

135th Session of the UN Human Rights Committee

Geneva

Submission for the List of Issues: Sri Lanka

**to be considered in connection with the Sixth periodic report of Sri Lanka (CCPR/C/LKA/6)
on its compliance with the International Covenant on Civil and Political Rights**

Submitted by

People for Equality and Relief in Lanka

Sri Lanka Campaign

Adayaalam Centre for Policy Research

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Abbreviations used

GOSL – Government of Sri Lanka

PTA – Prevention of Terrorism Act of 1979

OMP - Office of Missing Persons

I. Description of submitting organizations

People for Equality and Relief in Lanka (PEARL) is a non-profit organization led by human rights activists concerned about the human rights situation in Sri Lanka. PEARL's mission is to advocate for justice, accountability and self-determination for the Tamil people in the North-East of Sri Lanka. PEARL conducts research and advocacy in cooperation with a network of Tamil leaders and Tamil-led organizations in the diaspora.

Any questions regarding this submission can be directed to Ahrabi Rajkumar, PEARL's Advocacy and Research Director, at arajkumar@pearlaction.org.

Sri Lanka Campaign is a global non-partisan movement that aims to achieve genuine reconciliation based on accountability for violations of international law, build respect for human rights and the rule of law, and support efforts within Sri Lankan civil society to promote a just and lasting peace.

Adayaalam Centre for Policy Research is a not-for-profit research think-tank that works on public policy issues in Sri Lanka with a special focus on issues affecting the Tamil polity in the island.

II. Summary Overview

The Government of Sri Lanka (GOSL) has violated the civil and political rights, codified in the International Covenant on Civil and Political Rights (ICCPR), of Tamils and Muslims with increasing frequency and severity since the State Party was last reviewed in 2014.

The current government under President Gotabaya Rajapaksa (elected in 2019) has accelerated many of these trends. In particular, Tamils continue to experience discriminatory abuses under the Prevention of Terrorism Act (PTA), the annexation of traditional Tamil homelands for military and economic development, the erasure and defilement of Tamil Hindu religious and civic remembrance sites in the North-East, and intimidation and harassment against Tamil human rights defenders and Tamil Families of the Disappeared. All of this occurs in an environment of impunity in which promises of transitional justice continue to be unmet and the root causes of the conflict are exacerbated.

III. Information regarding the Human Rights Committee's List of issues in relation to the sixth periodic report of Sri Lanka

States of emergency and counter-terrorism measures (arts. 2, 7, 9, 10, 14, 18, 19, 21 and 26)

1. The GOSL has failed to repeal or suspend the current PTA in line with the requirements of the ICCPR, the recommendations of UN human rights experts, and the Office of the High Commissioner for Human Rights.¹ Arrests and detentions under the PTA have continued, and its use has increased under the current Rajapaksa regime. Some examples of current cases under the PTA include 34-year-old Divaniya Mukunthan and 23-year-old Mohamed Imaam Mohamed

¹ Recent proposed amendments to the PTA in February 2022, even if implemented, would not address the problematic aspects of the law as identified by UN human rights mechanisms. <https://www.ohchr.org/en/press-releases/2022/03/sri-lanka-un-experts-call-swift-suspension-prevention-terrorism-act-and>

Imran, who were arrested under the PTA on 29 March 2021 and 9 May 2019, respectively, and continue to be detained without charge as of February 2022.²

2. The current Rajapaksa regime specifically uses the PTA to target Tamil and Muslim communities.³ The extent to which the PTA is specifically used to target Tamils is further demonstrated by the fact that prisoners held under the PTA, who are held separately from other inmates, are referred to within the prison system as “LTTE” prisoners, in reference to the Liberation Tigers of Tamil Eelam, and report significant levels of discrimination and abuse from guards and other prisoners.⁴ The PTA is also used to disband and punish those carrying out Tamil memorialisation activities; for example, Tamils in Batticaloa last year were arrested and detained for lighting a flame for Tamil Genocide Remembrance Day on May 18.⁵ A journalist was also arrested in 2020 under the PTA for sharing a picture of the war-dead on Facebook.⁶
3. Tamil political prisoners remain incarcerated under the PTA⁷ for months—or even years in some cases—without charge or trial and are at high risk of custodial torture as a method of extracting forced confessions. Human rights lawyers and activists continue to be arrested and detained, including the arbitrary arrest of Muslim human rights lawyer Hejaaz Hizbullah under the PTA in 2020.⁸ Hizbullah was released after 2 years in detention on February 9, 2022, with no evidence having been presented against him.⁹ Although Hizbullah has been granted bail, he remains at risk of being detained again.¹⁰
4. Current abuses under the PTA, such as its role in extracting false confessions through torture, build on longstanding violations from the law’s enactment in 1979. For example, in January 2021, Sellapillai Mahendran, a Tamil man who was arrested in 1993 at the age of 17, died in prison while serving a life sentence for a conviction where the key evidence was a confession obtained through torture.¹¹ Barmasiri Chandraiya Ragupathi Sharma has been imprisoned for 22 years on the basis of a confession extracted under torture, which has never been investigated or rectified.¹²
5. In addition, it is important to note the gendered effects of the GOSL’s use of the PTA. While men continue to be at higher risk of arrest and torture, women bear the repercussions of arbitrary detentions of spouses and other male family members, which often leads to or exacerbates conditions of extreme poverty. They also face recurring harassment and intimidation from the police, alongside social isolation as other members of the community also fear police harassment.¹³ Tamil women also face unique challenges and discrimination on the grounds of merely associating with male suspects.¹⁴ Finally, women human rights defenders face gender-based forms of harassment. For example, attorney Achala Seneviratne, who represented the Tamil Families

