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ESRI LANKA

@An assessment of the human rights situation

Introduction and Summary of Findings

An Amnesty International delegation visited Sri Lanka in October 1992. It assessed the government's implementation of the recommendations Amnesty International had made a year earlier on human rights safeguards, and evaluated the current human rights situation in both the northeast and the south¹. This report summarizes their findings.

Following a research visit by Amnesty International in June 1991 and the publication in September 1991 of *Sri Lanka - The Northeast: Human rights violations in a context of armed conflict*², the Government of Sri Lanka announced its acceptance of 30 of the 32 recommendations for human rights safeguards made by the organization in that report. In February 1992, the government invited Amnesty International to return to Sri Lanka to assess the implementation of these safeguards.

During their October 1992 visit, Amnesty International met government officials responsible for the implementation of the recommendations, representatives of a range of non-governmental organizations and others active in the field of human rights and interviewed victims of human rights abuses. Wherever possible, the delegates attempted to evaluate how new mechanisms to protect human rights were working in practice, and whether the procedural changes ordered by the command of the various security forces were in fact being carried out. In addition to assessing the human rights situation with regard to government forces, the delegates also collected material on abuses of human rights committed by the Liberation Tigers of Tamil Eelam (LTTE), the armed, secessionist Tamil group which has effective control of parts of the northeast and which is engaged in armed combat with government forces.

Among the government officials Amnesty International met were the Presidential Adviser on International Affairs, the Minister of Justice, the Secretary of the Ministry of Defence, the Commander of the Army, the Inspector General of Police, the Head of the Human Rights Division in the Ministry of Foreign Affairs, the Secretary of the Ministry of Home Affairs and the Attorney General. The delegates also met the Chairman of the Human Rights Task Force (HRTF), which has responsibility for registering detainees and reviewing their welfare, and visited two regional HRTF offices. In addition, they met members of the Presidential Commission of Inquiry into the Involuntary Removal of Persons, which investigates "disappearances" which have taken place since 11 January 1991, to discuss the progress of their work.

Amnesty International appreciates the openness with which its delegates were received by government officials of all levels throughout their visit, and the readiness with which officials supplied most of the information requested.

This was the organization's second research visit to Sri Lanka since 1982.

Since mid-1991, the Government of Sri Lanka has displayed much greater openness to scrutiny by international human rights organizations. This is a welcome development which Amnesty International hopes will contribute to the strengthening of human rights protection, and the work of human rights organizations, within the country. The government has established new mechanisms to monitor and investigate certain kinds of human rights violation, and most of Amnesty International's recommendations concerning these new bodies have been implemented. However, many other recommendations which the government also accepted have not yet been implemented. These include the establishment of primary procedural safeguards to be followed by the security forces to prevent persons taken into custody from "disappearing" or being tortured. For example, the army was

¹ The term "northeast" refers to what is presently the Northeastern Province, including the districts of Jaffna, Kilinochchi, Mullaittivu, Vavuniya, Mannar, Trincomalee, Batticaloa and Amparai. "The south" refers to all other areas of the island.

² AI Index: ASA 37/14/91

AI Index: ASA 37/1/93 Amnesty International February 1993

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not issuing certificates of arrest after cordon and search operations and admitted that it holds certain prisoners in secret detention, hidden from the International Committee of the Red Cross (ICRC). Amnesty International learned of prisoners who had been held secretly for up to a year. In the south, abductions by plainclothed military and police personnel were reported in 1992. Other aspects of arrest and detention procedures covered by the recommendations and accepted by the government would require for their implementation the amendment or withdrawal of emergency legal provisions, and this has not been done.

The continuing sense of insecurity in the northeast and the border areas, and the difficult security problems posed for the government, had been highlighted the week before Amnesty International's visit. The Liberation Tigers of Tamil Eelam (LTTE), the secessionist armed group which is fighting the government, had launched a major attack on Muslim villagers in northern Polonnaruwa District. In this pre-dawn raid, hundreds of LTTE cadres descended on four villages and killed over 190 civilians, including men, women and young children. A section of this report details continuing abuses of human rights by the LTTE.

On 16 November the Commander of the Sri Lanka Navy, Vice-Admiral Clancy Fernando, was assassinated in an LTTE suicide attack in Colombo. The police detained over 3,000 Tamil people living in the south and screened them for connections with the LTTE. The majority were released within a few days.

Compared to the previous year, Amnesty International found that significantly fewer "disappearances" and extrajudicial executions were being committed by the security forces. Nevertheless, these grave violations of human rights continued in the east, particularly, at a rate which remains high, with scores of "disappearances" reported during 1992. Amnesty International was also disturbed to find that prisoners continued to be tortured and ill-treated in both military and police custody, and believes that the authorities need to take decisive action to curb these practices. In addition, the organization is concerned that several thousand people remain in untried, administrative detention for long periods, some for over three years. To date, there does not appear to be an agreed policy on processing these cases; the various state agencies involved may reach different, inconsistent administrative decisions on individual cases because they work separately from each other and appear to base their decisions on different bodies of evidence. In such a situation, prisoners cannot know where they stand and fear that even if released after spending a period in rehabilitation, which they had understood would lead to unconditional release, they may be arrested again and tried for the original offence. Those not recommended for rehabilitation or release remain in indefinite detention. No clear decision appears to have been made about their fate.

The issue of accountability for human rights violations remains a matter of concern which the government has yet to address adequately. Amnesty International has repeatedly expressed concern about the apparent impunity with which members of the security forces act, and pointed to excessive powers granted under Emergency Regulations and the lack of proper investigation and prosecution of offenders as contributory factors. Emergency Regulations on inquest procedures following deaths in custody can facilitate the cover-up of deliberate killings of prisoners and of deaths resulting from torture, for example. In accepting 30 of Amnesty International's recommendations, the government undertook to expedite cases against those believed responsible for violations of human rights. Yet trials of security forces personnel (usually of police officers, not soldiers) implicated in grave human rights violations have generally failed to reach conclusions, in some cases even after several years.

Gross violations such as the massacre of civilians and the "disappearing" of prisoners by soldiers had earlier remained outside public scrutiny. Since mid-1991, however, there has been a new readiness by the authorities to acknowledge that, in certain recent instances, extrajudicial executions have been committed by the military and home guards operating in the east, and inquiries of different types have been held into these events. These inquiries have not fulfilled the standards set in international instruments on the investigation of such violations, and the follow-up remains slow. Only one case so far has come to trial. That case, the first and only massacre by soldiers to have been the subject of an independent Commission of Inquiry in Sri Lanka, was tried before a military tribunal not a civilian court. The government had acknowledged the responsibility of soldiers for the murder of at least 67

civilians at Kokkadichcholai in June 1991, and had paid compensation to relatives. However, 19 of the 20 accused were acquitted of all charges and the tribunal did not find any person guilty of murder (see below).

Implementation of Amnesty International's Recommendations for Human Rights Safeguards

The 32 Amnesty International recommendations were divided into four broad areas, each of which is discussed below: those intended to create a climate in which human rights violations are less likely to occur; those intended to prevent "disappearances"; those intended to promote respect for the rights of detainees and their families; those intended to prevent extrajudicial executions.

The two recommendations which the government rejected are both concerned with the issue of impunity. The government refused to repeal the Indemnity (Amendment) Act of December 1988, claiming that it was no longer in force. In fact, the act continues to apply to the period from 1 August 1977 to 16 December 1988. It provides immunity from prosecution to government and security forces members, government servants and others involved in enforcing law and order in that period, provided that they had acted "in good faith". Amnesty International learned during its 1992 visit to Sri Lanka that the government still has no intention of repealing this act. Secondly, the government refused to expand the mandate of the Presidential Commission of Inquiry into the Involuntary Removal of Persons to include investigation of "disappearances" which took place before 11 January 1991.³

Recommendations to create a climate in which human rights violations are less likely to occur

For effective remedial and preventive measures to be introduced, and for any sense of impunity to be removed, Amnesty International believes it is important for the government to publicly acknowledge that widespread human rights violations have been committed by government forces, and to make clear to the security forces that violations of human rights will not be tolerated and perpetrators will invariably be brought to justice. It suggested that security forces officers should regularly visit troops deployed in "sensitive" areas, where human rights violations are most likely to arise. It urged the government to repeal the Indemnity (Amendment) Act, in order to signal its clear intention to remove any sense of impunity, and to expedite pending criminal cases against members of the security forces in order to signal clearly that violators of human rights will not escape justice.

The government has said that by publicly announcing its acceptance of 30 of Amnesty International's recommendations, and in its statement to the United Nations Commission for Human Rights in Geneva in February 1992, it has made the public acknowledgement suggested. And as noted above, the government has become increasingly open to scrutiny and comment by international human rights bodies. However, no statement of acknowledgement of the type envisaged by Amnesty International has been made to the local population. Indeed, the climate of intimidation which still prevails in southern Sri Lanka - where lawyers involved in human rights cases have continued to receive death threats, for example, and where fear of repercussions deterred some people from seeing Amnesty International's representatives - suggests that the intended message has yet to be conveyed internally.

Clear orders on the protection of human rights and the procedures to be followed in arresting and detaining prisoners have been issued within the armed services. Copies of these orders had earlier been provided to Amnesty International by the government. In practice, however, important

³ Many thousands of people "disappeared" in the south between 1988 and 1991 as government security forces put down a violent insurgency by the armed opposition group, the *Janatha Vimukthi Peramuna* (JVP, People's Liberation Front). Between June 1990, when fighting in the northeast resumed between government forces and the LTTE, and January 1991, thousands of "disappearances" were also reported from that area. Earlier, between 1984 and mid-1987, Amnesty International recorded over 680 "disappearances" in the northeast for which Sri Lanka government forces are believed responsible. From mid-1987 to 1990, when the Indian Peace Keeping Force (IPKF) was responsible for the security of the northeast, Amnesty International recorded 43 "disappearances" attributed to the IPKF.

procedural safeguards for prisoners which are required under these orders are not implemented on the ground (see below). Nevertheless, some steps have been taken to reduce the incidence of gross violations, and Amnesty International learned of several recent instances where the commanding officer had personally intervened immediately on receiving a report that a gross violation had been committed in order to try to protect the victims. For example, in December 1992 the Brigadier in charge in Batticaloa intervened immediately on learning that during a round-up at Pullumalai several young women had been raped by soldiers. About 13 soldiers were transferred from the area, but it is not known whether any disciplinary action was taken.

Criminal cases pending against security forces personnel at the time Amnesty International's report was published (September 1991) have not been expedited. The government has listed eight cases in which security forces personnel have been charged with abduction, rape and murder. Some of these cases have been pending for up to three years and have yet to be concluded. In one, the accused were discharged after the witnesses failed to appear in court. Amnesty International understands that the witnesses themselves were abducted and "disappeared" during the period that the accused were on bail⁴. No investigation has been held into the non-appearance of the witnesses. Not one of these cases has yet reached a conviction for murder.

