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**Out of the Silence:
New Evidence of Ongoing
Torture in Sri Lanka**

2009 - 2011



Freedom from Torture

Medical Foundation for the Care of Victims of Torture

Out of the Silence: Ongoing torture in Sri Lanka

“After I arrived in Sri Lanka and tried to leave the airport, two men stopped me, asked for my passport and asked me to come with them. They showed me their IDs – two people from CID [Criminal Investigation Department]. They took me out of a different entrance and pulled me inside a van. They started to ask questions about why I had come back to Sri Lanka – saying that I had escaped the first time but not this time. They tied my hands and legs and kicked me very badly.

“I was taken to a building. They asked questions like ‘why have you come back again?, ‘what did you do in the UK?’, ‘where is your brother?’ [an LTTE member]. I said I had no contact with him. They tortured me inside the room by removing my clothes and hitting me with burning irons. I was feeling a burning sensation all over my body. They kept me for two days and I found my body was all swollen. On the third day they put me inside the van. I thought they were going to shoot me. Later I realised that my family had given them some money and because of that I was released.”

Rohan, Sri Lankan torture survivor

Rohan was tortured on his return to Sri Lanka from the UK in early 2011. He was referred to Freedom from Torture (formerly the Medical Foundation for the Care of Victims of Torture) several months ago when he escaped – on payment of a bribe by his family – and flew back to the UK. During 2010, Freedom from Torture received 135 referrals for clinical services for Sri Lankans, the vast majority of whom were asylum seekers or refugees living in exile in the UK. Around 100 of these referrals were for medico-legal reports (MLRs) documenting torture for use in the context of asylum claims, with a similar rate continuing in 2011.

Through the production of medico-legal reports, Freedom from Torture has used forensic methods to document shocking evidence of ongoing torture in Sri Lanka – continuing for more than two years after the end of Sri Lanka’s decades-long civil war between government forces and the Liberation Tigers of Tamil Eelam (LTTE).

While there is considerable evidence in the public domain of torture practiced during the final stages of Sri Lanka’s civil warⁱ, little information on the practice has flowed out of the country in the last two yearsⁱⁱ. This has been for a number of well-documented reasons including disappearancesⁱⁱⁱ, lack of access for humanitarian agencies to camps and ‘rehabilitation’ facilities^{iv}, lack of witness protection for those testifying to the Lesson Learnt and Reconciliation Commission^v, as well as the intimidation of journalists^{vi}, civil society organisations^{vii} and doctors^{viii}.

This report, demonstrating that torture has continued in the post-conflict period in a variety of detention centres around Sri Lanka, plays an important role in helping to break the silence of the last two years, drawing on the testimony and forensic documentation of extensive physical and psychological sequelae of torture presented by a group of torture survivors who have fled to the UK.

This report calls for urgent investigation into ongoing torture in Sri Lanka and highlights steps which should be taken by the Sri Lankan government, UN and international community and UK government specifically to prevent the further torture of individuals at serious risk.

Key findings of the report

Through the detailed examination of evidence of torture which took place between May 2009 and early 2011, as documented in the case sample of 35 completed medico-legal reports prepared by Freedom from Torture, this report demonstrates:

- Torture perpetrated by state actors within both the military and police has continued in Sri Lanka after the conflict ended in May 2009 and is still occurring in 2011;
- Those at particular risk of torture include Tamils who have an actual or perceived association with the Liberation Tigers of Tamil Eelam (LTTE);
- A variety of different types of torture have been perpetrated in a significant number of locations around Sri Lanka during the post-conflict period;
- A wide range of different forms of torture have been used, often in combination, to inflict severe suffering on victims of torture with devastating psychological and physical consequences;
- Many Sri Lankan torture victims are left with visible scarring attributable to both blunt force trauma and burns which suggests impunity for perpetrators of torture in Sri Lanka.

“Many of us bear the marks of torture on our minds and bodies, but in Sri Lanka you can’t express that you’ve been tortured. If you show your scars to a doctor you risk them telling the authorities and you would likely be detained again.” Saarheerthan, Sri Lankan torture survivor

The 35 individuals whose medico-legal reports were reviewed come from a range of areas around the country and all report being targeted due to an actual or perceived association with the LTTE, often through family members, or an opposition political party. It has been widely reported that the LTTE forcibly recruited Tamils into membership and other support roles during the civil war^{ix}, suggesting that a very large proportion of the Tamil population is at risk of being targeted on this basis.

The group is divided up into 16 cases of ‘surrendeers’ who were rounded-up or surrendered to Sri Lankan government forces at the end of the civil war and continued to be detained and tortured in the post-war period and 19 ‘other’ detainees who were picked up in their homes, at checkpoints and the airport over the two year period. A remarkable 14 cases in this latter group reported being detained and tortured after periods of time abroad. In every single case assessed in this report, a bribe was paid to the authorities to allow the individual to escape detention, often by family members who had eventually tracked down their whereabouts. There must be countless others for whom the terror of torture and detention continues.

“If there were no problems in Sri Lanka now they would surely allow the international reporters in. But they still surround them with guards. If there were no problems now, they should release the thousands of people in detention, but they keep them there.” Chanramuni, Sri Lankan torture survivor

The very serious physical and psychological impact of torture on the individuals is significant. Blunt force trauma was reported in 100% of the cases; burning with heated metal objects and cigarette burns in 65%; sexual violence in 60%; and asphyxiation (included bags filled with petrol tied around the head) in 31%. Freedom from Torture clinicians recorded symptoms of depression and/or Post Traumatic Stress Disorder related to the history of trauma in all cases bar two. This report deals with each of the forms of torture reported in turn, examining the interpretation of the resulting physical and psychological sequelae made by Freedom from Torture's expert clinicians in the medico-legal reports.

Some forms of torture used, including burning and blunt force trauma, have left survivors with significant scarring; others, including sexual violence and asphyxiation, are well known to leave little physical trace.

It should be remembered that each of the survivors will have experienced a number of these forms of torture in combination, with devastating results on their lives. Many of these survivors are now living in limbo in the UK, still awaiting decisions on their protection claims and fearing that they may be returned to Sri Lanka. That they have chosen to pierce the silence by agreeing to share the details of – or speak out about – what has happened to them, in the hope of preventing further people experiencing the pain and degradation of torture, is to be hugely valued.

Explaining Freedom from Torture's evidence sample

Freedom from Torture's medico-legal reports (MLRs) are detailed forensic reports which document physical and psychological consequences of torture. They are prepared by specialist clinicians – who act as independent experts in this task to assist decision makers in the context of asylum and other legal proceedings – according to standards set out in international guidelines for the documentation of torture called the Istanbul Protocol and each is subject to a detailed clinical and legal review process.^x The possibility of fabrication of evidence is explicitly considered.

Freedom from Torture received approximately 170 referrals for MLRs for Sri Lankans during 2010 and the period January-September of 2011. From these referrals, 65 MLRs have been produced to date and a number are still in production. MLRs were not produced in other cases for a variety of reasons including the limitations of our remit^{xi} or because asylum was granted without the need for an MLR.

