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SRI LANKA'S ASSAULT ON DISSENT

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Cover photo: Police use water cannon on peaceful demonstrators protesting against rising fuel costs in Colombo, Sri Lanka, February 2012.
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I. INTRODUCTION

Dissent is a dangerous undertaking in Sri Lanka. Following the end of the armed conflict new forms of political and social activism are beginning to emerge but intolerance of criticism is still very much the modus operandi of Sri Lankan government officials. Mounting evidence that violations of international human rights and humanitarian law, in some instances amounting to war crimes and crimes against humanity, were committed by parties to Sri Lanka's protracted armed conflict has fuelled both domestic and international criticism of Sri Lanka's human rights record and calls for accountability. Sri Lankan officials and those working at their behest assault, jail, abduct and even kill those who challenge their authority; to avoid the legal and political consequences of their war-time actions, they attempt to silence those who could expose the truth.

During the armed conflict between Sri Lankan government forces and the Liberation Tigers of Tamil Eelam (LTTE) gross and large-scale violations of international human rights and humanitarian law were committed by both sides with impunity. In the final years of the conflict, which ended in May 2009 with Sri Lankan forces defeating the LTTE, there were credible allegations of war crimes and crimes against humanity having been committed by government forces and the LTTE. During the conflict both sides also used threats and violence to silence detractors. Thousands of Tamils were denied rations, services, or the permission to leave LTTE territory, charged fines, detained and killed by the LTTE as "traitors" for acts of perceived disloyalty.[1] For many years, government repression of dissent in Sri Lanka focused on silencing those who opposed the way the war was fought, particularly those who were critical of violations of international humanitarian law by the Sri Lankan forces. Members of the security forces and government-allied paramilitaries have arrested, threatened and killed critical journalists, and used intimidation and violence to silence witnesses to government violations.

One of the holdovers from Sri Lanka's armed conflict is a security regime that criminalizes freedom of expression,[2] and an official attitude that equates dissent with treason. Sri Lankan officials and state-owned media employ the term "traitor" with alarming frequency against detractors, often threatening death or injury to the person accused.[3] Threats and vicious smear campaigns have featured in state-owned media and media sympathetic to the government in advance of important international meetings where Sri Lanka's human rights record has been discussed, and state intelligence services have increased scrutiny of local activists, attacking what it calls the "internationalization" of post war accountability, by which it means discussion and debate of Sri Lanka's human rights record at the UN and in other international meetings and calls for an independent international investigation of alleged war crimes and crimes against humanity in Sri Lanka.[4]

If anything, Sri Lankan officials are now intensifying their efforts to eradicate dissent, striking out against prominent national institutions, including the judiciary, and public figures who express opposition to government policies and practices. In January 2013, after months of increasing tension between the executive and the judiciary which had made a number of rulings in favour of victims of human rights violations and against pet projects of the government, the Chief Justice was impeached and removed from office sparking widespread

protests by lawyers (see section III). There has been deepening surveillance and intimidation of dissenting lawyers and a broad range of lesser-known community-level activists, and the blocking of websites and discouragement of public discussion of issues the authorities view as "controversial."

Advocates for the human rights of women and minorities (including Tamils and Muslims), student leaders and university lecturers, clergy, trade unionists and other advocates for workers' rights, political party activists, judges and lawyers, and journalists, as well as the staff of Sri Lankan policy and human rights organizations have been subjected to intimidation, vilification, and physical attacks for their comments or actions deemed critical of the government. Aid workers providing care and support to victims of the armed conflict or collecting data on their experiences risk retaliation for their work.

Pressure on critics was acute in early 2012 as the UN Human Rights Council (HRC) negotiated and then adopted Resolution 19/2 calling on Sri Lanka to ensure accountability for alleged violations under international law.[5] Participants in UN meetings and Sri Lankan journalists covering the events were verbally attacked repeatedly in Sri Lankan government media and even physically threatened.[6] A similar intensification of pressure began in the lead-up to the 22nd Session of the HRC which adopted follow-up Resolution 22/1 on Sri Lanka on 21 March 2013.[7] Sri Lankans with a track record of international advocacy again found themselves the targets of vilification, rumour campaigns and slurs. On 21 January 2013, the Sri Lanka-based Centre for Policy Alternatives (CPA) condemned a disinformation campaign against one of its senior researchers, which it said was "active over various online fora including blogs, Facebook and Twitter as well as via email."[8] It noted that "such attempts to vilify the institution and its staff are not new. In pursuing its organisational mandate within a charged context, CPA is likely to face repeated attempts to broadcast spurious allegations."

In Sri Lanka's north and east, where much of the armed conflict played out and where large concentrations of Tamils live, the army remains vigilant against even minor acts of dissent. Human rights defenders there report heavy police surveillance and repeated interrogation about their activities, international contacts and donors. Many victims of this new repression are not prominent activists engaged in advocacy at the international level, but local community workers providing assistance to people struggling to recover from decades of armed conflict.

Journalists continue to suffer intimidation, threats, and attacks for critical reporting; since 2006, at least 15 have been killed (according to media freedom groups, nine of the killings can be definitively identified as a direct consequence of the journalist's reporting) and more than 25 have fled the country since 2001.[9] Access from within Sri Lanka to *Tamilnet*, a news website that has often taken a pro-LTTE stance, has been blocked since June 2007; in 2011 the government blocked Sri Lankan access to five other websites which had been publishing content critical of the authorities.[10]

Since then Amnesty International has received reports that websites with articles criticizing the government have been plagued by repeated "denial of service" attacks; their offices have been raided by police and burned by unknown arsonists; their staff have been assaulted, arrested and some have felt they had no choice but to flee the country. When such measures

failed to silence them, the state imposed new regulations aimed at closing websites with news content unacceptable to the authorities.[11] There have been, in the course of the conflict and its aftermath, many instances of official censorship of reporting, but the years of repression have also led many journalists to self-censor. According to Swami Natharajan of the BBC, threats and denial of access to places and information has resulted in the media not reporting certain events. In interviews with 20 Sri Lankan journalists, Natharajan was told by 12 journalists that their safety had not improved since the war.[12]

Opposition political activists and less prominent community activists organizing locally have reportedly been subjected to threats and intimidation, physical attacks, arrest, repeated interrogations and enforced disappearance.[13] Such attacks have been carried out with impunity: there have been no effective investigations and no prosecution of suspected perpetrators.

International criticism of Sri Lanka's human rights record has intensified with the emergence of credible allegations that senior Sri Lankan officials committed crimes under international law during the latter stages of the conflict.[14] Meanwhile, since 2011, significant popular protests have erupted in Sri Lanka over alleged abuses of official power, the spiralling cost of living, and persistent militarization in areas of the north and east with large Tamil populations.[15] In the four years since the end of the conflict a volatile situation has built up as popular demands for reform are met with continued repression of critical voices and further demands for reform have been met by further repression.

For decades Sri Lanka attempted to justify its heavy-handed treatment of critics in terms of national security, then, as it faced growing challenges to its human rights record internationally, by denying that it was suppressing dissent at all — just as it also denied that its forces were responsible for any of the violations of human rights and humanitarian law many of its critics were trying to expose. Amnesty International believes such denials must be brought to an end; both Sri Lanka, and the international community must ensure that human rights defenders and others raising dissenting voices are protected, and that there is finally accountability for the war-time atrocities Sri Lanka has tried so hard to hide.

Amnesty International continues to call on the Government of Sri Lanka to bring an end to attacks, including harassment, threats, detention and killings, of journalists, lawyers, human rights defenders, civil society activists and others for exercising their right to freedom of expression, and to ensure that all cases of such attacks on individuals, irrespective of the identity of perpetrators or victims, are immediately and credibly investigated.

Amnesty International stresses the urgent need for the UN and the Commonwealth to take further action to ensure that significant progress is made towards holding Sri Lanka genuinely accountable for alleged violations of international human rights and humanitarian law before the UN HRC meets in September 2013 and the Commonwealth Heads of Government meet in November 2013. Such action includes the UN's responsibility, following the 2011 report of the UN Secretary General's Panel of Experts on Accountability in Sri Lanka,[16] to make a start without any further delay, and regardless of any efforts by Sri Lanka itself in this regard, on investigating allegations of crimes under international law committed in the closing months of the conflict. All investigations should be conducted independently and in accordance with international standards and where sufficient admissible evidence is found,

should lead to the criminal prosecution of individuals found responsible in full conformity with international standards of fair trial.

METHODOLOGY

This report is based on interviews with witnesses, lawyers and activists; legal affidavits; court records; reports by Sri Lankan, UN and international human rights organizations, and Sri Lankan and international media reports.

The Sri Lankan government's active suppression of dissent in Sri Lanka and its hostility towards human rights monitors often makes it difficult for international human rights organizations to reach out to victims of repression and their families, who risk retaliation for even communicating with international organizations. The danger may be greatest in Sri Lanka's north and east, where activists enjoy little national level or international visibility, and where many of the most recent incidents of intimidation have occurred. Because of the possibility of reprisals, in several cases Amnesty International has withheld identifying information, which may include names of victims or witnesses, place names and organizational affiliations and dates or methods of communication.

The findings of this report complement numerous other reports on the topic of repression of dissent in Sri Lanka by domestic and international organizations, including (among others) Networking for Rights in Sri Lanka (NfR), INFORM Human Rights Documentation Centre, Sri Lanka and the Free Media Movement, Sri Lanka (FMM);[17] Committee to Protect Journalists, Human Rights Watch, International Commission of Jurists, the International Freedom of Expression Exchange, (IFEX), and International Crisis Group.[18]

THE RIGHT TO FREEDOM OF EXPRESSION, PEACEFUL ASSEMBLY AND ASSOCIATION IN SRI LANKA

International human rights law guarantees the rights to freedom of opinion and expression, peaceful assembly, and freedom of association. These rights are set out in the Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, as well as in the International Covenant on Civil and Political Rights (ICCPR), to which Sri Lanka became a state party in 1980, thereby undertaking a legally binding obligation to respect and ensure the rights set out in that treaty. As a member of the Commonwealth, Sri Lanka has also committed to implement fully the rights and freedoms set out in the UDHR and human rights treaties to which it is a party.[19]

Article 19 of the UDHR states: "Everyone has the right to freedom of opinion and expression; this right includes the right to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers." These rights are set out in Article 19 of the ICCPR which states:

> 1. Everyone shall have the right to hold opinions without interference.
>
> 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

The right to freedom of expression includes the right to receive information and ideas as well as to express and impart them. The UN Human Rights Committee, which oversees state implementation of the ICCPR, has stressed that in particular the free communication of information and ideas about public and political issues is essential, and that this implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion, and the public has a corresponding right to receive media output.[20]

Article 20 of the UDHR states that "Everyone has the right to freedom of peaceful assembly and association." These rights are set out in Article 21 of the ICCPR which guarantees the right of peaceful assembly and Article 22 states that "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."

Each of these articles of the ICCPR makes clear that while states may place certain restrictions on the exercise of these rights, any such restrictions must meet all three of the following criteria:

1. they must be provided by law, which means that the law must be accessible and formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly;

2. they must only be for one of the legitimate purposes set out in the ICCPR – that is, the protection of certain public interests (national security or public safety, public order (*ordre public*), public health or morals) or the rights and freedoms of others; and

3. they must be necessary to secure that aim, which means that they must be the least intrusive means of achieving it and must conform to the principle of proportionality.

If a state imposes any such restrictions, it must demonstrate the precise nature of the threat, and the necessity and the proportionality of the specific action taken, in particular by establishing a direct and immediate connection between the expression and the threat. Moreover, any such restrictions must also not put in jeopardy the right itself.[21]

This means that it is not permissible under international human rights law to impose restrictions preventing the expression of opinions or the provision of information simply because it is deemed to undermine the implementation of government policy, harms it politically or puts it in a negative light. Specifically, national security reasons cannot be a justification for imposing sweeping vague restrictions. In times of armed conflict, therefore, governments cannot place a blanket prohibition on the publication of security-related information.

International human rights law does recognize that during a time of emergency which threatens the life of the nation, which could sometimes include some areas under armed conflict and which is officially proclaimed, states may need to take measures derogating from certain of their human rights obligations to the extent which is strictly required by the exigencies of the situation. This recognition is set out in Article 4 of the ICCPR, which makes clear, however, that any such derogation must remain within strictly defined parameters and

places a number of conditions, both substantive and procedural, on the imposition of emergency derogations. It states that derogations may only be to the extent strictly required, must not be inconsistent with the state's other obligations under international law, and must never be applied on a discriminatory basis, and that no derogation is possible from certain key rights, including the right to life, the prohibition of torture and other ill-treatment and of slavery or servitude, the right not to be tried or sentenced for something which was not a crime at the time of commission, the right to recognition as a person before the law, and the right to freedom of thought, conscience and religion. Any such derogation must also be notified, via the UN Secretary-General, to the other states parties to the ICCPR. The Human Rights Committee has stressed that any derogation must be of an exceptional and temporary nature and must be proportional to requirements of the situation, and that this applies not only to the derogation itself but to the specific measures taken under it.[22]

In its observations on Sri Lanka's fourth periodic report on the ICCPR,[23] the UN Human Rights Committee said the government "should take appropriate steps to prevent all cases of harassment of media personnel and journalists and ensure that such cases are investigated promptly, thoroughly and impartially, and that those found responsible are prosecuted."[24] Sri Lanka's fifth periodic report, which was due in November 2007 and finally submitted on 29 October 2012 referred to the Committee's 2003 recommendation, claiming that it "remains committed to taking necessary steps to ensuring safety of media personnel and institutions and are also pursuing investigation into the current cases on alleged attacks on media personnel and institutions."[25] In the same report it stated that "The full gamut of constitutional guarantees, including effective remedies, are available to individuals or groups who wish to canvass for the rights of media personnel."[26]

But Sri Lanka's domestic laws are not fully in line with international human rights standards. Article 14 of Sri Lanka's Constitution guarantees the rights to freedom of speech and expression including publication; freedom of peaceful assembly and freedom of association. But the Constitution allows for restriction of all these rights on much broader grounds than those permitted under international human rights law. Restrictions on all three rights can be prescribed by law "in the interests of racial and religious harmony." Freedom of expression can also be limited "in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence," and freedom of association can be restricted by law "in the interests of... [the] national economy."[27]

The Sri Lankan Constitution also allows restrictions on these and other rights (those recognized by Article 12 (guaranteeing the right to equality before the law and freedom from discrimination); and Article 13(1) and 13(2) (freedom from arbitrary arrest and detention), to be "prescribed by law in the interests of national security, public order and the protection of public health or morality, or for the purpose of securing due recognition and respect for the rights and freedoms of others, or of meeting the just requirements of the general welfare of a democratic society."[28]

In this connection, the Constitution specifically notes that "for the purposes of this paragraph "law" includes regulations made under the law for the time being relating to public security" – which would include, for example, the Prevention of Terrorism Act of 1979 (PTA), and emergency regulations issued from time to time over many years which restricted freedom of expression and assembly.[29] The PTA contains broad restrictions on freedom of expression,

including forbidding expression (speech as well as written publication) that "is likely to cause religious, racial or communal disharmony or feeling of ill-will or hostility between different communities or racial or religious groups." It also forbids printing or publication of any information related to the investigation into or commission of any offence under the PTA without written approval of a competent authority.[30]

Sri Lanka has no law guaranteeing the right to information, despite a Supreme Court ruling in 2004 that denial of access to official information amounted to an infringement of the Constitutional right to freedom of speech and expression.[31] The Human Rights Committee has also stressed that under international law the right to freedom of expression embraces a right of access to information held by public bodies and that states should enact procedures for gaining access to information such as by means of freedom of information legislation.[32] In 2011, opposition lawmakers from the United National Party (UNP) proposed a "Right to Information Act" but it was voted down by the government majority in Parliament. In July 2012, Charitha Herath, Secretary to the Ministry of Media and Information told delegates to a South Asian Association for Regional Cooperation (SAARC) meeting in Colombo that the government would not introduce legislation guaranteeing a right to information, citing national security concerns.[33]

As described in this report, Sri Lanka is failing to comply with its international obligations to respect and protect the rights to freedom of expression, peaceful assembly and association, as well as other rights. Civil society activists and others who have expressed dissent from the policies and practices of the government, who have spoken up in the defence of human rights, or who have been reporting on events in ways which the authorities deem to be critical, have been subjected to threats, harassment and intimidation, arbitrary detention, enforced disappearance, torture and other ill-treatment, and in some cases have been killed; some have fled the country for their own protection and now live abroad. The authorities have also undermined the independence of the judiciary by means of public criticism of judges and judicial institutions, and in some instances threats and intimidation. They have demanded the removal of judges who have made rulings not favourable to the executive.

II. ELIMINATING WAR'S WITNESSES (2006-2009)

Armed conflict between the Sri Lankan government and the LTTE, which sought a separate state for the country's ethnic Tamil minority in the north and east of the island, began in 1983. In February 2002 the Sri Lankan government and the LTTE agreed to a ceasefire, which lasted four years, but hostilities erupted again in 2006, culminating in the Sri Lankan army's defeat of the LTTE in May 2009. Since then, international attention to abuses committed during the conflict has focused largely on the period between September 2008 (when international humanitarian organizations were ejected from the conflict zone and thus prevented from acting as witnesses to the final offensive) to 18 May 2009 when the Sri Lankan government declared victory over the LTTE. But since the earliest days of the armed conflict, parties to the conflict were accused by victims, witnesses and their families of gross human rights abuses and violations of international humanitarian law, including attacks on civilians; indiscriminate attacks failing to distinguish between military objectives and civilians; unlawful killings, including extrajudicial executions; abductions and enforced disappearances; and torture of prisoners. The LTTE had also long been accused of using civilians as human shields and recruiting and deploying child soldiers. With a very few exceptions, perpetrators have not been brought to justice for these crimes.

Sri Lankan President Mahinda Rajapaksa was elected in November 2005, promising to end the country's decades-long armed conflict and he did so – but using methods which involved such extensive abuses against civilians and surrendering combatants that Sri Lanka has been accused of war crimes and crimes against humanity. Alongside its military campaign, the Sri Lankan government imposed tight restrictions on reporting of the conflict and blocked access to conflict-affected areas by journalists and aid workers. By December 2005 a cease-fire in place since February 2002 was foundering. The LTTE had resumed attacks on army personnel, killing 17 soldiers in claymore mine attacks in the course of less than one week in early December.[34] It also continued its campaign to eradicate Tamil opponents including Tamils who allied themselves with the Sri Lankan government or who criticized the LTTE.[35] Human rights violations by the security forces against Tamil civilians also resumed, as did attacks on witnesses to those violations, some of whom were killed. Full-scale hostilities had resumed by July 2006 and as its final military offensive against the LTTE took shape, first in eastern Sri Lanka and then in the Vanni region of the northern province, the Sri Lankan government imposed increasingly harsh methods to silence critics of the military's treatment of Tamil civilians – labelling them traitors, accusing them of allegiance to the LTTE.

THE KILLING OF THE "TRINCO FIVE"

On 2 January 2006, five Tamil students (Manoharan Ragihar, Yogarajah Hemachchandra Logitharajah Rohan, Thangathurai Sivanantha, and Shanmugarajah Gajendran), all around age 20, were killed execution style in Trincomalee, after a grenade was thrown at the students from a passing auto rickshaw. Another youth who survived the attack said the killers were members of the Special Task Force (STF), an elite police commando unit.[36] The security forces initially claimed the five had been killed by the grenade (which they alleged the students had been carrying), but photographic evidence showing gunshot wounds on the

bodies contradicted these claims and indicated that the five students had died from gunshot wounds – which was confirmed by a post-mortem. The victims had been shot in the head.[37] Photojournalist Subramaniyam Sugitharajah, who documented the murders, was killed on 24 January 2006 by an unidentified gunman soon after his newspaper published the photographs he took of the bodies of the five dead students.[38]

Family members of the victims were pressured to keep silent. Dr Kasipillai Manoharan, father of slain student Ragihar Manoharan (and the most vocal of the victims' family members), has told Amnesty International that when he testified before the Trincomalee Magistrate on 10 January 2006 at the preliminary inquest into his son's death,[39] he received anonymous phone calls saying he and his family would be killed because he had given evidence at the inquest, and the family's home was pelted with stones. According to Dr Manoharan, a Sinhalese police officer who attended a subsequent hearing called the witnesses "kottiyas" (tigers), meaning members of the LTTE.

