



Tamil Information Centre

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Committed to Human Rights and Community Development

Briefing Paper – Disappearances (update)

Date: 20 September 2006

Sri Lanka: Urgent action needed for protection from abduction and “enforced disappearance”

The Tamil Information Centre (TIC) is distressed by the accounts of ‘disappearances’ it continues to receive. The public security situation in Sri Lanka has deteriorated considerably in recent times with increasing death threats, sinister abductions and disappearances in many parts of the island. Such intimidation by state agencies in the Jaffna peninsula and other areas has led to a heightened sense of fear, frustration and anger.

Disappearances are not a new phenomenon in Sri Lanka. Tamil disappearances have been taking place for decades, particularly since the introduction of the Prevention of Terrorism Act (PTA) in 1979. Successive Sri Lanka governments have facilitated disappearances by introducing Emergency Regulations (ER) and laws such as the PTA which have given wide powers of arrest and detention to security forces, while providing them immunity, thus encouraging impunity leading to grave violations of human rights. The mandate of the four Presidential Commissions appointed by President Chandrika Kumaratunge in November 1994 covered the period between January 1988 and December 1995. The disappearance of thousands of Tamils during the period between 1979 and 1987 was excluded from the mandate of the commissions by deliberate politically-motivated decision of the government. The main aim of the appointment of the commissions appeared to be to investigate only the disappearances of many thousand Sinhalese people during the period 1988 and 1990 and to blame the United National Party (UNP) government which was then in power.

Amnesty International expressed concern over government decision to exclude the period before 1988 from the mandate of the commissions.¹ From 1984 to mid-1987, Amnesty International documented over 680 Tamil disappearances in the custody of the Sri Lankan security forces in north-east Sri Lanka.² Many Tamils also disappeared between 1987 and 1994. There has also been no proper investigation into large-scale disappearances of Tamils after the Sri Lanka Freedom Party (SLFP) led coalition gained power in 1994, up to the ceasefire in February 2002, including over 400 Tamils disappeared in 1996 after the Sri Lankan army captured the Jaffna peninsula.³ Since the re-introduction of Emergency on 13 August 2005, hundreds of Tamils have disappeared.

The UN Working Group on Disappearances (UNWGD) visited Sri Lanka in 1991 and 1992 and made many recommendations. It made another visit in October 1999 and was disappointed to find

¹ *Sri Lanka: Time for truth and justice – Observations and recommendations regarding the commissions investigating past human rights violations*, Amnesty International, April 1995, ASA 37/04/95

² *Disappearances in Sri Lanka*, Amnesty International, 10 September 1986, ASA 37/08/86; *Recent reports of disappearances and torture*, Amnesty International, May 1987, ASA 37/09/87

³ *Sri Lanka: Wavering commitment to human rights*, Amnesty International, August 1996, ASA 37/08/96

that many of the recommendations had not been implemented. The UNWGD said that the PTA and the ER, which are rightly considered as the main reasons for the continuation of enforced disappearances, have not been abolished or brought in line with internationally accepted standards of human rights.⁴ The UNWGD said in its report in December 2005 that of more than 12,278 cases of disappearances in Sri Lanka submitted to the government, 5,708 remain un-clarified. Of the 6,530 persons clarified by the Sri Lankan government, 6,444 are dead and 24 are in detention.⁵

The Presidential Commissions inquired into 37,662 of the 54,404 complaints of disappearances, which took place between January 1988 and December 1995 and found evidence of disappearance in 21,115 cases. No enquiries have been conducted into 16,742 cases of disappearances. No further action has been taken in the 21,115 cases where the commissions have recorded the names of the security force personnel responsible for the disappearances. Most of them continue to hold positions in the forces. The government's inaction has been matched by the irresponsible action of the body entrusted to protect human rights in Sri Lanka. The Sri Lanka Human Rights Commission (SLHRC) decided in mid-July 2006 that it will not hear 2,127 cases of disappearance passed on to it from the presidential commissions, 'unless special directions are received from the government, as findings will result in payment of compensation'.⁶

Since December 2005, the number of disappearances has increased dramatically in the north-east. Between December 2005 and 15 September 2006, 475 complaints were made to the SLHRC regarding missing persons or disappearances. Of this number, in 151 cases, either the person has been traced to security force custody or elsewhere. In 99 cases, arrests were witnessed by people, but security forces later denied the arrests or the relatives have not been able to find the place of detention. There is no information about 222 people. In most cases where people have been traced to security force detention centres or prisons, the relatives have not been issued with arrest receipts as required by the Presidential Directives.

