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SRI LANKA

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Introduction

On 7 March 1996 Kanapathipillai Sathesh Kumar, a young Tamil man originally from Jaffna, northern Sri Lanka, who had recently returned to Sri Lanka from Saudi Arabia, “disappeared” after he was arrested by the army from his home in Colombo. His “disappearance” coincided with an Amnesty International visit to Sri Lanka during which the delegates expressed concern about continuous human rights violations, including torture and “disappearances” taking place in the country. Fortunately, Sathesh Kumar was released two weeks later, on 23 March. At least 60 others arrested in a similar way since April 1995, however, remain “disappeared” in the custody of the security forces.

The People’s Alliance (PA) government has repeatedly proclaimed its commitment to human rights since it came to power in August 1994 and has introduced a number of safeguards to prevent torture and “disappearances”. However, the Amnesty International delegation found that these grave violations of human rights are continuing. Most of them have occurred in the context of renewed fighting since April 1995 between the security forces and members of the Liberation Tigers of Tamil Eelam (LTTE), the main armed Tamil opposition group fighting for an independent state in the north and east of the country.

This document reviews the human rights situation in Sri Lanka since the PA government came to power. While noting and welcoming a marked improvement in comparison with the widespread pattern of gross and systematic violations than in previous years, Amnesty International is concerned that the government is not living up to its stated commitment to human rights. Despite lobbying by local and international human rights organizations, including the Human Rights Committee and the United Nations (UN) Working Group on Enforced or Involuntary Disappearances, the government refuses to amend provisions in several laws which fall far short of international standards and continue to facilitate torture, death in custody, “disappearances” and extrajudicial executions.

Moreover, there are signs that the government may be renegeing on its commitment to bring to justice the perpetrators of past human rights violations. In June 1996, two of the three commissions of inquiry into “disappearances” and related human rights violations (those dealing with cases in areas outside the north and east) were asked to finalize their work by the end of that month despite having heard no evidence in relation to more than half the complaints put before them. Amid widespread protest, they were given a further extension till the end of September 1996.

Impunity for those responsible for human rights violations remains a serious concern. Progress in a few court cases against members of the security forces charged in connection with “disappearances” and extrajudicial executions is slow; as are investigations into many other cases. Relatives of tens of thousands of people who were killed or “disappeared” over the last 13 years or so are still waiting for justice to be done.

The evidence gathered during the Amnesty International visit clearly indicates that since April 1995 the security forces have arbitrarily detained thousands of Tamil people and have been responsible for torture as well as dozens of “disappearances” and extrajudicial executions. Several of the “disappearances” and extrajudicial executions have been attributed to armed Tamil groups opposed to the LTTE, in particular to members of the People’s Liberation Organization of Tamil Eelam (PLOTE) and Tamil Eelam Liberation Organization (TELO), who seem to be allowed to operate in some areas with almost total impunity.

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Some safeguards put in place by the government in mid-1995, particularly directives issued by President Chandrika Bandaranaike Kumaratunga in July to protect the welfare of detainees, are not being fully adhered to. Moreover, in Amnesty International's view, the government, by refusing to amend the Prevention of Terrorism Act (PTA) and the Emergency Regulations (ERs), which give the security forces wide powers to arrest and detain, is not tackling the underlying causes for the continuing high incidence of torture, death in custody and "disappearances" reported in the country.¹

The Amnesty International delegation also found evidence of grave human rights abuses by members of the LTTE, including deliberate and arbitrary killings of Sinhalese civilians; summary executions of Tamil people considered to be "traitors"; torture and ill-treatment of prisoners, and children who were coerced and sometimes forced to join the armed group. Amnesty International also recorded evidence about several abductions for ransom.

Human rights are at a crucial juncture in Sri Lanka. The government has given repeated indications of its commitment to the protection of human rights. How it will put this commitment into practice in the next year or so will determine whether respect for human rights is restored in the country. How the government takes forward the process of public acknowledgement of past human rights violations and the bringing to justice of those responsible will take will be a further key test of its stated commitment.

Amnesty International is also appealing to the LTTE to call an immediate halt to the deliberate killing of civilians and other human rights abuses by its members and to declare a clear commitment to human rights at all times.

The Amnesty International visit

An Amnesty International delegation visited Sri Lanka in March 1996 to assess the human rights situation in the country. The main purpose was to investigate reports of recent human rights violations, particularly in the north and east and in the capital, Colombo, and to check the implementation of certain measures introduced by the government in mid-1995 to safeguard the rights of detainees. The delegation also investigated reports of human rights abuses by members of the LTTE.

The delegates met several officials: the Minister of Foreign Affairs; the Secretary, Ministry of Defence; the Secretary, Ministry of Justice; the Additional Secretary and other officials in the Ministry of Foreign Affairs and the Attorney General. They also met the following members of the security forces: Air Force Commander; Inspector General of Police (IGP); Senior Deputy Inspector General of Police (Human Resources); Director, Criminal Investigation Department; Commandant, Special Task Force and the army brigadier in Vavuniya. They held discussions with the Chairman of the Human Rights Task Force (HRTF), formally re-established in June 1995 with responsibility for registering and reviewing the well-being of all detainees, and the members of the three commissions of inquiry established in late 1994 to investigate human rights violations committed after 1 January 1988.

¹The United Nations Working Group on Enforced or Involuntary Disappearances in its 14th annual report (Ref: E/CN.4/1996/38 of 15 January 1996) relating to its activities in 1995, reported that it had recorded 36 cases of "disappearances" which occurred in Sri Lanka in 1995 (second highest for that year after Sudan), and 11,479 reported since the Working Group's establishment in 1980 (second highest total figure after Iraq).
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The delegation also met members of parliament representing various regions and parties, as well as lawyers, representatives of local human rights and other non-governmental organizations and dozens of victims of human rights violations and their relatives.

Outside Colombo, the delegation visited Trincomalee, Vavuniya and Puttalam. They were not given permission by the Ministry of Defence to visit Batticaloa for security reasons. In Trincomalee, Vavuniya, Puttalam and Colombo, they were able to gather detailed information about the situation in the northern Jaffna district and areas in the north and east under control of the LTTE.

After its return to London, Amnesty International met representatives of the LTTE abroad and raised concern about human rights abuses committed by its members. A memorandum was handed over appealing for the release of 24 prisoners of conscience held by the LTTE, for information about 42 prisoners whose fate or whereabouts are unaccounted for, and for the responsibility for 13 incidents of deliberate and arbitrary killings since May 1990 involving a total of 674 civilians to be fully determined. It also appealed for an immediate halt to summary executions and other deliberate and arbitrary killings. The organization in addition sought information about the current policy of the LTTE on the return of tens of thousands of Muslim civilians forced out of the north in October 1990 to areas remaining under LTTE control and about its policy on recruitment of children, including safeguards to prevent ill-treatment. At the time of writing, no response had been received.

The context

The 1994 election manifesto of the PA included proposals for constitutional reform, strengthening human rights protection and ways to seek a peaceful settlement to the armed conflict in the north and east of the country, where the LTTE continued to fight for an independent state. Shortly after the government came to power, it embarked on a process of negotiations with the LTTE. The negotiations were suspended in October 1994 after Gamini Dissanayake, presidential candidate for the United National Party (UNP) and more than 50 others were killed at an election rally by a suicide bomber suspected of belonging to the LTTE. The delegations met again in Jaffna in early 1995 and on 8 January a cessation of hostilities agreement came into force. However, on 18 April 1995 the LTTE called an end to the truce. In the following months, the fighting between the security forces and the LTTE intensified.

In the east, the end of the truce was marked by an LTTE attack in the early hours of 19 April 1995 on two gunboats in Trincomalee harbour, in which 12 navy personnel were killed, followed by attacks on police stations and army camps in the area.

There were also several attacks attributed to the LTTE in the capital and other areas outside the north and east. Some of them were aimed at economic targets, such as an attack on two oil depots at Kollonawa near Colombo on 20 October 1995. Others were aimed at military targets, such as an attack on the army headquarters in mid-November 1995 in which 14 civilians were reported killed. Several others, however, were apparently deliberately aimed at civilians, such as an attack on the Central Bank office in central Colombo on 31 January 1996 in which more than 90 civilians were reported killed and hundreds more wounded (see also page 23).

