

NGO report - 2nd Universal Periodic Review of Sri Lanka (November 2012)

The situation of human rights defenders in Sri Lanka

Submitted by the Observatory for the Protection of Human Rights Defenders, a joint programme of the International Federation for Human Rights (FIDH) and the World Organisation Against Torture (OMCT)

EXECUTIVE SUMMARY

Since the last Universal Periodic Review (UPR) of Sri Lanka in May 2008, human rights defenders have remained the target of a wide range of violations, including extrajudicial killing, enforced disappearances, arbitrary arrest and detention, beatings, death threats, harassment and defamation, as well as restrictions on their freedoms of movement, expression, association and peaceful assembly. Violations have most commonly targeted human rights defenders themselves but also their organisations. The trend has taken a new pace for the past few months in the context of the March 2012 session of the United Nations (UN) Human Rights Council, as human rights defenders promoting and using the UN human rights system were more than ever subjected to increasing reprisals. Defenders of both Tamil and Sinhala ethnicity and/or Buddhist, Christian and Muslim background have been targeted. An increasing number of human rights defenders have also been targeted as they have been more vocal and prominent in international networking, forcing many of them into exile. The persecution has become cross-sector and is not restricted to human rights defenders seeking accountability for human rights violations, in particular for alleged violations of international human rights and humanitarian law committed by the Government during the civil conflict that ended in May 2009. Peace and social justice activists as well as those fighting against corruption or defending environmental rights were also subjected to various acts of persecution. Failure to investigate prominent cases of assassination and disappearance of human rights defenders further contributed to an environment of fear and silence. The Observatory calls upon the Sri Lankan authorities to put an end to all acts of harassment against all human rights defenders in Sri Lanka, and ensure in all circumstances their physical and psychological integrity. Human rights defenders should also be able to carry out their legitimate activities without any hindrance and fear of reprisals, in line with the United Nations Declaration on Human Rights Defenders adopted by the General Assembly on December, 1998.

GENERAL STATEMENT

Failure by Sri Lankan authorities to implement accepted UPR recommendations since last review: The Government of Sri Lanka has failed to implement the recommendations on the protection of human rights defenders, on the freedom of expression and freedom of the press, as well as on the prevention of enforced disappearance, which it accepted at the last UPR in 2008, in particular recommendations 17, 18, 27, 39, 40 and 41. It has also not provided responses in due time to recommendations noted in paragraph 33(a) by France: "To sign and ratify the International Convention for the Protection of All persons from Enforced Disappearance" and paragraph 36 by the Holy See: "To share the findings of the special bodies created to stop the persistent pattern of enforced disappearances and the measures put into place to address this problem".

Some of the recommendations that did not enjoy the support of the Government of Sri Lanka remain valid, especially the need to "extend standing invitations to the special procedures", such as the Special Rapporteur on the situation of human rights defenders whose requests for visit (2008, 2010) are still pending. Besides, the human rights record of Sri Lanka was examined in 2010 by the United Nations (UN) Committee on the Rights of the Child (CRC) and Committee on Economic, Social and Cultural Rights (CESCR), in September and

November respectively, which both expressed concerns about the situation of human rights defenders and organisations.

Activities and categorisation of human rights defenders facing persecution in Sri Lanka:

Based on the definition of a human rights defender by the UN Special Rapporteur on the situation of human rights defenders¹, it appears that a wide range of human rights defenders have been persecuted in Sri Lanka between May 2009 and April 2012, for carrying out peaceful activities in line with the Special Rapporteur's definition (which specifies both the activities of human rights defenders and their categorisation). They include:

- i. **Human rights non-government organisations (NGOs):** in the North of Sri Lanka, human rights NGOs have been under great pressure, their activities disrupted following attacks by unidentified assailants and some had their offices raided by State security forces. Some human rights workers have been compelled to leave Jaffna peninsula following threats, including recently in 2012. In the rest of the country as well, human rights NGOs have been placed under increased surveillance and abusively requested to report on their activities. Some received threatening phone calls and were interrogated by the Criminal Investigation Department (CID) for posting information online. Organisations working for the voiceless and carrying out peace activities have been considered as suspicious; most have felt compelled to remain low profile and even to put their human rights activities on stand-by, as a result of fear of persecution.
- ii. **Women's Groups:** In the aftermath of the UN resolution against Sri Lanka in March 2012, which sparked a new wave of repression against human rights defenders inside Sri Lanka, at least four women's groups in the North and East have been visited by intelligent officers asking for their work, donor, board and staff details. These women's groups also deal with sensitive women's issues and two of these organisations provide safe custody for abused women.
- iii. **Human rights lawyers, including those fighting corruption** have been harassed. Lawyers involved in revealing the misuse of public resources in the context of the Sri Lankan presidential elections of January 26, 2010 have suffered serious consequences for their work, including threats and physical assault. The police systematically failed to investigate and/or arrest the assailants.
- iv. **Journalists** highlighting human rights violations have been particularly persecuted as freedom of opinion and expression faced significant constraints. Landmark cases of persecution against journalists include the assassination of a renowned journalist in 2009 (see below), and the abduction of another, who was then severely beaten and treated in an inhuman way in 2010. Threats, harassment and intimidation continued in 2011 and 2012.
- v. **Church activists** collecting victims' testimonies in the North or helping individuals or affected communities throughout the country have been placed under strict control. Some were even threatened during the March 2012 session of the Human Rights Council.
- vi. **Trade unionists, social justice and environmental activists** have been put under surveillance and arbitrarily arrested. Some were prevented from creating trade unions and defending communities affected by infrastructure development projects. Others were harassed after being actively involved in protecting and conserving marine resources or campaigning against environmental damage due to sand excavation, etc. Some defenders of environmental rights were also subjected to extra-judicial killing.
- vii. **International NGOs and other independent observers** were also subject to reprisals and compelled to leave Sri Lanka at short notice.

¹ <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx>

Moreover, witnesses, including those giving testimony to the Lessons Learnt and Reconciliation Commission (LLRC), victims of sexual abuse and land grabs as well as witnesses of abduction and murder, have all faced threats and intimidation, particularly when the violations have been "investigated" or heard in courts.

Restrictions on freedoms of association and peaceful assembly in the North of Sri Lanka: Following the end of the civil war in May 2009, freedom of association has faced serious restrictions in the North of Sri Lanka, although some independent journalists and NGOs were given limited access to the war-affected population in the North with prior permission from the Ministry of Defence. On July 15, 2010, the Government's NGO Secretariat issued a circular numbered NGO/03/16 setting up a new procedure for granting approval for all NGO movements - including their staff and international organisations - implementing projects in the northern province, which required heads of all the NGOs operating projects in the province to register all their officials with the Presidential Task Force (PTF) headed by the President's brother Mr. Basil Rajapakse, with immediate effect. The new procedure also requested NGO heads to provide information on all human and material movements carried out by NGOs in the northern province for further approval. In addition, in June 2010, the NGO Secretariat was transferred from the civilian Ministry of Social Services to the Ministry of Defence. As a result, several NGOs were denied access to the region, pending approval from the Ministry. Although the PTF granted permission to some NGOs to launch some projects to assist people in need of assistance in resettled villages of Vanni area, permission was granted only to build houses and infrastructure and start income generating activities, while permission was rejected for counselling, capacity building and empowerment activities of communities.

Serious reprisals against human rights defenders seeking accountability for human rights violations: Despite the formal end of the civil war in May 2009, the Government continued to maintain a strict blockade on the release of information regarding the human rights situation in Sri Lanka to the international community, especially the human cost during the final phase of the war between December 2008 and May 2009. As a consequence, any attempt by local or foreign human rights defenders, including journalists, to uncover and report on the gross human rights abuses committed against Tamil civilians by Governmental forces during this period as well as on continuing rights abuses, particularly on enforced disappearances and killing in the North, was met with intimidations and threats. As a result of these threats, many were forced into hiding or to leave Sri Lanka. Human rights defenders observing the proceeding of the LLRC also faced threats and intimidation.

