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DOES SRI LANKA NEED A TRUTH AND RECONCILIATION COMMISSION?

**A COMMENT ON THE LATEST
PROPOSAL & GROUND REALITIES**

BHAVANI FONSEKA & NAVEERA PERERA

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The Centre for Policy Alternatives (CPA) is an independent, nonpartisan organisation that focuses primarily on issues of governance and conflict resolution. Formed in 1996 in the firm belief that the vital contribution of civil society to the public policy debate is in need of strengthening, CPA is committed to programmes of research and advocacy through which public policy is critiqued, alternatives identified and disseminated.

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Table of Contents

Acknowledgements	3
Abbreviations	4
Introduction	5
The Commission for Truth, Unity and Reconciliation (CTUR) Bill	8
Overview	8
The Commission	9
The Committee	10
The Advisory Panel	10
Criticisms	11
Clause 12: Restricted Mandate	11
Clause 12: Inability to Prosecute Grave Humanitarian Violations Committed by GoSL	12
Clause 13(z)(d) Clause 16(2): Role of the Attorney General’s (AG) Department	13
Clause 39 and 40: No Guarantee to Implement Recommendations	13
Clause 49: Does Not Effectively Address Issues of Enforced Disappearances and Missing Persons	14
Lack of Independence	15
Part V: Effective Victim and Witness Protection	16
Conclusions Drawn from the Bill:	17
Falls Short in Justice and Accountability	17
Limited to Truth Finding	19
Complements Sri Lanka’s Culture of Impunity	20
Conclusion	23
Annexures	24
Annexure I: Past Initiatives and Timeline	24

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Abbreviations

AG	– Attorney General
CC	– Constitutional Council
COI	– Commission of Inquiry
CTF	– Consultation Task Force
CTUR	– Commission for Truth Unity and Reconciliation
GoSL	– Government of Sri Lanka
IHL	– International Humanitarian Law
IPP	– Independent Public Prosecutor
JVP	– Janatha Vimukthi Peramuna
PCOI	– Presidential Commission of Inquiry
OHCHR	– Office of the UN High Commissioner for Human Rights
OMP	– Office on Missing Persons
ONUR	– Office for National Unity and Reconciliation
OR	– Office for Reparations
TC	– Truth Commission
UN	– United Nations
UNHRC	– United Nations Human Rights Council

Introduction

This year marks the fifteenth anniversary of the end of the Civil War. Over the years, the government has introduced multiple Commissions of Inquiries (COIs), Presidential Commissions of Inquiries (PCOIs), a Consultation Task Force (CTF) and other institutions such as the Office of Missing Persons (OMP)¹ and the Office for Reparations (OR)² under the pillars of truth and justice.³ However, such initiatives have failed due to the lack of political will of the government to truly address the demands of the victims, specifically in terms of not taking any legal action to prosecute alleged perpetrators and address impunity in Sri Lanka. Despite the numerous attempts at truth seeking in the country, the failure to implement recommendations of past COI's, has resulted in a 'commission fatigue' and a culture of impunity, with little to no progress made towards accountability. In addition, efforts in the past also speak to missed opportunities at addressing the demands of the victims, and is a stark reminder of the multiple times successive governments have re-victimized and re-traumatized victims and affected communities in Sri Lanka.

Under the government of Ranil Wickremesinghe, the state has once again initiated efforts in the interest of achieving truth, unity and reconciliation. Two legal developments have been introduced in the interest of achieving transitional justice. The first is in relation to the introduction of an Office for National Unity and Reconciliation⁴, which was gazetted in September 2023 and enacted on 23rd January.⁵ The second is a proposal to introduce a Commission for Truth, Unity and Reconciliation (CTUR)⁶ in Sri Lanka, gazetted on the 1st of January 2024. The present paper examines issues surrounding the CTUR.

In the statement published on the 9th of January, Centre for Policy Alternatives (CPA) noted that both bills fail to address the concerns of victims, and raises concerns of whether they are genuine

¹ Office on Missing Persons (Establishment, Administration and Discharge of Functions) Act, No. 14 of 2016

² Office for Reparations Act, No 34 of 2017

³ For a detailed timeline and list of initiatives introduced see Annexure 1

⁴ Office of National Unity and Reconciliation Act No 1 of 2024. Available at: <http://documents.gov.lk/files/act/2024/1/01-2024_E.pdf>

⁵ This paper does not consider the ONUR act as it is directed as a response to the newly proposed TRC commission.

⁶ Commission for Truth, Unity and Reconciliation in Sri Lanka Bill. Available at: <http://documents.gov.lk/files/bill/2024/1/432-2024_E.pdf>

efforts implemented to achieve reconciliation.⁷ This is in context where the ground reality of Sri Lanka is currently inclusive of repressive laws such as the Online Safety Act that was recently passed⁸, heightened ethno-nationalism⁹ and land appropriation.¹⁰ In addition, successive governments have addressed transitional justice only as a response to mounting international pressure and scrutiny, with domestic initiatives seen more as a token step and an attempt to appease the international community.¹¹

While Sri Lanka's responsibility to adopt transitional justice mechanisms directly stems from Resolutions 30/1¹² and 34/1,¹³ in March 2021, the United Nations Human Rights Council (UNHRC) passed resolution 46/1.¹⁴ This resolution introduced the "Sri Lanka Accountability Project"¹⁵, whereby the Office of the UN High Commissioner for Human Rights (OHCHR) received powers to "collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes for gross violations of human rights or serious violations of international humanitarian law in Sri Lanka".¹⁶ This resolution

⁷ Centre for Policy Alternatives, 2024, *Statement on proposals to set up structures to address truth, unity and reconciliation in Sri Lanka*. Available at: <<https://www.cpalanka.org/statement-on-proposals-to-set-up-structures-to-address-truth-unity-and-reconciliation-in-sri-lanka/>>

⁸ ECONOMYNEXT, 2023, *Enactment process of Online Safety Act raises questions on law-making: CPA, The Island*. 11 February [online] Available at: <<https://island.lk/enactment-process-of-online-safety-act-raises-questions-on-law-making-cpa/>>

⁹ Centre for Policy Alternatives, 2023, *Statement on Recent Arrests under the ICCPR Act & Shrinking Space for Dissent* [online] Available at: <<https://www.cpalanka.org/wp-content/uploads/2023/05/ICCPR-Statement-1.pdf>>

¹⁰ Centre for Policy Alternatives, 2023, *Land Issues in Sri Lanka* [online] Available at: <<https://www.cpalanka.org/land-issues-in-sri-lanka/>>

¹¹ Centre for Policy Alternatives, 2019, *The Need for Accountability in Sri Lanka's Criminal Justice System* [online] Available at: <<https://www.cpalanka.org/wp-content/uploads/2019/03/FINAL-A-Glance-at-Seven-Emblematic-cases-.pdf>>

¹² *Promoting reconciliation, accountability and human rights in Sri Lanka*, 2015, A/HRC/RES/30/1. Available at: <https://www.mfa.gov.lk/images/stories/pdfs/docs/FINAL_published_-_thirty_slash_one.pdf>

¹³ *Promoting reconciliation, accountability and human rights in Sri Lanka*, 2017, A/HRC/RES/34/1. Available at: <<https://documents.un.org/doc/undoc/gen/g17/082/56/pdf/g1708256.pdf?token=DWX7kyUQOQOk4PJAsE&fe=true>>

¹⁴ *Promoting reconciliation, accountability and human rights in Sri Lanka*, 2021, A/HRC/RES/46/1 Available at: <<https://documents.un.org/doc/undoc/gen/g21/072/88/pdf/g2107288.pdf?token=5PPv7W6eFdqL5DsWDY&fe=true>>

¹⁵ OHCHR, 2021, *OHCHR Sri Lanka accountability project (2021)* Available at: <<https://www.ohchr.org/en/hr-bodies/hrc/sri-lanka-accountability/index>>

¹⁶ *Also see*: OHCHR, 2021, *Frequently Asked Questions: OHCHR's mandate under resolution HRC 46/1*. [online] Available at: <https://www.ohchr.org/sites/default/files/2021-11/FAQ-accountability-project_EN.pdf>

was followed by the passing of resolution 51/1¹⁷ in October 2022 that reiterated concerns of past resolutions and recognised the link with human rights violations, economic crimes and impunity.¹⁸ In March and September 2024, the UNHRC will discuss Sri Lanka and examine the progress made on the implementation of these Resolutions. The proposal for the CTUR needs to be examined in such a context.

Based on the ground reality in Sri Lanka and the lack of implementation of past recommendations by commissions implemented to address reconciliation, this paper requests the government to reconsider whether a CTUR is needed at the present time. To support this, this paper has been divided into three sections. The first section offers a brief overview of what the CTUR bill is. Second, the paper comments on specific sections that not only point to the flaws of the bill, but refer to repeated concerns and criticisms CPA has made in relation with previous state initiatives on reconciliation. Thirdly, CPA takes into account victim demands, drawing conclusions as to why this latest initiative fails to meet the demands of the victims.

¹⁷ *Promoting reconciliation, accountability and human rights in Sri Lanka*, 2022, A/HRC/RES/51/1 Available at: <https://documents.un.org/doc/undoc/gen/g22/520/77/pdf/g2252077.pdf?token=pRH30NIQbdKFNDQlwa&fe=true>

¹⁸ Clause 19: “*Requests the Office of the High Commissioner to enhance its monitoring and reporting on the situation of human rights in Sri Lanka, including on progress in reconciliation and accountability, and on the impact of the economic crisis and corruption on human rights, and to present an oral update to the Human Rights Council at its fifty-third and fifty-fifth sessions, and a written update at its fifty-fourth session and a comprehensive report that includes further options for advancing accountability at its fifty-seventh session, both to be discussed in the context of an interactive dialogue*”. Also see: <https://documents.un.org/doc/undoc/gen/g22/511/79/pdf/g2251179.pdf?token=2KOMc5ICJYV1buLyAp&fe=true>

The Commission for Truth, Unity and Reconciliation (CTUR) Bill

Overview

The CTUR bill encompasses seven sections, inclusive of the composition of the commission (Part I), its objectives and mandate (Part II), its powers, duties and functions (Part III), its reports and recommendations (Part IV), and a section on how the recommendations will be implemented (Part VIII), among other aspects.

The primary purpose of the commission is to “investigate, inquire, and make recommendations in respect of complaints or allegations or reports relating to damage or harm caused to persons or property, loss of life or alleged violation of human rights anywhere in Sri Lanka, which were caused in the course of, or reasonably connected to, or consequent to the conflict which took place in the Northern and Eastern Provinces during the period 1983 to 2009, or its aftermath”.¹⁹ On a broad level, the mandate primarily looks into truth telling, the carrying out of investigations, the making of recommendations, helping to restore the dignity of aggrieved persons, and offering protection to victims, all whilst holding the responsibility to document and compile a report.