Recommendations intended to prevent "disappearances"

These recommendations mostly concerned the work of the Presidential Commission of Inquiry into the Involuntary Removal of Persons, which was established for a period of one year in January 1991 to investigate "disappearances" occurring after 11 January 1991. Amnesty International also urged that, in addition to clarifying the fate of the "disappeared", the government should also bring to justice those responsible for "disappearances" and provide adequate compensation to victims or their relatives within a reasonable period of time. Many of Amnesty International's recommendations on the protection of prisoners, discussed below, are also relevant to the prevention of "disappearances".

The Presidential Commission on the Involuntary Removal of Persons (CIRP)

The CIRP was created in January 1991 for a period of one year to investigate and report on "disappearances" occurring in the year beginning 11 January 1991. It is also expected to recommend remedial measures for the prevention of "disappearances". Although the government did not enlarge the CIRP's mandate to encompass "disappearances" committed before 11 January 1991, it did extend the mandate of the CIRP for a further year. In January 1993 its term was again extended for one year. Hundreds of cases remain under investigation by the commission, and public hearings had been completed in only six individual cases at the time of Amnesty International's visit.

Many of the "disappearances" reported to the CIRP occurred before 11 January 1991 and therefore fall outside its terms of reference. Indeed, 3,669 such cases had been reported to the CIRP by 5 November 1992. The CIRP informs complainants when they cannot investigate their cases, and said it passes the information to the Human Rights Task Force (see below), which keeps a list of "disappeared" people. By 30 October 1992 the CIRP had received complaints of 501 "disappearances" occurring between 11 January 1991 and 10 January 1992, and 81 complaints of "disappearances" occurring between 11 January 1992 and 30 October 1992.

As explained by the Commissioners, when complaints are received, they are first investigated by a team of ten investigating officers under the direction of the Chief Investigating Officer, who is a retired policeman. Once they have established there is *prima facie* evidence of "disappearance", relatives are called to Colombo to give evidence. Sometimes, however, the investigators visit the locality. Once the evidence has been collected, the Senior State Counsel assigned to the commission decides whether there is sufficient evidence available to proceed to a public inquiry before the five Commissioners. Of the 1991 cases, 11 complainants had failed to appear to give statements; 53 people reported to have "disappeared" were traced; 10 cases had been sent for public inquiry and 421 cases were still under investigation. Of the 1992 cases, one complainant had failed to appear; 24

⁴ See *Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987 - 1990*, AI Index: ASA 37/21/90, September 1990, pp 27 - 28.

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people had been traced and 56 cases were under investigation.

At the time of Amnesty International's visit, the CIRP had completed its public inquiries into six cases of "disappearances", and the seventh case, covering a group of four people who had "disappeared", was being heard. On the completion of the public hearings into each case, the CIRP submits a transcript of the proceedings and its findings to the President. Amnesty International was informed by the Presidential Adviser on International Affairs that President Ranasinghe Premadasa had authorised publication of these case reports, but that a publication date had not yet been fixed. Amnesty International understands that in some of these cases, the Commissioners have recommended that the individuals believed responsible for the "disappearances" should be prosecuted, but that no decision on such prosecutions had yet been made. In one case heard by the CIRP, however, murder proceedings had already begun against a police officer suspected of causing a "disappearance". After the CIRP concluded that it was unable to establish beyond reasonable doubt that the particular police officer concerned had last had custody of the "disappeared" prisoner, the case was withdrawn by the Attorney General. Two further cases have been forwarded to the Attorney General to decide whether to bring criminal charges against the alleged perpetrators.

The cases investigated by the CIRP so far all involve "disappearance" in police custody. The Commissioners told Amnesty International that, although their terms of reference enable them to investigate any involuntary removal regardless of perpetrator, in practice they expected only to investigate cases of "disappearance" in police custody and not "disappearances" in military custody. They said that it would be difficult to investigate "disappearances" in a context of armed conflict; that as there was less stringent record-keeping in the army than the police it would be more difficult to collect evidence; and that complaints of "disappearances" in military custody usually fail to identify exactly who carried out the arrest, so there was no starting-point for investigation. Amnesty International questioned these presumptions and expressed concern that the military should not remain outside the scrutiny of the commission, especially as the majority of "disappearances" reported during the past year are from military custody in the east.

The CIRP has not yet recommended any measures to prevent "disappearances". Amnesty International discussed with the Commissioners the possibility of their examining practices which facilitate "disappearance", such as failure to adhere to proper detention procedures. These would include the prompt acknowledgement and reporting of arrests, transfers and releases and accurate and thorough record-keeping. Amnesty International believes that failure to adhere to the required procedural standards to protect prisoners from abuse, including "disappearance", should be treated as a serious criminal or disciplinary offence.

Amnesty International had recommended that the CIRP establish regional offices, giving priority to those areas where most "disappearances" occur. Officers authorised to record and transmit cases to the CIRP in Colombo have since been appointed in each of the following Government Agent's offices: Amparai, Batticaloa, Hambantota, Jaffna, Mannar, Matara, Trincomalee. The complaints are then processed in Colombo and investigated as described above. The regional officers have no powers of investigation, and the Commissioners have not held public hearings outside Colombo, although they did not rule out holding hearings in the provinces if they considered them necessary. By the end of October 1992, 540 cases had been reported by the authorised officers, 457 of which fell outside the CIRP's terms of reference. Sixty-six of the remaining cases had not previously been reported to the commission.

In Batticaloa, Amnesty International found that the existence of the authorised officer was not known by members of the local Peace Committee or by staff of the local Human Rights Task Force office. Both these local bodies regularly record complaints of "disappearance" and refer relatives to other relevant local agencies. Amnesty International's delegates suggested that the presence of the authorised officers could be more widely publicised in the relevant areas in order that relatives are aware of all local avenues of redress available. Sixty-nine cases had been submitted to the CIRP by the authorised officer in Batticaloa by the end of October 1992, 24 of which fell within the commission's terms of reference.

The Commissioners said that they believe their work has had a deterrent effect, as the number of

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reported "disappearances" has reduced since the inception of the CIRP. The commission's hearings are public and reported in the press so police officers now know that they may not act with impunity. Amnesty International agrees that publicity is important, but pointed out that the commission may not be aware of the true number of "disappearances" in the east in 1992, as few people in the area were aware of the presence of the local authorised officer. Amnesty International also believes that if a lasting deterrent effect is to be achieved, perpetrators must be brought to justice whenever they can be identified.

The CIRP has been criticised for employing slow procedures. The Commissioners explained to Amnesty International that it follows the provisions of the Commissions of Inquiry Act, and that as the five Commissioners had been appointed under a single warrant, they are required to sit as a single body when they hold public hearings. They are not empowered to sit separately. They pointed out that if their warrant is altered to enable them to hear cases individually, or if further Commissioners were appointed to expedite the work, they would need additional teams of investigating officers and other support staff to service their increased work-load.

Compensating relatives of the "disappeared"

In 1991, the government had told Amnesty International that it intended to introduce new legislation to enable relatives of "disappeared" prisoners to obtain death certificates after a certain period which would allow them to qualify for relief or pension payments. Amnesty International had said that the provision of death certificates would not absolve the government of responsibility to try to establish the fate or whereabouts of the "disappeared", to bring those responsible for "disappearances" to justice and to adequately compensate victims or their relatives.

In October 1992, Amnesty International was given a copy of draft legislation concerning "temporary death certificates" which, once issued, could be used to claim compensation. As explained by the Secretary to the Home Ministry, it was envisaged that the certificates and the compensation would both be issued through the new Divisional Secretariats, and that compensation would be available to all persons who had a genuine case, regardless of ethnic group or of whether the person had "disappeared" in the custody of government or opposition forces. However, according to the Presidential Adviser on International Affairs, the government had not yet decided whether it would pay compensation to relatives of people who are known to have "disappeared" in the custody of government security forces.

Recommendations intended to protect detainees and their families

Special legal provisions which differ from normal criminal procedure are applied to political prisoners. Prisoners detained under the Emergency Regulations or the Prevention of Terrorism Act (PTA) are denied the protections provided under the normal criminal law. There is no requirement for political detainees to be brought *promptly* before a magistrate, for example, which means that there is no legal provision for independent supervision of their detention for long periods. Also, confessions made before a police officer of the rank of Assistant Superintendent of Police or above are admissible in court under Emergency Regulations, unlike under normal criminal law which requires confessions to be made before a magistrate in order to protect prisoners from confessing under duress. As safeguards to protect prisoners are reduced under emergency provisions, the risk of torture and "disappearances" increases. For this reason, Amnesty International has long called for specific safeguards to protect political detainees.

Amnesty International urged the government to ensure that mechanisms for supervising arrests and detention are established in accordance with the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment and other international instruments designed to protect prisoners. Further recommendations concerned the work of the Human Rights Task Force (HRTF), the body established by the government in August 1991 to establish and maintain a central register of detainees and to monitor their welfare; procedures to be followed by any arresting agency; and procedures specific to military practice.

Detention Procedures

In order to protect detainees from "disappearance" and torture, Amnesty International recommended that all prisoners without exception should be seen promptly after arrest or capture by representatives of an independent body, and that detainees should only be held in official, publicly known places of detention. All detainees, whether arrested with or without warrant, should be given prompt access to medical care, lawyers and relatives, and be brought promptly before a judicial authority. In addition, because of the specific problems relatives of detainees have had in identifying the agent who has carried out an arrest, Amnesty International recommended that all military uniform should have the insignia of the soldier's battalion or detachment clearly marked, and that all police and military vehicles should be clearly marked as such and carry number plates at all times. Detailed records should be kept by the military and police of all arrests, transfers and releases of prisoners, and this information should be reported immediately to the HRTF. As many "disappearances" had been reported following cordon and search operations, Amnesty International suggested that a system be introduced by the army during these operations to issue "receipts" to relatives stating that the individuals concerned had been taken for questioning, so that there could be no question later about official responsibility for their safe custody. When prisoners are released, Amnesty International recommended that there be independent verification of the release, such as by a representative of the HRTF.

In order to show how it has implemented these recommendations, the government has stated that arrests are made in accordance with the Emergency Regulations and the PTA and has provided Amnesty International with copies of orders and circulars issued by the security forces concerning arrest and detention procedures.

