

Crisis in Sri Lanka

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I. Overview

Sri Lanka's recent history has been dominated by civil war. In 1983, ethnic tensions between the majority Sinhalese (mainly Buddhist) population and the Tamil (mainly Hindu) minority in the North

[led](#)

to a devastating civil war. For over a quarter of a century, the Sri Lankan government clashed with the

[Liberation Tigers of Tamil Eelam](#)

, known as the LTTE or Tamil Tigers, who fought in pursuit of an independent state. The war ended on 19 May 2009, following a major government

[offensive](#)

that forced the rebels to

[surrender](#)

. Though precise figures on the death toll are difficult to tally, the United Nations

[suggests](#)

between 80,000 and 100,000 casualties. Such figures remain hotly

[contested](#)

, with the Sri Lankan authorities dismissing the UN's death

[count](#)

of 40,000 during the final phase of the war, claiming the number was closer to

[9,000](#)

. The conflict

[displaced](#)

hundreds of thousands, tens of thousands of whom remain displaced today, despite government

[assurances](#)

in September 2012 that there were ‘no more Internally Displaced Persons (IDPs)’. During and after the conflict, there have been many allegations of sexual abuse, particularly by the Sri Lankan security forces. Since 2009, the international community has called for investigations into alleged

[war crimes](#)

and

[crimes against humanity](#)

. In March 2014, the United Nations Human Rights Council voted to

[launch](#)

an international inquiry in spite of fierce opposition from Sri Lanka and on 25 June 2014, the UN

[appointed](#)

three international experts to advise the investigation.

II. History of the Conflict

When Sri Lanka gained independence in 1948, in response to British

[favoritism](#)

of Tamil populations, the new government

[disenfranchised](#)

Tamil migrant workers and passed the

[Sinhala Only Act](#)

in June 1956. In light of these policies and discrimination, the Tamil minority held peaceful protests for an independent state, which later became

[violent](#)

. Through the 1960s and 1970s, a number of

[armed groups](#)

emerged; the most infamous of which, the Liberation Tigers of Tamil Eelam (LTTE),

[formed](#)

in 1976. Anti-Tamil violence – sometimes sponsored by the Sri Lankan government –

[skyrocketed](#)

, coming to a head in 1983. In what came to be known as “

[Black July](#)

”, Sinhala mobs killed up to 3,000 Tamils around Sri Lanka in retaliation for the killing of 13 soldiers by Tamil separatists, an event now “commonly

[regarded](#)

as the start of the war between the Government and the LTTE.”

III. Sri Lankan Civil War

From 1983 to 2009, the Sri Lankan government and the Tamil Tigers engaged in a bloody conflict. During this time, different actors attempted to facilitate negotiations and establish ceasefires. Nevertheless, all efforts to create sustainable peace failed. In 1994, for instance, President Kumaratunga was

[elected](#)

for his promise to negotiate with the Tigers, and achieved a

[truce](#)

in January 1995. Just three months later the ceasefire

[ended](#)

when the LTTE sank Sri Lankan navy vessels and shot down two planes. The Norwegian government also stepped in to facilitate peace negotiations, successfully establishing a

[Ceasefire Agreement](#)

(CFA) in February 2002. Norway led six further rounds of talks, but the process

[broke down](#)

in April 2003. Additionally, Norway

[hosted](#)

another round of peace talks in Geneva in February 2006, but by April both sides were

[engaging](#)

in “major military operations.” By August, there was “

[full-scale war](#)

.”

A

[steady government offensive](#)

, beginning in the east, characterized the final period of the war. By July 2007, the government had “

[seized](#)

control of the country’s east”, and made a “

[decisive shift](#)

” toward the north. Fighting continued, and in January 2008 the Sri Lankan government

[officially withdrew](#)

from the CFA.

In March 2009, both sides

[reported](#)

a “bloody escalation in the fighting in the country’s north-east.” Even as the fighting entered April, and the LTTE continued to suffer defeats, they

[refused](#)

to surrender. On 15 May 2009, the Sri Lankan President Rajapaksa

[declared](#)

the war to be in its final stage, with the final offensive sure to end within 48 hours,

[declaring](#)

the following day that the LTTE had been defeated. This claim was substantiated when, on 17

May, the Tigers

[announced](#)

that the battle had “reached its bitter end.” The final stage of the conflict resulted in approximately 40,000 deaths and over 280,000 internally displaced people. As explained further below, both the Government and the LTTE committed war crimes and crimes against humanity during the end of the war.

