

Mandates of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the independence of judges and lawyers

Ref.: AL LKA 1/2025
(Please use this reference in your reply)

21 July 2025

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on the independence of judges and lawyers, pursuant to Human Rights Council resolutions 54/8, 54/14, 53/4 and 53/12.

In this connection, we would like to bring to the attention of your Excellency's Government information we received concerning the prolonged failure to investigate effectively, prosecute and punish those responsible of gross human rights violations, including extra-judicial executions and enforced disappearances, within the context of the Sri Lankan civil war. We refer in particular to the following high-profile cases: Trinco 5, ACF, Navy 11, White flags, Channel 4, Mullaitivu mass grave and the Chemmani mass graves each of which involves multiple victims.

The Trinco 5 case has been addressed in communication LKA 2/2006. We acknowledge receipt of the response transmitted by your Excellency's Government on 30 June 2006. Death threats against an individual who gave evidence to the Trincomalee Magistrates Court and the killing of a journalist who reported on the incident were further raised in LKA 6/2006.

The ACF case was the subject of communication LKA 15/2007. We acknowledge receipt of the response transmitted by your Excellency's Government on 27 September 2007.

The Navy 11 case has been addressed in communication LKA 1/2016.

The Channel 4 case has been addressed in communications LKA 18/2009, 19/2009, 21/2009, 7/2010 and 3/2011. We acknowledge receipt of the response transmitted by your Excellency's Government on 7, 8 and 11 September 2009.

The White flag surrenders case was the subject of communication LKA 31/2009. We acknowledge receipt of the response transmitted by your Excellency's Government on 24 December 2009.

The Mullaitivu mass grave case has been addressed in communication LKA 6/2023. Your Excellency's Government requested a deadline extension on 2 October 2023 but did not send a substantial response to this communication.

According to the information received:

Concerning the Trinco 5 case

On 2 January 2006, five Tamil youths were shot at close range in Trincomalee near Dockyard Road, in a case that would later become known as the Trinco 5 case. The area where the incident occurred was surrounded by checkpoints manned by the Navy, Police and Army. Reportedly, the five youths were injured by a grenade thrown from a rickshaw, which then continued along the road and passed a Security Force Checkpoint. Navy personnel had apparently closed the beach area where the incident occurred. A vehicle that allegedly belonged to the Sri Lankan armed forces arrived thereafter. The armed men reportedly assaulted the students with their rifles. Shortly afterwards, the youths were shot multiple times at close range. Five of the youths were killed, two others survived.

Following the killing, the crime scene was not secured, and firearms used by security forces were not seized.

Police declared that the injuries to the victims were from a grenade explosion. However, autopsy reports document that all five students died due to multiple gunshot wounds, and three had been shot in the head from close range.

The OHCHR Investigation on Sri Lanka report found that there is reasonable grounds to believe that security force personnel, including Special Task Force personnel, killed the five students (A/HRC/30/CRP.2 para. 273).

After the killings occurred, the then President announced that he had appointed a commission to investigate the deaths. Witnesses to the incident reportedly received threats to prevent them providing information.

In its response of 30 June 2006, to the communication sent by Special Procedures' mandate holders, the Government indicated on 30 June 2006 that: "Further inquiries are being conducted with the aim of identifying those responsible for the said incident." Thirteen Special Task Force members were arrested in 2006 then released. They were arrested again in 2013 before being re-released. On 3 July 2019, the suspects were acquitted 'due to lack of evidence.' The then Attorney General directed police to recommence investigations into the killing. The Special Task Force commander who was identified at the crime scene, has never been arrested.

Yet, nearly 20 years after the killings, no one has been convicted for the crime.

