

**SUMMARY OF ACTIONS RECOMMENDED IN THE
SUBMISSIONS**

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

Summary of Actions Recommended in the Submissions

OMP Bill Amendments	Actions recommended in the Submissions – including amendments to the Bill and suggestions for working methods and principles
Name of the Office	<p>Four different suggestions are expressed in the submissions with regards to the name of the Office (Section 3 (1)):</p> <ol style="list-style-type: none"> 1) Replace ‘Missing Persons’ with ‘Involuntary Disappearances’ or with ‘Enforced Disappearances in the current title, [i.e. Office of Enforced Disappearances] in order to accurately represent the enforced nature of disappearances and because the current term is more commonly used to refer to soldiers missing in action. 2) Add ‘Forcibly Disappeared’ to the current title [i.e. Office of Missing Persons and the Forcibly Disappeared OR Office of the Forcibly Disappeared and Missing Persons] in order to be inclusive, and also because investigations will confirm the nature of disappeared or missing. 3) Include ‘surrendees’ in the title [i.e. Office of the Missing, Forcibly Disappeared and Surrendered] to acknowledge the special nature of disappearance of those who surrendered to the army at the conclusion of the war.
Mandate of the OMP, Preamble and Definition of ‘Missing Person’	<p>While acknowledging the broad mandate currently provided for in the Bill, the following recommendations are made to the mandate of the OMP, its preamble and the definition of ‘missing person’:</p> <p>Amend the mandate of the OMP Bill in Section 10 to prohibit the OMP from rejecting or refusing to investigate a complaint on the basis that it does not fall within its mandate, unless the OMP has investigated the case and provides justifiable reasons to support a belief that the case falls outside its mandate.</p> <p>Add to the preamble of the OMP Bill a provision to embody the commitment to reconciliation and what this means particularly to handling of information regarding fatalities and human remains. The following addition or a similar paragraph is suggested: <i>And WHEREAS information in respect of fatalities and discovery of human remains shall be treated with dignity and in consideration of Sri Lanka’s commitment to reconciliation, and remains where possible shall be returned after due process:</i></p> <p>Ensure that the definition of missing person in Section 27 is in line with that of the International Convention on Enforced Disappearances (i.e recognise the enforced nature of disappearances) and while recognising that non-state actors may also be perpetrators of enforced disappearances.</p>

	<p>Establish separate offices for the ‘disappeared’ and for ‘the missing’ so as not to conflate the issues, with relevant corresponding titles, so as not to dilute the issue of enforced disappearances and because the Government already has better investigation of and compensation for those families whose soldiers are MIA.</p>
<p>Aims and Powers</p>	<p><u>Database:</u></p> <p>Make provision in Section 10 (e) for the OMP to access all documentary information and evidence relating to the missing, disappeared and surrendered from national bodies, including past commissions of inquiry the Police, the Human Rights Commission of Sri Lanka, which have received complaints relating to the missing and disappeared.</p> <p>Make provision in Section 10 (e) for the OMP to access all documentary information and evidence relating to the missing, disappeared and surrendered from international bodies, including, the UN Human Rights Committee, the Committee Against Torture, the UN Working Group on Enforced and Involuntary Disappearance (WGEID), and the International Committee of the Red Cross which have received complaints.</p> <p>Make provision in Section 10 (e) for the OMP to obtain and access all court records in relation to <i>habeas corpus</i> cases and to map mass graves.</p> <p>Make explicit reference to the duty of the OMP to make available statistical information of cases being handled as well as the number of persons in detention, detention locations, the number of detainees released, with appropriate safeguards to protect identities.</p> <p>Make explicit reference in Section 13 (h) to the duty of the OMP to combine existing lists of missing and disappeared persons as found by previous state investigative mechanisms and determine if an instance of a missing or disappeared person has or has not been previous recorded.. If it is a new case, then the OMP can require a full and detailed complaint to be made by the family. If it is <i>not</i> new, the OMP should not require the family to make another full and detailed complaint and the existing information should be assessed prior to seeking any further information from the family.</p> <p>Make explicit reference in Section 13 (h) to the duty of the OMP to create individual victim files to ensure that it begins its work utilizing all available data, subject to verification by existing family members. Families must be called to corroborate information in possession of the OMP as police records of complaints at the time of disappearance may not always tally with what actually took place.</p>

Investigations:

Make explicit reference in Section 12 to the duty of the OMP to conduct investigations in a community- & victim-centred manner. This should involve taking into account 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—within communities, families and organizations working on this issue—but which may not be recorded in official complaints. Similarly, in operational terms the OMP may need to interview LTTE cadres who are in custody, those who have been rehabilitated, and certain politicians, in the effort to find the truth relating to the fate of missing servicemen.

