

Sri Lanka: Resolution 30/1 Implementation Monitor

LAW &
GOVERNANCE

Statistical and Analytical Review No. 8

March
2023

Sri Lanka: Resolution 30/1

Implementation Monitor

The Legal Research team at Verité Research prepared this brief.

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Background

Sri Lanka co-sponsored United Nations Human Rights Council (UNHRC) Resolution 30/1 in September 2015. As a result, it committed to fulfilling a range of measures dealing with human rights, accountability and transitional justice. Resolution 30/1 came to represent the main features of Sri Lanka's transitional justice agenda, particularly in relation to accountability mechanisms for abuses suffered by victims of the civil war.



Source: www.meydan.tv

Resolution 30/1 contains 36 distinct commitments that fall into five broad thematic categories:

1. Transitional justice and reconciliation
2. Rights and rule of law
3. Security and demilitarisation
4. Power sharing
5. International engagement

At the 34th UNHRC session held in March 2017, the Sri Lankan government co-sponsored a fresh resolution. Resolution 34/1 reaffirms the above commitments, and requests that Sri Lanka fully implement measures identified in Resolution 30/1 that are outstanding. Subsequently, at the 40th session held in March 2019, the government co-sponsored Resolu-

tion 40/1 which reaffirms its commitments to reconciliation envisaged in Resolution 30/1 and reaffirmed in Resolution 34/1. In February 2020, the Sri Lankan government informed the Office of the High Commissioner for Human Rights (OHCHR) of its decision to withdraw from co-sponsorship of Resolution 40/1 of 2019, and its preceding Resolutions 34/1 of March 2017, and 30/1 of October 2015.¹ The Minister of Foreign Relations of Sri Lanka cited several reasons for the government's decision. These included: (1) the commitments made were 'impractical, unconstitutional and undeliverable'; (2) it damaged the reputation of Sri Lanka in the international realm; and (3) the changes made following the co-sponsorship of Resolution 30/1 'undermined the national interest and compromised national security including weakening national intelligence operations'.² The OHCHR

submitted a comprehensive report of Sri Lanka’s implementation of Resolution 30/1, pursuant to Resolution 40/1, which was taken up for discussion at the UNHRC’s 46th session in February and March 2021. Moreover, Resolution 46/1 was adopted during this session on 23 March 2021 to establish a new accountability framework to collect, analyse and preserve evidence of international crimes committed in Sri Lanka for use in future prosecution.³ At the UNHRC’s 51st session in September and October 2022, Resolution 51/1 was adopted.⁴ The Sri Lankan government rejected Resolution 51/1. It has particularly opposed operative paragraph 8 which extends the mandate of the OHCHR in Sri Lanka to gather evidence of human rights violations,⁵ and the provi-

sions that relate to economic policy, both of which the government considers to be outside the UNHRC’s mandate.⁶ The OHCHR is to present an update on Sri Lanka’s progress at the 53rd UNHRC session, which is to be held in June 2023. An update on Sri Lanka’s progress is not scheduled for the 52nd session held in February and March 2023.

Verité Research released analyses of progress in fulfilling the 36 actionable commitments in Resolution 30/1 in June 2016, March 2017, February 2018, March 2019, February 2020, February 2021 and March 2022. **This brief contains an updated analysis of progress from March 2022 until February 2023.**

Methodology

The methodology of this study has been developed in an attempt to create, as far as possible, an objective basis for monitoring progress.

Performance Indicators

	Fully Met	Partially met	Poorly met	Not met
Workable	Complete	Partial progress	Poor progress	Poor progress
Flawed				No progress
No plan				

The methodology involves two assessments:

1. Assessment of performance indicators:

Step 1: Quantitative and qualitative assessment of progress in terms of ‘performance indicators’. Each indicator aims to capture full accomplishment of actions envisaged in a commitment. For instance, a commitment and its indicator can be devised as follows:

Commitment: Begin to issue Certificates of Absence to the families of missing persons as a temporary measure of relief.

Indicator: Certificates of Absence have been issued to families of missing persons.