Concerning the ACF case

In August 2006, 38 humanitarian workers, including 17 Action Contre la Faim ("ACF") employees, were killed. According to information received at the time, the 17 aid workers of Action Contre la Faim were shot dead on the grounds of the ACF office in Muttur. Post mortem records reportedly indicate that 16 of the victims were shot in the head and the 17th in the neck. It was reported at the time

that on the evening of 1-2 August 2006 the Liberation Tigers of Tamil Eelam (LTTE) attacked Muttur and proceeded to take control, while the Government of Sri Lanka reportedly counter attacked. The Action Contre la Faim workers had been on a daily assignment to Muttur when the LTTE attacked and temporarily took control of the town. The workers were advised by the Sri Lankan Army (SLA) to remain in their compound rather than to evacuate. Official police reports indicated that the police concluded that the LTTE were responsible for the killings without any investigations. Seven months after the killing, the Criminal Investigation Department reportedly had not interviewed any member of the Sri Lankan security forces, nor any witness, other than some of the relatives of those killed.

In its response to the communication sent by Special Procedures' mandate holders dated 27 September 2007, the Government held that: "The investigation conducted by the Commission [of Inquiry overseen by the International Independent Group of Eminent Persons] is in progress [...] When the findings of the Commission of Inquiry are made public, Sri Lanka's Permanent Mission in Geneva will promptly forward to you the said findings. Furthermore, as the Criminal Investigation Department is also continuing with their investigation into this incident, the Mission will in due course present to you its findings, no sooner the investigation is completed."

It was subsequently reported that there were indications that Sri Lankan security forces may have been responsible for the killings. The Sri Lanka Monitoring Mission found that "there cannot be any other armed groups than the security forces who could have been behind the act," as by the date of the killing the security forces had gained full control over Muttur.

Flaws in the police investigation were also identified including, amongst others, a delay of several days before the police took any action, neglect for preservation of evidence at the crime scene, failure to undertake many elementary forensic analyses. OHCHR Investigation on Sri Lanka report (OISL report) observed that evidence was also tampered with or disappeared.

The case was reportedly considered by several domestic mechanisms, which came to no conclusion, including different Magistrate Courts (from 2006 to 2008), the National Human Rights Commission (from 2006 to 2008), the Presidential Commission of Inquiry (CoI) (from 2007 to 2010) and the Lessons Learnt and Reconciliation Commission (from 2010 to 2012).

Witnesses who spoke to some of these mechanisms faced threats and were not provided adequate security, as witness protection mechanisms were not in place.

The OISL concluded in paragraph 239 that "based on the information OISL has compiled, there are reasonable grounds to believe that members of the security forces committed the extrajudicial executions of the ACF staff."

Nearly 20 years after the killings, the perpetrators of these attacks have still not been arrested, prosecuted and punished.

Concerning the Navy 11 case

Concerning the case known as the Navy 11 case, 11 individuals, predominantly Tamil youths were subject to enforced disappearance. Reportedly, the individuals were picked up in ‘white van abductions’ in 2008 to extort money from their families. The individuals were reportedly taken to the Trincomalee Navy Camp and later killed. It is believed other forcibly disappeared individuals may also have been killed at the camp.

In 2015, during a country visit, the Working Group on Enforced or Involuntary Disappearances visited the secret detention center in the Trincomalee navy base.

It is reported that regarding this case, 14 individuals including Naval Commander Karannagoda were indicted in 2019. The charges against Naval Commander Karannagoda were dropped in 2021. In 2023, the Attorney-General decided not to implement the decision of a Commission of Inquiry to drop charges and went ahead with prosecutions. In March 2025, two Supreme Court judges recused themselves from the hearing petitions related to the case. A newly appointed bench is expected to re-hear the case on 15 September 2025.

Concerning the Channel 4 case

In January 2009, during military operations in or around Kilinochchi, three individuals were killed during an incident that was later called the Channel 4 case. Video footage allegedly documenting the incident shows two naked men, bound and blindfolded being shot at point-blank range by men wearing Sri Lankan army uniforms. The video footage also shows the naked bodies of several women and some of the soldiers are seen removing the clothes covering their bodies. The footage captures the faces of some of the perpetrators and shows someone in uniform recording the incident via a mobile phone.

