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# “If We Raise Our Voice They Arrest Us”

Sri Lanka’s Proposed Truth and Reconciliation Commission



# **“If We Raise Our Voice They Arrest Us”**

**Sri Lanka’s Proposed Truth and Reconciliation Commission**

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## Summary

“Since my husband was abducted, I lost my freedom to do routine activities... Even if I go to the market or temple, they [security officers] ask, ‘Where are you going?’”

— Tamil woman from eastern Sri Lanka whose husband was forcibly disappeared in 2000

Countless thousands of Sri Lankans await justice and accountability for serious human rights violations and war crimes committed during decades of civil unrest and armed conflict. They are the victims or family members of victims of arbitrary arrest and detention, torture, enforced disappearance, and unlawful killings by government security forces, the successionist Liberation Tigers of Tamil Eelam (LTTE) or other non-state armed groups.

Fourteen years since the LTTE’s defeat in 2009, and over three decades after the suppression of a leftist uprising in the south in 1989, successive Sri Lankan governments have taken no effective action to provide justice for these victims. For those who have suffered violations by the security forces, the government has rarely even acknowledged the commission of crimes.

Over the years there has been high-profile international attention and calls for accountability at the United Nations Human Rights Council, by the UN human rights office and various UN experts, as well as concerned governments and donors. Multiple Sri Lankan government initiatives, including several official commissions, were established since the 1990s to examine human rights violations and abuses by all sides, but none have yielded any remedy. In 2015, the Sri Lankan government supported a consensus resolution of the Human Rights Council that would have established a hybrid court – with international as well as domestic participation – but most of its provisions were never implemented and a new administration repudiated those commitments in 2020. As a result, there has been no meaningful accountability or redress for victims, their families, and their communities.

The most recent effort by the administration of President Ranil Wickremesinghe to establish a National Unity and Reconciliation Commission (NURC), a “South Africa style” truth commission, appears to be primarily an attempt to deflect international pressure at

the Human Rights Council from genuine truth and justice. The South African process, implemented in very different circumstances to those of Sri Lanka, provided little criminal accountability. While South Africa's Truth and Reconciliation Commission was a major step forward in its time, there are now 30 years of accumulated global experience of prosecutions of international crimes.

The government has set up the "interim secretariat" of the NURC and appointed a director general, although detailed proposals have still not been published. Affected Tamil and Muslim communities, whose support is essential, have yet to be properly consulted.

This report – based on over 80 interviews conducted in June 2023 – shows why the proposed National Unity and Reconciliation Commission is not a serious step to obtain truth or justice for past international crimes. The government should genuinely engage with victims and affected communities and learn from previous efforts. It should build on the evidence collected and recommendations made by past commissions including the 2017 Consultation Task Force on Reconciliation Mechanisms, which studied options for transitional justice. The government needs to end its ongoing abuses against victims, their families, and human rights defenders and activists seeking to enforce their rights. This means stopping and appropriately punishing members of the military, police and intelligence services who are carrying out surveillance and intimidation, repressing protests, abusing counterterrorism laws, and taking part in "land grabs" targeting minority communities.

Families of victims of enforced disappearances and civil society activists particularly in the predominantly Tamil north and east of Sri Lanka told Human Rights Watch that they have given evidence to several previous government commissions and are unwilling to expose themselves again to threats from security agencies and repeated re-traumatization. Said a relative of a forcibly disappeared person:

Already there are so many commissions. They came to the villages, met the people, and they wrote a report. All those reports are sleeping in their storeroom. Those are the true stories from the families. Some of them [family members] have already died. We have given all the truth and evidence already to all those commissions.

In recent months the Sri Lankan government has engaged with other governments including South Africa, Switzerland, and Japan to request their support for the NURC, and is seeking support from United Nations agencies. In an interview on June 26, 2023, President Wickremesinghe announced that he intended to pass legislation to establish a commission “by August.” However, as of early September, no official draft of the legislation has been made public.

Sri Lankan civil society and victims’ groups have issued several joint statements making it clear that while a process to deliver truth and justice is urgently needed, the current initiative lacks credibility and risks further harm to victims and their families. They have said that they will only support an initiative that is accompanied by confidence-building measures and is part of a holistic approach to transitional justice that includes truth seeking, prosecutions before ordinary courts, meaningful reparations, and guarantees of non-recurrence. Among several specific demands, victims’ families and civil society groups have called on the government to use evidence already provided to previous commissions, to reveal the fate of the disappeared, and to end the harassment of victim families and human rights defenders.

While the proposed NURC is still not publicly available, there are serious concerns that there will be little or no provision for criminal accountability for serious crimes under international law. This would be contrary to international requirements and practice, and the interests of victims.

International law obligates governments prosecuting those responsible for serious international crimes, such as war crimes and crimes against humanity, to combat impunity and ensure victims’ rights to truth, justice, and an effective remedy. Sri Lanka is a party to the Geneva Conventions of 1949 and human rights treaties such as the Convention against Torture, which expressly provide for the prosecution of those responsible for serious crimes. Any amnesties granted would have no effect on these treaty obligations. Continuing impunity for grave and longstanding abuses in Sri Lanka fuels further human rights violations and undermines prospects for a durable peace in the country.

In other respects, the Wickremesinghe administration has not brought about significant improvements in the country’s human rights situation.



The authorities have continued to use the Prevention of Terrorism Act (PTA) to threaten, detain and prosecute Tamils predominantly, as well as activists and victims' families. The law has also been used to arbitrarily detain Muslims, as well as some of those that organized recent protests related to the economic crisis. Sri Lankan governments have repeatedly pledged to repeal or significantly amend the legislation following decades of abuse, including a 2017 commitment to do so as part of its effort to gain tariff-free access for exports to the European Union. In March 2023, the government proposed a new counterterrorism law in response to pressure from the EU to fulfill the terms of its GSP+ trading privileges. But the new bill contains many of the same abusive provisions, as well as new powers, that would further enable the authorities to silence peaceful dissent.

Meanwhile, government agencies, including the military, the Department of Forest Conservation, the Department of Wildlife Conservation, and the Department of Archaeology, are engaged in a campaign of "land grabbing" in the north and east, targeting land belonging to Tamil and Muslim communities and their religious sites. The government has sought to justify its policies on various grounds, including environmental protection and preserving purported archaeological sites, but residents and activists see these as pretexts for unlawful seizures that the security forces use for economic gain, and could affect demographic patterns in the north and east with implications for electoral representation.

Activists and residents have faced threats and attacks. For instance, on April 5, 2023, Nihal Ahmed, an Ampara district land rights activist, along with colleagues and members of a dispossessed farming community who were collecting information, were abducted and assaulted by people alleged to be staff of a partially state-owned sugar plantation. Ahmed told Human Rights Watch:

We five people went to identify the [disputed] land. Twenty-five staff of the sugar corporation attacked us. For three hours they removed our clothes and took photos and videos and blackmailed us that if we are going to talk about these issues, they would publish the images on social media. They attacked us because we are working for farmers' land rights. We thought they would kill us.

The government has indicated that it hopes that establishing the NURC will help bring an end to the process at the Human Rights Council, which has passed a series of resolutions since 2015 mandating efforts to support accountability for international crimes. In 2021, the Human Rights Council established the Sri Lanka Accountability Project within the UN “to collect, consolidate, analyse and preserve information and evidence and to develop possible strategies for future accountability processes.” Its mandate will require renewal in 2024.

However, the need for continued international monitoring and evidence collection is clear. While President Wickremesinghe has spoken of “reconciliation,” his government has taken no meaningful steps to pursue investigations and prosecutions. Some military leaders have received senior government appointments despite serious allegations against them.

Government rights violations have not been limited to Tamil or Muslim minorities. People who protested government corruption and mismanagement that contributed to Sri Lanka’s economic crisis in 2022 were subjected to the use of excessive force by the police and security forces. Some of those who allegedly took part in the protests, which forced the previous president to step down, still face legal action.

The UN High Commissioner for Human Rights, Volker Türk, in his September 2023 report on Sri Lanka to the Human Rights Council, said,

Lack of accountability at all levels remains the fundamental main human rights problem. Whether it refers to war crime atrocities, post-war emblematic cases, torture and deaths in police custody, excesses in crowd control, corruption and the abuse of power, Sri Lanka suffers from an extraordinary accountability deficit... accountability remains a crucial element of any genuine reconciliation agenda and any new transitional justice measures, including a truth commission, must meet international standards and the expectations of victims and their relatives to deliver lasting gain.

To make progress toward achieving credible justice, the government should consult with victims and their families, human rights defenders, and members of previous commissions. Instead of retraumatizing witnesses and exposing them to renewed threats, it should begin with the extensive evidence already collected. It should act on previous recommendations made by experts and organizations both in Sri Lanka and abroad; and it should cooperate with the Sri Lanka Accountability Project.

The Wickramasinghe administration should adopt concrete confidence-building measures to demonstrate the government's commitment to a genuine process. It needs to end the surveillance and intimidation of victims' families and human rights defenders, allow the memorialization of Tamil victims of the war, invite international assistance to investigate and preserve evidence from mass graves, and halt discriminatory policies such as "land grabbing" in the north and east that violate the rights of members of minority communities. Otherwise, the National Unity and Reconciliation Commission will just become Sri Lanka's latest failed initiative to address the persistent and deeply damaging impunity gap.

# Recommendations

## To the Sri Lankan Government

- Suspend the establishment of the National Unity and Reconciliation Commission and conduct genuine consultations with victims of abuses, families of victims, human rights defenders, and civil society groups to address their concerns, including with respect to safety and the risk of re-traumatization.
- End the harassment and intimidation of victims of abuses, their families, human rights defenders and civil society activists, and allow Tamil communities to memorialize victims of past abuses.
- Engage in a thorough review of past efforts, including through genuine consultations with former commission members, victims and their families, and civil society groups, to distill lessons learned.
- Lay out a holistic process, based on consultations and review of previous commissions, that includes truth seeking, prosecutions before ordinary courts, meaningful reparations, and guarantees of non-recurrence.
- Take concrete steps to advance accountability for serious crimes in violation of international law, starting with directing the police and attorney general to investigate and appropriately prosecute alleged rights violations, and ending efforts to block existing investigations and prosecutions.
- Use evidence already gathered by previous commissions to support prosecutions and provide information about the fate of victims of enforced disappearance.
- Invite international assistance to investigate and preserve evidence from mass graves.
- End the practice of “land grabs” backed or carried out by state agencies in the north and east, and return improperly seized land.
- Repeal the Prevention of Terrorism Act, and ensure that any new counterterrorism legislation meets international due process and fair trial standards.
- Cooperate with the UN Human Rights Council initiatives, including the Sri Lanka Accountability Project.
- Ratify the Rome Statute of the International Criminal Court.