The assessment of progress thereafter relies on publicly available information and evidence of steps taken towards the achievement of each indicator. The assessment includes a qualitative evaluation of how complete and effective the government’s steps are in meeting performance indicators.

Step 2: Classification of all commitments into ‘completed’, ‘partial progress’, ‘poor progress’ or ‘no progress’, based on the degree to which performance

indicators have been met.*

*N.B. Even if performance indicators have not been met to any degree, the commitment would be classified as ‘poor progress’ (as opposed to ‘no progress’) if it possesses a workable implementation plan. Therefore, the second assessment detailed below may retrospectively determine the final classification of a commitment as ‘poor progress’ or ‘no progress’.

2. Assessment of implementation plans:

This assessment entails a determination of whether the commitment has an identifiable plan for implementation. Where there is a lack of a documented plan (such as a government action plan or roadmap), the existence of a plan may be verified by publicly available evidence of steps towards the commitment’s fulfilment (such as tabling legislation in Parliament or obtaining Cabinet approval for policy decisions).

The matrix above illustrates how the status of implementation of each individual commitment is classified. It also illustrates how the implementation plan pertaining to a commitment may determine its classification.

Resolution 30/1: Implementation Status

TRANSITIONAL JUSTICE AND RECONCILIATION

The government made **nine commitments** on transitional justice and reconciliation in Resolution 30/1.



The implementation status of the nine commitments on transitional justice and reconciliation has remained the same since March 2022.

In terms of commitment number (2), President Ranil Wickremesinghe has expressed his intention to have a team of representatives from Sri Lanka study South Africa's Truth and Reconciliation Commission (TRC) with the aim of establishing a similar mechanism in Sri Lanka.⁷ President Wickremes-

inghe also granted an extension until 31 December 2022 to the Presidential Commission of Inquiry for Appraisal of the Findings of the Previous Commissions and Committees and the Way Forward, which submitted its second interim report to President Gotabaya Rajapaksa in February 2022.⁸ Given that a Commission for Truth, Justice, Reconciliation and Non-Recurrence has not yet been established, the implementation of commitment number (2) remains at 'poor progress'.

The commitments to establish the Office on Missing Persons (OMP) and the Office for Reparations (OR) were completed as of March 2019 and February 2020 respectively. As per the budget proposal for the year 2023, the government has allocated an estimated LKR 133,000,000 for 2023 under recurrent expenditure for the OMP and LKR 9,000,000 under capital expenditure.⁹ The OR was allocated an estimated LKR 1,555,000,000 for 2023 under recurrent expen-

diture, while capital expenditure was budgeted at LKR 2,000,000.¹⁰

In March 2022, the Cabinet approved a proposal to pay LKR 100,000 as compensation to families of missing persons.¹¹ In October 2022, the Cabinet approved a proposal to increase the compensation to LKR 200,000 due to high inflation.¹²

According to the 2022 Annual Report of the OR, the OR had received LKR 711.21 million for the payment of compensation and 2,402 claims were settled utilising LKR 405.3 million. The OR reported that a total of 4,770 claims were approved and awaiting settlement as of 31st December 2022.¹³

In terms of commitment number (5), a clear process to investigate violations and abuse by the LTTE has not been established. As a result, the commitment to investigate violations and abuses by LTTE remains at 'poor progress'. There is little publicly available information on investigations into violations and abuses. In October 2022, President Ranil Wickremesinghe granted presidential pardons to eight prisoners convicted for their involvement in LTTE activities.¹⁴

In terms of commitment number (7), the 21st Amendment to the Constitution was enacted in October 2022. Under this amendment, the President can make recommendations to the Constitu-

tional Council for the appointment of judges to the Supreme Court, Court of Appeal and the Judicial Services Commission. The Constitutional Council is required to approve such appointments. Under the 21st Amendment, there is a danger that a majority of the members of the Constitutional Council may be controlled by the government of the day.¹⁵ This impacts the overall independence of the Constitutional Council in appointing judges and members of independent commissions. Therefore, while the 21st Amendment reinstates some checks and balances on the appointment of judges by the President, it cannot be said that there have been significant steps taken to ensure that impartial individuals with integrity are appointed to lead judicial and prosecutorial institutions. Consequently, the status of this commitment remains at 'no progress'.

