

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	565
Land:	Sri Lanka
Kilde:	Amnesty International
Titel:	AI rapport 16-17. State of the Worlds Human Rights
Udgivet:	22. februar 2017
Optaget på baggrundsmaterialet:	3. marts 2017

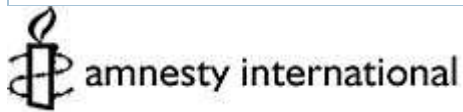
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- **Source:**
AI - Amnesty International
- **Title:**
Amnesty International Report 2016/17 - The State of the World's Human Rights - Sri Lanka
- **Publication date:**
22 February 2017
- **ecoi.net summary:** Annual report 2016/17 (covering 2016) [ID 336568]
- **Countries:**
Sri Lanka
- **Original link** <https://www.amnesty.org/en/countries/asia-and-the-pacific/sri-lanka/report-sri-lanka/>

Recommended citation:

AI - Amnesty International: Amnesty International Report 2016/17 - The State of the World's Human Rights - Sri Lanka, 22 February 2017 (available at ecoi.net)

http://www.ecoi.net/local_link/336568/466212_en.html (accessed 03 March 2017)



Amnesty International Report 2016/17 - The State of the World's Human Rights - Sri Lanka

Sri Lanka continued to pursue commitments to deliver accountability for alleged crimes under international law, although the process was slow. Many human rights challenges remained, including the authorities' reliance on the Prevention of Terrorism Act (PTA) to arrest and detain suspects; torture and other ill-treatment in police custody, and impunity for enforced disappearance and other violations. Victims of violations during the armed conflict faced challenges in rebuilding lives and livelihoods as coherent relief and reparation plans had yet to be implemented.

Background

Sri Lanka initiated a constitutional reform process, began to design truth, justice and reparation mechanisms, and began to institute legal and procedural reforms to address, and ensure, non-repetition of the serious human rights violations and abuses that plagued the country for decades. It initiated public consultations on these mechanisms, but failed to adequately support implementation of the process.

Arbitrary arrests and detentions

Tamils suspected of links to the Liberation Tigers of Tamil Eelam (LTTE) continued to be detained under the PTA, which permits extended administrative detention and shifts the burden of proof onto the detainee alleging torture or other ill-treatment. In 2015 the government pledged to repeal the PTA and replace it with legislation that complied with international standards, but had not implemented this commitment by the end of 2016. A draft policy and legal framework for replacement legislation submitted for cabinet approval in October retained many of the PTA's most problematic elements although it did introduce safeguards against torture.

In June, President Sirisena instructed the police and armed forces to abide by Human Rights Commission of Sri Lanka directives, that were designed to protect those arrested under the PTA and other emergency measures and to end practices that can lead to abuse. Such abuses include the failure of arresting officials to identify themselves, the transport of suspects in unmarked vehicles, and the use of unofficial places of detention. The directives also guaranteed detainees' access to a lawyer, including during interrogation, but these were not fully respected.

In late August, human rights lawyer Lakshan Dias petitioned the Supreme Court accusing the Terrorist Investigation Division of the police of violating the directives by refusing to allow him to meet with his client. An amendment to the Code of Criminal Procedure that would have deprived those arrested of access to legal counsel until the police recorded their statements was withdrawn in October after lawyers protested.

Torture and other ill-treatment

The UN Special Rapporteur on torture visited Sri Lanka in May. He found that severe forms of torture by police continued, although probably at lower levels than during the armed conflict, and that impunity persisted for both old and new cases. He noted that procedural norms such as prolonged arbitrary detention without trial under the PTA “almost invite torture and ill-treatment as a routine method of work.” In August, Sri Lanka made a declaration under the UN Convention against Torture recognizing the competence of the UN Committee against Torture to receive and consider communications from individuals alleging violations of their rights under the Convention.

Excessive use of force

Reports continued of excessive use of force in the context of policing. Impunity continued to persist for past incidents. The killings by the army of unarmed demonstrators demanding clean water in August 2013 had yet to be prosecuted. In October a magistrate ruled that the killings were crimes, and ordered further hearings in 2017 to determine whether there was sufficient evidence to refer the case for prosecution.

Enforced disappearances

In May, Sri Lanka ratified the International Convention against Enforced Disappearance, but by the end of the year had not passed legislation criminalizing enforced disappearance in domestic law. The Presidential Commission to Investigate into Complaints Regarding Missing Persons concluded in July, having received over 19,000 civilian complaints. However, little progress was made in clarifying the fate of the missing or bringing perpetrators of enforced disappearance to justice. In August, Parliament bypassed public consultation when it adopted an Act establishing the Office on Missing Persons to assist families to trace missing relatives and take on the case load left by the Commission.