The Government of Sri Lanka announced on 18 May 1995 a “war for peace”. The state of emergency, AI Index: ASA 37/08/96 Amnesty International August 1996

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which had been briefly lifted at the time of the elections in 1994 and reimposed in the north and east and in Colombo and surrounding areas after the killing of the UNP presidential candidate in October 1994, was gradually extended to other parts of the country.² It was extended to parts and the whole of Gampaha district in June and September 1995 respectively and to parts of Moneragala district in December 1995. In mid-April 1996, it was imposed throughout the country.

Further security measures taken by the government include the arming of Sinhalese and Muslim civilians in the east and areas bordering the north and east. These so-called Home Guards are given a short training in the use of weapons. They function mostly under the authority of the local police, although in some areas they work alongside the army. Their functions are supposed to be purely defensive, but Amnesty International has received reports of human rights violations committed by them. In addition, members of Tamil armed groups opposed to the LTTE, such as TELO and PLOTE, continued to carry out functions that are normally part of the overall responsibility of the security forces, particularly in the north and east, without any clear legal basis.

The government also re-introduced some of the security measures that had been abolished (fully or partly) after it came to power. On 20 April 1995, two days after the LTTE withdrew from negotiations, a ban on the transport of certain items (including cement, batteries and motor vehicle spare parts) to the areas under LTTE control was re-introduced. In addition, the lagoon separating the Jaffna peninsula from the rest of the country and the coastline of all districts in the north and east were declared a “prohibited zone” and the use of force or firearms for its enforcement was authorized. As a result, fishermen’s livelihood was badly affected. Among those risking going out fishing anyway, several Tamil fishermen “disappeared” after they were arrested by the Navy. At the same time, some Sinhalese fishermen were taken into custody by the LTTE.

Other security measures taken included the establishment on 23 June 1995 of a Civil Defence Force (CDF). Thousands of unarmed civilians were appointed as members of CDF units around the country to act as a neighbourhood watch scheme. In Colombo, in particular, there were some reports of over-zealous CDF members reporting Tamil civilians to the local police, but, to Amnesty International’s knowledge, there have not been any reports of CDF members being responsible for gross human rights violations. In September 1995 a further amendment to the ERs was promulgated providing that every householder in Colombo had to submit a list of all the inmates of his or her house to the nearest police station. There was confusion due to unclear wording of the ERs. The regulations stated that such lists had to be provided “when required to do so by a police officer not below the rank of Assistant Superintendent”. However, no provision was made as to how such an order was to be communicated. A general impression arose that all Tamil people were required to “register” with the police. People with Tamil names were in fact frequently asked at checkpoints whether they had been registered and taken into custody if they could not produce evidence of their registration.

In October 1995 far-reaching ERs were promulgated making harbouring of anyone connected with any offence under the ERs or PTA an offence punishable with five to 10 years’ imprisonment and forfeiture of property. As a result, Tamil people in Colombo were experiencing difficulties in finding accommodation. In addition, some of them were put under pressure by the LTTE. Amnesty International interviewed a

²Sri Lanka had been ruled under emergency law continuously since 1983, except for five months during 1989 when the then President, Ranasinghe Premadasa, lifted the emergency.
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person living in Dehiwela, Colombo who claimed that members of the LTTE had asked him to provide them accommodation. In return, the LTTE would have allowed his family, who were living in areas controlled by the LTTE, to join him.

Between July and December 1995 the security forces undertook two large military operations, code-named "Operation Leap Forward" and "Operation Riviresa [Sunshine]", in the western half of the Jaffna peninsula, including Jaffna town, the LTTE stronghold in the north. They took control of the town in early December. Further large military operations ("Operations Riviresa II and III") were launched in April and May 1996, resulting in the security forces taking control of the eastern side of the peninsula.

During the late 1995 offensive, the LTTE ordered civilians to vacate the area, including Jaffna town. Amnesty International interviewed several people who recounted how they hurriedly left Jaffna after the LTTE announced over loudspeakers on 30 October that everybody had to leave by midnight. There were substantiated reports that those who refused to leave were forced to by intimidation, threats (of being executed as traitors), manipulation (including by telling people that the LTTE would blow up a bridge on the main route out of the area), and the use of force. One group of members of the Pentecostal church who had congregated at the Kandy Road church and community centre in Chundikkuli were forced to get on a lorry at 4am on 12 November; among them was an engineer who was dragged by his feet. Once the fighting abated, those wanting to return were refused permission to return on a permanent basis by the LTTE. Initially, some were given "day passes" enabling them to return to collect possessions while leaving their national identity card at LTTE checkpoints *en route*. The LTTE encouraged people to move to Kilinochchi, south of the Jaffna peninsula, where it had relocated most of its offices after vacating Jaffna town. Tens of thousands of people crossed the lagoon despite the government ban, many of whom remain displaced in those areas. Others sought refuge at Chavakachcheri and Point Pedro, the two main towns on the eastern side of the peninsula.

Both the government and the LTTE put into place systems to control the movement of civilians. The government announced that for security reasons it had instituted new procedures for people crossing from territories controlled by the LTTE to territories controlled by the security forces, in particular for people wanting to travel to Colombo. In Vavuniya, the main crossing-point, a pass system (involving the issuing of residence passes, day passes, week passes and passes for travel to Colombo) in force since the security forces took control of Vavuniya town in 1991 was tightened. It was further tightened in February 1996, after the bomb explosion at the Central Bank in Colombo. Previously faxed information from Colombo had been accepted by the security forces. After February, somebody living in Colombo had to travel to Vavuniya with a police endorsed certificate to enable a displaced person to be allowed to proceed further south. In certain areas of the east such as Muttur and Nilaveli in Trincomalee, travel to and from certain villages was only permitted with a pass issued by the military.

The LTTE had had in place its own travel pass system since 1990. A number of "pass offices" throughout the area under LTTE control were established. There, travel passes are reportedly issued under strict conditions. A common condition is that no family is allowed to leave the areas under LTTE control without leaving at least one member behind. Another condition is that children of a certain age cannot leave (generally between 10 and 23 for girls, and 10 and 25 for boys, but with variations over time and depending on areas). For certain passes, a third person has to stand surety. One man told Amnesty International that he was told by LTTE members in the "pass office" in Kilinochchi that his whole family would be allowed to leave, if he agreed to take two young LTTE members to Colombo posing as his

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children.

At Omanthai, the last LTTE checkpoint on the road to Vavuniya, people wishing to leave the area under LTTE control have to hand over their travel pass. They then walk through no-man's land until they reach Nochchimoddai. There, they are questioned by members of PLOTE, operating with the agreement of the army. Further south, at Thandikulam, northern Vavuniya, the army has its own checking procedures and an elaborate system involving three "transit camps". In February 1996 conditions in these camps were described by members of a delegation of HRTF as "grossly inadequate". By the time of the Amnesty International visit in mid-March, conditions had improved but concern about the slow processing of the checking remained.

One group of people interviewed at the Paddy Marketing Board camp were described by the military as "defectors" - people who had walked through no-man's land without going through the formal checkpoints at both ends. Among them were several families. Some of them explained that they had left the areas under LTTE control because they were afraid that their children would be forcibly recruited by the LTTE. The security forces were obviously treating these families with suspicion and were apparently not clear about how to process their cases. One family of six had been there for more than six weeks and were still awaiting clearance.

According to the brigadier in Vavuniya, the fact that people have been allowed to leave LTTE-controlled territory casts suspicion on them, regardless of whether they came through no-man's land or Thandikulam. The main reason for checking people is to establish if they are bona fide, in particular with regard to the reasons they give for wanting to travel to Colombo.

After the security forces took control of the eastern part of the peninsula in April and May 1996, an estimated 250,000 civilians returned to Jaffna town and surrounding areas from Chavakachcheri and Point Pedro. The re-establishment of a government administration in the Jaffna peninsula started amid sporadic attacks by the LTTE on members of the security forces in the area.

At the time of writing, the LTTE remained in control of Kilinochchi and Mullaitivu districts as well as large parts of Mannar and Vavuniya districts and the countryside in the east.

