Tamil Political Prisoners in Sri Lanka

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A report into arbitrary detention, prison conditions, the Vavuniya riot, and its aftermath.

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Executive summary

For decades, Tamil political prisoners in Sri Lanka have been systematically abused and discriminated against by the state, which assumes they have links to the separatist group, the Liberation Tamil Tigers of Eelam (LTTE). Some of these prisoners have had no such links and some were forcibly recruited by the rebel group. These prisoners have been subjected to arbitrary detention and torture and many have since been released without charge.

Following the end of the civil war in 2009 and the eradication of the LTTE, there was widespread expectation that the Sri Lankan government would release the political prisoners it had imprisoned and repeal its draconian laws, including the Prevention of Terrorism Act (PTA) and Emergency Regulations, which had allowed for the detention of prisoners for long periods of time - up to 15 years in some cases – often without judicial oversight or trial.

In August 2011, Sri Lanka lifted its state of emergency and allowed emergency regulations which had been in place since 1971 to expire. These regulations had granted authorities sweeping powers of search, arrest and detention. However, Sri Lanka retained the PTA and introduced new regulations under this, which included the detention of LTTE suspects without charge or trial. Even the Lessons Learnt and Reconciliation Committee, a government-appointed panel, criticized aspects of Sri Lanka’s detention policies and made recommendations. Yet the government has not implemented a single recommendation.

A recent report from Human Rights Watch details 75 cases of sexual abuse and rape in official and secret detention facilities, and this figure is likely to be merely the tip of the iceberg.

The continued plight of Tamil political prisoners was thrust into the limelight on June 26 2012, when a riot broke out at Vavuniya Prison. About 200 prisoners were involved in the riot, which was staged to protest against the transfer of three prisoners from Vavuniya prison to the Terrorist Investigation Division run detention facility in Boosa (not to be confused with the regular prison at Boosa), a place notorious for torture. Police and the army were brought in to quash the uprising, followed by severe torture of detainees, resulting in 28 detainees being injured. More than 15 sustained severe injuries and two of them died as a result.

This report discusses the Vavuniya riot and its aftermath. After conducting interviews with at least five of the families of those who are currently imprisoned and two families whose sons have died while in prison custody, and collecting testimonies from a social worker who has interviewed some of the prisoners’ families, the following themes emerge:

- torture
- detention without judicial oversight
- detention without trial
- the transfer of inmates to prisons around the country without any reasons
- limited access to families
- lack of information for families from authorities regarding the condition of prisoners
- denial of access to those killed in police custody
➢ the restriction of and interference in funeral rites.

These themes characterize Sri Lanka’s policy towards Tamil political prisoners for the past two decades. The Vavuniya riot exemplifies how Sri Lanka’s commitment to post-war reconciliation is a farce; the war has now been over for nearly four years, yet prisoners are kept in abominable conditions and deprived of basic human rights.

The government continues to break its international treaty obligations and its own laws through its treatment of Tamil political prisoners. At Sri Lanka’s Universal Periodic Review (which periodically examines the human rights performance of all 193 UN members), the panel noted that four pledges made by the government in 2008, in relation to prisoners, were ‘incomplete’. Overall, the government rejected 100 of the 210 recommendations made to it.

Despite its flagrant disregard for human rights, the transgressions of the Sri Lankan state have been overlooked by the international community. The country’s president, Mahinda Rajapaksa, was welcomed in London in June 2012 for Queen Elizabeth’s Jubilee celebrations, and in 2013 Sri Lanka was chosen to host the Commonwealth Heads of Government Meeting. Meanwhile, western travel writers are exalting Sri Lanka as a haven for tourists and Lonely Planet, the travel guide book, voted Sri Lanka as its top tourist destination for 2013.

The international community needs to push the Sri Lankan government to address its treatment of Tamil political prisoners. This report makes many recommendations, including the need for an independent investigation into what happened during the Vavuniya prison riot and its aftermath, the immediate release of political prisoners or quickening of legal proceedings so that prisoners who are guilty of criminal activity have charges brought against them, the release of a list of all detainees being held around the country, the transfer of prisoners to prisons near their homes and the cessation of torture as a method of interrogation or punishment.

Without addressing the issue of political prisoners, reconciliation in post-war Sri Lanka can never occur. It is imperative that the government act now.
Introduction

Welikada prison, Sri Lanka’s largest prison, is situated in Colombo, the country’s capital city. The jail’s outside wall has a mural on it, with an inscription proclaiming that “prisoners are human beings”. Yet only metres behind these high walls, the prison authorities fail to uphold this basic covenant, denying inmates human rights that have been enshrined in Sri Lankan and international law.

In November 2012, the prison became a focus of attention after clashes between prisoners and prison guards left 27 people dead. This event, which attracted national and international scrutiny, displayed the violence and brutality which has been exerted by authorities for decades. However, this incident differed to the prison attacks which will be discussed in this report because some of the prisoners killed in November 2012 were armed, and the clash was triggered by a clash with authorities raiding the prisons for banned goods – although reliable eyewitness accounts from within the prison indicate that this massacre was pre-planned and previously identified inmates were killed, some after the actual riots.

However, in most of the incidents mentioned in this report, attacks and abuses was politically motivated and directed against unarmed Tamil inmates suspected of involvement with the LTTE.

1. Arbitrary detention in Sri Lanka

Torture and inhumane degrading treatment have come to characterize Sri Lanka’s prisons. As far back as 1983, the International Commission of Jurists concluded that torture in Sri Lanka was an ‘almost universal practice’ carried out on a “systematic basis”.

Arbitrary detention has been a recurring feature of successive Sri Lankan governments since 1980s, a practice which has been carried out on a “widespread and systematic basis”, according to Amnesty International. In 1993 the human rights organisation found that about 5,000 political prisoners suspected of being involved with the 1988-1991 uprising by the political party, the Janatha Vimukthi Peramuna, had been detained without charge.

The United Nations Committee Against Torture (UNCAT) has said that according to the Sri Lankan’s government’s own records, more than 80,000 people were imprisoned annually between 2000 and 2005, of whom more than 60,000 were not convicted. Currently, there is no central registry of the number of detentions in the country, despite the government promising that a computerised central police registry would be established.

The Tamil National Alliance, the minority Tamil political alliance group in Sri Lanka’s parliament, says that there are 810 political prisoners in the country, while the government states that there are 318 inmates in jails.

In its concluding observations at its 47th Session in November 2011, the UNCAT stated that it was “seriously concerned about the continued and consistent allegations of widespread use of torture and other cruel, inhuman or degrading treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings”. It noted further concerns that these acts were being perpetrated by “both the military and police” in 2011, two years after the war between the Sri Lankan government and (LTTE) ended in May.
The Committee also referred to reports of torture and ill-treatment, including one where a person had been randomly selected by police and detained on an unsubstantiated charge, and was then tortured to obtain a confession. The Asian Human Rights Commission was one of the 12 non-governmental organisations which submitted reports to UNCAT. The group submitted a report that documented 1,500 cases of police torture in Sri Lanka from 1998 to 2011, but focused on the 323 most serious cases of torture. In its report, the organisation documents cases of individuals who have been beaten, assaulted, raped and shot at by the police and military.

Sri Lanka’s Universal Periodic Review occurred in November 2012. This is a four yearly review of the country’s human rights record from 2008 to 2012. The committee reported that of 104 pledges and recommendations made by/for Sri Lanka, only 71 were accepted. The government claimed to have completed 12 of the pledges but in reality had only completed four recommendations. The following pledges regarding prisoners were made in 2008, and then reviewed in November 2012.

- **Pledge 16** - Implement the recommendations of the Special Rapporteur on the question of torture: These recommendations included the investigation of torture allegations by an independent authority, allowing judges to exercise more discretion in sentencing perpetrators of torture under the 1994 Torture Act, developing mechanisms for the protection of torture victims and witnesses and calls for an investigation into corporal punishment cases at Bogambara Prison and torture allegations against the Terrorist Investigation Department (TID), in Boosa. This pledge was found to be incomplete by the UPR, with UNCAT pointing to a lack of investigation into reports of torture, the existence of secret detention centres, enforced disappearances, coerced confessions, and the non-registration of all detainees. Amnesty International, Minority Rights Group International, the European Centre for Constitutional and Human Rights and the Global Tamil Forum also expressed concerns over the retention of the Prevention of Terrorism Act, and fears were expressed that the legislation perpetuated a climate of fear and intimidation, which made women vulnerable to gender-based violence and discrimination.

- **Pledge 18** - The Sri Lankan government should increase its efforts to prevent cases of kidnapping, forced disappearances and extrajudicial killings, ensuring all perpetrators are brought to justice: This pledge was incomplete, with Amnesty International mentioning reports of extrajudicial killings by military operatives and suspicious deaths in police custody.

- **Pledge 19** - Increase efforts to strengthen legal safeguards for the elimination of all forms of ill treatment or torture in prisons and detention centres: The Sri Lankan government stated that police circulars had been created in 2010 and 2011, which aimed to eliminate the mistreatment of detainees, “practical guidelines” had been adopted by the Terrorist Investigation Division for the treatment of detainees and an introductory workshop for police on preventing torture had been created, with 474 police officials trained from 2009 to 2012. The UPR found this pledge to be incomplete, with reports of torture still rife. The committee also said “the fact that...
circulars are seen to be an adequate measure of addressing such a serious offense and violation of international law is a good indication of the lack of political will to eradicate this practice". Amnesty International noted that torture remained widespread in Sri Lanka. A joint submission by Asian Human Rights Commission and the Rule of Law Forum recommended passing an act which codified the rights of arrestees at the time of arrest and after arrest, including the right to know the reason of arrest, steps to be followed by officers, protection of the detainees, the right to a fair trial without delay, medical facilities and permission for lawyers and relatives to visit detainees in prison.

- Pledge 24- Improve and upgrade detention facilities: the UPR found that this promise was incomplete. A submission from the Asian Human Rights Commission highlighted the “terrible” conditions in some detention centres and the UNCAT report from November 2011 expressed concern about secret detention centres run by the Sri Lankan military and paramilitary groups, where enforced disappearances, torture and extrajudicial killings had been perpetrated.

The Sri Lankan government initially rejected 100 of the 210 recommendations made to it. This constituted the largest absolute number of recommendations ever rejected outright by a state. They eventually negotiated around the language of some of the recommendations and so were able to accept others, but still rejected a shocking 91 recommendations.