² <https://www.amnesty.org/en/wp-content/uploads/2022/02/ASA3752412022ENGLISH.pdf>

³ <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act>

⁴ <https://www.hresl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

⁵ https://twitter.com/JDSLanka/status/1518682074668048385?s=20&t=2ca6Klm8hC5fGIQwz8kS_O

⁶ https://twitter.com/JDSLanka/status/1500808455736770560?s=20&t=2ca6Klm8hC5fGIQwz8kS_O

⁷ <https://www.hrw.org/news/2020/01/10/sri-lanka-repeal-abusive-counterterrorism-law>

⁸ <https://www.amnesty.org/en/latest/news/2021/02/sri-lanka-government-suffocating-dissent-and-obstructing-justice-f-or-historic-crimes-says-amnesty-report/>

⁹ <https://www.amnesty.org/en/latest/news/2021/02/sri-lanka-government-suffocating-dissent-and-obstructing-justice-f-or-historic-crimes-says-amnesty-report/>

¹⁰ <https://www.tamilguardian.com/content/free-last-hejaaz-released-bail-sri-lanka-s-terrorism-law-looms-large>

¹¹ <https://www.tamilguardian.com/content/brother-when-army-caught-me-i-was-only-17-years-old>

¹² <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act>

¹³ <https://groundviews.org/2022/02/09/the-tragic-lives-of-women-victims-of-the-pta/>

¹⁴ <https://groundviews.org/2022/02/09/the-tragic-lives-of-women-victims-of-the-pta/>

of the Disappeared in an enforced disappearance case, has faced threats of violence and sexualized abuse on social media as well as directly from officials accused in the case.¹⁵

6. The signatory organisations request that the Committee make the following recommendations to the GOSL:

- **Impose an immediate moratorium on the application of the PTA, followed by its full repeal. Any replacement counterterrorism framework must comply with international human rights standards.**
- **Adopt and enforce a zero-tolerance policy for harassment and gender-based violence by security personnel, with prompt investigations and prosecutions by an independent, civilian entity for any violations.**
- **Promptly release all persons detained under the PTA, unless evidence-based charges are brought in accordance with detention and fair trial standards.**
- **All evidence based on torture must be excluded from prosecutions, and all convictions based on confessions under torture must be immediately vacated.**

Accountability for serious human rights violations and the right to an effective remedy (arts. 2, 6, 7, 9, 14, 16, 18, 19 and 26)

7. The Tamil community in the Northern and Eastern Provinces of Sri Lanka, referred to as the ‘North-East’, who are the most conflict-affected and most at risk of ongoing human rights violations, has consistently rejected any form of domestic justice mechanism due to the GOSL’s lack of political will to meaningfully address the root causes of the conflict. The endemic impunity has been further exacerbated under the nationalist policies of the current Rajapaksa regime. The GOSL has acted to suppress and obstruct efforts by human rights organisations, media, lawyers, political opponents, and law enforcement officers to secure justice for crimes committed during the armed conflict. The GOSL demonstrated its lack of political will and disregard for international commitments in February 2020, when it formally withdrew from the UN Human Rights Council-driven transitional justice and reconciliation process. In particular, the Commission of Inquiry, set up in 2020, has repeatedly interfered in active court cases involving military personnel accused of war crimes.¹⁶
8. As stated by the UN High Commissioner for Human Rights in her January 2021 report, “not a single emblematic case has been brought to a successful conclusion or conviction.” Unresolved cases include the January 2006 extrajudicial killing of students in Trincomalee, also known as the ‘Trinco 5’ case,¹⁷ and the August 2006 extrajudicial killing of humanitarian workers.¹⁸ Another example is the case of the soldiers who were acquitted in 2015 for the gang rape of a Tamil woman, despite culpatory evidence.¹⁹ Furthermore, the GOSL has not taken any action to pursue legal accountability for the credible allegations of war crimes, crimes against humanity, or genocide that occurred throughout the armed conflict, nor has it taken any steps to establish credible transitional justice mechanisms to address such violations.

¹⁵<https://www.amnesty.org/en/latest/news/2021/02/sri-lanka-government-suffocating-dissent-and-obstructing-justice-for-historic-crimes-says-amnesty-report/>

¹⁶<https://www.amnesty.org/en/latest/news/2021/02/sri-lanka-government-suffocating-dissent-and-obstructing-justice-for-historic-crimes-says-amnesty-report/>

¹⁷ <https://www.hrw.org/news/2019/07/08/sri-lanka-no-justice-trinco-5>

¹⁸ <https://www.hrw.org/news/2016/07/31/sri-lanka-10-years-aid-worker-massacre>

¹⁹ <https://www.tamilguardian.com/content/sri-lankan-court-acquits-soldiers-over-gang-rape-tamil-woman%C2%A0>

