

SRI LANKA

When will justice be done?

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When will justice be done?

"As a commitment to the promotion of accountability through pursuit of legal mechanisms, effective steps will be taken to prosecute human rights violators by undertaking vigorous investigations and the institution of prosecutions in court."

In early March 1994, in a statement before the United Nations (UN) Commission on Human Rights meeting in Geneva, Switzerland, the Sri Lankan Government made the above undertaking as part of a "programme of work which the government proposes to carry out during the course of the next twelve months". Similar promises had been made during the two previous sessions of the UN Commission on Human Rights. But, as yet, there are few signs of implementation of this particular undertaking, thought by Amnesty International to be crucial to ensuring an end to the climate of impunity prevailing among members of the security forces in Sri Lanka.

Amnesty International hopes the government's repeatedly stated commitment to prosecute members of the security forces responsible for human rights violations will yet be upheld. It has been concerned for years at the lack of political will shown by the authorities to implement thorough and independent investigations into human rights violations, prosecute and punish those found responsible and compensate the families of victims.

At several UN fora during the last few years, the Sri Lankan Government has undertaken to prosecute those responsible for "disappearances" and other human rights violations and has provided lists of cases under investigation or before the courts to demonstrate this commitment.⁽¹⁾ To date, little progress has been reported in these cases, which have been pending before the courts for long periods of time.

Although the number of extrajudicial executions and "disappearances" has reduced in Sri Lanka over the last two years or so, Amnesty International remains concerned about the continuing high number of arbitrary arrests and detention and allegations of ill-treatment and torture in custody.

In the context of a report on human rights violations in northeastern Sri Lanka, Amnesty International made 32 recommendations for human rights safeguards to the Government of Sri Lanka in October 1991, 30 of which the government accepted. Following its first visit to Sri Lanka in 1991, the UN Working Group on Enforced or Involuntary Disappearances (UNWGEID) also made a series of recommendations, all of which the government accepted. Some progress has been made to date in the implementation of these recommendations, but there are still major safeguards which the government has yet to implement.

The two out of 32 Amnesty International recommendations for human rights safeguards which the government rejected in late 1991 were both concerned with

impunity: the government refused to permit a Presidential Commission of Inquiry into Involuntary Removals to investigate "disappearances" which occurred before 11 January 1991, and refused to repeal the Indemnity (Amendment) Act, claiming it was no longer in force.

Some of the recent measures to stem human rights violations announced by the government appear to have been cosmetic, and the main pieces of legislation it has promised for over two years have not been introduced. These include amendments to the fundamental rights chapter of the constitution to strengthen the constitutional protection of human rights and the creation of a Human Rights Commission(2).

It is in this context that the lack of progress in the investigation of extrajudicial executions and "disappearances" and the prosecution of the alleged perpetrators has to be placed. Impunity remains a major obstacle to the long-term improvement of human rights in Sri Lanka. Amnesty International has also pointed to the danger that these grave human rights violations could occur again if the underlying sense of impunity among members of the security forces is not removed or if the military context would change.

The Government of Sri Lanka's comments on an earlier draft of this report have been incorporated into this text.

Background

It is impossible to estimate with any certainty the number of extrajudicial executions and "disappearances" that have taken place in Sri Lanka since 1983, but they are believed to run into tens of thousands.

In the northeast(3) the number who have "disappeared" or been extrajudicially executed to date runs to thousands. From 1984 to mid-1987, Amnesty International documented over 680 "disappearances" in the custody of Sri Lankan security forces in the northeast. From mid-1987 to March 1990 the Indian Peace Keeping Force (IPKF) was responsible for the security of the northeast under the terms of the Indo-Sri Lanka Accord. During this period, Amnesty International documented 43 "disappearances" there for which the IPKF were believed responsible. After the IPKF had withdrawn, armed conflict resumed in June 1990 between Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE), the main armed Tamil group fighting to establish a separate Tamil state in the northeast of Sri Lanka. Within months, the reported number of extrajudicial executions and "disappearances" reached thousands. In Amparai District in the east, it was estimated that between June and October 1990 alone, some 3,000 Tamil people were killed or "disappeared".

After the IPKF took control of the northeast in mid-1987, the Sri Lankan security forces were redeployed in the south, where the government was increasingly concerned about mobilization by the *Janatha Vimukthi Peramuna* (JVP), People's Liberation Front, a Sinhalese militant party. The accord between the governments of India and Sri Lanka - which provided for some devolution of power to provincial councils and brought the IPKF to the northeast - provided new momentum for the JVP, which had for years

expressed a fear of Indian imperialism. The JVP began to target for assassination members of the ruling party, members of leftist parties which had supported the accord, members of the security forces and others, including relatives of targeted individuals. As their campaign of terror gradually mounted, they were able to command widespread strikes and stoppages, enforced by threats to kill those who refused to obey the strike call. It was in this context that tactics of counter-terror, mirroring those of the JVP, were increasingly used by the security forces and other groups aligned with the government, and that there was a massive rise in the number of extrajudicial executions and "disappearances". According to some observers, in the south during 1988 and 1989 perhaps as many as 30,000 people were killed or "disappeared".

The UNWGEID in its report of 22 December 1993 says that 7,997 cases of "disappearances" were reported to it from Sri Lanka, all but three of which had taken place since 1983. In addition, Amnesty International understands that a further 5,000-odd cases which occurred in the south between 1988 and 1990 and the northeast since June 1990 are currently being processed for transmission to the Government by the UNWGEID. In any case, the total number of cases given by the UNWGEID will be lower than the actual number of "disappearances" that took place during this period, as the UNWGEID only counts the individual cases actually submitted to it for consideration and action, and does not attempt to estimate the actual number of "disappearances" which may have taken place.

The close link between extrajudicial killings and "disappearances" needs to be stressed in the Sri Lankan context.⁽⁴⁾ Amnesty International has received many testimonies to the effect that many of the people reported as "disappeared" were victims of extrajudicial executions in custody, their bodies having been secretly disposed of by security forces personnel. The bodies of others (particularly of suspected members and sympathisers of the JVP in the south during the period 1988 - 1989) were dumped openly by roadsides, in fields or in cemeteries; others were thrown into rivers. Many of these bodies were mutilated or burned beyond recognition, often on pyres of rubber tyres. This pattern of mutilation and display, together with the use of plainclothes squads, was transferred to the east when the military returned there from the south in June 1990.

This document highlights several incidents of extrajudicial execution and "disappearance" committed in Sri Lanka since 1983. Each of the cases illustrates different aspects of Amnesty International's concerns about the lack of proper investigation and prosecution, all of which have ultimately contributed to the current climate of impunity.

In the majority of the cases discussed here, some form of investigation or prosecution has taken place, yet the outcome has been far from satisfactory. Justice has not been done. Indeed, some of the investigations seem to have been set up in order to stem public outcry rather than with the intention of bringing those responsible to justice, and have produced no known results. And the vast majority of cases of extrajudicial executions and "disappearances" in Sri Lanka have never even been subject to investigation.

Legal framework

Sri Lanka has retained its system of parliamentary democracy throughout the period under review. Its normal legal system contains safeguards that should prevent extrajudicial executions and "disappearances", but these provisions have been undermined by the fact that the country has been under an almost continuous state of emergency since May 1983 (5). During a declared state of emergency, which has to be renewed monthly by parliament, the Emergency (Miscellaneous Provisions and Powers) Regulations (ERs) are in force. These regulations are issued under the Public Security Ordinance and are altered from time to time. Official emergency measures override the safeguards contained in the normal law and have granted sweeping powers to the security forces. In addition, there has at times been blatant intimidation of lawyers, relatives and others attempting to take remedial action through the courts.

Certain provisions in the ERs in the past permitted the security forces to dispose of bodies without post-mortem or inquest, thereby enabling them to cover-up extrajudicial killings even more readily. Even when this provision has not been in force, the ERs have provided a special, secret inquest procedure which could be used to cover-up deliberate killings in custody.(6) For instance, the extrajudicial executions in September 1989 of at least 80 villagers from Menikhinna, Kundasala, Arangala and Mahawatte (See **Case No. 6**), took place at a time when ER 55FF was in force, permitting members of the security forces to dispose of bodies without post-mortem or inquest. The impunity granted by such regulations at the time they were in force cannot easily be overcome. This is both because the physical evidence of such killings has been destroyed within the framework provided by emergency law, and because the mere existence of these regulations was a signal to the security forces of the political will to grant impunity to those committing human rights violations at that time.