Under the CTUR there are primarily three bodies. This includes the Commission for Truth, Unity and Reconciliation in Sri Lanka (herein referred to as the Commission),²⁰ the Monitoring Committee (herein referred to as the Committee)²¹ and an Advisory Panel.²² The CTUR also consists a Secretariat²³ and Director General.²⁴

¹⁹ Clause 12

²⁰ Clause 2(1)

²¹ Clause 39

²² Clause 32

²³ Clause 25 “*The Secretariat shall include, the Victim and Witness Protection Division and the Data Management Division and such other division as the Commission may consider necessary.*”

²⁴ Clause 26(1) – “*The President shall, in consultation with the Commission, appoint a person with suitable academic and professional qualifications and work experience as the Director General of the Commission, who shall be the Chief Executive Officer of the Secretariat and who shall be subject to the authority of the Commission and report to the Commission.*”

The Commission

Upon the recommendation of the Constitutional Council (CC), the President appoints members of the Commission,²⁵ which shall contain a minimum of 7 members, and can go up to a maximum of 21 members.²⁶ The Commission can only encompass Sri Lankans,²⁷ that complement the pluralistic nature of the country.²⁸ Among the selected members, the CC will nominate three people, out of which the President must choose one as the Chairperson.²⁹ In general, the President has limited grounds in removing members that are subsequently appointed into the Commission, and must have the consent of the CC.³⁰ The Commission has a term of five years³¹ and is to be considered as an autonomous institution.³² Among other things, the Commission:

- Must hold all sittings in public³³ although it has the discretion to hold Closed Sittings in limited situations as specified under Clause 7(4). Information collected in the latter will not be disclosed to the public although they may disclose the proceedings that took place without reference to the sensitive information in question.³⁴
- Holds a duty to inform the public.³⁵

²⁵ Clause 3(4)

²⁶ Clause 3(1)

²⁷ Clause 3(1)

²⁸ Clause 3(2): “*The composition of the Commission shall reflect the pluralistic nature of Sri Lanka, including gender, and all members shall be persons of integrity and credibility appointed on the basis of their knowledge and practical experience in disciplines relating to law, human rights and humanitarian law, history, social sciences, psychology, investigations, post conflict studies and reconciliation, and may possess other qualifications relevant to the carrying out of functions of the Commission.*”

²⁹ Clause 3(6)

³⁰ Clause 4(3). With recent events around the appointments to the judiciary and the IGP, there are currently increasing concerns as to whether the CC is able to function independently (see the section on criticisms).

³¹ Clause 9

³² Clause 11

³³ Clause 7(3)

³⁴ Clause 7(5)

³⁵ Clause 10

- Prioritize and facilitate the provision of medical and psycho-social support to aggrieved persons and witnesses during the proceedings of the Commission.³⁶

The Committee

Clause 39 of the bill notes that within one month from the date of publication of the first interim report or the making of interim recommendations by the Commission, the President shall establish a Committee to monitor and facilitate the implementation of the recommendations of the Commission. While the term of the Committee is up to the discretion of the President in consultation of the Prime Minister,³⁷ there will be eleven people appointed by the President.³⁸ Five of the members will be ex-officio members,³⁹ whereas the remaining six will be citizens of Sri Lanka appointed on the recommendation of the CC.⁴⁰ Those belonging to the latter six will be appointed for a term of three years subject for renewal.⁴¹ Its main responsibility is to “submit bi-annual reports to the President every six months, evaluating the efforts of the Government and the efforts of any other person or body concerned to implement the recommendations of the Commission and other previous Commissions of Inquiry and the President shall table such reports in Parliament not later than two weeks from the receipt of such report”.⁴²

The Advisory Panel

As per Clause 32 (1) an Advisory panel is established for “the purpose of advising the Commission, the panels of the Commission and the Secretariat on matters referred” to it by the Commission. This panel will consist of a minimum of 10 members who will be appointed by the President on the recommendation of the CC.⁴³ Of significance is that the members of the Advisory Panel must be those who are recognised for their “integrity, empathy, stature and

³⁶ Clause 19. Also note: The Victim and Witness Protection Division under the Secretariat shall facilitate the provision of personal security, psycho-social support and the protection of the rights of all aggrieved persons and witnesses who engage with the Commission and also endeavor to provide or facilitate the provision of administrative and welfare services requested by such persons. (Clause 28(2)).

³⁷ Clause 39

³⁸ Clause 40

³⁹ Clause 40(1)(a)

⁴⁰ Clause 40(1)(b)

⁴¹ Clause 40(3)

⁴² Clause 40(9)

⁴³ Clause 31(2)

respect with a demonstrated commitment to the values of truth, reconciliation, equity, and justice, and may include competent persons from any other jurisdiction”.⁴⁴ Moreover, the Commission has a duty to make available the draft of the interim report and recommendation to this panel prior to its official submission to the President so as to make comments or any further recommendations.⁴⁵

Criticisms

The present section examines several clauses of the CTUR that raises concerns and fall short of victim demands. While CPA’s overall point is for the government to reconsider the need for a CTUR, this section briefly discusses several clauses that require attention. These are set out below:

Clause 12: Restricted Mandate

Clause 12 of the bill notes that the mandate of CTUR is restricted to events that occurred in the Northern and Eastern Provinces during the period of 1983 to 2009, or its aftermath. At the outset, CPA notes that to ensure effective steps are taken in relation to nonrecurrence there is a need to address the root causes of the conflict. Failure to consider events that took place before 1983 is thus, ineffective. Additionally, considering there are reports of 23 mass graves⁴⁶ it is indicative of the need to not geographically restrict a commission that is primarily tasked with achieving reconciliation. This also points to the flaw of excluding events that led to mass killings and disappearances of those who fell victim at the hands of non-state actors in other parts of Sri Lanka such as the Janatha Vimukthi Peramuna (JVP) insurrections.⁴⁷ As a result, the mandate of the bill should be further extended to encompass other areas in Sri Lanka.

Therefore, implementing a CTUR restricted in time period and geography would not be justifiable and be in line with the preamble of the bill that recognises truth as an integral part of

⁴⁴ Clause 32(2)

⁴⁵ Clause 32(3)

⁴⁶ ITJP, 2023, *Mass Graves and Failed Exhumations in Sri Lanka* [online] Available at: <https://itjpsl.com/assets/ITJP_MassGraves_report_v5.1.pdf>

⁴⁷ In the 1971 insurrection, approximately 12,000 enforced disappearances were recorded, while allegedly, 60,000-100,000 people were declared missing from the period of 1987-89 during the second JVP insurrections. See: Daily FT, 2024, *Military must cooperate to find the extrajudicially killed and disappeared*. 12 February [online] Available at: <[11](https://www.ft.lk/ft_view_editorial/Military-must-cooperate-to-find-the-extrajudicially-killed-and-disappeared/58-758345#:~:text=That%20number%20is%20in%20the,have%20recorded%20over%2046%2C000%20disappearances.>></p></div><div data-bbox=)

one's right to an effective remedy which will contribute to the "promotion of national unity, peace, rule of law, coexistence, equality with tolerance and respect for diversity, and reconciliation among the people of Sri Lanka and nonrecurrence of disharmony and violence for the well-being and security of all Sri Lankans including future generations".⁴⁸

Clause 12: Inability to Prosecute Grave Humanitarian Violations Committed by GoSL

The mandate of the bill makes note that the "crimes considered by the commission include alleged damage or harm caused to persons or property, or violations of human rights".⁴⁹ The thirty-year Civil War was a period in which grave violations of International Humanitarian Law (IHL) were committed, which can only be addressed through the implementation of IHL in Sri Lanka.⁵⁰ In other words, these are crimes which cannot be addressed through human rights law alone. Such crimes in IHL holds a central place in the context of armed conflict, particularly since they are crimes that shock the conscience.⁵¹ The authoritative rules of IHL stem from customary and treaty law, in which the four Geneva conventions hold significance. In this respect, although Sri Lanka became a state party to all of the four Geneva Conventions in 1959, it is not sufficiently reflected in domestic law. The Report by the UN Panel of Experts published in May 2011 recognised several core categories of 'potential serious violations' committed by the GoSL.⁵² This includes widespread shelling of civilians, hospitals and humanitarian operations, that occurred during the Civil War for which accountability would be possible only through the adoption of IHL in domestic law.⁵³

⁴⁸ Clause 10

⁴⁹ Clause 12

⁵⁰ The need to integrate IHL into the domestic law of Sri Lanka has also been emphasized by the UNHRC resolution 30/1. This is enshrined in Clause 15, which states, "*Encourages the Government of Sri Lanka to develop a comprehensive plan and mechanism for preserving all existing records and documentation relating to human rights violations and abuses and violations of international humanitarian law, whether held by public or private institutions*".

⁵¹ Seneviratne, W., 2022, A Critique on the National Implementation of Geneva Conventions with Special Reference to Sri Lanka. In: *The Continued Relevance of International Humanitarian Law in Post Armed Conflict Sri Lanka*. Available at: < https://www.icrc.org/sites/default/files/wysiwyg/Worldwide/asia/sri-lanka/the_continued_relevance_of_international_humanitarian_law_in_post_armed_conflict_sri_lanka_reprint_final.pdf>

⁵² See: Security Council Report, 2011, *Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka* [online] Available at: <<https://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/POC%20Rep%20on%20Account%20in%20Sri%20Lanka.pdf>>
Crisis Group, 2010, *War Crimes in Sri Lanka* [online] Available at: < <https://icg-prod.s3.amazonaws.com/191-war-crimes-in-sri-lanka.pdf>>

⁵³ Also see under Documents: OHCHR, 2015, *Report of the OHCHR Investigation on Sri Lanka* [online] Available at: <<https://www.ohchr.org/en/hr-bodies/hrc/oisl>>

Clause 13(z)(d) Clause 16(2): Role of the Attorney General's (AG) Department

Clause 13(z)(d) of the bill notes that the Commission can refer matters to the relevant law enforcement or prosecuting authorities of Sri Lanka for further investigation and take necessary action, where it appears to the Commission that an offence or offences are punishable under the Penal Code. In Clause 16(2), the AG has the choice of bringing criminal proceedings in a designated court of law in respect of any offence based on material collected in the course of an investigation or inquiry or both.

