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Amnesty International Report 2015/16 - The State of the World's Human Rights - Sri Lanka

A new government in January brought constitutional reforms and promises of improved human rights protection. Many human rights challenges remained, including persistent use of arbitrary arrest and detention, torture and other ill-treatment, enforced disappearances and deaths in custody, and a long-standing climate of impunity for these and other violations.

Background

An investigation by the UN Office of the High Commissioner for Human Rights into alleged abuses during the final seven years of the armed conflict and its immediate aftermath concluded in September that enforced disappearances, unlawful killings, torture and other ill-treatment, sexual violence, forced recruitment and child recruitment, direct military attacks on civilians, denial of humanitarian relief and systematic deprivation of liberty of displaced people on the basis of ethnicity could amount to war crimes and/or crimes against humanity. It recommended legal and procedural reforms to address ongoing violations, and the establishment of a hybrid special court, integrating international investigators, judges, prosecutors and lawyers to try those accused of alleged war crimes and crimes against humanity. The government signalled its agreement with the conclusions by co-sponsoring a UN Human Rights Council resolution in September calling for implementation of the report's recommendations, including ensuring effective witness protection and consulting with victims and families in the design of truth and justice mechanisms.

Arbitrary arrests and detentions

Tamils suspected of links to the Liberation Tigers of Tamil Eelam (LTTE) were arrested and detained under the Prevention of Terrorism Act (PTA) which permits extended administrative detention, and shifts the burden of proof onto a detainee alleging torture or other ill-treatment. In September the government pledged to repeal the PTA and replace it with anti-terrorism legislation that complied with international standards. It also pledged to review detention records and claimed to have released at least 45 detainees after "rehabilitation". Some detainees were held for many years while waiting for charges to be filed or cases to conclude. Opposition leader Rajavarthiam Sampanthan told Parliament in December that 217 people remained detained under the PTA; most had not been tried. The number did not include those sent for "rehabilitation", another form of arbitrary detention.

Torture and other ill-treatment

Torture and other ill-treatment of detainees – including sexual violence – continued to be reported and impunity persisted for earlier cases. In October, the Inspector General of Police ordered an inquiry into the alleged abuse of a 17-year-old boy and a man who were arrested in September in connection with the rape and murder of a five-year-old girl in Kotadeniyawa. Their lawyer said the two were beaten, stripped naked and photographed by

police in order to obtain false confessions. Both were released without charge. Shortly before the incidents the government had promised the UN Human Rights Council that it would issue clear instructions to all branches of the security forces that torture and other ill-treatment, including sexual violence, and other human rights violations are prohibited, and that those responsible would be investigated and punished.

Excessive use of force

Complaints of excessive force in the policing of demonstrations persisted, and impunity remained for past incidents. Findings of military investigations into the army's killing of unarmed demonstrators demanding clean water in August 2013 were not made public and no one had been prosecuted by the end of 2015. A magisterial inquiry was ongoing.

Deaths in custody

Suspicious deaths in police custody continued to be reported. Detainees died of injuries consistent with torture and other ill-treatment, including beatings or asphyxiation. Police claimed suspects committed suicide or in one case drowned while trying to escape.

Enforced disappearances

Court testimony by a Criminal Investigation Department (CID) official in connection with habeas corpus petitions by families of five youths who disappeared in 2008 from a suburb of the capital, Colombo, confirmed earlier reports by a former detainee that the Navy had operated secret detention camps in Colombo and Trincomalee where detainees were allegedly tortured and killed.

The Presidential Commission to Investigate into Complaints Regarding Missing Persons received 18,586 reports of missing civilians, but made little progress in clarifying their fate or whereabouts or bringing perpetrators of enforced disappearance to justice. In October the government, noting a widespread lack of confidence in the Commission, announced that they were replacing it with another body. In December, it signed and promised to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and to criminalize enforced disappearances.

Impunity

Impunity persisted for alleged crimes under international law committed during the armed conflict, including enforced disappearances, extrajudicial executions and the intentional shelling of civilians and protected areas such as hospitals. Impunity also remained for many other human rights violations, including: the January 2006 extrajudicial executions of five students in Trincomalee by security personnel; the killing of 17 aid workers with Action contre la Faim in Muttur in August 2006; the January 2009 murder of newspaper editor Lasantha Wickrematunge; and the disappearances of political activists Lalith Weeraratne and Kugan Muruganandan in Jaffna in 2011. Army personnel and affiliates were questioned about the 2010 disappearance of dissident cartoonist Prageeth Ekanalodha. The investigation was ongoing at the end of the year.