After the Magisterial inquest, 11 STF members and two policemen were arrested under emergency regulations in February 2006 and detained for questioning, but they were released in mid-2006 after ballistics test on the bullets found on the victims' bodies found they did not match the suspects' authorized firearms.[40] The Sri Lankan human rights organization, University Teachers for Human Rights (Jaffna), reported that a witness said he had seen two naval officers arrive by motorbike carrying three guns, and that they gave one of them to the STF before the students were killed.[41]

In June 2006, the threats against Ragihar's family intensified. By this time, Dr Manoharan was the only family member of a victim willing to speak out and the threats appeared to be an attempt to force him to be silent. After one of his other sons, Sharhar, was threatened by two police officers who complained that Dr Manoharan was "flashing the whole matter at the international" and he himself was harassed at a police checkpoint, Dr Manoharan told Amnesty International the family decided to seek safety abroad. The investigation ultimately stalled: the suspects were released and witnesses fled the country and, according to Dr Manoharan, the case was closed.

In March 2008, Dr Manoharan testified before a Presidential Commission of Inquiry established in 2006 to look into 16 cases of "serious human rights violations." He testified via video conferencing from an undisclosed location outside Sri Lanka.[42] In his testimony he described the events above and offers that he said were made to him by the then Minister of Human Rights and Disaster Management, Mahinda Samarasinghe, of a house in Colombo and school admission for his surviving children, in return for his silence.[43]

The results of that Commission of Inquiry were never made public despite domestic and international calls for the reports to be published. The UN High Commissioner for Human Rights repeated this call in February 2013 in her report to the UN HRC on "advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability" adding that Sri Lanka should "accept international assistance to resolve outstanding cases."[44]

In Sri Lanka's 2012 national report for its second Universal Periodic Review, the Government of Sri Lanka informed the UN HRC that the killing of the five students had been referred to

the Attorney General to decide whether there was a *prima facie* case to launch prosecutions; the Attorney General reportedly advised the Inspector-General of Police to conduct further investigations.

THE KILLING OF 17 *ACTION CONTRE LA FAIM* AID WORKERS

On 6 August 2006 after a period of intense fighting between the LTTE and the Sri Lankan security forces for control of the town of Muttur in eastern Sri Lanka, the bodies of 15 aid workers with the French aid agency, Action Against Hunger (*Action contre la Faim* or ACF) were discovered lying face-down on the front lawn of ACF's Muttur office, with bullet wounds to the head and neck, indicating that they had been shot at close range, execution style.[45] The bodies of two more staff members were found on 8 August in a car nearby, suggesting they may have been killed while trying to escape. In all, 17 ACF staff members, four women and 13 men, were killed on 4 or 5 August 2006, shot by unidentified attackers, believed to be members of the Sri Lankan security forces.[46]

The killings were examined by the Presidential Commission mentioned above, but the Commission lacked sufficient independence and witness protection to be effective.[47] Its final report to President Mahinda Rajapaksa was never made public, but based on material leaked to the press by the Sri Lankan authorities after the Commission's mandate expired in 2009, it exonerated state forces and blamed the LTTE. Criminal investigations into the killings have gone nowhere, leading ACF's Paris headquarters to call for an independent international inquiry into the murders.

Families of the ACF workers who were killed have described heavy intimidation by members of the security forces trying to prevent them from speaking out about the case in testimony to the Presidential Commission of Inquiry and in communications with Sri Lankan human rights organizations and Amnesty International; and several eventually fled Sri Lanka. Ravi Shantha, the aunt of Ambigapathy Jayaseelan, a water and sanitation technician with ACF, reportedly told the Presidential Commission of Inquiry on 24 March 2008 that after her nephew's death she received threats from a group of unidentified men dressed in civilian clothes. "They warned us not to speak about this incident to anyone" she told the Commission. She said she had not even been allowed to see Jayaseelan's body before burial or to file a police report.[48] Jayaseelan's brother also testified before the Commission and subsequently fled the country.

Ponnuthurai Yogarajah lost two sons in 2006. His youngest son, Hemachandran, was one of the five students shot and killed in Trincomalee on 2 January 2006. Six months later, Hemachandran's elder brother, Kodeeswaran, who worked for ACF, had also been killed. Kodeeswaran reportedly received threatening phone calls after the death of Hemachandran. "The STF gave him many calls and he feared for his life and told me not to reveal anything in the courts, saying that they would shoot us." Ponnuthurai Yogarajah fled Sri Lanka after the death of his sons. In March 2008 he testified before the Commission using video conferencing from an undisclosed location outside Sri Lanka. "In the country of my birth I couldn't give an independent statement because I was intimidated. My children were afraid that I would be killed and, therefore, I couldn't give a statement freely. I wanted to make the same statement that I made here, but my children did not permit me to, as they were afraid for my life."[49]

Witnesses in the ACF case were even threatened while they were taking part in the Commission proceedings. In one case a witness was threatened by two police officers assigned to the Commission's Investigation Unit, highlighting how far the authorities were willing to go to bury the truth.[50]

JOURNALISTS TARGETED, INFORMATION RESTRICTED

As violence in Sri Lanka escalated in 2006, the government increased its efforts to restrict freedom of expression, increasing pressure on journalists, particularly Tamil journalists, and issuing guidelines for journalists requiring that all reporting related to "national security and defence" be submitted to the Defence Ministry's Media Centre for National Security before publication, telecast or broadcast.[51] The authorities also issues strong warnings against "rumour mongering" including via email and mobile phone messaging, which was increasingly relied on by residents to share security-related information In June 2006, the government threatened to arrest people under the emergency regulations for spreading false rumours after a rumour circulated by mobile phone that the LTTE planned to attack schools caused parents to keep their children home or pick them up early.[52]

In December 2006, Sri Lanka formally reinstituted the country's draconian PTA, which had been suspended during the ceasefire, and used it to arrest and detain perceived opponents. It was also applied retroactively, as in the case of journalist JS Tissainayagam, the first Sri Lankan journalist ever to be formally charged and convicted under the PTA for his writing.

JOURNALIST TISSAINAYAGAM JAILED FOR ACCUSING ARMY OF STARVING CIVILIANS

JS Tissainayagam was arrested on 7 March 2008 by the Terrorist Investigation Division (TID) of the Sri Lankan Police. Tissainayagam's indictment in August 2008 was based on passages from articles published two years earlier in which he had expressed critical opinions about the government's treatment of Tamil civilians affected by armed conflict. A July 2006 editorial headlined, "Providing security to Tamils now will define north-eastern politics of the future"[53] concluded that "It is fairly obvious that the government is not going to offer them any protection. In fact it is the state security forces that are the main perpetrator of the killings." A second article published in November 2006 addressed the humanitarian situation in the eastern town of Vakarai, where actions by government forces included attacks on civilian areas and an extended military siege aimed at driving the LTTE out of the area.[54] The article accused the Sri Lankan government of starving and endangering civilians to further political and strategic military objectives.

In the months after these articles were published, as the Defence Ministry increased pressure on media personnel, it became common for journalists to self-censor and few would have taken such risks in print, but at the time, Tissainayagam's assessment of the situation in Vakarai was not unusual – many people in Sri Lanka familiar with events in the east were saying similar things.[55] Humanitarian workers in eastern Sri Lanka were expressing particular concern because for months they were unable to reach communities desperate for assistance and food and medical supplies were not reaching civilians.[56]

At his trial, the prosecution also put forth as evidence an alleged confession made by Tissainayagam while in police custody. Tissainayagam maintains that he was psychologically tortured by the police and that the confession was forced.[57] Under international law and

standards, statements obtained through torture or other cruel, inhuman or degrading treatment must not be used in any proceedings except those brought against alleged perpetrators.[58] The Human Rights Committee has stressed that, where an allegation is made that a statement was obtained under duress, the burden is on the state to prove that statements made by the accused have been given of their own free will.[59] Despite this, the court ruled that the alleged confession was admissible in evidence. Under the PTA, the burden of proof rests with the accused to prove that the confession was made under duress or torture.

Tissainayagam was detained arbitrarily in police custody for five months before he was charged with an offence. He and two colleagues (later released) were eventually charged with bringing the government into disrepute (a charge that was later dropped) and inciting racial and ethnic animosities through material published in a short-lived magazine called the *North East Monthly*. He was also accused of raising funds for the magazine "for the purpose of terrorism." The PTA had in fact been suspended following the ceasefire agreement between the government and the LTTE in February 2002 and was not reinstated until December 2006. In prosecuting Tissainayagam for articles and activities conducted earlier in 2006, the prosecution applied the PTA retroactively. Tissainayagam was sentenced to 20 years imprisonment in August 2009, but was released from detention in January 2010 and received a Presidential pardon in June 2010. His release was the apparent result of sustained and significant international and domestic pressure on the Sri Lankan authorities to overturn his conviction.

Like so many other Sri Lankan journalists, Tissainayagam fled Sri Lanka after his ordeal. The UN Secretary-General's Panel of Experts on Accountability in Sri Lanka identified two key benchmarks for press freedom in Sri Lanka: "The first is that journalists be able to publish freely in Sri Lanka, which would require lifting the Emergency Regulations [subsequently accomplished] and making amendments to the PTA to bring it into line with international standards. The second would be met when journalists who have fled abroad feel sufficiently safe to return and practice their profession at home."[60]

Not all instances of repression of journalists can be so clearly linked to specific examples of their reporting. Individuals known for taking controversial stances often reported receiving a number of threats and warnings before being arrested or attacked.

THE KILLING OF EDITOR LASANTHA WICKRAMATUNGE

Lasantha Wickramatunge, editor of the *Sunday Leader* newspaper, known for its investigative journalism, was killed on the morning of 8 January 2009 in broad daylight at a busy intersection not far from his office in Colombo near the Ratmalana airport, a high security zone. Four armed men riding motorcycles blocked Wickramatunge's vehicle, broke open his car window and stabbed him in the head and neck. He underwent surgery, but died of head wounds.[61] Four years later, his killers remain at large.[62] Wickramatunge said he had been threatened with death repeatedly before his assassination, including he claimed, in 2006 by the President himself. In October 2008 President Rajapaksa reportedly called Lasantha a "terrorist journalist" in an interview with Reporters Without Borders.[63] An editorial attributed to Lasantha was published in the paper three days after his murder. It said that if he was killed it was the government that killed him:

> *It is well known that I was on two occasions brutally assaulted, while on another my house was sprayed with machine-gun fire. Despite the government's sanctimonious assurances, there was never a serious police inquiry into the perpetrators of these attacks, and the attackers were never apprehended. In all these cases, I have reason to believe the attacks were inspired by the government. When finally I am killed, it will be the government that kills me.*[64]

After former Army Chief General Sarath Fonseka broke away from the Rajapaksa regime in 2010 to run for office (discussed below), Defence Secretary Gotabhaya Rajapaksa, a brother of President Mahinda Rajapaksa, publicly accused him of ordering attacks on journalists, including the one that killed Lasantha Wickramatunge. If the allegation is true, not only should General Fonseka be subject to a criminal investigation, but both the President and Defence Secretary, who were in positions of command over the General at the time of the murder, should also be subject to an investigation to establish whether there is any criminal responsibility on their part.

ABDUCTION AND ASSAULT OF PODDALA JAYANTHA

In June 2009, Poddala Jayantha, an outspoken critic of the Sri Lankan government's treatment of journalists and Secretary of the Sri Lankan Working Journalists Association (SLWJA), was abducted and tortured by a group of armed men, who broke his fingers so he could not write. He has described the attack to Amnesty International as follows:

> *"They cut my hair and put it into my mouth, then gagged me. They struck both my legs, breaking one at the ankle. They used a piece of wood to smash the fingers on my right hand until they bled. They said, 'This will stop you from writing.' They eventually let me go, saying 'We won't kill you now, but if you organize any more demonstrations against the government, if you speak to the media, we will kill you.'"*

Jayantha, who fled Sri Lanka in late 2009 and now lives abroad, wrote for *Dinamina*, a Sinhala language newspaper published by Lakehouse, a state-owned media outlet, but was a vocal advocate for free media and had criticized other attacks on journalists, including the May 2008 abduction and torture of Keith Noyahr, Associate Editor and Defence Columnist for "The Nation," an independent newspaper.[65] According to Sri Lankan journalist D.B.S Jeyaraj, Jayantha and SLWJA colleague Sanath Balasooriya (who also fled Sri Lanka in 2009) were summoned by Defence Secretary Gotabhaya Rajapaksa after they helped organize a demonstration protesting against the abduction and torture of Noyahr and were told that as Lakehouse employees they could not act against the army's interests; in that interview the Defence Secretary made an implicit threat: "if you continue with what you are doing, what has to happen to you will happen."[66]

After Lasantha Wickrematunge was killed, Poddala Jayantha left Sri Lanka; he returned home again only a few weeks before his abduction. Upon his return he found himself the focus of a vilification campaign against critical journalists. This was reportedly started by then Army commander Sarath Fonseka and Sri Lanka's Inspector General of Police who accused Sinhala journalists of working for the LTTE under the guise of campaigning for media freedom in Sri Lanka.[67] The State-controlled TV network ITN broadcast images of bearded Poddala Jayantha on its segment called "After News" while the accusation was being aired. On 22 May 2009

Dinamina, Jayantha's former newspaper, reportedly ran an editorial advocating stoning and expelling from the country journalists who grew beards and took money from Tigers.[68] Another newspaper said the death penalty should be imposed on Sinhala journalists who betrayed the country by taking money from the LTTE.[69]

> *"This government's record of the killings and disappearances of journalists is worse than any of its far from angelic predecessors. It cannot sweep all of these unexplained murders and horrific human rights violations by blithely citing the Sunday newspapers in support thereof. In this country, public opinion commentators may write if they wish but at their own peril, always conscious of the invisible line which, if crossed, would result in inevitable consequences."*
>
> Kishali Pinto Jayawardene [70]

In December 2011, in its concluding observations, the UN Committee Against Torture expressed concern "at reports that human rights defenders, defence lawyers and other civil society actors, including political activists, trade unionists and independent media journalists have been singled out as targets of intimidation, harassment, including death threats and physical attacks and politically motivated charges."[71]

The Committee noted with regret that, "in many cases, those allegedly responsible for acts of intimidation and reprisal appear to enjoy impunity," and that the Sri Lankan government was not able provide adequate information on specific cases raised by the Committee, including those of journalists, such as Poddala Jayantha, Prageeth Eknaligoda and J. S. Tissainayagam, and lawyers, such as J.C. Welliamuna and Amitha Ariyarantne. The Committee also expressed concern about information it had received that "the Ministry of Defence has published articles on its website implying that lawyers defending individuals are "traitors" to the nation," and "about the fact that one of these articles, entitled "Traitors in Black Cloaks Flocked Together", included the names and photographs of five lawyers, putting them at of risk of attacks."[72]

WIDENING THE NET: ARRESTS OF PEACE ACTIVISTS AND TRADE UNIONISTS

Other individuals perceived as threats to the consolidation of state power, such as peace activists and trade unionists, were also victims of campaigns to root out opposition. In some prominent cases the individuals targeted in this way were active in a variety of causes, making it difficult to determine which activity finally sparked the repression. Were they targeted for their union activity, their political activism or both?

In the wake of protests over the abduction of trade union activists in February 2007 (discussed below), the Sri Lankan Ministry of Defence stated that while it had no intention of suppressing the media or opposing views, it treated dissent as a threat to national security. It declared that "protests and influences that are initiated in the wake of arrests of individuals not only hinder investigations but also threaten the stability of the Government" and emphasized that that it was standard procedure for law enforcement authorities to arrest and interrogate any individual "directly or indirectly engaged in activities threatening national security."[73]

"SINHALA TIGERS"

On 5 February 2007 Lalith Seneviratne, Nihal Serasinghe and Sisira Priyankara, Sinhalese trade unionists with the railway services union who served of the staff on the union's newspaper, *Akuna*, were all reported missing. According to his wife, Lalith Seneviratne was taken from his home in Hokandara North, Colombo by men in civilian clothes claiming to be with the CID. She filed a complaint at Ahurugiriya Police station.[74] The authorities initially denied holding the men in custody or having any knowledge of their whereabouts. A public demonstration was held at the Fort Railway station protesting against their disappearance and 48 hours later the army admitted to having the men in custody. The government accused the trade unionists of terrorist acts including receiving training and arms and ammunition from the LTTE and carrying out bomb attacks. Videotaped "confessions" (allegedly extracted under torture), were shown to journalists as alleged evidence that the men were terrorists, and featured prominently in Sri Lankan media.[75]

On 9 February 2007 the Ministry of Defence posted an article on its official website that noted, "[t]he arrest has reportedly caused a great havoc among those pro terror media hooligans and other anti Sri Lankan movements that depend on LTTE blood cash. Having feared that their dubious lives might be exhumed (sic) soon, these terror proxies observed to have come up with aimless protest campaigns, issuance of statements and with their usual media propaganda missions to tarnish the good image of the government."[76]

The men were vocal opponents of the Sri Lankan armed conflict and had participated in a number of anti-war demonstrations; the army claimed they were attempting to form an armed revolutionary group. They were labelled Sinhala Kotiya (Sinhala Tigers) by the state-owned media.[77] The Defence Ministry claimed the men provided the names of other Sinhalese and Tamils working with the LTTE and the government used that intelligence to continue making arrests.[78]

At least 25 ethnic Sinhalese journalists, trade union activists and railway workers were arrested and detained by Sri Lanka's Terrorist Investigation Division in February 2007 on suspicion of conspiring with the LTTE to overthrow the government. One of them, Sarath Kumara Fernando, president of the Railway Workers Combine and the Railway Trade Union Federation (RTUF), gave himself up to police in February 2007 and was detained without charge for two years. Another, Priyantha Nihal Gunaratne, who was also accused of being part of the conspiracy to overthrow the government, was arrested on 13 February by Ratnapura police; he says he was tortured. In February 2009, Sarath Kumara Fernando told the BBC's Sinhala Service that he and his colleagues had been detained to prevent their agitation to protect rights of the workers, mainly in the Railway industry. "Our struggle was focused on labour rights. Ours was not an armed organisation," he was quoted as saying.[79] In February 2009, 10 of the 25 detainees were released without charge[80] and in March 2009 the Sri Lankan Supreme Court ordered the authorities to charge or release the remaining detainees; in August two more were released, including Fernando, who says he was tortured in detention. The first three arrested, Lalith Senaviratne, Sisira Priyankara and Nihal Serasinghe were indicted in the Jaffna and Colombo High Courts. As of late March 2013, according to information received from former a colleague, Seneviratne and Serasinghe remained in detention at Welikada Prison, presumably pending trial. Sisira Priyankara was allegedly released in early March.

According to labour rights activists in Sri Lanka and Sri Lankan media reports after the arrest and questioning of Lalith Seneviratne, Nihal Serasinghe and Sisira Priyankara, hundreds of young Tamils, many of them tea estate workers were rounded up and interrogated in February and March 2007, and over 100 were sent to the TID detention camp at Boosa.[81] Some of them were reportedly arrested after being involved in demonstrations against the Upper-Kotmale hydroelectricity project, which involves the construction of a massive dam and reservoir in the hill country of central Sri Lanka.[82]

GROWING ANTAGONISM OVER INTERNATIONAL CRITICISM

In June 2007 two Tamil Sri Lankan Red Cross workers were abducted by men claiming to be police from the CID from the Fort Railway station in the city of Colombo, where they waited to board a train to Batticaloa in eastern Sri Lanka with several colleagues; their bodies were later found dumped in Ratnapura about 67 km from Colombo. According to confidential testimony obtained by Amnesty International, the two were suspected by the security forces of having links to the LTTE and were killed by members of the military. The next day about 200 people, including both foreign and Sri Lankan humanitarian aid workers held a protest rally at the railway station condemning the killings.