In relation to commitment number (8), there has been no progress regarding the participation of foreign judges, defence lawyers, authorised prosecutors and investigators in a Sri Lankan judicial mechanism. In October 2022, the Minister of Foreign Affairs stated that "allowing foreign judges to Sri Lanka is against Sri Lanka's Constitution. We cannot agree to any such mechanism. Whatever the outcome, we stand by this position in order to protect the country's territorial integrity, stability and independence."¹⁶

RIGHTS AND RULE OF LAW

The government made **fifteen commitments** on rights and rule of law in Resolution 30/1.

Rights and Rule of Law

- Investigate attacks on journalists, human rights defenders, religious minorities and civil society
- Hold perpetrators of these attacks to account
- Prevent such attacks in the future
- Review and repeal the Prevention of Terrorism Act
- Replace the Prevention of Terrorism Act with legislation compliant with international best practices
- Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearances
- Criminalise enforced disappearances
- Publish previous presidential commission reports
- Review the Public Security Ordinance
- Issue Certificates of Absence to families of missing persons
- Preserve all records and documentation relating to human rights violations
- Instructions to security forces that violations of human rights and IHL are prohibited and punishable
- Address reports of sexual and gender-based violence and torture
- Review witness and victim protection law
- Strengthen witness and victim protection law

Legend: Complete (Blue), Partial Progress (Green), Poor Progress (Yellow), No Progress (Red)



In relation to commitment number (1) to investigate attacks on journalists, human rights defenders, religious minorities and civil society, the past year has seen several reports of attacks on protestors and journalists. Many of these arose during the *Aragalaya* (Sinhala word for ‘struggle’, a term commonly used to refer to the protests held in Sri Lanka beginning in March 2022). On 31 March 2022, several journalists reporting on the protest near former President Gotabaya Rajapaksa’s house, were injured after an attack

by security forces.¹⁷ On 9 July 2022, security forces attacked journalists covering the protest in the vicinity of the then Prime Minister Ranil Wickremesinghe’s residence.¹⁸ SSP Romesh Liyanage was interdicted on 11 July 2022 for not taking action to prevent the attack on journalists outside the Prime Minister’s residence.¹⁹ SSP Liyanage was subsequently re-instated on 21 July 2022 after an inquiry by the Police Special Investigation Unit.²⁰

On 3 February 2023, security forces fired water cannons and tear gas on protestors engaging in a silent protest against the 75th Independence Day celebrations.²¹

Additionally, in relation to commitment number (1), there has been poor progress in investigating attacks on journalists, human rights defenders, religious minorities and civil society. In June 2022, nine personnel of the Military Intelligence Corps who were remanded for the enforced disappearance of

cartoonist Prageeth Ekneligoda were released on bail. In December 2022, the Attorney General agreed to summon the former director of the Criminal Investigations Department, Shani Abeysekara, who was the investigating officer in Prageeth Ekneligoda's case, to testify in court on this case.²² In September 2022, the People's Tribunal on the Murder of Journalists - the non-governmental initiative at the Hague - sought justice for the murder of journalist Lasantha Wickrematunge. The tribunal found the government of Sri Lanka guilty of "grave violations of the international human rights of journalist Lasantha Wickrematunge, specifically the right to life, the right to freedom of expression and the right to an effective remedy".²³ However, in Sri Lanka, there has been no further progress into the investigation of Lasantha Wickrematunge's murder.

In relation to commitments (4) and (5) above, the Prevention of Terrorism (Temporary Provisions) Act No. 12 of 2022 was passed in Parliament on 22 March 2022. However, this Amendment to the Prevention of Terrorism Act (PTA) failed to comply with international best practices. The amendment allows a suspect to be detained for up to a year without being charged or tried and does not require law enforcement officials to inform a suspect of the reasons for his detention at the time of his arrest.²⁴ In August 2022, the government announced its plans to pass a National Security Act with more relaxed provisions to replace the PTA. On 15 January 2023, the Minister of Justice stated that the draft of the new National Security Act would be submitted to Cabinet within the month of January²⁵ and in February 2023, the Minister of Foreign Affairs reported that the government had decided to submit the draft Bill to the Cabinet expeditiously.²⁶ In the absence of any attempt to meaningfully review and repeal the PTA in line with international best practices, the status of these commitments remains at 'poor progress'.

