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Sri Lanka: Treatment of Tamil citizens, including suspected members or supporters of the Liberation Tigers of Tamil Eelam (LTTE); treatment of non-Tamil supporters of the LTTE by the government (2017-August 2020) [LKA200298.E]

Research Directorate, Immigration and Refugee Board of Canada

1. Overview

Minority Rights Group International (MRG) indicates that there are two groups of Tamils in Sri Lanka: "Sri Lankan Tamils," also known as "Ceylon' or 'Jaffna' Tamils," who are descendants of Tamils who migrated from southern India "many centuries ago"; and, "Up Country Tamils," also known as "Indian' or 'estate' Tamils," who are descendants of "comparatively recent" immigrants (MRG Mar. 2018). Sources citing the 2012 census, [which is the most recent census (Australia 4 Nov. 2019, para. 2.7)], report that there were 3.1 million Tamils in Sri Lanka (Australia 4 Nov. 2019, para. 3.5; MRG Mar. 2018). A report on the 2019 presidential election by an EU Election Observation Mission (EOM) states that Tamils comprise fifteen percent of the population and are the largest ethnic minority group (EU Jan. 2020, 40). Sources indicate that the Tamil population is concentrated in the northern and eastern parts of Sri Lanka (MRG Mar. 2018; Australia 4 Nov. 2019, para. 3.5). Australia's Department of Foreign Affairs and Trade (DFAT), citing the 2012 census, indicates that the Tamil population accounted for 93.8 percent of the population in the North, 39.2 percent of the population in the East, and 6.8 percent of the population in the West (Australia 4 Nov. 2019, para. 3.5). The 2012 census states that the population of Colombo was 2,324,349, of which 11.2 percent was Tamil (Sri Lanka [2012]). Sources report that Indian-origin Tamils have "a large presence" in the Central, Sabaragamuwa and Uva provinces (US 10 June 2020, 3; Australia 4 Nov. 2019, para. 3.5). The US Department of State's *International Religious Freedom Report for 2019* indicates that Tamils are mostly Hindu, with a "significant" Christian minority (US 10 June 2020, 2).

2. Treatment of Tamils

A report on a fact-finding mission (FFM) to Sri Lanka by the UK Home Office, conducted from 28 September to 5 October 2019, citing their interviews with Sri Lanka's Attorney General's Department, the Tamil National Alliance (TNA) [1] and a journalist, indicates that Tamils are not "specifically targeted and do not suffer persecution just for being a Tamil"; the same report cites the UNHCR as further stating that Tamils face "discrimination along with other minorities" (UK 20 Jan. 2020, para. 2.1.1). A report on the situation of government critics covering the period from 1 July to 31 December 2019 by INFORM Human Rights Documentation Centre (INFORM), a Colombo-based organization focused on election monitoring, freedom of expression and human rights defenders, describes estate Tamils as the "most underprivileged ethnic group in Sri Lanka with inter-generational poverty and other issues" (INFORM 21 Feb. 2020, 26). In a telephone interview with the Research Directorate, an adjunct assistant professor at Cornell University, who has conducted research on Tamils in Sri Lanka, stated that Tamils "remain second class citizens, as it has been for decades" and added that "since the end of the war, while Tamils are not dying on battle fields, harassment, mistreatment, [and] human rights abuse[s] have all continued relatively unabated" (Adjunct Assistant Professor 23 July 2020). Based on his visit to Sri Lanka from 10 to 14 July 2017, a UN Special Rapporteur's report indicates that there is "a pervasive and insidious form of stigmatization of the Tamil community" (UN 14 Dec. 2018, para. 54). The US Department of State's *Country Reports on Human Rights Practices for 2019* states that both "local and Indian-origin Tamils maintained that they suffered longstanding, systematic discrimination in university education, government employment, housing, health services, language laws, and procedures for naturalization of noncitizens" (US 11 Mar. 2020, 23). Freedom House similarly indicates that "Tamils report systematic discrimination," including in "government employment, university education, and access to justice" (Freedom House 4 Mar. 2020).

The 2018 UN Special Rapporteur's report indicates that Tamils are "severely underrepresented in all institutions, particularly in the security sector and the judiciary" (UN 14 Dec. 2018, para. 54). Australia's DFAT states that there are "relatively few" Tamil public servants, including police and

military officers, even in the northern and eastern provinces, adding that unilingual Tamil speakers face challenges communicating with authorities (Australia 4 Nov. 2019, para. 3.7). Sri Lankan authorities indicated to the UN Special Rapporteur that Tamils did not wish to join government institutions due to the language barrier and distrust of the government, despite the existence of various government programs which reach out to Tamils (UN 14 Dec. 2018, para. 54). Australia's DFAT similarly assesses that the under-representation of Tamils in the public sector is due to the language barrier and interrupted education during the war, and not the result of "official discrimination" (Australia 4 Nov. 2019, para. 3.8).

