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Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of
the High Commissioner and the Secretary-General****Situation of human rights in Sri Lanka****Comprehensive Report of the United Nations High Commissioner for
Human Rights****Summary*

Sri Lanka is experiencing an unprecedented economic crisis and is now at a critical juncture in its political life, bringing into sharp focus the indivisibility of human rights. Since March 2022, Sri Lankans from all communities and walks of life, in particular young people, have come together in a broad-based protest movement to demand a change of government and call for accountability and deeper reforms. Meanwhile victims of past human rights violations continue to wait for truth, justice and redress. The High Commissioner urges the new Government to embark on a national dialogue that would advance human rights and reconciliation and to carry out the deeper institutional and security sector reforms needed to prevent the recurrence of violations of the past. Many challenges lie ahead, including painful economic reforms, and the risk of further violence. The High Commissioner encourages the international community to support Sri Lanka in its recovery, but also in addressing the underlying causes of the crisis, including impunity for human rights violations and economic crimes. By pursuing a number of options to advance accountability at the international level, Member States can help Sri Lankans seek justice, reconciliation and human rights. This report is prepared pursuant to the Human Rights Council resolution 46/1.

* The present report was submitted after the deadline in order to reflect the most recent information.

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 46/1, requesting the Office of the United Nations High Commissioner for Human Rights (OHCHR) to submit a comprehensive report on the human rights situation in Sri Lanka, with further options for advancing accountability.¹

2. OHCHR is grateful to the Government for its constructive engagement in the preparation of the report. OHCHR sent questions to the Government and received its response on 21 July 2022. The Government also facilitated two visits by OHCHR staff to Sri Lanka in May and August 2022. OHCHR also shared the draft report with the Government for factual comments. OHCHR acknowledges the significant burdens and constraints faced by Government agencies at this challenging time. The High Commissioner also expresses her gratitude to the civil society organizations and other stakeholders who have cooperated with her Office.

3. As of July 2022, the Government has six pending requests for visits by United Nations special procedures.² Special procedures have issued joint statements expressing concern regarding the impact of the economic crisis on human rights, calling for an immediate moratorium on the use of the Prevention of Terrorism Act, urging the Government to guarantee the fundamental rights of peaceful assembly and of expression.³ Sri Lanka submitted its second Voluntary National Review on the 2030 Agenda in July 2022 and signed a UN Sustainable Development Cooperation Framework 2023-27 in August 2022.

II. Context

4. Sri Lanka is facing an unprecedented economic crisis, while its political landscape has undergone significant upheavals. For months, Sri Lankans have faced severe shortages of fuel, electricity, food, medicines and other essential items. The Sri Lankan rupee has depreciated against the US dollar and inflation is expected to increase to 70 per cent by September 2022.⁴ Meanwhile victims of past human rights violations, particularly in the North and East of the country continue to wait for truth, justice and redress.

5. In the face of the collapsing economy, from March 2022, Sri Lankans came together from various socioeconomic, cultural, ethnic and religious backgrounds in a mass protest movement to demand greater transparency, accountability for corruption and economic mismanagement and increased participation in democratic life. Prime Minister Mahinda Rajapaksa resigned on 9 May 2022 after his supporters attacked peaceful protesters in Colombo. This was followed by widespread violence against Government supporters throughout the country in which seven people were killed and around 70 houses of parliamentarians were burned or damaged. Ranil Wickremesinghe was appointed Prime Minister. The months of countrywide protests culminated in a massive demonstration in Colombo on 9 July 2022 when thousands of protestors stormed and occupied the offices and official residence of President Gotabaya Rajapaksa. The residence of then-Prime Minister Ranil Wickremesinghe was burned to the ground. President Rajapaksa eventually resigned on 14 July 2022, after fleeing the country, but has since returned on 2 September.

6. Ranil Wickremesinghe was made Acting President and then elected by Parliament as the new President of Sri Lanka on 20 July 2022 according to the Constitutional process. While the President enjoys the support of the previous ruling party, he has sought to establish an All-Party Government. In his first speech to Parliament on 3 August 2022⁵, the new President appealed for the unity of Sri Lankans across all ethnic communities and affirmed the place of all religions, languages and traditions. He recognized the transformative power

¹ A/HRC/RES/46/1, para 16.

² The Special rapporteur on the right to education postponed his visit to the country scheduled for 2020 (due to COVID-19).

³ See [Sri Lanka \(ohchr.org\)](https://www.ohchr.org/).

⁴ Inflation in Sri Lanka will hit 70%, says central banker (cnbc.com).

⁵ <https://businesstoday.lk/speech-by-president-ranil-wickremesinghe/>.

of the protest movement, in particular the role of youth, promised constitutional reforms, and proposed a “People’s Assembly” as a consultative mechanism to guide political and social reforms. He committed to combat corruption and establish a new Social Justice Commission to ensure economic reforms benefited all sectors of society.

7. At the same time, the Government has sent mixed signals that appear to reflect a continuity with the past. There remains a significant deficit in confidence and trust between the Government, protest movement and broader civil society and calls have continued for early elections for a renewed democratic mandate. Many of the same officials remain in place, particularly in the security ministries, and the new administration has pursued a tougher security approach to the protests. The President declared a State of Emergency and issued expanded emergency regulations which lapsed on 18 August.⁶ Security forces used excessive force to clear the protest camp on 22 July and again to suppress a peaceful student protest on 18 August. Scores of people involved in the protest movement have been arrested and detained, though the Government informs that many have been granted bail.⁷

III. Human Rights Impact of the Economic Crisis

8. Sri Lanka was already vulnerable to economic crises as a result of persistent fiscal and current account deficits, rising external debt servicing and a series of shocks, particularly the 2019 Easter Sunday attacks and the COVID-19 pandemic. In recent months, this has been compounded by the global economic impacts of the war in Ukraine, particularly on food and energy prices. However, a number of controversial economic policies adopted by the former Government, including a tax cut to stimulate the economy and a ban on the import of chemical fertilizers in April 2021, had a deeply adverse economic impact.⁸ In June 2022, the United Nations estimated that nearly 5.7 million citizens require immediate humanitarian assistance in 25 districts across the country.⁹