For arrest procedures to comply with Amnesty International's recommendations, the Emergency Regulations and the PTA would have to be amended. For example, at present prisoners held under the PTA need not be brought before a judicial authority for 90 days, and under the Emergency Regulations prisoners can be held for 30 days before a magistrate sees them. Furthermore, under these provisions, prisoners need not be held in publicly known places of detention. Indeed, officials of various ranks are empowered to decide where detainees may be held without any requirement that they make these places publicly known. The PTA permits prisoners to be detained for up to 18 months in any place and "subject to such conditions" determined by the Minister of Defence. The Emergency Regulations permit prisoners to be held in preventive detention indefinitely in any place authorised by the Inspector General of Police (IGP) or a Deputy Inspector General of Police (DIGP). Alternatively, if they are suspected of having committed an offence, they may be held for up to 90 days in any place authorised by the IGP, a DIGP or a Superintendent or Assistant Superintendent of Police. Whether authorized or not, there is evidence that police have sometimes used unofficial "safe-houses" to torture suspects. A case of this kind from Nuwara Eliya District is given below.

The Human Rights Centre at the University of Colombo has reviewed the Emergency Regulations for their conformity with international standards, and has submitted its findings to the government. The government has not announced whether it intends to act on the Centre's recommendations, and has not said whether it intends to amend the regulations concerning arrest and detention procedures to bring them into line with international standards and ensure that the rights of prisoners are safeguarded.

The circulars issued by the police and armed forces cover most of Amnesty International's recommendations, and are an encouraging manifestation of a desire at senior levels in the forces to improve human rights practice. The issuing of orders does not in itself ensure that procedures are modified or corrected in practice, however. Indeed, there is now great need for follow-up to ensure that all relevant commanding officers are fully aware of the orders which have been issued, as some appeared unaware of them, and that they in turn ensure the orders are rigorously implemented. Amnesty International believes that continuing vigilance by senior officers, accompanied by prompt intervention and disciplinary action, is necessary to check abuse and reform practice.

Several crucial primary protections included in the circulars, such as the issuing of receipts by the military during cordon and search operations, had not been carried out at all in the Batticaloa area.

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The Brigadier who had recently taken charge in Batticaloa confirmed to Amnesty International that the recommended procedure would provide a practical safeguard, if implemented, given the systematic way in which cordon and search operations are carried out, and believed that it could help win the confidence of the civilian population. Instructions had been received shortly before Amnesty International's visit that arrests following cordon and search operations should be reported to the ICRC directly, and Amnesty International was told that the prisoners' names are also sent to the Directorate of Military Intelligence in Colombo within 48 hours. However, no acknowledgment of the arrest was made to prisoners' relatives by the military directly.

The fact that it does not acknowledge arrests directly has led to unnecessary anxiety for relatives and embarrassment for the military in some instances. When Amnesty International visited Batticaloa there were reports that over 40 men had "disappeared" following a cordon and search operation at Kakkachchivaddai on 19 October 1992. After they had been detained, the men had been taken to the Paliyadvaddai army camp. Relatives who followed them there told Amnesty International that soldiers fired at them and chased them away. The military continued to deny that these men had been taken into custody and the apparent "disappearances" were given wide publicity two weeks later after a local representative raised questions in parliament. By then, and without the member of parliament's knowledge, the relatives had learned from the ICRC that the men were held at the military camp at Hardy College in Amparai and that they had not "disappeared". Had the army issued certificates of arrest at the time of the cordon and search operation, as required by the circular issued from Army Headquarters on 1 July 1992, and had it not then repeatedly denied these men were in custody, it would have provided relatives with a measure of assurance and saved itself much adverse publicity. Given the thousands of "disappearances" in military custody which have occurred in the east to date, including some from the Kakkachchivaddai area, it must be expected that relatives and others will fear the worst when arrests which have been witnessed are denied.

Senior military officers told Amnesty International's delegates that at times it may be necessary to hold certain prisoners in unacknowledged detention, even hidden from ICRC representatives who visit prisoners at army camps. These prisoners were said to be assisting the military by providing information with direct operational value. Should the whereabouts of such prisoners be disclosed, it was argued, the value of their information would rapidly diminish because the LTTE would alter its tactics and move its camps accordingly. Further, it was said that some prisoners requested that their whereabouts be kept secret as on their release they feared reprisals if anyone suspected they had cooperated with the army. Opinions differed on how long such a prisoner would need to be held in secret. One officer said that secret detention would only be necessary for a couple of days, because after that time the operational value of their information would diminish. Others, however, said secret detention might continue for several weeks. It was also admitted that records of such a prisoner's arrest would probably be falsified to hide the true date of their arrest. Amnesty International learned of one prisoner who had been secretly detained by the army for a year, during which time he was severely tortured (see below).

Circulars issued by the security forces on arrest and detention procedures state that prisoners must only be held in known, official detention centres, and that representatives of the ICRC and the HRTF must be granted ready access to them. However, no list of officially authorised places of detention has been issued. Once they are in the custody of a civilian authority, most detainees do appear to be permitted visits from relatives, but such visits might only start after a period of *incommunicado* detention.

Orders concerning the keeping of records on prisoners, and the requirement that no prisoner can be held without a detention order, have also been issued. Amnesty International's delegates did not examine any registers kept by the military. The police registers they saw indicated that on the days of their visits in late October and early November, 14 people were detained under Emergency Regulations at Kandy police station and 21 in police custody in Batticaloa. Of the latter, 14 were held at the Deputy Inspector General of Police's office and seven at the former District Judge's bungalow in the Pioneer Road police camp. Two prisoners in Batticaloa had been held in police custody since April 1992 under the PTA.

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In order that a complete, centralised and up-to-date register of detainees could be compiled, Amnesty International had recommended that all detentions, transfers and releases should be reported to the HRTF, which has the task of creating and maintaining a central register. Orders regarding the reporting of arrests to the HRTF have been issued by the military and the police, but have not been adequately followed. Indeed, the military order fails to include information on how the HRTF can be contacted. The situation regarding reporting of arrests by the police was confused. At Police Headquarters, Amnesty International was informed that arrests are reported to the HRTF by local police stations directly. At police stations, however, Amnesty International was told that the arrests are reported to headquarters, which in turn informs the HRTF. Arrests by the military had only started to be reported to the HRTF by the Joint Operations Command (JOC) shortly before Amnesty International's visit. The information provided by the JOC was variable, was not necessarily up-to-date, and was not in a clear, usable format. The problems this poses for the work of the HRTF are discussed below.

Release procedures have generally improved to enable verification of the release. In Batticaloa prisoners have been released in the presence of the ICRC, a member of the Batticaloa Peace Committee, or a local member of parliament. In other places, too, prisoners have been released in a manner which enabled verification.

Although the government accepted Amnesty International's recommendation regarding the wearing of insignia on military uniforms, Amnesty International's delegates were informed by military officers that it is their policy not to wear anything indicating either rank or unit when conducting operations as they might risk conveying such information to the enemy. Police and military officers assured Amnesty International that their vehicles are now required to carry numberplates and official markings. However, Amnesty International learned of arrests carried out in the south in 1992 by plainclothed police and military personnel who did not identify themselves, and who used unmarked vehicles (see below).

The Human Rights Task Force (HRTF)

The HRTF was established in August 1991 under the Emergency Regulations "to monitor the observance of fundamental rights of detainees". Its officers have been appointed for a period of three years, and the HRTF can remain in existence for as long as the state of emergency lasts.

The HRTF is expected to maintain a comprehensive, accurate register of detainees, to investigate the identities of detainees, to monitor the welfare of detainees, to ensure their safe release from custody, to carry out regular inspections of places of detention and to record complaints and take immediate remedial action. In addition, the HRTF keeps a list of people reported to have "disappeared". It checks this list against the names of detainees it has seen in custody in order to try to trace "disappeared" prisoners. Only those areas of the HRTF's work relating to the protection of detainees from "disappearance" and torture are discussed here.

Amnesty International had recommended that the HRTF should be given unrestricted access to prisoners held by the military and that all detainees should be seen promptly after arrest by representatives of an independent body such as the HRTF; that it should establish regional offices and a 24-hour information office; that all arresting agencies should inform the HRTF immediately and directly of any arrest with or without warrant, and also inform the HRTF of any transfer or release of detainees; that detainees should be released in the presence of a representative of the HRTF; that the annual report of the HRTF should be made public and widely publicized.

Amnesty International's delegates met the Chairman of the HRTF, Justice Soza, and visited the HRTF offices in Kandy and Batticaloa. At the time of their visit, HRTF offices had been opened in Colombo, Kandy, Matara, Anuradhapura and Batticaloa; an office was planned in Trincomalee, and a sub-office in Kattankudi, near Batticaloa.

The HRTF has compiled a list of detainees, but this list cannot be considered comprehensive or up-to-date. For a central, publicly-available list of detainees to fulfil a protective function, all arrests must be reported to the HRTF promptly and the list must be regularly updated with information on transfers and releases, which should be promptly reported by the custodial authorities as a matter of

routine procedure. If this is not done, accurate information cannot be given to relatives about the whereabouts of recently-arrested people, who are usually at most risk of abuse, or about the place of detention of prisoners who have been moved. The ability of the HRTF to maintain such a register is hampered by the fact that the police and armed forces do not supply it with the necessary information. Police and military authorities should be required to inform the HRTF *immediately*, and in an agreed and usable format, of all detentions, transfers and releases. The HRTF could then conduct spot-checks to ensure that full reports about detainees are indeed being made.

The HRTF list is compiled by visiting police stations, army camps, detention centres, prisons and rehabilitation camps and recording the names of the detainees seen in each place. In practice, the visiting has mostly been done by the Chairman himself, a retired judge of the Supreme Court who commands great public respect, sometimes accompanied by another HRTF officer. Practice varies in the different regional offices, however, depending upon local conditions. In Kandy, the local officer visits police stations, but not army camps, himself. In Batticaloa, the local officer had only visited prisoners in the company of Justice Soza, who visits the town approximately once a month. It would appear that the police and armed forces may not provide other officers of the HRTF the access they provide to Justice Soza himself. However tirelessly Justice Soza pursues these visits, it is impossible for him to record *all* detentions *promptly* after arrest by this method. He has visited an impressive number of police stations and army camps⁵, but has not visited them all and it would be unreasonable to expect him to do so. Furthermore, as no list of authorised places of detention has been published, he could never be sure whether he had visited all such places. Until the HRTF as an institution is accorded the facilities granted to Justice Soza individually, local officers will not necessarily be able to intervene in an emergency, should relatives report a fear of torture or "disappearance" very soon after a person has been arrested.

The method by which lists of detainees seen by the HRTF were made available publicly was improved shortly before Amnesty International's visit. Previously, it had taken about a month for the information gathered on a visit to Batticaloa to be processed on the computer in Colombo and returned to the Batticaloa HRTF office. Under the new procedure, the local HRTF officer accompanies Justice Soza on his visits and both of them record the names of prisoners and other relevant information. One copy is immediately available locally for public information and the other is taken to Colombo for processing.