## To Foreign Governments, the United Nations, and Other International Institutions

- Call upon the government to end ongoing rights violations, including the surveillance and intimidation of victims and activists by security agencies, obstacles to memorialization of Tamil war victims, and the confiscation of land without full respect for the rights of local residents who have long used the land.
- Do not endorse, fund, or otherwise support the National Unity and Reconciliation Commission unless victims and their families and civil society groups are genuinely consulted and their concerns addressed, including demonstrating a genuine commitment to prosecutions, witness safety, and preventing re-traumatization.
- Send an unequivocal message that amnesty is not permissible with respect to international crimes and cannot be allowed as part of any commission or initiative.
- Call upon the government to implement the recommendations of previous commissions, including acting upon the evidence they gathered, and disclosing the fate of victims of enforced disappearance.
- Make available appropriate technical assistance to investigate and preserve evidence from mass graves.
- Insist on time-bound steps to implement international pledges on human rights, including to the European Union under GSP+.
- Hold the government to its commitment to repeal the Prevention of Terrorism Act, call for an immediate moratorium on the use of the law and for the release of all those arbitrarily held, and urge the government to ensure that any new counterterrorism legislation meets international human rights standards.
- Continue to support Human Rights Council initiatives on Sri Lanka and the Sri Lanka Accountability Project, including by renewing its mandate in 2024.
- Consider bringing cases under the principle of universal jurisdiction for serious international crimes committed in Sri Lanka.

## **Methodology**

This report is based on over 80 interviews that Human Rights Watch conducted in June 2023 with relatives of victims of enforced disappearance, other victims of human rights violations and abuses, human rights defenders, journalists, and civil society activists in the Northern Province and Eastern Province of Sri Lanka. We also examined government documents and met with foreign diplomats, academics, and other expert sources in the capital, Colombo.

We informed all interviewees of the purpose of the interview, its voluntary nature, and that they could end the interview at any time. We provided no remuneration or other inducement, although in some cases we reimbursed modest travel costs. In most cases we have concealed the identity of interviewees due to security concerns within Sri Lanka. We also reviewed court documents, government publications, media reports, and documentation produced by Sri Lankan civil society organizations.

# I. Background

Sri Lanka is an island country in the Indian Ocean, with a population of about 22 million. Although no census has been taken since 2012, about 75 percent of the population is Sinhalese, 11 percent is Tamil, and 9 percent is Muslim.<sup>1</sup> The Sinhalese population is predominantly Buddhist and lives primarily in the south and west of the island. Tamils, who are mostly Hindu but include a significant Roman Catholic population, live largely in the country's north and east, as well as in Colombo, the capital.

Sri Lanka's security forces have spent much of the past several decades combating civil strife and engaging in armed conflict against ethnic-oriented armed groups, notably the Sinhalese left-wing insurgency of the Janatha Vimukthi Peramuna (JVP),<sup>2</sup> and the Tamil separatist Liberation Tigers of Tamil Eelam (LTTE).<sup>3</sup>

The government responded to the JVP-led uprising in the south between 1987 and 1989 by first deploying the police and then the military in joint operations that resulted in the forced disappearance and extrajudicial execution of thousands of people.<sup>4</sup> While most of these abuses were perpetrated by unidentified death squads, pro-government armed groups also participated in atrocities. The JVP used violence to enforce general strikes (*hartals*), assassinations of civilian officials, and targeting family members of police and army personnel. The military defeated the JVP as an armed insurrection in 1990, reporting

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<sup>1</sup> A further 4 per cent of the population are "upcountry," plantation or Malaiyaga Tamils, whose ancestors were brought to Sri Lanka from India by the British to work as plantation laborers around 200 years ago. They are usually treated as a separate community from other Sri Lankan Tamils, including in the national census.

<sup>2</sup> Initially Marxist in orientation, the JVP emerged increasingly as a Sinhalese ultra-nationalist armed group. The 1987 uprising was largely fueled by the Indo-Sri Lankan Accord, when the prospect of Tamil autonomy and the presence of Indian troops stirred up a wave of Sinhalese nationalism. During the uprising, the JVP committed numerous abuses. In recent years, a revamped JVP has been involved in electoral politics.

<sup>3</sup> The LTTE, led by Velupillai Prabhakaran, fought for a separate state, "Tamil Eelam," for the Tamil minority in the country's north and east. The LTTE considered itself to be the sole voice of the Sri Lankan Tamils, a position rejected by other Tamil parties, many of whose members were killed by the LTTE. Prabhakaran was killed in May 2009 when the LTTE was defeated; virtually all of the LTTE's leadership was killed or was forcibly disappeared.

<sup>4</sup> Sri Lanka: Extra-judicial Executions, 'Disappearances' and Torture, 1987-1990, Amnesty International, September 1990, page 11. <https://www.amnesty.org/download/Documents/200000/asa370211990eng.pdf> (accessed December 29, 2020).

that JVP leader Rohana Wijeweera and other JVP leaders had been captured and summarily executed.<sup>5</sup>

Between 1983 and 2009, the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE) were engaged in a brutal civil war. The conflict stemmed in significant part from marginalization and discrimination faced by the Tamil population. The civil war was marked by widespread violations and abuses of international human rights and humanitarian law by both sides. The LTTE committed a range of atrocities including suicide attacks and targeted killings of civilians; torture; recruiting and using child soldiers; forced evictions; and the use of human shields. Abuses by government forces include arbitrary arrests and detention; extrajudicial killings; rape and other sexual violence; enforced disappearances; torture; and indiscriminate attacks on civilians. Thousands remain disappeared. The United Nations estimates that the war cost over 100,000 lives.<sup>6</sup>

Sri Lankan government security forces—the military, police, and intelligence services—have a long history of committing serious abuses with impunity. Soldiers and police have rarely been held to account for arbitrary arrests, torture, enforced disappearances, and custodial killings.

During the LTTE conflict, the government had a history of initiating investigations and then letting them slowly fade and disappear. A constant excuse given by the government was the unwillingness of witnesses to come forward, a circumstance that was directly related to the free rein allowed to abusive security force members, as well as the inability of the justice system to provide adequate witness protection. Instead of assisting witnesses to come forward, state investigators often tried to discourage them from testifying or sought to discredit them.<sup>7</sup>

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<sup>5</sup> D.B.S Jeyaraj, “The capture and execution of JVP Leader Rohana Wijeweera,” *Daily FT*, November 25, 2020, <https://www.ft.lk/columns/The-capture-and-execution-of-JVP-Leader-Rohana-Wijeweera/4-709344> (accessed September 6, 2023).

<sup>6</sup> “Up to 100,000 killed in Sri Lanka's civil war: UN,” AFP, May 20, 2009, <https://www.abc.net.au/news/2009-05-20/up-to-100000-killed-in-sri-lankas-civil-war-un/1689524>; Louis Charbonneau, “Interview: World may never know Sri Lanka death toll – UN,” Reuters, May 30, 2009, <https://www.reuters.com/article/idUSN29443707> (accessed October 6, 2020).

<sup>7</sup> Human Rights Watch, “Improving Civilian Protection in Sri Lanka: Recommendations for the Government and the LTTE,” September 2006, <https://www.hrw.org/legacy/backgrounder/asia/srilanka0906/index.htm>.



Successive Sri Lankan administrations ignored the findings of various government-appointed commissions of inquiry. The Colombo-based Law and Society Trust noted in 2010:

The purpose of most commissions – the creation of a fact-finding or truth seeking body that will promote justice for a past injustice or past injustices – has rarely, if ever, been fulfilled. The commissions, in some cases, have facilitated the granting of compensation. They have rarely led to prosecutions and have failed to counter impunity. They have failed to deter further grave violations of human rights.<sup>8</sup>

Post-conflict administrations have done no better at prosecuting security force personnel for human rights violations. Gotabaya Rajapaksa, who was president from 2019 until he was forced out of office in 2022, repeatedly expressed his determination to protect “war heroes” from prosecution. Rajapaksa himself faced allegations related to his former role as defense secretary during the final phase of the war against the LTTE from 2005-2009, and other abuses.

A number of police investigations into conflict-related violations revealing evidence of official responsibility for killings and enforced disappearances were derailed after Rajapaksa became president.<sup>9</sup> The present president, Ranil Wickremasinghe, holds office with the support of Rajapaksa and his party, and has not initiated any effort towards accountability for war crimes.

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<sup>8</sup> Law & Society Trust, “A Legacy to Remember; Sri Lanka’s Commissions of Inquiry, 1963 – 2002,” September 2010, Colombo, <http://www.lawandsocietytrust.org/PDF/a%20legacy%20to%20remember%3B%20sri%20lanka's%20commissions%20of%20inquiry.pdf> (accessed April 5, 2015).

<sup>9</sup> Human Rights Watch, *Open Wounds and Mounting Dangers: Blocking Accountability for Grave Abuses in Sri Lanka*, February 1, 2021, <https://www.hrw.org/report/2021/02/01/open-wounds-and-mounting-dangers/blocking-accountability-grave-abuses-sri-lanka>.

## II. Repression in the North and East

Since the end of the civil war in 2009 and the defeat of the separatist Liberation Tigers of Tamil Eelam, Sri Lankan security forces have been heavily deployed in the country's predominantly Tamil north and east, the main areas of fighting during the conflict. Military personnel, who are virtually all Sinhalese, not only make up a significant proportion of the population in some districts, but are heavily involved in the region's businesses.<sup>10</sup> Monuments glorifying the Sri Lankan military are a frequent sight, while several graveyards and memorials to Tamil victims of the conflict have been demolished by the military or other authorities.<sup>11</sup>

Relatives of the forcibly disappeared, human rights defenders, social activists, and journalists told Human Rights Watch that they face intimidation by a range of military, police and intelligence agencies such as the Criminal Investigation Department (CID) and Terrorism Investigation Division (TID) of the police, the Military Intelligence Corps (MIC) of the Sri Lankan army, and the paramilitary police Special Task Force (STF). "If we are going to organize any protest or press meet, suddenly we will receive calls from CID, TID, MIC, and STF intelligence," said an activist in Jaffna.<sup>12</sup> In the Eastern Province, people also face intimidation from former members of paramilitary groups.<sup>13</sup> The wife of a disappeared person in Batticaloa district said:

We have lost our freedom to even search for our loved ones. If we raise our voice, they come to arrest us. We are afraid of the government... We don't even have a chance to commemorate our loved ones. If we do anything they [security agencies] send people to our house.<sup>14</sup>

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<sup>10</sup> Viruben Nandakumar, "In Sri Lanka, the Military Still Runs the Show," *Foreign Policy*, August 4, 2022, <https://foreignpolicy.com/2022/08/04/sri-lanka-military-power-protests-history/> (accessed August 13, 2023); Human Rights Watch, "Why Can't We Go Home?" October 9, 2018, <https://www.hrw.org/report/2018/10/09/why-cant-we-go-home/military-occupation-land-sri-lanka>.