2.1 Treatment of Tamils by the Authorities

The 2018 UN Special Rapporteur's report states that a

pervasive lack of accountability for the war crimes that were perpetrated during the war, the climate of impunity that prevails within the security sector, the overwhelming economic weight of the military and its involvement in civilian activities, and the overwhelmingly Sinhalese majority within the military, all contribute to perpetuating the resentment and disenfranchisement felt by the Tamil community as a whole. (UN 14 Dec. 2018, para. 54)

The Adjunct Assistant Professor indicated that the military is increasingly participating in economic activity, including in tourism and development of former war-torn areas (Adjunct Assistant Professor 23 July 2020). Human Rights Watch (HRW) similarly states that since the end of the war, the military has been involved with commercial activities, particularly in the north and the east, including running farms, restaurants, and hotels (HRW 9 Oct. 2018).

Sources report that the military appropriated "significant amounts" (US 11 Mar. 2020, 10) or "substantial amounts" (Australia 4 Nov. 2019, para. 2.66) of land during the civil war to secure "buffer zones" known as "High Security Zones" (US 11 Mar. 2020, 10; Australia 4 Nov. 2019, para. 2.66). Australia's DFAT reports that there has been "significant progress" on land return, and further cites Sri Lankan government statistics as indicating that 89,263 acres or 75 percent of land held by the military has been returned as of 2 April 2019 (Australia 4 Nov. 2019, para. 2.66). Sources state that the military continues to hold lands considered "economically valuable" (US 11 Mar. 2020, 10; Australia 4 Nov. 2019, para. 2.67).

Freedom House reports that "abusive practices" by the police and security forces, including extrajudicial executions, forced disappearances, custodial rape, and torture, "disproportionately" impact Tamils (Freedom House 4 Mar. 2020). The Sri Lankan government indicated to the UN Special Rapporteur that

there was no discrimination against the Tamils and that criminal law had been used against the [LTTE] only. ... ill-treatment was a greater challenge in the south than in the north and east of Sri Lanka; and that there was disproportionate attention paid to the perceived negative treatment by the authorities of the Tamil population by Tamils themselves, the international community and civil society. (UN 14 Dec. 2018, para. 53)

US *Country Reports 2019* indicates that Tamils, particularly in the North and East, reported that security forces "regularly monitored and harassed" community members, especially activists, journalists, and former or suspected former LTTE members (US 11 Mar. 2020, 23). Australia's DFAT states that Tamil community members reported monitoring by authorities of public gatherings and protests in the North and East, and "targeted surveillance and questioning of individuals and groups" (Australia 4 Nov. 2019, para. 3.11). The same source reports that people connected to "politically-sensitive" war-related issues, such as "missing persons, land release and memorial events," are "most likely" to be monitored (Australia 4 Nov. 2019, para. 3.11). Based on his visit to Sri Lanka from 18 to 26 July 2019, a UN Special Rapporteur indicated that he "frequently" received reports of "intimidation and surveillance" in relation to peaceful protests, particularly concerning memorial services for disappeared persons in the North and East (UN 5 May 2020, para. 52). The same source provides the example of soldiers destroying and removing banners and decorations at a memorial ceremony held on 18 May 2019 by the Ampara branch of the Families of the Disappeared Organization at the Thrikovil Manikka Pillayar temple, as well as threatening to arrest and detain demonstrators (UN 5 May 2020, para. 52).

Sources report that the military's presence in the North is "significant" (Australia 4 Nov. 2019, para. 2.65) or "very large and imposing" (UN 14 Dec. 2018, para. 54). The Adjunct Assistant Professor indicated that the army is "disproportionately present in Tamil-majority areas" and monitors Tamils' activities (Adjunct Assistant Professor 23 July 2020). A report on issues created by land policies based on interviews conducted with 885 people between March and August 2019, by the People's Land Commission [2] and People's Alliance for Right to Land (PARL) [3], states that military personnel have been appointed to civilian offices, including the urban development authority, which has "resulted in oppressive measures" (People's Land Commission and PARL [2020], 74).

Australia's DFAT states that the military presence in the North and East increased after the 2019 Easter Sunday terrorist attacks [4] (Australia 4 Nov. 2019, para. 2.65). Sources indicate that emergency regulations imposed after the Easter attack [from 22 April to 23 August 2019 (US 11 Mar. 2020, 14)] granted the security services "extensive" (US 11 Mar. 2020, 14) or "sweeping" (Al Jazeera 23 Aug. 2019) powers to detain suspects without court orders (US 11 Mar. 2020, 14; Al Jazeera 23 Aug. 2019). Other sources report that the emergency regulations also introduced curfews and restrictions on movement (US 11 Mar. 2020, 14; Freedom House 4 Mar. 2020).