9. In addition, the appointment and even promotion of military personnel accused of war crimes during the conflict deters surviving victims of crimes from seeking justice.²⁰ For example, General Shavendra Silva, who was credibly accused of overseeing mass atrocity crimes during the final months of the armed conflict,²¹ was appointed Chief of Army Staff of the Sri Lanka Army in January 2019 and promoted to Commander of the Sri Lanka Army in August 2019.²² Silva is currently due to assume office on 1 June 2022 as new Chief of Defence Staff. Crimes committed by Silva's division include summary executions and extrajudicial killings, shelling of hospitals and food lines, use of white phosphorus against civilians, rape and sexual violence, and enforced disappearances.²³ When Silva assumes his new office, he is slated to be replaced as Commander of the Army by Major General Vikum Liyanage,²⁴ who is also linked to war crimes.²⁵ Kamal Gunaratne currently serves as Defence Secretary, a powerful government role, despite credible accusations of war crimes, including repeated attacks on hospitals and food distribution points, which resulted in tens of thousands of civilian deaths and the destruction of civilian objects.²⁶ The High Commissioner for Human Rights' 2021 report on Sri Lanka noted that the GOSL's failure to institute any vetting processes or security reforms allowed those alleged to have committed grave crimes and human rights violations to remain in place.²⁷
10. The Office of Missing Persons has been ineffective since its establishment in 2016 and increasingly problematic in recent years.²⁸ To date, no perpetrators of enforced disappearance have been identified, arrested, and brought to justice, nor has the OMP produced any tangible outcomes in the 6 years since it was established. Tamil Families of the Disappeared, consisting mainly of Tamil women activists whose loved ones were disappeared, have expressed their distrust in the OMP due to its excessive demands for paperwork and other bureaucratic obstacles, without tangible result.²⁹ For example, the OMP has not properly engaged with the Tamil Families of the Disappeared and has not adequately followed through on specific cases where families have provided significant evidence relating to the disappearance of their loved ones at the end of the war. The latest development is that OMP Chief Shiraz Noordeen resigned his post on May 3, 2022, tweeting: "I resigned from the OMP since the victims won't be benefitted, as the GOSL has not provided the OMP with adequate resources to act independently. Furthermore, the OMP is unable to act independently due to the line Ministry's interference with the OMP's affairs, the Foreign Affairs Ministry's failure to resolve OMP-related issues, and the incapacity of

²⁰ Id.

²¹ As outlined by an ITJP report in 2019. https://itjpsl.com/assets/shavendra-Silva_-final-dossier.pdf Likewise, the US government sanctioned Silva on 20th February 2020 "due to credible information of his involvement, through command responsibility, in gross violations of human rights." <https://2017-2021.state.gov/public-designation-due-to-gross-violations-of-human-rights-of-shavendra-silva-of-sri-lanka-under-section-7031c-of-the-department-of-state-foreign-operations-and-related-programs-appropriations-a/index.html>

²² <https://www.army.lk/commander>

²³ https://itjpsl.com/assets/shavendra-Silva_-final-dossier.pdf

²⁴ <https://www.army.lk/news/general-shavendra-silva-take-reins-new-chief-defence-staff-after-relinquishing-office-army#:~:text=General%20Shavendra%20Silva%20will%20assume.appointed%20to%20this%20new%20office>

²⁵ <https://www.tamilguardian.com/content/sri-lanka-s-new-army-commander-and-his-links-war-crimes>

²⁶ <https://itjpsl.com/reports/kamal-gunaratne>

²⁷ <https://www.ohchr.org/en/press-releases/2021/01/sri-lanka-alarming-path-towards-recurrence-grave-human-rights-violations-un>

²⁸ <https://www.humanrightspulse.com/mastercontentblog/international-investigation-into-sri-lankas-enforced-disappearances-only-chance-for-justice#:~:text=The%20aim%20of%20the%20OMP,%E2%80%9D%20under%20Resolution%2030%2F1>.

²⁹ <https://www.tamilguardian.com/content/sri-lanka-s-omp-demands-20-documents-families-searching-disappeared-loved-one>

the present Board to uphold the OMP mandate.”³⁰ The GOSL has never meaningfully addressed enforced disappearances, with President Rajapaksa remarking that the missing persons “were actually dead” without providing evidence or conducting any investigation to determine the true fate of disappeared persons.³¹

11. The Office of Reparations is likewise ineffective and structurally problematic. The Office of Reparations has appointed an ex-military officer as one of its commissioners, which is detrimental to building trust among the victim community in the North-East. In interviews conducted in 2021, all ex-combatants interviewed reported that they had never been contacted regarding reparations or informed by local government offices about relevant policies.³² Moreover, the few members of the victim family community who do try to use the OMP or Office of Reparations process are burdened by the disproportionate financial resources needed to gather the required documents, and have the document be certified by appropriate authorities, only to have cases be left in limbo. PEARL has heard first-hand accounts from contacts on the ground that even justices of the peace who are needed to certify documents have been threatened by military personnel, and encouraged to not support the Families of the Disappeared. This further delays and denies justice to the victim-survivors. Despite the government’s statements, PEARL’s contacts on the ground have confirmed that very little, if any, families have actually been awarded compensation.
12. Moreover, the financial payments available are paltry and not equivalent to the grave harm faced by the victim-survivor communities. Ex-combatants who favour compensation express a clear preference for provision of jobs and tangible livelihood assistance such as equipment or machinery, instead of monetary compensation. Ex-combatants report that any monetary compensation offered does not provide a sustainable livelihood. Notably, any reparations that do occur are not a substitute for accountability and justice processes.³³
13. **The signatory organisations request that the Committee make the following recommendations to the GOSL:**
 - **Fully support and cooperate with international initiatives, including through multilateral mechanisms such as the Office of the High Commissioner for Human Rights, to establish field offices in the North-East and, with the support of local communities, to monitor ongoing human rights violations, as well as colonization schemes and land grabs that enable civil and political rights violations.**
 - **Engage with international human rights mechanisms in a manner that is transparent, is publicly available to Tamils, that results in concrete actions toward justice, and that remains accountable to the Tamil people.**
 - **Vet and remove political and military leaders implicated in past or ongoing human rights violations, including mass atrocity crimes, from positions of power, and ensure that the accused face justice in accordance with international standards.**
 - **The Office of Missing Persons (OMP), the Office of Reparations, and other discredited domestic justice mechanisms should be replaced by independent,**

