

UN COMMITTEE AGAINST TORTURE, 59th SESSION
FREEDOM FROM TORTURE SUBMISSION ON SRI LANKA

Executive Summary

Torture continues to be a significant problem in Sri Lanka. In 2015, for the fourth successive year it was the top country of origin for those referred to Freedom from Torture for medico-legal reports to document torture injuries or rehabilitation.

Freedom from Torture has completed medico-legal reports (documenting torture using the standards set out in the Istanbul Protocol) for 279 cases of people who have experienced torture in Sri Lanka since the end of the conflict in May 2009. In addition, Freedom from Torture has received 22 referrals for people who have been tortured since the change of government in January 2015.

Freedom from Torture's recommendations for the Committee Against Torture include:

- Encouraging the State Party to:
 - Establish without delay a genuine accountability process that meets the highest international standards, is credible and accessible to survivors including those outside the country and has strong international participation at every stage and level;
 - Make its 'zero tolerance' policy to torture a reality by suspending from duty those accused of torture, and ending the use of 'agents' to arbitrarily detain and torture people;
 - Ratify the Optional Protocol to the Convention Against Torture;
 - Establish an effective torture prevention programme; and
 - Systematically review the treatment of persons subject to any form of arrest, detention or imprisonment.

Introduction

Freedom from Torture would like to draw the Committee Against Torture's attention to the continued use of torture in Sri Lanka and the failure of the State Party to take adequate steps to address impunity for such human rights abuses during or after the conflict which ended in 2009.

Freedom from Torture is one of the largest torture treatment centres in the world. Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us for rehabilitation or forensic documentation of their torture injuries. **In 2015, for the fourth successive year, Sri Lanka was the top country of origin for those referred to us.**

Freedom from Torture welcomes the commitment made by the government of Sri Lanka in the October 2015 [Human Rights Council resolution](#)¹ on promoting reconciliation, accountability and human rights in Sri Lanka but remains concerned by the high number of cases of recent torture referred to us, including of torture since 2015, after the change in government.

The upcoming Human Rights Council update in March 2017 and this examination by the Committee Against Torture are essential to hold the Sri Lankan government accountable for violations of its human rights treaty obligations. They are also crucial for the delivery of its political commitments to the UN and the Sri Lankan people and to reassure survivor communities inside and outside the country that impunity for torture and other human rights abuses will be addressed as a core element of transitional justice processes.

Torture since the end of the civil war (May 2009)

In 2015 Freedom from Torture published [Tainted Peace: torture in Sri Lanka since May 2009](#)². This study forensically documented 148 Sri Lankan torture cases by expert doctors in our medico-legal report service, in accordance with the standards set out in the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Istanbul Protocol”).

Since August 2014 when the research for the report was carried out Freedom from Torture has completed a further 131 medico-legal reports (MLRs) for people who experienced torture in Sri Lanka since 2009, bringing the combined total of cases to 279. In *Figure 1* is a breakdown of this figure by year of detention and torture.

*Figure 1: Total number of completed medico-legal reports for Sri Lankans tortured since the end of the civil war in May 2009, by year of detention and torture*³

Year of torture	Number of MLRs
2009	79
2010	38
2011	37
2012	37
2013	54
2014	26
2015	8
TOTAL	279

¹ A/HRC/RES/30/1.

² <https://www.freedomfromtorture.org/features/8481>

³ Since many individuals were detained and tortured on more than one occasion the latest year of detention is presented.

In most cases there is a significant time lag between the incidence of torture and referral to Freedom from Torture for a medico-legal report. This delay occurs because of the time it takes for the person to arrive in the UK and the additional time it takes a survivor to find legal representation, be referred to Freedom from Torture for a medico-legal report, and for the documentation process to be completed. On this basis we expect to see an increase in the number of completed medico-legal reports over the next year for those tortured in 2014 and 2015, and beyond.

Torture since 2015

There have been a number of encouraging developments since the election of President Maithripala Sirisena on 8 January 2015. The Sri Lankan government's co-sponsorship of the Human Rights Council resolution referred to above, [endorsement of the Declaration of Commitment to End Sexual Violence](#)⁴ and the current consultation process on transitional justice mechanisms indicate some willingness to address the legacy of conflict-related human rights abuses. The visit of the UN Special Rapporteur on Torture in May, after repeated calls from us and other organisations, and his subsequent [preliminary findings report](#)⁵ was further evidence of increased engagement by the government.

