

Freedom from Torture submission to the Committee against Torture for its examination of Sri Lanka in November 2011

Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) is a UK-based human rights organisation and one of the world's largest torture treatment centres. We are the only organisation in the UK dedicated solely to the care and treatment of survivors of torture and organised violence. Since our foundation 25 years ago, more than 50,000 people have been referred to us for rehabilitation and other forms of care and practical assistance. We have centres in London, Manchester, Newcastle, Birmingham and Glasgow.

During 2010, Freedom from Torture received 199 referrals for clinical services for Sri Lankans, the vast majority of whom are asylum seekers or refugees living in exile in the UK. Half of these referrals were for medico-legal reports (MLRs) documenting torture for use in the context of asylum claims. The rate of referrals for Sri Lankans in 2011 has been similar.

Our MLRs are detailed forensic reports which document physical and psychological consequences of torture. They are prepared by specialist clinicians according to standards set out in the Istanbul Protocol and each is subject to a detailed clinical and legal review process.ⁱ While the primary purpose of our MLRs is to assist decision-makers in the context of asylum and other legal proceedings – and for these purposes our clinicians act strictly as independent experts – we find that the process of giving testimony in this manner also has a therapeutic value for many torture survivors. In this respect, MLRs can be an important feature of a holistic and survivor-centred model of torture rehabilitation.

Evidence of ongoing torture in Sri Lanka

There is considerable evidence in the public domain of torture practices in Sri Lanka, and of torture that occurred during the final stages of Sri Lanka's civil war in particular.ⁱⁱ There is much less evidence in the public domain of torture practices since the conflict ended in May 2009ⁱⁱⁱ which can be attributed to a number of well-known reasons including disappearances^{iv}, lack of access for humanitarian agencies to camps and 'rehabilitation' facilities^v, lack of witness protection for those testifying to the Lesson Learnt and Reconciliation Commission^{vi}, as well as intimidation of journalists^{vii}, civil society organisations^{viii} and doctors^{ix}.

It is because we are concerned that the flow of information about ongoing torture in Sri Lanka is being impeded in various ways, Freedom from Torture has chosen to focus this submission on our forensic documentation of evidence which took place in Sri Lanka after

the conclusion of the civil war in May 2009. This evidence, drawn from MLRs we have prepared, demonstrates that torture is still ongoing in Sri Lanka.

Our evidence demonstrates that:

- Torture has continued in Sri Lanka after the conflict ended in May 2009 and is still occurring in 2011;
- Those at particular risk of torture include Tamils who have an actual or perceived association with the Liberation Tigers of Tamil Eelam (LTTE);
- A variety of different types of torture have been perpetrated in a significant number of locations in Sri Lanka during the post-conflict period; and
- Many Sri Lankan torture victims are left with heavy scarring which suggests of impunity for perpetrators of torture in Sri Lanka.

Overview of our data

Freedom from Torture received approximately 170 referrals for MLRs for Sri Lankan clients during 2010 and the period January-September of 2011. From these referrals, 65 MLRs have been produced to date and a number are still in production. MLRs were not produced in other cases for a variety of reasons including the limitations of our remit^x or because asylum was granted without the need for an MLR.

Of the 65 MLRs produced to date for Sri Lankan clients referred to us during this period, 35 document evidence of torture perpetrated from May 2009 onwards. The most recent torture which we have finished documenting took place in February 2011. It should be borne in mind that survivors may take many months to flee from Sri Lanka and assemble their asylum claim in the UK and it can take five or more months for us to finalise an MLR, especially where there are multiple injuries to document or the survivor is highly traumatised. For this reason, we expect that our evidence base of post-conflict torture in Sri Lanka will grow over time, as further MLRs are finalised for cases referred to us more recently.

We have examined these 35 cases of post-conflict torture in Sri Lanka in detail and the findings of this review are presented in the remainder of this submission.

1. Profile of cases

Age, sex & occupation

Of the 35 MLRs we have reviewed, 27 cases are male and 8 are female. The majority were aged 25-40 (n=21). A significant number were younger, aged 18-25 (n=9), and the remaining cases were aged 40-60 (n=5). None were under 18 years old or over 60. Where marital status was recorded, an approximately equal number were married and single (n=16 and 15 respectively). A wide variety of occupations are represented in this group of cases, including the following: university students (n=6), workers on family farms (n=6), lorry or van drivers (n=3), people with their own business or in manufacturing (n=6), and at least one each

practising the following trades & professions: fisherman, mechanic, carpenter, electrician, mason, teacher, printer, travel agent and seamstress.

Ethnicity and place of origin and residence

The overwhelming majority of Sri Lankan clients referred to Freedom from Torture for MLRs or for clinical treatment are of Tamil ethnicity. Of the 35 cases examined as part of this review, 33 are of Tamil ethnicity, with the remaining 2 being of Malay decent and Sinhalese ethnicity respectively.

Of the 31 cases where place of origin is recorded, 18 are from the Northern Province of Sri Lanka – 11 from Point Pedro & Jaffna and 7 from Vanni - 6 are from the Eastern Province, 2 are from Colombo, 2 are from the Central Province and there is 1 each from the Western, Southern & North Western Provinces.

In terms of impact of the civil war on their place of residence, many individuals among these cases report several periods of internal displacement during their lives, including to Colombo. In some cases, people report fleeing from the Sri Lankan authorities to predominately Tamil or LTTE controlled areas; others report fleeing from Tamil areas, either from active conflict zones or from forcible recruitment to the LTTE.

Associations

Thirty of the 35 cases in this data set report an actual or perceived association with the LTTE and perceive this to have been the cause of their detention and subsequent torture. In all these cases, interrogations focused on this actual or perceived association; on forcing a confession to LTTE connections or activities; and/or on gaining information about others associated with the LTTE or about LTTE activities or resources.

Only 3 of these cases report voluntary membership of LTTE at any point in their lives. One subsequently ceased to be active in 1999 due to ill health, another changed their allegiance and 'came to hate LTTE' and a third only became active with the LTTE while in the UK, taking part in the demonstrations and protests against the Sri Lankan government's treatment of Tamils during the end phase of the civil war in 2009.

