



Sri Lanka: Current Situation

Update

Adrian Schuster

Translated by a professional translation agency on behalf of the UK Border Agency

Weyermannsstrasse 10
Postfach 8154
CH-3001 Bern

T++41 31 370 75 75
F++41 31 370 75 00

info@fluechtlingshilfe.ch
www.fluechtlingshilfe.ch

Spendenkonto
PC 30-1085-7

Bern, 15 November 2012



Impressum

EDITOR

 Schweizerische Flüchtlingshilfe SFH
P.O. Box 8154, 3001 Bern
Tel. 031 370 75 75
Fax 031 370 75 00
E-Mail: info@fluechtlingshilfe.ch
Internet: www.fluechtlingshilfe.ch
Account for donations: PC 30-1085-7

AUTHOR

Adrian Schuster

TRANSLATION

This report was translated from French to English by a professional translation agency on behalf of the UKBA.

LANGUAGES

German, French, English

COPYRIGHT

© 2012  Schweizerische Flüchtlingshilfe SFH, Bern
Copying and printing authorised with mention of source.

Contents

1	Introduction	1
2	Political developments since 2010	2
2.1	Analysis of the war and of war crimes committed	2
2.2	2011 and 2012 regional and provincial council elections	2
2.3	Growing militarisation.....	3
2.4	Judiciary independence under pressure	3
2.5	Corruption.....	5
3	Security Situation	5
3.1	Security apparatus	5
3.2	Tamil paramilitary groups	7
4	Human rights	8
4.1	Arbitrary killings committed by security forces and by groups close to the government.....	8
4.2	Abductions and ‘disappearances’	8
4.3	Arbitrary arrests and torture	9
4.4	Profile of at-risk groups	11
4.4.1	The Tamils in the North and East	11
4.4.2	Journalists.....	13
4.4.3	Opponents and defenders of human rights	13
4.4.4	Women and children	14
5	Displaced persons	16
6	Socioeconomic Situation in the North	17
7	Returning from abroad	19
7.1	Airport Checks	19
7.2	Safety of returnees.....	19

1 Introduction

In 2012, the Sri Lankan government made a determined effort to give the impression of a return to normality following decades of civil war. In order to do this, it announced in particular the closure of the largest camp for displaced persons, as well as their resettlement. At a dazzling pace vast areas were declared demined. Among those retained in rehabilitation camps, a very large number has been released. In the North, reconstruction is progressing rapidly. Work is especially focused on infrastructure. The A9 road crossing the Vanni region to Jaffna is completed; other roads are being repaired or are under construction.

However the conflict and its causes have not been analysed in depth. The authorities deny any involvement of the army in war crimes. A reconciliation commission assembled by President Mahinda Rajapaksa has indeed adopted recommendations in a comprehensive report. However these recommendations are only implemented to the extent at which they do not challenge current power relations, or the government's point of view.

The president has made sure that his family occupy key positions in the government.¹ On the other hand, the rights of the population are more and more constrained, in particular in the North of the country. Tamils, the opposition, journalists and human rights activists are subjected to surveillance and threats from the government. Justice is not independent and criminals remain unpunished. Government security forces and paramilitary groups associated with them kidnap, arrest and torture presumed enemies of the State.

This update is a follow-up on the previous 2010 update and the 2011 special report. Alongside publicly accessible sources, it is based on research carried out in the field by the Swiss Refugee Council during the autumn 2012 fact finding mission.²

¹ Gotabaya Rajapaksa, the President's brother, is Minister of Defence, while the other brother Basil Rajapaksa is Minister of Economic Development as well heading the Presidential Task Force in the Northern province. Other members of the family occupy important posts. Freedom House, Countries at Crossroads, Sri Lanka 2012, 20 September 2012: www.freedomhouse.org/report/countries-crossroads/2012/sri-lanka.

² Several contacts within Sri Lanka and abroad were consulted during the research. They were Tamil and Sinhalese representatives of civil society such as human rights activists, women rights activists, lawyers, journalists and the opposition politicians, but also representatives of international organisations, several UN agencies, NGOs, development and humanitarian agencies, representatives of embassies. Discussions were also conducted with returnees.

2 Political developments since 2010

2.1 Analysis of the war and of war crimes committed

At present, the war crimes committed by representatives of the governmental army during the conflict have not been subjected to a proper inquiry. Those responsible have still not been brought to justice. The Sri Lankan government has set up its own commission, the **Lessons Learnt and Reconciliation Commission** (LLRC), which, in its 400-page report, portrays the role of the army in a favourable light. A number of critics have accused the LLRC of being biased and of not carrying out the investigations into war crimes seriously.³ The LLRC made 285 recommendations.⁴ Whilst the report in English was translated into local languages, it has not been made public.⁵ During summer 2012, the government outlined the possible implementation of a very selective choice of LLRC recommendations in a much-criticised **national action plan**.⁶ In July 2012, President Mahinda Rajapaksa declared that 50% of LLRC recommendations had already been put into action. This affirmation called into question the desire for serious redress.⁷

2.2 2011 and 2012 regional and provincial council elections

A section of the independent observers reported widespread irregularities, intimidation, attacks and outbreaks of violence during the elections of 2011 and 2012.⁸ A clear division between South and North became apparent during the 2011 regional elections. The *United People's Freedom Alliance* (UPFA), which incorporates the ruling parties, won a clear victory in the South with the *Sri Lankan Freedom Party* (SLFP). The North by contrast was dominated by the *Tamil National Alliance* (TNA).⁹ The UPFA won a clear victory in the 2012 provincial council elections. It was only in the Eastern Province that the results were more balanced.¹⁰ In the Northern Province, where the towns of Jaffna, Vavuniya, Mannar, as well as the Vanni region, are

³ On this subject see also SFH-OSAR, Update, Sri Lanka, Aktuelle Situation, 1 December 2010, p. 8; Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, p. v.

⁴ Among them recommendations in the area of governance, in regard to investigations relating to disappearances and the reduction of the military presence in the North.

⁵ SFH-OSAR interviews with a contact in Sri Lanka, August 2012.

⁶ Government of Sri Lanka (GoSL), National Action Plan to implement the recommendations of the LLRC, 26 July 2012: www.priu.gov.lk/news_update/Current_Affairs/ca201207/20120726national_plan_action.htm; Center for Policy Alternatives, Commentary on The National Plan of Action to Implement the Recommendations of the Lessons Learnt and Reconciliation Commission, August 2012.

⁷ The Island, Over 50% of LLRC recommendations implemented, 30 July 2012: www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=58066.

⁸ US Department of State (USDOS), Country Report on Human Rights Practices for 2011, Sri Lanka, 24 May 2012: www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?dld=186475; UK Foreign and Commonwealth Office (UKFCO), Human Rights and Democracy, The 2011 Foreign & Commonwealth Office Report, Quarterly Updates, Sri Lanka, 30 September 2012: www.fcoldreport.readandcomment.com/human-rights-in-countries-of-concern/sri-lanka/quarterly-updates-sri-lanka/?showall=1.

⁹ Neue Zürcher Zeitung (NZZ), Helfer der Tamil Tigers gewinnen Wahlen, 26 July 2011: www.nzz.ch/aktuell/international/helfer-der-tamil-tigers-gewinnen-wahlen-1.11628376.

¹⁰ Department of Elections, Sri Lanka, Provincial Council Elections 2012: www.slelections.gov.lk/2012PPC/1ppc.html.

located, no provincial council elections have yet taken place since the end of the civil war.

Reduction in the number of seats in the Northern Parliament. In August 2011, the commissioner in charge of elections decided to reduce the number of seats in the Jaffna district Parliament from 10 to 6, since the number of registered electors had been reduced from almost 800,000 to 480,000.¹¹ This decision, seen as a sign of the growing political marginalisation of the Tamil population, was heavily criticised by Tamil politicians and members of civil society.¹²

2.3 Growing militarisation

In 2012 a record new budget for the Ministry of Defence was voted in without any real parliamentary process.¹³ Never before had a Sri Lankan Ministry disposed of such a budget. Even during the civil war, it had never been so high. The army is becoming increasingly involved in the **private sector**. It has seats in administration councils, sells agricultural products, owns restaurants, hotels, sports stadiums, as well as having its own airline and offering tourist cruises.¹⁴ **Administration, development and humanitarian activities in the North** are heavily militarised. The governors of the Northern and Eastern provinces are ex-military.¹⁵ In the North, the army and the Presidential Task Force (PTF) exert control over the choice of development projects and humanitarian activities undertaken.¹⁶ The requirement for students to undergo military training, the fact that security in universities has been placed in the hands of private Ministry of Defence companies and that Heads of schools have been ranked as officers are further signs that the army is seeking to increase its influence in the **education system**.¹⁷

2.4 Judiciary independence under pressure

The 18th Constitutional Amendment of September 2010 reinforced **executive influence over the judiciary** and the president may now directly appoint judges of the Supreme Court, civil courts and courts of appeal, as well as the attorney-general.¹⁸

¹¹ BBC News, Reduction of Jaffna MPs erodes Tamil sovereignty, 10 August 2011: www.bbc.co.uk/sinhala/news/story/2011/08/110810_tna_jaffna.shtml.

