirmed that no members of the military would be tried by foreign judges,<sup>74</sup> a promise echoed by the Prime Minister<sup>75</sup> and Minister of Housing, Sajith Premadasa.<sup>76</sup>

These official statements undermining Sri Lanka’s commitments to transitional justice were accompanied by similar repudiations regarding federalism,<sup>77</sup> repeal of the PTA,<sup>78</sup> and answers on enforced disappearances.<sup>79</sup> The government has insisted that accusations of ongoing torture are “baseless and unfounded,”<sup>80</sup> but there are reports of torture, including sexual violence, as recent as March 2018.<sup>81</sup> Instead of investigating and prosecuting alleged torturers, the government promoted and commended individuals implicated in abuses.<sup>82</sup>

At the same time, the military’s presence and infiltration into civilian life throughout the

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North-East remains pervasive into 2018,<sup>83</sup> including in religious,<sup>84</sup> cultural,<sup>85</sup> school,<sup>86</sup> and tourism-related<sup>87</sup> activities. PEARL’s joint research with Adayaalam Centre for Policy Research (ACPR) in July 2017 found that one-fourth of Sri Lanka’s Army was stationed in Mullaitivu District, resulting in an extraordinary ratio of nearly 1 soldier for every 2 civilians there.<sup>88</sup> And despite the government’s promise to demilitarize, President Sirisena once again reassured military officers in November 2017 that the government would not release lands needed for “national security.”<sup>89</sup> Three years after his election, the government has resettled only 3,996 people, leaving 40,938 members of 12,674 families internally displaced (as of October 2017).<sup>90</sup> In July 2017, the government released land to 50 families in Myliddy harbor, but returned it in uninhabitable condition<sup>91</sup> and has given the families inadequate support to resume their fishing livelihood.<sup>92</sup> The majority of homes,<sup>93</sup> part of the harbor,<sup>94</sup> and the hospital<sup>95</sup> remained occupied as of February 2018. There is also evidence of ongoing land grabs, with the Navy giving notice in October 2017 that it acquired 672 acres in Mullivaikkaal<sup>96</sup> and is taking private lands in

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96 The Gazette of the Democratic Socialist Republic of Sri Lanka. Land Acquisition Notices, No. 2030/44, Aug. 4, 2017, @rkgurupan. “672 acres of private land being acquired for Navy in Mullivaaykkaal. Gazette notification published last month #lka #tamil.” Twitter. 3 October 2017, 3:21 AM, [twitter.com/rkguruparan/status/915159813281136640](https://twitter.com/rkguruparan/status/915159813281136640); Tamil Guardian. “Sri Lankan navy to acquire 672 acres in Mullivaikkaal.” 05 October 2017. <http://www.tamilguardian.com>.

Kayts.<sup>97</sup> Military facilities continued expanding in the Vanni,<sup>98</sup> Kilinochchi,<sup>99</sup> and Mullaitivu,<sup>100</sup> with new appropriations occurring as recently as March 2018.

The ongoing presence of the military in Tamil-inhabited areas has had a profound impact on civilians' daily lives. Members of the security forces continue to harass and intimidate Tamils in the North-East,<sup>101</sup> including targeting journalists by confiscating cameras and hauling them in for questioning.<sup>102</sup> They have threatened protesters demanding information about the disappeared and the return of stolen land<sup>103</sup> and continued to repress the commemoration of Tamils who died during the war. In 2017, organizers of events for both Mullivaikkaal Remembrance Day and Maaveerar Naal were surveilled and intimidated, and in at least one case, subjected to

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com/content/sri-lankan-navy-acquire-672-acres-mullivaikkaal. Notably, protesters blocked the Vadduvakal bridge and prevented land surveyors from accessing the area as part of their fight against the land grab. Tamil Guardian. "Vadduvakal landgrab protestors successfully block surveyors from accessing their lands." 22 February 2018. <http://tamilguardian.com/content/vadduvakal-landgrab-protestors-successfully-block-surveyors-accessing-their-lands>.

97 Tamil Guardian. "New Sri Lanka Navy landgrab in Kayts to build security post." 17 January 2018. <http://tamilguardian.com/content/new-sri-lanka-navy-landgrab-kayts-build-security-post>.

98 Sri Lanka Army. "New Officer Mess of 621 Brigade Opened with All Facilities." 27 December 2017. <http://www.army.lk/news/new-officer-mess-621-brigade-opened-all-facilities>.

99 Sri Lanka Army. "New Facility Complex at SFHQ-KLN Opened for All Ranks." 14 February 2018. <http://army.lk/news/new-facility-complex-sfhq-klm-opened-all-ranks>.

100 Tamil Guardian. "Sri Lankan military base constructs new entrance." 13 February 2018. <http://tamilguardian.com/content/sri-lankan-military-base-constructs-new-entrance>; Tamil Guardian. "Army attempts to appropriate destroyed LTTE cemetery, angering Mullaitivu residents." 22 March 2018. <http://tamilguardian.com/content/army-attempts-appropriate-destroyed-ltte-cemetery-angering-mullaitivu-residents>.

101 Sri Lanka Campaign for Peace and Justice. "'I live in fear and go to work.' New report on the ongoing use of surveillance, harassment and intimidation in Sri Lanka's North." 22 February 2018. <https://www.srilankacampaign.org/i-live-fear-go-work-new-report-ongoing-use-surveillance-harassment-intimidation-sri-lankas-north/>.

