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£SRI LANKA - THE NORTHEAST

@Human rights violations in a context of armed conflict

INTRODUCTION

An Amnesty International delegation visited Sri Lanka in June 1991 to assess the human rights situation in the country. This document provides details of substantial evidence it found of large scale extrajudicial executions and "disappearances" occurring in the northeast since June 1990.¹ The organization also investigated reports of human rights violations by the Liberation Tigers of Tamil Eelam (LTTE), the main Tamil armed opposition group which effectively controls parts of the northeast of Sri Lanka. These human rights violations have taken place in a context of armed conflict between government security forces and the LTTE. Amnesty International appreciates the particularly difficult law and order situation this has created. Nevertheless, it is calling upon the Sri Lankan government to uphold its obligations to promote and protect fundamental human rights at all times.

This was the first time since 1982 that the organization had been permitted to visit the country for research purposes. Earlier in the year, two delegates from Amnesty International had attended a conference on trade unions and human rights in South Asia as guest speakers. While there, they met government officials and discussed possibilities for future access by Amnesty International to Sri Lanka. Shortly after this visit, the government announced that it would "favourably consider a formal request for a research visit if it were made". Such a request was made on 26 April 1991 and a positive reply was received on 16 May 1991.

The delegation arrived on 1 June 1991 and stayed in the country for two weeks. During their stay, they had detailed discussions with government officials, political leaders and with individuals active in the field of human rights. They interviewed dozens of victims and relatives of victims of human rights violations allegedly committed by the Sri Lanka security forces and paramilitary groups associated with them, and by the Liberation Tigers of Tamil Eelam (LTTE).

Among the government officials met were the Presidential Adviser on International Affairs, the Minister of Industries, Science and Technology and Leader of the House of Parliament, the Secretary of the Ministry of Defence, the Secretary of the Ministry of Foreign Affairs, the Head of the Human Rights Division in the Ministry of Foreign Affairs, the Inspector General of Police, the Commander of the Army and the Solicitor General. The delegation also met with the Leader of the Opposition in Parliament as well as individual members of parliament and local government officials representing various regions and parties.

Amnesty International also held discussions with all members of the Presidential Commission of Inquiry into Involuntary Removal of Persons, which is mandated for one year to investigate cases of "disappearances" occurring after 11 January 1991, and with the chairperson of the Human Rights Task Force, responsible for registering and reviewing the well-being of all detainees held under the Emergency Regulations and Prevention of Terrorism Act. The creation of the Human Rights Task Force was announced during Amnesty International's stay in the country.

¹ The term "the northeast" refers to what is presently the Northeastern Province, which includes the districts of Jaffna, Kilinochchi, Mullaittivu, Vavuniya, Mannar, Trincomalee, Batticaloa and Amparai.
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Amnesty International wishes to stress how much it has valued having been able to visit Sri Lanka for research purposes and gather information about human rights violations committed by both sides to the conflict in the northeast, as reflected in this document. Amnesty International would like to express its thanks for the time and attention given to its delegates by members of the government and others, and for the spirit of cooperation in which they were received. It would also like to thank members of local organizations and individuals concerned with human rights protection for their help and cooperation and to express its respect and appreciation for their commitment, often carried out at considerable personal risk.

A draft of the first six chapters of this document was submitted to the government prior to the visit. Several officials provided Amnesty International with comments, which have been incorporated as appropriate. Chapter 7 of this document, describing abuses committed by the LTTE, and Chapter 9, outlining Amnesty International's recommendations to the Sri Lanka Government were not submitted to the government prior to the visit. Previously, Amnesty International had raised some of the concerns referred to in Chapter 7 directly with the LTTE through correspondence with its leadership and meeting with its international representatives. To date, Amnesty International has received no reply to the specific allegations. The recommendations in Chapter 9 have been made taking into account information provided by the government with regard to certain steps it has taken for the prevention and investigation of human rights violations, as described in Chapter 8.

Amnesty International interviewed at length victims of human rights violations and their relatives from the northeast residing in other parts of the country. It also met with several human rights activists from the northeast. It decided to cancel initial plans to travel to Batticaloa in the east, for which it required military clearance, for security reasons. Several factors contributed to the decision to cancel this part of the program, including a threat received on 4 June 1991 from somebody claiming to be acting on behalf of the People's Revolutionary Red Army (PRRA), one of the "death squads" operating in Sri Lanka in recent years. In addition, Amnesty International feared that coverage given during the national television news of 6 June about the delegation's specific plans to visit Batticaloa had undermined its ability to undertake its research program effectively and securely, particularly from the point of view of the prospective interviewees. Thirdly, information was conveyed to the delegation that the LTTE intended to intervene in the course of the proposed Amnesty International visit to the Batticaloa area. Amnesty International considered that these factors would have undermined its ability to gather information from a wide range of sources necessary for the conduct of impartial research and, more importantly, could have put at risk the persons seeking to give testimony.

Amnesty International regrets it was not able to travel to Batticaloa. Nevertheless, the organization made alternate arrangements for gathering information from victims and their representatives, and it found substantial evidence of a high level of gross human rights violations in that area, particularly in the period June 1990 - December 1990. Estimates of the numbers who have been extrajudicially executed or who have "disappeared" in detention run to thousands.

The evidence Amnesty International has gathered clearly indicates that government forces, apparently acting with an almost total sense of impunity, have arbitrarily detained and deliberately killed thousands of defenceless people since the war resumed. Killings in the east have also been attributed to paramilitary or vigilante groups which, following the pattern established in recent years in the south, operate in plain clothes and use unmarked vehicles to reduce the risks of identification. Such groups are often believed to consist of members of the security forces. Almost all the victims of violations committed by government security forces and allied groups are members of the Tamil minority in whose name the LTTE claim to be fighting for a separate Tamil state - "Tamil Eelam" - in

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the northeast of the island.

Amnesty International has also collected reports of extrajudicial executions of civilians by the LTTE, which controls substantial areas of the north. Victims include large numbers of Sinhalese and Muslim civilians as well as Tamil people considered "traitors". The LTTE has also been responsible for the "disappearance" of prisoners it has taken, including policemen and others in government service as well as those it considers "dissident" Tamils, and is reported to have tortured prisoners.

Resort by government security forces to widespread extrajudicial executions and "disappearances" in contexts of armed opposition is not new in Sri Lanka. In recent years, the incidence of these gross human rights violations has soared. Between 1987 and 1990, while the Indian Peace Keeping Force (IPKF) was present in the northeast, Sri Lankan government forces operating in the south² are estimated to have committed tens of thousands of extrajudicial executions and "disappearances" in an unprecedented campaign of counter-terror intended to eradicate a Sinhalese armed opposition group, the *Janatha Vimukthi Peramuna* (JVP, People's Liberation Front). These violations of the most basic principles of international human rights and humanitarian law had previously been committed in smaller numbers by government forces in the northeast: between 1984 and mid-1987, for example, Amnesty International recorded over 680 "disappearances" in the northeast. Between 1987 and 1990, Amnesty International received reports of 43 "disappearances" from the northeast, for which the IPKF are believed responsible. The rate of gross human rights violations escalated in the area after June 1990, when direct conflict resumed between the LTTE and government forces: figures compiled by local human rights organizations suggest that the total number of "disappearances" committed by government forces and paramilitary groups associated with them in the northeast since June 1990 is over 3,000. The victims have mainly been young men, but in some cases women and children of all ages, including babies, have "disappeared" or have suffered extrajudicial execution.

BACKGROUND

The Conflict in the Northeast

The resumption of hostilities in June 1990 marked a new, more intense, phase in more than a decade of growing conflict in northeastern Sri Lanka between armed, secessionist Tamil militants and the Sri Lankan state.

When Sri Lanka (then Ceylon) gained independence from Great Britain in 1948 it inherited a democratic political system functioning within a unitary state framework. After independence, demands by Tamil politicians for a system of government which would grant greater autonomy to minority areas were repeatedly rejected and have remained a source of political tension in Sri Lanka. The unitary state was retained in the Republican Constitution of 1972 and in the most recent Constitution of 1978, which introduced an executive presidency for the first time.

The population of Sri Lanka is about 16.5 million people. Of these, some 74 per cent are officially classified in ethnic terms as Sinhalese, 18 per cent as Tamil and seven per cent as Moor. The Tamil population is divided between Sri Lanka Tamils (12.5 per cent), whose descendants are recognized as having a long history in the island, and the Plantation Tamils (5.5 per cent), who are descendants of

² "The south" refers to all areas of Sri Lanka outside the Northeastern Province. Gross and widespread human rights violations reached critical levels in 1988 and 1989 in this area. This was described in the Amnesty International report *Sri Lanka: Extrajudicial Executions. "Disappearances" and Torture, 1987 - 1990*, (AI Index: ASA 37/21/90) and *Sri Lanka: An Update on Human Rights Concerns*, (AI Index: ASA 37/32/90) of September 1990. AI Index: ASA 37/14/91 Amnesty International (September 1991)

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labourers brought from southern India to Sri Lanka to work on tea estates during the British colonial period. In terms of religious affiliation, approximately 70 per cent of the population are Buddhist, 15 per cent Hindu, eight per cent Muslim and seven per cent Christian (mostly Roman Catholic). Most Sinhalese are Buddhist; most Tamils are Hindu; some Sinhalese and Tamils are Christian; and Moors are Muslim.

The Sinhalese population forms the majority in all but the Northeastern Province, and is most heavily concentrated in the southwestern quarter of the island. The former Northern Province (which was temporarily merged with Eastern Province in September 1988) is primarily inhabited by Sri Lanka Tamils, while the former Eastern Province has almost equal numbers of Tamils, Sinhalese and Muslims. The Muslim population speaks Tamil as its first language, while Tamils and Sinhalese speak Tamil and Sinhala respectively.

A resolution calling for a separate Tamil state of Eelam was passed in 1976 at the first national conference of the Tamil United Liberation Front (TULF). The TULF hoped to achieve its objective by working within the established democratic framework. By 1978, however, several violent attacks against the police force in Jaffna had occurred which were attributed to the recently formed Liberation Tigers of Tamil Eelam (LTTE). In the following years, other Tamil separatist groups were formed in northern Sri Lanka to engage in armed opposition to the government. The scale of such opposition mounted despite government attempts to suppress the armed separatist movement by force.

In their call for "Tamil Eelam", Tamil separatists claim both the Northern and Eastern Provinces of Sri Lanka, which in September 1988 were temporarily merged into a single Northeastern Province. The Tamil separatist demand has in part been fuelled by disputes over the allocation of resources within the state, as well as access for Tamils to education and jobs in the state sector. Although the rights of minorities have been protected under the successive constitutions of Sri Lanka, the state has increasingly been perceived by members of the Tamil minority as identified with majority Sinhalese interests and with Buddhism, the main religion of the Sinhalese majority. On the other side, however, many Sinhalese perceive themselves as a vulnerable minority within the wider regional context, especially in relation to the 50 million Tamil speakers in the south Indian state of Tamil Nadu.