The current ERs remain wholly inadequate for the full and impartial investigation of deaths caused by security forces personnel and could still be used to cover-up illegal killings by the security forces(7). This is particularly so because under the June 1993 ERs the Inspector General of Police can apply to the High Court in Colombo for an inquiry to be held under emergency procedures on the basis of a belief by any security forces officer that a death resulted from armed confrontation. The High Court judge may only record as evidence the post-mortem report and other evidence provided to him by the police. The findings must then be forwarded to the Attorney General only; and there is no provision for the results of the High Court inquiry to be made public. Prior to June 1993, these High Court inquiries had to be held *in camera*, a requirement which has now been removed.

In December 1988 the Indemnity (Amendment) Act was passed days before a presidential election was to take place. This act gives immunity from prosecution to all members of the security forces, members of the government and government servants involved in enforcing law and order between 1 August 1977 and 16 December 1988 provided that their actions were carried out "in good faith" and in the public interest. The act also indemnifies any other person who can use the defence that he or she acted "in good faith" under the authority of a government official during this period. Before 17 June 1993, ER 71 specified that no civil or criminal action could be

instituted in any court in respect of anything done "in good faith" under the provisions of the ER, unless consented to or initiated by the Attorney General. ER 71 was repealed in June 1993.

In response to a recommendation by the UNWGEID that human rights violations such as "disappearances" should not benefit from indemnity legislation, the government stated in September 1993 that the Indemnity (Amendment) Act covers only a period from 1 August 1977 to 16 December 1988, inferring that because it does not apply to anything done since 16 December 1988, it is no longer in force and does not need repealing. In June 1992, the government also said that the "issue as to whether disappearances before December 1988 should be excluded from indemnity was under consideration". To Amnesty International's knowledge, no announcement has been made about this.

In its latest annual report of 22 December 1993, the UNWGEID reports 998 cases of "disappearances" reported from Sri Lanka which took place between 1980 and the end of 1988. In principle, if any members of the security forces were prosecuted for involvement in any of these 998 "disappearances", they could try to invoke the defence that their acts had been committed "in good faith" or in the public interest or under the authority of a government official, as provided in the Act.

Government (in)action

Amnesty International knows of not a single case of alleged extrajudicial execution or "disappearance" committed in the northeast during the period 1983 - 1987 for which a member of the security forces has been charged.

Prior to this period, there was an independent investigation into a few incidents such as the 1979 Parliamentary Select Committee Inquiry into the death of two people who were last seen in custody at Chavakachcheri police station, Jaffna District and the "disappearance" of three others. The Committee's report was made available only four years later, in 1983, and included considerable information on the arrest of the three "disappeared" men and on their possible fate. For instance, it contained the name of a police officer identified by the father-in-law of two of the "disappeared" persons as having been among those who took away his daughters' husbands. The report concluded that, in at least two of the three cases, there was also a great deal of evidence that the men had been taken to a police station. The Committee recommended "that a separate team of special investigators be appointed to investigate further ..." But, instead of ordering a special inquiry, the Sri Lanka Government ordered the police themselves to conduct further investigations. No information has been forthcoming about any progress in the police investigations since.

In January 1985, the Criminal Investigation Department (CID) investigated the alleged extrajudicial execution of Father Mary Bastian. This Roman Catholic priest was alleged to have been shot dead by members of the security forces at St Anne's Church in Vankalai, Mannar on 5 or 6 January 1985. Although a government Information Department press release initially reported that a priest was among eight people killed near the Vankalai church "when security forces launched an offensive against northern

terrorists", officials later denied this and suggested that he had been taken to India. Despite the CID's recording of the statements of six witnesses, no action seems to have been taken against the members of the security forces allegedly responsible for his killing and the subsequent removal of his body.

A wealth of evidence as to arrest and subsequent "disappearance" of 23 young Tamil men, who had been taken away by Special Task Force (STF) personnel from the village of Thambiluvil on 17 May 1985, emerged at the trial of Paul Nallanayagam in mid-1986. Paul Nallanayagam had been arrested two days after he, as part of a group led by local police, visited the spot where STF personnel were thought to have disposed of their bodies. Despite the evidence recorded by the High Court, no action was taken against the STF officers who were said to have arrested them (See **Case No.2**).

The government's failure to prosecute members of the security forces responsible for human rights violations in the northeast contributed to a growing climate of impunity in the country. In the south after mid-1987, a few incidents of extrajudicial execution provoked widespread publicity and public concern; subsequently investigations were held and the alleged perpetrators prosecuted, but none of these cases has yet reached a conviction for murder (See **Cases Nos. 3,4,7,8,9,10**).

Only after the international community began to put more pressure on Sri Lanka for its human rights record did the government initiate investigations into alleged human rights violations. In June 1991 it instituted an independent Commission of Inquiry into the reprisal killing of 67 villagers by soldiers at Kokkadichcholai in the east - the first inquiry of its kind ever held in Sri Lanka into alleged military abuses (See **Case No.15**). The Commission was established to ascertain whether there was a connection between an explosion which had killed two soldiers, and the subsequent killing of 67 civilians nearby. It was also required to report on whether the deaths of the 67 civilians resulted from military action, or from deliberate retaliatory action taken to avenge the deaths of the soldiers. It was not required to establish the identities of the individuals responsible for the killings of the civilians. Although such commissions do have powers to summon witnesses, including persons "whose conduct is the subject of inquiry", to require evidence to be given under oath, and to examine the person concerned as a witness, in this case these powers were not used throughout the inquiry. On 14 January 1992, 17 soldiers appeared before the commission in civilian dress. The commission apparently asked their lawyer how he wished to proceed, and the outcome was that only the commander-in-charge on the day of the killings gave evidence, and this was in the form of unsworn testimony. Lawyers representing the survivors and eye-witnesses to the killings were given no opportunity to cross-examine the commander or any other soldier, although civilian witnesses had been subjected to cross-examination when they had given evidence earlier.

Amnesty International questioned the Government of Sri Lanka about these shortcomings in the procedures used by the commission. The government responded that the commission had acted "in keeping with the norms of Criminal Procedure that are recognized by the legal system of Sri Lanka never to compel a person suspected of any offence to give evidence at the inquiry". It pointed out that the commission itself had justified its decision in terms of "justice and fair play.... [I]t would not be in the interests of justice to compel these army men to give evidence.... in other words, to

open a possibility of the army men implicating themselves for future action against them."

Amnesty International does not find this explanation acceptable. Certainly, nobody can be required to testify against themselves. This is an established principle of international law. However, it does not mean that potential suspects should not be called upon to give evidence about the events under inquiry. They have the right to remain silent in response to any question which might implicate them directly. But they can be required to give evidence and to be cross-examined, and they can be held in contempt of the commission if they refuse to do so. It is clear that the commission did not compel all those believed to be implicated in the killings to give evidence and to have that evidence fully scrutinized. This inquiry therefore fell far short of the standards required by the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Principle 10 envisages that the investigating authority will have, and will use, powers "to obtain all the information necessary to the inquiry, and to oblige witnesses and officials allegedly involved in extrajudicial executions to attend and give evidence".

In the Kokkadichcholai case, this unsatisfactory investigation by the commission was followed by a trial before a military tribunal, not a civilian court. The commission had recommended that the military conduct further investigations and trials. In the end, none of the 20 suspects were found guilty of murder. The lieutenant-in-charge was convicted on the lesser charges of failing to control his troops and disposing of bodies illegally at the site of the massacre. The nineteen other soldiers were acquitted. There has been no attempt to investigate responsibility for the actual murders which the authorities have now acknowledged were committed by the military at Kokkadichcholai. A full investigation of these killings remains to be held, and the actual perpetrators still need to be brought to justice.

In several subsequent incidents of reprisal killings, the government also instituted an investigation. For instance, in May 1992 a three-member committee headed by a retired judge of the Court of Appeal was appointed to investigate the large scale deliberate killings of Muslim and Tamil civilians in Polonnaruwa District on 29 April 1992 (See **Case No. 16**). In two further instances of reprisal killings police investigations were announced without any independent investigative body being appointed. The first took place at Mailanthanai in Batticaloa District on 8 August 1992 (See **Case No. 17**). Twenty four soldiers were accused on 83 charges related to the murder of 39 Tamil men, women and children. The preliminary hearings in the case were concluded at Polonnaruwa magistrate's court in March 1994, having been transferred there from Batticaloa without any explanation in mid-1993. Of the 24 soldiers, three were discharged and 21 were committed to stand trial in the High Court.

The second case in which a police investigation was ordered is the reported killing by soldiers of about 10 people at Velaveli in Batticaloa District on 24 October 1992. The then Prime Minister Dingiri Banda Wijetunga (who is now the President of Sri Lanka) was reported as saying that these killings would be investigated by the police, but there has been no subsequent evidence that an investigation had started.

