

Eighth session of the UN Human Rights Council

Review of Sri Lanka under the Universal Periodic Review: Amnesty International's reflections on the outcome

Themes raised by member states participating in the review of Sri Lanka under the UPR dialogue included concerns related to the lack of protection of civilians caught in the internal conflict; enforced disappearances, unlawful/extrajudicial killings; torture and other forms of ill treatment, threats to freedom of expression, the need to strengthen national human rights institutions, attacks on dissent and ongoing impunity for human rights violations.

Amnesty International welcomes the government of Sri Lanka's attention to address some of these concerns, through a National Plan of Action on the Protection and Promotion of Human Rights¹ with specific benchmarks within a given timeframe and to give effect to the 45 recommendations made by states participating in the review to improve human rights on the ground. However we also note the apparent lack of support by the Sri Lankan government of 26 other recommendations nearly half of which repeatedly urge it to establish an independent human rights monitoring mechanism, in cooperation with the High Commissioner for Human Rights.

Rule of Law

Questions and recommendations concerning barriers to the effective rule of law remain an outstanding concern of Amnesty International that was also raised by a number of states in the interactive dialogue. The main focus was on the need for independent public commissions and to "strengthen and ensure the independence of human rights institutions such as the National Human Rights Commission, in accordance with the Paris Principles".² In December 2007, the Human Rights Commission of Sri Lanka (HRCSL) was downgraded to B status by the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights, indicating that it is not fully in compliance with the Paris Principles.³ The International Coordination Committee downgraded the accreditation of the HRCSL on two grounds: first, because of concerns in relation to the appointment of its commissioners and secondly, because it had publicly expressed its inability to investigate disappearances. Amnesty International is further concerned that the HRCSL no longer engages in regular public reporting. The HRCSL has not responded to a number of the organisation's recent requests for information.

Paragraph 10 of the Report of the Working Group records information from the government of Sri Lanka that the 17th Amendment to the Constitution created a multi-party body – the Constitutional Council – that contributes to the appointment of certain independent national institutions and offices. In the current situation where the Constitutional Council is not functioning, appointments are made unilaterally by the President to the Human Rights Commission and the Police Commission. This has impeded the credibility and the effectiveness of these important commissions to realise their mandate. While the government has promised to improve the rule of law, it must explicitly commit to implement visible measures to ensure the independence of these public commissions.

Emergency Regulations

Paragraph 39C of the UPR report explicitly requests the government to "implement various recommendations made by treaty bodies and special procedures to ensure that security

¹ Report of the Working Group on the Universal Periodic Review, A/HRC/8/46, Point 6, Page 4, and recommendation 13, Page 18, 15 May 2008.

² Report of the Working Group on the Universal Periodic Review, A/HRC/8/46

³ Principles relating to the status and functioning of national institutions for protection and promotion of human rights, adopted by the General Assembly in resolution 48/134 on 20 December 1993.

measures adopted in the context of armed violence including the state of emergency, the 2005 emergency laws and measures to combat terrorism comply with international human rights law". Amnesty International has repeatedly raised concerns about the sweeping powers granted under the Emergency Regulations. Many Tamils, including Tamil journalists, are targeted and arrested under the regulations during cordon and search operations. Tamil journalist Jayaprakash Sittampalam Tissainayagam is currently being held in the Terrorist Investigation Division detention centre in Colombo under the Emergency Regulations.⁴

Amnesty International urges the government to repeal or revise the Emergency Regulations to bring it into line with international human rights standards and to ensure the full implementation of the recommendations made by the UN Working Group on Enforced or Involuntary Disappearances including and of the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances. There is also an immediate need for the government to establish a central register of detainees, particularly those arrested under the emergency regulations, with details regarding their date of arrest, transfer and release information, and provide public access to such registers.

Protection and Promotion of Human Rights

The Sri Lankan government, responding to the recommendations during the UPR, committed itself to investigate and prosecute all allegations of extrajudicial, summary or arbitrary killings and bring the perpetrators to justice in accordance with international standards. Amnesty International is alarmed that extrajudicial, summary and arbitrary killings continue, as illustrated by recent reports of five persons shot dead in the Batticaloa area on 22 May 2008. The Special Rapporteur on extrajudicial, summary or arbitrary executions expressed serious concerns on extrajudicial, summary or arbitrary executions stating that 'the Government has relied extensively on paramilitary groups to maintain control in the East and, to a lesser extent, in Jaffna. There is evidence that these groups conduct operations with the Government forces and are responsible for extrajudicial executions'. During the UPR, some member states expressed concern that the government seems reluctant to immediately address the existence of armed groups, many of which are responsible for ongoing human rights abuses. The government responded by stating that 'complete disarming of paramilitaries will take place when normality is restored [and] threats from the (LTTE) die down'.⁵