The status of commitment number (9) to review the Public Security Ordinance remains at 'no progress'. Under section 2 of the Public Security Ordinance,

former President Gotabaya Rajapaksa declared a state of emergency on 1 April 2022 that lasted for five days.²⁷ President Rajapaksa declared another state of emergency on 6 May 2022²⁸ for two weeks.²⁹ On 18 July 2022, the then Acting President Ranil Wickremesinghe declared a state of emergency under section 2 of the Public Security Ordinance,³⁰ which expired on 18 August 2022.³¹

On 23 September 2022, the government declared areas of Colombo as "high security zones" under the Official Secrets Act. The government has previously used the Public Security Ordinance to establish high security zones.³² The declaration under the Official Secrets Act prevented public gatherings or processions unless the prior written permission of the Inspector General of Police was first obtained. The Bar Association of Sri Lanka stated its concern that the provisions of the Official Secrets Act were being used to curtail freedom of expression and peaceful assembly.³³ On 1 October 2022, an extraordinary gazette was issued revoking the order declaring the high security zones.³⁴

In relation to commitment number (10), the government reported that as of August 2022, Certificates of Absence have been issued to 1,341 families.³⁵ On 26 October 2021, an extraordinary gazette was published extending the Registration of Deaths (Temporary Provisions) Act, No. 19 of 2010 for two more years. This measure allows for Certificates of Absence to be issued until 09 December 2023.³⁶ The fulfilment of this commitment remains at 'partial progress'.

With respect to commitment number (14), the implementation of the commitment to review the updated victim and witness protection law remains at 'partial progress' since there are no updates on the proposal accepted by Cabinet in January 2021 to amend section 10 of the Act.

SECURITY AND DEMILITARISATION

Security and demilitarisation

- 1** Security sector reforms e.g. processes to prevent recruitment and retention of personnel implicated in human rights and IHL violations
- 2** Training & incentives for the promotion and protection of human rights
- 3** End military involvement in civilian affairs
- 4** Return military-occupied land to owners
- 5** Restore livelihoods
- 6** Restore normality to civilian life
- 7** Full participation of populations, civil society and minorities in demilitarisation efforts

Legend: Complete (Blue), Partial Progress (Green), Poor Progress (Yellow), No Progress (Red)



The government made **seven commitments** on security and demilitarisation in Resolution 30/1.

In relation to commitment number (3), the military has continued to be engaged in civilian functions. Following the shortages of fuel in the country, Sri Lanka Army personnel were deployed to fuel stations to assist in fuel distribution in March 2022.³⁷ In July 2022, a video was widely circulated of an army officer assaulting a civilian at a petrol station.³⁸ There have been reports of the Sri Lankan army being involved in cultivation and agriculture ahead of the *Maha* season.³⁹

In April 2022, former President Gotabaya Rajapaksa issued a gazette, under section 12 of the Public Security Ordinance, calling out the armed forces to

maintain public order in every district.⁴⁰ On 14 July 2022, the then Acting President Ranil Wickremesinghe issued a special gazette notification which brought several institutions under the purview of the Ministry of Defence, including the Board of Investment, the Department of Immigration and Emigration and the Colombo Port City Economic Commission among others.⁴¹ In November 2022, President Wickremesinghe stated that he would not allow a second *Aragalaya*, and noted that “the military [would] be deployed...and [e]mergency law [would] be enforced.”⁴² President Wickremesinghe has also issued such gazettes under section 12 of the Public Security Ordinance calling out the armed forces to maintain public order in July, August, October, November and December 2022 and most recently in January and February 2023.⁴³ Section 12 confers powers of arrest and seizure on the armed forces.⁴⁴

The Bureau of Rehabilitation Act No. 2 of 2023 came into effect on 27 January 2023.⁴⁵ In October 2022, the Supreme Court determined that the Bureau of Rehabilitation Bill as a whole was inconsistent with Article 12(1) of the Constitution which guarantees the right to equality before the law and equal protection of the law.⁴⁶ The Bill was subsequently amended and passed in Parliament with the Minister of Justice stating that the concerns raised by the Supreme

