

EXECUTIVE SUMMARY

of

INTERIM REPORT

The Office on Missing Persons Bill and Issues Concerning the Missing, the Disappeared and the Surrendered

This interim report is based on all written submissions received as at 17th July 2016 and consultations conducted as at 8th August 2016.

Consultation Task Force on Reconciliation Mechanisms

August 2016

Executive Summary

The Consultation Task Force on Reconciliation Mechanisms (CTF) was appointed by the Prime Minister in January 2016 to conduct public consultations on the design of four mechanisms to advance truth, justice and reconciliation in Sri Lanka. These four mechanisms are: 1.) an Office on Missing Persons, 2.) an Office for Reparations, 3.) a Judicial Mechanism with a Special Counsel, and 4.) a Truth, Justice, Reconciliation and Non-Recurrence Commission. Apart from this, the CTF also welcomed submissions on alternative suggestions related to the four pillars of transitional justice (TJ). Zonal Task Forces (ZTFs) were established island-wide to conduct consultations in 15 zones. Two panels—a Panel of Experts and a Panel of National Representatives—were also appointed to contribute in an advisory capacity to the CTF.

This preliminary report provides a summary of submissions relating to the missing, the disappeared and surrendeers. It is prepared as a matter of priority in response to the Draft Bill to establish the Office on Missing Persons (OMP), which was gazetted on 27th May 2016. Its aim is to inform the Government of Sri Lanka and the public about the consultations pertaining to the OMP and the issues of the missing and the disappeared made in the submissions to the CTF.

This report is based on the findings of 291 written submissions received as at 17th July 2016; a sectoral consultation with 11 CSOs and groups representing families of the missing and disappeared; and 11 focus group discussions (FGDs) held by the ZTFs as at 8th August 2016.

The number and range of submissions on this issue confirm the significance of the OMP Bill to the families of the missing and disappeared. They also confirm that addressing the issue substantively is crucial to maintaining the credibility of the transitional justice process initiated by the Government.

This report presents the oral and written submissions received by the CTF. The CTF has refrained from making its own recommendations. In the few instances where the CTF has clarified an issue or makes an observation, it is clearly stated as such.

Public consultations and FGDs at the zonal level are ongoing. The CTF will also continue to receive written submissions. *The CTF, therefore, stresses that this interim report should not be viewed as a final document on the issue of disappearances and the OMP but as a summary of the findings to date.*

SUMMARY OF SUBMISSIONS

The CTF analyzed the submissions under four broad themes: 1.) the context and process of consultations, 2.) response from the families of the disappeared, 3.) disappearances and the OMP Bill, and 4.) measures to be taken before and beyond the OMP.

THE CONTEXT AND PROCESS OF CONSULTATIONS

Ongoing Violations and the Current Context

Grave concerns were expressed in the submissions about on-going human rights violations in the North and East, including allegations of abductions and incidents of intimidation of victims and human rights defenders. The continuation of these incidents is a matter of serious concern, having a detrimental impact on the credibility of the TJ process. The submissions call on the Government to demonstrate its commitment to the stated goals of reconciliation, truth, accountability, justice and non-recurrence. It is strongly and repeatedly stated in the submissions that the Government must repeal the Prevention of Terrorism Act (PTA) and must introduce legislation, to give effect to the International Convention for the Protection of All Persons from Enforced Disappearance, including the criminalization of enforced disappearances, in addition to ensuring arrest and detention take place in accordance with the Presidential Directives issued in June 2016. The CTF for its part has raised concerns about the impact of harassment and intimidation, and from the outset provided written instructions to the military and Police to ensure that no such incidents relating to the consultations would take place and adversely impact these consultations. Fear continues to be a factor impacting consultations, including when family members are asked questions on options for justice at public meetings, as they believe that their missing family members are being held in custody and will be at risk if the family speaks out.