Make explicit reference to the duty of the OMP to conduct a targeted public campaign to enable the flow of information.

Make provision for the OMP to have a strategy to investigate cases where the evidence is minimal given the lengthy passage of time in some of the cases.

Make provision for the OMP to provide incentives for persons / perpetrators to share information

Clarify in the OMP bill, the criteria for selection of investigators including

- 1) Use of current or past police officers or military investigators; Some submission call for complete exclusion (as in officers from the TID for example) . Others call for a thorough vetting process.
- 2) Inclusion of Foreign investigators with the relevant experience. Some submissions recommend that foreign investigators should be included to strengthen both technical skills of, and public confidence in, the team.

Extend the criteria in Section 12 (b) for prioritising cases to include 1) those missing who are suspected to be still alive and 2) public's view of what is of public importance (not just the view of the OMP), and 3) recognition that the availability of evidence may differ in cases of missing persons, enforced disappearances, and surrendees.

Make express provision in the OMP bill that no investigation into a missing person shall be considered closed until the fate of the person and circumstances in which the person went missing are clarified, and in cases where the missing person is deceased, their remains are returned to the family [if available].

Excavations/ Exhumations

Amend the OMP Bill to include forensic expertise to the list of expertise from which the OMP will draw its members.

Amend Section 4(2)(b) to specifically require members with

forensic expertise.

Make provision for a separate Forensic Unit to be established within the OMP.

Make provision for the OMP to recommend, experts in the fields of forensic anthropology, forensic archaeology, forensic pathology, forensic medicine and other similar expertise to conduct and/or to supervise the excavations and/or exhumations and to assist or advise the Magistrate on excavations and exhumations.

Make provision for the OMP where possible and when appropriate to initiate judicial proceedings to direct appropriate authorities and supervise the return of human remains or any items associated with such remains which have been identified as belonging to relatives of missing persons.

Make explicit provision for the OMP to draw on internationally recognized best practices developed and experiences from similar work in Latin America and the Balkans, in investigating identified mass grave-sites.

Make provision for the OMP to be able to provide staff and technical expertise to the Magistrate with regards to excavation and exhumation of sites.

Confidentiality Regime of the OMP

Strengthen the provisions in Section 15 regarding the accepting and withholding of confidential information, and clarify and make transparent when confidentiality is to be triggered and the scope of confidentiality with regards to information being shared with families of the missing and disappeared.. In addition, make provision to the effect that only the identity of the person providing the information should be withheld from the family, if confidentiality is explicitly requested, and not the information itself.

Prosecution and sharing of information

Two divergent views are expressed by submissions:

Make mandatory provision requiring the OMP to share all information with prosecutorial authorities where offences are involved. The prosecutorial authorities must first and foremost include the Special Counsel of the proposed Transitional Justice mechanisms.

Make provision for the OMP to proceed with prosecutions.

Victim and Witness Protection

Clarify the relationship between the OMP and the Assistance to and Protection of Witness and Victim Protection Act No. 4 of 2015 as well as the relationship between the Victim and Witness Protection Division of the OMP and the Victim and

Witness Protection Authority and Division established under that Act.

Issuance of Reports and sharing information with families of the disappeared.

Make mandatory provision for sharing of information with family members;; Make provision with regard to frequency, extent and manner in which information is shared. For instance it should be mandatory for the families to be provided with updates relating to an on-going investigation in the language of their preference, periodically at least twice a year, whenever there is a significant development, and when a case has been sent to a law enforcement or prosecuting authority on evidence that an offence under the law has been committed.

Make explicit reference to the duty of the OMP to share information in a clear, transparent and sensitive manner, particularly if the message is of a very distressing nature.

Make explicit reference to the family's right to know whether a person is alive as a paramount right. If the person found to be alive was at any point previously subject to an enforced disappearance, where the person is not capable of expressing consent, or if the person is subject to reasonable apprehension of fear or threat in expressing his or her views to the OMP, the whereabouts of a person should not be withheld from the relatives.

Make mandatory for the OMP to publicly report its activities, procedures, and general findings.

