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ESRI LANKA

@Summary of human rights concerns

1. Introduction

This document provides an overview of Amnesty International's concerns in Sri Lanka since the beginning of 1993.

During this period, thousands of people were arbitrarily arrested, including prisoners of conscience, and hundreds of political prisoners remained in detention for over two years without trial. Torture and ill-treatment in custody continued and over 25 "disappearances" were reported which have not yet been clarified. Extrajudicial killings were reported in both the northeast and the south, though at lower level than in previous years. There were continuing reports of harassment and death threats issued to journalists in the south. The Liberation Tigers of Tamil Eelam failed to account for numerous prisoners in their custody, some of whom they reportedly executed.

The government took some steps to improve the human rights situation in the country. However, impunity remained a major obstacle to the long-term improvement of human rights. Little progress was made in the prosecution of security forces personnel allegedly responsible for committing human rights violations during previous years. Many of the specific undertakings for the protection of human rights which the government made to the international community have yet to be implemented.

2. Background

President Ranasinghe Premadasa was assassinated in the capital, Colombo, in May 1993 by a suicide bomber said by the authorities to have been a member of the Liberation Tigers of Tamil Eelam (LTTE). A leader of the opposition Democratic United National Front (DUNF), Lalith Athulathmudali, had been assassinated one week earlier during an election rally. The then Prime Minister, Dingiri Banda Wijetunga, became Acting President following the president's assassination, and was confirmed in office one week later. Provincial Council elections were held in all but the northeastern areas in May. The ruling United National Party won four out of seven councils outright, the opposition Peoples' Alliance (PA) won the Western Province outright, while the joint opposition of the PA and the DUNF had majorities in the other two provinces. The Southern Provincial Council was dissolved at the end of 1993 and new elections were called.

Armed conflict between government forces and the LTTE continued in the northeast. Military operations in the north, particularly, intensified in the second half of 1993 with heavy loss of life on both sides as well as among the civilian population. Most of the Jaffna peninsula remained under LTTE control, and control of much of the northeast remained uncertain. Unlike in recent years, there were no major communal attacks on civilians in the east, which is inhabited by Muslim, Sinhalese and Tamil communities.

3. Human Rights Violations by Government Forces

3.1. Reports of arbitrary arrest and detention

Thousands of Tamil people, including prisoners of conscience, were arbitrarily arrested and detained, solely on account of their ethnicity, especially in Colombo. Some were arrested by plainclothed officers in the middle of the night and driven off, blindfolded, in unmarked vehicles. Many were held in unacknowledged detention for days, at least, before being released, sometimes on payment of a bribe. Some were brought before magistrates and released on bail or kept in custody even though police had not specified their connection with any known offence. In June 1993, the government promised Tamil political leaders that safeguards on arrest would be introduced. These safeguards, which included the requirement for relatives to be informed where prisoners were being taken, were not implemented.

Waves of such arrests in Colombo began in June 1993, after Provincial Council elections had been concluded, and continued to the end of the year. They were apparently connected to investigations into the assassinations of Lalith Athulathmudali and President Premadasa, as well as to reports that LTTE suicide bombers were present in the city. Police, military and members of armed Tamil groups allied with the government, including the People's Liberation Organisation of Tamil Eelam (PLOTE), were all reported to have participated in these arrests.

Some prisoners abducted in Colombo were later found in police custody in Batticaloa in the east. For example, Sinnathambi Meganathan, bodyguard to a Tamil member of parliament, was abducted on 10 November 1993 from a bus in central Colombo by a group of plainclothed men, and driven away in a jeep. He was traced a week later and released without charge. He had been assaulted in custody and had several injuries all over his body. He also had burn marks on his feet. He claimed he was given electric shocks to his thumbs. Before his release, he was reportedly forced to sign a statement saying he had not been ill-treated in custody.