Following release of this video footage in the media, your Excellency’s Government publicly responded by strongly and unequivocally denying the allegations contained in the video footage. In a statement reproduced by several media outlets, the Sri Lankan High Commission in the United Kingdom declared that it categorically denied, “that the Sri Lankan armed forces engaged in atrocities against Sri Lankan Tamil community. They were only engaged in a military offensive against the LTTE.” In a report on communications by the former the Special Rapporteur on extrajudicial summary or arbitrary executions, the Special Rapporteur emphasized that “the extended video provides credible evidence that serious crimes have been committed within the context of the Sri Lankan civil war, which should together with any other available evidence be examined systematically and professionally by domestic investigators [...] with a clear mandate in this regard, in order to establish who should be held accountable for these cold-blooded killings.” (A/HRC/17/28/Add.1, para. 45). Yet, over 16 years after the killings, independent and impartial investigations into the incident does not appear to have been carried out, and the perpetrators of these attacks have still not been arrested, prosecuted and punished.

Concerning the White flag surrenders case

In May 2009, shortly before the Government of Sri Lanka announced that its forces had completely defeated the Liberation Tigers of Tamil Eelam (LTTE), two high profile individuals of the LTTE sought to establish contact with the authorities to inquire how they could surrender to the Sri Lanka Army (SLA). It is reported that they were told to walk towards the positions of the SLA in a way that made their intentions clear and holding a white cloth. Requests from the LTTE for independent intermediaries to witness the surrender were rejected. The Commander of the SLA 58th Brigade, the unit on the front line with the last LTTE position, however, received a telephone call from the Secretary of Defense instructing him to order his forces to shoot those surrendering. The two individuals along with several others formed three surrender groups, all unarmed and reportedly walked towards the SLA positions carrying white cloths in the first hours of 18 May 2009. They were then killed. An unspecified number of family members of the two men were killed as well. The OISL report notes that an analysis of photographic materials by a forensic pathologist indicates that in the case of one of the surrendering individuals, taken together, the pattern of injuries indicates that he was shot multiple times in the back, almost certainly whilst his arms were restrained behind his back (para. 304). The OISL report concludes that there are reasonable grounds to believe that the two surrendering individuals along with another family member, may have been executed by the security forces sometime after 6.00 a.m. on 18 May 2009 (para. 304). The OISL report also covers several other extrajudicial killings of LTTE forces or family members which occurred on or around 18 May 2009, including the child of an LTTE member who was seen alive and unharmed in the custody of SLA forces and whose body was later found with five bullet wounds.

In its response to Special Procedures' mandate holders dated 24 December 2009, the Government of Sri Lanka held responded that the relevant authorities were "examining comprehensively the issues [...] and a considered response will be sent in due course." No further response was shared with Special Procedures' mandate holders. Over 16 years after the killings, there does not appear to have been independent and impartial investigations into the alleged war crimes, and the perpetrators of these attacks have still not been arrested, prosecuted and punished.

Concerning the Mullaitivu mass grave case

On 29 June 2023, officials from the National Water Supply and Drainage Board discovered human skeletal remains six metres from the main Mullaitivu-Nedunkeni road in the Mullaitivu Kokkuthoduvai area. On the following day, proceedings were initiated in the Mullaitivu Magistrate Court and the magistrate ordered the excavation of the mass grave to be carried out. In total, the remains of 53 individuals were exhumed.

Judicial proceedings continue. On 29 May 2025 the final forensic report was submitted. Several of the individuals were reportedly found to have died from gunshot wounds and explosive injuries. The victims are believed to be LTTE

members, with reports that some LTTE dog tags had been found during excavations.

Despite initial steps taken to carry out the exhumation of the mass grave and to preserve the human remains contained therein to ensure that adequate investigation takes place, the perpetrators of these attacks have still not been arrested, prosecuted and punished.

