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SRI LANKA

OBSERVATORY FOR THE PROTECTION OF HUMAN RIGHTS DEFENDERS
ANNUAL REPORT 2010

Political context

The year 2009 saw an escalation of the conflict with a military offensive launched by the Government against the Liberation Tigers of Tamil Eelam (LTTE) in Mullativu and Killinochi districts, in the northern Vanni region, which provoked a major humanitarian crisis, with hundreds of thousands of civilians being trapped between Government and LTTE forces. While the LTTE forced thousands of civilians to fight and physically prevented people from fleeing the war zone, using them as human shields, the Sri Lankan military repeatedly bombed and shelled densely populated areas. The fighting between Government forces and LTTE resulted in a significant increase in human rights and international law violations by all parties to the conflict, including enforced disappearances, extrajudicial executions, torture and other ill-treatments. Following a final offensive mid-May that is said to have killed thousands more civilians, the Government declared asserting control over the areas previously controlled by the LTTE in the Vanni and claimed victory on May 19, ending more than 25 years of armed conflict. UN agencies estimate that more than 7,500 civilians were killed and over 15,000 wounded between mid-January and early May 2009 in Sri Lanka¹. The UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Detentions, Mr. Philip Alston, even mentioned “allegations that as many as 30,000 persons were killed in Sri Lanka in the closing months of the conflict”². Following the end of the conflict, about 280,000 Tamil civilians who had fled the Vanni district during the last weeks of the war were confined to overcrowded internment camps controlled by security forces, denied their freedom of movement and left without any access to independent observers, including media and humanitarian workers. By the end of the year, restrictions on freedom of movement were relaxed, mainly due to international pressure. At the end of the year, President Mahinda Rajapaksa decided to advance the presidential election by two years in the hope of capitalising the war victory³.

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1/ See United Nations Press Releases, December 23, 2008, March 13 and May 8, 2009.

2/ See Oral Statement made by Mr. Philip Alston at the 14th session of the UN Human Rights Council, June 3, 2010.

3/ As a consequence, presidential election was due in January 2010 and the parliamentary election in April 2010.

The end of the conflict did not put an end to human rights violations in the country: the draconian Prevention of Terrorism Act (PTA) as well as the Emergency (Miscellaneous Provisions and Powers) Regulation 2005 and the Emergency (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) Regulation 2006 still remained in force. The PTA in particular was used to silence criticism and dissent and to curb freedoms of expression, association and peaceful protest. Human rights abuses, suppression of media freedom and political opposition to the war and to corrupt practices remained endemic. Hundreds continued in arbitrary detention, and torture in police custody was commonplace⁴. Perpetrators also continued to enjoy impunity, as illustrated by the disbandment, in June 2009, of the Presidential Commission of Inquiry, which had been established to investigate into serious human rights violations committed since 2006, without completing its mandated tasks. In particular, no report was made public and the inquiry did not result in any prosecutions.

Freedom of expression continued to be restricted in Sri Lanka throughout 2009. During the conflict, the Government of Sri Lanka used all methods at its disposal to keep the media under strict control and to prevent any independent coverage of the situation in the areas where fighting and displacement were taking place. Government political leaders and high ranking officials also continued to make public allegations against media and journalists without any evidence. For instance, in late May, when the war victory jubilation was at its height, most senior armed services and police officers appearing on State controlled television levelled charges against unnamed independent media activists as LTTE collaborators who allegedly received money from the LTTE⁵. In such a context, media was forced to adopt a strict self-censorship, especially on matters related to the war and the aftermath of the war, and many media workers had to leave the country for their safety in 2009⁶. Yet, although the UN Special Rapporteur on Freedom of Expression made a request to visit Sri Lanka in August 2009, as of the end of the year the Government had not responded to this request, despite a commitment it had made during its bid for election for the UN Human Rights Council in 2006.

4 / See Media Freedom in Sri Lanka (MFSL) Report, *Sri Lanka - Freedom of Expression Violations, January-December 2009*, February 2010.

5 / *Idem*.