<sup>11</sup> Thyagi Ruwanpathirana, "Memorialisation for Transitional Justice in Sri Lanka," Centre for Policy Alternatives, March 2016, <chrome-extension://efaidnbmnnnibpcjpcglclefindmkaj/https://www.cpalanka.org/wp-content/uploads/2016/03/Memorialisation-for-Transitional-Justice-in-Sri-Lanka-FINAL.pdf> (accessed August 13, 2023).

<sup>12</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>13</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 14, 2023.

<sup>14</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

## Intimidation of Families of the Disappeared

In 2016, the UN Working Group on Enforced or Involuntary Disappearances noted that “[e]nforced disappearances have been used in a massive and systematic way in Sri Lanka for many decades.”<sup>15</sup>

During the 1980s, many people accused of supporting the JVP were subjected to enforced disappearance. And during and immediately after the 1983-2009 civil war with the LTTE, thousands of Tamils in the north and east went missing. Journalists, human rights defenders, and other perceived critics of the government were also forcibly disappeared.

In the south, organizations such as Families of the Disappeared have campaigned for decades for truth and accountability. In the north and east, relatives – most of them wives and mothers of disappeared men – have conducted continuous protests for over 2,300 days.<sup>16</sup> Said a prominent participant in protests in the north, “I’ve received many court orders [to stop me attending protests], arrest warrants and threats. Wherever a protest will happen the police make a call and threaten us to stay at home.”<sup>17</sup>

The authorities have especially cracked down on demonstrations organized during visits by national politicians. In March 2022 the police forced a group of women into a bus and detained them when they tried to protest a visit to Jaffna by then-Prime Minister Mahinda Rajapaksa, who was president at the end of the armed conflict.<sup>18</sup> The police roughed up the

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<sup>15</sup> “Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Sri Lanka,” July 8, 2016, A/HRC/33/51/Add.2, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/146/63/PDF/G1614663.pdf?OpenElement> (accessed August 2, 2023). The Working Group has transmitted communications concerning over 12,000 cases of enforced disappearance to the government of Sri Lanka, the second largest number of any country in the world, but it acknowledges that this is the “tip of the iceberg.” Estimates by Amnesty International and others of the total number range from 60,000 to 100,000 cases. The Working Group found in 2015 that “[t]he extensive use of enforced disappearance and the almost complete lack of judicial accountability and of decisive and sustained efforts to secure the truth about the disappeared, in addition to the absence of a comprehensive reparation programme and social, psychological and economic support for the victims have left profound wounds on society and a deep sense of mistrust among relatives. This mistrust has been exacerbated by the continued and extensive presence of the military in the north and east of the country.” These problems remain unaddressed.

<sup>16</sup> Meera Srinivasan, “In Sri Lanka, Tamil mothers of disappeared mark 2,000 days of struggle,” *The Hindu*, August 12, 2022, <https://www.thehindu.com/news/international/in-sri-lanka-tamil-mothers-of-disappeared-mark-2000-days-of-struggle/article65762066.ece> (accessed August 2, 2023).

<sup>17</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern Province, June 15, 2023.

<sup>18</sup> “Jaffna: Families of disappeared Tamils were blocked by police on their way to protest visiting PM Rajapaksa,” *Sri Lanka Brief*, March 20, 2022, <https://srilankabrief.org/families-of-disappeared-tamils-were-blocked-by-police-on-their-way-to-protest-visiting-pm-rajapaksa-in-jaffna-photos/> (accessed August 2, 2023).

women, one of whom said that she still experiences pain in her arm as a result.<sup>19</sup> The wife of a disappeared person said a plainclothes security official subsequently threatened her with violence: “We have power to shoot. We can do anything,” he allegedly said.<sup>20</sup>

In January 2023 President Wickremesinghe visited Jaffna during the Tamil festival of Pongal, a Hindu harvest festival. Families of the disappeared publicly protested the visit. The police forcibly dispersed the peaceful protesters, and brought criminal charges against several of them. The wife of a victim of enforced disappearance said that following the event, unidentified men came to her house and poured a large amount of used engine oil on her property. “After the oil incident I never go outside alone,” she said. “CID often visit to ask questions and monitor me. Maybe they will attack me or try to disappear me.”<sup>21</sup>

Intimidation by the security forces includes sexual harassment. The wife of a disappeared person said:

They come to our house at midnight and take a video of us in our night dress. As a woman in our culture, I can't take that. It is very shameful. A military person has come to my home and asked, “If you want to engage with that ICC [International Criminal Court] mechanism, will you sleep with that foreigner? I'm also ready to give you a child but you only want to sleep with a white man.” This has a major psychological effect. Already we have to care for our children. And we face all these incidents. We have to handle all these incidents alone. They don't know about our struggles or the pain.<sup>22</sup>

Several interviewees reported that intelligence officers threatened their families. “They are closely monitoring my house,” said one person. “The CID paid my neighbors to give information about me.”<sup>23</sup> According to another, “They warn, ‘You have to take care of your son, something could happen to your son.’”<sup>24</sup>

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<sup>19</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern Province, June 15, 2023.

<sup>20</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern province, June 17, 2023.

<sup>21</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern province, June 17, 2023.

<sup>22</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>23</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern Province, June 16, 2023.

<sup>24</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

Families expressed concerns that the monitoring of those campaigning for justice stood in contrast to the failure to investigate the enforced disappearances, even in cases where evidence exists. “We know about the perpetrators and the evidence. We are the eyewitnesses. The police have to investigate,” said one. “But the police, STF, and army come to investigate us instead.”<sup>25</sup>

Some relatives of the disappeared attempt to support themselves through small businesses. However, they report that these efforts are undermined by phone calls and home visits by security agencies, which also frighten neighbors and relatives. “We become separated from our own community. Already we have lost our breadwinners. How can we get some income?” said one woman.<sup>26</sup> “We have so many loans, and we have credit from so many people,” said another. “We have to earn money.”<sup>27</sup>

Families also face difficulties administering their property because their relative is missing. “I can’t divide our property between my children because we don’t have [my husband’s] death certificate,” one woman said.<sup>28</sup>

## Targeting Memorialization Events

The prohibition or targeting of Tamil memorialization events has been common since the end of the war. For instance, in January 2021 authorities demolished a memorial inside Jaffna University.<sup>29</sup> It was later rebuilt following an outcry.

Police arrested 10 people under the Prevention of Terrorism Act on May 18, 2021, at Kalkudah beach near Batticaloa for organizing a memorial event.<sup>30</sup> They were released on bail seven months later.<sup>31</sup> In 2023, police disrupted events in Colombo to mark the 40<sup>th</sup>

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<sup>25</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>26</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>27</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>28</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>29</sup> “Sri Lanka: Tamil war monument to be rebuilt after hunger strike,” BBC News, January 11, 2021, <https://www.bbc.co.uk/news/world-asia-55620079> (accessed August 11, 2023).

<sup>30</sup> “10 arrested for commemorating LTTE leader in Kalkudah,” *Daily Mirror*, May 18, 2021, [https://www.dailymirror.lk/breaking\\_news/10-arrested-for-commemorating-LTTE-leader-in-Kalkudah/108-212234](https://www.dailymirror.lk/breaking_news/10-arrested-for-commemorating-LTTE-leader-in-Kalkudah/108-212234) (accessed August 10, 2023).

<sup>31</sup> Aazam Ameen, “10 held under PTA for remembering victims of war released after 7 months,” *The Morning*, December 8, 2021, <https://www.themorning.lk/10-held-under-pta-for-remembering-victims-of-war-released-after-7-months/> (accessed August 10, 2023).

anniversary of the “Black July” anti-Tamil pogrom, which had contributed to the outbreak of the civil war.<sup>32</sup>

In northeastern Trincomalee district, Tamils hold an annual commemoration for the 26 civilians that were massacred on February 11, 1996, by Sri Lankan soldiers in the village of Kumarapuram. Residents said that more than 25 years since the massacre, the government keeps the village under surveillance. “Every year when we are going to arrange a commemoration, the CID call and threaten us,” a villager said. “Sometimes we forget the date, but the CID never forgets, and three days before they come here with their inquiries.”<sup>33</sup>

## Intimidation of Civil Society

Human rights defenders and activists face surveillance and harassment by state security agencies. Several activists are currently facing prosecution for participating in protests. “I could be arrested at any time,” said one. “I am not taking part in any protest since the arrest warrant was issued.”<sup>34</sup> Another, who has faced multiple cases for a number of years, said he worries about attacks by the security forces. “There are many lawyers who will appear for me. But sometimes they [the security forces] can do anything, at night or on the road, even in your home. It can be threatening.”<sup>35</sup>

An activist in Jaffna said:

The security agencies are restricting the right of peaceful assembly with threats and intimidation. They take photographs during demonstrations. In my village the security people approached the village young people to monitor me. Some of them are my relatives and they told me. This kind of spying isolates us from other people.<sup>36</sup>

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<sup>32</sup> Meera Srinivasan, “40 years since ‘Black July’, little space in Sri Lanka to remember the dead,” *The Hindu*, July 28, 2023, <https://www.thehindu.com/news/international/40-years-since-black-july-little-space-in-sri-lanka-to-remember-the-dead/article67131779.ece> (accessed August 11, 2023).

<sup>33</sup> Human Rights Watch interview with massacre survivor, details withheld, Batticaloa district, June 13, 2023.

<sup>34</sup> Human Rights Watch interview with civil society activist, details withheld, Eastern Province, June 14, 2023.

<sup>35</sup> Human Rights Watch interview with civil society activist, details withheld, Mullaitivu district, June 14, 2023.

<sup>36</sup> Human Rights Watch interview with civil society activist, details withheld, Jaffna district, June 15, 2023.