In the case of where a form of legal proceedings is instituted against the state, it is the AG that is empowered to defend the state. Their dual role also means it is their responsibility to prosecute. However, as previously noted by CPA, the AG's role is contradictory as it is the legal officer of the State, State Agencies, and Departments whilst simultaneously also being the chief prosecutor of the State.⁵⁴ In certain instances, the AG is also the defender of the official positions of government in Court. Hence, due to the nature of the AG's role, it carries a conflict of interest with executing measures in line with prosecuting perpetrators who are also state officials. To circumvent this, CPA has in the past recommended establishing an Independent Public Prosecutor's Office (IPP office).⁵⁵ This would offer more credibility and allow the body to carry out impartial investigations and prosecutions. However, this would also mean that the Code of Criminal Procedure Act No 15. Of 1979 would need to be amended to remove the wide powers of prosecution the AG holds in criminal cases.⁵⁶

Clause 39 and 40: No Guarantee to Implement Recommendations

Clause 39 of the bill notes that a Committee will be formed to implement the recommendations one month from the date of publication of the first interim report. Clause 40 thereafter describes the Committee to consist of eleven persons of which five are ex officio members and the remaining six to be citizens of Sri Lanka appointed by the recommendation of the CC. It is noted that this provision does not assure the public that recommendations would be implemented as similar provisions existed in past commissions, including the LLRC. As such, there is a need to explicitly make clear that representatives of victims, affected communities and civil society organisations should be included in the Committee. It is also recommended that a provision be included that the committee makes public progress of their work on a regular basis so that there is greater transparency and accountability of the work being done.

⁵⁴ Centre for Policy Alternatives, 2020, *Rethinking the Attorney General's Department in Sri Lanka: Ideas for Reform* [online] Available at: < <https://www.cpalanka.org/wp-content/uploads/2020/11/AGs-Dept-Final.pdf>>

⁵⁵ See Centre for Policy Alternatives, 2020

⁵⁶ Centre for Policy Alternatives, 2020

Clause 49: Does Not Effectively Address Issues of Enforced Disappearances and Missing Persons

The OMP which was operationalised in 2018 has to date not been successful in solving the cases of disappearances in Sri Lanka and has witnessed a spate of protests and criticism from victims and civil society.⁵⁷ This primarily stems from the lack of effort to trace victims, thereby being more inclined to issue certificate of absence or death certificates for the victims.⁵⁸ In Clause 49 of the bill, it notes that any inquiry into the disappearance of a person or persons within the mandate of the Commission, will be forwarded to the OMP. Under the OMP Act of 2016, the Office can undertake investigations into the disappearances of persons in contexts of mass disappearances. It also has the power to take steps to create public awareness of the causes, incidence and effects of missing persons, encourage public support to fulfil the needs of the relatives of missing persons; and facilitate their access to economic, psycho-social, legal and administrative support. ⁵⁹ It further has the power to make recommendations in relation to preventing future disappearances based on patterns identified in the course of its work, on methods of commemoration and acknowledgement, and on the handling of unidentifiable and identifiable remains.⁶⁰ If the OMP utilised its powers to the fullest, this institution had the “potential to challenge discourses of denial not merely at an individual level but at a very public, political level”.⁶¹

Unfortunately, however, the OMP has not lived up to its fullest potential. One central reason for this is the lack of support by public officials.⁶² Thus, in such a context, merely transferring cases to the OMP does not effectively address the issue of missing persons as it has become a politicised entity that would not be able to address the demands of victims. Instead, there is a

⁵⁷ Tamil Guardian, 2024, *7 years of continuous protest and still no justice - Tamil families of the disappeared rally in Kilinochchi*. 20 February [online] Available at: <<https://www.tamilguardian.com/content/7-years-continuous-protest-and-still-no-justice-tamil-families-disappeared-rally-kilinochchi>>. Also see:

⁵⁸ Ayub, M.S.M., 2023, *Solving the problem of missing persons: A wishful thinking?* *Daily Mirror*. 26 August [online] Available at: <<https://www.dailymirror.lk/opinion/Solving-the-problem-of-missing-persons-A-wishful-thinking/172-266060>>

⁵⁹ OMP 2016, S13(1)(j)

⁶⁰ OMP 2016, 13(1)(k)

⁶¹ Kodikara, C., 2023, *The Office on Missing Persons in Sri Lanka: Why Truth Is a Radical Proposition* [online] Available at: <<https://academic.oup.com/ijtj/article/17/1/157/7078879>>

⁶² Ministry of Justice, n.p, 2023-2025 *Strategic Road Map: Office of Missing Persons (OMP)* [online]. Available at: <https://www.moj.gov.lk/images/OMP/Docs/Strategic_Road_Map.pdf>

need to implement measures to ensure that the OMP is independent and is able to carry out its work as initially envisaged.

Lack of Independence

The CC holds a central role within the formation of the CTUR. Two bodies consisting or part of the CTUR includes a Commission⁶³ and a Committee to implement recommendation.⁶⁴ Appointments for both of these bodies are done by the President upon the recommendation of the CC.⁶⁵ It is further, by consulting with the CC that members of the Commission or Committee can be removed.⁶⁶ The CC as of now consist of a majority of politicians with only three members who are not politicians.⁶⁷ The independence of the CC has at numerous times been questioned by the public,⁶⁸ and more recently through the process to appoint some public officials.⁶⁹ Against this background, questions persist as to whether the Commission can be independent and non-partisan.

⁶³ Clause 3

⁶⁴ Clause 40

⁶⁵ Clause 3(4) and Clause 40(1)

⁶⁶ Clause 4(3) and Clause 40(8)(a)

⁶⁷ There is currently no minority political representative in the CC with the name proposed by the TNA not being appointed. See: Thambiah, M., 2022, TNA claims Tamil representative to CC being blocked. *The Morning*. 20 December [online] Available at: <<https://www.themorning.lk/articles/QAyn713oD5xAnK3hi0WX>>

⁶⁸ This heightened in November 2023 when Ranil Wickramasinghe made a statement at Parliament that the Constitutional Council fell under the Executive. See: The Lawyers Collective, 2023, President resists independent review of his nominees to high posts by Constitutional Council, *Daily FT*, 23 November [online] Available at: <<https://www.ft.lk/opinion/President-resists-independent-review-of-his-nominees-to-high-posts-by-Constitutional-Council/14-755611>>

⁶⁹ In December 2023, the Constitutional Council approved the appointment of Deshabandu Tennakoon for his appointment as Acting Inspector General of Police. See: Ada Derana, 2023, *Constitutional Council clears Deshabandu Tennakoon's appointment as Acting IGP*, 1 December [online] Available at: <<https://www.adaderana.lk/news.php?id=95313>>

Also see: SC (FR) Application No.107/2011 Available at: <https://www.supremecourt.lk/images/documents/sc_107_2011.pdf>;

Fernando, R., 2023, *Why Deshabandu Tennakoon Must Not Continue as Acting Police Chief* [online] Available at: <<https://groundviews.org/2023/12/22/why-deshabandu-tennakoon-must-not-continue-as-acting-police-chief/>>; Further lack of trust towards the council stems from the lack of representation of MPs from the North and East. See: ICJ, 2024, ICJ says new Bill to establish “Commission for Truth, Unity and Reconciliation” lacks credibility. *Daily FT*. 17 January. [online] Available at: <<https://www.ft.lk/opinion/ICJ-says-new-Bill-to-establish-Commission-for-Truth-Unity-and-Reconciliation-lacks-credibility/14-757436>>

Part V: Effective Victim and Witness Protection

In a reality where victims are willing to come forward to submit their claims under a new TRC, effective protection measures must be put in place for victims and witnesses. The bill recognises that the Commission will develop and enforce a system for the protection of aggrieved persons and witnesses⁷⁰ and offer psycho-social support as well.⁷¹ Past actions however point to the flaws of the Victim and Witness Protection Act.⁷² While the government introduced Assistance to and Protection of Victims of Crime and Witness Act No 10 of 2023⁷³ whether the act will be properly implemented in a context of political interference and security issues is to be seen.

⁷⁰ Clause 17

⁷¹ Clause 19

⁷² Transparency International, 2019, *Increasing Protection for Victims and Whistleblowers in Sri Lanka* [online] Available at: <<https://www.anticorruptionpledgetracker.com/case-study/third-case-study-this-one-should-not-be-show-in-the-nav/>> Also see: Borham, M., 2018, *A failure to protect?* [online] Available at: <<https://archives1.sundayobserver.lk/2018/05/27/news-features/failure-protect>>

⁷³ See: <https://www.parliament.lk/uploads/acts/gbills/english/6297.pdf>

Conclusions Drawn from the Bill:

Falls Short in Justice and Accountability

Accountability is key to ensuring transitional justice is achieved. Multiple case studies in Sri Lanka and across the world point to the fact that “answerability falls short of real accountability if it remains without consequences”.⁷⁴ In other words, answerability is merely a ‘soft’ dimension of accountability, and “naming of names is minimal accountability”.⁷⁵ This refers to the notion that simply creating a public record of suspects which may at the very best only lead to informal social sanction. The CTUR bill is silent on accountability and thus can be perceived as the latest attempt to further entrench impunity in Sri Lanka.

In contrast, enforcing accountability through convictions, security sector reforms and lustration are important in a country confronted with a legacy of abuse. The only form of accountability that the government has attempted in some manner, includes several cases that are before the domestic courts that are identified as emblematic cases.⁷⁶ These cases have faced numerous setbacks with obtaining justice, including delays in prosecution even after a decade of the crime being committed.⁷⁷ Of specific significance was the Sunil Rathnayake case who was tried and convicted for the murder of eight civilians in Mirusuvil in Jaffna in 2000.⁷⁸ Subsequent to the election of Former President Gotabaya Rajapaksa, he was provided a Presidential Pardon in 2020.⁷⁹ This overturning was particularly disheartening for victims considering the long time period it took to gain justice. For instance, the trial at bar took twelve years to conclude proceedings, after which the appeal took three more years.⁸⁰ As a consequence, victims had to

⁷⁴ Oosterom, M., Sha, D.P. and Dowd, C., 2021, Commissions of inquiry and pathways to accountability in Plateau State, Nigeria. *Journal of Modern African Studies*. [online] Available at: <<https://www.cambridge.org/core/journals/journal-of-modern-african-studies/article/commissions-of-inquiry-and-pathways-to-accountability-in-plateau-state-nigeria/81878F53E9B272A4A309E688C7F3D13A>>

⁷⁵ Oosterom, M., Sha, D.P. and Dowd, C., 2021

⁷⁶ Fonseka, B., 2021, *Elusive Justice & Emblematic Cases in Sri Lanka*. Colombo: Centre of Policy Alternatives. Available at: < <https://www.cpalanka.org/wp-content/uploads/2023/04/Elusive-Justice-and-Emblematic-Cases-in-Sri-Lanka-Book-Online-Version-1.pdf>>