The Eelam People's Democratic Party (EPDP), a militant Tamil group which acts in collaboration with the security forces, also reportedly detained people illegally early in the year. Tharmalingam Selvakumar, a former EPDP sympathiser, was abducted from a sports club in Colombo in January and held for five days at the EPDP Colombo headquarters, where he was beaten. He said there were several other Sinhalese and Tamil prisoners also held there, some of whom had been tortured. He was handed to police custody, where he remained until released by a court some 12 days later. He was repeatedly threatened with death after he filed a Supreme Court petition alleging violation of his fundamental rights by the EPDP and the police.

There were continuing complaints of arbitrary arrests in the northeast committed by both the security forces and militant Tamil groups associated with them, but the number of people detained was lower than in previous years. In both Batticaloa and Trincomalee Districts, hundreds of people were reportedly paraded before masked informants by the security forces to identify suspects, and many were arrested for questioning. Most were released within a week. Others were detained for the sole reason that they were relatives of an alleged LTTE member. Some prisoners were held in unacknowledged detention for several days, others for longer periods.

In the south, scores of members and supporters of opposition parties, particularly the DUNF, were reported to have been arrested and held for short periods as possible prisoners of conscience in the run-up to the Provincial Council elections. In Kandy, for example, 28 DUNF supporters were arrested after

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putting up posters and distributing leaflets in April. They were released on bail the next day. In February, over a hundred university students were detained for questioning for short periods in Kandy and Matara after putting up posters and demonstrating peacefully against the School Development Boards Bill. Arrests and detention of Sinhalese people believed to have been connected with the Janatha Vimukthi Peramuna (JVP) insurgency in the south from 1987 to 1990 continued to be reported. The precise number detained is not known.

According to official figures, 2,348 people were being detained under the Emergency Regulations or the Prevention of Terrorism Act in August 1993: 338 in detention camps, 518 in rehabilitation centres, 1092 in prisons and 400 in police stations. Of these, the majority in police custody were Tamil, while most in detention camps and rehabilitation centres were Sinhalese. Of those in prisons, 889 were Tamil and 203 Sinhalese. No figures were given for those detained in military custody.

In August, it was reported that at Kalutara prison alone, 464 Tamils had been held for over 32 months without trial. Many of the Sinhalese in prisons and detention camps had also been held for well over two years without trial. M. G. Palitha, a Sinhalese prisoner, had been arrested in November 1989 in Polonnaruwa and was held for 35 months. In May the Supreme Court reportedly awarded him Rs17,500 compensation for unjustified detention. In some habeas corpus cases the Court of Appeal ordered the release of long-term detainees. For example, Pavil Anthony was reportedly released by the court in March; he had been arrested in Batticaloa District in December 1990. Tamil detainees held in connection with the conflict in the northeast began to be referred for "rehabilitation" for the first time, and at least 40 had been released from rehabilitation by August.

3.2. Reports of torture, ill-treatment, "disappearance" and extrajudicial killings

Torture and ill-treatment of political and criminal prisoners, including severe beatings, continued to be reported, particularly in the northeast.

Over 25 "disappearances" were reported from the northeast which remain unclarified. Sixteen people reportedly "disappeared" in February 1993 after being arrested by the army at Vannathi Aru, Batticaloa District. The army announced an internal investigation into these "disappearances" but its findings were not known by the end of the year. An identification parade was held in October, apparently to identify the soldiers responsible, but no further information was available. In Mannar District, three men reportedly "disappeared" in July after police took them from a bus.

The discovery of a body burning on a tyre at Modera, Colombo, in August raised fears of a resumption of "death squad" killings (see *Amnesty International Report 1990*). A notice by the body claimed it was that of an LTTE cadre sought by the police for alleged involvement in assassinating the President, whose identity had been publicised. Two other bodies found in August in Colombo were of people who had been blindfolded, assaulted and shot in the head. No outcome of investigations into these deaths was known by the end of the year.