³⁰ <https://twitter.com/ShirazNoordeen/status/1520805090474348545>

³¹ <https://www.humanrightspulse.com/mastercontentblog/international-investigation-into-sri-lankas-enforced-disappearances-only-chance-for-justice#:~:text=The%20aim%20of%20the%20OMP,%E2%80%9D%20under%20Resolution%2030%2F1.>

³² Adayaalam Centre for Policy Research, "Persecuted and Alone: A Study of LTTE Ex-Combatants in Post-War Sri Lanka" (March 2022).

³³ Adayaalam Centre for Policy Research, "Persecuted and Alone: A Study of LTTE Ex-Combatants in Post-War Sri Lanka" (March 2022).

international, and adequately resourced investigative mechanisms to deliver criminal justice for victim-survivors of the conflict.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 6, 7, 9 and 14)

14. Tamil families in the North-East continue to face threats of abduction, unlawful detention, torture, and sexual and gender-based violence in an environment of nearly complete impunity.³⁴ Key examples of how Tamil people have been unlawfully detained include for participating in protests, electioneering against Gotabaya Rajapaksa, and receiving remittances from abroad on behalf of persons being surveilled.³⁵
15. Imprisoned Tamil persons persistently face torture, ill-treatment, and inhumane conditions while in government detention, again with complete impunity, due to discriminatory treatment from officers as well as fellow detainees.³⁶ ITJP's 2021 report also details the accounts of 15 young Tamils who experienced torture and sexual violence by Sri Lankan security sources during their time in prison.³⁷ On June 3, 2021, 22 year-old Chandran Vithusan was also beaten to death while in detention in Batticaloa Police station.³⁸ PEARL is not aware of any instances in which tortured or abused detainees, or their families, received any recognition or reparations from the GOSL.
16. Tamil-speaking persons continue to disproportionately face arbitrary violence, arrest and detention from security forces, with increased risk around times of Tamil memorialisation. The GOSL frequently arrests Tamils remembering family members and friends who died during the armed conflict under the PTA.³⁹
17. **The signatory organisations request that the Committee make the following recommendations to the GOSL:**
 - **Promptly, impartially investigate and prosecute any allegation of torture and ill-treatment, and ensure the protection of victims and witnesses from reprisals.**
 - **Vet and remove law enforcement and/or security forces officers credibly accused of torture or ill-treatment, pending an impartial, independent investigation into their involvement.**
 - **Provide victims of torture or ill-treatment with timely, full, and effective reparations.**
 - **Immediately stop the discriminatory practice of arbitrary arrest and detention.**
 - **Publish all official places of detention on a regular basis, close down unofficial places for detention, and criminalize their use.**
 - **Authorize and facilitate regular, effective, and independent monitoring of official and unofficial detention centers, including by UN treaty bodies; UN experts covering torture, sexual violence, or ill-treatment; and civil society organizations.**

Internally displaced persons, refugees and asylum seekers (arts. 2, 7, 12, 13, 17 and 26)

³⁴ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

³⁵ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

³⁶ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

³⁷ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

³⁸ <https://www.tamilguardian.com/content/tamil-youth-beaten-death-sri-lankan-intelligence-officials>

³⁹ <https://www.tamilguardian.com/content/ten-tamils-detained-7-months-commemorating-mullivaikkal-genocide-released-bail>