Of the 65 MLRs produced to date for Sri Lankan clients referred during this period, **35** document evidence of torture perpetrated from May 2009 onwards. The most recent torture where documentation has been fully completed took place in February 2011. It often takes five or more months to finalise an MLR, especially where there are multiple injuries to document or the survivor is highly traumatised, while survivors may take many months to flee from Sri Lanka and assemble their asylum claim in the UK. For these reasons, it is highly likely that Freedom from Torture's evidence base of post-conflict torture in Sri Lanka will grow, as further MLRs are finalised for cases referred to us more recently.

Background: Sri Lanka's Civil War and its final phase

Sri Lanka has a long history of ethnic tension between the Sinhala majority and the minority Tamils, who are concentrated mainly in the north and east of the country. The Liberation Tigers of Tamil Eelam (LTTE) emerged in the 1970s as an element of increasingly militant responses to anti-Tamil discrimination in the 1970s and 1980s.^{xii} By the 1990s, the LTTE had become the dominant militant Tamil group, and controlled large parts of the north and east of the country. With emergency rule in place for the majority of the period from 1983, the Sri Lankan government fought the LTTE in a war that saw devastating violence committed by both sides, including massacres, abductions, the use of landmines and torture.^{xiii} The LTTE not only directed violence against its opponents but also sought to control members of the Tamil population by intimidation and violent means.^{xiv}

After years of fighting, and a number of attempts at peace, the conflict ended in May 2009 when the Sri Lankan military declared victory after reclaiming Tamil controlled areas.^{xv} During the hostilities, which lasted over a quarter of a century, it is estimated that more than 70,000 people were killed and hundreds of thousands were uprooted from their homes and displaced across the country.^{xvi}

“Channel 4 released video footage which showed clear examples of what happened to the Tamil community during the war. This was just 10% of what happened. Earlier the government fought a weapons war against us with bombs; now they are making a silent war, kidnappings and ongoing detention.” Ganajan, Sri Lankan torture survivor

At the end of the conflict in May 2009, civilians fleeing from the conflict zone were initially detained in a network of 21 internally displaced persons (IDP) sites spread across Jaffna, Mannar, Trincomalee and Vavuniya districts (in the north and east provinces). The majority were eventually sent to Menik Farm, near Vavuniya, which at its peak housed around 250,000 IDPs and was one of the world's largest IDP sites.^{xvii} Conditions in the camps were a cause for international concern, with reports of overcrowding, inadequate access to food, water, medical supplies or sanitation, while the displaced were not allowed to leave the camps.^{xviii} Two years after the conflict, it is estimated that more than 220,000 people continue to be displaced in Sri Lanka.^{xix}

The UN Secretary-General's Panel of Experts on Sri Lanka found that immediately after the cessation of hostilities, the Sri Lankan government prioritised security considerations over humanitarian needs and the well-being of IDPs.^{xx} People fled the conflict areas and surrendered to the Sri Lankan army. The government authorities would strip search virtually all civilians and screen them for suspected LTTE associations. People, including many women and children, would be lured into identifying themselves and surrendering on the promise of vocational training and employment abroad.^{xxi} As the testimony of Freedom from Torture's clients shows below, once identified, suspected LTTE were removed from the IDP camps to separate, often unknown, locations generally referred to as “rehabilitation centres”.^{xxii} This ‘screening process’ resulted in cases of executions, disappearances, rape and sexual violence.^{xxiii} Thousands of individuals with suspected LTTE ties were detained in extra-legal detention centres, unmonitored and without access to legal counsel or protection agencies, their loved ones not knowing their whereabouts.^{xxiv}

Hundreds of Tamils removed in this way remain unaccounted for,^{xxv} raising concerns that they have been forcibly 'disappeared' given the Government's appalling record of enforced disappearances.^{xxvi} Thousands more remain in detention under the Prevention of Terrorism Act for suspected and broadly defined 'terrorism' offences and are held without charge with no foreseeable date for trial and/or release.^{xxvii} Based on the experiences of torture survivors seen by Freedom from Torture and evidence documented by other human rights organisations, the ongoing risk to these individuals of torture and other serious human rights abuses is high.

Profile of the torture survivors in the study

The survivors whose torture is documented in this report all fled Sri Lanka between June 2009 and mid-2011 and came to the UK as asylum seekers. The overwhelming majority of Sri Lankan clients referred to Freedom from Torture for MLRs or for clinical treatment are of Tamil ethnicity. Of the 35 MLR cases examined as part of this review, 33 are Tamil, and the remaining two are of Malay decent and Sinhalese ethnicity, respectively.

Twenty-seven are male, eight female. The majority are aged 25-40. None are under 18 or over 60. The survivors in the group range from university students to farmers and business people. They came from all over Sri Lanka, with most hailing from the Tamil areas in the north and east. Of the 31 cases where a place of origin is recorded, 18 are from the Northern Province (11 from Point Pedro & Jaffna and seven from Vanni), six are from the Eastern Province, two are from Colombo, two are from the Central Province and there is one each from the Western, Southern & North Western Provinces. Many individuals among these cases report several periods of internal displacement during their lives, including to Colombo. In some cases, people report fleeing from the Sri Lankan authorities to predominately Tamil or LTTE-controlled areas; others report fleeing from Tamil areas, either from active conflict zones or from forcible recruitment to the LTTE.

Why were they targeted?

Actual or perceived association with the LTTE: 30 of the 35 cases attribute an actual or perceived association with the LTTE as the cause of their detention and subsequent torture. In all these cases, interrogations focused on this association; on forcing a confession to LTTE connections or activities; and/or on gaining information about others associated with the LTTE or about LTTE activities or resources.

The government tortured people who they could say to the rest of the world “these are LTTE terrorists”. Other countries wouldn’t help, as the LTTE is a banned organisation. It seemed to us like they managed to ban the whole Tamil community.” Lakshmiyan, Sri Lankan torture survivor

Voluntary or forcible recruitment to LTTE: Three of the cases report voluntary membership of the LTTE at some point in their lives. One case had subsequently ceased to be active in 1999 due to ill health, another changed their allegiance and “came to hate the LTTE”, and a third reports becoming active in support of the LTTE while in the UK. Others attribute the LTTE association to one or more of their family members being an active (voluntary or coerced) or perceived supporter of the LTTE; a further group report being forcibly recruited or coerced into providing support to the LTTE in a variety of ways, from combat operations to alternative duties such as transporting wounded combatants, digging bunkers and trenches and providing other services to combatants. Some individuals describe attempts to escape from the LTTE, by leaving the country, going into hiding or leaving LTTE-controlled areas.

Forced to provide other forms of support: Those who were not recruited directly into the LTTE report being forced to provide support under duress, via direct threats to their own or their family members’ lives and security if they refused to cooperate. Between them, they

report being required to carry out the following activities: hard labour such as building bunkers and digging trenches, providing food and other goods to combatants, hiding weapons or harbouring LTTE members, transporting people and goods or combatants from the front line, fundraising, printing documents, supplying mechanical and other technical services, teaching and sentry duties.

KABHILAN: Targeted for LTTE association: *Kabhilan was a teacher before his family were displaced towards the end of the conflict. Kabhilan was separated from his family and taken to a camp in a jungle area. He was detained there for almost a month and interrogated about links to the LTTE by army officers. When he said he wasn't an LTTE member he was whipped with plastic piping and wires; immersed under water; burned with hot metal rods; and had rope tied around his neck until he could not breathe.*

The army found out that his brother was in the LTTE and Kabhilan confessed that he had helped support recreational events for LTTE members, though not as a member himself. He was handed over to the Criminal Investigation Department (CID) who interrogated him further and tortured him by beating him on his heels and knees and banging his head off the wall. He was then taken to a detention camp and held for over half a year before a relative paid a bribe for his escape in 2010. He went into hiding in Sri Lanka and fled to the UK in early 2011.

