



Why Sri Lanka's Domestic Criminal Justice Mechanisms Cannot Deliver Justice for Atrocity Crimes

61st UNHRC Session Update

Amid the 61st UNHRC session agenda at Geneva was predominantly engulfed with the hot topic of Iran and Israel & the US war issues, the British Tamils Forum (BTF) could convene advocacy meetings with several diplomats raising concerns against Sri Lanka's initiative of snatching the justice and accountability process under the jurisdiction of Sri Lanka's domestic law. It is indeed a burning issue.

During this session at the UN Human Rights Council (UNHRC), by engaging with diplomatic missions, the British Tamils Forum (BTF) raised concerns about the credibility of Sri Lanka's tactical initiative to establish a domestic criminal justice mechanism as a replacement for the ongoing international accountability process.

Serious concerns persist regarding the ability of Sri Lanka's domestic criminal justice system to deliver meaningful accountability for atrocity crimes allegedly perpetrated by the state and its associated apparatuses. Structural legal gaps, procedural limitations, and longstanding concerns about politicisation and bias raise fundamental questions about the viability of domestic mechanisms in addressing grave international crimes.

A critical deficiency lies in the absence of core international crimes within Sri Lanka's legal framework. **The domestic legal system does not recognise or provide for the prosecution of genocide, war crimes, or crimes against humanity. Additionally, there is no legal doctrine of command responsibility—a cornerstone principle in international criminal law that enables the prosecution of senior officials responsible for crimes committed under their authority. Without these provisions, accountability for systemic and large-scale violations remains unattainable.**

Temporal limitations embedded within Sri Lanka's penal laws further undermine the pursuit of justice. Crimes such as *sexual violence, enforced disappearances, torture, and other forms of inhumane treatment* face significant prosecutorial barriers when committed more than two decades ago. Section 456 of Sri Lanka's Code of Criminal Procedure Act establishes a general **statute of limitations of 20 years** for the prosecution of sexual violence offences, including rape. This directly contradicts international standards, under which statutes of limitation do not apply to international crimes. This time-bound limitation significantly contributes to widespread impunity for perpetrators. As a result, Sri Lanka's domestic law effectively creates **de facto immunity for violations that occurred prior to 2006**—precisely the period during which many of the most serious allegations are reported to have taken place.



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Legal definitions within the domestic framework also remain inadequate. For example, **male-on-male rape is not recognised under Sri Lankan law**, leaving survivors without legal recourse and reinforcing systemic gaps in protection and accountability. The ⁱⁱReport of the Office of the High Commissioner for Human Rights Investigation on Sri Lanka (OISL) further concluded that incidents of sexual violence were not isolated acts but formed part of a deliberate institutional policy of torture by Sri Lankan security forces, designed to extract information, intimidate, humiliate, and instill fear.

The evidentiary landscape further complicates prospects for justice. **94% of the documentation held within the OSLAP repository remains confidential, with strict conditions imposed by victims and witnesses prohibiting its transfer to Sri Lankan institutions.** These safeguards reflect deep concerns about reprisals, breaches of confidentiality, and a lack of trust in domestic systems. However, they also mean that **any judicial process deprived of this substantial body of evidence would be incapable of establishing patterns, chains of command, or the intent necessary to prosecute atrocity crimes effectively.**

Finally, longstanding allegations of politicisation and ethnic bias within the judicial system continue to erode confidence in domestic accountability mechanisms. Without structural independence, impartiality, and robust safeguards against interference, the judiciary is unlikely to deliver outcomes that meet international standards of justice.

It is instructive to recall the landmark case of *Singarasa v. Supreme Court of Sri Lanka (1999)*, in which the Supreme Court rejected the applicability of international law, holding those international treaties — such as the ICCPR — **do not automatically become part of domestic law upon executive ratification.** Singarasa, a Tamil man, was wrongly arrested and convicted under the draconian Prevention of Terrorism Act (PTA) and sentenced to 50 years' imprisonment, despite the UN Human Rights Committee recommending his release on the grounds that Sri Lanka had violated his right to a fair trial. This case illustrates a broader judicial approach that resists the incorporation of international legal obligations, raising concerns that **Sri Lanka's formal ratification of treaties may serve more to mislead the international community than to ensure compliance.**

Taken together, **these factors unequivocally demonstrate that Sri Lanka's domestic legal system is structurally incapable of addressing crimes defined under international law in a manner consistent with global legal norms.**

We therefore call upon the international community to recognise that any credible pathway to justice must include:

- **the establishment of robust international criminal justice mechanisms;** and
- the application of **universal jurisdiction principles**—drawing on the principled approaches adopted by countries such as the **United States, Canada, and the United Kingdom**—in other jurisdictions, including the **European Union, Australia, and New Zealand**, which have yet to impose sanctions on alleged Sri Lankan perpetrators.



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These measures are essential to ensure independence, protect victims, and uphold international legal standards. Absent such action, any expectation of ending Sri Lanka's deeply entrenched and pernicious ethnicised politics will remain illusory.

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Notes to Editors:

British Tamils Forum exists to harness the skills and the knowledge of the members of the forum, well-wishers and significant others including mainstream decision makers in the UK with the aim of alleviating the sufferings of the Tamils community in the Island of Sri Lanka and to further their right to self-determination within a democratic frame work under pinned by international law, its covenants and conventions. For more information info@britishtamilsforum.org and/or visit: www.britishtamilsforum.org

ⁱ <https://allsurvivorsproject.org/submission-to-the-un-human-rights-committee-on-sri-lanka-128th-session-2-27-march-2020/>

ⁱⁱ A/HRC/30/CRP.2