Consultation Process on the OMP Bill

It is noted in the submissions that the hurried briefings organised by the Ministry of Foreign Affairs (MFA) prior to gazetting the Bill and external to the broader consultations are contrary to the commitment given by the Government to consult victims and affected communities as a preliminary step to drafting the OMP Bill. A large number of submissions expressed disappointment and concern about the lack of transparency and consultation in the drafting of the OMP Bill and noted the resultant rise in scepticism and fear. Submissions also note that the lack of consultation impoverishes the design of the OMP, particularly in terms of meeting the needs of those who will be using the Office.

Lack of a Public Awareness-raising Campaign

Submissions raise concerns about the lack of public awareness of the Government's intentions and objectives with regard to the TJ process and the OMP, and the lack of official information available on the consultations—which also impairs public participation. The lack of awareness on the OMP Bill among families of the missing in action (MIA) for instance contributes to their feeling of isolation and marginalisation by the State. Some submissions recognise the need for a public awareness campaign in the South to address the lack of awareness and to counter racist rhetoric.

Lack of Trust and Confidence in Consultations and the Government's Commitment to the TJ Process

Submissions strongly suggest that the combination of factors noted above is leading to the loss of trust and confidence in the consultation process as well as the anticipated TJ process. In this context, safeguarding and restoring public confidence and trust in the consultation process and in the Government's commitment to TJ is paramount.

RESPONSE FROM FAMILIES OF THE DISAPPEARED

Submissions from across the country highlight common experiences suffered by all families of the disappeared irrespective of ethnicity and geographical location. The

response of the families of the disappeared to the OMP were mixed. Some welcomed it as an important initiative that would prove useful in their efforts to seek redress, whilst others expressed scepticism and apprehension as they saw it as yet another initiative by the State which would serve as a cover to avoid addressing hard issues of investigations and justice. Many groups and individuals, however, commented on substantive issues. One submission from the North calls for the OMP to be “victim-centred and designed to ensure empathy, accessibility, gender-sensitivity, transparency, and independence”. The CTF notes that this echoes and encapsulates the feelings of many victim-survivors of disappearances across the country.

These written and oral submissions by victim-survivors were always prefaced by stories of past efforts and experiences of families to find their loved ones or even to obtain death certificates. It is difficult to describe the desperation and exhaustion that family members from the South, North and East conveyed in their efforts to seek redress. They speak of the failure on the part of various state agencies to respond to or even acknowledge and record complaints relating to the missing, the disappeared and surrendeeds. These accounts detail how in every instance the families had not been provided with satisfactory responses. Participants at the FGDs spoke of marginalisation from their community, past experiences of living under scrutiny and fear, years of living in hope of their loved one’s return, social and economic hardships, the failure of past Commissions of Inquiry to bring closure and relief to their situation, disparity of compensations among families of the disappeared, missing and surrendeeds. and the inability to respond to bureaucratic demands for death certificates.

Individuals and family members of the disappeared express that they are “tired and weary of searching” and that the Government needs to take responsibility and be accountable to the families. Many submissions also point to a lack of faith in any of the mechanisms the Government proposes because of past experiences with various commissions.

DISAPPEARANCES AND THE OMP

The CTF acknowledges that several provisions of the Bill reflect the views, ideas, demands and recommendations expressed in submissions made to the CTF. While some submissions are appreciative of the Draft Bill, others raise concerns and identify gaps as well as limitations.

Disappearances and the OMP emerge as the most critical concern in the submissions received particularly from the North and East by the CTF to date. The CTF analyses these recommendations under ten themes.

1. The Name of the Proposed Office

Submissions emphasise the need to explicitly acknowledge the ‘disappeared’ in the title of the Office. Among the submissions made, one view calls for the replacement of ‘missing persons’ with ‘involuntary or enforced disappearances’ while another calls for the addition of ‘disappeared’ or ‘involuntary disappearances’ to the existing title. However, for family members of those who surrendered to the Army during the final phase of the war, neither ‘missing’ nor ‘disappeared’ captures their experience; therefore, they call for the inclusion of ‘surrendeeds’ as well.

