

SRI LANKA: REFUSING TO DISAPPEAR

TENS OF THOUSANDS MISSING: FAMILIES DEMAND ANSWERS

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REFUSING TO DISAPPEAR



“Throughout the civil war in Sri Lanka, and throughout the other moments of violent conflict, it has been women – typically mothers and wives of the disappeared – who have been the face of all the disappeared, Tamil and Sinhalese, of this country; women, refusing to disappear, standing in for their loved ones who have been made invisible.”

Subha Wijesiriwardena, 29 November 2016

As any family member searching for a missing loved one can tell you, enforced disappearance is a crime without end. Until parents, wives, siblings, and children know the truth about the fate of a missing family member, they can find it almost impossible to seek justice and reparation for crimes they have suffered, and cannot properly mourn their loss.

Enforced Disappearance has touched every community, and within Sri Lanka there has been virtually no accountability for these grievous crimes. With a backlog of between 60,000 and 100,000 alleged enforced disappearances since the late 1980s, there is no shortage of examples of frustrated justice.

And yet, family members of the disappeared continue to demand accountability. Their experiences illustrate the impact of these crimes and demonstrate the burden placed on those - particularly women - seeking accountability and the lengths to which some families have gone to get attention to their demands. This includes braving very serious threats of retaliation for their activism.

Families of the disappeared know what they want and what they need. It is up to Sri Lanka's decision makers to hear their demands and to implement them. If Sri Lanka is to succeed in pulling away from its violent past, policymakers must prioritize victims so they take their rightful place at the center of the process. It should act on the demands of victims' families to criminalise enforced disappearances under Sri Lankan law, and act decisively to protect those who make complaints.

It will be a long, difficult road, and navigating it will take great courage. But it is not a road Sri Lanka has to travel alone. Amnesty International urges Sri Lanka to seek and accept international assistance where it is needed, so that all Sri Lankans can finally learn the truth.

SITHY AMEENA:

A SON'S DISAPPEARANCE



Sithy Ameena said her son Mohammad Hakeem disappeared on the morning of 21 March 2009 in Colombo, while his family prepared for a wedding. They had sent him out to get some fruit.

Mohammad was a trishaw driver. According to road cleaners, who witnessed his abduction, he was transporting a passenger when a group of men stopped him and dragged his passenger into a waiting white van. The witnesses said the assailants told Mohammed that if he wanted to know where his passenger was going he'd have to come along – so he too got into the van.

Mohammad phoned his wife to say he would not be able to attend the wedding; she said his voice trembled and it sounded like he was in trouble. When Mohammad failed to return home after many hours, his brother went to see if he was in a hospital but could not find him. It was midnight when the family went to the Modera Police Station to file a missing person report. At first, the police did not want to record their statement, saying that Mohammad must be staying at a friend's house. His mother objected: stating that he came home every evening.

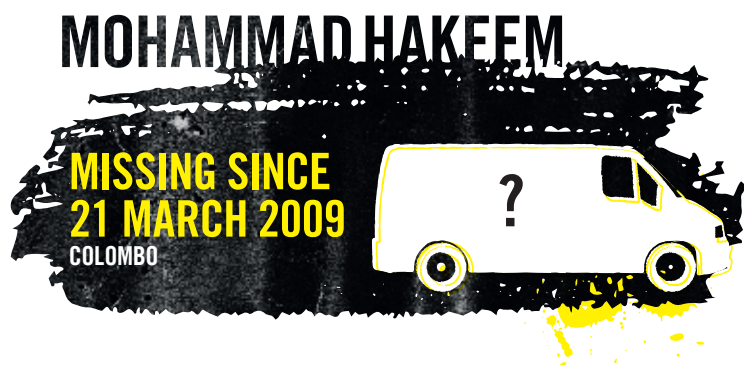
Besides its devastating emotional toll, Mohammad Hakeem's disappearance also has had economic implications for the family, who lost crucial income. Sithy Ameena is a diabetic and requires medication. She now helps support her family by selling clothes. She earns about 50 rupees a day (about US \$0.33). At most, she told Amnesty International, she earns 3000 rupees a month (less than US \$20). Mohammad has two children that she also helps look after.