Relating to arbitrary detention and the rights of prisoners, the government rejected the following recommendations from countries:

- 129.65 Publish the names and places of detention of all the imprisoned persons (France)
- 129.67 Adopt further measures to prevent torture and ill-treatment in particular in prison and detention centres (Czech Republic)
- 129.68 Establish an effective independent monitoring mechanism to investigate complaints of torture (Poland)
- 129.82 Improve detention conditions and respect for judicial guarantees for inmates, fighting against torture and inhuman and degrading treatment in detention centres in line with commitments taken during the May 2008 UPR session (Spain)
- 129.87 Grant due process rights to all detainees held in both military and police facilities, including those held in administrative detention; disclose all unofficial detention sites; and facilitate effective and independent monitoring of detainees (Denmark)
- 129.88 Allow the International Committee of the Red Cross unrestricted access to detention centres (Costa Rica)
- 129.100 Repeal Sections 9 (1) and 15 (A) (1) of the Prevention of Terrorism Act to ensure that detainees are held only in recognized places of detention, with regularized procedures and safeguards to protect detainees including access to legal representation and systematic notification to families of detainee whereabouts (Canada)
2. Tamil Political Prisoners

The rights of all prisoners in Sri Lanka are regularly violated. However, political prisoners who are Tamil, the largest ethnic minority group in the country, have been at the receiving end of some of the most severe forms of abuse. Since the conflict between the Sri Lankan government and the LTTE, the separatist militant group, turned into civil war in 1983, tens of thousands of Tamils suspected of links with the LTTE have been arrested and detained in prisons, detention camps and police custody. Several Sinhalese people have been arrested for the same reasons and some of them have also faced abuse and ill treatment.

The term “political prisoners” has been contested by the Sri Lankan government, but it is the term that has been popularly used to describe those arrested under the Prevention of Terrorism Act (PTA) and Emergency Regulations (ER). These individuals are suspected of having been part of or supporting the LTTE. This “political prisoners” label has gained traction because the LTTE had political goals, even though they were an armed group that committed a range of abuses against civilians and other combatants. This term has been used by detainees themselves, their families, opposition political parties, human rights organizations and the media.

This report focuses on the rights and situation of Tamil political prisoners, while acknowledging that many of the issues raised apply to all prisoners in Sri Lanka. Indeed, one month after the incident at Vavuniya, reports emerged of a prison attack against Tamil prisoners in Galle prison. The Tamil newspaper, Uthayan reported at the time that several prisoners were injured in the violence, and one detainee, 34-year-old Sundaram Satheeskumar, was left in a coma and taken to Karapitiya hospital. According to his lawyer, he was left with severe injuries to his head, shoulders and face, with the left side of his body paralysed. He had been in good health when he was sent to Galle prison. His lawyer has called on Sri Lankan MPs to take up the case with the country’s defence secretary, Gotabaya Rajapaksa, but no progress has been made since then.

It is imperative that the government address abuse of political prisoners and arbitrary detention within its prisons in order to uphold its commitment to its own and international commitments on human rights, but also to start the process of reconciliation following the end of the civil war. Reconciliation is a distant dream for political prisoners and their families.

Tackling arbitrary detention, either by prosecuting political prisoners on the basis of credible evidence or by releasing those where there is insufficient evidence to show involvement with the LTTE, would be a means of reaching out to the Tamil minority group in the country, who feel isolated and persecuted by the government.

3. Legal Framework

One striking feature of Sri Lankan law is that preventative or administrative detention is permitted. This has its roots in the country’s colonial past. In Article 155 (1) of the Sri Lankan constitution, the pre-independence Public Security Ordinance allows preventive detention.
Instead of having a retrospective focus, by determining whether a defendant has committed an offence in past, preventive detention is forward looking, based on the suspicion of future criminal behaviour. Preventive detention was authorized under Emergency Regulations passed in 1983, which allowed preventive detention without trial on security grounds for up to one year.

Preventive detention is also authorized under the Prevention of Terrorism Act. This act was first implemented in 1978 and allows for the detention of suspects for long periods of time without a trial. Both Emergency Regulations and the Prevention of Terrorism Act were often applied in succession to prolong the administrative detention of suspects.

Under Section 9 (1) of the PTA, people can be arrested without charge and detained for up to 18 months under a detention order issued by the minister of defence, while police investigate their involvement in illegal activity. After their release, the defence minister can issue more orders restricting a person's freedom of movement and participation in civil activities. These orders cannot be challenged in court.

People arrested under the PTA by the police without a detention order from the ministry of defence must be brought before a magistrate within 72 hours. However, the law does not give the magistrate the power to question the lawfulness of the detention, and the magistrate has to order the person to be detained under remand “until the conclusion of the trial”, meaning that the person can be kept in prison without being charged first. This feature of the act allows people to be held for years without charge or trial, as they wait for the detaining authority to frame a case against them. However, this case rarely materialises.

Despite being sanctioned under the PTA and Emergency Regulations, preventive detention is at odds with Sri Lanka’s constitution. Chapter III of the constitution guarantees the right to personal liberty and freedom from arbitrary arrest and detention. Article 13(5) states that “every person shall be presumed innocent until he is proved guilty, provided that the burden of proving particular facts, may, by law, be placed on an accused person”. This contradicts Sri Lanka’s authorisation of preventive detention, which is based on suspicion of future criminal activity. Under preventive detention, the person is presumed guilty until proven innocent.

Torture or cruel, inhuman or degrading treatment is prohibited in article 11 of the constitution.

Article 13 of the Sri Lankan constitution has a number of safeguards for those being detained such as freedom from arbitrary arrest (article 13(1)) and the right to be informed of the reasons for arrest. Article 13 (2) states that “every person held in custody, detained or otherwise deprived of personal liberty shall be brought before the judge of the nearest competent court according to the procedure established by law, and shall not be further held in custody, detained or deprived of personal liberty except upon and in terms of the order of such judge made in accordance with the procedure established by law”. However, Article 15 of the constitution states potential restrictions on the safeguards and rights described in Article 13, such as in the interest of national security, public order and the protection of public health or morality.

Under the Code of Criminal Procedure (CCP), there are a number of provisions which safeguard the integrity of a person arrested or detained including a time limit of 24 hours for
police custody, the notification of the Magistrate’s Court of arrests of persons without warrant by any police officer and informing the arrested persons of the reason for arrest. xxiv The Code of Criminal Procedure (Special Provisions) Act No 42 of 2007 extended the maximum allowable period of detention to 48 hours in some cases. In 2009, this law expired but the government passed a new law in January 2013 that allows the police to continue to hold detainees for 48 hours, providing further scope for torture and abuse. However, the authorities have disregarded their own laws, and many detainees are held for much longer lengths of time without being produced before a magistrate. xxv

Furthermore, the code does not mention safeguards such as the right to inform a family member of the arrest, or the access to a lawyer for a person arrested and held in custody. Under the six-clause Presidential Directive of 7 July 2006 on protecting the fundamental rights of persons arrested, if a person is arrested under Emergency Regulations or the PTA, they should be informed of the reason for their arrest, the person should be allowed to make contact with family or friends to inform them of his whereabouts, and the directive lays out safeguards for children under 18 and women. Those detained should be allowed to make a statement in the language of their choice and members of the National Human Rights Commission should be given access to the arrested person at any time at the place of detention, and must be informed within 48 hours of any arrest or detention. xxvi

Articles 321 and 322 of the Sri Lankan Penal Code criminalises acts such as intentionally causing harm or grievous harm with the aim to extort confessions or information leading to the detection of an offence. xxvii However, under PTA, the burden of proof is reversed, and the onus is on victims to prove that their confessions were made under duress/torture. xxviii

International legal framework

The International Covenant on Civil and Political Rights, which Sri Lanka is a party to, states that “no one shall be subjected to arbitrary arrest or detention and deprived of his liberty except on such grounds and in accordance with such procedure as are established by law, that anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him, that anyone arrested or detained on a criminal charge shall be brought promptly before a judicial authorities and are entitled to trial within a reasonable time or to release.

The Covenant also affirms the right of a detainee take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful and that anyone who has been the victim of unlawful arrest or detention shall have the right to compensation. The Covenant also guarantees the right of all detainees to be treated with humanity, with respect for his / her dignity. xxix

4. History of violence against Tamil political prisoners

In its 1983 annual report, Amnesty International stated its concern about reports that between January and March 1982, Tamils in the north were being arrested under the PTA and held without charge or trial. At least 65 people were detained without charge or trial in mid-December 1982 and made allegations of torture and ill treatment against security
Amnesty International reported the first trial under the PTA, which took place in 1982, and resulted in death sentences being passed to Selvarajah Yogachandiran and Ganesanathan Jeganathan, who were convicted of murdering a police officer on 21 March 1979. The men were in army custody during their detention and trial and stated that their confessions had been extracted under torture. In its report the following year, in 1984, Amnesty International stated that “a major concern was the killing of randomly selected Tamil civilians by members of the armed forces and the killing in prison of a large number of Tamil detainees held under the PTA.”

In July 1983, Amnesty International published the “Report of an Amnesty International Mission to Sri Lanka, 31 January - 9 February 1982”. It described accounts of torture from detainees who had been attacked in army camps and prisons. These methods of torture included “hanging victims upside down from hooks, beating them with metal bars, driving needles under finger-nails and applying chilli powder to sensitive parts of the body.”

While the incidents listed below are by no means neither definitive nor comprehensive records of the incidents or number of people who have died while in detention, they indicate that brutality and violence within Sri Lanka’s prison has been systematic over the past three decades.

Furthermore, the list below indicates that torture and death within police custody has not been confined to a few “rogue apple” prisons; Tamil political prisoners have been attacked and abused in a range of prison and in army settings, mostly in predominantly Sinhalese areas in the south of the country. It is evident that Tamil political prisoners are more at risk, from their jailors and fellow inmates, in areas where the Sinhalese population is in the majority. This is because they are perceived as LTTE fighters by both Sinhalese inmates and prison guards and are seen as posing a threat to Sinhalese majority population. Yet instead of putting Tamil prisoners in Tamil majority prisons in the north of the country, after each bloody prison incident the Sri Lankan government have continued to put Tamil prisoners’ lives at risk by taking them to majority Sinhalese populated prisons, where they are isolated from their families and vulnerable to attack.

**Death of K. Navaratnarajah at Gurunagar army camp - 1983**

One notorious case, which was highlighted by Amnesty International at the time, was that of K. Navaratnarajah. Navaratnarajah, a 28-year-old farmer from Trincomalee who died in army custody at the Gurunagar army camp, near Jaffna, on April 10 1983, just before the anti-Tamil pogrom began later on that year. He had been arrested two weeks previously under the Prevention of Terrorism Act. According to the findings of Dr N. Saravanapavanathan, a professor of forensic medicine, at the University of Jaffna, which were printed in the Saturday Review newspaper: “There were twenty-five external injuries and ten internal injuries in the deceased Navaratnarajah’s body. The contusions in his lungs could have been caused by blows. I am of the opinion that death was due to cardio-respiratory failure, due to multiple muscle injuries and contusions of the lungs. In my opinion, adequate treatment from an institution would have saved his life.” Despite the evidence
linking security forces complicit in the death of Navaratnarajah, no one was prosecuted.