Clarify the scope of the Right To Information Act in relation to information given to affected persons on incidents of enforced disappearance under the OMP.

Certificates of Absence and Disappearance

Recognise in the OMP Bill that it is possible for those who had previously obtained a Death Certificate without proper investigations for purposes of reparation (under force or active persuasion) could now have this revoked for the issuance of a Certificate of Absence.

Make explicit reference to the duty of the OMP to inform individuals of any consequences in accepting a death certificate, certificate of absence, or certificate of disappearance/ surrender for their disappeared kin.

Make explicit reference to the duty of the OMP to facilitate the issue as expeditiously as possible certificates of absence/disappearance, as is noted in the submissions that otherwise they may be of no use for the families.

Make explicit provision that Certificates of

Absence/Disappearance /surrender are presumptively valid to enable women to access their husbands' bank accounts, pensions, properties, subsidies, gratuity/EPF/ETF, welfare payments, and life insurance.

Make explicit reference to the duty of the OMP to facilitate private sector recognition of these certificates.

Make explicit provision that Interim reports and reports issued to the Registrar-General for the issuance of Certificates of Absence and Death Certificates are binding directives.

Making Recommendations on Reparations

In order to ensure that family members are not subjected to retelling the tragic details of their story yet again, make provision in Section 13 (f) to either:

- Allow persons from the relevant reparations authority be part of the OMP from the outset in order to facilitate the reparations process; or
- in addition to the dedicated Office of Reparations envisaged by the Government, establish a separate reparations unit with the OMP mandated and structured to provide both interim and final reparations, as a mechanism specialising on missing and disappeared persons.

A number of suggestions were made regarding the kinds of reparations that should be provided by the OMP and potential structures

Make provision in Section 13 (f) for an interim reparations unit to make recommendations relating to the following kinds of reparations:

- Monthly monetary amount commensurate to the income of the missing person until the fate and whereabouts of the person has been determined.
- Scholarships for children.
- Preferential school admissions.
- Special allowance for vulnerable groups including disabled persons and senior citizens.
- Facilitating job placements, including in the private sector.
- Assisting in reducing debt obligations for affected women who are carrying the debts of their missing husbands, fathers, and sons.
- Recovery of monies paid to the CID, TID, politicians, and paramilitary groups in the search for missing and disappeared family members.
- Psychosocial support that is available throughout the process from initial engagement, to learning a disappeared person's whereabouts, to identifying remains, and performing death rituals if the person was killed, as long as family members require such support.

	<ul style="list-style-type: none"> ● A special pension scheme for families of the missing and disappeared. ● A percentage of employment opportunities for families of the victims of enforced disappearances and political prisoners. <p>Make provision in Section 13 (f) for the grant of final reparations in the form of a lump sum after the fate and whereabouts have been determined, to compensate for the loss of the person. Final reparations must be based on clear criteria which n the duration of time a family has received monthly allowances and other considerations.</p> <p>Make provision for a reparations fund within the OMP, created within four months of the establishment of the OMP, resourced from the national budget while maintaining the right to raise independent funds.</p> <p>Make provision to allow family members to question reparation decisions.</p> <p>Make explicit provision in Section 13 (f) that the reparations unit will be linked to the Office of Reparations and be part of a Reparations Policy adopted by the government which does not create hierarchies of victims.</p>
Structure	<p><u>Head Office and Regional Offices</u></p> <p>Make provision in Section 3 (3) for the Head Office of the OMP and its regional offices to be established in relatively well-known areas in the region that can be easily accessed through public transport.</p> <p>Make explicit reference to the duty of the OMP to establish regional offices as a mandatory duty of the OMP, particularly in the North and East. and particularly at the outset. It is suggested that offices are established at the district level in the North and East and at the provincial level in the South. Specific suggestions were made about potential locations for an office in the North, including Killinochchi or Jaffna.</p> <p><u>Forensics Unit</u></p> <p>Amend Section 16 of the OMP Bill to create a dedicated forensics unit, with a mandate to identify victims and return remains to the families. One suggested possibility is to model this unit after the Office of Missing Persons and Forensics in Kosovo and learn from the victim-centred approaches of the Peruvian Team of Forensic Anthropology and the Guatemalan Team of Forensic Anthropology.</p> <p>Make explicit reference to the duty of the OMP to work with affected families and victims' groups to develop a database of ante-mortem data.</p>