102 Tamil Guardian. "Sri Lankan army detains Tamil journalists documenting Sinhualisation in Mullaitivu." 10 December 2017. <http://www.tamilguardian.com/content/sri-lankan-army-detains-tamil-journalists-documenting-sinhualisation-mullaitivu>; Tamil Guardian. "Tamil journalist interrogated for 3 hours by CID and pressured to sign statement in Sinhalese." 18 July 2017. <http://www.tamilguardian.com/content/tamil-journalist-interrogated-3-hours-cid-and-pressured-sign-statement-sinhalese>. The harassment of Tamil journalists occurs against the backdrop of ongoing impunity for the murders of at least 44 Sri Lankan journalists, 41 of whom were Tamil (Reporters Without Borders. "Sri Lanka." <https://rsf.org/en/sri-lanka>; Committee to Protect Journalists. "Lots of talk but little progress in Sri Lanka over journalist murders." 9 January 2018. <https://cpj.org/blog/2018/01/lots-of-talk-but-little-progress-in-sri-lanka-over.php>; Vasquez, Ian and Tanja Porcnik. The Cato Institute, the Fraser Institute, and the Friedrich Naumann Foundation for Freedom. 2017, p. 324–25. Jaffna Press Club statement for World Press Freedom Day, as translated from Tamil to English: Tamil Guardian, "No media freedom without prosecutions for past crimes against Tamil journalists - Jaffna Press Club." 04 May 2017. <http://www.tamilguardian.com/content/no-media-freedom-without-prosecutions-past-crimes-against-tamil-journalists-jaffna-press>). Despite specific threatening incidents in 2017 and trends in media freedom violations, later that month, Prime Minister Ranil Wickremesinghe denied the occurrence of harassment and physical violence against journalists under the current regime (Ada Derana. "No crimes against journalists under present govt – PM." 4 December 2017. <http://www.adaderana.lk/news/44595/no-crimes-against-journalists-under-present-govt-pm>).

103 Tamil Guardian. "Sri Lanka's CID continue to harass Tamil disappearance activist." 22 August 2017. <http://www.tamilguardian.com/content/sri-lankas-cid-continue-harass-tamil-disappearance-activist>; Journalists for Democracy in Sri Lanka. "Sri Lanka police continue harassment of Tamil woman activist." 22 August 2017. <http://www.jdslanka.org/index.php/news-features/human-rights/704-sri-lanka-police-continue-harassment-of-tamil-woman-activist>; Tamil Guardian. "SL police threats against protesting Mannar priest condemned by Catholic Diocese." 25 June 2017. <http://www.tamilguardian.com/content/sl-police-threats-against-protesting-mannar-priest-condemned-catholic-diocese>; Tamil Guardian. "Police attempt to stop Keppapulavu families from holding black flag protest." 04 February 2018. <http://www.tamilguardian.com/content/police-attempt-stop-keppapulavu-families-holding-black-flag-protest>.

unfounded legal action.<sup>104</sup>

Government agents have also targeted Tamil activists for their UN advocacy, harassing their families and attempting to intimidate them by taking photographs of them.<sup>105</sup> And in the UK, Brigadier Priyanka Fernando, defense attaché at Sri Lanka’s High Commission and alleged war criminal,<sup>106</sup> made a throat-slitting gesture toward British Tamils protesting on the 70<sup>th</sup> anniversary of Sri Lanka’s independence in February 2018. The Ministry of Foreign Affairs suspended him but Sirisena reinstated him less than a day later. The Army chief summoned him to return to Colombo about two weeks after the incident, reportedly to address the “embarrassment to the country”—not to discipline him or investigate his actions.<sup>107</sup>

In predictable fashion, the limited concrete progress made by Sri Lanka was all undertaken last-minute to coincide with the 37<sup>th</sup> Human Rights Council session in February–March 2018. The government tried (and failed) to rush the passage of the Counter Terrorism Act to replace the PTA before the session.<sup>108</sup> During the first week, Sirisena appointed OMP commissioners,<sup>109</sup> ignoring victims and survivors’ calls for the exclusion of military personnel and the inclusion of women and victim-survivors’ representatives. The OMP then began its operations during the third week of the session.<sup>110</sup> Parliament also passed the International Convention for the Protection of All Persons from Enforced Disappearance Bill during the second week of the session.<sup>111</sup>

104 Tamil Guardian. “Magistrate extends order permitting police investigation into Mullivaikkaal memorial.” 31 May 2017. <http://www.tamilguardian.com/content/magistrate-extends-order-permitting-police-investigation-mullivaikkaal-memorial>.

105 Cooperation with the United Nations, its representatives and mechanisms in the field of human rights: Report of the Secretary General, A/HRC/36/31 (2017), ¶¶ 52–53, 70–72.

106 Journalists for Democracy in Sri Lanka (JDS) & the International Truth and Justice Project (ITJP). “BRIGADIER PRIYANKA FERNANDO DEFENCE ATTACHE IN LONDON.” 5 February 2018. [http://itjpsl.com/assets/press/brigadier\\_api\\_fernando\\_final.pdf](http://itjpsl.com/assets/press/brigadier_api_fernando_final.pdf).

107 Journalists for Democracy in Sri Lanka. “No disciplinary action against ‘slit throat’ brigadier summoned to Sri Lanka.” 21 February 2018. <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/750-no-disciplinary-action-against-slit-throat-brigadier-summoned-to-sri-lanka>.

108 Sunday Times. “Counter-terror draft to be amended again ahead of UNHRC session.” 19 February 2018. <http://www.sundaytimes.lk/article/1039513/counter-terror-draft-to-be-amended-again-ahead-of-unhrc-session>.

109 Daily Mirror. “Commissioners appointed to OMP.” 1 March 2018. <http://www.dailymirror.lk/article/Commissioners-appointed-to-OMP-146609.html>.

110 Tamil Guardian. “Office on Missing Persons operational says chairman.” 14 March 2018. <http://www.tamilguardian.com/content/office-missing-persons-operational-says-chairman>.