Selvakumar Nilanthan, a Batticaloa based journalist who has reported extensively on human rights and corruption, was forced to flee Sri Lanka for several months in 2022 after the police made allegations of terrorism against him.<sup>37</sup> He said:

The TID called and threatened me. They said, “You can’t raise your voice for the rights of the people.” They said it quite openly like this. They are preventing me from talking about the corruption of government officials, human rights violations against Tamil people, or land issues. When I keep reporting on the injustice towards Tamil people, they insinuate that I am working to revive the LTTE.<sup>38</sup>

Nilanthan said that during the conflict, 33 Tamil journalists were killed. “Now they are not shooting journalists,” he said. “Now they do threats, online harassment like posting photographs of the person and his family members, or spreading false news about them.”<sup>39</sup>

Said a social activist in Ampara district:

We can't work with enforced disappearance families and can't raise our voice for them. The negative impact on freedom of expression is such that we can't open our mouth for anything. Students are protesting [about the economic crisis] but we can't talk about these issues or support them.<sup>40</sup>

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<sup>37</sup> “RSF urges Sri Lankan government to stop hounding Tamil journalists,” Reporters Without Borders, September 9, 2022, <https://rsf.org/en/rsf-urges-sri-lankan-government-stop-hounding-tamil-journalists> (accessed August 4, 2023); “Sri Lankan anti-terror authorities interrogate journalist Selvakumar Nilanthan,” Committee to Protect Journalists, July 14, 2021, <https://cpj.org/2021/07/sri-lankan-anti-terror-authorities-interrogate-journalist-selvakumar-nilanthan/> (accessed August 4, 2023); “RSF urges Sri Lankan government to stop hounding Tamil journalists,” Reporters Without Borders, September 9, 2022, <https://rsf.org/en/rsf-urges-sri-lankan-government-stop-hounding-tamil-journalists> (accessed August 4, 2023); “Sri Lankan anti-terror authorities interrogate journalist Selvakumar Nilanthan,” Committee to Protect Journalists, July 14, 2021, <https://cpj.org/2021/07/sri-lankan-anti-terror-authorities-interrogate-journalist-selvakumar-nilanthan/> (accessed August 4, 2023).

<sup>38</sup> Human Rights Watch Interview with Selvakumar Nilanthan, Batticaloa district, June 14, 2023.

<sup>39</sup> “Sri Lanka: Police visits exiled journalist’s family,” Sri Lanka Brief, December 2, 2022, <https://srilankabrief.org/sri-lanka-police-visits-exiled-journalists-family/> (accessed August 4, 2023).

<sup>40</sup> Human Rights Watch interview with civil society activist, details withheld, Ampara district, June 12, 2023.

A human rights defender and social activist who was involved in the February 2021 march for Tamil rights from Pottuvil to Polikandy (known as P2P), said the organizers continue to face legal harassment. She no longer attends protests and said that she experiences fear and anxiety due to continuing phone calls and house visits from the police. “There's too much problem with the TID and CID, every month,” she said.<sup>41</sup>

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<sup>41</sup> Human Rights Watch interview with civil society activist, details withheld, June 10, 2023.



### III. Misuse of Counterterrorism Laws Against Activists and Minority Communities

The Prevention of Terrorism Act (PTA) has been used by the Sri Lankan authorities since 1979 to target members of minority communities as well as activists and journalists perceived to be critics of the government, enabling prolonged arbitrary detention and torture.<sup>42</sup>

Following years of domestic and international calls to repeal the PTA, the government presented a replacement Anti-Terrorism Bill (frequently referred to by interviewees as the Anti-Terrorism Act or ATA) in March 2023.<sup>43</sup> In particular, the government faces pressure from the European Union to repeal the PTA to fulfill a commitment first made in 2017 to maintain tariff-free trading access to the EU under a program called GSP+.<sup>44</sup>

However, the Anti-Terrorism Bill includes provisions similar to the PTA, granting sweeping powers to the police, military, and president to detain people and prohibit gatherings, and contains several new offenses that curtail the right to freedom of speech.<sup>45</sup> Civil society activists say that if enacted, the bill would make it all but impossible for them to work. “There will be no activists. I will give up human rights. It would be impossible,” said one activist.<sup>46</sup> “If the ATA passes, NGOs [nongovernmental organizations] will face many problems,” said another. “We won't be able to hold meetings or have contact with the public.”<sup>47</sup>

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<sup>42</sup> “*In a Legal Black Hole*”: Sri Lanka’s Failure to Reform the Prevention of Terrorism Act, Human Rights Watch, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed August 4, 2023).

<sup>43</sup> “Anti-Terrorism Bill,” *The Gazette of the Democratic Socialist Republic of Sri Lanka*, March 17, 2023, [http://documents.gov.lk/files/bill/2023/3/304-2023\\_E.pdf](http://documents.gov.lk/files/bill/2023/3/304-2023_E.pdf) (accessed August 9, 2023).

<sup>44</sup> “EU-Sri Lanka: Sixth Meeting of the Working Group on Governance, Rule of Law and Human Rights,” European External Action Service, November 2, 2022, [https://www.eeas.europa.eu/eeas/eu-sri-lanka-sixth-meeting-working-group-governance-rule-law-and-human-rights\\_en#:~:text=The%20Sixth%20Working%20Group%20on,Colombo%20on%2028%20October%202022](https://www.eeas.europa.eu/eeas/eu-sri-lanka-sixth-meeting-working-group-governance-rule-law-and-human-rights_en#:~:text=The%20Sixth%20Working%20Group%20on,Colombo%20on%2028%20October%202022) (accessed August 9, 2023).

<sup>45</sup> “Sri Lanka: Reject New Counterterrorism Bill,” Human Rights Watch, April 7, 2023, <https://www.hrw.org/news/2023/04/07/sri-lanka-reject-new-counterterrorism-bill> (accessed August 4, 2023).

<sup>46</sup> Human Rights Watch interview with civil society activist, details withheld, Trincomalee district, June 13, 2023.

<sup>47</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 10, 2023.

Following a public outcry, including objections from the EU that the law would breach Sri Lanka's obligations under GSP+,<sup>48</sup> the bill was delayed while the government undertakes a process of "consultations." On September 5, 2023, the cabinet gave approval for a revised Anti-Terrorism Bill to be presented to parliament which reportedly includes some improvements, including a reduced period of administrative detention.<sup>49</sup>

## Ongoing PTA Cases

In recent years, numerous long-term PTA prisoners have been released, particularly in response to pressure from the European Union. Responding to a Right to Information request by a Sri Lankan human rights defender, the Department of Prisons on July 12, 2023, said that 64 people were still detained under the law.<sup>50</sup> On August 11 the government told the UN Office of the High Commissioner for Human Rights that 21 detainees are on remand under the PTA, and 25 convicted serving prison terms.<sup>51</sup> It is not clear how these figures can be reconciled, but some further details can be discerned through activists and lawyers.

According to data collected by Voice for the Voiceless, a Jaffna-based organization campaigning for the release of political prisoners, 20 long-term Tamil prisoners remain in PTA custody, including 13 who were convicted at trial. Research by the United Nations and the Human Rights Commission of Sri Lanka, among others, has repeatedly shown that convictions under the PTA frequently rely on confessions extracted under torture.<sup>52</sup> The remaining seven PTA prisoners among these 20, according to Voice for the Voiceless, are being held in detention without trial since 2008.

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<sup>48</sup> Chandani Kirinde, "New anti-terror laws non-compliant with global standards could jeopardise GSP+ facility: EU official," *Daily FT*, May 12, 2023, <https://www.ft.lk/opinion/New-anti-terror-laws-non-compliant-with-global-standards-could-jeopardise-GSP-facility-EU-official/14-748202> (accessed August 8, 2023).

<sup>49</sup> "Cabinet approval to Gazette revised draft bill on Anti-Terrorist Act," *Newswire*, September 5, 2023, <https://www.newswire.lk/2023/09/05/cabinet-approval-to-gazette-revised-draft-bill-on-anti-terrorist-act/> (accessed September 5, 2023).

<sup>50</sup> RTIC Appeal No: 87/2023, July 12, 2023.

<sup>51</sup> "Situation of human rights in Sri Lanka, Report of the United Nations High Commissioner for Human Rights," A/HRC/54/20, September 6, 2023, [https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session54/advance-versions/A\\_HRC\\_54\\_20\\_AdvanceUneditedVersion.docx](https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session54/advance-versions/A_HRC_54_20_AdvanceUneditedVersion.docx) (accessed September 6, 2023).

<sup>52</sup> Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka, A/HRC/34/54/Add.2, December 22, 2016, <https://sangam.org/wp-content/uploads/2017/01/SR-Torture-reportDec-22-2016.pdf> (accessed November 6, 2021); "Prison Study by the Human Rights Commission of Sri Lanka," HRCSL, 2020, <https://www.hrsl.lk/wp-content/uploads/2020/01/Prison-Study-by-HRCSL-Concise-Version.pdf> (accessed September 11, 2023).

The PTA was also used to arrest scores of Muslims in the aftermath of the 2019 attacks known as the Easter Sunday Bombings, which killed about 250 people.<sup>53</sup> For around three years after the bombings, over 100 Muslims from Katankuddy in Batticaloa district, where the bombers originated, were held under the PTA. Many were arrested only for having had some contact – such as commercial dealings – with the bombers in the years before the attack. While 25 men accused of involvement in the attacks are now standing trial,<sup>54</sup> many of those held under the PTA for alleged connections to the Easter Sunday bombings were released without charge in 2022, while others were released on bail.<sup>55</sup>

Serving up to three years of arbitrary detention for alleged terrorism had a devastating impact on these individuals and their families. “The economic conditions of the people who have lost their breadwinners due to the PTA are deplorable,” a person familiar with the Katankuddy cases said. “Many children have lost their education.”<sup>56</sup> Because many of those arbitrarily detained are now on bail, even after their release they cannot travel for work or business and their families face continuing stigma.

A former PTA detainee held in connection with the Easter Sunday bombings, who was released in 2022, said that he was tortured in custody. Since his release he has struggled to rebuild his life. “After my arrest the police called my customers for inquiries, so I lost my customers,”<sup>57</sup> he said. He cannot open a bank account and his old bank account is frozen, so “our business can’t survive.” Police visit his house every month to check on his activities.

