

“Disappeared with Intent to Destroy - Enforced Disappearances Strategic Part of Eelam Tamil Genocide: TGTE

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In 2018 the TGTE launched the "You Are Not Forgotten Project". The focus of the project is documenting and memorializing the victims of enforced disappearances. <http://youarenotforgotten.org/about-us/>"

Transnational Government of Tamil Eelam (TGTE)

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Today, 30 August 2021, marks another International Day of the Disappeared, but justice still eludes thousands of Eelam Tamil families in Sri Lanka searching for beloved ones who were kidnapped by government forces over a decade ago.

Till today there has been no accounting of the missing Tamils who were forcibly taken away by the Sri Lankan army at the end of the civil war in May 2009 and who are

feared to have been tortured and killed in custody. Those 'disappeared' include mostly Tamil youth and even a Roman Catholic priest Rev. Francis Joseph.

Sri Lanka has the world's second-highest number of cases registered with the United Nations Working Group on Enforced or Involuntary Disappearances.

Despite international calls for an impartial investigation all three post-civil war regimes in Sri Lanka have blocked any attempt to bring the country's military and political leaders responsible for enforced disappearances throughout the war to book.

In the view of the Transnational Government of Tamil Eelam (TGTE) the Sri Lankan State's treatment of the disappeared bears all the hallmarks of indifference to accounting for its acts of genocide against Eelam Tamils and crimes against humanity.

The TGTE therefore calls for an international investigation into acts of genocide and crimes

against humanity, including enforced disappearances, and that perpetrators be brought before the International Criminal Court (ICC).

Clearly, the Sri Lankan State institutions and the polity which are permeated by entrenched and pervasive racism is unable to mete out justice for the Tamil victims of Enforced Disappearance.

The Mahinda Rajapaksa government that was in power in 2009 resisted all efforts to investigate the disappearances. His successor President Maithripala Sirisena met with mothers and wives of the disappeared and agreed to address disappearances but did nothing.

The next President Gotabaya Rajapaksa said all the disappeared were dead but offered no recourse to justice or accountability. Finally, Rajapaksa also pulled out of implementing UNHRC Resolution 30/1. In short the Sri Lanka state itself denied justice for Tamils.

Over the years Sri Lanka's leaders have:

- a) blocked legal processes.
- b) violated transitional justice mechanisms they agreed to pursue, c) threatened and intimidated activists working with the families of the disappeared.
- d) displayed a façade of working towards eliminating enforced disappearances by signing international instruments, while protecting perpetrators from the consequences.

In September 2015 the then Sri Lanka Government had agreed to implement transitional justice mechanisms that the international community adopted through the UNHRC. That proved mere hypocrisy. Although the Sri Lankan state said it would begin implementing provisions to investigate the truth about disappearances, the instruments it established showed it was only interested in satisfying the international community, and not meeting the requirements of the survivors.

The victims and the international community expected that pursuant Res. 30/1 the Office of Missing Persons (OMP) will be established comprising international experts. However the Sri Lankan state thumbed its nose at the international community and established an OMP

comprised of only domestic actors. Sadly the international powers unwilling to antagonize the state of Sri Lanka, due to geopolitical reasons, embraced it.

Notwithstanding the protests by families of the disappeared the OMP was set up. The Association of the Relatives of the Disappeared (ARED) told OMP it was willing to work with it in good faith if it could trace the whereabouts of five missing persons who had surrendered to the SLA at the end of the civil war. But even that it could not do. And in the five years of its existence, other than publishing the names of some of the disappeared, it did not seriously investigate Tamil disappearances.

Incumbent President Gotabaya Rajapaksa's recent appointments to the office, have further

undermined the OMP's independence. They include Jayantha Wickramaratne, a former policeman accused of destroying evidence in the murder of journalist Lasantha Wickrematunge, and Upali Abeyrathne, who led last year's commission seeking to exonerate alleged perpetrators.

Gotabaya Rajapaksa has also sought to block the few criminal proceedings that were initiated under the previous government. Earlier this month, the attorney general dropped charges against former navy commander Wasantha Karannagoda in connection with the disappearance of 11 men and boys in 2008 and 2009.

The legal processes have centred around the habeas corpus cases filed by courageous families of the disappeared in the Mullaitivu magistrate's courts. Most of the plaintiffs had surrendered their loved ones to the Sri Lanka Army (SLA) in May 2009 as the fighting in the civil war was winding down. They believed they were handing over their loved ones into the safe custody of a legally constituted body – the SLA – and hence they would be protected. But their loved ones disappeared.

When SLA's lawyers eventually agreed to come to court, lawyers appearing for the plaintiffs through cross-examination forced the SLA to admit they had lists of those who surrendered to the military in May 2009. This meant that those whose names were in the lists had to be produced in court. But proceedings stalled when despite the order of the magistrate that the SLA submit the list, the SLA has stonewalled.

One of the instruments that facilitated disappearances was the prevention of terrorism act (PTA). Despite Tamil survivors and local and international human rights activists and governments – most recently the EU's statement – urging the government to rescind the law it has not done so.

In 2018 the TGTE launched the "You Are Not Forgotten Project". The focus of the project is documenting and memorializing the victims of enforced disappearances. We call upon the relatives of the victims to send information required to be mentioned on the list. The website for this project is <http://youarenotforgotten.org/about-us/>.

Transnational Government of Tamil Eelam

TGTE

+1 614-202-3377

r.thave@tgte.org

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