⁷⁷ Centre of Policy Alternatives, 2021

⁷⁸ Groundviews, 2023, *Justice Undone in the Mirusuvil Massacre Case* [online] Available at: <<https://groundviews.org/2023/12/24/justice-undone-in-the-mirusuvil-massacre-case/>>

⁷⁹ *Ibid*

⁸⁰ *Ibid*

fight for 15 years before receiving justice. To have it overturned so quickly demonstrates the flaws of the criminal justice system that hinders accountability.⁸¹

The report of the OHCHR Investigation on Sri Lanka following Resolution 30/1⁸² is the establishment of a hybrid court, which would have both domestic and international participation.⁸³ However, several successive governments have ignored this commitment and distanced themselves from any form of hybrid accountability. The importance of establishing a hybrid court is rooted in the idea that a fully domestic institution would not be truly transparent in carrying out its work. Hence, the idea of an international group monitoring and observing the process provides victims the confidence that the government is sincere in addressing past abuses.⁸⁴ Most recently, the update by the UN High Commissioner for Human Rights to the 55th Session of the UNHRC noted the continuing challenges with accountability in Sri Lanka.⁸⁵

At the other end of the spectrum, past governments have emphasised the need for an exclusive “homegrown” solution. This same view is also held by the 2015 government, whereby President Sirisena noted that he sees no need to “import foreign judges”.⁸⁶ This constant rhetoric of the government, therefore, advocates towards the promotion of the popular misconception that “anything international is invariably a product of a Western conspiracy and a violation of national sovereignty”.⁸⁷ By doing so, they impliedly adopt the nationalistic stance that falsely

⁸¹ This is currently being challenged by CPA. See: <https://www.cpalanka.org/fundamental-rights-applications-challenging-the-decision-to-pardon-sunil-ratnayake/>

⁸² A/HRC/30/CRP.2, *Report of the OHCHR Investigation on Sri Lanka (OISL)* [online] Available at: <<https://www.ohchr.org/en/press-releases/2015/09/zeid-urges-creation-hybrid-special-court-sri-lanka-un-report-confirms?LangID=E&NewsID=16432>>

⁸³ “*Adopt specific legislation establishing an ad hoc hybrid special court, integrating international judges, prosecutors, lawyers and investigators, mandated to try war crimes and crimes against humanity, including sexual crimes and crimes committed against children, with its own independent investigative and prosecuting organ, defence office, and witness and victims protection programme. Resource the court so that it can effectively try those responsible;*”

⁸⁴ Fonseka, B., and Ganeshathasan, L., 2016, *Hybrid vs. Domestic: Myths, Realities and Options for Transitional Justice in Sri Lanka*. [online] Available at: <<https://www.cpalanka.org/wp-content/uploads/2016/01/Hybrid-vs.-Domestic-Myths-Realities-and-Options-for-Transitional-Justice-in-Sri-Lanka.pdf>>

⁸⁵ United Nations Human Rights Office of the High Commissioner, 2024, *High Commissioner presents updates on human rights in Colombia, Guatemala, Honduras, Nicaragua, Cyprus and Sri Lanka* [online] Available at: <<https://www.ohchr.org/en/statements-and-speeches/2024/03/high-commissioner-presents-updates-human-rights-colombia-guatemala>>

⁸⁶ The Sunday Times, 2015, *President says no need to import judges*, 29 November [online] Available at: <<https://www.sundaytimes.lk/151129/news/president-says-no-need-to-import-judges-173173.html>>

⁸⁷ Fonseka and Ganeshanthasan, 2016

presumes a purely domestic model, despite its intrinsic faults, to be the most suitable approach, solely on the basis that such a solution safeguards Sri Lanka's sovereignty.

This argument, however, is flawed given the government's hypocritical stance when it comes to gaining foreign aid, especially during the economic crisis.⁸⁸ In other words, national sovereignty is only a justification for the government's unwillingness to welcome international participation in efforts to pursue and obtain justice.

Limited to Truth Finding

Uncovering the truth about what happened to one's loved ones is an integral aspect of transitional justice. In fact, the importance of one's Right to Truth has been enshrined in multiple documents and in domestic and international case law.⁸⁹ Countries worldwide have attempted to ensure the 'Right to Truth' is protected through the implementation of truth commissions (TCs). A TC is generally a body that focuses on the past and investigates a pattern of abuse over a certain period.⁹⁰ They are typically sanctioned, authorised or empowered by the state and are temporary in nature. Commissions that include such features may exist under different names, be it 'Commissions of the Disappeared' (Argentina and Uganda), 'Truth and Justice Commissions' (Haiti and Ecuador), 'Historical Clarification Commission' (Guatemala) and 'Truth and Reconciliation Commission' (South Africa and Chile).⁹¹

In Sri Lanka, the multiple COIs such as the LLRC can all be categorised as truth seeking exercises. Hence, one cannot simply make the argument that the bill is different on the basis that instead of it being a COI it is a Truth, Unity and Reconciliation Commission. The only promise

⁸⁸ Shukla, A. and Liang, A., 2023, *Sri Lanka: 3bn IMF bailout for struggling economy*. BBC. 20 March [online] Available at: <<https://www.bbc.com/news/business-65010560>>

Also see: Aljazeera, 2023, *India extends Ibn credit line for Sri Lanka by a year* [online] Available at: <<https://www.aljazeera.com/news/2023/5/9/india-extends-1bn-credit-line-for-sri-lanka-by-a-year>> ;

World Bank, 2023, *Sri Lanka: World Bank Approves 150 Million to Strengthen Financial Sector* [online] Available at: <<https://www.worldbank.org/en/news/press-release/2023/11/09/sri-lanka-world-bank-approves-150-million-to-strengthen-financial-sector>>;

Uditha and Jayasinghe, 2022, *Sri Lanka says World Bank agrees to provide 600 million in financial aid*, *Reuters*, 26 April [online] Available at: <<https://www.reuters.com/world/asia-pacific/sri-lanka-says-world-bank-agrees-provide-600-million-financial-aid-2022-04-26/>>

⁸⁹ Such as Article 32 and 33 of the *Additional Protocol I to the Geneva Conventions of 1949*, Resolution 60/147 on *Adopted Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*, and Article 19 of the *Universal Declaration of Human Rights*.

⁹⁰ Hayner, P. B., 2001, *Unspeakable Truths*

⁹¹ Hayner, P.B., 2001, *Unspeakable Truths*

the bill makes is in respect to adopting recommendations of the Commission, a provision that has failed to be in operation in previous commissions. It has often been highlighted that truth uncovered by relevant mechanisms is “generally meant to be conducive to reconciliation processes” as “both the truth-seeking process and the findings of the investigations are restorative in character”.⁹²As such, since the bill merely looks at taking steps to find the truth with no attempt at prosecution nor an active effort to change the state narrative, one must question its ability to contribute towards the reconciliation process in Sri Lanka. Thus, uncovering the truth with no subsequent meaningful action defeats the purpose of transitional justice.

It should be noted that some past initiatives made considerable effort to encourage victims and affected communities to make submissions.⁹³ However, the follow up of such initiatives failed to meet the demands of the victims, as the sole interest of the government was to soften international criticism rather than genuinely address the issue of impunity within Sri Lanka. Consequently, a lack of genuine political will has only resulted in initiatives such as these, delaying justice for victims. In such a context where there is no evidence of meaningful interest to address the demands of the victims, the CTUR may only lead to a waste of time and resources.

Complements Sri Lanka’s Culture of Impunity

In the words of the Guatemalan activist and politician Rigoberta Menchu, “peace without justice is only a symbolic peace”.⁹⁴ As such, inherent in the concept of transitional justice is to implement a “full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation”.⁹⁵ Unfortunately, Sri Lanka, as of today, has continued to

⁹² Amnesty, 2019, *Sri Lanka: Impunity fuels recurrence of violence* [online] Available at: <<https://www.amnesty.org/en/latest/press-release/2019/05/sri-lanka-impunity-fuels-recurrence-of-violence/#:~:text=%E2%80%9CSri%20Lanka%20owes%20its%20citizens,order%20to%20guarantee%20non%2Drecurrence>>

⁹³ “The CTF recruited representatives of local civil society, political, feminist, healthcare and religious leaders as Zonal Task Force members (ZTF), who could conduct consultations on the ground across the various districts and provinces. Several ZTF members told Human Rights Watch that it was a difficult process, with little support or outreach from the government.” – Thapa, T., 2017, Sri Lanka’s difficulty with truth. *DailyFT*. 13 July [online] Available at: <<https://www.ft.lk/article/627947/Sri-Lanka-s-difficulty-with-truth>>
Also see: Groundviews, 2017, *A historic moment: Breaking down the CTF report* [online] Available at: <<https://groundviews.org/2017/01/23/a-historic-moment-breaking-down-the-ctf-report/>>

⁹⁴ Gunson, P., 1996, Guatemala's "Peace without Justice", *The Guardian*, 28 December [online] Available at: <<https://www.hrw.org/legacy/wr2k3/pdf/afghanistan.pdf>>

⁹⁵ OHCHR, *OHCHR: Transitional justice and human rights*. Available at: <<https://www.ohchr.org/en/transitional-justice#:~:text=Transitional%20justice%20covers%20the%20full,S%2F2004%2F616>>

embrace and entrench impunity as seen with the setbacks to justice and efforts to protect perpetrators.