6 / At least 34 media personnel left the country in the course of 2009, and 24 of them applied for political asylum in western countries. See MFSL Report, *Sri Lanka - Freedom of Expression Violations, January-December 2009*, February 2010.

On February 9, 2009, ten independent UN experts⁷ “expressed their deep concern at the deteriorating human rights situation in Sri Lanka, particularly the shrinking space for critical voices and the fear of reprisals against victims and witnesses which – together with a lack of effective investigations and prosecutions – has led to unabated impunity for human rights violations”. Ms. Margaret Sekaggya, UN Special Rapporteur on the Situation of Human Rights Defenders, added that “a climate of fear and intimidation reigns over those defending human rights, especially over journalists and lawyers”, and that “the safety of defenders has worsened considerably over the past year, most significantly following denunciations of human rights abuses committed by parties to the conflict, of corruption by state officials and of impunity”⁸. On March 12, the European Parliament also adopted a Resolution deploring the deteriorating humanitarian situation in Sri Lanka⁹ and on May 26 and 27, the UN Human Rights Council held a special session to address the human rights situation in the country¹⁰.

Serious acts of reprisals against journalists denouncing human rights violations

In 2009, journalists who denounced human rights violations, in particular corruption and abuse of authority and the impunity that accompanies them, were again on the front line of the repression, while impunity remained the main characteristic of all attacks against the media. Indeed, none of the killings, abductions, assaults, threats and acts of intimidation against journalists were investigated to completion. On January 8, 2009, Mr. **Lasantha Wickrematunge**, founder and Chief Editor of the *Sunday Leader* newspaper who was a vocal critic of corruption and abuse of authority in Sri Lanka as well as of the Government policies relating to the conflict, was driving to work when he was shot by four unidentified gunmen riding motorcycles in Colombo, close to Ratmalana military base. He was rushed to the hospital with serious head injuries, where he died. In the past, Mr. Wickrematunge had been several times the target of intimidation attempts and lawsuits due to his investigative reporting on corruption and nepotism in the Government and in society in general, and

7/ The Special Rapporteurs on the Situation of Human Rights Defenders; on the Promotion and Protection of the Right to Freedom of Opinion and Expression; on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; on the Independence of Judges and Lawyers; on the Right to Food; on Extrajudicial, Summary or Arbitrary Executions; on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; on Adequate Housing; and the Chairpersons of the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detention.

8/ See United Nations Press Release, February 9, 2009.

9/ See European Parliament Resolution P6_TA(2009)0129 on Sri Lanka, March 12, 2009.

10/ See United Nations Press Release, May 27, 2009.

the impunity that accompanies them. Mr. Wickrematunge was also a critic of the war and advocated a negotiated political solution to the conflict¹¹. As of the end of 2009, the authors of Mr. Wickrematunge's assassination still remained to be identified. Moreover, *Sunday Leader* journalists continued to be harassed after his murder. For instance, on October 22, 2009, Ms. **Frederica Jansz**, Editor of the *Sunday Leader*, and Ms. **Munza Mushataq**, News Editor, received death threats that were similar to the ones received by Mr. Wickrematunge three weeks before his assassination. The threats came after the newspaper published a report on video footage allegedly showing Sri Lankan Government soldiers executing Tamil prisoners and which had been broadcast by *Channel 4* in the United Kingdom in August 2009. The journalists reported the threats to Sri Lanka's Inspector General of Police as well as to the local police in Colombo but, as of the end of 2009, no action had been taken by the authorities¹². Furthermore, Mr. **Sunanda Deshapriya**, a journalist and human rights defender, was accused in pro-governmental media of being a "traitor" and a liar" after issuing an intervention at the special session of the UN Human Rights Council on May 27, 2009, which was subsequently posted on *YouTube*. Several comments were also tantamount to inciting to violence against Mr. Deshapriya and his family. On May 25, Mr. Deshapriya had already been accused in the media of going to Geneva "with the aim of going before the Human Rights Council with inaccurate and false statements against the Government of Sri Lanka and the security forces" and to "defend the LTTE leadership". On June 7, 2009, *The Nation* reported that President Mahinda Rajapaksa "voiced his concern about Sunanda Deshapriya arguing against Sri Lanka during the United Nations Human Rights Council's Special Session in Geneva", which was considered as "betrayal"¹³. Following the brutal assault on Mr. Poddala Jayantha, General Secretary of the Sri Lanka Working Journalists Association (SLWJA), who was kidnapped, tortured and dumped at a roadside on June 1, 2009, the Criminal Investigation Division (CID) questioned and later remanded Messrs. **Sandaruwan Senadheera** and **Bennet Rupasinghe**, *Lanka E News* Editor and News Editor, on respectively June 2 and 1, for reporting Mr. Jayantha's abduction, including to the police. They were detained as suspects in the assault on their colleague, before being released on per-

