

Briefing Notes

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**RESOLUTIONS, COMMISSIONS, REPORTS &
15 YEARS OF IMPUNITY.
WHAT NEXT?**

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INTRODUCTION

Impunity for human rights violations in Sri Lanka has been a significant and persistent issue, particularly in the context of the country's protracted civil war and its aftermath. The civil war, which lasted from 1983 to 2009, resulted in widespread atrocities committed by both the Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE). Despite numerous allegations of serious human rights abuses, including extrajudicial killings, enforced disappearances, torture, and sexual violence, there has been a pervasive lack of accountability.

The final phase of the war saw alleged large-scale atrocities, particularly during the last months in 2009 when thousands of civilians were killed in what the UN has termed as "a bloodbath". Reports like the UN's Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka (2011) highlighted credible allegations of war crimes. The documentary film "Sri Lankan Civil War" by the British TV station Channel 4 provided graphic evidence of war crimes during the last phase of the war.

At this juncture of 15 years after the war's end, Sri Lanka Brief revisits the national and international efforts to achieve reconciliation, accountability and human rights in Sri Lanka in the hope that it may provide a new impetus to find ways and means to end impunity for wartime rights violations in Sri Lanka.

Even after the war ended, there have been reports of ongoing human rights abuses, including torture, unlawful detention, and suppression of dissent. Reports by United Nations and organizations such as Amnesty International and Human Rights Watch, The CIVICUS Monitor have documented these issues extensively.

Since 2009 Sri Lanka government has established several commissions, committees and institutions to address war time human rights issues. United Nations Human Rights Council has passed resolution after resolution and has produced dozens of reports on the same the issue. International and as well as local human rights organisations have compiled hundreds of reports. The war-affected people in the North and East of Sri Lanka together with peace-loving citizens have been continuously campaigning for justice and accountability.

Despite all these efforts, 15 years after the war's end, Sri Lanka remains a highly militarised country and in 2023, spent LKR 469 billion (8% of total expenditure) on defence. It is among the 10 countries with the highest number of armed personnel per capita in the world, Sri Lanka has 1.5 military personnel for every 100 people. Its peace ranking is 100 out of 167.

According to the Press Freedom Index, the RSF Sri Lanka ranking is 150 out of 180 for 2024. Sri Lanka has been categorised as a flawed democracy and ranks 70 out of 167 in the Democracy Index published by the Economist Group.¹ Sri Lanka ranks 77 out of 142 in the Rule of Law index of the World Justice Project.

¹ https://en.wikipedia.org/wiki/The_Economist_Group

Simple steps like the language rights of the Tamil-speaking people have not been fully implemented since independence so all front-line candidates of the upcoming presidential election have promised to ensure the policy of Tamil as a state language.

The Provincial Council system, which, was established by the 13th Amendment to the Constitution in 1998 has been scuttled and since 2014 no elections to the Provincial Councils have been held. Instead of devolving power to the provinces according to the 13th Amendment, the central government has taken back and weakened the devolved powers, especially in the areas of education, health and infrastructure development. Today many people consider the Provincial Council a white elephant.

Tamil people's demand for a federal system of governance is the issue of accountability for wartime atrocities are almost nonexistent in the mainstream political discourse of the country.

Court proceedings of the emblematic cases mentioned in the UNHRC reports/resolutions have not been concluded. The campaign for an international investigation of wartime atrocities has not gathered enough strength to achieve its goal.

Sri Lanka looks like a more divided country on the ethnic lines especially between the North and East Tamils and Sinhalese today. For the first time, a joint Tamil candidate² is contesting for the presidency on the platform of recognition of the Tamil people as a sovereign people with the right to self-determination while, not a single Sinhalese presidential candidate shows a willingness to go beyond even a flawed power-sharing arrangement of the 13th Amendment to the constitution.

This is a reality that cannot be overlooked in any new action plan to bring justice and reconciliation for wartime human rights violations.

The mandate of the UNHRC resolution 51/1 on "Promoting reconciliation, accountability and human rights in Sri Lanka" ends with the ongoing 57th session of the UNHRC.³ A new resolution on the same theme to continue the mandate is at the balance.

At this juncture of 15 years after the war's end, Sri Lanka Brief revisits the national and international efforts to achieve reconciliation, accountability and human rights in Sri Lanka in the hope that it may provide a new impetus to find ways and means to end impunity for wartime rights violations in Sri Lanka.

