

SRI LANKA

SUBMISSION TO THE UNITED
NATIONS HUMAN RIGHTS
COMMITTEE

112TH SESSION, 7-31 OCTOBER 2014

AMNESTY
INTERNATIONAL



Amnesty International Publications

First published in 2014 by
Amnesty International Publications
International Secretariat
Peter Benenson House
1 Easton Street
London WC1X 0DW
United Kingdom
www.amnesty.org

© Amnesty International Publications 2014

Index: ASA 37/011/2014
Original Language: English
Printed by Amnesty International, International Secretariat, United Kingdom

All rights reserved. This publication is copyright, but may be reproduced by any method without fee for advocacy, campaigning and teaching purposes, but not for resale. The copyright holders request that all such use be registered with them for impact assessment purposes. For copying in any other circumstances, or for reuse in other publications, or for translation or adaptation, prior written permission must be obtained from the publishers, and a fee may be payable. To request permission, or for any other inquiries, please contact copyright@amnesty.org

Amnesty International is a global movement of more than 3 million supporters, members and activists in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

**AMNESTY
INTERNATIONAL**



CONTENTS

Introduction.....	4
Background	5
National human rights framework (arts. 2.3, 14.1)	7
Independence of judiciary and oversight bodies.....	7
Fundamental rights applications	8
Sri Lankan Human Rights Commission	8
Habeas corpus	9
Grave violations against former LTTE members and their families (arts. 6, 7, 9, 10)	10
Violence against women (arts. 2.1, 3, 6, 7).....	11
Counter-terrorism measures (arts. 9, 14)	12
Prevention of Terrorism Act	12
Right to life (art. 6)	13
Extrajudicial executions and deaths in custody.....	13
Enforced disappearances	14
Death penalty.....	15
Abuses in criminal justice system (arts. 7, 9).....	15
Torture and ill-treatment	16
Arbitrary and unlawful detention	17
Impunity (arts. 2.3, 6)	18
Freedom of expression, assembly and association (arts. 19, 21, 22)	20
Freedom of religion; cultural and religious Rights (arts. 18, 27).....	22
The rights of minorities (arts. 2, 18, 26, 27).....	22
Recommendations.....	24
Endnotes	28

INTRODUCTION

Amnesty International submits this briefing to the United Nations (UN) Human Rights Committee (the Committee) ahead of its examination in October 2014 of Sri Lanka's fifth periodic report on its implementation of the International Covenant on Civil and Political Rights (ICCPR or the Covenant). This submission will focus on selected human rights concerns raised in the Committee's List of Issues from March 2014 and documented extensively over the reporting period. In particular this submission features information gathered between 2012 and 2014 drawn from interviews with survivors of human rights violations and their families who have sought refuge outside Sri Lanka, as well as from correspondence with human rights defenders in Sri Lanka. The Sri Lankan government's hostility towards human rights monitors makes it difficult for international human rights organizations to reach out to victims of repression and their families in Sri Lanka, who risk retaliation for communicating with international organizations. Because of the possibility of reprisals to family members still in Sri Lanka as well documented cases of reprisals against returned asylum seekers, Amnesty International has withheld identifying information, which may include names of victims or witnesses, current locations, place names in Sri Lanka and dates or methods of communication.

Sri Lanka's fourth periodic report was submitted in 2002, soon after a cease-fire had been declared between the Liberation Tigers of Tamil Eelam (LTTE) and government forces. It was considered by the Committee in 2003. The current report, due in 2007, was substantially delayed and was finally submitted in October 2012. It covers the nine year period from 2003 to 2012, during which major changes occurred in the nature and scale of human rights violations and abuses as Sri Lanka transitioned from a five year cease-fire to intensive armed conflict and when fighting ended, to a post conflict period that continues to be characterized by serious violations of human rights. It is disturbing to note that despite these changes, many core concerns expressed by the Committee in its Concluding Observations in 2003 continue to exist 11 years later, including about Sri Lanka's continued reliance on the Prevention of Terrorism Act (PTA) and the incompatibility of its provisions with the Covenant; the use of torture and enforced disappearances; and violations of freedom of expression and association.¹ Amnesty International remains deeply concerned about the persistent climate of impunity in Sri Lanka and the weakness of domestic mechanisms to protect human rights and deliver justice; its failure to protect minorities from violence and discrimination; and the pervasive use of torture, including sexual violence, and extrajudicial executions against former members of the LTTE, people with suspected links to the LTTE and their families and individuals reportedly detained for seeking information from the authorities about missing relatives.

BACKGROUND

The cease-fire declared in 2002 between the LTTE and Sri Lankan government forces was formally revoked on 2 January 2008. However, full-scale hostilities already resumed in 2006 after a year of increasing incidents of violence and sharp escalation in human rights violations and abuses by both sides, including indiscriminate killings of civilians, arbitrary arrests and detentions, torture, enforced disappearances and extrajudicial executions. By September 2008, Sri Lanka had ejected international humanitarian workers from the northern conflict region and launched its final military offensive against the LTTE. On 18 May 2009, the Sri Lankan government announced its defeat of the LTTE.

According to credible eyewitness testimony and substantial information collected by UN bodies and nongovernmental organizations, both sides committed war crimes in the final phase of the fighting, including killings and enforced disappearances of civilians and LTTE members who had surrendered. Sri Lankan Army artillery repeatedly hit government-designated civilian “no fire zones” and hospitals, killing medical workers and civilians apparently used as human shields by the LTTE. Those trapped by the fighting were denied access to sufficient food, water and medicine.² In March 2011, the UN Secretary-General’s Panel of Experts on Accountability in Sri Lanka found credible estimates that as many as 40,000 civilians had been killed in the final phase of the conflict.³ An internal review panel on United Nations Action in Sri Lanka noted other estimates that put the total number of people unaccounted for at over 70,000.⁴

When the armed conflict ended, nearly 300,000 Tamil civilians were detained for months in closed displacement camps, guarded by the army. Some 12,000 people suspected of links to the LTTE were detained separately, and held for extended periods without charge or trial. Eyewitnesses told Amnesty International they saw people who had surrendered to the Sri Lankan Army being summarily executed. Witnesses also reported that relatives taken into custody by the army had been forcibly disappeared. Journalists and political activists who criticized the military’s treatment of Tamil civilians were attacked or arrested.⁵

To date, there has been no credible domestic investigation of these alleged crimes under international law and no effort to prosecute those suspected of committing them.

In May 2010, responding to international and domestic concerns about reported violations of international law in the last phase of the conflict, President Mahinda Rajapaksa appointed the Lessons Learnt and Reconciliation Commission (LLRC) to investigate events between the February 2002 ceasefire with the LTTE and the end of the conflict in May 2009, and to make recommendations aimed at ethnic reconciliation. The LLRC’s final report acknowledged serious human rights problems in Sri Lanka and made recommendations to address many of them, but failed to fully address allegations of war crimes and crimes against humanity.⁶ In July 2012 the government revealed its Action Plan on many of the LLRC’s recommendations, but failed to commit to independent investigation of alleged war crimes and serious

violations and abuses of human rights, instead relying on the institutions accused of abuse to investigate themselves.⁷

The culture of impunity that was fostered in Sri Lanka before and during the armed conflict continues to pervert the application of the rule of law. Victims of human rights abuses committed in the context of the armed conflict between Sri Lankan government forces and its affiliates and the LTTE have not received truth, justice and reparation. The Government of Sri Lanka has failed to provide families with information regarding the fate and whereabouts of victims of enforced disappearances. Those who have sought to publicize their grievances have been targets of persecution.

In 2014, serious human rights violations continue to be reported by victims and their families to Amnesty International including arbitrary arrest and detention, torture and other ill-treatment, including sexual violence by the police and other members of the security forces. Many victims are Tamils suspected of links to the LTTE, but Sinhalese and Muslim Sri Lankans are also victims. Attacks on and arrests of peaceful critics also continue. Intimidation and smear campaigns against human rights defenders actually engaged or suspected of engaging with the UN have been reported around each UN Human Rights Council session where accountability in Sri Lanka has been discussed.

In the lead up to the UN Human Rights Council's vote on Resolution 25/1, "Promoting reconciliation, accountability and human rights in Sri Lanka," on 26 March 2014, a prominent Colombo-based human rights activist, a Catholic priest and several family members of people who disappeared during the conflict were arrested in northern Sri Lanka. They had all publicly advocated accountability for enforced disappearances. In the wake of these arrests more than 60 people in northern Sri Lanka were reported to have been arrested in search operations and detained without charge under the PTA in connection with an alleged plot to revive the LTTE. Search operations were also conducted in eastern Sri Lanka.

Attacks on religious minorities and their homes, businesses and places of worship carried out by Buddhist hard-line nationalist groups with reported ties to government officials are also on the rise and the authorities have done little to prevent them or bring perpetrators to account.

Resolution 25/1 of March 2014 requested the Office of the High Commissioner for Human Rights (OHCHR) to monitor the human rights situation in Sri Lanka and "undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes" by Sri Lankan government forces and the LTTE. Sri Lanka has consistently rejected an international role in human rights monitoring and accountability and has declared its refusal to cooperate with the OHCHR-led investigation.⁸ It has also failed to extend a standing invitation to UN Special Procedures. Moreover, it has yet to accept a number of outstanding visit requests, including from the Working Group on Arbitrary Detention and on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; and the Special Rapporteur on the independence of judges and lawyers. Amnesty International views an international

role in human rights investigation and monitoring as essential to ensuring lasting peace, accountability and reconciliation in Sri Lanka.

NATIONAL HUMAN RIGHTS FRAMEWORK (ARTS. 2.3, 14.1)

Sri Lanka has ratified most international human rights treaties and has an obligation to respect, protect and fulfill human rights. The Sri Lankan Constitution guarantees the protection of fundamental freedoms and rights including equal treatment before the law.

Despite these guarantees, as set out in this submission, human rights abuses continue to be committed on a large scale. In most cases, victims are denied the right to effective remedy because of profound inefficiencies and failures in the justice system, the lack of independence of key institutions and a lack of political will to see justice done in cases where state forces are implicated in abuse. The weak state of the justice system is well illustrated by the extremely slow disposal and a backlog of some 650,000 cases in the courts as of 2012.⁹

INDEPENDENCE OF JUDICIARY AND OVERSIGHT BODIES

The independence of the judiciary is threatened by political appointment of judges. The 18th Amendment to the Sri Lankan Constitution (the 18th Amendment), introduced through an “urgent bill”¹⁰ on 8 September 2010, empowered the President to directly appoint and remove key public service posts and senior judges including the Chief Justice, Appeals Court judges and members of the Judicial Service Commission (JSC) responsible for judicial appointments and personnel management of judicial officers and court staff.¹¹

In January 2013, Sri Lanka faced an unprecedented constitutional crisis when the Chief Justice was impeached on charges of misconduct despite a Supreme Court ruling that the impeachment procedure was unconstitutional.¹² The impeachment bid came after months of increasing tension between the judiciary and the executive over court rulings in favour of the victims of human rights violations and against projects proposed by government Ministers. Even before it became clear that the government planned to impeach the Chief Justice, lawyers and judges already expressing public concern over other alleged attempts to interfere with the independence of the judiciary.