¹² International Crisis Group (ICG), Sri Lanka's North I, The Denial of Minority Rights, 6 March 2012, p. 7.

¹³ Network for Rights, Lanka raises defence spending, 10 October 2012: www.nfrsrilanka.org/?p=1842; The Nation, Budget 2013 challenges, 14 October 2012: www.nation.lk/edition/opinion/item/11382-budget-2013-challenges.html.

¹⁴ The Economist, Sri Lanka's Army, In bigger barracks, A victorious army keeps busy despite the lack of an enemy, 2 June 2011: www.economist.com/node/18775481.

¹⁵ Eastern Provincial Council, Website: www.ep.gov.lk/govindex.asp; Northern Provincial Council, Website: www.np.gov.lk/index.php?option=com_content&view=article&id=66&Itemid=52.

¹⁶ OSAR interviews with contacts in Sri Lanka, August and September 2012; ICG, Sri Lanka's North II, Rebuilding under the Military, 16 March 2012, p.15.

¹⁷ The Economist, Sri Lanka's Army, 2 June 2011; BBC News, Sri Lanka government shuts down universities, 22 August 2012: www.bbc.co.uk/news/world-asia-19325358; Sri Lanka Guardian, New wave of brainwashing, 9 October 2012: www.srilankaguardian.org/2012/10/sri-lanka-new-wave-of-brainwashing.html.

¹⁸ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 14.

The judicial system is increasingly used in order to punish opposition politicians.¹⁹ This trend was especially noticeable in the trial of former general Sarath Fonseka, who has since been released.²⁰

Threats and attacks upon judiciary power. Sri Lankan justice is heavily exposed to political pressure. The Supreme Court has, in its own words, regularly been subjected to threats and pressure from the government.²¹ In October 2012, the secretary of the *Judicial Service Commission* was attacked by unidentified men armed with knives, having strongly criticised executive interference into judiciary power in a press release.²² In November 2012, Parliament brought a suit for the impeachment of the Chief Justice, following criticism from her.²³

Delays in the processing of cases. Judges struggle to base their decisions on Supreme Court orders to which they have, according to *Freedom House*, only limited access.²⁴ Added to this are considerable delays in the processing of cases (sometimes over 10 years), such that many people rot in prison without having had a trial.²⁵ The Ministry of Justice admits to around 650,000 cases outstanding.²⁶

Criminal impunity. Several cases seem to prove that being close to the ruling party and to the president provides protection from legal proceedings. Politicians under pressure join the ranks of the ruling party in order to avoid proceedings.²⁷ In December 2011, a local politician of the ruling party was implicated, according to eye-witnesses, in the murder of an Englishman and the rape of a Russian in the South of the country, but was not prosecuted.²⁸ An arrest warrant for fraud was ordered against a public television journalist who was close to the President, but the man concerned was never arrested.²⁹ Investigations pertaining to a case of manipulation

¹⁹ Freedom House, Countries at Crossroads, Sri Lanka 2012, 20 September 2012: www.freedomhouse.org/report/countries-crossroads/2012/sri-lanka.

²⁰ NZZ, Fonseka in Sri Lanka freigelassen, 22 May 2012: www.nzz.ch/aktuell/international/fonsekain-sri-lanka-freigelassen-1.16991727.

²¹ Asian Human Rights Commission (AHRC), Sri Lanka, President attempts to trample on the Judicial Commission and the independence of the judiciary Service, 24 September 2012: www.humanrights.asia/news/ahrc-news/AHRC-STM-188-2012.

²² AHRC, Sri Lanka, Judicial independence in a coffin, 8 October 2012: www.humanrights.asia/news/ahrc-news/AHRC-STM-194-2012/.

²³ BBC News, Shirani Bandaranayake: Charges set out as impeachment begins, 6 November 2012: www.bbc.co.uk/news/world-asia-20222196; AHRC, Sri Lanka, Impeachment of CJ – An unconstitutional Witch-hunt, 4 November 2012: www.humanrights.asia/news/ahrc-news/AHRC-ART-108-2012.

²⁴ Freedom House, Countries at Crossroads, 20 September 2012.

²⁵ In an extreme case a man spent over 50 years in prison without trial. BBC News, Sri Lankan re-remanded for 50 years, 13 January 2008: www.news.bbc.co.uk/2/hi/south_asia/7186063.stm. See (also) Freedom House, Countries at Crossroads, 20 September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 14.

²⁶ Ministry of Justice, Current Measures to Combat Law Delays, Website: www.justiceministry.gov.lk/.

²⁷ Freedom House, Countries at Crossroads, 20 September 2012.

²⁸ OSAR interviews with contacts from local feminist organisations, August 2012; AHRC, Sri Lanka, The murder of the British National and the rape of the Russian lady at Tangalle allegedly by a local politician close to the government, 3 January 2012: www.humanrights.asia/news/ahrc-news/AHRC-STM-001-2012.

²⁹ Transparency International Sri Lanka, Court orders arrest of Radaliyagoda, 19 July 2011: www.tisrilanka.org/?p=8162; Lanka News Web, Person on warrant at the President's house, 28 September 2012: www.lankanewsweb.com/english/index.php?option=com_content&view=article&id=2473:person-onwarrant-at-the-presidents-house&catid=1:general&Itemid=29.

of budgetary activities were interrupted under pressure from the President.³⁰ **Those close to the security apparatus** are almost always **protected from prosecution**, especially concerning cases of torture and human rights violations.³¹

2.5 Corruption

Corruption is rife in the Sri Lankan administration and the government does little to combat it.³² **Bribing** civil servants, police officers and judges in order to obtain better treatment from the authorities or to get out of prison is a standard practice.³³ According to observers, the **airport authorities** can be bribed equally easily. Paying a bribe can allow one to leave the country in spite of an arrest warrant, false papers or other irregularities which would normally hinder one's departure.³⁴

3 Security Situation

3.1 Security apparatus

Consolidation under the Ministry of Defence. All security forces, including the police, are subordinate to Minister of Defence Gotabaya Rajapaksa and operate for the most part without civil checks.³⁵ The President has on several occasions used the *Public Security Ordinance* in order to provide the army with policing functions.³⁶ Over the course of local and provincial elections, the security forces, in particular the police, have also received orders coming directly from government politicians.³⁷

Strong military presence in the North. According to observers established in the North and East and in spite of statements to the contrary from the government, the army and security apparatus retain a heavy presence, **operating increasingly in plain-clothes**, which renders their presence less visible.³⁸ While over 1,200 Tamils have been, according to official sources, recruited into police ranks since 2009, the security apparatus remains essentially in the hands of the Sinhalese.³⁹ **For the Tam-**

³⁰ Transparency International Sri Lanka, Position Paper, Manipulation in the Sri Lankan Stock Market, 24 July 2012: www.tisrilanka.org/pub/pp/pdf/Stock_Eng_Long.pdf; Sri Lankan Guardian, Is President directly linked to Market Manipulation? 27 August 2012: www.srilankaguardian.org/2012/08/is-president-directly-linked-to-market.html.

³¹ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 12f.; AI, Locked Away, March 2012.

³² Freedom House, Countries at Crossroads, 20 September 2012.

³³ Loc. cit.; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012.

³⁴ OSAR interviews with contacts in Sri Lanka, August and September 2012.

³⁵ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 11; Freedom House, Countries at Crossroads, 20 September 2012.

³⁶ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 11.

³⁷ Freedom House, Countries at Crossroads, 20 September 2012.

³⁸ OSAR interviews with representatives of embassies and international organisations, as well as with journalists, August 2012. According to an Indian journalist referring to an internal Sri Lankan army document, almost 85,000 soldiers are stationed in the North and East. The Hindu, Sri Lankan Army still has a vast presence in North & East, 19 September 2012: www.thehindu.com/news/article3915391.ece?homepage=true.