In February 1993, 16 people "disappeared" after being arrested by the army at Vannathi Aru, Batticaloa District (See **Case No. 18**). They are believed to have been killed by members of the Independent Brigade of the army. In this case, the army announced an internal investigation into these "disappearances" but its findings were not made public. According to the Chairman of the Human Rights Task Force(8), an identification parade was held in October 1993, but the outcome of this is not known. No further information has been made available.

Summary of the obstacles to bringing an end to impunity and Amnesty International's recommendations to remove them

Legislation hampering the full and impartial investigation of human rights violations and the bringing to justice of perpetrators

The government's argument for not repealing the Indemnity (Amendment) Act has been that this Act does not in fact provide protection for perpetrators of human rights violations. If this is so, Amnesty International can see no reason why the government should object to repealing it. Contrary to the government's assertion, the Act was invoked by the defence in civil cases brought for damages by relatives of prisoners who were killed in Welikada Prison in 1983 (See **Case No. 1**). When Amnesty International delegates raised concern about this during a visit to Sri Lanka in 1992, the then Minister of Justice and the Attorney General said that they expected the case to be settled out of court and that therefore there was no need to fear that the Indemnity (Amendment) Act would be used to protect those responsible. In April 1994, the cases were indeed settled by agreement between the state and the relatives. The fact remains however that for as long as the Act remains on the statute book, it will be possible to invoke it in court in attempts to protect defendants in cases from prosecution in respect of events that took place between 1 August 1977 and 16 December 1988.

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

In its statement before the UN Commission for Human Rights in Geneva, Switzerland, in March 1994 the Sri Lanka Government stated that it would further revise the current Emergency Regulations, including by the "removal of provisions which dispense with post mortems and inquests when deaths have occurred in custody or as a result of official action of the security forces."

Amnesty International urges the government to ensure a return to normal inquest procedures under ordinary law.

In addition, Amnesty International urges the government to give the public access to the records of all inquiries into deaths in custody or as a result of security forces' action held in the High Court under the provisions of the ERs.

The large majority of investigations into human rights violations are not carried out by an authority which is fully independent of those suspected to be responsible for the human rights violations

At certain points in time, the government has instituted different types of investigation into human rights violations which on the surface seemed to fall in similar categories. For instance, whereas a Presidential Commission of Inquiry was set up in June 1991 to investigate the reprisal killings at Kokkadichchola, a three-member team of investigators under a retired judge looked into the killings at Polonnaruwa in April 1992 and the police was ordered to investigate the reprisal killings at Mailanathanai in August 1992. A senior government spokesperson told Amnesty International in October 1992 that the full Commission of Inquiry had been appointed primarily because the Kokkadichchola massacre had generated a large amount of publicity.

Amnesty International urges the government to make public the criteria used to determine which type of investigation is instituted into alleged human rights violations, bearing in mind that under international standards each incident should be fully and impartially investigated without delay.

Several of the incidents of human rights violations highlighted in this document were the subject of what would amount to internal investigations, with the ultimate outcome being very unsatisfactory.

In the reprisal killings attributed to a vigilante group called "The Black Cats" at Eppawala in March 1989 (See **Case No. 5**) as well as in the investigation by a committee of three high-ranking army officials into the "disappearance" of 16 farmers at Vannathi Aru in February 1993, the outcomes of the investigations were never made public. Nor was it ever made known whether any legal or disciplinary action was taken against those thought to be responsible for the human rights violations.

In the case of Richard de Zoysa (See **Case No. 9**) especially, who was killed in February 1990, it would appear that the fact that the investigation of his abduction and killing was entrusted to the police was one of the main factors for the ultimate failure to bring to justice those responsible for his killing. After the discontinuation of the magisterial inquiry and the subsequent debate in Parliament, the government asked the police to investigate further rather than appoint an independent commission of inquiry (as required under Principle 11 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions(9)). This has cast serious doubt on the government's commitment to bring to justice those responsible for his death.

Amnesty International urges the government to institute full and impartial investigations into all cases of human rights violations in accordance with international standards.

Weaknesses in procedures applied during the few independent investigations carried out to date

The procedures followed by the Presidential Commission investigating the reprisal killings at Kokkadichcholai, Batticaloa District, did not fulfil the standards envisaged by the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. The Commissioners did not require the military suspects to give evidence, nor subject them to cross-examination, although they did summon and cross-examine civilian witnesses.

Amnesty International urges the government to ensure that all future inquiries into human rights violations will be held in accordance with international standards, including by requiring officials potentially implicated in such human rights violations to give evidence and be subjected to cross-examination. It also calls for responsibility for the Kokkadichcholai killings to be properly investigated, and for the perpetrators to be brought to justice.

Lack of progress in court proceedings

Despite several assurances given by the government in recent years, mainly in international fora, that members of the security forces believed to be responsible for human rights violations would be brought to justice, very little progress has been reported in those cases put forward by the government itself as examples. (See Appendix I, including, among others, **Cases Nos. 4, 7, 10 and 11**) It is the government's position that every effort is being made to expedite these cases, but that the Government has no control over court proceedings and the steps taken by the defence in such cases to protect the interest of the accused. However, while recognizing that the Government cannot intervene once a trial has started, Amnesty International wishes to point out that the Government itself has recognized on several occasions that there are delays in actually bringing members of the security forces suspected of involvement in human rights violations to trial. The two police officers suspected of being responsible for the rape and subsequent killing of W Chandrawathie in September 1990 (See **Case No. 11**), for instance, were committed to stand trial in mid-1992, yet the trial has still not commenced.

Amnesty International urges that all necessary steps be taken to minimize the delays in bringing to trial members of the security forces suspected of committing human rights violations.

Threats against complainants, witnesses and lawyers appearing on their behalf

Several complainants, witnesses and lawyers have been subjected to death threats, harassment or have been killed. The killing of Sanath Karalliyadda, lawyer at Teldeniya, and others involved in the inquiry into the death of Jayantha Bandara (See **Case No. 7**) is only one of several such cases.

The written death threats against Richard de Zoysa's mother and her lawyer during the inquiry indicate that those responsible did not fear issuing such threats in the capital, Colombo, in a case that received widespread national and international publicity.

The more recent threats against the lawyer acting for the opposition politicians involved in the excavation of the mass graves at Suriyakanda (See **Case No. 12**), and the attempts to intimidate others involved in the excavation, demonstrate the continuing sense of impunity in the country.

Amnesty International urges that reports of threats or intimidation of complainants, witnesses, lawyers or others involved in bringing those responsible for human rights violations to justice be fully investigated and that legal action be taken against those responsible.

Amnesty International also urges that adequate protection be provided to anybody who is threatened in the course of an investigation into human rights violations.

Not publicizing the results of inquiries

The procedures of the Presidential Commission of Inquiry into the Involuntary Removal of Persons (PCIIRP) require it to submit a transcript of the proceedings and its findings to the President on the completion of the public hearing into each case. The hearings are public and can be reported in the local press. However, the conclusions in each case cannot be made public by the PCIIRP itself and have to date not been publicized by the Presidential Secretariat either.

According to the quarterly report of the PCIIRP of 31 March 1994, the final reports into 56 cases of "disappearance" had so far been forwarded to the President. At least six of them were forwarded as far back as in early 1992. When Amnesty International visited Sri Lanka in October 1992, it was informed that the then President had authorised publication of these six case reports in the form of Parliamentary Sessional Papers but that a date had not yet been fixed for publication. Two years later, publication is still awaited.

Amnesty International urges that all case reports submitted to the President by the PCIIRP be immediately made public.

The three-member team of investigators which looked into the killings at Polonnaruwa in April 1992 (See **Case No. 16**) apparently submitted a report to the Ministry of Defence on 29 May 1992. The government issued a briefing note summarising the team's findings but did not make public the full report. As a result of the team's recommendations, another three-member committee was established to review command and control structures of the home guards. This committee produced a report entitled Report of the Committee Appointed to Review Command and Control

Structures of the Home Guards and Armed Cadres of Anti-Militant Tamil Groups in November 1992. Amnesty International was provided with a copy of its conclusions, but not the full report, in August 1993 and to date the full report has not been made public.

Amnesty International urges that the full report of this and other similar investigations be made public forthwith.

Relevant authorities do not act on findings of independent bodies or courts

In 1986, no action was taken against members of the Special Task Force despite the evidence about their involvement in the arrest and subsequent "disappearance" of 23 young men from Naipattimunai which emerged during the trial of Paul Nallanayagam (See **Case No. 2**).

In March 1991, the High Court recommended that investigations be reopened to establish who was responsible for the death of Wijedasa Liyanarachchi (See **Case No. 3**), pointing to incriminating circumstantial evidence that arose during the questioning of a now retired Deputy Inspector General of Police (DIG). The investigations were reopened but the retired DIG was able to leave the country. He returned in June 1993 and was then appointed Vice Chairman of the Ports Authority. The High Court recommendation that investigations into his role in the abduction, torture and illegal detention of Wijedasa Liyanarachchi be reopened remains to be implemented.