Despite the difficulty, Sithy Ameena continues to raise her son's case with authorities. She has sent inquiries to the President's office, to the Governor of the Western Province and the Sri Lankan Human Rights Commission seeking answers.

She has made three trips to the Human Rights Council in Geneva hoping for some sort of progress in her son's case. She has been doing this for six years and says she will not give up the search for her son or the hope that he will someday return home.



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SANDYA EKNELIGODA:

TIRELESS CAMPAIGNER FOR HER MISSING HUSBAND PRAGEETH

On 24 January 2010, two days before Sri Lanka's 2010 presidential election, Prageeth Ekneligoda a freelance political cartoonist and frequent contributor to the Lanka-e-News website was working late. Around 10 p.m. he called his wife Sandya to say he was on his way home from his office in Rajagiriya (a suburb of Colombo). Later he called a friend on his mobile phone and told him that he was going to meet another contact. After the call, his phone was switched off. Prageeth Ekneligoda never made it home that night.

Prageeth had been abducted once before about five months earlier. He was questioned by his captors about an alleged associate in what may have been a case of mistaken identity and released the following day with a warning to "keep his mouth shut." Colleagues have said that Prageeth thought he was under surveillance in the days before his disappearance in 2010.

Sandya told Amnesty International that she believes both abductions were directly linked to Prageeth's attempts to expose corruption and human rights abuses by the government then in power. His cartoons often targeted official abuse of power; assaults on democracy and on media freedom. In 2008, Prageeth delivered a lecture alleging the army's use of chemical weapons in the armed conflict.



Sandya Ekneligoda has been relentless in her quest for justice. She lodged two complaints regarding Prageeth's disappearance in January 2010 but neither police station made any obvious effort to investigate her husband's disappearance. Sandya made a further complaint to the Senior Superintendent of the Mirihana Police, who assigned a senior officer to investigate the matter. She also appealed to the National Human Rights Commission of Sri Lanka; the Attorney General of Sri Lanka; the President of Sri Lanka; the United Nations Working Group on Enforced and Involuntary Disappearances; and the International Committee of the Red Cross. She traveled to Geneva, Switzerland to attend the Human Rights Council session and press her husband's case. Sandya continued to fight despite little progress under the Rajapaksa government.

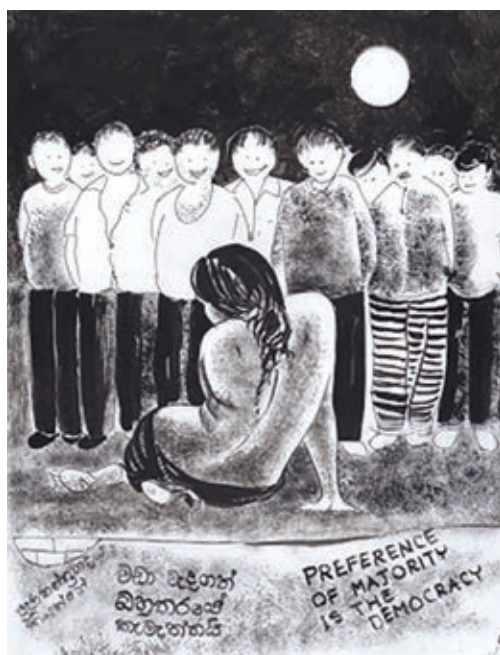
Human Rights Defender Ruki Fernando on Sandya Ekneligoda's Campaign for Justice:

"She wrote to the President and as a wife and mother, wrote to the President's wife, appealing for the first lady's interventions to help find Prageeth. She stood outside the parliament with her teenage son and distributed appeals to parliamentarians ... She took the initiative in organizing numerous protests and vigils in Colombo. She worked with Prageeth's friends and concerned people to publish two books with his articles and two editions of a book with his cartoons.



She also showed increasing concern about problems faced by Tamils, especially in the North. She showed a keen interest to visit the North and meet families of disappeared persons there ... After her first visit to Mannar and Vanni, she told me that she wanted to work more closely with families of disappeared people she had met there.