Court were addressed and rectified.⁴⁷ A criticism of the Bill was that it allowed for militarisation of the rehabilitation process by allowing members of the armed forces to exercise and discharge powers and duties under the Act.⁴⁸ This particular clause was deleted after the Supreme Court determination. However, the newly passed Act does not specifically bar members of the armed forces being called in as employees, as the Bureau has the power to employ and appoint such officers and employees as may be necessary. In this context, the status of the commitment to end military involvement in civilian functions remains at 'poor progress'.

The status of commitment number (4) to return military-occupied land to owners remains at 'partial progress'. The Sri Lankan government has previously reported that up to June 2022, 92.42 per cent of military-held land has been released. In November 2022, a protest was held in Jaffna against the acquisition of 1600 acres of land for the expansion of a military camp.⁴⁹ In June 2022, Buddhist monks, with the assistance of the Sri Lankan army and the Department of Archaeology, erected a Buddhist shrine at a Hindu temple in Kurunthormalai, Mullai-

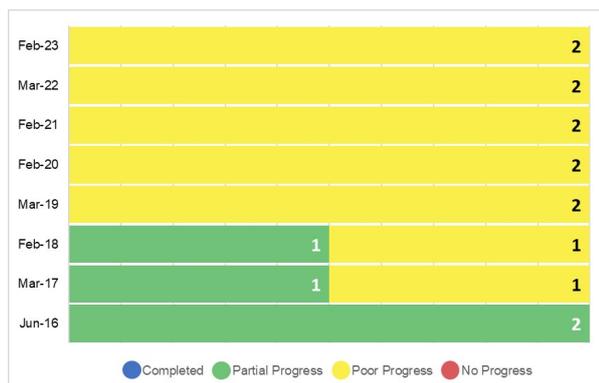
tivu.⁵⁰ The Buddhist shrine was built in violation of a court injunction issued in September 2018, against any changes to the area.⁵¹ In July 2022, the Mullaitivu Magistrates' Court ordered that all new structures including the Buddhist shrine be removed.⁵² In January 2023, the Additional District Secretary (Lands), S. Muralidharan informed the media that steps were being taken to release over 100 acres of military-held land in Jaffna.⁵³

The status of commitment number (6) to restore normality to civilian life remains at 'poor progress'. The PTA was used to arrest and detain citizens involved in protests against the government in April 2022.⁵⁴ On 18 May 2022, Mullivaikkal Remembrance Day was observed at the Mullivaikkal main ground.⁵⁵ There was an increase in the number of checkpoints and roadblocks placed in a number of locations across the Mullaitivu region.⁵⁶

In July 2022, armed forces were deployed to dismantle the *Aragalaya* protest site at Galle Face Green and evict protestors.⁵⁷ Several protestors and journalists were assaulted by security forces in the process.⁵⁸

POWER SHARING

The government made **two commitments** on power sharing in Resolution 30/1.



In relation to the commitment on a political settlement through constitutional reform, on 31 October 2022, the 21st Amendment to the Constitution was passed.⁵⁹ However, the amendment does not include any reforms regarding power sharing. At the All-Party Conference held in December 2022, President Wickremesinghe stated that all political parties should unite to devise a solution to the ethnic divide by Sri Lanka’s 75th Independence Day on 4 February 2023.⁶⁰ A new constitution and full implementation of the 13th Amendment were areas of discussion at the All-Party Conference.⁶¹ At the All-Party-Conference on 26 January 2023, President Wickremesinghe stated the Cabinet was agreeable to fully implement the 13th Amendment.⁶² In the absence of progress beyond these discussions, the status of the

commitment to reach a political settlement through constitutional reform remains at ‘poor progress’.