Slandering campaigns against human rights defenders and NGOs submitting information to UN mechanisms: While the majority of human rights defenders work at the local or national level, supporting respect for human rights within their own communities and countries, some of them also act at the regional or international level, in particular by submitting information to international human rights mechanisms, including the Special Rapporteurs of the Human Rights Council and UN treaty bodies experts. Members of the Government and Government-controlled media have indeed continually defamed civil society organisations and accused human rights defenders of acting against the country, whenever the latter have cooperated and shared information with the UN and the international community. They have been regularly labelled as "traitors to the nation" and victims of inflammatory statements by Government Ministers and politicians making them fearful of cooperating with UN mechanisms. In late 2010 and early 2011, local newspapers ran a series of articles on human rights defenders in the North who had participated in a training on submitting complaints to UN human rights mechanisms. Then, several participants suffered threats and intimidation by security forces and intelligence agents. The Observatory considers that such campaigns of defamation, which have reached a new peak during the March 2012 session of the Human Rights Council, are not only carried out in retaliation of the human rights activities of specific human rights defenders but also aim at deterring others

from engaging with UN mechanisms, therefore hinder them from carrying out their legitimate human rights work.

EXAMPLES

Case of Mr. Lasantha Wickrematunge: On January 8, 2009, Mr. Lasantha Wickrematunge, founder and Chief Editor of the *Sunday Leader* newspaper as well as a lawyer 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 assassinated in Colombo. Mr. Wickrematunge was also a critic of the war and advocated a peaceful political solution to the conflict. Despite intense media pressure, no one had been arrested as of April 2012.

Case of Mr. J. C. Weliamunia: In March 2010, Mr. J. C. Weliamuna, former executive Director of Transparency International - Sri Lanka (TISL), was the target of a string of defamation articles published in local Sinhalese and English printed media - and in particular the *Lanka News Web* - containing false information about the misuse of TISL's funds. Reportedly, there was also a move to arrest and detain Mr. Weliamuna on fabricated charges, in connection with reports TISL issued during the presidential election campaign in December and January, alleging violations of election laws and misuse of public resources by the ruling party. Moreover, while Mr. Weliamuna sustained an attack in September 2008, when two grenades were thrown at his residence, the Government argued in 2010 that Mr. Weliamuna was responsible for this attack in order to get publicity for himself. Despite Mr. Weliamuna's letter to the President of Sri Lanka expressing concerns of the *Lanka News Web* list, no action was taken to provide protection to him or to investigate the allegations made by the article published in *Lanka News Web*.

Case of Mr. Pattani Razeek: In July 2011, the body of Mr. Pattani Razeek, Managing Trustee of the Community Trust Fund (CTF) and a member of the Executive Committee of the Asian Forum for Human Rights and Development (FORUM-ASIA), was exhumed by the police in Valaichchenai province, Eastern Sri Lanka. Mr. Razeek had disappeared since February 2010. Previously, a suspect, Mr. Shahabeen Nowshaadh, who is believed to be close to an influential Government Minister from the area, had been arrested. The arrest of Mr. Nowshaadh was based on serious evidence dating from February 16, 2010, which highlighted his alleged involvement in the case. For over a year, the police had made no attempt to apprehend and question Mr. Nowshaadh regarding Mr. Razeek's disappearance despite of the evidence against him.