² Read the manifesto of the Joint Tamil Candidate:
<https://srilankabrief.org/tamil-candidate-launches-sri-lankan-presidential-election-manifesto/>

³ Report of the High Commissioners report /HRC/57/19: Situation of human rights in Sri Lanka
<https://www.ohchr.org/en/documents/reports/ahrc5719-situation-human-rights-sri-lanka-comprehensive-report-united-nations>



A summary: Reasons for impunity and steps proposed by stakeholders including the United Nations.

KEY FACTORS CONTRIBUTING TO IMPUNITY

1. Weak Legal and Institutional Frameworks:

- **Judicial Independence:** The independence of the judiciary in Sri Lanka has been compromised, with political interference undermining the ability of courts to impartially adjudicate cases involving state actors.
- **Witness Protection:** There is an inadequate system for protecting witnesses, which discourages victims and witnesses from coming forward due to fear of reprisals.

2. Political Will and Governance Issues:

- **Political Influence:** Successive governments have shown limited political will to prosecute security forces and other officials accused of human rights violations. This is partly due to the political influence wielded by the military and other powerful actors like Sinhala-Buddhist war triumphalism.
- **Military Influence:** The military's significant role in the country's governance, particularly after the civil war, has shielded many accused of human rights abuses from prosecution.

3. International Dynamics:

- **Geopolitical Considerations:** International actors have sometimes prioritized geopolitical interests over human rights, leading to inconsistent pressure on the Sri Lankan government to address impunity.
- **Human Rights Council Resolutions:** While the UN Human Rights Council has passed several resolutions calling for accountability and reconciliation, enforcement mechanisms are weak, and the Sri Lankan government has often resisted external interventions.



STEPS PROPOSED TO COMBAT IMPUNITY

1. Establishment of Independent Investigations:

- **Hybrid Court:** The UN Human Rights Council has recommended the establishment of a hybrid court, incorporating both international and national judges, to ensure impartiality in investigating and prosecuting war crimes and other serious human rights abuses.
- **Special Prosecutor:** Appointment of a special prosecutor with international expertise to oversee investigations and prosecutions.

2. Strengthening Domestic Institutions:

- **Judicial Reforms:** Strengthening the independence and capacity of the judiciary to handle human rights cases effectively and without political interference.
- **Witness Protection:** Implementing robust witness protection programs to ensure the safety and security of witnesses and victims who come forward.

3. Reparations and Support for Victims:

- **Compensation:** Providing adequate compensation and reparations to victims of human rights abuses.
- **Psychosocial Support:** Offering comprehensive psychosocial support and rehabilitation services for survivors.

4. Legal and Policy Reforms:

- **Anti-Torture Legislation:** Enacting and enforcing stringent anti-torture laws to prevent future abuses.
- **Enforced Disappearances:** Implementing policies to address and resolve cases of enforced disappearances, including the establishment of a credible Office on Missing Persons.

5. Truth and Reconciliation:

- **Truth Commissions:** Establishing truth commissions to document and acknowledge past abuses, promoting transparency and accountability.
- **Public Apologies:** Encouraging public apologies from the state and security forces for past violations.

6. Ending Military Influence in Civil Administration:

- **Demilitarization:** Reducing the military's role in civil administration and returning military-occupied lands to their rightful civilian owners.
- **Oversight Mechanisms:** Creating civilian oversight mechanisms to monitor and review the actions of security forces.



7. International Sanctions and Pressure:

- Targeted Sanctions: Imposing targeted sanctions on individuals and entities responsible for serious human rights violations.
- Diplomatic Pressure: Maintaining consistent diplomatic pressure on the Sri Lankan government to fulfil its international human rights obligations.

The European Union (EU) has maintained a strong position on addressing human rights violations and promoting accountability in Sri Lanka. The EU's approach involves diplomatic engagement, support for international mechanisms, economic leverage, and direct support for human rights initiatives.

The EU's position on human rights violations in Sri Lanka is characterized by a strong emphasis on accountability, support for independent investigations, and the use of economic incentives to promote human rights improvements. Through diplomatic engagement, financial support for civil society, and strategic use of trade benefits, the EU aims to encourage Sri Lanka to address its human rights challenges and work towards lasting peace and reconciliation.

RESPONSES BY THE SRI LANKA GOVERNMENT

Successive Sri Lankan governments have had varied and often inconsistent approaches to human rights violations and accountability. While there have been periods of engagement and reform, political resistance, national security concerns, and economic challenges have frequently undermined comprehensive efforts to address past abuses and ensure justice for victims. The international community's pressure and the domestic political landscape influence the government's position and actions on these critical issues.

No front-line presidential candidate has put forward a set of proposals to address the issue of wartime human rights violations. For more details see our update on “Presidential Election 2024- No 02, Devolution, Accountability and Reconciliation.”