Throughout the time of the military operations, access to the Jaffna peninsula and the areas controlled by the LTTE was severely restricted. No journalists were given permission to visit the areas. In addition, in late September 1995, prior to Operation Riviresa, and again, on 19 April 1996, at the start of Operation Riviresa II, the government imposed censorship prohibiting publication of news relating to operations carried out by the security forces, procurement of arms, deployment of troops or military equipment and the official conduct or performance of members of the security forces.³ As a result, independent information about alleged human rights violations during the military offensives was limited. There were a number of reports of killings of civilians during alleged indiscriminate bombing and shelling. These included the bombing of a church compound at Navaly on 9 July 1995, shortly after the start of "Operation Leap Forward". At least 65 civilians were reportedly killed. Among them were many refugees from areas north of Navaly, including 13 children. According to the Commander of the Air Force, the initial target had been a jeep manned by LTTE cadres seen near the area. He also claimed that many of the

³The first period of censorship ended on 20 December 1995, the second continued at the time of writing. Amnesty International August 1996AI Index: ASA 37/08/96

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killings were caused by secondary explosions of underground LTTE ammunition dumps. The International Committee of the Red Cross (ICRC), whose delegates visited the area soon after the bombing, publicly condemned the killings. Amid public outcry, the President ordered an inquiry by the then Commander of the Army. The Secretary, Ministry of Defence informed Amnesty International that it had not been possible to investigate the incident on the spot as the army did not control the Navaly area at the time, and that once they took control of it in late 1995, it was difficult to collect evidence, particularly as eye-witnesses had fled the area.

The LTTE also appeared to resort to indiscriminate killings. On 4 July 1996, at least 12 civilians, including the Chairman of the Cement Corporation, were killed in a suicide attack on a convoy accompanying the Minister of Housing, Construction and Public Utilities on a visit to oversee the rehabilitation work being set up in the Jaffna peninsula. The Minister and 59 other civilians were injured, while the number of security forces personnel killed was 10.

On 26 September 1995, before the start of “Operation Riviresa”, Amnesty International appealed to both the Government of Sri Lanka and the LTTE to take all necessary measures to protect civilians and others taking no active part in the fighting. Most observers agreed that during “Operation Riviresa” and “Operation Riviresa II” and “III” the security forces had refrained from resorting to systematic human rights violations. How much this can be attributed to the fact that most civilians during “Operation Riviresa” had vacated the area remains an open question. During “Operation Riviresa II” and “III” there were a few isolated reports of extrajudicial executions as well as rape. According to a report in Yukthiya magazine of May 1996, a young married couple living on Kachchai Road, Chavakachcheri were taken into custody by the army. The soldiers stabbed the husband to death and then raped his wife and then stabbed her too. The report alleges that the local commander apologized and asked the villagers to come forward and identify the perpetrators. However, nobody did, apparently out of fear for reprisals.

The escalation of the conflict provided a background for human rights abuses by both sides, as described below. In the aftermath of attacks by the LTTE in Colombo, widespread arbitrary arrests and detentions of Tamil people were reported, particularly of people who had recently fled to Colombo from the north and east. In mid-1995, at least 31 of those arrested in Colombo were tortured and killed in detention, their bodies subsequently dumped in lakes and rivers around the capital. In the areas of the north and east controlled by government forces, there were reports of arbitrary arrests, torture, “disappearances” and extrajudicial executions, several of which were attributed to groups working alongside the regular security forces, such as Home Guards and PLOTE or TELO cadres.

Human rights and armed conflict

Amnesty International’s work is guided by universal standards that apply to governments and to any opposition group that takes up arms in pursuit of its ends.

Sri Lanka has been a State Party to the ICCPR for more than 15 years and acceded to the UN Convention against Torture in January 1994. It is legally bound to implement the human rights safeguards required by these treaties, including respect for the right to life (Article 6 of the ICCPR) and the right not to be tortured (Article 7 of the ICCPR and the Convention against Torture). Article 4 of the ICCPR clearly states that both rights need to be upheld at all times, even “in time of public emergency which threatens

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the life of the nation”.

In addition, Sri Lanka is a State Party to the Geneva Conventions. When addressing governments and armed opposition groups in a context of armed conflict, Amnesty International is guided in particular by the protection of the individual enshrined in Article 3 common to the four Geneva Conventions of 1949. Common Article 3 forbids governments and armed opposition groups alike to torture, to deliberately kill civilians taking no part in hostilities, to harm those who are wounded, captured or seeking to surrender, or to take hostages.

In February 1988 the LTTE announced that it would abide by the provisions of the Geneva Conventions and its Optional Protocols I and II. Since 1990 Amnesty International has been appealing to the LTTE to halt human rights abuses.

As with governments, Amnesty International confers no special recognition, approval or status to armed opposition groups by addressing them. Nor does Amnesty International’s intervention imply any judgment about the character of the conflict in question nor about the legitimacy of the use of violence as such. By taking action, Amnesty International does not imply that the situation it addresses necessarily constitutes an armed conflict in terms of international law; it seeks in all situations the observation of minimum humane standards drawn from basic principles of human rights and humanitarian law.

Both the government and the LTTE have tried to justify some of the recent gross human rights abuses. For instance, when Amnesty International delegates expressed concern about the continuing high number of “disappearances” in Sri Lanka when meeting the Minister of Foreign Affairs, they were told that “disappearances” continue to occur “because the government is fighting a war”. However, international human rights standards as set out above are very clear: torture, “disappearances” and extrajudicial executions can never be justified under any circumstances, not even in time of war.

The LTTE, on the other hand, has argued in response to appeals by Amnesty International that killings of Sinhalese civilians settled by the government in certain areas of the north and east could be justified under international humanitarian law because these people were considered by the LTTE to be actively taking part in the armed conflict.⁴ In April 1996, in a response to an appeal on behalf of two Sinhalese fishermen in LTTE custody, a member of the Central Committee appeared to exculpate human rights abuses by the LTTE by attributing their origin to human rights violations committed in the past by the security forces and to general discrimination against Tamils.

At the June 1996 meeting between representatives of the LTTE abroad and Amnesty International, Amnesty International raised its concerns about continuing reports of killings of civilians. The representatives stated that it was not a policy of the LTTE to kill civilians. Amnesty International has urged the LTTE leadership to make a clear statement condemning and prohibiting the deliberate and arbitrary killing of civilians.

It has also urged the LTTE, as well as the Government of Sri Lanka, to ensure that in any military action all necessary steps are taken to protect the safety of civilians, including refraining from indiscriminate

⁴See *Sri Lanka: Correspondence with the Liberation Tigers of Tamil Eelam on human rights abuses* of September 1995 (AI Index: ASA 37/18/95)
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attacks.

The legal framework

In its report of 15 January 1996, the UN Working Group on Enforced or Involuntary Disappearances expressed its concern at the large number of past cases of “disappearances” in Sri Lanka which remain unclarified, as well as the increase in new cases reported in 1995. It stated: “Notwithstanding the cooperation which the Working Group has received from the Government, it is alarmed at reports according to which the previous pattern of systematic disappearances seems to be re-emerging...”⁵ In an earlier report on its visit to Sri Lanka in October 1991, the UN Working Group on Enforced or Involuntary Disappearances had made several recommendations for the prevention of “disappearances”, including that the PTA and ERs “should be brought into line with accepted international standards regarding due process and the treatment of prisoners. Grounds for and powers of arrest, as well as grounds for the transfer of detainees, should be clearly circumscribed. Time limits for bringing a person before a judge following his arrest should be drastically shortened, as the present time limits appear excessive.”⁶

Since then, several changes to the ERs have been introduced, including to provisions relating to arrest and detention as well as to procedures for conducting post-mortems and inquests following deaths resulting from the actions of security forces personnel. For example, in June 1993, the former government for the first time published a list of places of detention for people held under the ERs and PTA. The list contained 343 places and included prisons, certain army camps and hundreds of police stations. It was also made a specific offence under the ERs to hold a detainee in any other place. However, as many of the authorized places were under the control of the security forces, Amnesty International remained concerned that the fundamental safeguard against torture and “disappearances” of separating responsibility for custody from responsibility for investigation was not put into place.