In July 1987 the governments of Sri Lanka and India, then headed respectively by President Junius Richard Jayewardene and Prime Minister Rajiv Gandhi, signed an accord. None of the Tamil militant groups which had been fighting the government were signatories to the accord, although they had been involved in the negotiations. Among other provisions, the accord brought Indian troops to the northeast to take charge of its security. It was intended that the Indian Peace Keeping Force (IPKF) would disarm the various Tamil militant groups, including the LTTE, in preparation for elections to a provincial council for the newly-united Northeastern Province. The new, island-wide system of provincial councils envisaged in the accord was to provide greater regional devolution of powers and was incorporated into the Constitution under the Thirteenth Amendment to the Constitution. The permanent character of the establishment of the Northeastern Province was, under the terms of the accord, subject to a referendum to be held in all areas of the pre-September 1988 Eastern Province. This referendum was due to take place before the end of 1988 but has been repeatedly postponed since.

Elections to provincial councils in each of Sri Lanka's eight provinces were held at various times during 1988. The northeastern provincial council election took place in December 1988. The Indian troops had been unable to disarm the LTTE, which by then had withdrawn its tentative support for the Indo-Sri Lanka accord, boycotted the elections and continued a strategy of armed opposition in pursuit of a separate state - but now against the Indian forces and their allies rather than directly

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against the Government of Sri Lanka. Several Tamil militant groups had allied with the Indian forces and contested the elections. These included the Eelam People's Revolutionary Liberation Front (EPRLF), which secured control of the provincial council.

In April 1989 the LTTE, which was fighting the IPKF, entered into negotiations with the Sri Lankan Government and two months later announced a cessation of hostilities with the government, although not with the Indian forces. President Ranasinghe Premadasa, the former Prime Minister who was elected President of Sri Lanka in December 1988, had opposed the Indo-Sri Lanka accord and pledged in his election campaign that he would ensure withdrawal of the Indian forces. Agreement on the date of withdrawal was finally reached with the new Indian Government of Prime Minister Vishwanath Pratap Singh in late 1989, and all Indian troops had left Sri Lanka by the end of March 1990.

As the Indian troops withdrew, heavy fighting was reported between the LTTE and a newly formed force, the Tamil National Army (TNA), which had been established using forced conscription by the EPRLF, aided by the Indian forces. There was also fighting between the LTTE and the armed cadres of Tamil groups which had allied with the Indian forces. Hundreds of lives were lost, thousands of members and supporters of the EPRLF and its allies fled to India, and the LTTE took effective control of the northeast. Negotiations continued between the government and the LTTE on the future administration of the area. Government administrative officers remained in place in the northeast, as did government police officers, but in practice most of their activities were subject to control by the LTTE.

The situation changed on 10 June 1990 when the LTTE suddenly surrounded and occupied Batticaloa police station, ostensibly because of a quarrel about police having assaulted a civilian. The next day, the LTTE ordered police officers in the east to vacate all police stations. That day, the LTTE also attacked an army convoy at Kalmunai, killing ten soldiers. Reports indicate that most police officers surrendered their police stations without a fight. At Kalmunai and Kaluwanchikudi, however, police and LTTE fought before police surrendered. The LTTE took captive hundreds of police officers. It appears that most Tamil police officers, as well as some Sinhalese and Muslim officers, were released; however, most of the Sinhalese and Muslim officers held prisoner were summarily executed. The bodies of some of those killed have been found. For example, a police officer from Kalmunai who escaped with injuries was reported in the press as saying that he and 113 of his colleagues had been taken off by the LTTE, lined up and shot. Amnesty International has collected information about 91 police officers considered "disappeared" since June 1990. Some of these officers may be still alive in LTTE custody, others may have been killed.

These attacks by the LTTE marked the renewal of armed conflict in the northeast. Several last minute attempts at talks in Jaffna between the main government negotiator, Minister of Justice A C S Hameed, and several LTTE leaders initially resulted in an agreement on a ceasefire but it never materialized. The LTTE continued to attack police stations and army camps. The government moved military reinforcements into the area, and as hostilities escalated the late Minister of State for Defence, Ranjan Wijeratne, announced to parliament on 18 June 1990 that "from now on it is all-out war".

Although the government repeatedly stated that security forces action was intended to destroy the LTTE alone, and was not an assault against the Tamil population of the northeast as a whole, it also said it would deal with the LTTE in the same manner as it had recently dealt with the JVP in the south. Indeed, the broad powers granted to the security forces under the Emergency Regulations, which included the power to dispose of bodies without post-mortem or inquest, facilitated

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extrajudicial executions and "disappearances", and also appeared to contribute to a sense of impunity within the security forces.

Similarly, after the war resumed in the northeast, the government appeared to condone the summary execution of suspected members of the LTTE instead of insisting on their lawful arrest where possible, and on their trial and punishment according to law. Thus the former Minister of State for Defence, Ranjan Wijeratne, told parliament on 7 August 1990 that "the government will show no mercy to these Tamil terrorists, criminals who do not deserve to live" (as quoted by *Associated Press*, 7 August 1990). Amnesty International fears that such public statements made by senior members of the government, together with lack of action by the government to halt serious abuses over the years, have encouraged the security forces to commit extrajudicial executions and "disappear" prisoners with a sense of impunity. This fear is reinforced by reports that military officers in the northeast have intimidated Tamil civilians in refugee camps with stories of how they finished off the JVP in the south, and would repeat this performance in the northeast against the LTTE.

Control of the Northeast

After the outbreak of the fighting in June 1990, government forces quickly took control of Vavuniya and the main towns in the east, which the LTTE vacated as government forces advanced. They also took control of the eastern coastal road linking the towns. In August, government forces took control of Kayts and Mandaitivu islands off Jaffna, and in November they took control of Mannar island.

By May 1991 the LTTE remained in firm control of almost all of the Jaffna peninsula. Over 200 members of the Sri Lanka Army and police force remained besieged in the Jaffna fort until mid-September 1990, when they were rescued and the fort was abandoned. The LTTE also remained in control of the area north of Vavuniya, despite the presence of army camps in several locations in the area, and was also active in other areas of the northeast.

The conflict has taken a different form in different parts of the northeast. Government forces have waged a bombing campaign from the air on those areas of the north controlled by the LTTE. Damage to property through bombing has been extensive; thousands of civilians have been displaced; many others have been injured or killed. The government has repeatedly announced that its forces drop leaflets from the air to warn civilians in advance of air-raids, so that they can vacate the area for places of safety. In some reported instances, however, leaflets were not dropped at all; in others, the bombing started very much sooner than the deadline indicated in the leaflets. For example, on 20 January 1991 leaflets were dropped from helicopters onto Valvettiturai, Jaffna District, warning the residents to leave within 48 hours. The bombing of Valvettiturai began only three hours later. People were reported to have been killed in the bombing, but details of the casualties are not known.

Residents of the Jaffna peninsula have also complained that civilians have been chased by military helicopters, fired at and sometimes killed. Markets, where civilians gather to buy supplies, are also reported to have come under attack from the air. For example about 12 people were reportedly killed at Chavakachcheri market, Jaffna, when it came under helicopter fire on 9 October 1990. Further credibility was given to the repeated allegation that civilians were being targeted from the air when on 3 May 1991 a clearly marked vehicle carrying medical staff from the French non-governmental organization *Médécins sans Frontières* was attacked from the air by a helicopter between Madhu and Vavuniya. Four members of the medical team were injured. *Médécins sans Frontières* said they had received permission from the Ministry of Defence to travel in the area that day. The defence ministry

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first claimed that shots had been fired from a vehicle travelling behind the *Médécins sans Frontières* team, and that this vehicle, not the *Médécins sans Frontières'* vehicle, was the target. It then said that the team was travelling on a prohibited road during a curfew. The *Médécins sans Frontières* team, however, have said that no other vehicle was in the area when they were attacked, that no shots had been fired from the ground, and that they were not in the wrong area. The government appointed a one-man commission of inquiry into the incident. The report of this commission concluded that "no person or persons in the services of the Sri Lanka Government was responsible for any wrongful act of omission or commission" but suggested a number of steps to be taken to prevent the recurrence of such incidents.

In the east, little fighting was reported when government forces moved into the main towns, as the LTTE had already evacuated the towns and moved into the jungle areas. Nevertheless, government forces embarked in large-scale round-ups of civilians, many of whom were subsequently killed or "disappeared". The LTTE has remained active in the east since June 1990, and has attacked both military and civilian targets.

The particular human rights concerns which Amnesty International is highlighting in this report - extrajudicial executions and "disappearances" - have mostly been committed by government forces in the east, and in other areas which they control on the ground. "Disappearances" and killings of prisoners by the LTTE have mostly been reported from the north, where they execute effective control, as well as from other areas. The LTTE have also committed many extrajudicial executions of Sinhalese and Muslim civilians in the east.

Since the outbreak of war in June 1990, the Muslim community has increasingly been drawn into the conflict in the east. The LTTE have attacked Muslim villages, as well as Sinhalese, killing civilians, including women and children. Armed Muslim groups have retaliated, killing Tamil villagers in revenge. Muslim villagers have been provided with arms by the government as home guards, and armed Muslims have regularly been reported to be working alongside the army in the east. In October, the LTTE issued an ultimatum to Muslims living in Mannar, Mullaitivu, Kilinochchi and Jaffna districts to leave the area or be killed: tens of thousands subsequently fled. Similar threats have been reported in late July 1991 in some villages in the east.

Since June 1990, there has been a massive displacement of people in the north and east. Independent estimates put the number of people displaced at over a million people. The government figures make the distinction between people in refugee camps and people who have lost their normal source of livelihood because of the conflict. An estimated 40,000 Muslims who had to flee the north following threats by the LTTE to leave the area or be killed are presently residing in Puttalam area in refugee camps or with relatives. It is also estimated that around 100,000 Tamils have taken refuge in Colombo, either in refugee camps or with relatives.

SOURCES OF INFORMATION

Over the years, Amnesty International has built up a wide and varied network of contacts in all areas of Sri Lanka, despite not having been able to visit the country since 1982. It has relied on monitoring the national and international press, correspondence with local human rights activists such as lawyers, doctors, members of parliament and other concerned individuals including victims of human rights violations and their relatives. Amnesty International has also interviewed refugees and other people living abroad who have information on Sri Lanka.

For obvious reasons, Amnesty International does not make public the names of contacts or other
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people met during its visit. As a matter of fact, several of the people met by the delegation explicitly requested to speak under conditions of total confidentiality and expressed fear of reprisals from either security forces or LTTE, if Amnesty International were to publish their case.

Most of the local organizations which have gathered first-hand documentation on human rights violations in the northeast in the past have ceased to exist. Those local organizations which continue to make representations to the military authorities in the east on behalf of relatives of "disappeared" prisoners or victims of extrajudicial executions prepare lists of reported victims, but are often unable to follow up on individual cases. It can thus be difficult to know much about the specific circumstances in which reported round-ups of prisoners who then "disappeared" were made, or details of the remedial action which was attempted on their behalf. However, one small human rights organization has continued to publish reports on the situation in the northeast which contain accounts of violations committed by both government forces and the LTTE based on information collected first-hand.

