



International Convention for the Protection of All Persons from Enforced Disappearance

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Committee on Enforced Disappearances

List of issues in relation to the report submitted by Sri Lanka under article 29 (1) of the Convention*

I. General information

1. Please clarify the status of the Convention in domestic law, including the Constitution, and indicate whether the provisions of the Convention can be directly invoked before and applied by courts or other relevant national authorities, and include specific examples.
2. Please describe the measures taken to ensure that the Human Rights Commission of Sri Lanka has the financial, technical and human resources necessary for the proper discharge of its functions. Please specify how the independence and impartiality of the Commission are guaranteed and whether the decisions it adopts in the cases brought to its attention are binding. Please indicate whether the Commission has received any complaints concerning enforced disappearances since the entry into force of the Convention and, if so, describe the actions taken and the results thereof.
3. Please indicate whether the State party intends to make the declarations provided for in articles 31 and 32 of the Convention, which relate to the Committee's competence to receive and consider individual and inter-State communications.

II. Definition and criminalization of enforced disappearance (arts. 1–7)

4. Please provide up-to-date statistical information, disaggregated by sex, gender identity, sexual orientation, age, nationality, ethnic origin, religious affiliation and occupation of the victim, on: (a) the number of disappeared persons in the State party, specifying the date and place of disappearance and the number of persons who have been located; (b) the number of persons who may have been subjected to enforced disappearance within the meaning of article 2 of the Convention; and (c) the number of persons who may have been subjected to the acts referred to in article 3 of the Convention (arts. 1–3, 12 and 24).
5. With reference to the information provided by the State party,¹ please specify how the State authorities identify and ensure the differentiation between cases of enforced disappearance as defined in article 2 of the Convention and other cases of disappearance and of “missing persons” that do not fall under that category. In that connection, please indicate how cases of enforced disappearance are identified through the information entered into the list of complaints and information regarding missing and disappeared persons received by the Office on Missing Persons. Please describe the measures taken: (a) to ensure that relevant information about all alleged cases of disappearance is promptly entered into the register of the Office on Missing Persons and duly updated; (b) to compare and consolidate the

* Adopted by the Committee at its twenty-fifth session (11–29 September 2023).

¹ [CED/C/LKA/1](#), paras. 8–14.



information contained in that register with the information on disappeared persons held by other State institutions, including those providing forensic services or administering DNA databases; (c) to share, whenever necessary, the registered information with other States potentially concerned by the disappearance in question (arts. 1–3, 12 and 24).

6. With reference to the information provided by the State party,² please indicate the progress and outcome of the procedures initiated concerning the 14,988 complaints registered by the Office on Missing Persons in terms of the search for the disappeared, the corresponding investigation, the prosecution of perpetrators and the support provided to victims.³ In that connection, please specify the action taken concerning the alleged enforced disappearances and other related gross human rights violations reportedly committed by government security forces between May 1989 and January 1990 in the Matale District, in the context of the Janatha Vimukthi Peramuna uprising.⁴ Please describe the measures that have been adopted to strengthen the investigative and search capacities of the Office on Missing Persons, including to investigate suspected mass grave sites and identification of remains (arts. 9–12 and 24).⁵

7. While noting the State party's indication that no cases of enforced disappearance were reported between 2017 and 2023,⁶ the Committee requests the State party to specify: (a) the number of complaints of enforced disappearance that have been lodged with the police, the Human Rights Commission and other State authorities since the entry into force of the Convention; and (b) the number of enforced disappearances investigated by the entities referred to by the State party.⁷ The Committee also requests the State party to comment on allegations that disappearances took place during mass protests in 2022 (art. 2).