<https://srilankabrief.org/slb-update-presidential-election-manifestoes-on-devolution-accountability-and-reconciliation>

Here is a summary of the positions and actions of different administrations over the years:

MAHINDA RAJAPAKSA ADMINISTRATION (2005-2015) POSITION ON HUMAN RIGHTS VIOLATIONS AND ACCOUNTABILITY:

- **Denial and Resistance:** The Rajapaksa administration, which oversaw the end of the civil war in 2009, largely denied allegations of war crimes and human rights violations by the military. The government resisted international calls for independent investigations.
- **National Sovereignty:** The administration emphasized national sovereignty and rejected external interventions, framing calls for accountability as infringements on Sri Lanka's sovereignty.
- **Domestic Mechanisms:** The government established the Lessons Learnt and Reconciliation Commission (LLRC) in 2010, which critics argued lacked independence and did not fully address accountability for serious crimes.

Actions Taken:

- **Limited Accountability:** While the LLRC acknowledged some human rights issues and made recommendations, the government implemented few measures to prosecute alleged perpetrators.
- **Military Dominance:** The military maintained a significant presence in former conflict areas, and military personnel were often shielded from prosecution.



MAITHRIPALA SIRISENA ADMINISTRATION (2015-2019)

POSITION ON HUMAN RIGHTS VIOLATIONS AND ACCOUNTABILITY:

- **Commitment to Reform:** Sirisena's administration took a more conciliatory approach towards human rights and accountability, pledging to address these issues and improve relations with the international community.
- **Engagement with UN:** The government co-sponsored UN Human Rights Council Resolution 30/1 in 2015, committing to transitional justice measures including a truth-seeking mechanism, reparations, and the establishment of a special judicial mechanism with international participation.

Actions Taken:

- **Reforms and Initiatives:** Some steps were taken towards reconciliation, such as the establishment of the Office on Missing Persons (OMP) and the Office for Reparations.
- **Limited Implementation:** Despite commitments, there was limited progress on key aspects of transitional justice, particularly the establishment of a hybrid court and meaningful prosecutions of alleged war criminals. Political resistance and lack of consensus hindered comprehensive implementation.

GOTABAYA RAJAPAKSA ADMINISTRATION (2019-2022)

POSITION ON HUMAN RIGHTS VIOLATIONS AND ACCOUNTABILITY:

- **Reversal of Commitments:** Gotabaya Rajapaksa's government took a hardline stance, rolling back many of the previous administration's commitments to international mechanisms and transitional justice.
- **National Security Focus:** Emphasis was placed on national security and protecting the military, with strong resistance to external pressure for accountability.

Actions Taken:

- **Withdrawal from UN Commitments:** In 2020, the government announced its withdrawal from co-sponsorship of UNHRC Resolution 30/1, rejecting international involvement in domestic accountability processes.
- **Military Appointments:** Key military figures accused of human rights violations were appointed to prominent government positions, further entrenching impunity.

RANIL WICKREMESINGHE ADMINISTRATION (2022-PRESENT)

POSITION ON HUMAN RIGHTS VIOLATIONS AND ACCOUNTABILITY:

- **Mixed Signals:** Wickremesinghe's administration has sent mixed signals regarding its stance on human rights and accountability. While there have been some indications of willingness to engage with international actors his administration continued the withdrawal from resolution 30/1, which was cosponsored under his prime ministership.
- His administration initiated a process to establish a Truth Commission without a mandate to prosecute war crimes and restrictions imposed on war-affected Tamil people continues under his presidency.
- Civil space for citizen's participation and securing their rights has been severely restricted under his presidency and several suppressive acts were enacted hampering any genuine steps towards reconciliation.

Actions Taken:

- A draft Bill on Commission for Truth, Unity and Reconciliation was gazetted on 1 January 2024, to establish a Commission for Truth, Unity and Reconciliation. It has been criticized for lack of clarity and proper mandate.⁴

4 <https://www.tamilguardian.com/content/head-reconciliation-mechanism-confirms-sri-lanka-s-military-will-not-be-prosecuted>



INCONCLUSIVE MAJOR HUMAN RIGHTS CASES

Following human rights cases highlight the challenges Sri Lanka faces in addressing past atrocities and ensuring justice for victims. The slow progress and lack of accountability in these cases continue to attract criticism from human rights organizations and the international community. There is a persistent call for stronger legal mechanisms, independent investigations, and greater political will to address these serious human rights issues effectively.