	<p><u>Oversight, Advisory or Monitoring Body</u> Make provision in Section 16 for an oversight body, with the power to :</p> <ul style="list-style-type: none"> • review the work of the OMP on a quarterly basis and make public its findings; and • suggest improvements to the structure or processes of the OMP, both at the regional and national levels, if the initial structure proves to be unresponsive to complainants’ needs and issues. • ensure continuous consultations with victims and organisations working on the issues of disappearances, in order to avoid mistakes and to build trust. <p>Make provision relating to the composition of this Body which takes into account the following recommendations:</p> <ul style="list-style-type: none"> • The Oversight Body should be comprised of 25% of families of the missing or disappeared—from diverse ethnic backgrounds, geographical areas, and time periods when incidents occurred—or in the alternative two family members. • Membership should be rotated every three years, to enable different families to be represented. • It should consist of independent local and international experts, including women experts who will monitor it for gender sensitivity. • It should consist of representatives from local women’s groups and organisations working on disappearances. <p><u>Reparations Unit</u> Make provision for the establishment of a Reparations Unit in Section 16 (see above for further details).</p> <p><u>Complaints Mechanism</u> Make provision in Section 16 for a Complaints Unit within the OMP where victims can make complaints against OMP staff members who behave insensitively or inappropriately toward them, and the power of the OMP to take corrective action.</p> <p><u>Outreach Unit</u> Make provision in Section 16 for an Outreach Unit with power to handle communications with the families of the missing/disappeared, and engage with the public.</p> <p><u>Psychosocial Unit</u> Make provision in Section 16 for a Psychosocial Unit that will coordinate the provision of psychosocial support to those engaging with the transitional justice mechanisms and beyond, and ensure that the process is psychosocially sensitive.</p>
Members	<p><u>Appointment Process</u> Clarify and make adequate provision in Section 4 (1a & 1b) for</p>

public involvement in the process of appointment of members taking into account the following suggestions which emerge from submissions:

- The Constitutional Council make a public call for nominations specifying the criteria and qualifications for membership in the OMP with sufficient time and opportunity given for families and the public to nominate suitable persons. The call should be made with minimum a period of two weeks for nomination.
- Once nominations are received, a long list of the nominations must be made public to enable families and the public to comment as part of a vetting process.
- The long list to be reduced to the number of positions in the OMP on the basis of comments and views received from the public, which is forwarded to the President and also made public.
- The President is to be expressly bound to make appointments from the recommendations made by the Constitutional Council.
- Appointments to the OMP should be made by the Constitutional Council and the UNWGED and/or the OHCHR with the Constitutional Council making local appointments and the UNWGED /OHCHR making international appointments to the OMP.

Membership Criteria

Add criteria in Section 4 (2a & 2b) for consideration in the composition of members for the OMP to include

- Gender: more than 50% of the OMP members should be women and highly qualified women should be encouraged to apply.
- Ethnicity: members must reflect the caseload of the OMP. There were also suggestions for the membership to reflect the major ethnic communities of the country.
- Professional experience of working with the families of the missing and disappeared.
- Experience in provision of psychosocial support
- Family members of the missing /disappeared (on account of their experience of searching for family members) and family members of servicemen /soldiers missing /disappeared must be represented. There was a specific suggestion to recognise the experience of searching for missing as an area of expertise.
- Integrity and respect of the community;
- From the region (in the context of this submission region has to be understood as North and East) and having competency in the language of the region;
- Forensic anthropology expertise.
- Qualified foreign individuals known for their integrity, independence and professionalism (appointed by the UNWED or OHCHR) should form half of the membership of the OMP. It is stated in the submissions that, without international involvement,

victims would find it “extremely difficult 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.”

- Availability to commit to the working days of the OMP should be part of the eligibility criteria for selection.

Exclusion of Eligibility for Membership

Make explicit provision in Section 4 of the Bill to exclude from eligibility for membership of the OMP

- Persons who have been or are implicated/held responsible for disappearances or being complicit by way of denying, justifying, or covering up the crime in the past in any local and international fora.
- Persons who are or have been members of the security forces or armed groups.
- Persons who hold or have held political office.

Chair

Consider the following recommendations relating to the Chairperson:

- a) a small group of 3 individuals heading the team
- b) a rotating chair.

These were suggested for the purposes of ensuring unbiased decision- making.