After the inquest on the death of Navaratnarajah, the police raided the mortuary in an attempt to try and find inquest files, but Dr Saravanapavanathan had hidden them elsewhere.xxxxvi

According to University Teachers for Human Rights, the damning evidence provided by Dr Saravanapavanathan that showed Navaratnarajah had been attacked and beaten while in the custody of the security forces, led to the Emergency Regulation 15a being passed in July 1983, which allowed security forces to bury or cremate bodies of people shot by them without revealing their identities or carrying out inquests. xxxvii

Welikada massacre - 1983

During the Black July pogrom in 1983, 53 Tamil political prisoners were killed by Sinhalese inmates, following two riots at the Welikada high security prison in Colombo, with evidence that prison guards were complicit in the massacre.xxxviii xxxix The first riot took place on July 25 1983, resulting in 35 Tamil prisoners being killed. A curfew was imposed at the end of the day, yet this did not stop further riots erupting at the prison on July 27, with a further 17 Tamil prisoners being killed by their Sinhalese inmates.

According to the International Commission of Jurists 1984 Review report called “Ethnic violence in Sri Lanka”, Tamil prisoners and Sinhalese inmates had been kept in separate cells. Yet survivors of the incident say prison officers allowed the keys separating the cells to fall into the hands of the Sinhalese prisoners, while prison officers said that the keys were stolen from them. The report stated that “It is not clear how it was possible for the killings to take place without the connivance of prison officials...since Welikade prison is a high security prison.”xl

The Sinhalese inmates who attacked their Tamil prisoners were “wielding spikes, clubs and iron rods.”xli How the inmates obtained these weapons has not been answered by the authorities.

Furthermore, the fact that the second riot was able to take place, under the purview of the prison authorities, following the first riot and within a wider frenzied climate of anti-Tamil sentiment and violence, suggests at best, complicity on the part of the prison authorities, and at worst, premeditation. The Sri Lankan state has never accepted responsibility for the incident.

Kalutara prison riots- 1997

In December 1997 riots took place in the high-security Kalutara prison, resulting in the death of three Tamil political prisoners by Sinhalese prisoners.”xlii

Bindunuwewa massacre- 2000

In October 2000, 27 Tamil political prisoners were killed in a detention/ “rehabilitation” centre at Bindunuwewa by a mob of villagers who stormed the building.xliii The Sri Lankan courts acquitted all those who had been accused of the attacks, stating there was no evidence to convict them.
In this instance, the disregard for the human rights of Tamil prisoners can be traced from the prison guards at the detention centre, right up to the government headed by President Chandrika Kumaratunga.

However, at the time, the authorities attempted to cover up the incident, presenting it as an outbreak of mob violence instigated by the inmates of the centre. According to the Asian Centre for Human Rights Review, the Sri Lankan Human Rights Commission stated that “all the information we [SLHRC] have been able to gather so far does not suggest that what occurred on the 25th was an unpremeditated eruption of mob violence caused by the provocation of the inmates. It is more consistent with a premeditated and planned attack.”

The Sri Lankan Human Rights Commission presented evidence that showed the incident was an organised massacre. It reported that posters had appeared in Bandarawela town, inciting people to commit violence against Tamil inmates and the rehabilitation camp. One of the survivors of the incident, Thambirajah Nawarajah, stated that he was attacked by seven people, while two or three prison guards stood only yards away from where he was. The police stated that they had fired on the crowd to stop the rioters. However, no Sinhalese attackers were injured or killed in the police firings; all victims were Tamil. There had been systematic efforts to destroy legal proceedings, with the police arresting about 250 innocent villagers immediately after the massacre, the removal of detainees' bodies from the scene of the incident and the removal of bullets from the bodies of victims. At the time of the incident, there were 60 armed policemen present at the site. They did nothing to stop rioters who were armed with poles, clubs and axes.

In his 94-page judgment, Sarath Ambepitiya, chairman of the three-judge bench of the Trial-at-Bar said: “If not for the complicity of police officers, this would have been avoided...when the victims went running to policemen seeking protection, they were fired at by the police”.

When the trial began in 2000, there were 44 suspects in the case, among whom nineteen were policemen. On March 25 2002, the prosecution filed an indictment before the Trial-at-Bar against 41 people accused of the murders of 27 people, and after a year the Trial-at-Bar convicted two police officers and three Sinhalese civilians. However, in May 27 2005, the Supreme Court acquitted those who had been convicted by the Trial-at-Bar. It stated that the Trial-at-Bar had “misdirected itself” by accusing the police of destroying evidence when they had removed detainees’ bodies, when they had been seeking to “preserve the peace”.

Welikada Prison attack - 2011

On 26th November 2011, Tamil prisoners at Welikada Prison were assaulted by prisoners, prison guards and officers. The prisoners were thrown out of their cells with their possessions, the crutches of disabled prisoners were broken and they were left out in the rain to drench. When families came to visit on that day with food parcels for the prisoners, they were taunted and told that the prisoners were celebrating the birthday of Velupillai Prabhakaran (the late leader of the LTTE) and the food was thrown away.
5. The Post-War period and lack of reform

The civil war ended in May 2009, after the Sri Lankan government mounted a ruthless clampdown to eliminate the LTTE. In the last days of the war many who had been part of the LTTE for even a few days, and some only in civilian capacities, were compelled to surrender or were arrested. Families and eyewitnesses have said that many of these people who surrendered to the Sri Lankan army disappeared.

In April 2011, Human Rights Watch found that more than 20 people who were taken into army custody between May 16 and May 18 2009 appeared to have “forcibly disappeared”. Most of them had been detained in the Vadduvaakal area, in an area controlled by the Sri Lankan’s army’s 59 division. About half the people involved in the cases documented by Human Rights Watch were detained when dozens of LTTE members surrendered to the army, along with Reverend Francis Joseph, a Catholic priest.

According to testimonies of families and eyewitnesses heard by the Watchdog team, the actual numbers exceed one hundred. The Tamil National Alliance (TNA) spokesman and Jaffna District parliamentarian, Suresh Premachandran, has also gone further than Human Right Watch’s estimate. “About 200 LTTE cadres surrendered to the army with Father Francis Joseph on that instance. And since then, up to today, no one knows anything about the whereabouts of those surrenders.”

Even the Lessons Learnt and Reconciliation Commission (LLRC), a government appointed panel, has documented the disappearances of some LTTE cadres who surrendered during the final days of the war in May 2009. They were alleged to have disappeared and were reported as “missing”. The panel also referred to the incident described by Human Rights Watch, where Reverend Francis Joseph and others disappeared after surrendering to the army.

Following the end of the war, many human rights defenders within Sri Lanka and international observers hoped that the government would quicken its processing of political prisoners being held in arbitrary detention. Moreover, the use of Emergency Regulations and PTA to hold detainees for prolonged periods of time no longer seemed justified as the LTTE had been eradicated.

However, these hopes proved to be fruitless. In August 2011, Sri Lanka lifted its state of emergency, which had been in place since 1971. To some in the international community, it appeared that Sri Lanka was making efforts to restore stability after three decades of emergency regulations. However, what these international commentators failed to observe was that the government retained the Prevention of Terrorism Act and introduced regulations under the PTA which maintained the ban on the LTTE and continued the detention of LTTE suspects without charge or trial.

In his analysis of the lifting of emergency laws J C Weliamuna, a human rights lawyer, said that the “emergency was removed mainly in response to international demand” to “impress upon the international community that the country has returned to normalcy”. He concludes by stating that the extension of PTA amounts to the “restoration of some of the key emergency powers in peaceful times, contrary to basic national and international legal principles.”
In November 2011, the report of the presidential commission of inquiry “Lessons Learnt and Reconciliation Commission (LLRC)” was finalized, and was presented to parliament in December 2011 and made available to the public. Although the LLRC was widely criticised by the major Tamil political party in parliament, the Tamil National Alliance, and international human rights organisations for being biased towards the government, the commission did make some criticisms of the government on some subjects, including the treatment of prisoners, and it offered some recommendations.

The LLRC acknowledged how endemic arbitrary detention in Sri Lanka had become, and saw the government’s decision to lift Emergency Regulations as a step towards reconciliation and the restoration of normality. It recommended that legal provisions should be adhered to by law enforcement authorities when taking people into their custody, such as the issuing of a formal receipt regarding the arrest and providing details of the place of detention. It also said that people should be detained only at formal places of detention declared under the law, and that they should be allowed access to their next of kin.

The LLRC went on to discuss the PTA and how people have been detained in custody for a long period of time under the act. The commission recommended an Independent Advisory Committee be appointed to monitor and examine the detention and arrest of people taken into custody under the PTA. The commission also recommended measures to protect the rights of detainees, such as:

- The next of kin of detainees should have the right to know the whereabouts of their family members who are in detention, so a centralised comprehensive database was needed
- Next of kin should not be denied access to detainees
- All places of detention should be those that are formally designated as authorised places of detention. Strict legal provisions should be followed by the authorities when taking people into custody, such as issuing a formal receipt of arrest and providing details of the place of detention
- A screening process should be in place to identify detainees with young children, those who are physically disabled and those recovering from injury and medical interventions, and they should be provided with the special assistance that they may require
- “The Commission expresse[d] concern” over detainees who had been incarcerated over long periods of time without charges being made, with the report urging the authorities to deal with cases by bringing charges or releasing detainees where there was no evidence of any criminal offence having been committed

However, since the LLRC published its findings no attempt has been made to implement any of the recommendations and some have been blatantly violated.

6. Current situation

Even in 2013, Tamils continue to be arrested under PTA. From January 2013 to February 2013, at least 40 people have been detained under PTA. A significant proportion of those
arrested were picked up in police operation in Trincomalee, in the east of Sri Lanka. About a third of those arrested have been taken to Boosa's TID unit, and a few are on the notorious “4th floor” of Secretariat Building in Colombo, which is home to the Criminal Investigation Department. In the remaining cases, the families of the detained do not know where their loved ones are being held.⁶⁷

Many Tamil political prisoners are being held in jails across the country because of their involvement or suspected involvement with the Liberation Tigers of Tamil Eelam (LTTE). However, many have never formally been told why they were arrested or how for long they might be held.