As of 2024, several significant human rights cases in Sri Lanka continue to draw attention from domestic and international observers. These cases involve allegations of war crimes, enforced disappearances, extrajudicial killings, and other serious violations that occurred during and after the civil war. Here are some of the major ongoing human rights cases:

1. Case of the Trinco Five Students

- Incident: In January 2006, five Tamil students were killed in Trincomalee under suspicious circumstances. It is alleged that Sri Lankan security forces were involved in their deaths.
- Progress: Despite initial investigations and arrests, progress has been slow, and the case remains unresolved. Families and human rights groups continue to demand justice and accountability.

2. Case of the Muttur Aid Workers

- Incident: In August 2006, 17 aid workers from the French NGO Action Against Hunger were killed in Muttur. The killings are suspected to have been carried out by government security forces or allied paramilitary groups.
- Progress: Despite various investigations, no one has been held accountable. International pressure has been applied to reopen and pursue the case effectively.

3. Enforced Disappearances

- Incidents: Thousands of enforced disappearances occurred during and after the civil war, with many cases involving Tamil civilians. Notable cases include the disappearance of political activists and journalists.
- Progress: The Office on Missing Persons (OMP) was established to investigate these cases, but progress has been limited, and families of the disappeared have expressed dissatisfaction with the lack of concrete results.



4. Cases of Torture and Extrajudicial Killings

- Incidents: Numerous reports of torture and extrajudicial killings by security forces have been documented, both during and after the civil war. These include allegations of torture in detention centers and custodial deaths.
- Progress: While some cases have been brought to court, accountability remains elusive, with few successful prosecutions. The issue of torture continues to be a significant concern for human rights organizations.

5. Cases of Sexual Violence

- Incidents: Allegations of sexual violence by security forces, particularly against Tamil women, have been a major concern. These incidents occurred both during and after the conflict, often in detention centers.
- Progress: Sexual violence cases are rarely prosecuted, and victims face significant stigma and threats, which discourage them from seeking justice.

6. Aluthgama Riots (2014)

- Incident: In June 2014, anti-Muslim riots broke out in Aluthgama and Beruwala, leading to deaths, injuries, and extensive property damage. The violence was allegedly incited by extremist Buddhist groups.
- Progress: Investigations have been criticized for being inadequate, and there have been no convictions. The lack of accountability has been a source of tension within the Muslim community.

7. Navy Abductions Case

- Incident: Between 2008 and 2009, several Tamil youth were allegedly abducted for ransom by a group of Navy officers. Some of the victims were later found dead.
- Progress: High-profile arrests were made, including senior Navy officers. However, the case has seen significant delays, and there is considerable public and international pressure for a thorough and fair prosecution.

8. Journalist Killings and Attacks

- Incidents: Numerous journalists, particularly those critical of the government, have been killed, attacked, or disappeared. The case of Lasantha Wickrematunge, a prominent journalist murdered in 2009, is particularly notable.
- Progress: Investigations have been reopened several times, but justice has not been achieved. The lack of progress in these cases highlights ongoing issues of press freedom and safety for journalists in Sri Lanka.

COMMISSIONS AND COMMITTEES APPOINTED

During the 30-year civil war in Sri Lanka (1983-2009) and its aftermath, the Sri Lankan government established several commissions and committees to address human rights issues, war crimes, and reconciliation. These efforts were often driven by both domestic and international pressure to investigate alleged violations and promote accountability. Here are some of the key commissions and committees:

1. PRESIDENTIAL TRUTH COMMISSION ON ETHNIC VIOLENCE (1981-1984)⁵

- Established: 1994
- Purpose: To investigate the ethnic violence that occurred in the early 1980s, particularly the anti-Tamil pogroms of July 1983.
- Findings: The commission highlighted the role of political leadership in inciting violence and recommended reparations for the victims. However, its impact was limited due to lack of implementation of its recommendations.

2. PRESIDENTIAL COMMISSION OF INQUIRY INTO INVOLUNTARY REMOVAL OR DISAPPEARANCE OF PERSONS (1995-1998)

- Established: 1995
- Purpose: To investigate the widespread disappearances during the conflict, particularly during the late 1980s and early 1990s.
- Findings: The commission identified thousands of cases of disappearances, largely implicating the security forces, and recommended legal action against those responsible. Some compensation was provided, but few prosecutions followed.

3. PRESIDENTIAL COMMISSION ON ETHNIC VIOLENCE IN THE NORTH-EAST PROVINCE (1998)

- Established: 1998
- Purpose: To investigate human rights violations in the North and East, including massacres and other atrocities.
- Findings: The commission's work was hampered by ongoing conflict, and its reports had limited impact.⁶

4. PRESIDENTIAL COMMISSION OF INQUIRY: COMMISSION OF INQUIRY AND INTERNATIONAL INDEPENDENT GROUP OF EMINENT PERSONS (2006)⁷

- Established: 2006
- Purpose: To investigate 15 high-profile cases of human rights violations, including the assassination of aid workers and the murder of 17 employees of the Action Contre la Faim (ACF) NGO.
- Findings: The commission's credibility was questioned, and it was criticized for lacking independence. Its findings did not lead to significant legal action.

