

SRI LANKA: COUNTRY OF ORIGIN INFORMATION RELATING TO THE TARGETING OF EX-LTTE MEMBERS/COMBATANTS¹

According to international observers, since the end of the civil war in 2009, the human rights situation in Sri Lanka has seen little progress. Enforced disappearances, torture, rape, arbitrary arrest and detention, lack of accountability, impunity, censorship, are among the reported human rights abuses.²

Many of these violations are carried out against Tamil men and women that are perceived to have, or have had, links with the Liberation Tigers of Tamil Eelam (LTTE), the separatist group defeated by the Government.³ Also rejected asylum-seekers and returnees appear to be at risk to torture, if accused of anti-government political activity or of links to the LTTE.⁴ Reportedly,

¹ This short document, which includes information from December 2012 to present, is to be read in addition to Paragraph A.1. of UNHCR's 2012 *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*; see UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 21 December 2012, HCR/EG/LKA/12/04, <http://www.refworld.org/docid/50d1a08e2.html>.

² See UN High Commissioner for Refugees (UNHCR), *UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka*, 21 December 2012, HCR/EG/LKA/12/04, <http://www.refworld.org/docid/50d1a08e2.html>; Amnesty International, *Still no human rights accountability in Sri Lanka: still no end to serious human rights violations*, 29 August 2013, ASA 37/021/2013, <http://www.refworld.org/docid/5225d5764.html>; Navi Pillay, UN High Commissioner for Human Rights, stated in a conference in Colombo in August 2013: "There are a number of specific factors impeding normalization, which – if not quickly rectified – may sow the seeds of future discord. These are by and large to do with the curtailment or denial of personal freedoms and human rights, or linked to persistent impunity and the failure of rule of law." See N. Pillay, *Opening remarks by UN High Commissioner for Human Rights Navi Pillay at a press conference during her mission to Sri Lanka Colombo*, 31 August 2013, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673&LangID=E>. See also International Commission of Jurists (ICJ), *Lack of Progress on Accountability in Sri Lanka, ICJ Oral Statement in the General Debate on Item 10 (Technical assistance and capacity-building): Response to the oral update of the High Commissioner on her mission to Sri Lanka and implementation of Council resolution 22/1 on promoting reconciliation and accountability in Sri Lanka*, 25 September 2013, <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2013/09/ICJ-HRC24-Item10-OralStatementGD-SriLanka.pdf>. The Guardian, *US to table UN human rights resolution criticising Sri Lanka over 'war crimes'*, 1 February 2014, <http://www.theguardian.com/world/2014/feb/01/us-sri-lanka-un-human-rights-resolution>.

³ Human Rights Watch, *Sri Lanka: No Progress 4 Years On*, 20 May 2013, <http://www.hrw.org/news/2013/05/20/sri-lanka-no-progress-4-years>. See also Tamils against Genocide, *Returnees at Risk: Detention And Torture in Sri Lanka*, 16 September 2012, <http://www.tamilsagainstgenocide.org/Data/Docs/TAG-Report-16-Sep-2012-Returnees-at-Risk.pdf> updated 13 March 2013, <http://www.tamilsagainstgenocide.org/read.aspx?storyid=93>.

⁴ Human Rights Watch, *World Report 2013 - Sri Lanka*, 31 January 2013, <http://www.refworld.org/docid/510fb4ce32.html>; Landinfo, in a fact-finding mission report, stated that, contrary to what indicated in a request by Human Rights Watch to the Government of the United Kingdom to stop deportations from the UK to Sri Lanka of failed asylum-seekers because of the risk of torture or ill-treatment, such cases had not been recorded for Tamils residing in Norway. See Landinfo, *Report - Sri Lanka: Human rights and security issues concerning the Tamil population in Colombo and the Northern Province*, 7 December 2012, http://www.landinfo.no/asset/2321/1/2321_1.pdf. See also SBS, *Comment: Australia dangerously close to the abuse of fleeing Sri Lankans*, 14 January 2014, <http://www.sbs.com.au/news/article/2014/01/15/comment-australia-dangerously-close-abuse-fleeing-sri-lankans>. In a Freedom of Information (FOI) response to a Freedom from Torture query, the UK Home Office admitted that 15 Sri Lankans, who had been previously deported, were later granted refugee status having submitted evidence of torture. See United Kingdom: Home Office, *Freedom of Information Request*, FOI 25159, 6