This event appears to have been a turning point in relations between foreign humanitarian workers and the Sri Lankan authorities. The Sri Lankan government demanded the removal of four international UN staff members who had participated in the rally.[83] As military operations intensified, Sri Lanka's Defence Ministry reacted strongly against organizations and individuals who were critical of the army's treatment of civilians and accordingly perceived by the government as being too soft on the LTTE. Between mid-2007 and 2009 the visas of as many as 40 foreign workers of non-governmental organisations and UN agencies were reportedly cancelled or not extended over allegations of bias against the Sri Lankan government (or in favour of the LTTE).[84] Government supporters issued numerous vitriolic attacks on humanitarian workers and what they called the "international conspiracy"[85] against Sri Lanka.[86]

The antagonistic relationship between the Sri Lankan authorities and international NGOs operating in Sri Lanka continued to worsen as more and more evidence of violations by state forces came to light. Sri Lankan staff of international organizations suffered severely, as illustrated clearly by this example given by the UN Secretary-General's Internal Review Panel on United Nations Action in Sri Lanka:

"On 13 June 2009, in Vavuniya, two UN national staff members, working for UNOPS and UNHCR respectively, were abducted by men in civilian clothes who forced them into a vehicle. The staff were beaten in the vehicle while it was driven to a series of locations where UN and international NGO Offices were located in Vavuniya, including Oxfam, Save the Children, Danish Refugee Council, Norwegian Refugee Council, UNHCR, FORUT and World Vision. While parked outside each office the staff were ordered to say whether national or international staff with each organization had any connection with terrorists. The abductors threatened to kill one of the staff, pointing a gun at him. The same day, the staff were driven to Colombo and locked in a building behind a police station where they were beaten again over several days. The UN raised concern over the missing staff with the police and the Sri Lanka Human Rights Commission. On 20 June, the UN in Sri Lanka released a statement

saying "The UN understands that two of its national staff members have been arrested. The two employees ... were reported as missing 8 days ago, after which it emerged that they had been taken into custody ... The UN is in contact with the government over the matter, and has requested details as to their well-being and the basis on which they are being held. We are providing all assistance possible to the authorities in the interest of due process." It was only 12 days after the abduction, during a routine visit by ICRC to the police station on 25 June that the UN received confirmation on the actual location of the staff. Relatives, colleagues and lawyers were able to visit the staff and saw open wounds on their heads and legs. On 26 June they were compelled to sign a statement in Sinhalese, a language they could not read. Complaints were lodged with the judicial authorities and on 7 July OLA [the UN Office of Legal Affairs] sent a letter to the Government recalling the immunities of both staff. They were transferred to a remand prison in September. The Secretary-General raised his concern in a 15 September letter to the President. After periods of three months and one year of detention, respectively, they were released without charge."[87]

The UN report on abuses committed against UN staff in 2007 listed 14 cases of arrest and detention of UN staff by State authorities in Sri Lanka and 43 cases of harassment and intimidation.[88] When John Holmes, UN Under-Secretary-General for Humanitarian Affairs said in August 2007 that Sri Lanka had "one of the worst records in the world for humanitarian aid workers safety," a Government Minister responded: "We consider people who support terrorists also terrorists ... So Holmes, who supports the LTTE, is also a terrorist. This person tries to tarnish the image of Sri Lanka internationally."[89]

James Elder, a Colombo-based spokesman for UNICEF, the UN agency for children, was ordered to leave Sri Lanka in September 2009 for "supporting terrorism" in statements he made expressing concern over the fate of children trapped by fighting in the final months of the armed conflict. UN Spokesperson Gordon Weiss, who in 2009 spoke of a "bloodbath" in Mullaitivu left Sri Lanka when the authorities made clear his work visa would not be renewed[90] and subsequently resigned from the UN. He told a journalist:

"The Sri Lankan Government was masterful at controlling information and in refuting information. So if we take forward a piece of information about people being killed and then the government responds firstly by denouncing it publicly and secondly by calling in people to the Foreign Ministry, and browbeating them and threatening them with expulsion, now that sort of pressure every day, it's extremely difficult for people to operate in those circumstances."[91]

Peter Mackay, a UN worker who witnessed deaths of civilians firsthand, when he became trapped by artillery fire in Mullaitivu, and who collected data that showed that the scale of civilian casualties at the end of the conflict was far higher than the Sri Lankan government had claimed, was also asked to leave in July 2009.[92]

In July 2010 the Government of Sri Lanka terminated the visas of staff members of the Nonviolent Peaceforce, an organization that provided protective accompaniment to Sri Lankans at risk of human rights violations.

Sri Lanka also began denying entry, expelling and blacklisting foreign journalists reporting on the conflict and its aftermath. In April 2009 Jeremy Page, South Asia Correspondent for the

UK *Times* Newspaper was detained upon arrival in Sri Lanka, held overnight and then deported. He had reportedly been denied a journalist's visa to Sri Lanka several times and had attempted to enter as a tourist. He said he was stopped at the airport when his name came up on the computer at immigration.[93] Sri Lanka's then Immigration and Emigration Controller P. Bandula Abeykoon reportedly told the *Island* newspaper in April 2009, commenting on Page's deportation: "We will not allow foreign journalists who defy the sacred ethic of balanced reporting to come here and file warped reports. That's why we have blacklisted many of them." Abeykoon said immigration authorities were "provided with a list of blacklisted foreign journalists by the Defence, Foreign and Media Ministries and other relevant authorities. They will not be allowed to enter Sri Lanka."[94]

In May 2009 three journalists from UK Channel 4 News were deported after they reported on poor conditions and allegations of sexual abuse in a Sri Lankan displacement camp.[95] In that case the order to leave reportedly came from Defence Secretary Gotabhaya Rajapaksa himself. "Is this Channel 4? You have been accusing my soldiers of raping civilians? Your visa is cancelled, you will be deported. You can report what you like about this country, but from your own country, not from here," deported journalist Nick Patton Walsh quoted him as saying.[96]

Sri Lanka's efforts to control foreign reporting have continued. After Channel 4 launched its documentary series, *Sri Lanka's Killing Fields,* in June 2011*,* featuring video footage of apparent extrajudicial executions and possible sexual abuse of surrendered LTTE members in Mullaitivu by Sri Lankan army personnel, Sri Lankan authorities increased scrutiny of international visitors, including those arriving as tourists, for signs that they were engaged in fact-finding. Sri Lankans suspected of connections to UN agencies, embassies, NGOs and international media have been questioned by police, and arrested and detained for interrogation. Amnesty International knows of at least three cases between 2009 and 2012 where an individual suspected of assisting international researchers has been detained for extended periods by the authorities; one victim was tortured.

In June 2012 Senior Channel 4 TV official Stuart Cosgrove was asked to leave Sri Lanka and his wife was turned back at the airport, "because they are from Channel 4, which without reason has harmed Sri Lanka's reputation," the BBC reported quoting an immigration official.[97]

The Sri Lankan government's reporting to the UN paints a very different picture of its attitude towards international journalists. In October 2012, just months after the Cosgroves were ejected from Sri Lanka, the government told the UN Human Rights Committee that, "[i]n order to safeguard freedom of expressions and the rights of journalists and media personnel the Ministry of Mass Media and Information through the Department of Government Information continues to implement several measures to facilitate their work. The Department issues media accreditation to all journalists including foreign journalists which allow them to report freely on any incidents which are of news value from any parts of the country. This accreditation facilitates their travel and ability to engage in media Activities Island wide. Any journalist or media person can write, report, broadcast or perform any content without being censored by any party."[98]

THE FINAL OFFENSIVE

In September 2008, as it prepared for its final offensive against the LTTE in northern Sri Lanka, the Sri Lankan Ministry of Defence ordered international UN staff and non-governmental aid workers to leave the conflict zone, effectively blocking independent monitoring of the events that would unfold. The UN pulled its staff out of the LTTE stronghold of Kilinochchi and moved its operations to the government-controlled town of Vavuniya. The Sri Lanka authorities also blocked access to the conflict zone by independent journalists. Some 300,000 displaced Tamil civilians in northern Sri Lanka were trapped between the warring parties and over the course of the next eight months were driven by artillery shelling into smaller and smaller areas, designated by the Sri Lankan military as "no fire zones."[99] Amnesty International received credible and consistent eyewitness reports that the Sri Lankan armed forces launched indiscriminate attacks on the "no fire zones," where they had told civilians to move and which they knew were densely populated by civilians. Hospitals were shelled, resulting in death and injuries among patients and staff. The LTTE forcibly recruited children as soldiers, used civilians as human shields, and shot civilians who tried to flee. Survivors' accounts of the final months of the war painted a grim picture of deprivation of food, water and medical care; fear, injury and loss of life suffered by civilians trapped by the conflict.[100]

The Sri Lankan government declared victory on 18 May 2009 and announced that the LTTE's senior leadership had died in combat, though allegations would later surface that surrendering LTTE members had been extrajudicially executed.[101] Surviving witnesses to the final stages of the conflict were detained in military-run displacement camps — where they remained for many months. But even with nearly 300,000 survivors locked away, confirmation of what had happened in the conflict zones began to emerge, and it became clear that many thousands of people had died, thousands more had been injured, and that violations of international law had been committed against civilians and surrendered combatants, by both the LTTE and Sri Lankan government forces.

Five doctors who provided vivid eyewitness accounts of civilian casualties in the final phase of the armed conflict to media and international organizations which had been kept out of the conflict zone were detained by the Sri Lankan army in May 2009, when they fled along with thousands of other civilians as the army closed in on the last LTTE stronghold, in Mullaitivu. They were handed over to police from the CID in Colombo for interrogation. Sri Lankan authorities accused the doctors of supporting the LTTE and denounced their reporting on civilian deaths as propaganda. In July 2009, while still in police custody, they retracted their earlier reports of Sri Lankan military attacks on civilians and hospitals in a government-arranged press conference. All five were released after months in detention and permitted to resume work in government hospitals. Since then they have remained silent about their harrowing experience in the last stages of the conflict, providing medical care from makeshift hospitals for thousands of Tamil civilians trapped by the fighting.

In March 2011, the UN Secretary-General's Panel of Experts on accountability in Sri Lanka "found credible allegations, which if proven, indicate that a wide range of serious violations of international humanitarian law and international human rights law was committed both by the Government of Sri Lanka and the LTTE, some of which would amount to war crimes and crimes against humanity."[102] The Panel confirmed many of Amnesty International's conclusions, derived independently from eyewitness testimony and information from aid

workers: that in the closing months of the conflict more than 10,000 civilians were killed; the LTTE used civilians as human shields and conscripted child soldiers; the Sri Lankan army shelled areas it knew were densely populated by civilians; and people trapped by fighting suffered severe deprivation of food, water and medical care. The Panel found credible allegations that "[t]he Government systematically deprived persons in the conflict zone of humanitarian assistance, in the form of food and basic medical supplies, particularly supplies needed to treat injuries. To this end, it purposefully underestimated the number of civilians that remained in the conflict zone. Particularly the denial of surgical supplies greatly increased the suffering of the civilians and added to the large death toll."[103]

The Panel recommended that the Sri Lankan government "immediately commence genuine investigations into these and other alleged violations of other international humanitarian and human rights law committed by both sides involved in the armed conflict." It said the Secretary-General "should immediately proceed to establish an independent international mechanism" that would both monitor and assess any domestic accountability process by Sri Lanka, but also "conduct investigations independently into the alleged violations," and collect and safeguard information relevant to accountability for the final stages of the war "for appropriate future use."[104]

The military victory was widely celebrated in the Sinhala-dominated south, and for Tamils living in the north and east it offered a respite from the intense dangers of armed conflict and the oppressive rule of the LTTE, but the end of the conflict exacted a terrible price on Sri Lanka's Tamil population. They were physically, economically and emotionally shattered after over 20 years in which, in areas under LTTE control, the LTTE's separatist cause had been an organizing principle, and, throughout Sri Lanka Tamils, regardless of their political views, had been treated as potential terrorists by Sri Lankan security forces and many members of the general population, leading to a vast gulf between communities by the time the conflict ended.

In his victory speech to Parliament on 19 May 2009, President Mahinda Rajapaksa signalled his intention to consolidate power. He declared there were no longer minorities in Sri Lanka. "There are only two peoples in this country. One is the people that love this country. The other comprises the small groups that have no love for the land of their birth."[105] Mahinda Rajapaksa's "with us or against us" approach would be echoed in countless political speeches thereafter and in repeated attacks by his supporters against political opponents, journalists, and human rights defenders.

III. CONSOLIDATING POWER IN POST-CONFLICT SRI LANKA (2009-PRESENT)

After the armed conflict ended in 2009, Sri Lankan authorities scrutinized residents of newly captured territory for signs of dissent or disloyalty, taking steps to consolidate their political power throughout the island and to counter political challenges. Authorities began taking on old enemies and identifying new pockets of opposition. They began mapping relationships within Sri Lankan civil society as well as alleged connections to international NGOs and agencies in order to advance the government's claim that people who criticized Sri Lankan government policy or called for human rights accountability were somehow in league with pro-LTTE forces within the Sri Lankan Tamil diaspora and engaged in a "hate campaign" against Sri Lanka.[106]

The first significant political challenge to President Mahinda Rajapaksa's post-war rule was former Army Commander General Sarath Fonseka's run for President. Fonseka had resigned from the military soon after the army defeated the LTTE in May 2009 and was the main opposition candidate in the January 2010 presidential election. A report appeared in the *Sunday Leader* newspaper in December 2009 that Fonseka had told his interviewer that he had information that Defence Secretary Gotabhaya Rajapaksa ordered the extra-judicial execution of surrendering LTTE members.[107] The article sparked shock and outrage in Sri Lanka. Within days of his electoral defeat, Sarath Fonseka was arrested and detained on conspiracy charges along with several of his supporters; Gotabhaya Rajapaksa accused him of "plotting a military coup."[108] The government launched a major crackdown on opponents as the Sri Lankan government sought to neutralize Fonseka's support base; members of the security forces, the media and other professions were scrutinized for signs of support and subjected to transfers and dismissals, threats, arrests and physical attacks.[109] Many fled country after his arrest.

During a televised interview on BBC Hardtalk in June 2010 Gotabhaya Rajapaksa accused Fonseka of betraying the country by alleging that the army had killed surrendering LTTE members and, upon learning from the interviewer that Fonseka had told the BBC he was prepared to testify before an independent investigation about abuses during the armed conflict, exploded, "That's treason. We will hang him if he do that!"[110]

No evidence of a coup attempt was ever made public. In August 2010 a closed-door court martial tried and convicted Fonseka of engaging in politics while still in the military and stripped him of his military rank. In September 2010 in a separate military trial, he was found guilty of corruption related to arms and sentenced to 30 months in prison.

Fonseka retracted his allegations about the killing of LTTE members, but the *Sunday Leader* story became the basis of Fonseka's trial in the Colombo High Court and conviction in November 2011 for "propagating a false rumour" in what became known as the "White Flag

Case," in reference to allegations that executed LTTE members had carried white flags to signal their surrender. Fonseka was sentenced to three years in prison. Fonseka was released from prison in May 2012 but said he did not know the terms of his release.[111]

EXPANDING EXECUTIVE POWER

Almost as soon as Sri Lanka's armed conflict ended and concurrent with the government's crackdown on post-war critics, has been its re-consolidation of powers that had been devolved over the years in various efforts to address Tamil grievances and other demands for more localized and accountable political structures. Among its first targets were the independent commissions established to oversee key institutions of governance.

Since the enactment of the 1972 Constitution, successive Sri Lankan leaders have used "urgent bills" that do not require prior public notification and avoid lengthy public and parliamentary scrutiny, in order to pass laws which may prove publicly controversial or detrimental to human rights.[112] They have also relied on the Prevention of Terrorism Act (PTA) and (until September 2011 when the state of emergency was lifted) emergency regulations imposed by Presidential Order to circumvent ordinary laws and procedural safeguards that would otherwise provide protection against human rights violations — including arbitrary arrest and detention, enforced disappearance, and torture and other ill-treatment in custody — and ensure respect for freedom of expression and association.[113] In the immediacy of the armed conflict, the state has often been successful in discouraging public criticism of such shortcuts, insisting they were necessary to protect public security. But following the end of the armed conflict, the consolidation of state power and draconian approach to law and order have met with stiffer resistance, most notably from Sri Lanka's legal community which by 2012 had become one of the country's most potent dissenting voices.

Sri Lankan human rights lawyers say these practices have eroded checks on executive power and that urgent bills in particular deny the public the opportunity to comment on and debate proposed legislation.[114]

The 18th Amendment to the Constitution, pushed through as one such "urgent bill" on 8 September 2010 placed several important and relatively independent bodies under direct Presidential control by doing away with the Constitutional Council, a multi-party body established in 2001 to preserve the political independence of appointments to key Commissions, including several that are important to the protection of human rights:

- The Human Rights Commission - responsible for monitoring and investigating alleged violations of Constitutional rights in Sri Lanka and recommending government action to promote and protect human rights, including ensuring that national laws and administrative practices are in accordance with international human rights norms and standards;

- The National Police Commission (NPC) - formerly responsible for oversight of appointments, promotions, transfers, disciplinary control and dismissals of police personnel; these powers were revoked under the 18th Amendment and the Inspector General of Police — a presidential appointee — was made responsible for these matters directly. The NPC retains the power to receive and investigate public complaints against police officers, and provide redress;[115]

- The Public Services Commission - responsible for appointment, promotion, transfer, disciplinary control and dismissal of public officers;

- The Judicial Service Commission (JSC) - responsible for judicial appointments and personnel management of judicial officers and court staff.

"Changes to the appointment process within the Eighteenth Amendment ha[ve] presented a special threat to the independence of the judiciary. The President's expanded appointment powers has extended to the selection of the Chief Justice and the Judges of the Supreme Court, the President and the Judges of the Court of Appeal, the Members of the Judicial Service Commission other than the Chairperson [who is the Chief Justice], the Attorney-General, the Auditor-General, the Parliamentary Commissioner for Administration, and the Secretary General of Parliament.

Additionally, the Eighteenth Amendment's expansion of the President's privileges with regard to Parliament has compromised the autonomy of Parliament. The prerogative to address Parliament and the acquisition of full Parliamentary privileges has significantly increased the President's influence on the Legislative branch, virtually eliminating the separation of powers between the Executive and the Legislature."

Retired Supreme Court Justice C.V. Wigneswaran, keynote address to the Annual Conference of the Judicial Service Association of Sri Lanka, Hotel Taj Samudra Colombo, 22 December 2012.

The 18th Amendment also removed the Presidential two term limit, allowing President Rajapaksa to serve for an indefinite number of terms if re-elected.

Subsequent moves by the government to reduce provincial and local powers, for example by placing various development authorities and municipal bodies under central control, suggest that the process of consolidation continues.

UNDERMINING INDEPENDENCE OF THE JUDICIARY

In January 2013, Sri Lanka faced an unprecedented constitutional crisis when the Chief Justice was impeached on charges of misconduct despite a Supreme Court ruling that the impeachment procedure was unconstitutional.[116] The impeachment bid (discussed at greater length below) came after months of increasing tension between the judiciary and the executive over court rulings in favour of the victims of human rights violations and against projects proposed by government Ministers. Even before it became clear that the government planned to impeach the Chief Justice, lawyers and judges were already expressing public concern over other alleged attempts to interfere with the independence of the judiciary.

