



## National Security Laws in Sri Lanka

### Impunity and Accountability

The Sri Lankan State continues to undermine the rule of law, placing a fundamental constraint on the enjoyment of human rights and humanitarian law. It has not only abdicated its duty to protect human rights, it is actively engaged in the violation of human rights and fundamental rights, including the rights guaranteed in the constitution. The Sri Lankan constitution places the head of state, the executive president, outside the jurisdiction of the courts; thus the head of state is above the law. The constitutional position of the executive president adversely affects the independence of the judiciary, a core component of democratic governance. In Sri Lanka today there is no institution with proper or adequate authority to investigate human rights violations and prosecute offenders.

Sri Lanka has longstanding experience with emergency rule. Some form of Emergency Regulations (ERs) have been in place almost continuously since 1971, more than 35yrs out of 63yrs of independence. Emergency Regulation was first promulgated in Sri Lanka in 1958 when anti-Tamil riots broke out in many parts of Sri Lanka. Later in 1971, it was introduced to meet the insurgency of the Janatha Vimukthi Perumuna (JVP), comprised mostly of Sinhala youth. The state of emergency continued till 1976 and after a brief interlude it was again introduced in 1978.

In Sri Lanka, the ERs can override, amend or suspend any legislation, except the provisions of the constitution, and the declaration of emergency cannot be challenged in a court of law. ERs have almost exclusively been used against Tamils but in the recent past, Sinhalese activists, students and dissidents have

also been targeted under the provisions of the ERs.

### TIC's Concerns with Sri Lanka's Emergency Laws

The Tamil Information Centre has been campaigning for the repeal of the draconian provisions in the national security laws (ERs & the Protection of Terrorism Act (PTA)) since its inception in 1979. TIC's main concerns with Sri Lanka's emergency laws are: immunity clauses that encourage impunity; overly vague definitions of offences, sweeping powers delegated to the military; arbitrary grounds for arrest and detention; provisions which permit people being held in secret locations; the erosion of fair trial and due process rights; and the curtailing of fundamental freedoms including freedom of expression, freedom of assembly, freedom of movement and the right to privacy.

TIC believes that the roots of security issues can only be addressed through a principled adherence to the rule of law, and that excessive use of emergency powers in violation of human rights only serves to deepen conflicts and undermine legitimate governance. While Sri Lanka has constantly used far-reaching emergency powers to silence critics and dissenters, there has been some progress in human rights since the 1980s, such as the ratification of international human rights treaties, and the establishment of the Human Rights Commission in 1990. However, the concerns raised by the human rights community regarding the scope and content of emergency powers have never been adequately addressed by successive governments.

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### Tamil Information Centre

The Tamil Information Centre (TIC) desires peace, stability and harmony in Sri Lanka, where the people live with dignity free from persecution and where their civil, political, economic and cultural rights are respected and protected.

Its mission is to empower people, particularly those suffering persecution and subjected to human rights abuses, valuing the distinct identities and differences among them and to improve the quality of life through access to knowledge

## Repeal of Emergency Regulations

President Mahinda Rajapakse told the Sri Lankan Parliament on Thursday, 25 August 2011 that there was no longer a need for the Emergency Regulations to be extended after the defeat of the LTTE, two years previously in May 2009.

TIC welcomed the President's announcement with caution, since the government continues to hold on to draconian and abusive powers under the Prevention of Terrorism Act (PTA), which continues to provide wide powers to the military, police and the executive while drastically curtailing civil liberties and judicial protection of human rights. Human rights defenders both within the country and outside believe that as long as the PTA remains in force it can be used by the government for political advantage, as in instrument to perpetuate its own power. An enduring PTA will continue to place the Criminal Investigation Division and the Terrorism Investigation Division beyond the control of the law, without checks or balances on its abuse of power. Reports on the use of torture, the fabrication of criminal charges against innocent people, and deaths in custody are constantly emerging, but while the PTA exists there is no way to investigate such allegations.

In its press release of 29 August 2011 entitled "Sri Lanka: More Government Measures Necessary to Establish Democracy and Accountability", TIC states that it has urged the government to repeal the laws in the interests of democracy and accountability in Sri Lanka.