³⁹ GoSL, Opportunity for rehabilitated ex-LTTE cadres to involve in politics – Defence Secy, 10 July 2012:

il population, it is difficult to gain recourse to police services: often, complaints from representatives of Tamil ethnicity are not even registered, as the police civil servants only speak Sinhalese.⁴⁰

The CID and TID. The special police unit, the *Criminal Investigation Department* (CID), operates independently from territorial police units and can arrest suspects in any part of the country. The *Terrorist Investigation Department* (TID) is a counter-terrorism unit. It can arrest people under the *Prevention of Terrorism Act* (PTA) and has its own detention centres.⁴¹ The two special units **arrest** and **torture** suspects and presumed enemies of the State.⁴² According to OSAR records, the CID and TID are **extremely active in the North**, undertaking the surveillance of potential militants of the Tamil cause, the opposition, human rights activists and journalists. Those who criticise the government are also subjected to surveillance in Colombo and have their phones tapped.⁴³ Ex-members of the *Liberation Tigers of Tamil Eelam* (LTTE) work for the CID.⁴⁴ A number of CID and TID activities seem aimed especially at intimidating the opposition, journalists and relatives of those who have disappeared.⁴⁵ In villages of the North and East, the CID uses local informants, which enables the surveillance throughout the country of those who criticise the government.⁴⁶

Persons of Tamil ethnicity who go into Sinhalese areas must be **registered** with the police. This is not the case for Sinhalese citizens going into Tamil areas. In Batticaloa and in Jaffna, this policing measure began in 2011. In the North and in the East, it also involves photographing Tamils and **interrogating them about their relatives living abroad**.⁴⁷ In Colombo, it seems that major raids are now less frequent. As for **checkpoints**, the situation in Sri Lanka has relaxed a little: the army maintains a major post on the A9 and registers all persons going from Vavuniya to Jaffna. There are still other checkpoints on smaller roads of the Vanni area.⁴⁸

www.priu.gov.lk/news_update/Current_Affairs/ca201207/20120710opportunity_rehabilitated_ex_ltte_cadres_involve_politics.htm; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 11f.

⁴⁰ OSAR interviews with a local contact in Sri Lanka, September 2012.

⁴¹ SFH-OSAR, Sri Lanka, Themenpapier, Situation für aus dem Norden oder Osten stammende TamilInnen in Colombo und für RückkehrerInnen nach Sri Lanka, 22 September 2011, p. 9f.

⁴² Freedom from Torture, Out of the Silence, New Evidence of Ongoing Torture in Sri Lanka 2009-2011, 7 November 2011:

www.freedomfromtorture.org/sites/default/files/documents/Sri%20Lanka%20Ongoing%20Torture_Freedom%20from%20Torture_Final%20Nov_07_2011.pdf; ACAT-France in collaboration with the Asian Legal Resource Center, When arbitrariness prevails, A study of the phenomenon of torture in Sri Lanka, June 2012, p. 21:

www.acatfrance.fr/medias/files/pages_dynamiques/Rapport_Sri_Lanka_ACAT_Juin_2012_FR.pdf.

⁴³ OSAR interviews with contacts in Sri Lanka, August and September 2012.

⁴⁴ Loc. cit.; ICG, Sri Lanka's North I, 6 March 2012, p. 9.

⁴⁵ The Weekend Leader, Mannar Bishop questioned by Sri Lankan CID on 'disappearances', 10 May 2012: www.theweekendleader.com/Causes/1117/bishop-in-danger.html; Sri Lanka Guardian, TID harassing war crime victims, 1 November 2011: www.srilankaguardian.org/2011/11/tidharassing-war-crimes-victims.html.

⁴⁶ OSAR interviews with contacts in Sri Lanka, September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 24.

⁴⁷ Freedom House, Countries at Crossroads, 20 September 2012 OSAR interviews with a contact in Sri Lanka, September 2012.

⁴⁸ OSAR interviews with contacts in Sri Lanka and personal observations, August 2012.

3.2 Tamil paramilitary groups

The EPDP (*Eelam People's Democratic Party*) in the North and the TMVP (*Tamil Makkal Viduthalai Pulikal*) in the East are registered political parties maintaining an armed wing.⁴⁹ According to indications from the *International Crisis Group*, the **EPDP** is weakening the TNA and is preventing the development of serious political resistance against the government.⁵⁰ It is operating in **Jaffna, Vavuniya** and **Mannar**. In Colombo, its activities are limited.⁵¹

In the East of the country, the **TMVP** is divided into two active groups in the areas of **Batticaloa, Trincomalee** and **Ampara**.⁵² During 2012 elections to the provincial council, they formed, as a political party, an alliance with the ruling party. The Karuna group remains armed and takes an aggressive stance towards those who resist the ruling party (the SLFP).⁵³

The EPDP and TMVP are responsible for **murder, abductions and extortion**.⁵⁴ SFH-OSAR is aware of recent cases pertaining to active members of Tamil civil society who have been abducted, threatened and tortured by the EPDP in Jaffna.⁵⁵ Aside from political motives, purely criminal intent seems also significant.⁵⁶ The EPDP and groups from the TMVP **extort** from the rich, no matter what their ethnicity. The activities of the EPDP and TMVP are often **covered up or supported by public security forces** and are **rarely subject to legal proceedings**.⁵⁷ In Jaffna, the EPDP collaborates with the secret service and other security forces.⁵⁸ According to a contact, the protection of EPDP and TMVP activities by public security forces is not guaranteed. On the other hand, two other groups active in the North, the **PLOTE** (*People's Liberation Organization of Tamil Eelam*) and the **TELO** (*Tamil Eelam Liberation Organisation*) seem weakened.⁵⁹

⁴⁹ SFH-OSAR, Sri Lanka, Themenpapier, 22 September 2011, p. 18.

⁵⁰ ICG, Sri Lanka's North, 6 March 2012, p. 12f.

⁵¹ Immigration and Refugee Board of Canada (IRB), The Eelam People's Democratic Party (EPDP), including whether they mistreat Tamil populations in the north or in Colombo; if so, whether they extort Tamils; relationship between the EPDP and the Sri Lankan army (October 2010-December 2011) [LKA103961.E], 8 February 2012: www.irbcisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453813&l=e.

⁵² They are distinguishable through their respective leaders: Pillayan et Karuna. See SFH-OSAR, Update, Sri Lanka, Aktuelle Situation, 1 December 2010.

⁵³ IRB, The Tamil Makkal Viduthalai Pulikal (TMVP) and Karuna factions; their relationship with each other, reports concerning their treatment of Sinhalese and Tamil citizens, whether they are still active as paramilitary groups [LKA103950.E], 17 February 2012: www.irbcisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453812&l=e.

⁵⁴ ICG, Sri Lanka's North I, 6 March 2012, p. 12; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 3; IRB, The Eelam People's Democratic Party (EPDP), 8 February 2012.

⁵⁵ See also 4.4.3.

⁵⁶ The EPDP is also carrying out illegal sand extraction. ICG, Sri Lanka's North I, 6 March 2012, p. 12.

⁵⁷ IRB, The Eelam People's Democratic Party (EPDP), 8 February 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 3; IRB, The Tamil Makkal Viduthalai Pulikal (TMVP), 17 February 2012.

⁵⁸ ICG, Sri Lanka's North I, 6 March 2012, p. 12.

⁵⁹ OSAR interviews with a contact from an international organisation working in Sri Lanka, August 2012.

4 Human rights

In the opinion of several observers, the human rights situation in Sri Lanka is extremely precarious.⁶⁰ The government's National Action Plan for the Protection and Promotion of Human Rights, in place since December 2011, has changed nothing. The Human Rights Commission of Sri Lanka is not independent; it is made up of members close to the government who have no experience in the area of human rights.⁶¹

4.1 Arbitrary killings committed by security forces and by groups close to the government

Even after the end of the civil war, the security forces and paramilitary groups close to the government have continued to assassinate people. Since these crimes often take place in the Tamil-majority North and East, some observers believe them to be politically motivated.⁶² There are also deaths in police custody. The police often claim that the victims have been killed as they attempted to escape.⁶³ A number of reports have documented killings committed by public security forces.⁶⁴ For example, the killing of 27 prisoners by the *Special Task Force* during interrogations conducted on the 9th November at Colombo's Welikade prison.⁶⁵ A week earlier, four prisoners had been killed by the police in Galle.⁶⁶

According to the last human rights report from the *US Department of State*, a series of killings committed by unknowns were linked to the EPDP, TMVP or public security forces. There is no reliable data on the subject however, since, fearing sanctions, the victim's relatives often prefer not to make the death known, given that such denunciations have in the past led to the assassination of certain plaintiffs.⁶⁷

4.2 Abductions and 'disappearances'

Practically no other country presents so many cases of unsolved kidnapping as Sri Lanka: the last *UN Working Group on Enforced and Involuntary Disappearances* annual report mentions 5,653 cases linked to the conflict, not counting the final

⁶⁰ OSAR interviews with contacts present in Sri Lanka, August and September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012; UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

⁶¹ OSAR interviews with a contact in Sri Lanka, August 2012; HRC, Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; Sri Lanka [A/HRC/WG.6/14/LKA/2], 13 August 2012: www.upr-info.org/IMG/pdf/a_hrc_wg.6_14_lka_2_e.pdf.

⁶² USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p.1.

⁶³ Amnesty International (AI), Amnesty International Report 2012, The State of the World's Human Rights, 24 May 2012: www.amnesty.org/en/region/sri-lanka/report-2012.

⁶⁴ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 2f.; AI, Amnesty International Report 2012, 24 May 2012.

