

SRI LANKA:
TORTURE &
SEXUAL VIOLENCE
BY SECURITY
FORCES 2020-21

SEPT 2021

RECONCILIATION

JUSTICE

TRUTH

REHABILITATION

SRI LANKA

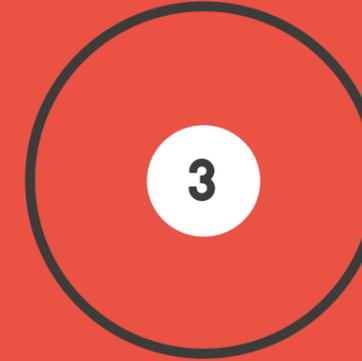
PEACE

INTERNATIONAL
TRUTH
AND JUSTICE
PROJECT

TOTAL 15



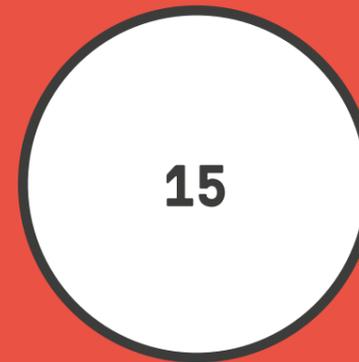
AGED UNDER 26



LTTE



**PREVIOUSLY
DETAINED**



TORTURED



SEXUALLY VIOLATED¹



SUICIDE ATTEMPT



POLICE²



ARMY



**EPDP INVOLVED
IN RELEASE**

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¹ Includes two people sexually violated post-War but not after 2019.

² One person not sure which unit.

SUMMARY

Young Sri Lankan Tamil torture victims are enduring extraordinary journeys to reach safety in the UK, walking for weeks across mountains, hiding in the boots of vehicles and braving sea crossings in rubber dinghies. All of this after being brutally beaten in detention, burned with hot metal rods, asphyxiated with petrol-soaked polythene bags, half drowned and then gang raped by the security forces. Sri Lankan Army officers in uniform perpetrated the torture and sexual violence, along with the notorious Counter Terrorism Police Unit. In two cases, victims knew in exactly which police station they were tortured and raped last year; one could draw a map of the buildings at the back of the station where he was abused.

Interrogations focused on asking victims why they had campaigned against President Gotabaya Rajapaksa in elections, or on why they were working against the Government by participating in peaceful protests or commemoration events for

friends and relatives who had died in the civil war.

Six of the victims attempted suicide in the UK and three more talk about killing themselves, which speaks to the extreme level of mental trauma they are left with, alongside the visible torture scars. Even by past standards, the trauma of the victims is intense; it is not helped by the difficulty of accessing psychosocial and medical care during a pandemic.

Typically, human rights documentation focuses on individual cases, but this obscures the collective and cumulative nature of the persecution of Tamil families over decades. All but two of the victims interviewed for this report had suffered the killing or detention of a close relative or friend, and almost all had themselves been displaced by conflict. Tamil parents are being pushed to the brink of bankruptcy, selling every asset and borrowing money from extended family to buy their broken children out of detention one by one and send them off on uncertain journeys

to foreign countries where they subsequently have very little contact for fear of phone calls being tapped.

What has changed over the years since the War-end is the profile of victims, few of whom are ex-LTTE cadres or high-profile human rights activists. Instead they are shopkeepers, electricians, farmers, labourers, construction workers, auto drivers and students whose plight is ignored by the elites, in a country where status is still defined by ethnicity, religion, caste and class. Even within ethnic groups, caste and class issues dominate.

The victims being detained now are generally young and of little intelligence value to the security forces, who appear to be mounting a campaign of repression against legitimate Tamil expression of fundamental rights including protests or calls for accountability. One of the few ex-LTTE cadres detained describes being blindfolded when forced to sign a confession, with his torturers guiding his hand to sign on the page, calling

“ABDUCTIONS AND DETENTIONS ARE STILL GOING ON IN SRI LANKA. I DO NOT WANT THIS TO HAPPEN TO OTHERS. THIS IS WHY I AM SHARING MY OWN EXPERIENCE.”

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into question its utility. In all cases the so-called ‘confession’ was written in Sinhala, a language none of the Tamil detainees could read – not that they were given a chance to peruse these documents. They signed only in the hope it would stop their torture and end their suffering.

In interrogations, victims are confronted with the constant refrain that the Liberation Tigers of Tamil Eelam (LTTE) are regrouping. This narrative feeds into Sri Lanka’s counter terrorism strategy internally and abroad and is used politically in order to justify militarisation, militate for resources for the intelligence agencies, and the need for securitisation as well as

political fear-mongering against minorities. The international community and donors to Sri Lanka are sympathetic to funding counter-terrorism strategies.

Twelve years after the War, a new generation of Tamils is being victimised just for exercising their constitutional rights as equal citizens from a state that ought to be equally answerable to them. They want to know what happened to loved ones, many of whom were last seen in the custody of the security forces. This is not a subversive question. Families have an inalienable right to know the truth about the fate and whereabouts of their loved ones. Indeed, it would be bizarre to expect Tamils not to look for their disappeared parents, siblings

and children. The Sri Lankan State is obliged to provide this truth and to hold those responsible accountable.

The protests in the north-east of the island have focused on garnering international attention because for decades the state has been unresponsive to demands for the truth. The state and its ideologues have smeared the demand for legitimate political rights as support for ‘terrorism’, a separate state (Eelam) and ‘restarting the LTTE’. If Sinhalese and international human rights activists are erroneously dubbed ‘Tigers’, or ‘Tiger supporters’, the distortion is even more magnified when applied to young Tamils from the former conflict areas who are trying

to exercise their fundamental rights as citizens. The terrorist/separatist label retains significant, if diluted, currency in the international community, but is a dehumanising and delegitimising shorthand which makes it possible for members of the majority community to overlook the worst injustices meted out to their fellow citizens. In its unrelenting persecution of Tamils, the Sri Lankan State has itself become responsible for state-sponsored terrorism. The repression has been so relentless that arguably any opportunity for genuine post-War reconciliation has now been squandered. The culture of violence embedded in the structural impunity that exists in Sri Lanka continues to obstruct any prospect of transformative or transitional justice.

ACKNOWLEDGEMENTS

First and foremost the authors of this report would like to thank the victims for the most precious gift - their trust. We do not take that lightly and hope one day to secure justice for them.

We also pay homage to the dedication and tireless work of the doctors and solicitors who often refer victims to us.

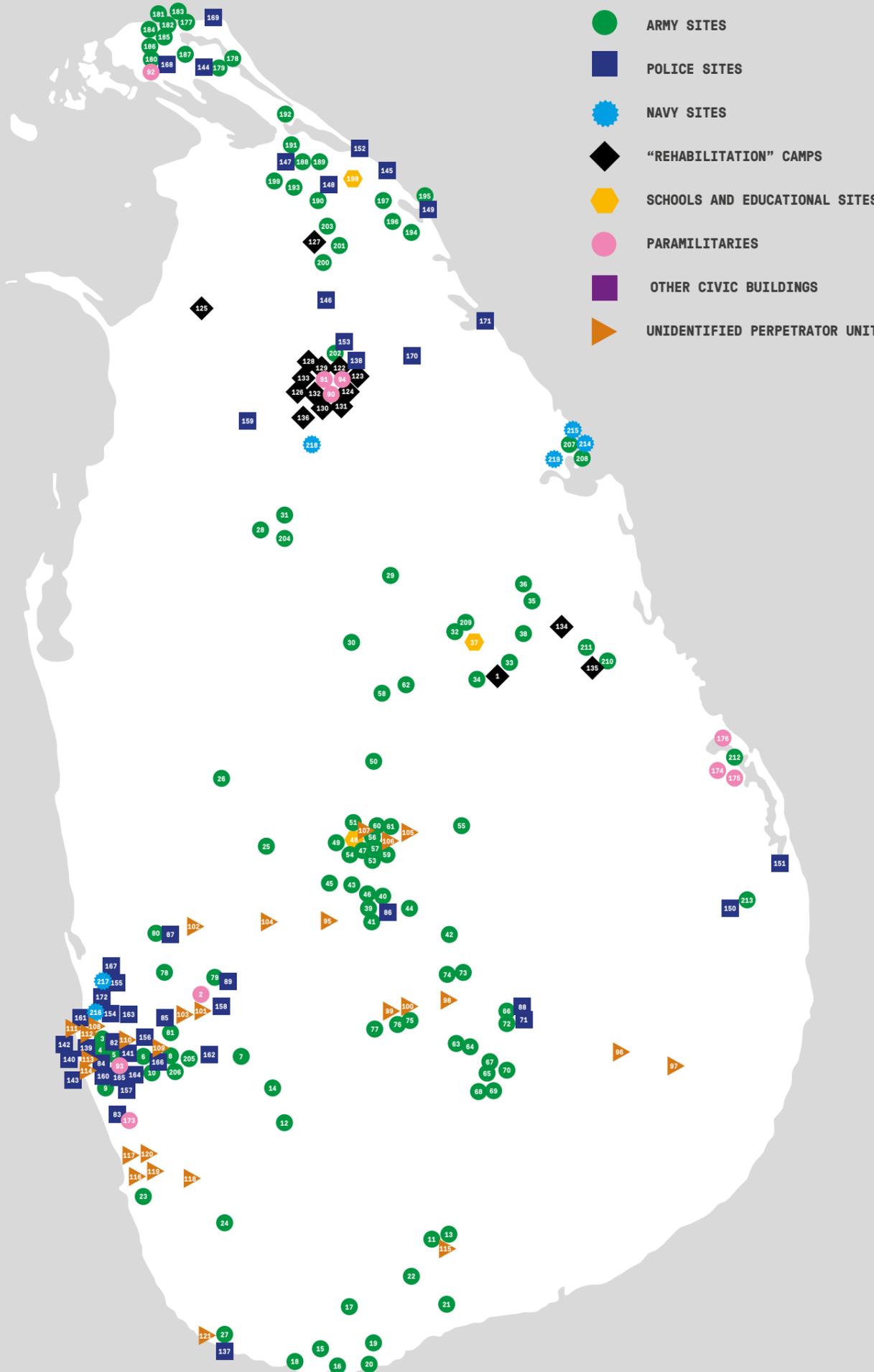
The ITJP investigation team - lawyers and interpreters - deserve huge respect for undertaking one of the most difficult jobs, patiently recording harrowing testimony over many days. Many are experienced in this work, but at times faltered because of the toxic and distressing nature of the violations and their impact on victims.

Thanks also go to the medico legal report writer Dr Alison Callaway, who reviewed the report in draft format, and Dr Mike Korzinski, who examined the sections on trauma.

We are also very grateful to lawyers and academics from Sri Lanka who reviewed the text but who must remain confidential for their own safety. As usual we are indebted to our Sri Lankan partners from Journalists for Democracy who have helped us corroborate details and understand the context.

HISTORICAL TORTURE MAP

- ARMY SITES
- POLICE SITES
- ⊙ NAVY SITES
- ◆ "REHABILITATION" CAMPS
- ⬠ SCHOOLS AND EDUCATIONAL SITES
- PARAMILITARIES
- OTHER CIVIC BUILDINGS
- ▶ UNIDENTIFIED PERPETRATOR UNIT



1971

Almost all police stations in the south were used for torture in this period; they are too numerous to depict on the map. Torture also occurred at two university premises used for "rehabilitation". Detainees were frequently taken from police cells to CID offices in Longdon Place and Wijerama in Colombo 7 where torture was routine during interrogation.

1987-9

A large number of police stations mainly were used for torture during this period; they are too numerous to depict on the map. Below are some of the army torture sites.

- ◆ "REHABILITATION" CAMP
 1. Royal college open camp Polonnaruwa
- SINHALA PARAMILITARIES
 2. Batalanda housing scheme, Biyagama, Sapugaskanda Police and paramilitary (PRRA).
- ARMY SITES
 - Colombo District
 3. Law faculty, Colombo University - Army Intelligence and PRRA paramilitary
 4. Henry Pedris Stadium (Joint Operations Combined), Havelock Town, Colombo 5
 5. Yataro Cafeteria, Thimbirigasyaya, Colombo 5
 6. Isurupaya Building housing government offices, Battaramulla, Colombo District
 7. Salawa Plywood Corporation premises Army Camp, Kosgama, Colombo District
 8. Oruwala Steel Corporation Training Centre, Army Camp, Colombo District
 9. Tyrone Fernando Stadium, Moratuwa
 10. Mattegoda Army camp, Colombo District
 - Ratnapura District
 11. Sevana Army Camp, Embilipitiya
 12. Municipal Council Building, Ratnapura
 13. Kuttigala Army Camp, Embilipitiya
 14. Kuruwita Army Camp, Kuruwita
 - Matara District
 15. Johnnydale Army Camp, Theljjawila
 16. Eliyakanda Army Camp
 17. Mulatiyana Army camp
 18. Weligama Army Camp
 19. Hettiyawala Army Camp
 20. Talalla Vocational Training Centre
 - Hambantota District
 21. Community Centre, Angunakolapelessa
 22. Middeniya Army Camp
 - Kalutara District
 23. Beruwala Agricultural Centre
 24. Army Detention Camp, Pelawatta, Kalutara District; This was an open prison camp opened in 1985 and taken over to detain PTA suspects in 1987 and was used for torture from 1989.
 - Kurunegala
 25. Hettipola Army Camp
 26. Wehera Army Camp
 - Galle District
 27. Kotigala Army Camp
 - Anuradhapura District
 28. Pandulagama Army Camp
 29. Yakalla Army Camp
 30. Kekirawa Army Camp
 31. Saliyapura Army Camp
 - Polonnaruwa District
 32. Minneriya Weaving Mill
 33. Sewagama Army Camp
 34. Polonnaruwa Mahasen Building
 35. Medirigiriya, Palliyagodella Army Camp
 36. Medirigiriya, Meegaswewa, Army Camp
 37. Medirigiriya Maha Vidyalaya
 38. Giritala Army Camp

Kandy

39. St. Sylvester's College
40. National Institute of Co-operative Development, Polgolla
41. Hilda Hostel, Peradeniya University premises
42. Army Training Centre, Randenigala
43. Uduwa Army Camp, Galagedara
44. Across the Mahaweli river opposite Army Camp, Pallekele
45. Aladeniya Army Camp
46. Sinha Regiment camp, Yatinuwara Street

Matale District

47. Matale Rest House (Gajaba Regiment Coordinating office)
48. Vjaya College, Matale
49. Mattawa army camp, Warakawala
50. Naula Army Camp
51. Army Camp, Ovilikanda
52. Kataranthena Bungalow Army Camp, Raththota
53. Army Camp, Ukuwela
54. Army Camp, Udupihilla
55. Army Camp, Hettipola
56. Technical Training College in Nagolla Road, Matale
57. Army Camp near Christ Church College Army Camp, Matale

58. Government Farm, Pelwehera
59. Bandarapola Camp, Bandarapola
60. Kaikawala Army Camp
61. Raththota Army Camp
62. Kimbissa Army Camp

Badulla District

63. YMCA building, Welimada
64. Ambagasdoowa Camp, Welimada
65. Urban Council building, Bandarawela
66. Race Course Grounds, Badulla (Army and RDF)
67. Army camp, Bandarawela
68. Beragala Army camp, Haputhale
69. Beragala Summer Fashion garment factory, Haputhale
70. Pinarawa Army camp
71. Hali Ela Motors building, Badulla
72. Senanayaka grounds STF camp

Nuwaraeliya District

73. Paddy Marketing Board Store, Walapane
74. Walapane Tea factory (now provincial council), Walapane
75. Cinestar Cinema theatre, Nuwaraeliya
76. Town Hall, Nuwaraeliya
77. Tea Factory, Lindula, Talawakelle

Gampaha District

78. Yakkala Maha Vidyalaya, Yakkala
79. Commando camp, Ganemulla
80. Hunumulla Sinha Regiment Camp, Divulapitiya
81. Dompe Army safehouse

POLICE SITES

82. Crime Detective Bureau, Gregory's Road, Colombo 7
83. Crime Detective Bureau, Panadura.

Kalutara District

OTHER POLICE

84. STF Headquarters (Presently ODEL showroom), Colombo District
85. Police office building, Peliyagoda, Colombo District
86. Ampitiya Police Barracks, Kandy District
87. Divulapitiya Police Station, Gampaha District
88. Badulla Haliela Motors garage, Badulla District (also used by army)

COUNTER SUBVERSIVE UNIT

89. Police Bachelors Quarters, Gampaha District

TAMIL PARAMILITARIES

90. PLOTE camp near Sivan Kovil, Kovilkulam, VAVUNIYA
91. Rambaikulam PLOTE camp, VAVUNIYA
92. EPDP camp in Sridhar cinema theatre, Stanley Road, Jaffna
93. EPDP office in Park Road, Colombo 5.
94. Malar bakery, Vavuniya

UNIDENTIFIED PERPETRATOR UNITS

Kandy District

95. Adjoining Kadugannawa police station

Moneragala District

96. Moneragala Community Center
97. Muthukandiya Project Office near 4th mile post, Muthukandiya

Nuwaraeliya District

98. Walapane Paddy Marketing Board Store
99. Nuwaraeliya, St Rita's Camp
100. Nuwaraeliya Town Hall

Gampaha District

101. University of Kelaniya Gym
102. Mirigama Youth Centre
103. Kelaniya, Pattiya Junction, Billiards Hall

Kegalle District

104. Wickremesinghe Bungalow

Matale District

105. Sunatha Camp
106. Koombiyangoda Buddhist Temple
107. Technical Training College in Nagolla Road, Matale

Colombo District

108. Race Course (Opposite Royal College), Colombo 7
109. Sethsiripaya Building, Battaramulla
110. Lakehouse (newspapers) Basement, Colombo Fort
111. Torrington Avenue, Colombo 7
112. Colombo Municipal Council Slaughterhouse, Dematagoda Colombo 8
113. Borella Public Cemetery, Colombo 8

114. Royal Colombo Golf Club, Model Farm road, Narahenpita, Colombo 8

Ratnapura District

115. Mahaweli Authority staff quarters opposite Embilipitiya National School, Embilipitiya

Kalutara District

116. Soranathota Estate, Soranathota
117. Gikiyanakanda Estate, Kalutara
118. Rest House, Mahagama
119. Agriculture centre, Bombuwala
120. Hotel Meriviya, Kalutara

Galle District

121. Hilltop Hotel, Kaluwella

2006 – 2019

“REHABILITATION” CAMPS

NORTH

122. Dharamapuram Welfare Centre
123. Gamini Maha Vidyalayam
124. Kovilkulam Maha Vidyalayam
125. Maradamadu
126. Nellukkulam Technical College
127. Omanthai School – TID detention site then Rehabilitation Camp
128. Pampaimadu (Army camp & rehabilitation camp)
129. Poonthottam Cooperative Training School/College of Education
130. Pothanichchur Muslim Maha Vidyalayam
131. Rambaikulam Holy Family Convent
132. Tamil Maha Vidyalayam
133. Vellikulam Muslim Girls College

EAST

134. Kandakadu in Pollonnaruwa
135. Welikanda/Senapura Camp

IDP camp

136. Manik Farm Internment Camps, near VAVUNIYA.

POLICE

TID

137. Boosa Camp, Galle
138. TID camp in VAVUNIYA, known as Thekkawatta.

CID

139. 4th floor, Colombo Fort, Colombo 1
140. CID in Harbour, Colombo Fort
141. Borella CID building, Colombo 8
142. CID Intelligence Unit at Kotahena police station, Colombo 13
143. Nugegoda CID office, Colombo District
144. CID in Chavakachcheri, Jaffna District
145. CID in Vallipunam, Vanni District
146. CID in VAVUNIYA, Vanni District
147. CID office in Kilinochchi, Vanni
148. CID office opposite Iranamadu army camp,
149. CID in Mullaitivu army camp, Vanni District
150. CID office in Ampara

151. CID in Kalmunai Town, Ampara District
152. CID in Mulliyawalai – abducted from here to another unknown place, Vanni District

SIS secret detention sites

153. Jungle place near VAVUNIYA
154. Sri Mahavihara, Temple Street in Colombo
155. Wattala somewhere close to the railroad, Gampaha District

CCD

156. Kollonnawa, Colombo District
157. Dematagoda, Colombo District

STF

158. Gonahena, Gampaha District
159. Chettikulam STF camp, Vavuniya

Police Stations

160. Bambalapitiya police station, Colombo District
161. Colombo Harbour police station, Colombo District
162. Hettiyawatte Police station Colombo District
163. Kotahena police station Colombo District
164. Mt. Lavinia police station, Colombo District
165. Wellawatte police station, Colombo District
166. Pettah police station, Colombo District
167. Seeduwa police station, Gampaha District
168. Jaffna Police station Jaffna District
169. Nelliady police station Jaffna District
170. Padawiya police station, Anuradhapura District
171. Pulmoddai police station Trincomalee District
172. Kandana Police station, Gampaha District

1980s:

Presidential Commissions of Inquiry into the Involuntary Removal or Disappearance of Persons (1995-2000), Amnesty International, JDS reports & testimony, Dharmar Wickremaratne book.

2009+:

ITJP testimony. Rehabilitation Sites listed in ICJ report (2010) and Bureau of Commissioner General of Rehabilitation.

TAMIL PARAMILITARIES

173. Cells behind a Hotel (name redacted) in Panadura, Kalutara District
174. STF & Tamil paramilitary site in Kaluwanchikudy, Batticaloa District
175. Iniyabharathi's basement under his office in Thambiluvil, Batticaloa
176. Kiran detention site, Batticaloa District

ARMY CAMPS

Jaffna Peninsula

177. Achchuveli Army Camp, Jaffna
178. Allarai Camp in Kodikamam, Jaffna
179. Chavakachcheri Army Camp, Jaffna
180. Jaffna Town Army Camp
181. Keerimalai Army Camp close to Kankasanturai, Jaffna
182. Thelipalay Army Camp, Jaffna
183. Palaly Army camp, Jaffna
184. Uduvil Army Camp
185. Urelu Army Camp Jaffna
186. Urumpirai Army Camp Jaffna
187. Kaithady Junction Army Camp, Jaffna

Vanni

188. Kilinochchi Army Camp
189. Kangapuram Army Camp, Kilinochchi
190. Iranapalai Army Camp, Kilinochchi
191. Camp near Paranthan Junction, Kilinochchi
192. Iyakkachchi Army Camp, Elephant Pass, Kilinochchi
193. Iranamadu Army Camp, Kilinochchi
194. Keppapulavu Army Camp, Mullaitivu
195. Mullaitivu Army Camp
196. Sampath Nuwara IDP / Army Camp, Mullaitivu

War end at Surrender:

197. Udayaarkaddu Mahavidyalayam Camp, Vanni
198. Vallipunam School, Vanni
199. Kilinochchi Hospital

Vavuniya District

200. Veppankulam Army Camp
201. Army Camp near Omanthai School
202. Joseph Camp, VAVUNIYA Town
203. Kanagarayankulam Army Camp, VAVUNIYA

Anuradhapura District

204. Thanthirimale Army Camp, Anuradhapura

Colombo District

205. Panagoda Army Camp, Colombo District
206. Colombo Army Camp

Trincomalee District

207. Plantain Point, Trincomalee
208. Orr's Hill Army Camp, Trincomalee Polonnaruwa District
209. Minneriya Army Camp, Polonnaruwa District
210. Welikanda main Army Camp, Polonnaruwa
211. Facility in jungle circa 30 minutes' drive from Welikanda (Executions)

Batticaloa District

212. Batticaloa military facility ("toothpowder camp"), Lake Road.

Ampara District

213. Ampara – a military facility it does not appear to have been either the main military base/training school, but a smaller facility

Navy

214. Trincomalee Naval Dockyard
215. Trincomalee Naval Gunsite
216. Navy Site, Chaitya Road, Colombo.
217. SLNS Gemunu, Welisara, Gampaha
218. Poonewa Camp (between Medawachchiya and VAVUNIYA)
219. Navy camp in Trincomalee behind the Koneshwar temple, Fort Frederick

Multiple unidentified sites - a navy camp in Jaffna Peninsula, a CID office Colombo, an army camp, VAVUNIYA, unidentified CID and TID sites in VAVUNIYA and Colombo, unknown army sites in Jaffna, another detention site in Trincomalee.

CONTEXT

Torture in Sri Lanka needs to be viewed as a part of a continuum, dating back decades. Detailed Sri Lankan Government investigations into the mass atrocities in 1987-90 (known as the second JVP uprising period) show that the modus operandi of the police and army has barely changed. In those days victims were mainly young Sinhalese who were abducted in Pajero jeeps or white HiAce vans by plainclothes security officials at night, blindfolded and handcuffed, and taken away. The vast majority of victims were killed or disappeared in custody. There was even a term coined by the Commissions of Inquiry for the few survivors - 'returned detainees'³.

It is hundreds of these 'returned detainees' that the ITJP has interviewed in exile over the years, building up a unique insight into the practices of the security forces over the last decade. The vast majority of victims have been Tamil. The most striking difference from the 1980s is that today the Sri Lankan security forces have learned to monetise their captives, raising substantial

amounts of cash for their release. Families sell their tractors, engine boats, land and gold, and borrow from the extended family, the diaspora and money lenders to pay the ransoms for their loved ones.

The question constantly asked is why abduction and torture has continued for so long after the Civil War ended in 2009. Perhaps the fault lies in the framing of the question and its timeline. It assumes decades of systematic torture going back to the 1970s would automatically stop with the Civil War's end or with a reshuffle of politicians at the top. Some patterns, however, are identifiable:

CORRUPTION

Corruption, in the form of payment for release, definitely plays an important role in oiling the torture machine⁴. Sums equivalent to tens of thousands of US Dollars are paid up for the release from detention and then smuggling abroad which involves corrupt security and immigration officials at the airport.

PERSECUTION

Oftentimes the interrogation process appears to be primarily focused on

persecution, revenge and humiliation, rather than a genuine attempt at information gathering. This is the same pattern seen in past cases, where victims describe there being no interpreter present during torture or no opportunity given to answer questions.

"At night time they were drunk and boisterous; they would make fun of my suffering and laugh at me. There were times that they took me out only to hurt me, just for their entertainment. They did not question me on those occasions."

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There also appears to be a desire on the part of the perpetrators to humiliate their victims, revenging the past, and in doing so crushing Tamil aspirations, with the objective of teaching them a lesson. As one of the police rapists said to his young male victim, "this is the correct way to deal with you". The enduring use of derogatory ethnic slurs comparing Tamils to animals reveals the racist ideology inherent in the mindset of the security forces. Continued and selective violations have a chilling effect on activism, and act as a reminder of state power and the impotency

of remedial options and accountability mechanisms.

INTELLIGENCE GATHERING

Intelligence gathering by the state services is part of the smokescreen that is used to justify the continued repression of minorities. There are, however, discernible trends in the focus of the questions asked by police and intelligence over the years. In the initial years after the War ended in 2009, the intelligence agencies appeared assiduous in mapping the secretive LTTE structures, and this was no easy task. They forcibly recruited hundreds of ex-LTTE cadres as informers to break the cell structure of the LTTE and compelled them through the use of torture and threats to betray their erstwhile comrades with mixed success. A few years later, the Sri Lankan intelligence focus appeared to be on mopping up the low level undercover LTTE intelligence operatives and people who had helped the organisation - picking up students who returned home to see family, thinking it was safe. Then, during the latter part of the Sirisena Government, the focus shifted to include those involved in protests over disappearance, in an attempt to crush calls for international assistance to achieve criminal accountability. Since Gotabaya Rajapaksa came to power, a new trend seems to have evolved

of mapping the extended family network of Tamils, presumably because these are the internationalised support structures that sustain people in the north and east and the channels through which information flows abroad. During the last year we have seen family members of ex-LTTE cadres abroad, including in-laws in Sri Lanka, being questioned on the same days in different parts of the country about their relationships to people abroad. Post-War there has also been a concerted surveillance effort inside Sri Lanka, and also at diaspora events around the world.

Since 2019 there are also signs of a more sophisticated intelligence operation abroad, including infiltration attempts, spoofing and impersonation and entrapment attempts.

Even in Sri Lanka's 'black system' of detention, there is a careful process of documenting, fingerprinting, photographing and forcing sworn confessions. Sometimes information from previous interrogations is referenced; in one recent case, the interrogators knew a lot about the victim's movements and that his father had been detained more than 20 years earlier⁵.

The intended outcome of the intelligence gathering process is not clear - what happens to all this information, why is it collected and does it feed

into a central database to be operationalised? It is hard to fathom what the ultimate purpose is of the intelligence that is collected from Tamils. A great deal of information that has been gathered under torture, is unreliable. The victims themselves indicate they confessed to anything to stop the pain or, if they knew something valuable, they didn't reveal it. Several Tamil detainees in the past have described interrogators being only interested in tracking down LTTE assets and buried weapons, or in 'solving' high profile cases in the hope of securing promotion or money. If the aim of intelligence is really to stop a revival of the LTTE, a better approach might be not to torture so many Tamils.

Gathering information is also pointless if there is no structure to analyse and operationalise the intelligence. The Sri Lankan intelligence services failed spectacularly to act on several warnings from abroad when it came to the 2019 Easter Sunday bombings. The failure has been repurposed to argue for more international assistance and more impunity domestically. This raises the question of widespread corruption; and a lack of political will to curb it is now so extreme that it jeopardises national security. Despite increased international cooperation

³ "In some cases, returned detainees gave evidence testifying that some were tortured and killed inside the camps or taken out of their rooms but never brought back." Final Report of the Commission of Inquiry into

Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces. Volume I, September 1997, Government of Sri Lanka. ⁴ "Mercy for money: Torture's link to profit in Sri Lanka, a retrospective review", Wendell Block, M.D.,* Jessica Lee M.D.,* Kera Vjayasingham B.A.* <https://irct.org/assets/>

[uploads/1018_8185_2017-1_28-41.pdf](https://irct.org/assets/uploads/1018_8185_2017-1_28-41.pdf) ⁵ "When I reflect on this now, I think they knew about a lot of my movements, but were fishing for information that would then tie me to the LTTE. They also talked about my father and said they should never have released him, but rather should have killed him." W363

and assistance after the tragic 2019 bombings, the 'released detainees' in this report have still managed to smuggle their way out of the country on false passports through the country's main international airport. This continues into 2021 and speaks to the ineffectiveness of piecemeal approaches such as capacity building and training in a system that is rotten to the core.

IMPUNITY

Torture – and sexual violence – have become engrained in the Sri Lankan security system in part because they are reinforced by decades of impunity for perpetrators who now sit in senior positions in the police, army and intelligence services. Periodic investigations have identified those responsible, but they have become masters in evading accountability. Decades of international human rights trainings have failed, and will continue to fail, so long as there are no consequences in Sri Lanka for perpetrators who appear to revel in getting away with their crimes. As one said to his victim, "whatever we do to you, no one is going to ask about it." Perpetrators have perfected a system where they can operate in bloodstained torture chambers in police stations or army camps, leave visible marks on their victims' bodies, keep records of illegal detentions and confessions and never

get caught. Structural impunity flourishes in Sri Lanka, and is the outcome of a permissive environment in which violations are condoned and where perpetrators are shielded at the highest level of the state.