According to the March 1994 quarterly report of the PCIIRP, 56 case reports of "disappearances" examined by the Presidential Commission had so far been sent to the President. Although three such reports were apparently then forwarded to the Attorney General in the early part of 1992 to decide whether criminal charges could be brought against the alleged perpetrators, no further action has been taken in two of those cases. In the other case, murder proceedings against a particular police officer, which had already begun on the basis of a normal criminal investigation, were withdrawn after the PCIIRP had concluded that it was unable to establish beyond reasonable doubt that the officer had last had custody of the "disappeared" prisoner.

Amnesty International urges the government to announce the steps it will take in response to the conclusions and recommendations of the PCIIRP in each of the 56 case reports submitted to the President so far and to reply to future case reports and indicate the steps it will take within a reasonable period of time from the submission of the report to the President.

The 1993 Annual Report of the Human Rights Task Force (HRTF) described the "disappearance" of 159 people from the Eastern University Refugee Camp on 5 September 1990 (See **Case No. 13**), naming four security forces officers as among those responsible. In 1992, the HRTF had named eight officers believed responsible for the "disappearance" at Sevana Army Camp of 32 schoolboys and others from

Embilipitiya (See **Case No. 8**). In neither of these cases has any action been taken to bring those responsible to justice.

In the Embilipitiya case, the Attorney General has stated he will take no further action until the habeas corpus proceedings brought by some relatives of the "disappeared" are concluded. Amnesty International believes this is an inadequate response. The Chairman of the HRTF also holds this view. In the 1993 Annual Report he commented that the evidence in the Embilipitiya cases so far "is cogent enough for a case to be filed. The habeas corpus cases filed by the parents will be aborted when the respondents say they do not have the boys. The habeas corpus cases cannot absolve the state from responsibility."

Amnesty International urges the government to act promptly to ensure that those responsible are brought to justice.

Cases related to the period 1983 - 1987

Case No.1 : The killing of 53 Tamil political prisoners at Welikada prison, Colombo.

Date/Period: 25 and 27 July 1983

At a time of widespread retaliatory violence against the Tamil community, following the killing of 13 soldiers at Thinevely, Jaffna on 23 July 1983.

Alleged Perpetrators: In the first incident, about 300 to 400 Sinhalese prisoners allegedly attacked Tamil detainees with iron bars and knives, killing 35 of them. Two days later, a further 18 Tamil detainees were beaten to death, reportedly by other prisoners.

Victims: There were 72 Tamil political prisoners at Welikada prison at the time of the massacre. Most of the 53 who were killed were detained under the Prevention of Terrorism Act and had not been convicted, and six of the 72 prisoners were serving sentences.

Government Action: At the magisterial inquiries into both incidents, the deaths were held to be cases of murder. The prison officials who testified said they were unable to identify any of the persons responsible for the killings. The magistrate directed the police to make further inquiries and to report the facts to court, producing before it any suspects.

In 1985 civil cases against the state were filed for compensation by relatives of 30 of the murdered prisoners on the basis of failure by the state to provide adequate protection to the prisoners.

In April 1994, the cases were settled by agreement between both sides, the state undertaking to make certain *ex gratia* payments to the relatives without admitting liability (a common formula in the compromise of civil suits).

AI Concern: In 1983, Amnesty International called for an independent investigation into the massacre and for its findings to be published in full.

In 1992 and 1993, Amnesty International expressed concern at reports that the Indemnity (Amendment) Act had been invoked by the defence in the civil case brought by the relatives of the prisoners who were killed in Welikada prison in 1983.

Case No.2 : The "disappearance" of 23 young men from Naipattimunai, Amparai District

Date/Period: The 23 young men were arrested on 17 May 1985, made to dig their own grave and shot in secret near a cemetery at Thambattai, Thambiluvil and their bodies disposed of.

Paul Nallanayagam, the President of the Kalmunai Citizens' Committee was arrested and charged with spreading rumours and false statements after speaking to foreign journalists about the incident. During his trial before the Colombo High Court in mid-1986, a lot of evidence emerged about the "disappearance" of the 23 young men but no further action against those responsible has been taken since. Paul Nallanayagam was acquitted on all charges on 17 July 1986.

Alleged Perpetrators: Special Task Force personnel from Kallady Camp

Government Action: The official position remains that none of the "disappeared" had been arrested.

Although a lot of evidence was available at the time about the arrests and subsequent "disappearances" by the STF, the police did not make any further attempts to investigate the incident. Instead, Paul Nallanayagam was arrested.

AI Concern: Amnesty International urged the government to establish a full and impartial investigation into the "disappearance" and alleged killings of the 23 young men.

Amnesty International is concerned that no action has been taken by the government to establish the fate or whereabouts of the 23 young men, nor who was responsible for their arrest and killing in custody.

Amnesty International is urging that the STF officers responsible would be brought to justice.

Amnesty International is urging that compensation be paid to the relatives of the "disappeared".

See also: *Sri Lanka: "Disappearances"* of September 1986 (AI Index: ASA37/08/86), pages 1 - 3 and 27 - 32.

Cases related to the period 1987 - 1990 in the south

Case No. 3 : Death in custody of Wijedasa Liyanarachchi, lawyer

Date/Period: Died on 2 September 1988 at Colombo hospital with multiple injuries resulting from torture; had been arrested on 25 August 1988 as a JVP suspect.

Period of the JVP insurgency in the south

Alleged perpetrators: Three police officers from Tangalle police station were convicted in March 1991 after the charges against them had been reduced to illegal detention and conspiracy to detain illegally.

A DIG was also suspected of involvement in his illegal arrest and detention and in attempting to cover-up his death due to torture, but has not been charged.

Victim: Wijedasa Liyanarachchi was suspected of involvement with the JVP. His death provoked widespread public protest, including among lawyers, who for a period refused to appear for the police in any case until action was taken in Liyanarachchi's case.

AI Concern: Although in this case a public inquiry under the ERs was held and three police officers were subsequently prosecuted for murder, ultimately nobody was found guilty of his murder. The charges against the three police officers were reduced to illegal detention and conspiracy to detain illegally. In March 1991, they were sentenced to suspended sentences and fined.

The court had recommended that investigations be reopened to establish who was responsible for the murder of Wijedasa Liyanarachchi and particularly to investigate the role played by the DIG. (See next page)

The way in which the government proceeded after the court recommended that investigations be reopened in this case is an indication of the lack of political will to prosecute members of the security forces implicated in human rights violations in this period in the south.

The judgement recommended that investigations be reopened to establish who was responsible for the death of Wijedasa Liyanarachchi and pointed to "highly incriminating circumstantial evidence" that arose during the questioning of a Deputy Inspector General of Police (DIG) appearing as a witness, whose evidence was disbelieved by the court.

Shortly after the judgement, the first accused reportedly committed suicide. The DIG was initially appointed head of a special police team (Bureau of Special Operations), but subsequently sent on early retirement.

In March 1992, on request of the CID, the Maligakanda magistrate's court ordered a fresh investigation into the case. It directed that the passport of the retired DIG be impounded to avoid him leaving the country. The retired DIG then went underground and issued a number of statements to the press in which he spoke of death squad activities in the south of the country, providing, for instance, a list of 830 persons who he said had been killed between July and November 1989 in the Central Province. He later repeated these allegations in sworn statements. Instead of ensuring that such serious allegations were properly investigated, the authorities instead immediately filed a case in the High Court against the retired DIG and several newspapers that had published the statements charging them with bringing the government into disrepute and creating disharmony among different communities. Soon afterwards, the retired DIG left the country in circumstances which were not clear.

In June 1993, however, he returned to the country. On the day after his return, he appeared in the High Court and was granted bail. The Attorney General (AG)'s Department was quoted as saying that they would consider withdrawing the charges against him if he in turn would withdraw the allegations he had made in the various sworn statements. On 8 July 1993, the retired DIG filed such a sworn statement, also implying that some of the earlier statements had not originated from him. The AG then withdrew all charges relating to the sworn statements against him. The investigations into his role in the abduction, torture and illegal detention of Wijedasa Liyanarachchi as recommended by the High Court remains to be implemented.

On 29 July 1993, the retired DIG was appointed Vice Chairman of the Sri Lanka Ports Authority, a senior position in government service.

See also: [Sri Lanka: Death in custody of Wijedasa Liyanarachchi, lawyer](#) (Urgent Action 240/88, AI Index: ASA 37/06/88) of 9 September 1988

[Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990](#) of September 1990 (AI Index: ASA 37/21/90), page 20.