boats are intercepted at sea [by Sri Lankan authorities], and passengers questioned regarding the reasons of their departure: “Young Tamil men are keenly aware of the risk of being perceived as having links to the LTTE. They recount being asked upon interception if they are connected with the LTTE, then stripped and searched for scarring that might suggest that they were involved in combat”.⁵ In a 2012 report, Tamils against Genocide notes:

“As a popular social movement the LTTE was integrated within many aspects of Tamil society, particularly in the period during which the LTTE controlled their own de-facto state [...]. Nearly every family would be likely to have some tie to the movement through either bloodlines or their own engagement in legitimate or illegitimate activities. Similarly, while those living abroad in the Tamil diaspora may be protected by possession of a foreign passport, relatives on the island may be under threat due to their involvement in legitimate forms of political repression”.⁶

In such cases, arrest and detention are regulated by the Prevention of Terrorism Act (PTA) of 1979.⁷ According to the PTA, the burden of proving that a confession that has been made under torture or other ill-treatment – as indicated in Section 24 (*Confession caused by inducement, threat or promise irrelevant*) of the Evidence Ordinance –,⁸ is irrelevant lies on the accused person (Section 16(2) PTA). The PTA also allows for extended administrative detention (up to 18 months).⁹

The Northern provinces that were affected by the war are still under the control of the military.¹⁰ According to the Swiss Refugee Council, the Sri Lankan authorities are trying, with a “paranoid relentlessness”, to prevent the return of the Tamil Tigers, and the diaspora organizations abroad are perceived as a threat to peace.¹¹ Human Rights Watch has in several occasions advised

February 2013, <http://freedomfromtorture.org/sites/default/files/documents/FOI%20Response.pdf>. According to Tamils against Genocide, as of the end of February 2013, such cases were over 50: see Tamils against Genocide (TAG), *Clarification of the number of known cases of torture of Tamils returning to Sri Lanka from abroad in the post-war period*, 26 February 2013, <http://www.tamilsagainstgenocide.org/read.aspx?storyid=92>.

⁵ SBS, *Comment: Australia dangerously close to the abuse of fleeing Sri Lankans*, 15 January 2014, <http://www.sbs.com.au/news/article/2014/01/15/comment-australia-dangerously-close-abuse-fleeing-sri-lankans>. The article author collected a number of interviews to young Tamils who were intercepted and questioned by the national authorities about their alleged involvement with the LTTE.

⁶ Tamils against Genocide, *Returnees at Risk: Detention And Torture in Sri Lanka*, 16 September 2012, <http://www.tamilsagainstgenocide.org/Data/Docs/TAG-Report-16-Sep-2012-Returnees-at-Risk.pdf> updated 13 March 2013, <http://www.tamilsagainstgenocide.org/read.aspx?storyid=93>. See also Freedom from Torture, *Sri Lankan Tamils tortured on return from the UK*, 13 September 2012, <http://www.refworld.org/docid/505321402.html>.

⁷ *Sri Lanka: Act No. 48 of 1979, Prevention of Terrorism (Temporary Provisions)*, 20 July 1979, <http://www.refworld.org/docid/4561dac84.html>.

⁸ *Sri Lanka: Evidence Ordinance 1896*, http://www1.umn.edu/humanrts/research/srilanka/statutes/Evidence_Ordinance.pdf.