VIOLENCE

Sri Lanka is a small island, violently invaded and colonised three times, that experienced three mass atrocities in 50 years. The very fabric of Sri Lankan society is suffused with violence. The hundreds of thousands of mainly Sinhalese affected by the extraordinary – even by Sri Lankan standards – violence of the two "JVP uprisings" in 1971 and 1987-90 never saw any acknowledgement of what they suffered – or more generally of the terror that society normalised in those periods. Mothers took their children to school walking past corpses, bodies washed ashore on the beaches, heads on stakes adorned roads; school children were not exempt from being rounded up and killed. Of course, by those standards, and the unprecedented level of bloodshed in 2009 in the Vanni, the situation might seem improved today, at least for the majority community. Despite an extensive documentation process that identified hundreds of alleged perpetrators from the violence of the late eighties, nobody was held accountable because by then the same security forces

were involved in a new war. The trauma of those first periods of terror was buried deep in the Sinhala psyche, encouraged to mutate into violence directed at Tamils. The same families who lost a son to the army in the late eighties thought nothing of sending another child to fight in the north against the LTTE with the army. It is no coincidence that the President, the Army Commander and the Secretary of Defence – to name but a few – were involved in the military's crushing of the JVP in 1989 and also in the civil war.

THE IMPACT OF VIOLENCE ON A SOCIETY

Dr. Mike Korzinski, Independent psychologist, psycho-social and trauma expert.

Psychologists and other experts involved in peace building have observed that, if not adequately treated, violence and the trauma it engenders spread through a society like a contagious disease. Treatment and mitigation measures require an understanding of the mechanism of transmission and of human behaviors that exacerbate its spread. The kind of violence to which Sri Lanka has been subjected metastasizes in the individuals exposed to it and in society as a whole. It is widely acknowledged that violence has a transgenerational character and is self-perpetuating but the reasons for this characteristic in a society have had much less attention. These are some thoughts about a country's challenges in conquering the transmission of violence.

It is problematic to hope that a society can be involved in this extremity of violence and for its legacy not to find expression

in myriad forms and levels within the society. Its treatment requires an understanding of how individual and collective narratives develop and of how perspectives of violence and loss evolve and diverge over time. The politics of accountability and the acknowledgement of suffering influence the processes of recovery and healing. Sociologists have explored the view that organized violence, war, torture and other forms of conflict-related atrocities increase the levels of violence within a society both in transitional and post-conflict phases. Families are particularly vulnerable as the effects of violence disrupt the ordinary ebb and flow of human relationships whilst simultaneously playing havoc with biological systems that mediate stress and trauma. The term "post-conflict" is in itself ambiguous and potentially misleading as one form of violence (conflict) becomes entangled with another (domestic), forming complex, seemingly unbreakable chains between violence, past, present and future.

Contrary to the incremental thinking in health sciences, it is suggested, that the understanding of individual and social health must take into account the dynamic and reciprocal nature of traumatization. Although epidemiologically acts of violence can be delineated and documented across space and time, violence in conflict afflicted societies becomes enmeshed in other, often more subtle, expressions of violence within the society – though perpetrators of violence may be unaware of the source.

This is another reason why all the rather narrowly focused training and reform programmes that do not acknowledge the multidimensional nature of trauma, and violence as its antagonist, and the blurred and yet undefined space where trauma and violence come together, haven't worked and will not do so. Social, mental, emotional and psychobiological mechanisms will continue to play out in a destructive loop. Violence and how it perpetuates is not

only a function of politics, and of social, cultural and historical influences, but is also rooted in the neurobiology of violence and the impact it has on human behaviour. This also affects those working in human rights in Sri Lanka who have been raised in a violence-afflicted society and have inherited its legacy. They have experienced generations of trauma and loss themselves, and will inevitably be affected by the violence they now report on. This can, in psychological terms, lead to avoidance and nuanced forms of denial associated with the fear that experiences from the past will be repeated and will be overwhelming in the present. Avoidance and denial of our experiences limit our view of reality and inhibit a healthy curiosity as to the nature of that reality and our ability to think about it. Curiosity to explore, to play and, thereby, to learn may sound out of place in the context of a report on violence but the curiosity drive fuels a healthy relationship to oneself and others and is a cornerstone in building a healthy society. It is a significant component in the treatment of psychological and social suffering in all its forms. In another post-conflict area, Bosnia Herzegovina in the 1990s, while training

judges, prosecutors and witness protection officers in the criminal justice sector it became apparent that they were affected by what they had experienced as members of their communities in the same way as those identified as 'victims' of extreme violence. They needed support, just as victims did, to cope with involvement in post-conflict trials. In Bosnia Herzegovina social workers identified pockets of current domestic abuse and violence in communities which corresponded with areas where the worst wartime violence had occurred. They too were affected, as members of a society struggling to come to terms with a violent history. Sri Lankans will also struggle to cope. Trauma may be treated on an individual level and the individual may experience a lessening of post traumatic symptomatology but the experience is absorbed, not eradicated. Treating a symptom does not address the cause; short interventions have only a short-term effect. After so many years of violence, how can we expect a society to function normally, or easily be returned to normality?

A current analogy is our response to Covid-19. Vaccines, face coverings, social distancing, testing, sanitising: public health experts advise layering

up each measure – if one layer doesn't work, maybe it will reduce the spread and another will work; they are complementary. And each of us should keep taking precautions, even if we feel quite healthy. Pandemic and conflict are obviously not the same in every respect, but each has two sides. In conflict one side tries to protect life; the other tries to end it through an endlessly repeating cycle. A virus mutates and replicates. The closest we can come to winning a war against a virus is, in the language of microbiology, to "eradicate" the virus through various complementary measures. Similarly with violence; this section refers to the fabric of society being suffused with violence; one might say: infected by violence. Recovery needs both time and every measure available, including measures that separately may be ineffective. That of course means investment, but without acknowledging harm and its source, recovery – for individuals and society – is almost impossible⁶.

A NOTE ON COVID

The global pandemic did not deter the torturers, and while it temporarily interrupted the ITJP's ability to document the testimony of torture survivors, it has examined 15 cases that occurred since Gotabaya Rajapaksa came to power in November 2019. These cases confirm that the practice of torture by state authorities in Sri Lanka continues unabated.

It is not clear to what extent the flow of potential asylum seekers from Sri Lanka has been disrupted by the virus, which has led to airports and borders being closed during different waves around the world. It is noted that this is the first year we have seen Tamils arriving in the UK on rubber dinghies crossing the Channel. As of writing, Sri Lanka is on the UK's Red List, which means anyone arriving must quarantine in a hotel for 10 days. Four of the victims in this report who arrived in 2021 underwent this hotel quarantine on arrival.

Reports received from journalists and lawyers in Sri Lanka indicate there have been multiple waves of arrests of young Tamils (in their twenties) in connection with protests

over disappearance or commemoration of those who died in the Civil War. These mirror the profiles of the victims now arriving in the UK.

Lawyers in Sri Lanka are generally not in a position to document in great detail what sort of treatment detainees undergo in detention, so these rare accounts of 'returned detainees' paint a horrifying picture of what goes on in Sri Lankan detention sites. They also raise the question of whether the hundreds of Muslims arrested after the 2019 Easter Sunday bombings and the unknown number of Tamils arrested more recently, have similarly been brutally tortured and sexually violated by members of the security forces.

METHODOLOGY

Fourteen victims were interviewed in the UK by independent international investigators (mainly barristers and human rights investigators) with the statements analysed by the ITJP, and one separate MLR was studied for the female victim who was deemed too fragile to interview in person but who has received psychosocial support. An additional asylum bundle was shared that helped corroborate one of the accounts given to the ITJP.

The victims are identified in the UK and referred to the ITJP through a network of independent lawyers and

doctors with whom the ITJP has built up a relationship of trust over time. In each documented case, a trusted Tamil interpreter is used and all staff sign confidentiality agreements. A written statement numbering many pages is recorded in English typically over the course of 3-5 days. Corroborating information is gathered in each of the case files. Nine of the fifteen cases had supporting medico legal reports compiled by independent experts and confirming torture; the rest will likely acquire them but the process takes time, especially with post-lockdown backlogs. Where the victim had not yet seen a doctor, photographs were taken of their scars. In some instances, the victims have also provided copies of complaints their families had made in Sri Lanka to the Human Rights Commission and to the police, or in some cases Tamil media reports about their disappearance.

The ITJP has taken care to ensure that the interviews are conducted according to best international standards, observing the 'do no harm' principle and highest levels of confidentiality. The process is victim-centred, with great care being taken not to retraumatise victims during the interview process, to take breaks and to support them through the process and where necessary to have a Tamil speaking counsellor

⁶ Dr Korzinski wishes acknowledge the contribution his work with Professor Roland

Weierstall-Pust of the Department of Psychology, Medical School Hamburg has made to his thinking on this subject.

follow up after each day's interview once the victim has returned home. Nevertheless there have been different moments in the process of gathering this evidence when those involved in the documentation process have broken down in tears because of the sheer horror of the accounts being recorded. All victims are able to access ongoing psychosocial support, including help accessing medical and social services, while staff have access to support for secondary trauma. However some victims have visibly lightened at the end of the process, saying it was a relief to tell someone what had happened to them. There have also been instances where the interviewee has hugged and thanked the investigator at the end of the day, in one case adding that the statement taking was the first time he had been treated with respect in the UK.

DISCLOSURE OF SEXUAL VIOLENCE INCLUDING SEXUAL TORTURE

The ITJP has been able to document the details of male sexual violence in detention thanks to the fact that the approach taken involves spending several days with the victim to build trust. Victims disclosed to their investigator their feelings of shame and anger at their experiences, though one man didn't want to disclose the details⁷. Several said the

first time they had disclosed the sexual violence was to the ITJP investigator and interpreter:

"The first time I spoke about the sexual violence was when I met with the investigator on 9 November 2020. ...It is very difficult for me to consider sharing these details of what happened to me with people within the Tamil community. If I revealed this type of sexual abuse I would be seen and treated differently. The investigator is not a Tamil person. I felt able to open up to her as I was assured that if my statement was used for any purpose it would only be with my consent and my details would be anonymised. Therefore my identity would not be revealed and I would not suffer the shame and stigma from other Tamil people."

W341

Witness W341's psychiatric report stated that, "He feels unable to discuss his experiences of rape and sexual abuse with anyone apart from the professionals involved in his case because of the revulsion he anticipates were he to do so. He explained that, 'having experienced abuse and rape, in my society I'd be untouchable'".

Victims rarely tell their families the full extent

of what they endured in detention, especially the sexual violence which drives a wedge inside otherwise loving and close relationships. Another witness's brother was detained before him and although they now live together in London, they have never discussed the torture they both experienced⁸.

THE ROLE OF MEDICO-LEGAL REPORTS

Dr. Alison Callaway

Torture survivors applying for asylum in the UK (and other countries) normally have legal representation. Their solicitor is responsible for arranging a medico-legal report (MLR) as key evidence in their claim of torture.

MLRs are written by doctors specially trained in examining scars and other physical injuries caused by torture, as well as in assessing the psychological state of torture survivors. Findings are interpreted with reference to the Istanbul Protocol (full name: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment). This document, compiled in 1999 and reviewed in 2004, comprises the pooled knowledge and expertise of 75 experts in medicine, law, and human rights from 15 countries in examining and interpreting the physical and mental effects of torture. It details the different types of torture and their manifestations. The Istanbul Protocol also

advises doctors on best practice in interviewing and examining survivors of torture, for example in the use of appropriately trained interpreters, and in interviewing subjects in such a way as to avoid or minimise the possibility of retraumatisation. An MLR is structured, with an initial account from the subject of their background circumstances and the context of the incident or incidents of torture, as well as the details of the torture itself. This account is followed by the findings from the doctor's physical examination of the individual, and a mental health assessment. The physical and psychological evidence is then interpreted, the doctor providing an opinion as to whether the observed scars, injuries and/or psychological symptoms are consistent (and to what degree they are consistent) with the account given by the subject, with reference to a precise terminology laid out in the Istanbul Protocol; in other words whether the evidence supports their claim of torture. MLRs are written to rigorous medical and legal

standards, and doctors must declare their objectivity and impartiality. Doctors may be asked to respond to cross-examination of their report in an immigration court hearing.

Some torture survivors do not have the opportunity to obtain an MLR before their asylum claims are processed, due in part to the shortage of report-writing doctors, and in part to solicitors not referring them for MLRs in the first place. Their claims may be refused, and unless an MLR is subsequently arranged for an appeal, they may face deportation back to the country where the stated torture occurred, because essential evidence has not been properly assessed and presented to the Home Office.

⁷ "I find it very difficult to talk about

this. I feel ashamed and I also feel angry." W347

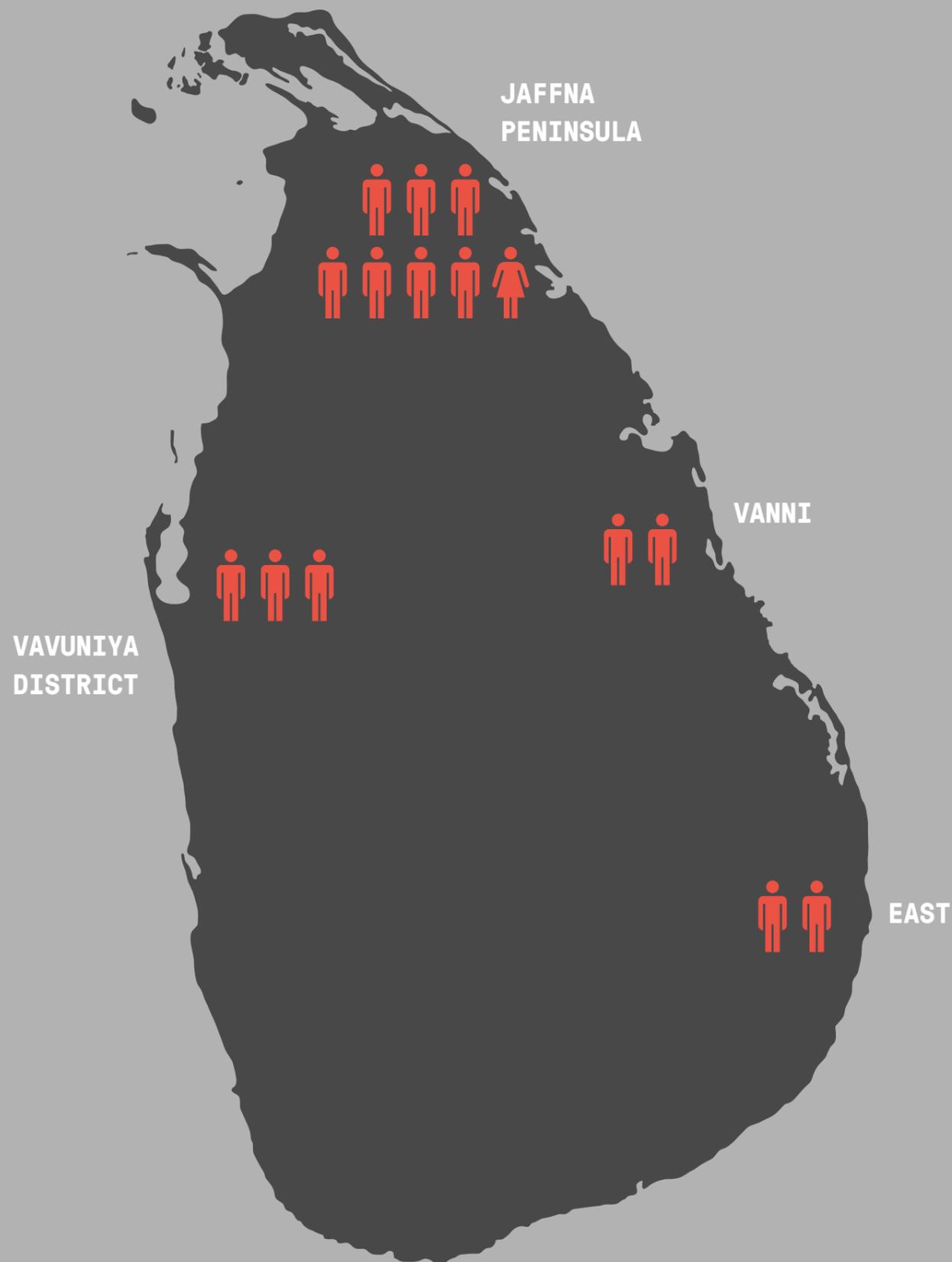
⁸ "We have not spoken to one another about our experiences in detention in any detail." W345

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“THERE WAS GENERAL SUPPORT FOR NOTIONS OF TAMIL SELF-DETERMINATION; OUR HISTORY TEACHER, FOR EXAMPLE, SPOKE TO US ABOUT CONTEMPORARY TAMIL POLITICAL ISSUES; HE WARNED US NOT TO REPEAT WHAT HE WAS SAYING AND HE URGED US NOT TO BE INVOLVED IN LTTE REVIVAL ACTIVITIES, BUT THAT IT WAS IMPORTANT FOR US TO BE AWARE OF OUR HISTORY AND WHAT HAS HAPPENED. THESE DISCUSSIONS GAVE US GOOSEBUMPS, LEARNING ABOUT OUR HISTORY, THE INJUSTICES AND THE FIGHT FOR SELF-DETERMINATION. BUT I COULDN’T HELP FEELING A SENSE OF DIS-APPOINTMENT AT OUR SITUATION. WE REALLY HAD A SENSE THAT THE LTTE WOULD HAVE ENSURED OUR RIGHTS AND THAT WE DIDN’T HAVE THIS NOW. I WOULD SAY THAT IN GENERAL THE LTTE WAS STILL SEEN IN A POSITIVE LIGHT, BUT WE KNEW WE COULDN’T EXPRESS THIS OPENLY AS IT COULD BRING US SERIOUS TROUBLE”.

W359

2020-21 VICTIMS



“THERE ARE PRACTICALLY VIRTUALLY NO OTHER COUNTRIES FOR WHICH I DOCUMENTED IN GREAT DETAIL SO MANY CASES OF SAVAGE TORTURE.”

FORMER UN SPECIAL RAPPORTEUR ON TORTURE, PROFESSOR MANFRED NOWAK⁹

1. THE VICTIMS

VICTIM PROFILE

All but one of the Tamil victims in this report is male, which may reflect the profile of those active in politics in Sri Lanka, as well as the willingness of families to send their children on long dangerous trips across the globe with smugglers. The youngest victim interviewed by the ITJP was 19 years old and the eldest 46 years old. Almost half of the victims were under 25, which means they were pre-teen children when the civil war ended in 2009 and could not have been members of an armed group¹⁰. They give descriptions of growing up post-conflict against a backdrop of militarisation and surveillance¹¹. Only three of the victims interviewed were ex-LTTE members – one of

them was forcibly recruited and another was a child recruit. Only two of the victims interviewed were from the former conflict area of the Vanni; unusually, eight were from the Jaffna Peninsula. Three of the victims had been rejected for asylum in three different European countries and had then returned to Sri Lanka, only to be tortured again. This raises serious concerns about the thoroughness of the assessment process in these countries and the danger of refoulement.

IN THE FINAL WAR

Some of the victims interviewed were present in the Vanni during the final and most brutal phase of the War in 2008-9. They carry traumatic memories of starvation, displacement,

shelling attacks and witnessing mass casualties¹², not to mention the trauma of being detained at the War-end in the military-run camps for post-conflict survivors. Only twenty years old at the time, W342 summed up how extremely precarious everyone felt who survived those final months of the war:

“We were living in utter fear, almost between life and death. We did not even know what would happen to us the next minute and who would survive due to the serious and indiscriminate attacks.”

It is hard to imagine the impact on a child who survived this, only to be detained and tortured himself twelve years later as an adult. Three of the younger victims also lost one parent in the conflict.

¹⁰ “I was very young during the conflict I was aware that... there was conflict in the country but my understanding did not extend beyond that. I have been told by others about atrocities committed by the SLA against the Tamil people...” W347

“I was only 11 years old at end of the War and wasn't really conscious of what was happening during the period when the Jaffna peninsula was recaptured by the Sri Lankan Army”. W359

¹¹ “I remember when the army came to the

village and set themselves up with big machines. I was playing in the open ground when they arrived, I felt the ground shaking with their big vehicles. I was chased away by the soldiers who were mostly Sinhala speaking; they had a rude look and I remember we were scared of them. They constructed a sentry point near to the temple and started to become much more invasive, regulating our lives. For example, they would collect details about family members in each of the homes; people coming and going out of the village had to sign in and out with the military checkpoint; they wanted details of where we are going when we would return

etc. I remember there was a sense of confusion within my family and the community more generally at that time as the LTTE presence was gone. There was much uncertainty and fear. These soldiers were not welcome and the community really wanted them gone, but they had no power to make that happen in this situation. I remember the confusion and uncertainty at this time; we didn't go out to play as we had before as our parents were afraid... For example, people gathered on Heroes Day for silent prayers; it was all we could do as a way of keeping certain issues alive and keeping some connection within the community. We continued

MEMBERS OF THE LIBERATION TIGERS OF TAMIL EELAM (LTTE)

What is striking is how few of those interviewed were former LTTE cadres – only three. This is a reliable reflection of the broader picture, and is consistent with a growing pattern documented in recent years of young adults being targeted who have increasingly tenuous, and in some instances no, links to the LTTE¹³.

Among this cohort are men whose families were victims of the LTTE, and yet this does not seem to have protected them from being punished as ‘Tigers’ well after the war ended in 2021. This has been noted in the ITJP’s past reports, where young men forcibly recruited by the LTTE at the close of the Civil War later found themselves abducted by the Sri Lankan Army¹⁴. One young man described his father and older brothers hiding from the LTTE recruiters at the height of the 2009 conflict in the Vanni:

“During this time, the LTTE were announcing that they needed more people to join.

They would drive around with a pickup and used a speaker to call for people to join the fight to protect the homeland. It was common for the LTTE to forcibly take young men from their families. On one occasion they came and forcibly took the son of one of our neighbours; my father and brother were hiding in the bunker so he would not be seen.”

W260

Despite hiding, his brother was forcibly conscripted (under the one child per family policy) by the LTTE; another brother was recruited by force by the LTTE in March 2009 and subsequently went missing in the final period of the War¹⁵. In addition W360’s father was injured in government shelling and likely died of his injuries. After the War, this young man struggled with the trauma of what he and his family had endured, unaware that taking part in protests would bring him yet more tragedy:

“I was very angry with the LTTE after what had happened with my brothers and father... I was also angry with the Government for what they had

done; that Tamil people had no country, that the army was still arresting people sometimes for no reason. I was aware that these things were going on. I saw people being arrested by the army in my community, masked men coming on motorbikes to people who had been through the rehabilitation process and arresting them. There was a real sense of insecurity in the community.”

W360

these quiet activities into 2011, but it had completely stopped by 2012 after it became clear the security forces had been informed about this and it was too dangerous to continue. We were not allowed to have any pictures or songs relating to LTTE, and the security personnel would check our phones randomly for these kinds of things. If someone was caught with such, they wouldn't arrest them instantly, but take their details and only pick that person up later and they would be tortured; my father would tell me such things and it raised further questions in my mind about what was going on in our community and towards Tamil

people.”

On one occasion W359 describes the army searching their house which the family assumed was based on a tip-off from an informer.

¹² W338 for example describes witnessing “a baby sucking the milk on her dead mother’s breast” and couldn't forget the image.

¹³ Page 13, Unstopped, ITJP, https://itjpsl.com/assets/ITJP_unstopped_report_final.pdf

¹⁴ 2014 Report by ITJP, Pages 24, 31 etc., https://itjpsl.com/assets/STOP_report.pdf

¹⁵ 2015 Report by ITJP, Page 28, https://itjpsl.com/assets/stoptorture_report_v4_online.pdf

2016 ITJP Report by ITJP, Page 16, <https://itjpsl.com/assets/Silenced-jan-2016.pdf>

2017 report, ITJP, Page 11 https://itjpsl.com/assets/ITJP_unstopped_report_final.pdf

¹⁵ “...a group of about 6 LTTE came and demanded from my family that we provide another person to join them. They then forcibly took my brother away in the jeep. This was the last time that I saw him. At this stage of the War, they were forcibly taking any one they could with the Sri Lankan Army closing in.” W360

EX-LTTE CADRES – MULTIPLE DETENTIONS

WITNESS W338

W338 had been with the LTTE Police for 15 years before the conflict ended in 2009, when he was detained and tortured in Joseph Camp, Colombo and Boosa, and then forced to do prison labour in the Government’s so-called ‘rehabilitation’ programme^{1 6}, only to be abducted in late 2019. During the first Rajapaksa regime (2005-14) he was held on the 6th floor of the police building in Colombo, where he alleges a senior TID police official

still in office assaulted him¹⁷. As a former LTTE cadre, W338 describes a steady cycle of intimidation and warnings after his first release from detention^{1 8} to prevent him attending annual commemoration events for his dead comrades, culminating in his abduction in a van one evening while on the way home after work. In the most recent detention he was beaten with a range of implements, slapped, including on the ears until they bled, subjected to falaka, cigarette burns, his head put in a petrol bag and then submerged in water^{1 9}. A victim of multiple detentions and bouts of torture, W338 carries a range of physical scars from different periods^{2 0} which have caused him lasting physical damage, as well as the traumatic mental impact. He said he could not get treatment for his medical and psychological complaints

in Sri Lanka because he didn’t trust the medical professionals there, even the Tamil ones^{2 1}.

WITNESS W342

By contrast, W342 was forcibly recruited in 2008 by the LTTE^{2 2} but deserted in March 2009. When he later married, he did not tell his wife about his brief past in the LTTE^{2 3} and he did not go through the Government’s ‘rehabilitation’ programme, which was rife with torture. Years after the conflict ended, on one occasion he was randomly stopped and questioned and then some months later abducted in a black HiAce van at night and tortured²⁴. He went abroad but failed in his asylum claim, was arrested and deported, but managed to pay an agent to ensure he got back through the airport in Colombo safely, only to be abducted

again in 2020. Not only was the detention in 2020 the third he had experienced after the conflict but his father had also previously been abducted by the security forces^{2 5}. In addition, his brother had been forcibly recruited by the LTTE aged 17 years in 2009^{2 6} and was later abducted after the conflict by Sri Lankan Government forces^{2 7}. Now in London, W342 describes a life of misery and poverty, sleeping on the floor next to the couple who are looking after him in a small studio flat in the outskirts of the city. He has attempted suicide in the UK.

WITNESS W344

W344 was recruited without his parents’ knowledge aged 16 by the LTTE for undercover work, but didn’t have any contact with the LTTE after 2008. After the conflict ended in 2009, he told his father

about his LTTE involvement and his father tried to send him abroad but he was refused asylum and returned to Sri Lanka, was questioned at the airport but released. Six months later, W344 was arrested and taken to a local police station. There he was interrogated and beaten and then released on reporting conditions. He was detained again during the Sirisena Government period by army officers in uniform in a green van in the Jaffna Peninsula and driven just 20 minutes, which means the illegal army detention site used was also in the Jaffna Peninsula. He was interrogated in a bloodstained room, tortured, photographed, fingerprinted (with an inkpad), forced to sign a confession in Sinhala and later released on payment of a bribe mediated by the Eelam People’s Democratic Party (EPDP). W344 was then abducted a third time (date

redacted) after taking part in anti-Government protests. Again he was detained in the Jaffna Peninsula by army officers. They accused him of being involved in activities against the Government in order to damage its reputation in the international community and within the UN.

“The men told me not to lie and said that torture was the only way to deal with me.”

While he was in detention the third time, W344’s family tried to report his abduction to the Human Rights Commission – in response they were told that there were no such incidents (i.e. abductions) taking place in Sri Lanka and the staff refused to accept the complaint. Instead the family were told to go to the police, which they did only to receive the same uncooperative response.

¹⁶ “We were divided into four groups each under the command of an army officer who assigned work to us, such as cutting wood, cutting bushes, making bricks, digging wells, cutting grass, making fencing, collecting firewood for cooking, and other such tasks. I never saw or experienced any rehabilitation activities and I never learned any skills.” W338

¹⁷ “The day before I was taken to Boosa he called me and asked me the reason I had been in hiding and had not surrendered. He hit me – punched me in the face.”

¹⁸ “I was asked to report to XXX army camp once a month. I reported there once a month for six months. Sometimes they asked me to work for them as an informant. I refused.”

¹⁹ “In November 2015 for Heroes Day I was involved in the cleaning of an area near the martyr’s cemetery in XXX in XX District. The army had bulldozed the cemetery during the War and constructed an army camp on top of it so we had the Heroes Day commemoration just outside the army camp. While we were doing this, the CID or some other civilian clad officers of the security forces took photos of us but didn’t speak to us.”

²⁰ “In May the same year (2016) I participated in

²¹ the Mullivaikkal Remembrance Day, which was held in Mullivaikkal on 18 May. During this event the CID took photographs of people who attended and there was a heavy presence of security forces, army soldiers in uniform and some officers in civilian clothing that I think were military intelligence officers. TNA politicians also participated. Around 500 Tamils participated. The day after on 19 May I received a call on my mobile phone from a person who spoke in broken Tamil and introduced himself as a CID officer. He asked why I had participated in the event and said that I had violated the conditions of my release from rehabilitation. I told him I would not participate in such events again. But I didn’t stop involving myself because I felt it was my responsibility to honour those who lost their lives and those who fought for us.”

²² “By April 2017 while we were preparing for the Mullivaikkal Remembrance Day, I received a letter from XXX Police Station requesting me to come to the police station. One of the men beat me with a heavy plastic pipe. The whole thing lasted about 15 minutes and afterwards they asked me to follow them on motorbike. They drove about one mile to the army camp in XXX and stopped in front of the camp. They went inside while I was waiting outside. They came back out again without

²³ the red folder and warned me if I continued to participate in events in the future I would be taken for detention in this camp.” Police stopped him on the way home from the commemoration event that year and photographed him.

²⁴ “In XX 2018 two men in civilian clothing came to my house. My father-in-law approached them and they introduced themselves as CID officers from XXX main police station. At that time, I was at the back of the house. The officers asked for me and I came to the front of the house to speak to them. They asked what I was doing and I told them I was working as a driver. They asked if the money from that was enough to support my family. I said to them that my salary was enough. They said they are building houses in XXX area along XXX road in XXX and if I would like they would give me one of those houses if I agreed to work for them as an informant. They asked me to give them information about ex-LTTE members who had not undergone rehabilitation and any other relevant information. I told them I was not interested in that sort of work and they then started speaking in a more threatening tone saying that I would have a hard time if I didn’t work for them.”

²⁵ W338’s MLR.