Members of parliament representing affected constituencies have raised questions in parliament about the fate of many people who have "disappeared" while in the custody of government forces. Their questions are not often reported in the English-language or Sinhala-language press in Sri Lanka, however, and so the information they contain is inaccessible to most people living in the south.

Reports in the Colombo press of incidents in the northeast are predominantly derived from statements issued by the government or the military. They refer to the deaths in combat of "terrorists" and soldiers, but not to the deaths of civilians, whether in cross-fire, shelling or as a result of the deliberate and illegal actions of the security forces. The Colombo press also publishes extensive reports of atrocities against civilians in the east committed by the LTTE, again often quoting government sources. Some Colombo newspaper editors have told Amnesty International they felt pressured not to report fully on human rights issues after receiving anonymous threats. A Tamil-language newspaper published in Colombo occasionally publishes reports indicating that extrajudicial executions have been committed by government forces.

Newspapers published in Jaffna are closely controlled by the LTTE. The LTTE have silenced dissent within the areas they control by killing, threatening or driving out those who have spoken or written against them.

Journalists from the international press, including television crews, who have visited the north and east have reported on human rights violations committed in the area, but their visits have only been sporadic.

Fear also prevents people from reporting violations committed by the Sri Lanka security forces. Members of citizens' committees in the east, who made representations to the security forces on behalf of prisoners in their custody, have been killed or have "disappeared". Among them are Mr. Pandiyuram, alias Kanapathipillai, chairperson of the Kalmunai Citizens' Committee who "disappeared" together with one of his sons at the end of June 1990 and Mr. Jegarajasingham, member of the Valaichchenai Citizens' Committee, who "disappeared" in June 1990, while making a representation at the local army camp. Amnesty International has also learned of prisoners released from military custody in the east who, despite suffering from injuries sustained through torture, were warned by the military not to attend a hospital for treatment. Nevertheless, individuals who have visited the northeast have provided first-hand information to Amnesty International, and the relatives of some victims of human rights violations in the northeast have also contacted Amnesty International themselves.

Amnesty International has collected the names of thousands of people who have reportedly been extrajudicially executed or "disappeared" in the northeast, but has full documentation on relatively few cases. The individual cases included in this report are those on which most information is available. The case material presented here is only illustrative, and does not reflect the full extent of the problem.

HUMAN RIGHTS AND ARMED CONFLICT

In situations of armed conflict fundamental human rights cannot be ignored. "Disappearances" and the deliberate killing of prisoners or other defenceless individuals cannot be justified in any circumstances. International human rights law makes clear that certain fundamental rights - in particular the right to life and the right not to be subjected to torture - must be upheld by governments at all times and in all circumstances. Killings by members of the armed opposition can never provide justification for government forces to deliberately kill defenceless people. Nor can they justify the enforced "disappearance" or torture of prisoners in the custody of government forces.

In situations of armed conflict, fundamental human rights must be protected with extra vigilance. Under Article 4 of the International Covenant on Civil and Political Rights (ICCPR), to which the Government of Sri Lanka acceded in 1980, there can be no derogations from the duty to uphold the right to life and the right to freedom from torture in any circumstances, even "in time of public emergency which threatens the life of the nation". Article 6 of the ICCPR asserts the right to life, a right which the United Nations (UN) Human Rights Committee³ has said "should not be interpreted narrowly". The UN Human Rights Committee has described the protection against arbitrary deprivation of life in Article 6 as being "of paramount importance". It has stressed the need for governments to "take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces."

For these principles to be upheld, force may of course be used by government forces - so long as it is necessary and regulated, and is proportionate to the demands of the situation. The killing as a direct consequence of engagement between parties to an armed conflict may be necessary and does not in and of itself constitute a human rights violation. Similarly, Amnesty International does not address in a general way the issue of military tactics, and nor does it raise as a human rights violation deaths caused accidentally through cross-fire. The killings which Amnesty International raises with governments are those which appear to be deliberate killings of defenceless people, whether they are civilians or combatants incapacitated by injuries or who have surrendered and offer no resistance. Such killings are often committed in reprisal attacks on particular localities several hours or days after murders by the armed opposition, for example, or committed after people have been taken prisoner.

Similar principles, prohibiting the killing of defenceless people and torture, are found in international humanitarian law dealing with armed conflict. Common Article 3 of the Geneva Conventions of 12 August 1949⁴ stipulates that each party to a conflict which is not of an international character must apply the following minimum standards:

³ The Human Rights Committee is the body set up under the ICCPR to monitor implementation of the covenant's provisions. See General Comment 6(16) of the Human Rights Committee.

⁴ The Government of Sri Lanka ratified the Geneva Conventions of 12 August 1949 in 1959. In February 1988 the LTTE informed the United Nations and the International Committee of the Red Cross that it would abide by the provisions of the Geneva Conventions and the Optional Protocols I and II.

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"(1)Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely...."

With respect to these categories of people, Common Article 3 prohibits:

"(a)violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b)taking of hostages;

(c)outrages upon personal dignity, in particular humiliating and degrading treatment;

(d)the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples."

AMNESTY INTERNATIONAL'S POSITION ON ABUSES COMMITTED BY NON-GOVERNMENTAL GROUPS

Amnesty International's work is based on international human rights law, which is addressed to governments. Amnesty International urges governments to uphold their international obligations to protect human rights. The organization does not generally address non-governmental groups in this manner. It does, however, as a matter of principle, consistently condemn the torture and killing of prisoners by non-governmental groups. Furthermore, when such a group takes control of territory such that the population has no access to government channels for redress, Amnesty International does address that group and hold it responsible for the abuses it has committed. Amnesty International has, for example, several times called upon the LTTE to halt its practices of holding prisoners in *incommunicado* detention, of killing and torturing prisoners, and of killing defenceless people, including prisoners and civilians.

HUMAN RIGHTS VIOLATIONS BY GOVERNMENT FORCES AND ALLIED GROUPS

Those cited as responsible for committing human rights violations on the government side include members of the military, the police and the Special Task Force (STF, a police commando unit). In some areas of the east, members of unidentified groups who wear plain clothes and use unmarked vehicles have also been cited. These people seem to operate in much the same manner as the plainclothes "death squads" linked to government forces which were a feature of the recent counter-insurgency drive against the JVP in the south⁵.

Other forces opposed to the LTTE have also been cited as responsible for committing abuses. The government has assisted the creation of armed groups within the civilian population, such as the Muslim home guards, and has also mobilised the armed cadres of anti-LTTE militant Tamil groups to assist in its campaign against the LTTE. Sometimes members of these groups appear to be used as proxies for the regular security forces, committing abuses which the security forces ignore, and for which members of the security forces cannot be held directly responsible.

⁵ See *Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987-1990*, (AI Index: ASA 37/21/90), September 1990, for the evidence Amnesty International provided linking these plainclothes armed groups in the south to the security forces.

Amnesty International (September 1991)AI Index: ASA 37/14/91

The armed cadres of several Tamil groups opposed to the LTTE are deployed in different areas under army control. Members of the Eelam People's Democratic Party (EPDP) work with the army in Kayts, and also identify and hand over LTTE suspects to the security forces in Colombo, where they have been delegated official responsibilities in certain refugee camps. Members of the People's Liberation Organization of Tamil Eelam (PLOTE) operate in Vavuniya; in Batticaloa, members of the Tamil Eelam Liberation Organization (TELO) are deployed. The following number of these cadres have been armed by the army, according to the Secretary of the Ministry of Defence: 112 TELO, 146 PLOTE and approximately the same number of EPDP cadres. Amnesty International was told by the authorities that they are operating under direct military command.

Muslim home guards were provided with arms by the government in August 1990, after the LTTE had killed hundreds of Muslims in the east, including 103 worshippers in two mosques at Kattankudy, Batticaloa District on 3 August 1990. In Moneragala District, village defence units were set up among Sinhala villagers in April 1991 after attacks by the LTTE in which about 40 people were reportedly killed, including women and children. The government policy of arming civilian groups in the east appears to have contributed to an intensification of violence in the area; tensions between and within communities have been exacerbated. The number of (mainly Sinhalese) home guards along the borders with the Northeastern Province is 23,000. They are said to function under control of the local police and to be provided with weapons during the night only. In June 1991, the Secretary of the Minister of Defence put the number of Muslims armed at approximately 2,000. He said that they have been provided with arms by the army and technically should not be considered home guards, although they perform similar functions.

The arming of civilian groups by the government appears to repeat the practice which occurred in the south during the campaign against the JVP, when the government distributed weapons for self-defence to home guards and to politicians for their bodyguards. In response to a recommendation made in the report of the Presidential Commission on Youth⁶ that the state should take "decisive action" to halt the activities of "paramilitary organizations and shadowy vigilante groups" in the south, the government has attempted to recall the many weapons it had issued to politicians. This effort has met with only partial success. In the northeast, however, the government has continued to distribute weapons to home guards after attacks on civilians by the LTTE, and new "death squads" have appeared in the east, believed to be drawn from or associated with the security forces, which pursue the same tactics as those which operated against the JVP in the south. Some press reports have indicated that home guards who abuse their positions would be disciplined by the military commander of their area, but Amnesty International is not aware of the procedures employed, or whether any disciplinary cases have been followed through. All that seems to happen in cases of such abuse is that the weapons are taken from the particular home guard involved.

The relationship between home guards and the security forces

Muslims collaborating with the security forces are reported to have provided lists of Tamil people for the security forces to target as terrorist suspects, including several Tamil government employees and other educated Tamil people. Local rivalries are believed to have found expression in the creation of these lists, and potential leaders within the Tamil community are reported to have been targeted. For example, a local human rights organization has reported that many of the approximately 37 Tamil people extrajudicially executed in Akkaraipattu soon after government forces moved in June 1990 were government employees. In Karaitivu, the same organization reported that about 26 educated Tamil people were targeted, and put into a room where all but three were killed. Amnesty

⁶ *Report of the Presidential Commission on Youth*, Sessional Paper No. I, March 1990.
AI Index: ASA 37/14/91 Amnesty International (September 1991)

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International does not know the names of these victims.

The following extract from a report by a local human rights organization illustrates both the attitude of the security forces to prisoners, and the relationship between the security forces and sections of the Muslim community in the east:

"When the STF came into a town [in the east] in mid June, most of the people fled elsewhere, though the public servants largely remained. A very senior public servant was pulled out of his office by the STF. An STF man asked his officer ... whether to finish him off there itself. The officer replied, 'He is a big man, it is not nice to finish him here.' The public servant waited in the grounds with his captors for the arrival of a South African Buffel armoured car, which was to take him to his execution. In the meantime a Muslim mob arrived and heaped accusations against him, to the effect that he was a terrorist. The OIC [Officer in Charge] asked them to take him and finish him off. Some Muslims came with wooden poles in order to beat him to death. A Muslim teacher well disposed towards him saved him by telling the mob: 'The STF took him. It is their business to finish him off. Why do you want to take on the Muslims the blame for finishing this man?' The mob had second thoughts and went away.