Restoring judicial independence in Sri Lanka requires the government to make and abide by a public commitment to respect the independence of judges, and ensure that this commitment is complied with at all levels of government, as well as systemic changes in the way judges are appointed and overseen.

The 18th Amendment also did away with the Constitutional Council, a multi-party

body established in 2001 and intended to preserve the political independence of appointments to key Commissions, including several that are important to the protection of human rights, such as the National Police Commission (NPC), the Public Services Commission (PSC) or the JSC. For example, NPC was formerly responsible for oversight of appointments, promotions, transfers, disciplinary control and dismissals of police personnel. These powers were revoked under the 18th Amendment and the Inspector General of Police – a presidential appointee – was made responsible for these matters directly. The NPC retains the power to receive and investigate public complaints against police officers, and provide redress.

The Sri Lankan government has taken no steps to restore the independence of these bodies even after being called on to do so by the LLRC.

Amnesty International recommends repeal of the 18th amendment to restore judicial independence as well as the independence of key commissions important to the protection of human rights.

FUNDAMENTAL RIGHTS APPLICATIONS

In Sri Lanka, appeals for redress for violations of any constitutionally enshrined right can be brought before the Supreme Court.¹³ Detainees held for prolonged periods without charge have attempted to use the mechanism to challenge the arbitrary nature of their detentions, and torture victims have brought complaints against the police. But as an effective remedy for human rights violations, this mechanism is limited. The Supreme Court does not function as a criminal court in this instance; relief granted is in the form of compensation awarded to the victim and an order to the appropriate authority to take disciplinary action against the offender (rarely forthcoming). Cases must be filed within one month of the violation, and the process is often protracted and costly; few individuals have the resources to see such complaints through, particularly those living far from Colombo where the claims must be filed.¹⁴ In some cases, victims have been awarded monetary compensation from the state for abuses suffered, but the amounts are usually small.¹⁵ A decision in favour of a petitioner by the Supreme Court does not guarantee that effective investigations will follow or that the Attorney General's office will pursue prosecution of suspects identified in the fundamental rights application; some officers identified as responsible in the process have remained in positions of authority or have even been promoted.¹⁶

SRI LANKAN HUMAN RIGHTS COMMISSION

The Sri Lankan Human Rights Commission (SLHRC) is responsible for monitoring and investigating alleged violations of constitutional rights in Sri Lanka and recommending government action to promote and protect human rights, including ensuring that national laws and administrative practices are in accordance with international human rights norms and standards.

In 2007, the SLHRC was downgraded to B (observer) status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights for failing to comply with the Paris Principles after Sri Lanka's

President began circumventing the Constitution by making direct appointments to the Commission despite a legal requirement that appointments be made by a Constitutional Council, a multi-party body established by the Constitution to ensure independence.¹⁷ The 18th Amendment formalized the SLHRC's non-independent status by placing it under direct Presidential control.

Despite claims made by Sri Lanka in its fifth periodic report,¹⁸ the SLHRC is not an independent institution and this inhibits its ability to provide a reliable mechanism to assist victims of human rights violations to seeking effective remedy. In late 2013, the SLHRC submitted to the President proposed amendments to Human Rights Commission of Sri Lanka Act No. 21 of 1996 aimed at increasing compliance with its recommendations.¹⁹ However, Sri Lanka has not acted to ensure that SLHRC recommendations are implemented by state authorities or to strengthen the independence of the SLHRC.

HABEAS CORPUS

Habeas corpus has not generally been an effective remedy in Sri Lanka for preventing enforced disappearances, torture and other custodial abuse due to long court delays, failure of detaining agencies to cooperate with the courts, harassment and intimidation of witnesses and family members of victims, transfers of cases to distant courts at the request of relevant authorities suspected of committing the violations, and judicial failures to enforce the individual right to liberty.²⁰

On 26 August 2013, families who say they witnessed missing relatives surrendering to the army in Mullaitivu and being loaded onto army buses in May 2009 filed habeas corpus applications with the Vavuniya High Court seeking information about their whereabouts. One woman alleged that she last saw her daughter, son-in-law and their three young children in the custody of the 58th Division of the Sri Lankan Army. In September 2013, the High Court instructed the District Court to commence preliminary investigations and Vavuniya's High Court Judge, V. Chandramani, issued notices on the Commander of the Army and the General Officer in command of the 58th Division at Mullaitivu. The case has been subject to repeated postponements. . On 5 June 2014, families who filed habeas corpus cases demonstrated in front of the Mullaitivu District Secretariat demanding that the hearings be held. Opposition politicians who joined the protest reported that military personnel attempted to prevent families traveling to join the demonstration from reaching Mullaitivu town. Counter demonstrations by families demanding to know the whereabouts of children forcibly recruited by the LTTE were also reported on June 5, and in conjunction with subsequent hearings held on 21 July and 25 August.

GRAVE VIOLATIONS AGAINST FORMER LTTE MEMBERS AND THEIR FAMILIES (ARTS. 6, 7, 9, 10)

At the end of the armed conflict in 2009 the government announced that anyone who had served in the LTTE, “even for one day,” should surrender for “rehabilitation.”²¹ Those who surrendered were interrogated and detained; some were killed. Many people were afraid to surrender, or needed to remain with dependent family members and tried to live as civilians. The Sri Lankan intelligence services have continued to hunt down people who failed to admit their association with the LTTE and according to former detainees who have spoken to Amnesty International the treatment meted out against them by detaining authorities is very harsh.²² Systematic abuse, including torture and sexual violence, of former LTTE members who failed to surrender to the authorities or people suspected of unacknowledged LTTE links, and abuse of their families by members of the security forces continues to be reported to Amnesty International by victims.²³

Several witnesses testified before Sri Lanka’s LLRC that surrendering family members who had been affiliated with the LTTE were loaded onto army buses in Mullaitivu in May 2009, after which they disappeared. For example, a woman who testified before the LLRC in Ariyalai in November 2010 estimated that there were more than 50 people on the bus her husband boarded on 18 May.²⁴ Another said she counted 16 such buses. Among those reported missing were high ranking members of the LTTE who witnesses identified by their *noms de guerre*: Ilamparithi, Kumaran, Ruben, Babu and Velavan; Puthuvai Raththinathurai, an LTTE poet; Baby Subramaniam, from the education wing; and Lawrence Thilagar, once the LTTE’s international representative. A witness testifying in Kandawalai told Commissioners that not only was a son-in-law missing, who was in the LTTE and surrendered to the army on 18 May at the urging of a Catholic priest, but also a daughter and the couple’s children – including a toddler – who had surrendered with him²⁵. Amnesty International has also interviewed witnesses who say they saw LTTE members who are now missing surrender to the armed forces.

In its fifth periodic report, Sri Lanka claimed that it “treated ex-combatants humanely” and provided vocational training, psychological counselling and assistance in “rehabilitation and reintegration.”²⁶ However, individuals interviewed by Amnesty International who were detained in Sri Lanka’s so-called Protective Accommodation and Rehabilitation Centres (PARCS),²⁷ told the organization they were not provided with useful training or counselling and were subjected to lengthy interrogation sessions by several different intelligence services, which included

beatings and torture.

A man who spent 12 months in a detention camp described officially as the Vellikulam Protective Accommodation and Rehabilitation Centre after he surrendered to the army in May 2009 told Amnesty International that, “the grounds were fenced with barbed wire and they called it a rehabilitation centre, but there was no rehabilitation, only torture and mistreatment ... For example, TID [Terrorist Investigation Division] would take people one by one by one, and spend five or six hours with each person. It might take a month to get through everyone. People from the Fourth Floor [headquarters of the Criminal Investigation Department in Colombo] would ask questions and [if they didn't like the answers] they would crush fingers with pliers, squeeze testicles. They pulled the tooth of another inmate. Sometimes they made them drink alcohol to get them to talk.”²⁸

Persistent surveillance, intimidation and monitoring of former LTTE members by the security forces continues to restrict their freedom of movement and association, and has, according to witnesses interviewed by Amnesty International and others, inhibited them from reintegrating into the social and economic life of their communities.²⁹ Amnesty International has received numerous accounts from male and female former LTTE members who describe repeated arrests and mistreatment including sexual harassment, rapes and other violence at the hands of security forces since the end of the conflict. Individuals arrested and detained for their suspected involvement with the LTTE, particularly Sri Lanka's many victims of torture, also face obstacles to reintegration as a result of the physical and psychological harm inflicted on them in detention.

VIOLENCE AGAINST WOMEN (ARTS. 2.1, 3, 6, 7)

Women interviewed by Amnesty International allege that rape and other acts of sexual violence and abuse were committed by state forces during Sri Lanka's armed conflict, in the context of detention and in other situations where Tamil women came into contact with members of the security forces. Such acts continued to be perpetrated against women following the end of the war, in particular in the context of police and army detention. While sexual abuse is a common element of torture of both men and women, it appears to be a consistent problem faced by women obliged to engage with the authorities in many contexts.

Amnesty International interviewed a 52-year-old mother of two who had served in the LTTE as a young woman. She and her children survived the war in northern Sri Lanka, but in 2010 she was arrested at a northern checkpoint by Criminal Investigation Division (CID) officers and taken to Joseph Camp in Vavuniya for interrogation. She said she was stripped, beaten, raped and forced to perform oral sex on one of her interrogators. She told Amnesty International that four other women were being held there when she arrived and she suspected the interrogation was not really about intelligence gathering: “He just wanted to rape us and do everything to us as much as possible, for his satisfaction, sadism, whatever ... They said they were

taking us for questioning but we were half dead by then.”³⁰ She was detained for one week until a relative was able to secure her release by paying a bribe.

An older women told Amnesty International in 2011 that when she and other civilians approached Sri Lankan army personnel to “surrender” (request to leave the LTTE-controlled North) in 2009, she and other women in the group were raped by soldiers and forced to watch an extrajudicial execution.

COUNTER-TERRORISM MEASURES (ARTS. 9, 14)

Sri Lanka’s armed conflict ended in 2009, but its legacy of unlawful detention practices continues. The authorities circumvent or ignore protections built into the ordinary criminal justice system, sometimes acting outside the law,³¹ but more often invoking security legislation that allows them to arrest suspects without evidence or warrants and to hold them without charge for extended periods.