Concerning the Chemmani mass graves

In 1999, 15 bodies were exhumed from a site in Chemmani. Two individuals were identified by relatives through the clothes. However, their bodies were not returned to the families. The remains were taken to Ruhuna University laboratory, Galle District for further examination the same year. The remains are still believed to be held there.

A five-member committee identified members of the armed forces who are believed to have been responsible for the killings of the fifteen individuals. Four army officers were arrested. The Committee's report was never published. The case was later transferred to the courts in Colombo as the accused claimed their lives were at risk in Jaffna. The four individuals were released on bail in July 2000 and were reportedly subsequently promoted to a higher rank.

On 13 February 2025, human remains were discovered during construction works in a crematorium in Chemmani, nearby to the site of the mass grave discovered in 1999. On 28 February 2025, the Judicial Medical Officer confirmed that 41 human bone samples had been recovered. From 15-17 May and 2-7 June 2025, a test pit was dug. On 8 June 2025, following a request from the lawyer of the families of the disappeared, the magistrate declared the state a crime scene and an illegal or secret burial site and continued excavation for 45 days. As of 12 June 2025, 19 bodies had been recovered including at least 3 young children. The test pit stalled on 9 June 2025 and resumed on 28 June 2025, for 45 days. The report of the investigations and proceedings conducted in relation to the 1999 mass grave does not appear to have been made available to the magistrate in relation to the 2025 grave. It appears the records may be lost or missing.

Other mass grave sites

More than 20 mass grave sites have been uncovered in Sri Lanka since 1989. Most were accidentally uncovered during construction, or in some cases after information was provided by the security forces. The excavations have often not complied with international standards including the Minnesota Protocol and the 2020 Bournemouth Protocol on Mass Grave Protection and Investigation. Very few exhumations have led to the identification of the remains uncovered and families often had limited involvement. There have also reportedly been incidents of police delays in carrying out judicial orders, forensic experts have been abruptly transferred and instances where no effort has been made to find witnesses or collect ante mortem data. There have also been investigations abandoned due to insufficient resources.

There is no national policy on the management of mass graves or a designated entity for the coordination of the preservation of evidence and exhumation of mass graves. A draft law has been pending with the Ministry of Justice for several years which provides for the development of standard operating procedures for investigations including in relation to communicating and returning the remains to families. Reportedly, draft standard operating procedures have been elaborated, although it is not clear that families have so far been involved in this process.

Enforced disappearances

There is no exact figure on the number of enforced disappearances that have occurred in Sri Lanka, including during the civil war. The Working Group on Enforced or Involuntary Disappearances registered over 12,000 cases from 1980-1997. The Government of Sri Lanka, in a 2002 report to the Human Rights Committee put the number of disappearances for the period of 1988-1990 at approximately 27,200. The fate and whereabouts of the vast majority remains unknown. In 2024, OHCHR's report to the Human Rights Council on the Situation of Human Rights in Sri Lanka (A/HRC/57/19, para. 39) stated that "despite its mandate to search for and trace missing persons and its broad legal powers of investigation, including powers to summon persons, request assistance from authorities, and search of premises the Office on Missing Persons (OMP) has focused primarily on assessing victim families' entitlement to financial assistance" and as of June 2024 it has established the fate of only 16 "missing persons" from the period 2002 to 2007. In addition, section 13(2) of the Office on Missing Persons Act states that findings from OMP investigations "shall not give rise to any criminal or civil liability," preventing effective investigations and prosecution of cases of killings and enforced disappearances.

In 2024, an [OHCHR report on accountability for enforced disappearances](#) in Sri Lanka concluded that 'despite the passage of nearly 15 years since the end of the armed conflict...Sri Lankan authorities are still failing to ensure accountability for these violations. Few persons have been held criminally responsible through the criminal justice system. Impunity remains entrenched.' In its report on the country visit to Sri Lanka from 9 to 18 November 2015, the Working Group on Enforced or Involuntary Disappearances stated that impunity for enforced disappearances remains a major challenge in Sri Lanka and urged the State to ensure the proper investigation of existing mass graves, proper preservation of the sites and protection of the chain of custody of the samples.