"Shortly afterwards the Buffel arrived. Just then a jeep arrived with an STF officer having the rank of Assistant Superintendent (ASP), who inquired who the intended victim was.... The ASP then promptly took him away, left him in a church with some biscuits and aerated water, and thus saved his life."⁷

Muslim home guards are also reported to have detained Tamil people themselves, and then handed them over to the police. Four teachers from Veeramunai - Thirunavukkarasu, Ravi, Rasan and Illankeswaran - were trying to reach Thirukkivil by van to join their families. The four were refugees, staying in Kallaru and Thurainilavanai. They were stopped by Muslim home guards on or about 15 September 1990 and handed to the police. When inquiries were made about their whereabouts, an official indicated that two of the four were alleged to belong to the LTTE and that further inquiries would be useless. Such a response is usually understood to mean that the people concerned have been killed.

Another person reported to have "disappeared" after being detained by Muslim home guards and handed to the police is Kalanithy, a refugee from Pottuvil who was staying at Thirukkivil. Kalanithy returned to Pottuvil on 5 October 1990 to collect money which was owed to him. On the way, he was taken by two home guards and put into a police jeep parked in a lane. Inquiries about his whereabouts were made with the STF, but no information was forthcoming. An STF officer is reported to have said that the police in Pottuvil had killed 160 Tamils, but he did not specify whether Kalanithy was among them.

"Disappearances" and extrajudicial executions

Over 3,000 Tamil people are reported to have "disappeared" in the custody of government forces in the east since June 1990. Most of the case material collected by Amnesty International relates to the second half of 1990. That such serious abuses have continued well into 1991 is confirmed, however, by recent reports in the Sri Lankan and the international press as well as from other sources. The number of "disappearances" and extrajudicial executions reported since the beginning of 1991 amounts to several hundred.

⁷ Extract from *The War and its Consequences in the Amparai District*, University Teachers for Human Rights (Jaffna), Special Report No. 3, 16 October 1990.
Amnesty International (September 1991)AI Index: ASA 37/14/91

"Disappearances" and extrajudicial executions have been reported in large number from several districts in the east since government forces moved in. By October 1990, some 3,000 Tamil people were estimated to have been killed or to have "disappeared" in Amparai District alone during the previous four months. Many of these people were believed to have been victims of extrajudicial execution. In Batticaloa town, over 1,500 people were reported as "disappeared" between June and December 1990 to the local Peace Committee. Similarly, large numbers of "disappearances" and extrajudicial executions have also been reported from Trincomalee. Amnesty International has also collected reports of extrajudicial executions and "disappearances" in Vavuniya, Mannar and Kayts.

Victims of extrajudicial execution have reportedly been shot, bayoneted, stabbed, hacked or beaten to death. Some were said by witnesses to have been burnt alive. Many people were apparently detained or killed because they had contact with the members of the LTTE, sometimes of the most minimal kind during the period the LTTE controlled the area.

Prisoners taken by the security forces have not been the only victims of extrajudicial execution. Reports indicate that such killings have been committed in various contexts. Refugees have been killed in refugee camps; individuals have been killed in their homes; villages have been attacked in reprisal for attacks committed by the LTTE in the area; passengers have been taken from buses and killed. Such attacks have not always been committed by members of the security forces themselves: home guards have been cited as responsible in several instances. Even when not directly involved themselves, in some cases there is evidence indicating the acquiescence or collaboration of the security forces in such attacks by other parties.

On 17 February 1991, for example, after 45 soldiers from the Vijayabahu regiment had been killed by the LTTE in an ambush at Kondaichchi, near Mannar, army personnel from the same regiment were reported to have killed four Tamil schoolteachers who were travelling from Mannar. Their bodies were found dumped in a well at Vankalai.

Again, on 30 March 1991, after the LTTE had opened fire on a police patrol at Iruthayapuram, Batticaloa, killing one policeman, eleven bodies were reportedly found on the roadside. Some of the victims had apparently been hacked to death, but at least one had a gunshot wound. According to a report in *Virakesari*, Colombo, of 2 April 1991, several people who passed the place where the police officer had been killed were detained by the police. The report says that the bodies, which were recovered by members of the International Committee of the Red Cross (ICRC), were those of people who had been detained. Most were reported to be young men from the Iruthayapuram area. Amnesty International does not know their names. One survivor among them was reportedly taken to hospital by the ICRC. Seven bodies were later handed to their relatives after post mortems had been held. *Virakesari* reported on 11 April 1991 that 60 officers from Iruthayapuram police station had been transferred to Amparai.

In another incident reported to Amnesty International, a convoy of Tamil civilians travelling to Batticaloa from Colombo and Valachchenai on 20 February 1991 were attacked by Muslim home guards outside Eravur. Six passengers on the buses were killed. Others were injured, and some are unaccounted for. A report by *Associated Press* on 21 February 1991 said that the attack, which it ascribed to a "Muslim mob", appeared to be in retaliation for the killing of two Muslims by the LTTE at Saddam Hussein village, outside Batticaloa, on 19 February 1991. However, witnesses have said that home guards in uniform were responsible. A military escort had been provided to protect the convoy. However, the military escort turned back at the home guard checkpoint at the southern side of Eravur, leaving the convoy unprotected for the last part of its journey into Batticaloa. The convoy

was attacked soon after. According to reports, shots were fired at the buses, and the driver of one bus was shot dead. His bus left the road and the passengers tried to escape, but were attacked with knives by home guards. The bus was set on fire. Other buses in the convoy apparently proceeded to Batticaloa. From the reports received by Amnesty International, it appears that the military did nothing to prevent this attack, nor to intervene once it had begun. Amnesty International understands that the army camp is located close to the scene of the attack, and within earshot of gunfire. Yet no soldiers arrived to prevent the attack continuing or to help the survivors. The Ministry of Defence denies this. It has informed Amnesty International that the fact that the escort had returned was not exceptional as no escorts were considered necessary during that period in that area. It also claims that several passengers were saved by soldiers who had rushed to the spot. The army also claims to have transported the injured to hospital. After the event, the military commander for the area is reported to have instructed commanders of the home guards that if another such incident occurred, the army would recall the weapons issued to home guards. Amnesty International does not know of any inquiry held into the incident, nor of any attempt by the authorities to identify and prosecute those responsible for these killings. It has not found any evidence of survivors having been taken to the hospital by the army.

Reports of killings committed by a so-called vigilante group in Batticaloa in late April 1991 were a most disturbing development. The methods used in the killings were much the same as those used by death squads believed to be linked to the security forces in the south in recent years. Headless bodies were reportedly found in the Batticaloa area on several occasions in April 1991. The heads had apparently been severed. Notices had been placed near at least one of the victims saying that they had been killed by the "Black Cobras" - a hitherto unknown group. According to reports, on 26 April two headless bodies were found at Iruthayapuram; on 27 April, three more were seen at Mandur; and on 28 April two further headless bodies were dumped near an STF camp near Kallady bridge. On 27 April, the body of Sivagnanam Sathgunanandan, the younger brother of an area leader of the LTTE, was reportedly found in a sack at Sinna Oppuwadi, Batticaloa. It bore stab wounds. According to a report in *The Island*, Colombo, of 1 May 1991, he had been abducted from his workplace at the telecommunications centre in Batticaloa by unidentified armed men on 24 April. A poster found near his body said the "Black Cobras" had killed him "as punishment for helpers, relations and family members of Tigers". Other posters are reported to have appeared in Batticaloa town threatening death to any person who has contact with the LTTE.

The Ministry of Defence has informed Amnesty International that "in the case of the headless bodies claimed to be an act of Black Cobras, it has not been possible to establish who were behind it. It is strongly believed to be an act of a rival group. There has been no further incidents by that group." Amnesty International has not received any further reports of human rights violations by the "Black Cobras" from Batticaloa District. It understands that the President of Sri Lanka personally intervened in this matter.

Abductions by groups of armed men in plainclothes and driving vehicles without number-plates had been reported several months earlier from Trincomalee. For example, on 15 July 1990 three security officers working at the Trincomalee Port Authority were reportedly abducted by such a group near the jetty, and driven off in a black pick-up truck which had no number-plates. Further arrests in Trincomalee were reportedly carried out by soldiers out of uniform. For example, in July 1990 14 people were reportedly taken into custody from Nilaveli refugee camp, Trincomalee District, by army personnel wearing black clothes. Amnesty International does not know their names or their fate.

Amnesty International has gathered full details about many hundreds of cases of people reported to have "disappeared". Many of these people are believed to be victims of extrajudicial execution,

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deliberately killed in custody and disposed of secretly. As large numbers of "disappearances" began to be reported in the east in June 1990, burning bodies were regularly seen in several towns and other bodies - some apparently with the heads severed - were washed up from the sea. These bodies were often believed to be those of the "disappeared". One person, who had been detained at Plantain Point army base in Trincomalee and then released, described the fate of fellow-detainees to a journalist as follows:

"I was kept blindfolded for two days and beaten with iron bars. I saw some of my friends being beaten to death. Then their corpses were heaped together with tyres and burnt inside the camp." (*Independent*, London, 8 April 1991)

In some cases known to Amnesty International, a relative has been able to identify a body found by the road as that of a person who had been detained.

Inquiries made with the security forces or government authorities about the whereabouts of detainees frequently produce no result, or an unsatisfactory explanation. It is possible, however, that some of those who have been reported as "disappeared" may be held in unacknowledged detention, as the authorities have failed to provide lists of those held in their custody. Most commonly, relatives or others inquiring on their behalf are faced with a denial by the security forces that a missing person is in their custody, even when the arrest took place in front of witnesses. For example, on 29 August 1990 the Batticaloa Peace Committee, a citizens group which makes representations to the authorities on behalf of relatives of prisoners, submitted a list to the army headquarters in the town of 380 people who had reportedly "disappeared" after being taken into custody. Those listed were reported to have been detained at various times between mid-June and mid-August 1990. On 21 September, the brigadier at the headquarters replied, saying that three of the people listed, who he named, had been "taken into custody for their alleged involvement in terrorist activities and subsequently handed over to CID for Legal action.... Please note that no other person mentioned in the referred list was taken into custody by the Security Forces under this Headquarters." Alternatively, when such inquiries are made the security forces may admit that certain people had been arrested, but then claim that they were released soon after (see below, p.).

Reports indicate that members of the regular security forces - the army, the police and the Special Task Force (STF) - were responsible for many of the reported extrajudicial executions and "disappearances". Others were reportedly perpetrated by home guards who launched retaliatory attacks on Tamil civilians, with the apparent acquiescence of the security forces, following attacks committed by the LTTE.

In spite of the many of "disappearances" and deliberate killings committed by government forces, Amnesty International is also aware of some instances in which individual officers have intervened to save the life of a person who was likely to be killed. One example is given above (see page).