The CTF notes that the emphasis on the matter suggests that the naming of the Office will be an important step to give the issue of disappearances explicit and public

acknowledgement and focus the mandate of the OMP, while increasing public confidence that their views are being heard by the Government.

2. Mandate

The OMP's broad mandate reflects the majority of the submissions received, which anticipated the need for a broad temporal and geographical mandate covering all communities and ranging from the 1971 insurrection to the post-war period.

There is however a call for the bill to make reference to non-state actors as possible perpetrators of enforced disappearances. It is also suggested that the definition used in the OMP Bill must be in line with the definition used in the International Convention for the Protection of All Persons from Enforced Disappearance. A couple of submissions state that the inclusion of service personnel who are missing in action (MIA) in the mandate of the OMP would dilute the issue of enforced disappearances and instead suggest the establishment of another mechanism to deal with the investigation of MIA, MIA groups have expressed concern that they will be ignored by the OMP.

3. Aims and Powers

Establishment of a Database: The OMP has the mandate to collate data related to missing persons (obtained by processes presently or previously carried out) and centralise all data in a database. This is concurrent with submissions made prior to the release of the OMP Bill. Submissions also recommend that the centralised database should include information from other national and international bodies and that the OMP must be authorised to access court records in relation to *habeas corpus* cases and to map mass graves. Submissions further recommend that statistical information should be entered into a digital database that can be easily analysed and checked for duplication. Submissions also call for the strengthening of provisions to centralise data in a number of ways, which are detailed in the report.

Investigations: Submissions recognise that the OMP Bill gives broad powers to the Office to conduct its investigations. The submissions also make the following points about investigations:

- **Initiating Investigations:** Submissions recommended that the OMP's ability to initiate an inquiry and/or investigation should not be limited to complaints it receives from families and information from previous Commissions of Inquiry, but include the complaints made to any national or international body.
- **The Manner of Conducting Investigations and Truth Seeking:** Submissions suggest that investigations by the OMP must be informed by the context within which the disappearances took place; the time lapse between the incident and investigation; and the extent of evidence relating to disappearances already available but which may not be recorded in official complaints. In the case of service personnel who are missing in action, it is submitted that it may be necessary to interview former LTTE cadres and certain politicians to find out the truth about missing soldiers. The need to investigate the violations committed against families of the missing and disappeared in their efforts to search for loved ones was also raised.
- **The Personnel Conducting Investigations:** Submissions assert that the criteria for the selection of investigators for the Tracing Unit should be clearer.
- **Prioritisation of Investigations:** With regard to the prioritisation of cases, the submissions make the following points: 1) to extend the criteria for prioritisation in order to include cases where there is evidence that a person may still be alive and 2) to include the public's view of which cases are of 'public

importance’.

- **Excavations/exhumations:** A number of submissions articulate the Bill’s lack of clarity on the OMP’s role *vis-à-vis* mass graves and the inability of the OMP to deal with investigations of this nature. The submissions note the challenges of excavating and exhuming mass graves and returning the identified remains to families to conduct funeral rites. It is also noted that there is a lack of specialised knowledge and support at the Magistrate’s Court level. The submissions recommend introducing new laws, amending existing law and amending the OMP Bill in order to provide for and draw on forensic experts to support the Magistrate and all other relevant bodies.
- **Conclusion of investigations:** One submission expresses the view that the OMP Bill lacks clarity as to when an investigation under the OMP is deemed concluded. The submission also states that it is essential that the OMP is not seen to be closing an investigation and forcing families to accept closure.
- **Confidentiality Regime of the OMP:** Submissions express the view that these provisions in the Bill are wholly inadequate. They submit confidentiality ought to be a regime that is transparent and regulated by the governing statute and that there should be clear and identifiable criteria where confidentiality would be triggered.

