

14 December 2020

W ITJPSL.COM
E ITJPSL@GMAIL.COM

Joint Press Release: Continuing Crimes – Matale to Mullivaikkal

Johannesburg: President Gotabaya Rajapaksa and his Army Commander, Lt. Gen. Shavendra Silva, should explain in court why newly released government lists show hundreds of Sinhalese and Tamils went ‘missing’ in Matale in 1989 and Mullivaikkal in 2009. Both men remain criminally liable under international and domestic law for enforced disappearances that occurred under their command and control. Gotabaya Rajapaksa was secretary of defence in 2009; Shavendra was a key divisional commander, who is now designated by the US government for credible allegations of gross violations of human rights¹.

EXECUTIVE DIRECTOR:
YASMIN SOOKA

Recently released data from Sri Lanka’s *Office of Missing Persons* (OMP)² shows that more than 330 Tamils are classified as having gone ‘missing’ from the final days of the war³ when the country was fully under the government’s control. The data also shows 154 Sinhalese from Matale District are regarded as having gone ‘missing’ in the last half of 1989 when Gotabaya was the District Military Coordinator there, and Shavendra his junior officer. The ITJP believes that the OMP’s numbers while extremely large are nevertheless grossly underestimated.

“Families have a right to the truth about the fate and whereabouts of their loved ones and the army officers in command in the Vanni at the war end and into whose control they surrendered have a legal obligation to explain how they ‘misplaced’ hundreds of Tamils who surrendered, as an enforced disappearance is a continuing crime” said the ITJP’s Executive Director, Yasmin Sooka.

¹ <https://www.state.gov/public-designation-due-to-gross-violations-of-human-rights-of-shavendra-silva-of-sri-lanka-under-section-7031c-of-the-department-of-state-foreign-operations-and-related-programs-appropriations-a/>

² <http://www.ompsrilanka.org/omp-documents/omp-publications>

³ We added those registered from 16-20 May 2009. Noting that there are no Batticaloa figures released.

"Furthermore is Gotabaya Rajapaksa going to explain to the Sri Lankan people why so many Sinhalese youths from Matale went 'missing' in 1989 when he was in charge there?," she asked.

"These government disappearance lists show that the Sri Lanka's Army Commander can currently be prosecuted for hundreds of disappearances and the President too, one day when he steps down from office," Sooka added.

Missing or Disappeared?

The lists published by the Office of Missing Persons (OMP) blur the legal distinction between those who are missing and those who have been the subject of an enforced disappearance. Mixed in with hundreds of people who vanished in army custody are missing-in-action combatants and people who died in shelling incidents in the final war in 2009 but whose corpses were likely never identified. Likewise in Matale there is detailed testimony showing hundreds of youth were in police or army custody when last seen alive. Each individual's loss in war is a tragedy but an enforced disappearance is an ongoing crime for which there is no statute of limitations under international law. It can be prosecuted at any time but the published lists obscure this important distinction.

Location of Disappearance

The published lists from the OMP also do not accurately specify the location where someone disappeared. This obscures patterns that would help identify those responsible for clusters of disappearances at specific times and places⁴. Tamils from all the districts of the north east would have been present in the Vanni in May 2009 and could have disappeared in the final days of the war but the OMP data is tabulated by district of origin which obscures how many went missing or disappeared in the final days of the war.

Underestimates and Cross referencing with other lists

The OMP lists for the north eastern districts⁵ show 335 people 'missing' between 16-20 May 2009. It's likely the majority of those disappeared at Wadduvakkal or Omanthai. The OMP number is less than the data collected on the ITJP's website⁶, published in 2018, which had 390 names of people who disappeared after last being seen alive in army custody in Omanthai or Wadduvakkal from the same time period.

It is also worth noting the OMP's data, for example, for Matale District contains 235 names of the 'missing' from the second JVP uprising⁷. While the *Presidential Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons* had more than four times this - 1178 names⁸. Though some of the complainants may have moved district or died in the last thirty years, this doesn't explain the big difference. Again this

⁴ For example, all 95 of those who are missing from the war end (16-20 May 2009) who originated in Kilinochchi District are recorded with their last known address as Kilinochchi. This is illogical as they can't have been in Kilinochchi in May 2009 because the area was captured by the army in January 2009. The high probability is they are among those subjected to enforced disappearance at Mullivaikkal by the Sri Lankan Army in the last days of the war.

⁵ Minus Batticaloa for which OMP data was not published.

⁶ <https://disappearance.itjpsl.com/#filter=date:16-052009&lang=english>

⁷ From 1984 to 2016 = 289 names but 54 are not from this period.

⁸ Central Zone - list of pending complaints Matale District 1042 complaints and 136 from the List of Inquired complaints.

highlights the need to display the data according to place of disappearance and to cross reference and triangulate with previous government disappearance lists.

I
T
J
P

“The controlled and limited information on Matale is just the tip of the iceberg,” said Bashana Abeywardane of Journalists for Democracy in Sri Lanka. *“The true magnitude of past crimes is much larger than many would imagine. That the very same alleged perpetrators, who allegedly later oversaw more atrocities, became the rulers of the entire island amply demonstrates how deep rooted the culture of impunity is in Sri Lanka”.*

Missing Information

There are some striking omissions in the OMP lists. According to their information, nobody from Trincomalee went missing in the final days of the 2009 war, which is highly unlikely. Over the whole course of the war, the OMP list only 17 Tamils missing from Trincomalee district. Other districts have very few names like 6 from Badulla. This may reflect families’ reluctance to come forward but it’s important to note this.

In Colombo, the OMP lists only 5 disappearances in 2008-9 when a large number of cases were reported by human rights groups⁹. Among the most shocking names missing are those of the Trincomalee 11 – the emblematic navy case on enforced disappearance. One relative described being devastated on realising her loved one was not listed, having assumed data reported to other government bodies would be automatically passed on to the OMP.

A Waiting Game?

A forthcoming book¹⁰ being released in Sri Lanka states that more than 73 relatives of the disappeared in the north east have died since 2017 and it profiles each parent who died waiting for news of their disappeared loved one. The book points out that valuable evidence regarding enforced disappearance is being eroded everytime a parent dies.

“The families of victims can no longer wait for justice while the perpetrators are promoted with total impunity from Matale to Mullivaikkal, fuelling a sense of triumphalism that they will never be held accountable,” said Ms. Sooka. *“The demand for justice was suppressed after the brutal crushing of the JVP uprisings fuelling impunity and resulting in another mass atrocity. Families need closure and society needs the truth to move on.”*

ends

⁹ “A large number of cases have also been reported in Colombo”.

<https://www.hrw.org/report/2008/03/05/recurring-nightmare/state-responsibility-disappearances-and-abductions-sri-lanka>

¹⁰ THE DEPARTED: While searching for their Forcibly disappeared loved ones. Association for the Relatives of the Enforced Disappearances North & East Provinces.