PREVENTION OF TERRORISM ACT

On 30 August 2011, the government lifted the state of emergency, which had been in place almost continuously since 1971 and which enabled the authorities to invoke a wide array of draconian emergency regulations under the Public Security Ordinance including regulations that restricted freedom of expression and association, allowed for warrantless searches and arrests and permitted prolonged detention without charge or trial. However, the repressive Prevention of Terrorism Act, which contains many similar provisions to the now lapsed Emergency Regulations, has been retained, and it too allows for extended administrative detention. The authorities also introduced new regulations under the PTA to continue detention of LTTE suspects without charge or trial. The PTA reverses the burden of proof where torture and other ill-treatment is alleged, and restricts freedom of expression and association.³²

The Committee has long expressed concern about the human rights implications of the PTA. It raised concerns about provisions of the PTA that violate the ICCPR when it reviewed Sri Lanka’s third periodic report in 1995³³ and again when it reviewed its fourth report in 2003. In 2003, the Committee expressed concern that the PTA remained in force.³⁴

In its fifth periodic report, Sri Lanka promised to “review the cases of suspects held under the PTA in order to secure either the prosecution or the release of persons held in detention” given “the end of the terrorist conflict.”³⁵ But it continues to arrest and detain people under the PTA and has failed to acknowledge repeated concerns expressed by the Committee and others that the Act violates human rights law. Sri Lanka has not agreed to revise or repeal the Act, claiming disingenuously that procedures governing individuals arrested under the PTA are “similar” to those

found under the Code of Criminal Procedure.³⁶ In fact, there are significant differences in the handling of persons arrested under ordinary law and under the PTA. As noted below, the PTA does away with the legal requirement under the Criminal Procedure Code that a suspect be brought before a judicial officer within 24 hours of arrest (extendable to 48 hours in certain circumstances³⁷) for an official detention decision to be rendered and can be used to hold detainees for months without charge and without an opportunity to challenge their detentions in court.³⁸

Under Section 9(1) of the PTA, people can be arrested without charge and detained for up to 18 months under a detention order issued by the Minister of Defence while police investigate the possibility of their involvement in illegal activity.

People arrested for investigation under the PTA by the police without a detention order from the Ministry of Defence must be brought before a magistrate within 72 hours, but the law does not give the magistrate the power to question the lawfulness of the detention, and requires the magistrate to order the person to be detained under remand “until the conclusion of the trial”; the law does not stipulate that the individual be charged with an offence first. People have thus been held for years without charge or trial under this Act, as they wait for detaining authorities to frame a case against them that seldom materializes.³⁹ Given Sri Lanka’s inefficient justice system, even individuals who are charged under the PTA have remained in detention for extremely long periods – as long as 15 years – without being convicted⁴⁰.

Section 10 of the PTA states specifically that “an order made under section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise.”

After release, according to Section 11, the Defence Minister can issue additional orders restricting an individual’s freedom of movement, association and expression (such as restricting travel or place of residence, prohibiting his or her involvement in organizations or associations, or preventing the individual from addressing public meetings). These orders cannot be challenged in court. Sri Lanka’s Evidence Ordinance stipulates that confessions made to a police or other public officer and confessions made while in the custody of police are not admissible as dispositive evidence in ordinary criminal cases unless they are made in the presence of a magistrate. But such confessions are admissible under the PTA. Confessions caused by an “inducement, threat or promise” are not admissible in any case, but the PTA reverses the burden of proof, putting the onus on victims to prove that their confessions were made under duress and thus that the evidence gathered under torture is inadmissible in court.⁴¹

RIGHT TO LIFE (ART. 6)

EXTRAJUDICIAL EXECUTIONS AND DEATHS IN CUSTODY

Amnesty International continues to receive credible reports of the unlawful use of force and violations of the right to life by state agents and by paramilitary groups

under the control of the armed forces, including extrajudicial killings and suspicious deaths in custody⁴². These remain widespread and unpunished. Official statements made in the context of the LLRC that armed paramilitary groups had been disarmed did not accord with the testimony of civilian witnesses to that body, who noted that members of these groups still engaged in violence, including abductions and murder,⁴³.

Parties that have been accused of such abuse include police and army personnel, members of the Eelam People's Democratic Party (EPDP); the Karuna faction within the ruling United People's Freedom Alliance (UPFA); and the Tamil Makkal Viduthalai Pulikal (TMVP).

The Sri Lankan authorities have taken insufficient measures to prevent violations by government forces and their affiliates by failing to adequately discipline personnel and by failing to ensure that paramilitary agents and political parties aligned with the government are disarmed. They have failed to effectively investigate alleged extrajudicial executions, and have not prosecuted those suspected of the crimes.

DEATHS IN CUSTODY

At least six people died under suspicious circumstances in police custody between November 2013 and May 2014 in Sri Lanka. Police explanations regarding several of these deaths were disturbingly similar. All four suspects in the 16 November 2013 murder of a police constable and his wife died in custody within two weeks: the first man died on 22 November; police alleged that he was taken to identify some hidden weapons and when he attempted (while handcuffed) to attack the police with one of the weapons he was shot dead. Two more suspects were killed after police allegedly took them to identify weapons and they jumped into a lake and drowned; police claimed they had "committed suicide". The chief suspect was killed in an alleged encounter with members of the Special Task Force (STF) on 3 December 2014; police claimed he threw a grenade at them and they returned fire. The Bar Association of Sri Lanka released a statement on 3 December expressing concern that the police explanations were virtually identical to those of past cases and that the deaths appeared to be extrajudicial executions.⁴⁴

EXTRAJUDICIAL EXECUTIONS

On 1 August 2013 three people were killed and scores injured when soldiers fired automatic weapons to disperse unarmed villagers protesting against industrial pollution of their water supply.⁴⁵ One victim was allegedly beaten to death by security forces while sheltering from the violence in a church. The army, police and SLHRC all launched investigations into the killings, but none of their reports were made public.

ENFORCED DISAPPEARANCES

Amnesty International has continued to receive reports of enforced disappearances, including those of activists protesting human rights violations by the authorities; and many other cases remain unresolved.⁴⁶ Since 2006 – when the police and armed forces were placed under the Ministry of Defence⁴⁷, witnesses, including victims, their friends and families and members of the security forces have said that special units operating white vans have conducted abduction-style arrests, some of

which resulted in enforced disappearances.⁴⁸

Tamil families of missing persons protesting against enforced disappearances and the organizers of those demonstrations have been harassed and assaulted, arrested and even forcibly disappeared.⁴⁹

The *ad hoc* Presidential Commission to Investigate into Complaints Regarding Missing Persons (the Presidential Commission on Disappearances) has been mandated to examine complaints between 10 June 1990 and 19 May 2009. Since its inception in August 2013 it has received at least 14,000 civilian complaints as well as about 5,000 cases of missing armed forces personnel. By August 2014, the Commission had reportedly begun inquiries into less than 5% of these cases, or 462 complaints – some potentially over a decade old, which it says are being analysed for further investigation.⁵⁰ However, the Commission was not mandated to deal with enforced disappearances that occurred after May 2009. In July 2014, President Rajapaksa broadened the scope of the Commission to address alleged violations of humanitarian law and appointed a panel of three international experts to act as an advisory council.⁵¹

Sri Lanka's repeated request – including in its fifth periodic report to this Committee – that countries provide its officials with confidential information about asylum seekers in order to make “an accurate assessment of the number of alleged disappearances”⁵² is wholly inappropriate. The fact that asylum seekers who have been returned to Sri Lanka have been detained and tortured illustrates the obvious importance of maintaining the confidentiality of the asylum process.⁵³

DEATH PENALTY

Sri Lanka has not signed and ratified the Second Optional Protocol to ICCPR and retains the death penalty under law. While it continues to sentence people to death, the authorities have not executed a prisoner since 1976. A media report quoting the Prisons Commissioner indicated that at least 486 prisoners were on death row as of 3 January 2014.⁵⁴

ABUSES IN CRIMINAL JUSTICE SYSTEM (ARTS. 7, 9)

Despite official denials, police and other authorities, particularly the CID, intelligence units of the army and navy, special units affiliated with the police Special Task Force and allied paramilitary groups continue to be reported by former detainees as interrogating suspects, holding them in unofficial or secret places of detention and engaging in torture.⁵⁵ Amnesty International has collected detailed testimony from former detainees that indicate these practices continued until at least 2013, and thousands of families continue to seek information about missing

relatives alleged to have been taken into official custody since 2009.

The authorities cast a wide net in the name of public security, and their failure to follow appropriate arrest and detention procedures, such as securing arrest warrants, identifying themselves, informing individuals of the reasons for arrest, permitting those they arrested access to lawyers, including during their initial interrogation, an opportunity to challenge their detentions in court, and notifying families makes it almost impossible for detainees to legally protect themselves.⁵⁶ Safeguards introduced by successive governments to prevent abuse have not been followed in practice. These include requirements established by Presidential Directives in 2006 and reintroduced in 2007 aimed at protecting the rights of detainees that (among other things) reinforced an individual's right to contact friends or family upon arrest to inform them of their whereabouts; require arresting or detaining authorities to identify themselves by name and rank; and require that the person to be arrested should be informed of the reason for the arrest.⁵⁷

Police and military personnel often fail to comply with these directives⁵⁸. It is a problem throughout the criminal justice system but is acute in the case of security detainees. Most former detainees interviewed by Amnesty International did not know the name and rank of arresting and interrogating personnel, and in many cases their families were not informed of their place of detention. No Sri Lankan detainee is guaranteed a lawyer during initial interrogation⁵⁹.

Interviews Amnesty International has conducted with former detainees in 2014 confirm previous reports received that family members of wanted suspects, particularly individuals sought for their alleged involvement with the LTTE have been arrested, threatened or forcibly disappeared to put pressure on the individuals to surrender.⁶⁰ People released from months or years in detention without charge often remain under surveillance by intelligence forces and are frequently required to report weekly or monthly to the police⁶¹. Former detainees have been harassed and rearrested,⁶² and physically attacked; murders and enforced disappearances of newly released detainees have also been reported.⁶³

TORTURE AND ILL-TREATMENT

Torture and other ill-treatment of detainees – including sexual violence – remain common and widespread in Sri Lanka, especially at the moment of apprehension and early stages of pre-trial detention and appear, judging from the testimony of victims, to be aimed at extracting information or confessions as well as to mete out punishment for suspected infractions or criminal affiliations.⁶⁴

Amnesty International has received reports from victims and Sri Lankan human rights defenders of torture of both adult and juvenile detainees; this includes individuals arrested in the context of security operations as well as suspects in ordinary criminal cases.⁶⁵

UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak visited Sri Lanka in October 2007 and concluded that torture was “widely practiced” in Sri Lanka and had “become a routine practice in the context of counter-terrorism operations, both by the police and the armed forces.”⁶⁶

The Sri Lankan government has denied the routine use of torture, stating in its response to the concluding observations issued by the Committee against Torture (CAT) on 25 November 2012 that “it is an unfounded allegation that in a general manner of conducting investigations, the police officers resort to torture and other sort of degrading and inhuman actions to extract confessions of suspects and detainees.” Yet, Amnesty International continues to receive frequent and consistent complaints of torture and cruel, inhuman and degrading treatment by police and other security agencies.

A man from northern Sri Lanka interviewed by Amnesty International in April 2014 said he was detained three times between 2009 and February 2013 by intelligence authorities and tortured each time, including with electricity, a cigarette lighter, near-drowning, and lengthy periods of suspension by his wrists and ankles. He was raped with a stick and subjected to other sexual violence and said that he continued to suffer from anal bleeding and that his legs hurt at even the slightest touch. He told Amnesty International that his mother was detained by authorities searching for him in 2012 and died in CID custody in Colombo.

A young woman told Amnesty International that in 2010, when she was still a teenager she was arrested off a street in Colombo by plainclothes police who said they were CID officers. The men forced her into a van and took her to an unknown detention facility where she was held for 10 days and tortured by interrogators who suspected her of involvement with the LTTE. Her interrogators beat her and burned her body with cigarettes. She told a physician who examined her that she had been raped. Her medical report indicates that she suffers from post-traumatic stress disorder, including severe depression.