11/ The assassination of Mr. Wickrematunge was severely condemned by UN High Commissioner for Human Rights, Ms. Navi Pillay, who expressed deep concern about the free expression of dissent in Sri Lanka. These worries were backed up by the European Parliament in its Resolution of February 5, 2009. See United Nations Press Release, January 29, 2009 and European Parliament Resolution P6_TA(2009)0054 on Sri Lanka, February 5, 2009.

12/ See MFSL Report, *Sri Lanka - Freedom of Expression Violations, January-December 2009*, February 2010 and Law and Society Trust (LST).

324 13/ See LST.

sonal bail of Rs. 500,000 (about 3,363 euros) by the Magistrate Court on June 2. On October 12, the court discharged them as the police had failed to provide any evidence to prosecute them¹⁴. On August 31, 2009, Mr. **Jayaprakash S. Tissanayagam**, a Tamil journalist for *The Sunday Times* and *The Daily Mirror*, as well as Editor-in-chief of *Outreach Multimedia*, an online magazine established to highlight human rights issues in Sri Lanka, was sentenced by the Colombo High Court to 20 years of hard labour under the PTA for “causing communal disharmony”, “inciting racial hatred” and “supporting terrorism”. Mr. Tissanayagam was arrested in March 2008 by the Terrorism Investigation Division (TID) of the police and detained for more than five months without charge, before being indicted in August under the PTA and the Emergency Regulations, in relation with articles he wrote in 2006 in the *North-Eastern Monthly* magazine and that criticised the Government’s military operations carried out in Tamil regions, because of their “indiscriminate impact on civilians”¹⁵.

Ongoing acts of harassment against lawyers and defenders acting for victims of human rights abuses

Lawyers and defenders acting for victims of human rights abuses were also often subjected to acts of harassment, death threats and attacks in 2009. For instance, on January 24, the Human Rights Centre “Right to Life” in Negombo, Katunayake, received death threats through a phone call. In September 2008, the centre and its lawyers had already received death threats, which started after the assassination, on September 20, 2008, of Mr. Sugath Nishanta Fernando, who was a complainant in a bribery case and received death threats before his death and whom Right to Life had helped. On January 26, the President of Right to Life lodged a complaint to the Inspector General of Police of Colombo. Subsequently, the CID informed the centre that inquiries had been opened and were ongoing. Likewise, on January 27, Mr. **Amitha Ariyaratne**, former lawyer of Mr. Sugath Nishanta, was threatened three times with death at the Negombo police station by police officers. Mr. Ariyaratne also represents Mr. Nishanta’s family in a complaint of torture against police officers from Negombo police station accused of having tortured Mr. Nishanta. However, no officers were arrested or questioned on these death threats. Mr. **Santha Fernando**, Secretary for Justice and Peace in the National Christian Council

14/ *Idem*.