In the initial period after the resumption of the armed conflict, when reports of arbitrary arrests, torture and “disappearances” started to emerge, Amnesty International and local human rights organizations urged the government to re-establish the HRTF which had first been established in 1991 by the previous government to monitor and safeguard the welfare of detainees held under the ERs and the PTA, and to give it effective powers to prevent human rights violations.⁷

In June 1995 new ERs were indeed issued to re-establish the HRTF. In addition, the President issued directives to “enable the HRTF to exercise and perform its powers, functions and duties and for the purpose of ensuring that fundamental rights of persons arrested or detained are respected and such persons are treated humanely”. These included the reporting of arrests to the HRTF; arresting officers identifying themselves; the issuing of “arrest receipts” including the name and rank of the arresting

⁵Report of the UN Working Group on Enforced or Involuntary Disappearances, (Ref: E/CN.4/1996/38) of 15 January 1996, para. 397.

⁶Report of the UN Working Group on Enforced or Involuntary Disappearances on the visit to Sri Lanka in October 1991 by three of its members, (Ref: E/CN.4/1992/18/Add.1) of 8 January 1992, page 41 and repeated in the report of its follow-up visit in 1992 (Ref: E/CN.4/1993/25/Add.1), page 42.

⁷See *Sri Lanka: Appeal for full implementation of commitment to human rights* of July 1995 (AI Index: ASA 37/15/95), page 2-3, for full details of the history of the HRTF.
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officer, the time and date of arrest and place at which the person will be held; affording an arrested person reasonable means of communicating with his or her family; and special provisions covering the arrests of women and children under 12. The presidential directives were amended in July 1995 after Amnesty International and local human rights organizations pointed out a number of discrepancies between them and provisions in the ERs of 4 November 1994 as well as between them and provisions in the ERs under which they were issued.⁸

In September 1995, the ERs were further amended by introducing a requirement that a detention order can only be issued if the arrest was notified to the officer in charge of the nearest police station forthwith, and in any event not later than 24 hours after the arrest. Failure to report such an arrest was made an offence. Nevertheless, the current provisions continue to fall far short of international human rights standards, and continue to facilitate serious violations of human rights.⁹

Both the ERs and PTA give the security forces wide powers to arrest suspected opponents of the government and detain them incommunicado and without charge or trial for long periods. The ERs allow for detainees to be held in preventive detention on the order of the Secretary, Ministry of Defence for one year without being brought before a court. After that, indefinite extensions are possible, although only on the order of a magistrate. The magistrate however has limited powers to exercise discretion; and must apparently reach a decision solely on the basis of a report from the Secretary, Ministry of Defence. People suspected of actually having committed an offence under the ERs can be detained for up to 60 days if their arrest takes place in the north or east and relates to offences committed in that area. In Colombo and surrounding areas, this period is seven days. Provisions in the ERs allow normal inquests into deaths in custody to be bypassed when a member of the security forces claims the death took place in the course of an "armed confrontation". An inquest thereafter is only held if the IGP so decides, and is held in the High Court of Colombo, and only considers such evidence as the IGP places before it. The PTA allows for detention on an order by the Minister of Defence for three months. This period can be extended up to a maximum of 18 months. In addition, there are no laws governing conditions in places of detention other than prisons.

The Human Rights Committee at the end of its examination of Sri Lanka's third periodic report in July 1995 recommended that Sri Lanka take urgent steps to ensure that its laws fully complied with the ICCPR. In its concluding comments, the body of 18 experts from a wide range of legal systems established under the International Covenant on Civil and Political Rights (ICCPR) to monitor its implementation, listed as a principal concern that "the domestic legal system of Sri Lanka contains neither all the rights set forth in the Covenant nor all the necessary safeguards to prevent their restrictions beyond their limits established by the Covenant".

Just one example of how provisions in the PTA and ERs fall short of international standards is that both provide that during trials the burden of proving that evidence in the form of a statement made to a police officer was extracted under torture is upon the person making such an allegation. Amnesty International

⁸Ibidem, page 3.

⁹For a detailed study of the ERs, see *Sri Lanka: New emergency regulations* of January 1994 (AI Index: ASA 37/04/94). See also *Sri Lanka: Security measures violate human rights* of July 1995 (AI Index: ASA 37/12/95) and *Sri Lanka: Under scrutiny by the Human Rights Committee* of December 1995 (AI Index: ASA 37/21/95) for analysis of both ERs and PTA.

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believes these provisions constitute a direct incentive to interrogating officers to obtain information by any means, including torture.

When the Amnesty International delegates discussed the organization's concern about these particular provisions with several officials, they were repeatedly told that a number of legal remedies are available to prisoners, including fundamental rights petitions to the Supreme Court, *habeas corpus* petitions to the Court of Appeal and *voire dire* inquiries by the High Court during trials for those accused claiming that statements were extracted under duress. Amnesty International argued that this amounts to closing the door after the horse has bolted. By ratifying the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the Government of Sri Lanka has undertaken to take all necessary measures to prevent incidents of torture as well as investigate them, provide compensation and bring to justice those responsible.

As stated above, in Amnesty International's view, the widely formulated powers to arrest and detain currently given to the security forces are among the principal underlying causes of continuing human rights violations. Amnesty International strongly recommends that amendments to both the ERs and PTA be introduced to bring them in line with international human rights standards, in particular relevant provisions of the ICCPR and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. Doing so would mean taking a crucial step towards full respect for human rights in Sri Lanka.

Human rights violations by government forces and allied groups

All branches of the security forces as well as Muslim and Sinhalese home guards and armed cadres of Tamil groups opposed to the LTTE were cited by survivors and witnesses as responsible for human rights violations, including extrajudicial executions, "disappearances", torture and arbitrary arrest and detention. Some of the violations apparently took place in reprisal for attacks by the LTTE; others during cordon-and-search operations. Both the army and the police in the north and east allowed (if not encouraged) members of armed Tamil groups opposed to the LTTE to carry out search operations or screen civilians, in the course of which they resorted to human rights violations. The army brigadier in Vavuniya told the Amnesty International delegates that members of PLOTE have the task of identifying "LTTE infiltrators" and keeping the security forces informed. He said that armed members of PLOTE do not come directly under his control; instead he liaises with its political leadership. In Batticaloa, there is clear evidence of the cooperation: members of armed Tamil groups and police or army officers jointly staff checkpoints; their camps are situated next to each other and some people arrested by Tamil armed groups have been released on the intervention of the local army brigadier.

"Disappearances" and extrajudicial executions

Since the resumption of the armed conflict, more than 60 people have "disappeared" after arrest by members of the security forces in the east and in Colombo (see Appendix A for full details of 62 cases reported to Amnesty International). Although this figure is far below the thousands of "disappearances" reported in the country in the late 1980s and early 1990s, it represents a clear pattern of gross human rights violations.

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All people reported "disappeared" are Tamil; 55 "disappeared" in 1995, a further seven since the beginning of 1996. Many of them are farmers and labourers, often from poor families. Four are students. Two cases concern women, including a 28-year-old woman who "disappeared from Polonnaruwa District. Three cases concern fishermen from Jaffna and Mullaitivu districts who reportedly "disappeared" in the custody of the navy.

In four cases, Tamil armed groups working alongside the security forces have been named as responsible for the "disappearance". Relatives of one told the Amnesty International delegates that the difficulties in tracing the "disappeared" were due to the fact that the chain of command and control over the armed group was unclear and both the army and the police were claiming they were not in a position to hold the group accountable. In addition, the relatives had received threats from members of the group not to speak out about the "disappearance".

Other prisoners, however, were released from the custody of an armed Tamil group on the intervention of the local army or police authorities. Nagarajah Reelkeswaramoorthy, a 23-year-old bus conductor, who had "disappeared" after he was seen being taken by a known TELO member at Kommathurai on 1 January 1996, was released approximately ten days later on the intervention of the local army commander.

Below are listed several places of detention where people who are known to have "disappeared" have reportedly been taken. Among them are 15 places which have not been officially authorized as places of detention.

