



**Sri Lanka
UPR Submission
2012**

Sri Lanka— Summary of Main Issues of Concern

The Sri Lankan government has failed to advance justice for the victims of the country's 26-year-long armed conflict in the three years since the war ended. The government's Lessons Learnt and Reconciliation Commission report on the fighting did not advance accountability for well-documented allegations of violations of international humanitarian law by both sides to the conflict. At the same time, in the period since Sri Lanka's previous UPR in 2008, the government has deepened repression of basic freedoms, notably limiting the rights to freedom of expression. The government has largely ignored complaints of insecurity and surveillance implicating security forces and pro-government groups in the North and East. While the ethnic Tamil population in former conflict areas has benefitted from greater access by humanitarian and local human rights organizations and the media, steps to normalize their living conditions are far from adequate.

Accountability

In its adoption of the 2008 UPR outcome report, the Sri Lankan government undertook to "tak[e] all necessary measures to punish and prosecute perpetrators of international human rights law and humanitarian law." The government of Sri Lanka also accepted several recommendations to investigate human rights violations and bring perpetrators to justice. However, this undertaking remains unfulfilled. Three years after the conflict ended, despite President Mahinda Rajapaksa's promise to UN Secretary-General Ban Ki-moon to address allegations of abuses during the final months of the fighting, to date there has been no criminal investigations into these allegations.

A Panel of Experts commissioned by Secretary-General Ban to advise him on accountability in Sri Lanka released a report in April 2011 that found credible allegations of serious laws of war violations by government forces and the Liberation Tigers of Tamil Eelam (LTTE). It concluded that both sides conducted military operations "with flagrant disregard for the protection, rights, welfare, and lives of civilians and failed to respect the norms of international law." The panel recommended the establishment of an international investigative mechanism. Sri Lankan officials responded by vilifying the report and the panel members.

The government established a Lessons Learnt and Reconciliation Commission (LLRC), which it initially said would just investigate the 2002 ceasefire, but later characterized the commission as a national accountability mechanism. The LLRC, however, was deeply flawed in mandate and composition, did not meet international standards for such commissions, and failed to systematically inquire into alleged abuses. The LLRC report, released in December 2011, disregards the worst abuses by government forces, rehashes longstanding but unimplemented recommendations, and fails to put forward measures for accountability.

Since the war ended the government has not launched a single credible investigation into alleged abuses. The lack of investigation was conspicuous with regard to several incidents featured in two documentaries by British television station Channel 4, showing gruesome images of apparent summary executions of captured and bound LTTE combatants. While UN independent experts concluded the footage is genuine, the government repeatedly has dismissed the footage as fabricated and has accused Channel 4, without basis, of acting as an LTTE mouthpiece.

Impunity continues for earlier serious violations

Despite strong evidence of involvement by state security forces in the execution-style slayings of 5 students and 17 aid workers in separate incidents in 2006, government inquiries have languished and no one has been arrested for the crimes. In the 2008 UPR outcome report, the government agreed to “ensure the adequate completion of the investigation into the killings of the aid workers.” The government also undertook to “investigate and prosecute all allegations of extrajudicial, summary, and arbitrary killings.”

In the months since the LLRC report was published, the government has announced that it has set up an army and a naval commission of inquiry to look into allegations of laws-of-war violations. It has also committed to referring any such cases to the Attorney-General’s department for prosecution. However, these commissions must be seen in light of Sri Lanka’s long history of failed commissions of inquiry. Since 1977 Sri Lanka’s default response to international criticism of its human rights record has been to establish national commissions of inquiry or other ad hoc bodies to investigate human rights violations. The work of many of these commissions have been tainted with political interference, and mainly served to exonerate the government security forces. None have resulted in serious accountability measures.

In light of the Sri Lankan government’s inaction on accountability issues, the UN Human Rights Council, during its March 2012 session, adopted a resolution calling on Sri Lanka to fulfill its legal obligations toward justice and accountability, and to expeditiously provide a comprehensive action plan to implement the recommendations of the LLRC and address alleged violations of international law.