There were multiple demands from family members to ensure their involvement in the operation of the Office, particularly in searching of detention sites and excavations.

Reporting an Offence to the Relevant Law Enforcement or Prosecuting Authority:

Submissions relating to the power to refer to a prosecuting authority falls into two categories: (1) those that want this provision strengthened to impose a mandatory (and not merely a discretionary) duty on the OMP to refer all cases and (2) those that want the OMP to have a prosecutorial office within the OMP.

Victim and Witness Protection: Submissions raise concerns regarding the lack of trust in personnel responsible for implementing victim and witness protection, the lack of clarity in the link between the OMP and the Witness and Victim Protection Act, and the inadequate protection regime under the Victims of Crimes and Witness Protection Act. The submissions recommend to amend the Act in order to ensure that TJ mechanisms have the power to request assistance.

Issuance of Reports and Sharing of Information with Families and the Public:

Submissions note that the Bill does not stipulate the provision of information to family members as a mandatory duty nor does it detail how such information ought to be shared. The submissions recommend that the OMP formulates formal rules in this regard and also publicly reports on its activities, procedures and general findings.

According to the Bill, disclosure of information to family members, if the person is found to be alive, may occur only if the person consents. However, submissions state that the family’s right to know whether a person is alive should be paramount in every case. While the Bill makes provision for a report to families upon the conclusion of an investigation, families of the disappeared in Killinochchi and Mullaitivu in particular insisted on a Certificate of Disappearance so that the State acknowledges this act done to an individual.

Submissions have also questioned the relevance of the Right to Information Act to the OMP and submit that RTI legislation should strengthen reportage around all four key mechanisms.

The Issuance of Certificates of Absence (CoA) and Certificates of Death: Submissions raise concerns and questions relating to both these certificates. At the zonal-level consultations carried out so far, the response of the families of the missing and the disappeared to the CoA has been mixed—as some consider it a positive development whilst others view it with apprehension and refuse to accept it.

It is asserted that the CoA and its provisions are unclear. Submissions recommend that those who have been forced to accept death certificates without proper investigations should be allowed to exchange these for a CoA. In terms of terminology, some submissions contend that the CoA should be renamed as "Certificate of Disappearance". Submissions assert that in cases where the investigation into the fate of the missing/disappeared person is inconclusive, the family should be given a document relating to such a disappearance. The OMP must also inform individuals of any consequences in accepting a certificate of death or absence for their disappeared kin. The CoA itself should enable women to access compensation such as bank accounts, life insurance and pensions. As such, the private sector must be made to recognise the CoA too.

Submissions recommend a reasonable period of validity for a CoA since periodic renewals may result in undue distress and bureaucratic hassle for families of the missing and the disappeared. It is also asserted that given the variety of challenges, including the loss of documents to prove relationships, it may be necessary to have a sensitisation and awareness process for state officials and the families of the disappeared. Some submissions also recommend that the link between the administrative apparatus of the CoA and that of the OMP should be clearly explained so that families understand how the two systems will operate, including the OMP's role in facilitating the provision of CoA.

Status of Directives to Registrar General: It is recommended that interim reports and reports issued for the issuance of CoAs and Certificates of Death should be in the form of binding directives and the OMP Bill should be amended to reflect this.

Making Recommendations Relating to Reparations: The CTF received a large number of submissions that addressed the reparations function of the OMP. Submissions recommend that either the reparations authority should be part of the OMP in order to facilitate the reparations process or that – in addition to the dedicated Office of Reparations – the OMP should be enabled to provide both interim and final reparations to families of the missing and the disappeared.