An unknown number of people have been arrested in recent years for ostensible offenses as a form of harassment, for example in connection with social media posts. In November 2020, the authorities arrested 19 people in Batticaloa district under the PTA for sharing a

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<sup>53</sup> “Sri Lanka: Muslims Face Threats, Attacks,” Human Rights Watch, July 3, 2019, <https://www.hrw.org/news/2019/07/03/sri-lanka-muslims-face-threats-attacks> (accessed August 30, 2023); “Sri Lanka: Prosecute Easter Sunday Attackers,” Human Rights Watch, April 22, 2019, <https://www.hrw.org/news/2019/04/22/sri-lanka-prosecute-easter-sunday-attackers#:~:text=The%20attacks%20in%20Sri%20Lanka,and%20hotels%20in%20three%20cities> (accessed August 30, 2023).

<sup>54</sup> “Sri Lanka: 2019 Easter bombings trial adjourned,” *Al Jazeera*, January 12, 2022, <https://www.aljazeera.com/news/2022/1/12/sri-lanka-resumes-trials-over-2019-easter-sunday-bombings> (accessed August 4, 2023).

<sup>55</sup> Human Rights Watch interviews, details withheld, June 12, 2023.

<sup>56</sup> Human Rights Watch interview, details withheld, June 12, 2023.

<sup>57</sup> Human Rights Watch interview with former PTA prisoner, details withheld, Batticaloa district, June 14, 2023.

photograph on Facebook of the LTTE leader Velupillai Prabhakaran, who was killed in 2009.<sup>58</sup> Some of these men were not released until February 2022 and they remain on bail.

The PTA was also used to detain anti-government protesters in Colombo in 2022. On August 18, 2022, police arrested three students involved in protests related to the economic crisis.<sup>59</sup> Wasantha Mudalige, who was the last to be released, was held for over five months.

## Concerns over Proposed New Counterterrorism Bill

The Anti-Terrorism Bill published on March 17, 2023, gives the government broad powers to criminalize protests.<sup>60</sup> Terrorist offenses include participation in “unlawful” assemblies if the aim is to “intimidate” the public or “wrongfully” compel the government to act in a certain way. The president is authorized to declare any location a “prohibited place” with up to three years in prison for violations.

The proposed law would also expand government powers to criminalize speech that is “likely to be understood” as encouragement or inducement to commit or prepare for terrorism, with the burden of proof on the defendant to show that was not their intention. The misuse of the PTA to detain people who commemorated Tamil victims of the civil war on social media on the grounds that they were “glorifying” terrorism could continue under these proposals.<sup>61</sup>

While under the PTA the authorities can detain a suspect for up to a year on orders signed by the defense minister, the bill delegates the authority to issue detention orders to deputy inspector generals (DIGs) of police, increasing the risk of abuse.

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<sup>58</sup> “Sri Lankan police arrest 19 and mark further 55 for posting Prabhakaran birthday messages,” *Tamil Guardian*, November 27, 2020, <https://www.tamilguardian.com/content/sri-lankan-police-arrest-19-and-mark-further-55-posting-prabhakaran-birthday-messages> (accessed August 4, 2023); “Over 50 Tamil youth have been arrested under PTA for FB posts in Eastern Sri Lanka,” *Sri Lanka Brief*, December 7, 2020, <https://srilankabrief.org/over-50-tamil-youth-have-been-arrested-under-pta-for-fb-posts-in-eastern-sri-lanka/> (accessed August 4, 2023).

<sup>59</sup> “Sri Lanka: End Use of Terrorism Law Against Protesters,” Human Rights Watch, August 31, 2022, <https://www.hrw.org/news/2022/08/31/sri-lanka-end-use-terrorism-law-against-protesters> (accessed August 4, 2023).

<sup>60</sup> “Sri Lanka: Reject New Counterterrorism Bill,” Human Rights Watch, April 7, 2023, <https://www.hrw.org/news/2023/04/07/sri-lanka-reject-new-counterterrorism-bill> (accessed September 5, 2023).

<sup>61</sup> “*In a Legal Black Hole*”: Sri Lanka’s Failure to Reform the Prevention of Terrorism Act, Human Rights Watch, February 7, 2022, <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> (accessed August 4, 2023).

The bill grants police and military sweeping powers to stop, question, search, and arrest anyone, or seize any document or object, without a warrant. The military, which is not trained in law enforcement, would have 24 hours to transfer a detainee to police custody, placing detainees at greater risk of abuse.

The bill also provides the president power to issue regulations for “rehabilitation” programs if the attorney general has decided to defer or suspend prosecution. In 2021, the Supreme Court stayed similar regulations.<sup>62</sup> The authorities have long committed human rights violations against people accused of terrorism<sup>63</sup> or of drug use,<sup>64</sup> who are incarcerated without trial in government “rehabilitation” programs.<sup>65</sup>

Under the proposed law, the president also would be authorized to ban an organization if authorities have “reasonable grounds” to believe it is acting in a manner “prejudicial to the national security of Sri Lanka, or any other country.” In the past, the government has proscribed Tamil diaspora organizations advocating for human rights and accountability as “terrorist organizations,” and human rights organizations have faced government interference in their banking and finances on the pretext of countering “terrorist financing.”<sup>66</sup>

The expected misuse of the Anti-Terrorism Bill has caused widespread alarm among civil society activists in the north and east. In Katankuddy, where over 100 Muslims were arbitrarily detained under the PTA between 2019-2022, there is a signature campaign against the bill. “The PTA should be repealed, and the ATA dropped. There's no need for it,” said one of the organizers of the petition. “I think this is against minority communities,” said a Tamil activist in the east. “We have to raise awareness of how the

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<sup>62</sup> “Centre for Policy Alternatives v Attorney General (SC (FRA) 91/2021),” Centre for Policy Alternatives, April 3, 2021, <https://www.cpalanka.org/centre-for-policy-alternatives-v-attorney-general-sc-fra-91-2021/> (accessed August 9, 2023).

<sup>63</sup> International Commission of Jurists, *Beyond Lawful Constraints: Sri Lanka's Mass Detention of LTTE Suspects*, September 2010, <https://www.refworld.org/pdfid/4ca0ae592.pdf> (accessed August 9, 2023).

<sup>64</sup> Ambika Satkunanathan, *A Broken System: Drug Control, Detention and Treatment of People who use Drugs in Sri Lanka*, Harm Reduction International, 2021, [https://hri.global/wp-content/uploads/2022/10/HRI\\_Report\\_-\\_Sri\\_Lanka\\_Drug\\_Control.pdf](https://hri.global/wp-content/uploads/2022/10/HRI_Report_-_Sri_Lanka_Drug_Control.pdf) (accessed August 9, 2023).

<sup>65</sup> “Sri Lanka: Draft ‘Rehabilitation’ Law Would Spur Abuse,” Human Rights Watch, October 17, 2022, <https://www.hrw.org/news/2022/10/17/sri-lanka-draft-rehabilitation-law-would-spur-abuse> (accessed August 9, 2023).

<sup>66</sup> “No longer funding terror: Sri Lanka on lifting ban on Tamil diaspora groups,” Press Trust of India, August 16, 2022, <https://www.deccanherald.com/world/no-longer-funding-terror-sri-lanka-on-lifting-ban-on-tamil-diaspora-groups-1136668.html> (accessed August 9, 2023).

ATA will oppress the people in the future and be used against minorities and Sri Lankan citizens.”<sup>67</sup>

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<sup>67</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 10, 2023.

## IV. Proposed Truth Commission

The Sri Lankan government has begun to establish a “National Unity and Reconciliation Commission,” commonly referred to as a “truth and reconciliation commission” or TRC. In an interview on June 26, President Wickremesinghe announced that he intended to pass legislation to establish the commission “by August.”<sup>68</sup> On August 9, President Wickremesinghe told parliament:

The Interim Secretariat for the Truth Seeking Mechanism has been established and a Director General been appointed. In addition three Divisions have been established covering Legal and Policy, Public Relations and Information Technology. Applications have been sought for key staff positions for the operationalization of the Secretariat, particularly for stakeholder consultations, preparations of drafting guidelines and policies, until the formal mechanisms could commence following relevant laws being enacted. Civil Society Stakeholder consultations including the UN agencies are continuing, and when exhausted, Cabinet approval will be sought and processed, to become a legal framework.<sup>69</sup>

As of September, no official draft of the legislation or detailed proposals had been made public. A purported draft is, however, circulating informally among human rights defenders. The Sri Lankan government has engaged with other governments to request their financial support for the proposals and has also sought resources from the United

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<sup>68</sup> “Sri Lankan President Ranil Wickremesinghe: ‘We have no military agreements with China’,” *France 24*, June 26, 2023, <https://www.france24.com/en/tv-shows/the-interview/20230626-sri-lankan-president-ranil-wickremesinghe-we-have-no-military-agreement-with-china> (accessed August 5, 2023); a partial transcript of the interview is published in “Opportune moment to start a new political culture – President,” *Sunday Observer*, July 2, 2023, <https://www.sundayobserver.lk/2023/07/02/opinion/opportune-moment-start-new-political-culture-president> (accessed August 5, 2023). President Wickremesinghe said: “Even today I spoke to President Cyril Ramaphosa [of South Africa] about the Commission and for them to come and help us. This is what we wanted and I will get it passed in Parliament by August. And already we are making plans to set up the TRC Secretariat. We require the South African assistance. There will be a lot of foreign observers, independent observers. So that is within the framework that we have so far specified.”

<sup>69</sup> “Let’s collectively advance the 13th Amendment to the Constitution for the future betterment of the nation,” press release by President’s Media Division, August 9, 2023, <https://pmd.gov.lk/news/lets-collectively-advance-the-13th-amendment-to-the-constitution-for-the-future-betterment-of-the-nation/> (accessed August 29, 2023).

Nations.<sup>70</sup> A small number of meetings with civil society organizations in Colombo were held in July.

The initiative is widely seen as an attempt to prevent the renewal of UN Human Rights Council Resolution 51/1, which mandates a UN office to collect evidence of crimes under international law committed in Sri Lanka for possible use in future prosecutions. On July 12 the President’s Media Division tweeted that “if this effort is successful, there will be no need for the country to go to the @UN\_HRC in #Geneva for another year.”<sup>71</sup>

The relatives of the disappeared and members of civil society organizations interviewed by Human Rights Watch in the north and east expressed their opposition to the president’s proposal to establish a new truth commission. “After the war we gave submissions to many commissions, but we are not getting any response, so we have no trust in such commissions,”<sup>72</sup> said the wife of a disappeared person in the Northern Province, who has campaigned for years to know the fate of her husband. A prominent civil society leader in Jaffna observed of the president’s rhetoric of “reconciliation” that “what is said seems to be very different from what is actually happening,” noting that the Tamil community continues to face government repression, discrimination, and land seizures.<sup>73</sup>

## Civil Society and Victims’ Groups Concerns about Proposed Commission

There have been several civil society statements in response to the proposed commission.<sup>74</sup> All of them have pointed to the failure of previous commissions to address rights violations including alleged war crimes. In a July 14 statement, 15 Sri Lankan organizations from the north and east wrote:

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<sup>70</sup> Human Rights Watch interviews, June and July 2023, details withheld.