Of the remaining 27 cases, the association with the LTTE came about in one of, or a combination of, the following ways:

1. One or more of their family members was an active supporter (voluntary or coerced) or a perceived supporter of LTTE

Within this group, family members of 5 of these individuals had either disappeared or had been killed by the Sri Lankan authorities as a result of their association with LTTE.

2. The individual was forcibly recruited or coerced into providing support to the LTTE in a variety of ways

Those who were forcibly 'recruited' to LTTE describe being forced to undergo military training with a view to taking part in combat operations. In most cases the individual reports that they avoided active combat despite being attached to the military wing of the LTTE. They describe being assigned to alternative duties such as transporting wounded combatants, digging bunkers and trenches and providing other services to combatants. Some individuals describe attempts to escape from the LTTE, by leaving the country or going into hiding or leaving LTTE controlled areas.

Those who were not recruited directly into the LTTE report being forced to provide support under duress, via direct threats to their own or their family members' lives and security if they refused to cooperate. Between them, they report being required to carry out the following activities: hard labour such as building bunkers and digging trenches, providing food and other goods to combatants, hiding weapons or harbouring LTTE members, transporting people and goods or combatants from the front line, fundraising, printing documents, supplying mechanical and other technical services, teaching and sentry duties.

Three of the 5 cases who did not have an association with LTTE were members of, or closely related to prominent members of an opposition party and gave this as the reason for their detention and ill-treatment by the Sri Lankan authorities.

Return to Sri Lanka from abroad

Fourteen of the 35 cases report periods of residence or travel abroad: 5 were for educational purposes, 3 for family reasons and 4 for the purpose of seeking asylum or refuge outside of Sri Lanka. In the remaining 2 cases, the purpose of travel was not stated.

Of the 4 who sought refuge abroad, 3 were forcibly returned to Sri Lanka. In one case the individual had claimed asylum unsuccessfully in the UK a number of years earlier but was returned to Sri Lanka from another European state. The second case involves a similar scenario – an individual who had claimed asylum unsuccessfully in a European state was returned by a second European state whilst en route to a non-European state where a new asylum claim was to be lodged. The third was returned from another European state after two years of residence, having been refused asylum there. In each of these cases, the person was tortured on return.

Of those 10 cases involving individuals travelled abroad for non-asylum purposes, 9 returned voluntarily to Sri Lanka (all from the UK). Five returned voluntarily for temporary visits for a variety of family reasons. Two individuals returned due to the disappearance of their fathers and two others returned voluntarily, presumably at the end of their planned stay abroad, though this is not explicitly stated. The remaining individual was en route to a non-European state for family reasons, but was returned en route due to the use of false documents.

All of the 14 individuals who had returned to Sri Lanka after a period abroad, whether they left Sri Lanka legally or otherwise, were subsequently detained and tortured. In 5 of the 14 cases, the episode of detention and torture documented in the MLR occurred over a year and up to 7 years after return. However in 9 cases the individual was detained within days, weeks or a month of their return. Of these 9 cases, 6 were detained in Colombo, either from

their home (n=3) or at checkpoints (n=2) or from a lodging house. Two were detained at checkpoints elsewhere in the country and 1 was detained directly from the airport on arrival.

2. Patterns of detention

Each of the 35 MLRs examined in this review involved periods of detention that post-date the May 2009 ceasefire. In a small number of these cases the individual was detained earlier – during the end phase of the conflict from late 2008 to May 2009 – but all of these individuals remained in detention well beyond May 2009. In all 35 cases the episodes of torture documented in their MLR was perpetrated or continued to be perpetrated after May 2009.

These cases demonstrate the widespread and continuing use of a large number of unofficial (recorded as ‘unknown’) detention facilities in which many of the individuals, whose history of torture is documented here, were held. With regard to the ‘known’ and named detention facilities, 11 separate sites are assumed to be under the control of the Sri Lankan Army or the CID/ TID investigation units of the Sri Lankan police or some combination of both, while two are prisons and one is a local police station.

A substantial number of the 35 cases examined report being detained in either April or May 2009 (all but 2 in May), in the final days of the conflict when the Tamil population in former LTTE controlled areas was rounded up by, or surrendered to, the advancing Sri Lankan army (n=16).^{xi} These cases, termed ‘surrendees’ below, are considered together in relation to their place of detention and the pattern of torture inflicted.

A second group of 19 detainees are also considered together, in relation to where and why they were detained and where they were held and tortured. These cases break down into the following time periods: 3 cases were detained during the end stages of the conflict from late 2008 to March 2009, but not as part of the surrendering population; 8 were detained from June onwards in 2009; 6 were detained during 2010; and 2 were detained during 2011.

We strongly suspect that the smaller number of more recent detention episodes reflects the fact that MLRs are still in production for Freedom from Torture clients who arrived in the UK and claimed asylum more recently.

‘Surrendees’

(i) History of detention

Of the 16 cases involving surrender to or round-up by the Sri Lankan army, all were subsequently taken, usually blindfolded, to secondary detention locations (and in some cases further detention locations) where they were then tortured. Eleven of these had been ‘identified’ by others as being associated with LTTE. Others self-identified themselves as having LTTE connections on the basis that they were told they would then be released (n=2). Some were directly apprehended from LTTE military camps (n=2) and 1 was simply taken on suspicion of LTTE connections.

Some of those who were ‘identified’ report that they were paraded in front of hooded or masked individuals who nodded to indicate that the individual was an LTTE supporter/

member. Those who bore scars (even if they were incurred during shelling) were told that this was evidence of LTTE membership and were removed to a separate place of detention. Here they were lined up and ordered to march past an army truck; when the horn sounded in front of this individual, he was taken blindfolded to two subsequent detention camps, where he was tortured.

(ii) Detention facilities

Most of the 16 'surrendee' cases report being held in at least two and in many cases three separate detention facilities before their eventual release, although one individual describes being taken to a series of informal camps located in the jungles near Killonochi and another was taken to only one unknown camp. Although in 2 cases the initial place of detention was unknown, the remaining 14 individuals were able to identify their first place of detention as follows (in all cases the names provided are those recorded in the MLR):

Wiswamadu; Arunachalam; Omanthai School; Ananda Kumaraswamy; Vavuniya; Vanni; Anuadapura; Chettikulam and Nelukulam.

