



பிரித்தானிய தமிழர் பேரவை

British Tamils Forum

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Human Rights Treaties Division (HRTD)
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Report on Sri Lanka: Convention Against Torture

Sri Lanka acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment on January 3rd, 1994, entering into force for Sri Lanka on February 2nd, 1994. Soon after Sri Lanka became a state party to the Convention against Torture in 1994, Sri Lanka incorporated the Convention into Sri Lankan law by enacting the 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994', more commonly referred to as the 'Convention against Torture Act' or the 'CAT Act'. The Constitution of the Democratic Socialist Republic of Sri Lanka also provides domestic strength, albeit theoretically, to the Convention against Torture, specifically in Article 11 of Sri Lanka's Constitution¹, which states that "no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

It is submitted that in the past 22 years since Sri Lanka has become a state party to the Convention against Torture, the Government of Sri Lanka has failed to implement all aspects of the Convention into both its domestic law and practice. The reasons outlined below provide just a few examples of

¹ The Constitution of the Democratic Socialist Republic of Sri Lanka, 1978

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ways in which Sri Lanka fails to live up to its international obligations as a signatory to this very important Convention.

Effective investigations into allegations of human rights violations, including torture and other cruel, inhuman or degrading treatment are hindered by the lack of an effective investigation mechanism; Sri Lanka's Convention against Torture Act is not an effective tool to prevent and punish instances of torture. This has been evidenced in Report of the Special Rapporteur on Torture². This contravenes Article 12 of the Convention against Torture, which states that each State party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is a reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Notwithstanding that a new regime came into force on January 2015 that was a welcome improvement from the old regime, this has not put an end to ongoing human rights violations against Tamil civilians in the North-East of Sri Lanka..³ Further, certain steps towards transitional justice by the state, concrete issues facing Tamils in the North-East have yet to be addressed. This includes harassment by members of armed forces, occupation of traditional Tamil lands acquired illegally, torture and sexual violence, illegal arrest, forced disappearances of Tamils and continued detention and torture of Tamil prisoners without proper charge. Additionally, armed forces have been heavily involved with civilian activities such as conducting businesses and running pre-schools, particularly in the Vanni and in the East.

Despite the right to be free from torture that has been guaranteed under Article 11 of the Constitution, arbitrary arrest, detention and torture continue to be inflicted on the Tamil people under the purview of the Prevention of Terrorism Act No 48 of 1979. This Act has permitted ongoing serious breaches of the Convention.

² "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Follow-Up to the Recommendations made by the Special Rapporteur", (A/HRC/13/39/Add.6) Manfred Nowak, 26 February 2010.

³ Report by People for Equality and Relief in Sri Lanka (Washington, DC; April 20, 2016)

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We submit that the Committee Against Torture, on reports submitted by Sri Lanka in 2011 under article 19 of the Convention make the following recommendations for Sri Lanka to implement:

(a) Take all the necessary measures to ensure that enforced disappearance is established as an offence in its domestic law;

(b) Ensure that the cases of enforced disappearances are thoroughly and effectively investigated, that suspects are prosecuted and that those found guilty are punished proportionate to the gravity of their crimes;

(c) Ensure that the any individual who has suffered harm as the direct result of an enforced disappearance has access to information about the fate of the disappeared person, as well as to fair and adequate compensation;

(d) Adopt measures to clarify the outstanding cases of enforced disappearances and comply with the request to visit by the Working Group on Enforced or Involuntary Disappearances (A/HRC/16/48, para. 450).

It has been observed during these past five years that there were a number of arrests under the PTA that have been recorded and over 20 PTA arrests reported in April 2016 alone with families complaining that detaining officers in civilian clothes failed to identify themselves.

While on 10 December 2015, Sri Lanka signed the International Convention for the Protection of All Persons from Enforced Disappearance, it has failed to comply with its requirements. Namely there have been no step taken to ensure that enforced disappearance is established as an offence in Sri Lanka's Penal Code.

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Apart from the above arguments, it is identified that the absence of an effective investigation mechanism and the lack of prosecutions under Sri Lanka's Convention against Torture Act are two major issues that Sri Lanka must overcome.

Further it is submitted that Sri Lankan legal systems and constitutional norms have been referred with the PTA and since PTA is considered as supreme law of the country, there is no guarantee for the right of Tamil people unless PTA is abolished.

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