In relation to the full implementation of the 13th Amendment to the Constitution, there has been continued delay in holding the provincial council elections. In September 2022, the Chairman of the National Election Commission stated that provincial council elections would be held before 20 March 2023.⁶³

The final report of the Parliamentary Select Committee to Identify Appropriate Reforms of the Election Laws and the Electoral System and to Recommend Necessary Amendments was tabled in Parliament on 22 June 2022.⁶⁴ However, in October 2022, the Minister of Justice requested that another Parliamentary Select Committee be appointed to recommend electoral reforms.⁶⁵

In January 2023, President Wickremesinghe stated that the government is “looking at full implementation of the 13th Amendment within the next few years.”⁶⁶

As there has been no further progress in holding provincial council elections, the status of this commitment remains at ‘poor progress’.

INTERNATIONAL ENGAGEMENT

The government made **three commitments** on international engagement in Resolution 30/1.



The government's progress in implementing the recommendations in the OHCHR investigation report on Sri Lanka - commitment number (1) above - remains at 'poor progress'. One of the recommendations of the report was to appoint members of impartiality and integrity to the HRCSL through the Constitutional Council. The 21st Amendment to the Constitution, passed in October 2022, reinstated the Constitutional Council. Under the 21st Amendment, the President can make recommendations for appointments to the HRCSL; however, the Constitutional Council must approve the appointment. The requirement for the Constitutional Council to approve recommendations made by the President creates a check and balance on appointments to the HRCSL. However, as noted above, the composition of the Constitutional Council under the 21st Amendment undermines the

independence of these key institutions.⁶⁷

The OHCHR investigation report also recommended reviewing all cases of those detained under the Prevention of Terrorism Act (PTA) and either releasing them or trying them. The PTA remains in force today. As highlighted in our previous reports, prominent human rights lawyer, Hejaaz Hizbullah, and poet, Ahnaf Jazeem, were arrested under the PTA in April and May 2020 respectively. Hizbullah was granted bail in February 2021. However, his trial is ongoing almost three years since his arrest in April 2020. On 5 October 2022, Hizbullah's trial was postponed when the prosecution failed to appear for the second consecutive day.⁶⁸ On 25 November 2022, the key prosecution witness in Hizbullah's case admitted that his statements before different judges have been contradictory and that he lied in his statement to the Magistrate in May 2020.⁶⁹ The evidence of the first prosecution witness was concluded in January 2023.⁷⁰ The dates for the rest of the trial have been fixed for March 2023. Ahnaf Jazeem was granted bail in December 2021. His case is currently pending at the Puttalam High Court.⁷¹

Prominent activists during the *Aragalaya* were arrested and detained under the PTA in 2022. On 18 August 2022, Wasantha Mudalige, Hashantha

Gunathilake and Venerable Galwewa Siridhamma Thero were arrested during a protest in Colombo.⁷² On 21 August 2022, President Wickremesinghe approved a request by the Sri Lanka Police to detain and interrogate the three student activists under the PTA.⁷³ Hashantha Gunathilake was released after fifty days in detention when the Terrorist Investigations Department informed the Magistrates' Court that it did not have sufficient evidence to hold him.⁷⁴ Wasantha Mudalige and Venerable Galwewa Siridhamma Thero were granted bail on 6 December 2022.⁷⁵ Mudalige continued to be detained for further investigation under the PTA,⁷⁶ until the Colombo Chief Magistrate ordered his release from all charges under the PTA on 31 January 2023.⁷⁷ The Colombo Chief Magistrate determined that there was no evidence to prove that Mudalige had committed any offences under the PTA and that the provisions of the PTA had been misused by the police and the prosecution in Mudalige's case.⁷⁸ However, Mudalige remained in remand till 1 February 2023, on the basis that other cases were filed against him.⁷⁹ Mudalige was released on bail in the three remaining cases filed against him on 1 February 2023.⁸⁰ There has been no significant action taken to review the cases of those detained under the PTA in line with the OHCHR investigation report. The PTA continues to be used to arrest and detain citizens. Therefore, the fulfilment of the recommendation to review the cases of all those detained under the PTA and either release or try them, remains at 'poor progress'.