Links to opposition political party: Those cases who report not having an association with the LTTE report being detained and tortured due to their membership of an opposition political party, or being closely related to prominent members.

Return to Sri Lanka from abroad: 14 of the 35 cases report periods of residence or travel abroad preceding detention and torture: five travelled for educational purposes, three for family reasons and four for the purpose of seeking refuge outside of Sri Lanka. In the remaining two cases, the purpose of travel was not stated. Of the four who sought refuge abroad, three were forcibly returned to Sri Lanka. In one case the individual had unsuccessfully claimed asylum in the UK a number of years earlier but was returned to Sri Lanka from another European state. Another was returned from a European state after two years of residence, having been refused asylum there. Of the 10 cases involving individuals who travelled abroad for non-asylum purposes, nine returned voluntarily to Sri Lanka (all from the UK). Several report returning for temporary visits for a variety of family reasons and two due to the disappearance of their fathers. One individual was en route to a non-European state for family reasons, but was returned en route due to the use of false documents.

All of the 14 individuals who had returned to Sri Lanka after a period abroad, whether they left Sri Lanka through a legal route or otherwise, were subsequently detained and tortured. In five of these cases, the episode of detention and torture documented in the MLR occurred over a year and up to seven years after return. However, in nine cases the individual was detained within days, weeks or a month of their return. Of these nine cases, six were detained in Colombo, either from their home, at checkpoints or from a lodging house. Others were detained at checkpoints elsewhere in the country or directly from the airport upon arrival.

Detention

“I was detained more than four times. They forced a signature from me but the statement was in Sinhalese so I didn’t know what was in the paper. They took my fingerprints. This happened to everyone who was with me. We didn’t get any access to a court.” Sri Lankan torture survivor

All of the individuals whose medico-legal reports (MLRs) are examined in this review report periods of detention that post-date the May 2009 ceasefire. In a small number of these cases the individual was detained earlier – during the end phase of the conflict from late 2008 to May 2009 – but all of these individuals were held well beyond May 2009 with episodes of torture continuing in detention.

Freedom from Torture’s evidence demonstrates the widespread and continuing use of a large number of unofficial (recorded as ‘unknown’) detention facilities. Of those ‘known’ and named detention facilities, 11 separate sites are assumed to be under the control of the Sri Lankan army or the Criminal Investigation Department (CID) or Terrorist Investigation Department (TID) units of the Sri Lankan police or some combination of both, while two are prisons and one is a local police station.

When and where were they detained?

Sixteen survivors, nearly half of the 35 cases examined, report being detained in either April or May 2009, in the final days of the conflict when the Tamil population in former LTTE-controlled areas were rounded up by, or surrendered to, the advancing Sri Lankan army^{xxviii}. These cases, termed here ‘surrendeers’, are considered together in relation to their place of detention and the pattern of torture inflicted.

A second group of 19 detainees are also considered together. Three of these individuals were detained during the end stages of the conflict from late 2008 to March 2009, but not as part of the surrendering population; eight were detained from June onwards in 2009; six were detained during 2010; and two were detained during 2011.*

**It is highly likely that the smaller number of more recent detention episodes reflects the fact that MLRs are still in production for Freedom from Torture clients who arrived in the UK and claimed asylum more recently.*

‘Surrendeers’

Of the 16 cases involving surrender to, or round-up by, the Sri Lankan army, all were subsequently taken, usually blindfolded, to secondary (and in some cases further) detention locations where they were tortured. Eleven of these individuals had been ‘identified’ by others as being associated with the LTTE. Others self-identified themselves as having LTTE connections on the basis that they were told they would then be released. Some were directly apprehended from LTTE military camps and another was simply taken on suspicion of LTTE connections.

Some of those who were ‘identified’ report that they were paraded in front of hooded or masked individuals who nodded to indicate that the individual was an LTTE supporter/member. Those who bore scars (even if they were incurred during shelling) were told that

this was evidence of LTTE membership and were then removed to a separate place of detention. One individual reports being marched past an army truck. When the horn sounded in front of him, he was taken blindfolded to two subsequent detention camps, where he was tortured.

PARAN: Tortured after attempting to surrender by holding a white flag

Paran was living in the North of Sri Lanka during the final phase of the civil war in early 2009. Several of his family members were killed in a shell attack that year and he was injured. He was treated at a temporary hospital which was being run by the International Committee of the Red Cross (ICRC), before they were forced by the Sri Lankan government to close the operation. Paran attempted with others to surrender to the army (holding white flags). Families were separated and ordered to stay in another vacated hospital. Young men were kept separately and ordered to strip. Those with scars or wounds were taken to another camp and were told to stand one by one in front of an army truck. If a horn sounded then that person was identified as an LTTE member. Paran and three others were blindfolded and taken to a CID camp, where he was kept in detention for two weeks.

He sustained injuries from being beaten with the butt of gun in his face; he was burned with cigarettes during interrogation; he had his fingers bound tightly with copper wire; his penis was crushed in a drawer and pierced with a needle; he was suspended from a fan hook on the ceiling; his face was covered with bag filled with petrol. Paran was transferred to a further camp where he was detained for five more months before escaping after a bribe was paid by his father.

Places of detention where ‘surrendees’ were held: The following primary detention facilities were identified by survivors among the 16 ‘surrendees’ in the MLRs reviewed: Wiswamadu; Arunachalam; Omanthai School; Ananda Kumaraswamy; Vavuniya; Vanni; Anuadapura; Chettikulam and Nelukulam. Notably, the second place of detention is reported as unknown in 10 cases. In the remaining five cases, the following were identified: Menik Farm; Verpankulam; Joseph Camp and Arunaselem. The six individuals taken to a third place of detention identify them as: Menik Farm; Chettikulam; Pavatkulam; Bossa Prison; Negombo and ‘4th floor CID’, Colombo.

In almost all cases, torture was *not* perpetrated in the first place of detention, though in at least two cases interrogations took place with beatings aimed at forcing a confession. The majority of cases report being identified as LTTE supporters in the first detention camp, as described above, and then transported elsewhere, in most cases after a relatively short period of time (a number of days).

“No complaints have been made against TID Officers. The Terrorist Investigation Division, Criminal Investigation Division, Police and Military Investigation Units have questioned persons, who were in the Menik-Farm welfare centres. However no complaints were made against such officers and as such no inquiry has been conducted.”

Sri Lanka’s response to the Committee Against Torture’s List of Issues to be considered, November 2011

Other detainees (non-‘surrendees’)

2011: The two cases of individuals detained in 2011, report being taken from checkpoints. Both had been previously resident in the UK and returned for family reasons.

2010: Four of the six cases detained in 2010 report being arrested at their own home or that of their family, in locations including Kandy and Colombo. One was taken at a checkpoint and the other from his workplace in Colombo. Two of these individuals report being taken by plain-clothed ‘officials’ and transported to the detention facility in unmarked ‘white vans’. Four of these six individuals had recently returned from abroad, three for family or health reasons and one due to a refused asylum claim (from the UK and another European state respectively). Five of the six cases report detention due to an imputed association with the LTTE through a family member or friend.