Those who have "disappeared" have been detained in a variety of circumstances. Many have "disappeared" following round-ups of large numbers of people for screening as potential LTTE suspects. During such operations, people are often screened by local Muslims co-operating with the security forces or by members of Tamil groups opposed to the LTTE, which also co-operate with the security forces. The round-up of potential suspects has been reported from refugee camps as well as from villages. Young Tamil men are particularly likely to be rounded up, but the names of old men, women and young children also appear on lists of those who have "disappeared" after being arbitrarily detained. These people could not all have reasonably been considered terrorist suspects: the list of "disappeared" people from one round-up in Batticaloa district, for example, includes babies only

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months old together with their mothers (see below, page).

Others reported to have "disappeared" have been taken into detention individually from their homes, were detained while walking along the street, or removed by security forces or home guards from the buses or other vehicles in which they were travelling.

The extrajudicial executions, burning of bodies and "disappearances" started in several towns in the east within days of government forces moving in. Father Eugene Hebert, an American Jesuit priest who has lived in Sri Lanka for 42 years, described the outbreak of killings in Batticaloa as follows in a letter to his brother-in-law:

"When the army first came in on June 25 no shot was fired as the Tamil Tigers had withdrawn to fight first in Jaffna. But then began arrests of innocent citizens, looting, killings and burning on public roads to terrorize the people, etc. I had to supervise the burial of two, a man and a woman, who had been killed, put into a sack and thrown off the bridge into the lagoon just in front of St Sebastian's Church. They had been in the water three days before we were able to get the army to let us bury them.

"There has been some improvement lately. The Peace committee ... has made many representations to the Army authorities. Their efforts have stopped the burning of bodies on the public roads and there have not been any persons thrown off the bridge for two weeks now. But the arrests of boys, mostly innocent, continue."

This letter was written on 4 August 1990. The note of optimism in the second paragraph quoted was probably ill-founded: "disappearances" and extrajudicial executions continued to be committed in large number in the Batticaloa area after this date, and Father Hebert himself apparently "disappeared" on 15 August 1990 while travelling from Valaichchenai to Batticaloa on a red scooter, along a road which was reportedly deserted except for regular army checkpoints.⁸

In Pottuvil, Thirukkivil and other towns in Amparai district, STF officers are reported to have assured civilians that they would not be harmed. However, in town after town in the east, and with particular intensity at first in towns where the LTTE had taken captive and killed policemen, "disappearances" and extrajudicial executions of Tamil civilians began soon after government forces moved in.

One person interviewed by Amnesty International explained how he, together with about 50-60 others, was rounded up at Karaitivu, Amparai District on 21 June 1990 and produced before an approximately 20-year-old boy who was forced by two soldiers sitting on each side of him to identify them as LTTE supporters. He said that 15 of them were pointed out, including him. One of those taken protested his innocence and told the soldiers to make inquiries about him at the local police station as he was a policeman. He identified himself as Chithravel Sivalingam. The witness said:

Two soldiers then beat him with two large logs. They beat him on the chest two or three times. He shouted first, then no more noise came. He fell down and began to rattle".

⁸ Bertram Francis was travelling as a pillion passenger with Father Hebert that day, and has also "disappeared". The Commander of the Army, Lieutenant General Hamilton Wanasinghe, has assured Amnesty International that "troops had nothing to do with this disappearance", and said the army was trying to locate Father Hebert. The Ministry of Defence stated that Father Hebert may have been abducted by the LTTE as he was trying to bring harmony between Muslim and Tamil communities in the area (*Daily News*, Colombo, 17 August 1990); others have suggested that they may have been killed by Muslims in the area. Their whereabouts remain unknown. Amnesty International does not know whether the investigations announced have in fact been held into these "disappearances" as no results have been made public. Amnesty International (September 1991)AI Index: ASA 37/14/91

The bodies of Chithravel Sivalingam and five others, killed in a similar way, were put into a CTB bus. One of the prisoners forced to carry them to the bus, was also hit at the door of the bus and pushed inside. The witness said they were all taken to Kalmunai and their bodies set alight in front of a shop. He said he got this news later from the prisoner pushed into the bus who had been able to escape with partial burns.

Selected cases of "disappearance" and extrajudicial executions

Several Tamil policemen were among those reported to have "disappeared" in Amparai District. They had been taken prisoner by the LTTE in June and then released. The STF reportedly then detained them later that month with the assistance of local Muslim home guards. The body of one Tamil policeman - apparently the victim of extrajudicial execution - was found outside Kalmunai hospital at the end of June, after government forces had regained control of the town.

On 2 August 1990, 150 men were reportedly taken from Pottuvil refugee camp, only 30 of whom were subsequently released. The police and the STF both denied that they had carried out the detentions, and the whereabouts of the remaining 120 men remains unknown, to Amnesty International's knowledge. A local person is reported as saying that in the days following these detentions, smoke was seen rising from the police station. It is suspected these prisoners may have been killed and burned.

In another incident, 158 people staying at the refugee camp at the Eastern University campus, Vandaramullai, Batticaloa, were reported to have been taken into custody by the security forces on 5 September 1990. By 20 September, when the local Peace Committee submitted the names of those detained to the authorities, their whereabouts were still unknown. The Peace Committee requested that "their present whereabouts can be intimated to enable us to convey the facts to the parties concerned, please." A member of parliament for Batticaloa raised these possible "disappearances" in parliament in September. He said:

"I am not blaming the security forces nor the Hon. Minister of Defence for these arrests. The security forces have been sent there to restore law and order in the area. They may be having their own problems. I am not blaming them. What I want to tell this House is that when people are taken into custody or arrested the security forces must screen them and release the innocent persons as quickly as possible. It is only if they do this that they would be able to win the confidence and trust of the people of the area. It is almost two weeks, Sir, but no one has been released. I am submitting the list of names of these persons totalling 158 to this House. The arrested persons are in the age group of 12 to 41 years. The entire people in the refugee camp were witness to these arrests and even this list was compiled by the authorities in the camp who are running this refugee camp." (*Hansard*, Colombo, September 1990, p.1205)

The Ministry of Defence responded to this query in a statement dated 17 October 1990. According to this statement

"Cordon and search operations were conducted at Vandaramullai Eastern University refugee camp on 05.09.1990 and only the undermentioned 31 persons were taken in for questioning. They have all been released within 24 hours."

A list containing the names, ages and addresses of 31 people is contained in the Ministry of Defence statement. To Amnesty International's knowledge, none of these 31 people had been seen by the time

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the Peace Committee and the member of parliament made their inquiries about two weeks after the arrests took place, despite the claim that they had been released. Although the arrests of a further 127 people had been witnessed, no mention at all of the fate or whereabouts of these people is made in the ministry's statement.

The names of hundreds of people reported to have "disappeared" following round ups in villages have reached Amnesty International. In one incident, over 160 people were reportedly taken into custody from four villages in Batticaloa District: Kokkuvil, Saturukondan, Pannichaiyady and Pillaiyarady, including children and babies, and old men and women. According to reports, armed soldiers in uniform and some in civilian dress, went to these villages at about 5.30pm on 9 September 1990 and ordered all the residents to come out of their homes and gather on the road. Residents were threatened with death if they failed to obey this order. They were then taken towards the Boys Town army camp, Saturukondan. They have not been seen since, to Amnesty International's knowledge. A member of parliament for Batticaloa raised their cases in parliament in September. But by 9 October, when the Batticaloa Peace Committee submitted a list of the detainees to the authorities and requested information, their whereabouts remained unknown. In January 1991 Amnesty International heard from the relative of one family which "disappeared" in this incident that the family still had not been traced or accounted for.

This particular round up was unusual in that relatively few of those taken were young men. In most lists of people reported to have "disappeared" in the custody of the security forces, the names of men between the ages of about 14 and 45 tend to predominate. In this case, however, the names of many men and women over 60 years old are given, as well as the names of young mothers and their children.

The list consistently shows that whole families were taken away together from these villages, including mothers with their young children. Three examples are given here. Natkunasingam Sithradevi from Saturukondan, a mother in her twenties, is listed as having "disappeared" together with her six-year-old son, Natkunasingam Sivatharsan, her three year old daughter, Natkunasingam Sivathasini, and her three or four month old baby son, Natkunasingam Venuraj. Another family which "disappeared" consisted of the father, Moothavan Vairamuthu (aged 55 or 59); his 45 or 46 year old wife, Vairamuthu Poomani; their eight-year-old daughter, Vairamuthu Sharmila; and their six-year-old son, Vairamuthu Jothivadivel. Similarly, the young Soundrarajah (also reported as Sounthararasa) family were listed as having "disappeared": Gopal Soundrarajah, the father, is 26 years old; Soundrarajah Thangeswary, the mother, is 24; their two daughters, Gayanthini and Priya, are two years old and eight months old respectively.

Elderly people are also listed among those who "disappeared". For example, 74-year-old Moothathamby Periyathamby and his 73-year-old wife, Periyathamby Ponnammah (also reported as being 75 and 73 years old respectively) are reported to have "disappeared" from Saturukondan.

Amnesty International has no information about an independent investigation having been carried out into this incident. The Commanding Officer of the Boys Town army camp, Saturukondan, is said to have carried out his own investigations in the company of an independent person nominated by leading human rights activists in the area. The Ministry of Defence claims that the commanding officer and the independent person visited Saturukondan army camp around 2pm on 10 September 1990 and questioned people in the camp as well as villagers outside. The Ministry said they also inspected the ground inside and outside the perimeter of the camp but found no clues at all to indicate that any outsiders had been brought into the camp. It said it later found that about 40 to 60 villagers who were missing from Saturukondan had taken refuge in Batticaloa town.

In other cases, people who have reportedly "disappeared" were abducted from buses. Jude Johnson, a 24 year old student in Colombo, was travelling to his home in Kalmunai from Colombo on 11 June 1990. The night bus he was travelling on stopped at Amparai when the driver received news of the conflict which had broken out that day. Jude, a member of Sri Lanka's small Burgher community, is reported to have remained on the bus. He was seen being taken away by police. Inquiries made since then have not revealed his whereabouts, to Amnesty International's knowledge.

Others who "disappeared" were reportedly arrested in their homes. John Master, the 45-year-old principal of the Methodist Mission School, Pottuvil, was detained by a police officer on 31 July 1990 at his brother's house in Pottuvil. His brother-in-law is said to be a member of the LTTE. John Masters' family have been unable to trace his whereabouts or determine his fate, to Amnesty International's knowledge.

The bodies of some people who were taken away by security forces, and presumably killed in custody, have been found soon after and identified. For example, Krishnamurthi Coomarasamy, a 54 year old business man, and his 23 year old son, Krishnamurthi Ganendraj, were reportedly taken away by the army and local Muslims in Batticaloa on 9 September 1990. Their bodies were found a week later.

A statement sent to Amnesty International by an eyewitness to events on Kayts in August 1990, describes the manner in which the army gained control of the island and their subsequent resort to extrajudicial executions. The statement was sent in December 1990. After describing the shelling and bombing of the island before the troops moved in, the witness wrote:

"the troops, after fortifying their position by demolishing private houses, churches, schools and even Government buildings, began taking vendetta on the public, especially the youths, who were refugees at the places of worship and schools. Many hostages were taken from them. A good number of such persons are still unaccounted. Many decomposed bodies were subsequently found dumped in the ditches. Suruvil - a village in the Southern coastal belt of Kayts - where thousands of refugees are still flocked in schools, churches and private houses, is the only village that escaped the wrath of the Armed Forces so far."