8. Taking note of the State party's indication that section 23 of the International Convention for the Protection of All Persons from Enforced Disappearance Act (Enforced Disappearance Act, No. 5 of 2018) guarantees the non-derogability of the prohibition of enforced disappearance, please specify how this principle is upheld under the Public Security Ordinance (No. 25 of 1947) (art. 2 (a)) and the Prevention of Terrorism (Temporary Provisions) Act (No. 48 of 1979) (arts. 6 (1) (a), 9 (1) and 11 (1)). In that connection, please describe the legal and administrative measures adopted to guarantee that no derogation from the right not to be subjected to enforced disappearance can be made under any circumstances. Please provide information on the measures taken during the coronavirus disease (COVID-19) pandemic to ensure that the policies and actions of the State party were in conformity with its obligations under the Convention (arts. 1, 12 and 24).

9. With reference to the information provided by the State party,⁸ please describe any measures taken to define enforced disappearance as a crime against humanity, in accordance with article 5 of the Convention (art. 5).

10. Please provide information on the possible mitigating or aggravating circumstances applicable to cases of enforced disappearance, indicating the maximum and minimum penalties that would apply in such cases. With reference to the information provided by the State party,⁹ please also provide details of the practical application of section 3 of the Enforced Disappearance Act, specifying the number of cases in which the maximum and minimum penalties have been applied over the past 10 years (art. 7).

11. Please explain how the State party ensures the criminal responsibility of a person mentioned in article 6 (1) (a) of the Convention when that person invokes a superior order to justify an enforced disappearance.¹⁰ Please provide information on the number of such cases in which the legal provisions and jurisprudence referred to by the State party have been

² Ibid., paras. 46–55.

³ A/HRC/54/20, para. 44.

⁴ See LKA 3/2022, available at [DownloadPublicCommunicationFile](#).

⁵ A/HRC/54/20, para. 44.

⁶ CED/C/LKA/1, para. 36.

⁷ Ibid., paras. 29–35.

⁸ Ibid., paras. 67–69.

⁹ Ibid., paras. 81 and 82.

¹⁰ Enforced Disappearance Act, sect. 3.

applied over the past 10 years.¹¹ Please explain how domestic legislation guarantees that a person who refuses to obey an order or instructions that prescribe, authorize or encourage enforced disappearance will not be punished and provide information on any remedies available to subordinates against any potential disciplinary measures resulting from their refusal to carry out such an order (art. 6).

III. Judicial procedure and cooperation in criminal matters (arts. 8–15)

12. Please provide information on the measures taken to guarantee the rights of victims of enforced disappearance to an effective remedy after the expiry of the 20-year term of limitations.¹² Please explain the State party's suggestion that this prescriptive period can be circumnavigated in enforced disappearance cases by means of broad application of the jurisdiction of the High Court within three months of the date on which non-enforcement of certain sections of the Enforced Disappearance Act (including non-disclosure of information) becomes known to any person with a legitimate interest (art. 8).¹³

13. With reference to the information provided by the State party,¹⁴ please specify the number of cases in which section 6 of the Enforced Disappearance Act has been applied, and the decisions adopted in those cases. Please explain how the State party would exercise its jurisdiction over an offence of enforced disappearance committed abroad when the alleged offender is present in the territory under its jurisdiction and the offence is not punishable in the State where it was committed (art. 9).

14. Please report on the existing legal, administrative and judicial measures in place concerning a preliminary inquiry or investigation to establish the facts, should the State party take the measures provided for in article 10 (1) of the Convention. Please indicate how the State party guarantees that a person in custody pursuant to article 10 (1) of the Convention can communicate immediately with his or her consular authorities.

15. With reference to the information provided by the State party,¹⁵ please specify what legal provisions prevent military authorities from investigating or prosecuting cases of enforced disappearance (art. 11).

16. With reference to the information provided by the State party,¹⁶ please indicate whether any complaints have been lodged under articles 2 and 3 of the Convention, including cases concerning:

- (a) The disappearance of members of the Tamil ethnic minority;
- (b) The disappearance of protestors in the daily demonstrations that started on 16 March 2022 in Colombo and spread to other areas of the country;
- (c) The enforced disappearances that allegedly occurred during the internal armed conflict, between 1983 and 2009.

If any such complaints have been lodged, please provide disaggregated data on the search and investigations carried out and their results; the profile of the perpetrator; the proportion of proceedings launched that resulted in convictions; and the sanctions imposed on the perpetrators (arts. 2, 3 and 12).