Amparai district:	3 cases	Tirukovil STF Camp
Batticaloa district:	30 cases	STF Camps at Unit 36, Unit 39 and Unit 40; Kaluwanchikudy STF Camp; Paper Mill army camp, Valaichchenai; Morakkodanchchenai army camp; Thuraineelavanai STF Camp; Sunkankerny army camp; Pulipainchakal army camp; Kiran army camp; Sittandy army camp; Chenkalady PLOTE camp.
Trincomalee district:	9 cases	China Bay police station; China Bay Air Force camp; Plantain Point army camp; "GPS" army camp, Muttur.
Vavuniya district:	2 cases	PLOTE, Kovilkulam camp

By September 1995, five months after the renewal of the conflict, 40 "disappearances" had been reported to Amnesty International. They were submitted to the President of Sri Lanka and other relevant authorities. Among them were 15 from Colombo. The bodies of at least 31 people abducted in the capital Colombo were found in lakes and rivers in the vicinity. Among them was Sinnathurai Paskaran who was arrested at about 11am on 22 June 1995 by three armed men thought to be members of the STF travelling in a jeep.

President Chandrika Bandaranaike Kumaratunga ordered the Criminal Investigation Department (CID) to
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investigate the killings. According to information provided by the CID to Amnesty International in March 1996, Sinnathurai Paskaran was among 15 people identified among the bodies found in lakes and rivers around the capital. To date, the fate or whereabouts of at least 12 people abducted and subsequently "disappeared" in Colombo in that period remain to be established (see Appendix). They include Iyavu Shanmuganathan and Krishnapillai Thurupathan who were arrested on 14 June 1995 by members of the STF from a cafe along Kotahena Street while having breakfast.

Amnesty International met relatives of people abducted in Colombo and found they had not been officially informed about whether or not their "disappeared" relative had been identified. Among them were relatives of two of the people listed by the CID as having been identified.

The action taken by the authorities to investigate the "disappearances" and killings in Colombo resulted in a marked reduction in the number of such violations being reported from the capital. However, isolated cases of unacknowledged detention by members of the security forces have been reported, including the case of Kanapathipillai Satheesh Kumar (see Introduction). Amnesty International interviewed a student who was abducted by armed men thought to be members of the STF in November 1995. He said he was taken to a room in the STF Camp at Ward Place and beaten with rifle butts and sticks. The room had apparently been used for torture before as there were names on the wall written in blood. He was released after the intervention of an officer.

Similar abductions were reported in April 1996. On 17 April, a fruit stall owner and his assistant were taken by five armed men believed to be members of the army in a white coloured Hiace van from their stall at St Michael's Road, Kollupitiya, Colombo. They were reportedly handed over to the custody of the Crime Detection Bureau (CDB) on 21 April, after the HRTF and members of parliament and others had raised the case with the authorities.

Throughout the period since the resumption of fighting in the north and east, there have been reports of extrajudicial executions by members of the police, army, STF, Home Guards and armed Tamil groups cooperating with the security forces.¹⁰ On 23 February 1996 Suppiah Rasendiram, 31, and Arumugam Subramaniam, 24, both quarry workers, were deliberately shot dead by two soldiers who had stopped them and two of their colleagues on their way home from work at Kanniya, Trincomalee district. The soldiers were apparently in pursuit of two LTTE members. One of the colleagues escaped unhurt, the other was badly injured. When interviewed by Amnesty International, the two survivors reported how all four of them had been forced to lay down on the ground and then hit with rifle butts. Chinnakarupan Arumugam, 52, described how his son, Arumugam Subramaniam, was shot in the chest while lying down. The soldiers then told Chinnakarupan Arumugam and the other survivor, Velautham Subramaniam, 42, to get up. They were forced to walk for about 50 yards. Then Chinnakarupan Arumugam heard shots behind him. He claims that when he ran away, the two soldiers fired three shots in his direction but missed. When he later returned to the spot with the Uppuveli police, he found his son and Suppiah Rasendiram dead with gunshot wounds in their heads and Velautham Subramaniam badly injured in the abdomen.

The Kumarapuram incident

¹⁰See *Sri Lanka: Reports of extrajudicial executions during May 1995 of June 1995* (AI Index: ASA 37/10/95) for details of nine incidents in which 19 people were reportedly deliberately and arbitrarily killed.
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The largest incident of deliberate and arbitrary killings of civilians by the security forces since the resumption of the armed conflict in April 1995 took place at Kumarapuram, Trincomalee district, on 11 February 1996. According to several survivors interviewed by Amnesty International, 24 civilians, including 13 women and seven children below the age of 12, were killed by soldiers from the 58th Mile Post and Dehiwatte army camps, accompanied by Home Guards from Dehiwatte. The killings were in apparent reprisal for the killings by the LTTE of two soldiers near the 58th Mile Post about half an hour earlier. According to one witness, a group of soldiers, some of whom were drunk, gathered at Dehiwatte junction and then proceeded towards Kumarapuram, shouting "death to the Tamils". The villagers of Kumarapuram had taken refuge inside their houses. The soldiers broke open the shutters and aimed their guns at the people hiding inside. One woman recounted how she pleaded with them not to shoot but to no avail. In her house, seven people were killed, including a six-year-old child.

Among the victims was 17-year-old Arumaithurai Tharmaletchumi. She was dragged from a boutique in the village and taken to the milk collection centre where she was raped before being shot. Antony Joseph, a 14-year-old boy, who tried to stop the soldiers from dragging her away, was shot between his legs.

Torture

There were reports of torture, including rape, particularly by army personnel in the east. Several such reports reached Amnesty International in late 1994, but there was a dramatic increase after the resumption of the armed conflict in April 1995.

A young Tamil man from Muttur was arrested in late May 1995 and tortured at the army camp established in the premises of the Government Paddy Stores building (referred to as the "GPS" Camp) at Kaddaiparichchan. He alleged that soldiers put him inside a gunny bag with a rat. The rat bit him, leaving a scar near his testicles. He also alleged he had petrol poured on his face and chilli powder applied to his genitals. On the third day, he was transferred to Plantain Point army camp. There he was held for four days in solitary confinement and questioned about his alleged involvement with the LTTE. He claimed that during the interrogation, a bag filled with petrol was tied over his head and that he was repeatedly plunged in a barrel with water until he nearly drowned. Similar allegations of torture were received from prisoners held at Monkey Bridge army camp at Tampalakamam and Mallikaitivu army camp at Muttur, Trincomalee district.

In Batticaloa district, there were reports of torture committed by the Counter Subversive Unit, a police unit, at Forestry Camp, Batticaloa town, and by the army at several army camps in the district, including at Kiran, Kallady, Kommathurai and Valaichchenai. Methods used included electric shocks to sensitive parts of the body (including the penis), near-suffocation with wet rags, burning with cigarettes and beatings with plastic pipes.

There was also evidence that the STF deployed in Amparai district and in the southern part of Batticaloa district were responsible for torture, including hanging people upside-down by their thumbs, beatings on the soles of the feet and electric shocks. Allegations of torture by the STF were received from Arapattai, Mandur and Komari camp.

The navy too have been accused of torturing prisoners. A 15-year-old girl, who had been recruited by the LTTE at the age of 12, reported how she was tortured by navy officers after she surrendered to them in

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Jaffna district in July 1995. When interviewed by Amnesty International, she alleged that she was held naked and tortured by being hung-upside down. A young woman who surrendered around the same time alleged that a shopping bag full of petrol was pulled over her head by navy officers at Kankesanthurai.

In Colombo, there were reports of torture in the custody of the CID, CDB and STF. One older prisoner interviewed by Amnesty International recounted how he saw several young Tamil men bleeding and with bruises on their backs in the custody of the CDB in March 1996. A 22-year-old Tamil woman was tortured by officers of the CID at the office of the assistant superintendent of police at Negombo in mid-September 1995. She was pricked with a pin on her hands, the scars of which were reportedly still visible several months later. Reports of torture have also been received from Mannar, Vavuniya, Kandy and other parts of the country.

Amnesty International has documented several cases of rape by members of the security forces. Because many women are reluctant to give testimony about their treatment by the security forces, Amnesty International believes that these testimonies represent only a fraction of a widespread pattern of human rights violations. In those cases reported to Amnesty International, the authorities took some initial action against the alleged perpetrators. However, the organization does not know of any member of the security forces who has been brought to justice on charges of rape.