Case No.4 : The abduction and killing of three young men from Ratnapura town, Ratnapura District

Date/Period: The three young men were abducted from Ratnapura town on 22 October 1988 in a black Pajero jeep with registration number 32 Sri 679. Their partly-burned bodies were found the next day in the jungles of Medagoda Amuna, off the Wellawaya - Koslanda Road in the Moneragala District

JVP insurgency period in the south

Alleged Perpetrators: A candidate of the UNP (the ruling party at the centre) who had unsuccessfully contested the provincial council elections earlier that year was arrested on 27 October for his alleged involvement in the abduction and murder of the students. Fourteen others, including security forces personnel, were taken into custody in connection with the killings.

Victims: The three victims were Ranjith Perera, an employee of the Oruwela Steel Corporation; B D Banduardene, an accountancy student and Pathmasiri Thrimavithana, a medical student. They were said to have been sympathisers of the JVP. They had been shot in the head and their bodies bore injuries caused by blunt weapons. According to newspaper reports at the time, the post-mortem reports also referred to the nails of the three young men having been removed, their feet cut open and nails driven into their temples.

Government Action: Initially, after the post-mortems had been held, the Wellawaya police had buried the bodies in a cemetery near Wellawaya. But, the relatives got a magistrate's order to get the bodies exhumed. The Moneragala magistrate held an inquiry under the normal law. At the end of the hearing, the police refused to hand over the bodies to the relatives, claiming this was contrary to the Emergency Regulations. The relatives then asked for the bodies to be handed over to the head of the Department of Forensic Medicine at the University of Colombo. The bodies were taken to Colombo where a second autopsy took place performed by the Colombo JMO.

The Inspector General of Police sent a Special Investigation Unit from Colombo to carry out an investigation as it was thought that the local police would be under too much pressure from local politicians. As a result, a preliminary inquiry was held by the Ratnapura magistrate. Ten people, including the UNP politician, two police constables from Ratnapura and two soldiers were remanded into custody pending investigations.

They were released on bail on 20 January 1989. Three more soldiers surrendered to the Colombo Chief magistrate in January 1989. In total, fifteen people were charged in connection with the abduction and killing of the three young men. Five of them were acquitted during the non-summary proceedings in November 1990. The non-summary proceedings before the magistrate's court, Colombo continue. As of May 1994, only 20 out of 160 listed witnesses had been heard.

AI Concern: Although this case has been repeatedly quoted by the government in international fora as an example of those cases in which the government has initiated legal action against those believed responsible for human rights violations, the progress in the proceedings has been very slow.

See also: Amnesty International, Annual Report, 1989, page 200.

Case No. 5 : "Black Cats" killings at Eppawala, Anuradhapura District

Date/Period: 20 March 1989

JVP insurgency in the south.

Note these killings took place in the six months that the state of emergency had been lifted.

Alleged Perpetrators: The then DIG of North-Central Province was quoted in the international press as having attributed the killings to the "Black Cats", a so-called vigilante group. He said a note had been found near the bodies which said that the killings were a punishment for followers of Rohana Wijeweera, leader of the JVP.

Victims: Fourteen bodies were found in an abandoned cemetery at Meegaswewa, near Eppawala. Local people reportedly said that the victims had been in police custody at Eppawala for up to two weeks, and believed they were killed in retaliation for a landmine explosion in Eppawala the previous day in which three police officers were killed.

Government Action: As these killings took place in March 1989, at a time when no state of emergency was in force in Sri Lanka, a full magisterial investigation should have taken place.

These killings were among the first to be attributed to a "vigilante" group, and were widely reported in the local press.

In April 1989, the then President Ranasinghe Premadasa announced that the allegation that the victims had been in custody at the time of their killing would be investigated. To date, Amnesty International is unaware of any such investigation having been held.

See also: Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990 of September 1990 (AI Index: ASA 37/21/90), page 29.

Case No.6 : Reprisal killings at Menikhinna, Kundasala, Arangala and Mahawatte,
Kandy District

Date/Period: 14 and 15 September 1989
At the height of the JVP insurgency in the south

Alleged perpetrators: The then DIG of Kandy District attributed the killings to the "Eagles of the Central Hills", a so-called "vigilante group". However, eye-witnesses' accounts suggest that the killings were committed jointly by army and police personnel, many of whom were in uniform.

Victims: The four villages were considered by the security forces to be strongholds of the JVP. Shortly before, on 13 September 1989, about 16 relatives of members of the security forces had been killed at Kundasala, apparently by the JVP.

Government Action: To Amnesty International's knowledge, no investigation took place into these reprisal killings nor have any members of the security forces been held responsible for them. To AI's knowledge, no compensation has been paid to the relatives of the victims either.

AI Concern: These reprisal killings took place at a time when Emergency Regulation 55FF was in force. ER 55FF permitted the security forces to immediately dispose of bodies without post-mortem and without reporting to a magistrate. ER 55FF was removed in March 1990.

See also: Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990 of September 1990 (AI Index: ASA 37/21/90), pages 29-30.

Sri Lanka: Reprisal killings in Kandy District of 20 September 1989 (no index number).

Sri Lanka: Emergency Regulations regarding Post-Mortems and Inquests of March 1990 (AI Index: ASA 37/05/90)

Case No. 7: The killing of Sanath Karalliyadda, lawyer at Teldeniya, Kandy District and others involved in the inquiry into the death of Jayantha Bandara, shot by police in June 1989

Date/Period: Sanath Karalliyadda was abducted on 26 October 1989 from his home. His death body was found with two gunshot wounds in his head the next day.

JVP insurgency period in the south

Alleged Perpetrators: He was abducted by two or three armed men, one of whom was reported to be wearing an army uniform. On the day of his funeral, posters appeared in Teldeniya warning people that they faced death if they attended. These posters were signed "ratu makara", "Red Dragon", the name of a so-called "vigilante" group in the Kandy area.

Seven police officers were charged with the murder of Jayantha Bandara. Amnesty International understands that they were released on bail pending trial.

Victims: Apart from Sanath Karalliyadda, several other lawyers who had appeared at the magisterial inquiry into the death of Jayantha Bandara as well as witnesses appearing in the case received death threats. At least four witnesses who were due to appear to give evidence against seven police officers charged with the murder of Jayantha Bandara were killed before they could testify.

Government Action: The criminal case against the seven police officers was taken up for hearing before the Kandy Chief Magistrate in January 1990, but none of the witnesses appeared.

The government listed the "Teldeniya case" as one of eleven cases in its progress report of 30 June 1992 on the implementation of the Amnesty International recommendations accepted by the government. It reports that the police officers were discharged on 22 November 1990 due to "lack of evidence".

AI Concern: Killing of a lawyer and witnesses involved in the prosecution of members of the security forces facing trial for human rights violations.

Death threats against other lawyers involved, who in the end left the country.

Amnesty International believes that the killings of the lawyer and the witnesses prevented the trial from taking place. The authorities have not investigated these killings.

See also: Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990 of September 1990 (AI Index: ASA 37/21/90), pages 27-28.

Sri Lanka: Extrajudicial Execution/Death threats against Sanath Karalliyadda and Parakrama Ranasinghe of 30 October 1989 (AI Index: ASA 37/18/89)

Case No. 8 : The "disappearance" of 32 schoolboys and others from Sevana Army Camp, Embilipitiya, Ratnapura District

Date/Period: Late 1989 - early 1990

Alleged Perpetrators: The 1992 Annual Report of the Human Rights Task Force (HRTF) names eight soldiers and two officers of the Sevana Army Camp as responsible for the abduction of 18 of the students.

Victims: Most of the victims were between 16 and 19 years old attending local high schools

Government Action: The HRTF, which had not been able to interview the army personnel believed responsible because they were engaged in different parts of the country, recommended in 1992 that a full scale inquiry should be conducted into the "disappearances" at Embilipitiya in order to assess the criminal responsibilities of the persons identified.

The then Prime Minister, Dingiri Banda Wijetunga, (who is now the President of Sri Lanka) told Parliament in March 1992 that "there was no need to appoint an independent commission of inquiry ... as the police were continuing investigations in that regard." A police investigation was stepped up in 1992, when a team from the Criminal Investigation Department began inquiries.

The Minister of Parliamentary Affairs and Environment told Parliament in June 1992 that "there [was] no information that the army has taken into custody 31 schoolchildren from Embilipitiya... Investigations conducted by the police have revealed armed thugs had abducted these schoolchildren during the latter part of 1989 and their present whereabouts are not known."

In February 1993 it was reported that a brigadier and several soldiers from the war front had been taken to Joint Operations

Command at Anuradhapura for questioning by CID officers in connection with the abduction of school children from Embilipitiya. Results of the inquiry were forwarded to the Attorney General (AG) and it was reported in May 1993 that he had requested the CID to conduct further investigations in order to decide whether there was enough evidence to frame charges against those believed to be responsible.