In addition, the Concluding Observations on Sri Lanka by the Committee on Enforced Disappearances.

Independent and impartial investigations and prosecutions

In the August 2024 election campaign manifesto, your Excellency's Government pledged to "[introduce] a Directorate of Public Prosecution (DPP) as a mechanism to eliminate delays within the judicial system and [establish] a

main DPP office and sub offices in the provinces which will remain independent of the Attorney General's Department to conduct cases on behalf of the government." UN human rights mechanisms, OHCHR, and Sri Lanka's past Commissions of Inquiry have repeatedly highlighted the conflict of interest in the Attorney General's Department in leading both the prosecution and defence of State agents, and recommended that the Government review the roles and powers of the Attorney General to reinforce the independence of the Attorney General's office and establish an independent national prosecutorial body. Following his country visit in 2017, the Special Rapporteur on transitional justice highlighted that, "Regrettably, the zeal showed in combating crimes against the State is often absent when State agents are the presumed perpetrators." (A/HRC/45/45/Add.1, para. 45).

Concerning these important cases, as well as others that took place during the civil war, we encourage your Excellency's Government to take steps to ensure accountability for the gross human rights violations committed. We urge your Excellency's Government to promptly initiate, and where relevant conclude, independent and impartial investigations into the above-mentioned egregious cases, to determine the circumstances of the killings and disappearances of the individuals listed in this communication with a view to establishing the truth, to identify and bring perpetrators of those gross human rights violations to justice. A dedicated accountability mechanism that is fully independent, impartial and transparent to investigate alleged violations of international human rights and humanitarian law is crucial to ensure impartiality and independence throughout the criminal justice chain. We also encourage your Excellency's Government to take prompt steps to investigate all mass grave sites in line with international standards and to ensure prompt identification of remains and return to their families and for renewed efforts to address the thousands of enforced disappearances cases where the fate and whereabouts of the victims remain unknown. We encourage the adequate resources be dedicated to these tasks and recall the importance of the involvement of families in all stages of the investigative processes.

As detailed in the below annex, international law requires that States investigate and punish gross human rights violations and serious violations of international humanitarian law committed on its territory, under its jurisdiction, or by its nationals. The prompt and thorough, effective, impartial and independent, documentation and investigation of gross human rights violations is an obligation under international law and a crucial guarantee of non-recurrence. Investigations must be performed in line with international standards, including the [Minnesota Protocol on the Investigation of Potentially Unlawful Death \(2016\)](#), the Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2022 edition) and the Guiding Principles for the Search for Disappeared Persons. We further draw your attention to the [Bournemouth Protocol on Mass Grave Protection and Investigation](#).

Concerning the role of the Attorney General in prosecution, we recall that the UN Guidelines on the Role of Prosecutors emphasizes that "States shall ensure that prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference". International standards support the wisdom of creating an independent prosecutorial service that does not have dual loyalty

in cases where the alleged perpetrators are State actors.

Investigations into unlawful killings must seek to identify victims and determine the causes of their deaths, identify possible perpetrators and collect available forensic evidence. The participation of the family members or other close relatives of a deceased or disappeared person is an important element of an effective investigation. Investigative processes and outcomes must also be transparent, including through openness to the scrutiny of the general public and of victims' families.

Upholding the international obligation to ensure truth, justice, reparation, memorialization, and guarantees of non-recurrence requires not only accountability for perpetrators but also remedies for victims. According to international standards, reparation should aim at comprehensively addressing the multiple consequences and effects of the harm suffered by the victims and should include measures in the areas of restitution, compensation, rehabilitation and satisfaction, as well as the full and meaningful participation of the victims in the establishment and implementation of such measures (See [A/69/518](#), paras. 48-51). As measures of satisfaction, commemorations and tributes, which seek to transmit memory concerning violations of human rights, is another means to prevent the recurrence of violations.