The HRTF is willing to monitor the safe release of detainees, but usually cannot do so because it is not generally given prior notification of releases. However, as mentioned above release procedures have generally improved anyway.

As mentioned above, the HRTF also maintains a list of "disappeared" prisoners. This list is compared with the names of those registered during Justice Soza's visits to places of detention in the hope that some may be traced. The annual report of the HRTF lists 93 people who had reportedly "disappeared" and who were subsequently found to be in detention. In some of these cases, however, Amnesty International understands that the prisoner's whereabouts was already known to relatives. Amnesty International believes that some reports of arrests made to the HRTF may have been presumed to be "disappearances", when this was not the case. In other cases, however, Justice Soza has intervened promptly on learning of a recent "disappearance" and quickly traced the whereabouts of the missing person.

Recommendations intended to halt extrajudicial executions

Amnesty International again urged the Sri Lankan Government to abide by the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. These principles were endorsed by the United Nations General Assembly on 15 December 1989, and clearly state that extrajudicial executions cannot be justified by a state of war, internal political instability or

⁵In its annual report, the HRTF says it visited 10 army camps and 104 police stations, as well as the 6 detention camps and 6 rehabilitation camps that were then in existence. To Amnesty International's knowledge, there are 308 police stations in the south alone. The HRTF had recorded details of 7,356 detainees during the first year of its operation, some of whom may since have been released.

public emergency. They provide numerous safeguards to prevent extrajudicial executions, including deaths in custody, and set clear standards for the investigation of extrajudicial executions. Amnesty International also recommended that the government establish a review of the command and control structures in the security forces, giving particular attention to the use of home guards and other ancillary forces; that a system of effective control be established over the issuing of weapons to civilians for self-defence, and that adequate training be provided; that independent commissions of inquiry investigate all human rights violations; that those who have ordered, committed or covered up human rights violations be brought to justice; and finally, that the results of investigations into human rights violations should be made public.

Investigations into human rights violations

Inquiries of different kinds have been held into several instances of extrajudicial executions reported since June 1991, marking a new acknowledgement by the government that these grave human rights violations have indeed been committed. In only one case - the Kokkadichcholai killings of June 1991 - was a Commission of Inquiry appointed with powers to summon witnesses and compel evidence. After that an administrative inquiry, with lesser powers, was held into reprisal killings by home guards in Polonnaruwa District, and police investigations were reported into later instances of reprisal killings. A senior government spokesperson told Amnesty International that the full Commission of Inquiry had been appointed primarily because the Kokkadichcholai massacre had generated a large amount of publicity. Amnesty International believes that all cases of human rights violations should be independently and impartially investigated. Amnesty International was also informed that draft legislation has been prepared to create a Human Rights Commission which would probably investigate future incidents of this kind. The draft text is apparently awaiting cabinet approval before being put before parliament.

Following the reprisal killing by soldiers in June 1991 of at least 67 civilians at Kokkadichcholai, Batticaloa District, the government took the welcome step of appointing an independent Commission of Inquiry. The inquiry found that the deaths had not resulted from cross-fire, as the military had claimed, but from "deliberate retaliatory action" by soldiers. The proceedings were public, but the procedures employed by the Commissioners did not fulfil the standards required by the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. The Commissioners did not subject the military suspects to cross examination, contrary to Principle 10 which states that "The investigative authority shall ... have the authority to oblige officials allegedly involved in any such executions to appear and testify." Amnesty International expressed concern to the government about this shortcoming, and about the fact that the 20 military suspects would be tried by a military tribunal, not a civilian court. The trial proceeded before a military tribunal. None of the suspects were found guilty of murder. The lieutenant in charge was convicted on the lesser charges of failing to control his troops and disposing of bodies illegally at the site of the massacre. The nineteen other soldiers were acquitted.

The inquiry into the killings of Muslim and Tamil villagers in Polonnaruwa District in April 1992 was more limited in scope than the Commission of Inquiry appointed to investigate the Kokkadichcholai killings. A three-person committee consisting of a retired Supreme Court judge, a senior army officer and a senior police officer was appointed to investigate. As explained to Amnesty International by a member of the committee, it was restricted to conducting an administrative inquiry and had no powers to summon witnesses and compel evidence. The committee found that home guards had been responsible for killing 88 Tamil villagers at Muthugal and Karapola. This attack was in response to the killing a few hours earlier by the LTTE of 54 Muslim villagers at Alanchipothana⁶. The committee criticised the local police for failing to take any preventive action and for chasing away villagers who had come to them for protection. They also recommended a review of the home guard system and the issue of weapons to civilians (see below). They recommended that the police investigate the killings by the home guards and prosecute those responsible. A member of the

⁶ These figures are given by the committee of inquiry. Amnesty International learnt of 62 Muslims killed in the attack by the LTTE, and of 89 Tamil villagers killed in the reprisal attack by Muslim homeguards.
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committee told Amnesty International that about 17 people had been investigated, some of whom had absconded. Three have been charged with murder and are currently on bail pending trial.

In two further instances of reprisal killings police investigations were announced without any independent investigative body being appointed. The first took place at Mailanathanai in Batticaloa District on 8 August 1992, after northern commander Major General Denzil Kobbekaduwa and nine other senior army and navy officers were killed by the LTTE on Kayts island, off the Jaffna peninsula. Soldiers from Poonani camp, over 180 miles away from Kayts, attacked and killed 39 Tamil men, women and children at Mailanathanai. There had been an attack on a local army and police patrol about 10 days earlier resulting in the deaths of 33 servicemen. Amnesty International was told that sixteen soldiers had been remanded to the custody of the military police following an identity parade, but that investigations were not yet complete. The soldiers were not known to have been charged by the end of the year. The second case concerned the reported killing by soldiers of about 10 people at Velaveli in Batticaloa District on 24 October 1992. The Prime Minister was reported as saying that these killings would be investigated by the police, but there has been no further information about this.

Review of command and control structures

The inquiry into the reprisal killings in Polonnaruwa District found that there had been no proper accounting of ammunition used by the home guards and no proper control of the weapons they used. The home guards had been inadequately trained and insufficiently armed to defend villages against the attack by the LTTE. The inquiry recommended that command and control structures of homeguards should be reviewed. The review committee appointed by the government on 30 June 1992 was mandated to examine command and control structures relating to homeguards and armed cadres of anti-LTTE militant groups, as Amnesty International had recommended. The committee had not reached any conclusions by the time of Amnesty International's visit.

Amnesty International visited Sri Lanka soon after the massacre by the LTTE of over 190 Muslim villagers in northern Polonnaruwa District (see below). The government appointed retired navy commander Admiral Ananda Silva to investigate the killings and to make recommendations on improving security in the border areas. The attack had highlighted the difficulties the government faces in providing security to civilians in these areas. Some sections of the community were calling for arms to be issued more widely to civilians for use in self-defence. Amnesty International recognises the responsibility of government to provide security to the civilian population, but believes that weapons should only be issued within a system of strict and effective control and training. Uncontrolled issue of weaponry could exacerbate violence and facilitate further gross violations of human rights, especially given the communal character of the present conflict.

Human Rights in the Northeast

Violations by government forces

"Disappearances"

"Disappearances" have reduced both in number and in geographical spread during 1992. Nevertheless, the rate of "disappearances" remains high: governmental and non-governmental sources put the figure at 10 to 18 per month. "Disappearances" have only been reported from the east, to Amnesty International's knowledge, especially Batticaloa District.

Almost all cases involve persons who "disappeared" in military custody. As in earlier years, some prisoners "disappeared" following cordon and search operations in villages; others "disappeared" after being detained in other circumstances. Examples are given below.

Amnesty International interviewed relatives of people who "disappeared" in 1992, as well as relatives of people who "disappeared" in earlier years, some of whose cases were reported in Amnesty International's *Sri Lanka - The Northeast: Human rights violations in a context of armed conflict*. The government has not yet taken steps to investigate these earlier cases, even when there were thousands of witnesses to the arrest in refugee camps of people who later "disappeared". For

example, 158 people were reportedly arrested at the refugee camp at the Eastern University campus, Vantharamoolai, on 5 September 1990. The Ministry of Defence later said that only 31 named people had been taken, all of whom had been released. According to a relative of two young men arrested that day, they were taken to the army camp at Vallaichenai. The case falls outside the terms of reference of the Commission of Inquiry on the Involuntary Removal of Persons, since it occurred before 11 January 1991. The case was reported to the Chairman of the Human Rights Task Force, but he does not actively investigate "disappearances". Similarly, the relative of an eight-year-old boy complained to Amnesty International that the "disappearance" of this child and over 160 others from Saturukondan and neighbouring villages on 9 September 1990 had not been fully and independently investigated. He said he had seen soldiers taking the prisoners towards the Boys Town army camp, Saturukondan, and that screams had been heard from the camp later on. He believed the prisoners had been transported elsewhere that night because he had heard vehicles moving out from the camp in the night. The Ministry of Defence said it had investigated the incident and that there was no evidence that any outsiders had been brought into the camp. It said that 40 to 60 villagers missing from Saturukondan had taken refuge in Batticaloa town. This young boy has not been found, however; nor have the relatives of another person Amnesty International interviewed, who had all "disappeared" in the same incident, including two brothers, aged 12 and 15, seen taken from their home together with their sister, aged 29, and her three children, aged six years, three years and three months respectively.

Selected cases of "disappearance" in 1992

Twenty-five young men were detained by the army in the Kiran area, Batticaloa District, in January and February. Eleven of them were later released and the military denied that it had detained the remaining 14. Two of the 14 were later found to be in detention and two more were released, but nine young men and a 12-year-old boy -Manikkam Siventhiran - have not been accounted for.

Gregory Johnson, a 24-year-old radio mechanic, was detained following a cordon and search operation by the army in Pankudaveli, Chenkaladi, on 24 September 1992. He and his wife were taken from their house to a playground at about 6am, where they were screened by military and members of the Tamil Eelam Liberation Organization (TELO), one of the armed Tamil groups which opposes the LTTE and works alongside the military. His wife was released, but he was detained along with 12 others. No certificates of arrest were issued. According to a relative, eight of the 13 prisoners were released later that day, two were sent to Batticaloa prison, and the whereabouts of three, including Gregory Johnson, remained unknown in early November 1992. According to one of those released, the 13 prisoners had first been taken into a hall where they were assaulted. Gregory Johnson already suffered from a chest ailment. He started to bleed from the mouth and asked to be taken to hospital. Soldiers removed him from the room, and he was not seen again. Relatives have inquired for Gregory Johnson at the prison, the police station and the Pioneer Road camp in Batticaloa. They also visited Kommathurai camp in Amparai District, but sentries refused to let them in and said he was not there.

