



OFFICE FOR REPARATIONS

**ITS OBJECTIVES,
ITS WORK
AND ITS MANDATE**

NO. 408, GALLE ROAD, COLOMBO 03

**THE OFFICE FOR REPARATIONS
SRI LANKA**

**ITS OBJECTIVES, ITS MANDATE AND ITS
WORK**

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No. 408 Galle Road, Colombo 03.

Updated reprint – December 2021



From the Chairperson

This is a revised and updated Q&A. A revised and updated reprint was considered necessary to incorporate some of the policy perspectives that have been adopted since the first version of the Q&A was released in March 2021.

As was stated in the first version of the Q&A, the Members of the Office for Reparations considered the vital need to clarify the new approach to the grant of relief to aggrieved persons, as provided for in the new law titled *Office for Reparations Act, No. 34 of 2018* of Sri Lanka. Most importantly, it is considered necessary to disseminate accurate information about the new Office, its mandate and its scope of work, so that persons who desire to access relief measures can do so with full knowledge of what is required of them and what can be expected from the Office for Reparations. It is also considered important to have a ready reckoner such as this document to create awareness among other stakeholders who are interested in our work and to obviate the need for them to delve into the detailed text of the statute itself. Those who aspire to understand the reparations regime in Sri Lanka may find this nutshell account a useful first resource.

Most importantly we wish to provide information to those who wish to seek relief, and hence the questions and the answers in this booklet have been kept simple and devoid of complexities that the usual statutory interpretation requires.

Once again, I wish to acknowledge with gratitude the assistance received from the International Organisation for Migration (IOM) for bearing the cost of printing this revised version as well, in the same spirit of support that we received for the printing of the first version. I reiterate that it is indeed a significant support towards our outreach efforts.

Further information regarding the Office for Reparations and its work may be accessed from the website at www.reparations.gov.lk

Dhara Wijayatilake
December, 2021

THE MEMBERS OF THE OFFICE FOR REPARATIONS

Mrs. Dhara Wijayatilake, Attorney-at-Law, *Chairperson.*

A Lawyer who served in the Public Service of Sri Lanka for over forty years, Mrs. Wijayatilake holds the distinction of being the first woman to be appointed as a Secretary to a Cabinet Ministry with her appointment as Secretary to the Ministry of Justice (1994). She also served as the Secretary to the Ministry of Plan Implementation and Ministry of Technology and Research. She has served as a Member of the Law Commission of Sri Lanka and as a Member of the National Commission on Women. Upon retiring from Public Service, Mrs. Wijayatilake functioned as the CEO of the Ceylon Chamber of Commerce (2016-Jan 2020). Mrs. Wijayatilake served as a Member of the Public Service Commission (2015-Apr. 2019). She also served as a Non-Executive Director and later Deputy Chairperson of Sampath Bank PLC.

Dr. J. M. Swaminathan, Attorney-at-Law, *Member.*

A Lawyer of over 55-years standing, Dr. Swaminathan served on the Law Commission of Sri Lanka, Council of the University of Colombo and the Council of Legal Education. Dr. Swaminathan is also a Member of the Intellectual Property Law Advisory Commission of Sri Lanka and a Member of the Company Law Advisory Commission, and also serves on the Boards of several Public and Private Companies. Dr. Swaminathan was the Precedent Partner of the Law Firm of Julius & Creasy.

Mr. A. A. M. Fathihu - *Member.*

A former Chief Valuer of the Government Valuation Department, Mr. Fathihu has over 40-years of experience in the Public Service of Sri Lanka and presently serves as the President of the Institute of Valuers of Sri Lanka.

Ms. Sellathamby Sumithra – *Member.*

A freelance Consultant, Psychological Counsellor and a Researcher on Gender Issues, Reconciliation and Disability for over 10 years, Ms. Sumithra is a visiting lecturer at the Eastern University of Sri Lanka in the fields of Philosophy and Psychology. She also serves on the Boards of Civil Society Organizations.

Major General (Retd.) Palitha Fernando – *Member.*

A former military officer who promoted to the rank of Major General in 2005 and was appointed as the Military Liaison Officer of the Ministry of Defence until 2015. Major General Fernando currently serves as the Secretary to the State Ministry of Wildlife and Forest Conservation also serves as the President of Sri Lanka Athletics.