²⁶ “I have scars on my shoulder, chest, head,

²⁷ back, knees, lower legs, penis and my right-hand thumb and left toe.” W338

²⁸ “I have had pain in my left shoulder (I can’t lift my arm very high), my chest and lower back and sometime my left knee dislodges. Both knees are in bad condition but the left is worst. I can’t lift anything heavy with my left hand. I sometimes feel numb in my left hand and feel pain. When I was in Sri Lanka, I used to have bloody phlegm when coughing and spitting. I went to see the Tamil doctor in Sri Lanka but I was afraid to tell him that I had been tortured because I didn’t trust him.” W338

²⁹ “I also had problems sleeping and bad dreams. I was forgetful as well. I didn’t seek any help for this in Sri Lanka because there are not many doctors for mental health problems and they would only ask many questions and I didn’t want to talk about the torture because I didn’t trust the doctors wouldn’t inform the authorities.” W33

³⁰ “They sent letters to each household instructing them to send one of their children. My family did not comply with their requests. The LTTE began visiting families who had not followed their recruitment policy and taking people by force. On X October 2008, four or five LTTE members came to our house wearing civil clothes. At the time my younger brother and father were

³¹ in our paddy field farming. I was at home with my mother and sister. The LTTE members asked if I was XXX. When I confirmed that I was they dragged me out the house and put me in a van.” W342

³² “I did not tell my wife about my involvement with the LTTE as I feared she would not marry me if I was honest about my past.” W342

³³ “My rubber slippers flew off and I landed on the floor of the vehicle, facing down, in an empty seat area. I could hear my wife screaming ‘Leave my husband, leave my husband!’ I felt a piece of cloth being pushed in my mouth. I was blindfolded and my hands and legs were tied with some rope.

³⁴ It all happened very quickly and I was not expecting it. I thought that my life was finished and I was very shocked. One of them said ‘Why didn’t you surrender as a member of the LTTE? Why did you not go through rehabilitation?’ I was not able to respond as they had inserted a cloth in my mouth.” W342.

³⁵ “He was coming home from work in XXX when men who identified themselves as CID stopped him. He was forced into a Toyota HiAce van and taken for questioning. He was asked to identify other people who actively helped the LTTE. In the course of the interrogation he was kicked and beaten with sticks, wires and pipes. He was returned home later that same day. My father told

³⁶ me about his abduction, and showed me scars on his body. He warned me to be careful.” W342

³⁷ “My brother was forcibly recruited by the LTTE in January 2009 when he was 17 years old. During the final stages of War, the LTTE recruited all young people in this way, regardless of whether they had already made someone in their family join. My brother ran away in March 2009 having witnessed heavy casualties in the LTTE.” W342

³⁸ “He was taken from our home by the authorities. I was not there at the time, but my mother and younger sister witnessed his abduction and told me what had happened. One of my uncles, I am not sure which, secured his release by paying a bribe. I do not know the details of how the bribe was arranged or how much money was paid. In XX my brother left Sri Lanka with the help of a Muslim agent. He has not told me the details of what happened to him while he was detained. I have not asked him about it as I do not want to make him feel uncomfortable. I think he has not told me as he thinks I am fragile and does not want to upset me.” W342

POSSIBLE TRIGGER FOR DETENTION

As none of these victims was formally charged and officially informed of the reasons for their detention, the triggers are deduced from the history of events leading up to the abduction.

PROTESTS

All but five victims had been involved in peaceful protests in the north east of the island, standing up for their democratic rights. This included protests over the issue of disappearance, as well as over land rights in Kepapulavu, participation in events to commemorate the conflict dead, protests over the destruction of the Mullivaikkal monument in Jaffna University and the P2P march in February 2021^{2 8}. Many of those who took part felt compelled to do so because they had lost friends or family, for example, W342:

“I did not feel completely safe doing these things, but I felt I wanted to contribute. I had witnessed so much suffering during the conflict and I was aware of the suffering other families were still facing. I knew there were risks involved and my wife warned me I might have trouble if I did these things. The pain of the families and the atrocities committed by the Sri Lankan Army empowered me to take these risks and speak out for my people. The day after I signed the papers [the confession in detention] they came in and asked me about my political activities... and whether I had any intention of regrouping the LTTE. I told them that I just attended these events and I had nothing to do with the LTTE. I explained that as I had lost my friends and family I just attended these events to pay tribute to those who died.”

W342

What is disturbing from one man detained and tortured after the P2P march is that there were clearly others being held with him:

“I could hear a lot of screaming from other rooms, crying out for their mothers. I knew what was going to happen.”

W361

Some of those protesting are so young that this is their first political exposure:

“Doing this work, I heard detail about the suffering of others which deepened my understanding of the situation faced by many Tamils. This experience made me more determined to help these people and to raise our voice about injustice to Tamil people.”

W363.

ELECTIONS

Five of the victims interviewed were also involved in electioneering against Gotabaya Rajapaksa during the 2019 Presidential elections^{2 9}:

“In November 2019, the Government announced the presidential election. I was involved in distributing leaflets encouraging people not to vote for Gotabaya Rajapaksa. A lot of Tamil people felt very strongly that he should not be in

power. Again, I felt like I had to contribute. The leaflets said that Gotabaya was the Defence Secretary during the final stages of the conflict and he was responsible for the deaths of thousands of civilians, and the disappearance of thousands of Tamil people. I was involved with the same friends who attended the protests of the Families of the Disappeared. I was not responsible for printing or making the leaflets. I never had any interaction with the authorities when I handed them out.”

W342

In three cases involvement in electioneering was referred to in the interrogations:

“On every occasion (4 interrogations) I was asked ...why I worked against the current President at the time of the election.”

W345

Even participating in protests for the Families of the Disappeared was deemed to be against Gotabaya Rajapaksa, but the victims didn't realise the risks they were running:

“They said that I should not

be involved in activities against Gotabaya Rajapaksa and protests with the Families of the Disappeared and if I did, I would face severe consequences. I did not say anything, but I did not take it seriously. Other people who were involved in these activities told me they also had these kinds of threats. I thought they were just trying to silence us, so I did not take it seriously.”

W339

REMITTANCES

In four cases^{3 0}, the trigger for detention appears to have been receiving money from abroad as a conduit on behalf of someone else inside Sri Lanka who was under surveillance. The victims were told it was for charity work or to help trace the disappeared and fund disappearance protests. None of those involved had any idea of the extent of the danger they were in^{3 1}:

“I agreed to help him ... I did not realise the danger involved. I thought that as I was only a student no one would be interested in me. My parents also knew that I had agreed to do this. We all thought there might be some danger, but none of us

appreciated the potential consequences.”

W347

One victim said the questions he was asked by interrogators indicated they had tracked these international banking transactions and knew more than him about where they had come from. They also knew details of his phone conversations abroad.

²⁸ “They asked about why I had been involved in the P2P rally; I felt shocked this was the consequence of my participation. I explained my motivations for participating, that it was about human rights; they said I was lying.” W359

“I helped with the preparations for the demonstration by printing pictures of the disappeared and making banners at XXX (place redacted). This was the first time I got involved in such depth in such a protest. During the

demonstration, the police tried to clear the area and a number of demonstrators were arrested; I was part of a group that went to the police station to help get those arrested released. We were successful in securing their release.” W359

JDSLanka, ‘Tamil and Muslim Protest March Reach North Braving Legal and Illegal Obstacles’ (6 February 2021) <<http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/996-tamil-and-muslim-protest-march-reach-north-braving-legal-and-illegal-obstacles>>.

“I had picked up some Sinhala from my time

in detention; I could understand that they were talking about P2P and that I had participated in this protest.” W361

²⁹ “In 2019, in the run up to the elections, I participated in demonstrations against Gotabaya after he announced his decision to run for president.” W359

“I was involved in the propaganda campaign against Gotabaya Rajapaksa when he stood for president in the 2019 election. I helped with the protests in Vavuniya against him organised by the representatives of the families of the

disappeared. I and others distributed leaflets among the people. The leaflets said that Gotabaya led the War in 2009 and he was the main cause for the disappearance of hundreds of Tamils in 2009 and if he was elected then the white van abductions and the disappearances would happen again and so we should not vote for him. I also told people that they should not vote for him as he was involved in atrocities against the Tamils during the War and had caused untold hardships for the Tamils. When I say that I ‘told people’ these things I mean that I read out what was on

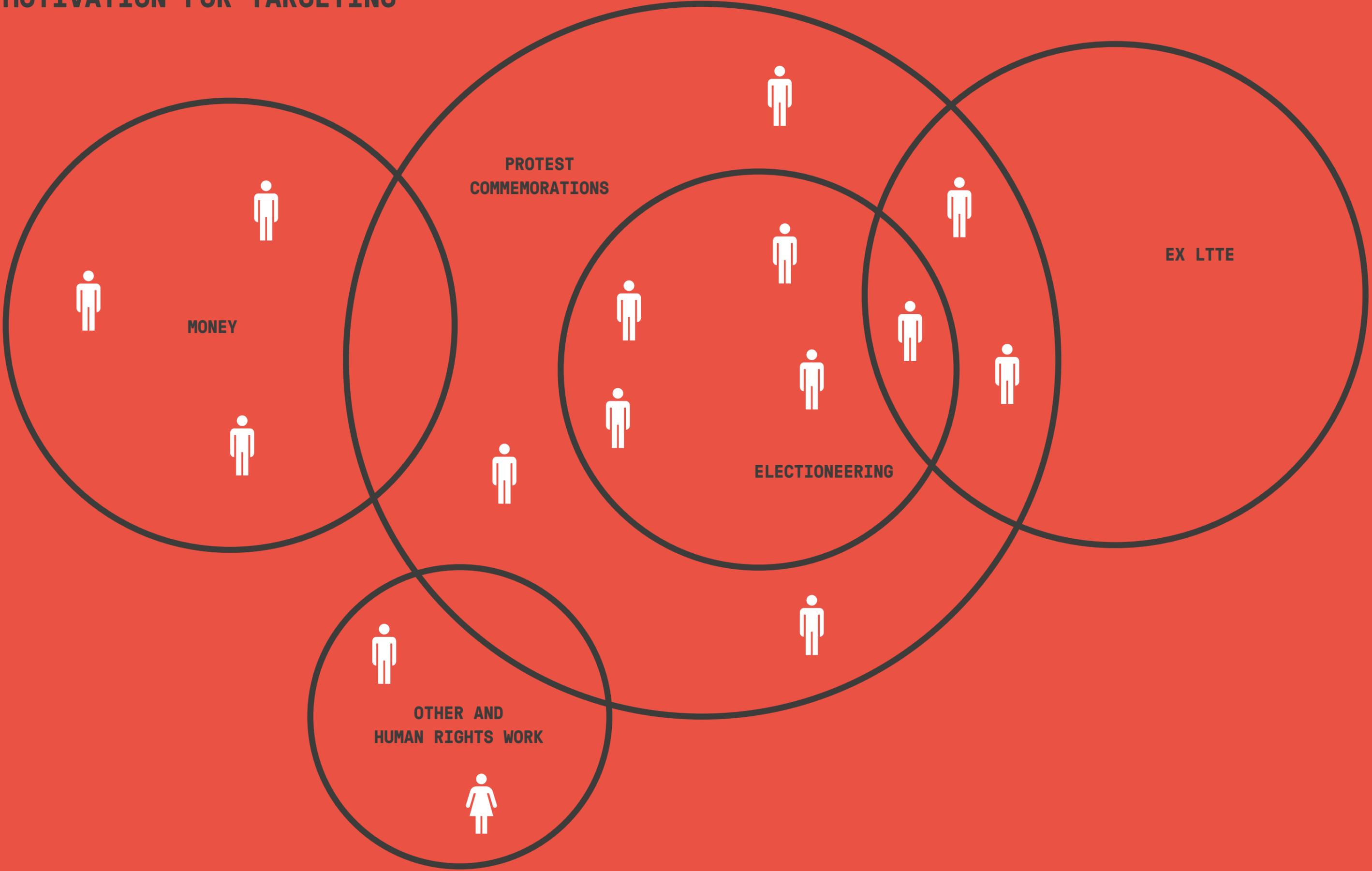
the leaflets. I did not feel completely safe to say these things at the time, but I wanted to do it for the people.” W339

“In November 2019 I was involved in three events that attracted attention. The first was at the time of the presidential election. We held a meeting against Gotabaya Rajapaksa and asked people to vote for the opposition, Sajith Premadasa.” W343

³⁰ This includes one case not documented by the ITJP but where a detailed statement was shared with the ITJP.

³¹ “I am not politically involved, I have never even voted in an election. I was aware that these transactions were risky and would be more risky, and I was anxious about the situation, but I continued. I had not told my wife I was doing this; but I was also aware that the community was suffering. So, I felt the risk but also that I was really doing something for the community.” W362

MOTIVATION FOR TARGETING



CORROBORATING INFORMATION FROM INSIDE SRI LANKA

Bashana Abeywardane,
Journalists for Democracy
in Sri Lanka.

COMMEMORATIONS

That Tamils are continuing to be arrested after commemorating the dead has been reported inside the country. The day after the November 2020 commemoration in the Tamil regions, dozens were arrested for sharing their thoughts on social media about the dead. In the Eastern district of Batticaloa, 19 people were arrested under the Prevention of Terrorism Act (PTA), while police investigations were launched against 55 others for their social media posts³². Freelance journalist M. Kokulathasan was arrested on 28th November 2020 under the PTA (Prevention of Terrorism Act) in connection with a Facebook post, and is still held in prison³³.

In May 2021, following commemorations held in the Tamil regions to mark the 12th anniversary of the end of the war, police counter terrorism units arrested some who held private memorials, and launched investigations against many others³⁴. In one such incident in the east, 10 people - including two women - were taken into custody under the PTA for lighting a flame and holding a memorial, lasting no more than a few minutes³⁵. Nearly four months later, they remain in prison.³⁶

SOCIAL MEDIA

On 2 July 2021, media reports say that police in the eastern port city of Trincomalee arrested a 24-year-old Tamil youth, Shanmugarasa Vidulashan, under the PTA, for a post he had shared

on Facebook three years ago³⁷. The specific post, which is about the Tamil struggle, popped up as a 'memory post' on his timeline, triggering his arrest³⁸.

P2P PROTEST

Likewise, threats against those involved in the P2P protest in February 2021 were recorded from Government ministers. A day after the protest march ended, Public Security Minister, Retired Naval officer, Rear Admiral Sarath Weerasekara, stated on TV:

"We have their photos. We have their vehicle numbers. So, we can confiscate all their vehicles and put them all in prison³⁹."

Following the Public Security Minister's statement, NGOs in Sri Lanka reported that many participants (including parliamentarians and journalists) were visited by the police and CID/TID officers to record statements regarding their involvement with the protest march. These acts of intimidation continued even five months after the protest march, against parliamentarians who had attended⁴⁰, journalists⁴¹ and the organisers of the march⁴².

TORTURE

Chandran Vidhushan, a 21-year-old Tamil youth, was arrested at his home by the police in Batticaloa and assaulted in front of his family before being taken away. The next morning, the family was informed that their son had died in custody⁴³. The police produced a post mortem report to the courts confirming that the victim died due to swallowing packets containing 'ice', which is a form of the drug Methamphetamine. However, the family rejected the official version and accused the police of torturing him to death⁴⁴. Subsequently, the court ordered an exhumation of the victim's body and a new investigation has been launched⁴⁵.

³² WSWS.ORG 'Six Months Have Passed Since the Government Imprisoned Tamil Journalist Kokulathasan' (15 June 2021) [In Sinhala] <<https://www.wsws.org/si/articles/2021/06/15/goku-j15.html>>.

³³ Reporters Without Borders, 'Sri Lanka: Tamil Reporter Held On Absurd Terrorism Charge' (13 January 2021) <[https://rsf.org/en/news/sri-lanka-tamil-reporter-held-absurd-terrorism-](https://rsf.org/en/news/sri-lanka-tamil-reporter-held-absurd-terrorism-charge-0)

[charge-0](https://rsf.org/en/news/sri-lanka-tamil-reporter-held-absurd-terrorism-charge-0)>.

³⁴ Tamil Guardian 'Sri Lanka Arrests Tamil Men and Women Under Terrorism Charges Over Mullivaikkal Commemoration' (18 May 2021) <<https://www.tamilguardian.com/content/sri-lanka-arrests-tamil-men-and-women-under-terrorism-charges-over-mullivaikkal>>.

³⁵ JDSLanka, Twitter (16 June 2021) <<https://twitter.com/JDSLanka/status/1405128614815801348>>.

³⁶ JDSLanka, Twitter (27 July 2021) <<https://twitter.com/JDSLanka/status/1419926190102618120>>.

³⁷ JDSLanka, Twitter (3 July 2021) <<https://twitter.com/JDSLanka/status/1411223791326408708>>.

³⁸ JDSLanka, Twitter (3 July 2021) <<https://twitter.com/jdslanka/status/1411254567535321090>>.

³⁹ JDSLanka, Twitter (9 February 2021) <<https://twitter.com/JDSLanka/status/1359086757212532737>>.

⁴⁰ Newswire, 'TNA MP Shanakiyan Questioned by Police Stations' (19 February 2021) <<https://www.newswire.lk/2021/02/19/tna-mp-shanakiyan-questioned-by-6-police-stations/>>.

⁴¹ JDSLanka, 'Sri Lanka: Tamil Journalist Harassed By Police Twice In Two Days' (2 February 2021) <<http://www.jdslanka.org/index.php/news-features/media/995-sri-lanka-tamil-journalist-harassed-by-police-twice-in-two-days-video>> and JDSLanka 'Intimidation of Tamil Journalists Continues Unabated in Sri Lanka' (15 July 2021) <<http://www.jdslanka.org/index.php/news-features/media/1032-intimidation-of-tamil-journalists-continues-unabated-in-sri-lanka>>.

⁴² JDSLanka, Twitter (23 May 2021) <<https://twitter.com/JDSLanka/status/1396454743724249092>>.

⁴³ JDSLanka, 'Tamil Youth Dies in Overnight Police Custody in Eastern Sri Lanka' (3 June 2021) <<http://www.jdslanka.org/index.php/news-features/human-rights/1023-tamil-youth-dies-in-overnight-police-custody-in-eastern-sri-lanka>>.

⁴⁴ JDSLanka, 'Sri Lankan Death in Detention: Family Rejects Official Version' (5 June 2021) <[http://www.jdslanka.org/index.php/news-features/human-rights/1024-sri-lanka-death-in-detention-](http://www.jdslanka.org/index.php/news-features/human-rights/1024-sri-lanka-death-in-detention-family-rejects-official-version)

[family-rejects-official-version](http://www.jdslanka.org/index.php/news-features/human-rights/1023-tamil-youth-dies-in-overnight-police-custody-in-eastern-sri-lanka)>.

⁴⁵ JDSLanka, 'Death in Sri Lanka's Policy Custody: Tamil Youth's Body to be Exhumed' (20 June 2021) <<http://www.jdslanka.org/index.php/news-features/human-rights/1029-death-in-sri-lankas-police-custody-tamil-youths-body-to-be-exhumed>>.

HISTORY OF WHITE VAN ABDUCTIONS

“Torture and death of Wijedasa Liyanarachchi, an Attorney-at-Law, who supposedly had affiliations with the JVP, is an example. He was arrested near the court complex at Hulftsdorp by three police officers on 25th August 1988 around 4.00 pm. He was taken to the official residence of a SP at Tangalle in a privately owned HiAce van.”

[Sunday Times Lanka⁴⁶, 1988](#)

“Abductions and killings have been widely reported since 1988. In a typical case, plainclothes armed men arrived at the victim’s home at night, travelling in Pajero jeeps or HiAce vans (which are widely used as ‘official’ vehicles) or using vehicles which they had apparently borrowed or requisitioned.

Sometimes they said they were members of the security forces and included someone wearing police or army uniform among them, but often

they refused to identify themselves. Usually, they gave no explanation for taking away the victim, providing no details of possible charges or of where the person would be taken. Death threats were sometimes made, with relatives being told, for example, to begin making funeral preparations. Relatives often inquired at local police stations or army camps the next day, seeking news of the missing person, but without result: the security forces would deny all knowledge of the person who had been abducted, and sometimes refused to register the complaint and verbally abused the relatives. In some cases, the dead bodies of those taken away were found within hours or days of arrest, and identified by relatives. In others, those who had been abducted were never traced. Some people, however, were later found to be in the custody of the security forces or were released after periods of unacknowledged detention...”

[Amnesty International, 1989⁴⁷](#)

“Similar abductions were reported in April 1996. On 17 April, a fruit stall owner and his assistant were taken by five armed men believed to be members of the army in a

white coloured HiAce van from their stall at St Michael’s Road, Kollupitiya, Colombo.”

[Amnesty International, 1996⁴⁸](#)

“In some cases, detainees were released from places of detention to be abducted by unknown persons coming in ‘Hi-ace vans’. There is evidence that such incidents took place with the connivance of the authorities.”

[Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces, Volume I, September 1997, Government of Sri Lanka \(relating to earlier period\).](#)

“According to the information received, three police officers along with several other persons wearing uniforms came to the house of Mr. Fernando in a white van at around 8pm on October 6th, 2001”

[OMCT, 2001⁴⁹](#)

“A white van appears repeatedly in their recollections: it is the iconic symbol of the late 1980’s, when white vans were used in a wave of abductions as the government fought a

violent leftist insurrection. [The New York Times, 2006⁵⁰](#) “In Sri Lanka a white van without a number plate is a symbol of terror and the disappearances that occurred in all parts of the country. Commissions on Disappearances in the South during the last few years of the 1980s have documented at some length how armed men, travelling in white vans without number plates abducted thousands of people who were never seen again.”

[Asian Human Rights Commission, 2006⁵¹](#)

“Nirmalanandan Mayuran, 19, Mathilamani Ajantha, 24, and Vignashweran Krishanthan, 16, were abducted by unidentified persons came in a white van, residents said.”

[BBC, 2007⁵²](#)

“Now such vans have reappeared and do so frequently in the Jaffna peninsula. A report from one family states ‘the fear of the white van in the day and specially in the night is killing everyone [with fear] in the peninsular.’”

[Human Rights Watch, 2008⁵³](#)

“The Special Rapporteur was shocked at the brutality of

some of the torture measures applied to persons suspected of being LTTE members, such as burnings with soldering irons and suspension by the thumbs.”

[UN Special Rapporteur on Torture, 2008⁵⁴](#)

“‘They come in a white van’, Ragunathan Muralitharan, an inspector at the Commission, told Al Jazeera.”

[Al Jazeera, 2008⁵⁵](#)

“The journalist was hauled into a van at Embuldeniya Junction.”

[WWWS, 2009⁵⁶](#)

“As the car stopped a white van pulled up next to it and five men dressed in military uniforms and carrying pistols emerged, dragged Stephen Sunthararaj from his car, and forced him into the white van.”

[Amnesty International, 2009⁵⁷](#)

“...the Secretary to the Ministry of Defence Gotabhaya Rajapaksa regarding this, he had responded by stating only criminals are abducted by white vans. He had further stated only those who had raped ten or fifteen women have been abducted by white

vans and said that when such wrongdoers are removed from society by any means it is the Defence Secretary who is blamed for their removal. He had asked what was wrong in removing such criminals from the society.”

[Gotabaya Rajapaksa, 2012⁵⁸](#)

“...individuals or groups were specifically targeted, in incidents that occurred before, during and beyond the OISL investigation period, and which are often referred to as ‘white van’ cases.”

[OHCHR Investigation into Sri Lanka, 2015⁵⁹](#)

“Reports have continued to suggest the existence of secret and unacknowledged places of detention. These require urgent investigation.”

[UN High Commissioner for Human Rights Zeid Ra’ad Al Hussein, 2015⁶⁰](#)

“Authorities claimed that all arrests, without exception, are made by police officers in uniform using officially marked vehicles. However, the Special Rapporteur received credible reports of recent (up to April 2016) ‘white van abductions’ by officers in plain clothes believed

⁴⁶ Torture in Sri Lanka: Not a closed chapter, Sunday Times Lanka, 13 Jan. 2013, Prof. Ravindra Fernando, <https://www.sundaytimes.lk/130113/news/torture-in-sri-lanka-not-a-closed-chapter-28471.html>

⁴⁷ EXTRAJUDICIEAL EXECUTIONS, ‘DISAPPEARANCE/NSD’ TORTURE, 1987 TO 1990

⁴⁸ <https://www.refworld.org/docid/3ae6a98c13.html>

⁴⁹ <https://www.omct.org/en/resources/urgent-interventions/sri-lanka-arbitrary-arrest-detention-and-torture-of-mr-fernando> OMCT Case LKA 29100

⁵⁰ 2006 <https://www.nytimes.com/2006/11/07/world/asia/07lanka.html>

⁵¹ <https://reliefweb.int/report/sri-lanka/>

[sri-lanka-white-vans-without-number-plates-symbol-disappearances-reappear](#)

⁵² https://www.bbc.com/sinhala/news/story/2007/03/070323_jaffna_batticaloa

⁵³ <https://www.hrw.org/report/2008/03/05/recurring-nightmare/state-responsibility-disappearances-and-abductions-sri-lanka> ‘One of the cases documented by Human Rights Watch concerns 37-year-old Charles Caston

Raveendran, an employee of the HALO Trust, a de-mining organization. According to his family, on the night of November 15, 2006, a group of eight heavily armed men broke into the family’s house on Old Park Road in Jaffna. The men arrived in a white van and a jeep, were wearing civilian clothes and bandanas, and spoke a mixture of Tamil and Sinhala.’

⁵⁴ <https://atlas-of-torture.org/en/entity/>

[hyp4f3j8uznbtqsw3ic8oajor?page=2 A/HRC/7/3/Add.6 26 February 2008](#)

⁵⁵ <https://www.aljazeera.com/news/2008/3/20/un-civilians-at-risk-in-sri-lanka>

⁵⁶ <https://www.wsws.org/en/articles/2009/06/sljn-j06.html>

⁵⁷ <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa370102009en.pdf>

⁵⁸ <https://srilankabrief.org/only-criminals-are-abducted-by-white-vans-gota/>

[are-abducted-by-white-vans-gota/A/ HRC/30/GRP.](#)

⁵⁹ <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16539&LangID=E#sthash.H3kgCTxj.dpuf>

to belong to the Criminal Investigations Department or the Terrorism Investigation Division.”
UN Special Rapporteur on Torture, Juan Mendez, 2016⁶¹

“The number of torture complaints has been reduced but new cases continue to emerge – as two recent, detailing some disturbing alleged cases that occurred in 2015, have shown...”
UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, 2016⁶²

“..white vans were there all the time. Not only white, there were black vans, green vans... in 86, 87 there were Morris Minors as well, which lifted people.”
Gotabaya Rajapaksa, 2016⁶³

“I served in the military for 20 years. Most of those 20 years I served under the UNP gov. Those who lived during that period know how those ‘gonibillo’ (masked abductors)...In what vehicles did the ‘gonibillo’ travel? In white vehicles or black vehicles.”
Gotabaya Rajapaksa, 2016⁶⁴

“... the practice of so-called ‘white van’ abductions of

Tamils has continued in the years following the end of the armed conflict.”
UN Committee Against Torture, 2016⁶⁵

“...all of the evidence points to the conclusion that the use of torture has been, and remains today, endemic and routine, for those arrested and detained on national security grounds...During his interviews with current and former PTA detainees, the Special Rapporteur himself heard distressing stories of extremely brutal methods of torture, including beatings with sticks, the use of stress positions, asphyxiation using plastic bags drenched in kerosene, the pulling out of fingernails, the insertion of needles beneath the fingernails, the use of various forms of water torture, the suspension of individuals for several hours by their thumbs, and the mutilation of genitals”.
UN Special Rapporteur on human rights and counter-terrorism Ben Emmerson, 2017⁶⁶

“OHCHR received credible information from a well-known human rights organization according to which ‘white van’ abductions, and torture and sexual violence, by the Sri Lankan security

forces persisted. These allegations must be properly investigated. OHCHR raised this matter with the authorities.”
OHCHR, 2017⁶⁷

“The High Commissioner was deeply concerned over serious allegations in foreign about ongoing abductions, extreme torture and sexual violence, as recently as in 2016 and 2017. OHCHR is exploring options for how best to pursue further investigations of these allegations”.
OHCHR, 2018⁶⁸

“I did not bring about the concept of white van abductions... The intelligence agencies, be it in Sri Lanka or anywhere else, adopt certain methods as counter terrorism measures. In Sri Lanka too, they have used some of these measures for a very long time during the conflict as well as when there were the JVP insurrections. When there was a suspect, he was taken in for questioning through such means. It was not something introduced by me. These methods have been adopted all over the world. May be our intelligence agencies used Hi-Ace vans which are white. I did not introduce it. It happened under all the previous Governments. If you

take the violence during the JVP era, everybody, barring the very young people, knows how youth were whisked away by unknown people all over the country. We all know stories about Gonibillo at that time. I do not know why I am being pinpointed today. During our time this had never been done to abduct any political opponent, which was not the case in the 88/89 period. Most people above 30 years of age remember what happened during that time.”
Gotabaya Rajapaksa, 2019⁶⁹

“OHCHR has continued to receive credible information about cases of abduction, unlawful detention, torture and sexual violence by Sri Lanka security forces, which allegedly took place in 2016 to 2018.”⁷⁰
OHCHR, 2019

“OHCHR has also continued to receive credible allegations through well-known human rights organizations of abductions, torture and sexual violence by Sri Lankan security forces since the adoption of resolution 30/1, including in the past year, which need to be credibly investigated.”
OHCHR, 2021⁷¹

61 A/HRC/34/54/Add.2: Para 23.

62 <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=17025>

63 <https://www.facebook.com/watch/?v=1560269420667875>

At a Viyathmaga meeting (translation).

64 <https://www.youtube.com/watch?v=qD1YajBwQts>

65 Concluding Observations UNCAT 59.

66 <http://lk.ohchr.org/news/full-statement-by-ben-emerson-un-special-rapporteur-on-human-rights-and-counter-terrorism-at-the-conclusion-of-his-official-visit/>

67 A/HRC/34/20 Paragraph 57

68 A/HRC/37/23 paragraph 44

69 <https://www.dailymirror.lk/article/How-can-there-be-freedom-without-discipline-Gotabaya-162220.html>

70 A/HRC/40/23 paragraph 56.

71 A/ HRC/ 46/20, paragraph 38.

WHITE VAN OPERATIVES

“When we abducted people, they were taken to a number of secret locations that our group had in or near Colombo. They were then treated according to the instructions from XXX. These included beatings, interrogations and physical torture. In all cases when a person was arrested/abducted by our group they were killed - either immediately or after a prolonged torture. In Sri Lanka there is a mythology surrounding what is called ‘The White Vans’. Whenever a person who is an opponent, a critic of the government or a suspected LTTE goes missing, it is blamed on the white vans.”

W47

“I was asked to stay near the van and my colleagues went to the house. They knocked, but it was not opened. I could see someone looking through the window. The door was then opened and XXX and YYY went in. After a little while, I heard a lady screaming and shouting. They returned dragging someone with their face covered and a pistol pointed at his head. The target was wearing a sarong; he pleaded with them not to kill him. There was an older

woman, I suspect his mother, following shouting. I could hear children crying inside. XXX was telling them in Tamil to be quiet, saying they would bring him back. He was put into the van onto the floor at the back.”

W291

“The vans we used were most often Toyota HiAce; sometimes we went in a ‘Defender’; these were almost always white; the Defenders were used mainly for when we were escorting. Generally it was the same van that we used. We used to fill the vehicles with fuel in the military camps; these were diesel vehicles. We used a coupon system and this was done by the team leader and the driver. When we went for a target the vehicle was always fuelled up.”