2009: Of those eight cases detained in 2009 after the ceasefire (June onwards), the majority report being taken from their homes in Colombo, Batticola and Kalmunai. These individuals were taken in some cases by plain-clothed ‘officials’, and in other cases by uniformed police. One individual was visiting Sri Lanka from the UK and was accused of having fundraised for the LTTE. Three others had an imputed association with the LTTE through family members or their own history of detention and one was a supporter of an opposition party. The remaining three cases were taken at a checkpoint in Omanthi, at the airport (removed to Sri Lanka following a refused asylum claim) and during a round-up of Tamils in Vavuniya following LTTE activity in the area. Finally, the three individuals who were detained between late 2008 and March 2009 report being taken from the street when collecting money from local businesses for the LTTE (having been forcibly recruited); from a police station when ‘reporting’, having been recently released from detention; and from home, when informed on by an LTTE member who had forced the individual to hide weapons in his house.

Places of detention where these ‘other’ detainees were held: The majority of cases who were detained prior to April/ May 2009 and from June 2009 to 2011 – and who, therefore, were not part of the ‘surrendee’ population – report being taken straight to the place of detention in which they were tortured. Only three were taken first to a police station and then transferred to a second facility. A high incidence of detention and torture in ‘unknown’ or unofficial facilities is reported in this group of cases, as detailed below. Other facilities were named and recorded in the MLRs as follows:

2008 to March 2009: Anurathapuram camp, Maruthane police station and Manthikai.
2009 (from June onwards): Unknown (5), Walikada prison, CID Colombo and Karathivu.
2010: Unknown (4), Nelliady and CID Colombo.
2011: Verpankulam, Joseph camp

Length of time in detention

The length of time that individuals report having spent in detention ranged from one day to 16 months, with the majority of cases reporting one to six months. A lack of precision or detailed recall of dates and the passage of time is a commonly observed phenomenon among torture survivors, given the extreme nature of the trauma inflicted on them and the often chaotic aftermath of escape and flight. It is also significant that in all 35 cases, release from detention was secured with a bribe to officials, meaning that the length of time spent in

detention does not represent a trend in detention policy as such, but reflects how long it took in the various individual cases for family members to trace them and pay bribes for their release.

Due process in detention

“I was detained and tortured for 20 days by the government and then forced to sign a statement. I never saw a court. Where is the justice in that?” Ganajan, Sri Lankan torture survivor

Freedom from Torture’s medico-legal reports record that all 35 individuals whose cases have been examined were detained without effective access to due process rights and were held in a range of state facilities including military detention camps, police stations, prisons and unofficial detention centres for periods of time ranging from a few days to two years. All were tortured.

Although it is not explicitly stated in their testimony that they were detained under the Emergency Regulations or the Prevention of Terrorism Act, 30 of the individuals whose MLRs were examined describe having been detained due to their perceived association with the LTTE. They report interrogations, combined with severe episodes of torture which focused invariably on compelling a confession to membership of – or activities in support of – the LTTE or on identifying and giving information about other LTTE supporters and members. It is likely, on the basis of what is known about the practice of the Sri Lankan government over many years and their strategy in the end stages of the civil war, that these individuals were indeed held in administrative detention under the Emergency Regulations that provide for ‘preventive detention’.^{xxix}

It is notable that in all but three of these cases, there was no observation of due process rights: no formal charge or sentencing, no access to legal representation, no trial before a judge, no informing family members of their whereabouts and no access to an independent medical examination. Of the remaining five individuals that reported no association with the LTTE, four report that due process rights were not observed during their detention.

In 4 cases involving detention in police stations in Colombo and Kandy, the individual reports that some form of legal process appeared to have occurred, including conviction in absentia, access to a solicitor followed by a trial and release on bail before a second episode of detention involving torture, repeat court appearances always followed by adjournments, and trial followed by conviction and release on bail only to be apprehended again and tortured.

Individuals in all the cases without exception report escaping from detention only when family members were somehow able to discover their whereabouts and arrange to bribe the relevant officials to secure their release. This of course raises the question of what happens to those who do not have the contacts or money to have bribes paid on their behalf or whose family members are unable to learn of their place of detention. Such people, without the due process of law to protect their rights while in detention, risk not only prolonged detention but also ongoing exposure to the risk of torture.

Forensic evidence of torture

Freedom from Torture's forensic documentation of torture obtained through working with survivors in the UK is particularly important given the lack of documentation of torture in the post-war period from within Sri Lanka itself. North and east Sri Lanka remain heavily restricted, and human rights/humanitarian organisations are closely supervised and scrutinised when operating in these areas.^{xxx} The continued militarisation of large Tamil areas, the targeting of people who have testified before the Lessons Learnt and Rehabilitation Commission (LLRC),^{xxxi} and the threat of arbitrary arrest, detention and disappearances creates a climate of fear, intimidation and violence in which people are extremely reluctant to talk.

There has been systematic targeting of journalists, media organisations and humanitarian organisations which speak out against the government and several staff have disappeared^{xxxi}. Moreover, those who have disappeared are not able to testify to the treatment they have suffered. Despite the government's denials, rape and sexual harassment perpetrated by the military and government personnel against women is thought to have been widespread since the end of the war, particularly as many male family members are dead, missing or detained and many women have been left unprotected against attack^{xxxi}.

Freedom from Torture's medico-legal reports carefully document the physical and psychological sequelae of torture presented by individuals who are examined, often over several sessions, by expert clinicians. During the examination the clinicians critically assess the account given in relation to the injuries described and the examination findings, in the light of their own experience and the collective experience of colleagues, following the international guidelines set out in the 'Istanbul Protocol': *Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, United Nations New York & Geneva, 2004. The possibility of fabrication is explicitly considered.

Please note that details of some of the most shocking disclosures of ill-treatment contained in the MLRs examined have not been included here due to their very distinctive nature and the consequent risk of identification of the individuals concerned.

Physical Findings

The following findings are grouped by form of torture.

Blunt Force Trauma

All 35 individuals reported the infliction of blunt force trauma, often while the person is held in a stress position, such as suspension and often, though not always, concurrent with interrogation. Many cases report a loss of consciousness during beatings due to the severity of the treatment and the level of pain experienced.

Forms of blunt force trauma which were reported include:

- forceful slapping and punching to bring about unconsciousness in some cases and sustained damage to sight and hearing
- sustained kicking all over the body including the genitalia, head, face and back with metal capped and studded military boots
- stamping on limbs and feet, hands and stomach with hard boots
- sustained beating all over the body with implements such as wooden sticks and poles, gun butts, bamboo sticks, plastic pipes filled with sand or cement, metal tipped objects, whips and wires
- throwing victims against a wall; banging of head against a wall
- forceful twisting of the limbs and joints
- beating on the soles of feet (falaka)

It is well recognised that torture does not always leave physical evidence, and that this may be the explicit intention of the perpetrator, influencing both the method of torture used and the manner of infliction^{xxxiv}. Freedom from Torture MLRs consistently report that the existence of physical evidence of blunt force trauma in particular – in the form of scarring, hypo- or hyper-pigmented areas of skin and other injuries capable of documentation – varies greatly according to a number of factors, such as:

- when the trauma was inflicted (how long before examination)
- the intensity, frequency and duration of the trauma
- the type and shape of implement used
- the site on the body
- the age and overall physical health of the individual; and
- whether and how the injuries were treated or whether they became infected.