111 Daily Mirror. “Enforced Disappearances Bill passed in Parliament.” 07 March 2018. <http://www.dailymirror.lk/146903/Enforced-Disappearances-Bill-passed-in-Parliament>.

## ***International Community Begins Tempering its Praise of Sri Lanka While Simultaneously Strengthening Bilateral Relations***

In the aftermath of the 34<sup>th</sup> Human Rights Council session in 2017, members of the international community, namely the US, UK, and EU,<sup>112</sup> have toned down their praise of Sri Lanka’s human rights progress. However, despite recognizing that Sri Lanka is failing to perform on its transitional justice commitments, they have continued to increase military cooperation and aid.

While US State Department officials and human rights reports have raised red flags regarding Sri Lanka’s slow transitional justice progress<sup>113</sup> and ongoing “Buddhist Sinhalese religious and cultural imperialism,”<sup>114</sup> US defense officials have honored Sri Lanka’s “war heroes”<sup>115</sup> and praised its return to peace.<sup>116</sup> The Millennium Challenge Corporation, a US foreign aid agency, reselected Sri Lanka for eligibility to develop a compact for a 5 year grant, a decision that had originally been made in late 2015 based on its “remarkable effort ... to reinvigorate its democratic institutions, improve governance, and restore protection of human rights.”<sup>117</sup> The Peace Corps program, which the US closed in 1998, was recently reestablished.<sup>118</sup>

The US has also strengthened its military ties with Sri Lanka, conducting training exercises with both the Air Force and the Navy in late 2017 and early 2018<sup>119</sup> as well as expanding

112 It should be noted that high-level officials from other states made statements noting their frustration at Sri Lanka’s slow pace and emphasizing the need for prompt progress on transitional justice. For example, Canada (Prime Minister of Canada Justin Trudeau. “Statement by the Prime Minister on the anniversary of Black July.” 23 July 2017. <https://pm.gc.ca/eng/news/2017/07/23/statement-prime-minister-anniversary-black-july>; as cited in <http://tamilguardian.com/content/canada-calls-sri-lanka-set-clear-timetable-implementation>) and Germany (The Island. “Reform Agenda: Germany applauds Sri Lanka for first successful steps ... more focus and political will needed - Jorn Rohde.” 25 August 2017. [http://island.lk/index.php?page\\_cat=article-details&page=article-details&code\\_title=170617](http://island.lk/index.php?page_cat=article-details&page=article-details&code_title=170617)).

113 Statement of Ambassador Alice Wells, U.S. Embassy in Sri Lanka. “Maintaining U.S. Influence in South Asia: The FY 2018 Budget.” 7 September 2017. <https://lk.usembassy.gov/statement-ambassador-alice-wells/>; as cited in Tamil Guardian. “US ambassador calls on Sri Lanka to fulfill UN resolution at Thai Pongal.” 14 January 2018. <http://tamilguardian.com/content/us-ambassador-calls-sri-lanka-fulfill-un-resolution-thai-pongala>

114 United States Department of State, Bureau of Democracy, Human Rights, and Labor. “SRI LANKA 2016 INTERNATIONAL RELIGIOUS FREEDOM REPORT.” <https://www.state.gov/documents/organization/269186.pdf>.

115 Sri Lanka Army. “US Military Delegates Salute Memories of Fallen Sri Lankan War Heroes.” 30 August 2017. <http://www.army.lk/news/us-military-delegates-salute-memories-fallen-sri-lankan-war-heroes>

116 Sri Lanka Ministry of Defence. “US Defence Attaché calls on the Secretary.” 27 July 2017. [http://www.defence.lk/new.asp?fname=US\\_Defence\\_Attac\\_calls\\_on\\_the\\_Secretary\\_20170727\\_01](http://www.defence.lk/new.asp?fname=US_Defence_Attac_calls_on_the_Secretary_20170727_01); as cited in Tamil Guardian. “US Defence Attaché meets Sri Lankan commanders.” 01 August 2017. <http://tamilguardian.com/content/us-defence-attach%C3%A9-meets-sri-lankan-commanders>; US Secretary of State Rex Tillerson. Press Statement. “Sri Lanka’s Independence Day.” 4 February 2018. <https://www.state.gov/secretary/remarks/2018/02/277885.htm>.

117 U.S. Embassy in Sri Lanka. “MCC Board Selects Five Countries for MCC Partnerships.” 18 December 2015. <https://lk.usembassy.gov/mcc-board-selects-five-countries-mcc-partnerships/>.

118 Peace Corps. “Peace Corps to Re-establish Program in Sri Lanka.” 26 February 2018. <https://www.peacecorps.gov/news/library/peace-corps-re-establish-program-sri-lanka/>.

119 US Pacific Air Force. “Pacific Airlift Rally 2017 underway in Sri Lanka.” 12 September 2017. <http://www.pacaf.af.mil/News/Article-Display/Article/1307818/pacific-airlift-rally-2017-underway-in-sri-lanka/>; Sri Lanka Air Force. “Pacific Airlift Rally 2017: Sri Lanka.” [http://www.airforce.lk/par\\_2017/](http://www.airforce.lk/par_2017/); Sri Lanka Air Force. “Pacific Air Rally Moves Forward Despite Heavy Rains - Day 3 of the PAR 2017.” 14 September 2017, <http://www.airforce.lk/>



cooperation through the #USASL70 campaign, launched on the 70<sup>th</sup> anniversary of Sri Lanka's independence.<sup>120</sup> In addition, the US Embassy hosted a workshop on psychological operations in Kilinochchi in September 2017,<sup>121</sup> providing psyops training to Army units that have been credibly accused of torture and remain deployed throughout the North-East. Notably, about one week earlier, US entities had urged Sri Lanka to establish “meaningful and credible transitional justice processes”<sup>122</sup> and prosecute perpetrators of atrocity crimes.<sup>123</sup>