17. With reference to the Committee's general comment No. 1 (2023) on enforced disappearance in the context of migration, please provide information on the measures taken to address disappearances that have occurred in the context of trafficking in persons and migration (arts. 2, 3 and 12).

¹¹ CED/C/LKA/1, paras. 74–80.

¹² Ibid., paras. 83–85.

¹³ Ibid., para. 85.

¹⁴ Ibid., paras. 86–90.

¹⁵ Ibid., para. 64.

¹⁶ Ibid., paras. 93–99.

18. With reference to the information provided by the State party,¹⁷ please specify how the authorities responsible for receiving complaints and investigating cases of alleged enforced disappearance divide their functions. Please describe the measures in place to ensure that a prompt, thorough and impartial investigation is systematically carried out, including in the absence of an official complaint. In this regard, please describe how the State party ensures that persons suspected of having committed an offence of enforced disappearance are not in a position to influence or hinder the progress of an investigation. Please indicate whether there are any mechanisms in place to exclude a law enforcement, security force or any other public official, civilian or military, from the outset and for the duration of an investigation into an enforced disappearance when he or she is suspected of having been involved in the commission of the offence. Please report on how such measures have been applied in the investigation of the alleged enforced disappearances reportedly committed by government security forces between May 1989 and January 1990 in the Matale District in the context of the Janatha Vimukthi Peramuna uprising (art. 12).¹⁸

19. Please report on the measures taken to ensure that the competent authorities have: (a) the power and resources necessary to conduct effective investigations into allegations of enforced disappearance, including access to documentation and other relevant information; and (b) access to all places of deprivation of liberty and any other place where there are reasonable grounds to believe that a disappeared person may be held (arts. 12 and 24).

20. Please describe the remedies available to complainants in case the competent authorities refuse to search for a disappeared person and/or investigate their allegations. Please provide information on the mechanisms available in the domestic legal framework for the protection of complainants, witnesses, relatives of disappeared persons, defence counsel and persons participating in the investigation of an enforced disappearance against all ill-treatment or intimidation as a result of the complaint or any evidence given. In view thereof, please describe the measures taken to ensure the investigation of the increasing number of allegations concerning acts of harassment and intimidation of relatives of disappeared persons, especially in the northern provinces, including through police surveillance and interference in the relatives' attempts to gather information and conduct human rights-related work (art. 12).¹⁹

21. With reference to the information provided by the State party,²⁰ please provide specific examples of extradition agreements with other States parties that have been concluded since the entry into force of the Convention and, in the case of agreements signed before the entry into force, those that have been amended, and indicate how enforced disappearance has been included in such agreements. Please also indicate whether: (a) any limitations or conditions could be applied in relation to requests for mutual legal assistance or cooperation under the terms established in articles 14, 15 and 25 (3) of the Convention; and (b) the State party has made or received any requests for international cooperation in respect of cases of enforced disappearance since the entry into force of the Convention. If so, please report on the measures taken (arts. 13–15 and 25).

IV. Measures to prevent enforced disappearances (arts. 16–23)

22. With reference to the information provided by the State party,²¹ please describe the procedures, mechanisms and criteria applied to evaluate and verify the risk that a person subject to expulsion, return, surrender or extradition to another State may be subjected to enforced disappearance. Please also describe the procedure applicable to appeal a decision authorizing an expulsion, return, surrender or extradition to another State before the Supreme Court or under the jurisdiction of the Court of Appeal, and specify whether such an appeal has suspensive effect (art. 16).

¹⁷ Ibid., paras. 100–106.

¹⁸ CCPR/CO/79/LKA, para. 10; and E/CN.4/2000/64/Add.1, para. 1.

¹⁹ A/HRC/51/31, para. 72.

²⁰ CED/C/LKA/1, paras. 89, 90 and 110–118.

²¹ Ibid., paras. 119–122.