The prisons that Tamil political prisoners are and have been held at include:

- Welikada (Colombo district, Western Province)
- New Magazine (Colombo district in the Western Province)
- Negombo (Gampaha district in the Western Province)
- Boosa – run by the TID, not by the Department of Prisons (Galle district in Southern Province)
- Bogambara (Kandy district in Central province)
- Badulla (Badulla district, Uva Province)
- Monaragela (Monaragela district in the Uva Province)
- Anuradhapura (Anuradhapura district in the North Central Province)
- Pollonnaruwa (Pollonnaruwa district in the North Central Province)
- Jaffna (Jaffna district in the Northern Province)
- Vavuniya (Vavuniya in the Northern Province)
- Trincomalee (Trincomalee in the Eastern Province)
- Batticaloa (Batticaloa district in the Eastern Province)
- Some Sinhalese political prisoners are also detained at the Colombo Remand Prison (Colombo district in Western Province)

In addition to be held without charges or a trial, some of these prisoners have been subjected to poor living conditions in jails and have frequently faced violence, intimidation and torture. To date, there are political prisoners that have not been charged for at least five years.

According to official statements from May 2010, more than 1,900 people already arrested and detained under the Prevention of Terrorism Act remain in custody pending investigations.⁶⁸ In September 2012, the government said that 180 ex-combatants were waiting to be charged.⁶⁹ Although these persons are often referred to as “hardcore” some of them have been only charged for receiving training under the LTTE. The government report
does not directly acknowledge it, but all these persons are those who have been in detention since May 2009.

There have been numerous protests by prisoners who are unhappy about their living conditions, violence perpetrated by prison officials onto inmates, prison transfers and unwillingness by the Sri Lankan government to quicken their legal proceedings. Family members, opposition politicians, human rights defenders and others have also organized and joined numerous protests demanding the release of political prisoners.

On 19th July 2011, 38 Tamil prisoners in Sri Lanka participated in a hunger strike in Vavuniya Prison, demanding that their legal procedures be quickened. On 28th November 2011, 65 Tamil prisoners staged a hunger strike in Anuradhapura prison seeking assurances that they would be protected in future after being assaulted by prison officials.

Many global human rights organisation have called for the cessation of unlawful detention in Sri Lanka, which they say denies due process to detainees. In its report: “Locked Away- Sri Lanka’s Unlawful Security Detainees” published in March 2012, Amnesty International states that the conduct of Sri Lankan authorities in imprisoning individuals for alleged unlawful acts without prosecuting them or proving to a court that they have broken the law, “is the epitome of arbitrary arrest or detention”, which undermines the judicial system:

“Unlawful detention in Sri Lanka is linked to a climate of impunity where human rights violations of all types go un-investigated and unpunished. Unlawful detention means innocent individuals may be denied justice; it can also mean that people who are guilty of crimes escape accountability. Although many people in Sri Lanka have been detained without any evidence of wrongdoing, some may have credible

CASE STUDY 1

MM
Age: 28

MM worked as an artist. He suffers from polio, which he contracted at the age of three, and has a poorly functioning left arm. When he was arrested, he had been married for five months, and his wife was four months pregnant.

He was arrested at his home in the Mannar district in 2007, by the Sri Lanka Navy in 2007, and taken to the Sunny Village Navy Camp in Mannar. He, and six other young men were arrested under the Prevention of Terrorism Act (PTA) on suspicion of being connected to the LTTE.

They were then handed over to Mannar Police. His wife says that she went with MM’s parents to visit him while he was being held at the police station in Mannar. She says her husband had been stripped and tortured during the night, and was unable to walk properly when they saw him. He had been forced to sign a document stating that he had been in possession of ammunition and was also told not to tell anyone that he had been tortured. He was taken to Mannar hospital and treated for his injuries. He was then handed over to the TID in Colombo a week later. After about a month, MM was taken to Boosa Prison’s TID unit, while also being transported to and from the TID office in Colombo for further interrogation during his imprisonment there. After about a year, he was brought to Magazine Prison in Welikada, Colombo for a year, and finally transferred to the Anuradhapura Maximum Security Prison in 2010.

The TID accuses him of possessing arms at the time of arrest. “He was taken from our home, how could he have had arms?” says his wife.

Both at the TID office in Colombo and at Boosa Prison’s TID unit, he was subjected to torture while undergoing interrogation. He was hung upside down and forced to breathe the fumes of a gas canister.

He was also blind folded and threatened to be shot at if he didn’t answer questions from the prison guards, such as, if he had any weapons and if he could name anyone that was connected to the LTTE. He had said no to both questions.
His toe nails were extracted and he was subjected to electrocution. As a result of his electrocution he was left unconscious for three consecutive days. He was also asked to sign a confession following his torture, stating that he had assisted the LTTE.

He was then instructed not to tell anyone about the torture he had received. During a visit one time, his wife asked him why he was finding it difficult to walk. As they could only speak from either side of a metal mesh, which provided no privacy, he did not want to risk prison guards overhearing him talk about his torture to his wife, and risk receiving more torture from the prison guards.

It was only once MM was brought to the Vavuniya Courts in 2012 that he told her about some of the torture he had endured. He said “I haven’t told you all the details as I don’t want you to cry and be sad. Once I’m released, I’ll tell you everything.”

His wife submitted complaints at the following institutions within a few days of the arrest:

- The International Committee of the Red Cross (ICRC)

MM has had his case heard at Vavuniya High Court, but last year, the judge ordered that thereafter, his case would be heard in Mannar court. About two months ago, he was sentenced to two years in prison and was ordered to pay Rs2000 to the courts. He has been sent to Bogambora prison in Kandy for his jail term. His mother says that when he was sentenced she was not allowed to give him any food or money and when he arrived in Bogambora he was not given food for two days.

During his time in detention, his wife gave birth to his son. However, on prison visits he has been prevented from holding his child. He has been permitted to hold his child only once since he was born. His son is now 5 years old. His wife is an assistant at a Montessori school and earns a salary of Rs. 1500 per month ($11.69/£7.30), grossly inadequate to make ends meet. She lives with her ailing mother and 65-year-old father who works as a day labourer.

Amnesty International’s assertion that the judicial system is being undermined is evident in many of the cases mentioned in this report. In two of the cases described in this report, the prisoners were former LTTE cadres, yet neither had been in combat when they were arrested. However, they have been detained under PTA and tortured. In the other cases discussed, the families of the detainees say that the prisoners had no involvement with the group, yet have been forced to languish in prisons for years. Meanwhile, some of the LTTE’s top military cadres such as Colonel Karuna, responsible for committing crimes such as enlisting child soldiers, have evaded prosecution by allaying themselves with the Sri Lankan government or some, such as Kumaran Pathmanathan (‘KP’), have already been released.

Amnesty International also says in its report, that: “Amnesty International opposes all systems of administrative detention, including those based on unsubstantiated accusations that a person represents a threat to security or public order. It is unacceptable for governments to ignore safeguards built into ordinary criminal justice systems to ensure that people receive due process and are protected against unlawful deprivation of liberty. Administrative detention must not serve as a substitute for criminal proceedings; the fact that the police have been unable to gather sufficient proof to prosecute a person suspected of involvement in illegal activities does not justify administrative detention.”

A report by Freedom from Torture in December 2011 noted that 32 of 35 of the organisation’s Sri Lankan clients who had been detained in police stations, military detention camps, prisons and unofficial detention centres had been held arbitrarily. “In all but three cases there was no observation of due process rights: no formal charge or sentencing, no access to legal
representation, no trial before a judge, no informing family members of their whereabouts and no access to an independent medical examination.” All 35 of the individuals whose cases were examined had been tortured.

7. Transfer of Tamil political prisoners

A common trend among Tamil political prisoners is the process of transferral from prison to prison during their time in detention, without any prior information or reasons being given. The majority of the prisoners mentioned in this report and those who were involved in the Vavuniya prison riot in June 2012 have been transferred to at least three prisons during their time in detention.

Under the PTA the authorities are able to hold detainees where they wish and can move detainees from place to place while under investigation. Prisoners are rarely given a reason for why they are being transferred, yet their families and lawyers believe that the transferral of prisoners occurs when one piece of legislation justifying the prisoner’s detention expires (for example, the Emergency Regulations when it was operating), and a new piece of legislation (PTA detention orders) is enforced when the prisoner is taken to a new location. Thus, the transferral of prisoners functions as a delaying tactic by the authorities, to prevent the release of prisoners.

In another case documented by the Watchdog team, a prisoner who was due to be released at 12 noon after completing his sentence, was immediately arrested and detained by prison authorities for “another case”. Prison officials have no powers to arrest or detain a person. When questioned, the prison official said that his actions were based on an order from above, sent through a fax.

CASE STUDY 2

AT
Age: 49

AT is a former LTTE Cadre, who served from 1993 to 2009. He was left disabled following an injury sustained during the war, which led to one of his legs being amputated. His hometown is Mannar. In 2009, he was going to Jaffna with his family by boat when he was arrested by the navy.

He was taken to Boosa prison within a week, and from there to Welikada prison in 2010. Following an incident at Welikada prison where Tamil prisoners were attacked by Sinhalese inmates in November 2011, he was moved to Anuradhapura prison on November 25 2011 in early 2012, He was later moved to Vavuniya prison.

AT has difficulties walking with just one leg, even with the aid of a prosthetic leg. As the authorities had been unwilling to pay for a prosthetic leg, his wife has paid for one out of her expenses. He also has to use a commode when he goes to the toilet.

Vavuniya High Court made the decision to transfer AT and two other prisoners from Vavuniya prison to Boosa prison’s TID unit in June 26 2012. It was this decision that led to the hunger strike staged by other prisoners in Vavuniya prison.

His wife, was very upset at the time because after the court ruling he was not permitted to return to Vavuniya prison to take his belongings or his commode, despite the judge ordering that his possessions should be sent with him to Boosa prison’s TID unit.

The wife was vehemently against AT being taken to Boosa prison’s TID unit because communication was not allowed there, whereas in Vavuniya prison she was able to call him. Furthermore, Vavuniya prison was more accessible from Mannar, which is located in the north of the country, while Boosa prison is in the south of the country.

The wife still lives in Mannar, and is renting accommodation. She has four children - three girls and a boy. She has found it difficult to cope financially and has few relatives to look after her and she has struggled to pay for her children’s education. Furthermore, she said that the cost of travel to the various prisons where Thayaparan was being held was expensive.

AT was finally released from prison late in 2012.
8. Torture and abuse

Over the years, some of Sri Lanka’s prisons and detention centres have gained notoriety for violence and torture. The headquarters of the Criminal Investigation Department in Colombo is one such location. One former detainee arrested in the north told Amnesty International: “This move to Colombo was the worst...this was the worst...this was total torture...there they had an electric chair. I can’t think about it...you know they have some sayings...the second floor that is inquiry...fourth floor hard inquiry with torture...if you go sixth floor, torture, you don’t come back.”

