

# **SRI LANKA COUNTRY INFORMATION**

## **REPORT NO. 7**

**21 August 2022**



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*The Combined Refugee Action Group is a network group that brings together people from a variety of backgrounds across the Geelong region in Victoria, (Refugee Support Groups, Church and Community Groups, Unions, Political Groups, Social Justice and Social Action Groups, students, and individuals). We are united by the shared aim of advocating for just, humane, and welcoming policies towards refugees and people seeking asylum.*

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## Purpose

This Country Information Report outlines the recent changes in political and social context that make it unsafe for Tamil people seeking asylum in Australia to be returned to Sri Lanka. The report covers the period from October 2019 to 21st August 2022.

This referenced report fills a critical gap for decision-makers and public officials. The report considers the latest available information from a range of Sri Lankan news publications, international media coverage, reports published by human rights groups, and on-ground citizen journalists. It provides detail behind the information given in the CRAG briefing note on Sri Lanka.

Taken together, these various information sources demonstrate the significant risk to personal safety faced by Tamils if returned to Sri Lanka, and that by doing so the Australian Government would be breaching the rules of non-refoulement.

The lack of detailed referencing in the Australian Government DFAT Country Information Report -Sri Lanka (23 December 2021)<sup>1</sup> undermines the accuracy and transparency of the DFAT Report, making it difficult to gauge the reliability of the sources which have informed DFAT's judgement and assessment. It should be noted that information provided to DFAT which forms the context of the DFAT Report on Sri Lanka, reportedly emanates from many sources, however the Government of Sri Lanka or its government-sponsored instrumentalities are not listed. Given the close alliance between the Australian Government and the Sri Lankan Government, this omission by DFAT is highly questionable.

The CRAG Sri Lanka Country Information Report No.7 aims to provide a truthful account of the current political situation in Sri Lanka and is not influenced by the Sri Lankan government or its instrumentalities.

## Introduction

In November 2019, the people of Sri Lanka elected Gotabaya Rajapaksa to the office of President. Rajapaksa, referred to within his family as 'The Terminator' was a key player in the 25-year civil war with Tamil separatists and is credited with ending the war through an operation that led to the death of approximately 40,000 people<sup>2</sup>. Gotabaya Rajapaksa served as Defence Secretary in his brother's government from 2005 to 2015 from when he is 'accused of numerous crimes, including attacks on journalists and activists, and implicated in alleged war crimes

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<sup>1</sup> **Australian Government DFAT Country Information Report Sri Lanka.** December 23, 2021.  
<https://www.dfat.gov.au/sites/default/files/country-information-report-sri-lanka.pdf>

<sup>2</sup> **The Terminator': how Gotabaya Rajapaksa's ruthless streak led him to power.** *The Guardian* (online, 17 November 2019).  
<https://www.theguardian.com/world/2019/nov/17/the-terminator-how-gotabaya-rajapaksas-ruthless-streak-led-him-to-power-sri-lanka>

and crimes against humanity.’<sup>3</sup> Gotabaya Rajapaksa has denied allegations of authorising the disappearances of Tamils, the use of government endorsed death squads, torture, rape, and extrajudicial killings. No accountability has ever been taken for these actions.<sup>4</sup>

In August 2020, Gotabaya Rajapaksa appointed his brother, Mahinda Rajapaksa as Prime Minister. This is the same man who was President at the time of the alleged crimes against the Tamil people of Sri Lanka. Four other seats in Parliament were given to another of his brothers and three nephews.<sup>5</sup>

The Rajapaksa brothers have been accused of war crimes following the deaths of tens of thousands during the final stages of the civil war when Tamil civilians were shelled in a safe zone on a beach where they were awaiting aid from ICRC ships.<sup>6</sup> Tamil rebels are accused of using civilians as human shields and preventing civilians from fleeing the so-called ‘safe zone’. Tamil rebels dispute this. The Rajapaksa brothers also deny committing any war crimes.<sup>7</sup> In 2020 President Rajapaksa withdrew Sri Lanka from a UN resolution to investigate war crimes committed during his tenure as Defence Secretary.<sup>8</sup>

While Basil Rajapaksa, the Chief Election Strategist and one of Rajapaksa’s brothers, assured Sri Lanka that the government of Gotabaya Rajapaksa would “respect media freedom and civic organisations”<sup>9</sup>, this was not the case. There have been a number of legislative changes granting greater control to the President, increased restrictions on journalists, increased violence against Tamil people, and attacks on human rights organisations. Further to this, actions taken by the previous government to search for the disappeared from the war and make reparations, as well as participate in the UN investigation into war crimes during this time, were reversed.

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<sup>3</sup> **Sri Lanka – Events of 2019.** Human Rights Watch.  
<https://www.hrw.org/world-report/2020/country-chapters/sri-lanka>

<sup>4</sup> **The Terminator': how Gotabaya Rajapaksa's ruthless streak led him to power.** *The Guardian* (online, 17 November 2019).  
<https://www.theguardian.com/world/2019/nov/17/the-terminator-how-gotabaya-rajapaksas-ruthless-streak-led-him-to-power-sri-lanka>

<sup>5</sup> **Sri Lanka president tightens grip with constitutional changes.** *The Guardian* (online, 23 October 2020)  
<https://www.theguardian.com/world/2020/oct/23/sri-lanka-president-gotabaya-rajapaska-parliament-reforms>

<sup>6</sup> **Sri Lanka 'war crimes': Main allegations.** *BBC News* (online, 17 June 2011)  
<https://www.bbc.com/news/world-south-asia-13158916>

<sup>7</sup> Ibid

<sup>8</sup> **Sri Lanka notifies UN withdrawing from war crimes resolution.** *Wionews* (online, 26 February 2020)  
<https://www.wionews.com/south-asia/sri-lanka-notifies-un-withdrawing-from-war-crimes-resolution-282955>

<sup>9</sup> **Gotabaya Rajapaksa elected president of Sri Lanka.** *The Guardian* (online, 17 November 2019)  
<https://www.theguardian.com/world/2019/nov/17/sri-lanka-presidential-candidate-rajapaksa-premadas-count-continues>

In early 2022, Sri Lanka plunged into deep economic crisis, sparking massive anti-government protests in the south by the Sinhalese people. In May 2022, as the economic crisis worsened, and following a deadly attack on peaceful anti-government protesters in Colombo, Mahinda Rajapaksa resigned from his position as Prime Minister.<sup>10</sup> Ranil Wickremesinghe was appointed Prime Minister. In July 2022, thousands of people took over government buildings in Colombo, blaming the Rajapaksa family and allies for runaway inflation, shortage of basic goods, and corruption. Gotabaya Rajapaksa fled Sri Lanka and resigned as President.<sup>11</sup> In a secret ballot in Parliament on 20<sup>th</sup> July 2022, Ranil Wickremesinghe was appointed President of Sri Lanka.<sup>12</sup> A new Cabinet comprised of those with troubled records has now been appointed.<sup>13</sup>

Former Sri Lankan human rights commissioner Ambika Satkunanathan, stated *“For many people the struggle didn’t begin with Gotabaya being elected & doesn’t end with Gotabaya’s resignation.”*<sup>14</sup>

Sri Lanka has a dark history of violence towards Tamil people and other minority groups. Following an overview of the Rajapaksa family, and Ranil Wickremesinghe and his new Cabinet, these issues will each be covered in this report.

## Rajapaksa family

The August 2020 Parliamentary Elections saw Gotabaya Rajapaksa and his family strengthen its control over the Sri Lankan administration. The Sri Lanka Podujana Peramuna (SLPP) won a two-thirds majority, including the securing of the Parliamentary seat for Mantara District by Gotabaya’s nephew, Nipuna Ranawaka. Gotabaya’s brother Mahinda was installed as Prime Minister, after having held the position as caretaker since November 2019, and other members of the Rajapaksa family were appointed to positions in the government.

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<sup>10</sup> **Sri Lanka's Prime Minister Mahinda Rajapaksa resigns as violence erupts.** *Tamil Guardian* (online, 09 May 2022). <https://www.tamilguardian.com/content/sri-lankas-prime-minister-mahinda-rajapaksa-resigns-violence-erupts>

<sup>11</sup> **Sri Lanka’s crisis is not just about the economy, but a long history of discrimination against minority groups.** *The Conversation* (online, 14 July 2022). [https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc\\_cid=659d49641a&mc\\_eid=81f597ba1d](https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc_cid=659d49641a&mc_eid=81f597ba1d)

<sup>12</sup> **Ranil Wickremesinghe declared Sri Lanka’s president.** *Tamil Guardian* (online, 20 July 2022) <https://www.tamilguardian.com/content/ranil-wickremesinghe-declared-sri-lanka-s-president>

<sup>13</sup> **Following a brutal crackdown, Sri Lanka’s new ministers are sworn in.** *Tamil Guardian* (online, 22 July 2022). <https://www.tamilguardian.com/content/following-brutal-crackdown-sri-lanka-s-new-ministers-are-sworn>

<sup>14</sup> **Racist Buddhist monk blames protesters for destroying Rajapaksa and Sinhala Buddhist rule.** *Tamil Guardian* (online, 17 July 2022). <https://www.tamilguardian.com/content/racist-buddhist-monk-blames-protesters-destroying-rajapaksa-and-sinhala-buddhist-rule>

Chamal Rajapaksa, the eldest brother was given the irrigation portfolio while Mahinda's nephew, Shasheendra Rajapaksa was made Agriculture Minister.<sup>15</sup> Mahinda's son, Namal Rajapaksa was initially given the Youth and Sports ministry and later also made the Minister of Digital Technology and Enterprise Development. In August 2021, Namal Rajapaksa was further awarded a new Cabinet portfolio, Development Planning and Monitoring. The appointment of Namal Rajapaksa to this position raised concerns of nepotism and the increasing concentration of state power within the hands of the Rajapaksa family.<sup>16</sup>

During the period in which Gotabaya Rajapaksa was President, political analysts noted a rising centralisation of power, with the appointment of many serving and former military officials to key bureaucratic posts and the creating of presidential task forces to take on governance issues, in some cases bypassing ministries.

Gotabaya's rule was marked, rights groups say, with a widespread crackdown on political and other dissent, with lawyers, activists and journalists harassed, intimidated and arrested when they questioned the government's policies.<sup>17</sup>

Militarisation gathered pace in Sri Lanka, with Gotabaya Rajapaksa controlling defence, and the Defence Ministry having numerous institutions under its direct purview, including the Department of Archaeology. Home Affairs was attached to the Defence Ministry, bringing under its control district and divisional secretariats (as well as the police). The foreign secretary was a retired military man.<sup>18</sup>

*"The absolute majority to the Rajapaksa family means that they can do as they please, without caring about the people. Because of this, the Tamils will have a further erosion of their rights in the country. Their coming to power will take us down a destructive path and pave the way for family rule over the country."*

(Sivagnanam Shriritharan, member of Parliament from Tamil National Alliance)<sup>19</sup>

Economy was effectively under the control of Basil Rajapaksa, a dual citizen, in an arrangement that Gotabaya Rajapaksa was seeking to formalise through changes to the Constitution. In July 2021, further tightening the Rajapaksa family's control over Sri Lanka, Basil Rajapaksa was sworn into the Sri Lankan cabinet as finance minister. With the inclusion of Basil, there were, until April 2022, seven Rajapaksas in power - President Gotabaya, Prime Minister Mahinda, ministers

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<sup>15</sup> **Rajapaksas' rule has diminished hope for justice for Lankan Tamils.** *The NEWS Minute* (online, 24 September 2020) <https://www.thenewsminute.com/article/rajapaksas-rule-has-diminished-hope-justice-lankan-tamils-133843>

<sup>16</sup> **Amidst crisis, Sri Lanka reshuffles cabinet.** *Tamil Guardian* (online, 16 August 2021) <https://www.tamilguardian.com/content/amidst-crisis-sri-lanka-reshuffles-cabinet-0>

<sup>17</sup> **Sri Lankan parliamentary elections: Five key takeaways.** *Aljazeera* (online, 7 August 2020) <https://www.aljazeera.com/news/2020/08/sri-lankan-parliamentary-elections-key-takeaways-200807081456427.html>

<sup>18</sup> Tisarane Gunasekara. **The Rajapaksa Tidal-wave and the Anti-Rajapaksa Tsunami-wall.** *Groundviews Journalism for Citizens* (online, 23 August 2020) <https://groundviews.org/2020/08/23/the-rajapaksa-tilal-wave-and-the-anti-rajapaksa-tsunami-wall/>

<sup>19</sup> **Rajapaksas' rule has diminished hope for justice for Lankan Tamils.** *The NEWS Minute* (online, 24 September 2020) <https://www.thenewsminute.com/article/rajapaksas-rule-has-diminished-hope-justice-lankan-tamils-133843>

Chamal, Namal, Basil and MPs Sashindra (Chamal's son), Nipuna Ranawaka (nephew). Additionally, Chamal's son Shameendra became Private Secretary to multiple ministries, Mahinda's son Yoshitha became the PM's chief of staff and Chaminda Rajapaksa became a Presidential Adviser.<sup>20</sup>

On 3rd April 2022, Tamil Guardian reported that all of the Sri Lankan Government's 26 cabinet ministers, excepting Prime Minister Mahinda Rajapaksa, had tendered their resignations, in the wake of protests, as Sri Lanka plunged into deepening political and economic crises. In response, President Gotabaya Rajapaksa declared a curfew and a state of emergency across the island, giving unfettered powers to security services.<sup>21 22</sup>

The United Nations Human Rights Office stated

'There have also been reports of excessive and unwarranted police violence against protesters. We are concerned that such measures are aimed at preventing or discouraging people from legitimately expressing their grievances through peaceful protests, and that they frustrate the exchange of views on matters of public interest. We remind the Sri Lankan authorities that measures related to states of emergency must comply with international human rights law, should be limited to the extent strictly required by the situation and be proportionate to it, and should not be used to stifle dissent or hinder peaceful protest.' .... 'The High Commissioner has also previously voiced her concern that the Government responds to criticism and dissent in ways that undermine civic space, and we reiterate these concerns.'<sup>23</sup>

On 9<sup>th</sup> May 2022, Mahinda Rajapaksa resigned from his position as Prime Minister, after Sri Lanka Podujana Peramuna (SLPP) supporters violently assaulted peaceful anti-government demonstrators.<sup>24</sup> Seven people died during the incidents - including a Member of Parliament and two local officials, over 250 were injured, and the properties of others were destroyed by arson throughout the country.<sup>25</sup>

*"I am deeply troubled by the escalation of violence in Sri Lanka after supporters of the Prime Minister attacked peaceful protestors in Colombo yesterday 9 May and the subsequent mob*

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<sup>20</sup> **Rajapaksas Tighten Stronghold In Sri Lanka As Fourth Brother Basil Joins Cabinet As FM.** Republicworld.com (online, 10 July 2021) <https://www.republicworld.com/world-news/rest-of-the-world-news/rajapaksas-tighten-stronghold-in-sri-lanka-as-fourth-brother-basil-joins-cabinet-as-fm.html>

<sup>21</sup> **Turmoil in Sri Lanka as entire cabinet resigns except Prime Minister Rajapaksa.** Tamil Guardian (online, 03 April 2022). <https://www.tamilguardian.com/content/turmoil-sri-lanka-entire-cabinet-resigns-except-prime-minister-rajapaksa>

<sup>22</sup> **Sri Lanka's largest opposition party has rejected the president's invitation to form a unity government, as protests continue over the country's worst economic crisis in memory and deepening mistrust in his leadership.** Associated Press (online, 5th April 2022). <https://abcnews.go.com/International/wireStory/sri-lanka-president-proposes-multiparty-cabinet-amid-crisis-83858719>

<sup>23</sup> **PRESS BRIEFING NOTES OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS Sri Lanka: Concern at measures in response to protests amid economic crisis.** 05 April 2022. <https://www.ohchr.org/en/press-briefing-notes/2022/04/sri-lanka-concern-measures-response-protests-amid-economic-crisis>

<sup>24</sup> **Sri Lanka's Prime Minister Mahinda Rajapaksa resigns as violence erupts.** Tamil Guardian (online, 09 May 2022). <https://www.tamilguardian.com/content/sri-lankas-prime-minister-mahinda-rajapaksa-resigns-violence-erupts>

<sup>25</sup> **Bachelet urges restraint, and pathway to dialogue as violence escalates in Sri Lanka.** OHCHR Press Release. 10<sup>th</sup> May 2022. <https://www.ohchr.org/en/press-releases/2022/05/bachelet-urges-restraint-and-pathway-dialogue-violence-escalates-sri-lanka>

violence against members of the ruling party,” the UN Human Rights Commissioner Michelle Bachelet said.<sup>26</sup>

A Sri Lankan court on 12<sup>th</sup> May 2022, imposed an overseas travel ban on former prime minister Mahinda Rajapaksa, his son and MP Namal Rajapaksa and 15 others in view of investigations against them for the deadly attack on peaceful anti-government protesters in Colombo.<sup>27</sup> Local media sources reported that Batticaloa District Parliamentarian Sivanesanathurai Chandrakanthan alias Pillayan, had fled Sri Lanka. [The former Eastern Province Chief Minister was previously in remand custody over the killing of former Batticaloa district Tamil National Alliance parliamentarian Joseph Pararajasingham. Despite this he was given a ministerial portfolio by President Gotabaya Rajapaksa, and later all charges were dropped.]<sup>28</sup>

In May 2022, Ranil Wickremesinghe was appointed to the position of Prime Minister by President Gotabaya Rajapaksa.<sup>29</sup>

In July 2022, amid massive anti-government protests, Gotabaya Rajapaksa fled Sri Lanka and resigned his presidency.<sup>30</sup>

The scale of protests by Sinhalese against the Rajapaksa-led Government has been unprecedented. But Sri Lanka’s Tamils, the country’s most persecuted community, were visibly absent from the protests. Mario Arulthas, advisor to U.S.-based Tamil rights non-profit People For Equality and Relief in Lanka, said:

*“Of all the bad things the Rajapaksas have done, the worst of it all is what they did to the Tamils. If you look at the risks Tamil people take and despite that, the actions they take, particularly using words like ‘genocide’ and accusing members of the ruling family, this can’t be compared to what’s happening in Colombo.”*<sup>31</sup>

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<sup>26</sup> **Bachelet urges restraint, and pathway to dialogue as violence escalates in Sri Lanka.** OHCHR Press Release. 10<sup>th</sup> May 2022. <https://www.ohchr.org/en/press-releases/2022/05/bachelet-urges-restraint-and-pathway-dialogue-violence-escalates-sri-lanka>

<sup>27</sup> **Sri Lankan court imposes overseas travel ban on former PM Mahinda Rajapaksa, 16 others.** *Eastern Mirror* (online, 12<sup>th</sup> May 2022). <https://easternmirrornagaland.com/sri-lankan-court-imposes-overseas-travel-ban-on-former-pm-mahinda-rajapaksa-16-others/>

<sup>28</sup> **Pillayan has fled the country – report.** *ColomboPage* (online, 13<sup>th</sup> May 2022). [http://www.colombopage.com/archive\\_22A/May13\\_1652412382CH.php](http://www.colombopage.com/archive_22A/May13_1652412382CH.php)

<sup>29</sup> **Rajapaksa swears in 4 Cabinet members amid Sri Lanka crisis.** *Montana Standard* (online, 14<sup>th</sup> May 2022) [https://mtstandard.com/news/national/govt-and-politics/rajapaksa-swears-in-4-cabinet-members-amid-sri-lanka-crisis/article\\_ca89b2f8-c6d0-5c7d-bcf8-60ecb3c10d90.html](https://mtstandard.com/news/national/govt-and-politics/rajapaksa-swears-in-4-cabinet-members-amid-sri-lanka-crisis/article_ca89b2f8-c6d0-5c7d-bcf8-60ecb3c10d90.html)

<sup>30</sup> **Sri Lanka’s crisis is not just about the economy, but a long history of discrimination against minority groups.** *The Conversation* (online, 14 July 2022). [https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc\\_cid=659d49641a&mc\\_eid=81f597ba1d](https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc_cid=659d49641a&mc_eid=81f597ba1d)

<sup>31</sup> **Why These Women Aren’t Joining Sri Lanka’s Massive Anti-Government Protests.** *Tamil Guardian* (online, 25<sup>th</sup> May 2022). <https://www.vice.com/en/article/n7n8jx/tamils-sri-lanka-protest-rajapaksa-crisis>

# Ranil Wickremesinghe

After the resignation of Gotabaya Rajapaksa, on July 20th, 2022, Ranil Wickremesinghe was elected President of Sri Lanka, with the support of the Rajapaksas' political party, the Sri Lanka Podujana Peramuna.<sup>32</sup> <sup>33</sup> Ranil Wickremesinghe is the leader of the United National Party (UNP). The UNP was completely wiped out in the 2020 General Elections but secured a parliamentary seat for Wickremesinghe through the National List.