9. The right to food, and in turn health and nutrition, is being affected by key drivers of food insecurity, including high food prices from food inflation at 81 per cent as of July 2022¹⁰ and the surging costs of imported commodities, reduced income, below-average crop production. United Nations surveys indicate that four out of five people have been skipping meals, up to 70 per cent of households have had to reduce food consumption¹¹ and 6.3 million people are food insecure.¹² The Government has extended dry ration assistance to vulnerable groups and school meal programs.¹³

10. Although Sri Lanka provides free healthcare services to its people and was very successful in its vaccination program, the COVID-19 pandemic stretched the public health system to its limit.¹⁴ Its primary curative sector was already under-resourced at less than 2 per cent of GDP.¹⁵ Most primary care facilities were already experiencing shortages in essential medicines and supplies.¹⁶ By end May 2022, almost 200 medical items were in shortage, including 76 essential, life-saving drugs and essential surgical equipment including for maternal health services. The Government has made allocations for urgent requirements and sought international support for the importation of essential drugs and medical

⁶ Emergency Regulations, No. 1 of 2022; Gazette Extraordinary No.2289/07.

⁷ Note Verbale (NV) 234/2022, 2 September 2022, para 6.

⁸ [LKA_HNP_FoodSecurityCrisis_20220609 \(5\).pdf](#), page 5.

⁹ [Sri Lanka: UN appeals for \\$47 million for life-saving aid to 1.7 million people | UN News](#)

¹⁰ https://www.cbsl.gov.lk/sites/default/files/cbslweb_documents/press/pr/press_20220729_inflation_in_july_2022_ccpi_e.pdf.

¹¹ <https://reliefweb.int/report/sri-lanka/sri-lanka-food-security-crisis-humanitarian-needs-and-priorities-2022-june-sept-2022-ensita>, page 3.

¹² [WFP Sri Lanka Situation Report 22 July 2022 - Sri Lanka | ReliefWeb](#).

¹³ NV 234/2022, para 8.

¹⁴ [Brainstorming among public health experts on optimizing the health sector response to the current surge in Sri Lanka \(who.int\)](#).

¹⁵ <https://www.social-protection.org/gimi/RessourcePDF.action?id=57665>.

¹⁶ UNICEF, *Accelerating progress towards Universal Health Coverage in South Asia*, pg. 14.

equipment.¹⁷ There are concerns that the longer term impact of malnutrition and disruption to health systems will be felt more acutely in the months and years ahead.

11. In terms of education, Sri Lanka was already among the countries with the longest school closures due to the COVID-19 pandemic, which had led to widening inequalities and learning losses, especially among the most marginalized children.¹⁸ With power-cuts and weeks of school closure due to fuel shortages, children have been further affected by the current crisis.

12. Employment, access to household incomes and access to essential items have been affected, impacting the right to an adequate standard of living.¹⁹ Livelihoods and incomes of coastal fishing communities, farmers and transport workers have been hurt by shortages in fuel. Vulnerable population segments, such as the urban poor, daily wage earners, older persons, women-headed households, and persons with disabilities are at particular risk. The Government has expanded cash transfers and social assistance programs since the pandemic.²⁰

13. Sri Lanka will now face painful economic reforms, which will impact on human rights and likely be a focus for further protest. As the Government negotiates an economic recovery plan, it must be guided by its obligations under the International Covenant on Economic, Social and Cultural rights (ICESCR). In the context of such economic crises, the Committee on Economic, Social and Cultural Rights has clarified that policies, such as the adoption of austerity measures have to be temporary, necessary, proportionate and non-discriminatory, and be compatible with the core content of the rights recognized in the ICESCR, and such measures should not impinge, disproportionately, on the rights of the most disadvantaged and marginalized groups and individuals.²¹

14. The High Commissioner urges the international community to support Sri Lanka in its recovery, in line with obligations around international cooperation and assistance.²² International financial institutions and Member States also need to support Sri Lanka in meeting its core ICESCR obligations when negotiating financial support. The High Commissioner also underscores the importance of addressing the underlying governance factors and root causes, which have contributed to this crisis and that she has highlighted in previous reports. These include the deepening militarization and lack of transparency and accountability in governance, which have embedded impunity for serious human rights violations and created an environment for corruption and the abuse of power.²³

IV. Human Rights Trends and Developments

A. Legal and institutional changes

15. Sri Lanka's economic and political crisis unfolded under a powerful Executive Presidential system reintroduced through the twentieth amendment to the Constitution in October 2020. The twentieth amendment eroded the independence of key commissions and institutions, including the Human Rights Commission of Sri Lanka, the Election Commission, the National Police Commission, the Commission to Investigate Allegations of Bribery or Corruption, and the judiciary.

¹⁷ NV 234/2022, para 11.

¹⁸ <https://www.unicef.org/srilanka/press-releases/tackling-current-crisis-sri-lanka-put-childrens-needs-first>.

¹⁹ Hunger Hotspots (fao.org), p. 21.

²⁰ NV 234/2022, para 11.

²¹ CESCR open letter, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fSUS%2f6395&Lang=en.

²² CESCR General Comment No. 14.

²³ See reference to these issues in the previous OHCHR reports: A/HRC/46/20, paras 24-28; A/HRC/49/9 par.10-19.

16. In his speech to Parliament in August 2022, President Wickremesinghe promised the creation of a new Constitution.²⁴ The Government has brought forward a 22nd amendment to the Constitution intended *inter alia* to restore the independence of the judiciary and key national institutions by restoring a Constitutional Council to recommend appointments.²⁵ The High Commissioner remains convinced that more fundamental constitutional reform is needed to strengthen safeguards for effective separation of powers and devolution of political authority, and should be developed through broad based and consultative processes representative of all Sri Lankans.

Human Rights Commission of Sri Lanka

17. Following a special review by the Global Alliance of National Human Rights Institutions (GANHRI), the Human Rights Commission of Sri Lanka (HRCSL) lost its A-status accreditation.²⁶ The High Commissioner hopes that the forthcoming amendments to the Constitution will help to restore HRCSL's independence and effectiveness in line with the requirements of the Paris Principles.²⁷ The Government informed OHCHR that it has allocated funds to the HRCSL despite the economic crisis, however the HRCSL has faced many operational difficulties and staffing gaps. The HRCSL has continued to undertake inquiries into incidents related to the protests, and has issued statements on important issues such as the declaration of a State of Emergency, the temporary suspension of access to social media platforms and launched inquiries into the attack on peaceful protesters on 22 July 2022.²⁸ Other interventions however, for instance on behalf of the former President and to publicly censure a human rights activist, have sent mixed signals.