⁹ See Amnesty International, *Still no human rights accountability in Sri Lanka: still no end to serious human rights violations*, 29 August 2013, ASA 37/021/2013, <http://www.refworld.org/docid/5225d5764.html>; UN Human Rights Council, *Oral update of the High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka*, 25 September 2013, A/HRC/24/CRP.3/Rev.1, <http://www.refworld.org/docid/524e91684.html>; United States Department of State, *2012 Country Reports on Human Rights Practices - Sri Lanka*, 19 April 2013, <http://www.refworld.org/docid/517e6dd3f.html>; International Crisis Group (ICG), *Sri Lanka's Authoritarian Turn: The Need for International Action*, 20 February 2013, Asia Report N°243, <http://www.refworld.org/docid/5124deb32.html>.

¹⁰ United States Department of State, *Country Reports on Terrorism 2012 - Sri Lanka*, 30 May 2013, <http://www.refworld.org/docid/51a86e6c16.html>.

¹¹ Swiss Refugee Council, *Sri Lanka: risqueencouru à cause des activités politiques en exil*, 13 August 2013, http://www.fluechtlingshilfe.ch/pays-d-origine/asia/sri-lanka/sri-lanka-risque-encouru-a-cause-des-activites-politiques-en-exil/at_download/file; see also Immigration and Refugee Board of Canada, *Sri Lanka: Treatment of Tamil returnees*

against the deportation of refugees and asylum-seekers to Sri Lanka, as they may be suspected of anti-government activities.¹² Al Jazeera reported: “[o]ne senior military official in the north admits the army is keeping a close eye on Tamils with foreign contacts but insists the claims are fabrications by Tamils trying to live in foreign nations”.¹³

As reported by the Research Directorate of the Immigration and Refugee Board of Canada (IRB), anyone who is critical of the Government, including human rights activists and journalists, and regardless of their ethnicity, is accused of being an LTTE supporter.¹⁴

A 2013 report by Human Rights Watch, covering the time period 2009-2012, denounced the sexual abuses suffered by men and women, suspected of supporting the LTTE, by security forces, such as members of the Sri Lankan army, police (including the Criminal Investigation Department: CID and Terrorism Investigation Department: TID), intelligence, and pro-government Tamil paramilitary groups, who forced them to sign confessions on their, or others', involvement in LTTE activities.¹⁵ The BBC investigated seven cases of torture against Tamils that allegedly occurred during the Rehabilitation programme.¹⁶ The Government has denied such accusations, deeming them as “fake” or “pro-LTTE propaganda”.¹⁷

In February 2013, following an interview with an adjunct professor of Asian Studies and Political Science at Temple University (Pennsylvania, USA), the Research Directorate of the IRB reported that “airport security procedures in Sri Lanka are not dependent on a person's ethnicity, but on the person's political activities” and that “Tamil returnees with ‘very significant’ political or military involvement against the government are ‘very likely’ to be detained and subjected to the ‘use of

to Sri Lanka, including failed refugee applicants; information on specific asylum cases, including the Tamil asylum-seeker boat that stopped in Togo, the return of Sri Lankan asylum seekers from Australia in 2012, and any cases of voluntary repatriation (August 2011-January 2013), 12 February 2013, LKA104245.E, <http://www.refworld.org/docid/51346a1f2.html>.

¹² Human Rights Watch, *United Kingdom: Halt Deportation Flight to Sri Lanka*, 15 September 2012, <http://www.hrw.org/news/2012/09/15/united-kingdom-halt-deportation-flight-sri-lanka>; Human Rights Watch, *UAE: Don't Deport Tamil Refugees to Sri Lanka*, 6 April 2013, <http://www.hrw.org/news/2013/04/06/uae-don-t-deport-tamil-refugees-sri-lanka>.

¹³ Al Jazeera, *Scars of Sri Lanka*, 23 December 2013, <http://www.aljazeera.com/programmes/101east/2013/12/scars-sri-lanka-2013122492410187367.html>.

¹⁴ Immigration and Refugee Board of Canada, *Sri Lanka: Treatment of non-Tamil supporters of the Liberation Tigers of Tamil Eelam (LTTE) by the government; whether religious minorities are viewed as LTTE supporters, including Muslims and Christians, and their treatment*, 5 February 2013, LKA104268.E, <http://www.refworld.org/docid/51346c192.html>. See also The Telegraph, *Scandal of Sri Lanka's disappeared*, 17 October 2013, <http://www.telegraph.co.uk/news/worldnews/asia/srilanka/10387036/Scandal-of-Sri-Lankas-disappeared.html>.