In October 1993, the AG said he will take no further action until habeas corpus proceedings brought by some relatives of the "disappeared" are concluded. The AG reiterated his position in a recent communication to Amnesty International stating that he is awaiting the recording of the evidence of the witnesses on oath to examine the material with a view to deciding on the course of action. This is necessary, according to the AG, because of contradictory statements made by witnesses to the police, HRTF and CID.

AI Concern: Amnesty International expressed concern about the inadequate response of the AG to the evidence submitted to him by the HRTF. It also pointed out that habeas corpus proceedings had been initiated by the relatives as a last resort because the State had failed to fulfil its obligation under international human rights standards to investigate these "disappearances" and bring the perpetrators to justice. Habeas corpus proceedings in Sri Lanka are in any case ineffective in "disappearance" cases and can in no way absolve the state from its responsibility to bring those responsible to justice, a view shared by the Chairman of the HRTF, who is also a retired Supreme Court judge.

See also: Sri Lanka: Unresolved "disappearances" from the period 1987 - 1990: the case of Sevana Army Camp of October 1991 (AI Index: ASA 37/18/91)

Case No. 9 : The abduction and killing of Richard de Zoysa, journalist

Date/Period: Richard de Zoysa was abducted on 18 February 1990 at about 3.30am. His naked body was found on 19 February off Korawella beach at Moratuwa. A post-mortem found he had been shot twice through the neck and head at close range.

Alleged Perpetrators: Six armed men, one of whom was later identified as a Senior Superintendent of Police, Colombo, by the mother of Richard de Zoysa. She informed the magistrate's court about this and said she believed that those who accompanied him were also police officers stationed in Colombo.

Victim: Richard de Zoysa was a well-known journalist, broadcaster and actor. He was correspondent for Inter Press Service, an international news agency based in Rome, and had reported on human rights violations.

Government Action: Although the magistrate ordered the police to arrest a Senior Superintendent of Police (SSP) and produce him before the court, they did not do so. The Attorney General (AG) claimed in a response to a question put in Parliament that the SSP had not been arrested and subjected to an identification parade because there were weaknesses in the statement of the mother of Richard de Zoysa, who said she had recognised the SSP. The AG ordered the police to further investigate the killing. The magisterial inquiry was subsequently discontinued.

In the following months, the parliamentary opposition tried to get the killing of Richard de Zoysa debated in Parliament and have a commission of inquiry appointed. On 7 February 1991, a parliamentary debate took place but a motion to appoint a commission was defeated.

AI Concerns: Amnesty International is concerned that the government has refused to ensure an independent inquiry into this case, and that the police inquiry has produced no results.

Both Dr Saravanamuttu, the mother of Richard de Zoysa and Batty Weerakoon, the lawyer appearing on her behalf during the inquiry received written death threats. Police officers in plain clothes assigned to guard the lawyer themselves received death threats.

See also: [Sri Lanka: Killing of Journalist](#) of March 1990 (AI Index: ASA 37/06/90)

Sri Lanka: Death threats against Dr (Mrs) Manorani Saravanamuttu and Batty Weerakoon of 5 June 1990 (AI Index: ASA 37/12/90) and follow-ups ASA 37/13/90 of 12 June, ASA 37/15/90 of 22 June and ASA 37/34/90 of 31 August 1990.

Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990 of September 1990 (AI Index: ASA 37/21/90), pages 22-23.

Case No. 10 : Abduction and murder of 12 villagers at Wavulkele, Nittambuwa, Gampaha District

Date/Period: 27 February 1990
JVP insurgency in the south

Alleged perpetrators: Four Superintendents of Police (SP) and three police constables from Weeragala and Attanagalla police stations were charged with abduction and murder.

Victims: Thirteen people were abducted from their homes, driven to clearing and shot. One youth survived, and took others to the scene, where 12 naked and charred bodies were found. One of the victims was a young woman who, according to the survivor, several of the male prisoners had been forced to sexually abuse. The survivor reportedly told police that the victims had been stripped naked and shot in single file by two gunmen and that he had escaped by striking at the two gunmen when he was called forward to be killed.

Most of the victims appeared to have been sympathisers of the Sri Lanka Freedom Party (SLFP), the main opposition party in the south.

Government Action: The Criminal Investigation Department (CID) was assigned to investigate the killings, and 14 police officers were subsequently arrested. Seven of the 14 were discharged by the Attanagalla magistrate on instructions from the AG in July 1990. Seven others were charged with unlawful assembly, abduction, murder and lesser charges.

In November 1991, Dhammika Chandrasena, one of the police officers facing trial was killed inside the courtroom during the non-summary proceedings by an unidentified gunman. His father-in-law was also killed. The main suspect for these killings was able to leave the country illegally. He was reportedly sentenced to death in absentia. In November 1993, he was arrested in Japan. Amnesty International has no further information about this.

In early 1994, four of the remaining police officers were indicted before the Gampaha High Court with abduction and murder of seven of the 12 people and the abduction of another. The trial is due to start on 17 October 1994.

The killing of the 12 villagers took place on 27 February 1990, shortly after the government removed ER 55FF. It appears that the investigation that was carried out by the CID followed

ordinary criminal procedures. For instance, a Judicial Medical Officer is said to have been present on the spot immediately after the discovery of the bodies.

AI Concern: Amnesty International was concerned that the prosecution of the remaining police officers believed responsible would be delayed, and feared that the murder of one of the accused will become an excuse for not prosecuting the rest. It therefore welcomes the news that a trial is due to start later this year and reiterates its recommendation that the government do all it can to ensure that this case can proceed safely.

See also: Sri Lanka: Extrajudicial executions, "disappearances" and torture, 1987 to 1990 of September 1990 (AI Index: ASA 37/21/90), pages 21-22.

Case No.11: The rape and killing of Wipulage Chandrawathie of Eppawala, Anuradhapura District

Date/Period: 26 September 1990
JVP insurgency period in the south

Alleged Perpetrators: A subinspector of police and a constable of the Eppawala police are facing charges of abduction, rape and murder.

Victim: To Amnesty International's knowledge, there are no political elements to this case. The rape and subsequent killing and disposal of the body by burning is indicative of the climate of impunity prevailing in the country at the time.

Government Action: The government has repeatedly announced that relevant authorities have been asked to expedite court cases against members of the security forces suspected of human rights violations. To date, little progress has been reported in those few cases which have been brought to court, including this one.

During the investigations, forensic experts have been involved, but no further information is available about this.

A magisterial inquiry was held into the rape and killing of Wipulage Chandrawathie and a subinspector of police and a constable of the Eppawala police were subsequently charged with abduction, rape and murder. The case was referred to the High Court for trial in mid-1992, and the trial is due to start in August 1994, according to the latest information from the government.

AI Concern: The father and one of the brothers were threatened by the police officers at the time of the magisterial inquiry. The Inspector General of Police ordered the threat to be investigated.

Amnesty International was informed that the father of the girl, who is one of the main witnesses, died in 1993. It hopes that his death will not become an excuse for not prosecuting the two police officers.

See also: [Sri Lanka: Death threats against W C Neal Rajapakse and W Charles of 27 April 1992 \(AI Index: ASA 37/05/92\)](#)

Case No. 12: Discovery of mass graves at Suriyakande, Ratnapura District

Date/Period: Graves discovered on 3 January 1994
Remains believed to be of people detained and killed

in 1989-90

Alleged perpetrators: Army, police, death squads

Victims: People arrested on suspicion of involvement with JVP; in total possibly up to 300 bodies

Government Action: To Amnesty International's knowledge, the government has yet to request the assistance of international forensic experts. In a letter to Amnesty International of 7 February 1994, the Adviser on International Relations to the President stated that the government "may call for such forensic expertise from abroad if the local expertise, both in the Judicial Medical Officer's department and the Universities, are insufficient for the purpose."

With regard to Amnesty International's call for a full, impartial investigation, the Adviser stated: "If after the magisterial inquiry proceedings are over, [the] Government feels that there is the need for a public inquiry into the circumstances surrounding the discovery made, it will consider the desirability of doing so."

With regard to the protection for professionals involved in the excavation, the Presidential Adviser stated: "The local police are inquiring into the ... alleged shooting of a lawyer by unidentified gunmen. The judicial officers and other professionals connected with the trial are being given full security."

AI Concern: Amnesty International and local NGOs have called on the Government to ensure that a full, impartial investigation is carried out into the discovery of the mass graves in line with UN guidelines on the disinterment and analysis of skeletal remains and that any further exhumation be done under the supervision of forensic experts. In February 1992, the Government had accepted a recommendation from the UNWGEID to request the assistance of an international team of forensic experts under the auspices of the UN. So far, the government has not requested any such assistance.