In January 1995, three women were reportedly raped by soldiers at Poomachcholai and Kayankaddu, Batticaloa district, in reprisal for an attack by the LTTE on the nearby army camp at Thandavanveli. In August 1995 Lakshmi Pillai was raped at her home in Trincomalee by two army informants in front of her two sons. The motive may have been revenge as she had spoken out about being raped before at Plantain Point army camp in August 1993. The informants were arrested but later released on bail pending trial. On 7 March 1996, a 45-year-old woman was raped by soldiers at Thiyavedduwan checkpoint. Her husband was beaten with rifle butts. Both were admitted to Valaichchenai hospital. Following a complaint by several people of Thiyavedduwan at Valaichchenai army camp, an identification parade was held and the soldiers were identified and taken into custody by the military police. It is not known whether any further action has been taken against them.

Arbitrary arrests and detention

Since the resumption of the armed conflict, thousands of Tamil people have been arrested, in particular in Colombo and in the east, for suspected contact with the LTTE. A large majority were released within 24 hours, or at least within two or three days, but a significant number have been held without charge or trial for weeks or months.

In Colombo, the number of arrests were particularly high in the aftermath of attacks attributed to the LTTE in the capital. For instance, after the attack on the oil depots at Kollonawa in October 1995, at least 1,000 people were reported to have been arrested in the space of five days. After the bomb attack on the Central Bank in late January 1996, another wave of arrests took place. According to HRTF, during February 1996, 411 people were arrested in Colombo.

Among those most at risk of arrest were young Tamil men and women, particularly those who had recently travelled to Colombo from the north and east. Tamil young people of Indian origin who traditionally live in the up-country area but travel to Colombo to seek employment were also frequently

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reported to have been arrested.

Some people were arrested more than once. Sithampalam Sivarupan, a young Tamil man who had come to Colombo from Jaffna in 1990, was arrested from a lodge in Kotahena on 8 March 1996 around midnight together with two others who were Tamil men of Indian origin living in Colombo. They were questioned at Kotahena police station about when they had come to Colombo, where they studied and where they worked. They were released on 10 March 1996 in the morning. Later that day, at around 3pm, Sithampalam Sivarupan was again arrested, this time near Slave Island police station, by men in civilian dress who he was later able to identify as Air Force personnel. The men questioned him about marks on his body, which he claimed were due to chickenpox. When he told them to check with the Kotahena police station from where he had been released earlier that day, they refused to do so. Instead, he was produced before a magistrate and remanded. He was transferred to Mahara prison where he was held for seven days. His parents learned about his arrest from a former prisoner who contacted them on 13 March 1996.

As demonstrated by the unacknowledged detention for more than two weeks of Satheesh Kumar (see Introduction), several of the presidential directives issued in July 1995 are not adhered to by the security forces: no "arrest receipt" was issued, his family was not informed of his place of detention, neither was HRTF informed of his arrest. In another such case, the HRTF was told by the CDB on 23 February 1996 that Sivakumar Subramaniam, who had voluntarily presented himself at the CDB headquarters on 22 February 1996, was not in their custody. The family, who tried to visit him on the same day, were told the same. It took until 25 February 1996 before a lawyer was able to establish his detention in CDB custody. He was finally unconditionally released after 84 days, on 16 May 1996.

The Secretary, Ministry of Defence and IGP maintained that people were only arrested on "reasonable grounds". These, they explained, included things such as having recently travelled from the north and east, having a relative who is known to be or have been a member of the LTTE, anonymous petitions, information provided by other prisoners or not being able to substantiate the reason for your presence in certain. Many ex-prisoners said they were told they would be released if they paid a bribe to the local police. There is also evidence that members of PLOTE and TELO have resorted to extortion on a wide scale, especially in Vavuniya and Batticaloa.

Some Tamil suspects in the north and east arrested by members of PLOTE and TELO, have been detained by them instead of being handed over to police custody.¹¹ PLOTE is known to run at least three places at which they hold prisoners in Vavuniya. At their camp in Kovilkulam, at least one prisoner has been reported to have "disappeared".

Amnesty International also collected evidence that prisoners continue to be held at unauthorized places of detention. One young man taken into custody by people identifying themselves as CID in Colombo on 31 July 1995 described how he was tortured at a private house near Polgahawela, approximately 50 km northeast of Colombo. At Trincomalee, several prisoners reported that they had been held at Plantain Point army camp for several days before being transferred to the army prison. Plantain Point army camp

¹¹More recently members of the Eelam People's Revolutionary Liberation Front (EPRLF) were also reported to operate alongside the security forces in Batticaloa district. Members of the Eelam People's Democratic Party (EPDP) have been similarly deployed on the islands of the Jaffna peninsula for several years.
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is not among 84 places of detention currently authorized under the ERs as places of detention for prisoners held under ERs or PTA. In Batticaloa, prisoners were held for long periods at Kallady army camp, another unauthorized place of detention. In addition, as stated above, prisoners are held at places of detention run by Tamil armed groups opposed to the LTTE. In Chenkalady, Batticaloa district, the former irrigation engineer's headquarters is known to be used as a place of detention by PLOTE.

The number of prisoners held under the PTA or ERs at any given time has not been easy to establish. According to the Chairman of the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers (which makes recommendations to the Secretary, Ministry of Defence), a total of 533 detainees were held at the end of February 1996: 300 of them were detained under the ERs, 194 under the PTA and 39 were detained for rehabilitation. The HRTF however had information about 724 detainees held at the end of February 1996: 28 Sinhalese, 4 Muslims and 692 Tamils. This figure did not appear to include detainees held at army camps in the north and east. Amnesty International therefore believes that the total number of detainees around that time would have been at least 800. In addition, scores of Tamil political prisoners were held without charge or trial on remand orders at various prisons, including Kalutara, Negombo, Kandy and Colombo.

Abuses committed by the Liberation Tigers of Tamil Eelam

Throughout the period under review, there were reports of grave human rights abuses by members of the LTTE, including deliberate and arbitrary killings of Sinhalese civilians; summary executions of Tamil people considered to be “traitors”; torture and ill-treatment of prisoners, and young boys and girls who were coerced and sometimes forced to join the armed group. Amnesty International also received information about several abductions for ransom.

The first attack on Sinhalese civilians after the resumption of the armed conflict in April 1995 took place at Kallarawa, north of Trincomalee town in the night of 25/26 May 1995. According to survivors, between 200 and 300 members of the LTTE approached Kallarawa around 9.30pm. They first attacked a small army camp in the hamlet. However, the camp was deserted as the 55 soldiers had reportedly gone out on operations. One survivor reported that the LTTE members then walked into the village and knocked on doors. When people opened them, they were shot at close range. Among those killed were at least 12 women and six children. The attack lasted all night. At the end of it, LTTE members reportedly ransacked the houses and set them on fire.

Similar attacks were also reported from Padaviya in Anuradhapura district, Boatta in Polonnaruwa district, Mangalagama in Amparai district and Kotiyagala in Moneragala district in October 1995, where respectively 19, 36, 16 and 19 civilians, nearly all Sinhalese, were reportedly killed.

The largest incident of deliberate and arbitrary killings of civilians by the LTTE took place on 31 January 1996, when more than 90 civilians were killed and more than 1,000 injured when a lorry containing explosives was driven into the entrance of the Central Bank in Fort, central Colombo. The Ellalan Force, widely believed to be a front organization for the LTTE, in a press release delivered the same day, warned tourists and investors not to come to Sri Lanka and thereby help the government in its military offensive. It said: “The Ellalan Force won’t be responsible for the casualties due to the bomb explosion in future”.

In June 1996 further deliberate and arbitrary killings of civilians were reported, this time from Aruvakalu,
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in Puttalam district. On 11 June, 14 Sinhalese civilians, including four children, were killed. One survivor said that about 15 LTTE members entered the house of his family, blindfolded nine people and tied their hands behind their back, and then attacked them with machetes and finally shot them. He reported how the house with the bodies inside was later set on fire. Six other villagers were reportedly dragged into the nearby jungle and hacked to death. Some of their bodies were said to have had gunshot wounds. It appears that this attack was led by an LTTE member who originated from Aruvakalu and whose family had earlier been killed in communal violence in the aftermath of an LTTE attack on a nearby police post. The main target of this attack appears to have been the family of those thought to be responsible for the killing of this LTTE member's family.