In the north, scores of civilians were reportedly killed during the year by the security forces, some apparently victims of extrajudicial executions, as they attempted to cross the Kilali lagoon from the Jaffna peninsula to the mainland. The lagoon, which provides the only remaining passage from the peninsula to the mainland, was declared a prohibited zone under the Emergency Regulations in October 1992 and all

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craft crossing the lagoon are vulnerable to attack. In some cases, navy personnel reportedly boarded boats and deliberately killed civilian passengers who offered no resistance.

Civilians were also reportedly targeted in reprisal bombing raids on Jaffna. Ten civilians reportedly died and about 30 were injured on 13 November when two Air Force jets bombed St James' church in the centre of Jaffna town. Church officials claimed that the church, which serves as a refuge for civilians during bombardments and shelling, was deliberately targeted. The bombing was believed to have been carried out as a reprisal for the killing of an estimated 450 soldiers at the Pooneryn army base by the LTTE two days earlier.

There were also reports that security forces summarily executed some alleged LTTE members following capture, even though they offered no resistance and could have been arrested. For example, in January, after villagers in Kaluwankerny had been screened by the Tamil Eelam Liberation Organization (TELO), a militant group which works alongside the army, soldiers arrived and shot two of the suspect villagers dead. The two men were said to have been collecting "taxes" for the LTTE.

Five remand prisoners, all believed to have been former JVP members, were killed by prison guards at Mahara prison in September. There were conflicting reports of the circumstances of their deaths. The authorities said they were shot while trying to escape. Other reports, however, said that post-mortem examinations had revealed injuries caused by attacks with blunt weapons which took place after they had been shot in the legs.

At least three mass graves thought to contain up to 300 bodies were discovered on a mountainside at Suriyakande, Ratnapura District, on 3 January 1994. Following a tip-off received by the opposition Sri Lanka Freedom Party (SLFP) about the existence of the graves, opposition politicians accompanied by journalists unearthed several skeletons at the site. It is believed that the remains are of people detained and killed during the 1989 government counter-insurgency operation against the *Janatha Vimukthi Peramuna* (JVP, Peoples Liberation Front). A magisterial inquiry into the findings at the grave site is continuing. About 600 relatives of people who have "disappeared" assembled at the courthouse in Embilipitiya on 10 January to try and make an initial identification of the body parts.

Amnesty International urged the government to ensure that UN guidelines on disinterment and analysis of skeletal remains were followed. The government did not respond to its request for further exhumation to be carried out under the supervision of forensic experts. In February 1992, the government had accepted a recommendation from the UN Working on Enforced or Involuntary Disappearances, that in the event of bodies being discovered, believed to be those of missing people, it could request the assistance of an international team of forensic experts under the auspices of the UN.

3.3. Death threats

There were continuing reports of harassment and death threats issued to journalists in the south. Iqbal Attas received repeated death threats after he criticized military operations in the north in October. His wife later received a funeral wreath sent in the name of a regiment which had participated in the operation concerned. Two further journalists were threatened after publishing on the same matter.

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A lawyer, acting for the opposition politicians involved in the excavation of the graves at Suriyakande (see above), was fired on by unidentified gunmen as he and his driver returned to Colombo from Suriyakande on 10 January 1994. His car was damaged but no one was hurt. In the centre of Kahawatte, the town through which opposition MPs and journalists travelled to reach Suriyakande, a skull and bones were left by the post office, apparently to intimidate those who wish the excavation to proceed.

3.4. Impunity

Impunity remained a major obstacle to the long-term improvement of human rights: there were no known prosecutions for perpetrating "disappearances", and the few trials started for other human rights violations - including extrajudicial killings - failed to reach any conclusion by the end of the year.

In several cases of "disappearance" and extrajudicial executions in which a substantial body of evidence exists against members of the security forces suspected of having committed human rights violations, no apparent steps were taken to prosecute these people. For instance, to date nobody has been charged in connection with the widely published cases of "disappearance" of at least 32 students from Embilipitiya in late 1989 - early 1990. According to the chairperson of the Human Rights Task Force, who is a retired Supreme Court judge and has investigated their "disappearance", there is enough evidence for a case to be filed in court.