*Sri Lankan President Rajapakse (Right) and Defence Minister Gotabaya Rajapakse (Left)*

It has called on the Sri Lankan government to take the following measures without delay:

- **Release a list of people detained under the ERs and PTA;**
- **Either charge, expedite trials or release those who have been detained under the ERs and PTA;**
- **Repeal the 18<sup>th</sup> Amendment to the Constitution, which has abolished term limits on the executive presidency and removed the restraints on presidential power established by the 17<sup>th</sup> Amendment, which aimed to preserve democracy and the sovereignty of the people, and to prevent authoritarianism;**
- **Bring to an end the role of the military and the defence establishment in civilian life and civil administration; and**
- **Repeal the Prevention of Terrorism Act and re-establish the rule of law.**

## TIC extends its support to political prisoners in Sri Lanka

We have been deeply concerned about the disappearances that have occurred in Sri Lanka and the large number of political prisoners, mostly Tamils who have been held in various detention centres.

Government official figures state that over 30,000 people have disappeared and unofficial estimates put the figure at around 60,000. It is estimated that 4,000 to 6,000 Tamil political prisoners are being held without charge as "terrorist suspects" in undisclosed prison camps run by the military.

Also, up to another 800 Tamils who were taken into custody on various allegations related to the national conflict remain in remand prisons. Those detained after May 2009 were held under the country's draconian Emergency Regulations, while others are being kept under the equally controversial and undemocratic Prevention of Terrorism Act (PTA). TIC has grave concerns about the institutionalised practice of torture and other cruel, inhuman and degrading treatment in Sri Lanka. Torture of people arrested and detained under these legal provisions is a common occurrence in Sri Lanka.

The 30,000 to 60,000 disappearances that have occurred in Sri Lanka are clearly indicative of a prevalence of "extrajudicial killings", which amount to a crime against humanity under international law. The continuous practice of this institutionalised atrocity has deeply impacted on Tamil society, destroyed social harmony, encouraged violence, and has created a fear psychosis within the people of Sri Lanka, irrespective of whether they are Tamils, Muslims or Sinhalese.

## TIC's work with Political Prisoners is focused on eight areas:

- Collecting information about political prisoners and prison conditions.
- Providing welfare assistance to political prisoners.
- Making sure that political prisoners' voices are heard in political negotiations and peace talks.
- Documenting stories of political prisoners with a view to promoting peace and reconciliation.
- Assisting in the reconstruction of ex-political prisoners' lives, including both their mental and physical well-being.
- Providing legal assistance to the destitute.
- Bringing mistreatment or abuse to the attention of the appropriate authorities
- Putting pressure on the government to amend or repeal provisions of the PTA in order to bring them into compliance with international laws and standards.

## What can you do to help?

TIC's support to Political Prisoners in Sri Lanka is designed to help secure the release of political prisoners lingering in detention centres. We need support of all kinds. Through helping to spread information within your community, you can help reach and influence opinion makers, policymakers and decision makers. If you cannot give your time, but want to support our work, you may consider donating funds. Production of information material, support for prisoners of conscience, organising events and campaigns, providing legal and welfare assistance to prisoners and families, all cost money. Each donation – as little as it may seem – helps save lives, overcome suffering, fight injustice, advance reforms towards good governance and national reconciliation!

**Please make cheque payable to "Tamil Information Centre", mark "SLKPP Project" at the back of the cheque and send to: Tamil Information Centre, Thulasi, Bridge End Close, Kingston Upon Thames KT2 6PZ, UK**

## TIC makes crucial submission to the United Nations Committee Against Torture

The Tamil Information Centre has made a formal submission to the United Nations Committee Against Torture for consideration at its 47th session, beginning on 31 October 2011. The Committee Against Torture is due to examine the Sri Lankan state with regard to the extent to which it is meeting its human rights obligations to prevent torture, other cruel, inhuman or degrading treatment or punishment on 4 November 2011.

TIC's submission draws attention to Sri Lanka's legal duties under the Convention Against Torture to promptly and impartially investigate allegations of torture or cruel, inhuman or degrading treatment and to ensure redress for the victims of such treatment.

The submission highlights the methods of torture administered to detainees for the purposes of obtaining information or confessions, or as an act of punishment. It also points out the government's discrimination and ongoing failure to apologise, investigate and properly compensate for the abuse. The submission also include TIC's recommendations for specific steps the Committee should urge the Sri Lankan government to take, which are summarised here:



Torture Practices in Sri Lanka

## Recommendations

In order to end the institutionalised use of torture and violence in Sri Lanka, the Sri Lankan government should:

- Release those who have been arrested under anti-terrorism laws or charge them with recognisable criminal offences and have custody determined by an ordinary court.
- Amend or repeal provisions of the Prevention of Terrorism Act so that it complies with international laws and standards.
- Guarantee the right to legal representation and access to a lawyer of the detainee's choice at all stages, guarantee family and medical visits to detainees and ensure full access by the International Committee of the Red Cross to all places of detention, including where LTTE suspects or the surrendered are held.
- Eliminate the practice of preventative detention and introduce statutory, regulatory and administrative reform to ensure that powers of arrest and detention are exercised lawfully.
- Extend invitations to the following UN representatives who have requested visits to Sri Lanka: The UN Working Group on Enforced Disappearances; the UN Special Rapporteur on Torture; the UN Special Rapporteur on Freedom of Expression; and the UN Special Rapporteur on the Independence of Judges and Lawyers.
- Publish or make available to concerned parties a complete list of the former LTTE cadres being held by the state for "rehabilitation" purposes and all other persons detained under the PTA. The state must take concrete steps towards trial or release of these individuals.
- Put effective witness protection schemes in place to protect individuals who wish to speak up in Court or public spheres. This may involve the enactment of witness and victim protection legislation.

See link: [http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIC\\_SriLanka47.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/TIC_SriLanka47.pdf)

## Shedding Light on Political Prisoners

### Rasaratnam Jegatheswaran's story

Rasaratnam Jegatheswaran is a Tamil political prisoner from the village of Thirukketheeswaram in the Mannar District in north west Sri Lanka.

He is 33 years old, married and was the sole breadwinner of his family.

He sustained injuries in a shell blast in 1999 and was unable to perform heavy physical duties. With the assistance of International Red Cross (ICRC) he came to Trincomalee in the east coast and was warded and received treatment at the local hospital. On discharge from the Trincomalee General Hospital, he was housed at Sahanagama II Refugee Camp in the near vicinity, but not allowed to return to his home. He was arrested on suspicion as an LTTE carder on 21 September 2009 at this Camp by the Terrorist Investigation Division (TID) of the Trincomalee Police.

After his arrest Jegatheswaran was detained at Trincomalee Orr's Hill Police station and later transferred to Pullmodai Police station for further questioning. Subsequently, he was also detained by the TID at Colombo Police and also at Boosa detention centre, in south Sri Lanka, before being finally produced before the Colombo Magistrate's Court, nearly one and a half years later on 30 April 2011. He was then sent to Colombo Remand prison, with the TID Colombo Police prosecuting.

Whilst serving his time of detention, he suffered from a kidney ailment and twice was warded both at Trincomalee and Colombo General Hospitals, where he was left chained to the bed. This has caused vindictive acts by other patients and visitors attending the hospital. As he had developed a serious kidney failure in both his kidneys while serving at Colombo remand prison, he was recommended for a kidney transplant to save

his life. The medical opinion was that his kidney transplant could only be performed on release from custody, since he required post transplant medical attention over a longer period.



*Jegatheswaran chained to hospital bed.*

Jegatheswaran following consent for bail by the Attorney General on 2 November 2011 was brought before the Chief Magistrate Colombo, who ordered the release of the suspect.

His lawyer has since confirmed that he will be out of prison soon, after completion of a medical check up by the Prison's Doctor.

Jegatheswaran needs help with his kidney transplant and post-operative care. Well-wishers from different parts of the world have contributed to the appeal made by his wife and sister Thanaletchumi. Those who wish to donate, please contact Thanaletchumi on + 0094 (0) 7750535273 or please write to: [admin.tic@sangu.org](mailto:admin.tic@sangu.org) for further information. All donations will be acknowledged individually.

## Join our campaign

### Preventing torture in Sri Lanka

The fight against torture is a continuous fight for democracy and for general respect for human rights. Torture is always illegal. "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture."

If the Sri Lankan government really wants to restore its sullied reputation, it has much to do, especially in repealing the PTA and to make certain that those responsible for authorising and inflicting torture and other ill-treatment are brought to justice. In situations where torture occurred, it typically took the form of abusive interrogation practices used to obtain confessions

Methods of torture and other cruel, inhuman and degrading treatment commonly used in police and military places of detention include: beatings with gun butts, iron rods, fresh wood and batons; kicking, with boots; suffocation under water or in a plastic bag containing petrol; burning with cigarettes; inserting spikes into the body or pins under fingernails; cutting with knives or sharp objects; forcing water mixed with chillies into the victim's nostrils; applying chilli powder to sensitive parts of the body; keeping detainees nude; splashing water on detainees' bodies and exposing them to the cold; suspension in distorted positions, upside down or from the wrists; electric shocks to the most sensitive parts of the body; sexual assault; and making detainees place their private parts (penis or testicles) in a drawer before closing it.

The fight against torture in Sri Lanka must continue. We hope you will join us in our fight against torture in Sri Lanka. For more details, please write to [admin.tic@sangu.org](mailto:admin.tic@sangu.org).