Interestingly, the second place of detention is reported as unknown in 10 cases. In the remaining 5 cases, the secondary place of detention was identified as follows:

Menik Farm; Verpankulam; Joseph Camp and Arunaselem.

The 6 individuals taken to a third place of detention identify them as follows:

Menik Farm; Chettikulam; Pavatkulam; Bossa Prison; Negombo and '4th floor CID', Colombo.

(iii) Torture

In almost all cases, torture was not perpetrated in the first place of detention, though in at least 2 cases interrogations took place with beatings aimed at forcing a confession. The majority of cases report being identified as LTTE supporters in the first detention camp, as described above, and then transported elsewhere, in most cases after a relatively short period of time (a number of days).

The table below summarises information given in these 16 cases about the torture perpetrated and the detention facility where it took place. In 9 cases the place of detention and torture was unknown; 9 detention facilities where torture took place are named. In some instances individuals were tortured in more than one place (during the second and third places of detention).

Note that further information about the nature of torture disclosures is provided in section 3 below.

Name of detention centre Detention conditions	Type of torture inflicted
Unknown n= 8 Solitary confinement - small,	Blunt trauma n=9 Burns - cigarettes n=2

<p>dark cell n=6 Minimal food and water Bunkers/ tents n=2</p>	<ul style="list-style-type: none"> - heated metal instruments n=6 Electric shock n=1 Asphyxiation <ul style="list-style-type: none"> - petrol filled bag n=1 - submersion in water n=1 - ice cold water poured over face while suspended n=1 Suspension n=2 Sexual violence n=2 Rape n=2 Mock execution n=1 Forced nakedness during interrogations n=3
<p>Omanthi School Dark cell</p>	<ul style="list-style-type: none"> Blunt trauma Suspension Asphyxiation - submersion Sexual violence Forced nakedness during interrogations
<p>Verpankulam</p>	<ul style="list-style-type: none"> Blunt trauma Burns – cigarettes Asphyxiation – petrol bag Suspension Sexual violence Mock execution Forced nakedness during interrogations
<p>Joseph Camp</p>	<ul style="list-style-type: none"> Blunt trauma Burns – cigarettes Asphyxiation - submersion Suspension Sexual violence Rape (anal) Threats to kill Forced nakedness during interrogations
<p>Boosa prison Small cell with 7 others Limited food and water Forced labour</p>	<ul style="list-style-type: none"> Blunt trauma Burns <ul style="list-style-type: none"> - cigarettes - heated metal instruments Asphyxiation – petrol bag Sexual violence – incl. instrumentation Stress position
<p>Negombo Forced labour Hands bound throughout detention (when not working)</p>	<ul style="list-style-type: none"> Blunt trauma Suspension (repeatedly over 3 months) Burns <ul style="list-style-type: none"> - cigarettes - heated metal instruments Forced nakedness during interrogations
<p>4th Floor CID, Colombo Small dark cell with 9 others</p>	<ul style="list-style-type: none"> Blunt trauma

No toilet facilities, forced to use floor, cell not cleaned Infestation of insects	
Nelukulam	Blunt trauma Burning with caustic substance Sexual violence Possible rape (anal) - unconscious
Arunaselem Small tent – mixed sexes 4-5 toilets for 500 people Inadequate food and contaminated water	Blunt trauma Cut with sharp metal instrument Threatened to kill

‘Other’ detainees

(i) History of detention

The 2 cases detained in 2011 were taken from checkpoints. Both individuals were resident in the UK and were visiting Sri Lanka.

Four of the 6 cases detained in 2010 were arrested from their own home or that of their family, in locations including Kandy and Colombo. One was taken at a checkpoint and the other from his workplace in Colombo. Two of these individuals report being taken by plain clothed ‘officials’ and transported to the detention facility in unmarked ‘white vans’. Four of these 6 individuals had recently returned from abroad, 3 for family or health reasons and 1 due to a refused asylum claim (from the UK and another European state respectively). Five of the 6 cases were detained due to an imputed association with the LTTE through a family member or friend.

Of those 8 cases detained after the ceasefire in 2009 (June onwards), the majority were taken from their homes in Colombo (n=3), Batticola and Kalmunai. These individuals were taken in some cases by plain clothed ‘officials’, and in others by uniformed police. One individual was visiting Sri Lanka from the UK and was accused of having fundraised for the LTTE. Three others had an imputed association with the LTTE through family members or their own history of detention and 1 was a supporter of an opposition party.

The remaining 3 cases were taken at a checkpoint in Omanthi, at the airport (removed to Sri Lanka following a refused asylum claim) and during a round-up of Tamils in Vavuniya following LTTE activity in the area.

Finally, the 3 cases who were detained between late 2008 and March 2009 were taken in the following circumstances: from the street when collecting money from local businesses for the LTTE (having been forcibly recruited); from a police station when ‘reporting’, having been recently released from detention; and from home, when informed on by an LTTE member who had forced the individual to hide weapons in his house.

(ii) Detention facility

The majority of cases who were detained prior to April/ May 2009 and from June 2009 – 2011 - and who, therefore, were not part of the ‘surrendee’ population – were taken straight to the place of detention in which they were tortured. Only 3 were taken first to a police station and then transferred to a second facility.

A high incidence of detention and torture in ‘unknown’ or unofficial facilities is reported in this group of cases, as detailed below. Other facilities were named and recorded in the MLRs as follows:

2008 - March 2009: Anurathapuram camp; Maruthane police station; Manthikai

2009 (from June onwards): Unknown (n=5); Walikada prison; CID Colombo; Karathivu;

2010: Unknown (n=4); Nelliady; CID Colombo;

2011: Verpankulam; Joseph camp

(iii) Torture

The table below summarises information given in these 19 cases about the torture perpetrated and the detention facility where it took place. In 9 cases the place of detention and torture was unknown; 9 detention facilities where torture took place are named. In some instances more than one individual was tortured in the same facility.

Note that further information about the nature of torture disclosures is provided in section 3 below.