⁵ Full report: <https://srilankabrief.org/full-report-of-the-presidential-truth-commission-on-ethnic-violence-1981-1984-with-a-focus-on-black-july-83/>

⁶ For more information: The first three commissions analysed 27,526 and established 16,742 cases of "disappearance;" the All Island Commission investigated another 10,136 complaints and established evidence of 4,473 cases of "disappearance." See "Final Report of the Commission Of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island)," 2001, http://www.disappearances.org/news/mainfile.php/frep_sl_ai/ (accessed November 4, 2007); "Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces," 1997, http://www.disappearances.org/news/mainfile.php/frep_sl_western/ (accessed November 4, 2007); "Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Northern and Eastern Provinces," 1997, http://www.disappearances.org/news/mainfile.php/frep_sl_ne/ (accessed November 4, 2007). - HRW

⁷ Final report: <http://www.humanrights.asia/wp-content/uploads/2018/07/The-Final-Report-of-the-IIGEP.pdf>



5. LESSONS LEARNT AND RECONCILIATION COMMISSION (LLRC) (2010-2011)⁸

- Established: May 2010
- Purpose: To examine the root causes of the conflict and provide recommendations for reconciliation and accountability.
- Findings: The LLRC acknowledged some human rights violations by both the government and the LTTE but stopped short of calling for full accountability for alleged war crimes. It recommended measures for reconciliation, which included reparations, land return, and the release of detainees.

6. PARLIAMENTARY SELECT COMMITTEE ON RECONCILIATION AND CONFLICT PREVENTION (2012)

- Established: 2012
- Purpose: To follow up on the implementation of LLRC recommendations and address post-war reconciliation.
- Findings: This committee's work focused on monitoring and implementing the LLRC's recommendations, but its effectiveness was limited by political and ethnic tensions.

7. THE OFFICE FOR NATIONAL UNITY AND RECONCILIATION (ONUR) 2015⁹

- Purpose: To create a society where every person respects the fundamental rights, freedom, and equality of all communities.
- Findings: No impact on reconciliation and the project end up being a supporting small-scale NGO project.

8. CONSULTATION TASK FORCE ON RECONCILIATION MECHANISMS (CTF) (2016)¹⁰

- Established: January 2016
- Purpose: To seek public input on the design of mechanisms for truth-seeking, reparations, accountability, and reconciliation.
- Findings: The CTF conducted extensive public consultations and recommended the establishment of a credible and independent judicial mechanism to address war crimes, among other measures. However, the government's response was mixed, with delays and resistance to implementing key recommendations.

9. PROMOTING RECONCILIATION IN SRI LANKA UNDP/UNICEF/WHO (2017)¹¹

- Established: April 2017
- Purpose: Enhance reconciliation, which relates to the establishment of positive relationships and mutual understanding between and among different groups contributing to peaceful co-existence.
- Findings: The project's initiatives at the policy level have not proceeded to the level expected with a delayed delivery or abandoning outputs due to the closure of the Secretariat for Coordinating Reconciliation Mechanisms and disengagement of the Office for National Unity and Reconciliation in 2019/2020.

⁸ Final report: <https://www.slembassyusa.org/downloads/LLRC-REPORT.pdf>

⁹ <https://onur.gov.lk/>

¹⁰ Final report: <https://missingpersons.icrc.org/library/final-report-consultation-task-force-reconciliation-mechanisms-volume-i-sri-lanka>

¹¹ 2021 evaluation report: https://www.un.org/peacebuilding/sites/www.un.org.peacebuilding/files/documents/pbf_lka_a-2_final_evaluation_report_promoting_reconciliation_in_sri_lanka.pdf

11. OFFICE ON MISSING PERSONS (OMP) (2017)¹²

- Established: August 2017
- Purpose: To address the issue of missing persons, both from the civil war and other conflicts, and to provide answers and support to the families of the disappeared.
- Status: The OMP was operational and actively involved in investigating cases of missing persons, though its work has faced criticism for being slow and lacking resources.

12. OFFICE FOR REPARATIONS (2018)¹³

- Established: October 2018
- Purpose: To create a comprehensive reparations scheme anchored in the rights of all Sri Lankans to an effective remedy will contribute to the promotion of reconciliation for the wellbeing, and security of all Sri Lankans including future generations.
- Finding: Limited progress concerning war-affected Tamil people.