International human rights law provides that anyone charged with a criminal offence, or involved in a civil case to determine their rights and obligations, has the right to a fair and public hearing by a competent, independent and impartial tribunal established by law (Article 14(1) ICCPR). This includes – and this is particularly relevant in the Sri Lankan context – anyone who submits a petition to the Supreme Court seeking a remedy for violation of their fundamental rights under the Constitution. Accordingly, a key element in ensuring respect and protection of human rights is the independence of the judiciary from the executive and legislative branches of government. This means there must be procedures for the appointment of judges and guarantees of their security of tenure which ensure the independence of the judiciary from political interference by the

executive and legislature, and the protection of judges from conflicts of interest, intimidation and any form of political influence in their decision-making. This requires laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them. A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the executive is able to control or direct the judiciary is incompatible with the notion of an independent tribunal as required under international human rights law.[117]

A magistrate in Mannar complained to the Judicial Service Commission (JSC) that a Cabinet Minister had threatened him in July 2012 demanding that he change his ruling in a dispute between Muslim and Tamil fishermen or the court would be set on fire.[118] The day after he received the first call from the Minister, on 18 July 2012, according to human rights defenders who contacted Amnesty International and Sri Lankan media, the Mannar Magistrate's court complex was surrounded by a crowd protesting the ruling; they were allegedly instigated by the Minister. Police reportedly used teargas to disperse the crowd and some demonstrators are reported to have thrown stones. The Minister reportedly later called the JSC secretary and demanded that the magistrate be transferred; the JSC refused. Judges and lawyers island-wide condemned the Minister's actions, engaged in a one-day work stoppage, and demonstrated in Colombo calling for the Minister's arrest for threatening a Magistrate and instigating violence,[119] but President Rajapaksa voiced support for the Minister's intervention with the JSC in an interview with the political editor of the Sunday Times, an independent Sri Lankan newspaper, "There is nothing wrong in that. Otherwise who can an MP go to? Among those who complained was a lawyer. If such complaints are received, it needs to be investigated. You must not run to the newspaper first. If a newspaper carries something wrong it can apologise later."[120] Senior lawyers brought a contempt of court case against the Minister for telephoning Mannar Magistrate Anthony Judeson on 17 and 18 July 2012, attempting to interfere with a judicial order and for calling the Secretary to the Judicial Service Commission, and demanding that the Magistrate be transferred out of Mannar. The Minister appealed the court's decision to admit the case and a hearing was scheduled for 24 June 2013 before the Court of Appeals.[121]

On 25 July 2012, the Supreme Court granted leave to proceed with a fundamental rights petition filed by journalists following a raid on the *Sri Lanka Mirror*, one of two news websites raided in June 2012.[122] They complained of illegal arrest and violation of their right to freedom of expression.[123] The six petitioners claimed that on 29 June 2012 police from the Criminal Investigation Division (CID) had arrested them at their Kotte office on suspicion of publishing news defamatory of the government and of the President, but had failed to recover such material from their computers. (The Attorney General's office later reportedly claimed that the raid had instead uncovered child pornography on one of the computers and that Sri Lanka Mirror was also suspected of giving defamatory news to other websites). Police reportedly arrested the journalists under Section 118 of the Penal Code, which no longer exists, having been repealed by the Penal Code Amendment Act, No.12 of 2002. When the mistake was publicized, the authorities invoked Sections 115 and 120 of the Penal Code. Section 115 refers to conspiracy to wage war or "deprive the People of the Republic of Sri Lanka of their Sovereignty;" Section 120 refers broadly to exciting or attempting to excite feelings of disaffection to the President or to the Government,[124] Hearings in the case began in February 2013.[125]

On 18 September 2012, the Supreme Court communicated to Parliament that under the Constitution, the Divineguma ("Raising Lives") Bill — which the government had introduced as another urgent bill — needed approval from the provincial councils before it could become law. The bill sought to amalgamate regionally devolved welfare and development authorities into a single government department and budget controlled by Economic Development Minister Basil Rajapaksa, another of the President's brothers. The Supreme Court's decision was not well received by the government and those who supported the bill; thousands of pro-government demonstrators lined Parliament Road on 18 September to protest against the Court's ruling; among them was Minister Basil Rajapaksa.[126]

On the same day, the JSC released a statement complaining of what it called "baseless criticism of the JSC and in general on the Judiciary by the electronic and print media," which it said was part of a conspiracy to "undermine the JSC and Judiciary" and " to destroy the independence of the Judiciary and the Rule of Law."[127] The open letter issued by JSC Secretary Manjula Tilakaratne also complained that the "JSC has been subjected to threats and intimidation from persons holding different status." In an interview with a local newspaper published in late September Tilakaratne said he could not comment beyond what was in the published JSC statement, but believed that he was at personal risk: "As for myself personally, I deny the vicious accusations hurled against me. They are false. This has only led to serious concerns for my safety as well as those of others in the judiciary."[128]

These were not the first allegations that the JSC and the judges it oversees had been subjected to political pressure. Amnesty International has also received confidential testimony alleging that a special police unit answering to the Ministry of Defence had been used to put pressure on Magistrates by threatening the JSC, which passed the threat down.

On 21 September 2012, the Judicial Service Association, whose members are all judges, stated that "The Secretary to the Judicial Services Commission (JSC) issued a statement on 18.09.2012 expressing its displeasure at the interference being directed from various quarters towards the conduct of the official activities of the Commission. While we appreciate the decision taken by the JSC to uphold the rule of law and to maintain properly the independence of the judiciary, we will unreservedly support action taken by the JSC as well as measures it decides to take to safeguard the supremacy of the law and the independence of the judiciary."[129]

ATTACK ON JSC SECRETARY MANJULA TILAKARATNE

On 7 October 2012, less than three weeks after he issued the statement on behalf of the JSC alleging interference and intimidation, armed assailants attacked JSC Secretary Manjula Tilakaratne, pistol whipped him and attempted to drag him from his car. On 8 October Sri Lankan judges and lawyers boycotted court sessions to protest against the attack on Tilakaratne and hundreds demonstrated in front of Colombo's Superior Court complex at Hultsdorf. Some wore black headbands and carried a coffin a senior lawyer said represented the death of Sri Lanka's independent judiciary. They called for the Sri Lankan government to protect the lives of judges and to arrest Tilakaratne's assailants.[130]

IMPEACHMENT OF CHIEF JUSTICE SHIRANI BANDARANAYAKE

Chief Justice Shirani Bandaranayake was impeached on 13 January 2013 on three charges of personal and professional misconduct. Parliament proceeded with the impeachment despite

a Supreme Court ruling of 3 January that the hastily-assembled Parliamentary Select Committee (PSC) appointed to examine the charges against her did not have the legal authority to make decisions adversely affecting the rights and tenure of a superior court judge. On 7 January, the Court of Appeal had concurred, rejecting the PSC's report.

The Chief Justice and her lawyers had walked out of the PSC proceedings on 6 December 2012 saying they had "no faith" in the fairness of the process, that they were not given an opportunity to examine the purported evidence against her or cross examine witnesses, and that the Chief Justice was treated disrespectfully by government PSC members. Opposition PSC members also walked out.[131] The PSC nevertheless produced a report that found Chief Justice Bandaranayake guilty on three charges out of 14 listed.[132] Sri Lanka's Bar Association concluded that the Chief Justice was not given a fair hearing by the PSC and passed a Resolution on 15 December 2012 that it would not recognize a replacement if Bandaranayake was removed without a fair trial. However, the Bar Association later conceded that in order to fulfil their obligations to their clients, lawyers would have to interact with a court system headed by a new Chief Justice.[133]

Former diplomat Jayantha Dhanapala and human rights lawyer Suriya Wickremasinghe writing on behalf of the Friday Forum, a group of concerned Sri Lankan citizens, noted that:

> "The politically charged nature of the impeachment, the denial of natural justice guarantees to the Chief Justice and the crude manner in which she was addressed during the Parliamentary Select Committee hearings, the manner in which the ruling party blatantly disregarded the constitutional powers of the Supreme Court, the use of police powers to stifle protest and free movement, and the use of goon squads to vilify and drive fear into those opposed to the impeachment process in the presence of police officers who were humiliated by their helplessness, were all blows dealt to the citizenry by the ruling political group. The principle of separation of powers lies in tatters as Parliament, by all appearances, is acting as nothing but an appendage of the Executive."
>
> Jayantha Dhanapala and Suriya Wickremasinghe on behalf of Friday Forum, the Group of Concerned Citizens, 28 January 2013.[134]

Rupert Colville, spokesperson for UN High Commissioner for Human Rights Navi Pillay commented on 18 January 2013 that "Sri Lanka has a long history of abuse of executive power, and this latest step appears to strip away one of the last and most fundamental of the independent checks and balances, and should ring alarm bells for all Sri Lankans."[135]

THREATS AGAINST APPEAL COURT JUDGES S. SKANDARAJAH AND ANIL GOONERATNE

According to Sri Lankan lawyers who opposed the impeachment, on the evening before the Court of Appeal ruling on impeachment Justice S. Skandarajah, President of the Court of Appeal, received an anonymous telephone call telling him not to go to court the next day. Justice Anil Gooneratne, another judge on the bench hearing Shirani Bandaranayake's petition received a similar telephone call. Both judges ignored the warnings and filed complaints with the police.[136]

The impeachment again brought lawyers and judges out onto the streets, demanding an end to the Sri Lankan government's attacks on the independence of the judiciary. On 10 January, protesting lawyers and media covering the demonstration reported that men armed with

sticks attempted to break up a peaceful demonstration by senior members of Sri Lanka's Bar Association rallying against the government's determination to proceed with the impeachment of the Chief Justice.[137]

Government press also lashed out at those critical of the impeachment. An article in the state-owned *Daily News* on 17 January reported that "independent" lawyers were warning junior lawyers "not to damage their professional careers" by affiliating themselves with the dissenting Lawyers' Collective [for Independence of the Judiciary], which the article accused of launching "a vicious campaign against the country," of being "funded by Non Governmental Organizations" and "being manipulated by certain elements with the backing of bankrupt political parties with the intention of destabilizing the country."[138]

On 15 January, former Attorney General and presidential advisor Mohan Peiris was sworn in as Sri Lanka's new Chief Justice. Amnesty International has concerns about conflicts of interest that could impede Mohan Peiris' independence with regard to adjudicating human rights cases. Both as Attorney General and as the President's legal advisor, he has served on Sri Lankan delegations to the UN where he has defended Sri Lanka against allegations of human rights violations and alleged war crimes. He gave false information to the UN Committee against Torture (CAT) on the fate of missing journalist Prageeth Eknaligoda (see below).[139]

DIVERSIFYING THE CRACKDOWN

MISSING JOURNALIST: PRAGEETH EKNALIGODA

Cartoonist, political analyst and journalist, Prageeth Eknaligoda went missing just two days before the 2010 presidential election. Shortly before this he had published a comparative analysis of the two main Presidential candidates, coming out in favour of the opposition candidate, former army commander Sarath Fonseka. Amnesty International fears he may have been subjected to enforced disappearance. Eknaligoda disappeared from Homagama, a community not far from Colombo, shortly after leaving work at the Lanka-e-News office on 24 January 2010. His wife, Sandya Eknaligoda, lodged a complaint with the Homagama Police on 25 January; she believes her husband was abducted on orders of the government because of his criticism of the Sri Lankan government. She has also suggested he may have been targeted because he had investigated allegations that the Sri Lankan army used chemical weapons in northern Sri Lanka in 2008.[140]

In the days before he went missing, Eknaligoda reportedly told a close friend that he thought he was being followed. Local residents reported seeing a white van without number plates close to his house around the time he went missing. Prageeth Eknaligoda had previously been abducted in August 2009 by a group who had also arrived in a white van; that time, he was released the following day.[141] White vans have been used in many abductions and enforced disappearances in Sri Lanka, particularly since 2006, when state agents and paramilitary groups allied to the government stepped up attacks on critics of the government.

Sandya Eknaligoda filed a *habeas corpus* petition with the Homagama Magistrates Court when her efforts to get information about her husband's whereabouts through other official channels failed. Hearings into his case continue. Sri Lanka's newly-appointed Chief Justice of the Supreme Court Mohan Peiris, formerly Sri Lanka's Attorney General and a presidential

legal advisor, told the UN Committee against Torture (CAT) in November 2011 that Prageeth had left Sri Lanka and was living in a foreign country, implying that his reported disappearance was a hoax. In January 2012, the Homagama Magistrate called Peiris to testify in the *habeas corpus* proceedings. The Attorney General's office appealed the summons arguing that calling a former Attorney General to testify was illegal. The Appeal Court ruled however that the Homagama Magistrate had the power to issue the order on the grounds that Peiris' statement to CAT represented new evidence in the case and directed Peiris to appear. When he did, he reportedly told the court, "I don't know if he is alive or dead, only god would know if the information that I received about him is true. I don't think even the government knows where he lives," and said he did not remember where he heard that Prageeth had gone into exile.[142]

The website Eknaligoda worked for, Lanka-e-News, was the target of an arson attack that destroyed most of the contents of the office in February 2011. Its News Editor Bennet Rupasinghe was arrested in March 2011 allegedly for threatening a man linked to the arson attack, but was later released. In March 2010, Lanka-e-News' founder and Editor Sandaruwan Senadheera fled the country after repeatedly receiving death threats and now lives abroad.

SUNDAY LEADER CHIEF EDITOR FREDERICA JANSZ

In December 2009 Frederica Jansz, then Chief Editor of Sri Lanka's *Sunday Leader* newspaper published the interview "'*Gota Ordered Them to Be Shot' – General Sarath Fonseka,"* [143] which became the basis for Fonseka's conviction and three year jail sentence for propagating false rumours. Fonseka later retracted the allegations he made in this interview. Jansz also faced several contempt of court actions, including one filed by Defence Secretary Gotabhaya Rajapaksa in 2009 that was laid aside after she gave evidence in the White Flag case (see above), but later revived. She left the country before the cases were decided.

In July 2012 the *Sunday Leader* published an article by Jansz entitled, "*Gota Goes Berserk*" that included the transcript of a phone call between Jansz and Defence Minister Gotabaya Rajapaksa where the Defence Minster used foul language and threatened her. He also lashed out at Sri Lankan human rights defender, Paikiasothy Saravanamuttu, executive Director of the Colombo-based Centre for Policy Alternatives:

> *"I will put you in jail! You shit journalist trying to split this country – trying to show otherwise from true Sinhala Buddhists!! You are helped by the US Ambassador, NGOs and Paikiasothy – they pay you!!!" ....You pig that eats shit!!! You shit shit dirty f...ng journalist!!!.... People will kill you!!! People hate you!!! They will kill you!!!."*
>
> Defence Secretary Gotabhaya Rajapaksa to Journalist Frederica Jansz [144]

In September 2012 Jansz was fired after her newspaper was purchased and, according to Jansz, the paper's new management objected to her negative reporting on the Rajapaksa family.[145] After her departure, the newspaper issued an apology to Defence Secretary Gotabaya Rajapaksa for having published Jansz's article "*Gota Goes Berserk."*

Jansz, long associated with sensational reporting, has said she was twice followed by men on motorbikes after her dismissal from the *Sunday Leader,* and received a threatening telephone call. In September 2012 when she learned of government moves to impound her passport and arrest her, she decided to leave the country. Commenting on the situation of journalists in Sri Lanka in January 2013, she told Al Jazeera, "Since the end of the war in May 2009, there has been a very definite slide, a very definite take over, or state control, of all media outlets, and that includes independently, or privately owned media."[146]

FAMILIES OF THE DISAPPEARED

After the armed conflict ended and particularly as hearings of the Sri Lanka's Lessons Learnt and Reconciliation Commission (LLRC)[147] got under way in 2010, families of victims of alleged enforced disappearances began engaging in protests and publicly appealing to authorities to reveal the fates of their loved ones. During the course of the 26 year conflict tens of thousands of people in Sri Lanka's north and east (and elsewhere in the country) are reported to have gone missing. While many may have been killed in the course of the conflict and their bodies never located, thousands are alleged to have been taken into custody by the security forces and not seen again, and despite inquiries made by their families the authorities have refused to acknowledge their detention or to reveal their fate or whereabouts. Over 1000 of their family members approached the LLRC for assistance finding missing relatives, and demonstrations were held in Colombo as well as in Mannar, Vavuniya and Jaffna, where families attempted to organize themselves into associations to press their demands.[148]

According to Sri Lankan human rights defender Ruki Fernando many of these individuals have come under pressure. "Families of those missing have been intimidated and ridiculed. So too have many people who have supported them in their quest for truth and justice, including human rights defenders, journalists, politicians, religious leaders and lawyers. Many have been labelled "traitors" or "terrorist sympathisers." Commemorations and campaigns for those who have disappeared have been banned, disrupted and restricted. Organisers and participants have been threatened and harassed."[149]

On 10 December 2012 in Mannar, more than 300 people took part in a human rights day protest march and meeting to mark the creation of a local association of families of the disappeared. The families were joined by clergy, politicians and civil society activists. Although the proceedings were allowed to continue, intelligence officers who demanded entry to the meeting reportedly photographed and took videos of the participants, which frightened participants. Victims of human rights violations who have attempted to bring their complaints to court have also faced persecution.

ABDUCTION OF RAMASAMY PRABAHARAN

According to Sri Lankan human rights lawyers and media, businessman Ramasamy Prabaharan was abducted in front of his home in Colombo by a group of unidentified men armed with assault rifles on 11 February 2012, just two days before a petition alleging violation of his constitutional rights was to be heard in the Supreme Court. He remains missing. Prabaharan had been arrested in May 2009 on suspicion of links to the LTTE and detained for two years and four months. He claimed to have been tortured in custody by senior police officers. He was released in September 2011 due to lack of evidence and all charges against him were dropped. Prabaharan filed petitions in the Supreme Court alleging

unlawful arrest and detention and torture, and also seeking release of his business premises which remained sealed by police despite the fact that he had been acquitted.[150]

HARASSMENT OF WOMEN LAND RIGHTS PROTESTERS

Women in Ashraf Nagar, a village in the south-eastern district of Ampara are being harassed by army personnel after they filed a fundamental rights petition in the Supreme Court seeking restoration of, or an adequate substitute for, their land occupied by the military. According to the Women's Action Network (WAN), an alliance of women's organizations in Sri Lanka, the army "blocked access to water, denied access to family members' visits to the petitioners, electrified the fence around the areas in their effort to block any outside interaction with families living in the military camp. Recently they fixed two loud speakers just few yards away from the 1st petitioner's hut and played loud music and Bana (Buddhist prayers) day and night. Military men have crushed empty glass bottles and spread splintered glass pieces around the huts and their pathways."

WAN says the women won other cases against the military in the District Court, but were not able to negotiate a resolution with the army or even access their land and the village, which is now an army-declared "high security zone.[151]

ATTACKS ON POLITICAL ACTIVISTS

The end of the armed conflict has brought new political players to the stage seeking to appeal to new constituencies beyond traditional ethnic and regional lines. This development appears to have worried powerful political forces intent on retaining the status quo. At the same time, there remain plenty of political actors with traditional ethnic and political affiliations (that is, parties organized along traditional ethnic lines such as the Tamil National Alliance, or members of older opposition parties like the United National Party) who have been attacked for holding opposing views.

PREMAKUMAR GUNARATHNAM AND DIMUTHU ATTYGALA

On 7 April 2012, Frontline Socialist Party (FSP) leaders Premakumar Gunarathnam and Dimuthu Attygala were abducted in two separate incidents within hours of each other, on the eve of the party's launch. They were both released on 10 April. Guranathnam said he believed members of the security forces were involved in the kidnapping and that he was sexually tortured in custody. He credited his release to the Australian government's quick intervention with the Sri Lankan government.[152]

About 5,000 people attended the launch of the FSP, a breakaway party from the Janatha Vimukthi Peramuna (JVP), which has reached out to both Tamils and Sinhalese, including former LTTE members and former JVP members. In December 2011, Lalith Weeraraju and Kugan Murugunathan, two activists with the FSP-affiliated Movement for People's Struggle, had previously disappeared in Jaffna while organizing a Human Rights Day demonstration with families of the disappeared. Their families believe they were abducted by Sri Lankan security forces.

LALITH WEERARAJU AND KUGAN MURUGANANDAN

Lalith Weeraraju and Kugan Maruganandan, political activists with the Movement for People's Struggle (MPS), an outgrowth of the JVP with links to the FSP, have been missing since 9 December 2011. According to colleagues and family members they disappeared en

route to a meeting in Jaffna ahead of a press conference and International Human Rights Day demonstration by families of the disappeared planned for 10 December. At around 11pm on the evening of his disappearance, Lalith Weeraraju's father, who lived in Colombo, received a number of threatening calls on his mobile phone. The caller threatened to kill Lalith and warned him that "either you remove your son from Jaffna or we will do it for you."[153] Lalith Weeraraju's father filed a complaint at the Kosgama Police Station (Colombo District) on 11 December.