23. Please explain how, in practice, section 15, read in conjunction with section 25 of the Enforced Disappearance Act guarantees that any deprivation of liberty carried out by the competent authorities without a warrant complies with article 17 (2) (d) and (f) of the Convention, with the aim of preventing the enforced disappearance of detainees. Please provide examples of the procedure applied in cases of violation of those provisions and describe the outcome thereof (art. 17).

24. Taking note of the circulars and instructions referred to by the State party,²² please describe the measures in place to guarantee that, from the outset of deprivation of liberty, all persons deprived of liberty, regardless of the offence of which they are accused, have access in practice to a lawyer, can contact their relatives or any other person of their choice and, in the case of foreign nationals, can communicate with their consular authorities. Please specify the average time that elapses between the outset of deprivation of liberty and access to those rights. In particular, please indicate the average delay between the outset of deprivation of liberty and transmission of the information to the detained person's relatives (art. 17).

25. Please indicate whether any restrictions can be applied to the above-mentioned rights and describe any complaints that may have been brought concerning a failure to observe those rights. In that connection, please provide information on the proceedings carried out and their outcome. With reference to the information provided by the State party,²³ please describe how the access of the authorities, institutions and intergovernmental organizations that are authorized to visit all places where persons are deprived of liberty is implemented in practice, even if such a visit is unannounced. Please indicate whether any non-governmental organizations are authorized to visit places of detention (art. 17).

26. With reference to the information provided by the State party,²⁴ please describe the measures taken to ensure that all official registers and/or records of persons deprived of their liberty, regardless of the place of deprivation of liberty, include all the elements listed in article 17 (3) of the Convention and are duly completed and kept up-to-date, without delay. Please indicate whether there have been any complaints concerning the failure to record a deprivation of liberty. If so, please report on the measures taken to ensure that such omissions are not repeated, including any disciplinary proceedings, sanctions and training involving the personnel concerned. With reference to the information provided by the State party,²⁵ please provide details of the measures taken in practice to ensure that persons deprived of their liberty are released in a manner permitting reliable verification that they have actually been released and assuring their physical integrity and their ability to exercise fully their rights at the time of release (arts. 17, 21 and 22).

27. Please report on measures taken to guarantee that any person deprived of liberty and, in the case of a suspected enforced disappearance, any person with a legitimate interest can take proceedings before a court to challenge the lawfulness of the deprivation of liberty. With reference to the information provided by the State party,²⁶ please provide examples of the application of the measures in place to prevent any conduct delaying or obstructing the provision of that remedy and to impose sanctions for such delays and obstructions (arts. 17 and 22).

28. With reference to the information provided by the State party,²⁷ please describe the procedures to be followed to gain access to the information listed in article 18 (1) of the Convention. Please explain the restrictions and conditions that could conceivably be imposed on such access and indicate the average duration of proceedings brought before the High Court concerning refusal to disclose or delays in disclosing such information. Please indicate the measures in place to prevent all conduct that delays or obstructs such appeals and to impose sanctions for such delays and obstructions (arts. 18, 20 and 22).

²² Ibid., paras. 19 and 20.

²³ Ibid., paras. 127–130.

²⁴ Ibid., para. 125.

²⁵ Ibid., paras. 140 and 141.

²⁶ Ibid., paras. 142 and 143.

²⁷ Ibid., paras. 126 and 137–139.

29. With reference to the information provided by the State party,²⁸ please describe the measures that have been adopted to ensure the full implementation of the directives issued by the Inspector General of Police to all senior police officers and officers in charge of police stations to promote the rights of the relatives of disappeared persons (arts. 17, 18, 20 and 22).

30. With reference to the information provided by the State party,²⁹ please provide specific details of the training on the Convention that is provided to civil and military law enforcement personnel, medical personnel, public officials and other persons who may be involved in the custody or treatment of any person deprived of liberty, including judges, prosecutors and other officials responsible for the administration of justice. Please provide information on the content and frequency of such training (art. 23).