In fact, her visit inspired families of disappeared persons, church leaders and civil society in Mannar to organize a public event highlighting disappearances for the first time after several years, on international human rights day, braving intimidation from the military ... Subsequently, several families of disappeared persons from North also came to Colombo to join vigil, protests, religious services etc."



In January 2015, things have started to change. Two court proceedings focusing on the disappearance of Prageeth Ekneligoda are currently underway: a habeas corpus application in the Court of Appeal and a Magisterial Inquiry in the Homagama Magistrate's Court. On 30 May 2016, the Habeas Corpus writ application was revised to include the names of the new Inspector General of Police; the director of Army Intelligence; the Chief of the Army in addition to nine Army intelligence officers presently in custody.

Nonetheless, Sandya continues to face pressure to end her quest for truth and justice. In January 2016, a prominent member of the Buddhist nationalist Bodhu Bala Sena and other monks stormed the courtroom at Homagama and threatened Sandya. An anonymous poster campaign thought to be sponsored by the same group called her an LTTE supporter. Although she immediately lodged a police complaint, the glacial pace of justice in Sri Lanka means this is still pending.

As is the case for so many families of the disappeared, the Ekneligoda family lost Prageeth's income when he vanished and Sandya was left to raise their two sons on her own.



© Prageeth Ekneligoda

VATHANA SUNTHARARAJ: WANTS THE TRUTH

Stephen Sunthararaj, a project manager with the Centre for Human Rights and Development (CHRD), was a children's rights activist who worked in Jaffna before moving to Colombo after allegedly uncovering information linking a political



party to a child trafficking ring. On 7 May 2009, he was abducted by uniformed men whilst travelling with his wife, Vathana Sunthararaj, and three children in a friend's car in Colombo just a few hours after he was released from more than two months in police custody. He has not been seen since.

Stephen had first been arrested on 12 February 2009 and detained without charge under emergency regulations. After several representations made to the authorities by Vathana, Stephen was produced in Court on 7 May 2009 and released from police custody. While returning from court, Stephen and Vathana noticed that two men on a motorcycle were following the car. They recognized the men, who they had seen in the police station where Stephen had been held. Stephen and Vathana continued on to the CHRD office nearby, and arranged to have their children collected from home so that the family could stay at a friend's house for safety.

At around 6:00 pm that evening, the whole family left the CHRD office in their friend's vehicle, and headed to Kollupitiya Police Station to retrieve Stephen's mobile phone, passport and his bank book, which the police had confiscated when he was detained. As they approached Town Hall Junction,

a motorbike blocked their way.

According to Vathana, a white van then pulled up close to the vehicle and 4 or 5 men alighted. They were wearing army uniforms and were armed with pistols. They forced open the car door, grabbed Stephen, bundled him into the van and sped off. They also took the ignition key for the vehicle, preventing the

STEPHEN SUNTHARARAJ

MISSING SINCE
7 MAY 2009
COLOMBO

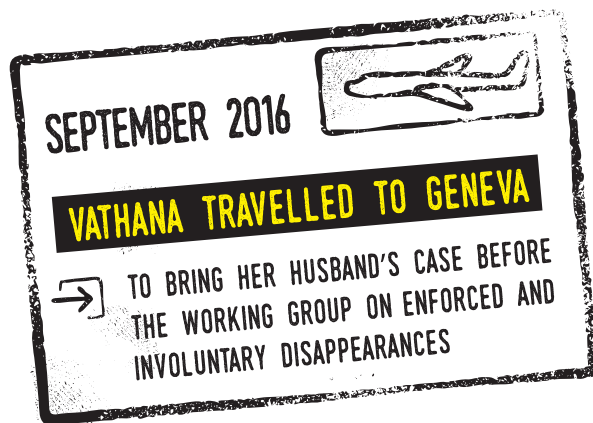


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driver from pursuing them. This incident was witnessed by Vathana and her frightened children, the car's driver, as well as Navy and Army personnel present at the scene and by Sri Lankan police, who were directing traffic. The family and friend were taken to the Police Station and gave their statements. Vathana identified one of the assailants as a man claiming to be a CID officer who had visited her home to make inquiries while her husband was detained by the Kollupitiya police.