⁶⁵ AHRC, Sri Lanka, The killing of 27 prisoners at the Welikade prison in Colombo, 12 November 2012: www.humanrights.asia/news/ahrc-news/AHRC-OLT-017-2012.

⁶⁶ AHRC, Sri Lanka, Special Task Force kills 11 prisoners and injures many others, 10 November 2012: www.humanrights.asia/news/ahrc-news/AHRC-STM-224-2012.

⁶⁷ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 2.

phase of 2008 and 2009.⁶⁸ According to the database of the International Committee of the Red Cross there were 15,780 missing persons in Sri Lanka at the end 2011.⁶⁹ In 2012, there remain reports of an enormous number of ‘**disappearances**’ and **abductions** committed by unknowns in Sri Lanka in 2012.⁷⁰ According to a summary of several articles appearing in the media, there has been at least **one disappearance every five days** in Sri Lanka in 2012.⁷¹ Many people are kidnapped in **Colombo** or in the **Northern Province**.⁷² A number of sources suggest responsibility lies with the **public security forces**, the **EPDP** and **TMVP**.⁷³ At present, investigations on several thousand disappearances reported over the last few years continue to make little progress.⁷⁴ In the North, kidnappings are not always reported to the authorities, as the relatives often suspect the involvement of security forces.⁷⁵

Some of the kidnappings appear to be politically motivated, since the victims are from the opposition, active members of civil society, human rights activists and presumed sympathisers or ex-members of the LTTE.⁷⁶ Demands for ransom are equally frequent and often target the rich, such as shop owners.⁷⁷

4.3 Arbitrary arrests and torture

The PTA is still in force; it allows people to be arrested and detained for up to 18 months without charge on the basis of a mere suspicion.⁷⁸ According to some observers, the security forces often indulge in **arbitrary or illegal arrests**.⁷⁹ As in an

-
- ⁶⁸ HRC, Report of the Working Group on Enforced or Involuntary Disappearances, [A/HRC/19/18/Rev.1], 2 March 2012: p. 111: [www.ohchr.org/Backup%20\(1\)%20of%20Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-58-Rev1_en.pdf](http://www.ohchr.org/Backup%20(1)%20of%20Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-58-Rev1_en.pdf).
- ⁶⁹ International Committee of the Red Cross, Annual Report 2011, 25 June 2012, p. 246: www.icrc.org/eng/resources/documents/annual-report/icrc-annual-report-2011.htm.
- ⁷⁰ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 4f.
- ⁷¹ Groundviews, A disappearance every five days in post-war Sri Lanka, 30 August 2012: www.groundviews.org/2012/08/30/a-disappearance-every-five-days-in-post-war-sri-lanka/.
- ⁷² BBC News, Sri Lanka's sinister white van abductions, 14 March 2012: www.bbc.co.uk/news/world-asia-17356575; Ground views, Horrible rise of disappearances in post war Sri Lanka, 5 April 2012: groundviews.org/2012/04/05/horrible-rise-of-disappearances-in-post-war-sri-lanka-continues-unabated/.
- ⁷³ OSAR interviews with several employees of diplomatic missions, human rights activists and associates of international organisations, August and September 2012; BBC News, Sri Lanka's sinister white van abductions, 14th March 2012; USDOS, Country Report on Human Rights Practices for 2011, 24th May 2012, p. 4; The Economist, The disappeared, 12th April 2012: www.economist.com/blogs/banyan/2012/04/sri-lanka; The Economist, Disappearances in Sri Lanka, murky business, 14th January 2012: www.economist.com/node/21542827.
- ⁷⁴ OSAR interview with a contact in Sri Lanka, August 2012; USDOS, Country Report on Human Rights Practices for 2011, 24th May 2012, p. 5.
- ⁷⁵ OSAR interviews with a contact in Sri Lanka, August 2012.
- ⁷⁶ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 4f.; The Economist, The disappeared, 12 April 2012: www.economist.com/blogs/banyan/2012/04/sri-lanka.
- ⁷⁷ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 4.
- ⁷⁸ See SFH-OSAR, Sri Lanka, Themenpapier, 22 September 2011, p. 9f.; SFH-OSAR, Update, Sri Lanka, 1 December 2010, p.9f.; AI, Locked Away, Sri Lanka's Security Detainees, March 2012, p. 13: www.amnesty.org/en/library/asset/ASA37/003/2012/en/ebe85f43-3b61-4072-a8ab-a6e504da58e6/asa37032012en.pdf.
- ⁷⁹ Loc. cit.; interviews by OSAR with contacts in Sri Lanka, August 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 1.

abduction, people are often picked up by strangers in civilian clothing, with no arrest warrant.⁸⁰

Relatives of wanted persons are also harassed, threatened and arrested. Many people have never found out why they had been arrested, nor for how long they would be held prisoner. It is rare for relatives to have access to detainees or to be informed of a transfer to another prison. The security forces and paramilitary groups are still running secret prison establishments. Detainees are often refused access to lawyers for weeks. They are also prevented from contesting their detention before a court.⁸¹

In June 2012, Tamil detainees in the detention centre in Vavuniya went on strike in order to attract public attention to their long incarceration without access to a judge, and to the inhuman detention conditions. The prison was stormed by some 300 representatives of the security forces and the strike was ended with great brutality. Two detainees were beaten to death by the security forces.⁸²

Members of the security forces often seek to cash in on a release. Once released, former detainees are generally subject to surveillance and it often happens that they are arrested and harassed again by the authorities.⁸³

Cases of abuse and torture are very common in prison. Reports state that diverse forces Sri Lankan **security forces very often** or even **systematically make use of torture** in order to extract confessions.⁸⁴ There are also known to have been instances of torture perpetrated by the **EPDP** and the **TMVP**.⁸⁵ Torture is a means recognised by society of advancing police investigations. Only really serious cases are recognised as such and attract public attention.⁸⁶ Beatings, burnings, sexual violence and rapes, as well as the suspension and asphyxiation of victims are common and documented methods.⁸⁷ The *Asian Human Rights Commission* documented seven cases of torture just between July and September 2012.⁸⁸

In Sri Lanka, doctors often refuse to treat the victims of torture, who then, fearing other ill-treatment, are reluctant to go to public hospitals. That is why many of them consult private doctors. In Sri Lanka, it is rare for victims of torture to lodge a com-

⁸⁰ AI, Locked away, March 2012, p. 16.

⁸¹ AI, Locked away, March 2012.

⁸² OSAR interviews with contacts in Sri Lanka, August 2012; BBC, Parents of dead Sri Lankan Tamil prisoner 'denied last rites', 9 July 2012: www.bbc.co.uk/news/world-asia-18770072; Lanka News Web, Brutal attack on Tamil political prisoners in Vavuniya remand prison, 30 June 2012: www.lankanewsweb.com/english/index.php?option=com_content&view=article&id=2064:brutalattack-on-tamil-political-prisoners-in-vavuniya-remand-prison&catid=1:general&Itemid=29.

⁸³ AI, Locked away, March 2012.

⁸⁴ AHRC, Police Torture Cases, Sri Lanka 1998-2011, July 2011; AI, Locked Away, March 2012; Freedom from Torture, Out of the Silence, 7 November 2011.

⁸⁵ OSAR interviews with contacts in Sri Lanka, August 2012.

⁸⁶ OSAR interviews with local contact, September 2012.

⁸⁷ Victims are struck with plastic rods (filled with cement), wooden sticks and cables, cut with metal instruments, burned with cigarettes and metal bars, raped and sexually abused, suspended and immersed in water to the point of asphyxiation. Also, plastic bags filled with exhaust gases are placed on their heads. Freedom from Torture, Sri Lankan Tamils tortured on return from the UK, Briefing, 13 September 2012, p. 6: www.freedomfromtorture.org/sites/default/files/documents/Freedom%20from%20Torture%20briefing%20-%20Sri%20Lankan%20Tamils%20tortured%20on%20return%20from%20the%20UK_0.pdf.