Name of detention centre/camp	Type of torture inflicted	Detention conditions
Unknown n= 9	Blunt trauma n=9 Burns - cigarettes n=4 - heated metal instruments n=1 Asphyxiation - submersion in water n=1 Suspension n=3 Cuts with sharp metal instruments n=2 Fingernails removed n=1 Sexual violence n=2 Sexual assault n=3 - Instrumentation n=1 Rape - Vaginal n=2 - Vaginal and anal n=1 - Attempted n=1 Mock execution n=1 Threatened execution/ torture n=4 Forced nakedness during interrogations	Solitary confinement n=9 All cases, small cramped cell, no facilities, many dark, foul smelling, limited access to toilet, limited ventilation; insufficient food and water; no medical treatment 1 case - denied toilet – forced to urinate while suspended or bound on the floor

	n=1	
Nelliady	Blunt trauma Burns - heated metal instruments Stress positions Asphyxiation – petrol bag Sexual assault Forced nakedness during interrogations	Small dark cell, squat hole latrine in corner; basin of water Interrupted sleep; repeatedly forced to stand
Verpankulam	Blunt trauma Stress position Sexual humiliation	Small dark cell, limited food and access to toilet
Joseph Camp	Blunt trauma Burns – cigarettes Suspension Sexual violence Threats to cut off fingers Forced nakedness during interrogations Forced alcohol consumption	Solitary confinement Bloodstained cell Dark, no windows, limited food and water Tied wrists and ankles for 3 days and nights, could not lie down
Walikada prison	Blunt trauma Burns - cigarettes Cuts with sharp metal instruments Sexual assault Sexual violence	Shared cell, nothing to eat/drink 1st night, bread and banana 2nd day; cell smelt bad, no toilet, forced to urinate on floor
Karathivu	Blunt trauma Burn – heated metal instruments Electric shock Asphyxiation – petrol bag Stress position Burns - cigarettes - heated metal instruments Forced nakedness during interrogations	Solitary confinement, dark cell, slept on hard bloodstained floor; hole in the ground for a toilet
CID, Colombo	Blunt trauma Burn – molten metal Suspension Sexual assault Rape Mock execution	No windows, rough cement floor, cell hot and foul smelling; infested with insects
Anurathapuram	Blunt trauma Suspension Asphyxiation – chillies bag Sexual violence - Instrumentation	Solitary confinement, very small cell, no window, limited food, water, no toilet, slept on floor, filthy cell –

	Rape – oral and anal Forced nakedness during interrogations	blood and urine
Police station Maruthane	Blunt trauma Burns - cigarettes Suspension Possible (non-disclosed) rape	
Manithakai	Blunt trauma Burns – heated metal instruments Cuts with sharp metal instruments Sexual violence Mock execution Threatened to kill, cut off genitalia	

Length of detention

The length of time that individuals spent in detention ranged from 1 day to 16 months, bearing in mind that in some cases the length of time spent in detention was estimated while in others it was stated precisely with reference to specific dates. A lack of precision or detailed recall of dates and the passage of time is a commonly observed phenomenon among torture survivors, given the extreme nature of the trauma inflicted on them and the often chaotic aftermath of escape and flight. It is also significant that in all 35 cases, release from detention was secured with a bribe to officials, meaning that the length of time spent in detention does not represent a trend in detention policy as such, but reflects how long it took in the various individual cases for family members to trace them and pay bribes for their release.

With these caveats in mind, the length of time spent in detention is as follows: up to 1 week (n=1); 1 week – 1 month (n=6); 1 – 6 months (n=21); 7-12 months (n=4); 1 – 2 years (n=3).

Due process in detention

As stated above, the overwhelming majority of the individuals in the 35 cases examined are of Tamil ethnicity (n=33) and of the 31 cases where place of origin is recorded, the majority are from the Northern Province and Eastern Provinces (n=24). Most of the individuals report an actual or perceived association of the individual with LTTE (n=30). However, only 3 of these report voluntary membership of LTTE at any point in their lives. In the remaining 27 cases, their association with the LTTE is reported to have come about either through a family member or because the individual was forcibly recruited or coerced into providing support to the LTTE in a variety of ways.

Although it is not explicitly stated in their testimony that they were detained under the Emergency Regulations or the Prevention of Terrorism Act, in all cases these individuals describe having been detained due to their perceived association with the LTTE. They report interrogations combined with severe episodes of torture which focussed invariably on compelling a confession to membership of or activities in support of LTTE or on identifying and giving information about other LTTE supporters and members. It is likely, on the basis of what is known about the practice of the Sri Lankan government over many years and their

strategy in the end stages of the civil war, that these individuals were indeed held in administrative detention under the Emergency Regulations that provide for 'preventive detention'.^{xii}

It is notable that in all but 3 of these cases (n=27) there was no observation of due process rights: no formal charge or sentencing, no access to legal representation, no trial before a judge, no informing of family members of their whereabouts and no access to an independent medical examination. Of the remaining 5 individuals reporting no association with the LTTE, 4 report that due process rights were not observed during their detention.

In 4 cases involving detention in police stations in Colombo (n=3) and Kandy (n=1), the individual reports that some form of legal process appeared to have occurred, including conviction in absentia (n=1), access to a solicitor followed by a trial and release on bail before a second episode of detention involving torture (n=1), repeat court appearances always followed by adjournments (n=1), and trial followed by conviction and release on bail only to be apprehended again and tortured (n=1).

The MLRs record that all 35 individuals were detained without effective access to due process rights and held in a range of state facilities including military detention camps, police stations, prisons and unofficial detention centres for periods of time ranging from a few days to 2 years, and all were tortured.

All cases without exception report escaping from detention only when family members were somehow able to discover their whereabouts and arrange to bribe the relevant officials to secure their release. This raises the question of what happens to those who do not have the contacts or money to have bribes paid on their behalf or whose family members are unable to learn of their place of detention. Such people, without the due process of law to protect their rights while in detention, risk not only prolonged detention but also ongoing exposure to the risk of torture.

3. Forensic evidence of torture

This section summarises the physical and psychological sequelae of torture which Freedom from Torture documented in our MLRs for the 35 cases scrutinised in our data set. Torture methods are examined in sequence in order to give a detailed picture of the patterns of abuse perpetrated. This evidence also demonstrates the extraordinary severity and intensity of the torture inflicted on the individuals in this data set, and in particular the widespread use of torture methods intended to leave strong physical as well as profound psychological trace.