Wickremesinghe has consistently stated his opposition to any international accountability mechanism for violations of international humanitarian law. He has also claimed to have saved members of the government, including Mahinda Rajapaksa, from being brought before the International Criminal Court.<sup>34</sup>

Wickremesinghe has close ties to those accused of mass atrocities, including Shavendra Silva, the current head of the Sri Lankan army who is barred from entry to the USA due to his role in the execution of Tamils.

*"I have no problem with Shavendra Silva. He is my friend, and he has helped me a lot,"* said Wickremesinghe.<sup>35</sup>

The new Cabinet includes Dinesh Gunawardena who has been elevated to the position of Prime Minister, Ali Sabry, Douglas Devananda, Vidura Wickramanayake and Wijeyadasa Rajapakshe. Sabry is a long-time Rajapaksa ally and was a member of the legal team of Gotabaya's presidential counsel. Devananda heads the notorious Eelam People's Democratic Party (EPDP), a paramilitary organisation that continues to remain close to the Rajapaksa family. Wickramanayake supported militarisation efforts in his previous post as state minister for 'national heritage'. Wijeyadasa Rajapakshe previously advocated for the rape of lesbians to "cure" them of homosexuality and lashed out at UN Special Rapporteur Ben Emmerson, accusing him of "false facts".<sup>36</sup>

Sri Lanka's president, Ranil Wickremesinghe has not shied away from using military force and has extended the state of emergency he declared as acting president.<sup>37</sup> Wickremesinghe has previously called protesters "fascists" and directed the armed forces to "do whatever is necessary to restore order." He has

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<sup>32</sup> **Ranil Wickremesinghe declared Sri Lanka's president.** *Tamil Guardian* (online, 20 July 2022) <https://www.tamilguardian.com/content/ranil-wickremesinghe-declared-sri-lanka-s-president>

<sup>33</sup> **Sri Lanka: Security Forces Assault Peaceful Protesters.** *Human Rights Watch* (online, 22 July 2022). <https://www.hrw.org/news/2022/07/22/sri-lanka-security-forces-assault-peaceful-protesters>

<sup>34</sup> **Ranil Wickremesinghe declared Sri Lanka's president.** *Tamil Guardian* (online, 20 July 2022) <https://www.tamilguardian.com/content/ranil-wickremesinghe-declared-sri-lanka-s-president>

<sup>35</sup> Ibid.

<sup>36</sup> **Following a brutal crackdown, Sri Lanka's new ministers are sworn in.** *Tamil Guardian* (online, 22 July 2022). <https://www.tamilguardian.com/content/following-brutal-crackdown-sri-lanka-s-new-ministers-are-sworn>

<sup>37</sup> **In Sri Lanka, the Military Still Runs the Show.** *Foreign Policy* (online, 4 August 2022). [https://foreignpolicy.com/2022/08/04/sri-lanka-military-power-protests-history/?tpcc=onboarding\\_trending](https://foreignpolicy.com/2022/08/04/sri-lanka-military-power-protests-history/?tpcc=onboarding_trending)

also refused to hold the Sri Lankan military accountable for past human rights violations and mass atrocities.<sup>38</sup>

*“Just one day after taking office, President Wickremesinghe oversaw a brutal assault by security forces on peaceful protesters in the heart of Colombo,”* said Meenakshi Ganguly, South Asia director at Human Rights Watch. *“This action sends a dangerous message to the Sri Lankan people that the new government intends to act through brute force rather than the rule of law.”*<sup>39</sup>

Human Rights Watch has reported that since Ranil Wickremesinghe was sworn in as president, the police and military have sought to curtail protests through the intimidation, surveillance, and arbitrary arrests of demonstrators, civil society activists, lawyers, and journalists. *‘The Sri Lankan government is using emergency regulations to harass and arbitrarily detain activists seeking political reform and accountability for the country’s economic crisis’,* said the report. Security forces injured more than 50 people in the July 22 early morning raid on the main janatha aragalaya (people’s struggle) site in Colombo. Security forces assaulted and beat three journalists. Wickremesinghe berated foreign diplomats for criticizing the security forces’ use of excessive force and took no action to hold those responsible to account.<sup>40</sup>

UN Human Rights Office spokesperson Jeremy Laurence issued a statement: *“We are alarmed by the unnecessary use of force reportedly employed by Sri Lanka’s security forces to break up a protest camp near presidential offices in Colombo – only hours before the protesters indicated that it was due to be dismantled. We condemn the reports of beatings of protesters, journalists and lawyers. .... The use of force against peaceful protesters runs contrary to international law, and we urge authorities to immediately halt the use of such force. .... We have concerns that the raid on the camp sends a chilling message to peaceful protesters, including elsewhere in the country.”*<sup>41</sup>

On August 8, 2022, fourteen UN Human Rights Experts condemned the extensive, prolonged and repeated use of state of emergency measures since 2 April 2022 by Sri Lankan authorities to crack down on peaceful protesters and prevent them from voicing their grievances amidst economic collapse in the country. President Ranil Wickremesinghe declared another state of emergency on 17 July 2022, vowing to take a tough line against “trouble-makers”. The Sri Lankan Parliament has since ratified an ordinance on 27 July 2022 extending the current state of emergency for another month, imposing a curfew, and granting broad and

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<sup>38</sup> **Sri Lanka’s international partners should send the message that they can’t support an administration that violates human rights.** *Human Rights Watch* (online, 25 July 2022). <https://www.tamilguardian.com/content/sri-lanka-s-international-partners-should-send-message-they-can-t-support-administration>

<sup>39</sup> **Sri Lanka: Security Forces Assault Peaceful Protesters.** *Human Rights Watch* (online, 22 July 2022). <https://www.hrw.org/news/2022/07/22/sri-lanka-security-forces-assault-peaceful-protesters>

<sup>40</sup> **Sri Lanka: Heightened Crackdown on Dissent. End Arbitrary Arrests, Harassment of Protesters, Activists, Journalists.** *Human Rights Watch* (online, 2 August 2022). <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent>

<sup>41</sup> **Comment by UN Human Rights Office spokesperson Jeremy Laurence on raid on Sri Lanka protest camp.** *OHCHR* (online, 22 July 2022). <https://www.ohchr.org/en/statements/2022/07/comment-un-human-rights-office-spokesperson-jeremy-laurence-raid-sri-lanka>

discretionary powers to security forces and the military. Such powers allow them to detain protesters and search private properties without judicial supervision.

*“We have raised our concerns to the Government on a number of occasions over the misuse of emergency measures, but to no avail. We condemn the recent and continued abuse of such measures to infringe on the legitimate exercise of the rights to freedom of peaceful assembly and expression,”* the experts said.<sup>42</sup>

Tamanna Salikuddin, director of South Asia programs at the U.S. Institute of Peace, said:

*“The cabinet and parliament are still dominated by the Rajapaksa allies that really came to power on a right-wing, Sinhalese Buddhist populist platform. The parliament hasn't changed, and the parliament picked a president.”*<sup>43</sup>

## Legislative changes for greater control

In 2015 the Sri Lankan constitution was amended to reduce the powers of the Executive President. This 19<sup>th</sup> Amendment made the President more accountable to Parliament and the courts and gave more independence to a number of commissions.

However, in October 2020 the government elect pushed through a 20<sup>th</sup> Amendment to the constitution, giving the President full powers to appoint members to what were previously independent commissions, including commissions that ‘oversee elections, police, human rights and anti-corruption efforts.’<sup>44</sup>

The International Commission of Jurists has criticised the 20<sup>th</sup> Amendment, saying that it introduces judicial appointment procedures which are incompatible with principles of the justice and “gives the President sole and unfettered discretion to appoint all judges of the superior courts. Under international standards, appointments to the judiciary should not be vested solely with the executive.”<sup>45</sup> According to Inform, a Sri Lankan human rights group, on 25 September 2020, President Rajapaksa ordered ‘state officials to treat all his verbal orders as circulars to be implemented’ and that ‘those who neglect this will face stern

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<sup>42</sup> **Sri Lanka: UN human rights experts condemn repeated use of emergency measures to crackdown on protests.** *OHCHR* (online, 8 August 2022). <https://www.ohchr.org/en/press-releases/2022/08/sri-lanka-un-human-rights-experts-condemn-repeated-use-emergency-measures>

<sup>43</sup> **Tamanna Salikuddin on the Crisis in Sri Lanka.** *US Institute of Peace.* (online, 3 August, 2022). <https://www.usip.org/publications/2022/08/tamanna-salikuddin-crisis-sri-lanka>

<sup>44</sup> **Sri Lanka president tightens grip with constitutional changes.** *The Guardian* (online, 23 October 2020) <https://www.theguardian.com/world/2020/oct/23/sri-lanka-president-gotabaya-rajpaska-parliament-reforms>

<sup>45</sup> **Sri Lanka: newly adopted 20th Amendment to the Constitution is blow to the rule of law.** *International Commission of Jurists* (online, 27 October 2020). <https://www.icj.org/sri-lanka-newly-adopted-20th-amendment-to-the-constitution-is-blow-to-the-rule-of-law/>

action.<sup>46</sup> This verbal order can be ‘unrecorded, and sometimes could contravene with the existing laws, policies and other measures.’<sup>47</sup>

In March 2021, the Sri Lankan Government passed regulations allowing detention without trial for two years for those suspected to have caused “religious, racial or communal disharmony”. This is a significant expansion of the already notorious Prevention of Terrorism Act (PTA), which has historically been used to target Tamils and Muslims. The expansion provides security forces with sweeping powers under the pretext of deradicalization.<sup>48</sup> [See also the section about the PTA on pages 41-45 of this report.]

On 30th August 2021, President Gotabaya Rajapaksa declared a state of emergency. The emergency law enabled authorities to detain people without warrants, seize property, enter and search any premises, suspend laws and issue orders that cannot be questioned in court. Officials who issue such orders are also immune from lawsuits.<sup>49</sup>

In October 2021, Gotabaya Rajapaksa established a Presidential Task Force ‘One Country, One Law’ headed by the notorious extremist monk, and ex-convict, Galagodaaththe Gnanasara. The Presidential Task Force has faced severe criticism from numerous human rights organisations including Sri Lanka’s Bar Association (BASL) and the International Commission of Jurists (ICJ). The ICJ warned that the task force may be used to target minorities and highlighted the Gnanasara record of imprisonment for contempt of court and being “openly violent and racist”.<sup>50</sup>

In January 2022, Sri Lanka’s Ministry of Defence declared that all marriages between Sri Lankan citizens and foreigners would now require military approval, sparking fears across the more than million-strong Tamil diaspora over its ties to the homeland. The new law requires all foreign nationals who are seeking to marry Sri Lankan citizens to obtain a ‘Security Clearance Report’.<sup>51</sup>

Human Rights Watch World Report 2022 reported that the Global Alliance of National Human Rights Institutions (GANHRI) is reviewing the status of the Human Rights Commission of Sri Lanka after its independence was removed by

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<sup>46</sup> **Repression of Dissent, September 2020.** *Inform* <https://www.inform.lk/repression-of-dissent-september-2020/>

<sup>47</sup> Ibid

<sup>48</sup> Mario Arulthas. **Sri Lanka: Discrimination against Muslims and Tamils is getting worse.** *Middle East Eye* (online, 30 March 2021). <https://www.middleeasteye.net/opinion/how-sri-lankas-future-could-replicate-its-past>

<sup>49</sup> **Sri Lanka Authorities Crack Down on Protests, Stifle Critics and Accused of Torturing Detainees.** *CIVICUS* (online, 5 October 2021). <https://monitor.civicus.org/about/aboutcivicus/>

<sup>50</sup> **Sri Lankan President rejects resignation of Justice Minister.** *Tamil Guardian* (online, 9 November 2021). <https://www.tamilguardian.com/content/sri-lankan-president-rejects-resignation-justice-minister>

<sup>51</sup> **Fear across Tamil diaspora after Sri Lankan military demands approval before marriage.** *Tamil Guardian* (online, 13 January 2022). <https://www.tamilguardian.com/content/fear-across-tamil-diaspora-after-sri-lankan-military-demands-approval-marriage>

the constitutional 20th amendment.<sup>52</sup> The proposed recommendation by the accreditation sub-committee of GANHRI is that the Human Rights Commission of Sri Lanka (HRCSL) be downgraded to B status. Concerns relate to the lack of pluralism in the HRCSL's current membership of Commissioners and staff, as well as its effectiveness in discharging its human rights mandate. The HRCSL has not effectively engaged on and publicly addressed all human rights issues including allegations of deaths in custody and torture, nor has it spoken out in a manner that promotes and protects all human rights.<sup>53</sup>

In March 2022 it was reported that the Ministry of Public Security, in collaboration with the State Ministry of Community Police Service and the Sri Lanka Police, planned to recruit at least two youths as full-time "community assistants" to each 'Grama Nildhari' division under the Community Police Service Programme. The youths would directly report to and assist police officers in obtaining individual and community participation in various activities within their respective 'Grama Niladhari'. Opposing parties have criticized this move, stating that to secretly gather confidential information on society and civilians is unconstitutional and a violation of their Fundamental Rights.<sup>54</sup>

In May 2022, Sri Lankan Prime Minister, Ranil Wickremesinghe, announced a proposed 21st Amendment to strengthen parliament. The leader of Sri Lanka's opposition, Sajith Premadasa, denounced the move, stating that the amendment does not abolish the executive Presidency and that the President could continue to hold an unlimited number of ministerial posts.<sup>55</sup>

In May 2022, Tamil National Alliance MP, MA Sumanthiran, demanded the dissolution of parliament and fresh elections.

*"Even though there has been a change in the individual who is holding the post of Prime Minister, the Rajapaksas are very much in the governance. They haven't gone anywhere. They are showing Ranil Wickremesinghe as PM and he is also happy to do so. Unless this situation is changed, the country cannot come out from the economic crisis,"* said Sumanthiran.<sup>56</sup>

Sumanthiran also noted that the proposed 21<sup>st</sup> Amendment still enables the President to hold any number of ministerial posts.

*"The proposed draft strengthens presidential powers contrary to what was said about*

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<sup>52</sup> **World Report 2022 -Sri Lanka.** Human Rights Watch. <https://www.hrw.org/world-report/2022/country-chapters/sri-lanka>

<sup>53</sup> **Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation.** GANHRI. October 2021. [pages 31-34] [https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA-Report-October-2021\\_E.pdf](https://www.ohchr.org/Documents/Countries/NHRI/GANHRI/SCA-Report-October-2021_E.pdf)

<sup>54</sup> **Sri Lanka recruits 'youths' to monitor and report political activities to the police.** Tamil Guardian (online, 01 March 2022). <https://www.tamilguardian.com/content/sri-lanka-recruits-youths-monitor-and-report-political-activities-police>

<sup>55</sup> **Sri Lanka's Prime Minister declares 21 Amendment will be passed but opposition remains sceptical.** Tamil Guardian (online, 29 May 2022). <https://www.tamilguardian.com/content/sri-lanka-s-prime-minister-declares-21-amendment-will-be-passed-opposition-remains-sceptical>

<sup>56</sup> **TNA demands dissolution of parliament.** Tamil Guardian (online, 29 May 2022). <https://www.tamilguardian.com/content/tna-demands-dissolution-parliament>

restoring 19A. Why can't they abolish the Executive Presidency altogether without reducing it at the token level?" he stated.<sup>57</sup>

In July 2022, after the election of Ranil Wickremesinghe as President, Sumanthiran restated his calls to "dissolve Parliament and call General Elections".<sup>58</sup>

## Attacks on journalists, lawyers & human rights organisations

In July 2022, UN Human Rights Office spokesperson Jeremy Laurence condemned the reported beatings of protesters, journalists and lawyers in the days after the election of President Ranil Wickremesinghe. It was reported that security forces had attacked journalists and lawyers, especially those trying to record the events or carrying cameras or phones, with at least two arrested. At least four journalists were beaten and assaulted by the security forces. Two were hospitalized.<sup>59</sup> In their August 2022 report, Human Rights Watch also condemned the attack, stating that the Sri Lankan government is using emergency regulations to harass and arbitrarily detain activists seeking political reform and accountability for the country's economic crisis.<sup>60</sup>

The Human Rights Watch World Report 2022 reported that 'the government continued to harass, threaten and surveil victims' families, as well as lawyers and groups representing them. Intelligence agencies and the military interfere in the work of civil society organizations, particularly in the north and east, and suppress perceived dissent. Human rights organizations reported regular visits to their offices by security agencies including the police Terrorism Investigation Division.'<sup>61</sup>

In January 2021, the United Nations Commissioner for Human Rights, Michelle Bachelet, in her Report to the UN Human Rights Council, urged the Sri Lankan Government to order Sri Lankan authorities

*"to immediately end all forms of surveillance, including intimidating visits by State agents and harassment against human rights defenders, lawyers, journalists, social*

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<sup>57</sup> **TNA demands dissolution of parliament.** *Tamil Guardian* (online, 29 May 2022). <https://www.tamilguardian.com/content/tna-demands-dissolution-parliament>

<sup>58</sup> **'There is no chance that he can bring stability' - Sumanthiran slams Sri Lanka's new President.** *Tamil Guardian* (online, 24 July 2022). <https://www.tamilguardian.com/content/there-no-chance-he-can-bring-stability-sumanthiran-slams-sri-lanka-s-new-president>

<sup>59</sup> **Comment by UN Human Rights Office spokesperson Jeremy Laurence on raid on Sri Lanka protest camp.** *OHCHR* (online, 22 July 2022). <https://www.ohchr.org/en/statements/2022/07/comment-un-human-rights-office-spokesperson-jeremy-laurence-raid-sri-lanka>

<sup>60</sup> **Sri Lanka: Heightened Crackdown on Dissent. End Arbitrary Arrests, Harassment of Protesters, Activists, Journalists.** *Human Rights Watch* (online, 2 August 2022). <https://www.hrw.org/news/2022/08/02/sri-lanka-heightened-crackdown-dissent>

<sup>61</sup> **World Report 2022 -Sri Lanka.** *Human Rights Watch*. <https://www.hrw.org/world-report/2022/country-chapters/sri-lanka>

*actors and victims of human rights violations and their families, and to refrain from imposing further restrictive legal measures on legitimate civil society activity,”*<sup>62</sup>

The Report stated:

*“Significant challenges and negative trends have emerged over the past year which have profoundly changed the environment for reconciliation, accountability and human rights.”*<sup>63</sup>

The Report highlighted:

*“i) militarization of civilian government functions; ii) reversal of Constitutional safeguards; iii) political obstruction of accountability for crimes and human rights violations; iv) majoritarian and exclusionary rhetoric; v) surveillance and obstruction of civil society and shrinking democratic space; and vi) new and exacerbated human rights concerns. The High Commissioner is concerned these represent important early warning indicators that require the Human Rights Council’s urgent attention.”*<sup>64</sup>

In September 2021, the United Nations Commissioner for Human Rights, Michelle Bachelet, in her Oral Update to the UN Human Rights Council stated that:

*“Regrettably, surveillance, intimidation and judicial harassment of human rights defenders, journalists and families of the disappeared has not only continued, but has broadened to a wider spectrum of students, academics, medical professionals and religious leaders critical of government policies. Several peaceful protests and commemorations have been met with excessive use of force and the arrest or detention of demonstrators in quarantine centres.”*

*“New regulations on civil society groups are being drafted, and it is widely feared that they will further tighten restrictions on fundamental freedoms. I am deeply concerned about further deaths in police custody, ... as well as continuing reports of torture and ill-treatment by law enforcement officials.”*<sup>65</sup>

An Amnesty International Report published in May 2021, stated that “human rights defenders, journalists, lawyers and criminal investigators, came under increased intimidation and harassment during 2020. Law enforcement officials paid unannounced visits to human rights organizations and enquired about their work and funders. At least 18 such visits were recorded in the north, east and west of Sri Lanka during the year and 13 incidents of intimidation of journalists.