There have also been continuing reports of summary executions of people accused by the LTTE of being "traitors". Twenty-nine such people were reportedly executed at Omanthai in mid-October 1995. They included a teacher, Mr Marmalanandakumar, and a school principal. On 19 March 1996 Vairamuthu Kathalingam and Ukubanda Kunapalan from Chenkalady were executed before a public gathering at Ilupadichenai, Batticaloa district. The LTTE reportedly put up notices that the two men would be shot as "traitors" for giving information to the security forces. They had been abducted about 45 days earlier and held in detention at a local LTTE camp. After the executions, the LTTE prevented the relatives from taking the bodies until the next day.

It was also reported that Gopalaswamy Mahendrarajah, alias "Mahattaya", and several of his supporters who were sentenced to death in late 1993 had been executed. In an article published on 29 November 1995 in the Indian magazine *Outlook*, an LTTE spokesperson is quoted as having stated in early October 1995: "Mahattaya is no more. He was executed for plotting to kill Prabhakaran [Velupillai Prabhakaran, the leader of the LTTE]". In late 1993 and early 1994, Amnesty International had called upon the LTTE not to execute these prisoners and for them and other political prisoners held by the LTTE to be granted immediate and regular access to the ICRC.

It has been LTTE policy for years to grant the ICRC regular access to members of the security forces and Sinhalese fishermen held in their custody and to allow these prisoners to communicate with their relatives by letters delivered through the good offices of the ICRC. On occasions, the LTTE has released such prisoners. For instance, in late 1994, after the PA government came to power, a number of policemen were released as an apparent goodwill measure. In early March 1996, three Sinhalese fishermen believed to have been prisoners of conscience were released on humanitarian grounds. Amnesty International interviewed one of them who reported that he and other Sinhalese fishermen had initially been held in a dark room for four and a half months. Their treatment improved after a visit by a delegation of the ICRC. Eight crew members of a civilian ship, Irish Moana, hijacked by the LTTE in August 1995, continue to be held in LTTE custody and have reportedly been allowed to communicate with their relatives through the good offices of the ICRC.

However, Tamil political prisoners as well as members of the Muslim community held on suspicion of being "traitors" continue to be held in unacknowledged detention and there is concern about their treatment. Relatives of more than 40 young Muslim men detained by the LTTE between 1987 and 1990 recounted to Amnesty International how they were repeatedly told at LTTE camps that "inquiries were in progress" and that their husband or son would be released once the inquiry was over. The relatives were among some 120,000 Muslims ordered to leave the area under LTTE control in October 1990. Approximately 55,000 of them continue to live in refugee camps in the Puttalam district. When Amnesty

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International visited them, they explained how they had no means of communicating with the LTTE. They urged Amnesty International to seek information about the fate or whereabouts of their relatives. As one mother put it: "I want to know whether to celebrate his birthday or his death anniversary." Amnesty International has been raising their cases since 1991, but to date the LTTE has not provided any information about their fate or whereabouts.

It has been difficult to gather information about the treatment of prisoners by the LTTE, mainly because few people have been released and those who have are too afraid to talk. In addition, it would appear that prisoners are being held in many small places of detention spread throughout the areas under LTTE control and are transferred between them on a regular basis. At Varani, at a place of detention called "Tango 2", some prisoners were reportedly held in solitary confinement in 10 cells on one side of a corridor. On the other side were two large cells, each of which had between 10 and 15 detainees at any given time. One prisoner said he was tortured and also made to witness other prisoners being tortured. The methods used included being hung upside down and beaten, pulling out nails from fingers, being laid out in the sun with head and feet on metal barrels and rolling a heavy log over the prisoner's thighs. Another prisoner released in June 1995 reported how at a place called "Tango 5" in Kovilakkandi, Chavakachcheri, he was held with approximately 200 prisoners throughout 1993 and 1994. At the time of the evacuation of Jaffna town in late October 1995, witnesses reported how prisoners were transferred to Kilinochchi and other areas on the mainland from places of detention in the Jaffna peninsula. It is believed that several hundred prisoners are held by the LTTE, but, as explained above, the exact number is difficult to establish.

Amnesty International has also been concerned about reports that children as young as 12 were recruited by the LTTE and subjected to ill-treatment during their training. Its delegates interviewed two girls who had been recruited at the age of 12 and 15 respectively. The oldest one described how she was subjected to cruel, inhuman and degrading punishment when she failed to return to the LTTE base after a five-day "leave" at the end of her training. She was made to bend at the knees 1,000 times in front of other recruits. A boy who escaped from an LTTE training camp in the Thennamarachchi area in August 1995 reported how he saw a young boy tied to a tree and whipped in front of others for "indiscipline".

Recruitment of children in the Kilinochchi and Mullaitivu area as well as in the east reportedly rose dramatically after the LTTE vacated Jaffna town. Members of international non-governmental organizations alleged that people displaced from Jaffna were not registering themselves in welfare centres set up in those areas to avoid recruitment of their children by the LTTE.

Implementation of human rights safeguards

Institution building

During meetings with government officials, the Amnesty International delegates discussed various initiatives in progress aimed at strengthening human rights protection in the country. Among them were ratification of outstanding human rights standards, amendments to the fundamental rights chapter of the Constitution under consideration by a Parliamentary Select Committee, a Bill for the establishment of a National Human Rights Commission and reform of police training.

The amendments to the fundamental rights chapter of the Constitution as currently before a Select
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Committee of Parliament provide for the inclusion of a number of rights currently not guaranteed, including the right to life, liberty and security of person, to own property and to freedom of unlawful interference with one's privacy. Amnesty International was however informed that the government did not intend to take on its recommendation for the abolition of the death penalty in a constitutional provision.

The Bill for the establishment of a National Human Rights Commission was referred to a standing committee of parliament following an initial debate in late February 1996. Several opposition members of parliament put forward amendments aimed at strengthening the Bill. The government indicated that it hoped to come to a consensus in the Standing Committee. A revised Bill was subsequently tabled in Parliament on 7 June, and unanimously passed on 9 July 1996. It incorporated several of the recommendations to strengthen the Bill outlined by Amnesty International in its document *Sri Lanka: The National Human Rights Commission Bill* of December 1995 (AI Index: ASA 37/35/95), including with regard to the criteria for selection of members, the procedure for selection and removal of members and the opening of regional offices. In addition, it incorporated Amnesty International and local human rights organizations' recommendations to provide financial assistance to witnesses. However, recommendations for the extension of the mandate of the Commission to include not only the investigation of violations of fundamental rights guaranteed in the Constitution, but also violations of those rights laid down in international human rights treaties currently not protected in the Constitution of Sri Lanka were not taken on although amendments were made to broaden the institution's mandate in the field of human rights education, human rights awareness and research.

The government also informed Amnesty International that it was actively considering acceding to the Optional Protocol to the ICCPR, which enables individuals who claim their rights protected by the Covenant have been violated and who have exhausted all available national remedies to submit communications to the Human Rights Committee.

The delegation also met relevant police officials in charge of human rights education and was informed of plans to incorporate human rights education in the training programs for officers of all ranks. At the time, a program to provide training for trainers was being designed.

Safeguarding the rights of detainees

At the time of the Amnesty International visit, nearly 10 months after the presidential directives to safeguard the rights of detainees were announced (as outlined on pages 12-13), there was clear evidence that they were not being fully adhered to by the security forces. Several high-ranking officials in the Ministry of Defence argued with the Amnesty International delegates that the directives were not practical. The Secretary, Ministry of Defence, who, according to the directives had to design an "arrest receipt" stated he had not done so. Human rights lawyers in Colombo maintained they had never even seen such an "arrest receipt". In the east, a few "receipts" had been issued in an *ad hoc* way by local members of the security forces, such as by some army officers in Batticaloa.

Whereas in the directives and regulations, the onus of informing the HRTF of arrests is on the security forces, in practice regional managers of the HRTF often have to ring around various police stations and army camps to trace the whereabouts of people taken into custody. At the national level, notification seems to work although not in a systematic way. According to the Secretary, Ministry of Defence, the responsibility for notification is at the operational level with the police. According to the STF, the

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communications go through the Secretary, Ministry of Defence. According to the IGP, communications are consolidated in the Colombo area; in other areas they are initiated by individual stations.