Commitments number (2) and (3) have been completed since June 2016. There is continued engage-

ment between the government and the OHCHR, and with the special mandate holders. The government of Sri Lanka extended standing invitations to all thematic special mandate holders in December 2015. The UN Special Rapporteur on contemporary forms of slavery concluded his visit to Sri Lanka from 26 November to 03 December 2021. The report of the UN Special Rapporteur on contemporary forms of slavery was published on 6 July 2022.⁸¹ On 26 September 2022, the Special Rapporteur on the rights to freedom of peaceful assembly and of association published a follow-up report to his visit to Sri Lanka in 2018.⁸² In his statement at the 51st Session, the Minister of Foreign Affairs stated that Sri Lanka facilitated two visits by the OHCHR in May and August 2022 with unimpeded access.⁸³ However, the OHCHR reported that a specific visit by a project team, established to further strengthen the OHCHR's capacity in line with Resolution 46/1, was rejected by the Sri Lankan government on 18 July 2022.⁸⁴

At the 51st Session, the Minister of Foreign Affairs reiterated Sri Lanka's commitment towards continuing its "engagement with the Council in a spirit of cooperation and dialogue."⁸⁵

The commitment to cooperate with special procedure mandate holders is under further review, although it has been assessed as completed because the government of Sri Lanka has extended a standing invitation to mandate holders since 2015. However, the team notes that some mandate holders have not had visits despite request in 2017 and 2018.⁸⁶

RESOLUTION 30/1: OVERALL STATUS OF IMPLEMENTATION



The overall status of the government's implementation of the 36 commitments has seen no change since March 2022 (See Annex 1 for implementation status since 2016).

Eight years after co-sponsoring Resolution 30/1, the Sri Lankan government has fulfilled only seven out of thirty-six commitments on human rights, accountability and transitional justice. These commitments are to: (1) engage in broad transitional justice processes; (2) establish the Office on Missing Persons; (3) establish the Office for Reparations; (4) sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearances; (5) criminalise enforced disappearances; (6) continue engagement between the Government of Sri Lanka and the OHCHR; and (7) cooperate with special procedure mandate holders.

There are seven commitments that remain partially fulfilled, including: (1) review of the presidential com-

mission reports; and (2) issuing of Certificates of Absence to families of missing persons.

The progress of most commitments remains at 'poor progress', including those to: (1) restore normality to civilian life; (2) investigate attacks on journalists, human rights defenders, religious minorities, and civil society; (3) hold perpetrators of these attacks to account; and (4) prevent such attacks in the future.

The commitments to set up a judicial mechanism with a special counsel and foreign participation to investigate violation of human rights and international humanitarian law has remained at 'no progress' since February 2018. Since 2015, the government has not made any progress on its commitment to review the Public Security Ordinance. As such, it has remained at 'no progress' throughout the last eight years.

At the 51st session of the UNHRC in September and October 2022, the government stated that it is "firmly committed to pursuing tangible progress on human rights through domestic institutions", including replacing the PTA with comprehensive national security legislation and the introduction of constitutional amendments to strengthen democratic governance.⁸⁷ However, the government rejected Resolution 51/1 and the possibility of the OHCHR acting as an external evidence gathering mechanism or any pronouncing on economic matters by the Council.⁸⁸

Annex 1:

IMPLEMENTATION STATUS (JUNE 2016 TO FEBRUARY 2023)

Category	Commitment	Implementation Status							
		June 2016	March 2017	Feb 2018	March 2019	Feb 2020	Feb 2021	Mar 2022	Feb 2023
	Engage in broad national consultations on transitional justice mechanisms	Partial progress	Completed	Completed	Completed	Completed	Completed	Completed	Completed
	Establish an Office on Missing Persons	Partial progress	Partial progress	Partial progress	Completed	Completed	Completed	Completed	Completed
	Establish an Office for Reparations	Poor progress	Poor progress	Poor progress	Partial progress	Completed	Completed	Completed	Completed
	Give each mechanism the freedom to obtain financial, material and technical assistance from international partners, including the Office of the High Commissioner	Partial progress	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Establish a commission for truth, justice, reconciliation and non-recurrence	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Accountability and reconciliation for the violations and abuses committed by the Liberation Tigers of Tamil Eelam	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Establish a judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law	Poor progress	Poor progress	No progress	No progress	No progress	No progress	No progress	No progress
	Independent judicial and prosecutorial institutions led by impartial individuals of integrity	Poor progress	Poor progress	No progress	No progress	No progress	No progress	No progress	No progress
	Participation in a Sri Lankan judicial mechanism, including the special counsel's office, of Commonwealth and other foreign judges, defence lawyers and authorized prosecutors and investigators	Poor progress	Poor progress	No progress	No progress	No progress	No progress	No progress	No progress