W251

“Over the next 15 or 16 months, I was involved in over 50 incidents of what has become known as ‘white vaning’. In some of these incidents, not very many, we actually had an arrest warrant, and followed normal procedures to secure a target. But in most instances we did not, we simply collected and handed over, whether it was a live target or a dead body. The targets were always Tamil men. There were no records kept, no entries in the CIBs. The cases in which we

followed procedure seemed to be for several reasons; in terms of ensuring we had some kind of official record operational activity, but also because in some instances we had evidence to pursue investigations and the prosecution route through the formal criminal justice system.”

W272

2. THE PERPETRATORS & CRIMES

“I DID NOT THINK THAT I WOULD COME OUT OF DETENTION ALIVE.”

W347

UNITS RESPONSIBLE

(COUNTER) TERRORISM INVESTIGATION DIVISION (TID)⁷²

Four victims describe being tortured by the Terrorism Investigation Division or TID in 2020 and 2021. These include the three victims accused of receiving funds sent from abroad and a fourth whose asylum bundle was studied. Though they were detained by the TID they do not appear to have been charged with any offence or put on trial, and their families were able to bribe their way out of detention. In these cases the victims' identity cards were taken away, and W347 describes his being put in a plastic evidence bag, as has occurred in past TID cases documented by the ITJP⁷³.

MILITARY

According to the most recent gazette, “any member of the security forces” has the power to arrest suspects and keep them for 24 hours before handing them over to the police⁷⁴. Five male victims knew they were detained by the army. In the run-up to his most recent detention, W344 had been questioned at a disappearance protest by a man who introduced himself as ‘Army CID’ (military intelligence)⁷⁵. Later, W344 was abducted in a van by a group of men, one of whom was wearing an army uniform. He describes the men who then interrogated and tortured him as physically fit, clean shaven and wearing army uniforms.

The testimony of another witness, W341, indicates the complicity of senior officers in the use of torture. W341

had been so grievously tortured that he couldn't stand properly by the time the senior officer saw him, but this officer did nothing to stop his torture or hold them accountable:

“A few hours after I had signed the documents, an officer and an armed soldier came into the room. I knew he was an officer as he was neatly dressed and wore a hat that officers usually wear. He had three stars on his shoulders and some badges on his chest. He was tall and fat.”

W341

Another witness, W344, describes being abducted by men in army uniforms in 2017 (under the Sirisena Government) and then again under the current Gotabaya Rajapaksa Government. In the most recent incident, W344 was taken off the roadside in

⁷² Renamed Counter Terrorism Investigation Division (CTID) but still referred to as TID by victims.

⁷³ W347: “they asked me to produce my ID card which they then took from me and put in a polyethene bag. I was grabbed by the back of my neck, pushed against the wall and handcuffed with my arms behind my back.”

W346: “The men confiscated my bank pass and ID.

They asked me to put my hands up and searched me. I was then handcuffed and beaten in front of my wife and children. They banged my head against a wall, kicked me and made me fall to the floor.” W362: “They asked for x (victim's name), I said that was me and then they asked for my ID. Once they had identified me, they put me face down on the floor and handcuffed me; and they put my ID in a black bag.”

⁷⁴ No. 2218/68 - FRIDAY, MARCH 12, 2021, section 5 (1). THE PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT, No. 48 OF 1979

⁷⁵ Noting that it is common in Sri Lanka for people to use the term CID to denote intelligence, be it military or police.

a white van by men in plain clothes with one man in an army uniform. In detention he was moved from his cell to the interrogation room by men in uniform, and uniformed officers were involved in his torture, though when he was gang raped it was too dark for him to say what they were wearing. One man thought he was detained in Joseph Camp because it was close to his house, he heard helicopters and he was locked up underground; the men who released him were wearing army uniforms and sunglasses.

ABDUCTION

In eight of the cases documented the victims recall the vehicle used to abduct them was a van – all but two were white or light-coloured vans⁷⁶. The account below is typical, in that the victim did not realise he was in danger until it was too late and the security forces were careful to check they had the correct target for whom they had been lying in wait:

“Before I could pass the van, someone got out of the back where the sliding door was and flagged me down. I stopped. He was big build, tall and clean shaven wearing civilian clothes. He asked if I was XXX (Name redacted) in Tamil (he was not talking fluent Tamil). I was shocked. He didn’t identify himself and asked for my ID. I didn’t show him my ID. I thought this could be security / CID and asked him who he was; he said he was CID and asked him for his ID. He showed me his ID card. I saw it was CID, but didn’t see the name of the card. This happened in a blink of an eye, as I was talking to this man, someone pulled my collar. I didn’t see who this was. This person and the man who flagged me down pushed me inside the van; then I realised there was a third person who stepped on my neck when I was inside the van. I was very scared and was trying to resist, to get out of the van and at the same time scream out. But they were holding me and

pushed cloth into my mouth. My hands were tied behind my back with what felt like rope; they also tied my legs and I was kept on the floor in the back of the van. My face and eyes were covered. The van had started to move as soon as I was put into it, and they tied me up as it was moving. They were restraining me and hit me a few times as this was going on. When I had been restrained, the van continued to drive; they were talking amongst themselves in Sinhala; I did not understand what they were saying; I heard the phone ringing... I was lying quietly but every now and then I felt a blow.”

W359

DETENTION

Detention periods ranged from a few days to at the longest three months. Former LTTE cadres tended to be the ones detained for longer stretches in this sample. One victim knew exactly which police

station he was tortured and raped in and could draw a sketch of the buildings he was kept in and identify on a map where he was released. Another was detained just five minutes’ drive from his home (W346), and a third (W362) was told that the men who came to get him were from TID and was driven just 15 minutes from his home to a known police station in the Jaffna Peninsula⁷⁷. There he said he was detained in the main building, with the result that other officers must have been aware of his presence and the way he was moved about to be tortured and interrogated⁷⁸.

In most cases victims were held in cells⁷⁹ and moved back and forth to interrogation rooms, or toilets⁸⁰. All but one was supplied with regular food, which suggests the presence of a canteen⁸¹. One victim, who describes being held in what he thought was an abandoned classroom⁸², said he wasn’t given any opportunity to wash in the months he was

held there and was watched by the guard as he used a toilet that had no door.

Victims were fingerprinted⁸³, including with a machine, and photographed⁸⁴ on mobile phones and cameras in detention, indicating a level of intelligence gathering. As is typical in past years, victims were also required to sign a confession that they couldn’t read because it was in Sinhala⁸⁵. In two cases⁸⁶ they were asked about a previous detention, how they had escaped and where they had been since, which indicates there is centralised record keeping. In another case the interrogators knew a great deal about a victim’s recent movements.

Victims describe an interrogation room that was obviously prepared for torture, in that it had ready the equipment needed⁸⁷. Six victims describe noticing blood stains on the walls, which indicates that others were tortured at these

sites⁸⁸. It also suggests there is such a high level of impunity in that the perpetrators see no reason to remove traces of their violence as these sites will not be independently inspected. Care, however, was taken to keep the victims separate from one another and to move them around blindfolded⁸⁹. Some detainees describe smelling alcohol during their torture⁹⁰.

ETHNICALLY DEROGATORY INSULTS

As in the past, interrogators and torturers used ethnically derogatory language like ‘Tamil dog’ to their victims, especially when sexually violating them⁹¹. An army torturer told W341: “You Tamil dog, you are an arrogant Tamil dog, whatever we do to you, no one is going to ask about it.” He went on to say that:

“...he would show me who he was. He told me to unzip his trousers and take his penis out. When I hesitated he slapped me across the ears

⁷⁶ W361 wasn’t asked to stipulate the colour. “There was a white van parked on the road a few metres from the gate. I was also calling out for help from my neighbours and I was then pushed into the van face down on the floor. I was still shouting out for help. One of the men stuffed a piece of cloth into my mouth and I was then blindfolded. I was terrified and thought this was the last time I would see my parents. In fact, this was the last time I saw them to this date.” W363

⁷⁷ “...they said they said they were from the TID that we were trying to revive the LTTE. I protested my innocence and they said they were taking me to the XXX police station”. W362 A fourth victim whose asylum bundle was shared with the ITJP also knew in which police station in the Jaffna Peninsula he was tortured.

⁷⁸ “Other police officers at the Kodikamam

police station must have been aware of this abuse. I was being taken back and forth between the cells and the interrogation room. I was being kept in the main police building.” W362

⁷⁹ “It had a window which was closed with metal rods on the inside and wooden shutters that open from the outside. It had a wooden door that was locked from the outside with a bolt that slid across. There was also a lock on the inside that could be slid across It had a concrete flat floor and ceiling. There were no lights or furniture inside the room.” W341 in army detention in the Jaffna Peninsula.

⁸⁰ “They would blindfold me and take me to a toilet inside the building. The soldier would be standing by the door outside until I finished. If I sat for too long they would knock and tell me to open the door.” W341

⁸¹ “I was given food twice a day,” W338. “I was offered food and water every morning and the evening.” W342.

By contrast, W347 in a police station got food parcels and not every day.

⁸² “The room looked like an abandoned classroom. There was metal sheeting on the windows and an old blackboard on the wall. There were broken furniture and wooden planks.” W345

⁸³ “The men removed the handcuffs and fingerprinted me with an ink pad on a white sheet. I was then photographed with a camera.” W347, TID custody.

“I was taken inside and two police took my finger prints and photographed me.” W362 in a police station.

⁸⁴ “They untied my hands and asked me to take my clothes off. I kept on my underwear. They took photographs of me; the big man took photographs with his phone.” W359

⁸⁵ “Some paperwork was put in front of me; I asked what this was but was not given an explanation. I just went ahead and signed the papers as I was only interested in getting out

of this situation. I really do not know what I was signing. There were four or five pages and I signed each page.” W359

“They took me to the same room where I had been sexually abused and produced four of five pieces of paper that were written in Sinhala; I was told to sign them. When I asked why they told me a case had been filed against me in court and I have to face charges.” W347

“I signed the documents because I felt I had not option.” W341.

“During the course of the interrogations, they would put typed document in front of me that were written in Sinhala and instructed me to sign. I felt I had not option and I signed, on a number of occasions. I can’t remember how many times, maybe up to ten documents. I did not pay attention to that kind of detail as my mind was focused on how to stop this and get out of this situation.” W361

“They then took some pictures with a small

camera. They told me to sit back down on the bench. They produced a plain white sheet of paper on the table and told me to sign. I refused to do so. They said I had to do this in a threatening way and I was frightened, so I agreed to do so. I then put a thumbprint next to the signature.” W363

⁸⁶ “They told me they knew I had previously escaped detention”. W345 and W342

⁸⁷ “The room looked like a torture chamber. There was a wooden bench and thin plastic tubing and wooden batons covered in tape.” W345

“In the room, which smelled bad, I saw batons and pipes, which made me think it was an interrogation room”. W338

“It had lights with electric bulbs and I could see wooden sticks, a wooden pole, rope, a barrel of water and wooden bench in that room. There were some bloodstains on the wall.” W341

“There were batons, pipes, wire and nylon rope in the corner of the room. There was a

wooden bench on the other side of the room. There was a barrel filled with water. There were some dried blood stains on the bench and the wall.” W339

“The men took hold of me by both arms and took me to another room where they removed my blindfold. I saw a table with a couple of batons and a handgun on it... The room reminded me about my previous detention and torture. I saw blood stains on the walls and I thought that they were going to torture me and this time I might even be killed.” [another time: “This time I saw batons, wire, pipes, a bucket of water and a petrol can.”] W342.

“I was then handcuffed and taken outside the main building and into room at the back of the compound... [then moved to another room for torture]... On the floor I could see wooden batons, plastic pipes and metal rods... He told me to

before putting my hand on his zip. He then took his penis out and told me to put it in my mouth. He said this will be the correct treatment for you.” W341.

Victims describe hearing their tormentors speaking in Sinhala with the occasional use of the word ‘Tiger’ or ‘Koty’ interspersed:

“They said that I am a ‘Koty’, which means tiger in Sinhala. They said that I was not prepared to work for them and that many people had changed but that I had remained as a Koty (Tiger).” W338.

Another victim said he never heard his TID police rapists speak Tamil to him; only one man questioned him who spoke what he called ‘broken Tamil’:

“Apart from the word ‘puli’ [Tiger], I never heard them say anything in Tamil. Occasionally they would step on my feet or kick me and say ‘sorry it was an accident’ in English and laugh. Other than that they only spoke to one another in Sinhala.” W347

remove all my clothes except my underwear.” W347
W359 describes blood-stained walls.
“The room looked like a torture chamber. There was a wooden bench and thin plastic tubing and wooden batons covered in tape.” W345
“ I could see dried blood on the sides of the walls.” W360
“The room looked like it was specially reserved for torture”. W344 describing blood stains and batons and tools.

“On one side of the room corner of the room was a large plastic barrel and on a small bench by that wall some sticks, wires and what looked like plastic bags. There was another small bench on one side of the table and I was made to sit there.” W363
88 “I saw blood stains on the walls and I thought that they were going to torture me and this time I might even be killed.” W342
89 “Whilst I heard people crying and screaming when I was in the area where the torture took place .. I didn’t see a single other

person whilst I was there... I was routinely blindfolded from my cell to the place I was tortured and back again.” W361
90 “They were insulting me in Tamil. When they came closer, I could smell alcohol. I was terrified.” W363
91 “They spoke in broken Tamil and called me a Tamil dog.” W341

AGES OF THE 15



“TAMIL DOG, TELL US THE TRUTH, OTHERWISE YOU WILL LOSE YOUR LIFE IN THIS ROOM”.

TORTURER TO W342

TORTURE AND CRUEL, INHUMAN AND DEGRADING TREATMENT

As has been documented by the ITJP in the past, three of the victims describe being “softened up”⁹² on their first night in detention by having water thrown on them to prevent them sleeping, and one said there was also repeated banging on the door of his cell⁹³. Many of the victims describe being kept naked except for their underpants for the duration of their detention⁹⁴. Two victims describe being given someone else’s clothes at the end before being released and one was released in only his underpants⁹⁵.

When moved from the holding cell or detention room to the interrogation room, Tamil victims describe being forced to kneel in front of the Sinhalese security forces⁹⁶. After some days of torture, victims describe no longer being able to kneel:

“They again asked me to kneel in front of them but I felt too bad physically to be able to do that. My knees were bruised from kneeling and

being dragged. There were not cut but it was painful to put my weight on them. I was squatting on the floor when the two men who had brought me to the room started kicking me.”^{W342}

During interrogations, victims describe being tortured in multiple ways: kicked with boots, punched, slapped and beaten with heavy pipes and sticks⁹⁷, whipped on their backs with wires, subjected to falaka⁹⁸ and burned on their flesh with lit cigarettes¹⁰⁰. One man describes being kicked so hard his head hit the floor and he passed out, thus terminating his first interrogation. There were repeated death threats¹⁰¹ which terrified detainees. Victims were asphyxiated by having their heads covered in a plastic bag doused in petrol (a common torture method specific to Sri Lanka)¹⁰² and had their heads submerged in water so they half drowned¹⁰³. In three cases, the victims were subjected to burning or branding on their bodies¹⁰⁴. One man describes being tied to rafters in the ceiling for two hours and suspended in a painful stress position and beaten; another says he was suspended from his thumbs, causing permanent damage¹⁰⁵. Another was tortured with an electrical device that might have been a taser or stun gun¹⁰⁶.

⁹² Page 80, Unstopped. https://itjpsl.com/assets/ITJP_unstopped_report_final.pdf
“My mind was racing; I had heard about abductions and people going missing. I was sweating with fear. After some time, someone came and banged on the door and said something in Sinhalese, which I did not understand. The door was opened and there were two men; they had a bucket of water which they threw on me. They said something else to me in Sinhalese in a harsh tone. They closed the door and went. I was cold and was shivering. I sat in the corner. After a few hours, the same thing happened again.”^{W363}
⁹³ ^{W342}: “I had water thrown in my face... (only the first night); ^{W359} I heard a banging from outside the room. I saw water being thrown under the door.”
⁹⁴ STRIPPED NAKED: “I was still only wearing my underwear and my clothes were not in the room. They were not returned to me during my period of detention.”^{W347} and ^{W359}.
“They would always remove my clothes and I was beaten with all sorts of instruments.”^{W361}
⁹⁵ ^{W362} was given new clothes but needed help putting them on: “They helped me to put my trousers on, because I was in pain and couldn’t stand up.”
⁹⁶ KNEELING: “I was made to kneel and give my name, address and details of my family and where I was working.”^{W342}; “I was handcuffed and made to kneel.”^{W347}; I was told to kneel and my t-shirt ripped off me and my shorts removed so that I was just in my underwear.”^{W341}.
⁹⁷ BEATING: “They got angry due to my answers and one of them beat me with a pipe on my chest and kicked me in my pubic region. I think the plastic pipe must have been filled with something because it was heavy when it hit me. I was in severe pain and I screamed I was kicked just to the right of my penis at the top of my right thigh. I already had a small lump there and this contact caused it to swell up. It is still very swollen and painful. I was lying on the floor due to the pain. The men continued to punch and kick me on the side of my ribcage and my back. I was slapped across my ears.”^{W342}
“They slapped me and forced me to stand up and started to hit me with long sticks. I was struck on the legs and fell down and then on the back. I cried out for them to stop. It was very painful. I remember they kept saying that I was lying; At some point, during this I passed out for a short while.”^{W359}
“I was beaten with a plastic pipe by the man standing behind me. He hit me all over my body.”^{W347}
⁹⁸ WHIPPING: “They used the wires to whip me on the back which caused me to fall forward onto the floor. Then they beat me on the back of my legs and back. It caused terrible pain.”^{W342}
⁹⁹ FALAKA: “I was made to lie on the wooden table facing down. One of the men then beat me with a plastic pipe on the soles of my feet. While this happened, the other men held down my shoulders and my legs. I felt an electric shock pass through my head each time they hit me and screamed out in pain. The plastic pipe felt heavier than if it was only made of plastic.”^{W347}
“The man with the birthmark started hitting the soles of my feet with the pipe. I had terrible pain - it was like having electric shocks. He did not break the skin but my heels were very swollen and I could not walk for a couple of days. He then moved and hit me on the upper arms with the pipe. While he did this he

asked if I had any connection with the LTTE, whether my family had any connection with the LTTE and what my brothers were doing.”^{W351}
“On another occasion, my feet were put up on the table and beaten on the soles of the feet with a stick. This cause terrible pain. I was crawling for two days and I was unable to walk properly for at least a month. I think they do this to prevent people from running away.”^{W362}
¹⁰⁰ CIGARETTES: “One of the two men who had brought me into the room and the fat man on the chair lit cigarettes and used them to burn them me on my hands, arm, chest and back. I think I was burned four or five times in total. I still have the scars on my skin. I had a strong feeling of burning when they put the cigarettes on my skin. It is like having an electric shock through your body.”^{W342}
“I was burnt with cigarette butts on my genitals and anus.”^{W361}
¹⁰¹ DEATH THREATS: “They were telling me to tell them the truth or they would kill me. I thought that they would kill me whatever I said.”^{W342}
“As they did these things to me, they said ‘Tamil dog tell us the truth otherwise you will lose your life in this room’. I thought that they were going to kill me.”^{W342}
“I was warned that if I did not tell the truth then I would be tortured to death.”^{W347}
“They told me if I failed to tell the truth they would kill me.”^{W338} in 2009.
“I was going in and out of consciousness and I felt water being thrown on my face and being slapped around the head. Then they again said if you still don’t tell us the truth we will kill you and throw your body away.”^{W341}
¹⁰² PETROL BAG: “Next the fat man put petrol in a polythene bag and put it over my head. The other two men took hold of me from either side. I felt the bag be held tightly around my neck. I was struggling but I could not get free. It was hard to breathe and all my face felt like it was burning I was trying to release myself but I could not get free. They removed the bag after 30 seconds and asked me to tell them the truth.”^{W342}
“They took a petrol-soaked cloth and placed it over my nose and mouth; I couldn’t breathe; they kept insisting I must tell the truth. I felt like I would pass out.”^{W359}
Also, ^{W344} describes passing out after a petrol bag was put over his head. And ^{W343}.
“They put a petrol-soaked polythene bag around my head and held it tightly around my neck. I was not able to breath. I had a severe sensation of burning on my face and eyes. Finally, I collapsed and became unconscious.”^{W347}
“I was beaten and a plastic bag covered in petrol was put over my head.”^{W346}
“The other man put a polythene bag over my head. I struggled to breathe and inhaled the smell of petrol. I felt a severe burning on my face.”^{W341}.
“As one was writing the other two were standing. The man behind me started by placing a cloth bag over my head. I realised almost immediately this bag had chili in it as I started to sneeze and burn. I lost consciousness.”^{W362}
“On one occasion I had a bag put over my head which had been doused in petrol and they held it tight around my neck while I was being beaten.”^{W361}
¹⁰³ WATER TORTURE: “I still did not say anything so they took hold of my hair and pushed

my head into a bucket of water. Again, I could not breathe. I tried to struggle. When they took my head out I told them that I begged them to leave me and said I would tell them the truth.”^{W342}
Also, ^{W344}: “I was dragged by my hair and had my head submerged into a barrel of water numerous times.” And ^{W343}.
“During the fourth interrogation, they submerged my head into a barrel of water again and again until I agreed to sign documents confessing to their allegations. I did so as I could not bear the torture anymore.”^{W345}
¹⁰⁴ BURNING: “They then pushed me onto the table on my stomach. They were holding my hands and legs down. I was trying to resist. I could feel them burning me with something on my back and legs; I cried out. I could feel the burning sensation. After this, they took me off the table and forced my head into what looked like a bowl filled with water. It felt like I was drowning and I passed out. When I opened my eyes, I was back in the cell.”^{W359}
“I was made to lie on the floor facing down and two men held me by the hands and legs. The third then burned me with a metal rod on my back and lower leg. He wore gloves. I did not see where he got the metal rod for or how he made it hot. I screamed in pain and felt severe burning on my back and legs. That feeling of burning lasted for many weeks I could not even move without being in pain. I could not lie on my back because it hurt too much and was uncomfortable.”^{W347}
“This included burning my back with metal rods which meant I could not lie down on my back for over a month which was very painful in that tiny cell.”^{W362}
¹⁰⁵ “In another torture session, I was suspended from the thumbs hanging for several hours on my tip toes. This has caused severe damage to my thumbs and joints.”^{W362}
¹⁰⁶ “Apart from the burnings, I was subject to electric shocks on my back with a baton like machine - about 18 inches long that blue electricity came out from and that make a tiktiktik clicking noise. This was done by another police officer who came from Colombo.”^{W362}

SEXUAL VIOLENCE

Overall, all but 3 of the victims were subjected to sexual violence in detention. Of these three who were not sexually violated in 2020-21, two had previously been anally raped by the security forces during past detentions. Witness W339 was filmed while being sexually violated which, apart from anything else, indicates the extreme level of impunity. One recent victim from 2021 didn't want to give details of the sexual violence he had experienced but confirmed it had occurred¹⁰⁷.

Sexual violence continued to be perpetrated against detainees held in army camps, typically at night in the cell and in groups of two men. W342 was held semi-naked and had his groin kicked and his testicles squeezed by officers in uniform, causing him extreme pain. On another occasion, after signing a confession, two men came into his cell at night and asked him to strip naked and kneel in front of them; they then orally raped him one by one¹⁰⁸. Another witness W359 was also orally raped by two men while in detention, in a place where he was held by a mixture of plain clothes and uniformed army officers¹⁰⁹.

W341 was orally and anally raped by two men in army camouflage trousers and green T shirts¹¹⁰ and gave a detailed account of his ordeal, an excerpt of which is reproduced below. It is worth noting that the victim is extremely young:

“The man who had taken my penis in my mouth began kissing my chest. The other man withdrew from my mouth before he had ejaculated. He turned me onto my front and spat on my anus to make it wet. He put one of his fingers into my anus at first. When he tried to put a second in I tried to scream in pain. He grabbed hold of my neck and warned me not to make any noise. The other man who had performed oral sex on me and been kissing me was holding my hands down on the floor so that I could not move. He was kissing my ear lobes, neck and face. The other man tried to put his penis inside me but I kept moving around and trying to avoid him. Again he spat on my anus. He put one finger inside my back passage and then two. Despite my opposition he managed to insert his penis into my anus. The other man told me not to move and pinned me down until his companion had ejaculated inside of me and withdrawn. The man who was holding my hands then put his penis in my mouth to get an erection and then swapped position with his friend. He licked my anus and inserted his penis into my back package and had anal sex with me. He withdrew from

me before he finished and ejaculated on my face. At one point during the sexual abuse one of the men bit my buttock but I am not sure which. I was also scratched across my chest.” W341

Two men recently detained by the counter terrorism police, the TID, were anally raped with a metal rod:

“For five or six days I was sexually abused. Metal rods were inserted in my back passage.” W346

Witness W347, who was held by the TID, describes having his private parts painfully squeezed and then being orally raped by a group of four men while forced to kneel in front of them¹¹¹. After this ordeal was over, they also anally raped him with a metal rod and called him a Tiger¹¹². Not long after the first instance of sexual abuse, the exact same thing happened to him, again with the same four perpetrators – oral rape and then anal rape with a metal rod¹¹³.

Another victim, who believes he was detained by the Criminal Investigation Department (CID), describes having his testicles and penis squeezed in detention¹¹⁴.

The impact of the sexual assaults in custody has left the victims suicidal¹¹⁵. W347 says he thought of killing himself in detention but simply didn't have the means to do so¹¹⁶. Another witness W341 describes not even being

able to wash after being anally gang raped:

“When I touched my anus I felt blood and sperm. I had nothing to clean myself with so I wiped myself with my underwear then I wore it. I was crying. I thought that I should have been dead rather than suffering all these terrible things in my life.”

¹⁰⁷ “I was also subjected to sexual torture, but I would prefer not to talk about this at this time.” W362

¹⁰⁸ “One of them told me to hold his penis in my hand. The other pulled down his trousers and rubbed his penis on my face. I was forced to open my mouth and put his penis inside. He made me move it in and out and suck it. The man finally ejaculated his sperm on my face. He then took hold of my head to hold me still and the other one started inserting his penis into my mouth and forcing me to perform oral sex.” W344

¹⁰⁹ “They told me to take my underwear off and they started to manhandle my genitals. They asked me to hold their genitals. I was shocked and disgusted by this. I tried to move backwards. I was forced onto my knees and the one man tried to stroke my face with his genitals. I started to cry and was in despair. He forced me to perform oral sex. I felt sick about this. I was begging and he ejaculated in my face. The other man also abused me in this way. They left the room after doing this. I wiped my face, I was crying. I couldn't clean myself up, there weren't toilet facilities.” W359

¹¹⁰ “One of them forced me to put his penis into my mouth and made me give him oral sex. I tried to tightly hold my mouth shut and moved my head from side to side to resist him but he took hold of my throat with one hand and strangled me. The man then took his free hand and put pressure on either side of my jaw to open my mouth. As this was happening the other one had pulled down my pants and began to masturbate me. I tried to take my mouth away from his penis but he again

forcibly put it back in. The other man began to perform oral sex on me. I could not even fight against them so I didn't have any other way than to let them do whatever they wanted to do.” W341

¹¹¹ “One of the men approached me and squeezed my private parts through my underwear. The others joined in and dragged my underwear down before pulling and squeezing my penis. I was made to kneel in front of them and one of them tried to put their penis in my mouth. Another took hold of the back of my head to keep me still. One by one, all four of them forced their penis into my mouth. When they were inside, they made me move my head back and forth for about ten minutes. At all times someone had hold of the back of my head so I could not escape. When I tried to move away, I was burned with cigarettes on my upper shoulder and back. I do not know if they all ejaculated, but some of them did.” W347

¹¹² “When they had each had their turn, I was made to kneel on all fours with my head facing the floor. Three of them held me down while another inserted a metal rod into my back passage. While they did this, they were talking to each other and I heard them saying 'tiger' and 'puli'. This caused severe pain and I begged them to leave me. They took the rod out of me and one of them returned me to the room. After this incident I had bleeding from my anus.” W347

¹¹³ “There were many more occasions in which I was subjected to sexual violence during my detention. On most occasions I was forced to have oral sex. The men would put their penises into my mouth and make me move. By the end of the oral sex, they ejaculated on my body and on my face.

I felt so embarrassed and humiliated. Sometimes they would hit me round the face with their penises or rub them onto my face. They squeezed my penis and sometimes slapped it with their hands. Every time they had finished with me they told me put my underwear back on and I was taken back to the cell.” W347

¹¹⁴ “When I told them I had told the truth they pulled my underwear down. I tried to hold my underwear up with my hands and cover my private parts but one of them held my hands while the other dragged them down my legs. The man who removed them then pulled and twisted my penis. Then he took my penis and my testicles and squeezed them together. It caused severe pain. I tried to move my body away and they punched me on my face, slapped me across the ears and kicked my chest before pushing me to the floor. As they did these things to me they said 'Tamil dog tell us the truth otherwise you will lose your life in this room'. I thought that they were going to kill me. When I was on the floor they kicked me again and then left.” W342

¹¹⁵ “I wondered what was the point of living after this experience.” W359

“I thought it would be better if I died and I thought about breaking the plate they had left and using it to cut my throat.” W341

¹¹⁶ “I think it is better to die than suffer this kind of torture. I thought about killing myself, but I did not have the means to.” W347

RELEASE

BRIBERY AND CORRUPTION

All of the victims interviewed were released because their families paid bribes to their captors¹¹⁷. In most cases the families didn't tell victims how much they paid lest it upset them to know the level of indebtedness incurred. However W346 said he was told the bribe for his release was 2 million Sri Lankan rupees (approximately US \$10,000), while W347 was told his father paid 1.2 million rupees for his release.

Some victims saw a package being handed over at their release¹¹⁸. One man describes being released in a police jeep. More than half of those interviewed said that their release had been brokered by members of the Eelam People's Democratic Party (EPDP), led by a Sri Lankan cabinet minister who is named in the UN OHCHR investigation on Sri Lanka (OISL) in connection with multiple grave violations of human rights and

who himself had a murder case pending in an Indian court.

HIDING

Witness W341 was warned on release by the mediator not to contact anyone¹¹⁹. Another was told by the person who brokered his release that he would be recorded as an escape. Two victims describe being warned specifically to leave the country:

"The man with connections in EPDP told us it was not safe for me to remain in Sri Lanka because the security forces might come back for me." W338

"He also said that it would not be safe for me to remain in the country as there was a possibility I would be taken again." W347

Another victim explained why he didn't think of contacting his colleagues in the Tamil political party in which he'd been volunteering:

"I was very insecure at this point and didn't even think about contacting my colleagues... No-one told me where I would be going. I asked, but I didn't get any answer. I just knew it

wasn't safe for me to stay in Sri Lanka. I was aware of what had happened to others who had been picked up in this way in the past. I was aware that people had left the country before who had been in similar circumstances to my situation. I felt very vulnerable. I didn't want to leave the country, but really felt I was now in a situation where I had no choice." W359

In one rare case the smuggler, or 'agent' as they are known locally, photographed the victim's scars in Colombo and arranged a doctor because he had rectal bleeding from the rapes¹²⁰. Another male rape victim was seen by a doctor:

"A Sinhala doctor came to see me on XX 2020. I do not know his name. He gave me painkillers, Amoxicillin, and some cream to apply to my back passage. I was also put on a saline drip as I was weak from lack of food. XX (the agent) translated for me and I told the doctor about the fact I had been subject to sexual abuse.