4. Structure

Submissions recommend that the location of the Head and Regional Offices be established in relatively well-known areas that can be easily accessed through public transport. Recognising the importance of Regional Offices, submissions call for the mandatory establishment of Regional Offices; this is seen as particularly necessary for the North and East. Some submissions call for district-level offices in the North and East and provincial offices in the rest of the country. Additional units proposed in the submissions include:

- **A Forensic Unit:** To identify victims and return remains to families, and to work closely with the families of the disappeared in developing a database of *ante-mortem* data. It should collaborate and coordinate with the other branches of the OMP to consider issues of compensation, death certificates and psychosocial support.

- **A Reparations Unit and Reparations Fund:** The OMP should have an Interim and Final Reparations Unit that carries out tasks related to reparations. The reparations fund within the OMP should be created within four months of the Office's establishment and resourced from the National Budget whilst reserving the right to raise independent funds.
- **An Advisory or Monitoring Body:** The lack of faith in government mechanisms has been consistently expressed by families of the missing and disappeared. Submissions refer to the need for a unit or units to perform an oversight function, particularly at the district level. It is expected that this unit would regularly review the work of the OMP and make its findings public; suggest improvements to the structure and processes of the OMP; and be partly composed of rotating family members of the missing/disappeared from different ethnic backgrounds, geographical areas and time periods when incidents occurred, as well as local and international experts, experts on gender and representatives from local women's groups and organisations working on disappearances. There should be continuous consultation with victims and organisations working on disappearances in order to avoid mistakes and help build trust.
- **A Complaints Mechanism:** To receive and respond to complaints against OMP staff members who behave insensitively or inappropriately towards families of the missing and disappeared. The OMP should take immediate corrective action.
- **An Outreach Unit:** Responsible for regular communication with families and also to raise awareness on the OMP.
- **A Psychosocial Unit:** Responsible for ensuring that victims and families have access to appropriate psychosocial support, including group support and clinical psychological services.

5. Members of the OMP

Process of Appointments of Members and Chair: There needs to be greater clarity, transparency and public involvement in the process of appointing members. This includes the Constitutional Council making a public call for nominations with sufficient time and opportunity given for families and the public to nominate suitable persons. Those nominated should be publicly vetted and then considered by the Council, and this list of successful candidates should be sent to the President for consideration. The Bill must explicitly provide for the President to approve membership only on the basis of this list and also to appoint one of the names from this list for the position of Chair.

Some submissions recommend that the Constitutional Council and the United Nations Working Group on Enforced and Involuntary Disappearances (UNWGEID) and/or the Office of the United Nations High Commissioner for Human Rights (OHCHR) should jointly make appointments to the OMP, with the Constitutional Council responsible for local appointments and the UNWGEID/OHCHR for international appointments.

Composition of Members: Additional criteria to be taken into account when selecting members to the OMP include a) more than 50% to be women, b) ethnicity to reflect the caseload of the OMP, c) members to have professional experience of working with families of the missing/disappeared, d) possession of psychosocial support experience, e) representation from families of the missing/disappeared and family members of servicemen/soldiers who are missing, f) members from the regions where most cases arise and speak the language of the region, and g) forensic expertise.

Submissions recommend that foreign individuals known for their integrity, independence and professionalism, and appointed by the UNWGEID or OHCHR, should comprise half of the membership of the OMP. The submissions make clear that without

international involvement it will be “extremely difficult for victims to place faith in the OMP and that it is difficult to conceive how the OMP made exclusively of Sri Lankans...will have the moral and practical courage to enter camps and prisons and properly investigate alleged acts of disappearance”.

It is also recommended that Section 4(2) should contain a separate explicit provision setting out persons who would not be eligible to be a Member of the OMP. These could include those implicated in the event or covering up the crime or denying the issue of disappearances, i.e. former and current members of the security forces or armed groups, and those who have held or are currently holding political office.

Chair: Submissions recommend that the Chair be rotated regularly and also, as an alternative, for the structure to be headed by a team of three individuals. Some submissions recommend that a number of members should be deputy chairs or hold other relevant executive capacities. These submissions seek to minimise prejudiced decision-making.