<sup>71</sup> Tweet by President’s Media Division of Sri Lanka @PDMNewsGov, July 12, 2023, <https://twitter.com/PMDNewsGov/status/1679103734532706310?s=20> (accessed August 11, 2023).

<sup>72</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Northern Province, June 17, 2023.

<sup>73</sup> Human Rights Watch interview with civil society figure, details withheld, Jaffna, June 16, 2023.

<sup>74</sup> “Sri Lanka’s Proposed National Unity and Reconciliation Commission Amidst the State Sponsored Oppression in Northern and Eastern Provinces,” North East Coordinating Committee, July 20, 2023; “On the Inadequacy of a ‘Truth and Reconciliation Mechanism to Achieve Post-War Transitional Justice,’” signed by seven organizations, July 19, 2023, <https://srilankabrief.org/joint-statement-on-the-inadequacy-of-a-truth-and-reconciliation-mechanism-to-achieve-post-war-transitional-justice/> (accessed August 9, 2023); “Statement on the proposal to establish a Truth and Reconciliation Commission by the Sri Lankan government with the support of the International Community,” Batticaloa Peace Committee, Batticaloa Justice Walkers and Family Members of the Disappeared, July 18, 2023; “Statement by Civil Society on Proposed Truth-Telling Mechanism,” signed by fifteen organizations, July 14, 2023, <https://srilankabrief.org/sri-lanka-victim-community-rejects-proposed-national-unity-and-reconciliation-commission/> (accessed August 9, 2023).



While we do believe that truth seeking is an important part of addressing past violations and suffering endured by communities, especially in the areas of the country most affected by the war, we are unable to support this proposed mechanism.<sup>75</sup>

They noted that previous similar commissions had “revealed the intentions of successive governments to scuttle truth-seeking and the victims' quest for accountability,” and the failure to implement past recommendations. The statement also noted that the participation of foreign observers in similar past commissions had not increased their credibility. They criticized the government’s failure to investigate numerous mass graves that have been discovered.

In another statement, seven organizations wrote on July 19 that the proposal “is in no way aligned with the demands of the victim-survivor community, nor does it address the underlying causes that led to the armed conflict. In light of past experience and the lack of trust in any domestic mechanism, we reject the proposed [National Unity and Reconciliation Commission].”<sup>76</sup>

Among their objections were that the “Tamil victim-survivor community has persistently called for a robust and comprehensive international mechanism,” and that there had been no adequate consultations on the new proposal. They criticized the government’s rejection of the process established by successive United Nations Human Rights Council resolutions, and said that the new commission would retraumatize victims.<sup>77</sup>

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<sup>75</sup> “Statement by Civil Society on Proposed Truth-Telling Mechanism,” signed by fifteen organizations, July 14, 2023, <https://srilankabrief.org/sri-lanka-victim-community-rejects-proposed-national-unity-and-reconciliation-commission/> (accessed August 9, 2023).

<sup>76</sup> “On the Inadequacy of a ‘Truth and Reconciliation Mechanism to Achieve Post-War Transitional Justice,” signed by seven organizations, July 19, 2023, <https://srilankabrief.org/joint-statement-on-the-inadequacy-of-a-truth-and-reconciliation-mechanism-to-achieve-post-war-transitional-justice/> (accessed August 9, 2023).

<sup>77</sup> Ibid.

## Previous Commissions Appointed by the Government to Investigate Rights Violations

Since the 1990s at least 10 different commissions have been established by the state to address the 1983-2009 civil war and the JVP insurrection 1988-1990.<sup>78</sup> At least five of them reported after the end of the civil war in 2009. They include:

- The Udalagama Commission (to inquire into 15 incidents of alleged serious violations of human rights, established in 2006, report published in 2015).
- The Lessons Learned Reconciliation Commission (to be akin to a truth and reconciliation commission, established in 2010, report published in 2011).<sup>79</sup>
- The Paranagama Commission (to investigate the fate of missing persons, established in 2013, report published in 2015).
- The Consultation Task Force for Reconciliation Mechanisms (to carry out public consultations on transitional justice mechanisms and reconciliation, established in 2016, final report published in 2017).<sup>80</sup>
- The Nawaz Commission (to examine the findings of previous domestic inquiries, established 2021, its findings were presented to President Wickremesinghe on February 6, 2023, but have not been published).<sup>81</sup>

Families have repeatedly appeared before these commissions, but successive governments have failed to act on the recommendations. “Is the proposed TRC designed to compile existing records within the state as a starting point for its work, [and] if not, why not?” asked Mirak Raheem, former commissioner of the Office on Missing Persons and member of the Consultation Task Force on Reconciliation Mechanisms.<sup>82</sup>

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<sup>78</sup> Mirak Raheem, “Sri Lanka’s Commission Addiction,” *Ground Views*, August 5, 2023, <https://groundviews.org/2023/08/05/sri-lankas-commission-addiction/> (accessed August 9, 2023). On the numerous commissions prior to 2009, see Amnesty International, *Sri Lanka: Twenty years of make-believe. Sri Lanka’s Commissions of Inquiry*, June 11, 2009, <https://www.amnesty.org/en/documents/asa37/005/2009/en/> (accessed August 9, 2023).

<sup>79</sup> *The Report of the Commission of Inquiry on Lessons Learnt and Reconciliation*, 2011, <https://reliefweb.int/report/sri-lanka/report-commission-inquiry-lessons-learnt-and-reconciliation> (accessed August 9, 2023).

<sup>80</sup> *Final Report of the Consultation Task Force on Reconciliation Mechanisms*, November 17, 2016, <https://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf> (accessed August 9, 2023).

<sup>81</sup> “Chairman of the Presidential Commission of Inquiry to investigate the findings of preceding Commissions and Committees,” Presidential Secretariat, February 6, 2023, <https://www.presidentsoffice.gov.lk/index.php/2023/02/06/chairman-of-the-presidential-commission-of-inquiry-to-investigate-the-findings-of-preceding-commissions-and-committees/> (accessed August 9, 2023).

<sup>82</sup> Mirak Raheem, “Sri Lanka’s Commission Addiction,” *Ground Views*, August 5, 2023, <https://groundviews.org/2023/08/05/sri-lankas-commission-addiction/> (accessed August 9, 2023).

In its final report, the task force had found that “People throughout the country expressed considerable frustration, bitterness and anger at yet another initiative, despite the inconclusive nature and abysmal failure of past efforts to provide any relief or redress.”<sup>83</sup>

In 2021, the Sri Lanka government established the Nawaz Commission as an alternative to accountability efforts at the UN Human Rights Council, which it opposed. The government’s latest proposal to establish another commission, without even publishing the outcome of the Nawaz commission, is seen by many in Sri Lankan civil society as another attempt to prevent the renewal of Human Rights Council mandates seeking accountability for gross violations committed in Sri Lanka.

## Engagement of Victims with Previous Government Commissions

All of the relatives of the disappeared interviewed for this report said they had repeatedly engaged with government commissions but seen no meaningful outcome. The wife of a disappeared person in Batticaloa district said, “We have met all the commissions. We have followed all the procedures. But it is all on paper and they're not taking any action.”<sup>84</sup>

The mother of a disappeared man from Kilinochi district described her efforts:

After the end of the war my son surrendered himself to the military. I started searching for my son when I was in the [displaced person] camp. I gave submissions to all the commissions and inquiries established by the government. I met President Maithripala Sirisena three times and he promised to find our loved ones. Before the Office of Missing Persons was established [in 2017], we met many other commissions formed by previous governments. We have no hope in the Sri Lankan government to give us justice. We need international monitoring of the mechanisms for justice.

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<sup>83</sup> *Final Report of the Consultation Task Force on Reconciliation Mechanisms*, November 17, 2016, <https://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf> (accessed August 9, 2023). Kishali Pinto Jayawardena, in *A Legacy to Remember: Sri Lanka’s Commissions of Inquiry 1963-2002, A Reference Guide to Commission Reports with a Tabulated List of Recommendations*, wrote, “Presidential commissions of inquiry have become part of the impunity apparatus, an expedient mechanism, to divert unwanted attention by providing a veneer of accountability.” Cited by Mirak Raheem, “Sri Lanka’s Commission Addiction,” *Ground Views*, August 5, 2023, <https://groundviews.org/2023/08/05/sri-lankas-commission-addiction/> (accessed August 9, 2023).

<sup>84</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

We need an international court. We will never get justice from the Sri Lankan government.<sup>85</sup>

The relatives of the disappeared repeatedly said they see the latest proposal for a truth commission as a delaying tactic to deflect pressure upon the government. “Every time, the government forms commissions to delay the process of justice,” said one. “It is a drama to show the internationals.”<sup>86</sup> “We already gave all the evidence about the perpetrators to the police and to the various state commissions,” said the wife of a disappeared person. “We already know all about the perpetrators but still the government is not willing to take any steps.”<sup>87</sup>

Referring to the disappearance of 158 people from the campus of Eastern University in Vantharumoolai, Eastern Province, she continued, “In 1990 there was a big conflict here, people were displaced to camps. The government came with 12 buses and took 158 people away who were still missing. Eyewitnesses are still alive. They directly saw the incident. The government is still not ready even to acknowledge that.”<sup>88</sup>

In 2016 six soldiers charged for their involvement in the Kumarapuram massacre were acquitted after their trial was transferred from a court in Tamil-majority Trincomalee to Sinhala-majority Anuradhapura.<sup>89</sup> A villager said, “We have given submissions to all the commissions, especially the [2011] Lessons Learnt and Reconciliation Commission<sup>90</sup> and the [2017] Consultation Task Force.<sup>91</sup> We have still not received any positive results from those commissions.”<sup>92</sup>

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<sup>85</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Kilinochchi district, June 17, 2023.

<sup>86</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>87</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>88</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Batticaloa district, June 10, 2023.