Amnesty International has received the names of 74 people who were reportedly killed in Kayts during this period, although the actual number killed may be higher. The organization does not have sufficient information to assess whether all those listed were victims of extrajudicial execution. In several cases, however, the available information does suggest that the victims were deliberately and unlawfully killed. For example, Marianayagam Elmo Manoranjan was reportedly hiding with other members of his family when passing soldiers found him and shot him dead in front of his relatives. Amnesty International has received two accounts of this killing, which give the victim's age as 14 or 17 years old. One young man, Mahalingam Jeyamaran from Karampan East, Kayts, was reportedly taken from the bunker where he was hiding with his cousin. Soldiers slashed his neck with a knife and left him for dead, but he survived to describe what had happened to him.

Some of those rounded up by security forces are known to have been tortured and killed. Two brothers, Rasendran Ponnampalam and Meharasa Ponnampalam from Thangavelayuthapuram, Amparai District, were reportedly rounded up by the STF from the refugee camp at Vinayagapuram Tamil Vidyalayam on 26 September 1990 together with three other men. Meharasa was released; he had been beaten with an axe handle in detention. Rasendran's body was washed up from the sea; he had evidently been stabbed and beaten.

Others who were apparently killed in custody seem to have been singled out as a result of local disputes. For example, one woman in Batticaloa described to a visiting journalist how her husband, a businessman, and her only son were taken away by the army and local Muslims as LTTE suspects in September 1990. The bodies of the two men were found a week later. The woman said that her husband had been involved in a dispute over property with local Muslim businessmen who had now taken over her home, leaving her and her four daughters in a refugee camp.

Muslim home guards have also been cited as responsible for reprisal attacks on displaced Tamil people sheltering in refugee camps, after the LTTE had attacked Muslims in the area. One reported case occurred in August 1990, when tension between the LTTE and the Muslim community was escalating in the east. The security forces appear to have done little to intervene, or to prevent the attack taking place. The LTTE had reportedly knifed two Muslim farmers at Veeracholai. At 9.00am on 12 August 1990, according to a detailed report of the incident compiled from eye-witness accounts, Muslim home guards attacked the Veeramunai refugee camp, surrounding the temple and firing on the thousands of people gathered within. They then broke through the temple gates, and attacked people with reaping knives. Members of the security forces were seen in a vehicle only 300-500 yards away when the attack began. The vehicle was driven away about ten minutes later. A little over an hour after the attack began, STF personnel arrived at the camp and the attackers fled. Two, however, were caught by refugees and handed over to the STF. Most of the other attackers were reportedly identified by refugees. It is not known whether any action has been taken against them. Amnesty International does not know exactly how many people were killed in this attack. *The Sun*, Colombo, reported on 13 August 1990 that "angry Muslims" had killed 21 refugees at Veeramunai and injured 40 after the LTTE had killed five Muslims in the area.

The ordeal was not over for the injured at Veeramunai even after they had been transported to Amparai hospital by the STF. According to reports, although security was provided at the hospital by the STF, one Muslim soldier who was posted at the hospital began to abuse and interfere with the treatment of the patients, and on several days removed patients from the hospital who were never seen again. One patient, Kanthakuddy, reportedly died after this soldier disconnected his saline drip. Another man, Nadarajah, who was at the hospital to look after his wife, was selected by this soldier to be driven off in a van, and was not seen again. The identity of this soldier is known. Amnesty International is not aware of any official action taken to investigate the incident.

On 12 June 1991 around noon, two soldiers were killed and one was wounded when the tractor in which they were travelling hit a landmine at Kokkadichchola, Batticaloa District. In retaliation, one officer and sixteen soldiers from the local army camp apparently went on the rampage in the villages of Mahiladithivu and Muthalaikuda killing dozens of civilians, including women and children. Initially, local members of parliament claimed that over 150 civilians were killed. Seventeen villagers from Muthalaikuda, including a 16-year-old boy called Suthaharan, were reportedly taken to the place of the landmine explosion, made to circle around the crater three times and then shot. Their bodies were dumped in the crater and burnt. In Mahiladithivu, an estimated 50 villagers were killed, including several women and children, one only eight-months-old. Lankapuvath, the state-run national news agency initially reported that 52 civilians had been killed in crossfire during a clash between the LTTE and the army at Kokkadichchola. President Premadasa, in a letter to one of the members of parliament from the area, reportedly expressed shock and sorrow at "the gruesome killing of a large number of innocent civilians" and instituted a preliminary inquiry by three government officials. On the basis of the results of their findings, a commission of inquiry was established on 18 June.

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The army is said to have conducted its own investigations, pending which the commanding officer in charge of Kokkadichcholai Army Camp was taken into custody at Batticaloa Army Camp and the sixteen soldiers were transferred.

The Commission of Inquiry was due to submit its report within three weeks. Public hearings were held at the Air Force headquarters at Batticaloa from 29 July till 1 August 1991. Further evidence was due to be heard at the time of writing.

ABUSES COMMITTED BY THE LIBERATION TIGERS OF TAMIL EELAM

Human rights abuses are also committed on a large scale by the main armed group opposed to the Sri Lanka government, the LTTE, which effectively controls large areas of the northeastern province. The LTTE has long held and administered nearly the whole of the Jaffna peninsula. After the gradual withdrawal of the IPKF in the period late 1989 - March 1990, the LTTE took control of the areas they had vacated. At that time, the organization was having talks with the Sri Lanka government. On the ground, Sri Lanka army personnel stationed in the area were confined to their barracks and police were operating in a restricted manner. The LTTE during this period resorted to widespread arbitrary arrest, incommunicado detention, torture, "disappearances" and extrajudicial executions.

After the outbreak of fighting between the LTTE and the Sri Lanka security forces in June 1990, the monitoring of the human rights situation in areas controlled by the LTTE became particularly difficult. People fleeing the Jaffna peninsula expressed fear of reprisals if they were to provide information to Amnesty International about human rights violations by the LTTE. Amnesty International has not visited the areas said to be under control of the LTTE. During its trip to Sri Lanka, Amnesty International had the opportunity however to interview victims of abuses by the LTTE who were residing in other parts of the country. It has also interviewed people who have left the country. As with reports of government abuses deriving from opposition sources, Amnesty International has taken particular care in scrutinizing allegations made by opponents of the LTTE who may be seeking to damage the organization.

On the basis of the information gathered, Amnesty International is concerned at consistent reports that LTTE cadres, particularly in the Jaffna area, carry out arrests on various grounds, including people's alleged sympathies for rival Tamil groups or cooperation with them, sympathy or cooperation with the IPKF during their stay in Sri Lanka, suspicion of providing information to the security forces or refusal to pay contributions to the LTTE. Amnesty International has also received information about the arrest of people as a result of what appeared to be personal feuds (such as over land or marriage arrangements) and of people critical of the LTTE. A number of people, among them Muslim businessmen, were also detained for ransom.

One of the people interviewed by Amnesty International in June 1991 described how late one evening in April 1990 three armed members of the LTTE jumped over the wall around his house and ordered him to come with them for interrogation. They blindfolded him and took him in a van to what seemed to be a transit camp. He was held there for nine days with an estimated 40-45 others. During this period, he was never interrogated. On the ninth day, he was transferred to Tunukkai, Mullaitivu district where one of the largest places of detention of the LTTE at that time was established. Tunukkai LTTE detention camp was situated in the former premises of the Paddy Marketing Board Stores. The majority of the prisoners were held in a large covered area which was divided into individual spaces for prisoners by white lines painted on the ground. Each prisoner was allocated a numbered space of 3' x 2'. Prisoners were forced to stay in their allocated space. Their feet were

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shackled together with a rigid nine-inch bar. He estimated that about 800 people were held in this hall at that time. He also alleged that those considered to be "hardcore" prisoners were held separately in eight foot deep pits surrounded by barbed wire. There were five such pits in the camp, each of which, he thought, contained approximately 20-25 prisoners.

Amnesty International has also received several reports of torture of prisoners held in LTTE custody. The same prisoner mentioned above described in his testimony to Amnesty International how at a detention camp set up in the Kachchai area, near Chavakachcheri, Jaffna District, where they had been transferred from Tunukkai, he and four other prisoners were put into a small room, told to stand with their face towards to wall and were hit on the back with a sledge hammer. He said he received seven blows and claims he still has problems breathing as a result.

In mid-July 1990, at Kachchai LTTE detention camp, he also witnessed how 16 soldiers of the Sri Lanka army who had been taken prisoner during the LTTE attack on Kokkavil Army Camp in Mullaitivu District were tortured in an open space inside the camp. He said he saw how nails were pushed under their fingernails, how they were forced to eat mud and sand and were stripped naked and made to roll in the hot sand. He described how they were hung upside down and beaten and how, one by one, they were put into a small room in which red chillies were being burnt. He said he could hear them cry out in pain.

Several ex-prisoners of the LTTE have provided Amnesty International with names of people in LTTE custody, including names of members of rival groups, journalists, employees of institutions such as banks, civil servants and police officers. Relatives of people in LTTE custody have also written to the organization. Several of them claim that they have not been able to establish the fate or whereabouts of their relatives who were taken into custody by the LTTE. Among those "disappeared" are dozens of police officers who surrendered to the LTTE in June 1990 as well as Muslim and Sinhalese civilians.

Amnesty International interviewed a relative of two Sinhalese brothers from Kallady in Batticaloa District: 35-year-old W H Sony Silva and 28-year-old W H Sarath. They were taken away by the LTTE while travelling on a bus to Colombo on 7 July 1990. The bus was stopped in the vicinity of Chenkalady, north of Batticaloa, by an LTTE convoy of three pick-up trucks. The two brothers were called by name, forced to get down from the bus and taken away in one of the pick-up trucks. The relative believes that they were taken because they were married to Tamil women and because one of them had earlier refused to give the LTTE use of his boat. Their relatives have made appeals through the International Committee of the Red Cross (ICRC) but to date their whereabouts remain unknown.

In mid-November 1990, 28 Muslim traders from Jaffna were taken by local LTTE cadres. Three of them were released, one was reportedly killed in custody. Twenty four of them continue to be held as of early June 1991.

Hundreds of Sinhalese and Muslim villagers have also been killed by the LTTE since the outbreak of the fighting in the northeast. Villages in areas bordering the present Northeastern Province, particularly in Pollonaruwa District, but also in Anuradhapura and Moneragala District, have been attacked, often at dusk or night time. Seventeen villagers were killed on 14 April 1991 at Ethimale, a largely Sinhalese village in the Moneragala District, near the border with Amparai District by a group of approximately twenty LTTE cadres. Among the victims were at least six children. It is difficult to ascertain with complete certainty the identity of the attackers. Survivors are often confused and make apparently contradictory statements. Sometimes the LTTE has claimed responsibility. On other occasions, LTTE spokespersons abroad have issued statements denying they were involved in the killings. The latter, for instance, happened in early August 1990, when 103 Muslim worshippers were

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killed inside two mosques at Kattankudy in the east.