13. PRESIDENTIAL COMMISSION OF INQUIRY -NAVAS COMMISSION¹⁴ (2021)

- Established: January 2021
- Purpose: To investigate, inquire into and report or take necessary actions on findings of preceding Commissions or Committees appointed to investigate into human rights violations, serious violations of International Humanitarian Law (IHL) and other such offences.¹⁵
- Finding: The commission report has not been officially published. The report recommends establishing a Truth Commission with a strong mandate. Those recommendations have not been implemented.

These commissions and committees represent the Sri Lankan government's attempts to address human rights issues during and after the civil war. However, the effectiveness and independence of these bodies have often been questioned, with many observers, including international human rights organizations, arguing that these efforts have fallen short of delivering full accountability and justice.

¹² OMP Reports 2018,2019,2020: <http://www.omp.gov.lk/omp-documents/omp-reports>

¹³ https://reparations.gov.lk/web/index.php?option=com_content&view=article&id=100&Itemid=250&lang=en

¹⁴ <https://www.presidentsoffice.gov.lk/index.php/2021/01/22/president-appoints-coi-to-investigate-entire-gamut-of-hr-probes-and-findings/>

¹⁵ To read its recommendations go to our previous report: Sri Lanka Briefing Note No31: Recommendations of the Nawaz Report on TRC



RESOLUTIONS AND REPORTS BY UNHRC AND OHCHR

The United Nations Human Rights Council (UNHRC) has passed several resolutions concerning accountability, human rights, and reconciliation in Sri Lanka, particularly in the context of the civil war and its aftermath. These resolutions have been aimed at addressing alleged war crimes, promoting human rights, and encouraging reconciliation in Sri Lanka. Below is a summary of key UNHRC resolutions on Sri Lanka.

RESOLUTIONS

1. RESOLUTION 19/2¹⁶ (2012)

Title: “Promoting Reconciliation and Accountability in Sri Lanka”

Key Points:

- Called on Sri Lanka to implement the recommendations of its own **Lessons Learnt and Reconciliation Commission (LLRC)**.
- Encouraged the government to address alleged violations of international law.
- Requested the Office of the High Commissioner for Human Rights (OHCHR) to provide technical assistance to Sri Lanka.

2. RESOLUTION 22/1¹⁷ (2013)

Title: “Promoting Reconciliation and Accountability in Sri Lanka”

Key Points:

- Expressed concern over the limited progress in implementing the LLRC recommendations.
- Urged Sri Lanka to conduct credible investigations into alleged violations of international humanitarian and human rights law.
- Requested the OHCHR to report on the situation of human rights in Sri Lanka.

3. RESOLUTION 25/1¹⁸ (2014)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Authorized an international investigation by the OHCHR into alleged serious violations of human rights and related crimes during the final stages of the Sri Lankan civil war.
- Requested the OHCHR to assess the progress of reconciliation and accountability efforts in Sri Lanka.
- Marked a shift towards a more direct international involvement in investigating allegations.

¹⁶ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/19/2

¹⁷ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/22/1

¹⁸ https://ap.ohchr.org/documents/dpage_e.aspx?si=A%2FHRC%2FRES%2F25%2F1

4. RESOLUTION 30/1¹⁹ (2015)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Welcomed the new government’s commitments to transitional justice, including the establishment of a truth-seeking mechanism, an office on missing persons, and a judicial mechanism with international participation.
- Called for the establishment of an accountability mechanism to prosecute those responsible for war crimes.
- Urged the government to adopt a comprehensive approach to transitional justice, including reparations and institutional reforms.
- Sri Lanka co-sponsored this resolution, signaling a willingness to engage with the international community on these issues.

5. RESOLUTION 34/1²⁰ (2017)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Reaffirmed the commitments made in Resolution 30/1.
- Extended the timeline for Sri Lanka to implement its commitments regarding transitional justice.
- Expressed concern over the slow progress in implementing key measures, such as the establishment of a credible judicial mechanism.

6. RESOLUTION 40/1²¹ (2019)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Again reaffirmed the commitments in previous resolutions, particularly Resolution 30/1.
- Extended the monitoring and reporting mandate of the OHCHR.
- Noted with concern the continued lack of progress in establishing accountability mechanisms and implementing reforms.
- Urged the government to take concrete steps toward fulfilling its commitments.