15/ His Co-Director Mr. N. Jasiharan and his wife, Ms. V. Valamathy, who were also arrested in March 2008, were released in October 2009 when the charges were dropped after they agreed not to pursue a fundamental rights complaint against the authorities. In September 2009, Mr. Tissanayagam filed an appeal against his sentencing, and he was finally released on bail in January 2010. In May 2010, he was given a presidential pardon.

of Sri Lanka (NCCSL), who is particularly involved in the promotion of justice among the less privilege sections of society, was detained without charge under the Emergency Regulations from March 27 to November 11, 2009 in the TID, before being released on bail. As of the end of 2009, Mr. Fernando still had to report regularly to TID and was not able to leave the country as his passport was surrendered to the court until his case be examined. On May 7, 2009, Mr. **Sinnavan Stephen Sunthararaj**, Project Manager at the Centre for Human Rights and Development (CHRD), well-known for documenting cases of child abuse in Jaffna, was abducted, allegedly by officers of the CID. Mr. Sunthararaj had then just spent two months in detention without charge. As of the end of 2009, Mr. Sunthararaj remained missing. Furthermore, in the morning of August 20, 2009, Dr. **Paikiasothy Saravanamuttu**, Executive Director of the Centre for Policy Alternatives (CPA), received an anonymous death threat letter saying that he was held responsible for the fact that Sri Lanka stands to be deprived of the European Union's Generalised System of Preferences Plus (GSP+) benefits in October, which will result in job losses in the garment industry, following the transmission of information by Dr. Saravanamuttu to Ms. Benita Ferrero-Waldner, the European Union Commissioner for External Relations¹⁶. Dr. Saravanamuttu and CPA subsequently lodged a complaint to the police and requested the Inspector General of Police to order an immediate investigation into the matter. On June 1, 2009, the CPA had already received a threatening letter that accused the NGO of aiding and abetting terrorism and of conspiring against Sri Lanka with the international community. In addition, on September 2, Dr. Saravanamuttu was briefly detained by the TID at Katunayake international airport upon his return from overseas. The TID questioned him for up to two hours before releasing him, without giving him any reason for his arrest. Moreover, a group of 133 citizens and civil society activists and organisations who issued a public statement condemning the death threat against Dr. Saravanamuttu on August 27, which was published as a paid advertisement in the *Daily Mirror* and *Lankadeepa* newspapers on September 16, came under investigation by the CID.

16/ The EU's GSP is a trade arrangement through which the European Union (EU) provides preferential access to the EU market to 176 developing countries and territories. The special incentive arrangement for sustainable development and good governance (known as GSP+) offers additional tariff reductions to support vulnerable developing countries in their ratification and implementation of international conventions in these areas. CPA has consistently argued that the GSP+ benefits must be renewed, and that Sri Lanka should use the opportunity to also strengthen its human rights protection framework by complying with international human rights law.

In particular, officers from the CID visited and questioned several of the signatories on August 28¹⁷.

Moreover, the situation of extreme insecurity faced by human rights defenders in Sri Lanka was exacerbated by a public statement made in March by Sri Lanka's Human Rights Minister, Mr. Mahinda Samarasinghe, who discredited and threatened human rights defenders after several Sri Lankan NGOs denounced human rights violations during the session of the UN Human Rights Council held in Geneva in March 2009. Similarly, five lawyers, namely Messrs. **Srinath Perera, Upul Jayasuriya, S. Sumanthiran, Viran Corea and Athula Ranagala**, were branded as "unpatriotic" and "traitors of the nation" in an article that appeared on the Ministry of Defence website on July 10, 2009. They were also described as lawyers who "have a history of appearing for and defending LTTE suspects in the past". It seems that the lawyers were defamed solely because they appeared for the *Sunday Leader* newspaper in a defamation case brought by the Ministry of Defence¹⁸.

Ongoing obstacles against humanitarian workers

While the Government's decision in September 2008 to order all international humanitarian organisations – with the exception of the International Committee of the Red Cross (ICRC) – to withdraw from the Vanni area as it could "no longer guarantee the safety of aid workers" in the region remained in force in 2009, therefore having a strong impact on access to relief by civilian populations, humanitarian workers and organisations continued to face serious restrictions in their work. In particular, military camp administration prevented humanitarian organisations, including the UN and the ICRC, from undertaking effective monitoring and protection in the camps controlled by security forces. In July, the Government asked the ICRC to close its offices in eastern Sri Lanka after Minister Mahinda Samarasinghe said that the "specialised services" provided by the ICRC and other aid organisations were no longer needed since the end of the war, and barred it from accessing most displaced persons in the north: by July 17, 2009, four ICRC offices in Trincomalee, Mutur, Batticaloa and Akkaipattu, in the eastern province, had been closed, and activities in this region had been suspended. During the same period, activities carried out from Vavuniya and Mannar offices were put on hold pending further clarification and agreement with the Government. The closure came amid

17/ They were asked how they knew of Dr. Saravanamuttu; whether there was any meeting for all signatories of the statement; whether they had in fact seen the threatening letter, and who had sent the threatening letter.

