

JOINT MEDIA RELEASE: AFP fails to investigate visiting Sri Lankan General for war crimes; groups now declare #TimetoSanction under Australia's new Magnitsky regime

Thursday 31 March 2022

Australian Tamils and human rights groups have called on the Australian Government to impose sanctions against Sri Lankan General (retired) Jagath Jayasuriya for his command role in atrocities in Sri Lanka and following failure by the Australian Federal Police (AFP) to investigate the former Army Commander after he was allowed to enter Australia.

The request to sanction Jayasuriya follows similar [requests to the UK](#) and other governments. Filed on 4 March 2022, the 100-page submission is the first public substantive request by human rights groups urging the Australian Government to make use of its new targeted human rights sanctions laws, also known as Magnitsky sanctions.

In May 2019, the accused war criminal entered Australia to visit family members and made appearances at public events in Melbourne. The International Truth & Justice Project (ITJP), the Australian Centre for International Justice (ACIJ) and the Human Rights Law Centre (HRLC) wrote to the AFP and referred Jayasuriya to the authorities for urgent criminal investigation under the principle of universal jurisdiction which is available in Australian law. The groups subsequently filed a draft indictment that contained excerpt testimony from 40 witnesses and survivors of atrocities and torture.

The groups accuse the AFP of undermining accountability through its failure to investigate and take seriously reports of grave international crimes where an accused was present in the jurisdiction and was likely to return. It has recently come to light that Jayasuriya was again present in Australia in late October and November 2019 and attended public events. The groups are calling for an inquiry into the missteps by the AFP and the Department of Home Affairs and the Australian High Commission in Colombo. These serious failures demonstrate that a specialist investigations unit is urgently needed in Australia so that investigators with expertise in international crimes can respond swiftly and act promptly in such circumstances.

Jayasuriya is responsible for a wide range of acts or omissions that amount to serious violations of international human rights law, international humanitarian law and amount to war crimes and crimes against humanity in the final phase of the civil war in Sri Lanka which ended in May 2009. Jayasuriya authorised and oversaw:

- torture and sexual violence;
- extensive and serious violations of international humanitarian law including murder and attacks on protected persons and objects and civilian deaths; and
- enforced disappearances and extrajudicial killings.

In August 2017, Jayasuriya [fled Brazil to Sri Lanka after ITJP filed criminal cases](#) with prosecutors [in Brazil, Chile and Colombia](#) whilst he was Ambassador to several Latin American countries.

The sanctions appeal also includes a request to designate sanctions against Jayasuriya's immediate family members, which is available under Australia's Magnitsky law. It is known that Jayasuriya's family members resided in Australia and enrolled in tertiary study here.

More than a decade after the end of the civil war in Sri Lanka, no perpetrator has been held accountable for the atrocities committed in the war. No accountability mechanism other than under the principle of universal jurisdiction, is available to the survivors and victims. Targeted sanctions can therefore help fill the accountability gap and undermine the impunity enjoyed by the Generals. It's #TimeToSanction the Sri Lankan Generals.

Selvi* survivor of the Vanni 'No Fire Zone' said:

"I was in the 'No Fire Zone' at the end of the war. I witnessed so much horror. Despite the war having ended over a decade ago, the wounds and unresolved trauma keeps intruding in my life. The idea that perpetrators can roam free, without feeling the remorse or seeking redemption pains me. We need to deny privileges to those who do wrong in the quest for justice."

Mr Aran Mylvaganam from the Tamil Refugee Council said:

"There are hundreds of war and torture survivors from Sri Lanka in our community, some of them Australian citizens, many of them sought refuge here after the crimes perpetrated by the Sri Lankan army under the command of Jagath Jayasuriya. It's outrageous he was allowed into Australia as a free man without any scrutiny for his crimes. Australia must listen to the survivors and either prosecute him or sanction him now."

Yasmin Sooka, Executive Director, International Truth & Justice Project said:

"Australia should not become a haven for alleged war criminals from Sri Lanka – especially as the large Tamil community flourishing there, expects their government to honour their human rights obligations to victims. Magnitsky sanctions are an important tool for the international community to assert the truth for victims in situations when the country itself is unwilling to act."

Rawan Arraf, Executive Director at the Australian Centre for International Justice said:

"Whilst we remain hopeful that Jagath Jayasuriya will one day face a court to answer to the crimes he committed, we now request the Australian Government to impose sanctions against him for his role in the atrocities in Sri Lanka. There are many victims and survivors of his crimes that call Australia home. The Government has an obligation to victims and should work in concert with the UK and others to impose sanctions on Jayasuriya and other Sri Lankan Generals responsible for international crimes."