Case of Mr. Sinnavan Stephen Sunthararaj: 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 and District Child Coordinator from 2003 to 2005, was last seen on the evening of May 7, 2009, when he was abducted by unknown gunmen in army uniforms. In December 2009, the Permanent Secretary to the Ministry of Foreign Affairs, Mr. Palitha Kohana, had revealed that Mr. Sunthararaj had not been abducted but arrested, probably by intelligence services. Since then, Mr. Sunthararaj's wife has been writing to the Office of the President of Sri Lanka, urging him to reveal Mr. Sunthararaj's place of detention, and calling for his immediate release. She has still not received any response, in spite all her efforts.

Case of Mr. Sunanda Deshapriya: On September 12, 2011, Mr. Sunanda Deshapriya, a human rights defender, press freedom campaigner and a journalist from Sri Lanka who used to be the Head of the Free Media Movement, attended a side event at the 18th session of the UN Human Rights Council organised by the Sri Lankan Government. A few days later, several Sri Lankan media outlets controlled by the State or sympathetic to the Sri Lankan Government, including televisions, radios, newspapers and websites, published an inaccurate account of the event. They falsely claimed that the President of the Maldives accused Mr. Deshapriya of having acted "against his country" by supporting the Liberation

Tigers of Tamil Eelam (LTTE) at the Human Rights Council and thus betraying his country's interests. However, according to those who attended the event, these accounts were not accurate. Since then, Mr. Deshapriya has been receiving death threats through phone calls from hidden numbers and comments made in online media. Mr. Deshapriya had already been subjected to smear campaigns in May 2009, following his participation and oral intervention during the 11th Special Session on Sri Lanka at the UN Human Rights Council, when he was also subjected to threats, forcing him to go into exile. In March 2012, Mr. Deshapriya was again subjected to a smear campaign at a time when a resolution on "promoting reconciliation and accountability in Sri Lanka", along Ms. **Sunila Abeysekera**, Ms. **Nimalka Fernando** and Dr. **Paikiasothy Saravanamuttu**, human rights defenders who are actively engaged in the fight against impunity for past and present human rights violations in Sri Lanka, following their participation in the 19th session of the Human Rights Council.

Cases of Messrs. Lalith Kumar Weeraraja and Kugan Muruganandan: In April 2012, it was finally revealed that Messrs. Lalith Kumar Weeraraja and Kugan Muruganandan, two human rights activists in Jaffna who had been missing since December 9, 2011, were in fact detained at the Police Welfare Building at Pettah, Colombo. They had disappeared as they were preparing a press conference to be held on Human Rights Day, where they intended to announce a protest that was planned to take place on December 13, 2011 in Colombo. The protest was to focus on denouncing human rights violations against Tamil civilians by the Sri Lankan military and calling for the release of detainees held without charges since the end of the war. In the past, Mr. Weeraraja was threatened several times by the army and police in relation to his protests against enforced disappearances and illegal detention. He was taken into military custody once in early 2011 in relation to these activities, and was threatened and interrogated.

RECOMMENDATIONS

The Government of Sri Lanka should:

- Guarantee in all circumstances the physical and psychological integrity of all human rights defenders and their family members who may be exposed because of their peaceful human rights activities;
- Order an immediate, thorough, effective and impartial investigation into all cases of reprisals against human rights defenders, including cases of enforced disappearance and death, the results of which must be made public, in order to identify all those responsible, bring them before a civil competent and impartial tribunal and apply to them the penal sanctions provided by the law;
- Put an end to all forms of harassment against all human rights organisations and defenders in Sri Lanka, and protect freedoms of expression, association and peaceful assembly so they may be able to carry out their peaceful human rights activities without hindrances;
- Conform with the provisions of the UN Declaration on Human Rights Defenders, adopted by the General Assembly of the United Nations on December 9, 1998, in particular its article 1, article 9.5, Article 11, Article 12(1) and article 12.2;
- Ensure in all circumstances respect for human rights and fundamental freedoms in accordance with international human rights standards and international instruments ratified by Sri Lanka;
- Immediately sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance;
- Immediately extend standing invitations to UN special procedures, especially to the Special Rapporteur on the situation of human rights defenders Ms. Sekaggya.