Arulappu Aloysius, a 17-year-old fisherman, "disappeared" after being arrested by uniformed soldiers at about 2pm on 29 August 1992 in Vantharamoolai. According to a relative, he was arrested along with two friends as they were returning from the cinema. When soldiers came down the street, another young man had run away. The soldiers asked the three friends about the person who had fled, and then detained them. They were taken to the Vantharamoolai camp, and the other two were released on the same day. There had been no reliable news of Arulappu Aloysius, however, over two months later. Relatives had been told by the army at Vantharamoolai that he had been sent to Batticaloa, but the authorities at both the prison and the Pioneer Road camp in Batticaloa have said he is not there. Relatives have heard from unofficial sources that he may be detained at Kommathurai army camp in Amparai District. A relative visited the camp but was unable to get any information.

Three prisoners died at Police Post II in Kaluwanchikudy on 24 October 1992, according to relatives of one of the victims, Karthigesu Kulanderan. Their arrests by the Special Task Force (STF), a police commando unit, were later denied. The other victims were a carter and a worker at the co-operative

whose names are not known. The three men were among 11 arrested by the STF after a grenade had been thrown at their patrol. The STF took them to the police post, where they were assaulted with iron bars and poles by police personnel. A gunshot was heard. The next day, the prisoners were taken by jeep to the Kaluwanchikudy STF camp. Three were dead. Prisoners who were later released had fractures and knife wounds. The STF denied that they had ever arrested the three dead men, and extended their sympathies to the bereaved families. They said the STF had found the three bodies, and they thought they had been killed by the LTTE. When relatives asked for the bodies, they denied they were at the camp. Released prisoners said they saw the bodies there, and that the STF had put them on a tractor with six other bodies that had been brought from the hospital⁷, taken them away and buried them.

"Disappearances" were also reported following detention by Muslim Home Guards in the Batticaloa District. Home Guards detained thirteen Tamil men, women and children near Thiyavaddavan in April, apparently in retaliation for the killing by the LTTE that morning of Muslim villagers at Alanchipotana (see above). One boy escaped; the other twelve prisoners remain unaccounted for.

Unacknowledged detention

As mentioned above, the military admitted to Amnesty International that it holds certain prisoners in unacknowledged detention for periods varying from a few days to several weeks. Amnesty International learned of one case, however, in which a prisoner was released after spending over a year in Batticaloa prison. In 1991 he was wrongly reported to have been killed in custody. During the year he reportedly spent in Batticaloa prison, he had apparently been moved to the changing rooms at Webber Stadium, which has been taken over by the army, whenever independent visitors came to the prison. He is the brother of an LTTE area leader, and was said not to have been harmed while in prison.

Another person from Kaddaiparichchan in Trincomalee District was reportedly arrested by the army on 2 January 1992 and released on 1 July 1992. He had apparently been held secretly in a bunker at an army camp located about one and a half hours' drive from Kaddaiparichchan for all of that time.

A former prisoner held in Trincomalee in 1991 gave detailed information about the systematic movement of prisoners out of an army camp there in order to conceal them from the ICRC during its periodic visits (see below).

Torture, ill-treatment and deaths in custody

Torture and ill-treatment of prisoners continued in military, Special Task Force (STF) and police custody. Members of TELO and the People's Liberation Organization of Tamil Eelam (PLOTE), both ancillary forces operating alongside the army, were also said to have tortured prisoners in the east. The methods of torture reported included severe beatings; electric shocks; burning with cigarettes or matches; pouring petrol into prisoners' nostrils and then placing a plastic bag over their heads; suspending prisoners from their thumbs and beating them; beating with barbed wire and repeatedly submerging prisoners' heads in water while they were suspended from their ankles. Women were also reported to have been raped by soldiers.

One prisoner was held in *incommunicado* detention by the army for a year and a day before a relative was permitted to see him. This prisoner had been held at Talaimannar and Thallady army camps. In the first, according to his testimony, he was stripped naked, hung upside down and assaulted. He was also burned with burning paper and polythene, and had a damp cloth held over his face until he "confessed". At Thallady camp he says he was held blindfolded for six months and assaulted.

A man imprisoned in Trincomalee in 1991 described to Amnesty International the multiple tortures he had suffered. While being interrogated at the Plantain Point army camp his hands had been tied behind his back, petrol had been poured into his nose and a plastic bag put over his head. After the bag had been removed, he was beaten on his head and body, threatened with being burned on a tyre, and then hung upside down from his ankles and beaten on the sole of his feet and his body. He was

⁷ The other bodies were said to be those of victims of shooting by the army at Velaveli, also on 24 October 1992. See below.

hit with sticks and with barbed wire and chilli water was put on the wounds. Amnesty International saw the deep scarring which remains on his back as a result of this treatment. He was held with 14 people, chained and blindfolded for about a month. Some of the prisoners were naked. He said that at about 6am each Tuesday, when the ICRC visited, most of the prisoners were chained together and taken deeper into the Plantain Point camp in a truck, to a place where only the army has access. Only a few prisoners remained at the usual place of detention in the camp for the ICRC to visit. After a few weeks, he was among those shown to the ICRC. Thereafter, until he was transferred to Trincomalee prison, his chains were removed every week, and he was given additional clothing before seeing the ICRC. The clothing was removed and the chains replaced after they had gone. Prisoners were threatened that they would be killed if they told the ICRC about their treatment. A relative had been permitted to visit him after he had been seen by the ICRC. Until that time, the relative had visited the camp daily, and daily been told that he was not imprisoned there.

At Plantain Point army camp, also in 1991, this prisoner had seen bodies being burned. He had also seen two prisoners being killed: one was beaten and then held under water until he drowned. Another was submerged, but then pulled out of the water and a soldier cut his throat. The two men were a shop employee from Sampur and a man called Kanthan, also known as Oruthavai Kanthan, from Eechchilampattai.

Amnesty International's delegates saw prisoners held in chains at Pioneer Road police camp in Batticaloa in November 1992. The organization also learned of a 73-year-old man who had been held from September 1991 for nearly a year at this camp, apparently as a hostage for the surrender of his son. He, too, had reportedly been held in chains. Relatives who had visited prisoners there complained that they had bruises and swellings on their bodies, which apparently resulted from beatings.

Extrajudicial executions

Extrajudicial executions were reportedly committed in the northeast by military and ancillary forces, and home guards. Several instances in 1992 of reprisal killings by soldiers and home guards were outlined earlier: the killings of Tamil villagers at Karapola and Muthugal by home guards after the LTTE had killed Muslim villagers at Alanchipothana; the killing of Tamil villagers by soldiers at Mailanthanai after the killing of northern commander Major General Denzil Kobbekaduwa and nine other senior army and navy officers were killed by the LTTE on Kayts island; and the reports that 10 people had been extrajudicially executed at Velaveli in October 1992.

There has been no official information about the reported killings at Velaveli. People from that area told Amnesty International that Velaveli village remains occupied by the army, that residents had been forced to move out and that they had been prohibited from cultivating the paddy fields since 1990. In October 1992, they said the army had given permission for certain areas to be cultivated, but had then driven the farmers away from the fields. Numerous arrests have been reported from the area, where the LTTE is active. Many of the prisoners were said to be working in the fields at the time of their arrest. Over forty people arrested at nearby Kakkachchivaddai on 19 October 1992 were initially reported to have "disappeared" but then were found in custody, for example, and three further people were taken into custody on 23 October, the day before the reported killings. Their whereabouts of these three were still not known to relatives when Amnesty International visited Batticaloa.⁸

Reports of the number killed at Velaveli on 24 October vary from six to 10. According to some witnesses interviewed by Amnesty International, nine were killed, including a 52-year-old woman. These people said they were sowing paddy in fields at Paliyativaddai, Velaveli, at 9am when they saw the army approaching. They took shelter in a neighbouring house, along with others. Soldiers surrounded the house and fired into it before they entered. Three people were injured, one of whom later died of gunshot injuries in the groin and face. The soldiers then forcibly removed the people,

⁸They were Karthigesu Sothilingam, aged 32, from Colony 35, Bakkiela, and Samithambi Gunasekaram and Sinnatambi Rajavarodiam, aged 20 and 28 respectively, both from Kakkachchivaddai. The three were taken to the Paliyativaddai army camp. Relatives who followed them there were chased away.

and took them to the Paliyativaddai army camp. Relatives followed behind. They waited near the camp until mid-day and said they could hear sounds of screaming. They saw bodies being taken to Kaluwanchikudy hospital in a tipper truck and followed. Relatives gave a statement to Kaluwanchikudy police and thought the bodies would be given to them. A post-mortem was held at the hospital, but then the bodies were taken by the police, according to these relatives, and burned. Another person interviewed by Amnesty International, however, said that the bodies of six people killed at Velaveli were taken from Kaluwanchikudy hospital mortuary to the STF camp by tractor, and that there the STF had added three more bodies of people who had died in their custody (see above). The nine bodies were then burned in a secluded place.

At Mandur, Batticaloa District, in April a family of seven were among eight people killed by members of the TELO, which operates alongside the army in the east, following the killing by the LTTE of two TELO members. Amnesty International's sources on this incident say that the army was also involved in these killings. However, Justice Soza, Chairman of the HRTF, did not learn of army involvement when he questioned people in the area.

Long-term detention without charge or trial

Some prisoners are held for long periods in the east before being released or transferred to prisons in the south, where they can remain in detention indefinitely under Emergency Regulations, without charge or trial. Mention has already been made of prisoners held for over a year in military or police custody before being released without charge.

Figures are not generally issued on the numbers in military custody. However, the Commander of the Army told Amnesty International that at the time of their visit 50 prisoners were in military custody in Batticaloa and 175 in Trincomalee.

Figures provided by the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers showed that on 10 October 1992 there were 826 Tamil detainees in prisons in the south, an unknown number of whom would have been transferred from the east. Some of these prisoners have been in detention for over two years without trial. The general issue of the long-term detention of political prisoners is discussed more fully below.

Abuses of human rights by the Liberation Tigers of Tamil Eelam (LTTE)

Amnesty International's work on abuses of human rights by armed opposition groups is based on principles derived from international humanitarian law. The organization promotes minimum standards of humane behaviour by which any opposition group should abide. The LTTE announced in February 1988 that it would abide by the provisions of the Geneva Conventions and its Optional Protocols I and II. It continues to claim that it abides by these standards, but consistent reports from the northeast indicate that it fails to do so.

Both international human rights law and international humanitarian law dealing with armed conflict prohibit all forms of torture and the killing of defenceless people. Common Article 3 of the Geneva Conventions, which applies to all parties to an internal armed conflict, requires that all persons taking no active part in the hostilities, including members of the armed forces who are in detention, wounded or have laid down their arms, must always be treated humanely. Such people should never be murdered, mutilated, tortured or subjected to cruel, humiliating or degrading treatment. Hostage-taking is also prohibited.