The TID headquarters is also notorious for torture and the Watchdog team had heard numerous testimonies to this. The TID run detention facility in Boosa has a particularly bad reputation (see case study 1) especially in terms of violence towards Tamil prisoners. The Terrorist Investigation Division is known for taking prisoners to Boosa to conduct inquiries into their links with the LTTE. A detainee held by the TID for three years told Amnesty International: Where we were kept at Boosa is not a prison – it’s a TID detention centre. It’s a separate compound which is only monitored by TID, no prison officials are there. Even if you are brought to the hospital it is TID who accompanies you. There are none of the normal protections of the prison system. By operating outside the prison system, torture is the norm at Boosa.

The TID unit at Boosa prison is in the south of the country, and for most Tamil political prisoners, who are from the north, its location makes it difficult and costly for family and friends to visit frequently. Being in a Sinhalese majority area makes Tamil inmates feel lonely and isolated. It also puts them at greater risk of violence and intimidation, and at times Sinhalese prisoners have attacked Tamil prisoners, often with the Sinhalese prison guards complicit in the violence. At times, political prisoners are completely denied access to their families and are not allowed to receive gifts or food.

The Army, Navy, Police, TID, Criminal Investigation Division, prison guards and Sinhalese prison inmates have been implicated in torture.

Most of the prisoners mentioned in this report have families, yet their children have limited access or time with their fathers. SG was a prisoner who was involved in the Vavuniya prison riot in June 2012 (see case study 3). S, his wife, says that her eight-year-old daughter has been badly affected by the absence of her father, and was traumatized by the sight of him with such heavy injuries after the prison riot. The child’s teacher told S that her daughter is very solitary at school and does not join other children during playtime. She says that her daughter also used to bring her father’s photo to school, in her schoolbook.

On the 26th of February, Human Rights Watch released a report in which they detailed 75 cases of rape and sexual abuse that took place between 2006 and 2012. All of these events took place within detention centres in Sri Lanka, some of them secret. 31 men, 41 women, and 3 boys under the age of 18 reported being victims of rape and sexual abuse. As the Human Rights Watch team was not able to freely conduct interviews in Sri Lanka, it is likely this represents a mere fraction of the total number of detainees who have been subjected to sexual abuse and rape. Often the perpetrators came from more than one
branch of the security forces, and included members of the Sri Lankan army, police, and pro-government Tamil paramilitary groups. In most cases the rapes took place as punishment because the victims were believed to be members of the LTTE. All the victims were Tamil.

9. The Vavuniya riot

On June 1 2012, Vavuniya High Court ordered eight prisoners to be transferred from Anuradhapura prison to Boosa prison’s TID unit.

On June 26 2012, Vavuniya High Court ordered that two prisoners be transferred from Anuradhapura prison to Boosa prison, and on that same day it also ordered three prisoners to be transferred from Vavuniya prison to Boosa prison’s TID unit. According to the families of the detainees, they were transferred because the TID unit at Boosa were conducting investigations into the men.

It was the court order to transfer three men, (see case study 2 for story of one person), from Vavuniya prison to Boosa prison on June 26 which caused the riot to break out.

The Tamil political prisoners at Vavuniya prison were vehemently against the transfer of their fellow inmates, and were especially opposed to the decision to take AT, who was disabled. They decided to start a hunger strike from June 26 2012. On June 29, three prison guards who took food to the prisoners were taken hostage and held captive for 18 hours. There have been no reports that the prison guards taken hostage were abused or physically harmed. A joint operation was launched by the Vavuniya Police, the Army and the Special Task Force to rescue the jailors.\textsuperscript{ix}

The police and army were brought in and tear gas was sprayed on the prisoners. According to a social worker who is in regular contact with detainees and their families, 205 out of the 212 prisoners who had participated in the riot were taken to Anuradhapura prison and 28 out of these 205 prisoners were then tortured.

A father of one of the prisoners, Mariadas Delroxan, states that the 28 prisoners were tortured by more than 250 prison guards. More than 15 detainees sustained severe injuries, and among them three were left in a critical condition.\textsuperscript{x} Some prisoners were also transferred to Mahara prison.

10. Aftermath of the hostage taking of prison guards and attack on prisoners

While 28 prisoners were assaulted in the attack, the most critical cases were Ganesh Nimalaruban and Mariadas Nevis Delroxan, who both died as a result of their injuries sustained in prison. Another prisoner, SG was left in a coma for 10 days, after which he managed to regain consciousness.

The anguish and concern of the families of prisoners who had been injured in the attack was
accentuated by delays in receiving medical attention and restrictions on families visiting them. Delroxan’s family last saw him in prison on June 16 2012, a few weeks before the riot broke out in Vavuniya Prison and they last spoke to him on the phone on June 28 after the hunger strike had started. Regarding the fast, Delroxan’s father, Mariadas Nevis, had said to him: “You are fighting the government and all their arms, think about it.” Delroxan had replied, “If they don’t release us [from prison] we will die.”

After the prisoners had taken hostage their jailors, Delroxan, along with others, was taken to Anuradhapura prison where he was tortured, then to Mahara prison, and finally to Ragama Hospital. However, the authorities did not tell Delroxan’s family about the incident and that Delroxan had been severely injured. Mariadas Nevis says that he only found out through neighbours, on June 29, that there had been a riot in Vavuniya prison. The following day he found out that Nimalaruban had died, and two other people were in a coma, but he did not know the identities of those people.

The anguish of the family in trying out to find out what happened to their son was compounded by a mix-up concerning someone else called Dilrukshan who has been reported missing for a number of years in the region. The family of Dilrukshan had heard that Delroxan had been injured following the Vavuniya riot, and thought he was their missing son. Having not seen their son for years, they went to Ragama hospital, where Delroxan was, and identified him as their son. This confusion was compounded by many news reports which misspelt Delroxan’s name, using the name of the missing Dilrukshan instead, while some reports mixed details of Dilrukshan’s disappearance with the incident concerning Delroxan at Vavuniya prison.

This made it even more difficult for Delroxan’s parents to access their son while he was in hospital. They had to prove to the authorities they were Delroxan’s real parents and obtain

CASE STUDY 3

SG

Date of Birth: 5th December 1969

SG is a prisoner who was injured during the riots at Vavuniya Prison in June 2012. He was born on December 5 1969. His hometown is Murasumoddai, Kilinochchi, in the Northern Province. He has a wife, S, who is 32 years old. They married in 2003, and his daughter was born in 2004.

From 1986 to 1995 he served as a cadre in the LTTE. After leaving the LTTE, he worked on a farm until 2008. However, in that year, as the Sri Lankan government was intensifying its operations to wipe out the LTTE, SG was recalled by the LTTE, who told him to go to Vavuniya to work with them.

When he arrived in Vavuniya he stayed with his sister. His wife does not know the exact work the LTTE had wanted him to do, but she says that he had planned to use the opportunity of going to Vavuniya to leave the country and flee to Saudi Arabia, to avoid both the LTTE and the Sri Lankan army, a decision which his wife encouraged him to pursue.

On October 28 2008 he was arrested by Vavuniya police after they received a tip-off. He was held under the Prevention of Terrorism Act at Vavuniya police station for one month. After this he was sent to Anuradhapura Prison until 2010.

For almost two years, from 2008 to 2010, S did not see her husband, because she was being held in Menik Farm, the IDP camp in the Vavuniya district, where internally displaced civilians were detained and prevented from leaving following the end of the war.

During his time in Anuradhapura prison, SG was tortured and was often taken by the Terrorist Investigation Department to its notorious “4th floor” in Colombo, where he was tortured there too.

In December 2010, he was moved from Anuradhapura prison to Vavuniya prison and he was tortured there too.

In terms of the torture SG received in Anuradhapura prison and the 4th floor in Colombo, S says her husband was hit repeatedly on the head. On one occasion following an attack he was unable to see for a while. At other times, he was blindfolded, dangled upside down with his legs tied and the soles of his feet were hit repeatedly.
Delroxan’s family said every time he tried to go to the hospital to see his son he had to get permission from the prison. On July 11, when Mariadas Nevis tried to see his son for the first time since the prison riot, he had to spend three hours waiting in Mahara prison while the prison made inquiries over his identity, before they finally gave him permission to see him in Ragama hospital.

Mariadas Nevis says that when he finally saw his son in hospital, he was so shocked at the extent of his son’s injuries that he felt giddy. Delroxan had a large bandage on his head and his hands and legs were at jaunty angles, indicating that they had been broken. He had a sarong covering the lower part of his body, but the prison guards would not let Mariadas Nevis see the injuries to his legs or lower region. Despite being in a coma he had been chained to the bed and was being watched over by a prison guard.

Mariadas visited his son on July 13, 14, 17 and 28. On July 28, the doctor told him Delroxan was slightly better, and when his father called out his name, Delroxan twitched slightly. The doctor told Mariadas that Delroxan could be taken home, so on August 7 Mariadas brought forward a court case to take him out of hospital.

However, while Mariadas was trying to bring his son back to Jaffna, Delroxan’s condition deteriorated and he died on 2am on the morning of August 8. His parents fear that he may have been neglected purposely, as even a Catholic Bishop and several Christian clergy had been refused permission to see him in the days before his death, despite him being a Catholic.

Delroxan’s family were not told immediately

After the hunger strike and subsequent riot at Vavuniya Prison, which started on June 26 2012, SG was taken to Anuradhapura Hospital to be treated for his injuries incurred after being beaten and tortured in the violence. He was in a coma for ten days.

On July 11 2012, S’s father went to see SG but was only allowed to see him from a distance.

After 15 days in Anuradhapura Hospital he was transferred to Mahara Hospital, where S, their child and her father went to see him. S says her husband was unable to speak. Having been hit more extensively on the left side of his body, he was unable to see through his left eye or hear through his left ear. His head had been hit, which had caused damage to his nerves. The doctor said that he will need an operation on his head when he recovers. He also could not move one of his legs.

On July 31, he was brought to Vavuniya courts for a hearing regarding the riots, but he could not speak because of his injuries. The judge, Chandramani Visvalingam, told him to go to the ear, nose and throat ward at Ragama Hospital for treatment and requested a report from the hospital.

SG was transferred from Mahara Hospital to Anuradhapura prison on August 27. SG has made a partial recovery: he can speak a little, he has difficulties hearing and seeing. Furthermore, since the attack on his head, he is unable to walk for long periods of time, and has regular fainting fits.

On September 23 2012, he was taken to Jaffna hospital for treatment of injuries sustained in custody. He was discharged briefly on September 29 so that he could make a court appearance on October 2. There the judge ordered him to be admitted to an ear, nose and throat ward again to monitor his condition. He is currently in Anuradhapura prison but goes to Jaffna hospital each month for a clinical update. His doctor has given him a prescription for spectacles; the prison refused to pay so S had to purchase them. He still has difficulties hearing – nine months after the attack at Vavuniya prison.

SG has not asked to undergo the rehabilitation programme. He is accused of possessing weapons.

His wife lives with her parents and her child in Murasumoddi, Kilinochchi. S finds it difficult to cope financially. Her father is old but does occasional electrical repairs while S rears chickens.