The lack of political will on the part of the authorities to end custodial abuse, investigate complaints and discipline and prosecute persons suspected of committing torture is the principal reason that torture persists in Sri Lanka. The government’s continued reliance on the PTA which reverses the burden of proof in cases where torture is alleged compounds the problem.

ARBITRARY AND UNLAWFUL DETENTION

Administrative detention has become a routine tool of law enforcement; it is used against those the government believes may be security threats, including suspected members of armed groups, but also their family members and colleagues, outspoken critics, and other perceived political opponents of the government, including journalists.⁶⁷ Victims include both adults and juveniles. For some people, the length of detention without trial has stretched into years, and most of those in administrative detention are eventually released for lack of evidence.⁶⁸

Interviews with former detainees conducted by Amnesty International indicate that police and armed forces and affiliated intelligence units all detain and interrogate prisoners. Witnesses testifying before the LLRC said that armed Tamil groups affiliated with the government also captured, detained and questioned prisoners at the behest of the authorities.⁶⁹ All these entities are accused of holding detainees incommunicado and without charge.

A boy forcibly recruited by the LTTE and captured by the Sri Lankan army in April 2009 was tortured and held incommunicado by the Sri Lankan army for 18 months in detention camps in northern Sri Lanka before being transferred to Welikada prison in Colombo in October 2010. He was seventeen when captured and was never

produced before a magistrate or charged with any offence.⁷⁰

Former detainees have told Amnesty International they were warned not to communicate with human rights organizations or otherwise reveal information about their detention under the threat of re-arrest or death. Members of the security forces have used secret places of detention to interrogate and torture detainees, some of whom have reportedly been killed.⁷¹

Arbitrary and unlawful detention also continues to be used under the PTA, which permits administrative detention without warrant, evidence, charge or trial. There has been no official recognition in Sri Lanka that the PTA violates international standards or that those responsible for such actions should be sanctioned. Supreme Court decisions related to wrongful arrest and detention have in some cases awarded compensation to victims for violations of their constitutional rights,

As noted above, Amnesty International has continued to receive reports that the security forces use secret places of detention, another risk factor for torture. Previous allegations, including concerns raised by the CAT in 2011,⁷² have not been investigated; the Sri Lankan authorities have simply denied that such places of detention exist.⁷³

In February 2010, a man who had been released from detention in Vavuniya on payment of a bribe was rearrested and sent to what he described as a secret detention centre in eastern Sri Lanka. He told Amnesty International that he had been beaten, tortured and interrogated about his involvement with the LTTE and his previous release from detention. After about three months he decided he could not stand the mistreatment anymore and escaped from the facility with the help of someone on staff. When he climbed the fence, he discovered the detention centre was located in thick jungle. After walking for two days and sleeping in a tree at night, he found help. He told Amnesty International the facility was located in Batticaloa district.

In its fifth periodic report, Sri Lanka claimed to have established a central registry for all persons in official custody, accessible to family members, but this list is maintained by the Terrorist Investigation Division (TID) of the police and does not include persons held by other authorities. It has not been advertised since 2011, and contact information for TID is not easily available from the Sri Lanka Police website.⁷⁴

IMPUNITY (ARTS. 2.3, 6)

Sri Lankan authorities have failed to address impunity effectively for crimes under international law committed by government forces and affiliated paramilitaries as well as non-state actors (principally the LTTE) in the context of Sri Lanka's armed conflict and its aftermath. Victims of human rights abuses have been denied timely, prompt and effective remedies. In particular, it has failed to ensure independent and impartial investigations of alleged war crimes and possible crimes against humanity or to prosecute those suspected of committing them.

Investigations in cases emblematic of persistent impunity continue to be delayed.

For example, despite recommendations by the LLRC to resolve these cases, nobody has been arrested for the August 2006 killing of 17 aid workers with the French organization Action Contre La Faim (ACF) and no one has yet been prosecuted for the killing of 5 students in Trincomalee in January 2006.

On 6 August 2006 after a period of intense fighting between the LTTE and the Sri Lankan security forces, the bodies of 15 aid workers with the French aid agency ACF were discovered lying face-down on the front lawn of ACF's Muttur office, with bullet wounds to the head and neck, indicating that they had been shot at close range, execution style. The bodies of two more staff members were found on 8 August in a car nearby, suggesting they may have been killed while trying to escape. In all, 17 ACF staff members were killed on 4 or 5 August 2006 by unidentified attackers, believed to be members of the Sri Lankan security forces.⁷⁵ The killings were examined by a Presidential Commission of Inquiry established in 2006 but the Commission lacked sufficient independence and witness protection to be effective. Its final report to President Mahinda Rajapaksa was never made public, but based on material leaked to the press it exonerated state forces and blamed the LTTE. Despite repeated pledges by Sri Lanka's Attorney General's office to investigate the case, there has been no real progress. Families of the ACF workers who were killed have described heavy intimidation by members of the security forces trying to prevent them from speaking out about the case.

In the "Trinco Five" case, five students were extrajudicially executed by members of the Special Task Force – an elite police commando unit – in Trincomalee in January 2006. Eight years later, no one has been held responsible for these killings, which occurred in the presence of witnesses. Twelve Special Task Force officers arrested in June 2013 in connection with a non-summary inquiry into the killings were released in October 2013. To Amnesty International's knowledge, the inquiry -- which remains ongoing -- has not addressed allegations against their commanding officer, H.D.K.S. Kapila Jeyasekera. Several witnesses and numerous reports accuse him of being present during or ordering the killings.⁷⁶ Instead he remains in a position of authority and has even been promoted.

The government has never released the June 2009 report of the Commission of Inquiry Appointed to Investigate and Inquire into Serious Violations of Human Rights Alleged to have Arisen since 1 August 2005 (the Udalagama Commission), which investigated these and other cases, despite the LLRC's specific recommendation that it do so.

There has been no effective investigation or prosecution of any attack on a journalist or human rights defender.

The Sri Lankan government has refused to cooperate with the OHCHR investigation mandated by UN Human Rights Council Resolution 25/1, entitled 'Promoting reconciliation, accountability, and human rights in Sri Lanka.' It has not implemented recommendations by the Secretary-General's Panel of Experts on Accountability in Sri Lanka in April 2011 or important recommendations made by the LLRC.

FREEDOM OF EXPRESSION, ASSEMBLY AND ASSOCIATION (ARTS. 19, 21, 22)

Amnesty International continues to receive reports of intimidation and harassment, including physical attacks, death threats, and politically-motivated charges against journalists and human rights defenders by state officials. Impunity is also the norm in these cases, none have been adequately investigated, and those suspected of criminal conduct, including cases of murder and enforced disappearances, have not been prosecuted.

Civil society organizations have come under particular pressure. On 1 July 2014, the Ministry of Defence issued a memorandum to “all nongovernmental organizations” warning them to stop holding press conferences, workshops, and journalists’ trainings or disseminating press releases.

Lasantha Wickramatunge, editor of the *Sunday Leader* newspaper, known for its investigative journalism, was killed on the morning of 8 January 2009 in broad daylight at a busy intersection not far from his office in Colombo near the Ratmalana airport, a high security zone. Four years later, his killers remain at large. Wickramatunge said he had been threatened with death repeatedly before his assassination, including he claimed, in 2006 by the President himself.⁷⁷

On 9 December 2011, Lalith Weeraraju and Kugan Muruganandan, two political activists helping to organize a protest rally by families of the disappeared in Jaffna, were victims of apparent enforced disappearances. According to colleagues and family members they disappeared en route to a meeting in Jaffna ahead of Human Rights Day. At around 11pm on the evening of his disappearance, Lalith Weeraraju’s father, who lived in Colombo, received a number of calls on his mobile phone threatening to kill Lalith if he stayed in Jaffna. On 13 December, a neighbour told Kugan’s wife that witnesses had seen the two men being abducted by a group of men with motorbikes and a white van, in Nirveli, a village around 5 km from her home.⁷⁸

On 13 March 2014, Balendran Jeyakumari, an activist against enforced disappearances was arrested along with her teenaged daughter in Kilinochchi, northern Sri Lanka. Officials confirmed that she has been detained by the TID at the Boosa detention centre. Her daughter was turned over to the Department of Probation and Child Care Services. Amnesty International has documented extensive use of torture and other ill-treatment by TID officers in both Colombo and Boosa Detention Centre⁷⁹. The Sri Lankan authorities claim she was arrested for harbouring a suspect in a shooting, which she reportedly denied in court. Jeyakumari had informed local civil society and international media in February that she was being followed by a group of unidentified individuals, saying she was terrified. Human rights defenders, Ruki Fernando and Father Praveen Mahesan, were arrested under the PTA by TID on 16 March in Kilinochchi, after they had sought to investigate Balendran Jeyakumari’s arrest and ensure her daughter’s welfare. They were released without charge on 18 March, but are still at risk of harassment and re-arrest; they also face restrictions on travel and are barred from speaking about their case.⁸⁰

Discriminatory restrictions on freedom of expression and association persist against Tamils, particularly those from the North. They continue to experience harassment, threats and arrests by security forces who suspect them of LTTE links or sympathy based largely on their ethnicity and place of origin or residence.

In mid-2014, Transparency International Sri Lanka (TISL) organized a series of workshops on investigative journalism; all participants were Sri Lankan citizens. The last training planned was for Tamil speaking journalists from the North and East – a group that faces very high security risks. After the first session on 22 May, the TISL staff was informed that local military officials and the Ministry of Defence wanted the training to stop immediately. No reason was given. TISL staff also received threatening calls telling them to vacate the hotel. TISL was later told that local villagers were unhappy with the workshop. According to TISL, after negotiations the military eventually relented, but the hotel insisted the training be cancelled. The programme was rescheduled for June in another venue, but on 7 June, police directed organizers and Tamil participants to shut down the training after demonstrators claiming to be affiliated with a group called the Movement for National Unity demanded the workshop be stopped. Police failed to provide security to allow the training to continue. On 1 July 2014 in an apparent follow up, the Sri Lankan Ministry of Defence issued a memorandum to “all nongovernmental organizations” saying that it had been “revealed” that certain nongovernmental organizations “conduct press conferences, workshops, training for journalists and dissemination of press releases which is beyond their mandate,” and warned them to stop “unauthorized activities with immediate effect.”⁸¹

The army and police actively suppress the rights of northern Tamils to advocate for justice publicly or commemorate or mourn those killed in the armed conflict. Each year since the end of the armed conflict, there have been two dates in particular when the authorities have sought to suppress public commemorations of war dead in northern Sri Lanka: 18 May, the anniversary of the Sri Lankan government’s declared victory over the LTTE, and 27 November, Maaveerar Naal (Heroes Day), a day of remembrance established by the LTTE. Amnesty International has received repeated complaints from victims and Sri Lankan human rights defenders of military harassment and arrests of Tamils around these dates. Commemorations and campaigns for those killed or disappeared during the armed conflict have been banned, disrupted and restricted, and the organizers and participants have been harassed, assaulted, arrested and intimidated.⁸²

Jaffna University was ordered closed from 16 to 21 May 2014 and officials warned residents of the northern town that no public events mourning war dead would be allowed around the 18 May anniversary. They said anyone putting up posters, displaying black flags or distributing leaflets would be taken into custody under the PTA. Although private memorials were said to be allowed inside homes, military spokesman Brigadier Ruwan Wanigasooria reportedly told the media that “even two families would not be allowed to get together to have remembrances as these could turn into a large group and make it a commemoration”⁸³.

