

Withdrawal from the U.N. Human Rights Council Resolution 30/1

**Sustainable peace through an inclusive and a domestically
designed reconciliation process in Sri Lanka**

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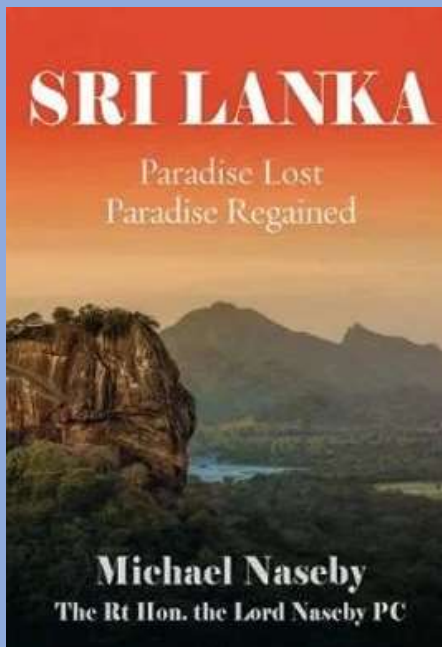
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Sri Lanka

Paradise Lost and Regained



- Publisher: UNICORN
 - Available on Amazon.ca
- “ In summary, the book is a political and social analysis of the recent history of Sri Lanka which underwent a disastrous turbulence due to the internecine armed conflict during 1983-2009”

- Dr. Sarath Chandrasekera, Ph.D.

Rt. Hon. the Lord Naseby PC

Organization

- Part 1 – Brief History to Resolution UNHRC 30/1
- Part 2 – Major Legal issues on OISL Report and Resolution 30/1
- Part 3 – Importance of domestically designed reconciliation process and how can achieve it.

History of Resolution 30/1

- **May 27, 2009**
 - S11/1 – Assistance to Sri Lanka in the promotion and protection of Human rights
- **March 31, 2011**
 - Panel of Expert Report on Account in Sri Lanka – **Darusman Report**
- **April 03, 2012**
 - Resolution 19/1 Promoting reconciliation and accountability in Sri Lanka
- **March 19, 2013**
 - Resolution 22/ L.1 Promoting reconciliation and accountability in Sri Lanka
- **9 April 2014**
 - Resolution 25/1 - Promoting reconciliation, accountability and **human rights** in Sri Lanka

History of Resolution 30/1

- **16 September 2015**
 - Report of the OHCHR Investigation on Sri Lanka - **OISL Report**
- **28 September 2015**

Comprehensive report of the Office of the United Nations High Commissioner for Human Rights in Sri Lanka
- **October 01, 2015**
 - Resolution - **30/1 Promoting reconciliation, accountability and human rights in Sri Lanka**
- **23 March 2017**
 - Resolution - 34/1 Promoting reconciliation, accountability and human rights in Sri Lanka
Reaffirming Human Rights Council resolution 30/1
- **21 March 2019**
 - Resolution - 40/1 - Promoting reconciliation, accountability and human rights in Sri Lanka
Reaffirming Human Rights Council resolutions 30/1 of 1 October 2015 and 34/1 of

Applicable Law and Treaties

- International Humanitarian Law (IHL)
- International Human Rights Law (IHRL)
- Sri Lanka is a State party to **nine of the** core human rights treaties

Convention on the Elimination of all Forms of Racial Discrimination (CERD) International Covenant on Civil and Political Rights (ICCPR) and its first Optional Protocol, the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Protection of the Rights of All Migrant Workers and Their Families (CMW) and the Convention on the Rights of the Child (CRC) and its Optional Protocols on the Involvement of Children in Armed Conflict, and on the Sale of Children, Child Prostitution and Child Pornography

- Canada is not a party to the following instrument: the International Convention for the Protection of All Persons from **Enforced Disappearance**.

Issues on OISL - Methodology

- High Commissioner for Human Rights, Navi Pillay began investigation July 01, 2014
- Finding on “Standard of Proof” – *Para 33*
 - “Reasonable grounds to believe” – Lowest threshold
 - “What is reasonable grounds to suspect”
 - Standard of Proof on Criminal investigations such as War crimes,, Crime against humanity, Genocide
 - “Beyond reasonable doubt”
 - All evidence should apply on Balance of probability
- OISL report recommended criminal investigation against Civil and Military personals – *Recommendation 9*

Issues on OISL - Methodology

- **Data Collection Issue**
- UNOSAT (United Nations Operational Satellite Application Program) provided invaluable analysis on satellite imagery. **Para 21**
- Not properly studied – No evidence on experts on the OISL