Soon after Stephen's abduction, Vathana received a phone call from a man speaking Tamil demanding ransom money, which the family quietly paid. She asked the caller how she could trust him and he told her that Stephen was wearing a blue, striped shirt, which was true. The caller said that if she did not pay, Stephen's captors would "finish him." Vathana received a call on her mobile phone acknowledging that the money had been received, but Stephen never returned.

In December 2009, Palitha Kohana, then Permanent Secretary to the Ministry of Foreign Affairs, reportedly told US and EU diplomats that Stephen Sunthararaj had been arrested, not abducted, and that he was in state custody. This was never confirmed. In 2010, Vathana Sunthararaj wrote to the Office of the President of Sri Lanka, urging him to reveal Mr. Sunthararaj's place of detention, and calling for his immediate release. She received no response.



In September 2016, Vathana travelled to Geneva to bring her husband's case before the Working Group on Enforced and Involuntary Disappearances. On 25 August 2016, as she was preparing for her Geneva visit, Stephen's mother in Kilinochchi was visited by a Sinhalese man and woman who identified themselves as army intelligence personnel. They informed her that Stephen was to be released the following day and that she should accompany them. After several stops over two days she and the two operatives arrived in Colombo where they met Vathana. The operatives assured her that Stephen would be released soon and urged Vathana to come with them. She refused, saying she needed to stay with her children. Her mother-in-law was returned to her home in Kilinochchi and Stephen was never released. Vathana believes that they never intended to return Stephen and that the whole incident was a charade meant to keep her from traveling to Geneva and speaking out about Stephen's case.

MURUGANANTHAN JANATHA:

WHAT HAPPENED TO KUGAN AND LALITH?



Families of political activists Lalith Kumara Weeraraj and Kugan Muruganandan are still waiting for someone to tell them what happened to the two men after they disappeared in Jaffna on 9 December 2011. The two had been organising a press conference for the following day – 10 December, International Human Rights Day – during which they intended to

publicise a demonstration denouncing human rights violations committed against Tamil civilians by the Sri Lankan military and calling for the release of detainees held without charge since the end of the conflict. The event was set to include parents and relatives of the disappeared. They left home on Kugan’s motorbike and never returned.

Family members filed several complaints and missing persons reports with local authorities but the police denied holding them. On 14 December 2011, Muruganathan Janatha, Kugan’s wife, found her husband’s motorbike parked in the compound of the Atchchuveli Police Station. The police told her it had been found the day before parked near a Hindu temple. Janatha later heard from witnesses who claimed to have seen the two men being forced into a van by armed men, and there was a rumour that they were held in a detention centre in Jaffna district, but there was never any official confirmation.

About a month before he disappeared Lalith began receiving what his father Arumugan Weeraraj described to the BBC as “disturbing calls,” warning him against involvement in politics in Jaffna.



© Young Asia Television

After his disappearance in December 2011, his father received an anonymous phone call saying that his son had been killed.

Families of both activists have submitted complaints to the UN Working Group on Enforced and Involuntary Disappearances. In 2011, the Working Group transmitted the cases to the Sri Lankan Government under its urgent action procedure but did not receive clarification.

In late March 2012, Janatha told a gathering of the Collective Against Abductions and Disappearances that she had been intimidated by uniformed men who came to the house when she and her young daughter were home alone and tried to compel her to sign a document in Sinhala that she could not read. When she refused, she said they photographed her and her daughter. The incident occurred on 22 March 2012, the same day the UN Human Rights Council passed a Resolution calling on the Sri Lankan government to address alleged violations of international law.

A habeas corpus case filed by the families of both men has encountered repeated delays. In January 2016, a parliamentarian who had been a Cabinet Minister in the previous government claimed publicly that the two activists had been killed.¹ The Minister in question twice failed to respond to court summons before the court issued a warrant for his arrest if he did not appear. He attended a hearing in early February 2016 in the Jaffna Magistrates Court, but the proceedings were postponed until 13 May due to a “technical problem.” On 12 August 2016, the hearing was postponed to 9 December when the police official responsible for the case failed to appear in court.