S is concerned that her husband’s torture and imprisonment is having a long lasting negative impact on her daughter. She says that her daughter’s teacher has told S that her child often does not join other children in playtime. She used to take her father’s photograph in a book to school. S suffers from severe asthma and always carries an inhaler and pump.
by prison or hospital authorities about the condition nor the death of their son. Later that day (day of Delroxan’s death), Delroxan’s father tried to go and visit him in hospital, unaware that he had died. When he went to Mahara prison to obtain permission from the prison to go the hospital, no one told him that his son had died. After a few hours, one of the prison officials asked him for his identity card and took him to a room where other officials were waiting. A Sinhalese official who could speak Tamil then told him his son had died. Delroxan’s father was unable to speak on hearing the news and cried.

He phoned his lawyer immediately who told him not to sign any documents given by the police. Ragama police came to the hospital with members of the Vavuniya Criminal Investigation Department and told Mariadas to sign a document, which he refused to do because it was written in Sinhala, which he cannot read, write or understand.

This practice of prison authorities and police making Tamil families sign documents in Sinhala, which they cannot understand, has been experienced frequently by the people interviewed for this report. The provision of documents in Sinhala is used as a means of confusing families and making them agree to things they are unaware of, so that the police and authorities can proceed in the way they wish. Families are given little time to read or process the documentation given to them, and they are often forced to sign it immediately, without the advice or presence of legal counsel.

In regards to the authorities’ treatment of prisoners after the riot, they have tried to keep injured prisoners in hospital for the minimum amount of time possible, before returning them to prison. SG, who fell into a coma after being tortured, was only kept in hospital for three weeks before he was transferred to Anuradhapura prison on August 24.

During this time (after he had come out of the coma), he was taken to Vavuniya courts on July 31 for a case regarding his involvement in the riots. He, along with other inmates, were brought on stretchers for these court hearings, when they were visibly too ill to be there (see photograph from Tamil newspaper Virakesari below)

![Photograph from Tamil newspaper Virakesari of SG being taken to give testimony](image)

When the judge saw SG on July 31, in a condition where he was unable to speak, she ordered that he obtain immediate treatment at the ear, nose and throat unit at Ragama hospital and she summoned a hospital report.
Since then SG’s condition has improved, but the doctor has said that he will still need an operation on his head, caused by the torture he received in prison. He suffers from fainting fits if he walks for prolonged periods. Yet despite these health problems, he is being kept in Anuradhapura prison, with limited access to medical facilities.

11. Obstructions to conducting funeral proceedings

Lawyers representing Nimalaruban’s parents say that they (the parents) were among the last people to be informed about their death of their son. Nimalaruban’s mother, Rajeswari, said that the police deliberately lied to them about what happened to her son, and told her he was alive when he was in fact dead.

Vavuniya police had come to Nimalaruban’s house in Vavuniya on July 4, telling his parents that their son was ill and had been requesting to see them. In fact, Nimalaruban had died on July 4 at 6.15am, but his parents did not know about his death until they saw his body on July 5 in Mahara Hospital, even though they had been in the presence of Vavuniya police since July 4, who had known that Nimalaruban was dead. In this period of two days, Vavuniya police took the parents from Vavuniya to Colombo, and repeatedly lied about
Nimalaruban’s condition. (see case study 4 for details of Nimalaruban and account from Rajeswari, his mother, of what happened from July 4- July 6)

In Colombo, the police put the parents in a guest house, while the police officers stayed in another room in the guest house. Rajeswari recalls that on the morning of July 5 a tea boy working at the guest house had told them that he had overheard the police saying that someone in her family had died. When she asked the police officials about their comments, they denied that Nimalaruban had died. A few hours later, a police official said to the parents: “I just gave some water to your son; he is happy to be seeing you.”

Once the parents finally got to see their son’s body, on a stretcher on the veranda of Mahara prison hospital, they were restrained by the police who wanted to contain the situation to avoid attracting the attention of passers-by or media. Rajeswari was physically restrained from accessing her son’s body, and when the couple were in Mahara prison hospital the police physically prevented them from leaving the hospital.

Immediately after learning the truth about their son’s death, Nimalaruban’s parents were ordered to sign a document in Sinhala. However, neither Rajeswari nor Ganeshan read or understand Sinhalese, and no effort had been made to translate this document into Tamil. Nimalaruban’s parents refused to sign the documents as they did not understand what the document entailed.

Nimalaruban’s parents then faced many obstacles obtaining their son’s body. They wanted to take his body from Colombo back to their home in Vavuniya to perform his funeral rites. However, the police wanted to keep his remains in Colombo and bury the body there. Rajeswari recalls

Rajeswari’s account of the Vavuniya riot

Rajeswari last saw Nimalaruban on June 28 2012 at Vavuniya Prison, and she brought him some biscuits to eat. At this point, the prisoners had started their fast to protest against the transferral of prisoners from Vavuniya prison to Boosa prison’s TID unit. Rajeswari told Nimalaruban that if he was not going to eat the biscuits then, he should save them for later.

On June 29 she tried to visit the prison but was not allowed to see her son or give him food. It was at this date that prisoners were transferred to Anuradhapura prison.

On June 30, Rajeswari went to Anuradhapura prison but was not allowed to see her son, and was told to come back on July 2 instead.

On July 2 she went to Anuradhapura prison again and was told that her son had been taken to Mahara Prison but they could not see him. She did not ask why because the police official who had told her this spoke in Sinhala and she could not speak Sinhala. On the morning of July 4, the police came to Rajeswari and her husband’s home in Vavuniya, saying that their son was sick and had been calling for his mother and father to come and see him. The parents were told to accompany the police to Vavuniya police station.

When they reached Vavuniya police station, Rajeswari heard a female official say in Sinhala, “bring the body”, to another female colleague. When Rajeswari asked a police officer about the body, she was told that there was nothing to worry about and it was a different body that the women had been referring to, not that of her son’s. Nimalaruban had died by this point, on July 4 at 6.15am.

At about midday, they were taken by the police in a jeep to Mahara police station in Colombo. At 7pm they arrived in Mahara station, but instead of exiting the jeep, police from Mahara station registered the parents’ details within the jeep. The family were kept in the jeep from 7pm to 9pm. Rajeswari asked the police officials if she could see her son considering they had told her that her son had been asking after his parents. The police replied that Nimalaruban was in the intensive care ward at the hospital, but it was closed so they would have to return the next day.

The police said to Rajeswari and her husband that if they signed a document they would transfer him to Vavuniya Hospital. She refused to sign the document they had provided, because it was in Sinhala.

The police took them to a guest lodge to stay over night. The couple were given a room while five policemen stayed in another room. That night the policemen asked Ganeshan, Rajeswari’s husband, if he wanted to have a drink of arrack with them, but after being reprimanded by his wife he refused.

On the morning of July 5, after waiting to be taken to see their son, Rajeswari asked the police why they could not see him.
that the police had threatened that: “There will be 10 more deaths if his body is taken to Vavuniya.” The judge in Mahara magistrates’ court stated that according to the request of the police, the body would be buried in Colombo. Initially, the family’s lawyers told the family that there was nothing they could do to overturn the decision. It was only through Rajeswari’s insistence, and threats to kill herself that the family’s lawyers were spurred to act more decisively. They were able to push the courts to postpone the deadline for the burial of the body and allow the transferal of the body to Vavuniya.

Similarly, Delaroxan’s families have faced difficulties in obtaining the body of their son. Delaroxan died on August 8 and his family was given his body on August 9 at around 5.30pm. However, a senior Police officer had obtained a magistrate order stating that the body had to be buried on the August 9, leaving the family a few hours to conduct the funeral arrangements, which they had wanted to conduct in Jaffna.

According to the Sri Lankan newspaper, the Daily Mirror, Activists for Human Rights (AFHR) alleged that the Jaffna police tried to influence family members to conduct Delroxan’s funeral immediately. Udul Premarathne, an AFHR executive committee member, told the paper that Jaffna police had also requested the Jaffna magistrate to issue a court order to prevent a large crowd from attending the funeral, with Ajith Rohana, police spokesman, defending the decision by stating that the order was obtained to prevent the funeral turning into a political commotion.\textsuperscript{lxxiv}

The article also states that the Jaffna magistrate had refused to issue the court order and had advised the family to hold the funeral according to their wishes.\textsuperscript{lxv}

However, according to Delroxan’s father it was only through the intervention of lawyers that the magistrates postponed the funeral date. But they stipulated that no processions nor public displays of mourning were allowed at the funeral. Some lawyers obtained permission to
conduct the funeral with funeral rites, which took place on August 11 (see image below of Delroxan’s funeral, printed in Virakesari, a Tamil newspaper).

Even after the bodies of Delroxan and Nimalaruban were finally released, the families of the victims had to contend with military and police interference at both funerals.

The Watchdog team observed a strong Police and military presence at Nimalaruban’s house and later at the funeral. This can be seen clearly in the photos published by the citizen journalism group Vikalpa, which were uploaded onto the Groundviews website. In the photo slideshow, police officers are clearly visible lined up on the side of the road. In one photograph, there appears to be about six police officers next to a police truck. In another photograph police officers can be seen following the casket carrying the body as it is driven in the car.

In the video published on the citizen journalism website, Groundviews, Suresh Premachandran, MP from the Tamil National Alliance party, criticized the excessive presence of police present during the funeral proceedings. He said that before Nimalaruban's body was brought back to Vavuniya, members of the police tried to visit the house. He also said friends and neighbours of Nimalaruban had wanted to pay their last respects to the body, but the majority of people were prevented from doing so by the police.

Nimalaruban’s mother features in the video of Nimalaruban’s funeral, and her impassioned speech (part of which is below) highlights the

who had heard about Nimalaruban’s death from TV news reports. The lawyers told the police to come to Mahara courts. In Mahara courts more police turned up. The police said that they did not want Nimalaruban’s body to be released and taken to Vavuniya, stating that they wanted to keep his remains in Colombo. Rajeswari said that the police had said: “There will be ten more deaths if his body is taken to Vavuniya.” The Mahara judge in the Magistrates’ court stated that according to the request of the police, the body would be buried in Colombo. The family’s lawyers told the family that there was nothing they could do to overturn the decision and Ganeshan resigned himself to their decision.

Rajeswari decided to protest the decision by lying on the road, in front of the jeep. She told the police: “Take me with my son. You killed my son, now you kill me.” After this, her lawyers told her to get up, stating that they would file a case.

The police told her that Nimalaruban’s body had to be taken before Monday 9 July or else the authorities would bury the body, to which Rajeswari agreed. The police told her to go inside and see a Tamil doctor who was in the hospital.