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<sup>62</sup> **Sri Lanka on alarming path towards recurrence of grave human rights violations – UN report.** Office of the High Commissioner for Human Rights (online 27 January 2021) <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26695&LangID=E>

<sup>63</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page 6, point 18). [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>64</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page 6, point 19). [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>65</sup> **Oral Update on the human rights situation in Sri Lanka. Statement by Michelle Bachelet, UN High Commissioner for Human Rights.** September 2021. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27447&LangID=E>

Dharisha Bastians, former editor of a state-owned newspaper and New York Times correspondent, was under investigation for reporting on various cases and human rights issues.”<sup>66</sup>

In August 2020, Human Rights Watch (HRW) expressed deep concern regarding a ‘campaign of fear and intimidation against human rights activists, journalists, lawyers, and others challenging government policy’ being waged by the Rajapaksa government.

At the time of the HRW report over 66,000 individuals had been arrested for allegedly breaching curfew. Contact tracing was run by the military and there was no confidentiality in the process. On 1 April 2020 it was announced by the police that any criticism of this response would result in arrest.<sup>67</sup>

In February 2020, the UN High Commissioner noted that Sri Lankans who had travelled to attend sessions of the Human Rights Council had been questioned about their trips. In March 2020, several participants at the Council’s session reported having been questioned before and after travel and surveilled during Council sessions and NGO side events. In December 2019, the Assistant Secretary-General addressed patterns of intimidation and reprisals in writing to the Government.<sup>68</sup>

In August 2020, the NGO Secretariat, which oversees the non-government organisations working in Sri Lanka, was placed under the purview of the Defence Ministry. Thirty other state organisations were also placed under Defence Ministry control.<sup>69</sup>

In September 2020, the Director of the NGO Secretariat, Raja Gunaratne, told local Newspaper the *Sunday Observer* that ‘some NGOs pose a serious threat to national security, spreading extremist ideologies. And discussions are underway to draft a new Act to overcome these drawbacks.’<sup>70</sup> Human Rights Watch links this move to the work of human rights organisations in holding the Rajapaksa government accountable for the war crimes committed between 2005 and 2015.<sup>71</sup>

Further highlighting the censorship imposed by the new administration, Inform, a Sri Lankan human rights group, reported that, from January 1, 2021, to March 31, 2021, alone, there were 78 reported incidents of repression of dissent, with

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<sup>66</sup> Sri Lanka 2020. Amnesty International. May 2021. <https://www.amnesty.org/en/countries/asia-and-the-pacific/sri-lanka/report-sri-lanka/>

<sup>67</sup> Sri Lanka: Increasing Suppression of Dissent. *Human Rights Watch* (online, 8 August 2020) <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent>

<sup>68</sup> Human Rights Council, Forty-fifth session 14 September–2 October 2020. Agenda items 2 & 5. [https://www.ohchr.org/Documents/Issues/Reprisals/A\\_HRC\\_45\\_36.docx](https://www.ohchr.org/Documents/Issues/Reprisals/A_HRC_45_36.docx)

<sup>69</sup> Sri Lanka: Increasing Suppression of Dissent. *Human Rights Watch* (online, 8 August 2020) <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent>

<sup>70</sup> Tharaka Wickremasekera. New laws for NGOs on the cards. *Sunday Observer* (online, 27 September 2020) <http://www.sundayobserver.lk/2020/09/27/news/new-laws-ngos-cards>

<sup>71</sup> Sri Lanka: Increasing Suppression of Dissent. *Human Rights Watch* (online, 8 August 2020) <https://www.hrw.org/news/2020/08/08/sri-lanka-increasing-suppression-dissent>

individual incidents often including multiple people. The majority of these were against journalists, protestors in the Northern and Eastern Provinces, and activists and civil society organisations. The highest number of incidents indicated 'systematic discrimination and targeting of the country's ethnic minorities, especially of Tamil individuals'. The perpetrators were predominantly linked to the state, including military, police, state institutions and officials, courts, and politicians.<sup>72</sup>

In November 2020, the new Minister of Public Security, Sarath Weerasekara, was sworn in. Retired Rear Admiral Weerasekara is known as an ultra-nationalist who has previously called for civil society groups and NGOs to be charged with treason and sentenced to death if they 'slander the government'.<sup>73</sup>

## Attacks against journalists

According to the Jaffna Press Club, 'The Tamil media field was and continues to be the most frequent target of threats and killings in Sri Lanka.'<sup>74</sup> The 2022 World Press Freedom Index, compiled by Reporters Without Borders, ranks Sri Lanka 146th out of a total of 180 countries, reporting a surge in cases of police harassment of journalists, including raids, interrogations, and acts of intimidation, since Gotabaya Rajapaksa was installed as President. Officials regularly invoke the anti-terrorism law to silence journalists, especially those who try to report on conditions for the Tamil minority in the island's north and east.<sup>75</sup>

In February 2022 the residence of Colombo-based journalist, Chamuditha Samarawickrama, was attacked by masked gunmen travelling in a white van. The attack took place just 14 days ahead of a UN Human Rights Council session and followed a series of controversial videos released by the journalist, the latest of which laid allegations against the extremist Buddhist monk Galabada the Gnanasara who heads Sri Lanka's task force for 'One Country, One Law'.<sup>76</sup>

In February 2022, freelance journalist Nilanthan, secretary of the Batticaloa District Tamil Journalists Association, was interrogated twice by officers from Sri Lanka's Criminal Investigation Department (CID) about alleged links to the Tamil diaspora.<sup>77</sup> These interrogations had followed over two years of previous

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<sup>72</sup> **Repression of Dissent in Sri Lanka, 1 January 2021- 31 March 2021.** *Inform* <https://www.inform.lk/repression-of-dissent-in-sri-lanka-january-march-2021/>

<sup>73</sup> **Retired Sri Lankan Admiral Weerasekara calls for the abolition of 19th amendment.** *Tamil Guardian* (online, 8 August 2020) <https://www.tamilguardian.com/content/retired-sri-lankan-admiral-weerasekara-calls-abolition-19th-amendment>

<sup>74</sup> **No justice for crimes against journalists in Sri Lanka - Jaffna Press Club.** *Tamil Guardian* (online, 8 November 2020) <https://www.tamilguardian.com/content/no-justice-crimes-against-journalists-sri-lanka-jaffna-press-club>

<sup>75</sup> **2022 World Press Freedom Index.** *Reporters Without Borders.* <https://rsf.org/en/sri-lanka>

<sup>76</sup> **Gunmen in white van attack journalist in Sri Lanka.** *Tamil Guardian* (online, 14 February 2022). <https://www.tamilguardian.com/content/gunmen-white-van-attack-journalist-sri-lanka>

<sup>77</sup> **Sri Lanka's Criminal Investigation Department interrogates Tamil journalist.** *Tamil Guardian* (online, 13 February 2022). <https://www.tamilguardian.com/content/sri-lankas-criminal-investigation-department-interrogates-tamil-journalist>

interrogations and threats. In January 2020, unidentified people circulated leaflets in Batticaloa, Eastern Province, stating that Nilanthan and six other journalists would be “given death punishment” for writing critically about the Sri Lankan government. In November 2020, police in Batticaloa district questioned Nilanthan at his home after he reported on the concerns of Tamil dairy farmers following the growth of military-backed Sinhalese settlements in the district. In July 2021, officers with the Batticaloa district’s Terrorism Investigation Division, interrogated Nilanthan, and in August 2021 officers from the Batticaloa Special Crime Branch interrogated journalist Sasikaran, treasurer of the Batticaloa District Tamil Journalists Association. Steven Butler, Committee to Protect Journalists’ Asia program coordinator said, “Police should not be using intimidation tactics to prevent journalists from covering protests by Sri Lanka’s Tamil community, or any others.”<sup>78 79</sup>

In December 2021, Saheer Ahmed, a Muslim journalist based in Amparai, Eastern Province, received a death threat from a police officer from the Akkaraipattu station. The police officer threatened him with disappearance and death if he did not obey his orders, which included dropping complaints of human rights abuses made against the policeman.<sup>80</sup>

In November 2021, Tamil journalist Vishwalingam Vishwachandran was attacked and beaten with a palm frond wrapped in barbed wire by military men in Mullaitivu, Northern Province, suffering serious injuries to his stomach, arms, and leg.<sup>81</sup>

## Attacks against lawyers

In August 2021, Tamil Guardian reported that over 70 individuals and organisations, including prominent religious leaders and human rights advocates in Sri Lanka, had demanded the immediate release of prominent lawyer Hejaaz Hizbullah who had been detained under the country’s draconian Prevention of Terrorism Act for over 500 days. Hizbullah was recognised as a Prisoner of Conscience by Amnesty International on 14th July 2021. The statement highlighted the detention of Hizbullah as an emblematic case, reflecting “egregious human rights abuses that take place under the PTA”. Included in this is “the fact that Tamil persons have endured prolonged detention both at the pre-trial and trial stages under the PTA”. They further noted that “detainees have been

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<sup>78</sup> **Sri Lankan anti-terror authorities interrogate journalist Selvakumar Nilanthan.** *Committee to Protect Journalists* (online, 14 July 2021) <https://cpj.org/2021/07/sri-lankan-anti-terror-authorities-interrogate-journalist-selvakumar-nilanthan/>

<sup>79</sup> **Sri Lanka police repeatedly interrogate journalist Punniamorthy Sasikaran.** *Committee to Protect Journalists* (online, 25 August 2021) <https://cpj.org/2021/08/sri-lanka-police-repeatedly-interrogate-journalist-punniamorthy-sasikaran/>

<sup>80</sup> **'Your name will appear on the disappeared persons list' - Sri Lankan police warn Muslim journalist.** *Tamil Guardian* (online, 22 December 2021). <https://www.tamilguardian.com/content/your-name-will-appear-disappeared-persons-list-sri-lankan-police-warn-muslim-journalist>

<sup>81</sup> **Sri Lanka military to probe itself over alleged torture of Tamil journalist.** *Journalists for Democracy in Sri Lanka* (online, 29 November 2021). <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/1061-sri-lanka-military-to-probe-itself-over-alleged-torture-of-tamil-journalist>

acquitted after detention periods of up to fifteen years”.<sup>82</sup> [See also the section about the PTA on pages 41-45 of this report.]

In February 2022 Hejaaz Hizbullah was finally released, following almost 2 years in Sri Lankan detention. However, the lawyer was only granted bail and Sri Lankan authorities can still detain and charge him under the draconian act, which for decades has been slammed by human rights organisations around the world. “Ever since he was arrested in April 2020, prosecutors have only brought baseless accusations against him,” said Yamini Mishra, Amnesty International’s South Asia Director. “Hejaaz is a respected lawyer and minority rights activist who should have never been detained in the first place.”<sup>83</sup>

## Forced disappearances

The Office on Missing Persons is the Sri Lankan organisation responsible for “protecting the rights of the missing and disappeared and their families.”<sup>84</sup> After the August 2020 General Election, the Office on Missing Persons was relegated to smaller premises and brought under the Justice Ministry, headed by Gotabaya Rajapaksa’s personal lawyer, Minister Ali Sabry.<sup>85</sup> The official website of the Office on Missing Persons no longer exists.

In a briefing note sent to diplomatic missions in Colombo in 2021 on the ‘Progress made by the Government of Sri Lanka on Human Rights and Reconciliation’, the Foreign Ministry noted that the Office on Missing Persons had received a total of 21,374 cases.<sup>86</sup>

Amnesty International estimates that there have been at least 60,000 and as many as 100,000 cases of enforced disappearance in Sri Lanka since the 1980s.<sup>87</sup>

According to cases outstanding before the UN Working Group on Enforced or Involuntary Disappearances in 2021, Sri Lanka had the second largest number of

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<sup>82</sup> **Over 70 individuals and organisations demand the release of Hizbullah.** *Tamil Guardian* (online, 29 August 2020). <https://www.tamilguardian.com/content/over-70-individuals-and-organisations-demand-release-hizbullah>

<sup>83</sup> **Free at last? Hejaaz released on bail, but Sri Lanka’s terrorism law looms large.** *Tamil Guardian* (online, 9 February 2022). <https://www.tamilguardian.com/content/free-last-hejaaz-released-bail-sri-lanka-s-terrorism-law-looms-large>

<sup>84</sup> The official website of the **Office on Missing Persons** previously at <http://www.ompsrilanka.org/home>

<sup>85</sup> Minoli de Soysa. **Search for the Missing: A Testament to the Enduring Power of Grief.** 20 August 2020. Groundviews – Journalism for Citizens <https://groundviews.org/2020/08/20/search-for-the-missing-a-testament-to-the-enduring-power-of-grief/>

<sup>86</sup> **Still No Answers- An update on the rights of victims of enforced disappearances in Sri Lanka.** Amnesty International 2022. <https://www.amnesty.org/en/wp-content/uploads/2022/03/ASA3752782022ENGLISH.pdf>

<sup>87</sup> **Still No Answers- An update on the rights of victims of enforced disappearances in Sri Lanka.** Amnesty International 2022. <https://www.amnesty.org/en/wp-content/uploads/2022/03/ASA3752782022ENGLISH.pdf>

enforced disappearances in the world, recorded at 6,259.<sup>88</sup>

‘Since the election of Gotabaya Rajapaksa, the Sri Lankan police, military and intelligence forces have escalated pressure against leaders in associations of the families of the disappeared, who are predominantly women, through increasingly severe threats and harassment that are intended to deter and silence existing and future activism’ stated the Jaffna-based Adayaalam Centre for Policy Research in a briefing released in May 2022.<sup>89</sup> Drawing on interviews with the families themselves, the briefing outlines the threats and harassment they face as part of state efforts to nullify their protests. Families of the disappeared feel increasingly isolated from their communities’ support and protection due to the systematic intimidation of their relatives, friends, and neighbors.

President Wickremesinghe’s callous remarks in the past, on the struggle to find answers to the whereabouts of the forcibly disappeared, remain fresh in the minds of Tamils. In 2016, he triggered outrage amongst Tamils in the North-East, when he twice claimed that the thousands of Tamils that surrendered during the final phase of the armed conflict or were forcibly disappeared were “most probably dead”. He offered no explanation as to who killed them or why they had died. In 2019, at an event in Kilinochchi, he told Tamils to “forget the past and move forward.”<sup>90</sup>

On March 20th, 2022, families of the Tamils who were disappeared during Sri Lanka’s armed conflict, led mostly by elderly mothers, were on their way to protest Sri Lankan Prime Minister Mahinda Rajapaksa’s visit to Jaffna when they were locked inside a bus by Sri Lankan police officers in Madduvil. They were then pushed, beaten, and trampled so badly that the coordinator of the Mullaitivu Disappeared Relatives’ Association and a mother of the disappeared from Vavuniya had to be admitted to their district hospital for a two-day stay. Villagers who witnessed the incident described their feelings of helplessness at not being able to intervene because they were surrounded by armed police, Special Task Force and military officers.<sup>91</sup>

Speaking in September 2021 at the 48th UN Human Rights Council session, Special Rapporteur on the promotion of truth, justice, reparations and guarantees of non-recurrence, Fabian Salvioli said:

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<sup>88</sup> Report of the UN Working Group on Enforced or Involuntary Disappearances, August 2021, A/HRC/48/57, <https://undocs.org/A/HRC/48/57>

<sup>89</sup> Situation Briefing No.6: Deteriorating Security Situation for Families of the Disappeared in the North-East of Sri Lanka. Adayaalam Centre for Policy Research. May 2022. <http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

<sup>90</sup> Ranil Wickremesinghe declared Sri Lanka’s president. *Tamil Guardian* (online, 20 July 2022) <https://www.tamilguardian.com/content/ranil-wickremesinghe-declared-sri-lanka-s-president>

<sup>91</sup> Situation Briefing No.6: Deteriorating Security Situation for Families of the Disappeared in the North-East of Sri Lanka. Adayaalam Centre for Policy Research. May 2022. <http://adayaalam.org/situation-briefing-no-6-deteriorating-security-situation-for-families-of-the-disappeared-in-the-north-east-of-sri-lanka/>

*“The last 18 months [in Sri Lanka] have witnessed a profound deterioration in the human rights situation, which jeopardizes the transitional justice process”.*

*“I deeply regret the lack of implementation of the recommendations made in the report, the insufficient progress in relation to the search for the truth, and the flagrant setback in the areas of accountability, memory and guarantees of non-repetition”<sup>92</sup>*

In May 2021, the Parliament Council appointed former Inspector General of Police, Hapu Arachchige Jayantha Shantha Kumara Wickremaratne as a member of the Office of Missing Persons. The International Truth and Justice Project (ITJP) said the recent appointment of the war time police chief to the Office of Missing Persons "completes the militarisation of this transitional justice mechanism" and "obliterates any chance of truth and justice" for Tamil families of the disappeared.<sup>93</sup> In June 2021, the UN Commissioner for Human Rights Michelle Bachelet expressed concern regarding the recent appointments to Sri Lanka's Office of Missing Persons and Office for Reparations and that steps to discourage investigations into past crimes, are further undermining victims' trust.<sup>94</sup>

In March 2021, the United Nations Human Rights Council passed a resolution on accountability and justice in Sri Lanka to mandate the Office of the High Commissioner for Human Rights to "collect" as well as "consolidate, analyse and preserve" evidence that could be used in future war crimes trials. The resolution also expressed *“serious concern at the trends emerging over the past year, which represent a clear early warning sign of a deteriorating situation of human rights in Sri Lanka”* and highlighted *“ongoing impunity and political obstruction of accountability for crimes and human rights violations”*.<sup>95</sup>

In February 2021, Journalists for Democracy in Sri Lanka reported that at least 16 young Tamil men from Northern Province remained missing eight months after they were taken into custody by the Terrorist Investigation Division (TID) and accused of 'trying to resurrect the Tamil Tigers'. This is the single largest group of Tamils 'disappeared' while in the custody of the TID, since President Gotabaya Rajapaksa assumed office in November 2019.<sup>96</sup>

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<sup>92</sup> **Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. Fabián Salvioli.** September 2021. Human Rights Council, Forty-eighth session. [Sri Lanka page 19] [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_48\\_60\\_Add.2\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_48_60_Add.2_E.pdf)

<sup>93</sup> **Appointment of former police chief to OMP 'obliterates any chance of truth and justice' says ITJP.** *Tamil Guardian* (online, 1 June 2021). <https://www.tamilguardian.com/content/appointment-former-police-chief-omp-obliterates-any-chance-truth-and-justice-says-itjp>

<sup>94</sup> **UN rights chief voices concern over Sri Lanka's counter-terrorism laws.** *Adaderana.lk* (online, 21 June 2021). <http://www.adaderana.lk/news/74822/un-rights-chief-voices-concern-over-sri-lankas-counter-terrorism-laws>

<sup>95</sup> **UN Human Rights Council passes resolution mandating war crimes evidence collection on Sri Lanka.** *Tamil Guardian* (online, 23 March 2021). <https://www.tamilguardian.com/content/un-human-rights-council-passes-resolution-mandating-war-crimes-evidence-collection-sri-lanka>

<sup>96</sup> **Relatives unable to find group of Tamils arrested by Sri Lanka anti-terror police.** *Journalists for Democracy in Sri Lanka* (online, 15th February 2021). <http://www.jdslanka.org/index.php/news-features/human-rights/998-relatives-unable-to-find-group-of-tamils-arrested-by-sri-lanka-anti-terror-police>

Families of the disappeared, and lawyers acting on their behalf, continue to face threats and harassment from the authorities and from non-state actors in their search for justice, truth, and reparation stated Amnesty International in November 2020.<sup>97</sup>

In September 2020, the UN Working Group on Enforced or Involuntary Disappearances made the following observations in relation to situations of particular concern in Sri Lanka:

“The Working Group is concerned by the deteriorating civil society space in Sri Lanka and emphasizes that relatives of forcibly disappeared individuals as well as others such as witnesses and defence counsels should be protected against any form of intimidation, harassment or ill-treatment, and that the Government has the duty to guarantee the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons and to assist victims of enforced disappearances.”<sup>98</sup>

The UN Working Group in September 2020 also expressed alarm that Former Army sergeant Sunil Ratnayake was granted a Presidential Pardon in March 2020 after being convicted of the murder of eight civilians including children. The Working Group stated that Sri Lanka has an obligation to hold criminally responsible perpetrators of enforced disappearances and other serious violations under international humanitarian law, as well as certain superior officers and to impose sanctions that are appropriate and proportionate to the crime committed.<sup>99</sup>

According to Sri Lankan human rights group Inform, on 30 September 2020, Mariasuresh Easwary, the head of the Mullaitivu Missing Persons’ Association, was threatened by two military officials regarding a protest she had planned for Children’s Day.<sup>100</sup>

Tamil activists have been “*abducted, tortured and raped because of their involvement in the search for the truth about the disappeared in Sri Lanka*” stated the International Truth and Justice Project in August 2020.<sup>101</sup>

The Presidential Secretariat stated in January 2020 that after necessary investigations, steps would be taken to issue a death certificate and the necessary

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<sup>97</sup> **Sri Lanka: Deliver justice, truth and reparation to families of the disappeared.** *Amnesty International* (online, 20 November 2020). <https://www.amnesty.org/en/latest/news/2020/11/sri-lanka-deliver-justice-truth-and-reparation-to-families-of-the-disappeared/>

<sup>98</sup> **Enforced or involuntary disappearances -Report of the Working Group on Enforced or Involuntary Disappearances.** Human Rights Council, Forty-fifth session, 14 September–2 October 2020. page 22. <https://undocs.org/en/A/HRC/45/13>

<sup>99</sup> **Mandates of the Working Group on Enforced or Involuntary Disappearances.** 11 May 2020. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25117>

<sup>100</sup> **Repression of Dissent: September 2020.** <https://www.inform.lk/repression-of-dissent-september-2020/>

<sup>101</sup> **Press Release: Raped and Tortured for Collecting the Names of the Disappeared.** *ITJP* (online, 30 August 2020). <https://itjpsl.com/assets/press/ENGLISH-ITJP-Press-release-Disappearance.pdf>

support for families of the disappeared to rebuild their lives.<sup>102</sup> In May 2020, the UN Working Group on Enforced or Involuntary Disappearances recommended that Sri Lanka take appropriate steps regarding the legal situation of disappeared persons whose fate has not been clarified, including legal frameworks for their relatives in fields such as social welfare, financial matters, family law and property rights.<sup>103</sup> Without a death certificate, some families of the disappeared have struggled to access support.