2.2 Checkpoints

The UK Home Office FFM report, citing a diplomatic source, indicates that checkpoints were brought back in the aftermath of the Easter attack, creating fear amongst the Tamil community, but it was mostly Muslims who were impacted (UK 20 Jan. 2020, 46). The same report cites a representative of an NGO as reporting that Tamils in the North viewed the checkpoints as "a form of harassment" since few Muslims reside there (UK 20 Jan. 2020, para. 2.1.2). Australia's DFAT indicates that the "heightened security posture" in the North has "eased" since the emergency regulations lapsed (Australia 4 Nov. 2019, para. 2.65).

A February 2020 article by Tamil Guardian, a news website covering Tamil issues, indicates that search operation conducted at military checkpoints have increased across the North-East since the presidential election in November 2019 (Tamil Guardian 10 Feb. 2020). In correspondence with the Research Directorate, a senior advocacy officer with the People for Equality and Relief in Lanka (PEARL), a US-based non-profit human rights organization advocating for human rights in Sri Lanka (PEARL n.d.), indicated that since November [2019], military checkpoints in Tamil areas, such as Omanthai, Puliyanakulam, Kanagarayankulam and Pulmoaddai, were reinstated (PEARL 13 Aug. 2020). The February 2020 Tamil Guardian article indicates that public buses, travelling from Jaffna to the South, are stopped at checkpoints and the passengers have their belongings searched by soldiers (Tamil Guardian 10 Feb. 2020). A May 2020 article by the Tamil Guardian reports that "even more" checkpoints have been set up since the outbreak of COVID-19 and describes that Tamil villagers from Puthukkudiyiruppu in Mullativu District have to cross seven checkpoints within 18 kilometers (Tamil Guardian 28 May 2020). In a letter addressed to the Sri Lankan Defence Secretary dated 7 July 2020, Selvam Adaikalanathan, the President of the Tamil Eelam Liberation Organization (TELO) [5] and former member of Parliament for Vanni District, states the following:

Six month[s] ago, there [was] freedom for movement everywhere outside High Security zones with fewer checkpoints in Northern Province and the people felt an ease of mind. Now Jaffna is surrounded by checkpoints everywhere and it is being increased day after day[,] thereby causing untold hardships to the general public – farming & fishing community, traders, pilgrims, workers in various trades, night travelers[,] etc. (Adaikalanathan 7 July 2020)

2.3 Treatment Following the November 2019 Presidential Election

Sources indicate that since President Mahinda Rajapaksa left office [in 2015, after the election of President Maithripala Sirisena (Freedom House 4 Mar. 2019)], there have been "improvements in political rights and civil liberties" (Freedom House 4 Mar. 2020) or "greater freedom of expression, movement and assembly" (Adjunct Assistant Professor 23 July 2020). Sources indicate that since the election of [Mahinda's brother (Freedom House 4 Mar. 2020)], Gotabaya Rajapaksa, as President in November 2019 [and subsequent appointment of Mahinda Rajapaksa as Prime Minister (Freedom House 4 Mar. 2020)], the human rights situation has deteriorated "significantly," "especially in Tamil areas" (PEARL 13 Aug. 2020), or "rapid[ly]," "particularly for human rights defenders, Tamil communities and Muslim communities" (Jaffna-based human rights think tank 2 Aug. 2020). The Adjunct Assistant Professor indicated that there is additional fear ahead of the parliamentary election in August 2020 that things "will worsen" should the Sri Lanka Podujana Peramuna (SLPP), the President's party, gain control of parliament (Adjunct Assistant Professor 23 July 2020). Sources indicate that the SLPP won the parliamentary election by a "landslide" (Al Jazeera 7 Aug. 2020; AP 7 Aug. 2020), securing close to the two-thirds majority (5 seats short of two-thirds majority threshold of 150 seats) required to make constitutional changes (AP 7 Aug. 2020). According to the Associated Press (AP), the SLPP "appear[s]" to have the support to change the constitution, since "at least" four small parties "collaborate" with the SLPP (AP 7 Aug. 2020). Sources indicate that the Rajapaksas previously promised to extend presidential powers through constitutional amendment (PEARL 13 Aug. 2020; Al Jazeera 7 Aug. 2020). For additional information on the political situation, including since the election of Gotabaya Rajapaksa, see Response to Information Request LKA200300 of August 2020.