The report of a 2006 Commission of Inquiry that investigated the Trincomalee and Muttur killings was finally released in October. It criticized original police investigations as lacking professionalism. The report of an investigation into civilian deaths during the armed conflict, also released in October, called for new legislation recognizing command responsibility and an independent judicial inquiry into credible allegations that members of the armed forces may have committed war crimes.

Human rights defenders

In January, severed heads of dogs were left outside the homes of Brito Fernando and Prasanga Fernando of the human rights organization Right to Life. They and colleague Phillip Dissanayake also received anonymous threatening phone calls alluding to their activism against police allegedly involved in enforced disappearances.

Human rights defenders in the north and east continued to report police and military surveillance and questioning around their participation in local NGOs and political meetings, demonstrations, campaigns for human rights accountability and key international events such as the UN Human Rights Council sessions. Activists from eastern Sri Lanka reportedly received anonymous phone calls asking for details of meetings they participated in, as well as anonymous threats after signing a statement calling for an independent international investigation into alleged war crimes.

Balendran Jeyakumari, an activist against enforced disappearances, was released on bail in March after nearly a year in detention without charge under the PTA. She was rearrested and detained for several days in September. On 30 June, the Colombo Magistrate's Court lifted a travel restriction on Ruki Fernando which had been imposed in March 2014 on the request of the Terrorist Investigation Division (TID) after he and a Catholic priest, Praveen Mahesan, were arrested under the PTA following their attempts to investigate the arrest of Balendran Jeyakumari. Ruki Fernando remained banned from speaking about the ongoing TID investigation and his confiscated electronic equipment was not returned.

Freedoms of expression, assembly and association

President Sirisena declared 19 May, the anniversary of the end of Sri Lanka's long armed conflict, to be Remembrance Day, and stressed that it was a day to commemorate all war dead. This move suggested that earlier restrictions on public commemorations by northern Tamils would be lifted. Although memorial events were permitted in most areas, a heavy police presence was reported at such gatherings in the north and east, and ceremonies were reportedly prohibited by the security forces in Mullaitivu, the site of the final offensive.

Complaints persisted of harassment and surveillance by security forces of people attending gatherings and engaged in activism, particularly in the north and east.

Justice system

The new government reinstated Chief Justice Shirani Bandaranayake, who was impeached in 2013 for political reasons. She immediately announced her retirement and was succeeded by Kanagasabapathy Sripavan. The new government enacted the 19th amendment to the Constitution which placed checks on the powers of the executive presidency, including ending direct presidential appointment and dismissal of senior judges and members of key institutions, including the Judicial Service Commission, and transferring those powers to a Constitutional Council.

Discrimination – religious minorities

Muslims and Christians continued to report incidents of harassment by police, members of the public and politicians, particularly in the context of political campaigning by hardline Buddhist political parties in the lead-up to parliamentary elections in August. Earlier incidents of violence and intimidation against religious minorities were not investigated. Deaths, injuries and property loss sustained by Muslim residents of Aluthgama Dharga Town and Beruwala in riots in June 2014 went unpunished.

Violence against women and girls

In May, the rape and murder of 17-year-old Sivayoganathan Vidhya on the island of Pungudutivu prompted large demonstrations demanding justice for cases of violence against women and girls. Local police were criticized for refusing to search for the missing teenager, reportedly telling her family that she probably ran off with a lover. In September, the rape and murder of a five-year-old girl in Kotadeniyawa led to calls for the death penalty to be reinstated, even after it became known that police had tortured two suspects in an attempt to force false confessions.

Evidence continued to mount that sexual violence may have been used systematically against Tamils (detainees, surrendered LTTE members and civilians) during and in the immediate aftermath of the conflict, strengthening calls for a justice mechanism to address war crimes. The 7 October conviction of four soldiers for the 2010 gang-rape of a woman in a Kilinochchi resettlement camp was widely seen as a small victory against the pervasive climate of impunity.

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