On 27 November 2012, security forces broke up a lamp-lighting ceremony at the women’s hostel at Jaffna University, reportedly breaking lamps, threatening students and pointing weapons at them. The following day, students responded with a silent protest and short march and held placards denouncing the restrictions on freedom of expression. At least 20 undergraduate protesters were injured and beaten by riot police and officers in civilian dress. Security forces alleged that the students had thrown stones at them, prompting them to react; university staff reportedly told journalists that the event was peaceful until the authorities attacked the marchers.⁸⁴

FREEDOM OF RELIGION; CULTURAL AND RELIGIOUS RIGHTS (ARTS. 18, 27)

Sri Lanka's Constitution protects freedom of religion, but in practice religious freedom, cultural and religious rights have been subject to restrictions, particularly with regard to religious and cultural gatherings in minority communities.

Human Rights Defenders reports that Hindu and Christian religious observance has been restricted in Tamil communities of northern Sri Lanka around key dates. On 27 November 2012 when the Hindu festival Karthikai (festival of lights) coincided with Maaveerar Naal, a day of remembrance established by the LTTE to commemorate fallen fighters, the army reportedly ordered some residents of Jaffna neighborhoods to extinguish ceremonial oil lamps. In Mannar Hindu temples were ordered to close for the day; and in Kilinochchi and Mannar, Christian priests were discouraged by army and police personnel from holding mass.⁸⁵

The army's requirement that all public gatherings, including family events such as coming of age ceremonies, weddings and funerals be reported to local military authorities has discourage participation in these activities.⁸⁶

THE RIGHTS OF MINORITIES (ARTS. 2, 18, 26, 27)

Discrimination against ethnic, linguistic and religious minorities, including members of Tamil, Muslim and Christian communities remains a serious problem in Sri Lanka. Minorities have been singled out for restrictions on freedom of expression and association (see section above). Police have failed to protect minorities when they have been threatened with violence by communal forces, and have not arrested perpetrators, even when there was photographic evidence to identify them.⁸⁷

Political leaders from the majority Sinhalese community have exploited or manufactured religious tensions, leading to attacks and violence against religious minorities, including their places of worship and businesses, which are typically committed with impunity. Buddhist hard-line nationalist organizations, a prominent one being the Bodu Bala Sena (BBS)⁸⁸ have emerged with alleged links to high government officials and political platforms that are often closely aligned with those of the ruling party.⁸⁹ These groups have organized protests and attacks against religious minorities and places of worship, as well as issuing threats and

smear campaigns against human rights defenders, minority opposition politicians, and international visitors advocating human rights accountability in Sri Lanka.

Muslim groups documented over two hundred incidents of threats, harassment and violence against Muslims, Christians and their places of worship in 2013; 51 reportedly involved violence.⁹⁰ Attacks continued and escalated in 2014 when (as described below) large scale violence in a Muslim neighborhood in Aluthgama killed and injured residents and destroyed homes and businesses. The National Christian Evangelical Alliance of Sri Lanka (NCEASL) recorded 131 incidents of threats or attacks against Christians, including 32 acts of violence between January 2013 and June 2014. In 65 cases, the reported perpetrator was a state official – most often a police officer who failed to protect congregations under attack or advised them to stop religious activities.⁹¹

On 15 June 2014, anti-Muslim violence broke out in the town of Aluthgama after an inflammatory speech by BBS leader Galagodaatte Gnanasara Thero at a rally. The BBS rally was held three days after a minor clash between Muslim youths and the driver of a Buddhist monk, which had already inflamed communal tensions there. During the officially-sanctioned rally, the speaker addressed the crowd in Sinhala using crude and ethnically derogatory terms. Video footage⁹² shows him embracing the labels of “racist and extremist,” and lashing out at politicians who opposed them. He also issued a threat emphasizing that Sri Lanka’s police force and army were Sinhalese and if a Muslim or other “outsider” were to lay a hand on one Sinhala person, “let alone a monk, it will be the end of all these fellows.” In the violence that followed, at least four people were killed, some 80 people suffered injuries, and Muslim homes, businesses and a mosque were attacked and burned. Attacks occurred in Aluthgama, Beruwala and in several other places, including Dehiwala, a suburb of Colombo. Closed-circuit video footage from a Muslim-owned pharmacy there showed the business being ransacked and torched.⁹³ Witnesses told Sri Lankan human rights defenders that members of the security forces stood by during attacks, or failed to arrive at the scene until after people had been seriously injured. A media blackout limited public access to information about the spreading violence and the Sri Lankan government’s response was slow and muted.⁹⁴

RECOMMENDATIONS

Amnesty International recommends that the Sri Lanka authorities should:

National human rights framework

- Stop all political interference with the independence of the judiciary, and take legislative and policy measures to ensure a transparent process for the appointment and oversight of judges in line with the UN Basic Principles on the Independence of the Judiciary.
- Repeal the 18th Amendment to the Constitution, which compromises the political independence of key institutions necessary for the protection of human rights.
- Ensure the independence of the Sri Lankan Human Rights Commission.
- Implement all court rulings, including Supreme Court decisions in fundamental rights cases and writs of habeas corpus, ordering the release of detainees without delay.
- Cooperate fully with the UN Special Procedures including by responding positively to the outstanding visit requests by the the Working Group on Arbitrary Detention and on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the independence of judges and lawyers and by providing them with full access to the country.
- Extend a standing invitation to the Special Procedures of the UN Human Rights Council as a signal of Sri Lanka's commitment to the promotion and protection of human rights.
- Put in place effective mechanisms and procedures to ensure the transparent and effective implementation of the recommendations to Sri Lanka by UN Treaty Bodies, including the Concluding Observations of this Committee.

Violence against Women

- Publicly acknowledge the scale and gravity of the problem of torture and sexual abuse by the Sri Lankan forces and make public commitments to bring perpetrators to justice.
- Ensure that clear rules are in place which prohibit violence against women, including sexual violence, by all state actors and require all police and military personnel, including commanding officers, to undergo mandatory training.
- Take measures to prevent, investigate, prosecute and remedy acts of rape

and sexual violence.

- Ensure that women who are subjected to violence have access justice and reparation.

Counter-terrorism measures

- Repeal the Prevention of Terrorism Act and abolish the system of administrative detention.
- Ensure that all security measures adopted, including (but not restricted to) any emergency regulation enacted and all anti-terrorism legislation comply with international human rights law, and contain clear prohibitions against arbitrary arrest and detention, as well as protections against torture, and provisions designed to protect the rights to freedom of expression and association for all Sri Lankans.
- Release all individuals arrested under emergency or anti-terrorism laws, unless they are charged with recognizable criminal offences and remanded by an independent, regularly constituted court. Any trials must be held promptly and in regularly constituted courts with all internationally recognized safeguards provided.

Torture and arbitrary detention

- Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Strengthen legal safeguards for eliminating all forms of ill-treatment or torture in prisons and detention centres in line with the recommendations of the UN Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment following his visit in 2007.
- Ensure the prompt and fair investigation of allegations of torture or other ill-treatment, including those in secret detention centres, by an independent authority different from the authority investigating or prosecuting the case against the alleged victim.
- Enforce administrative and penal sanctions against agents of the government that have been found guilty of perpetrating or otherwise sanctioning torture or other forms of ill-treatment against detainees. Ensure the burden of proof in all allegations of torture or other ill-treatment shifts from the victim to the prosecution.
- Enforce all laws, regulations and directives aimed at preventing torture and abuse of detainees, including provisions of the Criminal Procedure Act, the Convention against Torture Act and Presidential Directives on Protecting Fundamental Rights of Persons Arrested and/or Detained, and ensure police and all relevant security officials are fully trained to be aware of this framework and that those who are in breach are appropriately disciplined.

- Ensure that victims of torture and other forms of ill-treatment are provided with full and effective reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.
- Ensure that all detainees are guaranteed prompt and unimpeded access to legal counsel in pre-trial detention and while on trial, including having a lawyer present during interrogation by police.
- Release all detainees, including all persons held in detention centres, “rehabilitation” facilities and all other places of detention unless they are charged with internationally recognizable crimes and tried in full conformity with international standards for fair trial and without recourse to the death penalty.
- Immediately end all use of incommunicado detention, including by closing all unofficial and secret places of detention and enact legislation to making it illegal to detain anyone in any place other than an officially recognized detention facility accessible to families, lawyers and courts, as well as independent monitors.

Extrajudicial executions and deaths in custody

- Investigate and prosecute all allegations of extrajudicial, summary or arbitrary killings and bring the perpetrators to justice in accordance with international standards, in line with commitments made during the previous review but not yet implemented.⁹⁵

Enforced disappearances

- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance without making any reservation or declaration amounting to reservation, to recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims, and to implement the Convention into national law.
- Facilitate without delay the visit requested by the Working Group on Enforced or Involuntary Disappearances.
- Investigate, prosecute and punish those responsible for enforced disappearances, in accordance with international norms and in a transparent manner, in line with commitments made during the previous reviews but not yet implemented.
- Ensure the rights of families to know the whereabouts or fate of disappeared persons by ensuring that the Presidential Commission on Disappearance and all other bodies tasked with investigating enforced disappearances are adequately resourced and can operate independently and with effective witness protection.

Death Penalty

- Abolish the death penalty and commute all death sentences to terms of imprisonment.

Impunity

- Cooperate with the OHCHR Investigation on Sri Lanka (OISL) mandated to undertake investigations into alleged serious violations and abuses of human rights and related crimes by both parties to the conflict.
- Accede to the Rome Statute of the International Criminal Court.

Freedom of expression, peaceful assembly and association

- Ensure the protection of the rights to freedom of expression, freedom of peaceful assembly and freedom of association of all individual and groups, regardless of their opinions or political affiliation, and investigate and prosecute the perpetrators of harassment, intimidation and attacks against those exercising these rights;
- Guarantee and protect the right to peaceful assembly of the Tamil minority, including social organizing to peacefully advocate for justice or commemorate the victims of the conflict.
- End the abusive use of PTA or other legislation to discriminatorily restrict the rights to freedom of expression, freedom of peaceful assembly, and freedom of association.

The rights of minorities

- Take measures to prevent and stop all attacks against Christian and Muslim minorities, including attacks on their places of worship and businesses.
- Properly investigate all reported incidents of violence against ethnic and religious minorities, including those perpetrated by nationalist groups such as Bodu Bala Sena, and, where there is sufficient admissible evidence of criminal conduct, prosecute those suspected in accordance with international standards of due process.

ENDNOTES

¹ Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee, Sri Lanka, CCPR/CO/79/LKA , 1 December 2003.