It is also recognised that this form of torture is capable of causing other injuries such as damage to the musculoskeletal system and deep tissue – all of which give rise to very commonly reported symptoms of chronic pain, among other effects.

It is therefore significant that extensive evidence is recorded in the 35 MLRs of scarring assessed as 'diagnostic', 'typical' or 'highly consistent'^{xxxv} with the ascribed cause of the various forms of blunt force trauma described above (according to the Istanbul Protocol register), suggesting a pattern of torture methods used in order to leave visible marks. This would imply that sustained episodes of torture were undertaken by perpetrators with an apparent sense of impunity, given the level of injury inflicted in the full knowledge that it could cause such extensive scarring.

Freedom from Torture publicly voiced concerns about the escalation of scarring seen by the organisation's clinicians on Sri Lankan torture victims during the final stages of the civil war^{xxxvi}. This evidence further demonstrates that this pattern of torture has continued in the post-conflict period.

Data in detail: A total of 91 such scars are recorded across 15 of the individual cases (13 male and two female). This means that of the 35 cases who report episodes of blunt force

trauma, 40% sustained injuries of such severity as to produce scarring, the likely cause of which is capable of being documented to a high level of certainty, even after a considerable lapse of time. Given the difficulty of attributing the precise cause of scars caused by blunt force trauma to a high level of certainty, the 58 scars assessed to be 'consistent' with the ascribed cause also represent significant evidence of torture. These scars are distributed between 16 individuals (11 male and 5 female), some of whom have scars in both categories. Eight groups of scars which could not be attributed to a specific mechanism or manner of infliction individually were together found to be 'highly consistent' and in one case 'diagnostic' of the attributed cause of torture. A further 6 groups of scars were similarly found to be 'consistent' with the ascribed cause.

Assessing the age of scars – a further degree of corroboration with the history

The healing rate of scars is determined by a number of variable factors including the size and depth of the wound, the location of the injury, the tension on wound edges, wound hygiene, subsequent infection and the nutrition and health of the individual. As reported in many of the MLRs, the appearance of scars seldom changes significantly after 6-12 months when healing has taken place and so it is not usually possible to accurately determine the exact age of scars after this time.

The majority of the cases in this group had scars that were inflicted more than 12 months prior to the MLR assessment. This is to be expected, given the time lapse (for most individuals) between the infliction of the torture that has produced the scar, release or escape from detention, arrival in the UK, application for asylum, referral for an MLR and then the medical examination itself.

However, seven of the 35 cases had scars that were less than six months old, five of which were photographed within a few months of the injury being inflicted. These photographs were taken either by relatives/friends in Sri Lanka following release from detention, and later corroborated as consistent with the injuries documented in the MLR, or by the solicitor or MLR doctor in the UK. Photographs taken prior to the MLR examination provided evidence of scarring at an earlier stage of healing, which was then compared with the presentation of the scars on examination. This enabled a quite accurate estimate of the specific date of infliction of the injury and a strong corroboration of the specific history of torture in these cases. Of note is that in all seven of these cases the presentation of the scars was found by the doctors to be strongly corroborative of torture as described in the individual history, which was in all cases inflicted during 2010 and 2011, including both cases of torture documented as occurring in 2011.

Burning

Burning has been widely inflicted in 65% of the cases reviewed, with extraordinary severity. The following methods of burning are reported:

- burning repeatedly on the back, thighs, soles of feet with a heated metal object (long, thin and hard rod or pipe) or a metal rod with a bulbous end

- burning on various parts of the body and limbs with glowing cigarettes
- burning with molten material

The instruments were often not seen by the person due to them having been positioned in a stress position, blindfolded or the injuries having been inflicted on the back of the body, but whose forms are nonetheless represented in scarring on their bodies. This scarring is extensively documented, and in many cases photographed, in the MLRs.

Data in detail: A total of 149 burn scars documented in the MLRs were assessed as 'diagnostic', 'typical' or 'highly consistent'^{xxxvii} with torture using heated metal objects or lit cigarettes. Of these 149 scars, 52 were assessed as 'diagnostic' of the attributed cause of burning, meaning there is no other possible cause of the injury observed. The attributed cause of the overwhelming majority of these scars was deliberate burning by heated metal objects of various kinds. Of the 69 scars assessed as 'typical' of the attributed cause, 65 were attributed to burns caused by lit cigarettes. The number of burn scars (assessed as 'diagnostic', 'typical' or 'highly consistent' with the attributed cause) documented on the 23 individuals in this group ranged from 1-27, with the average being 7. Four individuals had particularly large numbers of burn scars (14, 18, 22 and 27 respectively), while eleven individuals had scars assessed as diagnostic, ranging in number from 1 to 27.

Excerpt from a Freedom from Torture medico-legal report

"The scars...are attributed to being burned with a hard metal object. They are diagnostic of the torture described and could not have occurred in any other way. They are all similar in shape and appearance, reflecting repeated injury with the same object. They are all aligned at a similar angle in relation to the body, reflecting injuries applied from the same direction, and logically, therefore, at the same time. These are not features of accidental trauma or combat injuries. The surface area and soft tissue depth at these parts of the back and calf mean that the shape of the scar often reproduces that of the object used, which can be seen here to be narrow and elongated as in the account...There is not dermatological disease that causes lesions of this type. Striae, or stretch-marks, do not affect this part of the body and would not lie in a diagonal plane. Explosions, which do apply a force across the body from one direction, can cause scarring as a result of penetrating injuries from pieces of shrapnel. Shrapnel is variable in size and shape, and does not leave scars of uniform appearance. Surface injuries as extensive as those...would therefore be wider rather than elongated, and associated with major and probably fatal internal damage. An explosion is therefore discounted in this case. On the other hand, burn injuries as extensive as these would be extremely painful and could certainly lead to loss of consciousness as in XX's account. The only possible alternative cause for scars such as these would be whipping with some sort of cord. However, scars from whipping tend to be thinner."

Suspension

Suspension – a form of torture which rarely leaves visible marks – is often reported to have been used concurrently with other abuse, such as beating, burning and asphyxiation. Some individuals experienced repeated episodes of suspension throughout their detention, in one

case continually over a 3 month period. Others report being suspended on several occasions while in some cases suspension was used only once.

The duration of each suspension episode is reported as between one and four hours, although accurate recollection of time is clearly affected by the nature and intensity of the torture being inflicted and the fact that in some instances suspension combined with other ill-treatment led to loss of consciousness. Some individuals report observing ropes, bars and hooks attached to the ceiling and pulley mechanisms *in situ* in the torture location. In one case a number of people were suspended at the same time. In other cases, the suspension equipment appears to have been more improvised. All the suspensions apart from one were head down.

Reported methods of suspension include:

- from a metal bar with both hands tied at the wrists
- upside down with the head lowered periodically into a barrel or tub of water
- upside down by a pole tied to the legs on a pulley and rope system
- ankles and hands tied and suspended upside down from the ceiling

Data in detail: Evidence of physical injury to joints and limbs arising from protracted suspension is documented in a number of MLRs, as well as scars around the ankles of five individuals, assessed as 'diagnostic' in four cases and 'highly consistent' in one case to the attributed cause of abrasions from rope and cuffs used during suspension. While physical trace is not often seen for this form of torture, many individuals report musculoskeletal pain consistent with having been held in stress positions for prolonged periods. Detailed descriptions of the methods and mechanisms of suspension are elicited from each individual and this aspect of their history is considered in relation to the whole account. In all cases, the doctors report no reason to doubt the history given.