I was given three injections to protect me from sexually transmitted diseases. The doctor came

back a few days later and gave me some Piriton to help me sleep and Amitriptyline as I was feeling so depressed." W347

Victims describe spending long periods of time waiting to leave the country in hiding, often in Colombo; this may be because of Covid disrupting travel. W344 spent two months alone in what he thought was a lodge in Colombo before being driven to the airport.

Victims were never asked by the smugglers what had happened to them:

"No one talked to me when I was there about what happened, so I did not tell anyone about the abuse I had suffered." W341

However, one man, W342, was sent to Colombo to stay with a family he didn't know before he could leave the country and by chance the agent's wife saw the scars on his body:

"When I was undressing to bathe myself a woman who I think was X's wife came into the room. When she saw the scars and marks on my body

and she was quite shocked. She asked if people were really treated this cruelly and told me not to worry because X [her husband] would make arrangements for me to leave the country.

THE JOURNEY

All but one of the victims in this group left the country by plane, and one by boat from the Jaffna Peninsula to India where he waited several months for a flight to London via the Middle East on which he used an Indian passport¹²¹. Several victims interviewed describe being told to go to a specific counter at Sri Lankan immigration to leave the country safely where their passport was stamped but not scanned¹²².

Some were given passports with photos of people who looked like them and others had their own photo in a Sri Lankan passport with another name and identity¹²³. W341 flew via the Far East where he was given a second passport, a Canadian passport, with his photo in it¹²⁴. Typically the smugglers abandon the victims on arrival in the UK, leaving them to fend for themselves¹²⁵. One man left

on a student visa on his own passport, applying in the British High Commission in Colombo and flying directly to the UK.

These journeys were severely interrupted by the pandemic. For example, W338 spent 45 days in transit in the Middle East in an apartment on his own and then 23 more days in a hotel in another city in the Gulf. Another victim flew to Moscow, drove in various cars and at one point walked across the Romanian border after a fortnight on foot with a group:

"We slept in the open and it was very cold; we were being pushed by our guide to walk hard and fast. We carried the food with us, which ran out and for the last few days we only had water which we were collecting from rivers along the way. It was a terrible journey. The man guiding us pushed us hard, conditions were very difficult, our clothes were ripped. One of the four was very weak and wanted to give up. That night we stayed in the forest; our guide motivated him to continue as we were nearly there. He was very strict and very tough, he warned us

¹¹⁷ The army were involved in this release: "I could see the van I had been taken off was a white van with a black trim, I couldn't see if there were numberplates, and there were no windows at the back. There were eight men with me. The two men who had sexually assaulted me were amongst this group. These seemed to be a mixture of police, army and civilians. Only one man was in an army uniform, others I could see were security from their boots and belts, which seemed to be police issue." W359

¹¹⁸ W338 "The other person spoke to the men

who brought me and handed them a small parcel."

¹¹⁹ "He said that if I tried to contact anyone I would have more trouble from the authorities." W341.

¹²⁰ "He took photographs of my injuries which I still have in my possession. I had a temperature, back pain and was bleeding from my back passage due to the sexual abuse. The agent organised for a doctor to see me. He gave me cream, tablets and a saline drip." W346

¹²¹ "I was travelling on an Indian passport which had somebody else's name on it. I went through immigration when we arrived without any questions being asked. X had given me some other

documents that I put inside my passport. I looked at the passport on the flight, but not at the documents. I did not have a Covid test before coming and do not know if one of those documents was a Covid certificate." W362

¹²² "We went inside the airport and the agent gave me a false passport with a different name and a photo of someone who looked like me. Inside the passport I found the boarding pass. He asked me to go to counter number three. He said everything had been arranged and I didn't need to worry. It was my understanding that he had paid a bribe for me to leave without any problems. At the counter the officer didn't ask me anything, he stamped it

but didn't scan it." W338

W344 describes his passport being stamped but not scanned. W359: "I was taken to a specific man at immigration". W347: "He said I should go to counter three at immigration control."

X brought me painkillers and some sleeping tablets. I stayed at their house for six days. X explained that I could not simply pass through the airport as there were a lot of restrictions. On X 2020 he bought me a suit, shirt and wristwatch to cover the marks on my body so that I would not raise suspicions. The following day he told me to get dressed and drove me Colombo airport in his car. Once there he

gave me a Sri Lankan passport. It did not have my photograph in it but the person looked like me. I did not memorise the details. At the airport I was handed over to a Tamil man whom X said would accompany me. I followed this man though to the immigration control. I presented my passport at the counter. It was checked and stamped but no questions were asked." W342

¹²³ "The passport had the photograph of me in the white shirt in it but different details. The man did not ask me to remember any of the details and I do not know them now. The passport was a Sri Lankan passport. It was maroon in colour." W341

¹²⁴ "I do not remember the details but it had the same picture of me in the white shirt on it. The second passport was Canadian. It was a very dark colour, blue or black. I destroyed that passport during the flight like I was told to."

¹²⁵ "Once we arrived the agent tore the boarding pass into pieces and told me to go and throw it in the toilet. When I came out from the toilet he was gone." W338

about gangsters who might rob us.” W359.

Four victims came to the UK in rubber dinghies from France, which is the first time the ITJP has been aware of Sri Lankan Tamils undertaking this extremely risky sea journey. Others arrived from Europe in cars and lorries. For example, W344 arrived in the UK, hidden in the back of a lorry between some wooden pallets until they arrived at a petrol station; the driver lent him a phone and he called his brother who was surprised as he had no idea he was coming. Similarly W342’s brother was not aware he was enroute:

“I was introduced to a Tamil man who was with his wife and two children in a car. This man told me that I should not be worried or scared and he would safely take me to the UK. I got into the back passenger seat of his car and sat between his two children. We then drove for around three hours before boarding the ferry. The driver showed the passports at immigration control. I do not know what passport he showed on my behalf. Once we reached the UK, we drove for a further three hours before stopping at a petrol station. The driver called someone and passed the phone to me. My brother was on the other end of the line. I told him that I was in the UK and he said he would come with his friend

to pick me up. My brother was not aware that I was coming. I was left at the petrol station and he collected me around one hour later. I have been staying at his studio flat in XX since. I sleep on the floor next to the bed he shares with his wife.” W342

THE IMPACT ON THE INDIVIDUAL

It is worth noting the quite extraordinary levels of trauma victims experienced even before they were tortured. Witness W344 describes witnessing adults being beaten and detained by the Sri Lankan Army as a child and fleeing the conflict on foot aged seven with hundreds of thousands of Tamils, missing school and camping on someone else’s land. Older men recall childhood incidents of violence they witnessed and growing up without basic supplies and food¹²⁶. Having been in detention in the late nineties one witness had witnessed the routine sexual abuse of Tamil women by soldiers in displacement camps¹²⁷.

¹²⁶ “I remember one instance when a distant relation, X, was shot dead. He was going on his bicycle and we were told when he saw a white van with army officials, he became frightened, dropped his bicycle and tried to run, but was shot. He was running down the street, but died from his wounds. I went the next day and saw the blood on the street. That incident I can never forget.” W362

“There was a real reduction in some supplies; kerosene and soap has been already in short supply as the fighting in our area disrupted the flow of provision ..There was also a lack of food in our village and neighbouring communities.” W36

“Once there was a visit by CID from Colombo. This visit was accompanied by physical abuse and beatings. This security harassment happened more times that I can remember and became a part of my life.” W361

¹²⁷ “These episodes of questioning were accompanied by verbal and physical abuse;

Others survived the final phase of the war in the Vanni as children, watching their friends and family being blown to pieces in front of them, and personally experiencing the terror of LTTE forced recruitment, multiple displacements, starvation and then imprisonment in the IDP camps. One witness describes as a young adult being subjected to the terror of a round-up:

“I was produced with other young people before an informant wearing a balaclava. If the informant nodded his head the person would be arrested. If the informant shook his head the ID documents would be returned.” W346

All but three victims had experienced members of their close family dying or being detained in the conflict¹²⁸, before being tortured themselves. One torture victim had watched his father deteriorate after torture:

questioning often happened at night and those doing this were often drunk. This was largely physical abuse with assaults. Not the kind of sexual abuse that followed later. But I witnessed a lot of sexual abuse in that camp, especially single women and women headed families being targeted; this was a regular occurrence. At 21h30 lights would be switched off and women would be taken by the soldiers; this happened all to time.” W361

¹²⁸ W347 – relative detained; W346 - relative abducted and raped. Another relative tortured and now mentally ill; W344 - relative died in fighting in the War. Two relatives detained and refugees in different countries; W338 – relative lost leg in War and detained, relative died fighting, another relative detained at War end, another relative disappeared at War end, yet another relative detained and rehabilitated.; W342 relative abducted and tortured. Another relative forcibly recruited aged 17 and detained and a refugee. A further two relatives died in

“I was aware of the difficulties my father had as a result of his detention, he continued to live with the injuries from that experience; it continues to affect him to this day. He has a particular problem with one of his hands and wrists, experiencing both numbness and pain. He has had surgery twice. He also has a problem with one of his legs, and has difficulty walking long distances. I am very close to my family and I am very aware of the challenges they have faced.” W363

ENDURING PHYSICAL PAIN AND SCARS

Tragically one victim was diagnosed by a doctor as having severe cognitive impairment, most likely as a result of torture¹²⁹. Some have attended interviews in London still visibly in pain. Witness W342, for example, was limping badly and struggled to walk. His medico legal report stated that he was also having

the fighting in the War; W341 relative killed, relatives missing; W339 relative killed; W345 relative killed. Another relative killed in fighting. Another one murdered. Relative abroad as a refugee; W359 – nobody; W360 – relative missing another injured in War; W361 – distant relatives and friends, colleague abducted; W362 – nobody. W363 father tortured.

¹²⁹ W345 MLR: “It is also my opinion that the repeated hitting of his head against a wall by his interrogators coupled with his severe PTSD are the most likely causes. He reported that he did not have cognitive problems before his torture, he pointed out that he had succeeded in his O levels, A levels and university entrance before the two episodes of maltreatment.”

¹³⁰ “The cigarette burns on my penis were initially infected and I had pain passing urine but now I only have the scars.”

¹³¹ “I have very bad headaches and have been

pseudo seizures, “caused by high levels of anxiety [panic attacks]. Clinical observations on various occasions showed he had a high pulse rate and was hyperventilating, both signs of high levels of anxiety”. One man describes pain passing urine because of the burning of his penis during torture¹³⁰. Many survivors describe severe pains and headaches. As one of the specialist physicians who examined them said in a report, “Survivors of torture often express psychic pain psychosomatically”. W346 complains of “very bad headaches” as well as bleeding from the anal rape; he attempted suicide in December 2020 by cutting his neck with a kitchen knife and remains suicidal¹³¹.

MENTAL TRAUMA

Suicide attempts and suicidal intent are the norm in this group, especially in relation to the sexual violence¹³². The younger victims, however, describe themselves as having been happy with their

families after the conflict before they were abducted¹³³. In addition to the physical pains, victims have to contend with insomnia, flashbacks, low appetite and nightmares¹³⁴. Married men worry about the psychological impact on their children back home¹³⁵. The asylum system in the UK, that leaves victims in limbo, and the pandemic have exacerbated the sense of hopelessness¹³⁶. One victim, who has branding scars on his back and cigarette burns from his recent torture, describes being insulted and automatically disbelieved when interviewed by the UK Home Office:

“I have since had a screening interview that was done by Skype in [date redacted]. The man who conducted this interview was rude to me and said to me that the people who come to the UK lie about these things just to get asylum. I felt that he was not taking what I was saying seriously. Although he talked through an interpreter, I could understand what he was saying in English.”

W341 still experiences vivid flashbacks as well as suicidal thoughts¹³⁷. His specialist psychiatric report said he “presented as a tense, miserable and withdrawn young man. His voice was monotone and his speech was rapid” and he expressed active suicidal intent in the form of taking another overdose if he had the opportunity to do so. W339 and W341, who also have suicidal thoughts, were described by an independent doctor as being at significant risk of committing suicide if returned to Sri Lanka. The doctor said W341 was so bad he was not fit to testify in his own asylum case.

Witness W344’s Medico Legal Report said, “if he was faced with going back he would rather end his life here. He could not go through that torture again”. This witness is particularly badly affected by the sexual violence which has left him feeling worthless and ashamed¹³⁸. His medico legal report diagnosed him with severe PTSD, severe depression and high levels of anxiety and also said he was

not fit to represent himself at an immigration interview. Furthermore if he were faced with the prospect of being returned to Sri Lanka, the doctor felt there would be a significant risk of him committing suicide.

W342 has already attempted suicide by taking an overdose in the UK. His Medico Legal Report said on some days he just sits in a corner and cries and he is entirely dependent on his younger brother to care for him. He weighs 14 kgs. less than in 2018, and is medically underweight. An independent doctor diagnosed him with severe depression, high anxiety and severe PTSD, and said if he were faced with the prospect of being returned to Sri Lanka, there would be a significant risk of him committing suicide. His mental state was so bad he was also deemed unfit to testify in his own case¹³⁹.

prescribed Sumatriptan. As a result of the sexual violence, I pass blood from my back passage when I go to the toilet. My GP has prescribed Proctosedyl ointment and this has improved slightly, but there is still blood. I have pains in my knees from being beaten. If I sit down, even for a short period, it is then difficult to stand up. I have raised this with my GP and he will refer me for a scan when the Coronavirus restrictions have been lifted. I have visible scars on my head, nose and back. I am feeling really miserable. My mental health as a declined as a result of the detention and torture. In December 2020 I attempted suicide by cutting my neck with a kitchen knife... When I think of the torture, or I do not take my medication, I have thoughts of ending my own life.” W346

¹³² “I thought it would be better if I just died. I feel that no one should have to live through what I have lived through.” W342
“I try to avoid thinking about what happened to me during detention. When I do think about it, especially when I discuss the sexual abuse, I find it very difficult... Sometimes I hate myself and think I should die because of what has happened to me.” W344
“I am in fear of everybody and struggle to concentrate. I am severely depressed and do not have any hope left. I am still struggling to sleep. When I do sleep, I have a lot of bad dreams about my torture and sexual abuse in detention in Sri Lanka. I also experience flashbacks of what happened to me during the day when I am awake... I have to leave the light on in my bedroom... Since I was raped in detention, I struggle to pass stools in the morning. When

I can it is very painful and I have a burning feeling. I have been advised by my GP to not eat spicy food to help this.” W347
¹³³ “I led a normal life and was happy.” W347
¹³⁴ “Mentally I am feeling very bad. I find it very difficult to fall asleep I have horrible dreams about the torture, where I am being beaten and kicked during detention. I also replay the horrible scenes of things I witnessed in the War. I wake up screaming at night. Even when I am awake these images come to me. am not able to really do anything by myself as I become confused and overwhelmed. Since my most recent detention I have a very low appetite for food and have lost weight. I do not leave the house without a chaperone... My physical health is poor. I am in pain all over my body. I cannot walk very far or sit comfortably for a long time. It hurts my back to lie in the same position for too long. I still

have pain in the soles of my feet and I cannot stand or walk for long distances. My feet are numb sometimes.” W342
¹³⁵ “Before my arrest, my family had a happy life with no particular problems. My children have been greatly affected by what has happened. The family has been separated. They are scared and are not attending school regularly. When they do attend the other children talk about their father being arrested, beaten and taken by the authorities. They feel traumatized.” W346
¹³⁶ W345: “I hate myself and I am very angry with myself, I have no future. Why should I live like this and suffer, it would be better if I ended my life... I have very bad memories and quite frequently suicidal thoughts. Sometimes I hate myself and my body so much that I want to cut myself. I feel restless and stressed and I can't socialise.”

¹³⁷ “..Sometimes I feel very depressed and that I should end my life. Once I took tablets to kill myself,” MLR of W341.
¹³⁸ MLR of W344: “He sleeps four hours a night at most. He can't get to sleep straight away; what happened to him in detention keeps on going round in his mind. He feels afraid so he keeps the light on all night. When he does get to sleep he gets nightmares. [I asked him what the nightmares are about.] They are about being tortured, about his interrogators trying to kill him, different situations. He wakes up suddenly from the nightmares, sweating and scared. He has a drink of water. It is difficult for him to get back to sleep again. He has these nightmares often. He said, 'The sexual abuse affected me badly. It has made me feel I am worthless. I feel very ashamed about it. I can't talk about it. What also upsets me is thinking that there

is never any freedom for Tamil people. They are always being oppressed and mistreated. And now it has happened to me'.”
¹³⁹ W342 MLR: “The additional stress of having his Home Office interview, no matter what precautions are taken and no matter how sensitively it is conducted, is likely in my view to increase his anxiety levels to the point of precipitating a panic attack or other form of collapse... he is not fit to do so; in addition potentially it would be exposing him to unacceptable additional stress.”

THE HISTORY OF BRANDING IN SRI LANKA

“I saw a red-hot iron, one soldering iron and one iron rod. They used this, I found out later, to beat prisoners, and every time it hits your body you get an electric shock. I was told to face the wall and beaten with an S-lon pipe.”

[Amnesty International, 1989](#)¹⁴⁰

“She was tortured by being hung upside down and beaten on her legs, burnt with cigarettes, given electric shocks and burnt with heated metal rods.”

[Amnesty International, 1996](#)¹⁴¹

“Torture techniques were brutal, including burnings with soldering irons, beatings and electric shocks.”

[Making Torture Possible: The Sri Lankan Conflict, 2006–2009](#)¹⁴²

“...100 medico-legal records of victims of torture examined at the Judicial Medical Officer’s Office, Colombo between 1998 and 2001 were perused. Scars caused by seven selected methods of torture were taken into consideration. They were, assault with both non-pliable and pliable blunt objects, cigarette burns, burns with heated solid objects and molten plastic, ligature application with different forms of suspension and cuts with sharp objects.”

[Scars of torture: a Sri Lankan study, 2007](#)¹⁴³

“Torture methods include; beating with various weapons and under the soles of the feet (falaka), blows to the ears (telephono), positional abuse when handcuffed or bound, suspension in various positions, burning with metal objects and cigarettes,

suffocation with plastic bags with chilli pepper or gasoline and various forms of genital torture.

[Law and Society Trust report, 2009](#)¹⁴⁴

“I was burnt with hot metal rods on my back and thighs. I was sometimes poked with the end of a hot poker and kicked on my head with metal toed boots.”

“They burnt me with cigarettes butts and heated iron rods.”

[Human Rights Watch on 2010 cases](#)¹⁴⁵

“their skin was burned with cigarettes or hot metal objects;”

[UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2010](#)¹⁴⁶

“Freedom from Torture has previously expressed concern that the evidence of highly prevalent and widespread use of burning as a form of torture could reflect a policy of ‘branding’ people not only to inflict long term psychological and physical damage but also to ensure that the individual is easily

identified in future as having been of adverse interest to the authorities¹⁴⁷.”

[Freedom from Torture, 2015](#)

“Sri Lankan man ‘Nik’ says the CID (Sri Lanka’s Criminal Investigation Department) used hot metal rods and lit cigarettes to burn his body.”

[ABC, 2015](#)¹⁴⁸

“Partial suffocation with the use of plastic bags soaked in petrol, or dusted in chili powder, placed over the heads of victims was another technique described by many victims, as well as being burnt or “branded”, with heated metal rods, or burned with lit cigarettes.”

[OHCHR Investigation into Sri Lanka, 2015](#)

“The Special Rapporteur interviewed current and former suspects detained under the Prevention of Terrorism Act and received well-documented accounts of extremely brutal methods of torture, including burns; beatings with sticks or wires on the soles of the feet (falanga¹⁴⁹); stress positions, including suspension for hours while handcuffed; asphyxiation using plastic bags drenched in kerosene and hanging of

the person upside down; application of chili powder to the face and eyes; and sexual torture, including rape and sexual molestation, and mutilation of the genital area and rubbing of chili paste or onions on the genital area.”

[UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, 2016](#)¹⁵⁰

“His captors then heated up long metal rods so they could brand him with the marks of a tiger.”

[Associated Press, 2017](#)

“The Human Rights Commission stated that an UK NGO had published pictures of people who had claimed to have been tortured using branding but they (HRC) had not seen any evidence of this and no such cases had been brought to their attention in Sri Lanka.”

[UK Home Office, 2019](#)¹⁵¹

¹⁴⁰ EXTRAJUDICIEAL EXECUTIONS, ‘DISAPPEARANCE’ TORTURE, 1987 TO 1990

¹⁴¹ <https://www.amnesty.org/download/Documents/144000/asa370101999en.pdf>

The case of Sinnarasa Anthony mala, arrested by the Navy in July 1995 when aged 15 years old.

¹⁴² <https://journals.sagepub.com/doi/pdf/10.1177/0973174113504846>

¹⁴³ <https://pubmed.ncbi.nlm.nih.gov/16919991/>

¹⁴⁴ THE RULE OF LAW IN DECLINE; STUDY ON PREVALENCE, DETERMINANTS AND CAUSES OF TORTURE AND OTHER FORMS OF CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CIDTP) IN SRI LANKA May 2009, Kishali Pinto-Jayawardena

¹⁴⁵ <https://webcache.googleusercontent.com/search?q=cache:orbJp91pnjoJ:https://www.hrw.org/news/2012/09/15/united-kingdom-document-containing-cases-sri-lankan-deportees-allegedly-tortured+&cd=3&hl=en&ct=clnk&gl=uk&client=safari> United Kingdom: Document containing cases of Sri Lankan deportees allegedly tortured on return 15 Sep. 2012.

Also cited in <https://www.hrw.org/report/2013/02/26/we-will-teach-you-lesson/sexual-violence-against-tamils-sri-lankan-security-forces>

¹⁴⁶ https://www2.ohchr.org/english/bodies/hrccouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf

¹⁴⁷ <https://www.freedomfromtorture.org/sites/default/files/2019-04/Trainted%20peace%20-%20>

https://www2.ohchr.org/english/bodies/hrccouncil/docs/13session/A.HRC.13.39.Add.5_en.pdf

¹⁴⁸ <https://www.abc.net.au/news/2015-08-03/torture-burns/6669456?nw=0>

¹⁴⁹ Also known as falaka.

¹⁵⁰ A/HRC/34/54/Add.2

¹⁵¹ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/859277/Sri_Lanka_FFM_report_2020.pdf Fact Finding report

“THE LAST THING I SAW WAS MY FATHER COMFORTING MY MOTHER AS I WAS WALKED TOWARDS A JEEP PARKED OUTSIDE THE PROPERTY.”

WITNESS 347

SURVEILLANCE

Surveillance by the security forces of Tamils in the north and east continued unabated post-war but is said to have intensified markedly in the last two years. Activists, lawyers and civil society organisations are monitored and visited intensively by different security agencies, with the result that those working on human rights feel threatened and fearful and try and keep a very low profile. Victims and their families in the north and east and Hill country who have been calling for justice and accountability have been questioned by counter-terrorism police officers. The same pattern is reported by the victims interviewed for this report who describe

constant surveillance by security forces since the war end¹⁵². They describe plain-clothes intelligence officers taking photographs at all the protests for the disappeared or War commemoration events they attended over the years. As witness W344 says:

“These people stand out from Tamil people so they are easy to spot.”

Over the years the ITJP has identified several low-level Tamil informers working initially with the security forces in military camps and now based in the villages of the Vanni- a witness interviewed here also spoke of being betrayed by informers in the community¹⁵³.

One victim said the questions he was asked by the TID in 2021 indicated they knew about the content of his phone calls, including timing, to his relative abroad¹⁵⁴. Another worried his movements had been tracked.

¹⁵² OHCHR March 2021 report speaks of surveillance. Article <https://www.thenewhumanitarian.org/news/2020/06/10/Sri-Lanka-activists-state-of-fear> “Surveillance has always been there, but since the election what we have seen is that it’s more open and more rampant,” said Shreen Saroor, a women’s rights activist. “Data collated by the Sri Lankan human rights group INFORM show incidents of ‘repression of dissent’ averaging over one a day since the beginning of the year, and running at over two every day on average in May. Incidents include beatings, arbitrary arrests, surveillance, death

threats, and hacking of electronic devices.” “NGO secretariat was again gazetted under the Ministry of Defence. This may lead militarization, fear and increased surveillance of civil society activities by military, restricting freedom of association.” August 2020. <https://www.inform.lk/repression-of-dissent-august-2020/> ¹⁵³ “W342: “My father has faced the consequences for his involvement with the LTTE since their defeat. Some local people informed on him and he was visited by the authorities and questioned about his activities. My father told them that he was forced to help the LTTE against

his will. He was also questioned about whether any of his family members were in the LTTE. I do not know any further details of these visits.” “I was stopped when the Thallaiyatti ‘identified me’. I was immediately taken aside and then to a nearby van. My bicycle was left behind. I was taken to the nearby military base, known as Joseph Camp.” W361 discussing events during the War. ¹⁵⁴ W362

SURVEILLANCE ABROAD

Relatively few diaspora events have occurred in the UK where victims were physically present because of prolonged periods of lockdown, however W346 did attend a protest in 2021 and thereafter the Terrorism Investigation Division came to his wife's house and showed her photos of him at the event in London¹⁵⁵. Another witness said on two occasions while protesting outside the Sri Lankan High Commission in London "two people have come outside the building and taken photographs and filmed us on their phone"¹⁵⁶. One man who had been in Switzerland says the interrogators claimed to have photos of him at a protest meeting there.

Surveillance of diaspora events abroad continued into the Gotabaya Rajapaksa Presidency. Before the Covid lockdown, there was surveillance of physical events such as protests in the UK¹⁵⁷. During lockdown, Tamil asylum seekers in the UK were called by Sri Lankan intelligence agents in Sri Lanka and asked to pass on

passwords for private Zoom meetings. One victim testified that a TID officer called him in late 2020:

"When I remained silent, he told me that whatever happened in the past is the past and you should work for us in the UK. He also said there are many people working for them in the UK and that meetings anyway happened on Zoom. I told him I couldn't do that and that I didn't have any information... I hung up. He called twice and sent a text but I didn't respond."

Human rights activists in Sri Lanka also confirm this is a new threat from the intelligence agencies who intrude into online meetings, record the names of participants and what they say for future use against them.

home while they were there. They showed her a photograph of me at the demonstration and she was threatened. After this threat, my wife went to the Human Rights Commission to make a complaint. She was told that she had to go to the police and the District Secretariat before they could accept

her complaint. She did not do this as she was afraid." W346

¹⁵⁶ W347

¹⁵⁷ <https://itjpsl.com/assets/press/Threats-to-families-in-Sri-Lanka-final.pdf>

PERSECUTION AND SURVEILLANCE OF VICTIMS' FAMILIES IN SRI LANKA

After a victim is released from detention and flees abroad, their family continues to be under surveillance. It is possible this is a way of deterring the victim abroad from speaking out in public, in effect holding their loved ones hostage in return for their silence. All the victims of torture interviewed for this report say their families were visited in 2020 and 2021 after they fled the country - a procedure consistent with hundreds of past cases documented by the ITJP.

The families are told that their children's lives are in danger if they don't hand over their contact details abroad or if they try and hide them¹⁵⁸. W344 said the last time he was aware that his family had been visited by intelligence officers was in the Spring of 2021;

his parents were warned to surrender him or he would be caught and killed¹⁵⁹.

Immigration officials abroad speak of the 'monitoring' of victims' families in Sri Lanka but the Sri Lankan Government's interest in the families has gone beyond surveillance - amounting to persecution in some instances, and including instances of fathers or brothers being arrested, or wives subjected to sexual violence.

ARRESTED

In some cases, after the victim escaped detention and fled the country, his father was arrested:

"My family began to face harassment and threats after I escaped from detention through the payment of bribe. The agent told me that my

father was arrested when I was in Colombo and detained for three days. He was later released under a condition he report to the police station every month until I surrender."

W347

Another victim who had been detained in 2017, reports that his brother was arrested for a week at that time after he had escaped. Then when he was arrested under the Gotabaya Rajapaksa presidency, his father was visited and warned not to hide him; his colleagues were also visited at home and questioned. W346 also reports that his father was detained for a day by the TID and assaulted in custody with the result his arm was broken¹⁶⁰, while W359 is aware his family were under some kind of restriction¹⁶¹.

¹⁵⁵ "Following my attendance at the protest in XX UK (2021), my wife was visited by the TID. Men in civil clothes came to her house. Her father was at the property and my wife returned

home while they were there. They showed her a photograph of me at the demonstration and she was threatened. After this threat, my wife went to the Human Rights Commission to make a complaint. She was told that she had to go to the police and the District Secretariat before they could accept

her complaint. She did not do this as she was afraid." W346

¹⁵⁶ W347

¹⁵⁷ <https://itjpsl.com/assets/press/Threats-to-families-in-Sri-Lanka-final.pdf>

¹⁵⁸

"The authorities have visited them since I left the county and taken their details. They asked my parents where I was and warned them that they should surrender me, or I would be caught and killed." W344. Also, W343 and W360.

"After my release the authorities came and spoke to him and warned him that if he tried to hide me, he would be in big trouble." W345

¹⁵⁹

Also W347: "My uncle also told me that my father is still being made to report to the police station. I have not been told anymore details about what happened to my father in detention as

my uncle does not want to add to my worries." Likewise relatives of W362 were required to report to police fortnightly.

¹⁶⁰

"The TID also visited my parents when I left Sri Lanka. Two men in civil clothes came to their house in a Jeep. They asked my father about my whereabouts. ...The men took my father that morning. He was released at around 6.00pm the same day after my mother provided the police with a medical certificate confirming he had diabetes, high blood pressure and high cholesterol. My father was assaulted by these men and suffered a broken arm. I have a photograph of him in

hospital with his arm in a cast." W346.

"She was warned that if she was lying, they would find out, and the whole family would be 'wiped out'. These men told my wife that if I was caught I would be seen alive again." W338

¹⁶¹

W359 "I found out that during the time that I was traveling from Sri Lanka, the security forces came to my home in XX looking for me on more than one occasion and that my family were under some kind of restriction for two or three days."

DISAPPEARED

After witness W341 was detained in 2020, his older brother disappeared and his mother still does not know if her son has been abducted or is in hiding:

“She also told me that the army have twice come looking for me since I left. They told her I escaped detention and they asked her my whereabouts and warned her to hand me over, otherwise she will face severe consequences. ...My mother has told me she is living in fear and feeling scared. She has health issues and suffers with high blood pressure. Since these threats and harassment her health has declined... She cries when she talks about my older brother, saying that she has no contact with him and does not know what has happened to him.”

SEXUALLY VIOLATED

Targeting the wives of those who are abroad is a pattern replicated from the past. One witness says that after he fled Sri Lanka in 2020, his wife was required to sign in at the local police station fortnightly until he surrendered himself to the authorities:

“When she reports every other Sunday, the officers are inappropriate with her. They have made her kneel and touched her buttocks.”
W346.