It is worth noting that Freedom from Torture clinicians have publicly voiced concerns about the escalation of scarring of Sri Lankan torture victims during the final stages of the civil war.^{xiii} The evidence below demonstrates that this pattern of torture involving heavy scarring has continued in the post-conflict period.

Please note that details of some of the most shocking disclosures of ill-treatment contained in the MLRs examined have not been included here due to their very distinctive nature and the consequent risk of identification of the individuals concerned.

Torture disclosures and our documentation of the forensic evidence

(i) Blunt Force Trauma

All 35 cases examined report the infliction of blunt force trauma to varying degrees of intensity and frequency and sustained over various periods of time. Blunt force trauma is often reported to have been inflicted while the person is held in a stress position, such as suspension and often though not always concurrent with interrogation. Many cases report loss of consciousness during beatings due to the severity of the treatment and the level of pain experienced.

Blunt force trauma methods reported and documented in the MLRs include:

- (a) forceful slapping and punching of the face, head, neck, ears such as to produce unconsciousness in some cases and sustained damage to sight and hearing in some cases
- (b) sustained kicking all over the body including the genitalia, head and face and back with metal capped and studded military boots
- (c) stamping and trampling on limbs and feet, hands and stomach with hard boots
- (d) sustained beating all over the body especially the back, legs, arms but including also the genitalia, head, face, mouth, hands and fingers, chest and abdomen with a variety of implements and mechanisms described as wooden sticks and poles (some semi-flexible and others rigid); batons; gun butts; bamboo sticks; plastic (PVC) pipes filled with sand, cement or mud; metal tipped objects; whips; truncheons; rigid metal rods; flexible wires; flexible rubber implements; chains; cricket stumps or bats
- (e) forceful kicking or pushing onto a hard cement floor with the hand or legs tied (so that the full impact was taken on the face or head or back); throwing against a wall; banging of the head against a wall

- (f) forceful twisting of the limbs and joints including knees, ankles, arms and wrists
- (g) 'Falaka' - beating of the soles of feet with blunt objects such as PVC pipes and round wooden sticks

It is well recognised that torture does not always leave physical evidence, and that this may be the explicit intention of the perpetrator, influencing both the method of torture used and the manner of infliction.^{xiv} Freedom from Torture MLRs consistently report that the existence of physical evidence of blunt force trauma in particular – in the form of scarring, hypo- or hyper-pigmented areas of skin and other injuries capable of being documented – varies greatly according to many significant variables. These include: when the trauma was inflicted (how long before examination); the intensity, frequency and duration of the trauma; the type and shape of implement used; the site on the body; the age and overall physical health of the individual; and whether and how the injuries were treated or whether they became infected. It is also recognised that this form of torture is capable of causing other injuries such as damage to the musculoskeletal system and deep tissue – all of which give rise to very commonly reported symptoms of chronic pain among other things.

Of particular significance, therefore, is the extensive evidence recorded in the 35 MLRs of scarring assessed as 'diagnostic', 'typical' or 'highly consistent'^{xv} with the ascribed cause of the various forms of blunt force trauma described above. In all, a total of 91 such scars is recorded across 15 of the individual cases (13 male and 2 female). This means that of the 35 cases who all report episodes of blunt force trauma, 40% sustained injuries of such severity as to produce scarring the likely cause of which is capable of being documented to a high level of certainty, even after a considerable lapse of time. The number of scars documented on these 15 individuals ranges from 1-18, with an average number of 6 scars. Four individuals had particularly large numbers of scars (10, 11, 16 and 18 scars respectively).

Given the difficulty of attributing the precise cause of scars caused by blunt force trauma to a high level of certainty, the 58 scars assessed to be 'consistent' with the ascribed cause also represent significant evidence of torture. These scars are distributed between 16 individuals (11 male and 5 female), some of whom have scars in both categories. Eight groups of scars which could not be attributed to a specific mechanism or manner of infliction individually were together found to be 'highly consistent' and in one case 'diagnostic' of the attributed cause of torture. A further 6 groups of scars were similarly found to be 'consistent' with the ascribed cause.

Overall, therefore, this evidence presents a picture of severe and sustained episodes of torture undertaken with an apparent sense of impunity, given the level of injury inflicted in the full knowledge that it could cause such extensive scarring.

(ii) Burning

Burning has been widely inflicted (n=23 or 65% of the cases) with extraordinary intensity and severity across this group of cases, with 18 of the 27 male cases and 5 of the 8 female cases being subjected to this form of torture.

The instruments used to inflict burns are reported to be cigarettes and heated metal objects of various types, often not seen by the person due to them having been in a stress position, blindfolded or the injuries having been inflicted on the back of the body, but whose forms are nonetheless represented in the scarring on their bodies. This scarring is extensively documented, and in many cases photographed, in the MLRs.

The following methods of burning are reported:

- (a) burning repeatedly on the back, thighs, soles of feet with a heated metal object (long, thin and hard rod or pipe) or a metal rod with a bulbous end (n=11)
- (b) burning on various parts of the body and limbs with glowing cigarettes (n=12)
- (c) burning with molten material (n=1)

A total of 149 burn scars documented in the MLRs were assessed as 'diagnostic', 'typical' or 'highly consistent'^{xvi} with torture using heated metal objects (n= 75) or lit cigarettes (n=74). Of these 149 scars, 52 were assessed as 'diagnostic' of the attributed cause of burning, meaning there is no other possible cause of the injury observed. The attributed cause of the overwhelming majority of these scars was deliberate burning by heated metal objects of various kinds (n=45). Of the 69 scars assessed as 'typical' of the attributed cause, 65 were attributed to burns caused by lit cigarettes.

The number of burn scars (assessed as 'diagnostic', 'typical' or 'highly consistent' with the attributed cause) documented on the 23 individuals in this group ranged from 1-27, with the average being 7. Four individuals had particularly large numbers of burn scars (14, 18, 22 and 27 respectively), while eleven individuals had scars assessed as diagnostic, ranging in number from 1-27.