⁸⁸ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

plaint, because that would require a certificate issued by State doctors.⁸⁹ Those who do so are put under pressure by the public prosecutors, who make every effort to get them to withdraw their complaint.⁹⁰

4.4 Profile of at-risk groups

4.4.1 The Tamils in the North and East

Although the LTTE may have been defeated and there is not the slightest sign that this organisation has survived, the State machine of Sri Lanka is extremely paranoid and is trying to contain any resurgence of this group or the germination of tendencies of independence alongside the Tamils. This concern has direct repercussions on all of the Tamils in the North and East, because their ethnicity alone could indicate possible proximity to the LTTE.⁹¹

Every inhabitant of the North could be arrested at any time on the basis of a mere suspicion.⁹² According to *Amnesty International*, it is observed from the way in which the **arrests** take place that the **State scarcely protects Tamils**: throughout the country, Tamils are being arrested and imprisoned in markedly greater numbers than the Sinhalese by virtue of the PTA. Many are imprisoned without charge and **tor-tured**.⁹³ It often happens that representatives of the Tamil race are **abducted** and **killed** by persons unknown.⁹⁴ In particular, the security forces see the Tamils who fled the Vanni region during the last phase of the conflict as a potential danger to security. Considered by the government as the intellectual base of the struggle for more independence, the Tamil population of the city of **Jaffna** is particularly threatened.⁹⁵

According to some observers, the **security forces** and **paramilitary groups** carry out especially heavy **surveillance** in the North and East; they **threaten** and **harass** the population of these regions. Anyone expressing criticism of the government or who speaks out in favour of greater Tamil independence makes himself a suspect. According to a report by the BBC, many representatives of the Tamil race who have lived in the region controlled by the LTTE have no national identity card. That makes them suspects in the eyes of the security forces and can lead to arrests.⁹⁶

The Tamil population lives in a permanent state of fear and insecurity; it dares not express itself publicly on political matters.⁹⁷ In the North, the security forces and paramilitary groups restrict its freedom of assembly. Assemblies of more than three persons must be reported to the army. Even private events such as weddings, reli-

⁸⁹ OSAR interviews with contacts in Sri Lanka , September 2012.

⁹⁰ OSAR interviews with local contact from an international organisation working in Sri Lanka, August 2012.

⁹¹ OSAR interviews with contacts in Sri Lanka , August and September 2012.

⁹² Ibid.

⁹³ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012.

⁹⁴ AI, *Locked Away*, March 2012, p.16.

⁹⁵ OSAR interviews with local contact, August 2012.

⁹⁶ BBC News, Sri Lanka's Tamils face identity crisis, 28 June 2012: www.bbc.co.uk/news/world-asia-india-18261375.

⁹⁷ Results of a confidential survey conducted by an international organisation in Trincomalee.

gious or funeral rituals are under surveillance by the security forces and require authorisation.⁹⁸ Tamil political parties are often prevented from demonstrating.

Presumed and former members of the LTTE. There are even suspicions directed at Tamils having a **low profile**, who do not escape surveillance. The authorities check whether these people may be in **contact with the diaspora**. This is especially the case of those who were recruited, whether or not by force, by the LTTE. Even persons occupying civil functions within the LTTE are suspects, for example accountants, cooks, drivers or construction workers. The authorities also extend their suspicions to acquaintances and relatives of former members of the LTTE.⁹⁹ In May 2012, some 150 to 200 former members of the LTTE were victims of a **wave of arrests** in the East of the country. According to statements made by local politicians, many of them had been committed to the LTTE before the last combat operations of 2009. Some of these people are still languishing in prison.¹⁰⁰ Politically-motivated killings or acts of vengeance target LTTE sympathisers.¹⁰¹ This is especially the case of former LTTE combatant Balachchandran Satkunarasa, who was found hanged from a football goal post in June 2011 by the inhabitants of Jaffna.¹⁰² *Freedom from Torture* has established that some people were tortured because of their real or presumed links with the LTTE. In general, these are also low-profile persons.¹⁰³ According to several reports, **people who return from abroad** are often suspected of maintaining links with the LTTE and particularly threatened.¹⁰⁴

Former prisoners in the «rehabilitation camps». *Amnesty International* has verified the fact that prisoners from rehabilitation camps suffered torture and ill-treatment.¹⁰⁵ According to official indications, most of the over-12,000 persons detained in the “rehabilitation camps” have been released. According to the Ministry of Defence, there are still some 800 remaining. Trials have been instituted against some of these people.¹⁰⁶ The former prisoners of the «rehabilitation camps» constitute an **extremely vulnerable group**. Once released, they have to report regularly to the security forces. However, this obligation is not founded on any legal basis.¹⁰⁷ Their identity cards showing their status as former «rehabilitation camp» prisoners have recently been withdrawn from them. And yet these protected them to a certain extent from a new arrest, which could take place at any time. The former prisoners from the «rehabilitation camps» are under surveillance, especially those who could play a role in a possible resurgence of the LTTE movement. This category encompasses not only former combatants, but also those who occupied administrative

⁹⁸ OSAR interviews with contacts in Sri Lanka , August and September 2012; The Guardian, We even need permission to bury our dead, Sri Lanka’s war legacy lingers, 28 June 2012: www.guardian.co.uk/global-development/poverty-matters/2012/jun/28/sri-lanka-war-legacy.

⁹⁹ OSAR interviews with contacts in Sri Lanka , August and September 2012.

¹⁰⁰ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹⁰¹ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 3; OSAR interview with local contact, August 2012.

¹⁰² USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 3.

¹⁰³ *Freedom from Torture*, Out of the Silence, 7 November 2011, p. 6f.

¹⁰⁴ For more details on this, see 7.2 Security of people who return

¹⁰⁵ AI, Locked Away, March 2012.

¹⁰⁶ GoSL, Govt. to initiate legal action against former hardcore LTTE cadres, 8 October 2012: www.priu.gov.lk/news_update/Current_Affairs/ca201210/20121008govt_initiate_legal_action_agains_t_former_hardcore_ltte_cadres.htm.

¹⁰⁷ This has been confirmed several times in OSAR interviews with contacts in Sri Lanka , August and September 2012. One of these contacts believed that the obligation to report in had recently been relaxed slightly, but was not sure that this would last.

functions within the LTTE. Police controls, wrangling and harassment reduce their chances of finding employment to almost zero. This is especially the case since former prisoners from the «rehabilitation camps» encounter huge difficulties in their efforts to reintegrate.¹⁰⁸

4.4.2 Journalists

Journalists who criticise the government are threatened, harassed, attacked, abducted, even killed, throughout the country.¹⁰⁹ These attacks lead the media to censor themselves.¹¹⁰ On numerous occasions, senior officials have treated journalists as traitors and put pressure on editorial staff and publishers to encourage them to present the government in a positive light.¹¹¹ Frederica Jansz, a Sinhalese journalist from a newspaper critical of the government, has personally received serious threats by telephone from the Minister of Defence Gotabaya Rajapaksa, followed by other death threats. Her predecessor had been killed by unknown men in 2009. The perpetrators of this crime are still at large. A member of the entourage of the presidential clan bought the newspaper, which apologised to the Minister of Defence on the front page and sacked the journalist.¹¹² In the North, two regional newspaper editors received death threats after reporting on a controversial protest in the region.¹¹³ Online media which dare to criticise the government are subject to constant surveillance and acts of sabotage.¹¹⁴ In July 2012, the police thus closed the offices of two websites of the opposition, confiscated computers and documents and arrested nine employees.¹¹⁵ In 2012, the CID carried out a number of raids on newspapers. Some observers see this as an act of intimidation.¹¹⁶

4.4.3 Opponents and defenders of human rights

Throughout the country and especially in the **North**, the security forces and paramilitary groups close to the government use harassment, threats and attacks in an attempt to muzzle criticisms of the government, especially if they emanate from opponents or defenders of human rights, or the denunciation of war crimes by the ar-

¹⁰⁸ OSAR interviews with contacts in Sri Lanka, August 2012.

¹⁰⁹ Freedom House, Freedom of the Press 2012: www.freedomhouse.org/report/freedom-press/2012/sri-lanka; Human Rights Watch (HRW), Sri Lanka, Halt Harassment of Media, 3 July 2012: www.hrw.org/news/2012/07/03/sri-lanka-halt-harassment-media; UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹¹⁰ OSAR interviews with journalists present in the area, August 2012.

¹¹¹ USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 20.

¹¹² Colombo Telegraph, They will kill you – you dirty fucking shit Journalist – You are pigs who eat shit – Gota threatened again, 7 July 2012: www.colombotelegraph.com/index.php/they-will-kill-you-you-dirty-fucking-shit-journalist-you-are-pigs-who-eat-shit-gota-threatened-again/; Brisbane Times, Case dismissed: death threats not persecution, 6 October 2012: www.brisbanetimes.com.au/world/case-dismissed-death-threats-not-persecution-20121005-274dl.html#ixzz28SCjLPY7.

¹¹³ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹¹⁴ OSAR interviews with journalists present in the area, August 2012; AHRC, Web censorship reaches new level, Five Tamil language websites blocked [AHRC-FPR-029- 2012], 28 June 2012: www.reliefweb.int/report/sri-lanka/web-censorship-reaches-new-level-five-tamil-language-web-sites-blocked.