The Gotabaya Rajapaksa Government ceased issuing interim relief payments to families of the disappeared, causing them further financial distress stated Amnesty International in November 2020. The Government stated that it would review the Act establishing the Office on Missing Persons, fearing that that the work of the Office on Missing Persons would enable war crime charges to be brought against the Sri Lankan military.<sup>104</sup>

## The situation for Tamils

While the tightening of civil liberties by the Rajapaksa government has negatively impacted a wide range of minority groups within Sri Lanka, the risk posed to the Tamil community is especially acute. The majority of Sri Lankan Tamils live in the Northern Province and Eastern Province of Sri Lanka. The Sri Lankan security forces have a long history of brute force against the Tamil population on the island. The North-East remains heavily militarized, with army personnel regularly intimidating and harassing locals.

Ranil Wickremesinghe's visits to the North-East in the past have triggered protests from Tamils, including families of the disappeared.<sup>105</sup> Ranil Wickremesinghe has a history of discrimination and militarisation against the Tamils. Like Rajapaksa, Wickremesinghe has close ties to the military. Wickremesinghe rejected the UN Expert Panel report that outlined Sri Lankan government atrocities against the Tamils.<sup>106</sup>

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<sup>102</sup> **Death Certificates for Missing after Investigations.** Presidential Secretariat Press Release. January 2020. <https://www.presidentsoffice.gov.lk/index.php/2020/01/24/death-certificates-for-missing-after-investigations/>

<sup>103</sup> **Mandates of the Working Group on Enforced or Involuntary Disappearances.** 11 May 2020. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=25117>

<sup>104</sup> **Sri Lanka: Commit funds to support transitional justice process for victims of conflict.** *Amnesty International* (online, 6 November 2020). <https://www.amnesty.org/en/latest/news/2020/11/sri-lanka-commit-funds-to-support-transitional-justice-process-for-victims-of-conflict/>

<sup>105</sup> **Ranil Wickremesinghe declared Sri Lanka's president.** *Tamil Guardian* (online, 20 July 2022). <https://www.tamilguardian.com/content/ranil-wickremesinghe-declared-sri-lanka-s-president>

<sup>106</sup> **Sri Lanka's crisis is not just about the economy, but a long history of discrimination against minority groups.** *The Conversation* (online, 14 July 2022). [https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc\\_cid=659d49641a&mc\\_eid=81f597ba1d](https://theconversation.com/sri-lankas-crisis-is-not-just-about-the-economy-but-a-long-history-of-discrimination-against-minority-groups-186747?mc_cid=659d49641a&mc_eid=81f597ba1d)

In June 2022 in his report to the UN Human Rights Council, Special Rapporteur Clement Voule stated that:

“Sri Lankan police frequently appear to respond to protests that are disfavoured for political reasons by arresting their participants, in violation of the right to freedom of peaceful assembly. Police have arrested peaceful protesters calling for accountability in relation to Tamil war victims; for environmental protection; for more equitable socio-economic policies; for better working conditions; and for education rights. Sri Lanka continues to engage in extremely restrictive practices relative to associations representing minority groups and viewpoints. Sri Lanka has continued surveilling, harassing and at times arresting human rights defenders, journalists, activists and critics. In light of what appears to be a pattern of surveillance, harassment and reprisals, the Special Rapporteur reiterates his call on Sri Lanka to immediately end all attacks on human rights defenders and victims of human rights violations with the utmost urgency.”<sup>107</sup>

In March 2022 the Annual Report of the United Nations High Commissioner for Human Rights stated that:

‘The pattern of surveillance and harassment of civil society organizations, human rights defenders and victims highlighted in previous reports has continued, particularly for those in the north and east of the country. OHCHR continues to receive allegations of intimidation, monitoring and surveillance by the security services of human rights defenders, civil society representatives, journalists and families of the disappeared.’

‘A range of restrictions have affected the operating space for civil society organizations, particularly in the north and east of the country. Organizations report being unable to work without surveillance or scrutiny and having to inform and get approval from the district secretariat for any activity. Some areas of work that do not involve material service delivery, such as psychosocial support, are particularly discouraged. Civil society organizations informed OHCHR that banks often require them to get approval from their respective district secretariat before releasing funds, placing administrative hurdles in their way.’

‘The High Commissioner is concerned by the Government’s recent public responses to human rights advocacy by well-known and respected civil society representatives and its conflation with propaganda by the Liberation Tigers of Tamil Eelam (LTTE). Similar interventions in the past have had a chilling effect on Sri Lankan human rights defenders, including in their interaction with the Human Rights Council.’

‘OHCHR has received a number of reports stating that victim groups continue to face harassment and intimidation from the authorities, including multiple visits from intelligence and police officers inquiring about plans for protests or commemorations, or their past links with LTTE. In addition, rehabilitated LTTE members and their families or anyone considered to have had any link to LTTE during the conflict are targets of constant surveillance. The High Commissioner is concerned about the gender dimension of these policies in a context where many of those advocating for justice are women survivors or family members and face additional vulnerability in their dealings with the security forces and the authorities’<sup>108</sup>

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<sup>107</sup> **Follow-up to country visits to Tunisia, Armenia, Sri Lanka and Zimbabwe - Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Clément Nyaletsossi Voule (A/HRC/49/9) (Advance Unedited Version). Human Rights Council Fiftieth session, 13 June–8 July 2022.** [paragraphs 37,40, 45, 48]. <https://reliefweb.int/report/tunisia/follow-country-visits-tunisia-armenia-sri-lanka-and-zimbabwe-report-special-rapporteur-rights-freedom-peaceful-assembly-and-association-clement-nyaletsossi-voule-ahrc499-advance-unedited-version>

<sup>108</sup> **A/HRC/49/9: Situation of human rights in Sri Lanka – Report of the Office of the United Nations High Commissioner for Human Rights. 28 February–1 April 2022.** [pages 6-7, paragraphs 27 -30, 32] <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ListReports.aspx>

In January 2021, in her Report to the UN Council for Human Rights, Michelle Bachelet, United Nations Commissioner for Human Rights stated

*“Sri Lanka’s current trajectory sets the scene for the recurrence of the policies and practices that gave rise to grave human rights violations.”*<sup>109</sup>

## **Banning of public commemorations for Tamils killed during the civil war:**

In November 2020, the Rajapaksa government banned all public commemorations for Tamils killed during the civil war. Great Hero’s Day (Maaveerar Naal) celebrations were forbidden.<sup>110</sup> Private commemorations were still permitted, however according to media reports, security forces blocked access to the thuyilum illams – the resting places of those killed during the war – as well as raiding private homes and making arrests.<sup>111</sup> The thuyilum illams were destroyed by government forces following the war but many of these have been restored by Tamil communities.<sup>112</sup>

One Tamil MP, in response to this ban, maintained that the actions of the Tamils during the war were not terrorism, and that, ‘You cannot conduct continuous pogroms against a community and expect them to accept all humiliation and violence and go about their day- to-day chores as if nothing has happened.’ He further asserted that it was a response to ‘state terrorism’.<sup>113</sup>

On May 18th, 2022, on the 13th anniversary of the massacre at Mullivaikkal which killed tens of thousands of Tamil civilians, the Sri Lankan military announced that 396 Officers & 8,110 other ranks in the army had been promoted. The promotions were approved by the head of Sri Lanka’s army Shavendra Silva and Sri Lankan president Gotabaya Rajapaksa, both of whom are credibly accused of war crimes.<sup>114</sup>

In May 2022 a Tamil man Vivekanandan Piriyanagan was hospitalised after being brutally assaulted by thugs with close ties to Sri Lankan military intelligence for

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<sup>109</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page14, point 52).

[https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>110</sup> **Sri Lanka bans remembrance of dead Tamil rebels.** *TRT World* (online, 27 November 2020) <https://www.trtworld.com/asia/sri-lanka-bans-remembrance-of-dead-tamil-rebels-41851>

<sup>111</sup> **Tamil nation marks Maaveerar Naal 2020.** *Tamil Guardian* (online, 27 November 2020) <https://www.tamilguardian.com/content/tamil-nation-marks-maaveerar-naal-2020>

<sup>112</sup> **Kilinochchi residents clear up destroyed Mulankavil LTTE cemetery.** *Tamil Guardian* (online, 25 October 2017) <https://www.tamilguardian.com/content/kilinochchi-residents-clear-destroyed-mulankavil-ltte-cemetery>

<sup>113</sup> **‘Our youth took up arms for self defence’ - Tamil parliamentarian C V Wigneswaran.** *Tamil Guardian* (online, 29 November 2020) <https://www.tamilguardian.com/content/our-youth-took-arms-self-defence-tamil-parliamentarian-c-v-wigneswaran>

<sup>114</sup> **Hundreds of Sri Lankan army officers promoted as Tamil nation mourns massacre at Mullivaikkal.** *Tamil Guardian* (online, 18 May 2022). <https://www.tamilguardian.com/content/hundreds-sri-lankan-army-officers-promoted-tamil-nation-mourns-massacre-mullivaikkal>

organising a Tamil Genocide Remembrance Day commemoration event in Mullivaikkal earlier that week.<sup>115</sup>

In November 2021, over 50 restraining orders against Tamil politicians and grassroots activists, were issued by judicial courts to prevent them from participating in Maaveerar Naal events.<sup>116</sup>

On May 18th, 2021, on the 12th anniversary of the massacre at Mullivaikkal, Sri Lankan President Gotabaya Rajapaksa promoted 452 officers in the Sri Lankan army and 4289 officials of other ranks.<sup>117</sup> Heavily armed troops patrolled Tamil areas and intimidated Tamils from remembering their war dead. Sri Lankan security forces arrested ten Tamil men and women after the group held a memorial event at a beach in Batticaloa to mark Tamil Genocide Day. They were charged under the draconian anti-terror law, the Prevention of Terrorism Act (PTA). The PTA allows arbitrary and indefinite imprisonment of people.<sup>118</sup> The ten Tamils were detained for 7 months. They were released on bail in December 2021 and in April 2022 all charges against them were dropped.<sup>119 120</sup>

### **Arbitrary Administrative Detention:**

In June 2021, Michelle Bachelet, United Nations Commissioner for Human Rights at the opening of the UN Human Rights Council's 47th session in Geneva, stated:

*"In Sri Lanka, I am concerned by further Government measures perceived as targeting Muslims, and by the harassment of Tamils, including in the context of commemoration events for those who died at the end of the war."*<sup>121</sup>

She further said that regulations now permit the arbitrary administrative detention of people for up to two years, without trial for the purposes of

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<sup>115</sup> **Tamil man hospitalised following assault by Sri Lankan military aligned thugs over Mullivaikkal commemoration.** *Tamil Guardian* (online, 22 May 2022). <https://www.tamilguardian.com/content/tamil-man-hospitalised-following-assault-sri-lankan-military-aligned-thugs-over-mullivaikkal>

<sup>116</sup> **Sri Lanka launches offensive against Tamils preparing to mourn war dead.** *Journalists for Democracy in Sri Lanka* (online, 18th November 2021). <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/1057-sri-lanka-launches-offensive-against-tamils-preparing-to-mourn-war-dead>

<sup>117</sup> **Sri Lanka's military promotes 452 officers during Tamil Genocide Day.** *Tamil Guardian* (online, 21 May 2021). <https://www.tamilguardian.com/content/sri-lanka-s-military-promotes-452-officers-during-tamil-genocide-day>

<sup>118</sup> **Sri Lanka Charges Tamils who Remembered their War Dead under Draconian Anti-Terror Law.** *Tamil News Service* (online, 19 May 2021). [https://www.einnews.com/pr\\_news/541565310/sri-lanka-charges-tamils-who-remembered-their-war-dead-under-draconian-anti-terror-law](https://www.einnews.com/pr_news/541565310/sri-lanka-charges-tamils-who-remembered-their-war-dead-under-draconian-anti-terror-law)

<sup>119</sup> **Ten Tamils detained for 7 months for commemorating Mullivaikkal genocide released on bail.** *Tamil Guardian* (online, 8 December 2021). <https://www.tamilguardian.com/content/ten-tamils-detained-7-months-commemorating-mullivaikkal-genocide-released-bail>

<sup>120</sup> **Tamils arrested, detained and now finally released for lighting candles.** *Tamil Guardian* (online, 26 April 2022). <https://www.tamilguardian.com/content/tamils-arrested-detained-and-now-finally-released-lighting-candles>

<sup>121</sup> **UN rights chief voices concern over Sri Lanka's counter-terrorism laws.** *Adaderana.lk* (online, 21 June 2021) <http://www.adaderana.lk/news/74822/un-rights-chief-voices-concern-over-sri-lankas-counter-terrorism-laws>

de-radicalisation. *“I also note a continuing series of deaths in police custody and in the context of police encounters with alleged criminal gangs.”*<sup>122</sup>

In August 2021, a team of UN Special Rapporteurs published a report expressing serious concern about the adoption and implementation of a recent Regulation by the Sri Lankan Government, titled ‘Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology)’. The provisions in the Regulation are contrary to Sri Lanka’s international legal obligations. The current legislation *“risks jeopardizing the rights and liberties of persons who may be detained arbitrarily, especially religious and ethnic minorities, and may curtail political dissent”*. The UN experts highlighted that a criminal act need not be committed by the individual as authorities are granted the power to detain and deprive them of their liberty simply *“on the basis of suspicion and without judicial process”*. The Report states *“the possibility of coercion, torture, or risk of enforced disappearance during the 24-hour unsupervised detention period, gives rise to considerable concerns”*. The UN Special Rapporteurs have called upon the Sri Lankan Government to rescind the Regulation. The new Regulation expands upon previous concerns raised by the UN that remain unaddressed and are an additional set of rights- denying measures further undermining the protection of human rights in Sri Lanka.<sup>123 124</sup>

### **Increased use of the military:**

Since the election of President Rajapaksa there has been an increased use of the military and the militarisation of responses to issues such as the COVID 19 pandemic. *“Sri Lanka’s involvement of the military at every level, with limited parliamentary and civilian oversight, raises serious human rights and rule of law concerns,”* stated Boram Jang, Legal Advisor at the International Commission of Jurists Asia & the Pacific Programme. *“Having the military to oversee the public health policy and to act as the State’s first responders also normalises military occupation, exacerbates the existing ethnic divides, and further deteriorates human rights in Sri Lanka”* stated Jang.<sup>125</sup>

In December 2020, the new Minister of Public Security, Sarath Weerasekara increased surveillance in the Eastern Province, and reiterated his calls for the Tamil National Alliance to be banned:

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<sup>122</sup> **UN rights chief voices concern over Sri Lanka’s counter-terrorism laws.** *Adaderana.lk* (online, 21 June 2021) <http://www.adaderana.lk/news/74822/un-rights-chief-voices-concern-over-sri-lankas-counter-terrorism-laws>

<sup>123</sup> **UN Special Rapporteurs Communication Report to Sri Lankan Government. 9th August 2021.** <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26575>

<sup>124</sup> **Sri Lanka’s expanded PTA violates basic liberties warn UN experts.** *Tamil Guardian* (online, 16 August 2021) <https://www.tamilguardian.com/content/sri-lankas-expanded-pta-violates-basic-liberties-warn-un-experts>

<sup>125</sup> **Sri Lanka’s militarised COVID-19 response 'exacerbates ethnic divides'.** *Tamil Guardian* (online, 29 October 2020). <https://www.tamilguardian.com/content/sri-lanka-s-militarised-covid-19-response-exacerbates-ethnic-divides>

*“We have deployed our intelligence people and informed the Security Forces in the area. We have increased our mobile patrols and planted certain informants there and they will give us all information required.”*<sup>126</sup>

In March 2021 President Gotabaya Rajapaksa announced that security would be increased in the Eastern Province which has significant Tamil and Muslim populations, with the reopening of 50 military and STF camps, to stem separatist terrorism and Islamic extremism. This announcement followed the closing of 1,000 Islamic schools and the banning of the Burka on the grounds of ‘national security.’<sup>127</sup>

In November 2021, the Sri Lankan army reportedly set up a new camp in Batticaloa district in Eastern Province. This move from the Sri Lanka’s army was the latest in its rampant militarisation of the Tamil homeland in the North-East.<sup>128</sup>

### **Torture and excessive use of force by police and security forces:**

In August 2022, amidst a crackdown by President Ranil Wickremesinghe, leading activists and civilians were arrested by Sri Lankan security forces for their involvement in demonstrations calling for former Sri Lankan president Gotabaya Rajapaksa to step down. This included General Secretary of the Ceylon Teachers Union, Joseph Stalin.<sup>129</sup> United Nations Special Rapporteur on Human Rights Defenders Mary Lawlor questioned the arrest of Joseph Stalin stating: *“I’m hearing disturbing reports from Sri Lanka that prominent Human Rights Defender, Joseph Stalin, was arrested.”* Mary Lawlor further said that the work of Human Rights Defenders like Joseph Stalin has been more important than ever in recent weeks, adding that such work of Human Rights Defenders must be supported and not punished.<sup>130</sup>

In August 2022, Mangala Maddumage, a national organiser of the Revolutionary Students Union was reportedly abducted by unidentified men in Colombo, as the crackdown on anti-government protesters continued across the South. According to Journalists for Democracy in Sri Lanka (JDS), Sri Lankan police have confirmed that Maddumage is being held at Colombo Crime Division in Bamabalapitiya.<sup>131</sup>

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<sup>126</sup> **Sri Lanka’s security minister boasts intelligence is ‘back on track’.** *Tamil Guardian* (online, 6 December 2020) <https://www.tamilguardian.com/content/sri-lanka-s-security-minister-boasts-intelligence-back-track>