Other cases have been pending before the court for long periods of time with no apparent progress. These include the killings of three youths in Wellawaya, Ratnapura District in 1988 (see Amnesty International Report 1989 and 1990), the extrajudicial executions of 12 villagers at Wavulkele, Gampaha District in February 1990 (see Amnesty International Report 1991 and 1992) and the rape and murder case of Chandrawathie of Eppawela, Anuradhapura District in 1990.

A former senior police officer who had left Sri Lanka in 1992 returned in June 1993. He had been wanted for questioning in connection with the death from torture of a lawyer, Wijedasa Liyanarachchi, in 1988, and had been summoned to appear in court in April 1992. After his return, however, he was not required to attend the court; instead he was given a senior position in government service.

The initial hearings into the murder of 39 Tamil men, women and children at Mailanathanai, Batticaloa District, in August 1992 (see Amnesty International Report 1993) were transferred from the court in Batticaloa to Polonnaruwa, causing difficulties for witnesses to attend. The government gave no reasons for the transfer. In this case, 23 soldiers were accused on 83 charges. In August, warrants for the arrest of 10 witnesses were issued after they had failed to attend the court. Very little progress has been reported since.

4. Government Initiatives

On 3 January 1994 the government acceded to the United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. An invitation from the Government for the UN Special Rapporteur on Summary and Arbitrary Executions to visit Sri Lanka is currently outstanding.

Several other initiatives for the protection of human rights previously announced by the government remain to be implemented. For instance, the proposed amendments to the Constitution affecting

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fundamental rights, which were published by the government in December 1990 and which were first announced to the UN Commission on Human Rights in 1991, have not been put before Parliament. Nor has there been any progress in establishing a Human Rights Commission, which the government informed the UN Commission on Human Rights in 1991 it intended to do¹.

In June the Emergency Regulations (ER) were revised. They now prohibit secret detention and, for the first time, require publication of all authorised places of detention. The alterations to arrest and detention procedures, however, still fail to provide adequate safeguards for detainees. For example, they still enable the authorities to hold people in preventive detention indefinitely and permit long periods of detention in police or military custody in the northeast. Additional safeguards provided - such as that certificates of arrest should be issued by the arresting officer, and that detentions should be promptly notified to the Human Rights Task Force - were repeatedly flouted². Despite the government's declared intention to remove from the ER any regulation which has no bearing on public security concerns, it promulgated in December 1993 new regulations requiring the registration of non-governmental organizations (NGO) and monitoring of their income and expenditure. The government announced that these matters were dealt with under emergency law "as the enactment of legislation is going to take time". No justification was given for these regulations in terms of public security concerns.

The mandate of the Presidential Commission of Inquiry into Involuntary Removal of Persons (PCIIR), which investigates "disappearances" committed after 11 January 1991, was revised in September and extended for a further two years up to 12 September 1995. Its terms of reference were altered to enable it to investigate cases more speedily. By the end of September 1993 it had concluded public inquiries into 21 cases since its creation in January 1991, whereas by the end of 1992 it had completed hearings into only six cases. No known action on its findings in any case has been taken by the government, and none of its reports had been published by the end of the year. The revised mandate of the commission now requires it to determine, among other matters, the "credibility" of individual complaints, which would then be further investigated by the police. Previously it had been required to determine, inter alia, the "evidence available to establish the truth" of the allegations.