² See, Sri Lanka: No end to War on civilians in Sri Lanka: A briefing on the humanitarian crisis and lack of human rights protection, Amnesty International, ASA 37/004/2009, 27 March 2009, <http://www.amnesty.org/en/library/info/ASA37/004/2009/en> , See also, “The Road to the Camps,” in Sri Lanka: Unlock the Camps in Sri Lanka: Safety and dignity for the displaced now - a briefing paper, Amnesty International, ASA 37/016/2009, 10 August 2009, <http://www.amnesty.org/en/library/info/ASA37/016/2009/en>; and Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011 http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, accessed 25 August 2014

³ Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, Page 41, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, accessed 22 July 2014

⁴Report of the Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka, November 2012, Page 14, http://www.un.org/News/dh/infocus/Sri_Lanka/The_Internal_Review_Panel_report_on_Sri_Lanka.pdf, accessed 11 June 2014.

⁵ See, Sri Lanka's Assault on Dissent, Amnesty International,30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>

⁶ See, Sri Lanka Report Falls Short, Amnesty International, 16 December 2011, <http://www.amnesty.org/en/for-media/press-releases/sri-lanka-report-falls-short-2011-12-16>; see also, Sri Lanka: Reconciliation at a crossroads: Continuing impunity, arbitrary detentions, torture and enforced disappearances: Amnesty International Submission to the UN Universal Periodic Review, ASA 37/008/2012, 1 April 2012, <http://www.amnesty.org/en/library/asset/ASA37/008/2012/en/5747cec0-7e77-486f-9859-9623ee127b20/asa370082012en.pdf>

⁷ Although soldiers, commanding officers and Defence Ministry officials have been accused of involvement in war crimes, the Ministry of Defence is charged with implementing the LLRC recommendation calling for investigation of wrongful deaths of civilians, and also for allegations of abductions, enforced or involuntary disappearances, and arbitrary detention. The Plan does not commit to new or independent investigations; instead it refers to an internal “disciplinary process,” supposedly ongoing under Sri Lanka's Armed Forces statutes. See, National Plan of Action to Implement the Recommendations of the LLRC, 26 July 2012, Official Website of the Government of Sri Lanka, http://www.priu.gov.lk/news_update/Current_Affairs/ca201207/20120726national_plan_action.htm, accessed 22 August 2014.

⁸ “Sri Lanka rejects OHCHR- driven investigation,” Statement by H.E. Mr. Ravinatha P. Ariyasinha Ambassador / Permanent Representative of Sri Lanka & Leader of the Sri Lanka Delegation (Geneva, 10 June 2014), 11 June 2014, http://www.priu.gov.lk/news_update/Current_Affairs/ca201406/20140611sl_rejects_ohchr_driven_investigation.htm, accessed 22 August 2014

⁹ Budget 2012: “Aims for long-term development, Text of budget speech by President Mahinda

Rajapaksa,” Daily News, 22 November 2011, <http://archives.dailynews.lk/2011/11/22/pol01.asp>, accessed 7 July 2014., Kamalini de Silva, Secretary to the Ministry of Justice also confirmed the estimate but emphasized that there was no authoritative count. She noted that Sri Lanka had increased the number of judges and added courts in an effort to reduce the backlog. “Laws’ delays - a major concern - Justice Ministry Secretary,” Sunday Observer, 29 January 2012, <http://www.sundayobserver.lk/2012/01/29/fea06.asp>, accessed 7 July 2014

¹⁰ Since the enactment of the 1972 Constitution, successive Sri Lankan leaders have used “urgent bills” that do not require prior public notification and avoid lengthy public and parliamentary scrutiny, in order to pass laws which may prove publicly controversial or detrimental to human rights. Even under normal legislative procedures, the Sri Lankan constitution does not provide much time for public debate of proposed legislation. Article 78(1) of the Sri Lankan Constitution requires that “[e]very Bill shall be published in the Gazette (official record) at least seven days before it is placed on the Order Paper of Parliament.” The Constitutional requirement that the public be given notice of impending legislation is circumvented altogether if the Cabinet of Ministers decides (under Article 122 (1)) that the Bill is “urgent in the national interest,” in which case the President writes to the Chief Justice asking for a “special determination” as to whether all aspects of the Bill are consistent with the Constitution. The Supreme Court is then required to make its determination within twenty-four hours (or up to three days if a longer period is allowed by the President).

¹¹ In December 2012, the UN Special Rapporteur on the independence of judges and lawyers called on the Sri Lankan government to modify the Constitution to prevent political persecution of independent judges, saying that disciplinary proceedings against judges should be conducted by independent commissions and guarantee full respect for due process and fair trial. (UN independent expert concerned over reports of intimidation of judges in Sri Lanka, 31 December 2012, http://www.un.org/apps/news/story.asp?NewsID=43859#.U_tffldWqk, accessed 24 August 2014) In September 2013 the UN High Commissioner for Human Rights called for the reinstatement of the 17th amendment (repealed by the 18th amendment) thus reviving the Constitutional Council and helping to restore independence of key commissions and the judiciary (Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka, A/HRC/24/CRP.3/Rev.1,25 September 2013) . For more on threats to judicial independence in Sri Lanka, see “Authority without Accountability: The Crisis of impunity in Sri Lanka,” International Commission of Jurists, November 2012 <http://www.refworld.org/pdfid/50ae365b2.pdf>, accessed 7 July 2014.

¹² The impeachment motion was initiated soon after the Chief Justice ruled against the Government on a controversial bill that sought to amalgamate regionally devolved welfare and development authorities into a single government department and budget controlled by Economic Development Minister Basil Rajapaksa, one of the President’s brothers. Thousands of pro- government demonstrators lined Parliament Road on the day of the decision to protest against the Court’s ruling, among them was Minister Basil Rajapaksa.

¹³ Article 126 of the Sri Lankan Constitution.

¹⁴ As noted by Kishali Pinto-Jayawardena in “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 in Sri Lanka, pg 14,” http://www.dignityinstitute.dk/media/627904/sri_lanka_study.pdf: “...the fundamental rights remedy is not availed of by many victims of torture in the north and the east due to (among other reasons) the exorbitant cost, difficulties in obtaining good legal representation and the fact that these petitions need to be filed in the Supreme Court based in Colombo as well as fear of reprisals against the victim or his or her relatives.”

¹⁵ “While complaints of torture are increasing, fundamental rights cases filed at the Supreme Court are

in steep decline. This decline is attributed mostly to lawyers (and even some human rights activists) advising victims that the likelihood of success in such applications is less now than before. Cases are frequently rejected without issuing notice, and usually no reasons are given.... The compensation granted to successful applicants in fundamental rights cases for torture has steadily diminished. Some attempts were made earlier to set high standards for compensation; for example, the equivalent of around USD 8000 in serious cases. Nowadays, the amount may be from the equivalent of USD 100 to 250. There has not been any explanation for this decline. Although the purpose of filing a fundamental rights case is not to obtain compensation alone, low amounts discourage victims from trying." (Comprehensive torture prevention in Sri Lanka

Basil Fernando, Executive Director, Asian Human Rights Commission & Asian Legal Resource Centre, Hong Kong, <http://www.humanrights.asia/resources/journals-magazines/article2/0602/comprehensive-torture-prevention-in-sri-lanka>, accessed 24 August 2014; see also, Kishali Pinto-Jayawardena.

Subverted justice and the breakdown of the rule of law in Sri Lanka, <http://www.humanrights.asia/resources/journals-magazines/article2/0602/subverted-justice-and-the-breakdown-of-the-rule-of-law-in-sri-lanka>, accessed 27 August 2014.

¹⁶ Asian Human Rights Commission, "A Submission for the 47th Session of the Committee Against Torture on Sri Lanka," 8 July 2011, http://www2.ohchr.org/english/bodies/cat/docs/ngos/AHRC_SriLanka47.pdf accessed 18 June 2014.

¹⁷ The 17th Amendment to the Sri Lankan Constitution, passed by parliament in 2001, stipulated independent supervision over appointments in public service and key commissions. It was an effort to depoliticise the police and public service in particular and mandated that appointments to these commissions and offices would be approved by a 10-member Constitutional Council (CC) with multiparty representation. It was intended to check executive control over the appointment process.

¹⁸ See, Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 46.

¹⁹ "Amendments to the Human Rights Commission Act No. 21 of 1996," 24 December 2013, <http://hrcls.lk/english/?p=2234>, accessed 18 June 2014; see also, "Amendments to empower Human Rights Commission," Manjula Fernando, Sunday Observer 15 December 2013, <http://www.sundayobserver.lk/2013/12/15/fea01.asp>, accessed 18 June 2014. For more on the Sri Lankan Human Rights Commission see *The National Human Rights Commission of Sri Lanka: Marionette of the State*, Miyuru Gunasinghe, Law & Society Trust (LST) Colombo, Sri Lanka, http://www.lawandsocietytrust.org/PDF/resource/marionette_state.pdf, accessed 18 June 2014.

²⁰ See, Kishali Pinto- Jayawardena and Jayantha de Almeida Gunaratne, *Habeas Corpus in Sri Lanka; Theory and Practice of the Great Writ in Extraordinary Times*, Law and Society Trust, January 2011.

²¹ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012, Page 38, <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

²² Amnesty International interviews, 2014

²³ Amnesty International interviews, 2014

²⁴ Evidence given by Witness 1, Proceedings of public sittings of the Commission of Inquiry on Lessons Learnt and Reconciliation appointed by His Excellency the President in terms of Section 2 of the Commissions of Inquiry Act, Ariyalai, 11 November, 2010

²⁵ Testimony of Witness 3, Kandawalai Divisional Secretariat, Proceedings of public sittings of the Commission of Inquiry on Lessons Learnt and Reconciliation appointed by His Excellency the President

in terms of Section 2 of the Commissions of Inquiry Act, Kandawalai Divisional Secretariat, 19 September 2010

²⁶ Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 12.

²⁷ The Bureau of the Commissioner General of Rehabilitation currently acknowledges the establishment of 22 PARCS and reports that 3 continue to function (<http://bcgr.gov.lk/establishment.php>). Other official sources have placed the total number at 24. Most of these places of detention were not initially acknowledged by the authorities.

²⁸ Amnesty International interview, 2014.

²⁹ See, Amarnath Amarasingam, "Life in the Open-Air Panopticon: Surveillance and the Social Isolation of Ex-LTTE Combatants in Sri Lanka," 20 May 2014, <http://groundviews.org/2014/05/20/life-in-the-open-air-panopticon-surveillance-and-the-social-isolation-of-ex-ltte-combatants-in-sri-lanka/>, accessed 22 August 2014.

³⁰ Amnesty International interview, 2014.

³¹ For example when in 2012 Sri Lankan police invoked Section 118 of the Sri Lankan penal code to arrest web journalists for criticising the President even though the law had been repealed in 2002. See, Kishali Pinto-Jayawardena "The 'Chilling' Of Free Expression In Sri Lanka ," Colombo Telegraph, 8 July 2012, <https://www.colombotelegraph.com/index.php/the-chilling-of-free-expression-in-sri-lanka/>, accessed 22 August 2014.

³² See, When Will They Get Justice? Failures of Sri Lanka's Lessons Learnt and Reconciliation Commission, Amnesty International, Amnesty International, September 2011, ASA 37/008/2011, <http://www.amnesty.org/en/library/info/ASA37/008/2011/en>

³³ Report of the Human Rights Committee to the UN General Assembly (A/50/40), 3 October 1995, <http://www.ccprcentre.org/wp-content/uploads/2012/08/N9529692en.pdf>, accessed 19 June 2014, provides commentary on Sri Lanka's 3rd Periodic Report.