Make provision for three of the members of the OMP to function as deputy CEOs or in any other relevant executive capacity.

Roles, Functions and Status of the Members

Clarify in the OMP Bill:

- the nature of interaction between Members and complainants and families;
- the ‘governance’ and ‘executive’ role of Members;
- whether members work on a part time or full time basis.; and
- whether the role is commensurate to handling the caseload of the OMP, if as expected, it exceeds 20,000 cases of disappeared persons.

Amend the bill to provide for at least four of the seven to function on a full time basis. Also make provision stipulating a minimum number of days per month that other Members need to commit (i.e. at least 15 working days a month).

Security of Tenure

Make provision for security of tenure of OMP members in order that they can perform their responsibilities without hindrance or political interference. In particular clarify that Section 7(3) of the Bill will be applied strictly in accordance with international standards.

Staff	<p><u>Criteria for recruiting staff</u> Make provision in Section 16 (2) stipulating clear criteria for recruiting staff/personnel, at all levels as well those who will not be eligible for recruitment, taking into account the following recommendations:</p> <ul style="list-style-type: none"> ● All staff should have the requisite professional qualifications and experience, relevant to their particular position/ unit. ● Family members of the missing /disappeared should be represented within staff. ● 50% of OMP staff should be women. ● Competency to respond to and interact with victims and families without having to resort to translations on a regular basis. The OMP Bill must contain an explicit provision stating this language requirement relating to OMP personnel (relating to the Members, the Tracing Unit, the Victims and Witnesses Division, and all other intended units/divisions of the OMP). When such staff is not available, the OMP must always make female translators available. ● Staff will include international personnel to undertake specific tasks with regard to forensics and investigation. <p>Also make provision for other qualities which staff should be endowed with as follows:</p> <ul style="list-style-type: none"> ● Gender-sensitivity ● Sensitivity to the issues, the context and grievances of those engaging with the office. ● A demeanour that reflects an aim to pursue and provide truth to families of the missing and disappeared. ● Caring and trustworthy locals who understand the geography, language, and history of the area and are experienced with working on enforced disappearances. ● Trustworthy and neutral persons who will protect the privacy and confidentiality of all communications, testimony, and data. ● Persons who give victims adequate time and space to tell their stories. <p><u>Exclusion for eligibility as staff</u> Make provision in Section 16 (2) to the effect that staff should not have any prior record of harassment, intimidation, or violence. Individuals who are implicated of having any involvement in any instance of a missing or disappeared person or involvement in any other serious crime must be categorically excluded. In this regard, there should be an explicit provision containing this exclusion relating to the recruitment of current or former law enforcement and military personnel.</p>

<p>Women and OMP</p>	<p>Amend the OMP Bill to make it more gender sensitive as follows:</p> <ul style="list-style-type: none"> ● Amend Section 11(c) so as to impose a mandatory duty on the OMP to issue gender-sensitive internal policies. These guidelines to include the following: ● Providing gender-sensitive training for all staff. ● prioritizing gender concerns when mobilizing resources for the OMP. ● Ensuring that a conducive environment is created so that women who access its services feel comfortable and at ease in providing their statements. ● Ensuring that women who have no finances are reimbursed for cost associated with travelling to the OMP. ● Ensuring provision of child-care facilities to accommodate children that will accompany adults to the OMP. ● Ensuring that the reports that are prepared by the OMP dedicate a whole chapter to capture the experiences of women who have accessed the services and remedies that are provided by the OMP.
<p>International Involvement</p>	<p>Make provision for the involvement of international actors specifically in the following positions within the OMP</p> <ol style="list-style-type: none"> 1) in the membership of the OMP, 2) to serve as staff in specific functions including in forensic and investigations 3) to fulfil an oversight function. <p>Some submissions also mention that the United Nations must be a partner in the transitional justice process in Sri Lanka to ensure legitimacy, trust and confidence in the process.</p>
<p>Relationship with other TJ mechanisms</p>	<p>Clarify the relationship with other TJ mechanisms.</p> <p>The OMP must not limit itself to the question of truth vis-à-vis the disappearances, but must also deal with issues of justice and reparations.</p>

<p>Before and Beyond the OMP</p>	<p>Actions recommended in the Submissions</p>
<p>Consultation Process on the OMP Bill</p>	<p>Ensure that the OMP Bill is amended to include the recommendations received from the public in the formal consultations process.</p> <p>Ensure that the consultations process does not conclude with the enactment of the Bill; periodic consultations should be</p>