Prevention of Terrorism Act

18. In a long-awaited legal reform, the Parliament passed the Prevention of Terrorism Act (PTA) Amendment Bill on 22 March 2022. While the amendments improve some safeguards, they leave intact some of the most problematic provisions of the Act.²⁹ In June 2022, the Government announced it had been applying a *de facto* moratorium on the use of the PTA since March;³⁰ however in an alarming development three student leaders were detained under the PTA on 18 August 2022.

19. The Government informed OHCHR that the Advisory Board established under Section 13 of the PTA in August 2021 has facilitated the release of 103 detainees charged under PTA as of July 2022.³¹ According to information available to OHCHR, there remain 47 long-term prisoners under the PTA, 22 of whom are serving sentences and 25 of whom are at various stages of appeal; there is a larger number of detainees from more recent years, particularly after the Easter Sunday attacks.³² On 1 August 2022, the Government delisted 6 entities and 316 individuals who had been listed under counter-terrorism regulations,³³ although three organisations and 55 individuals were added including the young Muslim poet, Ahnaf Jazeem, who was detained for eighteen months under the PTA before being released on bail in December 2021.

20. The Government has informed OHCHR that it plans to table a new Counter-Terrorism Act to replace the PTA. A number of other draft laws to regulate cyber-security in the digital space, including an Online Safety Bill to 'combat online falsehood and manipulation,' are also in preparation. The High Commissioner encourages the Government to continue consultations with civil society stakeholders in the drafting of these laws, and to seek technical advice from her Office and relevant UN special procedures.

²⁴ <https://economynext.com/sri-lanka-president-wickremesinghe-parliament-address-full-text-98156/>.

²⁵ For instance, see [CPA-Statement-on-Government-22A-August-2022.pdf](#) (cpalanka.org).

²⁶ GANHRI Report, October 2021.

²⁷ *Ibid*, page 32-33.

²⁸ [Home – HRCSL](#).

²⁹ A/HRC/49/9; para 41; OL LKA 7/2021.

³⁰ NV 186/22, page 10.

³¹ *Ibid*, page 2.

³² OHCHR requested this information from the Government but the information was not provided.

³³ Gazette No. 2291/02.

B. Militarization

21. In previous reports, the High Commissioner has warned that the accelerating militarization of civilian government functions was undermining democratic institutions in Sri Lanka.³⁴ Special procedures have also expressed their concerns about lack of security sector reforms and de-militarization and urged the Government to take steps to terminate military involvement in commercial activities and reduce military presence in the North and East.³⁵

22. In particular, following his country visit in 2018, the Independent Expert on the effects of foreign debt encouraged “discussions on whether the military budget reflects the fundamental changes the country has undergone in recent years, in particular in the fields of peace and economic development.”³⁶ This will be particularly important at a time Sri Lanka is negotiating international support and relief from the current economic crisis. In 2022, for instance, the Defence Ministry was allocated 373.1 billion rupees (then US\$1.86 billion), which accounted for 15 per cent of total government expenditure making it the highest allocated sector in 2022. In comparison, the Health Ministry was allocated 158 billion rupees (then US\$790 million), a decrease of 6 billion rupees from the previous year despite the COVID-19 pandemic.³⁷

23. Between 2020 and 2022, former President Rajapaksa appointed more than 28 serving or former military officers in government ministries.³⁸ Following the resignation of cabinet ministers on 3 April 2022, a number of military officers who occupied senior roles in ministries automatically relinquished their positions. However, President Wickremesinghe has since continued to rely on military appointees and involve the military in law enforcement. On 13 July 2022, the President appointed a special committee comprising of the Chief of the Defence staff, the Inspector-General of Police and the Tri-forces Commanders and “gave them full authority” to “use emergency law and the curfew” to protect law and order.³⁹ The President re-appointed retired General Kamal Gunaratne as Defence Secretary; General Shavendra Silva was appointed as the Chief of Defence Staff from June 2022. Both have been implicated in alleged human rights violations as highlighted in previous reports.⁴⁰

24. Shortly after assuming office, President Wickremesinghe brought back under the oversight of the Ministry of Defence 42 entities including the National Dangerous Drugs Control Board, Telecommunication Regulatory Commission and Sri Lanka Telecom.⁴¹ Some of these entities had been placed under a newly created Ministry of Technology and Investment Promotion a few weeks earlier.⁴² The NGO Secretariat, which has a powerful role in registration and oversight of civil society, has also been moved back from the Ministry of Foreign Affairs to the Ministry of Public Security.

25. The role of the military in law enforcement, governance and development has been even more prominent in the North and East of Sri Lanka. Although the war ended in 2009, military presence continues to be significant, in terms of personnel, checkpoints, and involvement of military in drug law enforcement,⁴³ agriculture and development activities.

26. In the context of mass protests and severe shortages of fuel, the Government deployed the military for policing assemblies and to guard public buildings, fuel stations and private residences. President continued to renew Gazette notifications under section 12 of the Public

³⁴ [A/HRC/43/19](#), para. 33, and [A/HRC/46/20](#), paras. 20–23.

³⁵ [A/HRC/45/45/Add.1](#), para 87.

³⁶ [A/HRC/40/57/Add.2](#), para. 32.

³⁷ [Appropriation Bill for 2022: Defence gets highest allocation; Health reduced – The Island](#).

³⁸ [A/HRC/46/20](#), para 22.

³⁹ [\(15\) Military, police given authority to control situation: Ranil - YouTube](#); Press Release, 14 July 2022, [Ministry of Defence - Sri Lanka](#).

⁴⁰ [A/HRC/46/20](#); Report of the Panel of Experts on Accountability in Sri Lanka, para. 62.

⁴¹ Extraordinary Gazette No. 2288/24.

⁴² Gazettes No. 2281/41.