<sup>89</sup> Tasha Manoranjan, “Tamils – and Justice – Can’t Wait: The Need for Decisive UN Action on Sri Lanka,” *Just Security*, February 19, 2021, <https://www.justsecurity.org/74837/tamils-and-justice-cant-wait-the-need-for-decisive-un-action-on-sri-lanka/> (accessed August 3, 2023).

<sup>90</sup> “Release of the Lessons Learnt and Reconciliation Commission (LLRC) Report,” Centre for Policy Alternatives, January 4, 2011, <https://www.cpalanka.org/release-of-the-lessons-learnt-and-reconciliation-commission-llrc-report/> (accessed August 3, 2023).

<sup>91</sup> “Guide to the Recommendations from the Consultation Task Force (CTF) on Reconciliation Mechanisms,” Centre for Policy Alternatives, May 2017, <https://www.cpalanka.org/wp-content/uploads/2017/06/Guide-to-CTF-Report-.pdf> (accessed August 3, 2023).

<sup>92</sup> Human Rights Watch interview with massacre survivor, details withheld, Batticaloa district, June 13, 2023.

## Witnesses to Mass Disappearances

Many of the families of the disappeared in Batticaloa district lost a relative on September 5, 1990, when the Sri Lankan army loaded 158 displaced people, who had sought refuge along with thousands of others on the campus of Eastern University, onto buses and drove them away.<sup>93</sup> They were not seen again and their fate has never been revealed, and those responsible never held to account.

Witnesses to the event, including university staff, repeatedly gave evidence to government commissions. In 2015 Dr. Thangamuthu Jayasingam, who was vice chancellor of Eastern University, wrote: “I presented myself to the Presidential Commission on Missing Persons in 2004. I gave them the names of all the army officers who came for the operation that day... I went again to the Presidential Commission in 2014, at the request of relatives of the people who went missing.”<sup>94</sup>

On the last day of the war, in Mullaitivu on May 18, 2009, witnesses saw many people taken into army custody who were never seen again. A group of LTTE cadres, including at least five children, led by a Catholic priest, Father Francis Joseph, surrendered to the army at Vadduvakal. Witnesses described the group being met by a senior officer with “a lot of security around him and a lot of badges on him.”<sup>95</sup> They were driven away in buses and forcibly disappeared.

A witness to some of the final events of the war said: “After the Sri Lankan military occupied the area, they took the wounded LTTE cadres under their control, but until now we don’t know what happened to them. Many ex-cadres were witnesses but they can’t open their mouth and say anything. They were rehabilitated but they are still under CID monitoring.”<sup>96</sup>

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<sup>93</sup> “The Refugee Camp at the Eastern University, Vantharumoolai,” University Teachers for Human Rights, 2001, <https://www.uthr.org/Reports/Report7/chapter4.htm#h> (accessed August 2, 2023).

<sup>94</sup> Thangamuthu Jayasingam, “Eastern University Massacre: Missing, Missing, Missing For 25 Years,” *Colombo Telegraph*, September 4, 2015, <https://www.colombotelegraph.com/index.php/eastern-university-massacre-missing-missing-missing-for-25-years/> (accessed August 2, 2023).

<sup>95</sup> Report of the OHCHR Investigation on Sri Lanka (OISL), A/HRC/30/CRP.2, September 16, 2015, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/OISL.aspx> (accessed August 21, 2020).

<sup>96</sup> Human Rights Watch interview with relative of disappeared person, details withheld, Kilinochchi district, June 17, 2023.

## V. “Land Grabbing” in the North and East

Actions by Sri Lankan government agencies to seize land, including religious sites, from Tamil and Muslim communities in the north and east, and sometimes to settle majority Sinhalese on disputed land, has been a major source of grievance in these areas.

Cases involve a variety of state agencies, including the military, which continues to occupy some land seized during and after the civil war that ended in 2009; the Department of Forest Conservation and the Department of Wildlife Conservation, which declared land occupied or previously occupied by minority communities as forest or nature reserves; the Mahaweli Authority, a government agency to promote rural development; and the Department of Archaeology, which has seized land, including Hindu and Muslim religious sites, asserting that they are Buddhist archaeological sites. Sometimes two or more of these agencies are involved in the same case. While there is no reliable total number of such cases, they occur frequently throughout the north and east.<sup>97</sup>

In 2020 then-President Gotabaya Rajapaksa established the Presidential Task Force for Archaeological Heritage Management in the Eastern Province, including senior military officers and Buddhist monks but no members of minority communities, an initiative minorities and activists say has been used to justify land seizures.<sup>98</sup>

A report by Sivagnanam Shritharan, a member of parliament from Jaffna district, lists 37 cases in which the Department of Archaeology has intervened to occupy Hindu temples and construct Buddhist temples in predominantly Tamil areas.<sup>99</sup> “Whichever is the oldest temple, like more than 100 years, they say it has a Buddhist history,” said a human rights defender in Trincomalee district.<sup>100</sup>

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<sup>97</sup> People’s Alliance for Right to Land (PARL), “*Our Land, Our Life*” *People’s Land Commission Report, 2019-2020*, <https://www.parlsl.com/publications/the-peoples-land-commission-report-is-now-online> (accessed August 9, 2023); *State Sponsored Sinhalization of the North-East*, People’s for Equity and Relief in Sri Lanka (PEARL), <https://pearlaction.org/wp-content/uploads/2022/03/State-Sponsored-Sinhalization-of-the-North-East-March-2022.pdf> (accessed August 9, 2023).

<sup>98</sup> “Presidential Directive,” *The Gazette of the Democratic Socialist Republic of Sri Lanka*, June 2, 2020, [http://documents.gov.lk/files/egz/2020/6/2178-17\\_E.pdf](http://documents.gov.lk/files/egz/2020/6/2178-17_E.pdf) (accessed August 9, 2023).

<sup>99</sup> “Occupying Missions conducted in North and East Provinces by the Department of Archaeology,” Sivagnanam Shritharan, member of parliament, 2023.

<sup>100</sup> Human Rights Watch interview with civil society activist, details withheld, Trincomalee district, June 13, 2023.

A civil society group, the Human Elevation Organization in Ampara, published a report in 2019 listing 39 cases affecting Muslims in that district alone. “There are efforts to create conflict between the communities, such as land seizures, which promote racial thoughts among the people,” said an activist in the district.<sup>101</sup>

In Batticaloa district, a Sri Lankan human rights organization identified 68 cases of “land grabbing” targeting minorities. Civil society activists in the district said about 50 land cases in Batticaloa concern attempts to seize Hindu temples.<sup>102</sup>

According to a local government document relating to Mullaitivu district, obtained by Human Rights Watch, 167,484 acres of land in the district have been designated forest reserves since the end of the war in 2009, including areas that were under cultivation by local people. A further 42,631 acres in the district are proposed for forest reserves. The document states that in some cases, because these reserves are drawn remotely using Google Maps, settlements, private lands and paddy fields being included within forest boundaries.

Activists and affected communities accuse the government of attempting to alter the ethnic and religious demographics of minority-majority areas. “It is the responsibility of the government to protect the rights of everyone, but they practice discrimination,” said an activist in Batticaloa. “Because of this we are facing conflicts and hatred in the community.”<sup>103</sup>

## **Mylanthanaimadu and Periya Maadhavanai, Batticaloa District**

Tamil livestock farmers, who say they have used area lands for grazing for generations, have been in dispute with Sinhalese arable farmers, many of them former soldiers who have been settled in the area with government support since 2010.<sup>104</sup> According to human rights defenders in the district, over 900 Tamil families who keep over 350,000 cows have received death threats and their livestock has been attacked and killed.

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<sup>101</sup> Human Rights Watch interview with civil society activist, details withheld, Ampara district, June 12, 2023.

<sup>102</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 11, 2023.

<sup>103</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 14, 2023.

<sup>104</sup> “Sinhala settlers issue death threats to Tamil farmers and kill cows over land dispute,” *Tamil Guardian*, November 19, 2020, <https://www.tamilguardian.com/content/sinhala-settlers-issue-death-threats-tamil-farmers-and-kill-cows-over-land-dispute> (accessed August 8, 2023).

“The state provided land to the retired army persons. These people are using illegal weapons to kill cows,” said a local human rights defender.<sup>105</sup> According to data collected by the local Livestock Farmers’ Society, between 2012 and 2023, nearly 7000 cows have allegedly been lost, killed, or injured, including by gunshots, poison, and electrocution.<sup>106</sup>

In November 2020 police in Batticaloa interrogated a journalist, Selvakumar Nilanthan, over his reporting on the issues.<sup>107</sup>

On August 22, 2023, local Muslim, Christian and Hindu religious leaders, accompanied by journalists and activists from the district, visited the area. They were surrounded and threatened for around six hours by a group of settlers led by a Buddhist monk, who attempted to confiscate their camera equipment and forced them to sign blank sheets of paper. Police from a station 14 kilometers away took several hours to reach the incident and allegedly failed to protect the delegation.<sup>108</sup>

## Pulmoddai, Trincomalee District

On March 29, 2023, Muslims living at Pulmoddai beach found a Buddhist monk accompanied by soldiers preparing to build a Buddhist religious structure. The villagers complained to the police and local authorities, who visited the site on March 30.<sup>109</sup>

The police asked the monk, who has been identified in media reports as Panamure Thilakawansa Thero, a member of the Presidential Task Force for Archaeological Heritage Management in the Eastern Province, to produce documentation justifying his claim to the

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<sup>105</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 14, 2023.

<sup>106</sup> Human Rights Watch interview with civil society activist, details withheld, Batticaloa district, June 14, 2023.

<sup>107</sup> “Sri Lankan police interrogate Tamil journalist for reporting of Sinhala settlements on Tamil cattle farmers’ land,” *Tamil Guardian*, November 20, 2022, <https://www.tamilguardian.com/content/sri-lankan-police-interrogate-tamil-journalist-reporting-sinhala-settlements-tamil-cattle> (accessed August 8, 2023); Human Rights Watch interview with Selvakumar Nilanthan, Batticaloa, June 14, 2023.

<sup>108</sup> “Sumandran’s question government response!,” *Indian Posts*, August 24, 2023, <https://india.postsen.com/world/971330.html> (accessed August 30, 2023); “There Is No Protection For Tamil Journalists In The Country! S. Nilandan Athangam,” *IBC Tamil* (original article in Tamil), August 24, 2023, <https://ibctamil.com/article/no-protection-for-tamil-journalists-in-the-country-1692838427> (accessed August 30, 2023); Twitter post and video by @JDSLanka, August 26, 2023, <https://twitter.com/JDSLanka/status/1695210046945157284> (accessed August 30, 2023).