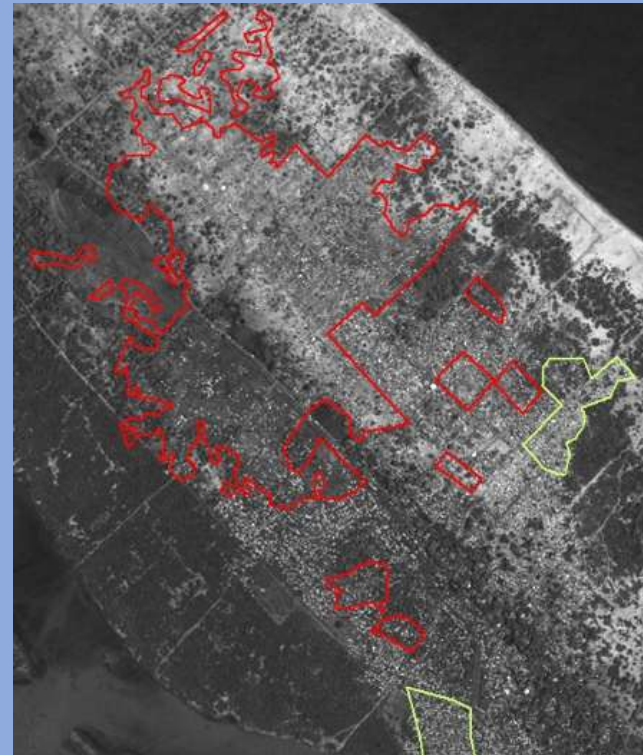
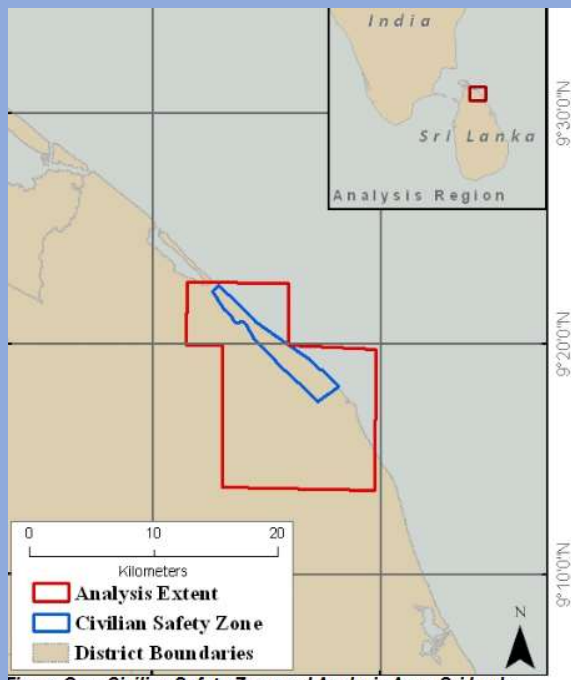
Issues on OISL - Methodology

- **Data Collection**

- At the request of **Human Rights Watch** and **Amnesty International** in May 2009,
- American Association of Advancement of Science (AAAS) undertook an initial review of satellite imagery
- for the Civilian Safety Zone (CSZ) in northeastern Sri Lanka.
- Citation: High-Resolution Satellite Imagery and the Conflict in Sri Lanka. www.aaas.org.
<https://www.aaas.org/resources/geotech/high-resolution-satellite-imagery-and-conflict-sri-lanka>