<sup>127</sup> **Rajapaksa to reopen military and STF camps in the Eastern Province as militarisation intensifies.** *Tamil Guardian* (online, 17 March 2021). <https://www.tamilguardian.com/content/rajapaksa-reopen-military-and-stf-camps-eastern-province-militarisation-intensifies>

<sup>128</sup> **Sri Lankan army sets new camp up in Batticaloa bird sanctuary.** *Tamil Guardian* (online, 5 November 2021). <https://www.tamilguardian.com/content/sri-lankan-army-sets-new-camp-batticaloa-bird-sanctuary>

<sup>129</sup> **Protestors demand release of arrested union leader.** *Tamil Guardian* (online, 4 August 2022). <https://www.tamilguardian.com/content/protestors-demand-release-arrested-union-leader>

<sup>130</sup> **Joseph Stalin’s arrest: UN special rapporteur concerned.** *Newswire* (online, 4 August 2022). <https://www.newswire.lk/2022/08/04/joseph-stalins-arrest-un-special-rapporteur-concerned/>

<sup>131</sup> **Another activist abducted as crackdown continues in the South.** (online, 8 August 2022). <https://www.tamilguardian.com/content/another-activist-abducted-crackdown-continues-south>

In February 2022, Sri Lankan intelligence officers attempted to kidnap a Tamil activist Nithanshan, in a white van. Nithanshan, the assistant secretary of the Illankai Tamil Arasu Kachchi (ITAK) youth wing in Kalmunai, along with the MP for Ampara were arranging the signature campaign in Ampara to repeal the Prevention of Terrorism Act (PTA).<sup>132</sup>

In February 2022 Sri Lanka's Terrorism Investigation Division (TID) issued a summons to a Tamil political activist V S Sivakaran, a former head of the ITAK youth wing and well-known political activist, demanding he appear before them in Colombo for questioning. Sivakaran, like many other Tamil activists, has been subject to interrogation by the Sri Lankan security forces before.<sup>133</sup>

In January 2022, a prominent Tamil activist in the Northern Province was killed at sea, when his fishing boat was rammed by a Sri Lankan navy vessel. Mariyaseelan was a well-known and popular activist, having prominently taken part in protests, against the Sri Lankan navy's land grabs in Mathagal, near Jaffna, in recent months.<sup>134</sup>

In September 2021, Ambika Satkunanathan, commissioner of the Human Rights Commission of Sri Lanka from 2015 to 2020, said,

*"If you are a Tamil woman activist working in the Northern Province, you will face additional challenges, such as surveillance, constant visits by the security agencies to your house to make inquiries about your activities, and phone calls prior to events or demonstrations to intimidate you from participating."*<sup>135</sup>

In September 2021, the International Truth and Justice Project (ITJP) released a report titled Sri Lanka: Torture & Sexual Violence by Security Forces 2020-21.<sup>136</sup> The report contains testimonies from 15 Tamils who had been abducted, detained and tortured by Sri Lanka security forces, since Gotabaya Rajapaksa took office as Sri Lanka's president in 2019. The witnesses have now fled the island and reside in the UK. The ITJP report noted that a "new generation of Tamils" are being victimised for exercising their constitutional rights." "The victims being detained now are generally young and of little intelligence value to the security forces, who

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<sup>132</sup> **Sri Lankan intelligence 'attempts to kidnap' Tamil political activist.** *Tamil Guardian* (online, 17 February 2022). <https://www.tamilguardian.com/content/sri-lankan-intelligence-attempts-kidnap-tamil-political-activist>

<sup>133</sup> **Sri Lanka's Terrorism Investigation Division summon Tamil activist again.** *Tamil Guardian* (online, 16 February 2022). <https://www.tamilguardian.com/content/sri-lanka-s-terrorism-investigation-division-summon-tamil-activist-again>

<sup>134</sup> **Anger in Jaffna after leading Tamil protestor killed by Sri Lankan navy.** *Tamil Guardian* (online, 12 January 2022). <https://www.tamilguardian.com/content/anger-jaffna-after-leading-tamil-protestor-killed-sri-lankan-navy>

<sup>135</sup> **The criminal justice system in South Asia is discriminatory and violent**: Ambika Satkunanathan. (online, 26 September 2021) <https://www.moneycontrol.com/news/trends/features/the-criminal-justice-system-in-south-asia-is-discriminatory-and-violent-ambika-satkunanathan-7509391.html>

<sup>136</sup> **Sri Lanka: Torture & Sexual Violence by Security Forces 2020-21.** *International Truth and Justice Project.* Sept.2021. <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

appear to be mounting a campaign of repression against legitimate Tamil expression of fundamental rights including protests or calls for accountability." <sup>137</sup>

In June 2021, the International Truth and Justice Project (ITJP) released a statement highlighting recent cases of “abduction and torture of Tamils perpetrated by the Sri Lankan security forces under the government of President Gotabaya Rajapaksa,” with the most recent documented case occurring in November 2020. ITJP’s Executive Director, Yasmin Sook said that numerous victims arriving in the UK had been tortured, and more than half of those interviewed appear to have been picked up because they were involved in campaigning against the election of President Gotabaya Rajapaksa and participating in protests by the families of the disappeared. One of the youngest witnesses was only 19 when he was detained, tortured and brutally raped. Three victims attempted to kill themselves after reaching safety in the UK. The perpetrators include the Sri Lankan Army and counter-terrorism police. <sup>138</sup>

In June 2021, Human Rights Watch reported that Sri Lanka’s police were increasingly killing and abusing people under cover of the Covid-19 pandemic measures and an anti-drug campaign. Recent police abuses reported in the media include alleged extrajudicial killings, torture, and arbitrary detention. <sup>139</sup> In June 2021, Journalists for Democracy in Sri Lanka reported that in Batticaloa district, Eastern Province, a young Tamil man died while in police custody after he was brutally assaulted in front of his family members, before being taken to the police station on drug-related offences. <sup>140</sup> An initial autopsy led by the Special Judicial Medical Officer (JMO) cited a drug overdose as the cause of death. However, a second autopsy in November 2021, reportedly revealed signs of torture. There were at least 31 different injuries on the body of the young Tamil man. <sup>141 142</sup>

The US State Department’s Human Rights Practices 2020 Country Report for Sri Lanka cites allegations of ongoing torture. Interviews by human rights organizations found that torture and excessive use of force by police, particularly to extract confessions, remained endemic. The Human Rights Commission of Sri Lanka (HRCSL) documented 260 complaints of physical and mental torture from January to August 2020 in addition to 37 complaints from prisoners. In response

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<sup>137</sup> **New ITJP report documents ongoing abduction, torture and rape of Tamils in the North-East.** *Tamil Guardian* (online, 8 September 2021) <https://www.tamilguardian.com/content/new-itjp-report-documents-ongoing-abduction-torture-and-rape-tamils-north-east>

<sup>138</sup> **International Truth & Justice Project. Press release: Not Cricket – Sri Lankan Torture. 26 June 2021.** <https://itjpsl.com/assets/press/Final-English-Press-release-ITJP-26-June-2021.pdf>

<sup>139</sup> **Sri Lanka: Police Abuses Surge Amid Covid-19 Pandemic.** *Human Rights Watch* (online, 6 August 2021) <https://www.hrw.org/news/2021/08/06/sri-lanka-police-abuses-surge-amid-covid-19-pandemic>

<sup>140</sup> **Death in Sri Lanka’s Police custody: Tamil Youth’s body to be exhumed.** *Journalists for Democracy in Sri Lanka* (online, 20 June 2021) <http://www.jdslanka.org/index.php/news-features/human-rights/1029-death-in-sri-lankas-police-custody-tamil-youths-body-to-be-exhumed>

<sup>141</sup> **Sri Lankan police officer boasted of ‘nine murders’ say parents of murdered Tamil youth.** *Tamil Guardian* (online, 22 November 2021). <https://www.tamilguardian.com/content/sri-lankan-police-officer-boasted-nine-murders-say-parents-murdered-tamil-youth>

<sup>142</sup> **Forensic evidence of torture found on murdered Tamil youth.** *Tamil Guardian* (online, 14 November 2021). <https://www.tamilguardian.com/content/forensic-evidence-torture-found-murdered-tamil-youth>

to allegations of torture, the HRCSL carried out routine visits of detention centers.<sup>143</sup>

### **Tamil marginalization in state institutions and committees:**

Tamil voices have been further marginalized by the Rajapaksa government in state institutions and committees; in November 2020 President Rajapaksa appointed only Sinhalese to the board of the Human Rights Commission of Sri Lanka.<sup>144</sup> This was not long after he gave a speech in which he declared that the Sinhalese ‘rallied because they had legitimate fears that the Sinhala race, our religion, national resources and the heritage would be threatened with destruction in the face of various local and foreign forces and ideologies that support separatism, extremism and terrorism.’<sup>145</sup> He also appointed only Sinhalese to an archaeology task force, overseen by the military, because he intended to “preserve our Buddhist and national heritage.”<sup>146</sup> In the Northern Province, during 2021, Sinhala government officers were appointed in Tamil areas, violating the tradition of appointing Tamil officers to Tamil-majority areas.<sup>147</sup>

### **Intensified surveillance and harassment:**

A pattern of intensified surveillance and harassment of Civil Society Organisations, human rights defenders and victims appears to have intensified since the Rajapaksa Government came to power.<sup>148</sup>

As of December 2020, over 40 civil society organizations had approached the Office of the High Commissioner for Human Rights (OHCHR) with reports of harassment, surveillance and repeated scrutiny by a range of security services - including Criminal Investigation Department, Terrorist Investigation Division and State Intelligence officials - who questioned them about administrative details and activities of the organization, lists of staff, including their personal contact details, donors and funding sources. Some were questioned about the

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<sup>143</sup> **2020 Country Reports on Human Rights Practices: Sri Lanka. Section C. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.** US Department of State. March 30, 2021. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/sri-lanka/>

<sup>144</sup> **Sri Lankan Human Rights Commission staffed with all Sinhalese nominations by Gotabaya Rajapaksa.** *Tamil Guardian* (online, 26 November 2020) <https://www.tamilguardian.com/content/sri-lankan-human-rights-commission-staffed-all-sinhalese-nominations-gotabaya-rajapaksa>

<sup>145</sup> **Gotabaya speaks on ‘Sinhala race’ and strengthening security in televised address.** *Tamil Guardian* (online, 19 November 2020) <https://www.tamilguardian.com/content/gotabaya-speaks-sinhala-race-and-strengthening-security-televised-address>

<sup>146</sup> Ibid

<sup>147</sup> **TNA Leader complains against appointing Sinhala officers to Tamil areas.** *The Island Online* (online, 30 July 2021). <https://island.lk/tna-leader-complains-against-appointing-sinhala-officers-to-tamil-areas/>

<sup>148</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page9, point 32). [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

whereabouts of their relatives abroad. The Secretary-General and Special Procedures have received similar allegations of surveillance and reprisals.<sup>149</sup>

*"I urge the international community to listen to the determined, courageous, persistent calls of victims and their families for justice, and heed the early warning signs of more violations to come,"* the UN Human Rights Commissioner Michelle Bachelet said in January 2021.<sup>150</sup>

In March 2021, the Sri Lankan government issued a gazette announcing the proscription of hundreds of Tamils and several diaspora organisations. The organisations include Tamil advocacy groups such as the British Tamil Forum; the Canadian Tamil Congress; the Australian Tamil Congress; the Global Tamil Forum; the National Council of Canadian Tamils; the Tamil Youth Organisation; and the World Tamil Coordinating Committee. The disclosure of names and addresses places those listed as living in Sri Lanka at grave and immediate risk.<sup>151</sup>

The British Tamil Forum noted that this action was taken to "stop all forms of communication between Tamils in the North and East and civil societies political parties and Tamil diaspora".<sup>152</sup>

In April 2021, the Mayor of Jaffna was arrested by Sri Lanka's Terrorism Investigation Division (TID) under accusations of attempting to resurrect the LTTE, despite the lack of any discernible evidence. The arrest was internationally condemned and slammed by Tamil Parliamentarians across the North-East.<sup>153</sup>

Muslim activists have received death threats when speaking out against Islamophobia. Many have been told that if they were to speak out and file a case in the international court of law they would have to face "dire consequences." Those openly criticizing Islamophobic policies that the government had implemented, such as forced cremations, were being threatened with arrest and danger to their families.<sup>154</sup>

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<sup>149</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page9, point 32).

<sup>150</sup> **UN report warns of 'seeds of future violence' in Sri Lanka.** *Tamil Guardian* (online, 27 January 2021) <https://www.tamilguardian.com/content/un-report-warns-seeds-future-violence-sri-lanka>

<sup>151</sup> **Sri Lanka proscribes hundreds alongside Tamil diaspora organisations.** *Tamil Guardian* (online, 27 March 2021). <https://www.tamilguardian.com/content/sri-lanka-proscribes-hundreds-alongside-tamil-diaspora-organisations>

<sup>152</sup> **Tamil organisations speak out against Sri Lanka's ban.** *Tamil Guardian* (online, 4 April 2021). <https://www.tamilguardian.com/content/tamil-organisations-speak-out-against-sri-lankas-ban>

<sup>153</sup> **Groups spread lies about white vans, crocodiles and sharks – Gotabaya Rajapaksa.** *Tamil Guardian* (online, 12 April 2021). <https://www.tamilguardian.com/content/groups-spread-lies-about-white-vans-crocodiles-and-sharks-gotabaya-rajapaksa-0>

<sup>154</sup> Tasnim Nazeer. **Sri Lankan Muslims Fear Speaking Out. A crackdown on dissenting voices — those denouncing Islamophobia and criticizing the government — has Sri Lanka's Muslims afraid to speak out.** *The Diplomat* (online, 9 April 2021). <https://thediplomat.com/2021/04/sri-lankan-muslims-fear-speaking-out/>

## Seizing of historical Tamil lands:

There has been an increase in land-related concerns and militarisation since the Governance of Gotabaya Rajapaksa,<sup>155</sup> with growing fears from Tamils, politicians and elected council members over the seizing of lands in historical Tamil areas in the north and east and increasing Sinhala colonisation. Tamil names of places have been erased and changed to Sinhala names.<sup>156</sup> The Sri Lankan Archaeological Department has been accused of attempting to 'Sinhalise' Tamil historical and cultural areas by confiscating large areas, identifying them as 'archaeological sites' and occupying these sites.<sup>157</sup> <sup>158</sup> In many instances Tamil farmers have been evicted and displaced with the support of the Sri Lankan government's armed forces and the Sri Lankan Archaeological Department.<sup>159</sup> The escalating number of land grabs, enabled by the Sri Lankan military, are heavily impacting on the livelihoods of Tamils across the North-East.<sup>160</sup> A Sinhala Buddhist monk who is a member of the Presidential Task Force on archaeology in the Eastern Province stated that 'tenant' Tamils shouldn't cause problems for the 'landlord' Sinhalese, claiming that there is "no proof that the North and East are historical Tamil provinces. Just like tenants don't cause any hassle to the landlords, the minority communities shouldn't cause any trouble to the majority in the country."<sup>161</sup>

## Harassment of Tamils with links to the LTTE:

Former LTTE combatants and Tamil disappearance activists continue to bear the brunt of the state's security apparatus stated a Report by the Sri Lanka Campaign for Peace and Justice in February 2020.<sup>162</sup> In March 2020 security measures were tightened across the North East following the arrest of six former LTTE cadres and a German citizen alleged to be a former LTTE cadre plotting to revive the

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<sup>155</sup> **Tamil politicians and locals in Jaffna protest against Sri Lankan navy land grab efforts.** *Tamil Guardian* (online, 10 November 2020) <https://www.tamilguardian.com/content/tamil-politicians-and-locals-jaffna-protest-against-sri-lankan-navy-land-grab-efforts>

<sup>156</sup> **Sri Lanka accelerates Sinhalisation across Vavuniya.** *Tamil Guardian* (online 12 November 2020). <https://www.tamilguardian.com/content/sri-lanka-accelerates-sinhalisation-across-vavuniya>

<sup>157</sup> **High court imposes injunction against Sri Lanka Archaeology Department land occupation in Trincomalee.** *Tamil Guardian* (online, 10 November 2020). <https://www.tamilguardian.com/content/high-court-imposes-injunction-against-sri-lanka-archaeology-department-land-occupation>

<sup>158</sup> **'They threatened to shoot me in the head for destroying Buddhist culture'.** *Tamil Guardian* (online, 24 June 2022). <https://www.tamilguardian.com/content/they-threatened-shoot-me-head-destroying-buddhist-culture>

<sup>159</sup> **'Army prevents us from entering our own farmland,' Vavuniya farmers lament.** *Tamil Guardian* (online, 29 September 2020). <https://www.tamilguardian.com/content/%E2%80%98army-prevents-us-entering-our-own-farmland%E2%80%99-vavuniya-farmers-lament>

<sup>160</sup> **Sri Lankan army establishes 'firing zone' in Batticaloa grazing land.** *Tamil Guardian* (online, 12 July 2021) <https://www.tamilguardian.com/content/sri-lankan-army-establishes-firing-zone-batticaloa-grazing-land>

<sup>161</sup> **Sinhala Buddhist monk warns 'minorities' that 'tenants should not trouble landlords'.** *Tamil Guardian* (online, 8 September 2020). <https://www.tamilguardian.com/content/sinhala-buddhist-monk-warns-minorities-tenants-should-not-trouble-landlords>

<sup>162</sup> **Sri Lanka Campaign for Peace and Justice, Abandoned Promises? Preserving Human Rights and Pursuing Accountability in Gota's Sri Lanka, February 2020.** <https://www.srilankacampaign.org/wp-content/uploads/2020/02/Abandoned-Promises-Sri-Lanka-Campaign-J-February-2020-compressed.pdf>

Liberation Tigers of Tamil Eelam.<sup>163</sup> In July 2020 Sri Lankan security forces carried out an increasing number of raids across the North-East arresting as many as 22 people, plus more than a dozen Tamil youths on charges of attempting to regroup the LTTE.<sup>164</sup> In November 2020 Sri Lankan police arrested 19 people under the Prevention of Terrorism Act for allegedly posting birthday wishes online in memory of LTTE leader Velupillai Prabhakaran, with a further 55 people under investigation.<sup>165</sup> In February 2021 Tamil Guardian reported that dozens of Tamils had been detained in recent months by Sri Lankan security forces, particularly in the Eastern Province, over alleged social media posts with LTTE content.<sup>166</sup>

In October 2020, a land-mark judgement from Britain's Proscribed Organisations Appeal Commission found that the decision to keep the LTTE as a proscribed terrorist organisation was 'flawed' and unlawful. Sri Lanka's Prime Minister Mahinda Rajapaksa called on the British authorities to ensure a ban was kept on the organisation, claiming the LTTE was "very active".<sup>167</sup> The Sri Lankan Government issued a statement that "The Government of Sri Lanka has sufficient evidence to prove remnants of the LTTE and groups aligned with its terrorist ideology are active in foreign countries, working to incite violence and destabilize the country."<sup>168</sup>

### **Continuing and intensifying oppression against Tamils:**

In January 2021, 47 Member States of the UN Human Rights Council, elected representatives of the Tamil people in Sri Lanka, leaders of Tamil national political parties, members of the Tamil victim communities and Tamil civil society organizations sent a joint letter urging the UN Human Rights Council to refer Sri Lanka to the International Criminal Court and any other appropriate and effective international accountability mechanisms to inquire into the crime of genocide, war crimes and crimes against humanity.

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<sup>163</sup> **Toughened security across North East following conspiracy by 'prominent ex-LTTE cadres' to 'assassinate politician'.** *Tamil Guardian* (online, 7 March 2020).