According to Kugan's wife, Murugananthan Janatha, the two men had left the Muruganandan home in Avarangal Jaffna about 5 pm on 9 December: "Kugan left with Lalith on his motorbike… He told me that he will drop Lalith in Jaffna town and return. My husband did not return home that night…. I tried calling on his mobile phone as well as Lalith's phone but both were switched off. I tried calling again at around 5 am but the phone was still switched off. I have not seen or heard from my husband ever since."[154]

Kugan's wife searched for her husband in Jaffna town the next day and then lodged a complaint with the Atchchuveli Police on 10 December. She said that uniformed police officers from the Atchchuveli Police visited her home three times after she filed the complaint asking whether she had had any further information regarding Kugan's whereabouts and urged her to continue to make inquiries.

On 13 December, a neighbour told her that witnesses had seen Lalith and Kugan being abducted by a group of men on two motorbikes and a white van, on the Point Pedro main road in Nirveli, a village around 5 km from her home.

> "According to my neighbour, the abduction had been witnessed by several people including the Nirveli Grama Sevaka (Government Village Official). The men on the motorbike had stopped the bike on which my husband was travelling near the Aththiyar Government School and opposite an abandoned glass factory. Lalith and Kugan had been forced into the white van by the men and the bike had been left on the road. The villagers and the Grama Sevaka had informed the Kopai Police who had come to scene and taken the bike away that evening (9 December)."

But she said, the Atchchuveli police did not tell her about the incident until she found her husband's damaged motorcycle parked in the police station garage on 14 December when she returned to collect a copy of her complaint.

> "The police told me that the Kopai police had recovered the bike from near the Sivan Kovil in Urumbarai (a village around 9 km from my home), and left it at the Atchchuveli Police Station on 14 December 2011. The police gave me a copy of my complaint and did not give me any further information regarding my husband's whereabouts."

In her statement she said she was afraid to make further inquiries herself and so asked the neighbour who had told her about her husband's abduction to find out more from the Grama Sevaka and other witnesses, but he told her that the Grama Sevaka had been avoiding him.[155]

SIVAGNANAM SHRITHARAN, MP

Repression of dissent is nothing new in Jaffna, where competing political and military forces have long vied for control of this important northern city. For many years Jaffna was under the *de facto* control of the LTTE, which ran its administration from there until the army regained control of the Jaffna peninsula in 1995. The LTTE threatened and killed Tamils suspected of disloyalty. Since 2006, repression of dissent in Jaffna has been carried out by the Sri Lankan armed forces and police, and by Tamil political activists, very often those allied with the government. A key target of harassment, intimidation, threats and attacks are members of Tamil political parties opposed to the government.

The Kilinochchi office of TNA parliamentarian Sivagnanam Shritharan was searched twice in January 2013 by TID officers. On 12 January the officers claimed to have found explosives in the office, which Shritharan maintains were planted by them to intimidate him. According to Shritharan, who spoke with Amnesty International in March, two of his staff members, Arunachalam Arunasalam Vezhamaligithan (his private secretary), and Ponnampalam Lakshmikanthan were arrested and detained without charge by TID during the raid on his office, and as of mid-March remained in detention.

On 22 January TID officers returned and reportedly searched the office for three hours, looking for Shritharan's laptop. Leaflets alleging that Shritharan sexually harassed Tamil women recruited recently by the Sri Lankan army were reportedly distributed in Kilinochchi. Shritharan had been the target of an assassination attempt in March 2011 when men armed with grenades and pistols attacked the vehicle he was travelling in near Anuradhapura. The attackers reportedly fled when Shritharan's security detail returned fire. Shritharan had been travelling from Vavuniya to Colombo to attend Parliament. No one was injured in the attack.

In late March, according to a press release issued by the TNA, a group of more than 50 people throwing stones attacked a public meeting at the TNA office in Kilinochchi, injuring 13 people. Police were present at the scene and the attackers were caught on video taken during the incident, but no one has been arrested. One of the assailants caught by participants at the meeting was reportedly identified as a CID officer. According to the TNA, he was had handed over to the Kilinochchi police but was released shortly thereafter.[156]

LANKA X NEWS JOURNALIST SHANTHA WIJESOORIYA

Journalist Shantha Wijesooriya, who currently writes for the Sri Lanka X News website,[157] fought off an apparent abduction attempt by three unidentified attackers on 5 July 2012 in the Colombo suburb of Nugegoda. In a letter to Sri Lanka's Inspector General of Police, M K Ilangakoon, Wijesooriya said that that he recognized one of his assailants from court visits and political meetings, whom he believed was employed by a government security division.[158] Wijesooriya has previously worked as an investigative journalist for *Lanka-e-News*, another web-based publication that has come under pressure for its critical reporting, and for *Mawbima*, a Sinhala-language independent newspaper. He is a committee member of the Sri Lanka Working Journalists Association (SLWJA).

On 25 April 2011, Shanta Wijesooriya had been arrested and charged with contempt of court in connection with an article published on the *Lanka-e-News* website that claimed a magistrate was detaining two suspects despite orders by Sri Lanka's Attorney-General for their release; the court refused him bail despite several apologies and retractions published

by Lanka-e-News. Frontline Human Rights Defenders and Lanka-e-News reported that Wijesooriya was detained at Mahara Prison until 14 May 2011 and was beaten by a prison guard. A month before his arrest he had written an article about corruption and ill-treatment of prisoners and their families by guards at the prison. [159]

Shanta Wijesooriya has stated that in September 2011 he and his family began receiving repeated visits from military intelligence and CID officials, and that unidentified individuals had also made inquiries about him in his neighbourhood. According to Frontline, around this time a CID officer also telephoned Shanta Wijesooriya repeatedly, falsely accusing him of writing a column for Lanka-e-News under the pseudonym "Soldaddu Unnahe" (Mr Soldier) and saying that he should not have complained to the police regarding the intimidation, surveillance and interrogation which he had been subjected to. The CID officer also warned him to stop writing for *Mawbima* newspaper, saying he should be writing for for a State-owned newspaper instead. In October 2011, the officer reportedly visited the *Mawbima* office, where Shanta Wijesooriya was employed. According to Frontline, the officer arrived in a white van, with a licence plate that matched the number plate of the van used in the abduction attempt in July 2012.[160]

UTHAYAN NEWSPAPER, JAFFNA

Staff members of *Uthayan,* a daily newspaper in Jaffna (the only paper to continue publishing in Jaffna throughout the armed conflict) have been the target of repeated violent attacks and threats over many years.[161]

A grenade was exploded on its premises in March 2009, causing substantial damage and injuring a guard after a government official reportedly told its editor not to report on civilian casualties in the Vanni.

In July 2011, Gnanasundaram Kuganathan, *Uthayan's* News Editor, was seriously injured in an attack by two unidentified assailants wielding iron bars. He has since left the country. Kuganathan had received previous threats and for three years during the armed conflict between the Sri Lankan government and the LTTE, Kuganathan had actually lived in the newspaper office – more or less under siege and unable to leave the premises.[162]

In December 2012, Uthayan's editor T. Premananth was reportedly assaulted by members of the security forces while he was covering a protest at Jaffna University.

On 10 January 2013 a group of men wielding poles attacked a man delivering *Uthayan* newspapers, breaking his arm. The attackers set fire to over 1,000 newspapers he was carrying on the back of his motorcycle, destroying both the papers and the motorcycle.

On 3 April 2013, armed assailants reportedly attacked Uthayan's Kilinochchi distribution office. Two staff members were hospitalized with injuries, and the office and a vehicle carrying copies of the newspaper were damaged.[163]

Ten days later, Uthayan's Jaffna office was attacked by armed men who set its printing press on fire. E. Saravanapavan, the owner of Uthayan newspaper and a Member of Parliament with the Tamil National Alliance, told the media he believed the attackers had military links and that the government "has been doing what it can to halt the newspaper"[164] ahead of Northern

Provincial Council elections scheduled for September 2013. Uthayan had also recently published articles criticizing the army's involvement in business in northern Sri Lanka.[165] The military denied responsibility for the 13 April attack,[166] and Sri Lanka's Director General of the Media Center for National Security (MCNS), Lakshman Hulugalle claimed the attack was "an inside job to tarnish the image of the government and the country." [167]

Uthayan has also been the target of lawsuits by government officials claiming defamation and seeking extraordinarily large amounts in damages. On 28 January 2012, hearings began in a suit brought by Douglas Devananda, Eelam People's Democratic Party (EPDP) leader and Minister of Traditional Industries and Small Enterprise Development, against *Uthayan* for Rs 1 billion (about US $8 million). He claimed that the newspaper had undermined his reputation with its news report on diplomatic cables from the US State Department published by Wikileaks, which revealed that Basil Rajapaksa had told the US Embassy in Colombo that the EPDP and elements of the Sri Lankan navy may have been behind at least one major attack on the newspaper in 2006.[168] Army Commander Lieutenant General Jagath Jayasuriya has also filed action in the Jaffna District Court against *Uthayan* seeking Rs 100 million in damages for publishing what he called highly defamatory articles about him in its 11 July 2012 issue.[169]

SUNDAY LEADER JOURNALIST FARAZ SHAUKETALY

Faraz Shauketaly, a journalist with the *Sunday Leader*, was hospitalized in intensive care after three armed men stormed his home in Mount Lavinia, near Colombo and shot him in the neck on 15 February 2013. UN High Commissioner for Human Rights Navi Pillay called for an investigation, telling UK Channel 4, "I'm deeply disturbed by this particular shooting because it's a journalist and he's attached to a newspaper which is known to be critical of the government, particularly on accountability and injustice issues."[170] On 10 March the *Sunday Leader* reported that the police had recorded a number of statements but had"yet to make a solid breakthrough in the investigations."[171]

BBC NEWS TEAM THREATENED; BROADCASTS BLOCKED

According to Charles Haviland of BBC News, in February 2013 his Sri Lankan team was threatened while covering a rally by a hardline Buddhist group in Colombo agitating against the labeling of Halal foods in Sri Lanka. The police, he said, appeared to "comply" with the mob of more than 20 young men, calling them "traitors" and threatening them for working for a "foreign conspirator" who was "against Sri Lanka.'"[172]

On 26 March the BBC announced that it was suspending BBC broadcasts via the state-owned Sri Lanka Broadcasting Corporation (SLBC) due to what it called "targeted interference" with its Tamil programming. SLBC reportedly blocked broadcasts of news related to the debate around UN HRC Resolution 22/1 adopted 21 March, which called on Sri Lanka to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law, and replaced broadcasts with other coverage that supported the government's position.

According to the BBC, SLBC disrupted BBC broadcasts on 16-18 March and again on 25 March. The BBC called the disruptions "unacceptable to the BBC and misleading to our audiences."[173]

THE RE-EMERGENCE OF LARGE-SCALE PUBLIC PROTEST

While the Sri Lankan government has been working to retain and strengthen its centralized hold on power, people who are concerned about political, economic and other developments in Sri Lanka have increasingly turned to public demonstrations to express their discontent. The government's response has been heavy-handed. Police have used unnecessary and excessive use of force against demonstrators, in breach of international law enforcement standards which stipulate that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty, and that law enforcement officials must not use firearms against persons except in defence against an imminent threat of death or serious injury.[174]

In June 2011 thousands of workers in Sri Lanka's Free Trade Zone demonstrated against a proposed pension plan that would require workers to contribute an additional two percent of their wages without a guaranteed return.[175] In February 2012 an estimated 300,000 fishermen island-wide protested a fuel price hike.[176] In both instances, police used excessive force against demonstrators, firing live ammunition into crowds, killing and injuring several demonstrators.[177]

Four thousand teachers from 14 universities went on strike on 4 July 2012, demanding a salary increase, increased national expenditure for education and an end to military and political interference with academic freedom.178 Strikes and demonstrations by lecturers lasted for three months and attracted the support of student organizations, other trade unions, political opposition members, religious leaders and other civil society groups. The head of the teachers union received death threats (discussed below). The strike was settled in October, but less than a month after classes resumed island-wide, Jaffna University was closed again for weeks after the security forces cracked down on student activists there, breaking up a commemoration and protest and arresting student leaders (see further below).[179]

Some 16,000 doctors attached to government hospitals island-wide launched a 24-hour strike on 17 August 2012 in protest after a hand-grenade was left in the front garden of the home of Consultant Surgeon Dr Lalantha Ranasinghe, a member of the Sri Lanka Medical Council (SLMC) and Government Medical Officers' Association (GMOA). Striking doctors protested the government's failure to arrest perpetrators of previous violent attacks on members of the Sri Lanka Medical Council (SLMC). Such attacks date back to 2002 when the SLMC's Registrar and President were both targets of bomb attacks apparently linked to their opposition to the establishment of a private medical college. In 2011, Dr N.J. Nonis, SLMC Registrar was assaulted at the gate of his residence. The attack on Dr Ranasinghe was viewed by medical colleagues as efforts to silence his strong criticism of private medical education in Sri Lanka and the influx into Sri Lanka of doctors from India whom he considered did not meet professional standards. In August, members of the Frontline Socialist Party accused the Sri Lankan government of being behind the attacks and Dr Indunil Wijenayake of "Doctors against Private Medical Schools" issued a similar statement in October, when, after government-ordered police protection for Dr Ranasinghe provided after the grenade incident was withdrawn, his driver was beaten up by unidentified attackers who attempted to steal his car.[180]

Between September 2012 and January 2013, hundreds of lawyers, backed by Sri Lanka's 11,000-member Bar Association, participated in a series of demonstrations protesting against interference with the independence of the judiciary. As previously mentioned, the Bar Association voiced especially strong opposition to the impeachment of Chief Justice Shirani Bandaranayake in January and called for a complete work stoppage by its members on 10 and 11 January 2013 to express its condemnation of the impeachment. In mid-January lawyers and judges received calls and letters threatening their lives because of their activism and their demonstrations were threatened by stick wielding assailants while the police stood by.[181]

DR NIRMAL RANJITH DEVASIRI OF THE FEDERATION OF UNIVERSITY TEACHERS' ASSOCIATION

The head of the Federation of University Teachers' Association (FUTA), Dr Nirmal Ranjith Devasiri reported receiving death threats during a four-month strike by University lecturers that went on for four months in 2012. He told a local newspaper that on 22 June he got a telephone call from people claiming to be from the Defence Ministry who threatened to harm his wife and daughter if he continued to be part of FUTA; and that individuals claiming to be from the Ministry of Defence had visited his neighbourhood asking questions about Devasiri's movements and details about his family.[182] Devasiri lodged police complaints about the harassment, and FUTA denounced the threats against him.[183] After he held a press conference about the incidents, Devasiri said he got a phone call at home from Defence Secretary Gotabhaya Rajapaksa, who said that his press conference had damaged the reputation of the Defence Ministry and told him to "catch the suspects" himself "and hand them over to the police."[184]

The teachers initially demanded a 20% salary increase, but FUTA's demands expanded when negotiations with the government broke down and eventually included a stipulation that the government should increase budget allocations for education from 1.9% of to 6%. The teachers have also protested political interference in education and particularly the mandatory "leadership" training for new students run by the armed forces.

Over the course of the strike their support base grew to include the Inter-University Students' Federation (IUSF), lawyers, clergy and national level opposition politicians. On 27 September 2012 two IUSF members were killed in what the authorities described as a motorbike accident on the way to a large rally in Colombo; police said the two were speeding and lost control. IUSF leadership said that a witness had seen a car swerve into the two causing them to crash, and that other USF members had reported being followed; they said they suspected foul play.[185]

> *"Making allegations against trade union struggles as 'anti-government conspiracies' is not new. This has been a practice resorted to by all Sri Lankan governments for decades, beginning in the early 1950s. It became worse since the 1970s. But, there is a difference between then and now. If some organization or an individual is branded publicly by powerful people linked to the government as 'conspirators,' it can lead to serious consequences for the safety and security of individuals thus targeted. The Sri Lanka, in which we live today, is no longer a place where the rule of law protects its citizens as a matter of course."*
>
> Dr Jayadeva Uyangoda, of the Arts Faculty Teachers' Association, University of Colombo.[186]

ARRESTS IN JAFFNA FOLLOWING STUDENT PROTESTS

Since the end of the armed conflict in May 2009, the Sri Lankan authorities have placed tight restrictions on events and religious observances held in the north and east to commemorate and mourn war victims, particularly those held around 27 November, the LTTE's "Heroes Day" which was established to commemorate cadres killed during Sri Lanka's armed conflict and which falls on the day after late LTTE leader Velupillai Prabhakaran's birthday. The date of 27 November 2012 also coincided with the Hindu festival *Karthikai Deepam*, and the army reportedly prevented many Jaffna residents from lighting lamps to celebrate this festival.

Jaffna-based media reported, citing the National Human Rights Commission's Jaffna district office, that 47 people were arrested in Jaffna and Kilinochchi in the wake of student protests (mentioned briefly above) at the end of November 2012, and that 44 of them who were allegedly suspected of links to the LTTE had been detained for interrogation by the TID in its detention centre at Boosa.[187] Four Jaffna University student leaders were arrested in December and detained in what the Sri Lankan government refers to as a "rehabilitation" centre[188] in Welikanda, where they were held without charge for between one and two months. The last two were released in mid-February.

According to local media and human rights defenders, on 27 November security forces broke up a lamp lighting ceremony at the women's hostel at Jaffna University, reportedly breaking lamps, threatening students and pointing weapons at them. The following day students responded with a silent protest and short march and held placards denouncing the restrictions on freedom of expression. At least 20 undergraduates, including Sanmugam Solaman, one of the student leaders subsequently detained, were injured and beaten by riot police and officers in civilian dress. Security forces alleged that the students had thrown stones at them, prompting them to react; university staff told Jaffna media that the event was peaceful until the authorities attacked the marchers.

On 1 December 2012 TID officers arrested students Sanmugam Solaman, P. Tharshananth, Secretary of the Jaffna University Students' Union; Kanesamoorthy Sutharsan, and K. Jenemajeyamenan, President of the Arts Faculty Student Union. The students were held under the PTA in Vavuniya for interrogation and then three of them were transferred to Welikanda Rehabilitation Centre, where they were held without charge. Kanesamoorthy Sudarsan was released on bail. A fifth student, V. Bhavananadan, surrendered to the TID in Jaffna on 7 December and was also sent to Welikanda. He and Sanmugam Solaman were released from detention on 22 January. Amnesty International issued a series of Urgent Action appeals for their safety and calling on the Sri Lankan authorities to release them from custody or charge them with a recognizable criminal offence.[189] President Mahinda Rajapaksa ordered the release of P. Tharshananth and, K. Jenemajeyamenan, on 13 February.

Sri Lankan media reported that after their arrest, the students were questioned about their alleged involvement in a petrol bomb attack on the office of a local political organisation, as well as their involvement in organizing student demonstrations. However, faculty members with the Jaffna University Science Teachers' Association maintained in an open letter to President Mahinda Rajapaksa on 7 December that the petrol bomb was only a pretext to

detain and harass student leaders and that the students "had nothing to do with bomb throwing."[190] They expressed opposition to the use of the PTA against non-violent political activities and opinion.[191]

Other students were also arrested and questioned by the authorities. On the morning of 6 December, a man claiming to be with the TID presented the University of Jaffna administration with a list of 10 students the university should hand over to the Jaffna Police Station. The Dean of the medical faculty accompanied five students who turned themselves over to the authorities that day. A sixth student from the Management Faculty was accompanied by his father; all six were interrogated, and released on 10 December. Several students who approached the Human Rights Commission for protection on 7 December and later handed themselves over to the TID were also interrogated and released.

There have been a series of previous violent attacks on student activists in Jaffna, as well as efforts to prevent students from organizing. In October 2011 Subramaniam Thavapalasingham, President of the Jaffna University Students' Union was attacked by unidentified assailants wielding iron bars who accused him of supporting Tamil separatism; he alleges that Sri Lankan military intelligence was responsible for the attack. In May 2012, P. Tharshananth, one of the students arrested on 1 December, was attacked in a similar way and was very badly beaten shortly before he was to address a remembrance event commemorating victims of the armed conflict.