7. RESOLUTION 46/1²² (2021)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Mandated the OHCHR to collect, preserve, and analyze evidence of gross human rights violations in Sri Lanka to support future accountability processes.
- Expressed serious concern over the deteriorating human rights situation in Sri Lanka, including the erosion of judicial independence and ongoing impunity for past violations.
- Criticized the government’s reversal of commitments made in Resolution 30/1 and its withdrawal from co-sponsorship.
- Highlighted issues like surveillance and intimidation of civil society, journalists, and victims.

¹⁹ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/30/1

²⁰ https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/34/L1

²¹ https://ap.ohchr.org/documents/dpage_e.aspx?si=A%2FHRC%2FRES%2F40%2F1

²² <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F46%2F1&Language=E&DeviceType=Desktop&LangRequested=False>



8. RESOLUTION 51/1²³ (2022)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Reinforced the previous resolutions, focusing on continued human rights concerns, including the impact of the economic crisis on human rights.
- Reaffirmed the importance of accountability and transitional justice.
- Extended the mandate of the OHCHR to collect and preserve evidence, furthering the potential for future judicial accountability processes.

9. RESOLUTION 54/1²⁴ (2023)

Title: “Promoting Reconciliation, Accountability, and Human Rights in Sri Lanka”

Key Points:

- Extended the mandate of the OHCHR to collect, preserve, and analyze evidence and information pertaining to human rights violations.
- Emphasized the need for the Sri Lankan government to make concrete progress on accountability and reconciliation.
- Expressed deep concern about ongoing human rights violations, including issues related to freedom of expression and assembly.

These resolutions reflect the international community’s continued focus on promoting human rights, accountability, and reconciliation in Sri Lanka, while also highlighting the challenges and limited progress in addressing these issues. The resolutions have increasingly emphasized the need for concrete action and accountability mechanisms to address past and ongoing human rights violations.

REPORTS

REPORT OF THE SECRETARY-GENERAL’S PANEL OF EXPERTS ON ACCOUNTABILITY IN SRI LANKA²⁵ (2011)

Summary: The evidence obtained by the panel revealed “a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka”.^[37] The panel found “credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law were committed both by the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity”. The panel concluded that the “conduct of the war represented a grave assault on the entire regime of international law designed to protect individual dignity during both war and peace”

²³ <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F51%2F1&Language=E&DeviceType=Desktop&LangRequested=False>

²⁴ <https://undocs.org/Home/Mobile?FinalSymbol=A%2FHRC%2FRES%2F51%2F1&Language=E&DeviceType=Desktop&LangRequested=False>

²⁵ <https://reliefweb.int/report/sri-lanka/report-secretary-generals-panel-experts-accountability-sri-lanka>

REPORTS OF THE UNITED NATIONAL HUMAN RIGHTS HIGH COMMISSIONER

1. SITUATION OF HUMAN RIGHTS IN SRI LANKA: COMPREHENSIVE REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS. TRANSFORMATIONAL CHANGES NEEDED FOR ACCOUNTABILITY AND RECONCILIATION²⁶

Reports highlights some concerning trends with potentially far-reaching impact on the enjoyment of fundamental rights and freedoms in the country. Noting the nexus between impunity for past and current human rights violations and broader demands for accountability in governance, the report makes recommendations for action by both Sri Lanka and the international community to advance reconciliation, accountability and human rights.

2. A/HRC/51/5: SITUATION OF HUMAN RIGHTS IN SRI LANKA - COMPREHENSIVE REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS²⁷

Report emphasised that the unprecedented economic crisis has ushered critical juncture in its political life, bringing into sharp focus the indivisibility of human rights. The United Nations High Commissioner for Human Rights urged 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.

3. A/HRC/49/9: PROMOTING RECONCILIATION, ACCOUNTABILITY AND HUMAN RIGHTS IN SRI LANKA - REPORT OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS²⁸

The report expressed concerns about the continued lack of accountability for past human rights violations and recognition of victims' rights in Sri Lanka, particularly those stemming from the conflict that ended in 2009. It highlighted continuing trends towards militarization and ethno-religious nationalism that undermine democratic institutions, increase the anxiety of minorities, and impede reconciliation.

4. A/HRC/40/23: PROMOTING RECONCILIATION, ACCOUNTABILITY AND HUMAN RIGHTS IN SRI LANKA - REPORT OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS²⁹ (FEB 2019)

The report assessed the progress made by Sri Lanka in the implementation of Human Rights Council resolution 30/1 on promoting reconciliation, accountability and human rights in Sri Lanka, between October 2015 and January 2019. It identifies the challenges faced in the operationalization of the reconciliation and accountability agenda to which the Government of Sri Lanka committed under resolution 30/1.