<https://www.tamilguardian.com/content/toughened-security-across-north-east-following-conspiracy-prominent-ex-ltte-cadres>

<sup>164</sup> **Sri Lankan police arrest Tamil youth for 'regrouping the LTTE'.** *Tamil Guardian* (online, 1 July 2020). <https://www.tamilguardian.com/content/sri-lankan-police-arrest-tamil-youth-%E2%80%98regrouping-ltte%E2%80%99>

<sup>165</sup> **Sri Lankan police arrest 19 and mark further 55 for posting Prabhakaran birthday messages.** *Tamil Guardian* (online, 27 November 2020). <https://www.tamilguardian.com/content/sri-lankan-police-arrest-19-and-mark-further-55-posting-prabhakaran-birthday-messages>

<sup>166</sup> **Sri Lanka arrests Tamil youth for Tik Tok posts after 'cyber patrol unit' monitoring.** *Tamil Guardian* (online, 26 February 2021). <https://www.tamilguardian.com/content/sri-lanka-arrests-tamil-youth-tik-tok-posts-after-cyber-patrol-unit-monitoring>

<sup>167</sup> **Sri Lankan High Commission scrambles to ensure ban on LTTE is kept.** *Tamil Guardian* (online, 26 October 2020). <https://www.tamilguardian.com/content/sri-lankan-high-commission-scrambles-ensure-ban-ltte-kept>

<sup>168</sup> **Sri Lanka 'closely monitoring' British ruling on LTTE ban.** *Tamil Guardian* (online, 22 October 2020). <https://www.tamilguardian.com/content/sri-lanka-closely-monitoring-british-ruling-ltte-ban>

The letter stated:

"The continuing and intensifying oppression against the Tamils including militarisation, indefinite detention of political prisoners, land grab in the name of archaeological explorations, the denial of traditional, collective land rights like cattle grazing rights, intensifying surveillance of political and civil society activists, the denial of burial rights during COVID19 to our Muslim brethren and the denial of the right to memory, underscore the urgency of addressing the deteriorating situation."<sup>169</sup>

In February 2021, tens of thousands of people led by North-East Civil Societies joined one of the largest rallies in the Tamil homeland since the end of the armed conflict in 2009, as they marched in a five-day long campaign across the Tamil homeland from Pottuvil in the east to Polihandy in the north. The march was endorsed by all Tamil political parties, as well as by Tamil and Muslim civil society organisations and Muslim leaders. *"Successive Sri Lankan Sinhala - Buddhist Governments have continually suppressed our right to self-determination and govern us employing brutal military force to annihilate, which amounts to Genocide"*<sup>170</sup>

Sri Lanka's public security minister Sarath Weerasekara claimed that his regime would file cases against the Tamil protestors who marched through the North-East. *"We receive intelligence reports,"* said Weerasekara. *"We have their photos, and we have their vehicle numbers, we know who these individuals are."*<sup>171</sup>

In December 2021, 32 individuals, including journalists, activists, politicians, and members of the Families of the Disappeared, who attended the Pottuvil to Polikandy (P2P) protests, were summoned by the Pottuvil Magistrate Court, following a request from the Sri Lankan security forces.<sup>172</sup>

In July 2022, a statement from five Tamil civil society organisations demanded "meaningful restructuring of the constitution", such as devolving power towards a more federal form of governance, demilitarisation of the north and east, the repeal of the Prevention of Terrorism Act, justice for the disappeared, ratification

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<sup>169</sup> **Tamils Unitedly Urge UN Human Rights Council to Refer Sri Lanka to International Criminal Court (ICC).** *Tamil News, Einpresswire* (online, 17 January 2021). [https://www.einnews.com/pr\\_news/534655598/tamils-unitedly-urge-un-human-rights-council-to-refer-sri-lanka-to-international-criminal-court-icc](https://www.einnews.com/pr_news/534655598/tamils-unitedly-urge-un-human-rights-council-to-refer-sri-lanka-to-international-criminal-court-icc)

<sup>170</sup> **Sri Lanka: Tens of Thousands of Tamils Rally to Call For Freedom and Rejecting Unitary State.** North East Civil Societies. *Einpresswire* (online, 8th February 2021). [https://www.einnews.com/pr\\_news/535338187/sri-lanka-tens-of-thousands-of-tamils-rally-to-call-for-freedom-and-rejecting-unitary-state](https://www.einnews.com/pr_news/535338187/sri-lanka-tens-of-thousands-of-tamils-rally-to-call-for-freedom-and-rejecting-unitary-state)

<sup>171</sup> 'Tear gassed and arrested, that's what Sumanthiran and Ponnambalan need' - Sri Lankan minister. *Tamil Guardian* (online, 9th February 2021). <https://www.tamilguardian.com/content/tear-gassed-and-arrested-thats-what-sumanthiran-and-ponnambalan-need-sri-lankan-minister>

<sup>172</sup> **Sri Lankan police persecute journalists that covered the P2P protests.** *Tamil Guardian* (online, 22 December 2021). <https://www.tamilguardian.com/content/sri-lankan-police-persecute-journalists-covered-p2p-protests>

of the Rome Statute, and the ceasing of land acquisitions by the military and security outposts in the north and east.<sup>173</sup>

## Election violence

### November 2019 Presidential Election

Sources reporting on the election and post-election period observed that Tamils and Muslims, were intimidated, prevented from voting or faced reprisals for not voting for Gotabaya Rajapaksa.<sup>174 175</sup>

In the lead-up to the November 2019 Presidential Election, Tamil Makkal Viduthalai Pulikal - Tamil Peoples Liberation Tigers (TMVP), declared its support for Sri Lanka Podujana Permana (SLPP) candidate Gotabaya Rajapaksa.<sup>176</sup> TMVP is a paramilitary political party led by Pillayan (alias Sivanethurai Chandrakanthan), who at the time of the election was in remand over the 2005 murder of Tamil National Alliance parliamentarian Joseph Pararajasingham. The paramilitary leader broke away from the LTTE with Karuna in 2004, and since then has been accused of committing executions and other rights abuses with the support of the Sri Lankan state.<sup>177</sup> The TMVP was originally the political wing of the armed faction earlier known as the Karuna group. It enjoyed the strong backing of the government of President Mahinda Rajapaksa. The TMVP is still actively involved in serious human rights abuses.<sup>178 179</sup>

The European Union Election Observation Mission received complaints from the Sri Lanka Muslim Congress (SLMC), that intimidation of voters and inciting of violence was planned in the Batticaloa District in Eastern Province using members of organisations under the leadership of Karuna Amman and Pillayan. Similar

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<sup>173</sup> **A chauvinist flag and war crimes: Tamil perspectives of Sri Lanka protests.** *The News Minute* (online, 24 July 2022). <https://www.thenewsminute.com/article/chauvinist-flag-and-war-crimes-tamil-perspectives-sri-lanka-protests-166160>

<sup>174</sup> **ACLEd. Regional Overview South Asia 10-16 November 2019.** <https://acleddata.com/2019/11/19/regional-overview-south-asia-10-16-november-2019/>

<sup>175</sup> **ACLEd. Regional Overview South Asia 17-23 November 2019.** <https://acleddata.com/2019/11/26/regional-overview-south-asia-17-23-november-2019/>

<sup>176</sup> **'TMVP to back Gotabaya'.** *Sunday Observer* (online, 13 October 2019) <http://www.sundayobserver.lk/2019/10/13/news/tmvp-back-gotabaya>

<sup>177</sup> **'Pro-Rajapaksa paramilitary leader' assured Sri Lankan minister post.** *Tamil Guardian* (online, 1 August 2020) <https://www.tamilguardian.com/content/pro-rajapaksa-paramilitary-leader-%E2%80%98assured-sri-lankan-minister-post%E2%80%99>

<sup>178</sup> **Sri Lanka: Human Rights Situation Deteriorating in the East -Armed Faction Is Killing, Kidnapping Civilians.** *Human Rights Watch* (online, 24 November 2008) <https://www.hrw.org/news/2008/11/24/sri-lanka-human-rights-situation-deteriorating-east>

<sup>179</sup> **TMVP General Secretary arrested for threatening witnesses in double murder case.** *ColomboPage* (online, 12 November 2020) [http://www.colombopage.com/archive\\_20B/Nov12\\_1605205026CH.php](http://www.colombopage.com/archive_20B/Nov12_1605205026CH.php)

incidents were reported in Batticaloa and Ampara districts during the previous elections.<sup>180</sup>

On 10th of November 2019 the Batticaloa home of a supporter of candidate Sajith Premadasa was attacked with a petrol bomb. Members of the Pillayan paramilitary group are alleged to have carried out the attack.<sup>181</sup>

An attack on a convoy of internally displaced Muslims heading to Northern Province to cast their ballots in Mannar District where the Elections Commission had encouraged them to register as voters, raised concerns of a coordinated effort to disenfranchise the minority group.<sup>182</sup>

On 3 November 2019 in Mullaitivu, Northern Province, a prominent member of the youth wing of Ilankai Tamil Arasu Katchi (ITAK), the largest party of the Tamil National Alliance, was summoned for questioning in Colombo by the Terrorism Investigation Division. He was the fourth Mullaitivu -based individual to be summoned in recent weeks.<sup>183</sup>

Gotabaya Rajapaksa won the election. While sweeping Sinhala votes in the South, Rajapaksa averaged less than 18% of the vote in the Tamil homeland of the North-East.<sup>184</sup>

On 30th November 2019, Vavuniya Citizens Committee leader and Coordinator of the Vavuniya families of the disappeared K. Rajkumar, was brutally attacked several times by paramilitary Eelam People's Democratic Party (EPDP) supporters after a protest held to show their concerns regarding its leader Douglas Devananda.<sup>185</sup> Douglas Devananda, a current Sri Lankan cabinet minister, is notorious in the Northern Province for his role in abductions and disappearances during and after the armed conflict.<sup>186</sup> The EPDP, a government

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<sup>180</sup> **'Karuna and Pillayan planning election violence in the East, SLMC leader informs EU Election Monitoring Team'**. *ColomboPage* (online, 31 October 2019) [http://www.colombopage.com/archive\\_19B/Oct31\\_1572505075CH.php](http://www.colombopage.com/archive_19B/Oct31_1572505075CH.php)

<sup>181</sup> **'Petrol bombs flung at home of Sajith supporter in Batticaloa'**. *Tamil Guardian* (online, 14 November 2019) <https://www.tamilguardian.com/content/petrol-bombs-flung-home-sajith-supporter-batticaloa>

<sup>182</sup> **Associated Press, 'Attack probed as Sri Lankans choose next leader'**. *North West Arkansas Democrat Gazette* (online, 17 November 2019) <https://www.nwaonline.com/news/2019/nov/17/attack-probed-as-sri-lankans-choose-nex/>

<sup>183</sup> **'ITAK activist latest in spate of summons by terrorism division as Maaveerar Naal approaches'**. *Tamil Guardian* (online, 3 November 2019) <https://www.tamilguardian.com/content/itak-activist-latest-spate-summons-terrorism-division-maaveerar-naal-approaches>

<sup>184</sup> **'Hate speech flourishes online as Gotabaya victory declared'**. *Tamil Guardian* (online, 17 November 2019) <https://www.tamilguardian.com/content/hate-speech-flourishes-online-gotabaya-victory-declared>

<sup>185</sup> **'Paramilitary members attack families of disappeared representative'**. *Tamil Guardian* (online, 1 January 2020) <https://www.tamilguardian.com/content/paramilitary-members-attack-families-disappeared-representative>

<sup>186</sup> **'Families of disappeared protest demanding EPDP leader arrest'**. *Tamil Guardian* (online, 3 January 2020) <https://www.tamilguardian.com/content/families-disappeared-protest-demanding-epdp-leader-arrest>

backed paramilitary organisation, has been accused of a litany of crimes including assassinations, abductions, running prostitution rings and extortion.<sup>187 188</sup>

## August 2020 General Parliamentary Election

In June 2020, Sri Lanka's opposition party, the Samagi Jana Balavegaya, accused the government's intelligence agencies of collecting data on civilians as part of a larger surveillance project, that would see military intelligence officers in every polling station across the island at the upcoming parliamentary elections.<sup>189</sup>

Eleven international human rights organisations cautioned the Sri Lankan government in a statement demanding that they end targeted detention and the intimidations of lawyers, activists, human rights defenders, and journalists in Sri Lanka.

According to the joint statement:

*"A campaign of fear has intensified since the 2019 presidential election and has cast a shadow over the 2020 parliamentary election campaign"*<sup>190</sup>

UN Special Rapporteur Clément N. Voule expressed repeated concern at rapid changes that had taken place in Sri Lanka since the 2019 presidential elections, citing ethnic discrimination, militarisation, and intimidation of civil society in an address to the UN Human Rights Council.

*"I am concerned about the fate of hard-fought gains in relation to civic space and the rule of law, including in the run up to the 5 August parliamentary elections."*<sup>191</sup>

A Northern Province TNA candidate expressed fear to the Election Commission that Sri Lanka's militarisation may hinder free voting in the elections.<sup>192</sup>

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<sup>187</sup> 'Vavuniya locals protest EPDP MP's 'demeaning' comment'. *Tamil Guardian* (online, 17 September 2020) <https://www.tamilguardian.com/content/vavuniya-locals-protest-epdp-mp%E2%80%99s-%E2%80%98demeaning%E2%80%99-comment>

<sup>188</sup> **Abductions, murders and prostitution rings – The story of Douglas Devananda, who is still a Sri Lankan minister.** *Tamil Guardian* (online, 18 April 2022). <https://www.tamilguardian.com/content/abductions-murders-and-prostitution-rings-story-douglas-devananda-who-still-sri-lankan>

<sup>189</sup> **'Sri Lankan opposition warns of intelligence officers at polling stations as part of state surveillance'.** *Tamil Guardian* (online, 09 June 2020) <https://www.tamilguardian.com/content/sri-lankan-opposition-warns-intelligence-officers-polling-stations-part-state-surveillance>

<sup>190</sup> **'Human rights under attack' in Sri Lanka warn multiple NGOs'.** *Tamil Guardian* (online, 31 July 2020) <https://www.tamilguardian.com/content/human-rights-under-attack-sri-lanka-warn-multiple-ngos>

<sup>191</sup> **'Concern, concern, concern' – UN Special Rapporteur says Sri Lanka has 'rapidly changed'.** *Tamil Guardian* (online, 10 July 2020) <https://www.tamilguardian.com/content/%E2%80%98concern-concern-concern%E2%80%99-%E2%80%93-un-special-rapporteur-says-sri-lanka-has-%E2%80%98rapidly-changed%E2%80%99>

<sup>192</sup> **'TNA candidate fears Sri Lanka's militarisation may hinder free voting in elections.'** *Tamil Guardian* (online, 26 June 2020) <https://www.tamilguardian.com/content/tna-candidate-fears-sri-lanka%E2%80%99s-militiarisation-may-hinder-free-voting-elections>

Sri Lankan Military intimidated former Northern Province Chief Minister Justice Wigneswaran ahead of the Parliamentary Elections.<sup>193</sup>

Socialist Equality Party (SEP) candidates for the Jaffna district experienced military harassment on several occasions.<sup>194</sup> Leaders of independent groups contesting the general election also complained about military harassment.<sup>195</sup>

A Tamil journalist in Kilinochchi was threatened by a local politician with links to a former paramilitary MP. The council member was reported to be a member of a political party led by M Chandrakumar, a former parliamentarian who served under the paramilitary Eelam People's Democratic Party.<sup>196</sup>

Sri Lanka election monitoring organisation, People's Action for Free and Fair election (PAFFREL) received across the country 1,469 complaints of violations of election laws and other laws related to the general election by July 24th, according to the PAFFREL Executive Director Rohana Hettiarachchi. Out of the total, 58 incidents of serious violence had been reported and 876 complaints had been received regarding illegal propaganda activities. In addition, PAFFREL received 24 complaints of assaults during political activities. Among them were 9 serious assaults, six within the same party and nine disputes between the opposition parties.<sup>197</sup>

In the lead up to the August 2020 General Parliamentary Election, Sri Lanka election monitor, Campaign for Free and Fair Elections (CaFFE) warned that certain parts of Digamadulla district in the Eastern Province could be a hotspot for election violence. Three hotspots were identified in the district - Pottuvil, Sainthamaruthu and Akkaraipattu.<sup>198</sup>

Paramilitary organisations and Sri Lankan military intelligence had pursued a campaign of intimidation and harassment against party members of Tamil National People's Front (TNPf) contesting in the Eastern province, said party leader Gajendrakumar Ponnambalam.

*"In Amparai, 3 of our candidates are on the verge of withdrawing due to ferocious threats*

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<sup>193</sup> Justice C.V.Wigneswaran, Thamizh Makkal Thesiya Kootani, **'Sri Lankan Military Intimidates Former Northern Province Chief Minister Justice Wigneswaran Ahead of Polls'**. Einpresswire (online, 31 July 2020) <https://www.einpresswire.com/article/522977070/sri-lankan-military-intimidates-former-northern-province-chief-minister-justice-wigneswaran-ahead-of-polls>

<sup>194</sup> **'Growing demands that Sri Lankan defence secretary end the military harassment of SEP candidates'**. *World Socialist Web Site* (online, 28 July 2020) <https://www.wsws.org/en/articles/2020/07/28/sril-j28.html>

<sup>195</sup> **'As support widens for SEP defence campaign, Sri Lanka army commander says allegations of military harassment of northern election candidates are "false"'**. *World Socialist Web Site* (online, 16 July 2020) <https://www.wsws.org/en/articles/2020/07/16/sldc-j16.html>

<sup>196</sup> **'Tamil journalist threatened by paramilitary-linked local politician'**, *Tamil Guardian* (online, 25 July 2020) <https://www.tamilguardian.com/content/tamil-journalist-threatened-paramilitary-linked-local-politician>

<sup>197</sup> **'Election monitor receives 1469 complaints regarding election law violations'** *ColomboPage* (online, July 26 2020) [http://www.colombopage.com/archive\\_20B/Jul26\\_1595737864CH.php](http://www.colombopage.com/archive_20B/Jul26_1595737864CH.php)

<sup>198</sup> **'Digamadulla already a hotspot for election violence - CaFFE'**, *ColomboPage* (online, 7 July 2020) [http://www.colombopage.com/archive\\_20B/Jul07\\_1594144783CH.php](http://www.colombopage.com/archive_20B/Jul07_1594144783CH.php)

and harassment from the Karuna group,” he said. “In Batticaloa, one of our candidates is under threat from Pillayan group for the last 3 years.”<sup>199</sup>

A week after the General Parliamentary Election the TNPf Amparai District candidate was attacked with swords by men from the paramilitary Karuna group and admitted to hospital with serious injuries.<sup>200</sup>

Karuna Amman (alias Vinayagamoorthy Muralitharan), is a close ally of the ruling Rajapaksa regime, and is accused of a litany of crimes including kidnappings, extortion, and executions, many of which took place with the complicity of Rajapaksa’s government, after Karuna had defected from the LTTE.<sup>201 202</sup>

Karuna contested the Parliamentary Election as a candidate for the Tamil United Freedom Front (TUFF) in Kalmunai. Although unsuccessful, he split the Tamil vote in Digamudulla electoral district, with the TNA losing its Tamil representation in this area. Karuna has since been appointed the District Coordinator of Prime Minister Mahinda Rajapaksa for Ampara and Batticaloa.<sup>203</sup>

Ilankai Tamil Arasu Kachchi (ITAK) is the main party in the Tamil National Alliance. Thavarasa Kalaiarasan, a candidate for ITAK in Kalmunai, was unsuccessful at the Parliamentary General Election, but has since been nominated to parliament as a TNA National List MP.<sup>204</sup>

Leader of the Tamil Makkal Viduthalai Pullikal (TMVP), Sivanesathurai Chandrakanthan (Santhirakanthan) alias Pillayan, despite being held in remand for the murder of a TNA politician in 2005, was elected to Parliament. Pillayan is a paramilitary leader accused of committing executions and other human rights abuses with the support of the Sri Lankan state. A firm supporter of the Rajapaksa regime, he contested in the parliamentary elections as part of the Tamil Makkal Viduthalai Pulikal Party (TMVP) and attained the most votes in Batticaloa with over 54,000 votes. Tamil observers have commented that his party exploited tensions between Tamils and Muslims in the East as part of election campaigning.