Torture, Enforced Disappearances and Arbitrary Detention

In August 2011 the government allowed to lapse emergency regulations that had been in place for nearly three decades, but it has failed to rescind other legislation granting police and other security forces overbroad detention powers. Sri Lanka has also adopted new regulations that effectively maintain several of the emergency provisions. The president continues to issue monthly decrees granting the armed forces search and detention powers.

Despite the end of the formal state of emergency, the government also continues to hold several thousand people initially detained under the emergency regulations. Many have been held for years without trial, in violation of international law. The government has so far refused to even publish lists of those detained.

The government has gradually released the great majority, but not all, of the more than 11,000 suspected LTTE members detained at the end of the war and sent to so-called rehabilitation centers. The government had denied those detainees important due process guarantees, such as access to legal counsel. Some released from the rehabilitation centers have reportedly faced ongoing harassment by security forces after they returned home.

The government of Sri Lanka had accepted UPR recommendation 18 to “increase its efforts to prevent cases of kidnapping, forced disappearances, and extrajudicial killings.” However, in 2011, new reports of “disappearances” and abductions in the north and the east emerged, some linked to political parties and others to criminal gangs.

The government has lifted restriction on travel to parts of the north, although it maintains a very high security presence. Violence, including sexual assault, by so-called “grease devils,” some of whom could allegedly be traced to military camps, highlighted ongoing insecurity issues in the north and east.

The government of Sri Lanka accepted recommendations 19 to strengthen legal safeguards to eliminate torture, and 16 to implement the recommendations of the Special Rapporteur on Torture. Sri Lanka has a long history of torture and other ill-treatment by the police forces and enforced disappearance. The Prevention of Terrorism Act gives police broad powers over suspects in custody. Tamils deported back to Sri Lanka from other countries have described being tortured at the hands of the police and other security forces on their return. Human Rights Watch has interviewed many Tamil deportees, both male and female, who have been questioned on arrival at Colombo's airport, detained, questioned and raped in custody.

Numerous credible reports emerged in 2011 of military and police officials over the past six years conducting rape and sexual abuse against persons in detention. Both men and women were raped and tortured by other means in order to extract a confession of their involvement with the LTTE. There were also credible reports of multiple rape by Sri Lankan army soldiers during 2009.

The UN Committee Against Torture has stated that it remains seriously concerned about the continued and consistent allegations of widespread use of torture and other cruel, inhuman, or degrading treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings. In 2011 the Committee issued a scathing statement about Sri Lanka in which it called for an end to the practice, which Sri Lanka had promised to root out as part of its 2008 UPR undertakings.

Civil Society and Opposition Members

During the previous UPR in 2008, Sri Lanka accepted recommendation 39 "to take measures to safeguard freedom of expression and protect human rights defenders, and effectively investigate allegations of attacks on journalists, media personnel and human rights defenders, and prosecute those responsible."

However, since 2008, no measure has been taken to prevent threats and violence against those who are critical of the government, and prosecute those responsible. The government and state media engaged in threatening criticisms of specific human rights defenders and journalists who supported the HRC resolution in the months leading up to the March 2012 session. Their photos and names were broadcast on state media, and they were branded as "traitors" and LTTE sympathizers. Following the adoption of the resolution, Minister Mervyn de Silva publicly announced that he would chase these people out of Sri Lanka and would "break their limbs" if he ever encountered them.

In December 2011 the government announced the adoption of the National Human Rights Action Plan as part of its pledge given at the 2008 UPR hearings. While the plan contains some good recommendations, civil society members involved in the consultations criticized the plan, saying that their recommendations have not been taken into account in the final version as adopted. Civil society groups have also questioned the possibility of any meaningful advance under the Action Plan while institutions such as the National Human Rights Commission lack independence and human rights defenders and civil society face harassment.

Attacks against opposition political parties continue. Members and supporters of the Tamil National Alliance (TNA), campaigning ahead of local elections in Jaffna in June 2011, were attacked by army personnel wielding rods, batons, and sticks. Among the injured were TNA members and police officers assigned to provide security to the parliamentarians. The results of an investigation into the incident ordered by the secretary of defense are not known.