Armed conflict between government forces and the secessionist LTTE continued in the northeast during 1992 with heavy casualties reported on both sides. Control of much of the northeast remained uncertain. The government retained control of the towns of Mannar, Vavuniya, Trincomalee, Batticaloa and Amparai. The Jaffna peninsula remained primarily in LTTE hands, but government forces took over part of the peninsula, as well as holding several islands closeby. Access to the peninsula by land or sea was closed. Tensions between the Tamil and Muslim communities in the east, particularly, were heightened with a series of communal attacks and counter-attacks.

Forces of the LTTE committed numerous gross abuses of human rights, including the deliberate killing of hundreds of non-combatant Muslim and Sinhalese civilians, the arbitrary killing of

civilians in bomb attacks on buses and trains, the torture and killing of prisoners, and abductions for ransom. The LTTE also executed prisoners accused of being traitors.

On 15 July 1992, 18 Muslim men, women and children were shot dead when the bus they were travelling in was reportedly attacked by the LTTE at Kirankulam, between Kattankudi and Kalmunai in Batticaloa District. A week later, on 21 July, a train was stopped outside Batticaloa, on its way to Colombo. According to reports, Muslim passengers were separated from the others and killed. About ten people died. In September 1992, 22 people, most of whom were Muslims, were killed when a bomb believed to have been planted by the LTTE exploded in a crowded market place at Sainthamarathu. Sinhalese civilians were also killed in LTTE attacks in the east, such as at Kohongaswewa in Weli Oya, where 15 civilians were killed in October 1992.

The killing in April 1992 of 62 Muslim villagers at Alanchipotana, Polonnaruwa District, has been mentioned above. In October 1992 an even larger massacre took place: over 190 Muslim villagers, including small children, were killed in a massive early morning attack by the LTTE on four adjacent villages in Polonnaruwa District. According to two survivors from Paliyagodella interviewed by Amnesty International, the attack began at about 4am, while the villagers were sleeping, and ended about three hours later. They said the villages, which are in the border area of the east, were guarded by 26 policemen, 10 soldiers and 10 home guards, some of whom were in camp at the time and some of whom were on sentry duty. Hundreds of LTTE cadres descended on the villages and opened fire. The security forces returned fire, but soon ran out of ammunition. Air support arrived after about two hours. Residents woke up on the first exchange of fire, and began to panic, fleeing in all directions. An announcement came over the mosque loudspeaker that people should gather in the mosque. On the way there, many were attacked and killed. The father, mother, three sisters and two brothers of one person interviewed by Amnesty International had all been killed. He was the family's sole survivor, and had hidden in undergrowth until the fighting was over. The LTTE denied responsibility for these massacres, but witnesses are certain that the LTTE committed these acts.

Among the thousands of prisoners believed to be held by the LTTE and at risk of ill-treatment were Sri Lankan police and military personnel, Tamils perceived as traitors to the LTTE cause because they were believed to have provided information to government forces, Tamils who had criticised LTTE policies, Tamils who were members of rival Tamil militant groups in the past, and Tamil and Muslim hostages held for ransom. Relatives of LTTE deserters who have escaped, or of people who have fled to evade conscription, are also said to have been detained. A number of Sinhalese prisoners may also be held, according to a press interview with a Sinhalese fisherman who was among three fishermen released by the LTTE in August 1992 after seven months in detention (*Island*, Colombo, 24 August 1992).

Amnesty International cannot verify the number of prisoners held by the LTTE, but reports consistently put the figure at over 2,000. The LTTE has not informed relatives of the whereabouts or fate of many of its prisoners, some of whom have reportedly been tortured and killed. According to a former LTTE member, there were about 250 alleged traitors held prisoner in a camp in the Vanni (south of the Jaffna peninsula) around the time of Amnesty International's visit. He said Tamil prisoners suspected of being informers were routinely beaten and tortured during interrogation until they "confessed", and some were then shot dead. Methods of torture used to extract confessions included severe beatings, holding prisoners' heads under water intermittently and tying them to a tree and then firing shots around them.⁹

Relatives are not necessarily informed by the LTTE whether the prisoner is alive or dead, and many prisoners held by the LTTE appear to be in *incommunicado* detention. The ICRC regularly visits 40 policemen and a soldier held as prisoners of war, but has not been granted access to Tamil prisoners. The LTTE claimed in a letter to Amnesty International dated 24 September 1992 that, "Prisoners are permitted visits by relatives and by human rights and humanitarian organisations." However, Amnesty International has received complaints from relatives of prisoners that they have been given no information at all. Some suspected informers, however, have been paraded in public, according to

⁹Other methods of torture employed by the LTTE are described in *Sri Lanka - The Northeast: Human rights violations in a context of armed conflict*, September 1991, AI Index: ASA 37/14/91. AI Index: ASA 37/1/93 Amnesty International February 1993

witnesses.

Individual prisoners held by the LTTE, and whose whereabouts and fate are not known, include student and writer Thiagarajah Selvanithy and dramatist Thillainathan, who were both arrested on 30 August 1991. A student called Manoharan, who was also arrested that day, was released in 1992. A bookseller, Maniam, was arrested in December 1991, and in February and April 1992 respectively, Rajaratnam, a farmer, and Senthana, an engineer, were arrested. Senthana was released later that year. There have also been reports that in January 1992 the LTTE radio news announced that three men aged over 70 years old had been arrested for having had contacts with past "traitors". They are Perinpanayakam from Urumpirai, former Inspector Thamocharampillai and Chelliah from Madduvil, and are believed to have been arrested three months before the radio broadcast. Two Sinhalese prisoners were abducted in Batticaloa District by the LTTE on 13 November 1991, together with two Thai nationals who were released to the ICRC two days later. They were B M Baddewela, an employee of Sri U-Thong Company, and G Gamini Wickremasinghe, an employee of the Ceylon Electricity Board. Their whereabouts and fate are not known.

Numerous people have been held for ransom by the LTTE as part of its fund-raising effort. The hostages included S Sivagnanam, an 84-year-old retired lawyer from Chankanai, Jaffna, who was detained on 9 September 1992 with a ransom demand of Rs2,500,000 (about US\$600,000), who is believed to have been selected because he has relatives living in Europe who are presumed to be wealthy. Relatives in Jaffna were refused permission to see him and given no information about his state of health. In Batticaloa, Amnesty International interviewed a Tamil man whose wife had been detained by the LTTE for ransom, and released after agreeing to pay by a specified date. A former LTTE member described to Amnesty International how funds were extracted from the public by force, including by taking children prisoner for ransom from their parents.

The 40 captive policemen and one soldier may also be held as hostages. They were seen by a delegation of Buddhist monks which visited Jaffna in April 1992. According to a *Reuter* report of 28 April 1992, the LTTE offered to release them if the government releases 41 LTTE prisoners¹⁰.

Muslims have also been held for ransom. Forty-three Muslims were taken hostage in Jaffna and Vavuniya Districts between January 1990 and May 1991. Twelve were released after 18 months in detention, with no ransom having been paid, in March 1992. One had died in detention and nine others had been released in 1991 after the ransom demanded was paid. The fate of the others is not known.

Amnesty International interviewed some of the released Muslim hostages from Jaffna during their visit. They had been held in chains at Usan, one of their places of detention. During the day, each individual had his ankles chained; at night, they were chained to each other. During questioning by the LTTE about their property, they had been assaulted. One hostage had once been visited by his wife. But while they were in detention, all Muslims had been driven by the LTTE from the Jaffna peninsula under threat of death, so it would not have been possible for relatives to see them thereafter. The hostage who died, Abdul Cader, was said to have been 68 years old when he died on 16 October 1990 at Usan. He had been assaulted the previous evening, according to a witness, and had been taken to his house to fetch six pieces of gold. After his return, he was ill during the night and collapsed and died the next morning.

Executions by the LTTE of alleged traitors continued to be reported in 1992, including public executions. Jaffna residents told Amnesty International that prisoners sentenced to death in Jaffna were paraded before the public before their execution, sometimes with notices around their necks, and that their crimes and sentences were publicly announced. A witness described to Amnesty International the public execution of 10 prisoners that took place near Thandikulam, north of Vavuniya, on the morning of 6 July 1992. A group of armed cadres brought ten prisoners, including two women, to the road junction at Paranathal. A large crowd of people who were travelling to Colombo from the north were gathered there, and forced to watch the proceedings. The prisoners had been accused of giving information to the army. They were taken down from the vehicle and told to stand on the sandbags which had been placed ready "so that their blood would not stain the soil".

¹⁰ Two of these policemen were released on 10 January 1993 when church leaders met the LTTE leadership. Amnesty International February 1993AI Index: ASA 37/1/93

They were told to proclaim their guilt. When two of them said they had confessed falsely because they had been beaten during interrogation, a member of the LTTE ordered the shooting to start. The ten were shot in the back. An LTTE member then cut off the head of one of the executed prisoners, who the witness identified as a lorry driver called Nagarajah from Omanthai. The head was put in a box and a woman traveller at the scene was told to take it to the sentry point at the Vavuniya army camp. The LTTE took her documents away from her, so she had no choice but to deliver the box and return for her papers before she could continue with her journey. The LTTE removed the bodies.

A former LTTE member told Amnesty International that it was LTTE policy to kill captured government soldiers, as they could not risk a false surrender. However, he said that some soldiers had been taken alive and remained in custody because of the attitude of the particular LTTE area leader. As mentioned earlier, 40 policemen are also known to be alive in custody. Amnesty International has the names of 91 policemen who have been missing since the LTTE attacked police stations in the east in June 1990.

Human Rights in the South

Torture and ill-treatment

Torture was reported in both police and military custody in the south, of both political detainees and criminal suspects. The testimonies which follow demonstrate that illegal arrests are still carried out in the south, facilitating torture and ill-treatment.

In Badulla and Nuwara Eliya Districts Tamil prisoners of Indian origin were tortured in both military and police custody during 1991 and 1992.

One former prisoner told Amnesty International of his torture by plainclothed soldiers in Badulla. A group of armed men wearing civilian dress had taken him from his home in Badulla one evening in July 1992. They did not identify themselves at the time, but later told him they were army, not police, personnel. They took him, blindfolded and handcuffed, in a brown Hiace van to what he believes was an army camp in an estate bungalow. There, his blindfold was removed and he was questioned for about two hours. He denied any contact or knowledge of the LTTE and was severely beaten for several hours on his face and body. Several times, he had petrol poured into his nostrils and a plastic bag put over his head for two to three seconds. The third time this was attempted, he fell unconscious. In the early morning, he was left chained to a table. The next day, he was questioned further and taken to the Badulla police. They in turn took him to hospital, where he spent several weeks under police guard. He then spent over two months in police custody at Badulla, where he was regularly visited by the ICRC before being released unconditionally. There, he saw other prisoners who had been beaten in order to get them to confess, and a group of five prisoners under special guard who had been injured and who were chained by the legs for most of the day. One of the five had apparently been there for eight months; the other four for nearly a year.