Category	Commitment	Implementation Status							
		June 2016	March 2017	Feb 2018	March 2019	Feb 2020	Feb 2021	Mar 2022	Feb 2023
	Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance without delay	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed
	Criminalize enforced disappearances	Poor progress	Partial progress	Partial progress	Completed	Completed	Completed	Completed	Completed
	Release previous Presidential Commission reports	Completed	Completed	Completed	Partial progress*	Partial progress	Partial progress	Partial progress	Partial progress
	Issue certificates of absence to the families of missing persons as a temporary measure of relief	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	Issue instructions clearly to all branches of the security forces that violations of international human rights law and international humanitarian law are prohibited and punishable	Poor progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	Review the updated witness and victim protection law	Poor progress	Poor progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	Review and repeal the Prevention of Terrorism Act	Poor progress	Partial progress	Partial progress	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress
	Replace it with anti-terrorism legislation in accordance with contemporary international best practices	Poor progress	Partial progress	Partial progress	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress
	Investigate attacks on journalists, human rights defenders, members of religious minority groups and other members of civil society	Poor progress	Partial progress	Partial progress	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress
	Take steps to prevent such attacks in the future	Partial progress	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Hold perpetrators of such attacks to account	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress

Category	Commitment	Implementation Status							
		June 2016	March 2017	Feb 2018	March 2019	Feb 2020	Feb 2021	Mar 2022	Feb 2023
	Develop a comprehensive plan and mechanism for preserving all existing records and documentation relating to human rights violations and abuses and violations of international humanitarian law, whether held by public or private institutions	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Address all reports of sexual and gender-based violence and torture	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Strengthen the witness and victim protection law	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Review the Public Security Ordinance	No progress	No progress	No progress	No progress	No progress	No progress	No progress	No progress
	Accelerate the return of land to its rightful civilian owners	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	Resumption of livelihoods	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	Increase training and incentives focused on the promotion and protection of human rights of all Sri Lankans	Poor progress	Poor progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress	Partial progress
	End military involvement in civilian activities	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Introduce effective security sector reforms	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Restoration of normality to civilian life	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Full participation of local populations, including representatives of civil society and minorities, in these efforts	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress

Category	Commitment	Implementation Status							
		June 2016	March 2017	Feb 2018	March 2019	Feb 2020	Feb 2021	Mar 2022	Feb 2023
	Ensure that all Provincial Councils are able to operate effectively, in accordance with the thirteenth amendment to the Constitution of Sri Lanka	Partial progress	Partial progress	Partial progress	Poor progress				
	A political settlement by taking the necessary constitutional measures on the devolution of political authority	Partial progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress
	Continuation of engagement between the Government of Sri Lanka and the High Commissioner and the Office of the High Commissioner	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed
	Cooperate with special procedure mandate holders	Completed	Completed	Completed	Completed	Completed	Completed	Completed	Completed**
	Implement the recommendations contained in the report of the Office of the High Commissioner	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress	Poor progress

*VR's previous assessment of government progress in fulfilling this commitment overlooked the government's incomplete disclosure of reports by the Paranagama Commission, and that reports of some other Col (including the Col into the Matale mass graves) are yet to be released publicly. The implementation status was accordingly amended in March 2019.

**The commitment to cooperate with special procedure mandate holders is under further review, although it has been assessed as completed because the government of Sri Lanka has extended a standing invitation to mandate holders since 2015. However, the team notes that some mandate holders have not had visits despite request in 2017 and 2018.⁸⁹

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A | No. 5A, Police Park Place, Colombo 5
T | +94 11-2055544
E | reception@veriteresearch.org
W | www.veriteresearch.org