He told Rajeswari that Nimalaruban’s death had been caused by a heart attack. She replied to the doctor’s claim, asking him why her son had scars and bruises all over his body if he had died because of a heart attack.

After this the police drove them in the jeep back to Vavuniya. They reached Vavuniya at 1am on July 6. The family had thought no one knew about Nimalaruban’s death, but when they got home they found many people from Jaffna at their house, who knew about Nimalaruban’s death. In the morning, three Criminal Investigation Division officers came to their home. Rajeswari demanded why they had come, after which they left.

Nimalaruban’s parents say that from the moment the police came to their house to say that Nimalaruban had been asking for them on July 4, up until July 6, they had effectively been kept under custody, as at no point were they let out of police sight.

The family finally approached the Supreme Court to allow them to postpone the date of the funeral and take the body to Vavuniya to conduct the funeral.

On July 23rd the family received the body. Ganeshan signed a document with the mortuary to receive the body. The family then took the body to Vavuniya, with six policemen following the body in a separate jeep. The police said they were accompanying them for the family’s own protection.

On July 24 the funeral occurred at 4pm.
Before he died, Nimalaruban had said to his mother: “It is better to die than to be like dogs in chains everywhere we go.”

During his time in prison, Nimalaruban’s family fell into debt. They had pawned their land in Jaffna for 1 lac (Rs 100,000). They pawned this land because their son was in prison, and they needed money to feed him and others. Rajeswari visited her son nearly everyday in prison and about Rs1,000 a day was needed to feed him and others in the prison.

Nimalaruban told her to sell the land, and that he would redeem it when he was free. Currently, the family is in need of money. Rajeswari’s husband is ill, mainly due to ailments associated with old age. They were given money by their friends and people in the community, including local politicians, to help with the cost of Nimalaruban’s funeral.

The official post-mortem into Nimalaruban’s death has been contradictory, stating that he had a heart attack because of the Vavuniya riot. However, the report seemed to absolve the authorities of blame by stating that the cause of death was because of a heart attack rather than torture.

anguish, anger and helplessness of many of the families whose loved ones are in prison.

“Come and shoot me. I am not afraid. People need justice and the truth. The people who beat my son up are animals. My heart burns. Those who killed my son will suffer the same fate. I didn’t teach my son to steal or kill. My son’s father worked hard to raise my son. Nothing good will come to them. Shoot me, I am not afraid. Bullets can enter my heart. I will be in pain. But I am unafraid. I had my son after waiting twelve years. I enjoyed bringing my son up. If my child had done wrong, he should have gone to courts and received punishment. But what law has it that my child was tortured and killed? My son was hidden somewhere and killed. If you had killed my son in front of me, you would understand who I am. Now they have surrounded my house with thousands of guns. I have nothing. Come, if you can.”

12. The rehabilitation and pleading guilty “options”

Many of the prisoners who appeared at Vavuniya High Court for their cases over their involvement with the LTTE have chosen to plead guilty to allegations that they were LTTE cadres. The families of some of the prisoners say that their loved ones have had no links to the LTTE, but are being pressured to plead guilty in order to undergo rehabilitation (see case study 5), which should ensure their release within around one year.

Under Sri Lankan law, administrative detention without charge or trial is permitted for the purposes of the rehabilitation of “surrendees” under Regulation 22 of the Emergency Regulations 2005. This means “rehabilitees” can be detained without judicial review or access to legal representation for up to two years.

In 2011, emergency laws were lifted but new regulations were introduced to the PTA, to legalise detaining “surrendered persons” under the label of rehabilitation.

The Sri Lankan government has lauded its rehabilitation program, which it says fulfills its commitment to ensuring the process of reconciliation and indicates that it has shown mercy towards the LTTE following the end of the civil war. According
to the Ministry of Defence’s website, the “primary focus of the rehabilitation and reintegration programme was to equip the former LTTE cadres with alternative means to a meaningful existence.”

Former LTTE cadres who accept the rehabilitation programme are meant to go “Protect Accommodation and Rehabilitation Centers” where they undergo “education and vocational training, sports, meditation sessions, facilities to involve them in religious activities, health care and even entertainment facilities.”

The government claims rehabilitation is voluntary, yet many detainees have said they have been forced or coerced into undertaking it. Furthermore, there have been numerous reports of people who have completed the rehabilitation programme, yet still face threats, intimidation, re-arrest (see case study 5), questioning and surveillance by military, police and intelligence officials. Other ex-detainees have said that during their time in rehabilitation, they did not have access to legal counsel and some have reportedly been beaten during interrogations while undergoing the rehabilitation programme.

Despite lauding rehabilitation as a means of reintegrating former LTTE cadres into society, it is being used as a way of keeping prisoners in detention for longer. Under Sri Lankan law, administrative detention without charge or trial is permitted for the purposes of the rehabilitation of “surrendees” under Regulation 22 of the Emergency Regulations 2005. This means “rehabilitees” can be detained without judicial review or access to legal representation for up to two years.

All this evidence suggests that the process of rehabilitation is a farce, a “disguised form of punishment for alleged criminal offences.” Furthermore, the manner in which the rehabilitation camps are run – by detaining Tamils in confined surroundings and under the constant scrutiny of the security forces rather than professionals – is counterproductive to the process of rehabilitation.

Despite its risks, for the families of many political prisoners who have chosen to undergo rehabilitation, it seems to be the preferable option of the two that can secure the release of their loved ones – the other being pleading guilty and accepting sentencing. Yet this decision does not render them free of further suspicion or re-arrest in the future. Furthermore, it shows how Sri Lanka’s judicial system is failing its citizens; many innocent people are compelled to admit to crimes they did not commit in the hope of being released.

In the past few months, students from the University of Jaffna were made to undergo rehabilitation after security forces attempted to prevent students from commemorating “Martyrs Day” on November 27 2012, which commemorates those who have died in the Sri Lankan civil war, including dead LTTE soldiers. The event is marked by lamp lighting and vigils. The following day, students at Jaffna University initiated a silent protest against these curbs on their freedom of expression. The students were baton charged by the Riot Police Unit, with some students beaten in the violence. At least 20 students were injured and taken to hospital for treatment.
After questioning dozens of university students, security forces arrested four student union members and sent them to the TID office in Vavuniya, where their parents were denied permission to see them. The students were arrested under the Prevention of Terrorism Act. On December 9 these student union members were transferred to Welikanda Rehabilitation Centre, on suspicion of being involved in “transnational terrorism.” The rehabilitation centre is in fact a military camp, which was at one point notorious for torture following the end of the Sri Lankan civil war in 2009. The camp holds around 600 ex-LTTE cadres. The army commander of Jaffna stated that the students’ activities, in terms of remembering those who had died, symbolized the return of the LTTE’s leader and the students would require rehabilitation to prevent them causing trouble at the university. On January 22 two of the students who had been arrested were released and on February 12, the other two students were released from rehabilitation, after several appeals made by their parents and domestic and international pressure.

There is little evidence to suggest that the student union members who were arrested by security forces had any prior involvement with the LTTE. The students were strong activists and had taken part in marches and protests against violence and intimidation by the Sri Lankan military. Therefore, their detention in “rehabilitation” was a form of punishment enacted by the state for these activities. The students were sent to rehabilitation instead of prison, suggesting that there was no evidence of criminal activity which could have been substantiated in court, had they be sent to prison. Furthermore, the authorities justified the students’ rehabilitation by stating that it was a preventative measure, to stop them from any future criminal activity. Thus, rehabilitation, along with the Prevention of Terrorism Act is been used by the Sri Lankan state to conduct preventative detention, arbitrary detention and human rights violations.

The process of “rehabilitation” in camps and centers run by security forces is a clever tool being used by the Sri Lankan government. Now, that the war has been over for a few years and no credible chance of the LTTE reemerging, it is becoming increasing difficult for the Sri Lankan government to justify to the international community why people are being detained under PTA in...
CASE STUDY 6

JM

Age: 28

JM’s family are from the Northern province. He and his family were displaced in April 2009, towards the end of the war. They attempted to flee to Jaffna by boat. However, the navy arrested them and brought them to an internally displaced persons camp in Pulmoddai, Trincomalee in the Eastern province, where they were handed over to the police.

The police had set up two internally displaced persons camps and were putting people there, including JM’s family. The army, CID and police ran the camp. JM was separated from his family and in late 2009 2009, he was taken from the camp by the army.

One of JM’s brothers had been injured by a shell during the war and was in need of treatment, so his family managed to gain permission to leave the camp to get treatment for him. JM’s family found out that JM had been taken to Pampaimadu detention camp in Vavuniya, after about 2 months. Pampaimadu is a detention camp where former LTTE cadres were kept when they surrendered or after they were arrested. In mid 2010 JM was sent to Kanthakadu rehabilitation camp in Batticaloa.

In 2011 he was brought back to Pampaimadu detention camp and was told he was going to be released within 2 weeks. However, after about a month he was taken to Boosa’s TID unit with 22 others for inquiries by the TID. They were told that they would be there for only three months. JM was kept there until February 2013.

JM’s parents said that political prisoners in Boosa’s TID unit were forbidden from accepting any food or drinks by their relatives when they came to visit. Families could only visit prisoners for ten minutes and even then they had to speak through a wire mesh, which made it difficult to hear what the prisoners were saying. JM’s parents say that they had no privacy when they spoke to JM as there were prison guards surrounding them. They also said that they spent two days travelling from the North to see JM, yet they were only allowed to see him for 10 minutes.

In February 2013, JM was transferred to New Magazine prison in Colombo. The Bishop of Mannar, a vocal critic of Sri Lanka’s human rights record and Dr Jayalath Jeyawarden, a member of parliament who represents the opposition United National Party, visited political prisoners in New Magazine prison on February 28 2013. The Bishop promised prisoners that he would act in order to help secure their release.

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13. Post- release threats, restrictions and harassments

Amnesty International states that people released from months or years in detention have remained under surveillance by intelligence forces, with many required to report weekly or monthly to the police. Former detainees have been harassed, re-arrested and physically attacked. Amnesty International states that killings and enforced disappearances of newly released detainees have also been reported.

In May 2012, a former detainee from Boosa’s TID unit who was released in January 2010 was re-arrested at the airport. This person had left the LTTE in 2003 and was married with three children.

Similar experiences were documented in interviews undertaken in April 2011 of 15 former detainees from villages in the Vanni region. Ex-detainees stated that
following their release from detention they had to register themselves with government intelligence officers attached to the Criminal Investigation Department and army intelligence officers in the area. At least three ex-detainees said they had been interrogated by the CID and the army regarding links with the LTTE, and had been pressured to identify others who had connections with the LTTE. All ex-detainees said that the CID and army visited their homes at least once a week or once a fortnight, and some of the male ex-detainees expressed fears about male army and CID officers deliberately visiting their homes when their wives were alone in the house.