DIRECTOR GENERAL

Mrs. Nazeema Ahamed - *Director General.*

Nazeema Ahamed joined the public service through a competitive examination in 2002 as an Assistant Director and started her career at the Ministry of Environment and Natural Resources. She had served in several Ministries in the capacity of Director Planning, and she was the Actg. Director General of the National Science Foundation for a short period. She joined the Office for Reparations as the Director General in August 2021, and she also currently serves as the Actg. CEO of the National Science and Technology Commission. She was the Australia Awards Ambassador for 2016.

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1. THE OFFICE FOR REPARATIONS – ITS OBJECTIVES AND ITS MANDATE

1.1 What is the Office for Reparations?

The Office for Reparations was established in terms of the *Office for Reparations Act No. 34 of 2018*, which was passed in Parliament and came into operation on October 22nd, 2018. “Reparations” is another term for “relief” or “remedies” or “redress” and the affected persons are referred to as “aggrieved persons.”

This is the office set up by Government to consider the situation of persons who were or may be affected by certain categories of conflicts that occurred in the country or may occur in the future and to provide relief to such persons. The categories of conflicts that fall within the reparations regime are explained in this booklet and are referred to as “conflicts”.

1.2 With what objective was this law passed?

The intention is to assist persons who have suffered loss or damage as a result of a conflict referred to, to rebuild and restore their lives.

The Office for Reparations Act recognizes that *“a comprehensive reparations scheme anchored in the rights of all Sri Lankans to an effective remedy will contribute to the promotion of reconciliation for the wellbeing, and security of all Sri Lankans including future generations.”*

1.3 What is the structure of the Office for Reparations?

The Act provides for the appointment by the President of five Members on the recommendation of the Constitutional Council (later the Parliamentary Council), one of whom is appointed as the Chairperson. The Members are responsible to ensure that the policies in the Act are implemented. The first five Members were appointed by the President on the recommendation of the Constitutional Council in April, 2019 for a term of 3 years.

The Secretariat of the Office for Reparations comprises supporting staff led by a Director General, to implement its policies, programmes and plans. The Office for Reparations can also establish Regional offices to discharge its functions. As at now, no Regional offices have been established and the services of officers of the District and Divisional Secretariats are obtained for its work.

1.4 What are the main features of the Office for Reparations Act?

The Act provides for details regarding who an aggrieved person is, what kind of reparations can be granted as relief and also the categories of conflicts that occurred or may occur in the future which resulted in or will result in causing loss or damage for which reparations can be granted.

Reparations can be granted to individuals as well as to groups of persons (collective reparations) in compliance with the Policies and Guidelines that are approved by the Cabinet of Ministers. For this purpose, the Members formulated Policies and Guidelines after consulting with stakeholders and these have been approved by the Cabinet. Please see paragraph 3 for details.

The mandate of the Office for Reparations is not only to provide relief to persons affected by past incidents, but also to those who may be affected due to any of the conflicts that may arise in the future. It therefore addresses not only past incidents, but also looks to the future.

It's important to note that the Office for Reparations addresses only the needs of persons affected by conflict and does not address issues created due to natural disasters or due to private disputes.

The full text of the Office for Reparations Act, No. 34 of 2018 can be downloaded from the website of the Office for Reparations - www.reparations.gov.lk (under "statute").

1.5 Can a complaint be made to the Office for Reparations about an offence committed against any person?

The Office for Reparations will only look to provide relief to persons against whom offences have been committed as a result of the occurrence of any of the conflicts. It cannot look into complaints of criminal offences to determine whether any persons should be prosecuted. Such a complaint will need to be made to the Police, which is the appropriate law enforcement authority to investigate such complaints. Accordingly, the Office for Reparations cannot investigate, prosecute or punish wrong doers.

A person who has suffered personal injury or emotional abuse or any other loss or damage as a result of the criminal conduct of a person during the occurrence of a conflict, can make an application to the Office for Reparations for relief. The Office for Reparations will examine the application and, where it is established that the applicant is an aggrieved person, the Office for Reparations will assess the needs of the person and consider the grant of relief that will be meaningful to the person to rebuild his or her life.

