



## **Impunity persists for crimes under international law as Sri Lanka escalates attacks on critics: Amnesty International's written statement to the 22nd session of the UN Human Rights Council (25 February- 22 March 2013)**

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Human rights defenders in Sri Lanka continue to face threats and physical violence for peacefully opposing government policies and practices. The government's intolerance of dissent – even from those using the country's judicial system, combined with its unwillingness to rein in abusive members of its security forces and political supporters or account for their actions, has led to violations of the right to freedom of expression, undermined rule of law and threatens to derail post-conflict reconciliation.

Sri Lanka's unwillingness to account for alleged crimes under international law committed by its armed forces and the Liberation Tigers of Tamil Eelam (LTTE) in the last stages of the armed conflict that ended in 2009, or indeed to investigate and prosecute other alleged serious violations of human rights, has fostered a climate of impunity where arbitrary detentions, torture and other ill-treatment, enforced disappearances, and extrajudicial executions continue unchecked. Almost four years after the armed conflict with the LTTE ended, these violations continue to be reported. Sri Lankans demanding human rights accountability have been treated with particular hostility by Sri Lankan officials, especially when their demands have been communicated outwards, to the international community.

Since October 2012, lawyers and judges have also been attacked for denouncing alleged attacks on the independence of Sri Lanka's judiciary – an issue that reached a climax in January with the Parliament of Sri Lanka's impeachment of Chief Justice Shirani Bandaranayake despite a Supreme Court ruling that found the impeachment process unconstitutional. On 7 October, less than three weeks after JSC Secretary Manjula Tilakaratne, a high court judge, released a statement on behalf of Sri Lanka's Judicial Services Commission (JSC) complaining of interference and intimidation, armed assailants attacked him, pistol whipped him and attempted to drag him from his car. In January, two Appeals Court judges received threatening phone calls warning them not to go to court the next day when they were scheduled to rule on the Chief Justice's impeachment; senior lawyers who opposed the impeachment have received anonymous death threats.

Sri Lanka continues to employ the Prevention of Terrorism Act (PTA), which Amnesty International has long said should be abolished. The PTA restricts freedom of expression and association, permits extended administrative detention, and reverses the burden of proof where torture or other ill-treatment of detainees is alleged. Dissenting Sri Lankans have also been the victims of smear campaigns in the state-owned press, anonymous threats and acts of intimidation by unidentified assailants.<sup>i</sup> Physical violence against the Sri Lankan government's detractors also happens with disturbing frequency: critics of the Sri Lankan government have been abducted, assaulted, and shot. Grenades have been thrown at their homes<sup>ii</sup>; they have been victims of enforced disappearances and murder. None of the incidents have been effectively investigated or prosecuted.

In December 2012, Sri Lankan authorities arrested more than 50 people in northern Sri Lanka under the PTA in the wake of student protests demanding freedom of expression after security

forces broke up a lamp lighting ceremony at the women's hostel at Jaffna University held to commemorate "Heroes Day," a day of remembrance established by the LTTE that has been banned by the Sri Lankan army. Two student leaders were detained without charge until mid-February for "rehabilitation;" more than 40 others alleged by authorities to be former LTTE members, were detained for interrogation by the Terrorist Investigation Division of the police. These events illustrate how little progress Sri Lanka has made in implementing promises to improve respect for human rights and accountability, or achieve national reconciliation.

Resolution 19/2 adopted by the UN Human Rights Council (HRC) on 22 March 2012 welcomed recommendations made by Sri Lanka's Lessons Learnt and Reconciliation Commission (LLRC) "including the need to credibly investigate widespread allegations of extra-judicial killings and enforced disappearances, demilitarize the north of Sri Lanka, implement impartial land dispute resolution mechanisms, re-evaluate detention policies, strengthen formerly independent civil institutions, reach a political settlement on the devolution of power to the provinces, promote and protect the right of freedom of expression for all and enact rule of law reforms."<sup>iii</sup> It urged Sri Lanka to formulate a "comprehensive action plan" to implement the recommendations. The resolution noted with concern that the final report of the LLRC did "not adequately address serious allegations of violations of international law"<sup>iv</sup> and so called on Sri Lanka to go beyond the LLRC recommendations to "address alleged violations of international law."<sup>v</sup>

Resolution 19/2 stressed the need for the "credible and independent"<sup>vi</sup> action, but Sri Lanka's National Plan of Action (the Plan), unveiled in July 2012 failed to commit to new or independent investigations, relying instead on agencies associated with violations to investigate and police themselves. Amnesty International reiterates its severe criticism of this approach; the Ministry of Defence, armed forces and police cannot credibly investigate alleged violations by their own personnel possibly acting on the orders of senior commanders and government ministers.