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<sup>199</sup> “Candidates on the verge of withdrawing due to ferocious threats’ – TNPf’, *Tamil Guardian* (online, 30 July 2020) <https://www.tamilguardian.com/content/%E2%80%98candidates-verge-withdrawing-due-ferocious-threats%E2%80%99-%E2%80%93-tnpf>

<sup>200</sup> ‘Former TNPf candidate seriously injured by paramilitary sword attack’, *Tamil Guardian* (online, 11 August 2020) <https://www.tamilguardian.com/content/former-tnpf-candidate-seriously-injured-paramilitary-sword-attack>

<sup>201</sup> Mahinda Rajapaksa warns against 'minor distractions' of Karuna and urges focus on 'foreign conspirators'. *Tamil Guardian* (online, 30 June 2020) <https://www.tamilguardian.com/content/mahinda-rajapaksa-warns-against-minor-distractions-karuna-and-urges-focus-foreign>

<sup>202</sup> “Accountability should apply to everyone’ says UN in call to investigate Karuna’, *Tamil Guardian* (online, 26 June 2020) <https://www.tamilguardian.com/content/accountability-should-apply-everyone-says-un-call-investigate-karuna>

<sup>203</sup> Karuna Amman appointed district coordinator of Prime Minister. *The Island Online* (online, 15 October 2020) <https://island.lk/karuna-amman-appointed-district-coordinator-of-prime-minister/>

<sup>204</sup> ‘Tamil parties appoint National List MP’s’, *Tamil Guardian* (online, 10 August 2020) <https://www.tamilguardian.com/content/tamil-parties-appoint-national-list-mps>

Pillayan has been in remand custody for the assassination of Pararajasingham since October 2015.<sup>205</sup>

In September 2020, President Rajapaksa appointed Pillayan as Co-Chairperson of the Batticaloa District Coordinating Committee (DDC) charged with coordinating, implementing, and monitoring all development activities of state institutions and NGOs in the district.<sup>206</sup>

In January 2021, the charges against Pillayan, now a sitting MP and close political ally of the Rajapaksa's SLPP, were dropped by the Attorney General.<sup>207</sup>

## Prevention of Terrorism Act (PTA)

Numerous Human Rights reports have cited widespread and systemic brutal abuse, torture, and ill-treatment of Sri Lankan Tamil people arbitrarily detained, or arrested under the notorious Prevention of Terrorism Act (PTA).<sup>208 209 210 211 212</sup>

The PTA is one of the main tools used to perpetrate human rights violations in Sri Lanka. Suspects can be placed in prolonged detention – without charge and without being produced before a judge.<sup>213</sup>

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<sup>205</sup> 'Murder-accused paramilitary leader permitted to attend parliament sessions', *Tamil Guardian* (online, 19 August 2020) <https://www.tamilguardian.com/content/murder-accused-paramilitary-leader-permitted-attend-parliament-sessions>

<sup>206</sup> **2020 Country Reports on Human Rights Practices: Sri Lanka. Section C. Torture and Other Cruel, Inhuman, Or Degrading Treatment Or Punishment.** US Department of State. March 30, 2021. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/sri-lanka/>

<sup>207</sup> **Sri Lankan government to drop murder case of senior Tamil politician.** *Outlook India. The News Scroll* (online, 11 January 2021). <https://www.outlookindia.com/newscroll/sri-lankan-government-to-drop-murder-case-of-senior-tamil-politician/2008622>

<sup>208</sup> **Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Addendum -Mission to Sri Lanka. July 2018. (page 8)** [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJuly2018.PDF](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJuly2018.PDF)

<sup>209</sup> **Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka. March 2017. (pages 6-7).** <https://www.mfa.gov.lk/wp-content/uploads/2018/03/34-5.pdf>

<sup>210</sup> **Unstopped: State Torture & Sexual Violence in 2016/17. International Truth & Justice, July 2017.** [www.itjpsl.com](http://www.itjpsl.com)

<sup>211</sup> **2020 Country Reports on Human Rights Practices: Sri Lanka. Section C. Torture and Other Cruel, Inhuman, Or Degrading Treatment Or Punishment.** US Department of State. March 30, 2021. <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/sri-lanka/>

<sup>212</sup> **Human Rights Watch World Report 2022. Sri Lanka -Events of 2021. Human Rights Watch.** <https://www.hrw.org/world-report/2022/country-chapters/sri-lanka>

<sup>213</sup> Thyagi Ruwanpathirana. **On Hejaaz Hizbullah: The latest victim of Sri Lanka's draconian Prevention of Terrorism Act.** *Amnesty International*, 15 July 2020. <https://www.amnesty.org/en/latest/news/2020/07/sri-lanka-on-hejaaz-hizbullah-and-the-prevention-of-terrorism-act/>

Since Gotabaya Rajapaksa came to power in November 2019, his administration has used the PTA to target perceived political opponents and members of the minority Tamil and Muslim communities. Authorities have threatened the victims of past human rights violations, human rights activists and lawyers, journalists, and members of civil society groups under the guise of countering terrorism. A human rights activist working with the Tamil community based in the north of Sri Lanka said: *“They are using PTA to create fear among activists. When we talk to the families of the disappeared, they say they can be arrested at any time. Police are arresting people for posting pictures on Facebook. They can arrest you for anything.”*<sup>214</sup>

Tamil Guardian reported in May 2022, that a Tamil youth who was arrested by Sri Lankan authorities under the Prevention of Terrorism Act (PTA) in 2009 and tortured to produce a false confession, was finally, 13 years later, acquitted of all charges.<sup>215</sup>

On January 27th, 2022, the Sri Lankan Government published a Bill to amend the PTA. However, the proposed amendments leave the most often abused provisions of the law intact, and if enacted, will do little to bring the PTA into compliance with Sri Lanka’s international human rights obligations.<sup>216</sup>

Sri Lanka’s Centre for Policy Alternatives, on January 31st, 2022, stated that the government’s proposed amendments to the PTA are “grossly inadequate” and that there needs to be an “immediate moratorium on the use of PTA until an acceptable law can be drafted”. “Many of the aspects which require urgent reform as highlighted by legal scholars, civil society actors and even the Supreme Court of Sri Lanka have not been addressed in the Bill. In this light, the proposed amendment to the PTA appears to be more a token effort to address international pressure rather than a genuine and effective exercise to address ground realities and the abuses and violations brought about by the PTA.”<sup>217</sup>

In February 2022, former Human Rights Commissioner of Sri Lanka Ambika Satkunanathan, stated that “nearly all human rights deficient provisions in the PTA remain untouched” and that the Sri Lankan Government “has taken no action to repeal two provisions which facilitate torture.” “They are sections 7(3), which allows the police to take the person out of prison to another place for interrogation even after the person has been remanded, and section 15A, which allows the Secretary Defence to decide on a place of detention after the person has been

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<sup>214</sup> **“In a Legal Black Hole” Sri Lanka’s Failure to Reform the Prevention of Terrorism Act. Human Rights Watch. February 2022.**

[https://www.hrw.org/sites/default/files/media\\_2022/02/srilanka0222\\_web.pdf](https://www.hrw.org/sites/default/files/media_2022/02/srilanka0222_web.pdf)

<sup>215</sup> **Arrested, tortured and finally acquitted after 13 years.** *Tamil Guardian* (online, 25 May 2022).

<https://www.tamilguardian.com/content/arrested-tortured-and-finally-acquitted-after-13-years>

<sup>216</sup> **“In a Legal Black Hole” Sri Lanka’s Failure to Reform the Prevention of Terrorism Act. Human Rights Watch. February 2022.**

[https://www.hrw.org/sites/default/files/media\\_2022/02/srilanka0222\\_web.pdf](https://www.hrw.org/sites/default/files/media_2022/02/srilanka0222_web.pdf)

<sup>217</sup> **Commentary on Prevention of Terrorism (Temporary Provisions) (Amendment) Bill 2022.**

Centre for Policy Alternatives. 31st January 2022. <https://www.cpalanka.org/commentary-on-prevention-of-terrorism-temporary-provisions-amendment-bill-2022/>

remanded to judicial custody, even following conviction." "The worst forms of torture have been recorded to have taken place when these two provisions were used," Satkunanathan stated.<sup>218</sup>

In February 2022, Human Rights Watch released a report titled "*In a Legal Black Hole*" Sri Lanka's Failure to Reform the Prevention of Terrorism Act.<sup>219</sup> The report examines the PTA, noting how "twelve years since the end of the war the government is still targeting Tamils but also using the PTA against Muslims, particularly since 2019". The report notes that the government's proposed amendments to the PTA would still leave it falling far short of international standards. "If the amendments are adopted, the PTA would still not meet any of the five "necessary prerequisites" described by seven United Nations special rapporteurs in December 2021 to comply with international human rights standards," said HRW.<sup>220</sup>

The International Commission of Jurists issued a statement in February 2022 stating:

*"The PTA as it stands allows for arbitrary and indefinite deprivation of liberty of any individual, group of individuals, association, organisation or body of persons within or outside Sri Lanka suspected of a wide range of ill-defined activities that are considered unlawful under this Act. These amendments do not in any way address the fundamental violation, as they still allow for persons to be deprived of liberty for an entire year without being given the opportunity to be heard before a court of law. The PTA has deprived scores of victims of their right to liberty for months if not years without charge or trial and has been instrumental in the torture and ill-treatment of many under arbitrary and indefinite detention"*<sup>221</sup>

In October 2021, former Sri Lanka Human Rights Commissioner, Ambika Satkunanathan explained in a briefing to the US Congress Human Rights Commission, that due process is almost always violated during arrests under the PTA and that the PTA also allows the admission of a confession made to a Police officer above the rank of an Assistant Superintendent of Police as evidence during the trial.

*"As a result, persons are tortured to obtain confessions. The burden of proving the confession was obtained under duress upon the accused person,"* she said.<sup>222</sup>

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<sup>218</sup> **PTA reform: A farce in multiple acts.** Ambika Satkunanathan. *The Sunday Morning Sri Lanka* (online, 5th February 2022). <https://www.themorning.lk/pta-reform-a-farce-in-multiple-acts/>

<sup>219</sup> **"In a Legal Black Hole" Sri Lanka's Failure to Reform the Prevention of Terrorism Act.** Human Rights Watch. February 2022. [https://www.hrw.org/sites/default/files/media\\_2022/02/srilanka0222\\_web.pdf](https://www.hrw.org/sites/default/files/media_2022/02/srilanka0222_web.pdf)

<sup>220</sup> **'In a Legal Black Hole' - Human Rights Watch slams Sri Lanka's PTA.** *Tamil Guardian* (online, 7 February 2022). <https://www.tamilguardian.com/content/legal-black-hole-human-rights-watch-slams-sri-lanka-s-pta>

<sup>221</sup> **The Prevention of Terrorism Act cannot be reformed; it must be repealed.** International Commission of Jurists. February 1st, 2022. <https://www.icj.org/sri-lanka-the-prevention-of-terrorism-act-cannot-be-reformed-it-must-be-repealed/>

<sup>222</sup> **Commission discusses Sri Lanka's PTA.** *Colombo Gazette* (online, 27th October 2021). <https://colombogazette.com/2021/10/27/us-congress-human-rights-commission-discusses-sri-lankas-pta/>

The Sri Lanka Human Rights Commission has recorded testimonies of persons who were subjected to severe torture when removed from judicial custody for interrogation.<sup>223</sup>

The United Nations Commissioner for Human Rights, Michelle Bachelet expressed concern in her January 2021 Report to the UN Human Rights Council, that the Sri Lankan Government has continued to use the Prevention of Terrorism Act (PTA), despite repeated calls over many years by United Nations human rights mechanisms to repeal it.<sup>224</sup>

*“These incidents reflect the persistence of longstanding and endemic patterns of custodial deaths, use of torture and other ill-treatment, and extrajudicial killings by law enforcement officials with impunity.*

*OHCHR has also continued to receive credible allegations through well-known human rights organizations of abductions, torture and sexual violence by Sri Lankan security forces since the adoption of resolution 30/1, including in the past year, which need to be credibly investigated.”*<sup>225</sup>

In March 2022, the High Commissioner reiterated her call for the Government to apply a moratorium on the use of the Act until it is replaced by legislation that fully complies with the country’s international human rights obligations.<sup>226</sup>

UN Special Rapporteur on human rights and counter-terrorism Mr. Emmerson said in 2017:

*“The Tamil community has borne the brunt of the State’s well-oiled torture apparatus, as the law is used disproportionately against them. The use of torture is deeply ingrained in the security sector. I heard deeply disturbing, first-hand accounts of brutal torture. These included beatings with sticks, stress positions, asphyxiation using plastic bags drenched in kerosene, pulling out of fingernails, insertion of needles beneath the fingernails, various forms of water torture, suspension for several hours by the thumbs, and mutilation of the genitals.”*<sup>227</sup>

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<sup>223</sup> Ibid.

<sup>224</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page 10). [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>225</sup> **Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021** (page 11). [https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>226</sup> **A/HRC/49/9: Situation of human rights in Sri Lanka - Report of the Office of the United Nations High Commissioner for Human Rights. 28 February-1 April 2022. [page 9, paragraph 43]** <https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ListReports.aspx>

<sup>227</sup> **Sri Lanka routinely tortures security suspects amid stalled reform process, UN expert finds. OHCHR. 18 July 2017.** <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21884&LangID=E>

The National Human Rights Commission in Sri Lanka emphasized in 2017 that torture in custody was widespread, systemic, institutionalised and formed a major priority in its work.<sup>228</sup>

The United Nations Commissioner for Human Rights, Michelle Bachelet, stated in her January 2021 Report to the UN Human Rights Council,

*“the failure to implement any vetting or comprehensive reforms in the security sector means that the State apparatus and some of its members credibly implicated in the alleged grave crimes and human rights violations remain in place.”*<sup>229</sup>

## Returned Asylum Seekers

Returning people to a country in which they face harm is a breach of international law.

The UN Convention Against Torture to which Australia is a signatory, clearly states in Article 3 that:

1. No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.<sup>230</sup>

In March 2022 and in January 2021, the United Nations Commissioner for Human Rights, Michelle Bachelet, in her Report to the UN Human Rights Council, recommended:

*“the Human Rights Council and Member States: Review asylum measures with respect to Sri Lankan nationals to protect those facing reprisals and avoid any refoulement in cases that present real risk of torture or other serious human rights violations.”*<sup>231 232</sup>

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<sup>228</sup> Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, Addendum -Mission to Sri Lanka. July 2018. (page 8)  
[https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJuly2018.PDF](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJuly2018.PDF)

<sup>229</sup> Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021 (page 14, point 52).  
[https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

<sup>230</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. UN General Assembly. 10 December 1984. <https://www.refworld.org/docid/3ae6b3a94.html>

<sup>231</sup> A/HRC/49/9: Situation of human rights in Sri Lanka – Report of the Office of the United Nations High Commissioner for Human Rights. 28 February–1 April 2022. [page 15, paragraph 68(b)].  
<https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session49/Pages/ListReports.aspx>

<sup>232</sup> Promotion reconciliation, accountability and human rights in Sri Lanka. Report of the Office of the High Commissioner for Human Rights. Advance unedited version. Distr.: General. 27 January 2021 (page 16, point 61g).  
[https://www.ohchr.org/Documents/Countries/LK/Sri\\_LankaReportJan2021.docx](https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJan2021.docx)

Under the Rajapaksa Government, Sri Lanka's Immigration and Emigration Department was under the direct control of the Defence State Minister Chamal Rajapaksa (former President Gotabaya Rajapaksa's brother). Defence Secretary is Kamal Gunaratne, a former military commander accused of overseeing mass atrocities.<sup>233</sup> Prasanna de Alwis, an alleged torturer, heads the Criminal Investigation Department (CID).<sup>234</sup>

This further tightening of control by the Rajapaksa Government places returned Tamil asylum seekers at particular risk of torture and human rights abuses at the hands of Sri Lanka's security forces. Many Tamils are still attempting to flee the island, but face deportation from other states around the world.<sup>235</sup>

In January 2021, Tamil Guardian reported that Australia had signed a Memorandum of Understanding with Sri Lanka on the Return and Readmission of Persons which includes provisions for the return of asylum seekers who continue to face threats of torture and abuse in Sri Lanka.<sup>236</sup>

Return pending visas have been issued by the Australian Government to at least nine Sri Lankan Tamil asylum seekers in the Geelong Region, said a refugee advocate. They must show their intent to depart to Sri Lanka.<sup>237</sup>

In April 2021, Tamil Makkal Thesiya Kootani leader, C.V. Wigneswaran said that Tamil asylum seekers, recently deported to Sri Lanka, were at risk of "surveillance, torture and arbitrary detention." He highlighted that Sri Lanka's notorious Prevention of Terrorism Act "continues to be used to justify the mistreatment of Tamils for no reason other than their ethnicity."<sup>238</sup> The returned asylum seekers were handed to the Sri Lankan army by the Immigration and Emigration department at Bandaranaike International Airport. After quarantine they were to be handed to the CID and the National Intelligence Unit for legal action.<sup>239</sup>

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<sup>233</sup> **Sri Lanka -A Parallel State.** International Truth and Justice Project Press Release (online, 7th July 2020) <https://itjpsl.com/assets/press/7-july-2020-OTJP-press-release-merged-2.pdf>

<sup>234</sup> **Alleged Torturer Heads Sri Lankan CID:** ITJP. *Colombo Telegraph* (online 26 May 2020) <https://www.colombotelegraph.com/index.php/alleged-torturer-heads-sri-lankan-cid-itjp/>

<sup>235</sup> **Sri Lanka's defence ministry assigned control of immigration.** *Tamil Guardian* (online, 27th January 2020). <https://www.tamilguardian.com/content/sri-lanka%E2%80%99s-defence-ministry-assigned-control-immigration>

<sup>236</sup> **Australia moves to return Tamil asylum seekers to Sri Lanka despite threats of torture.** *Tamil Guardian* (online, 21 January 2021). <https://www.tamilguardian.com/content/australia-moves-return-tamil-asylum-seekers-sri-lanka-despite-threats-torture>

<sup>237</sup> **Anecdotal evidence from a refugee advocate in Geelong, July 2022.**

<sup>238</sup> **Tamil asylum seekers deported to Sri Lanka at risk of 'surveillance, arbitrary detention and torture' says Wigneswaran.** *Tamil Guardian* (online, 1 April 2021). <https://www.tamilguardian.com/content/tamil-asylum-seekers-deported-sri-lanka-risk-surveillance-arbitrary-detention-and-torture>

<sup>239</sup> **Tamil deportees to be handed to CID after 'quarantine process'.** *Tamil Guardian* (online, 01 April 2021). <https://www.tamilguardian.com/content/tamil-deportees-be-handed-cid-after-quarantine-process>

In June 2021, the Australian Government DFAT Sri Lanka Country Information Report (Nov 2019), used extensively by Home Affairs and tribunals to judge Sri Lankan asylum seekers' claims, was criticised by an influential UK refugee tribunal, leading to calls for its retraction.<sup>240</sup> In a landmark immigration case<sup>241</sup> in the United Kingdom, “three Upper Tribunal judges were scathing in their rejection of Australian and UK country reports used as a basis to determine asylum applications for Sri Lankan Tamils. The consequences for many Sri Lankan applicants, particularly Tamil people seeking asylum in Australia has been the refusal of protection, based on what the UK court has said is unreliable information. The court also confirmed that if returned to Sri Lanka, they risk being subjected to torture, which the Tribunal says is endemic in the country.”<sup>242</sup>

The Upper Tribunal judges’ decision referenced the inaccurate Australian Government DFAT Sri Lanka Country Information 2019 Report on Sri Lanka and found serious methodological shortcomings noting that: *“none of the sources are identified, there is no explanation as to how the information from these sources was obtained, and there is no annex containing, for example, records of any interviews... Indeed, it is unclear whether any formal interviews took place. The report does not provide direct quotes from any source. In light of these matters, it is difficult to gauge the reliability of the sources which have informed the “judgement and assessment” applied to them by the authors of the report.”*<sup>243</sup>

The Upper Tribunal recognised that the ‘authoritarian and paranoid’ Government of Sri Lanka monitors proactively the activities of Tamils in the diaspora and as such if persons are returned to Sri Lanka, they are at serious risk of detention and torture on return, not just at the airport, but following return to their home areas.<sup>244</sup>

The Upper Tribunal found that Tamils who engage in a range of political activities in the United Kingdom may continue to face “a real risk of ill-treatment or harm” if deported to Sri Lanka, in a significant ruling that clarifies and expands those who may face persecution on the island. The Upper Tribunal stated that Sri Lanka may