18. Tamils who have been internally displaced (IDPs) during or after the conflict face a number of government-imposed obstacles to returning to their homes. Current GOSL irrigation schemes; GOSL policies that fund the relocation of Sinhalese persons from the central and southern areas of Sri Lanka to traditionally Tamil lands in the North-East; ongoing and growing military occupation zones that are disproportionately located in traditional Tamil lands, despite the GOSL's promises that such zones will be removed, perpetuate the ongoing displacement of Tamil IDPs and even create new ones.⁴⁰
19. The GOSL's policies of land annexation and resettlement are led by Mahaweli Authority,⁴¹ a government authority that exercises a sweepingly broad legal mandate to acquire and develop both privately-owned and public lands through irrigation schemes.⁴² The Mahaweli Authority typically annexes historically Tamil lands in the North-East, which also results in the eviction of any current Tamil residents. The GOSL then subsidizes the resettlement of Sinhalese people from elsewhere in the country in order to farm the newly irrigated land, all while blocking Tamil efforts to have their traditional land ownership claims formally recognized. As a result, thousands of Tamils remain displaced, unable to re-enter their lands or carry out their traditional livelihoods.⁴³
20. The Mahaweli Authority operates with no meaningful local or judicial oversight. The landmark case *Environmental Foundation Ltd v. Mahaweli Authority of Sri Lanka and others* in 2010,⁴⁴ which failed to stop the construction project at issue in the case or grant any relief to the affected residents despite recognizing that the Mahaweli Authority had violated the law, has had the further effect of discouraging future court challenges to the Authority's actions and exacerbated the trend of impunity for rights violations committed by the Authority.⁴⁵
21. **The signatory organisations request that the Committee recommend the following to the GOSL to non-discriminatorily respect and protect, inter alia, the freedom of movement and freedom from interference with the home:**
- **Immediately suspend the powers of the Mahaweli Authority pending the creation of said process for resolving land claims and providing land restoration, which is accessible to affected Tamil and Muslim populations in proposed land areas.**
 - **Ensure the immediate implementation of existing judgments against the Mahaweli Authority.**
 - **Create a transparent, accessible, and flexible process for conflict-affected Tamils to have their land claims adjudicated and recognized, even if formal documentation is unavailable, in line with international best practices.**
 - **Cease providing subsidies to new settlers in "unclaimed" land.**
 - **Suspend all new settlement activities until existing Tamil and Muslim claims to land are fully and transparently adjudicated.**
 - **Publicly commit and immediately act to release all private and public lands that are currently occupied by the military, unless consent for the ongoing military presence**

⁴⁰<https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

⁴¹ "Mahaweli Authority Of Sri Lanka Act (No. 23 of 1979) - Long Title, s.1." Sri Lanka Consolidated Acts, n.d. http://www.commonlii.org/lk/legis/num_act/maosla23o1979355/index.html

⁴² <https://www.tamilguardian.com/content/continued-militarisation-across-north-east>

⁴³<https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

⁴⁴ *Environmental Foundation Ltd and Others Vs. Mahawali Authority of Sri Lanka and Others* (2010) 1 Sri LR.

⁴⁵<https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

is obtained from the local community, in order to reduce militarization and its harmful effects on civil and political rights.

- **Cease grabbing traditional Tamil lands in the North-East through other government-appointed departments, including but not limited to the Department of Archaeology Department (see paragraphs 25-26, below).**
- **Ensure pledges on land return are time bound, transparent, adequately reviewed and recorded, and publicly available.**
- **As per the Dudley-Chelva Pact of 1965,⁴⁶ settlement land in the North-East should be allocated in the first instance to landless persons in the district; secondly, to Tamil-speaking persons resident in the Northern and Eastern provinces; and thirdly, to other citizens, preference being given to Tamil residents in the rest of the island.**

Land Release

22. The GOSL claims regarding land release are unverifiable because there is a lack of transparent sources for the data provided by the GOSL, and the official process for land return has not been made public, making verification of land release claims impossible and casting doubt on the accessibility of any such processes to the people wanting to claim back their land.⁴⁷ Even when lands have been returned partially or fully to citizens, the occupying military often destroys property. For example, numerous religious sites during the post-war period were destroyed, including Hindu temples, a mosque, a Buddhist temple, and a church.⁴⁸ In addition, the continued military presence in close proximity to returned lands has affected access to nearby natural resources, transportation routes, and basic infrastructure, including water and sanitation facilities.⁴⁹
23. Tamil families that were displaced by military zones report that they continue to be blocked from entering their lands, while military zones and operations continue to expand.⁵⁰ Human rights observers have documented ongoing and increasing military presence, which has also taken over

⁴⁶https://peacemaker.un.org/sites/peacemaker.un.org/files/LK_650324_Dudley%20Senanayake%20-%20Chelvanayakam%20Pact.pdf

⁴⁷ OHCHR, Sri Lanka on Alarming Path towards Recurrence of Grave Human Rights Violations, Jan. 2021, <https://www.ohchr.org/en/press-releases/2021/01/sri-lanka-alarming-path-towards-recurrence-grave-human-rights-violations-un?LangID=E&NewsID=26695> ; Sri Lanka Campaign. Reversing Progress: Threats to Human Rights and Reinforced Impunity in Sri Lanka, Feb. 2021, <https://www.srilankacampaign.org/wp-content/uploads/2021/02/Reversing-Progress-Sri-Lanka-Campaign-February-2021.pdf>

⁴⁸ Human Rights Watch, Why Can't We Go Home? Military Occupation of Land in Sri Lanka (2018), <https://www.hrw.org/report/2018/10/09/why-cant-we-go-home/military-occupation-land-sri-lanka>

⁴⁹ Society for Threatened Peoples. Rep. The Vanni – Civilian Land under Military Occupation, February 2018. <https://www.gfbv.ch/wp-content/uploads/sri-lanka-vanni-e-lang.pdf>

⁵⁰ Amnesty International, “Hope flickers as civilian owners await the release of their land,” 18 March 2019, <https://www.amnesty.org/en/latest/news/2019/03/hope-flickers-as-civilian-owners-await-the-release-of-their-land/> ; Thambu Kanagasabai.” Unfulfilled Commitments & Unending Promises,” Colombo Telegraph, 16 Dec. 2021, <https://www.colombotelegraph.com/index.php/unfulfilled-commitments-unending-promises> . Chandran, Rina. “Nine Years after War's End, Sri Lankans Wait for Government to Return Property.” Reuters. Thomson Reuters, October 9, 2018. <https://ca.reuters.com/article/idUSKCN1MJ0DB> .

