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OFFICE ON MISSING PERSONS

MEDIA RELEASE

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Second Anniversary of the Establishment of the Office on Missing Persons

The establishment of the Office on Missing Persons (OMP) on 28th February 2018 with a broad mandate to investigate the fate of the missing and disappeared and protect the rights of their relatives, represented an explicit acknowledgement by the State of its responsibility to establish the truth and ensure justice. It was a milestone in the continuing struggle of the families of the missing and disappeared.

Successive commissions of inquiry and committees, appointed by governments comprised of multiple political parties, have concluded that disappearances have been perpetrated by both State and non-state actors during periods where the rule of law has been put to severe test including in the context of armed conflict, political unrest and civil disturbances. These commissions of inquiry have consistently recommended reforms to ensure non-recurrence, many of which are yet to be implemented. These reforms include strengthening the legal and institutional framework relating to detention; measures to establish the fate of those disappeared and the prosecution of perpetrators of disappearances.

Despite the acknowledgement that widespread disappearances have affected every region and community, Sri Lanka does not yet have a figure regarding the total number of persons that have disappeared. Past commissions of inquiry mandated to investigate specific periods and regions have reported different figures. The Paranagama Commission mandated to investigate alleged disappearances that occurred in the Northern and Eastern Provinces between 1983 and 2009, reported that it had received 21,000 complaints. Similarly, the Zonal Commission mandated to investigate alleged disappearances in the Western, Southern and Sabaragamuwa Provinces between 1988 and 1997, reported that it had received 8,739 cases.

Although disappearances are described as an issue of the past, their devastating consequences continue to be felt by the families. Although some families have had no option but to accept Certificates of Death for administrative purposes, they live in the agony of not knowing the fate

of their loved one. The failure of the State to provide answers has resulted in some families holding on to the hope that they will return home safely. Family members are unable to grieve and achieve closure and some have waited for over three decades uncertain whether they should perform an almsgiving in honour of their missing loved one. In many cases it is the breadwinner of the family – a husband or a son - who was disappeared, leaving behind young children and elderly parents. Wives and parents have had to cope with the dual challenge of providing income and care for the family while searching for their loved ones.

In operationalising its mandate, the OMP has been informed by the experiences of the families, members of civil society, state institutions, previous commissions of inquiry, recommendations of the Consultation Task Force on Reconciliation Mechanisms and the experiences of similarly mandated institutions in other countries. The OMP has met with thousands of family members that have expressed their anger and grief including those that protested and expressed no faith in State institutions and demand international intervention on this issue. The OMP has sought to engage all families and instil confidence in the willingness and ability of the State to secure their rights. In particular, the OMP has sought to assuage fears that the State will only award compensation without establishing the truth or ensuring justice.

Over the past two years the OMP has advanced investigations, including by observing and assisting magisterial inquiries into suspected mass graves. The OMP also advocated for the prosecution of cases involving disappearances and advocated for legal reforms to the process of identification of human remains and detention practices. In recognition of the economic hardships suffered by the families, the OMP recommended interim relief of Rs. 6000 per month to families, which was being implemented until 31st December 2019. Recognising the obligation of the State to acknowledge the widespread occurrence of disappearances in our country, the OMP commemorated the international day of the disappeared over the past two years. Further based on existing records, including that of the tri-forces regarding Missing in Action personnel, in February 2020 the OMP developed a provisional list of the missing and disappeared and invited families to ensure that details of their disappeared loved ones are included in the list.

The recent decision by the Government to withdraw from co-sponsoring the United Nations Human Rights Council Resolutions have raised questions in the minds of the families as to whether their expectations regarding finding answers to the disappearances of their loved ones could be realised. The OMP observes that the need for a mechanism with a comprehensive mandate arises from the rights of Sri Lankans under domestic law, Sri Lanka's obligations under international law, the recommendations of past commissions of inquiry, the demands of the families, and the legal and moral obligation of the State towards its citizens whose loved ones have gone missing.

We note that in order for the OMP to be effective, it requires the unstinted cooperation of the Government and state agencies. The members of the OMP remain committed to furthering the cause of the missing and disappeared and to working with the families of the missing and disappeared and advocating on their behalf.