In November 2017, on the same day as the publication of an Associated Press report on ongoing torture and sexual violence against Tamil detainees, the US Under-Secretary of Political Affairs praised Sri Lanka's progress on accountability and reconciliation. In the same Colombo speech, he announced that the US would provide Sri Lanka's Navy with a coastguard ship as a symbol of the countries' partnership.<sup>124</sup> His statements to commemorate the 70<sup>th</sup> anniversary of Sri Lanka's independence emphasized the “upward trajectory” of the countries' cooperation, making no mention of persistent human rights violations and impunity.<sup>125</sup>

The UK has been harsher in its criticism, raising concerns about torture with Sri Lanka's High Commissioner in London, identifying Sri Lanka as one of the 30 priority countries in the FCO's annual human rights report,<sup>126</sup> stressing the need for international involvement in accountability processes,<sup>127</sup> and urging prompt implementation of Resolution 30/I.<sup>128</sup> However,

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lk/news.php?news=3306; Sri Lanka Navy. “SLN divers undergo training in UXO recovery.” <http://news.navy.lk/eventnews/2017/09/23/201709231500/>; Sri Lanka Army. “New US Defence Attaché Calls at SFHQ-KLN.” 01 August 2017. <http://army.lk/news/new-us-defence-attach%C3%A9-calls-sfhq-klm>; Hlavac, Tyler. “US will return to Vietnam, Sri Lanka during Pacific Partnership mission.” Stars and Stripes. 22 February 2018. <https://www.stripes.com/news/us-will-return-to-vietnam-sri-lanka-during-pacific-partnership-mission-1.513028>.

120 US Embassy in Sri Lanka. “United States and Sri Lanka To Celebrate 70 Years Working Together.” 1 February 2018. Colombo, Sri Lanka. <https://lk.usembassy.gov/united-states-sri-lanka-celebrate-70-years-working-together/>.

121 Sri Lanka Army. “Two-day Workshop to Exchange Experiences on Psy Ops Inaugurated in Kilinochchi.” 19 September 2017. <http://www.army.lk/news/two-day-workshop-exchange-experiences-psy-ops-inaugurated-kilinochchi>.

122 United Nations Human Rights Office of the High Commissioner. “Human Rights Council holds interactive dialogue on enforced disappearances and on truth, justice and reparation.” 11 September 2017. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22045&LangID=E>.

123 United States. Cong. Senate. DEPARTMENT OF STATE, FOREIGN OPERATIONS, AND RELATED PROGRAMS APPROPRIATIONS BILL, 2018. 115<sup>th</sup> Congress. 1<sup>st</sup> sess. S.1780. 7 September 2017. <https://www.appropriations.senate.gov/imo/media/doc/FY2018%20State%20Foreign%20Operations%20Appropriations%20-%20Report%20115-152.pdf>.

124 Under Secretary for Political Affairs Thomas A. Shannon, Jr. United States Department of State. “Remarks at the U.S.-Sri Lanka Partnership Dialogue.” 6 November 2017. <https://www.state.gov/p/us/rm/2017/275378.htm>.

125 Id.

126 Foreign and Commonwealth Office of the United Kingdom. “Human Rights & Democracy: the 2016 Foreign & Commonwealth Office Report.” Presented to Parliament by the Secretary of State for Foreign and Commonwealth Affairs by Command of Her Majesty. July 2017 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/630623/Human\\_Rights\\_and\\_Democracy\\_Report\\_2016\\_accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/630623/Human_Rights_and_Democracy_Report_2016_accessible.pdf).

127 Tamil Guardian. “UK Minister for Asia and Pacific reiterates need for international judges and prosecutors in Sri Lanka's accountability process.” 29 November 2017. <http://tamilguardian.com/content/uk-minister-asia-and-pacific-reiterates-need-international-judges-and-prosecutors-sri-lankas>.

128 Tamil Guardian. “UK calls on Sri Lanka to deliver on UN resolution.” 13 September 2017. <http://tamilguardian.com/content/uk-calls-sri-lanka-deliver-un-resolution>; Tamil Guardian. “British MPs call for speedier implementation of UNHRC resolution 30/I.” 02 October 2017. <http://tamilguardian.com/content/british-mps-call-speedier->

it too has strengthened ties with the Sri Lankan military,<sup>129</sup> even holding a program to teach English to troops stationed in the North-East.<sup>130</sup> UK policy documents reflect continued faith that Sri Lanka possesses the political will to implement transitional justice measures<sup>131</sup> and have downplayed human rights violations, such as those caused by militarization, that specifically affect the North-East.<sup>132</sup> In October 2017, the FCO Minister for Asia and the Pacific commended Sri Lanka’s “commitment to reconciliation and strengthening democracy.”<sup>133</sup> Regarding Brigadier Priyanka Fernando’s throat-slitting threat to Tamil protestors in London, the FCO Minister apparently accepted Foreign Minister Tilak Marapana’s promise that the government would thoroughly investigate the incident.<sup>134</sup>

Similarly, although Members of the European Parliament repeatedly raised concerns about the slow pace of legal reforms,<sup>135</sup> the EU nevertheless restored Sri Lanka’s GSP+ status in May 2017. And despite the government’s failure to vet and reform the security sector, coupled with the military’s enduring human rights violations, UN peacekeepers were set to welcome Sri Lankan forces into their Lebanon mission in February 2018<sup>136</sup> until Tamil diaspora organizations and

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implementation-unhrc-resolution-301; @scullyp. “#Tamil families across #Sutton, Sri Lanka & the world are starting to celebrate their harvest festival. I wish you all a very happy #Thaipongal.” Twitter. 14 January 2018, 7:49 AM. <https://twitter.com/scullyp/status/952568263434817536>.