International Crisis Group indicates that Gotabaya Rajapaksa, who ran on a "strongly Sinhala nationalist" campaign and relied "almost entirely" on Sinhalese votes, won Sri Lanka's presidential election on 16 November 2019 (International Crisis Group 18 Nov. 2019). The EU EOM report states that the SLPP's campaign was marked by instances of "anti-Muslim and anti-Tamil invective" during the election campaign (EU Jan. 2020, 5). The same report states that there were attacks against Tamils and Muslims immediately after the election (EU Jan. 2020, 48). Sources indicate that Tamils in Kegalle were attacked after the election [by Sinhala-speaking men (Tamil Guardian 18 Nov. 2019)] (Tamil Guardian 18 Nov. 2019; EU Jan. 2020, 48).

Sources indicate that members of the military, accused of human rights abuses, have been appointed to senior positions in the government (UN 26 Feb. 2020, para. 34; HRW 10 Jan. 2020). Sources state that the government declined to play the national anthem in Tamil on Independence Day, reversing a practice started by the previous government (AP 4 Feb. 2020; PTI 3 Feb. 2020). Sources state that the President established a task force led by the Defence Secretary, Kamal Gunaratne [6], composed of Sinhalese Buddhists and without Tamil or Muslim members, to preserve historical heritage of the eastern province, despite the majority Tamil and Muslim population in the region (International Crisis Group June 2020; NewsIn.Asia 4 June 2020).

In correspondence with the Research Directorate, a Jaffna-based human rights think tank indicated that there has been an "increase in repression and abuse of Tamil communities in the North and East" since Gotabaya Rajapaksa took office, including an increase in reported incidents of police brutality (Jaffna-based human rights think tank 2 Aug. 2020). The Office of the UN High Commissioner for Human Rights (OHCHR) indicates that "reports of harassment or surveillance of human rights defenders and victims of human rights violations increased during 2019"; beginning from October 2019 and continuing after the presidential election, over a dozen organizations working on "accountability and disappearance issues" reported visits from individuals claiming to be security service agents and seeking "administrative details" including "lists of staff, funding and external travel" (UN 26 Feb. 2020, para. 32). Other sources also indicate that since Gotabaya Rajapaksa took office, families of victims of enforced disappearances have faced "increased surveillance, harassment and intimidation" (Jaffna-based human rights think tank 2 Aug. 2020) or "intensified surveillance and threats" (HRW 16 Feb. 2020). An INFORM report on the situation of government critics covering the period from 1 to 31 May 2020 states that Jaffna university students, who organized war remembrance events, were subjected to "surveillance, intimidation and threats" and the police recorded the names of participants and warned them of possible arrest (INFORM June 2020, 13).

The OHCHR states that since the presidential election, several journalists have been summoned, arrested, and detained by the Criminal Investigation Department (CID) or had their office searched (UN 26 Feb. 2020, para. 32). Sources indicate that the director (Tamil Guardian 25 Nov. 2019) or editor (RSF 3 Dec. 2019) of *Thinappuyal*, a Vavuniya-based Tamil newspaper, was questioned by plain-clothes police officers about LTTE-related coverage (Tamil Guardian 25 Nov. 2019; RSF 3 Dec. 2019). The same sources further report that the police requested the personal information of reporters (Tamil Guardian 25 Nov. 2019; RSF 3 Dec. 2019).

2.4 Treatment Related to the Outbreak of COVID-19

A joint oral statement by six human rights organizations, including Amnesty International, HRW and MRG, states that the COVID-19 pandemic has been "exploited by the Sri Lankan government to impose restrictions on the rights to freedom of expression, association and peaceful assembly" (Amnesty International, et al. 10 July 2020). The Jaffna-based human rights think tank stated that the administration's response to COVID-19 has included measures which have "further entrenched militarisation in primarily Tamil areas and significantly curtailed freedom of expression and assembly" (Jaffna-based human rights think tank 2 Aug. 2020). A letter from the Sri Lankan Director General of Health Services states that "some people are subjected to quarantine unnecessarily and/or subjected to quarantine for [an] extended period of time without any rationale behind [it]" (Sri Lanka 8 Apr. 2020). The Adjunct Assistant Professor indicated that much of the COVID-19 enforcement has been conducted by the military, "all of whom are veterans of the civil war," and that Tamils "suffer disproportionate action from police and military authorities, as has been the case for decades" (Adjunct Assistant Professor 23 July 2020). A joint statement by 16 civil society organizations and 59 individuals indicates that as the three task forces appointed by the President to respond to COVID-19 are composed "almost entirely" of Sinhalese, it is "likely" that the interests of Tamils and Muslims communities will be "neglected" (Law & Society Trust, et al. 15 June 2020). Sources report that General Shavendra Silva, who has been accused of war crimes, leads the government's response to COVID-19 (HRW 3 Apr. 2020; PEARL 13 Aug. 2020). INFORM states the following:

While events organized by Tamils in [the] North and East were severely restricted citing [the] COVID19 situation, the protests organized in Colombo and other areas in general did not face such repression except a protest organized by opposition politicians. (INFORM June 2020, 8)

2.5 Recourse Available

The UK Home Office FFM report, asking whether the police would protect a Tamil person being threatened or reporting a crime, quotes the TNA as responding: "[n]ot always. It would depend on the circumstances if the offenders are influential people, then no" (UK 20 Jan. 2020, 44). Australia's DFAT states that "[n]o legal mechanism exists to initiate independent investigations for state violence, including extrajudicial killings" (Australia 4 Nov. 2019, para. 4.3). The Adjunct Assistant Professor indicated that following the presidential election, Gotabaya Rajapaksa demoted or suspended several CID investigators, including the Director, which has had a "chilling effect on anyone who wants to investigate human rights abuses" (Adjunct Assistant Professor 23 July 2020).

Sources indicate that a CID director, who was investigating the abduction, torture and killing of journalists and others by security forces, was demoted shortly after the election of Gotabaya Rajapaksa and suspended from duty in January 2020 (Tamil Guardian 7 Jan. 2020; AP 8 Jan. 2020). HRW indicates that a lawyer, who represents families of victims of enforced disappearance in which senior military commanders were implicated, was threatened through social media, including physical and sexual violence, but the police have not acted on her complaints (HRW 29 July 2020).

Sources indicated that there is "no reliable system to hold government authorities accountable" (Adjunct Assistant Professor 23 July 2020) or "no avenues for recourse for Tamils for violations of human rights" (PEARL 13 Aug. 2020), citing the fact that in March 2020, Gotabaya Rajapaksa pardoned a military officer convicted of murdering Tamil civilians in 2000 (Adjunct Assistant Professor 23 July 2020; PEARL 13 Aug. 2020). Sources indicate that the pardoned military officer was convicted in 2015 of murdering Tamil civilians, including children, by slitting their throats during the war (Adjunct Assistant Professor 23 July 2020; Al Jazeera 26 Mar. 2020). The PEARL representative indicated that in January 2020, Gotabaya Rajapaksa appointed two commissions to investigate "political victimisation" between 2015 and 2019, furthering his "aggressive campaign" against those who went after corruption and other crimes under the previous administration (PEARL 13 Aug. 2020).

Sources indicate that the Human Rights Commission of Sri Lanka (HRCSL) has the jurisdiction to investigate human rights violations (Australia 4 Nov. 2019, para. 2.54; US 11 Mar. 2020, 19). Sources state that the HRCSL operates independently (UN 26 Feb. 2020, 8; US 11 Mar. 2020, 19; Australia 4 Nov. 2019, para. 2.55). Sources report that the lack of resources hinders the HRCSL's ability to respond in a timely manner (Australia 4 Nov. 2019, para. 2.55; UN 14 Dec. 2018, para. 21). Australia's DFAT indicates that access to the HRCSL may be "limited by linguistic barriers and a lack of resources" (Australia 4 Nov. 2019, para. 5.1). The Jaffna-based human rights think tank indicated that while the HRCSL gained "a bit more independence" under the previous government, civil society is losing confidence in the commission after one of the commissioners, "key" to advancing Tamil-related issues, left the commission (Jaffna-based human rights think tank 2 Aug. 2020). Sources indicate that Ambika Satkunanathan, [the only Tamil member of the HRCSL (Tamil Guardian 5 Aug. 2020)], resigned from the HRCSL in 2020 (Tamil Guardian 5 Aug. 2020; Colombo Gazette 7 Mar. 2020). The Jaffna-based human rights think tank further stated that "[e]ven when operating at its best," the HRCSL was "unable to address issues concerning the Sri Lankan security forces" (Jaffna-based human rights think tank 2 Aug. 2020).

Sources indicate that complaints of human rights violations can be filed with [domestic courts, including (US 11 Mar. 2020, 10)] the Supreme Court (US 11 Mar. 2020, 10; Australia 4 Nov. 2019, para. 4.27). Australia's DFAT states that the Supreme Court can be difficult to access as it is located in Colombo and legal costs can be "prohibitive" and that decisions can take "many years" (Australia 4 Nov. 2019, para. 4.27).