⁴³ On 29 June, an individual died, reportedly after being beaten by security officials in Kandakadu “rehabilitation” centre.

Security Ordinance (PSO), which “authorizes recourse to the armed forces in circumstances where the performance of police functions requires to be strengthened”.⁴⁴ These powers continue the militarized approach to law enforcement and expand the role of the military in policing functions.⁴⁵

C. Inclusion and reconciliation

27. In previous reports,⁴⁶ the High Commissioner expressed concern about the trend towards ethno-religious majoritarianism, which was undermining human rights and reconciliation. Former President Rajapaksa had actively promoted a Sinhala Buddhist majoritarian ideology with the support of the military and Buddhist monks. The Task Force he established on "One Country, One Law" in October 2021, chaired by Gnanasara Thera, an extremist Buddhist monk and the leader of the Bodu Bala Sena (BBS) submitted its report in June 2022. President Wickremesinghe has indicated publicly that his administration will not continue this initiative.

28. The High Commissioner hopes that the new administration will publicly signal a break from the previous exclusivist rhetoric and promote the values of inclusion and non-discrimination for all Sri Lankans in its State institutions, statements and policies. She welcomes in this regard the President’s speech to Parliament on 8 August 2022 in which he celebrated the country’s ethnic and religious diversity. She hopes this will translate into sustained policies and practices of inclusion and reconciliation.

29. The High Commissioner believes the protest movement has offered a sense of Sri Lankans from all communities coming together around a vision of greater equality, participation and democracy. While the longstanding grievances and demands of Tamil and Muslims populations in the North and the East need to be addressed, there is now an opportunity for new national conversations that advance reconciliation and peace.

D. Intimidation and threats to former combatants, civil society and victims

30. OHCHR continues to receive reports of surveillance, intimidation, harassment of journalists, human rights defenders, families of the disappeared and persons involved in memorialization initiatives, by intelligence services, military and police, particularly in the North and East.⁴⁷

31. Families of the disappeared face surveillance, questioning, intimidation and unannounced visits by intelligence officers and the police, especially when they are actively involved in protests or memorialization. As highlighted in previous reports, women are particularly affected given their prominent role in advocating for justice. Civil society organizations throughout the country continue to be questioned about their work and funding sources.

32. Former LTTE cadres, including women, are subject to intensive surveillance, regardless of whether they have undergone the government’s ‘rehabilitation’ scheme or not. Women ex-combatants still face serious security risks, including sexual abuse and extortion, including by security forces and others. The High Commissioner fears that without fundamental security-sector reforms and de-militarization of the North and the East, this pervasive culture of surveillance and oppressive environment for the people in these areas will continue.

⁴⁴ Extraordinary Gazette No. 2289/07.

⁴⁵ A/HRC/49/9, para 16.

⁴⁶ A/HRC/46/20, A/HRC/49/9.

⁴⁷ A/HRC/49/9, page 7.

E. Freedom of expression, peaceful assembly and law enforcement

33. While overall, the security forces have responded to the protest movement with considerable restraint over a sustained period, on some significant occasions they reportedly employed unnecessary use of force against protestors and used measures to prevent or obstruct protests. Journalists have also been targeted for their reporting on the crisis and protests.⁴⁸

34. On 31 March 2022, police dispersed protesters who marched towards the President's private residence in Colombo, injuring 50 people and arresting over 20; some were allegedly ill-treated including by men in civilian clothing reportedly belonging to presidential security. On 19 April 2022, police opened fire at a spontaneous protest in Rambukkana, at a fuel distribution point. One person was killed by live ammunition and 24 others were injured.⁴⁹ An investigation by the HRCSL found that police had used excessive use of force.⁵⁰

35. On 9 May 2022, widespread violence erupted after supporters of then Prime Minister Mahinda Rajapaksa attacked peaceful protestors in Colombo. Despite large police presence, a pro-government group entered the "GotaGoGama" protest site, attacked the protestors and destroyed their makeshift tents. Subsequently, there was a wave of violence throughout the country against politicians affiliated with the ruling party. Eight people died during the incidents, including a Member of Parliament and two local officials, and according to the Government, there were 244 incidents of destruction of property. The Government informs OHCHR that as of 10 August, 3,310 suspects have been arrested, out of which 2,128 have been released on bail.⁵¹ The HRCSL is also investigating several incidents.

36. Instances of beatings and use of live ammunitions by police or military have been captured and circulated on social media. On 18 June 2022, the military confronted protestors at a fuel station in Mullaitivu after locals complained about discriminatory petrol distribution. Two people were injured by the soldiers who allegedly also opened fire into the air.⁵² On 3 July 2022, a video of an army officer assaulting a civilian in a fuel station in Kurunegala was widely circulated on social media.⁵³ A similar incident involving a police officer assaulting a motorist and handling a handgun irresponsibly occurred on 17 June also in Kurunegala. On 13 July 2022, a protestor died after police fired tear gas.⁵⁴

37. Following the installation of the new administration, there has been a notable hardening of approach, with increasing public rhetoric characterising the protestors as violent extremists. On 22 July 2022, security personnel, including police and military, stormed at a protest camp near the presidential offices in Colombo, injuring at least 48 people;⁵⁵ nine others were arrested. The evacuation and medical treatment of injured protestors was obstructed. Since then, a number of leaders and members of the protest movement and trade unions have been arrested, some in an irregular manner by plain-clothes personnel using unmarked vehicles.⁵⁶ In a statement, 175 Sri Lankan civil society organizations and activists expressed concern about "ongoing attacks and violence against peaceful protestors" and 'disturbing developments of abduction, arrest, intimidation, and reprisals against

⁴⁸ <https://cpj.org/2022/04/cpj-calls-on-sri-lankan-government-to-respect-press-freedom-amid-nationwide-state-of-emergency/>; <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent>.

⁴⁹ See <https://basl.lk/statement-by-the-bar-association-of-sri-lanka-on-the-incident-at-rambukkana/>.

⁵⁰ Interim-Report-of-the-Committee-of-Experts-appointed-by-the-Human-Rights-Commission-of-Sri-Lanka-HRCSL-to-investigate-the-Police-Shooting-incident-that-took-place-in-Rambukkana-on-19th-April-2022.pdf.