129 British High Commission Colombo. “UK welcomes renewal of links between British and Sri Lankan armed forces.” The Government of the United Kingdom. 1 August 2017. <https://www.gov.uk/government/news/uk-welcomes-return-of-lands-by-sri-lankan-armed-forces>; Foreign & Commonwealth Office and James Dauris. “Christmas and New Year Message from British High Commissioner to Sri Lanka James Dauris.” The Government of the United Kingdom. 21 December 2017. <https://www.gov.uk/government/speeches/christmas-and-new-year-message-from-british-high-commissioner-to-sri-lanka-james-dauris>.

130 Information from the Sri Lankan military’s website, as cited in Tamil Guardian. “Aiding militarisation: British Council teaches English to Sri Lankan troops in Vanni.” 7 December 2017. <http://tamilguardian.com/content/aiding-militarisation-british-council-teaches-english-sri-lankan-troops-vanni>.

131 The Home Office of the Government of the United Kingdom. “Country Policy and Information Note Sri Lanka: Tamil separatism.” Version 5.0. June 2017. [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/619535/Sri\\_Lanka\\_-\\_Tamil\\_Separatism\\_-\\_CPIN\\_-\\_v5.0\\_June\\_2017\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/619535/Sri_Lanka_-_Tamil_Separatism_-_CPIN_-_v5.0_June_2017_.pdf).

132 Department for International Trade. The Government of the United Kingdom. “Guidance - Overseas Business Risk – Sri Lanka.” 19 June 2017. <https://www.gov.uk/government/publications/overseas-business-risk-sri-lanka/overseas-business-risk-sri-lanka>; Tamil Guardian. “UK policy downplays human rights abuses in Sri Lanka – British MP.” 26 September 2017. <http://tamilguardian.com/content/uk-policy-downplays-human-rights-abuses-sri-lanka-%E2%80%93-british-mp>.

133 Foreign & Commonwealth Office and the Rt Hon Mark Field MP. “Mark Field visits Sri Lanka to discuss reconciliation, de-mining and the illegal wildlife trade.” The Government of the United Kingdom. 5 October 2017. <https://www.gov.uk/government/news/mark-field-visits-sri-lanka-to-discuss-reconciliation-de-mining-and-the-illegal-wildlife-trade>.

134 Field, Mark. “Topical Questions.” United Kingdom Parliament. House of Commons, Hansard. Volume 636. 20 February 2018. <https://hansard.parliament.uk/Commons/2018-02-20/debates/7D99E3DD-3D56-471A-B663-D9B75A6A7B03/TopicalQuestions?highlight=sri%20lanka#contribution-A6F78F47-3BCD-4AF0-B1EF-A246737576BD>.

135 Letter from Members of the European Parliament to Prime Minister Ranil Wickremesinghe, as cited in Tamil Guardian. “EU tells Sri Lanka to replace PTA before GSP+ decision.” 13 April 2017. <http://tamilguardian.com/content/eu-tells-sri-lanka-replace-pta-gsp-decision>; and Daily Mirror. “Repealing PTA: EU says disappointed over slow progress.” 2 November 2017. <http://www.dailymirror.lk/article/Repealing-PTA-EU-says-disappointed-over-slow-progress-139686.html>.

136 Sri Lanka Army. “Next SLSR Contingent Set to Leave for Lebanon.” 07 February 2018. <http://army.lk/news/next-slsr-contingent-set-leave-lebanon>.

human rights groups urged the UN not to deploy alleged war criminal Lt. Col. Rathnappuli Wasantha Kumara Hewage.<sup>137</sup>

These mixed messages have enabled Sri Lankan officials to maintain the fiction domestically that the international community has stopped pressuring the government. In late March 2017, Sirisena informed an audience at Kurunegala Defense Services College that world leaders vowed that they would “stand by” Sri Lanka and its armed forces.<sup>138</sup> A few months later, in one of his first speeches as Foreign Minister, Marapana assured his audience: “We have been given ample time and we can ask for further time also... we are not being pushed to implement it in five or ten years ... we are not being pushed in that way at all.”<sup>139</sup> Less than two weeks before the 36<sup>th</sup> Human Rights Council session in September 2017, Sirisena echoed this claim, saying that the government had “defused” international pressure and that it was “premature to talk about a domestic inquiry.”<sup>140</sup>

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137 British Tamil Forum. “OPEN LETTER FROM THE TAMIL DIASPORA ORGANISATIONS TO JEAN-PIERRE LACROIX, UNDER SECRETARY GENERAL FOR UN PEACEKEEPING OPERATIONS, NEW YORK.” 14 February 2018. <http://www.britishtamilforum.org/btf-news/open-letter-from-the-tamil-diaspora-to-jean-pierre-lacroix-under-secretary-general-for-un-peacekeeping-operations-new-york/>; Patreon. “On Sri Lanka, Inner City Press Asked UN of Deploying Hewage, UN Now Says “On Hold”.” 19 February 2018. <https://www.patreon.com/posts/17095088>

138 Sri Lanka Army. “President Assures No True War Heroes be Made to Appear as ‘Accused’ in Any Court.” 29 March 2017. <http://www.army.lk/news/president-assures-no-true-war-heroes-be-made-appear-accused-any-court> .

139 Times Online. “New Foreign Affairs Minister Tilak Marapana.” 18 August 2017. <https://www.youtube.com/watch?v=5x0zxceQeP8>, as cited in Tamil Guardian, “International judges not allowed to operate in Sri Lanka declares foreign minister, denies pressure to implement UN resolution.” 18 August 2017 <http://tamilguardian.com/content/international-judges-not-allowed-operate-sri-lanka-declares-foreign-minister-denies-pressure>.