Among the victims of extrajudicial executions by the LTTE are also a number of people who have disobeyed LTTE orders, including LTTE members, and people found guilty of misappropriating funds or abusing the name of the LTTE. One such victim is 39-year-old Vasantha Sulosana from Navatkiri, Neerveli, Jaffna District. She was publicly executed on 15 August 1991 at Muthiraisanthai, together with one Shanmuganathan (alias Guru Master), who had reportedly been found guilty of fraud. Vasantha Sulosana was tied to a lamppost and executed by a woman LTTE cadre. Her body was later dropped in front of her home.

In October 1990, the LTTE issued an ultimatum to Muslims in Mannar, Mullaitivu, Kilinochchi and Jaffna districts to leave the area or be killed. An estimated 40,000 fled south to Puttalam and Colombo. Similar threats have been reported in mid-July 1991 in some Muslim villages in the east.

Amnesty International's investigations into the above allegations are continuing. Although relatively little information is available about the procedures established by the LTTE with regard to the treatment of prisoners, it is apparent that basic principles proclaimed in international humanitarian and human rights law are not always adhered to. As a matter of priority, therefore, Amnesty International believes the LTTE should ensure that prisoners are not held in incommunicado or in secret. Prisoners should be seen promptly and regularly after arrest or capture by representatives of an independent body such as the ICRC which can monitor their well-being and seek to protect them. Prisoners should be held in humane conditions and LTTE cadres should be instructed that under no circumstances the torture and killing of defenceless people, including prisoners and civilians, is permitted.

GOVERNMENT INITIATIVES

During its talks with government officials in March and June 1991, Amnesty International was informed of certain steps the government has taken to attempt to stem the tide of human rights abuses that take place in the country. As stated in the Introduction, Amnesty International met with representatives of the Presidential Commission of Inquiry into the Illegal Removal of Persons⁹ and the Human Rights Task Force, both bodies recently set up by the government in an attempt to investigate and prevent human rights violations, "disappearances" and torture in particular.

8.1 Initiatives relating to "disappearances":

The Presidential Commission of Inquiry into the Illegal Removal of Persons is mandated for one year to investigate all cases of "disappearances" that occurred after 11 January 1991, the date of its establishment. Amnesty International has welcomed its creation, believing that a full, impartial investigation can play an important part in preventing future abuses, provided that its working methods and terms of reference will enable it to function effectively.

When meeting with its members in June 1991, the delegation inquired about the Commission's working methods. It was told that during the period January - June 1991, the Commission had received 363 complaints and that, after initial investigation, 35 were found to be within its terms of reference. Out of the 35 investigated cases, eleven of the "disappeared" persons were found to be in custody, on remand or released and in 24 cases, inquiries were continuing. Amnesty International

⁹For Amnesty International's more general comments and recommendations with regard to the working of the Presidential Commission of Inquiry into the Illegal Removal of Persons, see *Sri Lanka: Commission of Inquiry Announced to Investigate New Cases of "Disappearance"* (AI Index: ASA 37/04/91) of February 1991 and *Sri Lanka: Update on Commission of Inquiry to Investigate New Cases of "Disappearance"* (AI Index: ASA 37/12/91) of April 1991.
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noted that only two of the 35 cases were from the northeast, despite the large number of "disappearances" occurring in that area at the time. Amnesty International also noticed when raising the work of the Presidential Commission with human rights activists from the northeast, that the large majority of them were either not aware of its existence or did not know where and how one could get in touch with them.

Amnesty International learned that as part of the initial investigations by the Presidential Commission, relatives were expected to travel to Colombo to appear in person before the commission before a final decision is made about the acceptance of their case. Amnesty International is concerned by the apparently slow nature of the procedures applied by the Presidential Commission. Taking into account the present situation in the country, it is concerned that travelling to Colombo may be difficult, particularly for people living in those areas where most "disappearances" take place for the moment, i.e. the east. Amnesty International is also concerned at the high number of cases submitted that have apparently been deemed to fall outside the mandate of the Presidential Commission.

It also learned from the commissioners that one interim report has so far been submitted to the President and that a final report on their activities will be written in the period January - March 1992. Amnesty International understands from government officials that it may be possible for the term of office of the Commission and for its terms of reference to be extended.

Amnesty International was informed of the government's plans to introduce legislation before Parliament to allow relatives of "disappeared" to obtain death certificates if their relatives have been missing for a certain period. This would allow relatives to qualify for relief, pensions, etc.

In relation to "disappearances" reported recently from the northeast of Sri Lanka, the government informed Amnesty International of its request to the Indian Government to be provided with a list of all refugees from Sri Lanka presently living in refugee camps in Tamil Nadu, south India. The government said it hoped to find some of those reported as "disappeared" among these refugees. Amnesty International wants to stress that all cases of "disappearances" it has submitted to the government fulfill certain criteria, including that there is adequate proof that the person was arrested by the security forces. It therefore summarizes that, if some of those considered as "disappeared" were indeed in India, that they may have left the country directly after having been released from custody and without informing their relatives or Amnesty International.

8.2 Initiatives relating to arrest and torture:

The establishment of the Human Rights Task Force under the chairmanship of a former judge of the Supreme Court, J F A Soza, was announced at the time of the Amnesty International visit to Sri Lanka. The Amnesty International delegation met with Justice Soza and discussed with him in detail the terms of reference of the newly-established body. At that time, the Task Force had not as yet become operational although advertisements for several investigating officers and administrative staff had appeared in the press.¹⁰

The Task Force, which is a permanent body, has six parts to its mandate, which is generally described as "to monitor the observance of fundamental rights of detainees". These six tasks comprise:

1. To maintain a comprehensive and accurate register of detainees with full details of their detention and ensure observance of and respect for their fundamental rights, and ensure humane treatment for

¹⁰Amnesty International has since learned that the Task Force has procured its own premises and has started visiting places of detention and compiling a central register.

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them.

2. To investigate and establish the identity of each and every detainee by a proper identification process.
3. To monitor the welfare of the detainees.
4. To ensure the safe handing over of detainees to properly identified next of kin at release from detention.
5. To carry out regular inspections of places of detention, make roll calls and other necessary spot checks and to take immediate steps to remedy any irregularities.
6. To record any complaints or representations and/or grievances that may be made and take immediate remedial action.

Amnesty International was assured that a register of all people detained under the Prevention of Terrorism Act and Emergency Regulations would be kept centrally, regularly updated and made accessible to members of the public. Amnesty International was also assured that the authority of the Task Force would extend to all places of detention, including army camps and possible unofficial "safe houses".

Amnesty International welcomes the establishment of the Human Rights Task Force. The keeping of a public, central register, the setting up of a system of regular visits to places of detention by an independent body and the monitoring of releases have all been recommendations for the prevention of torture, "disappearance" and extrajudicial execution made by Amnesty International in the past.

According to information provided by the government, there were 7,619 people in detention in the south as of early June 1991. The following were figures provided for Tamil people in detention:

Batticaloa prison: 28
Batticaloa STF custody: 147
Trincomalee prison: 10
Pollonaruwa: 9
Vavuniya: 10
Poonanai: 11
Magazine prison, Colombo: 279
Anuradhapura prison: 2
Negombo prison: 3

499

These figures do not include people held at local army camps, the total number of which is unknown to Amnesty International.

Justice Soza assured the Amnesty International delegation that the Task Force would regularly visit places of detention in the east.

Instructions were also issued to police in October 1990 concerning the proper registration of prisoners held for subversive activity, and requiring that senior officers be personally involved in the

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interrogation of these suspects to ensure their personal safety.

8.3 Initiatives relating to extrajudicial executions:

The government provided Amnesty International with copies of instructions issued to Deputy Inspectors General of Police in August 1990, which specify that Officers in Charge of police stations will "be held responsible and accountable for any dead bodies which are found abandoned within their jurisdiction", and that inquiries under the normal law should be conducted into all such deaths.

Amnesty International had hoped to obtain copies of records held at Colombo High Court of inquiries into deaths in custody held under Emergency Regulation 55B-F. During discussions with officials during its visit to the country in March 1991, it was mentioned that over 1,000 deaths in custody had been investigated under these provisions. Amnesty International had previously published criticism of these regulations, on the grounds that they do not provide a for full, impartial investigation, that the proceedings are held *in camera*, and that they can still facilitate extrajudicial executions being covered up. Amnesty International had asked for access to these records in order to be able to assess how these regulations have worked in practice. The Solicitor-General informed Amnesty International that these records could be made available in future.

A Sri Lankan ambassador informed Amnesty International in May 1991 that the army was drafting fresh guidelines on how to minimise civilian casualties in the northeast, and that a committee under the chairmanship of the Prime Minister was being established "to supervise the re-establishment of command and control structures within the security forces".

During meetings with several government officials, Amnesty International raised its concerns about the Indemnity (Amendment) Act. This Act, passed by Parliament in December 1988, provides indemnity from prosecution for government and security force members, government servants and others involved in enforcing law and order, provided that their actions were done "in good faith". The act applies to the period from 1 August 1977 to 16 December 1988. Press reports in early April 1991 suggested that the government was considering extending the period covered by the act. Amnesty International was assured that no such extension was planned. Nevertheless, Amnesty International is concerned that several procedural and policy positions taken by the government, such as the decision not to investigate reported "disappearances" which occurred prior to 11 January 1991, could be interpreted by members of the security forces as an extension of the condition of impunity with respect to certain human rights violations.

The government also informed Amnesty International of its intention to provide new recruits, including home guards and members of so-called proxy groups with special training. The Commander of the Army told Amnesty International that he regularly visits army camps and checkpoints in the east and presses upon the soldiers the importance of observing human rights.

Amnesty International was also provided with information about individual cases of prosecution of security forces personnel on suspicion of human rights violations. The Commander of the Army provided details about criminal cases filed against members of the army, navy, air force, police, reserve police, Special Task Force and Home Guards for the years 1988 - 1991. All cases but one are currently pending before the magistrate's courts. In the case of Wijedasa Liyanarachchi, lawyer from Matara in the south who died in police custody in September 1988, a judgement was reached by the Colombo High Court on 18 March 1991. Three police officers were sentenced to suspended sentences of two, one and half a year respectively and fines after the charges had been changed from murder and conspiracy to murder to illegal detention and conspiracy to illegally detain. Amnesty International was

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provided with a copy of the judgement. It notes that the court had recommended that investigations be reopened to establish who was responsible for his death.

Amnesty International welcomes the government's immediate reaction to the recent incident of reprisal killing on 12 June 1991 at Kokkadichcholai, Batticaloa district (see page 28) and the setting up of an independent commission of inquiry into it.