²⁶ <https://www.ohchr.org/en/press-releases/2024/08/sri-lanka-transformational-changes-needed-accountability-and-reconciliation>

²⁷ <https://www.ohchr.org/en/documents/reports/ahrc515-situation-human-rights-sri-lanka-comprehensive-report-united-nations-high>

²⁸ <https://www.ohchr.org/en/documents/reports/ahrc499-promoting-reconciliation-accountability-and-human-rights-sri-lanka-report>

²⁹ <https://www.ohchr.org/en/documents/reports/ahrc4023-promoting-reconciliation-accountability-and-human-rights-sri-lanka>



5. A/HRC/34/20: REPORT OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS ON SRI LANKA³⁰ (FEB 2017)

The present report assesses the progress made in the implementation of Human Rights Council resolution 30/1, on promoting reconciliation, accountability and human rights in Sri Lanka between October 2015 and January 2017. On that basis, the United Nations High Commissioner for Human Rights identifies efforts that need to be taken to achieve progress in the reconciliation and accountability agenda to which the Government of Sri Lanka has committed. The High Commissioner also advocates for the Government to continue meaningful consultations with relevant stakeholders on transitional justice and the reform agenda, and urges the Council to sustain its close engagement and monitoring of developments in Sri Lanka.

REPORT ON DISAPPEARANCES

ACCOUNTABILITY FOR ENFORCED DISAPPEARANCES IN SRI LANKA - OHCHR REPORT³¹ (AUG 2024)

This report addresses the accountability deficit for enforced disappearances committed in Sri Lanka. From the 1970s through to the end of the civil war in 2009, Sri Lanka witnessed several waves of enforced disappearances. Primarily used by Sri Lankan security forces and affiliated paramilitary groups as a tool to intimidate and oppress perceived opponents, it is apparent that, at a minimum, tens of thousands have been subject to enforced disappearances. Perpetrators at all levels continue to escape justice. Impunity remains deeply entrenched. Families remain without knowledge of the fate and whereabouts of their disappeared relatives. The risk of future disappearances remains today given failures to tackle structural weaknesses and to undertake necessary reform. For as long as the fate and whereabouts of a disappeared person remain unclarified, the enforced disappearance remains a “continuing violation” it said.

WHAT NEXT?

Nationally and internationally political equations are being changed, with regards to war crimes and accountability.

With the presidential election to be held on 21st September 2024, Sri Lanka will have a new government. Notwithstanding which party comes to power accountability for wartime atrocities i.e., crimes against humanity and serious human rights violations may not take urgent and central issue. The withdrawal from the resolution 30/1 will not be reversed. The country will be more polarised on ethnic lines.

With the genocidal war in Gaza, western democracies are facing increasing criticism for not opposing the war despite the powerful and evidence-based statement of the United Nations. World politics too is getting more polarised due to wars in Ukraine and Gaza.

Despite these developments victims of wartime human rights violations in Sri Lanka deserve justice. The Human Rights community cannot give up on their just demands.

In such a context what are the feasible and actionable steps? What should be the parameters of a genuine truth and justice mechanism in Sri Lanka? How can the issues raised by UNHRC/OHCHR resolutions and reports be brought into post-presidential election discourse in Sri Lanka?

In short after 15 years of impunity, reports, and resolutions where do we go from here?

³⁰ <https://www.ohchr.org/en/documents/reports/ahrc3420-report-office-united-nations-high-commissioner-human-rights-sri-lanka>

³¹ <https://www.ohchr.org/en/documents/thematic-reports/accountability-enforced-disappearances-sri-lanka-ohchr-report>

“Transformational changes needed for accountability and reconciliation”

“Failure of the Sri Lankan State to specifically recognize victims’ suffering, to acknowledge the military and other security forces’ role in the commission of gross human rights violations, and to address violations committed in the past and present, has been a key obstacle to the rule of law, democracy, and good governance. Many of the structures and some of the members of the State apparatus credibly implicated in the grave crimes and human rights violations remain in place, preventing meaningful progress in terms of accountability and perpetuating human rights violations. As noted in the report to the 51st Human Rights Council session, entrenched impunity has also been manifested in the corruption and abuse of power that contributed to the economic crisis and drove the popular protests in 2022.

Following the elections, the newly elected Government should - as a matter of urgency – pursue an inclusive national vision for Sri Lanka that addresses the root causes of the conflict and undertakes fundamental constitutional and institutional reforms needed to strengthen democracy and devolution of political authority and advance accountability and reconciliation.”

Situation of human rights in Sri Lanka: Comprehensive report of the United Nations High Commissioner for Human Rights (Sep.2024)