140 Daily Mirror. “Don’t see any fault with AG’s Dept: President.” 25 August 2017. <http://www.dailymirror.lk/article/Don-t-see-any-fault-with-AG-s-Dept-President-135326.html>.

## The Effect on the Victims

The leniency shown by members of the international community does not just communicate to the Sri Lankan government that it can get away with flouting its obligations. It also tells the victim-survivor community that their suffering and struggle for accountability is increasingly unimportant. Throughout the post-war period, international human rights pressure on Sri Lanka has served as a lifeline for Tamils living in war-affected areas. One prominent example was the release of Tamil activist Jeyakumari Balendran on March 10, 2015. The government had arrested and detained her in March 2014 for campaigning against enforced disappearances and arbitrary detentions, holding her without charge until international pressure at the Human Rights Council contributed to her release.<sup>141</sup> With war-affected individuals' faith in the Sri Lankan government non-existent, their best hope for accountability has always rested with members of the international community. But increased military cooperation accompanied by commendations of Sri Lanka's "progress"—despite ongoing repression and overt repudiation of transitional justice commitments—has put a significant dent in victims and survivors' trust in the international community.

### *Victims' Low Expectations*

*“Hope is gone now”*

*(Batticaloa, July 2017)*

The majority of our interviews were conducted shortly after the OMP bill was finally signed into law in July 2017. However, while the international community interpreted the bill's passage as an encouraging sign of progress, our interviewees were universally pessimistic about the OMP and the prospects for transitional justice more broadly. As one member of the victim-survivor community put it, underscoring the government's refusal to provide any information about the fate of the disappeared: “If they can't even answer simple questions, what is the OMP going to do? They just want to hoodwink the international community” (Mullaitivu, July 2017).

Another explained that she lost faith in the process after the results of the consultative process were ignored. “During the consultations, nothing from us was taken on board. We expected good things from the consultations—we were able to share our view, but nothing has happened” (Batticaloa, July 2017). A longtime community activist pointed out that victim-survivors were also not included in the establishment of the Office of National Unity and Reconciliation (ONUR), dismissing it as “just another office” (Vavuniya, July 2017).

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<sup>141</sup> BBC News. “Sri Lanka frees Tamil activist Jeyakumari Balendran on bail,” 10 March 2015. <http://www.bbc.com/news/world-asia-31812030>.



***“They use the OMP as a handy excuse to show progress—but where is this OMP?  
Why haven’t we been contacted yet about how it will work?”***

*(Batticaloa, October 2017)*

Many highlighted the absence not only of victim-survivor participation in decision-making, but also outreach to inform them about transitional justice institutions. Some said the only information they had received about the OMP came from the newspaper (Amparai, July 2017) or mentioned hearing the name “ONUR” but nothing further (Mullativu, July 2017). Others noted the spread of misinformation. One victim-survivor said a local government official told her that the OMP was already operational and had an office open in Kilinochchi (Batticaloa, July 2017), which was untrue.

Nearly everyone we spoke to emphasized Sri Lanka’s long history of window-dressing accountability institutions. Several family members of the disappeared estimated that they had submitted information about their missing loved ones on as many as 50 occasions to past commissions, police stations, and government officials. “We started in 2009 from the IDP camps and haven’t stopped” (Mullaitivu, July 2017).

These experiences left many exhausted and wondering about the point of participating in another institution. Nevertheless, several said they planned to go to the OMP anyway, despite having “no hope and no expectation” (Trincomalee, July 2017). Some expressed the concern that if they did not participate, the government would use that fact strategically “as an excuse for more time at the Human Rights Council” (Batticaloa, July 2017).

Members of the victim-survivor community clearly saw the disconnect between Sri Lanka’s rhetoric abroad and actions at home. “There is no will on the part of the government” said one activist, referring to the government’s promises in Geneva (Kilinochchi, July 2017). Again and again, they highlighted the fact that in the absence of international participation, any transitional justice process would be a farce.

***“How can those responsible prosecute themselves?”***

*(Mullaitivu, July 2017)*

While they were particularly pessimistic about the prospect of criminal accountability without international involvement, many also stressed the need for a role for foreigners in the OMP. “Without international participation in the OMP, the government won’t let information about perpetrators come out” (Batticaloa, July 2017). Others pointed out that it was “only because of the international community” that progress had occurred on related issues such as land return (Jaffna, July 2017).

## *Losing Faith in the International Community*

*“We have no faith in the government but [have faith] in the international community”*

*(Amparai, July 2017)*

None of the protesters we spoke to expressed surprise that the government had failed to act on their demands. In fact, many downplayed any expectation that the Sirisena administration would respond to them, identifying their target audience as the international community rather than the Sri Lankan government (Mulliativu, July 2017). “Our only hope is that the international community puts pressure on the government” (Kilinochchi, October 2017). Several mentioned their wish for more members of the international community to come meet with them. “It has to have an effect—at least let the international community know what’s happening” (Vavuniya, July 2017).