Role, Function and Status of Members: There was dissatisfaction with the level of clarity regarding the role, function and status of members. Submissions call for clarifications regarding the nature of interaction between Members and complainants and families, the ‘governance’ and ‘executive’ role of Members, and whether members work on a part-time or full-time basis. It was recommended that at least four members work on a full-time basis and that all members commit to at least 15 working days every month. Availability to commit to the working days of the OMP should be part of the eligibility criteria for selection.

Security of Tenure: Language that ensures adherence to international standards with respect to the matter of grounds for removal from Office must be included in the text of the Bill. This is to ensure that they can perform their responsibilities without hindrance or political interference.

6. Staff of the OMP

Criteria for Recruiting Personnel: It is recommended that all staff should have the requisite professional qualifications and experience; family members of the missing and disappeared should be represented within staff; 50% of OMP staff should be women; and staff should be competent enough to respond to and interact with victims and families without having to resort to translations on a regular basis. There should also be international experts to undertake specific tasks such as investigations or forensic work.

The following competencies within the staff are also recommended: gender-sensitivity; sensitivity to the issues, the context and grievances of those engaging with the Office; commitment to the cause of truth for families of the missing and disappeared; caring and trustworthy locals who understand the geography, language and history of the area; experience in working on enforced disappearances, and commitment to maintaining privacy and confidentiality of all communications, testimony and data.

Staff should neither have any prior record of harassment, intimidation or violence nor any implication of having any involvement in any instance of a missing or disappeared person or in any other serious crime. Staff should be thoroughly vetted during recruitment, especially current or former law enforcement and military personnel.

7. Women and the OMP

It is anticipated that those who seek truth and justice on behalf of the men who have been disappeared will mostly be women, as was the case with the Paranagama

Commission. It is recommended that the OMP should be given a mandatory duty to put in place gender-sensitive policies, rules and guidelines.

It is also suggested that staff of the OMP need to be given gender training. In addition, it is recommended that the OMP prioritises gender concerns within the Office, ensures a safe environment for women to provide their statements and make queries, ensures reimbursement for costs associated with travelling to the OMP, ensures provision of child-care facilities, and ensures that the OMP's reports dedicate a chapter to the experiences of women who have accessed the services.

8. Language and Communication

The demand for Tamil language competency of OMP staff emerged in many of the written submissions, FGDs and public consultations. A number of families of the missing and the disappeared pointed out how they had suffered further hardships because they were unable to communicate with officials in their own language.

9. International Involvement in the OMP

Submissions stressed the need for international involvement in the OMP, especially in the Membership of the OMP, staff of the OMP responsible for tasks such as investigations and forensics, and to fulfil an oversight function. It was also stressed that the United Nations must be a partner to the transitional justice process in Sri Lanka. Such involvement was expressed as critical to the legitimacy, credibility and practical efficacy of the OMP. These suggestions were made repeatedly by family members of the disappeared in consultations in the North, but also by individual families in the South who saw the critical importance of international expertise.

10. Relationship with other TJ mechanisms

The OMP is primarily conceived of as a truth-seeking mechanism dealing with missing and disappearance. Nonetheless, it will have implications for and can make recommendations on the other transitional justice mechanisms proposed by the Government. Given the multiple dimensions of the missing and disappeared issue, including justice and reparations, the need for the Government to clarify the relationship of the OMP with other proposed mechanisms and more generally with the four pillars of transitional justice is expressed. At the same time there is strong demand for the OMP not to limit itself to truth seeking but also to deal with issues of justice and reparations.

BEFORE AND BEYOND THE OMP

Short-term Measures to Build Confidence

Given the considerable time lag between the enactment and operationalisation of the OMP, it is recommended that the Government take measures to build trust and confidence in the short term. From the perspective of the family members, the search for the missing can take place immediately. Some of the immediate steps demanded include carrying out a search of all official and secret detention centres. In addition, they proposed that all the evidence currently provided is used to conduct investigations.