A key contributing factor towards impunity is the lack of progress with accountability including delays with prosecutions, evidence tampering, challenges with protection and the use of the Presidential Pardon, among others.⁹⁶ The lack of progression in the emblematic cases discussed above, the acquittal of the suspects in the murder case of journalist Nimalarajan Mylvaganam in 2021,⁹⁷ and the massive delay in convicting serious crimes committed against journalists such as Prageeth Ekneligoda are other contributory factors that demonstrate Sri Lanka has a continuing culture of impunity.⁹⁸ The number of police violence and systematic torture being reported and for which the Supreme Court has at numerous times acknowledged is embedded within institutional structures, is further indicative of how impunity is institutionalized and systematized in Sri Lanka.⁹⁹

Other reasons for a culture of impunity are linked to the Sinhala Buddhist national ideology which has made incitement and hate speech acceptable. This was evident in recent years when ethno religious violence targeting minorities was witnessed in different parts of Sri Lanka

⁹⁶ Fonseka, B., 2021, *Elusive Justice & Emblematic Cases in Sri Lanka*. Colombo: Centre of Policy Alternatives. Available at: < <https://www.cpalanka.org/wp-content/uploads/2023/04/Elusive-Justice-and-Emblematic-Cases-in-Sri-Lanka-Book-Online-Version-1.pdf>>

⁹⁷ Parameswaran, N., 2021, Suspects in journalist Nimalarajan's murder case released, *Sunday Times*, 6th May [online] Available at: < <https://sundaytimes.lk/online/news-online/Suspects-in-journalist-Nimalarajans-murder-case-released/2-1133232>>

⁹⁸ Dhawan, S., 2024, *14 years on, wife of missing Sri Lankan journalist Prageeth Ekneligoda fights for justice* [online] Available at: < <https://cpj.org/2024/01/14-years-on-wife-of-missing-sri-lankan-journalist-prageeth-ekneligoda-fights-for-justice/>>

⁹⁹ Harees, M., 2023, *With Impunity Remaining Normalised, What Hope For Sri Lanka?* *Colombo Telegraph*, 28th August [online] Available at: < <https://www.colombotelegraph.com/index.php/with-impunity-remaining-normalised-what-hope-for-sri-lanka/>>

including the violence seen in Aluthgama,¹⁰⁰ Digana¹⁰¹ and the post Easter Sunday violence.¹⁰² Despite evidence of incitement by extreme Buddhist clergy and others, no action has been taken to prosecute alleged perpetrators.¹⁰³

¹⁰⁰ Hume, T., Athas, I., 2014, Fear, shock among Sri Lankan Muslims in aftermath of Buddhist mob violence. *CNN*. 23 June. [online] Available at: < <https://edition.cnn.com/2014/06/19/world/asia/sri-lanka-muslim-aluthgama/index.html> > ;

Centre for Policy Alternatives, 2014, *Constitutional and Legal Framework Governing Religious Freedom and Related Issues* [online] Available at: < <https://www.cpalanka.org/constitutional-and-legal-framework-governing-religious-freedom-and-relatd-issues/> >;

Centre for Policy Alternatives, 2014, *CPA Condemns Religious Intolerance and Violence*. 18 June [online] Available at: < <https://www.cpalanka.org/cpa-condemns-religious-intolerance-and-violence/> >

¹⁰¹ Safi, M., and Perera, A., 2018, Sri Lanka blocks social media as deadly violence continues. *The Guardian*. 7 March. [online] Available at: < <https://www.theguardian.com/world/2018/mar/07/sri-lanka-blocks-social-media-as-deadly-violence-continues-buddhist-temple-anti-muslim-riots-kandy> > ;

Nazim, A., 2018, The Digana-Kandy Racial Riots: What You Need To Know. *Roar Media*. 7 March [online] Available at: < <https://roar.media/english/life/in-the-know/the-digana-kandy-racial-riots-what-you-need-to-know> >

¹⁰² See: Aljazeera, 2019, *Sri Lanka orders nationwide curfew amid anti-Muslim riots*, 14 May [online] Available at: < <https://www.aljazeera.com/news/2019/5/14/sri-lanka-orders-nationwide-curfew-amid-anti-muslim-riots> >;

Centre for Policy Alternatives, 2018, *CPA Calls Authorities to Take Swift Action to Prevent Further Violence and to Arrest and Prosecute Individuals Advocating National, Racial and Religious Hatred*, 6 March [online] Available at: < https://www.cpalanka.org/wp-content/uploads/2018/03/Kandy_statement.pdf >;

Allard, T., and Aneez, S., 2018, Police, politicians accused of joining Sri Lanka's anti-Muslim riots, *Reuters*, 25 March [online] Available at: < <https://www.reuters.com/article/idUSKBN1H103D/> >;

Centre for Policy Alternatives, 2016, *CPA Statement on Recent Events Endangering Ethnic Harmony and Reconciliation, 15 November* [online] Available at: < <https://www.cpalanka.org/cpa-statement-on-recent-events-endangering-ethnic-harmony-and-reconciliation/> >;

Minor Matters, 2020, *Hate Speech in Sri Lanka During the Pandemic* [online] Available at: < <https://www.minormatters.org/storage/app/uploads/public/5fc76b014d43f554793096.pdf> >

¹⁰³ Centre for Policy Alternatives, 2018, *Confronting Accountability for Hate Speech in Sri Lanka: A critique of the legal framework* [online] Available at: < <https://www.cpalanka.org/wp-content/uploads/2018/09/Confronting-Accountability-for-Hate-Speech-in-Sri-Lanka-2018.pdf> >

Conclusion

The paper has raised critical questions pertaining to the CTUR bill amidst Sri Lanka's legacy of abuses and culture of impunity. The paper also criticises the mandate and composition of the CTUR and process of appointment, among other issues, with attention required as to why the government is persisting with attempts to set up a truth mechanism amidst growing criticism from victims and civil society. This effort is spearheaded amidst a repressive culture with legal and policy initiatives introduced to restrict freedoms and civil liberties, with concerns raised whether ascertaining the truth or multiple truths in such a context is even possible. Furthermore, the heightened ethno nationalism and militarisation in the country begs the question whether the government is truly interested in unity and reconciliation. In such a context, the paper notes that the GoSL must listen to the demands of the victims, affected communities and civil society. In this regard, the GoSL should not waste further time, energy and resources in enacting yet another initiative to seek the truth and with it contribute to the commission culture in Sri Lanka. As the paper notes, the priority at present is to initiate confidence building measures and addressing impunity in Sri Lanka.

Annexures

Annexure I: Past Initiatives and Timeline

■ Acts/Bills of Parliament
 ■ Presidential COI
 ■ COI
■ Other Governmental Initiatives
 ■ HRC/SL

Commissions of Inquiry Act No 17 of 1948	Special Presidential Commissions of Inquiry Law No 07 of 1978	Sansori Commission 1977 - 1980
Indemnity Act, No 20 of 1982	Rehabilitation of Persons, Properties and Industries Authority Act No. 19 of 1987	Presidential COI into Kokkadicholai Incident 1991/1992
Presidential COI into Involuntary Removals of Persons 1991 - 1993	Presidential COI into Involuntary Removals 1993	COI into Involuntary Removals and Disappearances: The Three Zonal Commissions 1994 - 1997
COI into Establishment of Maintenance of Batalanda Housing Scheme 1995	Ministry of Defence Board of Investigation into Disappearances in the Jaffna Peninsula - 1996	COI into Involuntary Removals and Disappearances of Certain Persons (All Island) 1998 - 2001
Presidential COI into incidents that took place at Bindunuwewa Rehabilitation Centre - 2000 - 2001	Presidential Truth Commission on Ethnic Violence 2001 - 2002	The Committee on Disappearances in the Jaffna Region - HRC Of SL - 2002 - 2003
The Mahanama Tilakaratne Commission 2006 - 2007	The Udalagama Commission 2005	The International Independent Group of Eminent Persons (IIGEP) 2007

Lessons Learnt and Reconciliation Commission (LLRC) 2011	The Presidential COI on Mass Graves discovered at Matale June 2013	The Paranagama Commission Aug 2013
National Inquiry on Torture - HRC Nov 2013	Establishment of ONUR by Cabinet Memorandum April 2015	PM announces setting up a Compassionate Council October 2015
Affairs pertaining to national reconciliation was entrusted to the ONUR - Dec 2015	Established a Consultation Task Force (CTF) Jan 2016 - Jan 2017	Office on Missing Persons Act No. 14 (OMP) Aug 2016
Registration of Deaths (Temporary Provision) (Amendment) Act No.16 of 2016 25th Aug 2016	OMP is established Feb 2018	Enforced Disappearances Act No. 5 of 2018 7th March 2018
The Office for Reparations Act No. 34 of, 2018. (Repealed REPPIA Act) Oct 2018	OR is established April 2019	ONUR came within the purview of the Ministry of Justice by Extra Ordinary Gazette - 9th Aug 2020
COI under Justice Nawaz 21st January 2021	The Cabinet Sub-Committee on Reconciliation is established. 18th October 2022	The Cabinet of Ministers agree to introduce a Parliamentary Act for ONUR January 2023
Minister of Justice announces new TRC 21st March 2023	ONUR bill gazatted. 22nd September 2023	TRC bill gazatted 1st January 2024
ONUR Act No 01 of 2024 23rd January 2024		

Name	Year	Description
Commissions of Inquiry Act No 17 of 1948 (as amended) 1948 ¹⁰⁴	1948	<ul style="list-style-type: none"> ● Original purpose: To provide the President with a mechanism for initiate original inquiries into the administration of public departments, offices or agencies, or allegations of misconduct by a member of the public service ● At present: Since the Act is broadly worded, the clause relating to public safety and welfare grant broad executive powers, allowing the government to use it as a tool in addressing human rights. ● Major flaw: No provision related to the mandatory publication of any Commission reports or recommendations exist for it to be made available to public access.
Special Presidential Commissions of Inquiry Law No 07 of 1978	1978	<ul style="list-style-type: none"> ● Special form of commissions created in ad-hoc nature to conduct inquiries into a defined issue ordered by the President of Sri Lanka and to submit findings, give advice and make recommendations ● Main difference: Commissions of Inquiries acts only as a fact finding commission, whereas Special Presidential Commissions of Inquiries have the power to subject a person found guilty to civic disability ● A report, finding, order, determination, ruling or recommendation made by a Special Presidential Commission cannot be challenged in any court or tribunal.
Sansoni Commission ¹⁰⁵ <i>Presidential Commission of Inquiry into the Incidents which</i>	1977 - 1980	<ul style="list-style-type: none"> ● Established under Prime Minister J. R Jayewardene ● It is a one-man commission of inquiry. ● To investigate communal violence that took place on 13th of August 1977 and the 15th of

¹⁰⁴ Amnesty, 2009, *Twenty Years of Make Believe: Sri Lanka's Commissions on Inquiry* [online] Available at: <<https://www.legal-tools.org/doc/4b0608/pdf/>>

¹⁰⁵ Lanka Free Library, *Sansoni Commission 1980* [online] Available at: <<https://lankafreelibrary.com/2019/10/15/sansoni-commission-1980/>>

<p><i>took place between 13 August and 15 September, 1977</i></p>		<p>September 1977. However, the report also covers the 1983 riot.¹⁰⁶</p> <ul style="list-style-type: none"> ● Heard witnesses in Jaffna, Anuradhapura, Colombo, Kandy and Trincomalee ● Published as a sessional paper on 4 Nov.1980 (see footnote) ● Result: Perpetrators identified in the report were not prosecuted.
<p>Indemnity Act, No 20 of 1982</p>	<p>1982</p>	<ul style="list-style-type: none"> ● This act was passed as a response to the Sansoni Report which allowed the perpetrators to be free ● This prevented legal action of any kind against any representative or employee of the government for any act, “legal or otherwise, done or purported to be done with a view to restoring law and order during the period 1 August 1977 to 31 August 1977, if done in good faith.” ● Further amended in December 1988 to extend the relevant period of indemnity to 16 December 1988
<p>Rehabilitation of Persons, Properties and Industries Authority Act No. 19 of 1987¹⁰⁷</p>	<p>1987</p>	<ul style="list-style-type: none"> ● Initially, established through Emergency Regulations No. 01 of 1983, made under Section 5 of the Public Security Ordinance. ● Its main purpose was to provide compensation and assist in reviving businesses while also awarding compensation for property damage. It also provided loan schemes for those who required livelihood assistance ● As the Regulation was a temporary mechanism, subsequently, a more permanent Government Institution was established by an Act of Parliament - the Rehabilitation of Persons,