<sup>109</sup> Human Rights Watch interview with Pulmoddai resident, details withheld, Trincomalee district, June 13, 2023.



land.<sup>110</sup> On the April 2, the monk returned, accompanied by soldiers and other monks. An argument ensued during which video filmed by local people shows a person identified as the monk's bodyguard threatens villagers with a pistol.

After Tamil and Muslim members of parliament drew attention to the case, attempts to build a Buddhist site at the location have been put on hold.<sup>111</sup> Local people use the beach for fishing and small-scale tourism. "In the future, if the monk grabs this land, all these activities will be prevented," a villager said.<sup>112</sup>

## Kurunthamalai, Mullaitivu District

An area of 78 acres at a hill called Kurunthumalai in Tamil, which is also known as Kurundi Viharaya in Sinhala, was declared an archaeological site related to ancient Buddhist remains in 1933.<sup>113</sup> There is also a Hindu place of worship called Aadi Adayyar, or Athi Aiyandar, there. Kurunthumalai lies in an area where the local people are Tamil Hindus, who had been temporarily displaced in 1984 during the war but continued to cultivate lands nearby, and returned to their homes after the war ended.

In September 2018, a group of Buddhists accompanied by monks attempted to install a Buddha statue at the site, leading to confrontation with local Tamils.<sup>114</sup> After hearing an appeal by Tamil residents, the Mullaitivu magistrate court ordered a stay on any new construction.

However, after Gotabaya Rajapaksa was elected president in 2019, he ordered the preservation of Buddhist archeological sites, enabling the military and the archeology department to take over the area. In February 2021, a government minister joined a Buddhist ceremony at Kurunthumalai together with soldiers and archeology department

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<sup>110</sup> "Details emerge about monk whose armed bodyguard threatened Muslim & Tamil protestors," *The Leader*, April 5, 2023, <https://english.theleader.lk/news/4199-details-emerge-about-monk-whose-armed-bodyguard-threatened-muslim-tamil-protestors> (accessed August 8, 2023).

<sup>111</sup> Sulochana Ramiah Mohan, "Pulmoddai residents claim monk involved in land grab," *Ceylon Today*, April 11, 2023, <https://ceylontoday.lk/2023/04/11/pulmoddai-residents-claim-monk-involved-in-land-grab/> (accessed August 8, 2023).

<sup>112</sup> Human Rights Watch interview with Pulmoddai resident, details withheld, Trincomalee district, June 13, 2023.

<sup>113</sup> "Kurundi Viharaya and Thannimurippuwa land issue," People's Alliance for the Right to Land (PARL), July 12, 2023, <https://www.parlsl.com/publications/kurundi-viharaya-and-thannimurippuwa-land-issue> (accessed August 8, 2023).

<sup>114</sup> "Buddhist monks request access to historic Mullaitivu mountain for "research," *Tamil Guardian*, September 28, 2018, <https://www.tamilguardian.com/content/buddhist-monks-request-access-historic-mullaitivu-mountain-%E2%80%99Cresearch%E2%80%99D> (accessed August 18, 2023).

officers. Activists said the Hindu temple, Aadi Adayyar, was destroyed.<sup>115</sup> On June 13, 2021, the army participated in a ceremony to lay the foundation for a new Buddhist temple at Kurunthamalai.<sup>116</sup>

An activist in Mullaitivu described the distress caused to local communities by the loss of Hindu religious sites:

Emotionally, the people here are already affected by the war. The gods provide some comfort, where people can go and say things that they can't even say in front of their parents, and cry. But they are taking the gods away, which is hurting the people deeply. It is a new racist strategy.<sup>117</sup>

Activists in Hindu-majority Mullaitivu said that Kurunthamalai is one of over 60 sites in the district – many of them the location of an existing Hindu temple where new Buddhist temples have been or are being constructed or are proposed.<sup>118</sup>

In July 2022, after temple authorities filed a lawsuit, the Mullaitivu district court ordered that all new construction be removed.<sup>119</sup> However, construction proceeded despite the orders to halt the work.<sup>120</sup> Meanwhile, the Department of Archaeology has expanded the area of the Kurunthamalai protected archaeological site by about 229 acres, including land that was previously cultivated by local people.<sup>121</sup> The police and military have barred local people from the site.<sup>122</sup>

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<sup>115</sup> Human Rights Watch interview with civil society activist, details withheld, Mullaitivu district, June 14, 2023; “We will restore the worship rights of Hindus at Kurunthamalai” – M.A. Sumanthiran,” *Tamil Guardian*, April 19, 2021, <https://www.tamilguardian.com/content/we-will-restore-worship-rights-hindus-kurunthamalai-ma-sumanthiran> (accessed August 18, 2023).

<sup>116</sup> “Encroaching Tamils’ lands: Sri Lanka’s Buddhisiation amid pandemic,” *The Quest*, June 17, 2021, <https://www.the-quest.org/news/encroaching-tamils-lands-sri-lankas-buddhisiation-amid-pandemic/> (accessed August 8, 2023).

<sup>117</sup> Human Rights Watch interview with civil society activist, details withheld, Mullaitivu district, June 14, 2023.

<sup>118</sup> Human Rights Watch interview with civil society activist, details withheld, Mullaitivu district, June 14, 2023.

<sup>119</sup> “Court orders removal of illegal Buddhist shrine on Tamil temple land,” *Tamil Guardian*, July 14, 2022, <https://www.tamilguardian.com/content/court-orders-removal-illegal-buddhist-shrine-tamil-temple-land> (accessed August 18, 2023).

<sup>120</sup> “Occupying Missions conducted in North and East Provinces by the Department of Archaeology,” Sivagnanam Shriritharan member of parliament, 2023.

<sup>121</sup> “PARL discussion with Kurundumale community,” People’s Alliance for the Right to Land (PARL), December 1, 2022, <https://www.parlsl.com/publications/parl-discussion-with-kurundumale-community> (accessed August 8, 2023).

<sup>122</sup> Human Rights Watch interview with civil society activist, details withheld, Mullaitivu district, June 14, 2023.

On July 14, 2023, Buddhist monks as well as Buddhist members of the public disrupted Hindu worshippers attempting to celebrate Pongal at the site. On August 31, the Mullaithivu magistrate’s court ruled that the director of the Department of Archaeology had ignored earlier court orders to halt construction at the site.

In a June 2023 meeting organized by the presidential secretariat with Tamil leaders and the archeology department, President Wickremasinghe questioned the need to acquire such a large area.<sup>123</sup> Wickremasinghe announced that an expert committee would investigate the claims,<sup>124</sup> and said that no government land would be transferred to a third party.<sup>125</sup>

### **Myliddy, Jaffna District**

In 1990, Tamil villagers were displaced by fighting from Myliddy, on the north coast of Jaffna district. While some have returned in recent years, much of Myliddy is occupied by the army, which is engaged in commercial farming on land previously cultivated by Tamil civilians. “The people asked the army to return land for livelihoods, but they refused,” said a villager.<sup>126</sup> Those still displaced are in Jaffna town waiting to be resettled, and said they are struggling to support their families.<sup>127</sup>

Families that have returned said that they do not have enough income because they are being undercut by army farms. Said one farmer:

The army is farming the occupied lands. They have planted coconut palms, vegetables. The local farmers and the army don’t have equal prices. If the farmers say it is 200 rupees a kilo for vegetables the army will sell it at 100, so people buy from the army and farmers lose their income.<sup>128</sup>

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<sup>123</sup> “President Engages in Heated Exchange with Archeology Director General, LankaSara, June 12, 2023, <https://lankasara.com/news/president-engages-in-heated-exchange-with-archaeology-director-general/> (accessed August 18, 2023).

<sup>124</sup> “President appoints Expert Committee to settle land issues in Kurundi, Thiriyaya Temples,” Sunday Observer, June 16, 2023, <https://www.sundayobserver.lk/2023/06/16/news/president-appoints-expert-committee-settle-land-issues-kurundi-thiriyaya-temples> (accessed August 18, 2023).

<sup>125</sup> “Kurundi Rajamaha Viharaya land issue: Update from President’s Office,” News Wire, June 16, 2023, <https://www.newswire.lk/2023/06/16/kurundi-rajamaha-viharaya-land-issue-update-from-presidents-office/> (accessed August 18, 2023).

<sup>126</sup> Human Rights Watch interview with formerly displaced person, details withheld, Jaffna, June 16, 2023.

<sup>127</sup> Human Rights Watch interview with displaced person, details withheld, Jaffna, June 16, 2023.

<sup>128</sup> Human Rights Watch interview with formerly displaced person, details withheld, Jaffna, June 16, 2023.

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# “If We Raise Our Voice They Arrest Us”

## Sri Lanka’s Proposed Truth and Reconciliation Commission

The government of President Ranil Wickremesinghe in Sri Lanka has announced yet another commission to examine human rights violations and war crimes during the country’s civil war, which ended in 2009. It has sought support from various governments and United Nations agencies for a “South Africa style” truth and reconciliation effort. Victims of abuses, families of the forcibly disappeared, and activists have opposed the plan, noting that successive governments have ignored recommendations of previous commissions and failed to properly consult affected communities, contending that this is merely an attempt to block international investigations of past abuses.

*“If We Raise Our Voice They Arrest Us,”* is based on more than 80 interviews with victims, relatives, and witnesses in Sri Lanka in June 2023. The report documents surveillance and intimidation by government security forces of victims’ families and activists in the country’s north and east, undermining prospects for an effective commission. Proposed counterterrorism laws would further silence dissent. Government policies facilitate “land grabs” targeting property and religious sites of Tamils and Muslims. The fate of thousands of people forcibly disappeared has never been revealed. Yet the Sri Lankan government continues to flout its obligation to prosecute serious crimes under international law.

Human Rights Watch calls on the Sri Lankan government to end security force abuses and the re-traumatization of victims, and implement the recommendations of previous commissions as a meaningful step toward holding perpetrators accountable and providing redress for victims and affected communities. Foreign governments and the United Nations should reject the government’s call to back a truth and reconciliation process that lacks credibility and victim support.



*Thagbsiwaran Sivaganawathy holds a photo of her daughter, Thageswaran Susanya, at a protest for relatives of the disappeared on May 13, 2019 in Mullaitivu, Sri Lanka.*

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