THREATS AGAINST J.C. WELIAMUNA, JAYAMPATHI WICKRAMARATHNE, M.A. SUMANTHIRAN, ROMESH DE SILVA AND OTHER LAWYERS

On 17 January 2013, *Lanka-e-News*, a website blocked by the Sri Lankan government in Sri Lanka in 2011 and often under attack for its critical stance, reported that J.C. Weliamuna, a prominent and outspoken lawyer active with the Lawyers Collective for the Independence of the Judiciary, was being targeted for assassination by an alleged career criminal recently released from prison collaborating with a group composed of Special Task Force (STF) members and members of the President's Security Division.[192] J.C. Weliamuna did not confirm the alleged involvement of members of the STF and the President's Security Division, but stated that he had verified with police that the man he alleged was following him had recently been released from jail.

The Lawyers' Collective in a statement on 23 January expressed grave concern over "threats and acts of intimidation" against lawyers, including written death threats against lawyers who campaigned against the Chief Justice's impeachment. According to Weliamuna, he and fellow lawyers Jayampathi Wickramarathne and M.A. Sumanthiran (who is also a politician representing the opposition Tamil National Alliance) all reportedly received threatening letters in January. President's Counsel Romesh de Silva, who represented the Chief Justice Shirani Bandaranayaka during her impeachment, has reportedly received an identical letter; all submitted complaints at their local police stations.

Mr Weliamuna, former Colombo head of Transparency International, has been the recipient of numerous threats and attacks in the past. In 2010 he was the target of a smear campaign by government media alleging misuse of funds by his organization. On the night of 27 September 2008 two grenades were thrown at his residence, one of which detonated. The

motive for the attack was never determined although he believed that it was linked to his work as a human rights lawyer.[193] There was no serious or effective police investigation into the attack and the perpetrators never identified.

Other prominent lawyers engaged in protests against the Chief Justice's impeachment also reported attacks and threatening encounters they believed were linked to their activism. On 18 December, four men in military-style uniforms and carrying pistols blocked the vehicle of senior lawyer Gunaratne Wanninayake and tried to pull him from his car. Wanninayake said the men escaped when neighbours heard his shouts for help and intervened. Two days later, Wijedasa Rajapaksa, President of the Sri Lankan Bar Association reported that gunshots had been fired at his home in the early morning hours of 20 December. He said he heard three gunshots and the sound of a vehicle leaving the scene. He found three bullet shells near his house, but no one was injured.[194] According to a complaint by the Lawyers Collective, a female lawyer who did not want to be publicly identified was returning from a public protest against the impeachment in mid-January when she was followed and attacked by unidentified motorcyclists who attempted to strangle her.[195]

In early February the Government of Sri Lanka revoked visas for an International Bar Association's Human Rights Institute (IBAHRI), to visit to look into the situation of the judiciary in Sri Lanka shortly before they were scheduled to travel. The Sri Lankan government claimed, after the fact, that the Bar Association had misrepresented the purpose of the visit and had applied for the wrong visas, but IBAHRI refuted this claim, saying that they had chosen the visa option that best fit the intentions of the delegation, "which were to hold a range of consultations and seminars with various participants."[196]

REPRISALS FOR UN AND OTHER INTERNATIONAL CONTACT

The Sri Lankan authorities have shown themselves to be particularly sensitive to any criticism of their human rights record at the international level, lashing out at both activists attending international meetings and those in Sri Lanka suspected of providing them with information on human rights violations. Reporting on such threats against local activists in Sri Lanka's north and east is especially difficult. People are vulnerable and frightened. They do not have the same level of protection provided by being better-known like their colleagues in Sri Lanka's capital, and the threats they encounter – to themselves and their families – are all too real. Some of the following cases are therefore set out only in brief, having been edited substantially at the request of witnesses to remove identifying details; the full case details are on file with Amnesty International.

WOMEN'S ORGANIZATIONS UNDER PRESSURE

In April 2012, in the aftermath of the UN HRC Resolution 19/2 on accountability in Sri Lanka, at least four women's organizations in the north and east were visited and their members questioned by individuals claiming to be from CID about their work, their donors, and details about members of their staff and their boards. Some officers were not in uniform when they visited the houses where key staff members lived and attempted to question family members and neighbours.

Amnesty International received similar reports in December 2012 and January 2013. Those who report being questioned by police have asked that the details regarding their cases remain confidential out of fear of retaliation (officers threatened them with detention and

said they could monitor their communications), but Amnesty International can confirm that at least six people report having been questioned by CID in relation to their work and contacts since 1 December 2012. One of their colleagues commented that the authorities seemed to be trying to silence anyone that they thought might be able to get information out of the country. Interrogators appeared particularly concerned that people with information about local communities could pass that information to international human rights organizations or the UN.

HUMANITARIAN WORKER ARRESTED AND TORTURED

In 2012, a Sri Lankan humanitarian worker was arrested and interrogated by CID officers seeking information about his association with a foreign colleague. They tortured him severely in an effort to extract a written confession that he and his colleague had worked for the LTTE. The torture he described to Amnesty International was severe and prolonged, lasting for days and included beatings with fists, boots and a wooden pole, suspension, choking and rape. Police threatened to kill his family if he sought medical help or told anyone about what had been done to him.[197]

FAMILIES OF THE DISAPPEARED BLOCKED COLOMBO PROTEST

According to human rights defenders in Vavuniya, on 5 March 2013, police and army personnel in Vavuniya stopped 11 busloads of people (reportedly some 700 people) from northern Sri Lanka travelling to Colombo where they planned to participate in a demonstration and present a petition to the UN Mission. The protesters were all family members of the disappeared and the detained, seeking UN help in determining the fate of their loved ones.

The buses were stopped at the Omanthai check point, just north of Vavuniya; bus drivers were questioned and intimidated by police officers with the TID and CID and the passengers then escorted to Vavuniya where the travellers were kept under military guard at the grounds of the Vavuniya Urban Council, without sanitation or drinking water. The security forces reportedly told the families they should give up their plan to travel to Colombo, and disperse. All but two of the buses turned back, leaving their passengers stranded in Vavuniya. The travellers, most of them women, held their demonstration in Vavuniya on 6 March because they could not reach Colombo. A smaller group made their way to Colombo where they presented a petition at the UN office, asking the Office of the High Commissioner for Human Rights to help them find their missing family members.[198]

Around the time of the HRC's adoption of Resolution 19/2 on Sri Lanka in March 2012, Sri Lankan politicians and government media labelled people who spoke in favour of the resolution or attempted to cooperate with UN human rights mechanisms as "traitors" and threatened some with bodily harm (see below). A similar campaign against critics began in late 2012 before the 22nd Session of HRC in March 2013, and its adoption of follow-up Resolution 22/1 on Sri Lanka.

SUNILA ABEYSEKERA, SUNANDA DESHAPRIYA, NIMALKA FERNANDO, PAIKIASOTHY SARAVANAMUTTU AND J.C. WELIAMUNA

In March 2012, government-affiliated press and television channels in Sri Lanka featured repeated threats against members of Sri Lankan civil society who were attending meetings in Geneva around the HRC session. Sunila Abeysekera, a Sri Lankan activist affiliated with

INFORM, Women and Media Collective and the Global Campaign for Women's Human Rights; Nimalka Fernando, a lawyer and Director of International Movement Against Discrimination and Racism (IMADR); and Paikiasothy Saravanamuttu, Director of the Centre for Policy Alternatives, who participated in an NGO event at the UN; Sunanda Deshapriya, a journalist and media freedom activist who met with the UN Special Rapporteur on the Situation of Human Rights Defenders; and lawyer J.C. Weliamuna, were particular targets of accusations carried in the media and threats by Sri Lankan officials who called them "traitors" and accused them of receiving funds from the LTTE.

Public Affairs Minister Mervyn Silva addressed a public rally in Sri Lanka where he threatened to "break the limbs" of Sunanda Deshapriya, Nimalka Fernando and Pakiasothy Saravanamuttu.[199] On that occasion Silva also claimed responsibility for an earlier attack on the former president of the Sri Lanka Working Journalist Association (SLWJA), journalist Poddala Jayantha, who was abducted, tortured and severely injured in June 2009. His left leg was broken by his assailants and his fingers were crushed, in order, they said, to prevent him from writing. Silva is reported to have bragged that he had forced Poddala Jayantha to flee Sri Lanka.[200]

On 23 March 2012, the UN High Commissioner for Human Rights warned the Sri Lankan delegation to the HRC session that there must be no reprisals against Sri Lankan human rights defenders following the adoption of HRC resolution 19/2 calling on Sri Lanka to take credible steps to ensure accountability for alleged serious violations of international law. The High Commissioner's spokesperson, Rupert Colville said there had been "an unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists who had travelled to Geneva to engage in the debate, including by members of the 71-member official Sri Lankan government delegation."[201] He noted that since January 2012, Sri Lankan media had been running a "continuous campaign of vilification," naming and often including images of activists, calling them an "NGO gang" and repeatedly accusing them of treason, mercenary activities and associating with terrorists. Colville noted that some of the articles were filed by journalists who had been officially accredited to the Council session by the Sri Lankan authorities. Comments by readers of the articles posted online called for activists to be killed and one called for burning down their houses.

Colville said that intimidation and harassment of Sri Lankan civil society activists had also been reported elsewhere in Geneva, outside the UN. According to Colville, the Sri Lankan Ambassador in Geneva also reported receiving an anonymous threatening letter.[202]

JOURNALIST GNANASIRI KOTTEGODA, FORCED TO FLEE

Sri Lankan Working Journalists Association (SLWJA) President, Gnanasiri Kottegoda is another victim of repression against critical journalists. He fled his home in 2012 after his safety was compromised by a state sanctioned smear campaign after the HRC session in March 2012. He told Amnesty International in March 2013:

> *"I have been a journalist for over 20 years. I believe I was attacked as the government could not censor me. I was working for BBC Sinhala so was able to get news about the country to the outside world that's why they attacked me.*

Last March I was the victim of a vicious smear campaign. A state run media channel ITN ran a smear campaign about me after the 2012 Geneva resolution. They put photos of me on TV news and called me a traitor. On 22nd March I raised this issue in a press conference. I asked 'Why don't you arrest me and charge me if you think I'm a traitor.' I got some assurances from a government spokesperson but the smear attacks continued. Soon afterwards military intelligence visited my home and started asking a lot of questions in my village. I was forced into hiding as I knew people were looking for me. In Sri Lanka people are kidnapped openly. There is no space to do any investigative stories. If the government does not like you they call you a traitor. I was forced to leave the country for safety." [203]

SANDYA EKNALIGODA, WIFE OF MISSING JOURNALIST PRAGEETH EKNALIGODA

Sandya Eknaligoda, wife of journalist Prageeth Eknaligoda (see above) was also singled out. She visited Geneva during the March 2012 session of the HRC where she spoke about her husband's case. When her husband's *habeas corpus* petition came up for hearing in a Homagama Magistrate's Court later that month, the government counsel responding to the petition questioned Sandya Eknaligoda at length and in a hostile manner about her activities in Geneva and asked how much she had been paid by international NGOs to go there. He reportedly accused her of lobbying against the Sri Lankan government.[204]

HERMAN KUMARA, NATIONAL FISHERIES SOLIDARITY MOVEMENT

Long-time human rights campaigner Herman Kumara faced threats after participation in the fourth global meeting of the Farmers' Forum hosted by the International Fund for Agricultural Development in Rome in February 2012; pressure increased after he attended the UN HRC session in March 2012 as part of a Sri Lankan civil society delegation.[205]

After spontaneous demonstrations by fisherfolk against rising fuel prices in February 2012 ended in a violent clash with police in which a fisherman was killed,[206] Sri Lankan authorities and the state media accused NGOs of being responsible for the death, saying that the protests were organized by anti-government forces. At a cabinet press briefing on 23 February, government ministers reportedly described the demonstration as an NGO "conspiracy," and Sri Lanka's Fisheries Minister reportedly called Herman Kumara a "murderer" although Kumara denies playing any part in organizing the protests. Herman Kumara reported receiving repeated threats and intimidation after the incident, and that he was under surveillance. He told Amnesty International he narrowly escaped abduction when he was returning home from the Farmers' Forum in Rome. Kumara had also given public interviews after his return from the 19th HRC Session in Geneva in March 2012, calling on the Sri Lankan authorities to implement the recommendations of the LLRC or face renewed pressure at the 22nd HRC Session in March 2013.[207]

GOVERNMENT EFFORTS TO STIFLE CRITICISM AT THE UN IN 2013

In late February 2013, Ravinatha Aryasinha, Sri Lanka's Ambassador to the UN wrote an open letter to the President of the UN HRC protesting plans by Amnesty international and Human Rights Watch to screen Channel 4's documentary film, "*No Fire Zone: The Killing Fields of Sri Lanka,"* at a side event at the UN on 1 March 2013 during the HRC's 22nd

Session, implying that the UN should withdraw the organizations' consultative status because of the content of the film, which he described as "politically motivated" and "unsubstantiated." In his response to the Ambassador, the President of the HRC noted that such NGOs in consultative status with the UN "have the right to organise side events" and that "the organizers of side events take full responsibility for the content of their events." He added that he encouraged "all those who participate in the work of the Council, including Permanent Missions and NGOs, to discuss issues with the appropriate level of dignity and respect. This means and implies that all of us will have to respect and tolerate arguments, ideas and words expressed by others that may at times he uncomfortable to listen to." He encouraged the Sri Lankan delegation to consider organising a side event of its own "whereby its point of view could be shared."

On 5 March, the Sinhala language *Divaina* newspaper reported that Sri Lanka's Ministry of Defence had asked the public for help to identify Sri Lankans "betraying the country for monetary gains" by helping Channel 4.[208] The film's producer, Callum Macrae, issued a statement emphasizing that "No person resident anywhere in Sri Lanka helped us with this film. No-one was paid for any evidence or interviews. If Sri Lanka uses our film to justify a witch-hunt, or worse, against anyone it perceives as a critic it will condemn itself in the eyes of the world."[209]

Lakbima, another Sinhalese language newspaper, citing internal government sources, reported on 9 March that the government was watching the statements made by members of the Tamil National Alliance and other activists who attended the HRC session and that there was a "secret plan" to arrest them upon their return from Geneva "if they have made statements detrimental to the unitary character of the state." [210]

IV. CONCLUSION

Violent repression of dissent and consolidation of political power go hand in hand in Sri Lanka. Since taking office in 2005, the Rajapaksa government has tightened its grip on power by targeting people in civil society at all levels it believes have influence with a certain community, institution or political circle; or have information that could damage someone's hold on power. At the national level state repression has been directed at prominent politicians and journalists, activists, lawyers, influential businessmen and academics; but many victims of state repression in Sri Lanka are unknown outside their own local communities: they are university students, humanitarian workers, parents protesting the enforced disappearance of their children.

On the international front the Sri Lankan government continues to deny ongoing violations and to make empty promises about protecting human rights and ensuring the rule of law, even while it attempts to stop its own citizens from communicating with the UN and other international bodies about serious violations of human rights they have witnessed.

The Sri Lankan government continues to deny that a climate of impunity prevails in Sri Lanka but in almost all cases has failed to ensure justice for the victims of serious violations of human rights, and has rejected mounting evidence that crimes under international law may have been committed by its forces during Sri Lanka's protracted armed conflict. Many alleged violations, including enforced disappearances and extrajudicial executions, occurred in the final months of the armed conflict that ended in May 2009, but there are many older cases that remain unresolved. Two emblematic examples of this failure are the execution-style killings of the five students in Trincomalee in January 2006 and the 17 ACF aid workers in August of that year. In both cases, eyewitness testimony implicated members of the Sri Lankan security forces but witnesses were threatened, investigations faltered and no one has been brought to trial.

During Sri Lanka's Universal Periodic Reviews by the UN HRC in 2008 and again in 2012, in its reporting to the UN Committee against Torture and UN Working Group on Enforced or Involuntary Disappearances, and during successive HRC sessions, the Sri Lankan government has claimed to be protecting human rights.[211] In response to international and domestic calls for greater human rights accountability, the Sri Lankan government has established various commissions to examine allegations of abuses,[212] but then largely ignored their recommendations.[213] It has touted successive national action plans that promised to reform laws and procedures that do not meet international standards but then has failed to make the necessary changes. It has promised to ensure that people arbitrarily detained are guaranteed a fair trial or released, but hundreds remain in detention without trial. And it has claimed to respect the rights to freedom of expression, assembly and association even while its security forces and supporters jail, threaten, assault and even kill critics with impunity.

The HRC's adoption of Resolution 19/2 in March 2012 calling on Sri Lanka to ensure accountability for alleged violations under international law, and its stronger Resolution 22/1 adopted with greater support in March 2013 signal the growing international frustration over Sri Lanka's empty promises.

Resolution 22/1 expresses concern over reports of continuing violations of human rights in Sri Lanka and calls on the government to conduct an independent and credible investigation into allegations of violations of international human rights law and international humanitarian law. It also calls for regular UN reporting on the implementation of the resolution, including of ongoing human rights violations and determines to review Sri Lanka's progress in September 2013.[214] The resolution notes the UN High Commissioner for Human Rights' call for an "independent and credible international investigation into alleged violations of international human rights law and international humanitarian law" in Sri Lanka, but falls short of calling for such an investigation.

Amnesty International and many other NGOs, as well as the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka, have since the end of the armed conflict in Sri Lanka, made repeated calls on the UN to establish an independent international investigation into alleged war crimes, crimes against humanity and other crimes under international law.

Since the Government of Sri Lanka has proved unwilling to act to end the cycle of impunity in Sri Lanka, the UN must act. An independent international investigation is necessary into allegations of crimes under international law committed by the Government and the LTTE during the country's armed conflict. This should include investigations into violations that took place in the lead up to the Sri Lankan government's final northern offensive, like cases of the killings of the Trinco Five and of the ACF workers, which for seven years have gone uninvestigated and unpunished.

The Commonwealth should pick up on the call made by the HRC. In light of the HRC's expression of concern at "the continuing reports of violations of human rights in Sri Lanka, including enforced disappearances, extrajudicial killings, torture and violations of the rights to freedom of expression, association and assembly, as well as intimidation and reprisals against human rights defenders, members of civil society and journalists, threats to judicial independence and the rule of law," it is essential that the Commonwealth address the human rights situation in Sri Lanka.[215] This is particularly important as Sri Lanka is scheduled to host the next Commonwealth Heads of Government meeting (CHOGM) in November 2013 and would then represent the Commonwealth as its Chair for the next two years. Enabling Sri Lanka to host CHOGM 2013 in Colombo and serve as Commonwealth Chair without genuine human rights reform in the country would run contrary to the Commonwealth's Charter and values.

This is a decisive moment for the both UN and the Commonwealth. The effective investigation by Sri Lankan authorities of cases such as those documented in this report, and initiation of legal proceedings against those found responsible — including prosecution of anyone with command responsibility, who knew or should have known about them and did not take measures to prevent or punish them — should serve as benchmarks — indicators of Sri Lanka's broader willingness and ability to seek and ensure accountability for violations of human rights.

International action is imperative in view of the iron grip that Sri Lanka exerts on its domestic critics. The UN, the Commonwealth and Sri Lanka's bilateral partners all have a role to play in pressing Sri Lanka to meet its international obligations including ensuring accountability.

The Sri Lankan government's intolerance of criticism and of detractors – including members of the judiciary and others acting within the country's established system of law, combined with an unwillingness to rein in its supporters who use violence, threatens to unravel what is left of the rule of law in Sri Lanka. As long as impunity reigns, and dissent is stifled, the Sri Lankan government's promises of reconciliation following the conflict are empty promises.

V. RECOMMENDATIONS

Amnesty International urges **UN member states** to support the UN in:

- Establishing a credible and independent international investigation into allegations of crimes under international law committed by Sri Lankan government forces and allied armed groups as well as the LTTE. The investigation should be conducted in accordance with international standards and, where sufficient admissible evidence is found, lead to the criminal prosecution of individuals found responsible in full conformity with international standards for fair trial;

- Strengthening UN measures to prevent intimidation or reprisals by the Sri Lankan government against individuals who seek to cooperate or have cooperated with the UN, its representatives and mechanisms in the field of human rights;

- Conducting close ongoing international monitoring of the human rights situation in Sri Lanka, including of the effectiveness of any domestic accountability processes; [216]

- Taking stronger action, including at the UN Human Rights Council's 24th Session, if by 1 September 2013 the Government of Sri Lanka has still not ensured that perpetrators are brought to justice for crimes under international law including war crimes and crimes against humanity, as well as to end its systematic attacks on freedom of expression, association and assembly.