¹¹⁵ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹¹⁶ Sri Lanka Mirror, The CID carried out a political vendetta, 27 July 2012: www.srilankamirror.com/news/639-sri-lanka-mirror-the-cid-carried-out-a-political-vendetta.

my.¹¹⁷ In this climate of fear, small groups of militants dare not speak out in public.¹¹⁸ Priests, lawyers and NGO workers who have frequent contact with foreigners are the victims of threats and acts of repression.¹¹⁹ A Tamil priest who holds a legal advice centre for the Tamil population of Jaffna and who criticised the government in an interview given during summer 2012 to the Washington Post had to go into hiding following serious threats from the EPDP. His female co-worker was abducted and tortured.¹²⁰ The CID keeps human rights defenders and opponents under surveillance, as proven by several examples known to the OSAR.¹²¹

Lalith Kumar Weeraraj and Kugan Muruganandan, who are both members of an opposition party, disappeared in Jaffna in December 2011. Weeraraj was trying to draw attention to the human rights situation of the Tamils; he had been threatened on several occasions, attacked and arrested by the security forces.¹²² The two militants have still not been found. On 7 April 2012, two opponents were abducted by unknown men in a suburb of Colombo. They were later released.¹²³ In March 2012, human rights defenders from Sri Lanka who had taken part in the United Nations Human Rights Council in Geneva suffered threats and intimidation by the official delegation of Sri Lanka. The Minister for Public Relations, Mervyn Silva, had then threatened to «break the bones of the traitors to the Nation».¹²⁴

4.4.4 Women and children

The violence inflicted on women and children continues to pose a major problem throughout Sri Lanka. Reliable statistics on this matter are scarce. An official source says that 4,505 cases of «*serious crimes*», including 1,871 rapes and 8,067 «*minor offences*» comprising in particular 2,726 cases of sexual abuse against women and children were reported to the police in 2011.¹²⁵ One can assume that the number of unreported cases is far higher, since most victims dare not speak to the police, out of fear or shame. The police have nevertheless recorded an alarming **increase in the number of complaints of rape** by comparison with previous years and identified girls between 13 and 16 years as especially vulnerable.¹²⁶ The victims of sexual violence are heavily stigmatised by society, which means for example they have trouble finding a husband.¹²⁷ Sri Lankan law prohibiting rape and domestic violence is not sufficiently respected and the perpetrators of these crimes generally go un-

¹¹⁷ OSAR interviews with contacts in Sri Lanka, August and September 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 20ff.

¹¹⁸ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹¹⁹ Ibid.; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 15.

¹²⁰ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹²¹ A TNA politician, for example, told OSAR that the CID always attends his working meetings. OSAR also knows of a case where the CID attempted to prevent a meeting between human rights defenders and foreign diplomats in Jaffna. OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹²² USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 4f.

¹²³ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹²⁴ Ibid.

¹²⁵ Sri Lanka Police, Crime Trends: www.police.lk/index.php/crime-trends.

¹²⁶ BBC News, Concern in Sri Lanka over rising number of child rapes, 18 July 2012: www.bbc.co.uk/news/world-asia-18889564; USDOS, Country Report on Human Rights Practices for 2011, Sri Lanka, 24 May 2012, p. 35.

¹²⁷ OSAR interviews with contacts in Sri Lanka, August 2012; AHRC, The State of Human Rights in Sri Lanka in 2010, (AHRC-SPR-010-2010), October 2010, p. 46: www.humanrights.asia/resources/hrreport/2010/AHRC-SPR-010-2010.pdf.

punished.¹²⁸ Rape within marriage is not punishable, unless the couple is legally divorced.¹²⁹

There are several credible indicators that member of **government security forces** or **paramilitary groups** force woman and children to submit to acts of sexual violence.¹³⁰ This misconduct is especially common in prison. A report by *Freedom from Torture* has demonstrated that female detainees are very often exposed to acts of sexual violence committed by the security forces.¹³¹ In the South of the country, more and more crimes against women and children are committed by the security forces or their former members.¹³² Many of the victims do not report these acts of abuse out of fear of reprisals. According to the Asian Human Rights Commission, the presence of female police officers in police stations has not improved security for women, because some of these officers also take part in these attacks.¹³³

Widows or women who live alone in the North of the country are even more at risk of becoming victims of sexual violence. The strengthening of the military presence and the ever-increasing abuse of alcohol among the traumatised local population add to the insecurity of women and children.¹³⁴ In August 2011, there was a great deal of talk about the attacks committed by unknown men called «*Grease Devils*»: women, mostly Tamil, were raped and killed.¹³⁵

The victims of rape and domestic violence often receive no support whatsoever. Access to crisis centres, to a legal consultation and to psychological counselling is very limited, especially in the North.¹³⁶

¹²⁸ There are examples of cases known where the victims have withdrawn their complaint and where the rapists have gone unpunished. This is the case of the local politician who raped a Russian woman (see 2.4) or of the MP Duminda Silva, who was acquitted in March 2011, because the victim, who was depressed, did not wish to continue the trial. See also BBC News, Concern in Sri Lanka over rising number of child rapes, 18 July 2012; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 35.

¹²⁹ IRB, Sexual and domestic violence, including legislation, state protection, and services available for victims [LKA103947.E], 25 January 2012: www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453788&l=e; ICG, Women's Insecurity in the North and East, 20 December 2011, p. 12.

¹³⁰ Interviews with contacts in Sri Lanka, September 2012; Freedom from Torture, Out of the Silence, 7 November 2011; ICG, Women's Insecurity in the North and East, 7 November 2011; ICG, Women's Insecurity in the North and East, 20 December 2011, p. 27f.; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 9.

¹³¹ Freedom from Torture, Out of the Silence, 7 November 2011.

¹³² ICG, Women's Insecurity in the North and East, 20 December 2011, p. 13.

¹³³ AHRC, The State of Human Rights in Sri Lanka in 2011, p. 5: www.humanrights.asia/resources/hrreport/2011/AHRC-SPR-011-2011/at_download/file.

¹³⁴ OSAR interviews with contacts in Sri Lanka, August and September 2012; ICG, Women's Insecurity in the North and East, 20 December 2011, p. 13.

¹³⁵ ICG, Women's Insecurity in the North and East, 20 December 2011, p. 30ff.

¹³⁶ OSAR interviews with contacts in Sri Lanka, August 2012; International Centre for Ethnic Studies, Domestic Violence Intervention Services in Sri Lanka, An Exploratory Mapping 2009-2011, July 2012, p. 21: www.scribd.com/doc/96385394/Domestic-Violence-Intervention-Services-in-Sri-Lanka-ICES; USDOS, Country Report on Human Rights Practices for 2011, 24 May 2012, p. 9.

5 Displaced persons

In November 2012, at the Human Rights Council of the United Nations in Geneva, the government announced the closure of the largest and best known of the displaced persons camps, Menik Farm, and the moving of its nearly 300,000 occupants. But according to what is said by Tamil politicians, around 75,000 of the 300,000 persons concerned were simply removed to new transit camps.¹³⁷ Even after the closure of Menik Farm, the *Internal Displacement Monitoring Centre* refers to even more than **115,000 displaced persons**.¹³⁸

Difficulties of displaced persons on return. Nearly 470,000 persons are registered as repatriated, but have not managed to establish themselves on a long-term basis in one place.¹³⁹ According to observers, many of these people have been transferred against their will.¹⁴⁰ A large number of them have not been able to return to their place of origin, generally because the army was still blocking these areas regarded as **high security zones**.¹⁴¹ No compensation was granted in exchange for the occupied land. Persons transferred have the utmost difficulty in finding a source of income in their new location. The population of a fishing village was for example transferred to the Vanni region in the middle of the jungle, far from the sea from which it derived its livelihood.¹⁴² Accommodating returnees is still a major problem.¹⁴³ The government is hindering humanitarian work, subjecting it to stringent control. In particular it has set a cap on construction costs of housing for returnees. In the view of many experts, the sum specified is not even enough to build a simple house with its own toilet.¹⁴⁴

According to official statements, 98% of the regions stated to have priority for the return of displaced persons have been **cleared of mines** by the army at a remarkable speed.¹⁴⁵ According to international experts, the official data is not credible, as mine clearance in these vast areas is not compliant with international standards. Safe and complete mine clearance will take decades more. A good number of the regions to which displaced persons are returning cannot therefore be regarded as safe.¹⁴⁶

¹³⁷ The Island, At least 75,000 of the 300,000 IDPs are still living in Transit Camps in the North and East: Sampanthan, 13 October 2012: www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=63726.

¹³⁸ Internal Displacement Monitoring Centre (IDMC), A hidden displacement crisis, 31 October 2012: [www.internaldisplacement.org/8025708F004CE90B/%28httpCountry Summaries%299A05162C16226CBBC1257AA8005 23E94?OpenDocument&count=10000](http://www.internaldisplacement.org/8025708F004CE90B/%28httpCountry%29Summaries%299A05162C16226CBBC1257AA8005%2023E94?OpenDocument&count=10000).

¹³⁹ Ibid.

¹⁴⁰ UKFCO, Quarterly Updates, Sri Lanka, 30 September 2012.

¹⁴¹ Part of the high security zones have been turned into so-called public economic zones, without access to them being facilitated by this.

¹⁴² OSAR interviews with representatives of development agencies working in Sri Lanka, August 2012.

¹⁴³ Integrated Regional Information Network (IRIN), Former IDPs want more than leaking shacks, 2 November 2012: www.irinnews.org/Report/96697/SRI-LANKA-Former-IDPs-want-more-than-leaking-shacks.