⁵¹ NV 234/2022, para 35.

⁵² Army Fires Warning Shots to Control Drunken Mob | Sri Lanka Army.

⁵³ https://twitter.com/NewsWireLK/status/1543678985501941762?s=20&t=AdKV_iZA6msDwfiRPApv9A.

⁵⁴ <https://www.themorning.lk/police-say-deceased-protester-was-a-drug-addict/>.

⁵⁵ <https://www.ohchr.org/en/statements/2022/07/comment-un-human-rights-office-spokesperson-jeremy-laurence-raid-sri-lanka>.

⁵⁶ Statement (04th May 2022) : Escalation of the Situation in the Vicinity of the Parliament Today - BASL.

protestors.”⁵⁷ Excessive force was most recently used in breaking up a peaceful student protest in Colombo on 18 August 2022 with 20 arrests.

38. The High Commissioner calls on the authorities to independently, thoroughly and transparently investigate all the attacks that have occurred, including the destruction of properties, and ensure that those found responsible are held to account.⁵⁸ She is concerned that some arrests made so far have related to relatively minor actions, such as being photographed inside the occupied Government buildings, rather than more serious acts of violence. Periodic internet and social media shutdowns have been used to curb the protests and the Government is proposing new laws to regulate the digital civic space. The High Commissioner stresses the importance of maintaining an environment for freedom of expression, peaceful assembly and democratic debate, both on and off-line.

39. In the North and the East, the families of the disappeared, who had been staging their continuous roadside protests since 2017, have also continued to face harassment, intimidation and violence. On 20 March 2022, police used force against members of the Mullaitivu Disappeared Relatives' Association and other families of the disappeared who tried to carry out a protest during a visit of the former Prime Minister to the area.

V. Reconciliation and accountability

A. Transitional justice mechanisms and confidence-building measures

40. In March 2020, the former Government withdrew from co-sponsoring resolution 30/1 and related resolutions⁵⁹ but committed to pursue an "inclusive, domestically designed and executed reconciliation and accountability process". In more than two years since, it had still not presented a credible new roadmap on transitional justice towards accountability and reconciliation. Instead, accountability processes for past crimes were obstructed, perpetrators granted Presidential pardon and the Office on Missing Persons (OMP) and the Office for Reparations - the only two (out of four) transitional justice structures established - have failed to achieve the tangible results expected by victims and other stakeholders.

41. A commission of inquiry (COI), appointed by former President Rajapaksa in 2020 “to review the reports of previous Sri Lankan COIs”, submitted a second interim report on 18 February 2022, which proposed again the establishment of a Truth and Reconciliation Commission. The High Commissioner is concerned that this COI had a very limited mandate, lacked transparency and legitimacy among victims and civil society, and is focussed on past initiatives, which could have been implemented long ago. Much work was done previously, for instance on the design of a truth and reconciliation process, which has never been established, and could still be revived.

42. Thirteen years on from the end of the war, families of the disappeared are still searching for truth and justice for enforced disappearances. The confidence and trust of the relatives of victims in the OMP as an independent and credible national mechanism has been severely eroded, particularly since 2020, following a series of problematic appointments of chairperson and commissioners, and needs to be re-established.⁶⁰ In May 2022, one of the Commissioners, Shiraz Noordeen resigned from the OMP, publicly stating that the OMP was unable to act independently to bring justice to victims.⁶¹ Although the purpose of the OMP is to trace and search for the missing, it has not been able to trace a single disappeared person or clarify the fate of the disappeared in meaningful ways, and its current orientation is to expedite the closure of files. The Government informed OHCHR that the OMP has so far interviewed 1,207 applicants (out of the original list of more than 14,000) for the purposes

⁵⁷ Sri Lanka: Civil Society statement on attacks and reprisals against peaceful protesters • Sri Lanka Brief.

⁵⁸ <https://www.ohchr.org/en/press-releases/2022/05/bachelet-urges-restraint-and-pathway-dialogue-violence-escalates-sri-lanka>.

⁵⁹ HRC/RES 34/1, HRC/RES 46/1.

⁶⁰ A/HRC/46/1, para 44.

⁶¹ <https://www.themorning.lk/missing-persons-office-chief-quits-citing-lack-of-independence/>.

of verification after which it makes recommendations for relief, further tracing or investigation.⁶² As of August 2022, 1,341 families had been issued with “Certificates of Absence”. Apart from the excavation and exhumation of a mass grave in Mannar in 2018, the OMP has not taken a proactive approach in investigating other suspected mass grave sites or leading the process of exhumation of mass graves to identify remains.

43. The tenure of the Office for Reparations (OfR) commissioners expired in March 2022, but they stayed in office until three new members were appointed and the Chairperson re-appointed in June 2022. The National Reparation Policy and Guidelines were tabled in Parliament in February 2022 which include livelihood and psychosocial support and restitution of land. There are 33,000 files in the OfR database but it is unclear how many correspond to the backlog of the former compensation agency REPPIA and how many address human rights violations. The Government informed OHCHR that OfR processed 5,964 claims by the end of 2021 and 2,097 claims by end August 2022.⁶³

44. The Office of National Unity and Reconciliation (ONUR) has also continued community level development and social cohesion programs. The Government is developing a new law that would put ONUR onto a statutory basis. The Government is also stepping up outreach to diaspora “non-resident Sri Lankan” groups abroad, to encourage their return and investment.