In October the government established a unit under a senior police officer to examine documentation on the "disappearance" cases submitted to the government for clarification by the UN Working Group on Enforced or Involuntary Disappearances. According to the government, the unit would "initially" examine reported cases which took place between 1983 and January 1991, which are not covered by the PCIIR. The procedure adopted is that it checks the names of those who reportedly "disappeared" against lists of people arrested and detained, lists of people reportedly killed by the security forces or who died in custody and in respect of whom inquiries were held under the provisions of the Emergency Regulations, as well as emigration records on those who applied for passports or left the country. Such a procedure does not constitute a proper inquiry into the reported "disappearances" and appears to have been instituted as a palliative to satisfy international concern on this issue. Moreover, arrest and detention records are likely to be inaccurate; the ER have for considerable periods permitted the secret disposal of bodies without any inquiry; when inquiries into deaths have been required under the ER, the procedures

¹On 31 January 1994, the Government of Sri Lanka announced that draft legislation for the setting up of a Human Rights Commission will be shortly considered. Amnesty International has requested further information on the proposal and will comment once further details have been received.

²For detailed analysis of the changes to the Emergency Regulations, see *Sri Lanka: New Emergency Regulations*, AI Index: ASA 37/04/94 of January 1994

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stipulated require that only evidence from the police can be considered, and could still be used to cover up illegal killings.

5. Human Rights Abuses by the LTTE

The LTTE continued to hold an unknown number of political prisoners in unacknowledged detention, and there were fears for their safety. There were numerous reports of LTTE abductions for ransom, including in July of the Assistant Government Agent of Kaluwanchikudi, who was later released. Threats were also used to extort money. Prisoners accused of being traitors were reportedly executed, as were some prisoners found guilty of criminal activities. An LTTE spokesperson reportedly admitted that "serious action" was taken against informants, but denied that the organization held as many as several thousand prisoners. Members of rival Tamil groups were also reportedly killed in LTTE custody.

In August, reports indicated that the LTTE had taken prisoner its former deputy leader, Mahattaya, and his followers. At least one of Mahattaya's aides was reportedly executed in November; Mahattaya's fate remains unknown.

Some prisoners were released by the LTTE through the International Committee of the Red Cross, including seven civilians captured in an LTTE attack on an army camp at Janakapura in July and six policemen out of 39 held captive since 1990.

In November 1993 a spokesperson for the LTTE acknowledged that about 30-40 Tamil people considered as political opponents, including Thiagarajah Selvanithy and Manoharan, were in detention. This was the first time to Amnesty International's knowledge that the LTTE have publicly acknowledged holding these people. Their places of detention have not been revealed, and they are believed not to have any contact with relatives.

There were no reports of major attacks by the LTTE on purely civilian targets, unlike in recent years when the LTTE has targeted and killed many hundreds of civilians.

6. Amnesty International's Actions

Amnesty International urged the government to implement its recommendations for human rights safeguards (see Amnesty International Report 1992). In February it published an assessment of the extent to which they had been implemented so far, and found that many essential protective and investigative measures remained to be fully implemented. Amnesty International continued to press for the thorough investigation of all "disappearances", including those which took place before 1991, for the prompt trial of political prisoners, and for a halt to arbitrary arrests. It called for information on investigations held into reported human rights violations and urged that perpetrators of violations be held fully accountable.

In January 1994, it called upon the government to protect those professionals involved in the excavation of the mass graves at Suriyakande to ensure they could carry out their inquiries without fear of intimidation and that any further exhumation be carried out under the supervision of forensic experts.

Amnesty International welcomed the government's accession to the UN Convention against Torture as a
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positive step towards further protection of human rights in Sri Lanka. In a letter to President Dingiri Banda Wijetunga, it expressed the hope that Sri Lanka's accession to the Convention will be made widely known throughout the country to show the government's commitment to take effective legislative, administrative, judicial and other measures to prevent acts of torture. Amnesty International also urged the Sri Lanka Government to make additional declarations under Article 21 and 22 of the Convention in which it would recognize the competence of the Committee against Torture (set up under the Convention) to receive communications from another state party (Article 21) or from individuals under their jurisdiction (Article 22) who wish to complain about a violation of the Convention against Torture. It considers that the system for complaints of this nature is an essential part of the protective mechanisms set up under the Convention.

The organization called upon the LTTE to observe at least minimum standards of international humanitarian law, to account for the whereabouts of scores of individual prisoners, and to halt executions.