(iii) Suspension

Suspension is often reported to have been used concurrently with other forms of torture such as beating, burning and asphyxiation techniques. Some individuals experienced repeated episodes of suspension throughout their detention, in one case continually over a 3 month period. Others report being suspended on several occasions while in some cases suspension was used only once.

The duration of each suspension episode is reported as between 1-4 hours, although accurate recollection of time is clearly affected by the nature and intensity of the torture being inflicted and the fact that in some instances suspension combined with other ill-treatment led to loss of consciousness.

Some individuals report observing ropes, bars and hooks attached to the ceiling and pulley mechanisms *in situ* in the torture location. In one case a number of people were suspended at the same time. In other cases the suspension equipment appears to have been more improvised. All the suspensions apart from one were head down.

Reported methods of suspension include:

- (a) Suspension from a metal bar with both hands tied at the wrists
- (b) Suspension upside down with the head lowered periodically into a barrel or tub of water

- (c) Suspension upside down by a pole tied to the legs or between the knees on a pulley and rope system attached to the ceiling or between tables
- (d) Ankles and hands tied and suspended upside down from the ceiling

Evidence of physical injury to joints and limbs arising from protracted suspension is documented in a number of MLRs, as well as scars around the ankles of 5 individuals, assessed as 'diagnostic' in 4 cases and 'highly consistent' in 1 case to the attributed cause of abrasions from rope and cuffs used during suspension. Although physical trace is not reported in all cases for this form of torture, many individuals report musculoskeletal pain consistent with having been held in stress positions for prolonged periods. Detailed descriptions of the methods and mechanisms of suspension are elicited from each individual and this aspect of their history is considered in relation to the whole account. In all cases, the doctors report no reason to doubt the history given.

- (iv) Asphyxiation: by submerging in water or inhalation of chemical / caustic substances

Asphyxiation was reported to have been used in 11 cases (or 31% of cases in the data set). The main asphyxiation technique reported is a plastic bag filled with petrol tied tightly around the neck, to induce difficulty in breathing, a burning sensation and near suffocation. Many cases report loss of consciousness. Immersion of the head in water is also reported to have been used.

Specific asphyxiation methods reported include:

- (a) face or head immersed in a tank full of water involving the sensation of drowning (n=4); near suffocation with the head in water and hands tightening at the neck (n=1)
- (b) near asphyxiation with a polythene bag containing petrol/ soaked in petrol tied around the neck (n=6)
- (c) chilli powder placed in the eyes and a bag placed over the head and tied at the neck (n=1)

Asphyxiation techniques, as is well known, leave no physical sequelae, other than that some individuals report prolonged discomfort to their eyes from being exposed to caustic substances. Each account is elicited and documented in detail in the MLR, including the individual's response to this form of torture which was often inflicted in conjunction with suspension or other stress positions and interspersed with beatings and other forms of trauma. Individuals report the terror they felt and the sense that they would suffocate, as well as burning pain from inhalation of toxic fumes.

- (v) Exposure to caustic substances

A small number of individuals (n=4) report exposure of their skin or eyes to chemical and caustic substances causing a burning sensation.

The methods used include the following:

- (a) spraying of unknown chemical substance into the eyes; rubbing of chilli in the eyes
- (b) burning with unknown caustic substances (possibly chilli) on the penis, testicular and anal areas, causing blood in the stool and a burning sensation on passing urine

(c) pouring of acid substance on abraded skin causing the skin to slough off the affected site

(vi) Cuts and penetrating injuries

A significant number of cases (n=7) report injuries inflicted with sharp, penetrating objects as follows:

- (a) Sharply barbed wire tied to the leg and pulled (n=1)
- (b) cuts with sharp metal instruments including knives, a carpentry file, secateurs and the tip of a bayonet; traumatic partial amputation of digits
- (c) finger nails pulled out with pliers (2 on left hand, 1 on right) and toe nails (left big toe & 1/2 right big toe) (n=1)
- (d) abrasion of bare skin against concrete floor (during rape)

A total of 41 scars assessed as 'diagnostic', 'typical' 'highly consistent' with the attributed cause of laceration by a sharp metal instrument or other mechanism (human nail or concrete floor) is recorded in 8 individual cases. In 4 of these cases multiple injuries have been inflicted, with as many as 6-14 scars being documented for each individual. Two cases document the traumatic amputation of finger tips and 2 cases attribute some of their scars to violent assault perpetrated on them while they were raped.

(vii) Threats to self or others and mock executions

Most of the cases examined report that they were subjected to repeated threats of further torture or of execution. Many also report that they heard the screams of others being tortured during their incarceration and heard people being executed by gunshot. Some witnessed others being tortured and executed in front of them, particularly those who were detained in military detention camps.

Five cases report imminent threats of execution, one case having petrol poured on the floor around him with a threat to light it, and 4 cases having guns being placed against their heads with the threat of firing (in 1 case a blank round was fired).

(viii) Forced confession and forced identification

Most cases report that their interrogations were focused on forcing them to 'confess' to an association with LTTE and to sign documents in Sinhalese, a language they could not read. Once a 'confession' was signed, many individuals reported that they were finger-printed and photographed.

Some reported signing such documents in the hope that their torture would end. In reality the torture continued and subsequent interrogations invariably focused on gaining information about family members or associates who were suspected or known to be supporters of the LTTE. Some cases report being forced to identify others as LTTE members under threat of further torture.

(ix) Sexual Violence

Experience of sexual violence is extremely widespread among these cases (n=21, or 60% of the cases) and includes rape, sexual assault and violence to sexual organs. Sexual humiliation in the form of forced nakedness or semi-nakedness (underclothes only) is also commonly reported, either during interrogation sessions or throughout the detention period in some cases.

Fifteen of the 21 cases who report sexual violence are male and 6 are female. Of the 27 male cases in the sample overall, 15 experienced sexual violence (55%) and of the 8 female cases in the sample, 6 experienced sexual violence (75%).

All but 1 of the episodes of physical violence to sexual organs (all male) and sexual assault (both male and female) are reported to have taken place during torture and interrogation sessions for both men and women, while all instances of rape (both male and female) are reported to have been perpetrated in cells by guards or by officers usually at night, sometimes repeatedly and sometimes by more than 1 individual (n=8, 3 male and 5 female). Many of the 21 individuals report more than one episode of sexual violence and sexual assault including rape. One male case reports that guards came to his cell 1-2 times per week throughout his 7 month detention and both orally and anally raped him.