³⁴ It noted that "the continued existence of the PTA allows for arrest without a warrant and permits detention ... on the basis of an administrative order [with] no legal obligation on the State to inform the detainee of the reasons for the arrest; moreover, the lawfulness of a detention order issued by the Minister of Defence cannot be challenged in court. The PTA also eliminates the power of the judge to order bail or impose a suspended sentence, and places the burden of proof on the accused that a confession was obtained under duress." Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant, Concluding Observations of the Human Rights Committee, Sri Lanka, CCPR/CO/79/LKA, 1 December 2003, Page 4, para.13. Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 49, para 265. http://www.ccprcentre.org/wp-content/uploads/2013/02/CCPRCLKA5_E.pdf accessed 18 June 2014.

³⁵ See, Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 49, para 265. http://www.ccprcentre.org/wp-content/uploads/2013/02/CCPRCLKA5_E.pdf accessed 18 June 2014. See also, UN Document

A/HRC/8/46, Report of the Working Group on the Universal Periodic Review of Sri Lanka:879iuo, recommendations 82.16 (Denmark) and 82.19 (Iran; recommendations 82.18 (Japan) and 82.27 (Sweden); recommendation 82.26 (Canada).; recommendations 82.17 (Poland), 82.18 (Japan), 82.21 (Sweden), 82.26 (Canada), 82.27 (Sweden), and 82.29 (Greece); recommendations 82.15 (United States) and 82.26 (Canada). Note: Sri Lanka accepted a recommendation by the USA to “[e]nsure the adequate completion of investigations into the killings of aid workers, including by encouraging the Presidential Commission of Inquiry to use its legal investigative powers to their full extent.” It also accepted Canada’s recommendation that it “[i]nvestigate and prosecute all allegations of extrajudicial, summary or arbitrary killings and bring the perpetrators to justice in accordance with international standards.” Canada’s full recommendation added “in order to combat impunity for human rights violations,” which Sri Lanka rejected, and specifically referred to the public hearings of the Commission of Inquiry which implicated members of the Government and security forces in the August 2006 murder of workers of Action Contre le Faim and the January 2006 killing of five boys in Trincomalee, to which Sri Lanka made no comment. (See, A/HRC/8/46 page 6, para. 21.), cited in Sri Lanka: Reconciliation at a crossroads: Continuing impunity, arbitrary detentions, torture and enforced disappearances: Amnesty International Submission to the UN Universal Periodic Review; ASA 37/008/2012, 1 April 2012, www.amnesty.org/en/library/asset/ASA37/008/2012/en/5747cec0-7e77-486f-9859-9623ee127b20/asa370082012en.pdf.

³⁶ Ibid, Page 49.

³⁷ The Code of Criminal Procedure (Special Provisions) Act, No. 2 OF 2013, Section 1.

³⁸ PTA Section 7.(1) [Under Part II, Investigation of Offences] deals with arrests where police have not secured a detention order from the Ministry of Defence before the arrest. It states that: “Any person arrested under subsection(1) of section 6 may be kept in custody for a period not exceeding seventy-two hours and shall, unless a detention order under section 9 has been made in respect of such person, be produced before a Magistrate before the expiry of such period and the Magistrate shall, on an application made in writing in that behalf by a police officer not below the rank of Superintendent, make order that such person be remanded until the conclusion of the trial of such person: Provided that, where the Attorney- General consents to the release of such person in custody before the conclusion of the trial, the Magistrate shall release such person from custody. PTA Section 7(2) stipulates that anyone “reasonably suspected to be connected with or concerned in the commission of any offence under the PTA” who appears or is produced before any court other than in the manner referred to in subsection such court shall order the remand of such person until the conclusion of the trial: unless the police make a request to hold the suspect in police custody for a further 72 hours, which case the remand is suspended for that period.

Under Section 9(1) of the PTA, people can be arrested without charge and detained for up to 18 months under a detention order issued by the Minister of Defence while police investigate the possibility of their involvement in illegal activity. After release, the Defence Minister can issue additional orders restricting an individual’s freedom of movement, association and expression (such as restricting travel or place of residence, prohibiting his or her involvement in organizations or associations, or preventing the individual from addressing public meetings). These orders cannot be challenged in court. Section 10 of the PTA states specifically that “an order made under section 9 shall be final and shall not be called in question in any court or tribunal by way of writ or otherwise.”

³⁹ See, Locked Away; Sri Lanka’s Security Detainees. Amnesty International, March 2012, ASA 37/003/2012, Page 38, <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61->

4072-a8ab-a6e504da58e6/asa370032012en.pdf.

⁴⁰ Ibid, page 14.

⁴¹ Section 16(2) of the PTA states that “The burden of proving that any statement referred to in subsection (1) is irrelevant under section 24 of the Evidence Ordinance [which deems confessions extracted “by inducement, threat or promise” to be irrelevant] shall be on the person asserting it to be irrelevant.”

⁴² “Despite the claim by the Government that militant groups have been disarmed, ground situation speaks to the contrary. Incidents of attack on the Uthayan newspaper office, acid attack on late MP Maheswaran’s brother and more recently the “invasion” on the university and attack on the Tamil students(having segregated the Tamil students from the Sinhalese students) , some of whom continue to be detained for rehabilitation without court order, are examples of the presence of armed groups legally or illegally constituted.” (Sri Lanka’s National Plan of Action vis-à-vis Reconciliation, Gnana Moonesinghe, Groundviews, 12 February 2014, “<http://groundviews.org/2013/02/12/sri-lankas-national-plan-of-action-vis-a-vis-reconciliation/>, accessed 23 August 2014)

⁴³ See, *When Will They Get Justice? Failures of Sri Lanka’s Lessons Learnt and Reconciliation Commission*, Amnesty International, Amnesty International, September 2011, ASA 37/008/2011, <http://www.amnesty.org/en/library/info/ASA37/008/2011/en>

⁴⁴ Police Killing Hand Cuffed Suspects: Explanation Smells Extrajudicial Killings – Bar Committee, Colombo Telegraph, 3 December 2013, <https://www.colombotelegraph.com/index.php/police-killing-hand-cuffed-suspects-explanation-smells-extrajudicial-killings-bar-committee/>, accessed 24 August 2014.

⁴⁵ *Amnesty International*, Sri Lanka: Investigators of Alleged Army Killings of Protesters Should Be Truly Independent, 5 August 2013 <http://www.amnesty.org/en/news/sri-lanka-investigators-alleged-army-killings-protesters-should-be-truly-independent-2013-08-05>

⁴⁶ Political activists Lalith Kumar Weeraraja and Kugan Muruganandan, disappeared in Jaffna on 9 December 2011 en route to an organizational meeting for a Human Rights Day rally by families demanding the release of Tamil detainees held without charge. Colleagues believe they were abducted by the Sri Lankan army. Weeraraja and his family had received previous threats warning against his involvement in politics in Jaffna, including a phone call on 6 December threatening to “remove” Lalith from Jaffna. He was reportedly attacked and injured during a demonstration in Jaffna in November 2010, and had been arrested and interrogated by the Sri Lankan army in early 2011. Eyewitnesses reported seeing the two men being forced into a van by a group of unidentified individuals in civilian dress. Locals informed the police who retrieved Kugan’s motorbike from the scene but failed to inform the family. (See, Sri Lanka’s Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>)

⁴⁷ In 2013 the Ministry of Law and Order was formed, with President Mahinda Rajapaksa retaining the Ministerial portfolio and the new Ministry took over supervision of the Sri Lanka Police from the Ministry of Defence.

⁴⁸ Sri Lanka’s Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, page 33, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>; see also, Sri Lanka’s sinister white van abductions, BBS News, 12 March 2012, <http://www.bbc.com/news/world-asia-17356575>, accessed 8 September 2014

⁴⁹ See, *Sri Lanka's Assault on Dissent*, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>

⁵⁰ "Commission on Missing Persons begins public sittings in Mullaitivu," News.lk, 6 July 2014, <http://www.news.lk/news/sri-lanka/item/1528-commission-on-missing-persons-begins-public-sittings-in-mullaitivu>, accessed 7 July 2014.

⁵¹ The Gazette of the Democratic Socialist Republic of Sri Lanka, Extraordinary, No. 1871/18, July 15, 2014, http://documents.gov.lk/Extgzt/2014/PDF/July/1871_18/1871_18%20%28E%29.pdf, accessed 22 July 2014

⁵² Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 49, para 265. http://www.ccrprcentre.org/wp-content/uploads/2013/02/CCPRCLKA5_E.pdf accessed 18 June 2014, Page 47

⁵³ In April 2014 Amnesty International interviewed a man who was denied asylum in a European country and was subsequently arrested, detained and tortured very severely in Sri Lanka – this abuse occurred in 2013. Human Rights Watch reported receiving 13 such cases between February and June 2102 (<http://www.hrw.org/news/2012/05/29/uk-suspend-deportations-tamils-sri-lanka>). See also, "Sri Lankans expelled from UK allege torture after deportation to Colombo," The Guardian 12 February 2013, <http://www.theguardian.com/uk/2013/feb/12/sri-lanka-asylumseekers-torture-claims-uk-deportation>

⁵⁴ "A roof top protest by 6 prisoners at Bogambara demanding death or freedom, Hiru News, 4 January 2014 available in news compilation,: "Update: Video: Bogambara prisoners call off the protest " <http://www.hirunews.lk/74676/update-video-bogambara-prisoners-call-off-protest>, accessed 19 June 2014

⁵⁵ Amnesty International interviews 2014

⁵⁶ For examples see, *Locked Away; Sri Lanka's Security Detainees*. Amnesty International, March 2012, ASA 37/003/2012, <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁵⁷ See, *Sri Lanka: Briefing to the UN Committee against Torture*, Amnesty International, October 2011, ASA 37/016/2011, Page 23, <http://www.amnesty.org/en/library/asset/ASA37/016/2011/en/2bb1bbe4-8ba5-4f37-82d0-70cbfec5bb2d/asa370162011en.pdf>

⁵⁸ See, *Locked Away Sri Lanka's Security Detainees*. Amnesty International, March 2012, ASA 37/003/2012, <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁵⁹ Section 257 of Sri Lanka's Code of Criminal Procedure Act (No. 15 of 1979) recognizes the right of accused persons to be defended in court and to be represented in court by a lawyer, but does not address the right of pre-trial detainees to legal counsel or access to counsel during questioning by the police. In 2004 Sri Lankan authorities told the UN Committee Against Torture that the Police Department did not "object" to lawyers representing the rights of suspects detained at police stations prior to their being produced before a magistrate. But they noted that "owing to the need to ensure that police investigators are able to conduct the initial investigation and interview suspects in an unhindered manner," they do not allow access to counsel before the police have recorded the suspect's statement. "Prevailing practice," [as this is not regulated] is that the police will permit legal counsel representing

arrested suspects to interview the officer-in-charge of the relevant police station to determine the basis of allegations against the suspect and the date, time and location of the magisterial hearing.