Assessing and documenting forms of torture that leaves no physical trace

While they rarely leave physical trace, suspension and other stress positions as well as the various methods of near asphyxiation can cause intense pain and terror in the individual, leaving potentially long-term psychological consequences, which are explored and documented in MLRs along with the physical examination. There may also be physical injury or physiological changes to the body and long-term symptoms of pain, particularly arising from protracted suspension, which need more specialist investigation, or which cannot conclusively be attributed to the history of torture. It is for this reason that the doctor will focus on the whole clinical picture resulting from torture, importantly including the psychological presentation, which may itself produce strong corroboration of the history of torture.

Asphyxiation: by submerging in water or inhalation of chemical / caustic substances

Asphyxiation was reported to have been used in 31% of cases. The main asphyxiation technique reported in six of the cases is a plastic bag filled with petrol, tied tightly around the neck in order to induce difficulty in breathing, a burning sensation and near suffocation. Many cases report loss of consciousness. Immersion of the head in water is also reported to

have been used. Another individual reported chilli powder being placed in their eyes and a bag placed over their head and tied at the neck.

Asphyxiation techniques, as is well known, leave no physical sequelae, other than that some individuals report prolonged discomfort to their eyes from being exposed to caustic substances. Each account is elicited and documented in detail in the MLR, including the individual's response to this form of torture which was often inflicted in conjunction with suspension or other stress positions and interspersed with beatings and other forms of trauma. Individuals report the terror they felt and the sense that they would suffocate, as well as burning pain from inhalation of toxic fumes.

Exposure to caustic substances

Four individuals report exposure of their skin or eyes to chemical and caustic substances causing a burning sensation, including through the:

- spraying of unknown chemical substance into the eyes;
- rubbing of chilli in the eyes;
- burning with unknown caustic substances (possibly chilli) on the penis, testicular and anal areas, causing blood in the stool and a burning sensation on passing urine;
- pouring of acid substances on abraded skin causing the skin to slough off the affected sites

Cuts and penetrating injuries

Seven individuals report injuries inflicted with sharp, penetrating objects as follows:

- sharply barbed wire tied to the leg and pulled
- cuts with sharp metal instruments including knives, a carpentry file, secateurs and the tip of a bayonet;
- traumatic partial amputation of digits
- cuts with finger nails and toe nails pulled out with pliers
- abrasion of bare skin against concrete floor (during rape)

Data in detail: A total of 41 scars assessed as 'diagnostic', 'typical' or 'highly consistent' with the attributed cause of laceration by a sharp metal instrument or other mechanism (human nail or concrete floor) is recorded in eight individual cases. In four of these cases multiple injuries have been inflicted, with as many as six to 14 scars documented for each individual. Two cases document the traumatic amputation of finger tips and two cases attribute some of their scars to violent assault perpetrated on them while they were raped.

Threats to self or others and mock executions

Most of the cases examined report that they were subjected to repeated threats of further torture or of execution. Many also report that they heard the screams of others being tortured during their incarceration and heard people being executed by gunshot. Some witnessed others being tortured and executed in front of them, particularly those who were detained in military detention camps. Five cases report imminent threats of execution, one case having

petrol poured on the floor around him with a threat to light it, and 4 cases having guns being placed against their heads with the threat of firing (in one case a blank round was fired).

Forced confession and forced identification

Most cases report that their interrogations were focused on forcing them to 'confess' to an association with the LTTE and to sign documents in Sinhalese, a language they could not read. Once a 'confession' was signed, many individuals reported that they were finger-printed and photographed. Some reported signing such documents in the hope that their torture would end. In reality the torture continued and subsequent interrogations invariably focused on gaining information about family members or associates who were suspected or known to be supporters of the LTTE. Some cases report being forced to identify others as LTTE members under threat of further torture.

Sexual Violence

Experience of sexual violence is extremely widespread among these cases, representing 60%, and includes rape, sexual assault and violence to sexual organs. Sexual humiliation in the form of forced nakedness or semi-nakedness (underclothes only) is also commonly reported, either during interrogation sessions or throughout the detention period in some cases.

Of the 27 male cases in the sample overall, 15 experienced sexual violence (55%) and of the eight female cases in the sample, six experienced sexual violence (75%). All but one of the episodes of physical violence to sexual organs (all male) and sexual assault (both male and female) are reported to have taken place during torture and interrogation sessions for both men and women. While all instances of rape (both male and female) are reported to have been perpetrated in cells by guards or by officers usually at night, sometimes repeatedly and sometimes by more than one individual. Many of the 21 individuals report more than one episode of sexual violence and sexual assault including rape.

A number of MLRs show that where other forms of sexual violence are reported, it is suspected that rape had also been perpetrated, but not disclosed due to intense shame on the part of the torture victim. In all cases, it is reported that disclosures of sexual violence were given with immense difficulty and in some cases only after a number of interview sessions.

“There have been no complaints about sexual violence”

[Sri Lanka's response to the Committee Against Torture's List of Issues to be considered, November 2011](#)

Specific methods of sexual violence reported in these cases include:

- kicking in the genital area
- testicles repeatedly manually and forcefully squeezed
- penis slammed in a door, hit with objects or pierced with a sharp pointed instrument
- 'burning' of genitals with caustic substances
- molestation of genitals and enforced masturbation of interrogators (female and male)

- sexual assault, including forced penetration of anus and vagina with fingers (female) and forced insertion of objects including ice cubes and unknown instruments into the anus (male)
- oral, anal and vaginal rape (repeated many times in some cases, in one case twice weekly during a seven-month detention) (female and male)

It is noted that sexual violence and vaginal and anal rape, as described in these cases, often do not produce a physical trace that is sustained over time. However, a number of cases report some impaired functioning of sexual organs and ongoing pain in the genital and pelvic areas. Some of the male cases who disclosed rape and forced penetration with instruments into their anus report that they experience ongoing pain in their anus and in some cases bleeding. Some male cases subjected to violence to their sexual organs disclosed ongoing pains in their penis and testicular area (which did not result in a change in physical appearance), in all cases reported in the MLR to be 'consistent' or 'highly consistent' with their history. Some of the women subjected to rape report ongoing pain during and after sexual intercourse, pain in their pubic area and irregular menstrual cycles.

The psychological impact of the sexual violence inflicted is carefully documented in all cases, as well as the manner in which the disclosures were made. In cases where rape and sexual violence had been inflicted, the MLRs show that individuals experienced high levels of distress in recounting what had happened. In many cases interviews were interrupted and re-started in order to allow the individual to recover and many disclosures were only given after a number of sessions with the doctor, when some rapport and trust had been established. Intense feelings of shame were reported as well as suicidal ideation and actual suicide attempts in a small number of these cases.