We stress that transitional justice fosters social cohesion, strengthens nation-building, enhances local and national ownership and inclusivity, brings collective memorialization of past violations and supports healing and reconciliation. On the other hand, the absence of such measures, with victims at the center, raises grave concerns about impunity, marginalization and the potential for renewed violence. We urge your Excellency's Government to commit to accountability for violations that were committed during the civil war through a rights-based, inclusive, efficient and thorough transitional justice process strategy, with victims at the center and the participation of the society as a whole.

The Special Rapporteur on extrajudicial summary or arbitrary executions would like to also convey his availability to provide technical assistance to your Excellency's Government in relation to the investigation of mass graves.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide information on steps taken to conduct prompt, impartial, independent, thorough and effective investigations into the killings and the disappearances of the persons listed in this communication in line with international standards, including the Revised United Nations Manual on the Effective Prevention and Investigation of Extra-Legal,

Arbitrary and Summary Executions (the Minnesota Protocol on the Investigation of a Potentially Unlawful Death (2016)).

3. Please provide information on any plan to repeal section 13(2) of the OMP Act, which states that findings from OMP investigations “shall not give rise to any criminal or civil liability” in order to strengthen the OMP and ensure cases of enforced disappearances are effectively investigated and prosecuted
4. Please provide updates and a timeline on establishment of an Independent Prosecutor’s Office, including whether its mandate will include the investigation and prosecution of killings and enforced disappearances, as well as ensure that prosecutions resulting from exhumations are conducted in an independent and impartial manner.
5. Please clarify if there is a specific law and policy enacted to manage mass graves and exhumations, including provisions for identification, preservation, long-term investigation, and secure storage of skeletal remains while maintaining chain of custody.
6. Please provide information on the status of the draft inquest law and associated standard operating procedures, including the extent to which families and civil society working on relevant issues have been or will be consulted.
7. Please provide information on the steps taken to investigate mass graves in line with international standards, including the Minnesota Protocol and the [Bournemouth Protocol on Mass Grave Protection and Investigation](#).
8. Please provide information on the steps taken to ensure families of victims have been or will be involved in all investigations.
9. Please provide detailed information on the measures undertaken to elucidate the fate and whereabouts of persons forcibly disappeared during the civil war and, in the event of their death, to locate, respect, identify and return their remains to their families.
10. Please indicate whether reparations, including financial compensation has been provided to the victims and the families of the victims of these human rights violations.

This communication and any response received from your Excellency’s Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would also like to inform your Excellency’s Government that given the allegations of enforced disappearance, the Working Group on Enforced or Involuntary Disappearances may decide to transmit future cases through its humanitarian procedure.

The Government is required to respond separately for the present communication and the humanitarian procedure.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

Please accept, Excellency, the assurances of our highest consideration.

Bernard Duhaime

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

Gabriella Citroni

Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Margaret Satterthwaite

Special Rapporteur on the independence of judges and lawyers

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above. We would first like to refer your Excellency's Government to the relevant principles of international humanitarian law and international human rights law applicable in situations of non-international armed conflicts. In particular, we would like to refer to common article 3 to the 1949 Geneva Conventions prohibits "violence to life and person, in particular murder of all kinds" of persons taking no active part in the hostilities or who have been placed hors de combat, including by detention.

We would also like to refer your Excellency's Government to your obligations under the International Covenant on Civil and Political Rights (ICCPR), which Sri Lanka acceded to on 11 June 1980. In particular, article 6, paragraph 1, of the Covenant, establishes that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life".

Given the circumstances of the cases highlighted in this communication, we would like to highlight that international human rights law norms apply at all times and in all circumstances, including during war, public emergencies, civil strife, or situations of internal disturbances or armed conflict. In particular, the right to life constitutes a norm of jus cogens and customary international law from which no derogation is permitted under any circumstances (CCPR/C/GC/36, para. 2).