3. Treatment of Tamil Citizens who Are Suspected Members or Supporters of the LTTE

Australia's DFAT, citing Sri Lankan government statistics, indicates that as of March 2019, 12,191 former LTTE members completed rehabilitation (Australia 4 Nov. 2019, para. 3.62). The UK Home Office FFM report, citing a representative of the Commissioner General of Rehabilitation, states that rehabilitation involves "psychological treatment, education and therapies" (UK 20 Jan. 2020, para. 3.3.2). The same source reports that the last rehabilitee was reintegrated in August 2019 (UK 20 Jan. 2020, 43). The 2018 UN Special Rapporteur's report indicates that the rehabilitation program was "presented as amnesty in lieu of prosecution," but in some cases, individuals were placed under detention under the Prevention of Terrorism Act (PTA) [see section 3.1 of this Response], then sent to rehabilitation and back to detention, leaving them in detention for "years on end" (UN 14 Dec. 2018, para. 58).

Australia's DFAT indicates that the "Sri Lankan Government acknowledges that former LTTE members and their families may continue to face discrimination both within their communities and from government officials" (Australia 4 Nov. 2019, para. 3.83). The UK Home Office FFM report, citing a representative of an NGO, indicates that former LTTE cadres, especially former female members, face discrimination within the Tamil community because of "their past" and the possibility that they are under surveillance (UK 20 Jan. 2020, 50). The same report, citing a representative of the Northern province community, states that there is "no rejection per se, but the ordinary man does not want to be seen affiliating with a former cadre due to ongoing scrutiny" (UK 20 Jan. 2020, 53).

Australia's DFAT reports that former LTTE members do not encounter "legal barriers" in participating in public life, including in politics (Australia 4 Nov. 2019, para. 3.58). The same source indicates that the Crusaders for Democracy party was established by former LTTE combatants and ran candidates in the August 2015 parliamentary election (Australia 4 Nov. 2019, para. 3.58). The UK Home Office FFM report, citing the Secretariat for Coordinating Reconciliation Mechanisms (SCRM), an "executive agency under the office of the Prime Minister," states that some former LTTE leaders have become parliamentarians (UK 20 Jan. 2020, 34).

Australia's DFAT states the following:

Some Tamils with imputed LTTE links (including those who fought for the LTTE or were part of its civilian administration) continue to report police monitoring and harassment. Multiple sources in the north told DFAT that former LTTE members, including those considered low-profile, are monitored to guard against the LTTE's re-emergence, although monitoring today is less extensive and takes a more subtle form. A source that DFAT considers credible claimed the extent of monitoring depends on one's former seniority within the LTTE; ongoing involvement with politically-sensitive issues, including protests relating to disappeared persons; and links to the Tamil diaspora, particularly elements of the diaspora considered radical by the Sri Lankan Government. Former LTTE members that fit this profile are more likely to be monitored by the authorities. In contrast, those who maintain a low-profile are considered less vulnerable to monitoring. (Australia 4 Nov. 2019, para. 3.75)

The same report, citing local sources, indicates that monitoring, usually conducted by undercover police officers or intelligence agents, employed "subtle methods," such as "non-violent" questioning in a public setting or by telephone (Australia 4 Nov. 2019, para. 3.76). The UK Home Office FFM report, citing a representative from the northern province community, states that the intelligence service continued to conduct surveillance and visit the homes of former LTTE cadres; the authorities have become "more polite and non-threatening" during home visits since 2015, but there has been "increasing intimidation" since the SLPP won the local elections in February 2018 (UK 20 Jan. 2020, para. 3.2.5). The Jaffna-based human rights think tank indicated that the arrests of former LTTE combatants have "significantly increased" through "'search' operations" since Gotabaya Rajapaksa came to power (Jaffna-based human rights think tank 2 Aug. 2020). The same source cited Tamil newspaper *Thinnakkural* as reporting that "at least" 34 former LTTE combatants have been arrested under charges for "possession of illegal weapons, drugs, participation in gangs, or alleged regrouping of the LTTE" (Jaffna-based human rights think tank 2 Aug. 2020).

Australia's DFAT states that close relatives of high-profile former LTTE members who are wanted may be monitored (Australia 4 Nov. 2019, para. 3.83). The UK Home Office FFM report, citing the representative of an NGO, indicates that relatives of former LTTE cadres may be under "some surveillance" and rehabilitated LTTE members have to "routinely report to the military" (UK 20 Jan. 2020, 50).

Australia's DFAT indicates that the LTTE has been "comprehensively defeated," but the authorities "remain sensitive to its potential re-emergence" (Australia 4 Nov. 2019, para. 3.57). The Adjunct Assistant Professor stated that

[t]here is not significant LTTE activity in Sri Lanka, except in the rhetoric of Sinhala nationalist politicians, who maintain the specter of the LTTE as a sort of bogeyman to justify the massive police state and army, to make Sinhalese fearful of others, and to render all Tamils as 'outsiders' to their vision of a pure Sinhala Buddhist nation-state. (Adjunct Assistant Professor 23 July 2020)

The Jaffna-based human rights think tank similarly indicated that the state uses the "spectre of the LTTE to harass and intimidate Tamil activists critical of the state, and contribute to securitization of the Tamil population" (Jaffna-based human rights think tank 2 Aug. 2020).