A number of MLRs report that where other forms of sexual violence are reported, it is suspected that rape had also been perpetrated, but not disclosed due to intense shame (n=3). In all cases, it is reported that disclosures of sexual violence were given with immense difficulty and in some cases only after a number of interview sessions.

Specific methods of sexual violence reported in these cases include:

- (a) kicking in the genital area
- (b) testicles repeatedly manually and forcefully squeezed
- (c) penis slammed in a door/ trapped in a closing drawer/ hit with blunt objects/ forcibly twisted/ pulled/ pierced with a sharp pointed instrument
- (d) 'burning' of genitalia with caustic substances
- (e) molestation of genitals and enforced masturbation of interrogators (female and male)
- (f) sexual assault, including exposing and touching breasts, forced penetration of anus and vagina with fingers (female) and forced insertion of objects including ice cubes and unknown instruments into the anus (male)
- (g) oral and anal and vaginal rape (repeated many times in some cases, in one case twice weekly during a 7 month detention) (female and male)

It is noted that sexual violence and vaginal and anal rape as described in these cases often do not produce a physical trace that is sustained over time. However, a number of cases report some impaired functioning of sexual organs and ongoing pain in the genital and pelvic areas. Some of the male cases who disclosed rape and forced penetration with instruments into their anus report that they experience ongoing pain in their anus and in some cases bleeding. Some male cases subjected to violence to their sexual organs disclosed ongoing pains in their penis and testicular area, in all cases reported in the MLR to be 'consistent' or 'highly consistent' with their history. Some of the women subjected to rape report ongoing

pain during and after sexual intercourse, pain in their pubic area and irregular menstrual cycles.

The psychological impact of the sexual violence inflicted is carefully documented in all cases, as well as the manner in which the disclosures were made. In cases where rape and sexual violence had been inflicted, the MLRs report that individuals experienced high levels of distress in recounting what had happened. In many cases interviews were interrupted and re-started in order to allow the individual to recover and many disclosures were only given after a number of sessions with the doctor, when some rapport and trust had been established. Intense feelings of shame were reported as well as suicidal ideation and actual suicide attempts in a small number of these cases.

Psychological findings

MLRs prepared by Freedom from Torture doctors routinely document psychological as well as physical findings, with reference to the history given by the individual and the specific disclosure of torture. Psychological responses to the torture described by the individual are recorded and evaluated in light of guidance given in the Istanbul Protocol, Freedom from Torture's own guidelines and the relevant diagnostic criteria for PTSD and depression.^{xvii} Psychological findings documented in the MLRs for the 35 cases examined here are grouped below according to the relevant Istanbul Protocol categories of 'common psychological responses' to torture.^{xviii}

(i) 'Re-experiencing the trauma'

Responses include flashbacks (n=13) and intrusive memories and thought (n=14) where traumatic events are repeatedly re-experienced even when the individual is awake and conscious. Also included are recurrent nightmares (n=25) including elements of the traumatic events in actual or symbolic form. Further common responses documented in these cases include fear and anxiety experienced in response to cues that trigger an association with the trauma, such as authority figures in uniform (police and immigration official for example) and particular sights and sounds associated with the experience of detention and the perpetrators of abuse (n=22).

(ii) 'Avoidance and emotional numbing'

Responses in this category include an avoidance of thoughts and conversations or activities, places and people that give rise to memories and recollection of the trauma (n=8). Also reported is a marked emotional restriction or dissociation when recalling events involving trauma and torture (n=2) and a difficulty recalling these events (n=2). Detachment and social withdrawal and an avoidance of meeting people and of social interactions is further documented in a significant number of cases (n=11).

(iii) 'Hyperarousal'

Hyperarousal responses reported in these cases include difficulties either falling or staying asleep (n=25); unusually high levels of irritability and angry responses (n=7); difficulties in concentrating and with memory and recall (n=15); a marked 'hypervigilance' and exaggerated startle response (n=9); a generalised state of anxiety (n=5); and anxiety related symptoms such as dizziness, fainting and hyperventilation (n=2).

(iv) 'Symptoms of depression'

Depression symptoms are very commonly reported among the 35 cases and are documented in the MLRs as follows: low mood (n=12); markedly diminished interest in normal daily and normally pleasurable activities (n=11); diminished appetite (n=10); insomnia or other forms of sleep disturbance (n=25); tiredness and loss of energy (n=4); feelings of worthlessness and guilt (n=1); difficulty with concentration and recall and scattered thoughts (n=17); thoughts of death or dying relating to self or others (n=3); suicidal ideation (n=12) and attempted suicide (n=4).

(v) 'Damaged self-concept and foreshortened future'

A small number of individuals report their sense of self as having been altered as a result of the torture they experienced, and this is particularly the case with rape survivors. As well as the impact on self-identity, the impact of torture on the individual's 'relational identity' and/ or their sense of self within their family and community is recorded in some cases as having been irreparably damaged, with devastating impact.

Feelings of hopelessness when contemplating the present and the future are reported in some cases (n=6). One formerly disclosed that he avoids situations where he would have to reveal the extensive scarring on his body, expressing fear that his scars will be a constant reminder of his ill-treatment for the rest of his life.

(vi) 'Somatic complaints'

Somatic symptoms such as pain, headaches or other physical complaints, with or without objective findings, are common problems among torture survivors and are reported in a significant number of the 35 cases in this data set.

(vii) Diagnosis of PTSD and Depression

In their interpretation of the psychological findings of the 35 cases our clinicians reported that the individual displayed symptoms of PTSD in 10 cases, and Depression in another 10 cases. A significant number of cases were also reported in the MLR to have been diagnosed by other agencies (UK National Health Service doctors or psychiatrists) or were found by the reviewing MLR doctor to meet the diagnostic criteria (ICD-10) for PTSD (n=10) or Depressive Disorders (n=9).

4. Conclusions

In this submission we have summarised the key findings of a review of 35 detailed MLRs prepared by Freedom from Torture clinicians in relation to clients, most of whom are asylum seekers or refugees, who were tortured in Sri Lanka after the end of the of the civil war in May 2009.