Issues on OISL – Methodology

Data Collection Issues



**CSZ structures removed and moved Civilians and
created Human Shield by LTTE**

Issues on OISL - Methodology

- Data collection Issue

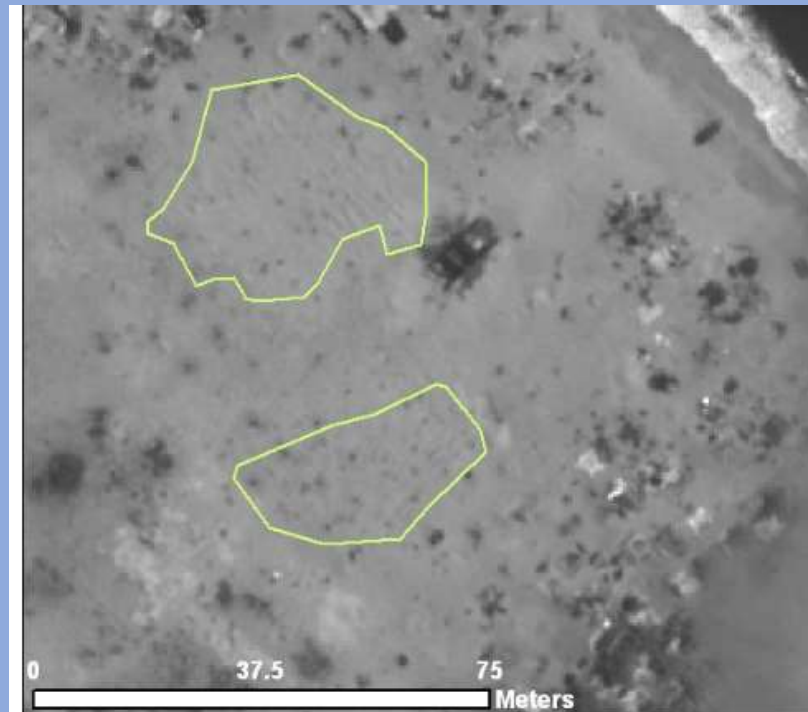
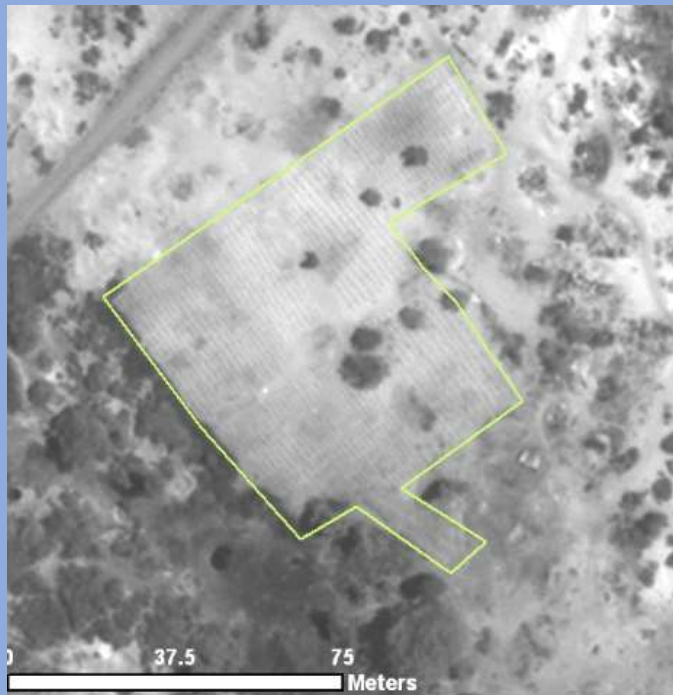


Figure Seven: Graveyards in Northern Section of the CSZ
A large graveyard (top), containing an estimated 960 burials, is visible in the CSZ on May 6. Another more chaotic cemetery (bottom) is barely visible nearby. Unlike the graveyard further south (shown in Figure 6), neither of these exhibit signs of growth. Images DigitalGlobe | Analysis AAAS.

**1346
Individual
burials**

Issues on OISL - Methodology

- **Data Collection Issue**

- **Panel of Expert (POE) Report**

- Not logical
- not evidence based report
- Based on assumptions
- No in-depth analysis
- Death Toll Calculation = (Population – Rescued by Army)
$$(330,000 - 290,000) = 40,000$$

Issues on OISL - Methodology

- **Data Collection**
- Photographs and Video tapes submitted by Pro LTTE and their proxies
- **Not authenticated the Photographs, or videos**
- Bogus Channel 4 Video

Issues on OISL Report

Who is responsible?

Based on Photographic and video evidence?

- Forensic observations related to the bodies
- LTTE senior political wing leaders Balasingham Nadesan and Seelarathnam Pulidevan , Nadesan's wife Vineetha Nadesan
- T. Thuraijasingham alias LTTE Col. Ramesh – para 311
- Balachandran Prabhakaran - Velupillei Prabhakaran's son
 - However, further investigation is required to determine the full facts as to what happened and who was responsible for the killings para 304.
 - Subjected to forensic pathologist Para 305

Only justice want for dead LTTE leadership and their close associates

Issues on OISL

Enforced or Involuntary Disappearances

- Working Group on Enforced or Involuntary Disappearances (WGEID) reported a total of **12,536 complaints** of enforced disappearances registered over the year.
- Disappeared were found to be living abroad, or in Sri Lanka under different names.
- Ontario Bill 104 claimed missing toll as **146,679**
- No scientific study carried
- No birth records or any form identifications and bio metrics data not considered

Issues on OISL Report

- Legal definition of the conflict not consider
 - **Non-international Armed Conflict**
- **Collateral Damage** did not consider
- LTTE stops civilians movement not consider for civilian casualties
- Under Convention on the Prevention and Punishment of the Crime of Genocide, **protocol II added in 1977** to the Convention.
- It has given authority to **defend any action against the state** (Right to defend).