“The AFP must answer for their abject failure in the handling of a serious criminal referral and our warning that an accused war criminal was roaming freely in Australia. There must be an inquiry into its mess. Home Affairs needs to answer for how Jayasuriya was able to pass the character test to enter Australia on multiple occasions.

“To think that he was present again, five months after we alerted the AFP, and at least one month after referring him for criminal investigations, is a blight on Australia’s responsibility to investigate and prosecute those accused of the most serious crimes against humanity.”

Dr Sam Pari, a Tamil Australian activist said:

“Many Tamil victims and survivors of Sri Lanka’s atrocities call Australia home, and the Australian Tamil community has been campaigning for years to bring perpetrators of these crimes to justice. In failing to investigate Jayasuriya for his role in such crimes, Australia sends a message that alleged perpetrators can enjoy impunity just as they do in Sri Lanka which has never enabled a genuine mechanism for accountability.

“Australia must establish a genuine and effective mechanism to comply with its international obligations. In failing its obligation to investigate, the Australian Government must impose sanctions on individuals such as Jayasuriya who have credible evidence implicating them in the atrocities committed in Sri Lanka.”

ENDS

*Name has been changed to protect the identity of the survivor.

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Notes to editors

ITJP Dossier on Jagath Jayasuriya

- *The Case Against Jagath Jayasuriya*, [29 August 2017](#)

AFP’s Failure to Investigate Jayasuriya

- In May 2019 Jagath Jayasuriya was present in Australia and made appearances at public events in Melbourne.
- In late June 2019 the groups wrote to the AFP and referred Jayasuriya for urgent criminal investigation alerting authorities to the presence of Jayasuriya in Australia and likelihood that he may return to visit again in the near future.
- On 1 October 2019, ITJP, ACIJ and HRLC lodged a formal criminal complaint and a request to investigate Jayasuriya to the AFP. The draft indictment

totalled 55 pages and was attached to over 4000 pages of publicly available material, including statements from Jayasuriya and credible reports from independent investigators.

- The draft indictment contained excerpt testimony from 40 witnesses and survivors of torture, many who were held in the notorious Joseph Camp. The survivors are represented by ITJP.
- The groups advised the AFP that access to victims will be provided on request and also advised that they ought to be aware of the presence of war survivors and victims and witnesses to atrocities that live and reside in Australia among the Australian Tamil and refugee and asylum seeker community.
- After refusing to meet with the groups following appeals for urgent investigation of the matter, on 17 October 2019 the AFP advised the groups that “this matter is being progressed through the [AFP] to the office of the Commonwealth Attorney General.”
- The groups wrote to the Attorney-General advising the Attorney of the matter and requested his intervention. It is unclear if the AFP ever wrote to the Attorney-General as advised.
- In February 2020, the Attorney-General confirmed the matter would only be put for their consideration following a request from the Commonwealth Director of Public Prosecutions.
- Subsequent appeals to the AFP went largely unanswered and the global pandemic meant a halt on travel and the likelihood of a future visit was low.
- The groups requested the AFP investigate the matter and that should there be a case to answer, Australian authorities may seek to apply for a warrant for the arrest of Jayasuriya, citing examples of arrest warrants sought for perpetrators of torture from the Syrian’s Air Force Intelligence by German Police and Prosecutors in June 2018.
- In August 2021, the groups wrote to the AFP to seek an update on the status of any investigation nearly 20 months following submission of the material. The AFP responded by stating that, “unfortunately, this matter was not allocated to an investigations team for review due to an administrative oversight which was not realised until receipt of your recent letter.” They also advised that the report was being assigned for review.
- In January 2022 the AFP advised they will not investigate Jayasuriya for a number of reasons including that Australia supports a domestic determined inquiry process in Sri Lanka.

Selected Footage of Jayasuriya in Australia

- PHOTO: Jagath Jayasuriya in Clayton, Melbourne 26 May 2019, [Facebook Photo Album](#)
- VIDEO: Jagath Jayasuriya in Clayton, Melbourne 26 May 2019, [Facebook Video](#)
- PHOTO: Jagath Jayasuriya in Melbourne 19 June 2019, [Facebook post](#)
- PHOTO: Jagath Jayasuriya and wife in Melbourne 30 October 2019, [Facebook Photo Album](#)
- VIDEO: Jagath Jayasuriya at Ajani Centre Melbourne, 2-4 November 2019, [Facebook Video](#)