Amnesty International also feared for the safety of those involved in the excavation and related inquiry and has asked for them to be given protection.

In March 1994, Amnesty International wrote to the Inspector General of Police to express concern at the delay in further excavation of the remaining bodies and to urge that the investigation into the graves at Suriyakande and the investigation into the "disappearance" of 32 students from Embilipitiya (See **Case No. 8**) in late 1989 and early 1990 be treated separately.

A magisterial inquiry into the findings at the grave site began on 3 January 1994 under the direction of the Embilipitiya magistrate, Mr Piyasena Ranasinghe. On the first day, seven skulls and an assortment of skeletal bones estimated to belong to about 20 bodies were unearthed. The magistrate ordered the evidence to be sealed.

On 8 January, a further excavation was due to take place. But, when opposition lawyers arrived at the site, they thought that the graves had been tampered with. A protest was lodged with the Embilipitiya magistrate that one of the pits had been widened, another one had been water logged and subsequently covered with fresh soil and that a skull and a saffron robe had been introduced into one of the pits. The magistrate ordered that this new 'evidence' be separately sealed for further investigation.

By the evening of 8 January, six more skulls and a collection of limb bones were collected. Some of the bones apparently belonged to young people, while at least two of the skulls were blindfolded.

In the meantime, the government had appointed a Criminal Investigation Department (CID) team to investigate the finding of the mass graves. CID officers have been present at the site throughout most of the period of excavation since.

On 10 January, the public was given an opportunity to identify the remains at the Embilipitiya magistrate's court. Several of the parents of 32 students from Embilipitiya(10) were present at the court. Wide international publicity had been given to the fact that one of the fathers had identified a piece of clothing found in one of the pits as belonging to his son. However, to Amnesty International's knowledge, only four people gave evidence to the effect that they could identify the remains as belonging to a relative who had "disappeared" in the period 1989 - 1990. None of these four are among the 46 people listed as "disappeared" from Sevana Army Camp by Amnesty International in October 1991. The remains were then sent to the Judicial Medical Officer (JMO) in Colombo, who was asked to verify if the bones were human bones, to specify the period in which the deaths may have occurred and to determine the cause of death.

On 17 January, the main lawyer for the opposition asked for a postponement of the hearings due to threats received by some witnesses and the fact that he had been shot at on his return home from the court on 10 January.

No further excavations have taken place since 8 January 1994. According to press reports, the Government has stated it is awaiting the results of the JMO's investigations before deciding on future steps to take.

See also: [Sri Lanka: Discovery of mass graves at Suriyakande](#) (ASA 37/WU 01/1994, 18 January 1994)

Six cases related to the period 1990 - 1993 in the northeast

Case No. 13: The "disappearance" of 159 refugees from Eastern University Refugee Camp

Date/Period: 5 September 1990

Alleged Perpetrators: The 1993 Annual Report of the Human Rights Task Force named four security forces officers as responsible for the "disappearance" of 159 people. They were among about 50 soldiers, wearing uniform, who were seen by witnesses taking away the 159 people in five vehicles.

Victims: At the time of their arrest, thousands of people had taken refuge at the Eastern University Refugee Camp, having fled their homes amid fighting between government troops and forces of the LTTE. Most of the 159 people taken were young men between 16 and 40.

Government Action: Despite the HRTF's investigations and the fact that four officers were named in its report, no action was taken by the government to investigate their "disappearance".

AI Concern: Amnesty International is urging the government to institute a full, impartial and independent investigation into their "disappearance" and to bring to justice those found to be responsible. It also urges the government to pay compensation to the relatives of the "disappeared".

See also: [Sri Lanka: The "disappearance" from Eastern University refugee camp on 5 September 1990 of October 1993 \(AI Index: ASA 37/19/93\)](#)

Case No.14: The "disappearance" of over 160 villagers from Saturukondan, Pannichaiyadi, Pillaiyaradi and Kokkuvil in Batticaloa District

Date/Period: On 9 September 1990 at about 5.30pm, armed soldiers in uniform and some in civilian dress took into custody 38 villagers from Saturukondan, 80 from Kokkuvil, 28 from Pannichaiyadi and 20 from Pillaiyaradi.

Northeast/post-June 1990

Alleged Perpetrators: Armed soldiers in uniform and some in civilian dress believed to be from the Boys Town army camp at Saturukondan.

Victims: This case was unusual as the majority of those taken were children and older people, rather than men aged between 14 and 45. Among those reported "disappeared" from the four villagers are 68 children.

Government Action: In January 1994, the Secretary, Ministry of Defence requested information from Amnesty International "to enable [him] to order an inquiry to be held at grass-root level". Amnesty International supplied this information, and was informed that the Inspector General of Police has since been asked to investigate the "disappearances".

For information on an investigation held in September 1990 by the then commander of the Boys Town army camp, see next page.

AI Concern: Amnesty International is concerned at reports of intimidation of human rights activists in order to cover-up evidence of the involvement of the army.

No independent investigation was carried out, despite the "disappearances" having been raised in Parliament.

A local member of parliament raised the "disappearances" from Eastern University in parliament in September 1990. On 9 October 1990, the Batticaloa Peace Committee (a group of leading local citizens documenting cases of human rights violations) submitted a list of the detainees to the authorities and requested information. To Amnesty International's knowledge, no reply was received.

To date, no independent investigation has 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 said that the commanding officer and the independent person visited Boys Town 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 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 but gave no names.

According to confidential sources, one of the people taken away in this incident has described to local human rights activists how they were all taken into the Boys Town army camp, how the men were separated from the women and children and how he along with the other men were subsequently lined up and shot and their bodies burnt. He himself managed to escape with bullet wounds and burns. However, when he was asked to locate the place where the bodies were said to have been set on fire, he was unable to do so. The survivor stated he did not know what had happened to the women and children after they had been separated from the men. The then Chairman of the Batticaloa Peace Committee was subsequently allegedly put under pressure by the army to sign a statement to the effect that this incident had not taken place. The chairman signed the statement and resigned from his position.

See also: Sri Lanka - The Northeast. Human Rights Violations in a Context of Armed Conflict of September 1991 (AI Index: ASA 37/14/91), page 24 - 25.

Case No. 15: Reprisal killings at Kokkadichcholai

Date/Period: 12 June 1991
Northeast/post-June 1990

Alleged perpetrators: One officer and nineteen soldiers from Kokkadichcholai Army Camp were charged with murder and brought before a military tribunal. The lieutenant in charge was convicted on the lesser charges of failing to control his troops and disposing of bodies illegally at the site of the massacre. The nineteen other soldiers were acquitted.

Victims: At least 67 villagers from Mahiladithivu and Muthalaikuda (part of Kokkadichcholai)

Government

Action: 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 Kokkadichcholai. But, after a lot of publicity, the then President instituted a preliminary inquiry by three government officials. On the basis of the results of their findings, a Presidential Commission of Inquiry was established on 18 June 1991.

The Commission was supposed to submit its report within three weeks but it took nearly six months to complete the recording of evidence. Public hearing were held at the Air Force headquarters in Batticaloa and at the Bandaranaike Memorial Hall in Colombo. None of the soldiers were required to testify. Only the officer-in-charge gave evidence, and only in the form of unsworn testimony.

The army is said to have conducted its own investigations, pending which the soldiers were placed under close arrest from 12 June 1991 until 27 November 1991, when they were placed under open arrest.

A preliminary report of the Commission's findings was released on 30 January 1992. It found that army personnel of the Kokkadichcholai army camp were responsible for retaliatory killings and that they had not resulted from cross-fire, as the military had claimed, but from "deliberate retaliatory action" by soldiers.

The Commission's full report was released in March 1992, recommending the payment of Rs.5,245,225 of compensation for deaths, injuries and damage to property to 189 families. The Commission's final report recommended that the army investigate and take action under military law. The Commission also called on the army to provide better instructions and training to military personnel.

The subsequent trial before a military tribunal concluded in October 1992 and the officer-in-charge was found guilty of lack of control over his troops and of illegally disposing of the bodies of the victims. He was acquitted of the charge of indiscriminate shootings. All the nineteen soldiers were acquitted. The sentence of the officer, to be determined by the Commander of the Army, was never made public.

AI Concern: While welcoming the establishment of an independent commission of inquiry (the first ever inquiry of its kind into military abuses held in Sri Lanka), Amnesty International expressed concern about the fact that the commission did not exercise its full powers to obtain all of the available evidence. The soldiers potentially implicated in the killings were not required to give evidence to the commission. Amnesty International also expressed concern that the subsequent trial was held before a military tribunal instead of civil court.