A December 2019 article by Sri Lanka's Ministry of Defence quotes Kamal Gunaratne, Sri Lanka's Defence Secretary, as stating that the intelligence agencies have a "vital role to play" in monitoring the LTTE, which is trying to re-emerge (Sri Lanka 12 Dec. 2019). Sources indicate that security forces arrested at least twenty-two individuals, including a seventeen-year-old, for attempting to reform the LTTE (Tamil Guardian 1 July 2020; *The Sunday Times* 30 June 2020). The *Sunday Times*, a Sri Lanka-based weekly newspaper (Verité Research and RSF n.d.), citing a senior official from the HRCSL, indicates that as of 30 June 2020, the arrested persons have not been presented before a court (*The Sunday Times* 30 June 2020). According to the Tamil Guardian, one of those arrested participated in protests to demand the whereabouts of his brother, who was forcibly disappeared (Tamil Guardian 1 July 2020). The Jaffna-based human rights think tank cited complaints received by the HRCSL in June 2020 as indicating that some individuals arrested in Jaffna and Kilinochchi were sent to Colombo for questioning (Jaffna-based human rights think tank 2 Aug. 2020). The same source further indicated that there is "systemic torture" of former LTTE combatants sent to Colombo for questioning (Jaffna-based human rights think tank 2 Aug. 2020).

3.1 PTA

Freedom House indicates that the PTA has been used to detain "perceived enemies of the government, particularly Tamils" (Freedom House 4 Mar. 2020). The 2018 UN Special Rapporteur's report, citing Sri Lankan police statistics, states that there is a ratio of three Tamils to one non-Tamil detained under the PTA (UN 14 Dec. 2018, 16). Australia's DFAT reports that the PTA was mainly used against individuals who were suspected of being involved in the LTTE (Australia 4 Nov. 2019, para. 3.16). The UN Special Rapporteur states that the definition of terrorist acts contained in the PTA is

"overly broad and vague" and has "allowed the authorities to subject any person suspected of association, even indirect association, with the [LTTE], to arrest, detention, interrogation and lower standards of due process and fair trial guarantees" (UN 14 Dec. 2018, para. 12).

Article 2(1) of the *Prevention of Terrorism (Temporary Provisions) Act, No.48 of 1979* [PTA] provides the following:

Any person who

1. causes the death of any specified person, or kidnaps or abducts a specified person, or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or
2. causes the death of any person who is a witness to any offence under this Act, or kidnaps or abducts or commits any other attack upon any such person, which act would, under the provisions of the Penal Code, be punishable with death or a term of imprisonment of not less than seven years; or
3. commits criminal intimidation of any specified person or a witness referred to in paragraph (b); or
4. commits the offence of robbery of the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society; or
5. commits the offence of mischief to the property of the Government, any department, statutory board, public corporation, bank, co-operative union or co-operative society or to any other public property; or
6. without lawful authority imports, manufactures or collects any firearms, offensive weapons, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or
7. possesses without lawful authority, within any security area, any firearms or any offensive weapon, ammunition or explosives or any article or thing used, or intended to be used, in the manufacture of explosives; or
8. by words either spoken or intended to be read or by signs or by visible representations or otherwise causes or intends to cause commission of acts of violence or religious, racial or communal disharmony or feelings of ill-will or hostility between different communities or racial or religious groups; or
9. without lawful authority erases, mutilates, defaces or otherwise interferes with any words, inscriptions, or lettering appearing on any board or other fixture on, upon or adjacent to, any highway, street, road or any other public place; or
10. harbours, conceals or in any other manner prevents, hinders or interferes with the apprehension of, a proclaimed person or any other person, knowing or having reason to believe that such person has committed an offence under this Act,

shall be guilty of an offence under this Act. (Sri Lanka 1979)

Sources state that the PTA allows detention for up to eighteen months without charge, but in practice many have been held for longer (US 11 Mar. 2020, 6; Freedom House 4 Mar. 2020). The 2018 UN Special Rapporteur's report, citing his visits with detainees and detention centres, describes the length of detention for a "significant number" of individuals held under the PTA "ran into double figures in terms of year" (UN 14 Dec. 2018, para. 15). The same source, citing 2016 statistics provided by the Sri Lankan Attorney General's office, indicates that

the Attorney General had almost inevitably refused to grant consent to bail applications. As a result, individuals with various real or imputed links or association with the [LTTE] have been detained for years without charge or trial, without any judicial review of their detention, and with almost no possibility of release. (UN 14 Dec. 2018, para. 15)

US *Country Reports 2019* indicates that Tamil prisoners, including former LTTE members and civil society groups, took part in hunger strikes to protest the prisoners' extended detention; many have been held without charge under the PTA (US 11 Mar. 2020, 8).