IV. International Response

a. United Nations In April 2009, UN officials, including the [Secretary-General](#), and the [Under-Secretary-General for Humanitarian Affairs](#) called on the Sri Lankan government and the LTTE to make protecting civilians a priority and to take all necessary measures to halt the escalating humanitarian disaster. Nevertheless, as Human Rights Watch

[expressed](#)

, Secretary General Ban Ki-moon weakened efforts to create a strong Human Rights Council resolution and failed to urge the necessity of an international inquiry after the end of the conflict to investigate human rights abuses committed by the Government and the LTTE. Namely, Ban “publicly praised the government for ‘doing its utmost’ and for its ‘tremendous efforts,’ while accepting government assurances, repeatedly broken in the past, that would ensure humanitarian access to civilians in need.”

Security Council

During the last stage of the conflict, the Security Council did not formally address the crisis. The Internal Review Panel [see below for more detail] reported that in February 2009, three non-permanent Council members highlighted the necessity to include Sri Lanka on the formal agenda; however, there was no unanimity among all the Council members. Hence, from February to June 2009, the Council only discussed Sri Lanka four times in informal interactive dialogues.

On 13 May 2009, a few days before the end of the conflict, the Security Council released a [press statement](#) on Sri Lanka expressing grave concern over the humanitarian situation and calling for “urgent action by all parties to ensure the safety of civilians.” Nonetheless, this was the only document issued by the Security Council on the crisis.

Human Rights Council

Additionally, the Human Rights Council called for a special session on 26 May 2009 to discuss

the human rights violations in Sri Lanka. A European-backed resolution was put forward, pushing for unfettered access to detained civilians and an internal investigation of alleged war crimes by both sides. However, an alternative resolution proposed by Sri Lanka won the votes of the majority. The

[resolution](#)

congratulated the Sri Lankan government on its victory of the civil war and ignored human rights concerns, making no mention of the high civilian death toll or the fate of the hundreds and thousands of internally displaced people.

Many strongly criticized the Human Rights Council resolution, with Human Rights Watch

[stressing](#)

that the resolution was “deeply flawed” and failed to address violations of international human rights law and humanitarian law by the Sri Lankan government forces. Others questioned the purpose and legitimacy of the HRC in the wake of its failure with regards to Sri Lanka’s human rights violations. Voice Against Genocide

[expressed](#)

that the resolution is “a disgrace and ridicules the UN system and sets dangerous precedence where perpetrators of war crimes can get away with political maneuvering.” Furthermore, despite High Commissioner for Human Rights Navi Pillay’s assertions on 26 May 2009

that investigating human rights abuses committed by the Sri Lankan government and the Tamil Tigers was needed for the country’s post-conflict development process, the Human Rights Council’s resolution made no mention of the commissioning of an inquiry.

Thus, the UN had many failures in responding to the crisis in Sri Lanka, which were clearly highlighted in the Panel of Experts report and the Internal Review Panel [see below for more detail]. For instance, although different officials and governments called for the protection of civilians, the UN did not strongly counter the Sri Lankan Government’s statements in regards to the number of casualties or strongly condemn the Government for obstructing humanitarian assistance. Also, the UN did not adequately address the Government’s attacks on civilians and violations of international humanitarian and human rights law. Furthermore, the UN Secretariat in particular neglected to provide necessary information about the actions of the Sri Lankan Government and LTTE to the Security Council. Hence, not only did the Sri Lankan government fail to protect its civilians from mass atrocities, the international community, particularly the UN, did not take collective action in a timely and decisive manner to prevent and stop mass atrocities.

b. European Union

From 12-13 May 2009, a Vice Ministerial Troika from the

[European Union](#)

(EU) visited Sri Lanka to discuss the humanitarian and human rights situation in the state. The

EU also expressed its concerns “with the high number of civilian casualties and deteriorating humanitarian situation... and reiterates its primary concern for the civilians in the conflict zone who are surviving under appalling conditions.” Furthermore, the EU called for an independent inquiry to investigate alleged violations of international law during the conflict.