civil administrative duties.⁵¹ Legal frameworks continue to hinder resettlement processes.⁵² Military forces continue to build security-related infrastructure and to station military personnel throughout the Tamil homeland, in addition to implementing new commercial projects—often without adequate consultation, due process, or reparations to displaced residents.⁵³ In addition, the GOSL has built numerous new military and police facilities on Tamil lands.⁵⁴ There is an estimated one military personnel per six civilians in the North-East, and sixteen of the twenty Defence Ministry divisions and four out of six Defence Headquarters are fully or partly located in the Tamil homeland.⁵⁵ One Tamil woman, whose husband has been held in a military prison since 1990, reported in interviews with that her family was forced from their home in Morakottanchenai by the army that same year. Although her family continues to make monthly payments for the use of the land, no legal recourse is available to force the military to vacate the land.⁵⁶ Many military-owned businesses continue to operate across the North East and the Tamil population are unable to independently sustain themselves as a result of the army's major role in the maintenance of farms and businesses.⁵⁷

24. Tamil families also deal with significant administrative and procedural burdens regarding the release or return of land. Many lost land deeds and other important documents during the war, and the land registration process continues to be complex in Sri Lanka, making the ability to obtain replacement documents expensive and difficult.⁵⁸

25. **The signatory organisations request that the Committee recommend the following to the GOSL:**

- **Implement recommendations regarding IDPs' dispossession of land (see paragraphs 18-20).**
- **Immediately undertake a genuine security sector reform process, including vetting and demilitarization, and significantly lower the military presence in the North-East to levels appropriate in peacetime.**
- **Return all private lands held by the military to their rightful owners, and ensure lands are in comparable condition to when the military initially acquired the land.**
- **Ensure that the land claims process remains accessible and readily available, especially to those who may have misplaced or had important documents stolen during the war.**

⁵¹ Adayaalam Centre for Policy Research, and People for Equality and Relief in Lanka. Rep. Normalising the Abnormal: The Militarisation of Mullaitivu, October 2017.

<https://pearlaction.org/wp-content/uploads/2021/10/Normalising-the-Abnormal-The-Militarisation-of-Mullaitivu.pdf>

⁵² Amnesty International, "Hope flickers as civilian owners await the release of their land," 18 March 2019, <https://www.amnesty.org/en/latest/news/2019/03/hope-flickers-as-civilian-owners-await-the-release-of-their-land/>; Thambu Kanagasabai. "Unfulfilled Commitments & Unending Promises," Colombo Telegraph, 16 Dec. 2021, <https://www.colombotelegraph.com/index.php/unfulfilled-commitments-unending-promises/>.

⁵³ Chandran, Rina. "Nine Years after War's End, Sri Lankans Wait for Government to Return Property." Reuters. Thomson Reuters, October 9, 2018. <https://ca.reuters.com/article/idUSKCN1MJ0DB>.

⁵⁴ See, for example, "Sri Lanka to Build 190 New Police Stations Starting in the North-East." Tamil Guardian, March 30, 2021. <https://www.tamilguardian.com/content/sri-lanka-build-190-new-police-stations-starting-north-east>
⁵⁵<https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

⁵⁶ The Oakland Institute. *The Long Shadow of War* (2015), p.10, https://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_The_Long_Shadow_of_War_0.pdf

⁵⁷ <https://www.tamilguardian.com/content/continued-militarisation-across-north-east>

⁵⁸ <https://www.reuters.com/article/us-sri-lanka-landrights-conflict-feature-idUSKCN22401V>

Non-discrimination, prohibition of advocacy of national, racial and religious hatred, freedom of conscience and religious belief, and the rights of minorities (arts. 2, 18, 20, 26 and 27)

26. The GOSL espouses an explicit policy of Buddhization of Sri Lanka, with direct negative repercussions for Tamils and Muslims. In a speech on August 20, 2020, President Gotabaya Rajapaksa pledged to “protect and nurture the Buddha Sasana during [his] tenure” and spoke of his establishment of the Presidential Task Force to “protect places of archaeological importance and to preserve [the] Buddhist heritage.”⁵⁹ Tamil Hindus have faced increased loss of their religious sites in recent years, due largely to the activities of the Presidential Task Force for Archaeological Heritage in the Eastern Province, which exercises wide-ranging powers and no accountability or representation of non-Buddhist religious leaders. The Task Force was assigned to identify sites of archaeological importance, devise and implement programming, identify land to be allocated for cultural promotion, and preserve the cultural value of identified sites.⁶⁰ The Task Force is headed by convicted extremist monk, Gnanasara Thero, who is notorious for spreading hate speech and attacking religious minorities.⁶¹ The Task Force, along with the Department of Archaeology, have targeted many Hindu temples for excavation and erection of Buddhist temples and statues,⁶² such as the 2019 bid to excavate and erect a Buddhist Stupa at the location of Hindu temple near the Kanniya Hot Springs in Trincomalee.⁶³
27. Tamil speakers living in the North-East, particularly Tamils, also face increasing incidences of violence at the hands of Buddhist extremists, whose attacks go largely unaddressed⁶⁴. There has also been an upsurge of anti-Muslim violence since the 2019 Easter Sunday bombings.⁶⁵ Attacks by violent extremist Sinhala-Buddhist groups have caused significant challenges to Tamil communities, especially women-headed households, in re-establishing their lives and livelihoods.⁶⁶ The most recent report of abuse aimed at Tamils on 27th April 2022, where a Buddhist monk directed racial abuse at Tamil people on their way to worship at a temple.⁶⁷
28. The way that these policies work together with the Mahaweli Authority’s irrigation schemes and the extensive militarisation of Tamil homelands suggests a deliberate government agenda of displacing Tamil populations from their historical homelands and replacing them with Sinhalese-Buddhist populations, undermining the ongoing and historic connection of Tamil community to the North-East of Sri Lanka.