18/ See LST.

growing tension between the Government and dozens of aid groups over criticism of conditions inside Government run camps in the north that hold Tamil civilians displaced during the final phase of fighting between the Government and the LTTE¹⁹. Government officials also continued to publicly accuse international aid agencies, including the UN and the ICRC, of being LTTE supporters or sympathizers.

In addition to obstacles faced in their daily work, aid workers were also subjected to acts of harassment when they were drawing attention on human rights abuses they witnessed. In May 2009, five Government employed medical doctors, namely **Dr. T. Sathiyamoorthy**, **Dr. T. Varatharajah**, **Dr. V. Shanmugarajah**, **Dr. Ilancheliyan Pallavan** and **Dr. S. Sivapalan**, were arrested by the Sri Lankan army, who eventually handed them over to the police, when they were placed in the custody of the TID, and branded as LTTE supporters for providing information about the situation in the conflict zone to local and international human rights groups and media, including reports of Sri Lankan military attacks on civilians. On August 24, 2009, Dr. Sathiyamoorthy, Dr. Varatharajah, Dr. Shanmugarajah and Dr. Pallavan were finally released on bail but were confined to Vavuniya, while Dr. Sivapalan was released on bail on September 1 on similar conditions. As of the end of 2009, the doctors still faced charges of “providing false information to the media” and “aiding rebel propaganda”. In addition, on June 11 and 12, 2009, Mr. **Charles Raveendran Navaratnam**, staff member of the United Nations High Commissioner for Refugees (UNHCR), and Mr. **Kanthasamy Sounthararajan**, staff member of the United Nations Office for Project Services (UNOPS), were abducted by men in plain clothes, who did not identify themselves and were driving an unmarked vehicle. It was later discovered that the two UN staff members had been taken away by Sri Lankan security services. They would have been arrested for “actively engaging in LTTE activities” and, as of the end of 2009, they reportedly remained detained²⁰. Moreover, on September 6, 2009, Mr. **James Elder**, the United Nations Children’s Fund (UNICEF) Spokesman in Colombo, was summoned to the Foreign Minister, where he was told that his residential visa had been cancelled as of September 7. Mr. Elder was finally given until September 21 to leave the country. Although no official reason was given to the decision, Mr. Elder’s expulsion followed various statements he made on the plight of children during and in the aftermath of the war²¹. In July, Mr. **Peter Mackay**, a field operative with the UNOPS, had already been forced to leave Sri Lanka for compiling

19 / See ICRC, at www.icrc.org/web/eng/siteeng0.nsf/html/sri_lanka and LST.

20 / See LST.

328 21 / *Idem*.

detailed briefings that challenged the Government's official civilian death toll and the questioned adequacy of its arrangements for relief operations²².

Urgent Interventions issued by The Observatory in 2009

Names	Violations / Follow-up	Reference	Date of Issuance
Mr. Lasantha Wickrematunge	Assassination	Urgent Appeal LKA 001/0109/OBS 006	January 15, 2009
Mr. Upali Tennakoon	Assault	Urgent Appeal LKA 002/0109/OBS 015	January 27, 2009
Members of the Human Rights Centre "Right to Life" / Mr. Amitha Ariyaratne	Death threats	Urgent Appeal LKA 003/0209/OBS 022	February 3, 2009
Mr. Sinnavan Stephen Sunthararaj	Enforced disappearance / Fear for physical and psychological integrity / Harassment	Urgent Appeal LKA 004/0509/OBS 077	May 15, 2009
Mr. Paikiasothy Saravanamuttu	Death threats	Urgent Appeal LKA 005/0809/OBS 121	August 21, 2009

22/ *Idem*.