Another man’s wife was assaulted after he left, and hospitalised, but she doesn’t know who was responsible.

DEATH THREATS TO WIVES

In two cases the victim’s wife was visited by the authorities and threatened that the whole family would be wiped out¹⁶²:

“Since my abduction, they have been visited and questioned by the authorities on two occasions. They were told that I had escaped from detention and told that they would all be killed if they did not reveal my whereabouts.”
W344

Another wife was constantly questioned and threatened, and tried in vain to report the threats to the authorities, which only backfired:

“After I left Sri Lanka, the CID came to visit my wife in XX (redacted). I don’t know the date. My wife asked who they were and they said they were from CID and that I had escaped their detention.

They asked her where I was and she told them she didn’t know and had no contact with me. They said ‘You are his wife so how can you not be in contact?’ They took her phone number and after that they called a couple of times and asked if she had heard from me, but she kept saying she had no contact. On XX [date redacted] the CID visited my wife again, the same people as before. They threatened her to hand me over to them, otherwise she will have to face severe problems. She is still frightened to talk in detail about this over the phone as the authorities already have her number. Since then, she doesn’t call me from her number but from the neighbour’s number to speak briefly. Two CID officers in civil cloths again visited my wife on XX and threatened her to disclose the details about my whereabouts and contact details. She maintained that she has no contact with me. They warned her not to lie to them and she would have to pay a price for it. Sometime in XX, five army personnel in uniform came to my wife and asked about me. They said they knew I was abroad and asked my wife if she had any contact with me. When she said no, they accused her of lying and said the family would face severe consequences if they failed to tell the

truth. My wife was scared and reported this to the Human Rights Commission in Jaffna. She made a complaint that the authorities had threatened her. They told her that a copy of the complaint would be sent to the TID so she gave up registering the complaint. After five days the Jaffna police station called and asked if she had contact with me. By mid-XX two men on a motorcycle came to the house and introduced themselves as TID. They threatened her asking her where I was and that if she didn’t tell the truth she would be severely punished.”
W346

TELEPHONE HARASSMENT AND INTIMIDATION

Some victims abroad say they no longer phone home for fear that their families’ lines are tapped.

“After I arrived in the UK, I contacted my family and they said the TID have recorded their contact details and are watching them. They told me that when they felt safe they would contact me from another location... I have never been away from my family before. I know I have no option not as it is not safe for me to go home, but I am finding it difficult without them. It is hard for me to have any hope.”
W347

In some cases they know their families have also been harassed by the authorities on the phone¹⁶³; in others they just suspect it. This fear leads them to stop calling home which intensifies the loneliness and anxiety:

“I do not have direct contact with my father... I have not been given any more detail as he knows I am very depressed and does not want to add to my worries.”
W345

¹⁶² W342: “Since my release from detention this year the authorities have visited her (wife) and

made threats to ‘wipe out’ the whole family if she does not reveal my whereabouts. I am very concerned about their safety and feel guilty that I have put them at risk.”

¹⁶³ W339: “CID went to my mother’s house and questioned her asking about my whereabouts. She told them she had not had any contact with me and did not know where I was. However, they have

continued to harass her and took her telephone number. This has made me very upset”.
W341: “They took my mother’s phone number, which is why we do not call her on her phone in case they tap the conversation.”

4. LEGAL FRAMEWORK AND FINDINGS

Arbitrary and unlawful detentions, torture, sexual torture, sexual violence and cruel, inhuman and degrading treatment perpetrated by the security forces over the last forty years in Sri Lanka are entrenched and pre-date the Civil War between successive Sri Lankan governments and the Liberation Tigers of Tamil Eelam (LTTE). State-sponsored violence is embedded in the structural underpinnings of the Sri Lankan State. In the aftermath of the Civil War, the Sri Lankan Government state adopted a triumphalist approach, also motivated by revenge with the upshot that state-sponsored violence underpins the policy of the state. Sri Lankan government policies and practises are also informed by a racist ethno-nationalist belief in a Sinhala Buddhist state which is integral to the Government's counter-insurgency narrative and persists to the present day under successive regimes.

INTERNATIONAL HUMAN RIGHTS LAW

PROHIBITS VIOLATIONS TO THE RIGHT TO LIFE, ARBITRARY DETENTION, TORTURE AND ENFORCED DISAPPEARANCE

ARBITRARY AND UNLAWFUL DETENTION

Article Nine of the International Covenant on Civil and Political Rights (ICCPR) sets out the prohibition on arbitrary detention. Under General Comment 35, the United Nations Human Rights Committee outlines a number of egregious examples of arbitrary detention¹⁶⁴. The Committee specified that detention is also considered arbitrary when individuals are detained as punishment for the legitimate exercise of rights enshrined in the Covenant, including freedom of opinion and expression (Article 19, ICCPR)¹⁶⁵. Arbitrary and unlawful detention and arrest constitute a deprivation of liberty of a person outside of the confines of nationally recognised laws or international standards¹⁶⁶. The deprivation of personal

liberty (both lawful and unlawful) occurs whenever a person is being held without his or her free consent¹⁶⁷.

The Working Group on Arbitrary and Unlawful Detention noted that international instruments often use different terminology to refer to various forms of deprivations of liberty such as ‘arrest’, ‘detention’, ‘apprehension’, ‘incarceration’ etc.¹⁶⁸. Consequently, the former UN Commission on Human Rights opted for the term ‘deprivation of liberty’ - a term that eliminates any differences in interpretation between the different terminologies¹⁶⁹.

According to the Working Group, deprivation of liberty is arbitrary if a case falls into one of the following five categories¹⁷⁰:

CATEGORY I: when it is clearly impossible to invoke any legal basis justifying the deprivation of liberty (as when a person is kept in detention after the completion of their sentence or despite an amnesty law applicable to them).

CATEGORY II: when the deprivation of liberty results from the exercise of their fundamental rights to freedom of movement and freedom of expression, as exercised by many of the victims in this report when they attended protests and marches to draw attention to the rights of the families of the disappeared. These freedoms are guaranteed by articles 7, 13, 14, 18, 19, 10 and 21 of the Universal Declaration of Human Rights and, insofar as States parties are concerned, by articles 12, 18, 19, 21, 22, 25, 26 and 27 of the International Covenant on Civil and Political Rights.

CATEGORY III: when the total or partial non-observance of the international norms relating to the right to a fair trial, spelled out in the Universal Declaration of Human Rights and in the relevant international instruments accepted by the States concerned, is of

such gravity as to give the deprivation of liberty an arbitrary character.

CATEGORY IV: when asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review or remedy.

CATEGORY V: when the deprivation of liberty constitutes a violation of international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; or disability or other status, and which aims towards or can result in ignoring the equality of human rights.

The cases of the victims whose violations are documented in this report fall fully within categories I, II, III and V set out above, as state officials are unable to invoke any legal basis to justify the deprivation of their liberty (Category I), the deprivation has taken place in the context of them pursuing their fundamental rights (Category II), the deprivation is a result

of the non-observance of international norms by the Sri Lankan State (Category III), and lastly the deprivation of liberty is discriminatory as it is based on ethnic, religious and political reasons (Category V). The deprivation of liberty implicated in the cases documented in this report amounts to being unlawful and arbitrary as it is inappropriate, unjust, and completely disproportionate.

Legal colleagues in Sri Lanka note that, under the cover of the COVID pandemic, since March 2020 they have not been allowed to visit clients who are deprived of their rights to liberty and who have been arbitrarily arrested and detained under either the PTA or the ICCPR¹⁷¹. Furthermore, the authorities have behaved in an arbitrary manner regarding visits of family members to detainees; where visits have been allowed, relatives were not allowed to bring supplies to meet the emergency needs of detainees¹⁷². Family members have also been requested to make payments to the canteens maintained by prison authorities. In some instances, families of detainees have been compelled to agree to detainees subjecting themselves to

‘rehabilitation’, even where detainees themselves they have refused to do so¹⁷³.

International treaties may be relied upon to guarantee the right to liberty if national laws do not protect individuals concerned or do so in an incomplete or partial manner¹⁷⁴. In terms of the cases referred to in this report, victims have no access to justice and are unable to seek the protection of national laws. Arbitrary detention exposes victims to more human rights violations since they are deprived of the means to defend themselves from extrajudicial execution, enforced disappearances, torture and other cruel, inhuman or degrading treatment¹⁷⁵. This report confirms that the arbitrary and unlawful detention that victims have been exposed to has led to further violations including torture, sexual violence and cruel, inhuman and degrading treatment. The UN Human Rights Committee has also stated that the state is responsible for ensuring that entities such as armed groups who are empowered or authorised by it to carry out arrests and detention do so in line with international human rights standards¹⁷⁶. As a

¹⁶⁴ Human Rights Committee, General Comment 35, paragraph 17

¹⁶⁵ Human Rights Committee, General Comment 35, paragraph 17

¹⁶⁶ Article 9 of the International Covenant on Civil and Political Rights

¹⁶⁷ UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 26, The Working Group on Arbitrary Detention, May 2000, No. 26, available at: <https://www.refworld.org/docid/479477440.html> [accessed 29 August 2021]-

¹⁶⁸ Terminology often used they may refer to “arrest”, “apprehension”, “holding”, “detention”,

“incarceration”, “prison”, “reclusion”, “custody”, “remand

¹⁶⁹ UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 26, The Working Group on Arbitrary Detention, May 2000, No. 26, available at: <https://www.refworld.org/docid/479477440.html> [accessed 29 August 2021]

¹⁷⁰ UN Office of the High Commissioner for Human Rights (OHCHR), Fact Sheet No. 26, The Working Group on Arbitrary Detention, May 2000, No. 26, available at: <https://www.refworld.org/docid/479477440.html> [accessed 29 August 2021]

¹⁷¹ Interview with Human Rights Defender-September 2021

¹⁷² Ibid

¹⁷³ Interview with Human Rights Defender in Sri Lanka -September 2021

¹⁷⁴ Human Rights Committee, General Comment 35, paragraph 8.

¹⁷⁵ Ibid

party to these international conventions, Sri Lanka is bound to respect, protect and fulfil the human rights of all persons under its jurisdiction.

TORTURE

'Torture' is defined by the Convention against Torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions"¹⁷⁷.

Sri Lanka is a state party to the major United Nations human rights treaties

prohibiting torture and ill-treatment¹⁷⁸. The right to be free from torture cannot under any circumstances be limited or derogated from, and constitutes an absolute and peremptory prohibition of torture and other cruel, inhuman or degrading treatment or punishment¹⁷⁹.

Though Sri Lanka acceded to the Optional Protocol to the Convention against Torture (OPCAT) on 5 December 2017, coming into force into force on 4 January 2018, the Protocol has yet to be ratified¹⁸⁰. Sri Lanka has not recognised the competence of the Committee against Torture to receive communications from other states parties as well as from or on behalf of individuals under the respective articles 21 and 22 of the Convention against Torture¹⁸¹.

FUNDAMENTAL RIGHTS PROTECTION

Domestically, Chapter III of the Constitution of Sri Lanka provides fundamental rights protection, at least on paper¹⁸². Article 11 provides for the prohibition of torture or cruel, inhuman or degrading treatment¹⁸³, with Article 15 prohibiting any

limitation of this right even in times of public emergency.¹⁸⁴ Torture was criminalised through the passing of the Torture Act No 22 of 1994 and the Corporal Punishment Act No 23 of 2005, and these acts are complemented by legal safeguards contained in the Code of Criminal Procedure, all of which were intended to be positive legal measures in the fight against torture¹⁸⁵.

SEXUAL VIOLENCE INCLUDING SEXUAL TORTURE

The recognition of rape as an international crime is anchored in the statutes of international courts and tribunals and their modern judicial interpretation.¹⁸⁶ Under the current legal framework in Sri Lanka, acts of sexual violence can be prosecuted in domestic courts as rape, custodial rape, gang rape, or grave sexual abuse. Rape includes intercourse where the woman is in detention or where "consent is obtained through intimidation, threat, or force"¹⁸⁷. Custodial rape is defined as acts committed by public officers or persons in positions of authority against women in official custody or against women who

have been wrongly restrained.¹⁸⁸ Decades of reporting reveal that practices of sexual violence occur in detention centres, displacement camps, and in police custody¹⁸⁹. Article 365(B) of the Penal Code also covers grave sexual abuse not amounting to rape.

Despite the domestic legal framework, the criminal justice system has been criticised as being incapable of addressing offences of sexual violence given the various shortcomings in the criminal justice system. This includes the lack of a reliable victim and witness protection programme, and evidentiary and procedural barriers perpetuated by a culture which stigmatises victims as well as gender biases including the patriarchal attitudes of authorities responsible for investigation and prosecution, making it impossible to prosecute perpetrators under the domestic legal system¹⁹⁰.

MALE RAPE AND SEXUAL VIOLENCE

The Elements of Crimes of the International Criminal Court (ICC) defines sexual violence as "an act of a sexual nature

against one or more persons" committed either "by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power... or by taking advantage of a coercive environment" and characterised by the victim's "incapacity to give genuine consent"¹⁹¹. Sexual violence of course takes many forms, including sexual assault, rape, sexual torture, mutilation of the genitals, sexual humiliation, sexual enslavement, forced rape (forcing one person to rape another by threat of force or coercion), forced incest (forcing members of the same family to engage in sexual intercourse with each other by threat of force or coercion) and sexual harassment¹⁹². The ICC defines rape as an invasion "committed by force, or by threat of force or coercion" of "the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body"¹⁹³.

Sadly, despite the extensive, widespread and systematic practice of male rape by the security forces in Sri Lanka, Sri Lankan law does not recognize and proscribe male rape - in fact existing legislation reinforces pre-existing gender colonial stereotypes in which only women can be raped and only men can commit rape¹⁹⁴. Furthermore, provisions under the Penal Code may deter male survivors from seeking justice as sections 365 and 365A criminalised certain homosexual acts, categorising them as "unnatural offences".

These provisions are a chilling factor and serve to reinforce discriminatory gender stereotypes in a context which would not only stigmatise male victims but prevent male victims from coming forward to report their violations for fear of criminalisation.

'BLACK SYSTEM' – BEYOND THE LAW

Human rights monitoring in Sri Lanka including by UN bodies such as the OHCHR, and Special Procedures Mandate Holders has resulted in

¹⁷⁶ Ibid

¹⁷⁷ UN General Assembly, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85, available at: <https://www.refworld.org/docid/3ae6b3a94.html> [accessed 2 September 2021]

¹⁷⁸ the International Covenant on Civil and Political Rights (ICCPR); the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (CAT); the

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); and the Convention on the Rights of the Child (CRC). Sri Lanka also acceded to the first Optional Protocol to the International Covenant on Civil and Political Rights and ratified the Optional Protocol on the involvement of children in armed conflict; https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN

¹⁷⁹ Article 2(2) of The Convention against

Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); Article 4(2) of the International Covenant on Civil and Political Rights (ICCPR)

¹⁸⁰ https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN

¹⁸¹ Ibid

¹⁸² Constitution-The Parliament of Sri Lanka; <https://www.parliament.lk/files/pdf>.

¹⁸³ Article 15 of Chapter 111 sets out fundamental rights and freedoms including freedom of thought, conscience and religion, freedom from

arbitrary arrest, detention, punishment, freedom of speech, assembly, association, movement as well as the right to equality.

¹⁸⁴ Ibid

¹⁸⁵ <https://www.lawnet.gov.lk/convention-against-torture-and-other-cruel-inhuman-or-degrading-treatment-or-punishment-2/>

¹⁸⁶ The governing statutes of the International Criminal Court for the former Yugoslavia, and the International Criminal Court for Rwanda, the Special Panels for Serious Crime, the Special Court for Sierra Leone, the International Criminal Court and the

Extraordinary Court Chambers for Cambodia list the crime of rape, together with other expressly named sex crimes such as trafficking and slavery, which crimes could include acts of sexual violence.

¹⁸⁷ Sri Lanka Penal Code Section 363

¹⁸⁸ Sri Lanka Penal Code Section 364

¹⁸⁹ <https://www.hrw.org/report/2013/02/26/we-will-teach-you-lesson/sexual-violence-against-tamils-sri-lankan-security-forces>

¹⁹⁰ <https://www.cpalanka.org/wp-content/uploads/2016/07/CSV-paper-June-2016.pdf>

¹⁹¹ International Criminal Court, "Elements of crimes", 2011, Article 7(1)(g)-6: Crime against

humanity of sexual violence, s. 1. Wynne Russell, "Sexual violence against men and boys", Forced Migration Review 27, January 2007, pp. 22-23.

¹⁹² International Criminal Court, "Elements of crimes", 2011, Article 8(2)(e)(vi)-1: War crime of rape, ss. 1-2.

¹⁹³ Ibid

¹⁹⁴ A 2014 Survey carried out by the Dr Chris Dolan at the Refugee Law Center - The Mainstream-Addressing_Sexual_Violence_against_Men_ https://www.refugeelawproject.org/files/briefing_papers

extensive documentation of arrests and detentions under the existing legal framework in Sri Lanka, ie under the Prevention of Terrorism Act¹⁹⁵, Emergency Regulations, when in place, and the International Covenant on Civil and Political Rights Act of 2007 in Sri Lanka (ICCPR)¹⁹⁶. Lawyers in Sri Lanka report the increasing abuse of the ICCPR to arrest and detain people. White van abductions, unlawful and arbitrary detentions, torture and sexual torture by the security forces are documented as having occurred under the two JVP periods, in 1971 and 1987-1989 respectively. The report of the Secretary General's Panel of Experts published in 2011 confirmed that these violations continued after the end of the Civil War in 2009. However, there has hardly been any documentation of the 'black system' of arbitrary and unlawful detentions and torture following the end of the War in 2009, with the exception of reports published by Human Rights Watch, the ITJP and Freedom from Torture and also UN OISL¹⁹⁷.

The ITJP uses the term 'black system' to describe arbitrary and unlawful detention

taking place outside any legal framework, ie PTA, Emergency Regulations and the recent abuses of the ICCPR Act in Sri Lanka. Cases documented under the 'black system' include the notorious 'white van' abductions and detentions, with detainees held in unofficial sites or secret cells as well as hidden cells and chambers in official sites where victims are systematically interrogated, tortured physically and psychologically, endure sexual torture and suffer myriad forms of sexual violence as described in this and other ITJP reports¹⁹⁸. Violations perpetrated include beatings, brandings with hot rods and burns with lit cigarettes, humiliating treatment and a range of abuses which constitute torture, cruel and severe degrading treatment. Victims held under this 'black system' are vulnerable and completely at risk, as they are entirely under the absolute power of the security officials who have detained them unlawfully, and because the incentives and opportunities for torture are not only prevalent but because the security forces perceive torture and other forms of ill-treatment as

the easiest and fastest way to obtain information and extract a confession. Torture and sexual torture are facilitated by a range of systemic fault lines which include discriminatory practices that characterise a false anti-terrorism and security-focused narrative centered on confessions and underpinned by systemic corruption and extortion¹⁹⁹.

The 'black system' is well organised, widespread and systematic, and clearly carried out with the approval of those at the highest level of government²⁰⁰. These operations predate the Civil War in Sri Lanka, with reports going as far back as 1998, implicating several successive Sri Lankan regimes. By way of example, Amnesty International in a report published in September 1990 noted that abductions and killings had been widely reported since 1988 and that "in a typical case, plainclothes armed men arrived at the victim's home at night, travelling in Pajero jeeps or HiAce vans (which are widely used as 'official' vehicles) or using vehicles which they had apparently borrowed or requisitioned"²⁰¹. The report also noted that sometimes

the abductors said "they were members of the security forces and included someone wearing police or army uniform among them, but often they refused to identify themselves". The report noted that the abductors provided no explanation or details for taking away the victim, providing no details or charges or of where the person would be taken. Death threats were sometimes made, with relatives being told, for example, to begin making funeral preparations.

According to the Amnesty International report, relatives often inquired at local police stations or army camps the next day, seeking news of the missing person, but with no result: the security forces would deny all knowledge of the person who had been abducted, and sometimes they refused to register the complaint and verbally abused the relatives²⁰². In that period, those detained would mostly end up being killed²⁰³. Commenting on that era, Gotabaya Rajapaksa, now the current President of Sri Lanka, said "I served in the military for 20 years. Most of those 20 years I served under the UNP government... Those who lived

during that period know how those 'gonibillo' (masked abductors) ...In what vehicles did the 'gonibillo' travel? In white vehicles or black vehicles"²⁰⁴.

The Asian Human Rights Commission in a report published in 2006 noted that "In Sri Lanka a white van without a number plate is a symbol of terror and the disappearances that occurred in all parts of the country. Commissions on Disappearances in the South during the late 1980s have documented at some length how armed men, travelling in white vans without number plates abducted thousands of people who were never seen again"²⁰⁵.

Human Rights Watch in a report published in 2007 documented the extensive practice of 'white van' abductions in the North and East of Sri Lanka²⁰⁶. The report also noted that "abductions and "disappearances in Colombo appeared to fall into two general categories, first, cases involving Tamils, often from outside of Colombo who are picked upon in government counter-LTTE efforts and second, cases involving the ransom of Tamil businessmen in which there is evidence

of the involvement of non-state armed groups and local security forces"²⁰⁷.

'BEING LIFTED'

Colloquially, Sri Lankans describe victims who are unlawfully abducted as 'being lifted' from the community, with these 'black' operations run clandestinely by the security forces which include the military, the Criminal Investigation Department (CID) and the (Counter) Terrorism Investigation Division (C/TID), intelligence and paramilitary groups. Speaking at a Viyathmaga meeting in 2016, President Gotabaya Rajapaksa used this term stating that "white vans were there all the time. Not only white, there were black vans, green vans... in 86, 87 there were Morris Minors as well, which 'lifted people.'²⁰⁸"

These 'black operations' intensified in the aftermath of the end of the Civil War in 2009 under President Mahinda Rajapaksa (the brother of the current President, Gotabaya Rajapaksa), under a deliberate policy driven by triumphalism and victor's justice, with the aim of

¹⁹⁵ Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979, as amended by Act Nos. 10 of 1982 and 22 of 1988

¹⁹⁶ <https://www.lawnet.gov.lk/wp-content/uploads/2016/12/INTERNATIONAL-COVENANT-ON-CIVIL-AND-POLITICAL-RIGHTS-ICCPR-ACT-NO-56-OF-2007.pdf>

¹⁹⁷ An Unfinished War <https://itjpsl.com/reports/unfinished-war>; Unstopped-<https://itjpsl.com>

<https://itjpsl.com/reports/unstopped>; Ongoing Torture <https://itjpsl.com/reports/ongoing-torture-update> ITJPSL.com; https://www.freedomfromtorture.org/sites/default/files/2019-02/ft_sri_lanka_report_v5_lr.pdf

¹⁹⁸ ITJP Reports: An Unfinished War <https://itjpsl.com/reports/unfinished-war>; Unstopped-<https://itjpsl.com/reports/unstopped>; Ongoing Torture <https://itjpsl.com/reports/ongoing-torture-update> ITJPSL.com

¹⁹⁹ Manfred Nowak, 'Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Mission to Sri Lanka' (2008) A/HRC/7/3/Add.6

²⁰⁰ <https://www.hrw.org/reports/2008/srilanka0308/5.htm>

²⁰¹ <https://www.amnesty.org/en/documents/asa37/021/1990/en/>

²⁰² SRILANKA-EXTRAJUDICIALEXECUTIONS, 'DISAPPEARANCES' AND TORTURE, 1987 TO 1990,

<https://www.amnesty.org/en/wp-content/uploads/2021/06/asa370021991en.pdf>

²⁰³ SRILANKA-EXTRAJUDICIALEXECUTIONS, 'DISAPPEARANCES' AND TORTURE, 1987 TO 1990, <https://www.amnesty.org/en/wp-content/uploads/2021/06/asa370021991en.pdf>

²⁰⁴ <https://youtube.com/watch?v=qD1YajBwQts>

²⁰⁵ Sri Lanka: White vans without number plates; the symbol of disappearances reappears-Asian Human Rights Commission <https://reliefweb.int/report/sri-lanka/sri-lanka-white-vans-without-number-plates-symbol-disappearances-reappear>

²⁰⁶ <https://www.hrw.org/reports/2008/srilanka0308/5.htm>

²⁰⁷ Ibid

²⁰⁸ <https://facebook.com/watch/?v=1560269420667875...>

rounding up the remnants of the LTTE who had not surrendered and who had been taken into custody or placed in 'rehabilitation' at the end of the Civil War in 2009. Former LTTE cadres were identified using intelligence which relied on an extensive network of Tamil informers (Karuna operatives and former LTTE combatants turned informants) to point them out²⁰⁹. Between 12,000 and 14,000 suspected LTTE combatants were incarcerated in 'rehabilitation', where their rights were violated through torture, sexual torture, beatings and cruel and inhuman treatment²¹⁰. The UN Working Group on Arbitrary Detentions identified systemic problems with deprivation of liberty for rehabilitation purposes, including with regard to the rehabilitation of ex-combatants, drug users, women and other vulnerable persons, making a number of recommendations to the Government of Sri Lanka to deal with the unlawful situation that exists in regard to former LTTE combatants²¹¹.

Under Mahinda Rajapaksa's Government, Tamil victims were abducted under this 'black system', depriving them of their right to

liberty; while in detention they suffered incredible violence with multiple violations including torture, sexual torture, beatings, brandings and being burnt with lit cigarettes and were humiliated through the use of derogatory names and triumphalist calls that they had been defeated²¹². These acts amount to the violation of an individual's right to life, dignity, security of the person, family life or to be free from torture, cruel and degrading treatment. In the period between 2009 and 2015, security force officials enjoyed complete impunity and were shielded from any kind of accountability at the highest levels of government.²¹³

Those responsible for the 'black operations' have in the last decade perfected the system²¹⁴, notably the transactional angle - as it has become extremely lucrative to shake down families of Tamil victims for money, compelling them to raise money either from relatives abroad or to sell land and valuables in order to pay the bribe to 'release' loved ones from this unlawful system. The 'release' of a detainee from this 'black system' of unlawful detention

usually involves middle-men who broker the bribes between the security forces and family members, and who are mainly identified as members of the Eelam Peoples Democratic Party (EPDP), and in some instances Tamil politicians²¹⁵. The network of corruption includes officials at the Colombo airport and agents abroad, raising the issue of human smuggling. The transactional behavior of the security forces was also noted in the report of the UN Panel of Experts who stated that "while basic conditions at Manik Farm were inhumane, a Western Union (money transfer facility) soon opened, and thousands of people, many of them LTTE with connections among the diaspora, were able to buy their way out of the camps by bribing the military²¹⁶".

The impact of these unlawful and arbitrary detentions is that they place victims outside the protection of any legal framework and any of the safeguards which exist theoretically in law. This creates an environment in which the security forces are able to carry out these violations and abuses with total impunity, knowing that they will not be exposed or

ever held accountable.

Though politically motivated torture is used to intimidate, punish or extract information or force confessions and represents a form of discrimination against them based on their sex, gender, religion and ethnicity, another purpose emerged in Sri Lanka at the end of the War - torture became a weapon to persecute individuals and communities by punishing them for having harboured the notion of a separate state 'Eelam', with all Tamils collectively perceived to be LTTE thus justifying their torture. Torture in the period following the end of the War was also intended to instill fear in the Tamil community, and became the single most effective weapon for controlling communities in the north and east of the country.

Following his mission to Sri Lanka in 2007, Manfred Nowak noted that the situation was much worse than he had realised²¹⁷. He described the torture that he had found as using the most vicious imaginable torture methods: burns all over the body made with soldering irons and a heated piece of metal,

suspension in a variety of positions ('strappado', 'butchery', 'reversed butchery', 'parrot's perch') and by the thumbs which were bound together by a piece of wire²¹⁸. Nowak also said that Derrick Pounder, the forensic specialist, had said that he had never seen this extraordinarily painful method used in any other country²¹⁹.

BLACK OPERATIONS UNDER GOOD GOVERNANCE GOVERNMENT²²⁰

On winning the elections in 2015, President Maithripala Sirisena pledged to abolish a powerful executive presidential system within 100 days of coming to power, to change the constitution to allow power-sharing with minority Tamils and to investigate alleged abuses committed during the final stages of fighting between the Government and the Tamil rebels²²¹. He also promised to take action against the Rajapaksa family, whom he accused of corruption and abuse of power²²². Sirisena's Government was referred to as the 'good governance' Government.²²³

The 'black system' of operations including

abductions, unlawful detention, torture and sexual torture continued under the Sirisena 'good governance' Government, as despite the rhetoric the security forces were emboldened by the impunity they enjoyed and the failure to demilitarise or undertake any security sector reform. It was the so called 'good governance' regime under Sirisena that appointed Shavendra Silva to the position of Army Commander in August 2019, despite the fact that in an official UN Inquiry he was alleged to have been complicit in serious international crimes committed at the end of the War, including the White Flag executions²²⁴. The promotion of alleged war criminals to positions of power, the failure to demilitarise and carry out the security sector reform program by the Sirisena Government, which it had committed to, as well as reneging on establishing the Hybrid Court for Sri Lanka to investigate war crimes and crimes against humanity, which the Government had committed to under UN Resolution 30/1²²⁵, sent a message to the security forces that they would be protected by the good governance regime²²⁶.

²⁰⁹ UN Human Rights Council, Report of the OHCHR Investigation on Sri Lanka (OISL), 16 September 2015, A/HRC/30/CRP.2, available at: <https://www.refworld.org/docid/55fb1d04.html> [accessed 29 August 2021]

²¹⁰ International Commission of Jurists (ICJ). September 2010. Beyond Lawful Constraints: Sri Lanka's Mass Detention of LTTE Suspects available at <https://reliefweb.int/sites/reliefweb.int/files/resources/28738E40D73D48AB4925>

77AF000B58D6-Full_Report.pdf

²¹¹ Report of the Working Group on Arbitrary Detention on its visit to Sri Lanka (A/HRC/39/45/Add.2)

²¹² UN Human Rights Council, Report of the OHCHR Investigation on Sri Lanka (OISL), 16 September 2015, A/HRC/30/CRP.2, available at: <https://www.refworld.org/docid/55fb1d04.html> [accessed 29 August 2021]

²¹³ UN Human Rights Council, Report of the OHCHR Investigation on Sri Lanka (OISL), 16 September 2015, A/HRC/30/CRP.2, available

at: <https://www.refworld.org/docid/55fb1d04.html> [accessed 29 August 2021]

²¹⁴ Block W, Lee J, Vijayasingham K. Mercy for money: Torture's link to profit in Sri Lanka, a retrospective review. *Torture*. 2017;27(1):28-41. doi: 10.7146/torture.v27i1.26532. PMID: 28607228; ITJP Submission to Committee on Torture, file:///Users/jasnmzooka/Documents/ITJP%20August%202021/Revisions%20and%20Materia%20Source%20Documents%20/INT_CAT_CSS_LKA_25771_E.pdf

²¹⁵ UN Secretary-General (UNSG), Report of

the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, para 155, available at: <https://www.refworld.org/docid/4db7b23e2.html> [accessed 29 August 2021]

²¹⁶ UN Secretary-General (UNSG), Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011 para 162, available at: <https://www.refworld.org/docid/4db7b23e2.html> [accessed 29 August 2021]

²¹⁷ Nowak, Manfred, and Roger Kaminker. 2018. Torture: an expert's confrontation with an everyday evil.