45. The Government now has a fresh opportunity to build confidence with minority communities, including victims and their families, and renew the path of justice and reconciliation that is needed for sustainable peace and development. Resolution 30/1 and its successors provided a practical roadmap to achieve these ends, and the High Commissioner hopes the new administration will revitalise the transitional justice process. The results of the 2016 national consultation process, which engaged Sri Lankans from all communities and stakeholders such as victims, religious leaders, civil society organizations and the military remains a strong foundation for renewed transitional justice efforts.⁶⁴

Return of land

46. In his 8 August 2022 speech, the President acknowledged that there are many land issues that need to be resolved. The Government reports that the total number of private lands released by the Armed Forces from 2009 to June 2022 is 2,601,796 acres or 92.42 per cent, with a further 53 (0.19 per cent) acres proposed for release (no change since the last report).⁶⁵ However, there have been attempts to acquire new land to expand the existing military bases in the Northern provinces. For example, land acquisition process under the 2014 Acquisition Act for the Gotabaya Navy Camp in Vattuvakal Mullaitivu District is underway, which some locals have opposed.⁶⁶

47. As highlighted in the High Commissioner’s last update,⁶⁷ there has also been a more recent trend of land disputes in relation to construction of Buddhist heritage conservation or for forestry protection, mainly in the Northern and Eastern Provinces, which has further jeopardized reconciliation and created new conflicts. In June 2022, the Army facilitated the dedication of a new Buddhist shrine in Kurunthur Malai, Mullaitivu, in violation of a Court order that prohibited any new edification in an area that is claimed by Hindu and Buddhist worshippers. On 14 July, Mullaitivu court ordered the removal of all new constructions, including a new Buddhist shrine.

⁶² The OMP had called 1,350 applicants for interview.

⁶³ NV 234/2022.

⁶⁴ See <http://war-victims-map.org/wp-content/uploads/2017/02/CTF-Final-Report-Volume-I-Nov-16.pdf>.

⁶⁵ NV 186/2022, page 17.

⁶⁶ <https://www.themorning.lk/mullaitivu-residents-turn-back-survey-department-officers-near-gotabaya-navy-camp/>.

⁶⁷ HRC/49/9, paras 17-19.

B. Emblematic cases

48. For more than a decade, there has been almost no progress in most emblematic human rights cases highlighted in previous reports, which are only a handful of innumerable cases. In several instances, hearings continue to be postponed repeatedly and cases have lingered before the courts for over a decade.⁶⁸ In others, there has been active reversal in the form of acquittals on appeal and presidential pardon granted to those accused or convicted of grave violations.

49. Likewise, while 25 suspects were charged in October 2021, there has been no further progress to establish the truth and investigate the terrible Easter Sunday bombings in 2019 despite the fact that church leaders and victims continue to demand a complete and transparent account of the circumstances that allowed those attacks and the role of the security establishment. The full volumes of the Presidential Commission of Inquiry appointed to investigate the attacks have still not been released. The High Commissioner calls for this material to be made publicly available and for a follow-up independent and transparent investigation with international assistance to pursue further lines of inquiry, with the full participation of victims and their representatives.

50. Since 2020, impunity was further entrenched through political obstruction of accountability for gross human rights violations.⁶⁹ For instance, the Presidential Commission of Inquiry to Investigate Allegations of Political Victimization actively intervened in police investigations and court proceedings in several high-profile human rights cases.⁷⁰ It also 'investigated' a number of high-profile corruption cases relating to incidents between 2005 and 2015. Recently, there have been proposals from within the Government that those individuals it had 'cleared' should receive compensation. Simultaneously, a number of corruption and other related economic crimes cases between 2020 and 2022 were discontinued, following withdrawal of charges or indictments on various technical grounds by the Attorney General or the Commission to Investigate Bribery or Corruption.⁷¹ The Government informed OHCHR of plans to update laws to strengthen commissions dealing with bribery and procurement and other anti-corruption measures.

C. OHCHR activities pursuant to resolution 46/1, paragraph 6

51. For long, successive governments have failed to ensure accountability for gross human rights violations and abuses and serious violations of international humanitarian law in Sri Lanka, especially where alleged perpetrators are state agents. Recognizing "the importance of preserving and analysing evidence relating to violations and abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability", the Human Rights Council decided in resolution 46/1, paragraph 6 to strengthen the capacity of OHCHR "to collect, consolidate, analyse and preserve information and evidence relating to violations and abuses of human rights and related crimes in Sri Lanka, and to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction."

52. OHCHR established a dedicated project team to further strengthen its capacity in line with resolution 46/1, paragraph 6. The team has been fully staffed and operational since May 2022, although the United Nations budget process impacted its configuration and delayed some recruitments. In carrying out this mandate, OHCHR is considering violations and abuses by all parties in Sri Lanka, and against any group, in any geographical area. It is also integrating gender perspective and child sensitive approach.

53. On 8 July 2022, OHCHR approached the Government of Sri Lanka and requested a visit by the project team to Sri Lanka to discuss its work. The Government responded on 18

⁶⁸ A/HRC/43/19, para. 21, and A/HRC/46/20, paras. 49–50.

⁶⁹ A/HRC/46/20.

⁷⁰ See <https://www.cpalanka.org/wp-content/uploads/2022/07/AGs-Decision-to-Drop-Charges.pdf>.

⁷¹ [Transparency International Sri Lanka | TISL writes to BASL on reviving stalled grand corruption cases \(tisrilanka.org\)](https://www.transparencyinternational.org/en/sri-lanka).

July 2022 indicating that given its rejection of resolution 46/1, a visit to the country could not be granted. The Office will continue to seek cooperation and request information from the Government in relation to this work.

Collecting, consolidating, analysing and preserving information and evidence

54. OHCHR continued to develop the information and evidence repository using an e-discovery platform. This includes configuration to facilitate collecting, organizing, crosschecking, collating, searching and analysing large quantities of data from multiple sources to preserve material and support accountability efforts. OHCHR also mapped existing United Nations material, and integrated all of the material from the OHCHR Investigation on Sri Lanka (OISL),⁷² where consistent with the applicable conditions and consent. OHCHR commenced identifying material held by other actors and engaging with information providers. To date, two organizations' databases have been migrated into the repository, and negotiations with other information providers are ongoing.

55. The process of information collection requires great care and a victim-centred approach. Integration of material into the repository is carried out in line with United Nations regulations and policies and OHCHR's procedures, and taking into account potential future requests for sharing of information. The incorporation into the repository of databases from providers using different information technology platforms also raises complex technical challenges. Further resources are required to maintain and develop the repository, including undertaking the necessary negotiations with providers, managing the transfer of material, including material in several languages, and organizing and analysing the information and evidence. To support future accountability processes, OHCHR has undertaken analytical and investigative work in select areas, including sexual and gender-based violence and violations against children such as child recruitment.