Case No. 16: Deliberate killings of Muslim and Tamil villagers in Polonnaruwa

Date/Period: 29 April 1992
Northeast/post-June 1990

Alleged perpetrators: LTTE responsible for killing of Muslim villagers Muslim home guards and other security forces personnel responsible for killing of Tamil villagers.

Victims: 62 Muslim people died at Alanchipothana village
51 Tamil people died at Muthugal village
38 Tamil people died at Karapola village
One person, Peiris Wijayasinghe, was reported killed from Madurangala village.

Government Action: On 7 May 1992, the government appointed a three-member team consisting of Justice D G Jayalath, Major General Balaratnarajah and Senior Superintendent of Police M Abdul Majeed to inquire into the circumstances that led to the incidents, the persons killed, those responsible, the lapses, if any, on the part of the security agencies, and to make such recommendations as were deemed necessary. The committee's report was submitted to the Ministry of Defence on 29 May 1992. A review of command and control structures of the home guards was instituted as result of the committee's recommendations. In addition, action was said to have been taken against police officers of the Karapola police station and ten home guards and villagers who had been identified as having been involved in the reprisal killings were arrested. It is not known whether any charges have been brought against them.

In November 1992, a three-member committee consisting of Justice D G Jayalath, Justice W Widyaratne and Brigadier Rupesinghe submitted a report to the Ministry of Defence on "the review of command and control structures of the home guards and armed cadres of anti-militant Tamil groups".

AI Concern: While welcoming the government's prompt action to investigate this incident, Amnesty International is concerned that the full report of the committee's findings has not been made public.

Amnesty International has no information about the prosecution of police officers, home guards and villagers allegedly involved in the reprisal killings of the villagers of Muthugal and Karapola.

See also: Sri Lanka: Deliberate killings of Muslim and Tamil villagers in Polonnaruwa of June 1992 (AI Index: ASA 37/10/92)

Case No. 17: Reprisal killings of 39 villagers at Mailanthanai, Batticaloa District

Date/Period: 8 August 1992
Northeast/post-June 1990

Alleged perpetrators: 21 soldiers from Poonani Army Camp have been committed for trial at the High Court

Victims: 39 Tamil men, women and children

Government Action: A police investigation was held by the ASP, Valaichenai. A magisterial inquiry was held at Batticaloa. The magistrate there organised identification parades during which 24 soldiers were identified by survivors, many of whom had been injured by the soldiers during the attack. At this stage, for unknown reasons, the case was transferred to Polonnaruwa magistrate's court at the request of the Attorney General, creating problems for witnesses to attend.

Forty three civilians gave evidence in this case, all of them were living as refugees at Valaichenai as they were too scared to return to their homes. Initially they expressed fear of travelling the 61 miles to Polonnaruwa as well as complained that they would not be able to pay for the bus fare.

But, the case was taken up in Polonnaruwa. In August, warrants were issued for the arrest of 10 witnesses after they had failed to attend the court. As a result, an arrangement was made for the Valaichenai police to escort the witnesses from their refugee camp to the court and to provide them with lodging if they needed to stay several days in Polonnaruwa.

In March 1994, the preliminary inquiry was concluded and 21 of the 24 soldiers were committed for trial at the High Court on charges of murdering 35 people; three others were discharged. The AG is expected to forward indictments to the High Court before the end of July 1994.

AI Concern: Amnesty International welcomes the decision to try the 21 soldiers before a civilian court instead of a military tribunal.

It expressed concern in August 1993 at the transfer of the case from Batticaloa to Polonnaruwa, because of the difficulties this created for witnesses to attend.

See also:

Sri Lanka: An Assessment of the Human Rights Situation of February 1993 (AI Index: ASA 37/01/93), page 10.

Case No.18: The "disappearance"/extrajudicial execution of 16 farmers at
Vannathi Aru, Batticaloa District

Date/Period: The 16 farmers were arrested while harvesting paddy on
17 February 1993

Alleged Perpetrators: Soldiers from the Independent Brigade of the army, who were
based at Rugam Army Camp at the time.

Victims: In previous years, several farmers have "disappeared" in the east after
they were arrested during harvesting. The military attempts to control
the cultivation of paddy in the region in order to prevent the crop falling
into the hands of the LTTE.

Government Action: The Chairman of the Human Rights Task Force (HRTF) informed
Amnesty International in June 1993 that the Army Commander
in Batticaloa District had appointed a committee of three high-
ranking army officials to inquire into these arrests and that a
police investigation was also underway. In the Annual Report of
the HRTF of 29 September 1993, it is said that the harvesters
were "strung together on a long rope and marched off in Indian
file". In October 1993, the Chairman of the HRTF wrote to
Amnesty International saying that an identification parade was
expected to be held. No further information has been received
since.

AI Concern: Amnesty International requests that a full and impartial investigation
be held to establish the fate or whereabouts of the 16 farmers, and the
identity of those responsible for their "disappearance".

See also: Sri Lanka: Fear of "disappearance" of 13 April 1993 (AI Index: ASA
37/08/93) and updates ASA 37/15/93 of August 1993 and ASA
37/20/93 of October 1993.

(1) See Appendix for list of 11 cases in Sri Lankan Government's progress report on the
implementation of the recommendations of the UN Working Group on Enforced or Involuntary
Disappearances of 30 June 1992 and list of 14 cases provided to the UN Human Rights Committee in
April 1991.

(2) On 31 January 1994, the Government approved the establishment in principle of such a
Commission and announced that a Bill for the establishment of a Human Rights Commission would be
put before Parliament. However, no such legislation had been tabled by the time of the dissolution of
Parliament in late June 1994.

(3) The Northern and Eastern provinces of Sri Lanka were temporarily merged in 1987 to create the
Northeastern Province, pending a referendum. The referendum has not been held so far. In this report,
"the south" refers to all provinces except for the Northeastern Province.

- (4) See below **Case No. 9 - Richard de Zoysa, Case No. 12 - Suriyakande and Case No. 18 - Vannathi Aru**, for instance.
- (5) The state of emergency was lifted between January and June 1989 by the then President Ranasinghe Premadasa following his election.
- (6) For an analysis of the current ERs and Amnesty International's concerns, see *Sri Lanka: New emergency regulations*, AI Index: ASA 37/04/94 of January 1994.
- (7) See pages 16-17 of ASA 37/04/94 for further details on the current procedure that can be invoked by the police on the basis of a belief by any security forces officer that a death resulted from armed confrontation.
- (8) The Human Rights Task Force was set up in August 1991 under the Emergency Regulations "to monitor the observance of fundamental rights of detainees". It is expected to maintain a comprehensive, accurate register of detainees, to investigate the identities of detainees, to monitor their welfare and ensure their safe release from custody, to carry out regular inspections of places of detention and to record complaints and take immediate remedial action. In addition, the HRTF keeps a list of people reported to have "disappeared".
- (9) Principle 11 states that "[I]n cases in which the established investigative procedures are inadequate because of lack of expertise or impartiality, because of the importance of the matter or because of the apparent existence of a pattern of abuse, and in cases where there are complaints from the family of the victim about these inadequacies or other substantial reasons, Governments shall pursue investigations through an independent commission of inquiry or similar procedure."
- (10) See AI document: *Sri Lanka: Unresolved "disappearances" from the period 1987 - 1990; the case of Sevana Army Camp* of October 1991 (AI Index: ASA 37/18/91) and **Case No. 8** above.

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SRI LANKA

When will justice be done?

JULY 1994

SUMMARY

AI INDEX: ASA 37/15/94

DISTR: SC/CO

At several international fora during the last few years, the Sri Lankan Government has undertaken to prosecute those responsible for extrajudicial executions, "disappearances" and other human rights violations. As yet, there are few signs that this undertaking is being implemented. Amnesty International believes it is crucial to bring perpetrators of such human rights violation to justice, to ensure an end to the climate of impunity prevailing among members of the security forces in Sri Lanka.

This document highlights several incidents of extrajudicial execution and "disappearance" committed in Sri Lanka since 1983. Each of the cases illustrates different aspects of Amnesty International's concerns about the lack of proper investigation and prosecution. In the majority of them, some form of investigation or prosecution has taken place, yet the outcome has been far from satisfactory. Justice has not yet been done. Indeed, some of the investigations seem to have been set up in order to stem public outcry rather than with the intention of bringing those responsible to justice, and have produced no known results. And the vast majority of cases of extrajudicial executions and "disappearances" in Sri Lanka have never been subject to investigation.

Amnesty International urges the Sri Lankan Government to bring an end to impunity.

The government's comments on an earlier draft of this report have been incorporated into the text.

This summarizes a 47-page document (13,270 words), *Sri Lanka: When will justice be done?* (AI Index: ASA 37/15/94), issued by Amnesty International in July 1994. Anyone wanting further details or to take action on this issue should consult the full document.

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