²¹⁸ Nowak, Manfred, and Roger Kaminker. 2018. Torture: an expert's confrontation with an everyday evil.

²¹⁹ Ibid

²²⁰ President Maithri Sirisena signalled a new era in the governance of Sri Lanka by reversing the centralization of power that had occurred under the Rajapaksa's and pledged to restore the power of Parliament and the Judiciary.

²²¹ <https://apnews.com/article/civil-wars-mahinda-rajapaksa-elections-international-news-race-and-ethnicity-1c88427065fe441e8d53898671db543b>

²²² <https://apnews.com/article/civil-wars-mahinda-rajapaksa-elections-international-news-race-and-ethnicity-1c88427065fe441e8d53898671db543b>

²²³ <https://www.thehindu.com/news/international/good-governance-a-key-theme-of-the-new-front/article7414059.ece>

²²⁴ <https://www.army.lk/news/lieutenant-general-shavendra-silva-new-commander-army;https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=24923&LangID=E>

Desperate to engage with a government perceived to be committed to restoring good governance, there was a reluctance at both international and domestic levels to admit that these unlawful operations were continuing during the period 2015-2019, and that the abductions were continuing, with victims unlawfully detained, tortured, raped and subject to cruel, inhuman and degrading treatment. Consequently, domestic and international documentation of the violations perpetrated during this period under this system has almost been non-existent. Domestic organisations who came across these violations which occurred outside of the legal system and who raised it in their engagement with the international community present in Sri Lanka found themselves isolated; they were perceived as 'spoilors' tarnishing the image of the 'good governance' Government because they presented inconvenient truths about violations occurring under the Sirisena regime²²⁷. Human Rights Defenders in Sri Lanka report the increased use of the ICCPR in Sri Lanka to arbitrarily arrest and

detain people during this period²²⁸. Those held are now being indicted under PTA provisions²²⁹.

INSTRUMENTALISATION

The international community and the UN were working with a government that had committed to a comprehensive transitional justice programme promoting reconciliation, accountability and human rights through the joint resolution in the UN Human Rights Council²³⁰. There was a reluctance to accept that, under this new government, the violations by the security forces were continuing. Many Member States chose to pursue an 'ostrich in the sand' policy which allowed them to continue providing funding, technical support and capacity building to Sri Lanka, including to the security force establishment, in the full knowledge that the security services were compromised by allegations of serious international crimes for which there had been absolutely no accountability²³¹. The negotiating team had only just arrived back home in Sri Lanka and the ink on the

resolution had hardly dried when President Sirisena announced he would not establish the special Hybrid Court agreed to by the joint Resolution 30/1 and that his Government would ensure that the security forces would be protected²³². Once it became clear there was no commitment to the implementation of the Resolution, Member States failed to use their leverage, including withdrawing support to the Sirisena Government. Human Rights Defenders have also noted that international civil society organisations displayed some reluctance to take up the violations taking place during this period, which included arbitrary arrests and detention and torture. When local NGOs raised this with them, they were advised to tread softly and the INGOs indicated that they preferred to negotiate these issues with the Government. Many also expressed their fears that they would not be not granted visas, or allowed to recruit new staff, and that their functions would be limited by the Government²³³. It is incumbent on the international community to acknowledge the implications of their instrumentalisation by the Government of Sri

Lanka, which saw violations continuing against the Tamil community under this 'black system'.

Unfortunately, denial at an international level has also been matched by denial back home in Sri Lanka - human rights monitoring organisations refused to acknowledge that these violations were taking place, even suggesting to Member States and the UN that as the violations were not being reported in Sri Lanka they could be untrue²³⁴. Some even went so far as to say that these violations were manufactured by corrupt Tamil lawyers abroad who were motivated by the desire to obtain asylum for their clients abroad²³⁵. This, despite asylum being a legitimate human rights remedy when a person is persecuted²³⁶. As the branding and burns continued within Sri Lanka, there were even accusations that victims were self-inflicting by proxy²³⁷. Credible organisations in the north and the east who spoke about these violations also found themselves silenced and isolated, and were warned not to spoil the good image of the Government²³⁸.

In March 2019, the UK Supreme Court ruled that Judges presiding over a tribunal and the Court of Appeal in the UK were wrong to claim that an asylum seeker could have faked injuries that he said were inflicted by torturers in Sri Lanka²³⁹. The Supreme Court rejected the notion that a Tamil asylum seeker could have been trying to deceive Home Office officials by using 'self-infliction by proxy', which refers to the causing of injuries by a complicit third party designed to leave marks on the body that could be passed off as the result of torture.²⁴⁰

The International Truth and Justice Project Sri Lanka (ITJP) and Freedom from Torture have been among the few organisations unflinchingly documenting not only post-War violations but also violations perpetrated during the period 2015 to 2019, which included white van abductions, arbitrary detentions, sexual violence including sexual torture, and branding, of both men and women²⁴¹. The UK-based Freedom from Torture has also confirmed that abductions, torture and sexual torture have continued during this period²⁴².

The ITJP during the period 2009 to 2021 has documented hundreds of cases involving abductions and unlawful detention in which torture and sexual torture, sexual violence and abuses amounting to cruel and inhuman treatment were perpetrated by the Sri Lankan security forces²⁴³. During the same period, the ITJP has also documented that where family members have reported the abduction and disappearance of loved ones to Human Rights Commission of Sri Lanka, the cases have not been investigated. In many instances family members suffered further intimidation and harassment by security force officials, and in multiple instances themselves became victims of unlawful and arbitrary abductions and, once deprived of their liberty, torture and sexual torture.

Torture survivors of this 'black system' in Sri Lanka have been warned by perpetrators not to disclose what happened to them, and so have only sought assistance and disclosed their violations from abroad, at the point that they are safe from the prospect of being detained by the Sri Lankan

²²⁵ UN Human Rights Council, promoting reconciliation, accountability and human rights in Sri Lanka: resolution / adopted by the Human Rights Council, 14 October 2015, A/HRC/RES/30/1, available at: <https://www.refworld.org/docid/56b1bdb64.html> [accessed 29 August 2021]

²²⁶ <https://www.colombotelegraph.com/index.php/as-long-as-i-am-the-president-no-international-participation-in-judicial-process-sirisena-declares/>

²²⁷ Confidential interview

²²⁸ Interview with Human Rights Defender in Sri Lanka -September 2021

²²⁹ Ibid

²³⁰ UN Human Rights Council, promoting reconciliation, accountability and human rights in Sri Lanka: resolution / adopted by the Human Rights Council, 14 October 2015, A/HRC/RES/30/1, available at: <https://www.refworld.org/docid/56b1bdb64.html> [accessed 29 August 2021]

²³¹ UN Human Rights Council, Report of the OHCHR Investigation on Sri Lanka (OISL), 16

September 2015, A/HRC/30/CRP.2, available at: <https://www.refworld.org/docid/55fb1d04.html> [accessed 29 August 2021]

²³² <https://www.colombotelegraph.com/index.php/as-long-as-i-am-the-president-no-international-participation-in-judicial-process-sirisena-declares/>

²³³ <https://www.colombotelegraph.com/index.php/as-long-as-i-am-the-president-no-international-participation-in-judicial-process-sirisena-declares/>

²³⁴ <https://www.dfat.gov.au/sites/default/>

<files/country-information-report-sri-lanka.pdf>

²³⁵ <https://www.dailymail.co.uk/news/article-4434446/Asylum-seeker-Sri-Lanka-let-tortured.html>

²³⁶ UN High Commissioner for Refugees (UNHCR), A guide to international refugee protection and building state asylum systems, 2017, Handbook for Parliamentarians N° 27, available at: <https://www.refworld.org/docid/5a9d57554.html> [accessed 2 September 2021]

²³⁷ https://www.freedomfromtorture.org/sites/default/files/2019-02/ft_sri_lanka_report_v5_1r.pdf

²³⁸ Confidential interview with local organization.

²³⁹ <https://www.thetimes.co.uk/article/judges-were-wrong-to-say-asylum-seeker-could-have-faked-torture-injuries-ktzd2tzkg>

²⁴⁰ Ibid

²⁴¹ file:///Users/jasmnzooka/Documents/ITJP%20August%202021/HRI_Report_-_Sri_Lanka_Drug_Control.pdf

²⁴² https://www.freedomfromtorture.org/sites/default/files/2019-02/ft_sri_lanka_report_v5_1r.pdf

²⁴³ Ibid

security forces. In a country where perpetrators have total control there is a complete lack of access to justice for victims and their families, and this precludes any reporting of these abuses. In multiple cases documented by the ITJP, not only have their families faced harassment and intimidation but, in some cases, family members too have been abducted, unlawfully detained, tortured and sexually tortured. The ITJP has documented numerous cases where under this 'black system' there have been multiple victims in any one family of violations, especially when it has become known that the survivor has fled abroad.

A consequence of denial domestically within Sri Lanka itself is that there has been extreme reluctance internationally to confirm that torture and sexual torture has continued to be perpetrated by the security forces in the period 2015 to 2019. The Human Rights Commission of Sri Lanka in its submission to the Universal Periodic Review process on Sri Lanka noted in paragraph 3 that, "The HRCSL has not received complaints of alleged enforced disappearances in

2015 and 2016"²⁴⁴. In 2017, the Chairperson of the HRSC reported said "the Commission will focus more on the incidents of illegal arrests and torture and pointed out that citizens' contribution is also needed to eliminate torture"²⁴⁵. On publication of the ITJP's report on torture²⁴⁶, the ITJP engaged with the HRSC, and offered to facilitate meetings between the Commission and survivors of abductions, torture and sexual violence in order to corroborate that these violations were continuing under the good governance Government, albeit under a black clandestine²⁴⁷ system operating in Sri Lanka.

In this regard, the Office of the High Commissioner for Human Rights noted in its 2019 report to the Human Rights Council that it had continued to receive credible information about cases of abduction, unlawful detention, torture and sexual violence by Sri Lanka security forces, which allegedly took place in 2016 to 2018, and had reasonable grounds to believe that accounts of unlawful abductions and detention and of torture, including incidents of sexual violence against men and

women, are credible, and that such practices might be continuing in northern Sri Lanka²⁴⁸. This aspect of the OHCHR's report was rebutted publicly by the Human Rights Commission of Sri Lanka at the 40th session of the Human Rights Council in Geneva²⁴⁹. Therein lies the problem: the failure to document and acknowledge that this 'black system' exists and operates outside of the framework of the law inevitably means that recommendations to the Sri Lankan State typically focus on the issue of constitutional law reforms, the abolition of the PTA, respect for fundamental freedoms, all of which are premised on the notion that the Sri Lankan Government is committed to the rule of law, while in reality the Sri Lankan Government operates a parallel system beyond the confines of the law.

Even abroad, torture is perceived in the conservative Tamil community as a shameful experience, particularly when it involves rape or other forms of sexual assault and even more so when perpetrated against men, which keeps survivors suffering in silence. Torture survivors find it extraordinarily

difficult to talk about what has happened to them with family members and the communities they live with²⁵⁰. The denial internationally and domestically of their violations, including their torture, has re-victimised survivors, resulting in torture survivors becoming an 'invisible' population both at home and abroad.

The shadowy 'black system' operating in Sri Lanka implicates the growth of a secret clandestine network within government and the security forces which pursues a narrow ideological agenda and which has the authorisation of politicians at the highest levels with the objective of punishing Tamils. Impunity for this 'black system' has become so entrenched in the culture of the security forces and furthermore is so lucrative that unless there is a concerted independent international inquiry into this system, where perpetrators are identified and prosecuted, it will not stop.

Though it is extensive, human rights monitoring and reporting of unlawful detentions and torture inside Sri Lanka over the period 1998 to 2019 has been limited

to violations perpetrated under the emergency regulations (when still in place), violations under the Prevention of Terrorism act (PTA) and violations under the ICCPR Act²⁵¹. In fact these violations speak to a culture of structural impunity that is pervasive in Sri Lanka, with the security forces including the CID and TID not wanting to relinquish power over communities, and instead controlling them through fear and surveillance²⁵².

STRUCTURAL IMPUNITY IN SRI LANKA

Impunity in the context of Sri Lanka is informed by the country's colonial history and a state formation process characterised by racist discriminatory policies. The Rajapaksa regime's victory over the LTTE was a resounding blow to the aspirations of Tamils in Sri Lanka for recognition as citizens in a separate state. The victory also exacerbated long-standing structural inequalities that had not been addressed, and which were made more pronounced, by socio-economic development processes resulting from exclusionary, elitist, and majoritarian policies. Human

rights instead became a casualty of the conflict, giving rise to massive violations perpetrated at the end of the War and in its aftermath.

This is not surprising as impunity in Sri Lanka goes back decades, as evidenced by the reports of numerous UN bodies including the UN Human Rights Committee²⁵³, the Committee against Torture²⁵⁴, Manfred Nowak, the Special Rapporteur on Torture²⁵⁵, Juan Mendez, the Special Rapporteur on Torture²⁵⁶, Ben Emmerson, the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Monica Pinto, the Special Rapporteur on the independence of judges and lawyers²⁵⁸, the Special Rapporteur on freedom of religion, and the Working Group on Arbitrary Detention.²⁶⁰ [See the annex for more detailed citations.] Impunity in Sri Lanka goes beyond the legal notion of impunity which Louis Joinet in his seminal work defined as, "the conditions which exist in a society which inhibit and prohibit accountability for serious crimes" and has become 'structural'²⁶¹. 'Structural impunity' acknowledges that

²⁴⁴ Submission Of The Human Rights Commission Of Sri Lanka To The Third Universal Periodic Review Of Sri Lanka. 30 March 2017. Page 4.

²⁴⁵ SRI LANKA HUMAN RIGHTS COMMISSION RECEIVES 5,614 COMPLAINTS IN 2017, <https://www.ft.lk/News/Sri-Lanka-Human-Rights-Commission-receives-5-614-complaints-in-2017/56-646663>

²⁴⁶ <https://itjpsl.com/reports/silenced-report> and <https://itjpsl.com/reports/unstopped>

²⁴⁷ Written correspondence between ITJP and HRSC

²⁴⁸ <https://reliefweb.int/sites/reliefweb.int/files/resources/G1902925.pdf>

²⁴⁹ <https://www.hrsc.lk/wp-content/uploads/2020/01/40HRC-HRCSL-on-HCHR-Report-on-SL-1.pdf>

²⁵⁰ https://itjpsl.com/assets/ITJP_unsilenced_report-final.pdf

²⁵¹ See Annex with extracts from reports of Special Rapporteurs on Torture Manfred Nowak and Juan Mendes, Ben Emmerson, the Special Rapporteur

on Counter Terrorism, OISL Inquiry.

²⁵² Confidential interview with NGO in Sri Lanka.

²⁵³ Concluding Observations of the Human Rights Committee, Sri Lanka, UN Doc CCPR/CO/79/LKA (2003)

²⁵⁴ UN Committee Against Torture (CAT), UN Committee against Torture: Comments by the Government of Sri Lanka to the Conclusions and Recommendations, 20 February 2007, CAT/C/LKA/CO/2/Add. 1, available at: <https://www.refworld.org/docid/45f6c06e2.html> [accessed 29 August

2021]

²⁵⁵ UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: mission to Sri Lanka, 26 February 2008, A/HRC/7/3/Add.6, available at: <https://www.refworld.org/docid/47d683cf2.html> [accessed 17 August 2021]

²⁵⁶ UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on

his mission to Sri Lanka, 22 December 2016, A/HRC/34/54/Add.2, available at: <https://www.refworld.org/docid/58aefcf34.html> [accessed 29 August 2021]

²⁵⁷ Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, available at https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJuly2018.PDF

²⁵⁸ UN Human Rights Council, Report of the Special Rapporteur on the independence of judges

and lawyers on her mission to Sri Lanka, 23 March 2017, A/HRC/35/31/Add.1, available at: <https://www.refworld.org/docid/593945584.html> [accessed 29 August 2021]

²⁵⁹ Visit to Sri Lanka; Report of the Special Rapporteur on freedom of religion or belief [A/HRC/43/48/Add.2]

²⁶⁰ Report of the Working Group on Arbitrary Detention on its visit to Sri Lanka (A/HRC/39/45/Add.2)

the system is so corrupt that accountability for systems crimes is dead²⁶². This notion has been echoed by the former UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein in 2015 when he said that, "The sheer number of allegations, their gravity and recurrence and the similarities in their modus operandi, as well as the consistent pattern of conduct they indicate, all point to system crimes... the State's security sector and justice system have been distorted and corrupted by decades of impunity²⁶³".

In 2016 and 2017 the UN Committee against Torture (UNCAT) expressed its concern to the Government of Sri Lanka over credible reports indicating that the practice of so called 'white van' abductions of Tamils, unlawful detention, torture including sexual violence and rape of men and women continued in the years following the end of the armed conflict. It urged the Government to conduct an investigation using an independent body²⁶⁴.

The reports of the Special Procedures Mandate Holders and UN bodies have consistently noted that

those responsible, including public officials and security officials, have rarely been held accountable for these violations and that judicial authorities and the criminal justice system have been complicit in doing so. The High Commissioner for Human Rights noted in her report to the Human Rights Council in 2021 that:

"Nearly 12 years since the end of the war, domestic initiatives for accountability and reconciliation have repeatedly failed to produce results, more deeply entrenching impunity and exacerbating victims' distrust of the system. Sri Lanka remains in a state of denial about the past, with truth-seeking efforts aborted and State officials at the highest levels refusing to acknowledge past crimes. This has a direct impact on the present and the future. Failure to implement any vetting or comprehensive reforms in the security sector means that the State apparatus and some of its members credibly implicated in alleged grave crimes and human rights violations remain in place²⁶⁵".

While the Government of Sri

Lanka maintains it has been open in its engagement with the UN because it permitted the UN Subcommittee on Torture to visit the country in 2019, it has refused to heed the call of the Subcommittee to make their confidential report public²⁶⁶. More significantly, Sri Lanka has yet to respond to the questions raised by the Committee against Torture in 2016²⁶⁷. Committee experts expressed serious concern about continued, systematic, routine, and widespread use of torture by state officials against suspects in police custody throughout the country, noting that impunity for torture had become entrenched in the entire country raising the issue of accountability for officials implicated in torture²⁶⁸. The experts also raised the issue of secret places of detention, legal safeguards for persons detained under the Prevention of Terrorism Act, including the length of detention, access to legal representation, and admissibility of confessions in the court of law; and the serious risk of retaliation against victims, their families, and witnesses reporting acts of torture²⁶⁹.

The Committee also examined

the lack of accountability for past cases of torture and disappearance, and recommended that Sri Lanka should fulfill the prior recommendations for the establishment of a judicial mechanism with special counsel to investigate such allegations, and ensure that all investigations into²⁷⁰ violations during the conflict and post-conflict eras were concluded promptly and led to prosecutions where warranted.

Practices of endemic impunity by the security forces are reflected in a 2020 study conducted by the Human Rights Commission of Sri Lanka (HRCSL), which found that PTA prisoners reported the failure of authorities to follow due process standards during arrest and detention²⁷¹. These patterns of arrest, abductions, unlawful detention and torture documented internally also corroborate the patterns and trends described by many of the victims under the 'black system' documented by the ITJP abroad.

The obstacles to accountability in Sri Lanka have been extensively documented and include the lack of political will and the lack of an independent judiciary

and criminal justice system with an Attorney General, whose powers have become subsumed by the executive²⁷². Under the 20th amendment to the Constitution, the President has sole and unfettered discretion to appoint all judges to the superior courts, which is in conflict with international standards, as the appointment to the judiciary should not be vested solely with the executive²⁷³.

The independence of national human rights institutions including the Human Rights Commission of Sri Lanka, the Office on Missing Persons, the Office of Reparations and a range of other bodies has been compromised by the political appointments made by the President to these bodies²⁷⁴. Obstacles to accountability include the interference of the Executive in judicial matters; the undue delay in cases languishing in the courts for many years without progress; and the appointment of Commissions of Inquiry which have often lacked independence, the majority of whose reports have never been made public²⁷⁵. In addition, there is the failure of the state to implement recommendations made by national and United

Nations bodies regarding accountability: the ongoing threats and reprisals against those who make complaints against security forces and government officials, as well as lawyers and judicial officials; and the absence of effective witness protection mechanisms²⁷⁶. Another obstacle is the lack of relevant legislation criminalising international crimes and instituting modes of liability, including command or superior responsibility. A resolution tabled by the President's office on seeking the approval of the Sri Lankan Parliament to stop ongoing trials against military officials and other high-ranking officials accused of serious human rights violations, as well as family members of the President and Prime Minister currently facing charges of corruption, constitutes a further step in entrenching structural impunity²⁷⁷. The response of the Government of Sri Lanka to allegations that it is complicit in serious international crimes, including war crimes and crimes against humanity and other gross human rights violations, has been denial, and the creation of alternative narrative

²⁶¹ UN Commission on Human Rights, Impunity.. 17 April 1998, E/CN.4/RES/1998/53, available at: <https://www.refworld.org/docid/3b00f09310.html> [accessed 29 August 2021]

²⁶² ITJP Briefing Paper for Geneva on Systems Crimes

²⁶³ Statement by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein via video link to the Human Rights Council, 30 September

2015, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16539>

²⁶⁴ UN Committee Against Torture (CAT), Concluding observations on the fifth periodic report of Sri Lanka, 27 January 2017, CAT/C/LKA/CO/5, available at: <https://www.refworld.org/docid/596f5cc24.html> [accessed 17 August 2021]

²⁶⁵ Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the Office of the High Commissioner for Human Rights

(A/HRC/46/20)

²⁶⁶ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24477&LangID=E>

²⁶⁷ <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/643sri-lanka-shy-away-from-answering-un-questions-on-torture>; <http://www.jdslanka.org/index.php/news-features/human-rights/741-uncat-sisiramendis-srilanka>

²⁶⁸ Ibid

²⁶⁹ UN Committee Against Torture (CAT), Concluding observations on the fifth

periodic report of Sri Lanka, 27 January 2017, CAT/C/LKA/CO/5, available at: <https://www.refworld.org/docid/596f5cc24.html> [accessed 17 August 2021]

²⁷⁰ UN Committee Against Torture (CAT), Concluding observations on the fifth periodic report of Sri Lanka, 27 January 2017, CAT/C/LKA/CO/5, available at: <https://www.refworld.org/docid/596f5cc24.html> [accessed 17 August 2021]

²⁷¹ <https://www.hrcl.lk/wp-content/>

<uploads/2020/01/Prison-Report-Final-2.pdf>

²⁷² Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the Office of the High Commissioner for Human Rights (A/HRC/46/20)

²⁷³ <https://www.icj.org/sri-lanka-newly-adopted-20th-amendment-to-the-constitution-is-blow-to-the-rule-of-law/>

²⁷⁴ Ibid

²⁷⁵ Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the

Office of the High Commissioner for Human Rights (A/HRC/46/20)

²⁷⁶ Ibid

of fighting an asymmetrical conflict, and of pursuing counter terrorism strategies. Furthermore, in the decade after the War ended, the Government of Sri Lanka has constantly raised the spectre that they are fighting terrorism and the revival of the LTTE. In addition, following the Easter bombing, Tamils and Muslims pursuing their fundamental rights are criminalised²⁷⁸.

Desperate to silence any kind of dissent, in March 2021 Sri Lankan President Gotabaya Rajapaksa promulgated regulations without seeking parliamentary approval entitled the “Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021²⁷⁹”. The Centre for Policy Alternatives (CPA) in Sri Lanka noted that these regulations are drafted in a manner that can further jeopardise the rights and liberties of persons, especially religious and ethnic minorities, and curtail political dissent with no effective due process guarantees, and are in clear violation of the separation of powers, with certain judicial powers being transferred to the executive

arm of government²⁸⁰. The CPA also raised concerns that the regulations are inconsistent with Sri Lanka’s Constitution²⁸¹. These draconian ‘de-radicalisation’ regulations would have the effect of further criminalising dissent mainly by Tamil and Muslim civilians, suspected of using words or signs to cause acts of “religious, racial or communal violence, disharmony or feelings of ill will” between communities leading to ‘rehabilitation’ at ‘reintegration centers’ for up to two years without trial, notwithstanding criticism of Sri Lanka’s previous rehabilitation programs for former LTTE combatants by the UN Working Group on Arbitrary Detention²⁸². The International Commission of Jurists (ICJ) condemned Sri Lanka’s new ‘de-radicalisation’ regulations, stating that they “allowed for the arbitrary administrative detention of people for up to two years without trial... and could disproportionately target minority religious and ethnic communities”²⁸³.

The regulations are already being used to target and suppress any activities including memorialisation, as

is illustrated in a recent case, where the Kalkudah police arrested a group of three women who held a memorialisation event commemorating those who had died during the Civil War. The event, which was publicised through Facebook, led to their arrests. In their first appearance before a magistrate, the state argued that the memorial event was promoting terrorism activities through broad-casting via Facebook and was an attempt to revive the LTTE²⁸⁴.

The international community has finally acknowledged that the rule of law no longer exists in Sri Lanka²⁸⁵. The judiciary and parliament, as well as the institutions and structures in a democratic state intended to constitute checks and balances, have been subsumed by the current President, who has consolidated power through appointing his family members and cronies into positions of power at all levels²⁸⁶. Sri Lanka is already militarised, and is even more so with even Covid-19 functions run by the military²⁸⁷. Sri Lanka is driven by a culture of racist and discriminatory policies premised on a narrow ethno-nationalist vision of a Buddhist Sinhala state

in which other ethnic and religious groups have no place and are not regarded as citizens of Sri Lanka. Indeed, the last 18 months since Gotabaya Rajapaksa took over have witnessed the increasing persecution of Tamil and Muslim lawyers, writers, journalists and artists²⁸⁸.

In a report published in 2012, the International Commission of Jurists described how decades of emergency rule and legal immunities granted to the President and other government officials weakened the checks and balances in the Sri Lankan Government, while political interference - particularly in the conduct of the office of the Attorney-General - in practice led to a failure of justice in a number of key cases²⁸⁹. Since 2012, impunity has deepened and as already pointed out in 2020 Sri Lanka is not just dealing with the legacy of the 2009 War but with decades of structural violence in which state institutions, including the criminal justice system, have been politicised and denuded of independence²⁹⁰. This eroded system makes it impossible for decent and well-meaning individuals to fix problems

from within and it is naïve to expect capacity building and training to redress deep-rooted structural issues such as impunity, corruption including nepotism, political interference, ethnic discrimination and ethno-majoritarianism²⁹¹”.

The international community finally acknowledged that the Government of Sri Lanka lacked the political will to deal with accountability at a domestic level and that it had reneged on its joint commitments to the international community, which resulted in the Human Rights Council finally adopting a new Resolution on Sri Lanka on 23 March 2021²⁹². This resolution establishes a dedicated capacity within the Office of the High Commissioner for Human Rights with the mandate “to collect, consolidate, analyze and preserve information and evidence” of gross violations of human rights or serious violations of international humanitarian law committed in Sri Lanka, and “to advocate for victims and survivors, and to support relevant judicial and other proceedings, including in Member States, with competent jurisdiction”. The resolution was adopted in response to

a report in January 2021 by the UN High Commissioner for Human Rights, Michelle Bachelet, on the failure of successive Sri Lankan governments to provide justice and accountability, where she noted that “Sri Lanka remains in a state of denial about the past, with truth-seeking efforts aborted and the highest State officials refusing to make any acknowledgement of past crimes²⁹³”.

In June 2021, the European Parliament passed a resolution on Sri Lanka, drawing attention to abuses under the notorious Prevention of Terrorism Act (PTA), which has long enabled prolonged arbitrary detention, torture and sexual abuse. The resolution specifically mentioned Hejaaz Hizbullah, a prominent lawyer, and Ahnaf Jazeem, a poet, who are both arbitrarily detained under the Act. The European Parliament also denounced the Sri Lankan Government’s obstruction of efforts to secure accountability for widespread human rights abuses during the country’s decades-long Civil War²⁹⁴. Despite this, violations of civic freedoms in Sri Lanka have persisted in recent months including the ongoing

²⁷⁷ <https://www.cpalanka.org/wp-content/uploads/2021/04/Finalized-doc-CoI-SPCoI-on-Political-Victimization.pdf>

²⁷⁸ Visit to Sri Lanka; Report of the Special Rapporteur on freedom of religion or belief [A/HRC/43/48/Add.2] https://www.ecoi.net/en/file/local/2025862/A_HRC_43_48_Add.2_E.pdf

²⁷⁹ <https://www.newswire.lk/2021/03/13/>

gazette-issued-with-new-gulations-to-rehabilitate-those-arrested-over-extremist-activities-sinhala-tamil-english/

²⁸⁰ <https://www.cpalanka.org/wp-content/uploads/2021/03/Concerns-Relating-to-the-Recent-Regulations-Issued-Under-the-Prevention-of-Terrorism-Act.pdf>

²⁸¹ Ibid

²⁸² Report of the Working Group on Arbitrary Detention on its visit to Sri Lanka (A/HRC/39/45/Add.2)

²⁸³ <https://www.icj.org/sri-lank-de-radicalization-regulations-should-be-immediately-withdrawn/>

²⁸⁴ <http://www.adaderana.lk/news/73952/group-arrested-for-commemorating-ltte-in-kalkudah-beach>

²⁸⁵ Resolution adopted by the Human Rights Council on 23 March 2021: 46/1. Promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/RES/46/1)

²⁸⁶ ITJP Infographics. https://itjpsl.com/assets/press/ITJP_rajapaksa_inc_final.pdf

²⁸⁷ <https://alt.army.lk/covid19/>

²⁸⁸ Visit to Sri Lanka; Report of the Special Rapporteur on freedom of religion or belief [A/HRC/43/48/Add.2] https://www.ecoi.net/en/file/local/2025862/A_HRC_43_48_Add.2_E.pdf; <https://www.state.gov/reports/2020-report-on-international-religious-freedom/sri-lanka/>

²⁸⁹ International Commission of Jurists (ICJ), Authority without accountability: The crisis of impunity in Sri Lanka, <https://>

reliefweb.int/report/sri-lanka/authority-without-accountability-crisis-impunity-sri-lanka

²⁹⁰ https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/LKA/INT_CCPR_CSS_LKA_18216_E.pdf

²⁹¹ https://itjpsl.com/assets/ITJP_briefing_note1-ENGLISH-FINAL.pdf

²⁹² Resolution adopted by the Human Rights Council on 23 March 2021: 46/1. Promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/RES/46/1)

²⁹³ Promoting reconciliation, accountability and human rights in Sri Lanka - Report of the Office of the High Commissioner for Human Rights (A/HRC/46/20)

detention of activists, harassment of journalists, attempts to criminalise ‘fake-news’ and a crackdown on peaceful protest under the guise of dealing with COVID-19²⁹⁵.