Amnesty International urges the **Commonwealth Secretary-General and member states**, including the Commonwealth Ministerial Action Group to:

- Address immediately, effectively, and transparently the serious and persistent violations of Commonwealth values in Sri Lanka, including the government's systematic violation of human rights, significant restrictions on the media and civil society, and undermining of the independence of the judiciary;

- Actively support UN efforts to promote reconciliation and accountability in Sri Lanka, including for support for implementation of UN Human Rights Council Resolution 22/1 of March 2013 and the outcome of Sri Lanka's 2012 Universal Periodic Review;

- Ensure that the Government of Sri Lanka neither hosts the November 2013 Heads of Government Meeting (CHOGM), nor is awarded the role of 2013-2015 Commonwealth Chair, unless the Government of Sri Lanka demonstrates beforehand that it has stopped its systematic violation of human rights, including its failure to bring to justice perpetrators of war crimes and crimes against humanity and its persistent attacks on freedom of expression, association and assembly.

Amnesty International urges the **Sri Lankan authorities** to:

- Respect, protect and fulfil the rights to freedom of expression, freedom of peaceful assembly, and freedom of association, in compliance with Sri Lanka's obligations under international law and standards;

- Publicly acknowledge that attacks, including threats, detention, harassment, intimidation and killings, have been committed against journalists, lawyers, human rights defenders, civil society activists and others for exercising their right to freedom of expression, and state unequivocally that such attacks and threats, harassment, and intimidation will not be tolerated, regardless of the opinions such individuals hold and express, and regardless of the rank or political affiliation of the suspected perpetrator;

- Ensure that all attacks on individuals, irrespective of the identity of perpetrators or victims, are promptly, independently, impartially and effectively investigated. Those suspected of committing attacks, including any officials in positions of command who ordered them, or who knew or had reason to know about them and did not take measures to prevent or punish them, must be prosecuted in proceedings which meet international fair trial standards;

- Make public the report of the 2006 Commission of Inquiry on 16 "serious violations of human rights," including the findings of its investigations into the killing of five students in Trincomalee and the 17 ACF aid workers, and, as recommended by the UN High Commissioner for Human Rights in February 2013, "accept international assistance to resolve outstanding cases" (A/HRC/22/38);

- Implement the recommendations of the UN Committee against Torture made to Sri Lanka in December 2011 to "ensure that all persons, including those monitoring human rights and combating torture and impunity are protected from intimidation or violence as a result of their activities; and take prompt and effective measures, including investigation and prosecution, to address concerns regarding the extremely hostile environment for human rights defenders, lawyers, journalists and other civil society actors in Sri Lanka;"[217]

- Take steps to ensure that everyone in Sri Lanka is able to use any available communication medium, including the Internet, to seek, receive and impart information and ideas in line with their human rights to freedom of opinion and expression;

- End censorship, closure of media outlets, and other restrictions on the exercise of freedom of expression, including access to information, that violate Sri Lanka's international human rights obligations;

- Repeal the Prevention of Terrorism Act and repeal, reform, or end the abusive use of other legislation which has been used to violate the right to freedom of expression, freedom of peaceful assembly, and freedom of association;

- Ensure that no restrictions are placed on public assemblies and demonstrations except those that are provided by law and are demonstrably necessary and proportionate for a legitimate purpose as stipulated in international law, and that in policing such assemblies

the security forces comply with international law enforcement standards and in particular do not use force except if it is strictly necessary and to the extent required for the performance of their duty;

- Implement the recommendation made by the UN High Commissioner for Human Rights to Sri Lanka in February 2013 (A/HRC/22/38) to "engage civil society and minority community representatives in dialogue on appropriate forms of commemoration and memorialisation that will advance inclusion and reconciliation;"[218]

- Cooperate fully with the UN special procedures mandate holders including by responding positively to outstanding requests for invitations to visit Sri Lanka and by providing them with unfettered access. Mandate holders awaiting responses include the UN Special Rapporteur on Freedom of Expression; the Special Rapporteur on Freedom of Association and Assembly; the Special Rapporteur on the Independence of Judges and Lawyers; the Special Rapporteur on the situation of human rights defenders; the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial Executions, the Independent Expert of Minority issues and the Working Group on Discrimination against Women in Law and Practice;[219]

- Ensure that all suspected perpetrators of crimes under international law including war crimes and crimes against humanity are prosecuted in proceedings which comply with international standards for fair trial.

VI. ENDNOTES

[1] In 1993 Amnesty International reported an estimated 2,000 or more people in LTTE custody and noted that "The LTTE has not informed relatives of the whereabouts or fate of many of its prisoners, some of whom have reportedly been tortured and killed." The LTTE also conducted abductions for ransom. See, Amnesty International, *Sri Lanka: "An assessment of the human rights situation"* (Index: ASA 37/001/1993). See also, Amnesty International, *Sri Lanka: "A Climate of Fear in the East"* (Index: ASA 37/001/2006); See also, Sharika Thiranagama, "In Praise of Traitors: Intimacy, Betrayal and the Sri Lankan Tamil Community," *Traitors; Suspicion, Intimacy, and the Ethics of State-Building*. Sharika Thiranagama and Tobias Kelly ed., University of Pennsylvania Press, Chapter 6, p128: "Treasonous acts were ever-expanding, from open political action to being seen talking or transacting with the Sri Lankan Army to refusing to pay LTTE taxes. The categorization of treason remained stable only to those to whom one was considered treasonous: the LTTE. Thousands had been arrested and fined, and many killed. The reason given for almost all extrajudicial killings in the LTTE-controlled north and east was the needful cleansing of traitors. This heightened following the split of the LTTE into two factions, both claiming that those who support the others are traitors, further exacerbating the surveillance and violence enacted against Tamils."

[2] Sri Lanka's Prevention of Terrorism Act of 1979 (PTA) contains broad restrictions on freedom of expression, including forbidding expression (speech as well as written publication) that "is likely to cause religious, racial or communal disharmony or feeling of ill-will or hostility between different communities or racial or religious groups." (PTA Part I, Section 2(1)(h)). It also forbids printing or publication of any information related to the investigation into or commission of any offence under the PTA without written approval of a competent authority. (PTA, Part V). See, Amnesty International, "*The Prevention of Terrorism Act,"* in *Locked Away, Sri Lanka's Security Detainees* (Index: ASA 37/003/2012), pp13-14 See also, Amnesty International, *Briefing to the UN Committee Against Torture* (Index: ASA 37/016/2011), p5.

[3] For example, A 26 January 2012 article in *Dinamina*, a state-owned Sinhala language newspaper, quoted Minister Keheliya Rambukwella saying that exiled media personnel who lobby in Geneva were traitors to the country, and were bringing the country into disrepute., accessed 18 February 2013. "*Visuma*, a Sinhala language commentary spot that aired after the ITN news broadcast on 15 March 2012 stated: "*We have heard it said by someone that it is better to kill oneself than to live as a traitor who has betrayed the entire motherland for money given by others..... They should only live in this country so that we can see with our own eyes how they meet with the tragic end they deserve.*"(*Visuma* 15 March 2012).

[4] "Govt opposes internationalization of national issues," *Daily News*, 6 June 2012, http://www.dailynews.lk/2012/06/06/news03.asp, accessed 21 March 2013.

[5] UN Human Rights Council Resolution 19/2, "Promoting reconciliation and accountability in Sri Lanka," adopted 23 March 2012, A/HRC/RES/19/2.

http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-2_en.pdf, pp.7-7, accessed 21 March 2013.

[6] On 23 March, the Office of the UN High Commissioner for Human Rights warned against reprisals following the adoption resolution 19/2 and said that threats against defenders of human rights by members of Sri Lanka's official delegation were "unprecedented and totally unacceptable." *Briefing note on Sri Lanka / human rights defenders*, 23 March 2012, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12008&LangID=E, accessed 21 March 2013.

[7] UN Human Rights Council Resolution 22/1 on "*Promoting reconciliation and accountability in Sri Lanka,"* introduced as draft resolution A/HRC/22/L.1/Rev.1 and adopted 21 March 2013.

[8] "Disinformation campaign againsta Senior Researcher of CPA," 21 January 2013, http://f.cl.ly/items/413i450F3f3B470v2M1S/Statement%20on%20FB%20campaign%20on%20BF.pdf, accessed 21 March 2013.

[9] See, Committee to Protect Journalists, "Attacks on the Press in 2012, Sri Lanka," February 2013, http://www.cpj.org/2013/02/attacks-on-the-press-in-2012-sri-lanka.php, accessed 21 March 2013; see also: Journalists for Democracy in Sri Lanka (JDS), "Media workers killed in Sri Lanka (2004 - 2010)," http://www.jdslanka.org/index.php/killed-media-workers, accessed 21 March 2013.

[10] In November 2011, Anusha Palpita Director General of the Telecommunication Regulatory Commission told the Associated Press that his agency had blocked www.lankaenews.com, srilankamirror.com, srilankaguardian.com, paparacigossip9.com and www.lankawaynews.com, (http://news.yahoo.com/sri-lanka-blocks-5-news-websites-over-insults-094158881.html, accessed 21 March 2013.

[11] In January 2012, the Sri Lankan government began registering websites. Of the first 81 applications it received, only 21 received permission to operate, according to WB Ganegala Sri Lanka's Mass Media and Information Ministry Secretary. In July 2012 Sri Lanka's Cabinet of Ministers approved amending the Sri Lanka Press Council Law of No 05 of 1973 to charge a registration fee of Rs.100,000 and annual renewal fee of Rs.50,000 for websites, which would have been prohibitively expensive for a great many Sri Lankans. According to Ganegala, the government had initially proposed registering websites for free, but later decided to charge a fee to discourage "mudslinging" websites. The government does not impose a registration fee for newspapers or magazines in Sri Lanka. In August 2012, fee was reduced to Rs.25,000 and annual renewal fee to Rs.10,000 per website.

[12] Swaminathan Natarajan, "*Media Freedom in Post War Sri Lanka and its Impact on the Reconciliation Process*," University of Oxford, 2012 https://reutersinstitute.politics.ox.ac.uk/fileadmin/documents/Publications/fellows__papers/2011-2012/Media%20Freedom%20in%20Post%20War%20Sri%20Lanka.pdf, p12.

[13] Taken into custody by the security forces or the authorities or abducted with the authorization, support or acquiescence of the State, who in violation of international law refuse to acknowledge their detention or to reveal their fate or whereabouts, placing them outside the protection of the law.

[14] Sarath Fonseka, former Army General and Commander of the Sri Lankan armed forces alleged in December 2009 that he had learned from an embedded journalist that the Defence Secretary had called the Army's 58th Brigade Commander and ordered him to shoot surrendering LTTE members, Frederica Jansz, "Gota Ordered Them To Be Shot – General Sarath Fonseka," *The Sunday Leader*, 13 December

2009, http://www.thesundayleader.lk/2009/12/13/%E2%80%9Cgota-ordered-them-to-be-shot%E2%80%9D-%E2%80%93-general-sarath-fonseka, accessed 23 March 2013. A UN Panel of Experts appointed by Secretary General Ban Ki-moon to advise him on accountability issues in Sri Lanka concluded in March 2011 that "Credible allegations presented to the Panel suggest that SLA commanders and senior Government officials, as well as military and civilian LTTE leaders, bear criminal responsibility for international crimes..." see, "Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka," 31 March 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, accessed 23 March 2013.

[15] For example, high numbers of military personnel stationed in the areas are engaged in policing, civil administration and civil occupations, such as education; increasing numbers of army-owned businesses in the north and east, and continued military occupation of large amounts of civilian-owned land.

[16] On 22 June 2010, UN Secretary General Ban Ki-moon appointed a three-member Panel of Experts to advise him on accountability issues during the final stages of the armed conflict in Sri Lanka. Panel members were Marzuki Darusman (Indonesia), Chair; Steven Ratner (United States); and Yasmin Sooka (South Africa). The Panel's report, of 31 March 2011, can be found at: http://www.un.org/en/rights/srilanka.shtml, accessed 10 April 2013.

[17] See for example, Networking for Rights in Sri Lanka (NfR), INFORM Human Rights Documentation Centre, Sri Lanka, Free Media Movement, Sri Lanka (FMM), "Human Rights Defenders, Freedom of Assembly, Freedom of Association and Dissent in Sri Lanka, NGO Submission, Universal Periodic Review - second cycle on Sri Lanka (14th UPR Working Group – Oct / Nov. 2012), April 23, 2012, https://nfrsrilanka.files.wordpress.com/2012/06/nfr-sri-lanka-joint-upr-submission-sri-lanka-nov-2012-defenders-freedom-of-assembly-freedom-of-association-and-dissent.pdf, accessed 2 April 2013.

[18] For a recent discussion of the policy implications of Sri Lanka's repression of dissent, see International Crisis Group, "Sri Lanka's Authoritarian Turn: The Need for International Action," *Asia Report No. 243*, 20 February 2013.

[19] Perth Communiqué, "*2011 Commonwealth Heads of Government Meeting*," October 2011, http://www.thecommonwealth.org/document/181889/34293/35232/249249/perth_communique.htm, accessed 19 March 2013. See also "*Charter of the Commonwealth*," 2012, http://www.thecommonwealth.org/files/252053/FileName/CharteroftheCommonwealth.pdf, accessed 19 March 2013; and "*Affirmation of Commonwealth Values and Principles*," Commonwealth Heads of Government Meeting, November 2009, http://www.thecommonwealth.org/files/216908/FileName/Affirmation_of_Commonwealth_Values_and_Principles%5B1%5D.pdf, accessed 19 March 2013.

[20] Human Rights Committee, General Comment No. 34, 12 September 2011, UN Doc. CCPR/C/GC/34, para13.

[21] See, for example, Human Rights Committee, General Comment No. 34, paras21-36.

[22] Human Rights Committee, General Comment No. 29, 31 August 2001, CCPR/C/21/Rev.1/Add.11, paras 2-5.

[23] Human Rights Committee, Fourth Periodic Report, Sri Lanka, 18 October 2002, CCPR/C/LKA/2002/4.

[24] Human Rights Committee, Concluding observations, Sri Lanka, 1 December 2003, CCPR/CO/79/LKA.

[25] Human Rights Committee, Fifth Periodic Report, Sri Lanka, 29 October 2012, CCPR/C/LKA/5.

[26] Ibid, para 323

[27] Article 14, Sri Lankan Constitution.

[28] Article 15, Sri Lankan Constitution.

[29] Article 15, Sri Lankan Constitution.

[30] For a more detailed discussion of the PTA see, Amnesty International, "*The Prevention of Terrorism Act," in Locked Away: Sri Lanka's Security Detainees* (Index: ASA 37/003/2012), pp13-14, available at: https://www.amnesty.org/en/library/info/ASA37/003/2012/en; See also, Amnesty International, *Briefing to the UN Committee against Torture* (Index: ASA 37/016/2011), p5, available at: http://www.amnesty.org/en/library/info/ASA37/016/2011/si

[31] The Citizens' Movement for Good Governance (CIMOGG), "*RIGHT TO INFORMATION LAW*," http://cimogg-srilanka.org/2007/01/right-to-information-law/, accessed 21 March 2013.

[32] Human Rights Committee, General Comment No. 34, paras18-19.

[33] "Information Ministry Sec's comment draws fire from media associations," *Sunday Times*, 5 August 2012, http://www.sundaytimes.lk/120805/news/information-ministry-secs-comment-draws-fire-from-media-associations-8001.html, accessed 21 March 2013.

[34] "Subject: LTTE Strikes Again In The North, Situation Tense And Confused In The East," *Origin Embassy Colombo (Sri Lanka),* Cable time Wed, 7 Dec 2005 11:28 UTC, Classification CONFIDENTIAL http://wikileaks.org/cable/2005/12/05COLOMBO2058.html, accessed 21 March 2013.

[35] Sri Lankan Foreign Minister Lakshman Kadirgamar, who was Tamil, was assassinated on 12 August 2005; Ketesh Loganathan, a Tamil political activist and human rights defender who joined the government's Peace Secretariat in 2006 was killed exactly one year after Kadirgamar on 12 August 2006. A pro LTTE website reporting on his death called him a traitor and compared him to a "small Kadirgamar." ("Minister condemns Nitharsanam's 'popular Tamil traitor' report," *Daily News*, 18 August 2006, http://www.dailynews.lk/2006/08/15/news15.asp, accessed 21 March 2013).

[36] Two other victims survived the attacks with severe injuries. They fled Sri Lanka and now live abroad. Kokularaj Pararajasingham sent a written statement to the Presidential Commission of Inquiry on serious violations of human rights in March 2008 stating that while he had been unconscious as a result of shrapnel from the grenade attack, the other survivor had witnessed the entire incident. "When I regained consciousness after 2 hours in the hospital I saw that Yoganathan Poongulalan was in the same ward and being treated. Doctors said that I had lost about 4.5 litres of blood. I thought I had only suffered injuries from the hand grenade explosion. It was only later that I learnt that I had been shot at. The doctors said that it was the STF who had shot us after the explosion. They had removed 7-8 bullets from my body in addition to several pieces of metal from the explosion. But neither the harbour police nor the CID [Criminal Investigation Division] ever asked me about the shooting incident. My other surviving friend said that after the grenade exploded the STF who were dressed in camouflage uniforms came and dragged us to the back of the vehicle and beat us. After the beating they threw us back on to the ground and shot us many times. This was when my five friends died." Excerpts were published in "Crying for Justice," *Daily Mirror,* 22 March 2008 and in "Trinco slaying: Survivor implicates STF," *Daily Mirror*, 17 March 2008 (copies of articles are also on file with Amnesty International; they have been removed from the *Daily Mirror* internet archive).

[37] "According to a confidential US Embassy cable published by Wikileaks, "One of the surviving students told the Sri Lankan Human Rights Commission (HRC) that following the grenade, several uniformed men pulled up in a van, jumped out and proceeded to beat the students. Five of the students were then reportedly forced to lie face down and shot in the back of the head. The surviving students, having been more grievously injured by the grenade, according to the student's account, were left for dead." (Sri Lanka: Escalating Violence Shifts To Trincomalee, Origin Embassy Colombo (Sri Lanka), Cable time Mon, 9 Jan 2006 11:39 UTC, Classification: CONFIDENTIAL, http://wikileaks.org/cable/2006/01/06COLOMBO55.html, accessed 23 March 2013.

[38] Committee to Protect Journalists, "Attacks on the Press in 2006 - Sri Lanka," February 2007, http://www.unhcr.org/refworld/docid/47c567442.html, accessed 23 March 2013.

[39] Case BR 11/2006, Trincomalee Magistrate's Court.

[40] An October 2006 US Embassy cable published by Wikileaks quotes Presidential Advisor Basil Rajapaksa telling US Ambassador Robert Blake that the STF was responsible for the killings: "Speaking with surprising candor, Rajapaksa explained the GSL's efforts to prove that members of the Security Task Force (STF) murdered five students in Trincomalee in January: 'We know the STF did it, but the bullet and gun evidence shows that they did not. They must have separate guns when they want to kill someone. We need forensic experts. We know who did it, but we can't proceed in prosecuting them.'"

[41] University Teachers for Human Rights (Jaffna), Special Report No. 24, "The Five Students Case in Trincomalee," 19 April 2007, (Advance Copy to the Commission of Inquiry : 26th February 2007), http://www.uthr.org/SpecialReports/spreport24.htm, accessed 22 March 2013.

[42] See, Amnesty International, *Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009).

[43] Conversations with Dr. Kasipillai Manoharan, 2006 - 2013. See also, Amnesty International, *Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009), http://www.amnesty.org/en/library/info/ASA37/005/2009/en, accessed 7 February 2013; and Poornima Weerasekera and Easwaran Rutnam, "Trinco killing: Witness drops bombshell on Govt," *Daily Mirror,* 15 March 2008.

[44] Report of the Office of the United Nations High Commissioner for Human Rights on advice and technical assistance for the Government of Sri Lanka on promoting reconciliation and accountability in Sri Lanka, A/HRC/22/38.

[45] For a more detailed discussion of the case, see, Amnesty International, *Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009).