¹⁰⁶ University Teachers of Human Rights (Jaffna), Sri Lanka, *Chapter 2: Antecedents of July 1983 and the Foundations of Impunity* [online] Available at: <<https://uthr.org/Book/CHA02.htm>>

¹⁰⁷ Office of Reparations, *A Historical Perspective of Compensating for Loss Caused due to Conflicts in Sri Lanka* [online] Available at: <https://www.reparations.gov.lk/web/index.php?option=com_content&view=article&id=96&Itemid=246&lang=en>

		<p>Properties and Industries Authority Act No. 19 of 1987</p> <ul style="list-style-type: none"> ● REPPIA sought and obtained the approval of the Cabinet for specific compensation and loan schemes. ● This was later repealed when the Office of Reparations was introduced.
<p>Presidential COI into Kokkadicholai Incident¹⁰⁸</p>	<p>1991/1992</p>	<ul style="list-style-type: none"> ● Implemented by President Ranasinghe Premadasa ● To investigate the massacre of at least 67 civilians in eastern Sri Lanka in June 1991 ● Result: Found that the killings in the village of Kokkadicholai had been the result of "deliberate retaliatory action" by army personnel for the deaths of two soldiers killed in a land mine explosion.¹⁰⁹ ● It was handed over to the military for investigation. In early August 1992 the government reported that soldiers involved in the Kokkadicholai massacre faced possible court-martial. ● On October 28, the commander, Lieutenant H.I.S. Kudaligama was found guilty. ● The 19 soldiers implicated were acquitted, reportedly for lack of evidence. ● Report is not publicly available. ● Warrant was revoked when the President was assassinated.
<p>Presidential COI into Involuntary Removals of Persons¹¹⁰</p>	<p>1991-1993</p>	<ul style="list-style-type: none"> ● Implemented during President Ranasinghe Premadasa term.

¹⁰⁸ Pinto-Jayawardena, K., 2010, *A Legacy to Remember: Sri Lanka's Commissions of Inquiry 1963 - 2002*, Colombo: Law Society Trust [online] Available at:

<<https://www.yumpu.com/en/document/read/39530093/sri-lankas-commissions-of-inquiry-law-society-trust>>

¹⁰⁹ Human Rights Developments Report [online] Available at:

<<https://www.hrw.org/reports/1993/WR93/Asw-10.htm#:~:text=On%20January%2030%2C%201992%2C%20a.killed%20in%20a%20land%20mine>>

¹¹⁰ Pinto-Jayawardena, K., 2010, *A Legacy to Remember: Sri Lanka's Commissions of Inquiry 1963 - 2002*, Colombo: Law Society Trust [online] Available at:

<<https://www.yumpu.com/en/document/read/39530093/sri-lankas-commissions-of-inquiry-law-society-trust>>

		<ul style="list-style-type: none"> ● Its mandate was extremely limited, dealing only with new enforced disappearances that occurred after the establishment of the CoI ● Considering that both commissions did not consider the disappearances that occurred during the Reign of Terror (Bheeshanaya) it made both ineffectual from the get go. ● Result: The commission warrant was revoked in 1993 when the President was assassinated. ● However, the reports are said to have recorded a wide range of evidence from 1991 to the end of 1994, with certain evidence implicating specific individuals. ● Report is not publicly available.
Presidential COI into Involuntary Removals ¹¹¹	1993	<ul style="list-style-type: none"> ● Under President Wijetunga ● Implemented as a result of revoking the previous two commissions established under President Premadasa ● Consequently, the commission's mandate included investigating involuntary removals covered in the previous two commissions in addition to the time period before. However, in practice, it was limited to 1991 to 1993.¹¹² ● Report is not publicly available.
COI into Involuntary Removals and Disappearances: The Three Zonal Commissions ¹¹³	1994 - 1997	<ul style="list-style-type: none"> ● Implemented under President Bandaranaike Kumaratunga ● Divided into three: <ul style="list-style-type: none"> ○ One report that focuses on Central, North Western, North Central and Uva Province ○ One report on North and Eastern Province ○ One report on Western, Southern and Sabaragamuwa Province

¹¹¹ Pinto-Jayawardena, K., 2010

¹¹² In both President Premada and President Wijetunga, the term 'involuntary removal' was not legally defined. This established a precedent for future commissions to follow. There is no agreement between civil society on what this term means. (*Ibid*)

¹¹³ Pinto-Jayawardena, K., 2010

		<ul style="list-style-type: none"> ● Despite the division the mandate of each was the same. ● Although investigations were carried out, on being asked whether the findings will be acted on, the President noted that it was not a good time. ● The three Zonal Commissions jointly submitted their reports to the president in September 1997 and made it public in 1998.¹¹⁴
COI into Establishment of Maintenance of Batalanda Housing Scheme ¹¹⁵	1995	<ul style="list-style-type: none"> ● Implemented under President Bandaranaike Kumaratunga. ● The Batalanda Housing Scheme was a government housing scheme that was rumored to be an unofficial place of detention, torture and death outside Colombo during the reign of terror. ● Offers a well-documented and substantiated case against individuals of every level in the state apparatus for Human Rights violations. ● Recommendations included the prosecution, disciplinary action and further investigation of individuals found to be at fault by the commission. ● Report of the Commission made public as Sessional Paper No. 1, 2000.¹¹⁶
Ministry of Defence Board of Investigation into Disappearances in the Jaffna Peninsula ¹¹⁷	1996	<ul style="list-style-type: none"> ● Implemented under President Bandaranaike Kumaratunga ● The Secretary, of the Ministry of Defence appointed this to inquire into 2621 cases complaints of disappearances in Jaffna

¹¹⁴ United States Institutes of Peace, *Commissions of Inquiry: Sri Lanka*. Available at: <https://www.usip.org/publications/1995/01/commissions-inquiry-sri-lanka>

¹¹⁵ Pinto-Jayawardena, K., 2010

¹¹⁶ International Truth and Justice Project, 2024, *PRESS RELEASE: Sri Lankan Government should Acknowledge Past Truth Commissions before establishing a new body*. 20th February [online] Available at: <https://itjpsl.com/assets/v2-20-Feb-2024-Joint-Press-Release-Publish-Past-Commissions-of-Inquiry-copy.pdf>

¹¹⁷ Pinto-Jayawardena, K., 2010

		<ul style="list-style-type: none"> • Subsequently, a Report was released: “Report of the Board of Investigations into the Disappearances of the Jaffna Peninsula” • The reason to implement a separate board was because the existing system of inquiry was the police and military who the complaints were against. • The report found 25 cases which could pursue legal action further, 138 which did not have enough evidence to pursue legal action, and 219 cases which did not have sufficient evidence to even conduct further investigations. • Report not publicly available.¹¹⁸
COI into Involuntary Removals and Disappearances of Certain Persons (All Island) ¹¹⁹	1998 – 2001	<ul style="list-style-type: none"> • Implemented under President Bandaranaike Kumaratunga • Created to complete the work of the three zonal commissions. • This offered a more complete picture of those that disappeared from 1998. • This is the most coherent and structured findings of any commissions up until 2001. • Issued a report in May 2000 and made the report public in June 2002.¹²⁰
Presidential COI into incidents that took place at Bindunuwewa Rehabilitation Centre ¹²¹	2001	<ul style="list-style-type: none"> • Implemented under President Bandaranaike Kumaratunga • Investigate the 27 Tamil inmates that died and the 14 that were injured in the Rehabilitation Centre. • Report is not publicly available.
Presidential Truth Commission	2001-2002	<ul style="list-style-type: none"> • Implemented under President Bandaranaike Kumaratunga

¹¹⁸ Amnesty International, 1998, *Public Statement Sri Lanka*, 23 April [online] Available at: <<https://www.amnesty.org/es/wp-content/uploads/2021/06/asa370101998en.pdf>>

¹¹⁹ Pinto-Jayawardena, K., 2010

¹²⁰ United States Institute of Peace, *Commissions of Inquiry: Sri Lanka*. Available at: <<https://www.usip.org/publications/1995/01/commissions-inquiry-sri-lanka>>

¹²¹ Pinto-Jayawardena, K., 2010

on Ethnic Violence ¹²²		<ul style="list-style-type: none"> ● Investigate ethnic violence from 1981 to 1984 ● The report offers a historical account, findings and recommendations of the damage suffered by the 900+ victims. ● “It was neither designed nor was it intended to be a truth commission”. ● Notably however, the report offers summaries of the victim cases that were granted compensation. ● No recommendations on prosecuting or punishment. ● The report was published as Sessional Paper No. 3, 2003¹²³
The Committee on Disappearances in the Jaffna Region	2002	<ul style="list-style-type: none"> ● Implemented via 11(b) of HRC act of 1996 ● Inquire into complaints of disappearance and removal of persons from residents in Jaffna, Kilinochchi and Vavuniya Districts in 1990 - 1998 ● Considered violations by state and non -state actors ● Offers recommendations pertaining to relief .
The Mahanama Tilakaratne Commission ¹²⁴	2006 - 2007	<ul style="list-style-type: none"> ● Implemented under President Mahinda Rajapaksa. ● To examine incidents of abductions, disappearances, unidentified dead bodies and unexplained killings since 13 September 2006. ● Final report findings are yet to be made public.
The Udalagama Commission ¹²⁵	2006	<ul style="list-style-type: none"> ● Implemented under President Mahinda Rajapaksa.