V. Measures to protect and ensure the rights of victims of enforced disappearance (art. 24)

31. With reference to the information provided by the State party,³⁰ please specify the number of cases in which the forms of reparation and compensation provided for in the domestic legal system for victims of enforced disappearance, including psychological support, have been requested over the past 10 years and the proportion of those cases in which such reparation and compensation has been provided. In that connection, please: (a) provide a record of the reparation that has been provided; (b) clarify the criteria taken into account to determine which victims of enforced disappearance have access to the psychological support to which they are entitled; and (c) describe the actual capacity of the authorities in charge of providing psychological support to meet the needs of the victims and respond to their requests (art. 24).

32. Please report on measures taken to guarantee that the search for an alleged victim of enforced disappearance is initiated *ex officio* and as soon as the competent authorities are notified of the disappearance, even if no formal complaint has been made, and to ensure that the search continues until the fate of the disappeared person has been clarified. Please also report on measures taken to ensure the systematic collection of ante-mortem data relating to disappeared persons and their relatives and to set up a national DNA database to identify victims of enforced disappearance (art. 24).

33. With reference to the information provided by the State party,³¹ please describe the procedures in place to issue a declaration of absence or of death of the disappeared person and the impact such declarations have on the State party's obligation to continue the search and investigation into an enforced disappearance until the fate of the disappeared person has been clarified. Please explain the applicability of customary law in these matters and describe how the State party ensures the application of a gender perspective in relation to article 24 (6) of the Convention (art. 24).

34. With reference to the indication that the State party guarantees freedom of assembly and association to victims of enforced disappearance, in accordance with article 14 (1) (b) and (c) of the Constitution,³² please comment on allegations received by the Committee of reprisals and harassment, including in connection with protests organized by associations of victims in the north and east of Sri Lanka (art. 24).

35. Please describe the measures taken to protect women who are family members of disappeared persons, in particular Tamil women, who are reportedly particularly vulnerable to sexual and other forms of gender-based violence, limitations with respect to inheritance

²⁸ Ibid., paras. 127 and 128.

²⁹ Ibid., paras. 21, 108 and 144–149.

³⁰ Ibid., paras. 150–168.

³¹ Ibid., paras. 154–156.

³² Ibid., paras. 168–170.

and access to social benefits, serious social and economic disadvantages and violence, persecution and reprisals as a result of their efforts to locate their loved ones (art. 24).³³

VI. Measures to protect children against enforced disappearance (art. 25)

36. With reference to the information provided by the State party,³⁴ please indicate whether any complaints concerning the children referred to in article 25 (1) (a) of the Convention have been made since the entry into force of the Convention for the State party. If so, please provide information on the measures taken to locate the children and adults concerned and the results thereof, the steps taken to prosecute and punish those responsible, and the procedures in place to return them to their families of origin (art. 25).

37. Please provide information on measures taken to improve birth registration in order to prevent any risk of wrongful removal of children and indicate the measures the State party has taken to protect children, especially unaccompanied minors, from enforced disappearance, particularly in the context of migration and trafficking. Please describe the measures taken to ensure that information on unaccompanied minors is adequately recorded, including in genetic and forensic databases, to facilitate the identification of disappeared children (art. 25).

38. Please describe the system of adoption or other forms of placement of children in the State party and indicate whether domestic legislation establishes any legal procedures to review and, where appropriate, annul any adoption, placement or guardianship that has originated in an enforced disappearance (art. 25).

³³ See <https://www.globaljusticeblog.ed.ac.uk/2021/06/04/the-women-left-behind-long-term-effects-of-enforced-disappearances-on-tamil-women-in-sri-lanka/>; <https://www.thehindu.com/news/international/in-sri-lanka-tamil-mothers-of-disappeared-mark-2000-days-of-struggle/article65762066.ece>; https://www.researchgate.net/publication/278158448_Implications_of_Enforced_Disappearances_on_Women-he; CEDAW/C/LKA/CO/7 and CEDAW/C/LKA/CO/7/Corr.1, paras. 40 and 41; and CEDAW/C/LKA/Q/9, paras. 7 and 11.

³⁴ CED/C/LKA/1, paras. 171–176.