c. States

Different states also expressed their concern with the conflict in Sri Lanka. Canada, for instance,

[called](#)

for a political solution to end the conflict and

[increased](#)

its humanitarian aid for displaced civilians. Once the conflict ended, many states, including the United States

[highlighted](#)

the need for the Government of Sri Lanka to provide basic care for the displaced, and address the humanitarian situation. Nevertheless, as the Internal Review Panel Highlights [see below for detail], Member States “failed to provide the Secretariat and the UN Country Team (UNCT) with the support required to fully implement the responsibilities for protection of civilians.”

d. Civil Society

The failure of the government of Sri Lanka to fulfill its primary responsibility to protect its populations from mass human rights violations and widespread killings prompted many advocates to consider the crisis in Sri Lanka a Responsibility to Protect (RtoP) situation, especially given the alarmingly high death toll.

On 22 April 2009, James Traub, the then director of policy for the Global Center for the Responsibility to Protect, wrote in a

[op-ed](#)

for the Washington Post that, “the fighting threatens to produce exactly the kind of cataclysm that states vowed to prevent when they adopted ‘the responsibility to protect’ at the 2005 U.N. World Summit,” and urged the United Nations to act. That same day, a

[joint letter](#)

by NGOs including Global Centre for the Responsibility to Protect, International Crisis Group, Minority Rights Group International, and World Federalist Movement - Institute for Global Policy, urged UN action to “protect civilians and prevent mass atrocities”. The People’s Union for Civil Liberties, one of India’s largest human rights organizations, invoked the “Responsibility to Protect” and called for UN military intervention in a

[letter](#)

to the UN on 8 May 2009. They also urged for a referral by the UN Security Council for the

International Criminal Court to investigate Sri Lanka's alleged war crimes.

V. Post-conflict Accountability (2009 – 2013)

a. Calls for investigation

Calls for an investigation into the deadly conflict began when Secretary General Ban Ki-moon [expressed](#) his intent to appoint a panel of experts in March 2010. On 31 May 2010, UN High Commissioner for Human Rights Navi Pillay [called](#) on the Sri Lankan government to allow an international inquiry into the government's offensive against the Tamil Tigers. Western governments, including the United States, also [applied](#) pressure on the Sri Lankan government to launch an impartial investigation into allegations of war crimes perpetrated by state security forces and the LTTE.

Civil society organizations, including [Amnesty International](#), and [Human Rights Watch](#), joined the UN officials' calls for accountability into crimes committed in Sri Lanka. On 17 May 2010, International Crisis Group released a report entitled [War Crimes in Sri Lanka](#), appealing for a concerted effort by the international community, led by the United Nations, to further investigate alleged war crimes by Sri Lankan security forces and the LTTE and prosecute those responsible.

b. Sri Lankan Lessons Learnt and Reconciliation Commission

The Sri Lankan government has consistently [defended](#) its approach for addressing human rights violations occurring at the end of the conflict. The president of Sri Lanka, Mahinda Rajapaksa, appointed the Lessons Learnt and Reconciliation Commission (LLRC) in May 2010. Nevertheless, in November 2011, the LLRC produced a [report](#) that argued that the Sri Lankan Security Forces did not deliberately target civilians and took proportional actions, whereas the LTTE committed grave violations of international humanitarian law. Additionally, in July 2012, the Sri Lankan government created a [national plan of action](#)

for the implementation of the LLRC's recommendations.

Different international actors, however, have criticized the LLRC. In 22 March 2012, the UN Human Rights Council passed a

[resolution](#)

highlighting its concern "that the report does not adequately address serious allegations of violations of international law." On 11 February 2013, the Office of the UN High Commissioner for Human Rights produced a

[report](#)

, which highlighted that although the LLRC had made "many important observations and far-reaching recommendations," the national action plan "deals only with selected recommendations...with no explanation of the process or rationale in making that selection." On 21 March 2013, the UN Human Rights Council also reiterated its concerns with the lack of implementation of the LLRC recommendations and called upon the government to "conduct and independent and credible investigations."