A recent report by an Army Board charged with developing its own Action Plan on LLRC Recommendations perpetuates the same flawed logic -- proposing new military structures to investigate allegations against the military where the LLRC, UN Secretary-General Ban Ki-moon's Panel of Experts on Accountability in Sri Lanka,<sup>vii</sup> and a host of international and domestic human rights organizations have called for independent investigations of alleged violations of human rights and humanitarian law.

While Sri Lanka attempts to silence its critics at home, on the international front it continues make empty promises about protecting human rights and the rule of law.

The UN must not allow procrastination to continue when it comes to ending impunity for human rights violations in Sri Lanka or where accountability for alleged war crimes and crimes against humanity are concerned. Since the Government of Sri Lanka has proved unwilling to end the cycle of impunity in Sri Lanka, the UN must act. The Human Rights Council should establish a Council mechanism devoted to monitoring and reporting to the Council on the current human rights situation in Sri Lanka. An independent international investigation is also necessary into allegations of crimes under international law committed by the Government and the LTTE in the country's armed conflict.

In addition, the Human Rights Council and UN member states should call on Sri Lanka to:

#### *Lessons Learnt and Reconciliation Commission*

- Initiate prompt, effective and independent investigation of alleged violations of human rights or humanitarian law identified by the LLRC or otherwise. No amnesties should be considered or granted for perpetrators of such violations, regardless of their status or role in the government. Agencies associated with alleged violations must not be tasked with investigating their own personnel.

### *Freedom of Expression and Association*

- Urge Sri Lankan security forces and armed groups acting in alliance with them to stop all attacks and acts of intimidation against people expressing dissenting views or suspected of holding dissenting views; and end practices such as censorship, closure of media outlets, and monitoring and surveillance of individuals that do not conform with Sri Lanka's international obligations.

### *Anti-Terrorism Legislation*

- Repeal the Prevention of Terrorism Act and abolish Sri Lanka's system of administrative detention;
- Release all individuals arrested under emergency or anti-terrorism laws, including all persons held in "rehabilitation camps", unless they are charged with recognizable criminal offences and remanded in custody by an independent, regularly constituted civilian court. Any trials must be held promptly and in regularly constituted civilian courts with all internationally recognized safeguards provided and without recourse to the death penalty;
- Implement all court rulings (such as Supreme Court decisions in fundamental rights cases and writs of *habeas corpus*) ordering release of detainees without delay.

### *Working Group on Enforced or Involuntary Disappearances*

- Further to HRC resolution 19/2, facilitate without delay the visit requested by the Working Group on Enforced or Involuntary Disappearances.

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<sup>i</sup> In the run up to and aftermath of the 19th session of the Human Rights Council (HRC or the Council) in March 2012 Sri Lankan politicians and government media labeled Sri Lankan lawyers, journalists and staff of human rights and policy organizations who spoke in favour of Resolution 19/2 or attempted to cooperate with UN human rights mechanisms as "traitors" and threatened some with bodily harm. A similar campaign against critics began building before the 22nd Human Rights Council sessions.

<sup>ii</sup> JC Weliamuna, one of targets of recent death threats for protesting attacks on the independence of the judiciary was the former head of Transparency International in Sri Lanka. In 2010 he was the target of a smear campaign in the government media falsely alleging misuse of funds by his organization. On the night of 27 September 2008 two grenades were thrown at his residence. The motive for the attack was never determined although he believed that the attack was linked to his work as a human rights lawyer. The perpetrators were never identified.

<sup>iii</sup> *Promoting reconciliation and accountability in Sri Lanka*, A/HRC/RES/19/2, preamble.

<sup>iv</sup> *ibid*

<sup>v</sup> *ibid*, OP2.

<sup>vi</sup> *ibid*, OP1.

<sup>vii</sup> Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011