Our forensic evidence demonstrates that, notwithstanding the formal conclusion of hostilities, Tamils with actual or perceived associations with the LTTE remain at particular risk of detention and torture.

The lack of due process evident in these cases combined with the acute scarring – often ‘diagnostic’, ‘typical’ or ‘highly consistent’ with the ascribed form of torture – in a high proportion of the cases is heavily suggestive of impunity for perpetrators of torture in Sri Lanka.

Moreover, these high levels of scarring could reflect a policy of permanently ‘branding’ victims not only to inflict long term psychological and physical damage but also to ensure that the individual may be easily identified in future as having been suspected of LTTE links. Given that release from detention in each case in this data set occurred only after payment of a bribe, and was otherwise arbitrary, the implication is that those carrying such scars are at risk of detention and possible further torture if returned to Sri Lanka. Beyond the impact on the individual, these enduring signs of torture must be intended to send a signal to the wider Tamil community about the consequences of association with LTTE elements.

In light of the significant obstacles to securing documentation of torture from within Sri Lanka and the fact that our sample relies on the few survivors who have managed to flee to the UK, we have grave concerns that there are many other victims of torture who may still be in detention or for whom giving testimony of their experiences is unsafe or otherwise not possible. Moreover the testimony from the survivors whose MLRs we have reviewed suggests there is a significant number of different detention centres where torture has been perpetrated recently in Sri Lanka.

On these bases it is our view that the evidence contained in this submission is sufficiently serious to merit an urgent investigation by the Committee into whether torture is being ‘*systematically practiced*’ in the territory of Sri Lanka for the purposes of Article 20 of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In 1998, Freedom from Torture (then still known as the Medical Foundation for the Care of Victims of Torture) submitted, along with four other London-based non-governmental organisations, information to the Committee which was considered ‘*reliable and contained well-founded indications that torture was being systematically practiced in the territory of Sri Lanka*’ and prompted an investigation by the Committee under Article 20 of the Convention. This investigation took place between April 1999 and May 2002.^{xix} At the end of the investigation, the Committee concluded that ‘*although a disturbing number of cases of torture and ill-treatment as defined by articles 1 and 16 of the Convention are taking place, mainly in connection with the internal armed conflict, its practice is not systematic,*’^{xx} and noted that in this light, ‘*the recent developments, particularly the entry into force of the ceasefire agreement on 23 February 2002 ... effectively removes the conditions which have been identified by the Committee as a major cause for the prevalence of torture and other forms of ill-treatment.*’^{xxi}

The fact that Sri Lanka is no longer in a state of internal armed conflict and evidence contained in this submission demonstrates that torture is ongoing makes a compelling case for opening a new Article 20 investigation.

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Note: This version of the Freedom from Torture submission has had potentially sensitive material removed. The full version was available to Committee against Torture members only.

ⁱ A detailed description of our methodology for preparing medico-legal reports is available at <http://www.freedomfromtorture.org/sites/default/files/documents/methodology%20mlr.pdf>

ⁱⁱ See for example United Nations, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 31 March 2011, available at http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf; Channel 4 News, *Sri Lanka's Killing Fields*, 14 June 2011, available at <http://www.channel4.com/programmes/sri-lankas-killing-fields/4od> (note that the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, concluded after consulting a video and audio expert as well as a forensic pathologist and expert on ballistics, that 'while there are some unexplained elements in the video, there are strong indications of its authenticity' – see the Secretary-General's Panel of Experts report, p 43, footnote 87); and Channel 4 News *Special Reports - Sri Lanka: civil war*, available at <http://www.channel4.com/news/sri-lanka-civil-war>, accessed 11 October 2011.

ⁱⁱⁱ A notable exception is the Asian Human Rights Commission report *Police Torture Cases- Sri Lanka 1998-2011* which summarises 323 serious cases of torture alleged to have occurred in police stations, 51 of which occurred from May 2009 onwards.

^{iv} See for example Amnesty International, *Forgotten Prisoners*, 8 March 2011.

^v See for example *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, op cit.*, p.42-45; Human Rights Watch, *Legal Limbo: The Uncertain Fate of Detained LTTE Suspects in Sri Lanka*, February 2010.

^{vi} Amnesty International, *When will they get Justice? Failures of Sri Lanka's LLRC*, September 2011.

^{vii} See for example Amnesty International, *Forgotten Prisoners, op cit.*

^{viii} See for example *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, op cit.*, p.113.

^{ix} US Department of State, *Sri Lanka Country Report on Human Rights Practices 2010*, 8 April 2011, accessed at <http://www.state.gov/g/drl/rls/hrrpt/2010/sca/154486.htm> on 15 September 2011.

^x The clients of Freedom from Torture are survivors of torture and organised violence and the families of those survivors. By 'torture and organised violence' we mean both severe physical and severe mental suffering deliberately inflicted on a person in the custody or under the control of such organised bodies as police and security forces and other agencies of governments, military and paramilitary units, and organised non-state actors. The forms of harm we include as torture include rape and sexual abuse perpetrated by these bodies and actors. In our work, torture includes those abuses described above experienced as a prisoner of war or at the hands of superiors in the victim's own military unit and also the exposure of child soldiers to gross violence. It does not include the violence suffered by adult military personnel in a combat situation.

^{xi} *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, op cit.*, section III on 'Nature and scope of alleged violations'.

^{xii} *Ibid.*, para 165.

^{xiii} 'Victims of Sri Lankan conflict arriving with increasingly severe scars' (9 April 2009) available at <http://www.freedomfromtorture.org/news-events/news/2434>

^{xiv} Istanbul Protocol – Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, paras 157-159.

^{xv} *Ibid.*, para 187.

^{xvi} *Ibid.*

^{xvii} World Health Organisation, *The ICD-10 Classification of Mental and Behavioural Disorders* (Geneva 1994).

^{xviii} Istanbul Protocol, *op cit*, Chapter VI on 'Psychological evidence of torture', paras 241-249.

^{xix} A/57/44, para 117-195.

^{xx} *Ibid.*, para 181.

^{xxi} *Ibid.*, para 191.