Developing possible strategies for future accountability processes

56. To develop possible strategies for future accountability processes, the project team started mapping potential accountability processes at international level, including through consultations with relevant stakeholders, particularly national authorities, victims and civil society organizations. The results of this work are outlined further in section D below.

Advocating for victims and survivors

57. In recognition of their key role in ensuring accountability, OHCHR has continued to engage with victims and survivors and their advocates, including families of the disappeared. In July 2022, for example, the team project convened meetings to brief international and national non-governmental organizations and hear perspectives on the work of the team project, including civil society engagement, to discuss current developments and their impact on accountability, and facilitate the sharing of updates on civil society initiatives. In addition, the project commenced its programme of more in-depth engagement, including through victim and victims' organizations focus groups.

58. Victim-centric approaches have been integrated into the methodology of the team project. This includes the development of new and more specific protocols to minimize the risks for victims and witnesses engaging with the team project, as well as tools on assessing security risks and arranging appropriate referrals, including for psycho-social support. Tools and approaches on the integration of gender and child rights into the methodology of the project have also been developed.

Supporting relevant judicial and other proceedings

59. OHCHR supports judicial and non-judicial proceedings with competent jurisdictions through the sharing of relevant information and evidence, in accordance with the United Nations rules and procedures. To date, OHCHR has received requests from national authorities for information and evidence in relation to eight named individuals, as well as a number of alleged violations. To address these requests, OHCHR conducted searches of

⁷² <https://www.ohchr.org/en/hr-bodies/hrc/oisl>.

existing archives and is in the process of reviewing and processing identified material, taking into account requisite consent, conditions and protection issues. Before being shared with the requesting authorities, relevant material will need to be considered in accordance with standard United Nations rules and procedures.

D. Further options for advancing accountability

60. The High Commissioner hopes that the new administration will respond to the popular demand for accountability for economic crimes, including corruption, and abuse of power with a renewed commitment to end impunity. As noted above, the report of the national Consultation Task Force appointed by President Wickremesinghe when he was Prime Minister in 2016 provides important recommendations for advancing accountability at the national level which remain an equally relevant starting point to this day.

61. In the absence of credible or effective domestic remedies, there have been some developments at the international level and in Member States (outside of Sri Lanka) to advance accountability. For instance, communications were submitted in October and November 2021 to the Prosecutor of the International Criminal Court under Article 15 of the Rome Statute requesting that the Prosecutor exercise jurisdiction over crimes under international law in Sri Lanka.⁷³ While Sri Lanka is not a State Party to the Rome Statute, the communications submit that the alleged crimes occurred partially on the territory of States Parties.⁷⁴

62. Representatives of victims have also attempted to have States commence universal jurisdiction prosecutions or attempted civil litigation against senior Sri Lankan officials, in several jurisdictions.⁷⁵ Separately, there have been criminal convictions in relation to the LTTE outside Sri Lanka; mainly based on counterterrorism, money laundering and sanctions legislation.⁷⁶ International NGOs have launched truth-seeking initiatives, such as the session at The People's Tribunal on the Murder of Journalists convened in The Hague, Netherlands in May 2022.⁷⁷

63. Some initiatives have centred on sanctions and other restrictive measures. For instance, the United States Department of State designated three Sri Lankan officials under Section 7031(c) of the Department of State, Foreign Operations, and Related Programs Appropriation Act, as announced in February 2020 and December 2021.⁷⁸ States are encouraged to explore further targeted sanctions against credibly alleged perpetrators of gross human rights violations and abuses.⁷⁹

64. From this mapping of existing initiatives, there are several opportunities for States to act, individually and collectively, in particular by:

(i) Using all potential forms of jurisdiction, including extraterritorial and universal jurisdiction, to investigate and prosecute crimes under international law committed in Sri Lanka; and increasing the attention and cooperation regarding relevant cases through existing international networks;

(ii) Imposing and expanding targeted sanctions, as part of a wider range of accountability measures, and other restrictive measures in relation to those who are credibly

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https://twitter.com/GRC_HumanRights/status/1453398672255901703?s=20&t=cmodU2pDsjar8IwEaOremw; <https://www.tamilrightsgroup.org/icc-campaign/>.

⁷⁴ Applying the ICC precedent in the Situation in Bangladesh/Myanmar. See ICC-01/19-27 14-11-2019 1/58 NM PT.

⁷⁵ E.g. <https://casetext.com/case/devi-v-silva-2>; <https://cja.org/what-we-do/litigation/wickrematunge-v-rajapaksa/>.

⁷⁶ E.g. <https://www.hogeraad.nl/actueel/nieuwsoverzicht/2017/supreme-court-tamil/>.

⁷⁷ <https://ptmurderofjournalists.org/sri-lanka-case-hearing-on-the-murder-of-journalist-lasantha-wickrematunge/>.

⁷⁸ See also A/HRC/49/9, para. 61.

⁷⁹ Regarding sanctions and human rights, see CESCR's GC No. 8, paras. 11 ff.

alleged to have been responsible for gross violations and abuses of international human rights law or serious violations of international humanitarian law;

(iii) Considering various forms of vetting: for instance, pursuant to Article 9 of the 1961 Vienna Convention on Diplomatic Relations, to refuse the credentials of a diplomat who is credibly alleged to have been responsible for gross violations and abuses of international human rights law or serious violations of international humanitarian law;

(iv) Renewing the mandate and reinforcing the capacity of OHCHR for its specialised project for the collection, analysis and preservation of information and evidence and the functioning of a repository that intends to support future accountability processes;

(v) Supporting initiatives to further strengthen and empower victims and civil society to meaningfully participate in the design and implementation of accountability processes and related work such as the documentation of violations, including by supporting victim and survivor networks and strengthening national and international protection networks for those at risk of reprisal.

VI. Conclusions

65. Sri Lanka is facing a devastating economic crisis, which has been severely impacting the lives of the people and underscored the indivisibility of human rights. The High Commissioner urges the international community to support Sri Lanka in its recovery. For sustainable improvement, however, it is vital to recognize and assist Sri Lanka to address the underlying factors, which have contributed to this crisis, including embedded impunity for past and present human rights abuses, economic crimes and corruption. Support from international community will have meaningful and sustainable impact if Sri Lanka undertakes deeper structural, constitutional and political reforms to strengthen democratic checks and balances and restore the independence of institutions.