¹²² Centre for Policy Alternatives, 2013, *A List of Commissions of Inquiry and Committees Appointed by the Government of Sri Lanka (2006 – November 2013)* [online] Available at: https://f.cl.ly/items/2c0m2i0Y3V2A2D2X052C/A%20list%20of%20Commissions%20and%20Committees%20appointed%20by%20GoSL%20since%202005%20_December%202013.pdf

¹²³ See Report: <https://sangam.org/report-of-the-presidential-truth-commission-on-ethnic-violence-1981-1984/>

¹²⁴ Centre for Policy Alternatives, 2013, *A List of Commissions of Inquiry and Committees Appointed by the Government of Sri Lanka (2006 – November 2013)* [online] Available at: https://f.cl.ly/items/2c0m2i0Y3V2A2D2X052C/A%20list%20of%20Commissions%20and%20Committees%20appointed%20by%20GoSL%20since%202005%20_December%202013.pdf

¹²⁵ *Ibid*

		<ul style="list-style-type: none"> ● To investigate incidents involving alleged serious violations of human rights arising since 1 August 2005, specifically including serious violations of human rights specified in the schedule of the warrant of the commission. ● It levelled criticism especially on the fact that Attorney General was the body carrying out the COI and the implementation of Commission’s recommendations ● Report is not accessible to the public but it was tabled in parliament on 20th October 2015.¹²⁶
<p>The International Independent Group of Eminent Persons (IIGEP)</p>	<p>2007</p>	<ul style="list-style-type: none"> ● The President of Sri Lanka invited 11 international actors to observe the work of the The Udalagama Commission. ● They were to submit interim reports on the functioning of the commission. ● In 2008, they submitted their final report.¹²⁷ ● Key concerns raised by the 11 actors: <ul style="list-style-type: none"> ○ “absence of political will and (the) institutional inability of Sri Lanka to conduct human rights inquiries in accordance with international norms and standards”. ○ The proceedings of the Commission have not been transparent or have not satisfied basic international norms and standards. ○ Found that there was a conflict of interest in the proceedings before the Commission ○ Lack of effective victim and witness protection ○ Lack of transparency and timeliness in the proceedings. ○ Lack of full cooperation by State bodies

¹²⁶ News.lk, 2015, *Udalagama and Paranagama reports tabled in Parliament. 20 October* [online] Available at: <<https://www.news.lk/news/politics/item/10384-udalagama-and-paranagama-reports-tabled-in-parliament>>

¹²⁷ See Final Report: <http://www.humanrights.asia/wp-content/uploads/2018/07/The-Final-Report-of-the-IIGEP.pdf>

		<ul style="list-style-type: none"> o Lack of financial independence of the Commission. ● In 2009, it was compelled to disband ignominiously with a considerable proportion of its cases not investigated, when its term was not extended by the Presidential Secretariat.
Lessons Learnt and Reconciliation Commission ¹²⁸	2010 - 2011	<ul style="list-style-type: none"> ● A competing report to the Darusman report by the government of President Mahinda Rajapaksa. ● It was an Eight-member Commission ● The commission was mandated to investigate the facts and circumstances which led to the failure of the Cease Fire Agreement made operational on 27 February 2002, the lessons that should be learnt from those events and the institutional, administrative and legislative measures which need to be taken in order to prevent any recurrence of such concerns in the future and to promote further national unity and reconciliation among all communities. ● The Commission presented its 388-page final report to the President on 15th November 2011. ● It was tabled in Parliament and made public on 16 December 2011. ● The report found that the Sri Lanka military did not deliberately target civilians but the LTTE repeatedly violated international humanitarian law.
National Plan of Action for LLRC	2012 - 2013	<ul style="list-style-type: none"> ● In response, the government drafted the National Plan of Action to implement the recommendations of the LLRC (LLRC Action Plan).¹²⁹ ● The Action Plan was approved by cabinet in July 2012.¹³⁰

¹²⁸ Relief Web, 2011, *The Report of the Commission of Inquiry on Lessons Learnt and Reconciliation*. Available at: <<https://reliefweb.int/report/sri-lanka/report-commission-inquiry-lessons-learnt-and-reconciliation>>

¹²⁹ National Plan of Action for the Implementation of LLRC Recommendations: <http://www.llrcaction.gov.lk/>

¹³⁰ News.lk, "Cabinet Approves National Action Plan to implement LLRC recommendations", 27 July 2012, [online] Available at: < <http://www.news.lk/news/sri-lanka/2676-cabinet-approves-national-action>>

		<ul style="list-style-type: none"> ● This led to the government adding 53 recommendations made by the LLRC to the LLRC Action Plan. ● Resulted in criticism by civil society who among others noted that the activities proposed under the action plan and the actual recommendations made by the LLRC were different.¹³¹ ● In February 2014, CPA conducted a critical study of the implementation of the LLRC recommendations, which illustrated the piecemeal progress made by the GoSL.¹³²
<p>The Presidential COI on Mass Graves discovered at Matale¹³³</p>	<p>2013</p>	<ul style="list-style-type: none"> ● Implemented by President Mahinda Rajapaksa following the 154 individual skeletal remains found in a mass grave at Matale.¹³⁴ ● This was followed by a judicial inquiry initiated by the Magistrate of Matale, where a large number of parents made representations. ● The President then decided to appoint a Presidential Commission of Inquiry consisting of retired Supreme Court Judge Imam, retired District Judge and former Secretary General of Parliament Dhammika Kitulagoda and Retired High Court Judge Atapattu former Registrar of Supreme Court. ● On 3rd February 2014, M. A. Cyril, Secretary to the Commission wrote to the Inspector General of Police: “It appears to the Commission that the Magistrate Matale has not been able to bring the inquest into the above deaths to a conclusion due to the nonavailability of scientific evidence in order

¹³¹ Centre for Policy Alternatives, 2014, *Critiquing the Government’s progress report of LLRC recommendations* [online] Available at:

<<https://www.cpalanka.org/critiquing-the-governments-progress-report-of-llrc-recommendations/>>

¹³² Centre for Policy Alternatives, 2014, *INFOGRAPHIC: LLRC Implementation Statistics* [online] Available at:

<<https://www.cpalanka.org/infographic-llrc-implementation-statistics/>>

¹³³ Centre for Policy Alternatives, 2013

¹³⁴ Ada Derana, 2013, *President appoints commission to probe Matale mass grave*. 7 April [online] Available at:

<<https://www.adaderana.lk/news.php?nid=22254>>

		<p>to establish the time period during which these deaths have occurred.”¹³⁵</p> <ul style="list-style-type: none"> • The Commission submitted its final report to President Sirisena in 2015.¹³⁶
The Paranagama Commission ¹³⁷	2013	<ul style="list-style-type: none"> • Implemented by President Mahinda Rajapaksa. • The sole purpose of the Commission was to investigate and inquire into cases of disappearances in the Northern and Eastern Provinces of Sri Lanka specifically during the period of 10th June 1990 to 19th May 2009 • The Commission has proposed the setting up of a Truth and Reconciliation Commission (TRC) and a War Crimes Division of the Sri Lankan High Court to pursue investigations. • The report was tabled in Parliament on 20 October 2015.¹³⁸
National Inquiry on Torture ¹³⁹	2013	<ul style="list-style-type: none"> • Implemented via 11(b) of HRC act of 1996 • The HRCSL in collaboration with the Human Rights Division of the Commonwealth Secretariat, is to conduct a countrywide inquiry in Sri Lanka on various aspects of torture, alleged to have taken place between 2009 and 2013¹⁴⁰ • No reports on what happened.¹⁴¹

¹³⁵ Ratnawalli, D., 2014, Matale Mass Grave: Skeletons In Closets As Well? *Colombo Telegraph*, 21 December [online] Available at: <

<https://www.colombotelegraph.com/index.php/matale-mass-grave-skeletons-in-closets-as-well/>>

¹³⁶ Kirinde, C., 2015, Matale mass graves report to be exhumed for President Sirisena, *The Sunday Times*, 15 February [online] Available at: <

<https://www.sundaytimes.lk/150215/news/matale-mass-graves-report-to-be-exhumed-for-president-sirisena-135948.html>>

¹³⁷ Centre for Policy Alternatives, 2013

¹³⁸ News.lk, 2015, *Udalagama and Paranagama reports tabled in Parliament*. 20 October [online] Available at:

<<https://www.news.lk/news/politics/item/10384-udalagama-and-paranagama-reports-tabled-in-parliament>>

To read the report see: <https://parliament.lk/uploads/documents/paperspresented/report-of-paranagama.pdf>

¹³⁹ Centre for Policy Alternatives, 2013

¹⁴⁰ Menon, P., 2013, Sri Lanka to set up National Inquiry on Torture, says Kamallesh Sharma, *The Hindu*, 8th

November [online] Available at: <

<https://www.thehindu.com/news/international/south-asia/sri-lanka-to-set-up-national-inquiry-on-torture-says-kamalesh-sharma/article5330283.ece>>

¹⁴¹ To read on reported torture cases until 2011 see:

<http://www.humanrights.asia/wp-content/uploads/2019/03/Sri-Lanka-1.pdf>

ONUR	April 2015	<ul style="list-style-type: none"> ● An initiative by Prime Minister Ranil Wickramasinghe ● Initially, affairs pertaining to national reconciliation was entrusted to ONUR under the Ministry of National Integration and Reconciliation by Extraordinary gazette no 1945/41 dated 18 12.2015 ● Subsequently, by the Gazette Extraordinary dated 09th August, 2020, the ONUR came within the purview of the Ministry of Justice. ● Its objectives are twofold: <ul style="list-style-type: none"> ○ Making recommendations to the Government on measures to be taken to resolve issues causing stress and conflicts existed among different communities and implementing such measures and follow-up. ○ Formulation of programmes to ensure reconciliation that ● It was first led by former President Chandrika Bandaranaike Kumaratunga. ● 26th January 2023 - The Cabinet of Ministers approved the introduction of a Parliamentary Act to administer and perform activities of ONUR. ● 22nd September 2023 - The bill for the establishment of the ONUR was gazetted. ● 23rd January 2024 – ONUR bill was enacted.
Compassionate Council	2015	<ul style="list-style-type: none"> ● Following the UNHRC session, Prime Minister Ranil Wickremesinghe announced a Compassionate Council comprising the country's religious dignitaries would be introduced.¹⁴² ● No further reports made on the council.