¹⁴⁴ OSAR interviews with representatives of development agencies working in Sri Lanka, September 2012.

¹⁴⁵ HRC, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21; Sri Lanka [A/HRC/W.G.6/14/LKA/1], 10 August 2012, p. 27: www.upr-info.org/IMG/pdf/a_hrc_wg.6_14_lka_1_e.pdf.

¹⁴⁶ OSAR interviews with contacts in Sri Lanka, August 2012.

6 Socioeconomic Situation in the North

Development of the North of Sri Lanka allows for a wide variety of assessments. According to official statements, the gross national product in the North of the country has increased by around 22%, compared with a national average of 8% in 2011.¹⁴⁷ Experts explain this progress mainly by the large infrastructure projects of the government and by the fact that this is on the basis of a very low starting point after the conflict.¹⁴⁸

These figures emerge from a new study by the *World Food Programme* carried out in 2012; they reveal the full extent of **poverty in the North**, in particular in Jaffna where 55% of inhabitants are unable to ensure food security¹⁴⁹ for themselves. The majority of families in the five districts of the North who are unable to ensure their livelihood, that is nearly 65%, live in Jaffna. In that city, 55% of households have an income below the poverty line set at one US dollar per day. The food required is admittedly available at the markets, but the people cannot afford it. Some 38% of households eat on credit.¹⁵⁰ Only a small minority has the benefit of the very modest support intended by the State for the poorest level of the population (between 3 and 4 Swiss francs per month).¹⁵¹ Many Tamils who have lived in the region controlled by the LTTE do not have access to public benefits, lacking a national identity card.¹⁵²

According to statements by a number of observers, the **unemployment** rate is very high in the North: **around 30%**, whereas the national average is 4%.¹⁵³ According to the *World Food Programme* study, Jaffna is particularly affected, as nearly 90% of households in the city have at least one person who is unemployed.¹⁵⁴ In its 2011 survey, the *Department of Census and Statistics* gives no figures for the North of Sri Lanka.¹⁵⁵ Construction in the North offers relatively few jobs, as the government is supporting mechanization, with a view to speeding up work. Moreover, contracts are mainly awarded to businesses from the South which are Sinhalese for the most part and who come with their workers. Lacking occupation, the army also takes part in the work and occupies job opportunities in this sector.¹⁵⁶ Those with Tamil ethnic origins generally can only participate in reconstruction at the lowest level, as workers (poorly) paid by the day.¹⁵⁷ With the exception of reconstruction of infrastructure,

¹⁴⁷ HRC, National report, 10 August 2012, p. 8.

¹⁴⁸ IRIN, Sri Lanka, Too many jobless youth in former warzone, 1 October 2012: www.irinnews.org/Report/96422/SRI-LANKA-Too-many-jobless-youth-in-former-war-zone.

¹⁴⁹ People are considered food secure when they have all-time access to sufficient, safe, nutritious food to maintain a healthy and active life. For a detailed definition see the World Food Programme: www.wfp.org.

¹⁵⁰ IRIN, Sri Lanka, Focus on food insecurity, 9 July 2012: www.reliefweb.int/report/sri-lanka/focus-food-insecurity-jaffna; Ministry of Health Sri Lanka/UNICEF/WFP, Assessment of nutritional status and associated factors in Northern Province, March 2012, p. 36: www.hpsl.lk/Files/Surveys/LKS0009_Northern%20province%20with%20cover%20page.pdf.

¹⁵¹ OSAR interviews with contacts in Sri Lanka, August 2012.

¹⁵² BBC News, Sri Lanka's Tamils face identity crisis, 28 June 2012.

¹⁵³ IRIN, Sri Lanka, Too many jobless youth in former war zone, 1 October 2012.

¹⁵⁴ IRIN, Sri Lanka, Focus on food insecurity, 9 July 2012.

¹⁵⁵ Department of Census and Statistics, Ministry of Finance and Planning, Sri Lanka Labour Force Survey, Annual Report 2011, 9 October 2012: www.statistics.gov.lk/sampleurvey/LFS%20Annual%20Report_2011.pdf.

¹⁵⁶ IRIN, Sri Lanka, Too many jobless youth in former war zone, 1 October 2012.

¹⁵⁷ OSAR observations and interviews with contacts in Sri Lanka, August and September 2012.

very few businesses are active in the North.¹⁵⁸ This creates a problem, in particular for the majority of **returnees** who must in the main earn their living as **day workers**.¹⁵⁹

Agriculture and fishing would be other important sources of income in the North.¹⁶⁰ But as the army and the security forces seize the **houses and land** of private individuals, while the owners do not dare to oppose this, returnees and even part of the local population have difficulty gaining access to this property.¹⁶¹ There is no compensation for houses occupied or destroyed.¹⁶² Despite the reduction of high security zones, the army is still blocking vast areas, including fertile farming land.¹⁶³ State-funded priority access to water pumps, tractors and fertilizer allows it to produce agricultural goods at low cost and sell them cheaply, harming the income opportunities of **local small farmers**.¹⁶⁴

Fishing was formerly an important economic factor for the North of Sri Lanka. But some sectors of the coast are still included in the navy's security zones. The army also sold some coastal areas to private enterprise. Big Chinese and Indian trawlers are illegally depleting the fishing grounds of the North and East and are severely compromising the activity of small Tamil fishermen by damaging their nets. The government does nothing to protect the rights and means of subsistence of indigenous fishermen.¹⁶⁵

For **women**, the situation is extremely difficult. Alone, they have practically no means of earning a living. Women's rights defence groups report that some are prostituting themselves out of despair.¹⁶⁶ Observers estimate that in the North, the **unemployment** rate is twice as high among **women** as among men.¹⁶⁷

As **Sinhalese** is little spoken by the Tamil population of the North, they have very limited access to the labour market in other parts of the country.¹⁶⁸ Starting **their own business** represents a huge challenge for many of those with Tamil ethnic origins. For besides the start-up capital required, such an initiative requires a series of authorisations that have to be obtained from administrative bodies dominated by the Sinhalese.¹⁶⁹ Those who do not give up in the face of these obstacles must further

¹⁵⁸ IRIN, Sri Lanka, Too many jobless youth in former war zone, 1 October 2012.

¹⁵⁹ Ministry of Health Sri Lanka/UNICEF/WFP, Assessment of nutritional status and associated factors in Northern Province, March 2012, p. 32.

¹⁶⁰ Ibid.

¹⁶¹ OSAR interviews with contacts in Sri Lanka, August and September 2012; Tamil Net, 1033 lands, houses to be permanently appropriated for SL military in Jaffna, 13 June 2012: www.tamilnet.com/art.html?catid=79&artid=35290.

¹⁶² With the exception of civil servants. OSAR interviews with contacts in Sri Lanka, September 2012.

¹⁶³ OSAR interviews with contacts in Sri Lanka, August and September 2012; ICG, Sri Lanka's North II, 16 March 2012, p.21.

¹⁶⁴ ICG, Sri Lanka's North II, 16 March 2012, p.21.

¹⁶⁵ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹⁶⁶ Ibid.

¹⁶⁷ OSAR interview with a contact on site, August 2012.

¹⁶⁸ IRIN, Sri Lanka, Too many jobless youth in former war zone, 1 October 2012.

¹⁶⁹ OSAR interviews with a contact on site, August 2012; Federal Office for Migration and Refugees/IOM, information sheet in countries Sri Lanka, June 2012, p.5: www.bamf.de/SharedDocs/MILo-DB/DE/Rueckkehrfoerderung/Laenderinformationen/Informationsblaetter/cfs-sri-lanka-download-deutsch.pdf?__blob=publicationFile.

expect that their business suffer reprisals from the EPDP and racketing by criminal groups.

7 Returning from abroad

7.1 Airport Checks

Screening at the airport. OSAR has already described in detail the procedures in force at the airport.¹⁷⁰ Returning Tamils undergo a long procedure aimed at finding possible links with the LTTE. They are first taken aside and questioned by the authorities in charge of immigration, then interrogated by the State Intelligence Service (SIS). They then undergo a check and interrogation by the CID. According to the statements of several contacts, these interrogations may last up to 14 hours. Officials do not hesitate to use violence. If there is sufficient evidence or contradictory statements, returnees are handed over to the TID for further interrogation and, depending on the case, arrested. Tamils from the North and East, and persons between the ages of 20 and 40 undergo even more minute checks.¹⁷¹ Those carrying false papers, or who have had an arrest warrant issued against them or who are suspected of links with the LTTE or the media run a high risk of being imprisoned.¹⁷² Persons arrested are first taken to the Negombo prison.¹⁷³

7.2 Safety of returnees

According to what has been said by a number of observers, persons returning to Sri Lanka are regarded as traitors who have discredited Sri Lanka abroad.¹⁷⁴ It must therefore be assumed that they are an at-risk group. There is admittedly no evidence that all returnees are abducted, arrested and tortured in a systematic way. However, there are a number of reports which document cases and show the risk.