Child Soldiers

As of March 2012 the government claimed that it had rehabilitated several hundred child soldiers who had surrendered at the end of the war. The program for rehabilitation was jointly conducted

by the National Child Protection Authority and UNICEF. There are reports that ex-child combatants face stigmatization, and that some of them are subject to ongoing surveillance from the security forces. The government of Sri Lanka should therefore step up its efforts to ensure the implementation of recommendations it accepted on the rehabilitation of child soldiers. The government also accepted recommendations to investigate past recruitment of children to be soldiers, but no meaningful action has been taken in that regard.

Return and Resettlement

The vast majority of the nearly 300,000 civilians illegally confined in military-controlled detention centers after the war have moved out of the centers back into communities, although not necessarily into their original homes. About 110,000 persons still live with host families or in camps, and several thousand are not able to return because their home areas have not been demined. The government has still not granted international demining agencies access to several areas.

Post-war return and resettlement programs have not adequately addressed women's security-related concerns in the north. Women continue to report sexual harassment or abuse at the hands of military personnel and pro-government groups, such as the Eelam People's Democratic Party. Women have no safe channel for reporting these offenses and seeking their effective investigation without fear of reprisals. In part, this is because the administration of resettlement programs involves former and current military officials in ostensibly civilian roles, including in designing, implementing, and monitoring resettlement programs.

Migrant Domestic Workers

Hundreds of thousands of Sri Lankan women migrate as domestic workers to other countries, especially the Gulf region, where they are excluded from labor law protections and often endure excessive working hours, physical, and psychological violence, unpaid wages, and other abuses. Recruitment agents in Sri Lanka may provide false or incomplete information about jobs abroad, recruit children, and impose illegal fees that impose heavy burdens. The Sri Lankan government has taken some steps to protect migrant domestic workers, but does not adequately monitor and regulate recruitment agents and local-level labor brokers. Sri Lankan consular officials are often not adequately staffed or do not have sufficient political will to assist domestic workers who seek their help in cases of unpaid wages or other forms of abuse.

Recommendations:

On accountability

- Implement the recommendations of the UN Panel of Experts Report on accountability issues, including allowing for an international independent mechanism to investigate allegations of violations of international law.
- Implement the recommendations of the LLRC that would advance the protection and promotion of human rights.
- Impartially investigate and prosecute members of the security forces, regardless of rank, implicated in serious violations of international human rights.
- Enhance the capacity of national investigations by seeking the support of the OHCHR and the UN's special mechanisms.
- Ensure meaningful redress for victims of laws-of-war violations.
- Accede to the Rome Statute of the International Criminal Court.

On Torture, Disappearances, Killings, and Arbitrary Detention

- Investigate and prosecute those responsible for ongoing enforced disappearances, torture and killings, and to prevent further cases.
- Rescind legislation granting the police and security forces broad arrest and detention

authorities.

- Ensure compliance with international norms regarding due process for all detainees.
- Investigate and prosecute allegations of rape and sexual abuse by the security forces.

On Civil Society and the Political Opposition

- End attacks, threats and harassment of civil society activists, human rights defenders, journalists, and opposition party members.
- Adopt legislation on appointments that would ensure the independence of the National Human Rights Commission.
- Revise the National Action Plan to take into account recommendations by civil society and other stakeholders.

On Return and Resettlement

- Ensure that current military personnel are not involved in civilian roles in return and resettlement programs.
- Take measures to protect the rights of internally displaced persons, including long-term housing and property restitution policies that meet international standards, and protecting the rights to voluntary and safe returns and adequate restitution.

On Women's Rights

- Ensure that police stations are adequately staffed with Tamil-speaking female police officers.
- Expand sexual, reproductive, and mental health programs for survivors of gender-based violence in the North and East.

On Migrant Domestic Workers

- Revise national regulations on migration and domestic work to adhere to the standards in the ILO Convention Concerning Decent Work for Domestic Workers, including access to information, regulation of recruitment, and an improvement of consular services abroad.

On Child Soldiers

- Continue working with UNICEF on the rehabilitation and reintegration of former child soldiers.
- Ensure protection for rehabilitated child soldiers, who might be subject to discrimination and surveillance.