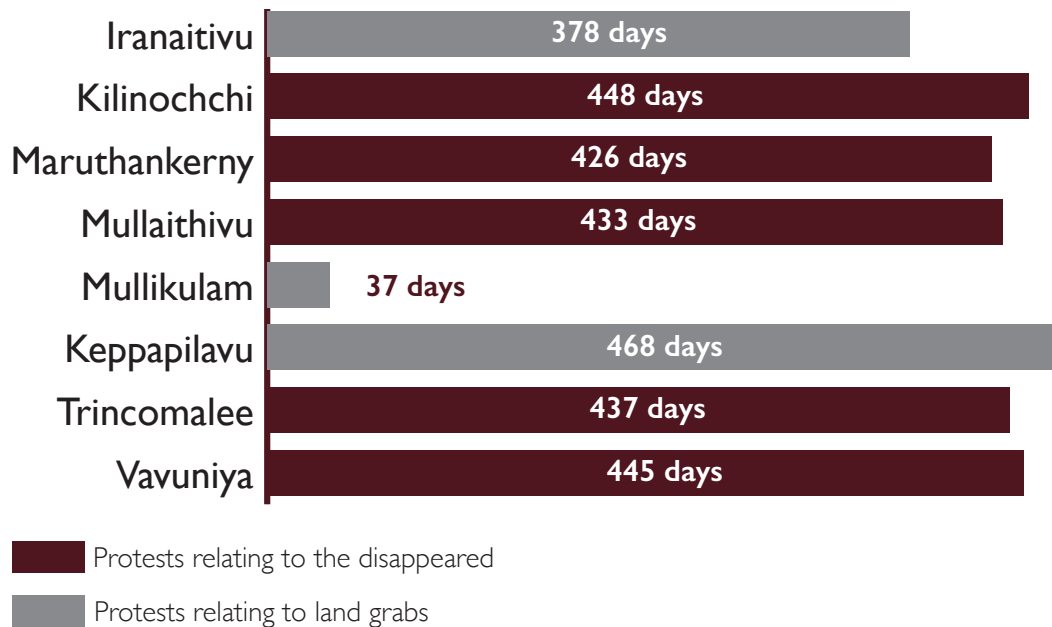
Our interviewees were surprised and confused by the two-year extension granted to Sri Lanka by the Human Rights Council in March 2017. “The government can’t even do the OMP. How are they going to do the bigger things they promised?” (Batticaloa, July 2017). One activist who had been to Geneva described the costs of delay: “I told them, you give them two years, you are giving time to the Army” (Vavuniya, July 2017). Another argued that Sri Lanka had already shown that the extension was worthless: “What have they done in four months?” (Amparai, July 2017).

For many, this confusion shaded into frustration. “I don’t understand what the international community is waiting for” (Batticaloa, July 2017). Several victims and survivors criticized the international community for what they saw as willful blindness to Sri Lanka’s intransigence on transitional justice. One called out specific members of the international community, saying: “The US, UK, and Swiss used to be very active, now they don’t open their mouths” (Kilinochchi, July 2017). Another remarked incredulously: “The international community is sending us to the government and the military for justice even now” (Jaffna, July 2017). Advocates working with the families of the disappeared explained that victims and survivors “had expectations of the international community” (Kilinochchi, July 2017) and that when the extension was announced “they were shocked” (Vavuniya, July 2017).

## Collective Action

As this frustration over the lack of progress has grown, members of the victim-survivor community have taken to the streets in numbers unprecedented in the post-war period. For the last year, families of the disappeared, largely led by women, have sat in continuous protest in five out of the eight districts of the North-East. The protesters' demands are simple: information about the fate of their missing loved ones.

**Days of protest by site** (as of May 14th 2018)



In June 2017, Sirisena met with representatives of the families and agreed to provide a list of those held by the government. Yet no list has been released despite two additional meetings between Sirisena and the families. Individuals interviewed by PEARL who had attended those meetings were cynical about their purpose, noting that Sirisena only spent a brief amount of time with them and did not seem to listen to their concerns. “The meetings happen because the government wants to break the protests” (Mullaitivu, July 2017).

Meanwhile, the protests have been extremely taxing on the families. One activist pointed to the emotional toll of spending all day, every day, focused on their disappeared loved ones as well as the strain it puts on relationships between remaining family members. “Before they were stronger, now they are more traumatized” (Kilinochchi, July 2017). The protesters' physical condition is also precarious. Many of them were already in poor health before facing the difficulty of sitting in the road in harsh conditions for over a year. Eight have died, still unsure of what happened to their children.<sup>142</sup>

<sup>142</sup> Tamil Guardian. “Seventh mother dies since families of the disappeared ongoing protests began.” 15 October 2017. <http://www.tamilguardian.com/content/seventh-mother-dies-families-disappeared-ongoing-protests-began>; Tamil

Other collective actions within the North-East have accompanied the protests by the families of the disappeared. More than 10,000 people poured into the streets of Jaffna for the Ezhuka Tamil rally in September 2016,<sup>143</sup> with thousands more participating in a follow-up in Batticaloa.<sup>144</sup> Since early 2017, war-affected Tamils all over the North-East organized to demand the return of military-occupied lands, the release of political prisoners, and the repeal of the PTA. Protesters demanding the return of military-stolen and -occupied lands set up camp across from the Air Force Base in Pilaakkudiyiruppu on January 31, 2017, when the military told villagers they would receive their lands later that day and this did not happen.<sup>145</sup> Shortly after the release of some Pilaakkudiyiruppu lands, 138 families of Keppapilavu village also began a continuous protest to demand the return of their lands around March 1, 2017.<sup>146</sup> Similarly, in Iranaitivu, an islet in the Palk Bay off Kilinochchi, 366 families commenced protesting on May 1, 2017 to demand the return of their navy-occupied lands in order to end their displacement since the 1990s. Like the families' protests, these demonstrations have been met with hollow promises from the government, which has meanwhile surveilled and harassed participants.

## Conclusion

The need for a transitional justice process to address war-time abuses in Sri Lanka is clear. However, in spite of years of back-and-forth between Sri Lanka and international audiences about the potential shape of such a process, accountability is little closer today than it was in 2009. Sri Lankan government officials continue to make promises to the international community and then retract them in front of domestic audiences. The minimal progress made by the government has only occurred due to heightened pressure from looming UN Human Rights Council sessions and, more often than not, has been undermined by shoddy execution and immediate backtracking. Nevertheless, members of the international community have shown remarkable lenience, choosing to accept Sri Lanka's claims that it is moving forward on its transitional justice commitments—not skillfully evading them.

