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**@AMNESTY INTERNATIONAL'S
CURRENT CONCERNS
IN
SRI LANKA**

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AMNESTY INTERNATIONAL'S CURRENT CONCERNS IN SRI LANKA

INTRODUCTION

Amnesty International has expressed concern for several years about a wide range of gross violations of human rights in Sri Lanka. The attached documents detail these concerns. In particular, Amnesty International highlights the persistent and continuing resort to widespread extrajudicial executions and "disappearances" by the security forces in contexts of opposition violence. Detainees are frequently subjected to torture, and there have been numerous reports of deaths in custody and enforced disappearance. Certain legal provisions facilitate such violations, but these abuses often take place outside the framework of law and have persisted since the broadest powers to dispose of bodies granted to security forces under Emergency Regulations was withdrawn. The Government of Sri Lanka appears tolerant of gross human rights violations and has failed to demonstrate a serious commitment to curbing the criminal practices by security forces described in Amnesty International's reports, which continue, at in northeastern Sri Lanka especially, at the time of writing.

In the south of Sri Lanka there has been a reduction in the scale of abuse, and the government has recently instituted some remedial measures. None of these, however, are adequate to deal with the large scale of violations which have been committed in the area in recent years. Amnesty International's comments on these measures can be found in the attached papers.

For comments on recent steps taken by the government, see: Sri Lanka: Amnesty International Renews Call for Inquiries in to Human Rights Abuses; and Sri Lanka: Commission of Inquiry Announced to Investigate New Cases of "Disappearance".

PROPOSED AMENDMENTS TO THE CONSTITUTION

Proposed amendments to the Constitution affecting fundamental rights were published in December 1990. Several of the provisions of the present Constitution and of the proposed amendments are based upon the International Covenant on Civil and Political Rights (ICCPR). However, some rights are found in more limited form in the present Constitution and in the proposed amendments than in the ICCPR and overall the proposed amendments envisage an even greater range of possible restrictions of rights than are envisaged in the ICCPR. As the scheduled parliamentary debate on these amendments was postponed, it seems likely that the proposed amendments will be redrafted before being debated by parliament. They had not been debated by the end of February.

For comments on the proposed amendments, see: Sri Lanka: Proposed Amendments to the Constitution Affecting Fundamental Rights.¹

¹ Further to the comments made in this paper on the right to life and the death penalty (pp2-3 and 7), it should be noted that Article 13(3) provides for any person charged with an offence to be given a fair trial by a competent court, which in most cases would protect against arbitrary application of the death penalty. However, under both the present Constitution and the proposed

VIOLATION OF THE RIGHT TO LIFE

The right to life is not protected under the Constitution, although it was included in proposed amendments to the Constitution published in December 1990. These amendments had not been debated by the time of writing (early February).

The right to life has been extensively violated: thousands of people are believed to have been extrajudicially executed in southern Sri Lanka in 1988, 1989 and 1990, and widespread extrajudicial executions have taken place in northeastern Sri Lanka since June 1990. Extrajudicial executions are often closely linked to "disappearances" - of which there have also been thousands - in Sri Lanka. Emergency Regulation 55FF has at times permitted the disposal of bodies by security forces without post-mortem or inquest, facilitating the cover-up of extrajudicial executions; this particular regulation was removed in February 1990, but the powers to dispose of bodies which remain under Emergency Regulations 55B-F still enable deaths in custody to be covered up.

For details, see: Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990, pages 13-30 and Sri Lanka: Summary of Human Rights Concerns During 1990, pages 2-3 and 5.

On "disappearances" see: Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990, pages 32-39, and Sri Lanka: Summary of Human Rights Concerns During 1990, pages 3 and 5-6.

On Emergency Regulations facilitating the cover-up of extrajudicial executions see: Sri Lanka: Emergency Regulations Regarding Post-mortems and Inquests.

VIOLATION OF THE RIGHT NOT TO BE SUBJECTED TO TORTURE

The right not to be subjected to torture is guaranteed under Article 11 of the Constitution, but in practice is extensively violated. Both Emergency Regulations and the Prevention of Terrorism Act provide for long-term incommunicado detention, facilitating torture and deaths in custody.

For details, see: Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990, pages 2-3 and 39-41.

VIOLATION OF THE RIGHT NOT TO BE SUBJECTED TO ARBITRARY ARREST OR DETENTION

At the end of 1990 there were some 9,000 political detainees in southern Sri Lanka, many of whom were held without charge or trial, and over 1,000 of whom had formally complained to the Supreme Court that they had been arbitrarily arrested and detained. Their cases had not been heard by the end of the year. The number of detainees in the northeast was not known. In the

amendments, this right can be restricted in law in relation to members of the security forces "in the interests of the proper discharge of their duties and the maintenance of discipline among them". Members of the security forces may therefore not be protected by this safeguard.

south, detainees were divided into three categories according to their alleged level of involvement with the armed opposition, the Janatha Vimukthi Peramuna (JVP): the government said that criminal charges would be brought where there was evidence of serious involvement; that those marginally involved would be released on probation; and that those believed to have been involved but against whom there was no evidence would remain in detention for "rehabilitation" (although the legal basis for detention for the purpose of rehabilitation is unclear).

For details, see: Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990, pages 59-60 and Sri Lanka: Summary of Human Rights Concerns During 1990, pages 3 and 5-6.

The government has said in recent months that it intends to lift the state of emergency, but only after new legislation is in place to keep in detention those held under emergency regulations who the government does not want to release. Details of this proposed legislation are not yet known.

The Constitution does provide for habeas corpus petitions to be filed before the Court of Appeal and for petitions alleging violation of fundamental rights to be filed before the Supreme Court. In practice, however, the filing of habeas corpus petitions has not generally been a successful method of tracing the "disappeared". Following the murder of several lawyers who filed many habeas corpus petitions, the remedy of habeas corpus became unavailable to many, because of a widespread fear among lawyers that those bringing such actions before the courts would also place themselves at risk.

For details, see: Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990, pages 53-56.

ANNEXES

1. Sri Lanka: Repeal of Indemnity Legislation Sought (AI Index: 37/01/89)
2. Sri Lanka: Proposed Amendments to the Constitution Affecting Fundamental Rights (AI Index: ASA 37/01/91)
3. Sri Lanka: Summary of Human Rights Concerns During 1990 (AI Index: ASA 37/02/91)
4. Sri Lanka: Commission of Inquiry Announced to Investigate New Cases of "Disappearance" (AI Index: ASA 37/04/91)
5. Sri Lanka: Amnesty International Renews Call for Inquiries into Human Rights Abuses (AI Index: ASA 37/WU 05/90)
6. Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990 (AI Index: ASA 37/21/90)
7. Sri Lanka: Emergency Regulations Regarding Post-mortems and Inquests (AI Index: 37/05/90)1