Issues on OISL LTTE Report Card

- Child soldiers recruited over 7,000
- Assassination of Tamil Politicians / Academics / Intellectuals / Government Officials - 160
- Civilian Targets – 137
- Suicide attacks - 328
- Attacks on Vulnerable Villages - 109
- Attack on Economic Targets - 22
- Attacks on VVIPs/ VIPs - 49
- Recoveries from July 2006 to 2009 - **\$34,426,699.28**
- Major Attacks Launched on Army Camps/Establishments - 33
- Major Attacks On Sri Lanka Air Force - 47
- Major Attacks On Sri Lanka Navy - 64

Issues on OISL Report

- OISL **Para 41**
- “As the senior leadership of the LTTE was killed by the end of the conflict, OISL could not access LTTE officials for direct information regarding the group’s policies, operations or responses to alleged abuses.”

Given Impunity to Terrorist Organization

Issues on OISL Report

Evidence in the OISL report

- seriously flawed,
- contradictions,
- omissions,
- lies,
- obfuscations and half-truths,
- and also lacking in any consideration of exculpatory evidence,
- Fails to establish its primary claim,
 - namely, that the **State** i.e. the military as well as civilian leaders is responsible for war crimes and other serious crimes allegedly committed during the relevant period.

Reconciliation Justice to Sri Lanka

- Bring LTTE war criminals leadership and individuals associated with to justice.



Adele Balasingham



Rudrakumaran

Reconciliation Justice to Sri Lanka



<https://ceylontoday.lk/news/fr-emmanuel-must-be-forgiven-for-his-sins-by-cardinal-ranjith>

- “Father Emmanuel worked with Gary Anandasangari of the Canadian Tamil Congress that came up with the idea that there was ‘genocide’ in Sri Lanka.
- Gary Anandasangari was in contact with LTTE chief procurement and shipping officer Kumaran Pathmanathan and planned to visit him in Malaysia. After KP was arrested and deported to Sri Lanka.....”

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Issues on Resolution 30/1, 34/1 and 40/1

- **(1) *Noting with interest*** 19th Amendment
 - Interfere with constitutional matter, countries sovereignty.
- **(2) *Recognizing*** Improved environment for members of civil society.
 - False allegation violation of ongoing Human Rights.
- **(3) *Welcoming further*** international community involvement for resettling internally displaced civilians.
- **(4) *Emphasising*** independent oversight of security system.
- **(5) *Recognizing*** mechanism to redress past abuses and violations.
- **(6) Recalling** state responsibility responsible for gross violation of human rights.
- **(7) *Welcoming*** UNHRC observation of Enforced disappearances

Reconciliation

Domestically Developed Solution

- Resettlement and livelihood issues
- Difficulties experienced by the public due to the long period of displacement during the conflict;
- Shelter, education, problems of children without formal education in the North and East, particularly in the rural areas;
- Numerous land Issues arising due to the protracted conflict;
- Medical facilities and transportation related issues, in rural areas;

Reconciliation

Domestically Developed Solution

- Concerns of vulnerable persons such as widows, disabled persons, children and elderly persons
- Development in the Northern and Eastern Province;
- People's participation in Governance;
- Re-establishment of civilian administration in the Northern and Eastern Provinces,

Reconciliation

Domestically Developed Solution

- Concerns of persons in Sinhalese villages adjacent to the former conflict affected areas;
- Concerns of the displaced Muslim and Sinhalese population;
- Mine clearance and land reclaiming related issues
- Promote investment in North and East
- Bring prosperity
- Post conflict diaspora issues.

Reconciliation

Domestically Developed Solution

- 70% Buddhist
- 12.6 Hindus
- 9.7% - Muslims
- 6.1 Roman Catholic
- 1.3 Christians
- None of the religion promote violence

Reconciliation

Domestically Developed Solution

“Forgive and Forget”

Religious based approach

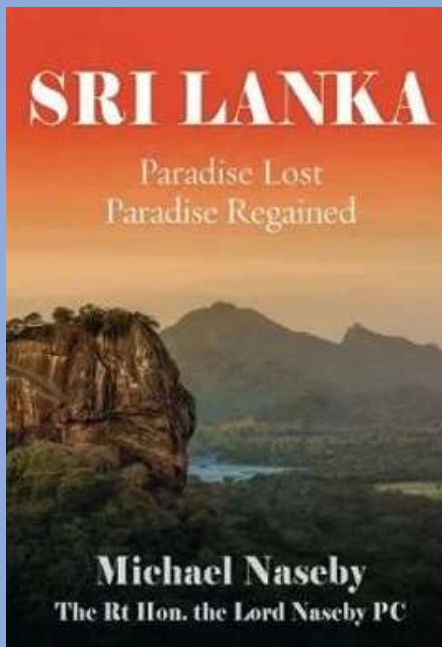
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Questions?



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Thanks you

“Forgive and Forget”
Work together