Sri Lankan torture survivors in treatment with Freedom from Torture tell us that their confidence in these developments is slim. This is based on their direct experience of torture and the reports of ongoing intimidation and harassment of family and friends who remain in Sri Lanka. Survivors described to us the entrenched corruption in the Sri Lankan legal system (including among Tamil judges) as well as historic systematic discrimination against Tamils. This results in what the Special Rapporteur described as a “culture of total impunity”. For these reasons, survivors at Freedom from Torture believe that the internationalised/ hybrid model of justice recommended by the UN High Commissioner for Human Rights⁶ is essential for gaining cross-community credibility, the trust of survivors and delivering any form of accountability. The survivor [briefing](#)⁷ from earlier this year provides more detail on the views of our clients on ‘what success looks like’ for the internationalised justice process promised by the government.

Engaging with survivor groups is a commitment that the government made as part of the measures agreed to in the Human Rights Council resolution specifically in relation to the design and implementation of transitional justice mechanisms. This should also be part of the design of security sector reform and torture prevention programmes in order to create institutions that all of the communities in Sri Lanka can have confidence in to help secure long-term peace and reconciliation.

In the meantime, Freedom from Torture continues to receive referrals for individuals who have been tortured in Sri Lanka since January 2015. To date **we have completed medico-legal reports for eight people tortured in this period, eight others are receiving clinical treatment** and another six were referred to us but were either unable to continue with the medico-legal report process or we were unable to accept for capacity or remit reasons.

⁴ <https://www.freedomfromtorture.org/news-blogs/8800>

⁵ <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=19943&LangID=E>

⁶ A/HRC/30/61, para 88

⁷ https://www.freedomfromtorture.org/sites/default/files/documents/survivor_briefing-final.pdf



The 16 people for whom we have completed a medico-legal report or who are in therapy with us mention detention by a range of state actors. This includes the Criminal Investigation Department, the Terrorism Investigation Department, the police, “security” and the army. They report torture throughout 2015 including as late as November and in a range of locations including prisons, camps, police stations and army sites.

All 16 people report multiple types of torture including beating, burning with cigarettes and heated objects, being suspended, partial or near suffocation and/or sexual assault including male and female rape.

Figure 2: Characteristics of 16 cases reporting torture in 2015

Characteristics	Numbers
Men	13
Women	3
Tamil	14
Sinhalese	2
Minor (under 18)	1

Tainted Peace detailed a number of violations of due process rights⁸. In the original report 136 of the 148 people were detained without observance of any due process rights (92%). Examples of violations included: no formal charge or sentencing; no access to legal representation; no hearing before a judge; no official notification to family members, and; no access to an independent medical examination. Others who said that they had been taken from detention to attend some form of hearing in front of a judge, often alongside other detainees, did not have legal representation and the hearings.

In addition, more than a third of people were forced to sign documents after being tortured (50 people, 34% of all cases). For most these ‘confessions’ or statements were written in a language they did not understand (Sinhalese) or they were blank sheets of paper. Furthermore, twenty people said that they were forced to inform on or to identify others (14%).

These patterns continue. For example, in the eight medico-legal reports documenting torture from 2015 only one person mentioned being taken before a judge. Two people disclosed signing documents that were blank or written in a language they did not understand.

Risk of torture on return from the UK

Tainted Peace identified a significant sub-group of people who were tortured when they returned to Sri Lanka from the UK following the end of the armed conflict (55 of 148 cases in that report). Most of the people in this sub-set had been in the UK on student visas but three claimed asylum and were forcibly removed after their asylum claim was rejected. On return the majority were specifically interrogated about their reasons for being in the

⁸ p34, https://www.freedomfromtorture.org/sites/default/files/documents/sl_report_a4_-_final-f-b-web.pdf

UK, their activities and/or their contacts in the UK. Since the publication of *Tainted Peace* Freedom from Torture has completed a further 19 medico-legal reports involving people tortured after return to Sri Lanka from the UK.

Of the 22 people referred to Freedom from Torture who disclosed torture in 2015, six described torture which took place after returning from the UK. Five of the six were detained on arrival at the airport, following their journey from the UK (in two cases this was via a third country), and three disclosed interrogations about their activities in the UK including participation in lawful protests and who they had met or had contact with. In the remaining cases the person was detained shortly after their return. All 22 people described a range of torture methods including suffocation, beatings, sexual torture and burning with heated objects.