Many of the ex-detainees have found it difficult to find employment following their release from detention because of travel restrictions imposed by the CID, and the stigma of being associated with the LTTE. However, some of these former detainees were forcibly recruited into the group and some of them have never actually fought in combat.xcvi

14. Flaws in the system

The incident in Vavuniya Prison and its aftermath show that despite the military defeat of the LTTE and the lifting of emergency regulations, Sri Lanka continues to operate as it did during its 26 years of civil war, with arbitrary detention and torture still rife in prisons across the country. However, despite some media attention that was given to the riot in its immediate aftermath, little progress has been made in investigating what exactly happened during the Vavuniya riot and the cause of the hunger strike.

Furthermore, some of the cases mentioned in this report show how the government’s much touted “reconciliation” programme is actually a form of arbitrary detention, which allows them to prolong the detention of inmates, while appearing to appease the international community’s call for peace and the reintegration of Tamil political prisoners back into society.

There are many flaws in the way the Sri Lankan legal system, the prison authorities and Sri Lankan government have been operating:

- **Prisoners have been held for years in jail without being charged**: Some of these prisoners were former LTTE cadres but many are being held on suspicion of being involved in the LTTE, under the Prevention of Terrorism Act. For many of those being held under suspicion, there is flimsy evidence linking them to the LTTE, and they have not had proper trials or cases into their links with the organization. Many of these prisoners feel they have no choice but to lie and say they were involved with the LTTE and undergo rehabilitation or serve a short prison sentence in order to secure a date for their release.

- **Transfer from prison to prison over their tenure in jail**: The prison authorities have given prisoners no reasons for why they were transferred to other prisons. The majority of prisoners have been transferred at least three or four times during their time in detention. In most of the cases featured in this report, prisoners have been moved to different prisons once they had reached the end of their sentence and were due to be released, as a means of extending their time in prison.

- **Torture**: Torture in Sri Lanka’s prisons has not been confined to the history books. Torture, violence and intimidation is still rife, with most of the people interviewed for this report saying that their loved ones had been tortured at some point. Prisons in
the south of Sri Lanka seem to be more notorious for violence towards Tamil prisoners than those in the north, because these prisons have more Sinhalese inmates and Sinhalese jailors.

- **Limited access to families and lack of information from authorities:** During prisoners' time in prison, their families have complained that they are often denied access when visiting them, especially in Boosa prison's TID unit where access is even more limited. Family members from the north of Sri Lanka often spend more than 24 hours travelling up and down the country yet they are only allowed to see their detained family member for 10-15 minutes, in a space crowded with many other detainees and their visitors. For detainees in Boosa’s TID unit, families also need to obtain additional documentation before visiting them, unlike detainees in other prisons.

When some of the prisoners involved in the Vavuniya riot were taken to hospital, their families were prevented from seeing them there. Nimalaruben’s parents did not see their son at all before he died in hospital. Furthermore, the authorities kept families in the dark over who was injured. Nimalaruban and Delroxan’s families were not told by the authorities about what had happened to them.

Specifically in Nimalaruban’s case, Vavuniya prison officials lied to the family on many occasions, telling Nimalaruban’s parents he was alive when he was in fact dead. Many of these families have complained that the authorities have pressured them into signing documents about their loved ones. They do not understand these documents as they are written in Sinhala, rather than Tamil, and no effort has been made by the authorities to translate them.

- **Denying access to dead bodies and obstructing, restricting and interfering with funeral rites:** Both Nimalaruban and Delroxan’s family have said that the authorities prevented them from seeing their sons’ bodies and from taking bodies home for burial. In both cases, the authorities wanted to bury the bodies as quickly as possible, possibly to avoid media and public attention, and the authorities wanted to bury the bodies in Colombo. However Delroxan’s family wanted to bury him in Jaffna, and Nimalaruban’s family wanted to bury their son in Vavuniya.

- **Lack of judicial discretion:** The Sri Lankan government and security forces in Sri Lanka are increasing their influence across the country, suppressing the independence of the judiciary, and often disobeying the orders of judges/magistrates. The most recent manifestation of this was when the government sacked its chief justice in January, defying international appeals and ignoring two court rulings. In terms of Tamil prison prisoners, the suppression of judicial independence can be seen in some of the cases mentioned in the report. When AT was ordered to be sent to Boosa’s TID unit from Vavuniya prison, the judge ordered that his possessions be sent there with him, including his commode. However, the prison authorities prevented him from taking his belongings. When Delroxan’s family were trying to retrieve their son’s body, the prison authorities tried to get an order placing restrictions on the funeral, despite reports stating that the Jaffna magistrates had advised the families to hold his funeral in any way they wished.
15. Sri Lankan government’s most recent response to Vavuniya riot, concerns over the detention

In February 2013, the UN High Commissioner for Human Rights published a report “on advice and technical assistance for the Sri Lankan government on promoting reconciliation and accountability in Sri Lanka”. The High Commissioner also published the Sri Lankan government’s response to the report.

The High Commissioner referred to the riot at Vavuniya prison, highlighting the need for effective action against extrajudicial killings. The report added that a police investigation into the case was in progress but no further information was available.

In its response, the Sri Lankan government said: “Excessive force had not been used in either of the incidents described in the paragraph. The Prison and Law Enforcement Officials have acted within their legal framework in responding to the situation that prevailed. Police investigation into the two cases [the other case is the Welikada prison riot in November 2012] are currently in progress.”

However, 28 people were injured in the attack and two people were killed as a result of their injuries. The government did not explain how this had happened or under which laws the government’s response to the violence constituted. Torture is prohibited in article 11 of the Sri Lankan constitution.

In terms of Sri Lanka’s detention policies, the UN High Commissioner stated the following:

- That the Lessons Learned and Reconciliation Commission had told the government to properly designate and publicise all places of detention, and that detainees needed access to their next of kin, but the government did not include these recommendations in its national plan of action. The UN High Commissioner said that the LLRC had recommended an independent advisory committee be appointed to monitor and examine the arrest and detention of people taken under PTA, but said the actions to be implemented lacked clarity. The Sri Lankan government’s response to this was that all places of detention (not those in detention) were published in “a Government Gazette that could be accessed by any member of the public”.

- The High Commissioner referred to the government’s assertion that a comprehensive database of detainees had been established at the Terrorist Investigation Department of the police, following a recommendation from the LLRC. According to the Sri Lankan government, 3,073 next of kin had made inquiries there. The High Commissioner said that this figure did not address those whose family members went missing during the last stages of the civil war or those who surrendered to the army and subsequently disappeared. The High Commissioner said some of those who approached government entities about the database were faced with “uncooperative and sometimes hostile behaviour” from state officials. The Sri Lankan government responded by stating that a “round the clock” mechanism was in place with units in Colombo, Vavuniya and Boosa where details of detainees could be obtained by their next of kin. The Sri Lankan government denied any instances of hostile behaviour from state officials towards next of kin.
However, the government’s response on its centralised database lacks clarity. By stating that it had units in Colombo, Vavuniya and Boosa, it creates confusion over whether it has a centralised database and suggests that families may have to travel to different locations to find out information on their loved ones. Furthermore, no outside source has seen this database.

- The High Commissioner expressed concerns over the government’s rehabilitation process, including the criteria by which individuals went to rehabilitation and its supposed voluntary nature as well as the lack of legal representation for lengthy rehabilitation periods. The Sri Lankan government refuted the UN’s claim over the transparency of the rehabilitation process, stating that the process was “completely transparent and was supported by international agencies including UNICEF and IOM” and that the main criteria for rehabilitation was the extent of involvement with the LTTE. However, in reality, those who have been imprisoned on suspicion of involvement with the LTTE, with no discernible evidence to back this up, have been put in rehabilitation, often for the same amount of time as those who have had been active fighters for the LTTE. The rehabilitation centres are closed to outsiders, including organisations such as the Red Cross (ICRC) and independent journalists.

- The High Commissioner said that the OHCHR (Office of High Commissioner for Human Rights) technical mission had said that those who had completed rehabilitation were continually monitored after their release and being made to register with the military or army. There were reports of military and intelligence agencies visiting the homes and workplaces of those released. This, said the UN High Commissioner, has affected “the ability of those released from rehabilitation to reintegrate successfully into community” as they are perceived to be government informants, with women more acutely affected. The Sri Lankan government categorically refuted all these observations. However, testimonies from civilians show that the government’s denial is simply not true, and former detainees face intimidation and re-arrest on their release from rehabilitation.

16. Recommendations

We propose some recommendations that need to be implemented by the Sri Lankan government and legal system so that it can uphold basic human rights promulgated in its own constitution and within international law

- Repeal the Prevention of Terrorism Act, or bring it in line with Sri Lanka’s international treaty obligations

- All political prisoners should be released or charges should be brought against them before a specified date. In case of future arrests, they should be charged or released
within a short period, such as 3 months after arrest

- Publish a list of all political detainees being held around the country under the PTA or those previously arrested under the Emergency Regulations

- Arrests under the Prevention of Terrorism Act (PTA) should only be used to arrest people when there is clear evidence of involvement in terrorism

- Prisoners must be held at prisons located in closest proximity to their homes, to enable regular visits by their families and minimize the chances of conflict and strife between inmates. If they are being transferred, the authorities should provide clear reasons why they are doing this

- An independent investigation must be conducted into the Vavuniya prison riot in June 2012, in which political prisoners were severely tortured and two were killed. Ensure that all detainees are promptly brought before a magistrate and that the magistrate is empowered to nullify the detention and release the detainee if he or she deems the detention unlawful.

- Make all documentation with prisoners and families in their respective native tongue so that they know exactly what they are signing

- Put a halt to the state’s use of torture as a method of interrogation or punishment

- When prisoners become ill they must be provided with the opportunity for treatment, whether this is through medication by healthcare professionals or visits to hospitals or clinics

- Special spaces should be provided for lawyers and members of the clergy to visit detainees during specified times and days, without prior permission, with facilities to ensure confidential communication. Lawyers and members of the clergy should also be allowed to visit prisoners when they are in hospital, subject only to restrictions by doctors

- Prisoners should not be taken to court or made to attend proceedings when they are seriously ill or debilitated, and should be given time to recover. If a judge orders that a prisoner needs immediate treatment then these summons must be adhered too, and the prisoner should stay in hospital for as long as is needed to recover

- Enable humane visitation opportunities where prisoners and their families are permitted to sit within close proximity of each other and have physical contact with their children below the age of 12

- Increase the amount of time family can spend with a detainee to one hour

- The procedures for visiting prisoners should be according to the Prison Ordinance, Rules and Regulations and should not be unduly restricted at the discretion of individual officers in particular prisons

- Facilities for disabled prisoners should be provided and special consideration must be given for them to be released on bail so that they can be cared for by their families at home
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