Amnesty International discussed in detail with several government officials and with the Commander of the Army and the Inspector General of Police as well as with representatives of the Bar Association and human rights activists, possible steps to take in order to avoid human rights violations, particularly "disappearances", occurring during cordon and search operations. During such operations a significant number of those initially rounded up in a large group by the security forces and taken to the local camp subsequently "disappear", the security forces alleging that they were never arrested in the first place and the relatives saying they saw them being taken away as in several incidents described in Chapter 6 of this document. In the context of the present on-the-ground situation, several options, such as having the local Government or Assistant Government Agent or members of the Citizens' Committee take down lists of those taken, were considered impractical or too dangerous by local human rights activists and military authorities. It was thought that this would expose them to reprisals from armed groups for collaborating with the security forces.

Amnesty International welcomes the decision taken by the Sri Lanka government to allow United Nations (UN) and other international human rights groups access to the country. In October 1989 the International Committee of the Red Cross was invited to the country. Delegations of the UN Working Group on Enforced or Involuntary Disappearances as well as the UN Special Rapporteur on Summary and Arbitrary Executions are due to visit Sri Lanka shortly. Amnesty International considers these to be important steps for the prevention of human rights violations. It is calling upon the government to grant the UN delegations access to all parts of the country, including the northeast, in the interest of the victims of human rights violations and their relatives in these areas.

9 AMNESTY INTERNATIONAL'S RECOMMENDATIONS

Rather than reiterating its recommendations for the effective prevention and investigation of extrajudicial executions, "disappearances" and torture as outlined in *Sri Lanka: Extrajudicial Executions, "Disappearances" and Torture, 1987 to 1990* (AI Index: ASA 37/21/90) of September 1990 (pages 63-68), Amnesty International will try below to make a number of specific recommendations in the light of the situation in the northeast as described in this document, the recent steps taken by the government as described in the previous chapter and its own observations during the visit in June 1991.

In making these recommendations, Amnesty International recognizes the enormously difficult law and order situation in the northeast of the country. Nevertheless, it is important to stress that, regardless of the atrocities committed by armed groups such as the LTTE, however provocative they may be, it is the responsibility of the Sri Lanka government under international law to safeguard the rights of its citizens. However difficult the circumstances, derogation from the international obligations of a government to protect all people under all circumstances from extrajudicial execution, torture and "disappearance" cannot be justified.

9.1 To create a climate in which human rights violations are less likely to occur:

1. Amnesty International urges the Sri Lanka government to make a public statement acknowledging that widespread human rights violations have taken place in the country during the past seven years and recognizing the responsibility of its security forces in perpetrating these violations, most notably "disappearances" and extrajudicial executions.

Making this public acknowledgement is essential in order to create a climate conducive for the introduction of effective remedial and preventive measures.

2. Amnesty International urges the government to regularly issue clear and strongly worded directives to its security forces to adhere to the basic principles of international human rights law under all circumstances and to put into place mechanisms to monitor their adherence. The security forces should be given clear instructions that no violations of human rights will be tolerated and that those found to be responsible for such violations will invariably be brought to justice.

Amnesty International makes this recommendation because it has been alarmed by repeated reports indicating that members of the security forces are continuing to operate with a total sense of impunity.

3. Amnesty International welcomes initiatives such as regular visits by the Commander of the Army to security forces deployed in "sensitive" areas. It urges that individual officers are instructed to do the same at regular intervals.

4. Amnesty International urges the government to repeal the Indemnity (Amendment) Act as a clear sign of its commitment to bringing those responsible for human rights violations to justice.

5. Amnesty International urges the government to take all necessary steps to expedite criminal cases against members of the security forces presently pending before the courts, in the hope that this would serve as a clear signal to members of the security forces of the government's firm commitment to bring those responsible for human rights violations to justice.

9.2 To put a halt to "disappearances":

6. In view of the prevalence of the phenomenon of "disappearance" throughout the country during the past seven years, Amnesty International recommends that the mandate of the Presidential Commission of Inquiry into the Illegal Removal of Persons be extended to include cases of "disappearances" which occurred prior to 11 January 1991, thousands of which remain unaccounted for.

7. Amnesty International urges the government also to extend the mandate of the Presidential Commission post-January 1992, when it is due to expire. Amnesty International believes this may be necessary, especially if the Presidential Commission is to be able to investigate the large number of "disappearances" reported from northeastern Sri Lanka (which apparently have not yet been submitted to it for investigation).

8. Amnesty International recommends that the Presidential Commission takes all necessary steps to publish details of its work in local newspapers in all areas of the country with a special effort for those areas obviously most affected by the present fighting between the LTTE and the Sri Lanka security forces.

9. It also recommends that the Presidential Commission establish regional offices in all areas of the country, again with priority for those areas most affected.

10. With respect to cases of "disappearances" deemed to fall outside its terms of reference, Amnesty International recommends that the Presidential Commission inform relatives of the basis on which their cases have been rejected and of their right to appeal against the rejection and the conditions under which the appeal can be made.

11. Amnesty International urges the President to make public the final report of the findings of the Commission for the period January 1991 - January 1992, and that it includes the evidence on which the findings are based as well as details of the methods, conclusions and recommendations.

12. Providing death certificates in cases of "disappearances" should not be considered to absolve the government of the responsibility to try and establish the fate or whereabouts of these people, bring to justice those responsible for "disappearance" and provide adequate compensation to the victims or their relatives within a reasonable period of time.

9.3 To promote respect for the rights of detainees and their families:

Amnesty International urges the government to revise mechanisms for supervising arrests and detention to ensure that they adhere to the requirements of national legislation and international instruments, such as the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. In particular, steps should be taken to ensure that exceptional provisions allowing for arrest without warrant by military personnel are not abused.

13. Amnesty International welcomes the establishment of the Human Rights Task Force. It urges that sufficient resources be provided to it to guarantee its effectiveness.

14. Given that the risk of human rights violations occurring is greatest during the initial period after arrest, Amnesty International suggests that the Human Rights Task Force establishes a 24-hour information office to allow relatives and others concerned to make inquiries at all times.

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15. When visiting places of detention under army control, the Human Rights Task Force should be given unrestricted access to people detained at local army detachments and be empowered to undertake unannounced inspections on their own initiative.

16. The government should take all necessary steps to ensure that all persons in detention without exception are promptly seen after arrest or capture by representatives of an independent body such as the Human Rights Task Force. Alternatively, the ICRC, should in places near areas of fighting, be asked to monitor prisoners' well-being and provide protection and assistance to all categories of people under their mandate.

17. Detainees should only be held in official, known detention centres, a list of which should be widely publicised.

18. As with the Presidential Commission of Inquiry into the Illegal Removal of Persons, Amnesty International recommends that yearly reports of the Human Rights Task Force be made public and that special efforts be made to publicize its existence in all areas of the country, included those affected by the fighting.

19. The Human Rights Task Force should consider establishing regional offices, to ensure speedy and regular access to people taken into custody.

20. Amnesty International continues to urge that all detainees are given access to medical care, lawyers and relatives and are granted their internationally recognized rights to be promptly brought before a magistrate.

21. Anyone arrested without warrant should be taken before a judge as soon as possible to determine the legality of the arrest.

22. All vehicles used by the military and police should have number-plates displayed at all times, and whenever possible be clearly identified as military or police vehicles.

23. All military uniform should have the insignia of the battalion or detachment to which the soldier belongs clearly marked.

24. The Human Rights Task Force should be informed by the arresting agency *immediately* of any arrest with or without warrant. Military units should be required to inform the office directly of any arrests, and to indicate the police body to whom they transferred the detainee, the time at which the transfer occurred and the name of the police officers to whom the detainee was transferred. Failure to provide the information, or the provision of false information, should be cause for disciplinary or criminal action.

25. Military and police barracks and checkpoints should keep records of all arrests, including the place, time and date of arrest and the name of the law enforcement officials responsible. The registers should also include precise details of any transfers to another place of custody or the date of release. These records are particularly important given the difficulties relatives in rural areas may have in communicating with the Human Rights Task Force.

26. Amnesty International suggests that, in those exceptional cases where the army feels it necessary to resort to cordon and search operations, a registration system be introduced whereby immediately after round-up, before people are removed to the local camp, relatives (who have most interest in

coming forward, and are most likely to do so despite risks to their life) are given a numbered "receipt" clearly stating that the person concerned (with full details such as name, date and place where taken) was taken away for questioning. Such a system would provide the relatives with proof of arrest and would serve as an initial point of investigation in the event of a prisoner would subsequently being found missing.

Amnesty International stresses however that such cordon and search operations constitute a form of arbitrary arrest. The government should therefore instruct that, in those exceptional circumstances where the military has to resort to them, the greatest care is taken to safeguard the rights of those deprived of their liberty and their relatives.

27. Detainees, including those taken for questioning in mass round-ups, should be released into the care of their relatives and in the presence of a representative of the Human Rights Task Force.

9.4 To bring a halt to extrajudicial executions:

Amnesty International reiterates its appeal to the Sri Lanka Government (made during its Sri Lanka campaign last year) to abide by the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions and to ensure that they be fully implemented and enforced in Sri Lanka. These principles, as endorsed by the UN General Assembly on 15 December 1989, clearly state that extrajudicial executions cannot be justified by the existence or threat of a state of war, nor by internal political instability or public emergency. They provide numerous safeguards, including the establishment of a clear chain of command over all officials responsible for apprehension, arrest, detention, custody and imprisonment, as well as over all officials authorized by law to use force and firearms. (Principle 2).

28. In the light of the use by the security forces of several armed groups within the population, such as Muslim home guards, and the use of the armed cadre of anti-LTTE militant Tamil groups, Amnesty International urges the government to set up a review of present command and control structures in the security forces.

29. Bearing in mind the communal character of the present conflict, particularly in the east of Sri Lanka, a system of strict and effective control over the issuing of weapons to civilians for self-defence should be developed. As with regular security forces, a clear chain of command should be established and all those issued with arms should be provided with adequate training.

30. While welcoming the establishment of a commission of inquiry into the reprisal killings at Kokkadichcholai, Amnesty International urges that the government consider establishing an independent commission of inquiry or similar procedure to ensure effective and impartial investigations are carried out into all cases of human rights violations.

31. Anyone found to have ordered, committed or covered up human rights violations should be brought to justice.

32. The results of all human rights investigations should be made public. Amnesty International strongly believes that the only way that public opinion will be convinced of the authorities' commitment to bring the perpetrators to justice is to see public proof that human rights violations will not be tolerated.

LIST OF ABBREVIATIONS

ASP	: Assistant Superintendent of Police
CID	: Criminal Investigation Department
EPDP	: Eelam People's Democratic Party
EPRLF	: Eelam People's Revolutionary Liberation Front
ICCPR	: International Covenant on Civil and Political Rights
IPKF	: Indian Peace Keeping Force
JVP	: <i>Janatha Vimukthi Peramuna</i> , People's Liberation Front
LTTE	: Liberation Tigers of Tamil Eelam
OIC	: Officer-in-Charge (of a police station)
PLOTE	: People's Liberation Organization of Tamil Eelam
PTA	: Prevention of Terrorism Act
STF	: Special Task Force (police commando unit)
TELO	: Tamil Eelam Liberation Organization
TULF	: Tamil United Liberation Front
UN	: United Nations