After the security forces took control over the Jaffna peninsula, there were reports that the HRTF was not being informed about the arrest and detention of suspects taken into custody in those areas. As no regional office of the HRTF covered the area and communications between the peninsula and other parts of the country remained difficult, the access to HRTF or indeed to legal remedies such as habeas corpus or fundamental rights petition for those arrested or their relatives was extremely limited.

There was also clear evidence that several of the other directives were not being fully implemented. HRTF regional managers had difficulty in obtaining access to certain places of detention, such as Plantain Point army camp in Trincomalee. The security forces continued to hold detainees at places not unauthorized as places of detention. Upon arrest, they often failed to identify themselves by name and rank. Similarly, they frequently failed to allow prisoners to communicate with a relative or friend to inform them of their whereabouts. Finally, several Tamil ex-prisoners informed Amnesty International that they were not given a choice as to the language in which to make a statement, nor were they asked whether they wanted to make a statement in their own handwriting. Several prisoners did however acknowledge that a statement taken in Sinhala was read to them in Tamil before they were asked to sign it.

Officials themselves acknowledged these difficulties and attributed them to a shortage in members of the security forces conversant in Tamil. They also admitted that the provisions in the directives in relation to the arrest and detention of women and children were not being adhered to. This, they said, was due to a shortage of female staff.

Investigation of recent human rights violations

The government has taken action to investigate several incidents of human rights violations that occurred since the resumption of the fighting. However, Amnesty International is not aware of any independent investigations being ordered. In most cases, such as the reports of extrajudicial executions in May 1995 documented in Amnesty International's June 1995 report, local police investigations were announced without any independent investigative body being appointed. In other cases, internal army inquiries were ordered. The President assured Amnesty International, in a letter of 5 June 1995 written on her behalf by the Secretary, Ministry of Justice & Constitutional Affairs, that she would "if the circumstances warrant it ... have no hesitation in having the specific complaints ... referred to the HRTF for investigation and recommendations regarding follow up action such as judicial action against those responsible for human rights violations and the payment of compensation to those adversely affected."

When meeting the Secretary, the Amnesty International delegates requested information about any follow-up action taken and were told that she had none. Letters of September 1995 requesting this information from the Secretary, Ministry of Defence, the Commander of the Army and the IGP remain unanswered.

In some of the incidents described in this report, such as the rape of Lakshmi Pillai and the extrajudicial executions in Colombo in mid-1995 and at Kumarapuram and Kanniya in February 1996, the alleged perpetrators were arrested and initial charges against them were filed. The accused in all four cases were

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subsequently released on bail. The case against the two informants accused of raping Lakshmi Pillai was closed after one of the accused was killed by the LTTE and the victim, who had moved to another area of the country, failed to turn up in court, reportedly due to fear for her life. Eight soldiers were identified in an identification parade held after the massacre at Kumarapuram. The magisterial inquiry has been concluded. The case is currently with the Attorney General awaiting a decision on indictment. There are fears for the safety of some key witnesses. Survivors allege that at least one high-ranking officer involved in the deliberate and arbitrary killings of 24 civilians at Kumarapuram has not been arrested and continues to be in charge of an army camp in the area. No action is known to have been taken against the Home Guards alleged to have accompanied the army personnel.

Combined with the government's attitude to the investigations of past human rights violations (see below), Amnesty International is concerned at signs that the government is dragging its feet in bringing to justice the alleged perpetrators. It fears that the government's stated commitment to bringing to justice the perpetrators of human rights violations may not be fully put into practice and that political and military imperatives will override its earlier stated commitment.

Moreover, the way in which the few investigations ordered were selected suggests that the predominant reason is the publicity created at the time. So, whereas the CID was entrusted with the investigations into the "disappearances" reported in Colombo in mid-1995, no such resources were allocated to investigate "disappearances" in other parts of the country. Amnesty International's appeals for investigations have apparently been forwarded to the three presidential commissions of inquiry investigating past human rights violations.

Impunity relating to past violations

Impunity for those responsible for human rights violations remains a serious concern. Progress in a few court cases against members of the security forces charged in connection with "disappearances" and extrajudicial executions is slow; as are investigations into many other cases.

According to the CID, approximately 100 cases of "disappearances" are currently under investigation. These are cases referred to the CID after initial investigation by the Presidential Commission of Inquiry into Involuntary Removal of Persons (PCIIRP) after 11 January 1991 recommended prosecution of those alleged to be responsible.¹² The PCIIRP's work concluded in late 1995. Its final report, reportedly submitted to the President in November, has not been made public.

The three presidential commissions of inquiry established in late 1994 to investigate past human rights violations since 1 January 1988 had initially been given four months to report on their findings. Since then, their mandate has been extended twice for six months. At the end of March 1996, two of them (those dealing with complaints in the south of the country) were given a final extension of three months despite not having heard evidence in relation to more than half the complaints put before them. On 20 June, Amnesty International wrote to President Chandrika Bandaranaike Kumaratunga asking for clarification of the nature and the reasons for this decision. At the time of writing, no response had been received. Amnesty International did learn, however, that, amid widespread protests, the commissions were given a further extension until the end of September 1996. The Presidential commission of inquiry

¹²The PCIIRP was established in 1991 to investigate "disappearances" reported after 11 January 1991. Amnesty International August 1996AI Index: ASA 37/08/96

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investigating complaints in the north and east was not asked to complete its investigations. Due to the ongoing armed conflict in the areas covered by them, progress in their investigations is slow.

When meeting the members of the commissions of inquiry, Amnesty International discussed earlier observations and recommendations it had made with regard to their work.¹³ These had included the investigation of more than 680 cases reported prior to 1 January 1988; the suspension of alleged perpetrators from any official duties pending investigations; the establishment of a simple, speedy, just and fair procedure for the granting of compensation; protection of witnesses; adequate resources; the use of forensic expertise; and the publication of the final report and its wide distribution.

Amnesty International urges that the work of the commissions, which in many ways provides the lynchpin between past, present and future in the current human rights situation, is fully supported by the government and that prompt action is taken to bring perpetrators to justice in those cases in which the commissions have found *prima facie* evidence against those responsible. In addition, victims or their relatives should be granted adequate compensation.

Summary of main recommendations

Amnesty International is calling upon the Government of Sri Lanka to:

- bring a halt to extrajudicial executions, “disappearances”, torture and arbitrary arrests.
- bring all existing legislation, including the ERs and PTA, fully in line with international human rights standards.
- investigate all reported human rights violations fully and impartially, make the findings public and bring to justice those responsible.
- review present command and control structures in the security forces with a view to ensure strict control over home guards and armed cadre of anti-LTTE militant Tamil groups.

Amnesty International’s recommendations to the LTTE:

- bring a halt to human rights abuses, including summary executions and other deliberate and arbitrary killings of civilians, torture, arbitrary arrests and abductions for ransom.
- declare a clear commitment to uphold human rights.

¹³See *Sri Lanka: Time for truth and justice* of April 1995 (AI Index: ASA 37/04/95)
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Appendix: List of “disappearances” reported since April 1995

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LIST OF ABBREVIATIONS

CDB: Crime Detection Bureau
CDF: Civil Defence Force
CID: Criminal Investigation Department
EPDP: Eelam People's Democratic Party
EPRLF: Eelam People's Revolutionary Liberation Front
ERs: Emergency regulations
HRTF: Human Rights Task Force
ICCPR: International Covenant on Civil and Political Rights
IGP: Inspector General of Police
LTTE: Liberation Tigers of Tamil Eelam
PA: People's Alliance party
PCIIRP: Presidential Commission of Inquiry into Involuntary
Removal of Persons
PLOTE: People's Liberation Organization of Tamil Eelam
PTA: Prevention of Terrorism Act
STF: Special Task Force (police commando unit)
TELO: Tamil Eelam Liberation Organization
UN: United Nations
UNP: United National Party

In this report "the north and east" refers to the area comprising of Jaffna, Kilinochchi, Mannar, Mullaitivu, Vavuniya, Trincomalee, Batticaloa and Amparai administrative districts. The area was temporarily merged into one province in September 1988, subject to a referendum in the eastern part. To date, the referendum has not been held.