⁵⁹ <https://www.parliament.lk/en/news-en/view/1882?category=6>

⁶⁰ "Sri Lanka Gazette No. 2178/17." Department of Government Printing, June 2, 2020.

http://documents.gov.lk/files/egz/2020/6/2178-17_E.pdf

⁶¹ <https://www.tamilguardian.com/content/one-country-one-law-and-one-convicted-racist-monk>

⁶² <https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

⁶³ <https://www.dailynews.lk/2019/07/18/local/191470/heated-debate-over-kanniya-hot-springs>

⁶⁴ <https://www.crisisgroup.org/asia/south-asia/sri-lanka/302-after-sri-lankas-easter-bombings-reducing-risks-future-violence>

⁶⁵ <https://www.amnesty.org/en/latest/news/2021/10/sri-lanka-authorities-must-end-violence-and-discrimination-against-muslims/>

⁶⁶ <https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf>

⁶⁷ <https://www.tamilguardian.com/content/sinhala-buddhist-monk-hurls-racist-abuse-tamils-trincomalee#:~:text=Sinhalala%20Buddhist%20monk%20hurls%20racist%20abuse%20at%20Tamils%20in%20Trincomalee,-27%20April%202022&text=A%20Sinhala%20Buddhist%20monk%2C%20alongside.Muthur%2C%20Trincomalee%20over%20the%20weekend.>

29. The signatory organisations request that the Committee recognise and condemn these policies of Sinhalization, and recommend the following to the GOSL:

- Disband the Archaeological Heritage Task Force.
- Ensure that any and all archaeological and cultural developments are done in consultation with all ethnic and religious groups, with particular mind to groups that have been historically marginalized.
- Remove Buddhist statues and viharas that were established by the State and security sector. Issue directives to the military that, despite Article 9 of Sri Lanka's Constitution, the security sector must be divorced from all matters of religion.
- Follow the applicable legal procedures for any future construction of religious sites in the North- East, while refraining from showing favoritism or discrimination toward any religious group.
- Engage the Sinhalese public on the importance of a meaningful political solution for lasting peace in the country, including by permitting the expression of positions and narratives that run counter to the GOSL's stance on the war and roots of the conflict.

Rights to freedom of expression, peaceful assembly, and freedom of association (arts. 19, 21 and 22)

30. Tamil journalists and HRDs face ongoing harassment, intimidation, surveillance, and attacks in an environment of impunity. In 2019, for example, a number of attacks against Tamil journalists were documented by Reporters Without Borders,⁶⁸ including those against Shanmugam Thavaseelan and Kanapathipillai Kumanan, who were brutally beaten by police officers while reporting on a court case involving a Buddhist co-optation of a Hindu temple site.⁶⁹ Such harassment continues to accelerate under the current Rajapaksa regime: according to Reporters Without Borders's ranking of press freedoms, Sri Lanka fell 19 places, to 146th place, between 2021 to 2022. This is in part due to what the organisation describes as "a troubling increase in attacks" as well as "systematic surveillance and harassment by the police and army" directed at "reporters based in the north and on the east coast, the traditional Tamil homeland."⁷⁰

31. In addition, impunity for these attacks prevails, and most crimes against journalists remain unpunished. Moreover, police pressure on journalists has resurged since Gotabaya Rajapaksa came to power in 2019.⁷¹ In particular, journalists experience heightened harassment, intimidation, surveillance, and attacks around Tamil remembrance days, such as the harassment of journalist Shanmugam and Thavaseelan on May 16, 2022 ahead of Tamil Genocide Remembrance Day.⁷² The interrogation of Tamil journalists in particular is on a grander scale than those of Sinhala journalists, as seen recently during the 'Go Home Gota' protests.⁷³ Ongoing harassment of journalist P. Sujeeban,⁷⁴ threats and violence against Saheer Ahmed,⁷⁵ and the recent brutal attack on Vishvalingham Vishvachandran for taking a photo of a Mullivaikkal road

⁶⁸ <https://rsf.org/en/alarming-resurgence-sri-lankan-police-attacks-tamil-journalists>

⁶⁹ <http://www.jdslanka.org/index.php/news-features/media/891-tamil-journalist-reporting-police-inaction-intimidated-by-senior-officer>

⁷⁰ <https://rsf.org/en/country/sri-lanka>

⁷¹ <https://rsf.org/en/country/sri-lanka>

⁷² <https://www.tamilguardian.com/content/tamil-journalist-harassed-sri-lankan-police-way-mullivaikkal-memorial>

⁷³ <https://www.tamilguardian.com/content/sri-lankan-intelligence-question-family-tamil-journalist-over-gohomegota-posts>

⁷⁴ <https://www.tamilguardian.com/content/allow-me-lead-normal-life-pleads-tamil-journalist-targeted-tid>

⁷⁵ <https://www.tamilguardian.com/content/your-name-will-appear-disappeared-persons-list-sri-lankan-police-warn-muslim-journalist>

sign⁷⁶ show that impunity for the mistreatment of Tamil-speaking journalists is entrenched in the police force.