2. AGGRIEVED PERSONS

2.1 Who is an 'Aggrieved Person'?

An 'Aggrieved Person' is one who has suffered 'loss or damage' due to the occurrence of any of the following conflicts:

- a) due to the armed conflict which took place in the Northern and Eastern Provinces or due to the aftermath of that conflict; or
- b) due to political unrest; or
- c) due to civil disturbances; or
- d) due to an enforced disappearance.

An "aggrieved person" is either –

a) the person who has suffered loss or damage due to the occurrence of a conflict; or

b) where a person has died or a person has disappeared and cannot be found due to the occurrence of a conflict, the following relatives of that person -

- i) spouse
- ii) child
- iii) parent
- iv) brother or sister
- v) parent-in-law, brother/sister-in-law, son/daughter-in-law
- vi) grandchild and grandparent.

2.2 What is "loss" or "damage"?

"Loss" or "damage" is caused to a person (an aggrieved person) where, due to the occurrence of a conflict, that person -

- a) has lost a family member due to death; or
- b) has lost a family member due to the disappearance of that family member who has never been found; or
- c) has suffered harm or injury, either physically or mentally; or
- d) has lost movable or immovable property that was owned by the person or the property has been damaged.

2.3 What is an “enforced disappearance” ?

An enforced disappearance occurs when-

- (a) a person is deprived of his liberty due to being arrested, detained, wrongfully confined, abducted or kidnapped, by either –
 - 1. a Public officer, or
 - 2. a person acting in an official capacity, or
 - 3. any person acting on the authority, support or acquiescence of the State, or
 - 4. by any other person,
- (b) followed by
 - 1. a refusal to acknowledge-
 - a. the deprivation of liberty of that person; and
 - b. the concealment of the fate or the whereabouts of that person.

The offence of “enforced disappearance” is recognized as a crime in terms of Sri Lanka’s law titled “*International Convention for the Protection of All Persons from Enforced Disappearance Act, No. 5 of 2018*” which came into force on March 21st, 2018. This Act is based on the United Nations “International Convention for the Protection of All Persons from Enforced Disappearance” which came into force on December 23rd, 2010 and which Sri Lanka ratified on May 26, 2016.

2.4 Can a group of persons be considered as “aggrieved persons”?

Yes, where a group of persons or a community has collectively suffered loss or damage, due to any conflict, the group or community will be considered to be aggrieved persons.

2.5 Are members of the security forces and their families considered as ‘aggrieved persons’?

Yes. Members of the security forces and their families, who have suffered loss or damage, due to the occurrence of any conflict, are considered to be “aggrieved persons.”

2.6 Are reparations available only to those who were living or are still living in the North and East of the country?

No. There is no geographical criterion to identify those who will be given relief. There's nothing to state that only those living in any particular area of the country should be granted reparations. If any person has suffered loss or damage, due to any conflict, that person or his/her relative is entitled to reparations wherever he/she lives or lived in the country.

The Office for Reparations Act envisages that all aggrieved persons of all communities be served irrespective of where they live.

2.7 Are families of missing persons considered aggrieved persons?

Yes. If any person went missing (i.e., if the fate or whereabouts of that person is unknown) and the person is believed to be missing due to any of the conflicts referred to in paragraph 2.1 above, the family members of that person are aggrieved persons and will be eligible for relief.

3. REPARATIONS

3.1 What is “reparations”?

“Reparations” is another term for relief or remedies or redress.

3.2 Is the grant of reparations a new initiative of the Government?

No. The concept of compensating persons who suffered loss or damage or lost a relative due to circumstances beyond their control, such as due to conflict situations or due to natural disasters, has long been accepted by our Government. As far back as 1987, this policy of granting compensation was recognised by law with the enactment of the Rehabilitation of Persons, Properties and Industries Authority Act, No. 29 of 1987. We call it the REPPIA Act.