	<p>conducted with those accessing the OMP.</p> <p>Ensure that civil society groups and families of the disappeared are consulted on operational issues, including the development of forms.</p>
<p>Confidence building measures</p>	<p>Acknowledge, condemn and take preventive action to deal with the on-going violations especially in the North and East of the country, especially the abductions, and take action against perpetrators.</p> <p>Ensure that the security forces, police and the intelligence services under them avoid harassment and intimidation of persons involved in the consultations, in particular, former LTTE cadres who have gone through rehabilitation, human rights defenders and families of victims of disappearances.</p> <p>Ensure that all detention centres and detainee lists are made public. Conversely carry out searches in unofficial or hidden detention centres .</p> <p>Publish a list of all surrendees.</p> <p>Take measures to free all political prisoners.</p> <p>Expedite and complete within six months all habeas corpus cases.</p> <p>Implement a short-term financial allowance for the families of the disappeared.</p> <p>Appoint a special officer at District and Divisional Secretariats to support the victims.</p> <p>Give preference /priority to families of the disappeared in providing government facilities (e.g. housing and land).</p> <p>Ensure that arrest and detention are in accordance with best practices including the Presidential Directives of June 2016.</p> <p>Publicly accept that various arms of the State carried out enforced disappearances, and these cases will be brought to court.</p>
<p>Public awareness on the government's intentions to establish transitional justice mechanism and their objectives across the country, and amongst different groups</p>	<p>Make official information on the consultations available through the media</p> <p>Appoint a strong spokesperson who can talk about the process and who can challenge the negative discourse about transitional justice that is emerging in the south of the country.</p> <p>Strengthen reportage around all four key mechanisms in</p>

	terms of their constitution, mandate, financing, logistics and planning, as well as decisions around policy making, to the extent possible under the Right to Information law.
PTA	Repeal the Prevention of Terrorism Act (PTA).
Legislation to give effect to the UN Convention on Enforced Disappearances	Enact enabling legislation to give effect to the UN Convention on Disappearances including criminalization of enforced disappearance.
Witness and Victim protection	Address the several limitations noted in the current Witness and Victim Protection Act No. 4 of 2015. It is also to be amended to ensure that transitional justice mechanisms have the power to request assistance from the Authority and the Division and to establish a common victim and witness protection programme.
Excavation/exhumation of Mass graves	<p>The current legal framework, which is intended to cover instances of routine “domestic murder”, is inadequate to address the problem of mass graves. Therefore:</p> <p>Amend sections 269-273 of the Criminal Procedure Code to include the post-mortem examination of the dead in large-scale disasters and atrocities.</p> <p>Address the deficiencies and inadequacies in the past and current investigations of mass graves. These include arbitrary procedures, lack of coordination between actors, lack of mandatory involvement of a consultant JMO (rather than the Magistrate) to oversee the process process of investigation from the outset, and lack of appropriate collection, recording and archiving of information related to missing persons and un-identified human remains by the police.</p> <p>Address the issues of shortage of staff cadres and lack of proper resources to conduct excavations and exhumations faced by the College of Forensic Pathologists.</p>
Certificates of Absence	<p>Implement a public awareness campaign about the purpose and implications of the COA to address concerns and fears of family members of the disappeared, and a sensitisation and awareness process among State officials</p> <p>Amend section 13(1)(a) of the COA Bill to include two categories as follows—(i) those whom the OMP has declared</p>

as missing after investigation where the COA will have no expiry date, and (ii) those whom the OMP is still investigating where the COA's period of validity can be extended to 10 years.

Rename the Certificate of Absence as a Certificate of (Enforced) Disappearance or Certificate of Surrender to explicitly express that the person was made to disappear or surrendered, and is not merely absent or missing. The Tamil and Sinhala terms must also reflect this and be sensitive with regard to the colloquial meanings of the terms.

Call in language experts to resolve questions relating to terminology in both Sinhala and Tamil drafts of the COA

Address more explicitly practical challenges that people may face in efforts to obtain a COA, such as:

- lack of documentation to prove relationships
- lack of access to official documents
- lack of cooperation from Grama Niladharis to assist families and
- the requirement to submit an application for a COA to the Registrar-General or the District Registrar of the District in the area in which the missing/disappeared person was permanently resided (particularly given contexts of displacement).