32. Tamil civil society activists and human rights defenders report repeated incidents of government interference with peaceful protests, including intimidating families and activists to prevent them from organizing and participating in memorial ceremonies for persons who have disappeared. Intimidation tactics include the targeted and routine use of court injunctions to prevent assemblies by the Tamil Families of the Disappeared⁷⁷ as well as the use of disproportionate force against protesters. A recent example is the police violence at a peaceful protest held by the Tamil Families of the Disappeared on May 20, 2022, which targeted many elderly women and resulted in the hospitalization of several protesters.⁷⁸ In the latter incident, a number of protesters were interrogated and threatened by the police, including one woman whom the police pressured to withdraw her public statements regarding the incident while she was still hospitalised for her injuries.⁷⁹ Tamils have also been arrested for calling for self-determination, as seen with the police response to the P2P protest which took place in February 2021.⁸⁰
33. There have also been significant protests in the Central and South parts of Sri Lanka under the #GotaGoGama campaign, and those largely peaceful protests too were met with violence, repression and brutality by the state. However, Tamils have continuously been protesting for over 1200 days against not only corruption and the economic mismanagement in Sri Lanka, but also the long-standing and more structural issues affecting the community including the ongoing land-grabs, lack of accountability and justice, and the need for a durable political solution that addresses Tamil political aspirations. Tamil protests are different in scope and tenor than the #GotaGoGama protests, as the “struggle is not the same...”⁸¹
34. **The signatory organisations request that the Committee recommend the following to the GOSL⁸²:**
 - **Respect Tamils' right to memorialize their dead in accordance with the victims and families' wishes and cultural practices, and allow them to commemorate significant dates and events in the Tamil national consciousness without government obstruction or harassment.**
 - **Respect right to freedom of expression, including by repealing the Sixth Amendment to Sri Lanka's Constitution that prohibits people from advocating for their right to self-determination.**
 - **Immediately end the targeted surveillance and harassment of Tamil journalists and human rights defenders, including in connection with public demonstrations and memorialization activities.**
 - **Immediately cease all surveillance, harassment and intimidation of the Tamil Families of the Disappeared, and take concrete steps to respond to their demands**

⁷⁶ <https://www.tamilguardian.com/content/sri-lankan-soldiers-attack-tamil-journalist-barbed-wire>

⁷⁷ <https://www.tamilguardian.com/content/families-disappeared-remember-mullivaikkal-victims>

⁷⁸ http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/#_ftn2

⁷⁹ http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/#_ftn2

⁸⁰ <https://www.tamilguardian.com/content/tamil-youth-arrested-jaffna-participating-p2p-protest-sri-lanka-intensifies-crackdown>

⁸¹ <https://www.vice.com/en/article/n7n8jx/tamils-sri-lanka-protest-rajapaksa-crisis>

⁸² http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/#_ftn2

for truth and justice for their loved ones. At a bare minimum, the GOSL should acknowledge and formally respond to the families' quest for truth, justice, and accountability.

- **Investigate and prosecute all cases of threats and attacks against journalists, human rights defenders, and victims' families, and provide effective remedies and reparations to victims.**

35. The organisations also request that the Committee closely monitor recommendations regarding the situation of the Tamil Families of the disappeared, engaging these families directly, regularly, and publicly where possible. Such actions from the Committee would support the safety of the families who have faced reprisals for participating in UN mechanisms and ensure that the Committee receives correct information about security incidents.

Freedom of association (art. 22)

36. Tamil civil society activists and human rights defenders face increasingly extreme intimidation attempts from police and intelligence officials visiting the premises of human rights organizations and making inquiries about activities, donors, and other matters, reportedly aimed at intimidating activists. Tamil Families of the Disappeared report that their organization has lost almost all of its leadership and ability to organize as a direct result of increasingly aggressive and pervasive intimidation tactics, including frequent inquiries, house visits, and phone calls from intelligence agents as well as ongoing surveillance, especially during protests.⁸³ Protest leaders in the North are often visited by intelligence agents, even throughout the pandemic, and are periodically summoned to the Terrorism Investigation Division (TID) head office in Colombo for investigation.⁸⁴ Police often direct intimidation tactics towards the neighbours, friends, and families of leading activists in order to create distance between activists and their communities.⁸⁵ On one reported occasion, a protest leader was asked to report ahead of time what they were planning to say at a United Nations forum.⁸⁶

37. The signatory organisations request that the Committee recommend the following to the GOSL⁸⁷ :

- **Respect Tamils' right to collectively memorialize their dead in accordance with the victims and families' wishes and cultural practices, and allow them to commemorate significant dates and events in the Tamil national consciousness without government obstruction or harassment.**
- **Immediately end the targeted surveillance and harassment of Tamil journalists, human rights defenders, and the Tamil Families of the Disappeared.**

⁸³<http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

⁸⁴<http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

⁸⁵<http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

⁸⁶<http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

⁸⁷http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/#_ftn2