The CTF received a variety of other immediate steps to be taken including repealing the PTA and enacting enabling legislation to give effect to the UN Convention on Disappearances including criminalization of enforced disappearances, enacting a new law dealing specifically with mass grave sites, amending sections 269-273 of the Criminal Procedure Code to include *post-mortem* examination of dead in large-scale

disasters and atrocities, publishing a list of the surrendees, freeing all political prisoners, releasing a list of all detention centres, completing all *habeas corpus* cases within six months, implementing an interim financial allowance for families of the disappeared, appointing a special officer at District and Divisional Secretariats to support victims, and giving preference/priority to families of the disappeared when providing government facilities (e.g. housing and land).

An overwhelming number of submissions received by the CTF articulate the need to punish perpetrators and to hold them accountable. They submit that this is the only way to ensure non-recurrence of these incidents. This was seen as particularly important for the State, as it is answerable to its citizens. It is also recommended that non-state actors responsible for disappearances are held accountable; for example, former LTTE leaders who are still alive.

Some submissions also recognize that the question of justice and accountability for disappearances is not directly addressed by the OMP. It will merely refer cases, where it suspects an offence has been committed, to a prosecuting or law enforcement authority. Given the absence of legislation giving effect to Sri Lanka's obligation under the International Convention on Disappearances, the lack of information about the mandate of the Special Court and the lack of trust in the Police and Attorney-General, it is seen as imperative that adequate administrative arrangements and checks are instituted to ensure independence from those actors and agencies who are implicated in enforced disappearances (e.g. TID and CID) and to foster confidence in the eyes of the families of the missing and disappeared. The nature of such administrative arrangements should be clarified before the OMP Bill is passed into law.

The CTF notes that the four Presidential Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons, which were appointed in the 1990s, recommended the following: persons responsible for disappearances must be prosecuted no matter who the perpetrators are; prosecutions should not be limited to junior officers; special courts to hear disappearance cases and an Office of an Independent Human Rights Prosecutor; the recognition of the right of an aggrieved person to file a private plaint; and the establishment of a Legal Advisory Service Bureau to provide legal assistance to members of families of disappeared.

While punishment and accountability were the primary drivers of justice seeking in the submissions, some point to the need for restorative justice, where perpetrators are (including army and security officers deemed responsible) are rehabilitated. It is noted in the submissions that victims and perpetrators of disappearances live side by side, that the immensity of suffering related to disappearances must be recognised and that relationships between different communities must be rebuilt. Hence, the Government must also explore restorative justice process and mechanisms .

Memorialisation

Several submissions to the CTF refer to the importance of memory initiatives and the ways in which memory relates to transitional justice processes and practices. While memorialization falls within the realm of reparations, it is a concept that cuts across three pillars of transitional justice i.e. the right to know, the right to justice and the guarantee of non-recurrence. It is noted that, "a sensible, sensitive, nuanced approach to memorialisation can act as a tool for reconciliation and healing".

However, state practice of memorialisation has been selective, and more likely to erase and deny the past, propagating a lack of understanding or acknowledgment of the

abhorrent nature of the crime of disappearances and its devastating effects on families, the lack of understanding that it is a crime that transcends ethnicity and is not limited to the war or a crime that came into being during the war. Furthermore, it is recommended that state practice of memory must be conducted in a strategic, sensitive and balanced manner keeping in mind that government involvement in memory initiatives can exacerbate already existing divisions between communities.

It is suggested that the State adopt a national policy on memorialization, establish a museum dedicated to remembering the war and its impact, including disappearances, and declare a national day to remember disappearances. Submissions also recommend that the Government amend the national educational curricular, protect and reinstate monuments to remember disappearances, lift prohibition on remembering the missing and the dead in the North and the East, recognise the human suffering caused by war to all families affected in Sri Lanka, recognise the right of victim-survivors to memorialisation initiatives, and ensure the provision of state support for and facilitation of these initiatives.