3.3 Why was a new Reparations Act considered necessary?

A new Act was considered necessary to focus on assisting aggrieved persons in more meaningful ways so as to help them to rebuild their lives. The new Act reiterates the Constitutional provision which recognizes the inherent dignity and equal and inalienable human rights of all Sri Lankans and the State’s obligation to respect, secure and advance these rights:

The focus of REPPIA was to “rehabilitate” persons affected by “riot or civil commotion” by giving grants and also to repair and restore property affected by riot or civil commotion. The Office for Reparations Act provides for relief that goes beyond granting monetary compensation. It deals with assisting people in many other ways, including through psychosocial support and through recommendations to the appropriate Authorities to provide communities with a wide range of relief measures. It recognises the need to respond to real issues faced by aggrieved persons by assessing their need, and to provide meaningful relief that will help aggrieved persons to rebuild and restore their lives.

Importantly, it provides for granting of reparations to people affected by conflict, civil disturbances and political unrest, and to families of persons who are victims of enforced disappearance, but does not address situations arising from natural disasters or due to private disputes.

Most importantly, the Act is based on an acceptance that providing for meaningful relief in this way will contribute to reconciliation among our people who were affected by conflicts that occurred or may occur in the future.

3.4 What kind of relief will be offered as reparations?

The Policy document provides for the grant of reparations in respect of the following:

1. Livelihood Support
2. Compensation and Financial Support
3. Restitution of Land Rights
4. Provision of Housing
5. Development of Community Infrastructure
6. Administrative Relief
7. Psychosocial Support
8. Measures to advance unity, reconciliation and Non recurrence of violence

3.5 Can the Office for Reparations provide direct assistance in respect of all of the above?

The Office for Reparations is directly engaged in granting compensation to applicants for monetary compensation.

Some of the other relief measures however can only be provided using the resources currently available within Government Ministries, departments and statutory bodies. After the needs of aggrieved persons are identified, the Office for Reparations will discuss with these Government bodies to provide relief to aggrieved persons. The Office is also working with Civil Society Organisations that have the capacity to deliver needed services to the people.

3.6 How will the Office for Reparations identify what's needed by aggrieved persons?

The measures identified in the Policy document were identified after consulting aggrieved persons. These were identified as the most urgent areas of assistance that aggrieved persons require. In addition, the Office for Reparations has had discussions with the District Secretaries of all 25 Districts and collected information with regard to programmes that have been completed, programmes that are ongoing and those which are needed by aggrieved persons. Information with regard to needs will continuously be obtained from aggrieved persons and will be taken into consideration.

With regard to psychosocial support, the Office for Reparations has trained officers who are called "Case Managers" who will work with aggrieved persons

and assist them to access government services as is appropriate to the level of need.

With regard to livelihood programmes, the Office for Reparations will conduct knowledge transfer programmes as well as Technology transfer programmes to those interested in pursuing self-employment opportunities.

Programmes will be held in respect of the other areas of assistance as well, to identify the needs and to discuss with government and other appropriate entities, to provide relief.

3.7 What criteria will be adopted in deciding the grant of reparations?

The Guidelines formulated by the Office for Reparations and approved by the Cabinet of Ministers provide that the following matters will be taken into account in determining reparations-

1. Victim centrality – All decisions will be based on what’s best for the aggrieved persons.
2. Criteria for eligibility for aggrieved persons to obtain reparations, - The criteria relating to the nature and severity of grievances for which reparations will be available will be looked at.
3. The form, and where appropriate, the quantum of reparations that will be provided to eligible aggrieved persons – In each case, the form of relief granted, and the amounts granted will be based on the needs of the aggrieved persons.
4. The criteria of eligibility of aggrieved persons to financial compensation – Criteria will be determined to guide the determination as to who is eligible for financial compensation and the amount of compensation.
5. The criteria of eligibility of aggrieved persons to urgent reparations – In certain circumstances, aggrieved persons may need urgent interventions, and these will be considered.
6. Entities which may assist in the provision or delivery of different forms of reparations to aggrieved persons – The Office for Reparations will identify and work with other credible Organisations to deliver relief measures.
7. The criteria on which verified applications for reparations shall be prioritized – Among persons aggrieved, a priority list will be formulated to identify the most vulnerable.
- 8.