Abductions. Affluent returnees may be the target of criminal or paramilitary groups seeking to extort money or information from them.¹⁷⁵

CID Checks. The police or CID have on a number of occasions gone to find returnees in their place of residence to interrogate them. Observers report the case of returnees undergoing permanent surveillance by the CID over six months.¹⁷⁶ Arrest is possible at any time.

¹⁷⁰ SFH-OSAR, Sri Lanka, Themenpapier, 22 September 2011, p. 14f.

¹⁷¹ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹⁷² For further details see SFH-OSAR, Sri Lanka, Themenpapier, 22 September 2011, p. 15f.

¹⁷³ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹⁷⁴ OSAR interviews with contacts in Sri Lanka, August and September 2012; IRB, Sri Lanka, Information on the treatment of Tamil returnees to Sri Lanka, including failed refugee applicants; repercussions, upon return, for not having proper government authorization to leave the country, such as a passport, (LKA103815.E), 22 August 2011: www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?id=453562&l=e.

¹⁷⁵ OSAR interviews with contacts in Sri Lanka, August and September 2012; IRB, Sri Lanka, Information on the treatment of Tamil returnees to Sri Lanka, 22 August 2011.

¹⁷⁶ OSAR interviews with contacts in Sri Lanka, August and September 2012.

Arrests and torture. Several recent reports give accounts of arrests of Tamils and Sinhalese returning from abroad. Arrests are most often accompanied by torture.¹⁷⁷ Contrary to various human rights defence groups, the UK authorities dealing with migration take the view that the measures concern only returnees who have committed an offence against the law in Sri Lanka.¹⁷⁸ It is often difficult to obtain information on the spot, as returnees are very afraid to speak about what they have suffered in prison.¹⁷⁹

The arrest of **Dayan Anthony** caused something of an uproar. On his return from Australia he was detained for nearly 16 hours. At an orchestrated press conference in the presence of the security forces, he denied having been arrested. The credibility of the press conference was widely questioned.¹⁸⁰

OSAR is aware of the case of a Tamil arrested **after his return from Switzerland**, accused of maintaining links with the LTTE and questioned about Tamils he had met in Switzerland. The intervention of the *Asian Human Rights Commission* and a Swiss NGO was required for this person to be released.¹⁸¹ *Human Rights Watch* has documented other **similar cases of returnees from Switzerland**: a 29 year-old Tamil originally from the Vanni region who had been forcibly recruited by the LTTE in 2008 arrived in Switzerland in September 2010 as an asylum-seeker. On 15 February 2011, he returned voluntarily to Sri Lanka after his application for asylum was refused, and on 23 July 2011, officials in plain clothes took him away by force in a small white van. They told him they had **information on his activities in Switzerland and tortured him**. To save his life, the unfortunate man signed confessions in Sinhalese, without understanding them. In the meanwhile, he fled to Great Britain. A 33 year-old Tamil originally from Batticaloa had to leave Switzerland in April 2011, after his application for asylum was refused. Following the refusal by France and Great Britain to grant him asylum, he went back to Sri Lanka on 27 February 2012. He had just left the airport when he was pulled into a little white van, then tortured in a nearby building. This man who was also accused of links to the LTTE also fled to Britain.¹⁸²

¹⁷⁷ HRW, United Kingdom, Document containing cases of Sri Lankan deportees allegedly tortured on return, 15 September 2012: www.hrw.org/news/2012/09/15/united-kingdom-document-containing-cases-sri-lankan-deportees-allegedly-tortured-ret; Freedom from Torture, Sri Lankans Tamils tortured on return from the UK, Briefing, 13 September 2012; Tamils against Genocide (TAG), Returnees at Risk, Detention and Torture in Sri Lanka, 16 September 2012: www.tamilsagainstgenocide.org/Data/Docs/TAG-Report-16-Sep-2012-Returnees-at-Risk.pdf; The Age, We live in fear every day, 24 July 2012: www.theage.com.au/world/we-live-in-fear-every-day-2012-0723-22koc.html; The Guardian, Tamils deported to Sri Lanka from Britain being tortured victims claim, 5 June 2012: www.guardian.co.uk/uk/2012/jun/05/tamils-deported-sri-lanka-torture; Freedom from Torture, Out of the Silence, 7 November 2011; IRB, Information on the treatment of Tamil returnees to Sri Lanka, 22 August 2011.

¹⁷⁸ OSAR interviews with representatives of the Migration Directorate of the UK Foreign & Commonwealth Office and the Migration Section at the British High Commission, September 2012; UK Border Agency (Home Office) Country of Origin Information Report; Sri Lanka, 7 March 2012, p. 203 ff.: www.ecoi.net/file_upload/90_1331280907_2012-03-07-ukba-sri-lanka-coi.pdf.

¹⁷⁹ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹⁸⁰ The Australian, Tamil man Dayan Anthony questioned recants on torture claims, 27 July 2012: www.theaustralian.com.au/national-affairs/immigration/tamil-man-dayan-anthony-questioned-recants-on-torture-claims/story-fn9hm1gu-1226436367903.

¹⁸¹ Details of this case can be given on request.

¹⁸² HRW, Document containing cases of Sri Lankan deportees allegedly tortured on return, 15 September 2012.

At risk despite a low profile. *Freedom from Torture* (FFT) comes to the conclusion that Tamils returning from abroad risk being tortured, if in the past they have had a real or presumed **link to the LTTE at any level whatever** and if they have been able to leave the country safely. FFT has documented 24 cases of persons tortured after returning voluntarily to Sri Lanka. These are almost exclusively men and women of Tamil ethnic origin between 20 and 41 years of age. Among them there are at least twelve who have been interrogated on their own activities or those of other Tamils abroad.¹⁸³

A stay abroad may increase the threat. It is striking to note that these people were not arrested before their departure abroad on account of their real or presumed link to the LTTE. According to an FFT study, it is the combination of a stay abroad and these alleged links at whatever level which leads to a heightened risk of torture.¹⁸⁴ A Tamil NGO reports that the political activities of Tamil exiles in Great Britain have been documented and photographed by Sri Lankan embassy personnel and they may represent a threat in the event of return.¹⁸⁵ In Switzerland also, Tamils are photographed by Sri Lankan embassy collaborators if they take part in demonstrations against the government.¹⁸⁶

Arrests do not necessarily take place immediately. Some victims have been intercepted and tortured over a year after their return, while others were directly carried off at the airport or arrested in hotels, checkpoints or at their home in the following days, weeks or months.¹⁸⁷

Monitoring by States deporting asylum-seekers. In the event of a voluntary return from Switzerland and many other States, the *International Organization for Migration* (IOM) in Colombo is providing reintegration assistance on return.¹⁸⁸ It welcomes people at the airport and organizes transport for them. The persons concerned then make contact themselves with the IOM. If they do not request support, contact is lost. Services come to an end and the file is generally closed after twelve months.¹⁸⁹ In the event of forced return, an embassy staff member in principle accompanies the arrival at the airport.¹⁹⁰ The CID is informed in advance.¹⁹¹ The contact details of the embassy are given to returnees, so they may make themselves known in the event of a problem.¹⁹² But apparently, it is not certain that these support measures taken by the States returning asylum-seekers can guarantee the safety of returnees in the long term.

¹⁸³ Freedom from Torture, Sri Lankans Tamils tortured on return from the UK, 13 September 2012, p.3.

¹⁸⁴ Ibid.

¹⁸⁵ British judges have recognised this on several occasions. TAG, Returnees at Risk, 16 September 2012.

¹⁸⁶ OSAR interviews with a contact in Switzerland, November 2012.

¹⁸⁷ Freedom from Torture, Out of the Silence, 7 November 2011, p.7; TAG, Returnees at Risk, 16 September 2012.

¹⁸⁸ The UK authorities have recently entrusted to a British NGO the task of supporting returnees.

¹⁸⁹ OSAR interviews with contacts in Sri Lanka, August and September 2012.

¹⁹⁰ Information given by email by a contact at the Swiss embassy in Sri Lanka on 15 November 2012. Since 2011, Switzerland has returned 16 persons who have refused proposed voluntary return. According to the Federal Office of Migrations, no special flight has been chartered for this purpose. Information given by email by the Federal Office of Migrations, 13 November 2012.

¹⁹¹ SFH-OSAR, Update, Sri Lanka, Aktuelle Situation, 1 December 2010, p. 23.

¹⁹² UK Border Agency (Home Office) Country of Origin Information Report; Sri Lanka, 7 March 2012, p. 207ff.

SFH-OSAR publications on Sri Lanka and other countries of origin are available at:
www.fluechtlingshilfe.ch/herkunftslander

Register to receive the SFH-OSAR Newsletter (German or French) with information
on new SFH-OSAR publications: www.fluechtlingshilfe.ch/news/newsletter