[46] The Sri Lankan government and the LTTE accused each other of the killing, but evidence points to the involvement of a Sri Lankan military commando unit. Amnesty International, *Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009).

[47] For a critique of the Commission see, Amnesty International, *Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index: ASA 37/005/2009).

[48] "Family of Sri Lanka massacre victims doubt justice," 24 March 2008, http://in.reuters.com/article/2008/03/24/idINIndia-32655020080324, accessed 21 March 2013.

[49] See, Amnesty International, *"Victim and Witness Protection," Twenty Years of Make-Believe; Sri Lanka's Commissions of Inquiry* (Index ASA 37/005/2009), pp31-32.

[50] Ibid.

[51] IFEX, "Defence Ministry imposes unofficial censorship on media,",29 September 2006, http://www.ifex.org/sri_lanka/2006/09/29/defence_ministry_imposes_unofficial, accessed 22 March 2013.

[52] "Jail for rumour mongers," *Daily News*, 28 June 2006, http://www.dailynews.lk/2006/06/29/sec01.asp, accessed 21 March 2013. See also, "False SMS messengers arrested in Sri Lanka," *Colombo Page*, 28 January 2010, http://www.colombopage.com/archive_10/Jan1264697154CH.html, accessed 21 March 2013.

[53] "Editorial: Providing security to Tamils now will define northeastern politics of the future," *Northeastern Monthly*, July 2006.

[54] "Conflict: Situation after Geneva, by: JST," *Northeastern Monthly*, 8 November 2006. Note: In January 2007, then Army Commander Lieutenant General Sarath Fonseka announced that his aim was to drive the LTTE from the East, then launch an offensive to take control of the north. At the time, government denied that this was its military objective, but later openly embraced the strategy.

[55] According to a confidential embassy cable published by Wikileaks, on 10 January 2007, US Ambassador Blake raised the humanitarian situation in Vakarai with Defence Secretary Gotabhaya Rajapaksa calling on him to allow access by the UN and the Red Cross. The cable noted that the food shortage faced by civilians trapped there could "soon reach crisis proportions." http://wikileaks.org/cable/2007/01/07COLOMBO57.html

[56] In April 2007 Amnesty International reported, "Since hostilities escalated humanitarian access has been restricted. For example, from late November 2006 until LTTE held Vakarai town, in the northern part of Batticaloa District, fell to the Sri Lankan army offensive on 19 January UN agencies and the ICRC had only very limited access to both the area and civilians, while the Tamil Rehabilitation Organisation was unable to re-supply its aid workers on the ground appropriately to deal with civilian needs due to government imposed restrictions on bringing aid into LTTE controlled areas. Aid agencies report that prior to the latest military offensive in March, the government as well as the LTTE severely restricted access to Batticaloa District and other conflict areas under their control, leaving tens of thousands of new IDPs, and large numbers of other affected populations, without adequate international protection and access to humanitarian assistance.

In this context civilians are at grave risk of being caught up in apparently indiscriminate artillery bombardments by both sides, or subjected to deliberate reprisal killings." Amnesty International, *Sri Lanka: "urgent need for effective protection of civilians as conflict Intensifies"* (Index: ASA 37/009/2007).

[57] He reportedly told the court that he was threatened with torture and made to witness the physical torture of a close colleague in detention (whose torture was confirmed by a Judicial Medical Officer), and then forced to sign a dictated confession.

[58] Art 15 CAT, to which Sri Lanka acceded in 1994; Article 12 of the 1975 UN Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; Human Rights Committee General Comment No. 20, para. 12; General

Comment No. 32, 23 August 2007, UN Doc. CCPR/C/GC/32, paras6, 41 and 60; see also Principles 21 and 27 of the 1988 UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.

[59] Human Rights Committee, General Comment No. 32, para41.

[60] Report of the Secretary General's Panel of Expert of Sri Lanka, 31 March 2011, p113, para 416.

[61] "Lasantha's Killers Roam Free," *The Sunday Leader*, 6 January 2013, http://www.thesundayleader.lk/2013/01/06/lasanthas-killers-roam-free/, accessed 21 March 2013.

[62] Two suspects, Kandegedara Piyawansha and P. Jesudasan were taken into custody after the attack. Jesudasan died in Police custody; K. Piyawansha, a former military intelligence officer was released on bail in 2010 after making a statement on the assassination in camera. The police have reportedly refused to provide lawyers representing Wickrematunge's interests with a copy of Piyawansha's statement saying it would compromise ongoing investigations. See, "Lasantha's Killers Roam Free," *The Sunday Leader*, 6 January 2013, http://www.thesundayleader.lk/2013/01/06/lasanthas-killers-roam-free/, accessed 21 March 2013.

[63] Reporters Without Borders, "Outrage at Fatal Shooting of Newspaper Editor in Colombo,", 8 January 2009, updated 29 January 2009, http://en.rsf.org/sri-lanka-outrage-at-fatal-shooting-of-08-01-2009,29916.html, accessed 21 March 2013.

[64] "Editorial: And Then They Came For Me," *The Sunday Leader*, 11 January 2009, http://www.thesundayleader.lk/20090111/editorial-.htm, accessed 21 March 2013.

[65] Keith Noyahr, then deputy editor and defence columnist of *The Nation* newspaper was abducted on the evening of 22 May 2008 near his home in a suburb of Colombo by a group of unidentified assailants. He was released the next morning and was hospitalized with severe injuries. Noyahr left Sri Lanka after the attack and his attackers were never identified.

[66] D.B.S. Jeyaraj, "Poddala Jayantha: Latest Journalist victim in Sri Lanka," 5 June 2009, http://dbsjeyaraj.com/dbsj/archives/710, accessed 21 March 2013.

[67] Ibid.

[68] See, http://www.dinamina.lk/2009/05/22/_art.asp?fn=e090522 for original article, accessed 21 March 2013.

[69] D.B.S. Jeyaraj, "Poddala Jayantha: Latest Journalist victim in Sri Lanka," 5 June 2009, http://dbsjeyaraj.com/dbsj/archives/710, accessed 21 March 2013.

[70] Kishali Pinto Jayawardene, "The 'chilling' of free expression in Sri Lanka," *the Sunday Times, 8 July 2012, http://www.sundaytimes.lk/120708/columns/the-chilling-of-free-expression-in-sri-lanka-5383.html*, accessed 22 March 2013.

[71] "Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture, 8 December 2011, CAT/C/LKA/CO/3-4, page 5, http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4_en.pdf, accessed 15 March 2012.

[72] Ibid.

[73] "MOD has no intention to suppress the media freedom- A Press Release," *Sri Lankan Defence Ministry Statement*, 1 March 2007, http://www.defence.lk/new.asp?fname=20070301_08, accessed 23 March 2013.

[74] "Akuna newspaper staff abducted," *BBC*, 6 February 2007, http://www.bbc.co.uk/sinhala/news/story/2007/02/070206_abduction_journalists.shtml, accessed 23 March 2013.

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Secretary to the Ministry of Disaster Management and Human Rights. He is currently a Member of Parliament and a Presidential Advisor on Reconciliation. Wijesinghe has revived the SCOPP website on which he continues to post commentary, including personalized attacks against critics. His comments have also been featured on the official website of the Permanent Mission of Sri Lanka to the United Nations and on the Sri Lankan Ministry of Defence website.

[86] One target of such attacks was Felipe Atkins, with Norwegian People's Aid. In July 2007, while he was visiting Trincomalee, a grenade was found in his vehicle which he said had been planted; in December 2007 he was arrested and detained briefly by police along with another foreign worker, their driver, but no charges were filed.

[87] "Report of the Secretary–General's Internal Review Panel on United Nations Action in Sri Lanka," November 2012, pp104-105.

[88] Annual report of the Secretary-General on the "Safety and security of humanitarian personnel and the protection of United Nations personnel" (A/63/305), 28 August 2008, also referred to in "Report of the Secretary–General's Internal Review Panel on United Nations Action in Sri Lanka," November 2012, p105.

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[96] "Sri Lanka throws out three Channel 4 journalists; Asia correspondent Nick Paton Walsh deported after report on deaths, food shortages and sexual abuse at refugee camp," *Associated Press* as reported in *guardian.co.uk*, 10 May 2009, http://www.guardian.co.uk/world/2009/may/10/channel-four-journalists-sri-lanka, accessed 7 March 2013; see also Nick Paton Walsh, "Journalist who reported on internment camps in Sri Lanka tells his story," *The Guardian*, 9 May 2009, http://www.guardian.co.uk/world/2009/may/10/channel-4-sri-lanka, accessed 7 March 2013.

[97] "Senior Channel 4 TV official expelled from Sri Lanka," *BBC*, 6 June 2012, http://www.bbc.co.uk/news/uk-18342967, accessed 21 March 2013.

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[99] The Government of Sri Lanka declared the first "no fire zone" in January 2009. It was about 35 square km. The location of the NFZ was communicated to civilians through leaflet drops and via the International Committee of the Red Cross. As the LTTE retreated from the advancing Sri Lankan Army, a second no fire Zone was created, which was only about 13 square km. By early May 2009 LTTE cadres and civilians were packed into an area of about 1.5 square km.

[100] See, Amnesty International, *Unlock the Camps in Sri Lanka: Safety and Dignity for the Displaced Now* (Index: ASA 37/016/2009).

[101] The Secretary-General's Panel of Experts on Accountability in Sri Lanka noted in their report that "various reports have alleged that the political leadership of the LTTE and their dependents were executed when they surrendered to the SLA." And goes on to describe the alleged events surrounding that incident, which it calls the "White Flag" incident. It notes that the allegation that government forces executed surrendering LTTE leaders is one of "a number of other allegations, about which it was unable to reach a conclusion regarding their credibility. Due to their potentially serious nature, these allegations should also be investigated." ("Report of the Secretary General's Panel of Experts on Accountability in Sri Lanka," 31 March 2011, p47).

[102] "Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka," 31 March 2011, pii.

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[105] President Mahinda Rajapaksa's speech to Parliament, 19 May 2009, http://www.satp.org/satporgtp/countries/shrilanka/document/papers/president_speech_parliament_defeatofLTTE.htm, accessed, 22 March 2013.

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[111] "SF still clueless of terms, conditions of his release," *Sunday Times,* 7 October 2012, http://www.sundaytimes.lk/121007/news/sf-still-clueless-of-terms-conditions-of-his-release-15496.html, accessed 2 April 2013.

[112] Even under normal legislative procedures, the Sri Lankan constitution does not provide much time for public debate of proposed legislation. Article 78(1) of the Sri Lankan Constitution requires that "[e]very Bill shall be published in the Gazette (official record) at least seven days before it is placed on the Order Paper of Parliament." The Constitutional requirement that the public be given notice of impending legislation is circumvented altogether if the Cabinet of Ministers decides (under Article 122 (1)) that the Bill is "urgent in the national interest," in which case the President writes to the Chief Justice asking for a "special determination" as to whether all aspects of the Bill are consistent with the Constitution. The Supreme Court is then required to make its determination within twenty-four hours (or up to three days if a longer period is allowed by the President).

[113] For a fuller discussion of the PTA see, Amnesty International, *"The Prevention of Terrorism Act,"* in *Locked Away, Sri Lanka's Security Detainees* (Index: ASA 37/003/2012), pp13-14, and see also, Amnesty International, *"Briefing to the UN Committee Against Torture"* (ASA 37/016/2011), p5.

[114] "…there is not one bill passed by Parliament since independence that would not have benefited by its publication in the form of a Green Paper or White Paper, giving at least three clear months for the public, concerned institutions, specialists, academics and legal practitioners, to comment on its purpose, scope and specific provisions. The recourse to treating bills as urgent has, in truth, been to deter the public from influencing legislation that was largely intended to serve the ends of the party or parties in power." The Citizens' Movement for Good Governance (CIMOGG), "Bills and Urgent Bills," 9 October 2007, http://cimogg-srilanka.org/2007/10/bills-and-urgent-bills/, accessed 23 March 2013.

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[124] See, Kishali Pinto Jayawardena, "The 'Chilling' of Free Expression in Sri Lanka," *Colombo Telegraph*, 8 July 2012, http://www.colombotelegraph.com/index.php/the-chilling-of-free-expression-in-sri-lanka/, accessed 15 March 2013.

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[126] The Divineguma Bill passed in January 2013 after receiving approval from existing Provincial Councils; opponents argued that the process remained unfair because the Northern Provincial Council elections have never been held and so the Northern Provincial Council does not exist; instead the government sought approval from a direct Presidential appointee, former military commander GA Chandrasiri who serves as Governor of the area — which includes the former northern war zone.

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[173] "BBC World Service broadcasts in Sri Lanka on SLBC suspended," *BBC*, 26 March 2013, http://www.bbc.co.uk/mediacentre/latestnews/2013/bbc-world-service.html, accessed 25 March 2013.

[174] UN Code of Conduct for Law Enforcement Officials, article 3; UN Basic Principles on the use of force and firearms by Law Enforcement Officials, Principle 9.

[175] The proposed Employees' Pension Benefit Funds Bill would have required workers to work for at least 10 years and to be at least 60 years old in order to receive pension funds. But the average Sri Lankan garment factory worker (typically a young, unmarried woman) works for only five years. Current Sri Lankan labour law allows women workers to withdraw their full savings from statutory welfare funds when they marry, or reach 50 years of age.

[176] Sriyan Obeyesekere, "Chilaw After a Demonstrating Fisherman was Shot to Death," *The Nation*, 18 February 2012, *http://transcurrents.com/news-views/archives/8237*, accessed 22 March 2013.

[177] Ibid; see also, Charles Haviland, "Sri Lankans protest over killing of co-worker," 2 June 2011, http://www.bbc.co.uk/news/world-south-asia-13631758, accessed 22 March 2013.

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[188] Preventive or administrative detention is permitted under Sri Lankan law for perceived security threats and for compulsory participation in "rehabilitation" in the case of people who allegedly surrender to the authorities in connection with certain security offences ("surrendees"). The Sri Lankan authorities have claimed that incarceration for "rehabilitation" is not detention and that such surrenders are "voluntary." The courts overseeing transfers of detainees have engaged in a bit of play acting, requiring detainees – some of whom have been held for many months by TID and tortured in custody – to affirm that the move to rehabilitation is "voluntary." Since armed conflict with the LTTE erupted in 1983, tens of thousands of Tamils suspected of links to the LTTE have been arrested and detained for the purpose of investigation and interrogation by Sri Lanka's intelligence and security forces, or for what the Sri Lankan authorities have termed rehabilitation. For more information see, Amnesty International, *Locked Away, Sri Lanka's Security Detainees* (Index: ASA 37/003/2012).

[189] Amnesty International, *Sri Lanka: Students at risk of torture following march* (Index: ASA 37/014/2012).

[190] Jaffna University Science Teachers' Association letter to President Mahinda Rajapaksa 7 December, 2012.

[191] Ibid.

[192] "Weliamuna senior Lawyer targeted for murder : MaRa plot leaks out," *Lanka-e-News,* 17 January 2013, http://www.lankaenews.com/English/news.php?id=13359, accessed 26 March 2013.

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[199] Ada Derana, "Video: I chased Poddala, warning to 'traitors' – Mervyn," 23 March 2012, http://www.adaderana.lk/news.php?nid=17473, accessed 26 March 2013.

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[203] Interview, 7 March 2013.

[204] According to the UN Secretary General's report on reprisals, the Solicitor General justified his comments by saying, "I am entitled to ask any question to find out whether international organizations and NGOs are provoking something against the State," pp10-11, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-18_en.pdf

[205] Kumara advocates for the rights of coastal dwellers and fisherfolk in Sri Lanka and spearheaded a successful effort by fisherman to stop construction in Negombo lagoon they believed would threaten their livelihoods. He has also been active in support of the rights of ethnic minorities, specifically rights of Tamils evicted from their original lands for military purposes, and of women-headed families. Kumara is the Convenor of the National Fisheries Solidarity Movement and a founding member of People to People Dialogue on Peace and Sustainable Development; he is also active with the Platform for Freedom, and a board member for the Women for Development Alternatives of Sri Lanka.

[206] Charles Haviland, "Protesting fisherman shot dead," *BBC Sinhala*, http://www.bbc.co.uk/sinhala/news/story/2012/02/120215_oil.shtml

[207] "Herman Kumara faces imminent personal threats (02/03/2012)," Interview with Herman Kumara http://www.youtube.com/watch?v=6mXb86MQZpo

[208] "No Person Resident In Sri Lanka Helped Us With 'No Fire Zone': No-One Was Paid For Any Evidence," *Channel 4*, http://www.colombotelegraph.com/index.php/no-person-resident-in-sri-lanka-helped-us-with-no-fire-zone-no-one-was-paid-for-any-evidence-channel-4/, accessed 25 March 2013; see also http://www.divaina.com/2013/03/05/news08.html, accessed 25 March 2013.

[209] Ibid; see also, http://nofirezone.org/blog, accessed 25 March 2013.

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[211] See, Human Rights Council, Working Group on the Universal Periodic Review, Second Session, Geneva, 5-16 May 2008, National Report Submitted in accordance with paragraph 15 (A)of the Annex to Human Rights Council Resolution 5/1, Sri Lanka, 2 May 2008, A/HRC/WG.6/2/LKA/, 1http://Www.Ohchr.Org/EN/Hrbodies/UPR/Pages/Lksession2.Aspx;

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Convention Against Torture And Other Cruel, Inhuman Or Degrading Treatment Or Punishment, Consideration Of Reports Submitted By States Parties Under Article 19 Of The Convention Combined Third And Fourth Periodic Reports Of States Parties Due In 2007 Sri Lanka, 23 September 2010, CAT/C/LKA/3-4, Http://Www2.Ohchr.Org/English/Bodies/Cat/Docs/CAT.C.LKA.3.4_En.Pdf

[212] Sri Lanka's Lessons Learnt & Reconciliation Commission, established in 2010 and the Presidential Commission of Inquiry in 16 cases of "serious violations of human rights," established in 2006 are two examples. Sri Lanka has a long history of such commissions dating back more than two decades, many of them mandated to investigate enforced disappearances. See Amnesty International, *Twenty Years of Make Believe* (ASA/37/005/2009).

[213] Ibid.

[214] The UN Office of the High Commissioner for Human Rights will present an initial update to the Human Rights Council at its twenty-fourth session in September 2013 and a comprehensive report to its twenty-fifth session in March 2014.

[215] The Commonwealth Charter of December 2012 assigns to the Commonwealth Ministerial Group (CMAG) a special role "to address promptly and effectively all instances of serious or persistent violations of Commonwealth values without any fear or favour."

[216] HRC Resolution 12/2 of 2009 sets out detailed provisions making it clear that intimidation or reprisals directed at persons who seek to cooperate or have cooperated with the UN its representatives and mechanisms in the field of human rights are condemned and are to be prevented and punished.

[217] Consideration of reports submitted by States parties under article 19 of the Convention, Concluding observations of the Committee against Torture, 8 December 2011, CAT/C/LKA/CO/3-4, http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4_en.pdf

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[219] See, "Country and other visits by Special Procedures Mandate Holders since 1998 - N-Z," http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryvisitsN-Z.aspx, accessed 10 April 2013.

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SRI LANKA'S ASSAULT ON DISSENT

Sri Lanka's armed conflict may be over, but a conflict of a different kind is raging unchecked on the island. In their attempt to consolidate power, Sri Lanka's authorities have criminalized freedom of expression, and equated dissent with treason. Those who dare to criticize the authorities are pursued and silenced.

Human rights defenders are subjected to smear campaigns in media owned by or sympathetic to the government. Public officials threaten them with physical harm for discussing human rights accountability in international forums. Community-based activists report being interrogated by police, threatened and physically assaulted. Opposition political activists have been arrested and have not been seen again.

Journalists critical of the authorities are attacked, threatened and arrested, and their offices raided and burned down. Alongside physical violence, the state resorts to onerous regulations aimed at outlawing their publications and blocks their websites.

In this way, the authorities have sought to crush public discourse on issues of public concern – such as the state of the economy, and the "internationalization" of accountability for violations of international law during the conflict. As long as dissent is stifled and impunity prevails, the Sri Lankan government's promises of reconciliation are empty. Sri Lanka must end its assault on critics, publicly acknowledge human rights abuses by its forces and supporters, and ensure accountability.

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