Another Tamil suspect was tortured in a "safe-house" by police in Nuwara Eliya, according to his testimony. He was arrested in July 1991 and taken to a dilapidated house. There, he was beaten on his chest and stomach, and an attempt was made to push a burning match into his penis. He was hung upside down and his fingers were injured. After four days, he was taken to Nuwara Eliya police station, but two weeks later he was again taken to the "safe-house" where he was assaulted again. His medical certificate details several injuries consistent with his history of torture.

A criminal suspect arrested by the Lunugala police on 20 August 1992 was severely tortured during his four days in police custody. With his hands tied together, he was laid on the ground and beaten on the soles of his feet with a baton. He was also suspended from his thumbs, one of which fractured, and beaten with clubs. Later, he was again suspended with his hands tied behind his back and assaulted. After being remanded by the Badulla court on what he claims was a false charge, the prison authorities had him admitted to hospital, where he was treated for 18 days. His medical certificate confirms injuries consistent with his history of torture.

Another criminal suspect was tortured by the Dummalasuriya and Bingiriya police in September, according to his testimony. He had been held in police custody for 10 days before the ICRC found him. Because of their intervention, he said, he was then produced before a court and remanded to prison custody. At Bingiriya police station he was suspended from his thumbs and beaten with a

mammoth handle. He was also stripped naked, tied to an iron rod and whipped. He was held in a barracks behind the police station, not a normal cell. Relatives who inquired at the police station were told he was not there.

Prisoners were also subjected to other forms of ill-treatment, such as being held in chains in police custody in Badulla. Severe overcrowding was reported from the sixth floor of Police Headquarters in Colombo, where political detainees have been held without trial for more than a year in the custody of the Crime Detection Bureau.

"Disappearances" and deaths in custody

No case of long-term "disappearance" was reported to Amnesty International from the south during 1992. However, some prisoners spent periods of time in unacknowledged detention, as described above, sometimes after being detained by plainclothed officers driving unmarked vehicles. One such arrest by the military in Badulla was described earlier. Four cases of arrests by plainclothed police who failed to identify themselves were reported in Anuradhapura District during the year. Although in all of these cases the persons concerned were later found in custody, the continuation of such illegal arrest and detention practices is a matter of serious concern. In the past, many thousands of people "disappeared" after being detained in this manner by police or army personnel who sought to hide their identities in order to evade accountability for their actions.

In the south, several imprisoned JVP suspects were said by the police to have been shot dead during attempted escapes or to have committed suicide. Typically, the deceased was said to have been leading police to an arms cache, to have grabbed a gun himself, and to have been shot dead by police in self-defence.¹¹ Emergency Regulations do not require that full, independent investigations be held into deaths in custody. Under these regulations inquests into deaths in custody can only be held when the Inspector General of Police deems it necessary. Such inquests are in effect secret procedures: only evidence presented by the police is admissible, relatives or other interested parties need not know that it is being held, the hearing must be held *in camera*, and the findings can only be reported by the judge to the Attorney General. Amnesty International is concerned that the existence of such a procedure can facilitate the cover-up of deliberate killings of prisoners and of deaths resulting from torture.

Intimidation and death threats

Human rights lawyers, witnesses to human rights violations, journalists and trade unionists all received death threats, believed to come from the security forces, in southern Sri Lanka during 1992. Lawyers in some areas refused to act in cases against security forces personnel for fear of retaliatory action. Others, including a legal organization called Lawyers for Human Rights and Development, which specializes in providing legal aid in human rights cases, received explicit death threats. Similarly, a senior lawyer was threatened after acting in a *habeas corpus* case filed on behalf of relatives of 16 schoolboys who were among 46 who "disappeared" in Embilipitiya in late 1989.¹² Witnesses to human rights violations have refused to come forward in some cases: for example, the relative of a person whose "disappearance" was being investigated by the CIRP told Amnesty International that witnesses who had seen the prisoner in police custody were too frightened to testify because they feared retaliation by the officers concerned, who were still serving at the local police station.¹³

¹¹ Amnesty International requested details from the authorities of the inquiry held into the death in custody of Menik Shantha Abeyssekera Dissanayake (alias Dickson) on 29 October 1992 during such an operation. In this instance, the inquiry was said to have been held under normal law. Full details of the post-mortem findings were not supplied; he was said to have been shot in the head. Details of the location of the wound and the range from which the shot was fired were not given. Amnesty International was informed that the Matugama magistrate had reached a verdict of "justifiable homicide in the exercise of the right of private defence". According to the information supplied by the police, the police had disposed of the body on the instructions of the magistrate after relatives had refused to take it.

¹² See *Sri Lanka: Unresolved "disappearances" from the period 1987 - 1990: the case of Sevana Army Camp*, AI Index 37/18/91, October 1991

¹³ A circular was issued from Police Headquarters on 11 June 1992 on the protection of witnesses, which acknowledges that Amnesty International February 1993 AI Index: ASA 37/1/93

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Journalists critical of government policy were intimidated and attacked. One, a cartoonist called Yoonus, was physically injured and repeatedly threatened by people he identified as associates of a senior government minister.

People active in pressing for greater rights for workers in the Free Trade Zone at Katunayake were also threatened by police.

Political imprisonment

The number of political detainees reduced during 1992, but thousands still remained detained without trial. Arrests of political prisoners under the Emergency Regulations and the PTA continued throughout 1992. Hundreds of people were detained on suspicion of connection with the JVP insurgency in the south between 1988 and 1991, and thousands for suspected contact with the LTTE, including in the south. In addition, lawyers have complained that emergency provisions are increasingly used by police to detain criminal suspects who should be dealt with under the normal law, or people who appear only to be exercising their right to peaceful self-expression and who should not be arrested at all.¹⁴

Some Tamil suspects in the south have been arrested by members of the Eelam People's Democratic Party (EPDP), who sometimes detained prisoners themselves instead of handing them over to police custody. The EPDP has no known formal authority to arrest and detain prisoners, but is believed to operate with the cooperation and connivance of the authorities.

Emergency Regulations are not publicised after they have been promulgated, and are no longer regularly re-issued in updated form. Lawyers, law-enforcement agencies and the judiciary may therefore be uncertain about the law in force at any particular time. This uncertainty also applies to detention procedures, for example those regarding the method by which detainees are to be seen by magistrates. Detainees arrested under ER 18 used to have to be brought before a magistrate within 30 days of the arrest. This provision was altered in December 1989 to require magistrates to visit places of detention monthly and see detainees there. There is no requirement, however, for the police to inform magistrates where detainees are held. The police officers Amnesty International spoke to about detention procedures appeared unaware of this requirement, and all described the earlier procedure (which ceased to be law in December 1989) **as the one they still follow**. When Amnesty International raised this problem with the Minister of Justice he agreed that all Emergency Regulations should be made publicly available, and be publicised, immediately.

Under Emergency Regulations (ER 17), detainees can be held indefinitely on preventive detention orders issued by the Ministry of Defence. Those who have surrendered can also be held indefinitely, and are held under a different emergency provision (ER 21) which does not require any detention order to be issued. Some prisoners have been in detention without charge or trial for well over three years. Many of these prisoners do not know whether they will be tried, released or simply held without any time limit.

Hundreds of prisoners have filed petitions in the Supreme Court alleging that they have been illegally detained. There have been complaints that even after the Supreme Court has ordered the release of detainees because they have been illegally detained, there have been long administrative delays in putting the order into effect.

As mentioned earlier, there is lack of clarity about the process applied to political detainees, largely because the various authorities involved in decision-making about each detainee's fate work separately and at different times, and base their decisions on differing evidence. While there is contact between the various bodies involved - the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeeds, the police and the Attorney General's

police officers are among those reported to have harassed witnesses, and requiring that complaints of harassment should be promptly investigated, that firm action should be taken against those responsible and that the original court should be informed of the harassment in writing.

¹⁴ In one Supreme Court judgement (No 25/91 (F.R.)), the judges pointed out that "Every (unproscribed) political party in a democracy, except that which is in power, is constantly engaged in 'anti-governmental' activity, with a view to acquiring governmental power. 'Anti-governmental' discussions are *per se* neither illegal nor subversive."

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department - they seem not to agree necessarily that a final decision has been made in a particular case.¹⁵ Prisoners cannot know where they stand in this situation.

According to the figures provided by the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeeds, in October 1992 a total of 4,823 political prisoners were detained in detention camps, prisons, police custody and rehabilitation camps¹⁶. No figures were given of those in army custody. The committee had recommended that 554 detainees be charged and prosecuted. The great majority of these prisoners had been detained in connection with the JVP insurgency of 1988 - 1991. In at least 120 cases, by the end of September 1992 the Supreme Court had awarded compensation to detainees who it found had been illegally arrested and detained. Some 4,956 political detainees had been released by the end of September 1992, according to the committee's figures. Of these, 467 had received suspended sentences or were acquitted in High Court trials, 89 had been released on order of the Supreme Court after their detention had been found illegal, and 4,400 had been released on the recommendation of the committee.

Amnesty International believes that all political prisoners should receive a prompt and fair trial, and that the Emergency Regulations and PTA grant excessive powers of detention. In his annual report, the HRTF Chairman Justice Soza also criticised Emergency Regulation 17, under which many detainees are held without time limit. "Dateless detention...", he argued, "is frustrating and demoralising and in the long run will not serve to ensure a stable social order. Even as a deterrent it is counter-productive." Justice Soza recommended that the grounds for detention of each detainee be reviewed in batches, taking first those who have been detained longest, to decide whether each person would be prosecuted, rehabilitated and then released or unconditionally released.

Amnesty International does not know the total number of prisoners detained for over three years without trial. The organization has details of 433 detainees held at Pelawatte Detention Camp in October 1992, 66 of whom had been held for three years or more and 143 for between two and three years. Two detainees had been held for 46 months at that time. (According to the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeeds, there were 488 detainees in Pelawatte in October 1992. Amnesty International does not have details of the remaining 55 prisoners.)

Justice Soza's call for a review of detainees' cases appears to be based upon the fact that indefinite detention seems to be used as an alternative to reaching a final decision on whether certain prisoners are to be charged and tried or released.