AFTER HIS DISAPPEARANCE IN DECEMBER 2011

HIS FATHER RECEIVED AN
ANONYMOUS PHONE CALL
SAYING THAT HIS SON HAD BEEN
KILLED



1. Probe Mahindananda's claim that Lalith, Kugan were murdered- FSP, Ceylon Today, 5 January 2016, <http://www.ceylonoday.lk/51-114210-news-detail-probe-mahindanandas-claim-that-lalith-kugan-were-murdered-fsp.html>

BACKGROUND

Between 1989 and 1990, an estimated 30,000-60,000 Sinhalese young people suspected of affiliation with the leftist Janatha Vimukthi Peramuna (JVP) were killed or forcibly disappeared by government-operated death squads. Throughout the protracted armed conflict between the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam (LTTE), which started in 1983 and ended in May 2009, Tamils suspected of links to the LTTE were forcibly disappeared by police, military and paramilitary operatives. Again, estimated numbers are in the tens of thousands. The LTTE took prisoners and abducted Tamil adults and children to serve as fighters; many of them also disappeared.

In the wake of the armed conflict ended, Amnesty International continued to receive information on enforced disappearances and abductions, in particular of people with real or suspected links to the LTTE, as well as political opponents and critics of the government, its supporters or allied paramilitary groups.

For thirty years, the Sri Lankan authorities have failed to stop acts of enforced disappearances, failed to undertake criminal investigations into complaints and to identify the whereabouts or fate of the victim, failed to protect witnesses and families seeking truth and justice, and failed to prosecute those against whom there was evidence of wrongdoing.

In October 2015, a new Sri Lankan government headed by President Maithripala Sirisena pledged to end impunity and take measures to ensure that such violations and abuses are never repeated. Sri Lanka committed to establish mechanisms to ensure justice, truth and reparation for crimes under international law. Given the prominence of enforced disappearances in the local experience, it is not surprising that the first initiative was to pass an Act establishing an Office on Missing Persons (OMP). The government also approved a plan to provide Certificates of Absence to families of the missing so that they no longer had to request a death certificate to deal with legal questions around such things as property ownership, remarriage, access to social welfare payments or pensions.

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- TO UNDERTAKE CRIMINAL INVESTIGATIONS INTO COMPLAINTS
- TO IDENTIFY THE WHEREABOUTS OR FATE OF THE VICTIM
- TO PROTECT WITNESSES AND FAMILIES SEEKING TRUTH AND JUSTICE
- TO PROSECUTE THOSE AGAINST WHOM THERE WAS EVIDENCE OF WRONGDOING.



In May 2016, Sri Lanka's Parliament ratified the International Convention for the Protection of All Persons from Enforced Disappearance. But the government has yet to criminalise Enforced Disappearances under the Sri Lankan Penal Code. In the very few instances where individuals have been prosecuted for offences related to enforced disappearance, charges have been for abduction, wrongful confinement, conspiracy or murder.

It is the victims: the family members seeking answers, who can best identify what they need and expect from mechanisms being established to deliver justice, truth, reparation and guarantees of non-recurrence, and what they require immediately. Testimony of families of the disappeared show that witness protection and legal safeguards against arbitrary arrest and detention and other practices that increase the risk of enforced disappearances are high priorities along with effective reparation and the more immediate provision of interim relief – including social, psychological and economic support for families of the disappeared are essential, even as they continue to seek truth and justice.

RECOMMENDATIONS

Amnesty International urges Sri Lankan authorities to:


- Implement the Convention for the Protection of All Persons from Enforced Disappearance effectively into national law.
- Ensure that enforced disappearances are thoroughly and effectively investigated, that suspects are prosecuted in accordance with international standards of due process, and that those found guilty receive punishments that are proportionate to the seriousness of the offense.
- Provide effective protection to persons who file complaints of enforced disappearance, families of the disappeared person, witnesses and lawyers representing them.
- Where expertise and resources do not exist in Sri Lanka to fulfil these commitments, international expertise and technical support should be sought and welcomed.



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WHEN INJUSTICE HAPPENS
TO ONE PERSON, IT
MATTERS TO US ALL.**

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