Amend the current wording of the Bill to shift the burden to provide information on the status of the disappeared/missing person from the family to the State, and the OMP.

Revise Section 13 (1) (d) of the COA Bill as well as Section 15(1) (b) of the principal Act to remove catch all provision relating to offences and limit it only the person make an affidavit and application as follows:

- Any person who, knowingly, makes a false statement in an application made by him under this Act, or furnishes false information under this Act (this is section 15(a) of the principal Act).
- An applicant who is aware of the fate and whereabouts of a person registered as missing and fails to furnish such information to the Registrar-General in pursuance of an application made with respect to that person.
- Any person who dishonestly or fraudulently uses a CoA issued under this Act, while knowing the fate and whereabouts of a person registered as missing.

Amend the COA bill to ensure that the definition of missing

	<p>persons and conflict is consistent with the OMP Bill.</p> <p>Broaden the definition of the term 'relative' to include minors (through a guardian) and relatives living abroad.</p>
Family card system	<p>Amend the points-based family card system that determines relief to include information about disappeared family members. Those affected by the war and who suffer hardships following the disappearance of their loved ones due to the additional burdens of caring for their families, providing financially for their families and continue to search for their loved ones, require additional points for developmental assistance and preference when accessing social service benefits.</p>
Justice	<p>Ensure non-recurrence, by making provision to punish perpetrators and to hold them to account for their actions of forcibly disappearing people.</p> <p>Ensure that non-state actors (including former LTTE leaders who are alive) are also held to account and punished for their role in forcible disappearances.</p> <p>Ensure that law enforcement officers who are implicated in disappearances [including the Terrorism Investigation Department (TID) and the Criminal Investigation Department (CID)] are prevented from getting involved in the investigations and prosecution of these complaints.</p> <p>Ensure adequate administrative arrangements and checks are instituted to ensure independence and foster confidence in the eyes of the families of the missing and disappeared and that the nature of such administrative arrangement should be clarified before the OMP Bill is passed into law.</p> <p>Take into consideration the recommendations made by the presidential Commissions of Inquiry into the Involuntary Removal of Persons appointed in the 1990s as they relate to the truth, justice and reparations relating to the missing, the disappeared and the surrendered including the following:</p> <p>Establish special courts to hear disappearance cases and the establishment of an Office of an Independent Human Rights Prosecutor, which could be considered by the present Government.</p> <ul style="list-style-type: none"> ● Appoint a special team of state counsel from the AG's Department to work with investigators on cases of disappearances. ● Recognise the right of an aggrieved person to file a private plaint. ● establish a Legal Advisory Service Bureau to provide

	<p>legal assistance to members of families of disappeared.</p> <p>Explore mechanisms of restorative justice and provide space for restorative justice processes.</p> <p>Ensure that army personnel go through the same kind of rehabilitation that the LTTE cadres were subject to following the end of war.</p> <p>Make provision for amnesty in order to secure the truth relating to what happened.</p>
<p>Coexistence and Memorialisation</p>	<p>Explore way to assist families to reconcile with the loss and build a relationship between the different communities</p> <p>Acknowledge that the suffering and trauma of the families of the missing /disappeared in the South and in the North</p> <p>Ensure that State practice of memorialisation is inclusive and not selective.</p> <p>Recognize the right of victim-survivors to memorialization initiatives and provide State support and facilitation of these initiatives without obstruction.</p> <p>Acknowledge the harms suffered in the past and adopt a strategic approach to memorialization in a way that captures not just the families of the soldiers and the LTTE, but all victim-survivors of the war.</p> <p>Conduct memory practices in a strategic, sensitive and balanced manner to avoid further divisions among communities.</p> <p>Adopt a national policy on memorialization.</p> <p>Reform education curricula (particularly history) to recognize the war, its root causes as well as its devastating impact on all Sri Lankan citizens.</p> <p>Establish a museum dedicated to the war and its impact, including disappearances.</p> <p>(Re)-establish a monument for disappearances.</p> <p>Declare and commemorate a national day to remember disappearances. (October 27 is dedicated by some families and organisations as a day to remember disappearances)</p> <p>Ensure space for families and communities, particularly in the North and East to commemorate and mourn.</p> <p>Support civil society memory initiatives.</p>

Other TJ mechanisms	It is felt that the other mechanisms should also be established without delay to enable the work of the OMP to be coordinated. In particular, the Office of Reparations and the Special Court.