¹⁴² Sunday Times, *PM says Govt. to appoint Compassionate Council as way forward to national reconciliation*, 27 September [online] Available at: <https://sundaytimes.lk/online/news/pm-says-govt-appoint-compassionate-council-way-forward-national-reconciliation/18-84743>

<p>Consultation Task Force¹⁴³</p>	<p>2017</p>	<ul style="list-style-type: none"> ● That held public meetings in every district and focus group discussions with specific sets of victims. ● The CTF received a total of 7,306 submissions, of which 4,872 were made at public meetings, 1386 were at focus group discussions, and 1048 were sent to the CTF as written submissions. ● Recommended a Truth, Justice, Reconciliation and Non-recurrence Commission be established. ● The final 700-page report of the CTF was handed over to former President Chandrika Bandaranaike-Kumaratunga. This was because President Sirisena nor Prime Minister Ranil Wickremesinghe was not present at the ceremony.¹⁴⁴ ● Minister of Justice told reporters that he has “no confidence” in its findings.¹⁴⁵ <p>Key recommendations included:</p> <ul style="list-style-type: none"> ● Record an authoritative account of past abuses and violations, and challenge the dominant narrative, which denies or discredits the condition of affected communities ● Ensure demilitarisation of the North and East, including military-driven economic activity, which is identified by some submissions as a form of economic warfare waged against the civilian population ● Implement a process of lustration (removing human rights violators from positions of responsibility and preventing appointment or
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¹⁴³ Final Report of the Consultation Task Force on Reconciliation Mechanisms, 2016. Available at: <<https://sangam.org/wp-content/uploads/2021/07/CTF-Final-Report-Volume-I-Nov-16.pdf>> (Also see: CPA, 2017, *A Guide to the Recommendations from the Consultation Task Force (CTF) on Reconciliation Mechanisms*: <https://www.cpalanka.org/wp-content/uploads/2017/06/Guide-to-CTF-Report.pdf>)

¹⁴⁴ Hattotuwa, S., 2017, *A report on reconciliation* [online] Available at: <<https://sanjanah.wordpress.com/2017/01/08/a-report-on-reconciliation/>>

¹⁴⁵ Amnesty International, 2017, *Sri Lanka: Consultation Task Force report must lead to justice*. [online] Available at: <<https://www.amnesty.org/en/latest/press-release/2017/01/sri-lanka-consultation-task-force-report-must-lead-to-justice/>>

		<p>reappointment) to increase confidence in public institutions and the overall reconciliation process;</p> <ul style="list-style-type: none"> ● Militate against the impacts of conflict, intolerance and hatred ● Abolish the Prevention of Terrorism Act (PTA) and release all remaining individuals detained under the law; ● Address possible new causes and/or triggers of conflicts; ● Develop measures for the non-recurrence of religious violence; ● Promote coexistence and communal harmony; ● Reform the security sector in order to transform the military into a force that does not pose a threat to the communities it is charged with safeguarding; ● Prosecute perpetrators of violations and abuses.
OMP	2016	<ul style="list-style-type: none"> ● This is one of the requirements set out in UN Resolution 30/1. ● Came into being with the Office of Missing Person Act Act No 16 ● It however came into operation in 2018 ● The OMP has an explicit mandate to clarify the circumstances in which persons went missing and their fate; to make recommendations to relevant authorities to ensure non-recurrence; to protect the rights and interests of missing and disappeared persons and their relatives; to identify proper avenues of redress for missing and disappeared persons; and to collate data related to missing and disappeared persons from existing sources and centralise all available information in a database
Registration of Deaths (Temporary Provision)	2016	<ul style="list-style-type: none"> ● The Government of Sri Lanka passed the Registration of Deaths (Temporary Provision) (Amendment) Act No.16 of 2016, to enable the

(Amendment) Act No.16 of 2016 ¹⁴⁶		<p>issuance of a Certificate of Absence to families of the missing and disappeared.</p> <ul style="list-style-type: none"> • This is a legal document which provides for the legal status of a missing or disappeared person and enables families of the missing and disappeared to access administrative and financial services and other benefits in the absence of a Certificate of Death. • The OMP is mandated to issue interim reports to families of the missing or disappeared, which enables them to obtain such certificates from the Office of the Registrar General.¹⁴⁷
Enforced Disappearances Act No. 5 of 2018 ¹⁴⁸	2018	<ul style="list-style-type: none"> • Sri Lanka signed the International Convention for the Protection of All Persons from Enforced Disappearances on 10 December 2017. • As such, the government passed this act.¹⁴⁹ • However, the criminalisation of enforced disappearances under domestic law remains inadequate and the act fails for a number of reasons.¹⁵⁰
The Office for Reparations Act No. 34 of, 2018.	2018	<ul style="list-style-type: none"> • Repealed REPPIA Act • Independence of the office was a major concern that was raised when the bill was introduced¹⁵¹ and is a concern that remains to be there to date. • It officially started operations in 2019.

¹⁴⁶ Registration of Deaths (Temporary Provision) (Amendment) Act No.16 of 2016:

<http://www.omp.gov.lk/storage/app/uploads/public/5f9/7e2/9a5/5f97e29a56b52964413862.pdf>

¹⁴⁷ For more information, see: Centre for Policy Alternatives, 2016, *Guide to the Registration of Deaths (Temporary Provisions)(Amendment) Act, No. 16 of 2016* [online] Available at:

<<https://www.cpalanka.org/wp-content/uploads/2016/11/COA-ENGLISH-Final.pdf>> Also see: *Annual Report on Missing Persons* 2018, pp 7 – 8 [online] Available at:

<<https://www.parliament.lk/uploads/documents/paperspresented/annual-report-office-on-missing-persons-2018.pdf>>

¹⁴⁸ Enforced Disappearances Act No. 5 of 2018:

<http://www.omp.gov.lk/storage/app/uploads/public/5f9/7e1/16d/5f97e116dd811570412778.pdf>

¹⁴⁹ See: Centre for Policy Alternatives, 2017, *Basic Guide to the International Convention for the Protection of All Persons from Enforced Disappearance Bill* [online] Available at: <

<https://www.cpalanka.org/wp-content/uploads/2017/06/Guide-to-Enforced-Disappearances-Bill-Final-1.pdf>>

¹⁵⁰ See: *Annual Report of the Office of Missing Persons* 2018, pp 8 – 9 [online] Available at: <

<https://www.parliament.lk/uploads/documents/paperspresented/annual-report-office-on-missing-persons-2018.pdf>>

¹⁵¹ Centre for Policy Alternatives, 2018, *Continuing Concerns on the Office for Reparations Bill* [online] Available at: < <https://www.cpalanka.org/wp-content/uploads/2018/10/Office-for-Reparations-PR.pdf>>

		<ul style="list-style-type: none"> • A total of 7,727 aggrieved persons had been provided with compensation since 2019 to December 2020, amounting to a total sum of Rs. 1.012 billion.¹⁵² • However due to the COVID-19 pandemic there was a delay in dispensing the compensation on time.¹⁵³
<p>COI under Justice A.H.M. Nawaz</p> <p><i>CoI for Appraisal of the Findings of Previous Commissions and Committees and the Way Forward / CoI to investigate, inquire into and report or take necessary actions on findings of preceding Commissions or Committees appointed to investigate into human rights violations, serious violations of International Humanitarian Law</i></p>	2021	<ul style="list-style-type: none"> • This refers to the COI the Foreign Minister made reference in the 43rd UNHRC session • Consequently, on the 21st of January 2021, Sri Lankan President Gotabaya Rajapaksa appointed a three-member CoI. • This was headed by sitting Supreme Court Judge A.H.M. Nawaz • Other members include retired Inspector General of Police Chandra Fernando and retired District Secretary Nimal Abeyesiri.. • The Commission is tasked with the responsibility of identifying the “manner in which the recommendations have been implemented so far in terms of the existing law and what steps need to be taken to implement those recommendations further in line with the present Government policy.”¹⁵⁴ • In July 21st 2021, the Commission handed over its Interim report to President Gotabaya¹⁵⁵

¹⁵² The Morning, 2021, *Reparations Office devising psychosocial support prog.* 25th February [online] Available at: <<https://www.themorning.lk/articles/121687>>

¹⁵³ The Morning, 2021, *Reparations Office devising psychosocial support prog.* 25th February [online] Available at: <<https://www.themorning.lk/articles/121687>>

¹⁵⁴ International Commission of Jurists, 2021, *Sri Lanka: newly established Commission of Inquiry is a travesty of justice* [online] Available at: <<https://www.icj.org/sri-lanka-newly-established-commission-of-inquiry-is-a-travesty-of-justice/>>

¹⁵⁵ The Sunday Times, 2021, *Interim report of CoI into allegations of HR violations handed over to President, 21 June* [online] Available at: <<https://sundaytimes.lk/online/news-online/Interim-report-of-CoI-into-allegations-of-human-rights-violations-handed-over-to-President/2-1134284>>

<i>(IHL) and other such offences</i>		<ul style="list-style-type: none"> ● The COI was mandated to submit its final report in 6 months.¹⁵⁶ ● However, the mandate was extended by President Ranil Wickremesinghe to 30th December 2022.¹⁵⁷ ● A synopsis of the recommendations in the draft final report of the commission was presented to President Ranil Wickremesinghe on the 6th of February 2023.¹⁵⁸ ● Report is not publicly available.
Cabinet Sub-Committee on Reconciliation	2022	<ul style="list-style-type: none"> ● Following the UNHRC session in October 2022, Sri Lanka’s Cabinet of Ministers approved a proposal to appoint a Cabinet Subcommittee on Reconciliation chaired by the President.¹⁵⁹ ● Four people consists of the Subcommittee to “promote reconciliation between the various sections of the population in Sri Lanka and to propose solutions to the problems faced by the people regarding resettlement, land and missing persons after the conflict in the North East”. ● The four include: <ul style="list-style-type: none"> ○ Hon. Dinesh Gunawardena – Prime Minister ○ Hon. Douglas Devananda – Minister of Fisheries ○ Hon. Dr. Wijayadasa Rajapaksha – Minister of Justice, Prison Affairs and Constitutional Reforms ○ Hon. Ali Sabry – Minister of Foreign Affairs

¹⁵⁶ The Sunday Times, 2021, *Interim report of CoI into allegations of HR violations handed over to President, 21 June* [online] Available at: <<https://sundaytimes.lk/online/news-online/Interim-report-of-CoI-into-allegations-of-human-rights-violations-handed-over-to-President/2-1134284>>

¹⁵⁷ Newswire, 2022, *President Ranil extends term of CoI appointed by Gotabaya Rajapaksa*, 19th September [online] Available at: <<https://www.newswire.lk/2022/09/19/president-ranil-extends-term-of-coi-appointed-by-gotabaya-rajapaksa/>>

¹⁵⁸ Ada Derana, 2023, *CoI investigating preceding rights probes and findings submit synopsis of final report. 6th February* [online] Available at: <<https://www.adaderana.lk/news.php?nid=88192>>

¹⁵⁹ ECONOMYNEXT,2022

		<ul style="list-style-type: none">• An Advisory Council was appointed to Hon Minister of Justice, Prison Affairs and Constitutional Reforms and Hon. Minister of Foreign Affairs to initiate discussions with stakeholders to draft a new legislation.¹⁶⁰• On May 2023, Cabinet Approved an Interim Secretariat on Truth and Reconciliation Mechanism
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¹⁶⁰ *Observations of the GoSL in response to Joint Communication (AL/LKA/2023) dated 13 September 2023 from 06 Special Procedures Mandate Holders, 2023.* Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=37827>