



## **FAQs: Wickrematunge v. Rajapaksa**

### **Why was a complaint filed?**

Ahimsa Wickrematunge has been seeking accountability for her father's murder for over ten years. Despite the hard work of the investigating authorities in Sri Lanka, there have still been no charges filed against those responsible for Lasantha's death. For these reasons, Ahimsa and the Center for Justice and Accountability (CJA) decided to bring this civil suit in the United States. Even though the suit will not result in any jail time, it is an opportunity for Ahimsa to have her father's case heard in a court of law, and to have an impartial judge rule on Gotabaya Rajapaksa's liability for his murder.

### **Where was the complaint filed?**

The complaint was filed in Los Angeles, California before the U.S. District Court for the Central District of California.

### **Was defendant served with the papers?**

Yes, the defendant was personally served on April 7, 2019 in Montrose, California (within Los Angeles County). Service was performed by a private investigator from Ideal Investigations, with support from the Mintz Group.

### **What are the issues raised in the complaint?**

The complaint alleges that Gotabaya Rajapaksa was involved in the extrajudicial killing of journalist Lasantha Wickrematunge as well as the widespread and systematic targeting of other journalists perceived to be critical of the Rajapaksa government.

### **What laws are referenced/What is the legal framework for such a complaint?**

The case brings civil claims under two federal statutes: the Torture Victim Protection Act (TVPA) and the Alien Tort Statute (ATS).

The TVPA, passed in 1991, allows U.S. federal courts to hear claims against individuals who, acting under the actual or apparent authority of a foreign nation, committed torture or extrajudicial killing. Under the TVPA, both U.S. citizens and non-citizens may file suit. The perpetrator must be served with the lawsuit while they are present in the U.S. in order for a court to have jurisdiction over the individual.

The ATS, passed in 1789, allows foreign victims of international human rights abuses to sue the perpetrators in U.S. federal courts for violations of customary international law. U.S. courts have applied this law to hear claims involving crimes against humanity, torture, extrajudicial killing, war crimes, and other serious human rights violations.

Neither of these laws require U.S. nationality to pursue a claim. However, the Defendant must be within the jurisdiction of the U.S. for a case to be initiated.

### **What is the defendant's obligation now?**

The defendant has three weeks from the time of service to respond to our complaint, by either affirming or denying the facts we allege or by filing a motion to dismiss. If he does not respond, the case can still proceed without him, and the court will assess the strength of our claims against him.

### **What is the legal process in such a case?**

Gotabaya Rajapaksa has now been served and is therefore put on notice about the case. He must respond to the complaint and may obtain a lawyer to represent him in court. Should the case continue, both parties will have an opportunity to depose witnesses and obtain evidence from one another. The case may eventually go to trial, and the plaintiff will be required to prove the case before a judge or jury through the testimony of our client, witnesses, and experts in court.

### **Will there be criminal sanctions?**

If the judge or jury determines that Gotabaya Rajapaksa was indeed responsible for the crimes in the complaint, the case will result in monetary damages. Unlike a criminal case, it will not result in any jail time. However, we hope that our case, if successful, will support the criminal investigation in Sri Lanka and eventually lead to criminal accountability.

### **Will this case prevent justice being pursued in the Sri Lankan courts?**

We fully support the need for fair and independent prosecutions of attacks against journalists in Sri Lanka. Unfortunately, such cases have not yet materialized. If and when such prosecutions become viable in Sri Lanka, our case will not prevent these cases from moving forward. Instead, our hope is that our case will serve to support the ongoing investigations and future prosecutions of the attacks on Lasantha, Keith Noyahr, and other persecuted journalists.

### **Are there any similar cases filed in the United States that have provided justice for victims?**

CJA has successfully brought a number of cases in U.S. courts seeking justice for human rights abuses that occurred in Bosnia, Chile, China, El Salvador, and Somalia, to name a few examples. The following are two examples of recent victories:

- In 2012, a U.S. court awarded Somali torture survivors \$21 million against General Mohammed Ali Samantar, Somalia's former prime minister and minister of defense. Samantar had presided over countless killings and torture of civilians in the 1980s. The case was the first to ever hold a Somali official accountable for human rights crimes committed under the Siad Barré regime. It also established the precedent that foreign

officials cannot claim immunity for acts of torture, extrajudicial killing, or other universally recognized human rights violations.

- In 2016, a jury found Lieutenant Pedro Barrientos Nuñez responsible for the murder of Chilean singer Victor Jara and awarded Jara's family \$28 million. In 1973, Jara, famous for his outspoken messages on social equality, was tortured and murdered along with hundreds of others by the military under the Pinochet regime. Former soldiers finally broke their silence in 2009, and a number of officials were indicted in Chile. However, because Barrientos had moved to the U.S., the Chilean courts could not reach him. The decision in CJA's case, along with the prosecutions in Chile, have finally provided judicial acknowledgement of the government's role in his murder.

### **Who is CJA?**

The Center for Justice and Accountability (CJA) is a San Francisco-based human rights legal organization dedicated to deterring torture, war crimes, crimes against humanity, and other severe human rights abuses around the world through innovative litigation, policy and transitional justice strategies that strengthen the global net of accountability. CJA partners with victims and survivors in pursuit of truth, justice, and redress, and has successfully brought cases against a former Minister of Defense of Somalia's Siad Barre regime, the military officer responsible for the assassination of Chilean activist and singer Victor Jara, and Syria's Assad regime for its targeted killing of war correspondent Marie Colvin. Visit [www.cja.org](http://www.cja.org).