The ICCPR also refers to the obligation to investigate and punish gross human rights violations and to provide redress to victims. Article 2 establishes that States must adopt measures to ensure that persons whose rights or freedoms are violated have an effective remedy, and that the competent authorities enforce such remedies when granted. In its general comment No. 31, the Human Rights Committee established that States have an obligation to investigate and punish serious human rights violations, including summary or arbitrary killings, torture and other cruel, inhuman or degrading treatment, and enforced disappearances (paragraph 18). Failure to investigate and prosecute such violations is in itself a breach of the norms of human rights treaties. Impunity for such violations can be an important element contributing to the recurrence of violations.

Under international law, States are under an obligation to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary or summary executions and the obligation to bring to justice all persons identified by the investigation as having participated in those executions as laid down in the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, adopted by the Economic and Social Council resolution 1989.

In this context, we would also like to refer to the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systematic violations, to the perpetration of those crimes, as established in the updated Set of Principles for the

Protection and Promotion of Human Rights through Action to Combat Impunity of February 2005 (principle 2). Full and effective exercise of the right to the truth provides a vital safeguard against the recurrence of violations (principle 5). In this respect, we also refer to the General comment on the right to the truth in relation to enforced disappearance, issued by the Working Group on Enforced or Involuntary Disappearances (A/HRC/16/48, (para. 39), which reiterates that “[e]ach victim has the right to know the truth about violations that affected him or her, but the truth also has to be told at the level of society as a ‘vital safeguard against the recurrence of violations’ (...). The Working Group has often recommended that States adopt measures to promote truth, reparations for victims and reconciliation in their societies, as a means of implementing the right to the truth and the right to integral reparation for victims of enforced disappearances (A/HRC/RES/21/15, para. 3).

Additionally, the United Nations Revised Manual for the Effective Investigation of Extra-Legal, Arbitrary and Summary Executions (The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016) provides detail on the duty to investigate potential unlawful deaths “promptly, effectively and thoroughly, with independence, impartiality and transparency.” It notes the authorities must conduct an investigation as soon as possible and proceed without unreasonable delays. We remind that amongst other things, investigations into alleged unlawful killings should seek to determine who was involved in the death and their individual responsibility for the death and seek to identify any failure to take reasonable measures which could have had a real prospect of preventing the death. It should also seek to identify policies and systemic failures that may have contributed to a death and identify patterns where they exist (para. 25).

States parties to the Convention on Enforced Disappearances should also ensure that the enforced disappearance of persons is punished with appropriate criminal sanctions and introduce prompt and effective procedures for cases of disappearance to be investigated thoroughly by independent and impartial bodies and States parties should also provide families of victims of disappeared persons with the means to regularize their legal status in relation to the disappeared persons after an appropriate period of time (paragraphs 57-58). The same General Comment establishes that “investigations into allegations of violations of article 6 must always be independent, impartial, prompt, thorough, effective, credible and transparent (...) and that Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards, including the Minnesota Protocol on the Investigation of Potentially Unlawful Death, and must be aimed at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity, at avoiding denial of justice and at drawing necessary lessons for revising practices and policies with a view to avoiding repeated violations (...) An investigation into violations of the right to life should commence when appropriate ex officio”.

We also draw your Excellency’s Government’s attention to the provisions of the International Convention on the Protection of All Persons from Enforced Disappearances, which Sri Lanka ratified on 25 May 2016. In particular, we make reference to article 24, which reaffirms the right to know the truth regarding the circumstances of the enforced disappearance; States should take all necessary measures to protect this right, by conducting a thorough and impartial investigation and ensuring

the victim obtains reparation. The same article, in its paragraphs 2 and 3 assert that each victim has the right to know the truth regarding the circumstances of the enforced disappearance, the progress and results of the investigation and the fate of the disappeared person and that each State Party shall take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains. We remind your Excellency's Government that the prohibition of enforced disappearance is a peremptory norm of jus cogens, which establishes obligations applicable erga omnes.