At present there are different review processes to look at cases of political detainees, which may reach different conclusions. The main review body is the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeeds, which comes under the Ministry of Defence. This committee is expected to look at the cases of all detainees. It classifies prisoners according to the degree of involvement in an insurgent movement (either JVP or LTTE) it believes each person to have had. It reaches its assessment on the basis of detainees' own statements and information provided by the police. The committee makes its recommendations to the Secretary to the Ministry of Defence, who issues the detention orders and release orders. It recommends whether a prisoner should be released, rehabilitated or kept in detention and charged¹⁷. Statements made by detainees to the committee cannot be used against them in court. In some cases, the committee may believe a person to have been involved in serious insurgent crime, and will recommend continued detention despite the fact that police may have insufficient evidence to bring criminal charges against that person. It appeared to Amnesty International that the government had not yet reached any clear

¹⁵ This is despite the fact that both the police and the Attorney General's department are represented on the Justice Jayalath Committee. *Although the Justice Jayalath Committee has registered and classified detainees, the Attorney General's department is now to collect its own information on detainees in the main detention camps in order to ensure that its information on each case is complete and up-to-date.*

¹⁶ Of these, 1,523 detainees were held in detention camps, 1,113 in prisons, 569 in police custody and 1,618 in rehabilitation camps.

¹⁷ So far, no Tamil prisoner detained in connection with the conflict in the northeast has been sent for rehabilitation. The Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeeds told Amnesty International that a rehabilitation camp for Tamil detainees may be opened in the future.
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decision about the fate of these people, other than to keep them in detention indefinitely.

Detainees can also apply for their cases to be reviewed by a three-member Advisory Board constituted under the Emergency Regulations (ER 17(6)) and the PTA (Section 13). This board is chaired by Justice Abheywardene, a retired President of the Court of Appeal, who took office in November 1989. As described by Justice Abheywardene, prisoners can petition the President for their cases to be reviewed by the Advisory Board, and relatives of prisoners might petition the board directly. Advisory Board hearings are held at the Ministry of Defence, and a Superintendent of Police (SP) attends to present the police evidence against the prisoner. The prisoner and his lawyer attend the hearing, as does the Secretary to the board.

The board sits on three days per week, and had heard 1,451 cases between November 1989 and 30 October 1992. On the day of Amnesty International's meeting, it had looked into six new cases and 12 old ones. In total, it had recommended release in 480 cases, release after rehabilitation in 494 cases, and made no recommendation in 248 cases.¹⁸ Two hundred and twenty nine cases were pending, until police received further information from the Attorney General to submit to the board. The board had not once recommended continued detention.

The board's recommendations are submitted to the Ministry of Defence. The board does not inform prisoners of its decisions because it only has an advisory function. In the Ministry of Defence, the board's decisions are scrutinised by the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers, which may disagree with and overturn the board's recommendations. According to the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers, differences of opinion are likely to be due to the fact that each body bases its conclusion on different evidence about the prisoner. Final recommendations to the Secretary to the Ministry of Defence are thus made by the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers, not the Advisory Board.

There is new uncertainty about the status of "rehabilitation" as a stage of detention. The decision to send a prisoner for rehabilitation has generally been understood as indicating that no criminal charges will be brought against that person, and that they will be released at the end of a specified term. However, Amnesty International knows of 107 prisoners released following rehabilitation who had since been charged, apparently for the same offences for which they had been rehabilitated. Of these, three had been sentenced to imprisonment by June 1992 and an unknown number of others had received suspended sentences. Other former detainees have complained that the police have taken fresh statements from them after their release.

The Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers told Amnesty International that this problem had arisen because of lack of coordination between the committee and the Attorney General's department, which had now been resolved. However, the Attorney General told Amnesty International that the Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendeers does not have the complete police evidence when it classifies prisoners. He said the committee has a police intelligence report, but not relevant information from other prisoners' statements, which is only submitted to the Attorney General. The Attorney General said that many cases involving lesser charges had been filed several years earlier, but had only recently come to court. The Attorney General said that current practice is only to bring charges if he finds evidence of serious offences. He said that he was sending police officers into the detention camps to register and interview each detainee so that his department would have complete information on the number and status of each detainee, and expedite their cases accordingly.

On 6 December 1992, the Attorney General was reported as saying that he had instructed state counsel to withdraw charges against suspects whose involvement in insurgent groups was only marginal. This step was intended to reduce the back-log of some 2,500 cases pending in the High

¹⁸These prisoners had either already been released by the time of the hearing, escaped or could not be found.
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Courts, in order that the serious cases could be dealt with.¹⁹ The Attorney General was reported as saying that "It is futile to waste time on persons who are already rehabilitated and released. Something has to be promptly done regarding the ones languishing long in detention camps." Amnesty International hopes this means that the uncertainty about status of "rehabilitation" will now be resolved.

List of Abbreviations

CIRPPresidential Commission on the Involuntary Removal of Persons

DIGPDeputy Inspector General of Police

EPDPEelam People's Democratic Party

EREmergency Regulations

HRTFHuman Rights Task Force

ICRCInternational Committee of the Red Cross

IGPInspector General of Police

JOCJoint Operations Command

JVP*Janatha Vimukthi Peramuna* (JVP, People's Liberation Front)

LTTELiberation Tigers of Tamil Eelam

PLOTEPeople's Liberation Organization of Tamil Eelam

PTAPrevention of Terrorism Act

SPSuperintendent of Police

STFSpecial Task Force

KEYWORDS: DISAPPEARANCES1 / EXTRAJUDICIAL EXECUTION1 / TORTURE/ILL-TREATMENT1 / RESTRAINTS / DEATH IN CUSTODY / DETENTION WITHOUT TRIAL / INCOMMUNICADO DETENTION / CONTINUED DETENTION / HOSTAGE TAKING / ARMED CONFLICT / MILITARY / PARAMILITARIES / POLICE / NON-GOVERNMENTAL ENTITIES / ETHNIC GROUPS / RELIGIOUS GROUPS-ISLAMIC / WOMEN / CHILDREN / JUVENILES / MANUAL WORKERS / FISHERMEN / POLICE AS VICTIMS / STUDENTS / WRITERS / FARMERS / ENGINEERS / AGED / HARASSMENT / LAWYERS / JOURNALISTS / IMPUNITY / INVESTIGATION OF ABUSES / ARMED CONFLICT / ICRC / MISSIONS / TELOTamil Eelam Liberation Organization

ENDNOTES

1 The term "northeast" refers to what is presently the Northeastern Province, including the districts of Jaffna, Kilinochchi, Mullaittivu, Vavuniya, Mannar, Trincomalee, Batticaloa and Amparai. "The south" refers to all other areas of the island.

2 AI Index: ASA 37/14/91

3 Many thousands of people "disappeared" in the south between 1988 and 1991 as government security forces put down a violent insurgency by the armed opposition group, the *Janatha Vimukthi Peramuna* (JVP, People's Liberation Front). Between June 1990, when fighting in the northeast resumed between government forces and the LTTE, and January 1991, thousands of "disappearances" were also reported from that area. Earlier, between 1984 and mid-1987, Amnesty International recorded over 680 "disappearances" in the northeast for which Sri Lanka government forces are believed responsible. From mid-1987 to 1990, when the Indian Peace Keeping Force (IPKF) was responsible for the security of the northeast, Amnesty International recorded 43 "disappearances" attributed to the IPKF.

4 See *Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987 - 1990*, AI Index: ASA 37/21/90, September 1990, pp 27 - 28.

5 In its annual report, the HRTF says it visited 10 army camps and 104 police stations, as well as the 6 detention camps and 6 rehabilitation camps that were then in existence. To Amnesty International's knowledge, there are 308 police stations in the south alone. The HRTF had recorded details of 7,356

¹⁹ *Sunday Times*, Colombo, 6 December 1992

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detainees during the first year of its operation, some of whom may since have been released.

6 These figures are given by the committee of inquiry. Amnesty International learnt of 62 Muslims killed in the attack by the LTTE, and of 89 Tamil villagers killed in the reprisal attack by Muslim homeguards.

7 The other bodies were said to be those of victims of shooting by the army at Velaveli, also on 24 October 1992. See below.

8 They were Karthigesu Sothilingam, aged 32, from Colony 35, Bakkiela, and Samithambi Gunasekaram and Sinnatambi Rajavarodiam, aged 20 and 28 respectively, both from Kakkachchivaddai. The three were taken to the Paliyadvaddai army camp. Relatives who followed them there were chased away.

9 Other methods of torture employed by the LTTE are described in *Sri Lanka - The Northeast: Human rights violations in a context of armed conflict*, September 1991, AI Index: ASA 37/14/91.

10 Two of these policemen were released on 10 January 1993 when church leaders met the LTTE leadership.

11 Amnesty International requested details from the authorities of the inquiry held into the death in custody of Menik Shantha Abeysekera Dissanayake (alias Dickson) on 29 October 1992 during such an operation. In this instance, the inquiry was said to have been held under normal law. Full details of the post-mortem findings were not supplied; he was said to have been shot in the head. Details of the location of the wound and the range from which the shot was fired were not given. Amnesty International was informed that the Matugama magistrate had reached a verdict of "justifiable homicide in the exercise of the right of private defence". According to the information supplied by the police, the police had disposed of the body on the instructions of the magistrate after relatives had refused to take it.

12 See *Sri Lanka: Unresolved "disappearances" from the period 1987 - 1990: the case of Sevana Army Camp*, AI Index 37/18/91, October 1991

13 A circular was issued from Police Headquarters on 11 June 1992 on the protection of witnesses, which acknowledges that police officers are among those reported to have harassed witnesses, and requiring that complaints of harassment should be promptly investigated, that firm action should be taken against those responsible and that the original court should be informed of the harassment in writing.

14 In one Supreme Court judgement (No 25/91 (F.R.)), the judges pointed out that "Every (unproscribed) political party in a democracy, except that which is in power, is constantly engaged in 'anti-governmental' activity, with a view to acquiring governmental power. 'Anti-governmental' discussions are *per se* neither illegal nor subversive."

15 This is despite the fact that both the police and the Attorney General's department are represented on the Justice Jayalath Committee. Although the Justice Jayalath Committee has registered and classified detainees, the Attorney General's department is now to collect its own information on detainees in the main detention camps in order to ensure that its information on each case is complete and up-to-date.

16 Of these, 1,523 detainees were held in detention camps, 1,113 in prisons, 569 in police custody and 1,618 in rehabilitation camps.

17 So far, no Tamil prisoner detained in connection with the conflict in the northeast has been sent for rehabilitation. The Committee to Process, Classify and Recommend Rehabilitation and Release of Suspects and Surrendees told Amnesty International that a rehabilitation camp for Tamil detainees may be opened in the future.

18 These prisoners had either already been released by the time of the hearing, escaped or could not be found.

19 *Sunday Times*, Colombo, 6 December 1992