Sri Lanka is in violation of its treaty obligations under international human rights law as well as domestic law provisions regarding arbitrary and unlawful detention, torture, sexual torture, sexual violence and cruel, inhuman and degrading treatment. Decades of impunity for serious international crimes has resulted in structural impunity in Sri Lanka, rising to the level of systematic. There is a deliberate policy on the part of the Government of Sri Lanka to deny that gross human rights violations committed by the security forces in Sri Lanka continue and also to prevent accountability for serious international crimes as is evidenced in this report. Initiatives by the international community over decades to address impunity in Sri Lanka have been premised on the basis that Sri Lanka is a democratic state committed to the rule of law. The contrary, however, is true,

as a black criminal system operates within the deep state, responsible for the violations described in this report with the obvious approval of the leadership of Sri Lanka, including the current President.

Manfred Nowak, the former Special Rapporteur, noted in a book he wrote in 2018 that “systematic torture by a state should attract the strongest condemnation and should in principle lead to the expulsion of a state from the Human Rights Council²⁹⁶”. Nowak did not use the term ‘systematic torture’ at that point, but in reviewing the notes of his visit stated that “practically there are no other countries for which I documented in great details so many cases of savage torture”. He highlighted the fact that the Government’s public relations strategy and charm offensive of repeating that he had not uncovered systematic torture meant that Sri Lanka was not expelled from the Human Rights Council.²⁹⁷

The international community’s recognition that structural impunity exists in Sri Lanka has led to an enhanced mandate for OHCHR to “collect and preserve and analyze evidence

relating to violations and abuses of human rights and related crimes in Sri Lanka with a view to advancing accountability”²⁹⁸. However, it still does not represent the strongest condemnation of a state where we have known for decades that torture is embedded and systematic. While it is unlikely that Sri Lanka will ever be expelled by Member States from the Human Rights Council, more thought needs to be given to establishing an independent international criminal accountability mechanism to which the OHCHR investigative mechanism can forward evidence collected to then be analysed and preserved. To expect the Sri Lankan State to investigate itself, prosecute its foot soldiers and those who have command and superior responsibility for systematic violations which amount to serious international crimes is delusional. The international community has an obligation to the people of Sri Lanka, including the survivors of these crimes, to do more.

FINDINGS

- Sri Lanka continues to be in violation of its treaty and domestic obligations. Torture, sexual torture and sexual violence including cruel, inhuman and degrading still occur. Torture is the outcome of deliberate policies and practices which exist in Sri Lanka and which have continued over the last four decades. The main victims of torture are Tamils and more recently Muslims who are persecuted on the grounds of a false counter terrorism and national security narrative.

- The Sri Lankan Government’s programme of arbitrary and unlawful detention, torture including sexual torture, sexual violence and cruel and inhuman treatment is authorised and condoned at the highest level of government.

- The Sri Lankan Government has gone to great lengths to prevent and obstruct efforts to secure accountability, belying any good faith commitment to upholding its human rights obligations.

- Despite numerous reports by UN Human Rights bodies including Special Procedures Mandate Holders, the OHCHR, the Committee against Torture, Cruel and Inhuman and Degrading Treatment, the Working Group

on Arbitrary Detention, as well as the International Commission of Jurists, and other international and domestic civil society groups, calling upon the Government of Sri Lanka to prosecute perpetrators, the Sri Lankan Government has consistently defended its failure to prosecute. Furthermore, the Government has continued to shield high-level officials responsible for failing to uphold human rights standards, instead promoting them into senior positions, seeking to exonerate them from any criminal responsibility or civil liability. The most visible outcome of this, is the structural Impunity for war crimes and crimes against humanity perpetrated in the final phase of the Civil War; the ongoing impunity for ongoing gross human rights violations and abuses perpetrated between 2009 and present day, facilitated by the weak and compromised and legal, judicial and political structures in Sri Lanka.

- That the technical assistance and capacity building for the security establishment over decades, including through the UN and donors, has not addressed the structural impunity that exists since the political will to ensure security sector reform and genuine transformation in the country does not exist.

²⁹⁴ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0290_EN.html

²⁹⁵ <https://monitor.civicus.org/updates/2021/07/13/despite-un-concerns-sri-lanka-continues-detain-critics-arrest-protesters-and-entrench-impunity/>

²⁹⁶ Nowak, Manfred, and Roger Kaminker, 2018. Torture: an expert’s confrontation with an everyday evil.

²⁹⁷ Ibid

²⁹⁸ Resolution adopted by the Human Rights Council on 23 March 2021: 46/1. Promoting reconciliation, accountability and human rights in Sri Lanka (A/HRC/RES/46/1)

5 . RECOMMENDATIONS

Given the abominable human rights situation in Sri Lanka in which structural impunity is entrenched, recommendations to the Government of Sri Lanka on accountability, constitutional reforms, vetting and screening, moratoriums on use of the PTA, granting pardons, instituting investigations and prosecutions may seem futile.

It should be noted that the lack of accountability encourages the repetition of crimes, as perpetrators and others feel free to commit further offences without fear of punishment. This ongoing impunity in Sri Lanka for those responsible for violations amounting to serious human rights violations inflicts additional suffering on victims. Countering impunity constitutes justice for victims, with criminal accountability for serious crimes being the only deterrent to prevent new violations and atrocity crimes.

Furthermore, the Government of Sri Lanka is obligated in terms of its treaty and domestic obligations to uphold the rule of law and

rebuild public trust in the justice system, including where there is a legacy of serious human rights violations - and given that the primary obligation rests on the Sri Lankan State to address the issue of impunity

WE CALL UPON THE GOVERNMENT OF SRI LANKA TO:

- Implement the recommendations of the various UN bodies including the recent recommendations of the High Commissioner for Human Rights that the Government of Sri Lanka ensures the prompt, thorough and impartial investigation and, where evidence exists, the prosecution of all alleged crimes relating to human rights violations and serious violations of international humanitarian law, including for long-standing emblematic cases.

- That the Government withdraws the resolution placed before Parliament to exonerate officials implicated in serious crimes based on the recommendations of the Political Victimisation Commission.

- That the Government immediately rescinds the Prevention of Terrorism (De-radicalization from holding violent extremist religious ideology) Regulations No. 01 of 2021 and ensures respect for the separation of powers.

OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS

Noting the enhanced mandate of the Office of the High Commissioner for Human Rights to monitor the human rights situation in Sri Lanka, to determine progress by Sri Lanka on accountability and reconciliation, and the establishment of a dedicated capacity to collect and preserve evidence and other related information for future accountability processes, to advocate for victims and survivors, and to support relevant judicial proceedings in Member States with competent jurisdiction, we call upon the High Commissioner to ensure the following:

INVESTIGATION OF ONGOING DETENTIONS, TORTURE AND SEXUAL TORTURE

- That the Investigative Mechanism establishes a team to investigate the 'black system' of arbitrary and unlawful detentions (including 'white van' abductions), torture including sexual torture, sexual violence, branding, and cruel and inhumane treatment. The focus of the investigation should also be to identify the modus operandi including practices of these incidents, perpetrator units implicated, locations where possible of both unlawful and designated sites, overlaps between the PTA detentions and those held

under the ICCPR, map command structures where possible, establishing whether these operations are the outcome of a permissive environment where the practices are condoned at the highest level. The investigation should also map transactional abuses including bribery and corruption, and the network that exists within the security forces in which families of victims are compelled to pay huge sums of money to get victims out of the country. The investigative team will need to interview witnesses outside of Sri Lanka based in the UK, Switzerland and Europe, as these violations are not documented domestically and do this in a manner consistent with promoting their dignity and recognition of the violations they have suffered.

- Following on this investigation, an analysis should be carried out on the patterns and trends which emerge, and whether similarities exist between violations documented in-country in regard to those held under the PTA and ICCPR.

VETTING AND SCREENING

Noting that UN Peacekeeping Operations face enormous challenges including of force generation, we urge OHCHR to do the following:

- Confirm what the term 'security' means in the context of the UN Peacekeeping continuing to use Sri Lankan forces in high security situations.
- Ensure that OHCHR continues to keep under review Sri Lankan personnel referred by the Government to participate in peacekeeping operations, noting that the Human Rights Commission of Sri Lanka is likely to have its status downgraded, is deeply compromised by the recent appointments and cannot be relied upon to vet and screen security force personnel.
- Ensure that those who are compromised in terms of the screening criteria are vetted out of any peacekeeping operation, including in high security situations.
- Ensure that governments who fund training and capacity building for the Sri Lankan security forces stop any funding for training and capacity building and stop any peer-to-peer exchanges given the impunity displayed by the Sri Lankan Government in refusing to hold the security forces accountable for past and current human rights violations, which in certain circumstances amount to serious international crimes.
- Ensure that member states incorporate strict human rights due diligence in engagement with the security forces and all bodies under

the purview of the Ministry of Defence or the Ministry of Public Security.

MEMBER STATES

Noting that the actions of all Member States should be guided by Secretary-General's Call to Action on human rights:

- Ensure that the OHCHR Investigative mechanism is fully funded and appropriately staffed and protected to ensure that it is fully capable of implementing its mandate in terms of Resolution 46/1 so as to report to the Human Rights Council on progress on its mandate.
- Ensure that all development programmes are founded on principles of inclusion, non-discrimination, and support for effective, accountable and inclusive institutions, in line with the 2030 Sustainable Development Agenda.
- Engage with victims and their representatives to investigate and prosecute international crimes committed by all parties in Sri Lanka, promote judicial proceedings in domestic jurisdictions, including under accepted principles of extraterritorial or universal jurisdiction.
- Explore possible targeted sanctions such as asset freezes and travel bans

against credibly alleged perpetrators of grave human rights violations and abuses.

- Apply stringent vetting procedures to Sri Lankan police and military personnel identified for military exchanges and training programmes.

CIVIL SOCIETY

- Noting that a plural and diverse civil society is critical to building an inclusive society in which democracy and the rule of law are instilled, we call upon civil society organisations to build solidarity across ethnic, religious and class lines and to support the struggle of victims and survivors of serious human rights violations to access justice and accountability in Sri Lanka.
- To be courageous in dealing with denial through speaking out about the ongoing violations in Sri Lanka, including ongoing torture perpetrated by the security forces under the 'black system' of operations, and increasing the visibility of survivors of torture.

COMMAND STRUCTURE



PRESIDENT

Defence portfolio and Presidential Task Forces²⁹⁹



SECRETARY OF DEFENCE

Major General Kamal Gunaratne (from Nov. 2019³⁰⁰)



CHIEF OF NATIONAL INTELLIGENCE

Major General Ruwan Kulathunga³⁰¹ (from June 2019)



STATE INTELLIGENCE SERVICE³⁰²

Major General Suresh Sallay (from Dec. 2019³⁰³)



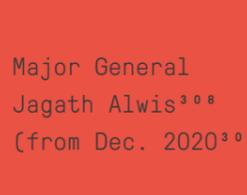
DIRECTOR MILITARY INTELLIGENCE

Brigadier Robin Jayasuriya (from 27 Jan. 2021³⁰⁴)



PUBLIC SECURITY MINISTER³⁰⁵

Sarath Weerasekera³⁰⁶ (from Nov. 2020³⁰⁷)



Major General Jagath Alwis³⁰⁸ (from Dec. 2020³⁰⁹)



PUBLIC SECURITY MINISTER SECRETARY

POLICE



IG POLICE

C.D. Wickramaratne³¹⁰ (acting IGP from April 2019³¹¹)



CID DIRECTOR

Rohana Premaratne³¹² (from 10 April 2021³¹³)

- (17 Oct 2020³¹⁴ 10 April 2021³¹⁵ SSP Nishantha de Zoysa)
- (22 May -17 Oct. 2020 Prasanna de Alwis³¹⁶)
- (Nov 2019 -20 May 2020) SSP Wickremarachchige Thilakarathne³¹⁷ (then MSD Director)
- (Shani Abeysekera until Nov. 2019³¹⁸)

From May 2019 TID came under CID³¹⁹ reporting to Senior DIG Ravi Seneviratne of the CID. 20 Dec 2019 N. J. K. Wedasinghe to replace Ravi Seneviratne³²⁰.



C/TID DIRECTOR

- Prasanna de Alwis³²¹ (from 17 Oct. 2020³²²)
- (Also from 10 Jan.³²³ (acting director)- 22 May 2020³²⁴)
- (22 May - Oct. 2020³²⁵) SSP T.G.N.W.D. Talduwa

- Oct 2020 a complaint to NPC by Ahimsa Wickrematunge³²⁶ (SP JPD Jayasinghe until 10 Jan. 2020³²⁷)
- 4 Aug 2019 TID Acting Director, Mr Jagath Nishantha³²⁸

²⁹⁹ https://itjpsl.com/assets/press/ITJP_rajapaksa_inc_final.pdf

³⁰⁰ <https://www.themorning.lk/maj-gen-kamal-gunaratne-appointed-defence-secretary/>

³⁰¹ http://www.colombopage.com/archive_19A/Jun13_1560437375CH.php After Sisira Mendus resigned over the Easter Sunday bombings. https://www.business-standard.com/article/pti-stories/sri-lanka-appoints-new-intelligence-chief-after-easter-attacks-probe-row-119061300852_1.html

³⁰² (also track and trace for Covid):

³⁰³ <https://asiatimes.com/2019/12/sri-lanka-intel-chief-sacked-over-easter-attacks/>

³⁰⁴ <https://www.army.lk/si/news/> - %E2%80%8D - - %E2%80%8D - - %E2%80%8D

³⁰⁵ "administrates Sri Lanka Police, Civil Security Department, National Police Academy and the Department of Multi-Purpose Development Task Force (DMPDTF)." Says https://www.defence.lk/index.php/Article/view_article/2741

³⁰⁶ <https://gic.gov.lk/gic/index.php/en/component/org/?id=379&task=org>

³⁰⁷ <https://www.themorning.lk/retired-admiral-sarath-weerasekera-appointed-minister-of-public-security/>

³⁰⁸ https://www.defence.lk/Article/view_article/2948

<https://gic.gov.lk/gic/index.php/en/component/org/?id=379&task=org>

Previously Chief of National Intelligence <https://archive.ceylontoday.lk/news-more/9689>

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³⁰⁹ https://www.defence.lk/index.php/Article/view_article/2741

³¹⁰ <https://www.police.lk/index.php>

³¹¹ <https://colombogazette.com/2019/05/13/cc-approves-senior-dig-wickramaratne-as-acting-igp/>

<https://colombogazette.com/2019/04/29/senior-dig-wickramaratne-appointed-acting-igp/>

³¹² http://www.colombopage.com/archive_21A/Apr10_1618030128CH.php

<https://www.newsfirst.lk/2021/04/10/new-director-for-the-criminal-investigations-department/>

³¹³ <https://www.businessnews.lk/2021/04/10/ssp-rohana-premaratne-appointed-as-the-new-cid-director/>

³¹⁴ <https://www.businessnews.lk/2020/10/17/ssp-nishantha-de-zoysa-appointed-new-cid-director/>

³¹⁵ <https://www.timesonline.lk/news-online/SSP-Rohan-Premaratne-appointed-as-new-CID-Director/2-1132952>

http://www.colombopage.com/archive_21A/Apr10_1618030128CH.php

³¹⁶ <https://www.newsfirst.lk/2020/05/22/eleven-senior-police-officers-transferred/>

<https://www.businessnews.lk/2020/10/17/ssp-nishantha-de-zoysa-appointed-new-cid-director/>

³¹⁷ who was head of the PSD during the time Mahinda Rajapaksa was President.

<https://www.colombogazette.com/2019/04/29/senior-dig-wickramaratne-appointed-acting-igp/>

<https://sri.lankamirror.com/news/16361-order-to-arrest-cid-officers-at-the-airport>

<https://economynext.com/director-cid-post-changes-hands-for-the-third-time-in-11-months-74866/>

³¹⁸ <https://www.colombotelegraph.com/index.php/another-cid-sleuth-in-the-crosshairs-security-for-ip-nishantha-silva-and-ssp-shani-abeysekera-withdrawn/>

³¹⁹ <https://economynext.com/tid-now-under-cid-43342/>

³²⁰ <https://www.ft.lk/news/New-CID-Director-appointed/56-692592>

³²¹ <https://economynext.com/director-cid-post-changes-hands-for-the-third-time-in-11-months-74866/>

³²² <https://economynext.com/director-cid-post-changes-hands-for-the-third-time-in-11-months-74866/>

³²³ <https://www.newsfirst.lk/2020/05/22/eleven-senior-police-officers-transferred/>

<https://archive.ceylontoday.lk/news-more/10689>

<https://archive.ceylontoday.lk/news-more/10689>

³²⁴ <https://archive.ceylontoday.lk/news-more/10689>

³²⁵ <https://archive.ceylontoday.lk/news-more/10689>

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<http://www.nethnews.lk/article/80956>

³²⁶ <https://economynext.com/ahimsas-objections-on-cid-directors-appointment-constitutional-council-wants-npcs-observations-71410/>

³²⁷ <https://archive.ceylontoday.lk/news-more/10689>

³²⁸ <https://www.colombotelegraph.com/wp-content/uploads/2019/10/Easter-Sunday-attacks-PSC-report-en.pdf>

<https://www.pressreader.com/sri-lanka/sunday-times-sri-lanka/20190804/281659666658619>

ANNEXURE

Impunity in Sri Lanka goes back decades, as is evidenced by the reports of numerous United Nations bodies including the Committee Against Torture (CAT), the Human Rights Committee (HRC), Professors Manfred Nowak and Juan Mendez, the UN Special Rapporteurs on Torture respectively, Ben Emmerson QC, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, Professor Monica Pinto, the Special Rapporteur on the Independence of Judges and Lawyers, Ahmed Shaheed, the Special Rapporteur on Freedom of Religion, and the Working Group on Arbitrary Detention (WGAD). These reports have consistently noted that those responsible, including public officials and security officials, have rarely been held accountable for violations for which judicial authorities and the criminal justice system must bear responsibility. This annex contains excerpts from the reports, and reveals how impunity in Sri Lanka has become structural.

They mainly deal with the allegations of arbitrary and unlawful arrest and detention, torture and sexual torture in the context of the existing legal framework of the country, ie the Prevention of Terrorism Act (PTA) and administrative detentions, the use of the ICCPR law in Sri Lanka, and emergency regulations. There are references to 'white van abductions', and torture while in the custody of the police. The issue of secret places of detentions is also noted. However, there is no analysis of the fact that an underground system, which we reference here as the 'black system' operates both inside and outside the system. The recommendations to the Government of Sri Lanka include setting up a judicial mechanism to investigate the allegations; in a country in which members of the Judiciary are compromised, this is admittedly a long shot.

2006

THE UN HUMAN RIGHTS COMMITTEE

In 2006, the UN Human Rights Committee in its concluding observations stated that "the Committee remains concerned about persistent reports of torture and cruel, inhuman or degrading treatment or punishment of detainees by law enforcement officials and members of the armed forces, and that the restrictive definition of torture in the 1994 Convention against Torture Act continues to raise problems in the light of article 7 of the Covenant³²⁹". The Committee expressed its regrets that the majority of prosecutions initiated against police officers or members of the armed forces on charges of abduction and unlawful confinement, as well as on charges of torture, have been inconclusive, due to lack of satisfactory evidence and the unavailability of witnesses, despite a number of acknowledged instances of abduction, and/or unlawful confinement, and/or torture, and only very few police or army officers have been found guilty and punished³³⁰. The Committee also highlighted the fact that victims of human rights violations feel

too intimidated to bring complaints, or else have been subjected to intimidation and/or threats, discouraging them from pursuing appropriate avenues to obtain an effective remedy (art. 2 of the Covenant³³¹).

THE COMMITTEE AGAINST TORTURE (CAT)

The Committee Against Torture recommended in 2006 that Sri Lanka "promptly, thoroughly, and impartially investigate any responsibility of senior military and civilian officials authorizing, acquiescing or consenting, in any way, to acts of torture committed by their subordinates³³²".

2007

PROFESSOR MANFRED NOWAK

Following his visit in October 2007, Manfred Nowak, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, concluded that while a number of positive measures had been put forward to prevent and combat torture as well as to hold perpetrators accountable, such as the Torture Act No 22 of 1994,

the Corporal Punishment Act No 23 of 2005 and legal safeguards under the Code of Criminal Procedure, they were largely ineffectual³³³". Nowak also noted that under the Emergency Regulations most of the safeguards against torture became non-existent, leading to a situation in which torture had become a routine practice occurring in a context of counter-terrorism operations³³⁴. He stated that "the non-applicability of important legal safeguards in the context of counter-terrorism measures, as well as excessively prolonged police detention, opens the door for abuse³³⁵". He also described his shock at the brutality of some of the torture measures applied to persons suspected of being LTTE members, such as "burnings with soldering irons and suspension by the thumbs³³⁶".

2011

THE UN SECRETARY GENERAL'S PANEL OF EXPERTS REPORT³³⁷

The Panel of Experts pointed out in their report that, "The weakening of the rule of law, resulting from broad emergency powers outside of judicial review, and

³²⁹ Concluding Observations of the Human Rights Committee, Sri Lanka, UN Doc CCPR/CO/79/LKA (2003).

³³⁰ Ibid

³³¹ Ibid

³³² UN Committee Against Torture (CAT), UN Committee against Torture: Comments by the Government of Sri Lanka to the Conclusions and Recommendations, 20 February 2007, CAT/C/LKA/CO/2/Add. 1, available at: <https://www.refworld.org/docid/45f6c06e2.html> [accessed 29 August 2021]

³³³ Ibid

³³⁴ UN Human Rights Council, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak: mission to Sri Lanka, 26 February 2008, A/HRC/7/3/Add.6, available at: <https://www.refworld.org/docid/47d683cf2.html> [accessed 17 August 2021]

³³⁵ Ibid

³³⁶ Ibid

³³⁷ Ibid

³³⁷ UN Secretary-General (UNSG), Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, available at: <https://www.refworld.org/docid/4db7b23e2.html> [accessed 2 September 2021]

³³⁸ Ibid

a culture of impunity, resulting from a lack of political will to hold state officials to account, have combined to create an environment in which judicial pronouncements were routinely disregarded by the successive Governments³³⁸. The Panel also noted Security Council resolutions which “reiterated the importance of eliminating impunity for serious abuses of human dignity, including through prosecutions of war crimes and crimes against humanity, including in Resolution 1674 (2006) concerning the protection of civilians in armed conflict as well as and the protection of civilians and ending impunity in country situations involving internal armed conflict³³⁹”.

2012

THE INTERNATIONAL COMMISSION OF JURISTS (ICJ)

In their November 2012 report titled Authority without Accountability: The Crisis of Impunity in Sri Lanka, the International Commission of Jurists noted that Sri Lanka was facing a crisis of impunity and that it was becoming increasingly difficult, if not impossible,

for people who had suffered serious violations of their human rights to receive justice and accountability³⁴⁰. The report makes the further point that victims and survivors never receive redress, that perpetrators are not brought to justice and that the absence of justice removes any deterrent to future perpetrators³⁴¹. This situation constitutes a serious breach of Sri Lanka’s international obligation to protect and promote human rights³⁴².

2015

UN OHCHR INVESTIGATION INTO SRI LANKA (OISL)

The UN Investigation into Sri Lanka (OISL) noted in their 2015 report “the widespread use of torture by the security forces as far back as 1998: the Committee Against Torture (UNCAT) had considered the initial report submitted by the Government of Sri Lanka in 1998, and said it was ‘gravely concerned by information on serious violations of the Convention, particularly regarding torture linked with disappearances³⁴³’”. OISL also pointed out that the findings related to this earlier period corroborate those of

the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, following his visit in October 2007.

The OISL report also found in regard to sexual violence that “incidents of sexual violence were not isolated acts but part of a deliberate policy to inflict torture³⁴⁴”. OISL pointed out that victims of conflict-related torture perpetrated by Government forces and documented by OISL were generally Tamils, often arrested and detained in Government controlled areas, in particular Jaffna, under PTA and the Emergency Regulations.

2016

PROFESSOR JUAN MENDEZ, UN SPECIAL RAPPORTEUR ON TORTURE, CRUEL, INHUMAN AND DEGRADING TREATMENT IN MARCH 2016

The issue of torture and other cruel, inhuman or degrading treatment or punishment is part of the legacy of Sri Lanka’s armed conflict, and one of the reasons why the citizens of Sri Lanka continue to live without minimal guarantees of

protection against the power of the State, in particular its security forces. The current legal framework, and the lack of reform within the structures of the armed forces, the police, the Office of the Attorney-General and the judiciary, perpetuate the risk of torture³⁴⁶.

HUMAN RIGHTS COMMISSION OF SRI LANKA (HRCSL)

The Human Rights Commission of Sri Lanka (HRCSL) in its 2016 submission to the UN Committee against Torture also highlighted the blatant use of torture within the Sri Lankan context³⁴⁷. They noted that according to complaints received by the Commission, “torture is routinely used in all parts of the country regardless of the nature of the suspected offence for which the person is arrested³⁴⁸”.

2017

BEN EMMERSON QC, UN SPECIAL RAPPORTEUR ON THE PROMOTION AND PROTECTION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS WHICH COUNTERING TERRORISM

Following his mission to Sri Lanka in 2017, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while countering terrorism noted that “the Prevention of Terrorism Act (PTA) had been used to commit some of the worst human rights violations, including widespread torture and arbitrary detention, in the run-up to and during the conflict, particularly to target minorities and suppress dissent³⁴⁹”.

UN COMMITTEE AGAINST TORTURE (UNCAT)

In 2016 and 2017 the UN Committee on Torture (UNCAT) expressed its concern to the Government of Sri Lanka over credible reports indicating that the practice of so called ‘white van’ abductions of Tamils, unlawful detention, torture including sexual violence and rape of men and women continued in the years following the

end of the armed conflict. It urged the Government to conduct an investigation using an independent body³⁵⁰.

REPORT OF THE SPECIAL RAPPORTEUR ON THE INDEPENDENCE OF JUDGES AND LAWYERS ON HER MISSION TO SRI LANKA IN MARCH 2017

The Special Rapporteur noted the failure of successive governments in Sri Lanka to hold perpetrators accountable for gross human rights violations, serious violations of humanitarian law and international crimes in Sri Lanka³⁵¹. She also said that while the conflict lasted there was virtual impunity for any abuse committed by the police or the security forces. Impunity is so embedded and widespread that it has become a normal occurrence, helping to break the public’s confidence in its judiciary³⁵².

UN SPECIAL RAPPORTEUR ON FREEDOM OF RELIGION

Ten years after the end of the lengthy ethnic conflict, there has been no closure on a number of issues arising from that conflict which the Government had pledged to address at the Human Rights Council. While some

³³⁹ The General Assembly adopted by consensus its Resolution 55/89, Set of Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which reiterate the State’s duty to investigate and “severely punish” acts of torture or other cruel, inhuman, or degrading treatment or punishment, and provide a

remedy and rehabilitation to the victim. These Principles also reiterate the duty on States to conduct a thorough and impartial investigation of allegations of torture and related abuses, in particular. Investigators must be independent of suspected perpetrators and must have both substantial legal powers to conduct their inquiry as well as the resources needed to make it effective. General Assembly Resolution 55/89 (1989), paras. 2-3; see also Security Council

Resolution 1746 (2007), para. 13.

³⁴⁰ International Commission of Jurists; Authority without Accountability: The crisis of Impunity in Sri Lanka, <https://www.refworld.org/pdfid/50ae365b2.pdf>

³⁴¹ Ibid

³⁴² Ibid

³⁴³ Report of the Committee Against Torture, United Nations, New York, 1998.

³⁴⁴ §591

³⁴⁵ Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at <https://www.ohchr.org/en/issues/torture/srtorture/pages/srtortureindex.aspx>

³⁴⁶ Ibid

³⁴⁷ https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/LKA/INT_CAT_NHS_LKA_25601_E.pdf

³⁴⁸ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Report-to-CAT-Committee-.pdf>

³⁴⁹ Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism, available at https://www.ohchr.org/Documents/Countries/LK/Sri_LankaReportJuly2018.PDF

³⁵⁰ UN Committee Against Torture (CAT), Concluding observations on the fifth periodic report of Sri Lanka, 27 January 2017, CAT/C/LKA/CO/5, available at: <https://www.refworld.org/docid/596f5cc24.html> [accessed 17

August 2021]

³⁵¹ UN Human Rights Council, Report of the Special Rapporteur on the independence of judges and lawyers on her mission to Sri Lanka, 23 March 2017, A/HRC/35/31/Add.1, available at: <https://www.refworld.org/docid/593945584.html> [accessed 29 August 2021]

³⁵² Ibid

elementary steps have been taken, impunity and a lack of accountability remain the concern, perpetuating a sense of insecurity among all religious communities³⁵³. The transitional period has been marked by simmering tensions between the ethno-religious communities³⁵⁴. These challenges appear to be related primarily to the State-religion relationship, which offers majoritarian privileges, undermining the equal protection of the law for minorities. Moreover, the years before the Easter bombings in 2019 saw recurrences of inter-communal violence and religious extremism³⁵⁵.

2019

REPORT OF THE WORKING GROUP ON ARBITRARY DETENTION ON ITS VISIT TO SRI LANKA

The Committee Experts expressed serious concern about continued, systematic, routine, and widespread use of torture by State officials against suspects in police custody throughout the country, and noted that impunity for torture had become entrenched in the entire country, raising the issue of accountability

for officials implicated in torture³⁵⁶. The Experts also raised the issue of secret places of detention, legal safeguards for persons detained under the Prevention of Terrorism Act, including the length of detention, access to legal representation, and admissibility of confessions in the court of law; and the serious risk of retaliation against victims, their families, and witnesses reporting acts of torture³⁵⁷. The Committee also examined the lack of accountability for past cases of torture and disappearance, and recommended that Sri Lanka fulfill the prior recommendations for the establishment of a judicial mechanism with special counsel to investigate such allegations, to ensure that all investigations into violations during the conflict and post-conflict eras were concluded promptly, leading to prosecutions when warranted³⁵⁸.

“MY FAMILY HAVE SUFFERED SO MUCH AT THE HANDS OF THE SRI LANKAN GOVERNMENT. MY FATHER IS DEAD AND MY UNCLES HAVE BEEN KILLED OR ARE MISSING. TAMILS ARE TREATED AS SECOND CLASS CITIZENS IN SRI LANKA. WE CANNOT FREELY EXPRESS OUR POLITICAL OPINION BY HAVING THESE TYPES OF PROTESTS OR HOLDING OUR NATIONAL FLAGS. IF WE DO SOMETHING WE WILL BE BRANDED AS TERRORISTS. WE ARE DISADVANTAGED IN ALL FIELDS. WE WOULD STILL LIKE TO HAVE OUR OWN SEPARATE HOMELAND SO THAT WE CAN LIVE IN DIGNITY AND FREEDOM.”

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³⁵³ Visit to Sri Lanka; Report of the Special Rapporteur on freedom of religion or belief A/HRC/43/48/Add.2

³⁵⁴ Ibid

³⁵⁵ Ibid

³⁵⁶ Ibid

³⁵⁷ Ibid

³⁵⁸ Ibid

Established in 2013, the ITJP is the main body that has extensively investigated and documented unlawful detentions, torture and sexual violence in Sri Lanka. The research group is led by South African transitional justice expert, Yasmin Sooka, and employs international investigators who have worked for tribunals, the United Nations, and the UK's Preventing Sexual Violence Initiative.

🖱️ itjpsl.com

🖱️ stop-torture.com

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