9. Criteria for verification of authenticity – It's important to ensure those who receive relief measures are legitimate applicants and hence the documents that will establish authenticity will be determined.
10. Criteria for remembrance of the dead and memorials - Memorialization will be to address the emotional needs of the families to grieve, commemorate and remember the dead but not to commemorate terrorists or separatists.
11. Addressing the special needs of specific groups of aggrieved persons – some groups need special assistance to address special needs. These will be taken into account. These special groups are –
 - a. Women,
 - b. Children,
 - c. the Elderly,
 - d. the Disabled, including disabled members of the Government Armed Forces and the Police, and officers of the Civil Security department
 - e. Displaced persons,
 - f. families of missing/deceased persons, including the families of members of Government Armed Forces and the Police and of offices of the Civil Security department, missing in action,
 - g. victims of sexual violence; and
 - h. rehabilitated ex-LTTE cadres, including former child soldiers.

4. APPLICATIONS FOR RELIEF

4.1 What does an aggrieved person have to do to get reparations?

To obtain monetary compensation-

An aggrieved person will need to apply for reparations. He or she will need to fill an Application Form and submit documents to confirm that loss or damage was in fact caused. The submission of documents to establish the grievance is important. The Application with supporting documents should be forwarded to the relevant Divisional Secretariat.

The Office for Reparations will consider the Application and decide whether the Applicant is eligible for reparations and if so, what relief should be given.

Those who have received monetary compensation may apply for other forms of relief but will not be eligible for further monetary compensation.

To obtain non financial (non compensatory) relief-

The Office for Reparations will conduct suitable programmes for aggrieved persons, after assessing their needs.

In addition, aggrieved persons may submit a request for assistance by writing to the Office for Reparations indicating the loss suffered and stating their needs.

If the Applicant has been granted any relief previously, this will be considered in deciding what further assistance the Applicant needs.

4.2 Is there a time limit to make an application?

In the case of relief other than for monetary compensation, there is no time limit.

In the case of monetary compensation, it's necessary to impose time limits.

Applications that are delayed over a long period of time can be considered only if there's a valid reason for the delay and on a case by case basis.

4.3 Will an applicant for relief need to give oral evidence before the Office for Reparations?

It's not an absolute necessity for an Applicant or any other person to give oral evidence.

4.4 Will information provided to the office for Reparations, be kept confidential?

Yes. In terms of the applicable laws there is a legal obligation to maintain confidentiality in respect of all information provided to the Office for Reparations by aggrieved persons.

4.5 If an application has been made by a person to the Office for Reparations or if a person has received reparations from the Office for Reparations, is that person prevented from making a complaint to the Police or other Authority regarding a criminal offence committed against that person?

No. Such a person can pursue all the other remedies available, even if an application has been made to the Office for Reparations or the person has been granted relief by the Office for Reparations.

The making of an application to the Office for Reparations for relief, is not a bar to pursuing any other remedy available for aggrieved persons.

4.6 If a person has already received compensation from REPPIA, can that person apply for reparations to the Office for Reparations?

Yes. An aggrieved person may apply for reparations to the Office for Reparations even if that person had already received compensation from REPPIA or even from the Office for Reparations. However, those who have already received monetary compensation will not be eligible to receive further sums of money. In granting suitable reparations, any previous relief received by the aggrieved person by way of monetary compensation from REPPIA or the Office for Reparations, or any other relief from any other source, will be taken into consideration.

4.7 If a person has already received relief from the Office for Reparations but is not satisfied, can that person make another application to the Office for Reparations?

If an applicant aggrieved person is not satisfied with the relief granted, the Office for Reparations should be contacted to discuss the concerns. The telephone numbers of the Office are set out below.

4.8 Will the Office for Reparations accept recommendations from the Office on Missing Persons (OMP)?

Yes. If the OMP makes a recommendation with regard to any person who is alleged to be missing, the Office for Reparations will consider those recommendations and reach out to the family of that person to take appropriate follow up action.

4.9 From where can an Applicant obtain more information regarding the status of an application already made?

The Applicant can call the Office for Reparations and make inquiries with regard to the status of the application.

The contact numbers of the Office for Reparations are the following-

With regard to claims for death or injury – 0112575831

With regard to claims for damage to property – 0112575818

4.10 How can details regarding other reparations programmes be obtained?

The website of the Office contains details of relief programmes.

In addition, you may call the following number to obtain details –0112575836 or 0112575826

Information will also be made available through the relevant District or Divisional Secretariats.

The Office for Reparations
No. 408, Galle Road, Colombo 03
Telephone : 0112-575803/ 0112-575813
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