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<sup>240</sup> **A DFAT report used to judge Sri Lankan asylum seekers' claims has been criticised by an influential UK refugee tribunal, leading to calls for its retraction.** Source: AAP. *SBS News* (online, 3/6/21). <https://www.sbs.com.au/news/dfat-urged-to-retract-inaccurate-report-saying-sri-lankans-face-low-torture-risk-following-uk-court-finding>

<sup>241</sup> **Upper Tribunal (Immigration and Asylum Chamber) Appeal Numbers: PA/09978/2016 PA/13288/2018 issued on 27 May 2021. UK.** <https://www.doughtystreet.co.uk/sites/default/files/media/document/KK%20%26%20RS%20%28Sri%20Lanka%29.pdf>

<sup>242</sup> **Joint Media Release: Human rights groups demand suspension of reports on Sri Lanka to assess refugee applications following rejection by a UK court. Jun 3, 2021.** Australian Centre for International Justice. <https://acij.org.au/joint-media-release-human-rights-groups-demand-suspension-of-reports-on-sri-lanka-to-assess-refugee-applications-following-rejection-by-a-uk-court/>

<sup>243</sup> **Upper Tribunal (Immigration and Asylum Chamber) Appeal Numbers: PA/09978/2016 PA/13288/2018 issued on 27 May 2021. UK.** (page 66, paragraph 302) <https://www.doughtystreet.co.uk/sites/default/files/media/document/KK%20%26%20RS%20%28Sri%20Lanka%29.pdf>

<sup>244</sup> **Joint Media Release: Human rights groups demand suspension of reports on Sri Lanka to assess refugee applications following rejection by a UK court. Jun 3, 2021.** Australian Centre for International Justice. <https://acij.org.au/joint-media-release-human-rights-groups-demand-suspension-of-reports-on-sri-lanka-to-assess-refugee-applications-following-rejection-by-a-uk-court/>

target more than those who hold formal positions in diaspora organisations and listed a range of activities, carried out both through organisations, or as individuals, that may place a person at risk.<sup>245</sup>

The Upper Tribunal noted:

*"[Sri Lanka] draws no material distinction between the violent means of the LTTE and non-violent political advocacy,"*

*"To this extent, Government of Sri Lanka's interpretation of separatism is not limited to the pursuance thereof by violent means alone; it encompasses the political sphere as well... there is no tolerance of the expression of any avowedly separatist or perceived separatist beliefs."*

*"It is abundantly clear that there is a reasonable likelihood that those detained by the Sri Lankan authorities will be subjected to persecution."*<sup>246 247</sup>

The Upper Tribunal stated that there was also the need to apply wider principles of refugee law when examining cases of Tamil asylum seekers, highlighting the HJ (Iran) principle – a 2010 ruling that was affirmed in 2012. It added that "if it is found that the individual would not seek to express their separatist beliefs on return... to avoid the risk of persecution and serious harm, they are entitled to international protection."<sup>248</sup>

Representatives from the Sri Lankan Department of Immigration and Emigration in October 2019 provided the following information about returned refused asylum seekers:

If a person is identified as a failed asylum seeker they will be questioned, then passed to CID. They may be released but monitored. The local police would be informed, and the person would be monitored although the length of time may vary.<sup>249</sup>

A representative of the Tamil National Alliance (TNA) interviewed in October 2019 by a UK Fact Finding Mission replied, when asked if someone who has claimed asylum in the UK would have a reasonable fear when they return:

*"It has to be viewed in context of what is happening- the rule of law is not enforced or observed, there have been thousands of cases where they have been no investigations. People have natural fear in country where they do not feel safe. If they left because they fear persecution and been involved in some activity that puts them at risk then it needs to be*

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<sup>245</sup> **How a landmark British ruling may save Tamil activists from deportation to Sri Lanka.** *Tamil Guardian* (online, 5 June 2021). <https://www.tamilguardian.com/content/how-landmark-british-ruling-may-save-tamil-activists-deportation-sri-lanka>

<sup>246</sup> Ibid.

<sup>247</sup> **New country guidance issued by the Upper Tribunal in Sri Lankan asylum claims.** *Doughty Street Chambers. UK. 28 May 2021.* <https://www.doughtystreet.co.uk/news/new-country-guidance-issued-upper-tribunal-sri-lankan-asylum-claims>

<sup>248</sup> **New country guidance issued by the Upper Tribunal in Sri Lankan asylum claims.** *Doughty Street Chambers. UK. 28 May 2021.* <https://www.doughtystreet.co.uk/news/new-country-guidance-issued-upper-tribunal-sri-lankan-asylum-claims>

<sup>249</sup> **Sri Lanka: Country Report. July 2020** (COI between 1 January 2020 and 19 May 2020). Asylum Research Centre (ARC), June 2020. (pages 312-313) [https://www.ecoi.net/en/file/local/2033016/FINAL\\_ARC\\_COI\\_report\\_on\\_Sri\\_Lanka\\_July\\_2020PDF.pdf](https://www.ecoi.net/en/file/local/2033016/FINAL_ARC_COI_report_on_Sri_Lanka_July_2020PDF.pdf)

*understood in that context, that background [...] Tamils who left the country as a result of LTTE or as a result of fear of persecution are being identified somehow when they come back- they could fear that they might not be safe”*<sup>250</sup>

A Tamil refugee who escaped Sri Lanka some years ago reported:

*“When a refugee is returned by Home Affairs to Sri Lanka, a representative of the International Organisation for Migration (IOM) meets the returned person at Colombo airport. Sri Lanka’s Criminal Investigation Department (CID) then takes the person into custody and asks questions because the original departure from Sri Lanka was illegal. Out of fear the person will not want to tell the CID the real reason for leaving as this will impact on the person and his/her family. A bribe might help. The person may be bailed and then face ongoing court visits to report. However, you may not be bailed, but punished brutally, especially if your name is within their system – for being a freedom fighter in the past or working as a social activist for the Tamil people. Your file might still be there.”*<sup>251</sup>

Expert evidence provided in May 2021 by academic and consultant Dr Chris Smith to the UK Upper Tribunal in a landmark immigration case, cited evidence relating to the treatment of detainees by the Sri Lankan authorities. Dr Smith stated that, based on a source within the Sri Lankan State Intelligence Service (SIS), the electronic database which underlies the stop and watch lists contains many thousands of names which remain in place for life. That database can be consulted at the airport and, if appropriate, an individual could be handed over to the Sri Lankan State Intelligence Service (SIS), the Sri Lankan Terrorist Investigation Department (TID), or the Sri Lankan Criminal Investigation Department (CID). The latter two maintain a permanent presence at the airport, with the CID controlling the database in relation to arrivals. Dr Smith’s view is that the wider database will not necessarily have information on every individual but will do so if they have previously been “arrested or informed upon”. Information can easily be obtained from other districts within Sri Lanka itself, given the networked capability of the state’s overall intelligence sector.<sup>252</sup>

Dr. Smith’s Report further stated: *“The Sri Lankan authorities therefore possess the wherewithal to identify and detain members of the Tamil diaspora who they perceive to be of potential or existing adverse interest. Once identified they have the legal right under the PTA to detain almost whomsoever they wish. Once detained, Tamils associated with the diaspora are vulnerable and at risk of extreme ill-treatment that will violate their civil liberties and their human rights.”* Dr Smith’s view was that “any” organisation or individual perceived to be threatening to the state will be of adverse interest. He stated that the watch list is being used “extensively” and is used to facilitate monitoring/surveillance once a returnee has passed to the

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<sup>250</sup> **Sri Lanka: Country Report. July 2020** (COI between 1 January 2020 and 19 May 2020).

Asylum Research Centre (ARC), June 2020. (pages 312-313)

[https://www.ecoi.net/en/file/local/2033016/FINAL\\_ARC\\_COI\\_report\\_on\\_Sri\\_Lanka\\_July\\_2020PDF.pdf](https://www.ecoi.net/en/file/local/2033016/FINAL_ARC_COI_report_on_Sri_Lanka_July_2020PDF.pdf)

<sup>251</sup> **Anecdotal evidence from a Tamil refugee in Australia.** September 2020.

<sup>252</sup> **UK Upper Tribunal (Immigration and Asylum Chamber) Hearing. May 2021.** Appeal Numbers:

PA/09978/2016 PA/13288/2018. [paragraphs 33, 37, 38, 39, 45, 47, 73]

<https://www.doughtystreet.co.uk/sites/default/files/media/document/KK%20%26%20RS%20%28Sri%20Lanka%29.pdf>

airport and returns to their home area. Dr Smith's source of information about the watch list was a security officer.<sup>253</sup>

In August 2021 a Tamil man, who had been studying in Edinburgh went to Sri Lanka after his father fell ill. Whilst there, he was grabbed from the street and put into a white van and taken away.

*"I did not believe I would survive after I was abducted off the street and taken blindfolded to a torture centre where I was beaten and abused day after day," the man continued, telling of how he was branded with lit cigarettes and fell unconscious as his captors placed a petrol-dowsed plastic bag over his head.*

*"If my family had not found bribe money, I would have been killed," he said after he fled back to Scotland in September. "I can never return home." <sup>254</sup>*

In May 2019, UN News reported that:

The UN Committee Against Torture has expressed concern over the United Kingdom's policy of forcibly returning asylum-seekers to places where they face a risk of abuse – highlighting 43 enforced returns to Sri Lanka last year.<sup>255</sup>

In December 2019, a spokesperson for Australia's Department of Home Affairs said:

*"We cooperate closely with the Sri Lankan government to return people who have been intercepted trying to reach Australia illegally and have returned 38 Sri Lankan nationals across three vessels since May 2019." <sup>256</sup>*

In August 2021, a Tamil asylum seeker in Australia died after self-immolating.

*"We have lost many refugees to Australia's refugee policy, and we dread that there will be more. Asylum seekers have been telling us for a long time that they would prefer to die here than be sent back to Sri Lanka. Here we have yet another case illustrating just how desperate and hopeless the situation has become for Tamil refugees in Australia," said a spokesperson for the Tamil Refugee Council in Australia. <sup>257</sup>*

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<sup>253</sup> **UK Upper Tribunal (Immigration and Asylum Chamber) Hearing. May 2021.** Appeal Numbers: PA/09978/2016 PA/13288/2018. [paragraphs 33, 37, 38, 39, 45, 47, 73] <https://www.doughtystreet.co.uk/sites/default/files/media/document/KK%20%26%20RS%20%28Sri%20Lanka%29.pdf>

<sup>254</sup> **Torture victim accuses Police Scotland of strengthening Sri Lankan regime.** *Tamil Guardian* (online, 31st October 2021). <https://www.tamilguardian.com/content/torture-victim-accuses-police-scotland-strengthening-sri-lankan-regime>

<sup>255</sup> **Sri Lanka: Country Report. July 2020** (COI between 1 January 2020 and 19 May 2020). Asylum Research Centre (ARC), June 2020. (pages 312-313) [https://www.ecoi.net/en/file/local/2033016/FINAL\\_ARC\\_COI\\_report\\_on\\_Sri\\_Lanka\\_July\\_2020PDF.pdf](https://www.ecoi.net/en/file/local/2033016/FINAL_ARC_COI_report_on_Sri_Lanka_July_2020PDF.pdf)

<sup>256</sup> A. Fernandes. **This is what happened to the Tamil asylum seekers Australia sent back to Sri Lanka.** *SBS News. Asia-Pacific* (online, 2 December 2019). <https://www.sbs.com.au/news/this-is-what-happened-to-the-tamil-asylum-seekers-australia-sent-back-to-sri-lanka>

<sup>257</sup> **Tamil refugee dies after self-immolation in Australia.** *Tamil Guardian* (online, 22 August 2021) <https://www.tamilguardian.com/content/tamil-refugee-dies-after-self-immolation-australia>

A Tamil asylum seeker family in Australia had been fighting deportation to Sri Lanka under Australia's Coalition Government. The Federal Court ruled in April 2020 that an injunction applied to the family's two-year-old daughter Tharunicaa. The judge ruled that Tharunicaa was "not afforded procedural fairness" in her asylum bid.<sup>258</sup> In August 2022, after a change in government in Australia, the Tamil family was granted a permanent visa by the Albanese Labor Government.<sup>259</sup>

Returned asylum seeker Sebamalai Jesupalam from Mullaitivu said the asylum seeker boat he was on in 2012 was stopped by the Sri Lankan navy. Eight years on he still attends mandatory court hearings in the city of Negombo - a six-hour journey from his home.<sup>260</sup>

Based on interviews with 26 Tamil asylum seekers in Britain, the International Truth and Justice Project reported in October 2019 that all the interviewees said their families

*"had been repeatedly visited by security services after they had fled the country – including some as recently as September 2019".*

*"This shows that surveillance in the UK of Tamils, who have been forced to go into exile, is being used to silence victims and witnesses," said the Executive Director of the International Truth and Justice Project, Yasmin Sooka, "state agencies wouldn't need to silence victims' families if they hadn't driven them out in the first place."*<sup>261</sup>

In September 2018, the United Nations Working Group on Arbitrary Detention stated that the use of torture by Sri Lankan security forces on Tamil detainees continues. The Working Group highlighted several areas of concern, including the use of torture of those held in detention, highlighting the case of Tamils who return to the island.

*"The Working Group also received accounts of Tamils who were arrested and detained in 2015, 2016 and 2017 when returning to Sri Lanka after seeking asylum in another country or working abroad," said the report. "The Working Group received testimony that, in some cases, the returnees were beaten and kept under surveillance once released and charged with offences relating to illegal departure from Sri Lanka."*<sup>262</sup>

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<sup>258</sup> **Tamil girl 'not afforded procedural fairness' in Biloela family's asylum bid, Federal Court rules.** ABC News (online, 17 April 2020). <https://www.abc.net.au/news/2020-04-17/biloela-tamil-family-decision-in-federal-court/12156380>

<sup>259</sup> **'Biloela' Tamil family finally gets permanent residency.** *The Conversation* (online, 5 August 2022). <https://theconversation.com/biloela-tamil-family-finally-gets-permanent-residency-188306>

<sup>260</sup> A. Fernandes. **This is what happened to the Tamil asylum seekers Australia sent back to Sri Lanka.** *SBS News. Asia-Pacific* (online, 2 December 2019). <https://www.sbs.com.au/news/this-is-what-happened-to-the-tamil-asylum-seekers-australia-sent-back-to-sri-lanka>

<sup>261</sup> **Families of Tamil asylum seekers assaulted by Sri Lankan security forces.** *Tamil Guardian*. (online, 30 October 2019). <https://www.tamilguardian.com/content/families-tamil-asylum-seekers-assaulted-sri-lankan-security-forces>

<sup>262</sup> **UN Working Group finds continued use of torture in Sri Lanka.** *Tamil Guardian* (online, 15 December 2017). <http://www.tamilguardian.com/content/un-working-group-finds-continued-use-torture-sri-lanka>

In August 2018, a Tamil asylum seeker died after a suicide attempt in Australia, following the rejection of his asylum application by the Australian government.<sup>263</sup>

In July 2018, Tamil asylum seeker Thileepan Gnaneswaran was deported from Australia and detained by Sri Lankan police on arrival in Colombo. He was charged by Sri Lankan authorities for illegally leaving the country. The offence is understood to carry a maximum sentence of a fine of 200,000 rupees and prison term of five years. The deportation was widely criticised, including by the UN Refugee Agency who condemned Australia's actions to separate a family indefinitely, as his Tamil wife and child remain as refugees in Australia.<sup>264</sup>

In February 2018, Tamil asylum seeker Mr Santharupan was deported from Australia despite direct criticism from the UN refugee agency. He was arrested and charged by Sri Lankan authorities. In his deportation notice, ABF officers said his personal information may be disclosed to foreign governments or agencies as part of his removal.<sup>265</sup>

Santharupan has experienced ongoing harassment. Security forces have made multiple visits to his home and recorded the details of his wife and children, including the school his children attend.

Tamil Refugee Council spokesperson Aran Mylvaganam said:

*"The security forces are trying to intimidate not only Santharuban but his family as well. Such visits strike deep fears in Tamils, who continue to face assault, torture and disappearance at the hands of the Criminal Investigation Department (known as CID), the Special Task Force and other sections of the police and military."*<sup>266</sup>

On 11 December 2017, the UN Committee Against Torture (CAT) advised the Australian Government that a Tamil man held in immigration detention in Australia and in danger of imminent deportation, should not be returned to Sri Lanka. Director Principal of Human Rights for All, Alison Battisson, said of the interim order:

*"The Committee Against Torture's interim measure once again highlights the serious issues faced by Tamil asylum seekers in Australia. By issuing this measure, the UN recognises that Sri Lanka is not safe for Tamils, despite Australia denying refugee status to many Tamils. .... These interim measures are quite rare - this illustrates the very real concern the UN has over*

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<sup>263</sup> **Tamil asylum seeker commits suicide in Australia after application rejection.** *Tamil Guardian* (online, 28 August 2018). <https://www.tamilguardian.com/content/tamil-asylum-seeker-commits-suicide-australia-after-application-rejection>

<sup>264</sup> **Deported Tamil refugee charged.** *Tamil Guardian* (online, 20 July 2018). <https://www.tamilguardian.com/content/deported-tamil-refugee-charged>

<sup>265</sup> **Tamil Tiger due to be deported says he will face torture in Sri Lanka.** *ABC News* (online, 21 February 2018). <http://www.abc.net.au/news/2018-02-21/tamil-tiger-due-to-be-deported-says-he-will-face-torture/9468088>

<sup>266</sup> A. Mylvaganam. **Deported Tamil Man harassed by security forces in Sri Lanka.** *Tamil Refugee Council* (online, 28 February 2018). <http://tamilrefugeecouncil.org.au/portfolio-items/tamil-man-harassed/>

*Australia's practices of refouling Tamils to Sri Lanka. Sri Lanka is not safe for many Tamils to return to.*"<sup>267</sup>

In November 2017, the Associated Press (AP) detailed ongoing allegations of rape and torture of 50 Tamil men by Sri Lankan security forces that are said to have taken place between 2016 and July 2017.

AP noted:

*"Raped, branded or beaten repeatedly, more than 50 men from the Tamil ethnic minority seeking political asylum in Europe say they were abducted and tortured under Sri Lanka's current government."*<sup>268</sup>

A damning report from the International Truth and Justice Project *"Unstopped: State Torture & Sexual Violence in 2016/17"*, took detailed testimony from 57 Tamil victims of illegal detention and torture under the Sirisena government, with 24 cases occurring in 2016 or 2017. Findings of the report highlighted that Tamils were abducted and tortured for a range of reasons including political campaigning, returning from the diaspora, and having family members that used to belong to the Liberation Tamil Tigers of Tamil Eelam (LTTE). The interrogators asked about participation in protests abroad, indicating that these events are still watched closely. Victims in detention have also been told there were photographs of them attending protest events abroad, indicating that this kind of activity abroad still poses a significant risk for anyone likely to visit or be returned to Sri Lanka.<sup>269</sup>

In June 2016, a British Tamil man who had lived in the UK for 16 years, was detained and tortured upon returning to Sri Lanka to be married. Ambi Seevaratnam, international coordinator of the International Centre for the Prevention and Prosecution of Genocide, said:

*"He has torture marks all over his body. We need to get him out of Sri Lanka and back to the UK as soon as possible. Any Tamil who is a British citizen who travels to Sri Lanka from London seems to be suspected of being a traitor."*<sup>270</sup>

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<sup>267</sup> **UN Advice to Australia Not to Deport Tamil Asylum Seeker.** *Scoop Independent News* (online, 14 December 2017). <https://www.scoop.co.nz/stories/WO1712/S00174/un-advice-to-australia-not-to-deport-tamil-asylum-seeker.htm>

<sup>268</sup> **Dozens of men say Sri Lankan forces raped and tortured them.** *AP News* (online, 9 November 2017) <https://apnews.com/article/ced017bd441f46ba838aaedf6ff5d8e2>

<sup>269</sup> **Unstopped: State Torture & Sexual Violence in 2016/17.** International Truth & Justice, July 2017. [www.itjpsl.com](http://www.itjpsl.com)

<sup>270</sup> **British Tamil 'tortured and detained' during Sri Lanka wedding trip.** *The Guardian* (online, 11 June 2016). <https://www.theguardian.com/law/2016/jun/11/sri-lanka-british-tamil-velauthapillai-renukaruban-tortured-wedding>