Our evidence demonstrates that the Sri Lankan authorities take a strong interest in the activities of the Tamil diaspora in the UK and many returning to Sri Lanka with a real or perceived past connection to the LTTE, at whatever level and whether directly and/or through a family member or acquaintance, have been tortured and interrogated about their activities and contacts in the UK.

This demonstrates not only the ongoing risk of torture but also raises concerns about the UK's failure, as a state party to the Convention Against Torture, to comply with its *non-refoulement* obligations under Article 3 of the Convention.

Association with the LTTE

Tainted Peace highlighted that the majority of the 148 people in that study had disclosed an association with the Liberation Tigers of Tamil Eelam (LTTE) at some level and/or said they had been associated with the LTTE by the Sri Lankan authorities in some way. This was either directly or through family or other associates' involvement or both. Regardless of whether this association was real or wrongly imputed to them by the authorities, it was reportedly a key factor that led to their eventual detention and torture. This is a pattern that appears to be continuing long after the end of the civil war. **Of the 16 medico-legal reports and therapy clients who disclosed torture that took place after the election in January 2015, 14 describe being questioned about reformation of the LTTE. Three of the six who had returned from the UK were interrogated about their activities in the UK.**

Recommendations for the Committee Against Torture

The recommendations below are informed by Freedom from Torture research, based on forensic evidence from our doctors, as well as the lived experiences of Sri Lankan survivors of torture in treatment with us.

The injuries detailed in this submission are consistent with the definition of torture in Article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and alongside the preliminary findings of the UN Special Rapporteur on Torture from May 2016 demonstrate that torture continues to be used routinely. The Committee should recommend that the State Party acts in accordance with its obligations under Articles 2, 6, 12, 13 and taking into account Article 14 to:

1. Ensure without delay a genuine accountability process that meets the highest international standards and all of the following requirements:
 - (i) The process must cover serious human rights abuses and associated international crimes committed by both sides to the armed conflict and by the Sri Lankan government in the years of 'peace' since the fighting ended;
 - (ii) The process must be independent, credible, accessible to victims including those outside the country, transparent and otherwise fully human rights-compliant;
 - (iii) Any findings on torture from the Office of the High Commissioner for Human Rights' investigation on Sri Lanka should be accepted and accountability delivered; and
 - (iv) In order to satisfy the international community and win the confidence of victims, including those from the Tamil minority, the process must include strong international participation at every stage and level.
2. In addition, in order to fully comply with Articles 2, 6, 10 and 12 of the Convention, the Committee should call on the State Party to:
 - (i) Make its 'zero tolerance' policy to torture a reality by suspending from duty those accused of torture, and by ending the use of 'agents' to arbitrarily detain and torture people;
 - (ii) Launch criminal investigations and prosecute those responsible no matter how powerful or senior they are within government or the military, police and security services; and
 - (iii) Ratify the Optional Protocol to the Convention Against Torture and establish an effective torture prevention programme including extensive training within the military, police and intelligence services and measures to enable independent national and international monitors to make regular unannounced inspections of any place of detention including unofficial detention facilities.
3. The State Party must begin to systematically review the treatment of persons subject to any form of arrest, detention or imprisonment the Committee should recommend



reform of the justice sector to ensure compliance with Articles 11, 12 and 15 of the Convention:

- i) Anyone arrested is afforded due process including prompt access to legal representation of their choosing and to independent medical examinations;
- ii) Any detainee, including in unofficial detention centres and ‘rehabilitation’ facilities, is released unless they are charged with an internationally recognisable crime or sentenced after a fair trial meeting international standards; and
- iii) Exclusion in all circumstances of ‘confessions’ and other evidence obtained via torture.

For more information, please contact:

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Freedom from Torture is the only UK-based human rights organisation dedicated to the treatment and rehabilitation of torture survivors. We do this by offering services across England and Scotland to around 1,000 torture survivors a year, including psychological and physical therapies, forensic documentation of torture, legal and welfare advice, and creative projects.

Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us, and we are one of the world’s largest torture treatment centres. Our expert clinicians prepare medico-legal advice (MLRs) that are used in connection with torture survivors’ claims for international protection, and in research reports aimed at holding torturing states to account. We are the only human rights organisation in the UK that systematically uses evidence from in-house clinicians, and the torture survivors they work with, to hold torturing states accountable internationally; and to work towards a world free from torture.