c. Release of UN Panel of Experts Report and Internal Review Panel Report

On 31 March 2011, Secretary General Ban Ki-moon released the report of the Panel of Experts on accountability in Sri Lanka commissioned in 2010. The Panel concluded that "a wide range of serious violations of international humanitarian and human rights law were committed by the government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity." The government was found responsible for the killing of civilians, including through the shelling of hospitals and humanitarian objects in three consecutive No Fire Zones, the denial of humanitarian assistance, forced displacement and torture. The LTTE was found responsible for using civilians as a human buffer, killing civilians attempting to flee, firing artillery in proximity to civilians and firing from civilian installations, forcibly recruiting children, forced labor, and indiscriminate suicide attacks. The Panel estimated the number of civilian deaths to be as many as 40,000, and the number of displaced persons at 290,000.

While the government has put in place measures to address accountability, the Panel found them to be deeply flawed, unable to meet international standards for independence and impartiality, and thus far, ineffective. The Panel recommended that the Sri Lankan government immediately commence genuine investigations into violations committed by both sides and that the Secretary-General establish an independent international mechanism to monitor the domestic accountability process and conduct independent investigations into alleged violations.

The Panel also criticized the UN response to the conflict. The report concluded that "during the final stages of the war, the UN political organs and bodies failed to take actions that might have protected civilians," including its failure to publicize casualty figures. The Panel recommended

for the UN Secretary-General to conduct a comprehensive review of the UN during the war and its aftermath.

In response to the UN Panel of experts report, the Secretary General created an Internal Review Panel on United Nations actions in Sri Lanka, which then released a [report](#)

in November 2012. The report asserted that the “events in Sri Lanka mark a grave failure of the UN to adequately respond to early warning and to the evolving situation during the final stages of the conflict and its aftermath, to the detriment of hundreds of thousands of civilians and in contradiction with the principles and responsibilities of the UN.”

The report also examined different elements of the UN’s failure including “a lack of shared sense of responsibility for human rights violations,” the lack of action to respond to early warnings and violations of international law, insufficient support from Member States and inadequate attempts by the Secretariat to build political will for action. Furthermore, according to the Panel’s findings, UN officials neglected to report on violations committed by the government of Sri Lanka, fearing that it would obstruct their access to civilians in the Wanni. Nevertheless, the report asserts, “in fact, with its multiplicity of mandates and areas of expertise, the UN possessed the capabilities to simultaneously strive for humanitarian access while also robustly condemning the perpetrators of killing of civilians.” The report also highlights the failures of Member States to formally discuss the conflict in Sri Lanka, provide complete information on civilian deaths, and underline the responsibilities of the Government.

In regards to RtoP, the report asserts that although the norm was raised during the last stage of the conflict, discussions on the Responsibility to Protect proved more challenging and distracting for UN officials as opposed to useful for spurring action. Particularly, “differing perceptions among Member States and the Secretariat of the concept’s meaning and use had become so contentious as to nullify its potential value. Indeed, making references to RtoP was seen as more likely to weaken rather than strengthen UN action.”

This internal assessment induced subsequent UN initiatives, particularly the Rights Up Front Initiative [see below for detail], that recommit the UN Secretariat to its responsibility to promote and protect human rights.

VI. Rights Up Front

On 17 December 2013, the UN introduced [The Rights Up Front Action Plan](#)

as a follow-up to the 2012 Internal Review Panel on UN action in Sri Lanka.

The groundbreaking initiative highlights that states “have the primary responsibility to protect their populations against massive and widespread violations of human rights.” On 19 December 2013, the Deputy-Secretary-General

[presented](#)

Rights Up Front to the press and highlighted the adoption of RtoP as one of the main factors influencing the action plan. He also highlighted three main elements that guide the action plan: 1) “make human rights awareness and knowledge permeate the UN system” 2) prepare for better protection of civilians and 3) address internal issues relating to how the UN is organized and prepared to address “situations when they turn into the risk of becoming mass atrocities.”