Vasudev, tortured in late 2010 on return to Sri Lanka:

Vasudev returned to Sri Lanka from the UK, where he was studying, for family reasons in late 2010. He was planning a short visit. He was picked up at an army checkpoint after an informer identified him as an LTTE member. He was taken to an army camp where he was held in a small, dark cell. Vasudev was taken to another room every day to be interrogated about his links to the LTTE. During interrogations he was beaten with wooden sticks and kicked by the guards. On several occasions a plastic bag filled with petrol fumes was placed over his head and tightened around his neck. The guards would also often force his head beneath water in the basin of his cell until he struggled for breath.

On one occasion he was taken to the interrogation room and held down on the floor and was burned repeatedly on his back and legs with a heated metal rod. On the day after the burning occurred he was forced to sign a confession document, which was in Sinhalese so he does not know what it said. On three separate nights, two guards came into his cell and sexually abused him. He was released after 10 days when his father paid a bribe. When the army officials released him he was afraid that they were going to shoot him. He spent a few weeks recuperating before flying back to the UK. The Freedom from Torture medico-legal report documents his various scars as 'diagnostic', 'highly consistent' and 'consistent' with the torture methods he described. Vasudev had been previously detained in Sri Lanka during the civil war; the clinician producing the MLR assessed the aging of the scarring. As the scars were not fully mature at the time of the examination (less than six months) it was deemed not reasonable that they had occurred before he first came to UK in late 2009.

Psychological findings

MLRs prepared by Freedom from Torture doctors routinely document psychological as well as physical findings, with reference to the history given by the individual and the specific disclosure of torture. Psychological responses to the torture described by the individual are recorded and evaluated in light of guidance given in the Istanbul Protocol, Freedom from Torture's own guidelines and the relevant diagnostic criteria for Post-traumatic Stress Disorder (PTSD) and depression^{xxxviii}.

In their documentation of the psychological findings for this group of cases, Freedom from Torture clinicians recorded symptoms of depression and/or Post Traumatic Stress Disorder (PTSD) related to the history of trauma in **all cases bar two**, one of whom had a severe diagnosed psychiatric disorder that meant psychological evidence in relation to torture was difficult to document distinctly. These psychological findings in themselves represent strong evidence of a history of trauma and form a crucial part of the overall clinical picture, where the clinician will seek to integrate the physical and psychological findings and assess these in relation to the history of torture reported by the individual.

Excerpt from a Freedom from Torture medico-legal report:

"In addition [to the physical sequelae] she is suffering from depression, panic attacks and PTSD. Depression and panic attacks can occur in a variety of settings but her PTSD provides strong supporting evidence for her account of violent assault, particularly in view of the content of her nightmares and flashbacks and the nature of the cues that trigger her panic attacks and flashbacks.

In the absence of previous mental health problems, it is highly likely that [her] depression, panic attacks and PTSD result from the violent experiences she describes. My psychological assessment is not based solely on her account, but also takes into account her manner of speech, posture, body language, gestures and expressions. In my professional opinion these findings and observations are not those I would expect in an asylum seeker who, while missing their home country and uncertain about her future, had not experienced the detention and assaults she describes."

Psychological findings documented in the MLRs for the 35 cases examined here are grouped below according to the relevant Istanbul Protocol categories of 'common psychological responses' to torture^{xxxix}.

'Re-experiencing the trauma': Responses include flashbacks (13 individuals) and intrusive memories and thoughts (14) where traumatic events are repeatedly re-experienced even when the individual is awake and conscious. Also included are recurrent nightmares (25) including elements of the traumatic events in actual or symbolic form. Further common responses documented in these cases include fear and anxiety experienced in response to

cues that trigger an association with the trauma, such as authority figures in uniform (police and immigration officials for example) and particular sights and sounds associated with the experience of detention and the perpetrators of abuse (22).

‘Avoidance and emotional numbing’: Responses in this category include an avoidance of thoughts and conversations or activities, places and people that give rise to memories and recollection of the trauma (8). Also reported is a marked emotional restriction or dissociation when recalling events involving trauma and torture (2) and a difficulty recalling these events (2). Detachment and social withdrawal and avoidance of meeting people and of social interactions is further documented in a significant number of cases (11).

‘Hyperarousal’: Responses of ‘hyperarousal’ reported in these cases include difficulties either falling or staying asleep (25); unusually high levels of irritability and angry responses (7); difficulties in concentrating and with memory and recall (15); a marked ‘hypervigilance’ and exaggerated startle response (9); a generalised state of anxiety (5); and anxiety-related symptoms such as dizziness, fainting and hyperventilation (2).

‘Symptoms of depression’: Depression symptoms are very commonly reported among the 35 cases and are documented in the MLRs as follows: low mood (12); markedly diminished interest in normal daily and normally pleasurable activities (11); diminished appetite (10); insomnia or other forms of sleep disturbance (25); tiredness and loss of energy (4); feelings of worthlessness and guilt (1); difficulty with concentration and recall and scattered thoughts (17); thoughts of death or dying relating to self or others (3); suicidal ideation (12) and attempted suicide (4).

‘Damaged self-concept and foreshortened future’: A small number of individuals report their sense of self as having been altered as a result of the torture they experienced, and this is particularly the case with rape survivors. As well as the impact on self-identity, the impact of torture on the individual’s ‘relational identity’ and/ or their sense of self within their family and community is recorded in some cases as having been irreparably damaged, with devastating impact. Feelings of hopelessness when contemplating the present and the future are reported in some cases (6). One individual disclosed that he avoids situations where he would have to reveal the extensive scarring on his body, expressing fear that his scars will be a constant reminder of his ill-treatment for the rest of his life.

‘Somatic complaints’: Somatic symptoms such as pain, headaches or other physical complaints, with or without objective findings, are common problems among torture survivors and are reported in a significant number of the 35 cases reviewed.

“CID still call at my home to make inquiries. My wife, in Sri Lanka, was recently detained for several days. Unfortunately we have had a very unhappy life in Sri Lanka. We [Tamil survivors] have the same life in Europe – unhappy, scared, waiting.” Elankeswaren, Sri Lankan torture survivor

Diagnosis of PTSD and Depression: In the context of a history of torture, a diagnosis of Post Traumatic Stress Disorder (PTSD), where the individual is manifesting symptoms directly related to the trauma (flashbacks and other ‘reliving’ experiences and avoidance of circumstances associated with the trauma), represents strong corroborative evidence of torture. Of these 35 cases, 12 individuals are recorded as having PTSD meeting the

diagnostic criteria¹; while a further 17 others displayed symptoms of PTSD related to their history of trauma, though not reaching a diagnostic threshold. Of the 12 individuals diagnosed with PTSD, eight are reported to meet the diagnostic criteria for both PTSD and depression.

Symptoms of depression are commonly reported in survivors of torture and some symptoms are typical of both depression and PTSD. However in these cases 15 individuals are reported by clinicians to have symptoms that meet the diagnostic criteria for clinical depression or moderate depressive episodes. A further 10 individuals report symptoms of depression that do not meet the diagnostic threshold.

¹ The ICD-10 Classification of Mental and Behavioural Disorders, World Health Organization, Geneva, 1992
F43.1 Post-traumatic stress disorder <http://www.who.int/classifications/icd/en/GRNBOOK.pdf>

Conclusions

“The world didn’t know what was happening at the end of the war; the government didn’t allow any international reporters into the country. Now many in the Tamil community have no homes, people are still harassed and tortured. We need reconciliation. This can happen only with the involvement of organisations like the UN.” Sri Lankan torture survivor

This evidence contained in this report followed a detailed review of 35 medico-legal reports (MLRs) prepared by Freedom from Torture clinicians in relation to clients, most of whom are asylum seekers or refugees, who were tortured in Sri Lanka after the end of the civil war in May 2009.