Impunity

Impunity persisted for alleged crimes under international law committed during the armed conflict. Impunity also remained for many other human rights violations. These included the January 2006 extrajudicial executions of five students in Trincomalee by security personnel and the killing of 17 aid workers with the NGO Action Against Hunger in Muttur in August 2006.

In May, the former Media Minister, testifying in a habeas corpus case into the December 2011 disappearances of political activists Lalith Weeraraj and Kugan Muruganandan, stated that his claim at the time that the two activists were in government custody and that their whereabouts could not be revealed was based on information from the Defence Ministry. The investigation into the involvement of army intelligence officers in the 2010 disappearance of dissident cartoonist Prageeth Eknaligoda was ongoing. In August a court in the capital, Colombo, ordered a new autopsy of the remains of newspaper editor Lasantha Wickrematunge, who was murdered in 2009.

Human rights defenders

In August, Balendran Jeyakumari, an activist against enforced disappearances, who had previously been detained without charge for a year under the PTA, was once again summoned for questioning. Human rights defender Ruki Fernando remained barred by court order from speaking about an ongoing police investigation into his advocacy on her case; his confiscated electronic equipment was not returned.

Sandhya Eknaligoda, the wife of disappeared dissident cartoonist Prageeth Eknaligoda, faced repeated threats and acts of intimidation. These included protests outside the court where her husband's habeas corpus case was being heard, and a poster campaign that accused her of supporting the LTTE after the police identified seven army intelligence officers suspected of involvement in his disappearance.

Freedoms of expression, assembly and association

In June, journalist Freddy Gamage was beaten by men he identified as supporters of a politician in the town of Negombo. Freddy Gamage had been threatened previously over articles he wrote exposing the politician's alleged corruption and links to organized crime. He was further threatened by one of his attackers when they met in court after he pointed him out in an identification parade. Impunity persisted for past attacks on media workers; according to media NGOs, attacks included some 44 killings since 2004.

People engaged in activism in the north and east continued to report harassment and surveillance by security forces.

Legal, constitutional or institutional developments

Sri Lanka initiated a Constitutional reform process aimed at ensuring checks on executive power and more equitable ethnic power sharing. The results of public consultations on the content of a new Constitution were published in May. Parliament was expected to debate a proposed draft Constitution in early 2017.

In July, Sri Lanka passed the Right to Information Act. In August, the cabinet approved a National Policy on Durable Solutions for Conflict-Affected Displacement. This aimed to protect human rights by guiding the return of private lands seized by the military, creation of livelihood and income generating opportunities for the displaced, and assistance for returning refugees. The policy emphasized non-discrimination, access to justice and reparations. Implementation was expected to begin in February 2017.

Discrimination

Tamils continued to complain of ethnic profiling, surveillance and harassment by police who suspected them of LTTE links. In August, the UN Committee on the Elimination of Racial Discrimination found that the PTA was disproportionately used against Tamils and was discriminatory in effect.

Christians and Muslims reported incidents of harassment, threats and physical violence by members of the public and supporters of hardline Sinhala Buddhist political groups. Police failed to take action against attackers or in some cases blamed religious minorities for inciting opponents. In June, a group calling itself Sinha Le (Lion's Blood) was linked to protests against a mosque construction in the city of Kandy. In June, its supporters waged a social media campaign of threats and intimidation against Equal Ground, an organization seeking human and political rights for the lesbian, gay, bisexual, transgender, intersex and questioning (LGBTIQ) community of Sri Lanka.

In June, the Health Ministry noted that "transgender people are often socially, economically, politically and legally marginalized... and vulnerable to harassment violence and sexual assault and discrimination in access to public spaces." It ordered health services for transgender individuals, including physician-certified Gender Recognition Certificates to assist in the amendment of birth certificates to accurately reflect the sex with which the individual identified.

Violence against women and girls

Impunity persisted for violence against women and girls, including rape by military personnel and civilians, and also in situations of domestic violence such as marital rape. Women human rights defenders supporting constitutional reforms advocated repeal of Article 16(1), which upheld laws existing prior to the current Constitution, even when they were inconsistent with the Constitution. This included tenets of Muslim personal law that permitted child marriage and failed to recognize marital rape.

Death penalty

Death sentences continued to be imposed; no executions were carried out. In September, a former MP was sentenced to death for the murder of a political rival.

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