66. The broad-based demands by Sri Lankans from all communities for accountability and democratic reforms present an important starting point for a new and common vision for the future. The High Commissioner believes there is the opportunity for a new meaningful national dialogue on how Sri Lanka can be transformed into an inclusive, pluralist and fully democratic State based on accountability, the rule of law, non-discrimination and respect for human rights. Ensuring an environment for freedom of expression, peaceful assembly and democratic participation will be essential. The High Commissioner encourages the Government to positively engage with the protest movements in a broad-based and participatory process to address the broader political and systemic root causes that have long perpetuated discrimination and undermined human rights.

67. Impunity remains a central obstacle to the rule of law, reconciliation and Sri Lanka's sustainable peace and development, and remains the core risk factor for recurrence of further violations. Thirteen years since the end of the war, victims of past human rights violations continue to await truth and justice. The Sri Lankan State, including through successive governments, has consistently failed to pursue an effective transitional justice process to hold perpetrators of gross human rights violations and abuses accountable and uphold victims' rights to truth, justice and reparations. Rather, they have created political obstacles to accountability, actively promoted and incorporated some military officials credibly implicated in alleged war crimes into the highest levels of government. This impunity emboldened those committing human rights violations and created a fertile ground for corruption and the abuse of power. Without an effective vetting process and comprehensive reforms in the security sector, serious human rights violations and atrocity and economic crimes risk being repeated as the State apparatus and some of its members credibly implicated in alleged grave crimes and human rights violations remain in place.

68. Fundamental changes will therefore be required to address the current challenges and to avoid the repetition of the human rights violations of the past. In this

context, the new Government should immediately reverse the drift towards militarization, end the reliance on draconian security laws and crackdowns on peaceful protest, and show renewed commitment to security sector reform and ending impunity. It should recommit to a genuine, comprehensive and transformative transitional justice process, with benchmarks and timelines for implementation, and in consultation with the victims and civil society and with support from international partners. Further, it should pursue a more fundamental constitutional reform through broad-based and consultative processes representative of all Sri Lankans to strengthen democratic check and balances and devolution of political authority, which is integral to reconciliation and the full enjoyment of human rights by all members of its population.

69. The Human Rights Council should continue to monitor developments closely, and in the absence of tangible results at the national level that ensure justice for Sri Lankan people, Member States should continue to pursue complementary international strategies for justice and accountability for human rights violations, corruption and abuse of power. The Office of the High Commissioner for Human Rights will continue to accompany the people of Sri Lanka in this vital journey.

VII. Recommendations

70. The High Commissioner reiterates the recommendations made in her previous reports⁸⁰ and by United Nations human rights mechanisms. OHCHR remains ready to provide technical assistance to the implementation of these recommendations, as required, including through the strengthening of its country presence to support the Government and people of Sri Lanka at this critical time.

71. OHCHR recommends that the Sri Lankan authorities:

(a) Take all necessary measures to guarantee people's economic and social rights during the economic crisis; ensure immediate relief for the most marginalized and vulnerable individuals and groups based on non-discrimination and protection of human rights, and strengthen social protection by increasing financing and extending it to cover emerging needs;

(b) Reduce considerably military spending, decisively tackle corruption and increase investments in health, social security and education through international co-operation; assess any potential human rights impact of international financial assistance programmes and take preventive measures to reduce it to the bare minimum;

(c) Undertake a broad-based consultative process representative of all Sri Lankans to advance constitutional reforms that guarantee the independence of key institutions, including the judiciary and the Human Rights Commission, and advance the devolution of political authority, which is integral to reconciliation;

(d) Prepare a comprehensive strategy on transitional justice and accountability, with a time bound plan to implement outstanding commitments, including taking steps in relation to the establishment of a credible truth-seeking mechanism and an ad hoc special court, as well as security sector reform and vetting; also re-energise the Office of Missing Persons and Office for Reparations to ensure they can discharge their full mandate independently and effectively;

(e) Pursue investigation and prosecutions in emblematic cases of human rights violations; release the complete findings of previous inquiries into the Easter Sunday bombings and establish a follow-up independent and transparent investigation with international assistance and the full participation of victims and their representatives;

(f) Take steps to end the influence of the military on civilian spheres and reduce military presence in the Northern and Eastern provinces;

⁸⁰ A/HRC/46/20, para 60; A/HRC/49/9, para 67.

(g) Return all private land held by the military and impartially adjudicate land disputes, including through interfaith dialogue about the erection of religious sites;

(h) Ensure the new legislation to the Prevention of Terrorism Act and proposed laws on digital security fully complies with Sri Lanka's international law obligations; Observe a strict moratorium on the use of PTA and expedite the release of detainees and long-term prisoners under the PTA;

(i) Review the necessity and proportionality of Emergency Regulations and ensure proposed regulation of social media protect freedom of peaceful assembly, association and expression;

(j) Invite OHCHR to strengthen its country presence and provide technical assistance to authorities and civil society in Sri Lanka;

72. The High Commissioner reiterates the recommendations she made in paragraph 61 of her report to the Human Rights Council and Member States in 2021 and further recommends that they:⁸¹

(a) Request OHCHR to continue its enhanced monitoring and report regularly to the Council on the human rights situation in Sri Lanka, including progress towards accountability and reconciliation and steps to address economic crimes that have impacted on human rights;

(b) Encourage relevant thematic special procedures to examine and make recommendations on human rights dimensions of the economic crisis;

(c) Reinforce the capacity provided in resolution 46/1 for OHCHR to work on accountability for human rights violations and related crimes;

(d) Cooperate in investigating and prosecuting perpetrators of international crimes committed by all parties in Sri Lanka through judicial proceedings in national jurisdictions, including under accepted principles of extraterritorial or universal jurisdiction, through relevant international networks and in cooperation with victims and their representatives;

(e) Explore further targeted sanctions such as asset freezes and travel bans against those credibly alleged to have perpetrated gross international human rights violations or serious humanitarian law violations;

(f) Support Sri Lanka in the investigation of economic crimes that impact on human rights and the tracing and recovery of stolen assets.

⁸¹ A/HRC/46/20.