The 2018 UN Special Rapporteur's report indicates that the "use of torture has been, and remains today, endemic and systematic for those arrested and detained on national security grounds under the Prevention of Terrorism Act" (UN 14 Dec. 2018, para. 24). A senior judge responsible for PTA cases, interviewed by HRW, indicates that in July 2017, he excluded evidence obtained by confession in over 90 percent of the cases heard in 2017 because it was obtained "through the use or threat of force" (HRW 29 Jan. 2018).

Australia's DFAT further states that the PTA was "effectively suspended" between 2016 and April 2019, and only "used sporadically" on five occasions from 2018 to April 2019, following a commitment to repeal and replace the PTA by the government; however, it was used to detain individuals allegedly involved in the 2019 Easter attack (Australia 4 Nov. 2019, para. 3.17-3.18). Sources indicate that the replacement law was not passed, and the Gotabaya Rajapaksa government kept the PTA in force (HRW 10 Jan. 2020; UN 26 Feb. 2020, para. 27).

4. Treatment of Non-Tamil Supporters of the LTTE by the Government

The Adjunct Assistant Professor indicated that "nearly all supporters of the LTTE are Tamils," and there may be "only a very few" non-Tamil LTTE supporters (Adjunct Assistant Professor 23 July 2020). The same source added that the LTTE "alienated" many non-Tamils, such as Muslims in the North and East with the forced expulsion of Muslims from Jaffna in the 1990s (Adjunct Assistant Professor 23 July 2020). The UN's Integrated Regional Information Networks (IRIN) similarly reported that the LTTE announced on 29 October 1990 that Muslims in Jaffna had 24 hours to leave or they would face "forced expulsion or death" (UN 21 Jan. 2013).

The Adjunct Assistant Professor stated that the label of LTTE supporter continues to be used as a smear against government critics, but it is "now less likely" to be used against non-Tamils; in the 1980s and 1990s, it was used against Sinhala leftists, but now it is "only" applied to Tamil government critics (Adjunct Assistant Professor 23 July 2020). The same source further indicated that the government would say that the opposition is allowing the LTTE to re-emerge, or claim that they are "weak on 'combating terrorism' or 'abandoning the Sinhala Buddhist homeland'," which is "not quite the same as saying that they are supporters" (Adjunct Assistant Professor 23 July 2020).

The Press Trust of India (PTI), an Indian news agency, indicates that Vijeyakala Maheswaran, a former State Minister of Child Affairs from the North and a member of the United National Party (UNP), the ruling party under the administration of Ramil Wickremesinghe, stated that anyone who raise Tamil issues are "branded as an LTTE sympathiser" (PTI 8 July 2018). PTI indicates that Maheswaran resigned following remarks made in public that due to rising crime, people in the North were wishing for the LTTE's return, which she later said was taken out of context (PTI 8 July 2018). Sources indicate that a Sinhalese chairperson of the International Human Rights Association – Bremen (IMRV), a Germany-based refugee rights group (JDS 2 Aug. 2019), which supports Tamil causes, was added to a "terrorist" list in a Sri Lankan government gazette notification [on 23 May 2019 (JDS 2 Aug. 2019)] (Tamil Guardian 26 July 2019; JDS 2 Aug. 2019).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The EU Election Observation Mission (EOM) report indicates that the Tamil National Alliance (TNA) is the "most important" political bloc of parties representing Tamil voters (EU Jan. 2020, 41).

[2] The People's Land Commission is composed of 11 individuals including activists, academics, researchers and lawyers (People's Land Commission and PARL [2020], 17).

[3] The People's Alliance for Right to Land (PARL) is a "network of civil society actors advocating for housing, land and property rights for poor and marginalised communities in Sri Lanka" (People's Land Commission and PARL [2020], 17).

[4] Freedom House indicates that on the Easter Sunday of 2019, three Christian churches and three hotels were targeted by Sri Lankan suicide bombers with ties to the Islamic State, resulting in 269 casualties (Freedom House 4 Mar. 2020).

[5] The Centre for International Security and Cooperation, a research centre at Stanford University, indicates that the Tamil Eelam Liberation Organization (TELO) is a "militant organization" that fought for an independent homeland for Sri Lankan Tamils (Stanford University June 2018). The same source indicates that the TELO transitioned from a military organization to a political party in 1987 (Stanford University June 2018).

[6] Sources indicate that Kamal Gunaratne was the commander of the 53 Division of the Sri Lankan army, which is alleged to have committed war crimes (HRW 14 Jan. 2020; Tamil Guardian 20 Nov. 2019).

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ecoi.net summary:



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