⁶⁰ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012, pp.34-35 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁶¹ See, Amarnath Amarasingam, "Life in the Open-Air Panopticon: Surveillance and the Social Isolation of Ex-LTTE Combatants in Sri Lanka," 20 May 2014, <http://groundviews.org/2014/05/20/life-in-the-open-air-panopticon-surveillance-and-the-social-isolation-of-ex-ltte-combatants-in-sri-lanka/>, accessed 22 August 2014.

⁶² See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012, pp 7-8; 15; 27; 34-35 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>. See also, Released Tamil Tigers 're-arrested', BBC Sinhala, 3 January 2011, http://www.bbc.co.uk/sinhala/news/story/2011/01/110103_tigers_rehabilitation.shtml, accessed 25 August 2014

⁶³ In late 2010 and early 2011 a spate of killings and abductions were reported in and around the northern town of Jaffna. Some victims had former LTTE affiliations or had voiced strong pro-LTTE sympathies. Amnesty International's research indicates that several of the victims were former LTTE cadres who had been recently released from detention. That trend has continued with major sweeps occurring around key anniversaries.

⁶⁴ Amnesty International interviews, 2014. See also, Human Rights Watch; "We Will Teach You a Lesson"; Sexual Violence against Tamils by Sri Lankan Security Forces, 26 February 2013; <http://www.hrw.org/reports/2013/02/26/we-will-teach-you-lesson>; accessed 30 July 2014; Yasmin Sooka, The Bar Human Rights Committee of England and Wales (BHRC), and the International Truth & Justice Project, Sri Lanka, "An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009-2014.

⁶⁵ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁶⁶ 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, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/111/35/PDF/G0811135.pdf?OpenElement>, accessed 25 August 2014

⁶⁷ See, Sri Lanka's Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>

⁶⁸ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁶⁹ When will they get Justice? Failures of Sri Lanka's Lessons Learnt and Reconciliation Commission, Amnesty International, September 2011 Index: ASA 37/008/2011, pp. 19-20; p.35; <http://www.amnesty.org/en/library/asset/ASA37/008/2011/en/76ea6500-a9f5-4946-bf2b-7fc08bc5e37a/asa370082011en.pdf>, accessed 24 August 2014.

⁷⁰ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁷¹ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

⁷² Consideration of reports submitted by States parties under article 19 of the Convention Concluding observations of the Committee against Torture, Sri Lanka, 8 December 2011, CAT/C/LKA/CO/3-4, Page 3.

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskwdMKzctcrqHiJJtDBxJ4hHd3eRjVgGe%2fIkbyFtWnnrMvF91F29DntyWqVekw%2f2NFrZEaH2J%2bvAPA3DpX3PImE1p7DV9IjtZTo9hAXTage>, accessed 18 June 2014.

⁷³ Committee against Torture hears response of Sri Lanka 9 November 2011, http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_2850.pdf, accessed 24 August 2014.

⁷⁴ The hotline number is not listed on the Sri Lanka Police website (<http://www.police.lk>) and no contact information for TID is available under general contacts or in the website's email directory. In 2011, press reports indicated that emails could be sent to: dir.tid@police.lk.

⁷⁵ The Sri Lankan government and the LTTE accused each other of the killings, but evidence points to the involvement of a Sri Lankan military commando unit, Amnesty International, Twenty Years of Make-Believe; Sri Lanka 's Commissions of Inquiry (ASA 37/005/2009)

⁷⁶ Dr. K. Manoharan, father of slain student Ragihar Manoharan states that he saw Kapila Jayasekera's vehicle parked near the scene before the shooting and that later he was informed by a police officer that Jayasekera knew of the attack in advance. Amnesty International has also received independent testimony from a confidential police source alleging that Jayasekera orchestrated the murders. For more information on eyewitness testimony implicating Kapila Jayasekera see, The Five Students Case in Trincomalee, University Teachers for Human Rights (Jaffna), Special Report No. 24, 19 April 2007, (Advance Copy to the Commission of Inquiry, 26th February 2007) <http://www.uthr.org/SpecialReports/spreport24.htm>, accessed 24 August 2014. And Official Secrets and Blind Justice, 2nd January 2010 – Fourth Anniversary of the Trinco Five Students' Case, Special Report No. 35, University Teachers for Human Rights (Jaffna), 2nd January 2010, <http://www.uthr.org/SpecialReports/spreport35.htm>

⁷⁷ See, Sri Lanka's Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>; Unbowed and Unafraid, Vimukthi Yapa, Sunday Leader 25 November 2007, <http://www.thesundayleader.lk/archive/20071125/spotlight-1.htm>, accessed 27 August 2014; see also, "I will destroy you" – President Rajapakse; Sonali Samarasinghe Wickrematunge, Lanka Standard, 25 May 2011, <http://www.lankastandard.com/2011/05/i-will-destroy-you-president-rajapakse/>, accessed 27 August 2014

⁷⁸ See, Sri Lanka's Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>

⁷⁹ See, Locked Away; Sri Lanka's Security Detainees. Amnesty International, March 2012, ASA 37/003/2012 <http://www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa370032012en.pdf>.

[a8ab-a6e504da58e6/asa370032012en.pdf](http://www.amnesty.org/en/library/asset/ASA37/016/2011/en/2bb1bbe4-8ba5-4f37-82d0-70cbfec5bb2d/asa370162011en.pdf); see also Sri Lanka: Briefing to the UN Committee against Torture, Amnesty International, October 2011, ASA 37/016/2011, Page 23, <http://www.amnesty.org/en/library/asset/ASA37/016/2011/en/2bb1bbe4-8ba5-4f37-82d0-70cbfec5bb2d/asa370162011en.pdf>

⁸⁰ See, Urgent Action: Sri Lanka: Activists In Northern Sri Lanka At Risk, UA: 70/14 Index: ASA 37/006/2014 Sri Lanka , 21 March 2014, <http://www.amnesty.org/en/library/asset/ASA37/006/2014/en/be93015f-1ea7-4a2b-bb36-2e8029f66737/asa370062014en.html>, accessed 18 June 2014

⁸¹ Controlling NGOs: “Defence Ministry Acting Beyond The Mandate” Says Lawyers Collective, Colombo Telegraph, 7 July 2014, <https://www.colombotelegraph.com/index.php/controlling-ngos-defence-ministry-acting-beyond-the-mandate-says-lawyers-collective/>, accessed 25 August 2014

⁸² Ruki Fernando, Sri Lanka: When One Goes Missing Every Five Days, 30 October 2012 <http://www.jdslanka.org/index.php/2012-01-30-09-31-17/human-rights/212-sri-lanka-when-one-goes-missing-every-five-day> , accessed 22 March 2013

⁸³ War memorial events banned in the North; Sunday Times, 11 May 2014, <http://sundaytimes.lk/140511/news/war-memorial-events-banned-in-north-98763.html>, accessed 24 August 2014.

⁸⁴ Jaffna University Tamil students boycott classes, BBC News, 29 November 2012, <http://www.bbc.com/news/world-asia-20537417>, accessed 25 August 2014

⁸⁵ The death of Freedom of Assembly, Expression and Religion in the North of Sri Lanka, Watchdog, Groundviews, 1 December 2012, <http://groundviews.org/2012/12/01/the-death-of-freedom-of-assembly-expression-and-religion-in-the-north-of-sri-lanka/>

⁸⁶ Sri Lanka’s Assault on Dissent, Amnesty International, 30 April 2013, ASA 37/003/2013, <http://www.amnesty.org/en/library/info/ASA37/003/2013/en>

⁸⁷ “Legacies of impunity,” Daily Financial Times (Sri Lanka) , 16 January 2014, <http://www.ft.lk/2014/01/16/legacies-of-impunity/>, accessed 24 August 2014

⁸⁸ Other such organizations include Sihala Ravaya, Ravana Balaya, and Hela Bodhu Pawura.

⁸⁹ On 9 March 2013, , Gotabhaya Rajapaksa, the President’s brother and Secretary of Defence was the chief guest in the opening ceremony of the Buddhist Leadership Academy of the Bodhu Bala Sena in Galle. See, DBS Jeyaraj, “Defence Secretary Gotabhaya Rajapaksa Openly Supportive of ‘Ethno Religious Fascist’ Organization Bodhu Bala Sena, 10 March 2013, <http://dbsjeyaraj.com/dbsj/archives/17939>, accessed 24 August 2014. Official complicity in religious attacks has also been reported. On 3 March 2013 the Mahara Mosque was defaced with images of pigs and anti-Muslim hate slogans and the superintendent of the Mahara Prison (located near the mosque), ordered the mosque administration to close the mosque down. On 5 March a government minister repeated the order mosque to be closed. On 19 July 2013 after another mosque in Mahiyangana was defiled and worshippers attacked, a ruling party Minister for Uva Provincial Council ordered that mosque closed.

⁹⁰ Religious Violence in Sri Lanka, January 2013 – December 2013, An update of “Muslims’ Concerns” presented by the Sri Lanka Muslim Congress to the United Nations High Commissioner for Human Rights, August 2013, <http://www.onetext.org/wp-content/uploads/2014/03/Annex-1-Religious-Violence-2013.pdf>, accessed 23 July 2014

⁹¹ National Christian Evangelical Alliance of Sri Lanka (NCEAS) Crowdmap, January 2013-June 2014, <https://slchurchattacks.crowdmap.com/main>

⁹² Excerpt of speech made by Galagodaatte Gnanasara Thero in Aluthgama, 15 June 2014, <https://www.youtube.com/watch?v=-fPMWD8f9IE>

⁹³ CCTV Footage of Attack on Harcourts Pharmacy Dehiwala, <https://www.youtube.com/watch?v=MtJTdMQXRhs>

⁹⁴ President Mahinda Rajapaksa was attending the G77 summit in Bolivia when violence erupted on June 15 and responded via twitter the next day, tweeting that the Government would “not allow anyone to take the law into their own hands” urging all parties to “act in restraint.” He did not return to Sri Lanka immediately, but visited Aluthgama on 18 June when he promised an investigation. On 21 June President Rajapaksa blamed the violence on foreign forces, saying that “international forces [were] engaged in concerted efforts to destabilise the country” and ordered a crackdown on racial or religious hatred. (“Foreign forces destabilising country, says President”. The Sunday Times, 22 June 2014, <http://sundaytimes.lk/140622/news/foreign-forces-destabilising-country-says-president-104631.html>, accessed 24 August 2014). Sri Lanka’s Justice Minister Rauff Hakeem criticised the police failure to keep law and order and said that he and other Muslim politicians had been trying for days to prevent the rally that erupted in violence, but that police had allowed it to proceed. (Anti-Muslim Violence Reaches New Heights in Sri Lanka, Amantha 23er era, IPS News, 19 June 2014, <http://www.ipsnews.net/2014/06/anti-muslim-violence-reaches-new-heights-in-sri-lanka/>, accessed 27 August 2014)

⁹⁵ Consideration of reports submitted by States parties under article 40 of the Convention, Fifth periodic reports of States parties due in November 2007*, Sri Lanka [29 October 2012], CCPR/C/LKA/5, Page 49, para 265. http://www.cccprcentre.org/wp-content/uploads/2013/02/CCPRCLKA5_E.pdf accessed 18 June 2014.

AMNESTY
INTERNATIONAL



www.amnesty.org