Freedom from Torture’s forensic evidence demonstrates that, notwithstanding the formal conclusion of hostilities, Tamils with an actual or perceived association with the LTTE remain at particular risk of detention and torture in Sri Lanka.

The lack of due process reported in these cases combined with the acute scarring – often ‘diagnostic’, ‘typical’ or ‘highly consistent’ with the ascribed form of torture – evident in a high proportion of the cases is heavily suggestive of impunity for perpetrators of torture in Sri Lanka.

Moreover, these high levels of scarring could reflect a policy of permanently ‘branding’ victims not only to inflict long-term psychological and physical damage, but also to ensure that the individual may be easily identified in future as having been suspected of links to the LTTE. Given that release from detention in each case in this data set occurred only after payment of a bribe and was otherwise arbitrary, the implication is that those carrying such scars are at risk of detention and possible further torture if returned to Sri Lanka. Beyond the impact on the individual, these enduring signs of torture must be intended to send a signal to the wider Tamil community about the consequences of association with LTTE elements.

In light of the significant obstacles to securing documentation of torture from within Sri Lanka and the fact that this sample relies on the few survivors who have managed to flee to the UK, Freedom from Torture has grave concerns that there are many other victims of torture still in detention or for whom giving testimony of their experiences is deemed too unsafe or otherwise not possible. Moreover the testimony from the survivors whose MLRs have been reviewed suggests that there is a significant number of different detention centres where torture has been perpetrated recently in Sri Lanka.

Freedom from Torture has submitted this evidence to the Committee Against Torture for consideration in its examination of Sri Lanka’s periodic reports in its 47th session.

Based on this evidence and submissions made by both Sri Lankan and international NGOs to the Committee Against Torture of ongoing human rights violations, Freedom from Torture makes the following recommendations to the Sri Lankan government, United Nations and UK government to act urgently to prevent further torture occurring:

Recommendations

To the government of Sri Lanka:

1. The government should extend open access to, and cooperate with, any initiatives arising from the Committee Against Torture's examination of Sri Lanka's periodic reports in its 47th session, following Freedom from Torture's submission of evidence of ongoing torture in the post-conflict period;
2. The government should also invite the following international human rights mechanisms to Sri Lanka, including: the UN Working Group on Enforced and Involuntary Disappearances; the UN Working Group on Arbitrary Detention; the UN Special Rapporteur on Torture; the UN Special Rapporteur on Freedom of Expression;
3. The Sri Lankan government should extend due process rights to all detainees held in both military and police facilities, including those held in administrative detention. The government should disclose all unofficial detention sites and facilitate effective and independent monitoring of detainees to ensure Sri Lanka's international human rights obligations are met;
4. The government should ratify the Optional Protocol to the Convention Against Torture establishing a system of regular visits to detention facilities by international and national monitors.

To the United Nations and international community:

1. The United Nations should launch an international investigation into alleged violations of international humanitarian law (IHL) and international human rights law (IHRL) by both sides at the end of the Sri Lankan conflict in 2009, as recommended by the UN Panel of Experts Report (Recommendation 1), and in light of the well-known defects of the Lessons Learnt and Reconciliation Commission (LLRC);
2. The United Nations and the international community should support the relevant international mechanisms to investigate evidence and serious allegations of ongoing torture.

To the UK government:

1. The government must ensure that it does not return individuals to a risk of torture in Sri Lanka, including by:
 - ensuring that decision making on asylum claims is adequately informed by relevant evidence and on this basis the UK Border Agency should review and amend where appropriate its Country of Origin (COI) report and Operational Guidance Note for Sri Lanka in the light of Freedom from Torture's report;
 - instigating effective monitoring of individuals forcibly removed to Sri Lanka from the UK;
2. The UK government should declare its support for an international investigation into alleged violations of IHL and IHRL committed in Sri Lanka during the end of conflict period;
3. The UK government should take a leadership role within the international community to pursue accountability for and prevention of further torture in Sri Lanka.

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The names of each of the torture survivors directly quoted or whose experiences are referenced in this report have been changed in order to protect their identity.

Cover Image: Sean Sutton / MAG / Panos

ⁱ See for example United Nations, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 31 March 2011, available at http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf; Channel 4 News, *Sri Lanka's Killing Fields*, 14 June 2011, available at <http://www.channel4.com/programmes/sri-lankas-killing-fields/4od> (note that the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Philip Alston, concluded after consulting a video and audio expert as well as a forensic pathologist and expert on ballistics, that 'while there are some unexplained elements in the video, there are strong indications of its authenticity' – see the Secretary-General's Panel of Experts report, p 43, footnote 87); and Channel 4 News *Special Reports - Sri Lanka: civil war*, available at <http://www.channel4.com/news/sri-lanka-civil-war>, accessed 11 October 2011.

ⁱⁱ With the notable exception of extensive documentation of torture in police custody published by the Asian Human Rights Commission, at <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-060-2011>

ⁱⁱⁱ See for example Amnesty International, *Forgotten Prisoners*, 8 March 2011.

^{iv} See for example *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, *op cit.*, p.42-45; Human Rights Watch, *Legal Limbo: The Uncertain Fate of Detained LTTE Suspects in Sri Lanka*, February 2010.

^v Amnesty International, *When will they get Justice? Failures of Sri Lanka's LLRC*, September 2011.

^{vi} See for example Amnesty International, *Forgotten Prisoners*, *op cit.*

^{vii} See for example *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, *op cit.*, p.113.

^{viii} US Department of State, *Sri Lanka Country Report on Human Rights Practices 2010*, 8 April 2011, accessed at <http://www.state.gov/g/drl/rls/hrrpt/2010/sca/154486.htm> on 15 September 2011.

^{ix} United Nations Secretary General, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, p. 8-9.

^x A detailed description of Freedom from Torture's methodology for preparing medico-legal reports is available at <http://www.freedomfromtorture.org/sites/default/files/documents/methodology%20mlr.pdf>

^{xi} The clients of Freedom from Torture are survivors of torture and organised violence and the families of those survivors. By 'torture and organised violence' we mean both severe physical and severe mental suffering deliberately inflicted on a person in the custody or under the control of such organised bodies as police and security forces and other agencies of governments, military and paramilitary units, and organised non-state actors. The forms of harm we include as torture include rape and sexual abuse perpetrated by these bodies and actors. In our work, torture includes those abuses described above experienced as a prisoner of war or at the hands of superiors in the victim's own military unit and also the exposure of child soldiers to gross violence. It does not include the violence suffered by adult military personnel in a combat situation.

^{xii} See, e.g., United Nations Secretary General, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, p. 8-9.

^{xiii} AlertNet, *Sri Lanka Conflict- In detail*, accessed at <http://www.trust.org/alertnet/crisis-centre/crisis/sri-lanka-conflict>.

^{xiv} United Nations Secretary General, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, p. 8-9.

- ^{xv} United Nations Secretary General, *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, p. 8-9.
- ^{xvi} AlertNet, <http://www.trust.org/alertnet/crisis-centre/crisis/sri-lanka-conflict>
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