Men, women, young and old persons are victims of disappearance, including teachers, students, local council workers, housewives and business owners. People have disappeared at their homes, while going to or returning from work, going shopping, visiting temples or homes of relatives and going to school. Several people who were seen at security force check points have not returned home.

There is also grave concern over the increasing number of abductions. The dreaded "white vans" without number plates, which is a hallmark of security force death squads, have been roaming several areas, including the north-east region and Colombo. Abductions by persons arriving in these white vans have been witnessed by people. A large number of people have been abducted in the Jaffna peninsula.⁷ On 9 and 10 September 2006, seven Tamils were abducted in white vans in Jaffna. Many of the abductions in Jaffna have taken place during curfew imposed by the security forces.

⁴ *Civil and political rights including the question of disappearances and summary executions*, Report dated 21 December 1999 submitted to the 56th session of the UN Commission on Human Rights, Working Group on Enforced or Involuntary Disappearances, E/CN.4/2000/64/Add.1, www.ohchr.org

⁵ *Civil and political rights including the question of disappearances and summary executions*, Report dated 27 December 2005 submitted to the 62nd session of the UN Commission on Human Rights, Working Group on Enforced or Involuntary Disappearances, E/CN.4/2006/56, www.ohchr.org

⁶ *Sri Lanka: The Human Rights Commission of Sri Lanka has stopped investigation into disappearance cases to avoid having to pay government compensation to victims*, Asian Human Rights Commission, 18 July 2006, AS-169-2006

⁷ *Sri Lanka: White vans without number plates: the symbol of disappearances reappear*, 13 September 2006, AS-213-2006; *Sri Lanka: Another forced disappearance in Jaffna*, 19 September 2006, UA-310-2006, Asian Human Rights Commission – www.ahrchk.net

Of the 63 people disappeared in recent months in Colombo, at least 25 were Tamil businessmen, abducted in white vans in the capital in August and September 2006. Some were released after paying ransom. The dead bodies of three of them – Edward Reginald Jesuthasan, Sivasami Sugumar and Mahalingam Narendrakumar – were later found. On 12 September 2006, Colombo Sea Street jewellery shop owner Egamparam Palanivel, his son and two others were abducted. Many Tamil businessmen have moved to other areas and some have fled to India in fear. Tamil MPs, including those who are in the government, say that Sri Lankan security services are suspected to be behind these abductions. On 4 September 2006, four persons arrived in a white van at a shop in Colombo's Pettah business district and demanded to see the Tamil owner. A Member of Parliament, who was informed about this visit, immediately passed on the information to the police. The local police arrived at the scene and found that the four men were from the Colombo Crime Division (CCD) in Dematagoda suburb. When the MP contacted the head of the CCD Sarath Lugoda, he was informed that policemen from the CCD usually went about in civilian clothes to conduct inquiries. But at a meeting with Tamil MPs and other representatives on 15 September 2006, Defence Secretary Gotabhaya Rajapakse denied that the police were involved.

The Sri Lankan government has hardly taken any tangible action to address this serious problem, but appears to have given a free hand to the security forces to violate human rights with impunity.

In addition to these problems, there is an attempt to prevent judges from taking any action in relation to crimes committed in zones under their jurisdiction. On 22 August 2006, all the judges in the Jaffna peninsula received a letter from the Judicial Services Commission (JSC) [which includes the Chief Justice] that “*judicial officers should refrain from any direct conversation or contact with armed force personnel, except where necessity for such action shall arise in proceedings in open court*”. There can be no doubt that JSC's instructions would restrict the judges from performing their duties and exercising their powers granted under the law, for example, holding an inquiry in the case of death in the custody of the security forces. Given the fact that these instructions were given after a Jaffna judge questioned soldiers who threatened to shoot her, and some other decisions of the Supreme Court, suspicion has arisen that they were inspired by the government.

The Tamil Information Centre (TIC) calls on the UN Human Rights Council to urge the Sri Lankan government to,

- **introduce legal and procedural safeguards in respect of arrest and detention, and provide for judicial intervention, which relatives can invoke to discover the whereabouts of the victims and ensure their wellbeing;**
- **take immediate measures to halt the abductions and disappearances, including proper investigations to bring the perpetrators of justice;**
- **review all legislation, including Emergency Regulations, that facilitate human rights violations and bring them into line with international standards;**
- **provide compensation and other forms of reparation to the victims, and to take measures for the protection and wellbeing of the children of the “disappeared”;** and
- **refrain from interference with judges and allow the judiciary to function independently.**

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