The

[summary](#)

of the initiative stresses the Internal Review Panel’s criticism of UN actions in Sri Lanka and highlights the “opportunity to ensure that the lessons from past are fully acted upon.” The initiative also offers six actions that can influence the way in which the UN fulfills its responsibilities. Furthermore, the six action points also reflect some of the criticism and recommendations highlighted by the Internal Review Panel for Sri Lanka including “providing Member States with candid information with respect to peoples at risk” and “supporting all these activities through an improved system of information management on serious violations of human rights and humanitarian law.” [For more details on the specifics of Rights Up Front click

[here](#)

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[Many](#)

highlight the relationship between the Rights Up Front initiative and RtoP. For instance, the second pillar of RtoP highlights the international community’s responsibility to assist states in meeting their protection obligations. Actions under the Rights up Front initiative can be a way of implementing the second pillar of RtoP.

VII. Post-war Human Rights Violations & Recent International Response

After the end to the war, different NGOs have produced multiple reports highlighting sexual violence in Sri Lanka.

[Human Rights Watch](#)

and

[Minority Rights Group International](#)

, for instance, produced reports in 2013 highlighting the use of sexual violence by Sri Lankan security forces to gain information from alleged LTTE supporters during and after the conflict.

On 4 March 2014 the Society for Threatened People

[reported](#)

that the Government of Sri Lanka specifically targeted Tamil women with the “intent ...to destroy

the social fabric of Tamil community while repressing any potential for resistance.” In March 2014, the Bar Human Rights Committee of England and Wales and the International Truth and Justice Project, Sri Lanka also produced a

[report](#)

on torture and sexual violence in Sri Lanka from 2009 to 2014. The report highlighted how rape, sexual violence, torture, abduction and arbitrary detention have increased after the war as well as how the main targets of these attacks are people who are allegedly connected to the LTTE. The report also emphasized the lack of domestic investigations and accountability for crimes committed during the war and stresses that many of the post-conflict violence by Government forces constitute as crimes against humanity.

On 13 March 2013, the Secretary-General also produced a

[report](#)

on sexual violence in which he highlighted the necessity to investigate violations of international humanitarian law and international human rights law in Sri Lanka including allegations of sexual violence.

Furthermore, in its 2014 World Report, Human Rights Watch

[stressed](#)

that in 2013, the Government of Sri Lanka had not made much progress in addressing human rights abuses committed during the war and explained that the military still interferes in civilian life. The report also highlighted the widespread use of torture and rape, particularly against suspected LTTE supporters and members.

States have also expressed their concern with the human rights situation in Sri Lanka. On 14 April 2014,

[Canada](#)

announced that it would suspend its funding to the Commonwealth Secretariat while Sri Lanka is Chair in Office. The Prime Minister of the

[United Kingdom](#)

, David Cameron, also expressed the UK's support of an international investigation of war crimes in Sri Lanka if the Government of Sri Lanka did not commence credible investigations.

Recently, the United Nations has also taken further steps to address accountability and human rights in Sri Lanka. On 24 February 2014, the Office of the UN High Commission for Human Rights produced a

[report](#)

on Promoting reconciliation and accountability in Sri Lanka. The report asserted that the Government of Sri Lanka has neglected to have credible investigation into violations of international law. The report also recommended the establishment of an international inquiry.

In March 2014, the UN Human Rights Council adopted a [resolution](#) on Promoting reconciliation, accountability and human rights in Sri Lanka. The resolution reiterated the need for the Sri Lankan government to investigate violations of international humanitarian law and international human rights law and hold perpetrators of these violations accountable for their actions. The resolution also launched an international inquiry to investigate the crimes committed by all sides of the conflict. On 25 June 2014, the UN [appointed](#) three international experts to advise the investigation in Sri Lanka. Nonetheless, on 19 August 2014, President Mahinda Rajapakse [announced](#) that Sri Lanka will refuse entry to the UN investigators.

Given the aforementioned remaining challenges and concerns, numerous civil society organizations, continue to bring attention to the significance of investigations, justice and accountability. This includes [Amnesty International](#) urging the Government to immediately address recent clashes, and [Human Rights Watch](#) calling on the Government to investigate the recent violence in addition to human rights violations that occurred during the conflict. Additionally, in order to ensure peace and stability for the people of Sri Lanka, according to [Human Rights Watch](#) and other civil society organizations, there is the need to “create a secure environment for all members of all communities. The government should also develop a plan with participation from all communities to address the long-term tensions and create mechanisms for addressing them.”