But while the international community's patience is seemingly inexhaustible, the victim-survivor community's is not. Faced with the government's refusal to meet their demands

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Guardian. "Father in 12th year of search for disappeared son dies," 1 March 2018. <http://tamilguardian.com/content/father-12th-year-search-disappeared-son-dies>.

143 Tamil Guardian. "Thousands take part in Ezhuka Tamil rally in Jaffna." 24 September 2016. <http://tamilguardian.com/content/thousands-take-part-ezhuka-tamil-rally-jaffna>.

144 Tamil Guardian. "Thousands at Batticaloa 'Ezhuka Tamil' rally." 10 February 2017. <http://www.tamilguardian.com/content/thousands-batticaloa-ezhuka-tamil-rally>.

145 Tamil Guardian. "We will not move from here until we get our land back: from inside the Pilavu protest." 13 February 2017. <http://www.tamilguardian.com/content/%E2%80%9Cwe-will-not-move-here-until-we-get-our-land-back%E2%80%9D-inside-pilavu-protest>.

146 Tamil Guardian. "Keppapulavu protestors observe black day as army personnel bring new year wishes." 14 April 2017. <http://www.tamilguardian.com/content/keppapulavu-protestors-observe-black-day-army-personnel-bring-new-year-wishes>; Groundviews. "One year in Keppapilavu: On the resistance to military occupation and continued challenges for resettlement." 5 March 2018. <https://groundviews.org/2018/03/05/one-year-in-keppapilavu/>.



for accountability and the failure of members of the international community to press for meaningful change, war-affected communities in the North-East have engaged in collective action in unprecedented numbers. Most notably, mothers of disappeared persons have stood in the road for months on end—over a year now—risking not only exhaustion and illness, but also harassment and intimidation by the yet-to-be vetted security forces stationed among them. For many victims and survivors, their target audience remains members of the international community who they hope to persuade to intervene on their behalf.

Yet during the recent 37<sup>th</sup> UNHRC session, not a single member state raised the need for a special court with international involvement to investigate and prosecute atrocity crimes. OHCHR is the only international actor still publicly calling for such a mechanism.<sup>147</sup> And despite three years of clear evidence of Sri Lanka's unwillingness to implement Resolution 30/1, its main cosponsors maintained that “with determined leadership and a clear timeline for action, this Government [of Sri Lanka] can deliver the reform and justice agenda, and take the actions needed to support long-term reconciliation, with the support of all Sri Lankans.”<sup>148</sup>

Unsurprisingly, the government of Sri Lanka considered the 37<sup>th</sup> session a “success,” boasting that it “emerg[ed] proud” at the HRC.<sup>149</sup> In the words of one diplomat, Sri Lanka “has been successful in restoring its reputation on the world stage” without ever “allow[ing] a single person to be investigated for their conduct of the war.”<sup>150</sup>

The decision of UN Human Rights Council members to drop their calls for a prosecutorial mechanism with international involvement suggests that Sri Lanka has managed to stall for long enough that the international community is moving on. For the victims and survivors of Sri Lanka's crimes, this outcome is intolerable. Our interviews in late 2017 revealed a growing sense among Tamils in the North-East that the international community has again abandoned them to whatever fate the Sri Lankan government sees fit to mete out, just as it did in the final phase of the war. The disappearance of transitional justice from the international agenda at this moment of increasing political mobilization among the victim-survivor community represents a potential inflection point in the pursuit of reconciliation and sustainable peace in Sri Lanka. =

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147 Office of the United Nations High Commissioner for Human Rights. Promoting Reconciliation, Accountability and Human Rights in Sri Lanka: Rep. of the Office of the United Nations High Commissioner for Human Rights. ¶ 40, U.N. Doc. A/HRC/37/23. 25 January 2018. <https://reliefweb.int/sites/reliefweb.int/files/resources/G1801853.pdf>; Office of the United Nations High Commissioner for Human Rights. “Addresses by Ms. Kate Gilmore, United Nations Deputy High Commissioner for Human Rights” (statement, UN Human Rights Council, Geneva, March 21–22, 2018), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22875&LangID=E>.

148 GOV.UK. “Human Rights Council 37: Joint Statement on Sri Lanka” Macedonia, Montenegro, U.K., & U.S. 21 March 2018. <https://www.gov.uk/government/news/human-rights-council-37-joint-statement-on-sri-lanka>. See also Tariq Ahmad, “Lord Ahmad marks 70th anniversary of UN Human Rights Declaration” 27 February 2018. <https://www.gov.uk/government/speeches/lord-ahmad-marks-70th-anniversary-of-un-human-rights-declaration>.

149 News.lk. “Sri Lanka Emerges Proud at UNHRC.” 25 March 2018. <https://news.lk/news/sri-lanka/item/19909-sri-lanka-emerges-proud-atunhrc>.

150 Id.

The growing protest movement across the North-East reflects the fact that despite Sri Lanka's grand promises in Geneva, many Tamils feel that nothing has changed for them. "Are we even in a transition?" (Vavuniya, July 2017) queried one activist, echoing comments made by numerous interviewees. Others spoke of the possibility that the increasing anger within the Tamil community may spark violence. "Our children are talking about taking up arms" (Mullaitivu, July 2017). Many suggested that the ongoing failure to grapple with victims and survivors' grievances is endangering the prospects for long-term peace and reconciliation in Sri Lanka.

***"If the government doesn't listen, there needs to be other action. If that doesn't happen, Tamils will take up arms. This is how it all started."***

*(Kilinochchi, July 2017)*

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