We further draw your Excellency's Government's attention to the United Nations Declaration on the Protection of All Persons from Enforced Disappearances which establishes that no State shall practice, permit or tolerate enforced disappearances. The Declaration also proclaims that each State shall take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance in any territory under its jurisdiction. We recall that the Declaration sets out the necessary protection to be ensured by States regarding all persons deprived of liberty. In particular articles 7, 10, 12, 13, 16 of the Declaration establish that no circumstances whatsoever, may be invoked to justify enforced disappearances; to ensure access to a prompt and effective judicial remedy; to ensure competent national authorities have access to all places of detention; to ensure persons deprived of liberty be held in an officially recognized place of detention, and to be brought before a judicial authority promptly and after detention; to provide accurate information on the detention of persons and their place of detention to their family, counsel or other persons with a legitimate interest; to ensure maintaining of an official up-to-date registers of all detained persons in every place of detention; and authorities to suspend persons presumed responsible for such acts from any official duties during the investigation and try them only by the competent ordinary courts. Also, article 19 of the Declaration provides that victims of acts of enforced disappearance and their families shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible. In the event of the death of the victim as a result of an acts of enforced disappearance, their dependents shall also be entitled to compensation.

We would also like to make reference to article 17 of the Declaration, which stipulates that these acts shall be considered a continuing offence as long as the perpetrators continue to conceal the fate and the whereabouts of persons who have disappeared, and these facts remain unclarified. The report of the Working Group on Enforced or Involuntary Disappearances on standard and public policies for an effective investigation of enforced disappearances, published on 7 August 2020 (A/HRC/45/13/Add. 3) also highlights how, in addition to any criminal investigation of cases of enforced disappearances, the search activities should be pursued until it has been possible to determine with certainty the circumstances of the disappearance and the fate and whereabouts of the disappeared person or their remains. A failure to investigate would amount to a violation of the ICCPR itself.

We also refer to the report on Medico-legal Death Investigations (MLDIs) (A/HRC/50/34) by the Special Rapporteur on extrajudicial, summary or arbitrary executions, indicating that the bereaved families and next of kin should be informed in a timely and appropriate manner about the investigation into the death of their loved one, its progress and its findings and that should be protected from any threat resulting

from their participation in the investigation (paras. 92 and 94). Likewise, the 2020 Bournemouth Protocol on Mass Grave Protection and Investigation also reminds that upon completion of the investigation, identification and justice processes, human remains, associated body parts and personal artefacts should be returned to family members, allowing them to dispose of the deceased in line with their belief.

Furthermore, we refer to the report on Mass graves, highlighting the multitude of sites of mass killings and unlawful deaths across history and the world (A/75/384) by the former Special rapporteur on extrajudicial, summary or arbitrary executions, establishing that “States must enable the participation of families in investigations into unlawful deaths and ensure that they obtain available information on the circumstances, events and causes of death, and the location and condition of the remains insofar as these have been determined” (paragraph 58). The adequate handling of mass graves also involves an obligation to respect religious and cultural rights (A/HRC/31/59, para. 21).

We also refer to the report of on the rights of families of victims of unlawful killings by the current Special rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/59/54, which emphasizes that families of victims of unlawful killings must always be recognized as victims in their own right, including in relevant legislation, policies and practice, and be accorded the rights to truth, justice and reparations.

In addition, we draw the attention of your Excellency’s Government to the report of the former Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, on his visit to Sri Lanka (A/HRC/45/45/Add.1), particularly to recommendation 89 (c) in which he urged the Government to enable the Office [on Missing Persons] “to strengthen its capacity on crucial skills, including forensic investigations, through training provided by national, regional and international experts.”