The government comments that it will make efforts to prevent cases of kidnapping, enforced disappearance and extrajudicial killings and to ensure all perpetrators are brought to justice. However there is a contradiction as the government states that it does not support the recommendation of paragraph 33 (b) urging the government to "adopt measures to shed light on a number of existing enforced disappearances and comply with the request to visit by the Working Group on Enforced or Involuntary Disappearances".⁶ The Human Rights Commission of Sri Lanka reported that fifteen people were abducted in Trincomalee in the first half of May. Amnesty International has received a number of recent reports of persons being abducted in Colombo and other areas. The government needs to reconsider its position on this issue and to accept and promptly give effect to the recommendation.

The government's commitment to introduce a Witness and Victim Protection Bill in Parliament shortly is a welcome step as this is an urgent priority given victims' fear of reprisals when identifying persons responsible for human rights abuses. However the government must acknowledge and needs to swiftly act upon the seriousness of the problem in light of ongoing attacks and killings of persons raising concerns about human rights abuses, including the recent attack on Keith Noyar, the deputy editor of the *Nation* Sunday newspaper.

⁴ Sri Lanka: Arbitrary detention/ medical concern: Jayaprakash Sittampalam Tissainayagam; Amnesty International UA, ASA 37/016/2008, 4 April 2008, <http://www.amnesty.org/en/library/asset/ASA37/016/2008/en/58564ea9-0260-11dd-9f22-c78dcd6ee044/asa370162008eng.html>.

⁵ Report of the Working Group on the Universal Periodic Review, A/HRC/8/46

⁶ Report of the Working Group on the Universal Periodic Review, A/HRC/8/46

The government cites measures to implement the recommendations of the Special Rapporteur on torture and to take steps to eliminate all forms of torture and ill-treatment in prisons and detention centres. On this issue Amnesty International regrets that the government has not accepted the recommendation to ratify the Optional Protocol to the Convention Against Torture (CAT) and recalls the statement by the Special Rapporteur on torture in 2007 raising concern that "...safeguards against torture either do not apply or are simply disregarded [...] and leads to a situation in which torture becomes a routine practice in the context of counter-terrorism operations."⁷

Measures needed to improve human rights protection in Sri Lanka

The scale of human rights violations has drastically increased since the abrogation of the ceasefire agreement in Sri Lanka on 16 January 2008. The conflict continues to involve the intentional targeting and indiscriminate attacks on civilians. The LTTE has been deliberately targeting civilians in the South in an extended series of attacks. According to the International Committee of the Red Cross (ICRC), 180 civilians died in the first six weeks of 2008, and around 270 were injured in a series of attacks on civilian buses, railway stations and individuals in Colombo, Dambulla, Kebhitigollewa, Madhu, Okkampitiya and Welli Oya.⁸

Fighting in Mannar District in northern Sri Lanka has escalated in recent weeks. The new round of hostilities is characterized by worsening casualties. The disregard for international human rights and humanitarian law is reflected in the targeting of humanitarian workers with over 40 killed in the last 18 months.

Amnesty International is receiving reports about widespread disparities in the health and nutritional conditions of children living in conflict-affected and poorer areas of Sri Lanka. Amnesty International has repeatedly called on all parties to the conflict to facilitate full and unimpeded access to conflict affected areas, including granting the necessary travel permits, to international and national organizations. This will enable civilians in dire need to access timely humanitarian assistance, including food and medical supplies.

Against this background it is deeply worrying that, despite repeated calls from a large number of states during the UPR review, the Sri Lankan government continues to be "not in agreement with the suggestion for the establishment of a monitoring mission".⁹

There is little evidence that national mechanisms and measures are adequate in addressing the escalating human rights crisis in the country. The deployment of an international and independent human rights monitoring mechanism to undertake investigations and report on human rights violations would therefore be a crucial step towards the prevention of human rights violations and the improvement of human rights protection.

Amnesty International urges the government of Sri Lanka to face up to the escalating crisis of human rights abuses and take urgent steps to implement the recommendations to protect human rights in the country as well as to protect the defenders who speak out on human rights.

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<http://www.unhchr.ch/hurricane/hurricane.nsf/view01/0C81BCEFCB4B9138C1257410004051C5?opendocument>

⁸ See, Sri Lanka: Amnesty International condemns civilian killings', 28 November 2007, AI Index: ASA 37/020/2007, <http://www.amnesty.org/en/library/asset/ASA37/020/2007/en/dom-ASA370202007en.html> and <http://www.amnesty.org/en/for-media/press-releases/sri-lanka-right-life-civilians-disregarded-conflict-intensifies-20080204>

⁹ Report of the Working Group on the Universal Periodic Review, A/HRC/8/46