¹⁵ Human Rights Watch, *"We Will Teach You a Lesson" - Sexual Violence against Tamils by Sri Lankan Security Forces*, 26 February 2013, ISBN: 1-56432-993-3, <http://www.refworld.org/docid/5130850f2.html>. According to Brian Adams, Asia director at Human Rights Watch: “[t]he Sri Lankan security forces have committed untold numbers of rapes of Tamil men and women in custody. These are not just wartime atrocities but continue to the present, putting every Tamil man and woman arrested for suspected LTTE involvement at serious risk”. See Human Rights Watch, *Sri Lanka: Rape of Tamil Detainees*, 26 February 2013, <http://www.hrw.org/news/2013/02/26/sri-lanka-rape-tamil-detainees>. See also Amnesty International, *Torture in Sri Lanka - 'Many times I would lose consciousness'*, 26 June 2013, <http://www.amnesty.org/en/news/torture-sri-lanka-many-times-i-would-lose-consciousness-2013-06-26>.

¹⁶ BBC, *'Tamils still being raped and tortured' in Sri Lanka*, 9 November 2013, <http://www.bbc.co.uk/news/world-asia-24849699>; see also Al Jazeera, *Scars of Sri Lanka*, 23 December 2013, <http://www.aljazeera.com/programmes/101east/2013/12/scars-sri-lanka-2013122492410187367.html>.

¹⁷ Human Rights Watch, *"We Will Teach You a Lesson" - Sexual Violence against Tamils by Sri Lankan Security Forces*, 26 February 2013, ISBN: 1-56432-993-3, <http://www.refworld.org/docid/5130850f2.html>; see also Associated Press, *Rights group: Tamil suspects raped by government*, 26 February 2013, <http://bigstory.ap.org/article/rights-group-tamil-suspects-raped-government>.

force”¹⁸. As reported by The Guardian, Keith Best, chief executive of Freedom from Torture, said: “We have shown that those with even low-level LTTE links, whether real or perceived, are at risk of torture, but our warnings have not been acted upon”.¹⁹ Freedom from Torture stresses that Tamils with a real or perceived affiliation with the LTTE “at any level” are at risk of torture.²⁰ According to Tamils against Genocide:

“all [LTTE cadres] were arrested, detained, and experienced some form of abuse, a large majority recounting severe torture. We are unable to see any variation in the length of detention or severity of interrogation using torture correlating with length of service or extent of involvement in military activities. In a recent conversation with a journalist who had interviewed former LTTE members coming out of rehabilitation centers in Sri Lanka, it was recounted that ‘Nearly all the cadres, regardless of stature, wanted to leave the island. They knew once they went to their home villages they would be harassed, or even tortured’”.²¹

Furthermore, “[t]he Adjunct Professor indicated that LTTE opponents, such as the Eelam People's Democratic Party (EPDP) and former LTTE members that have been ‘rehabilitated’²² or unable to find work and have agreed to work with the EPDP, have been hired to stay at the airport and identify Tamils with ‘direct and indirect’ connections to the LTTE”.²³

¹⁸Immigration and Refugee Board of Canada, *Sri Lanka: Treatment of Tamil returnees to Sri Lanka, including failed refugee applicants; information on specific asylum cases, including the Tamil asylum-seeker boat that stopped in Togo, the return of Sri Lankan asylum seekers from Australia in 2012, and any cases of voluntary repatriation (August 2011-January 2013)*, 12 February 2013, LKA104245.E, <http://www.refworld.org/docid/51346a1f2.html>.

¹⁹The Guardian, *Sri Lankans expelled from UK allege torture after deportation to Colombo*, 12 February 2013, <http://www.theguardian.com/uk/2013/feb/12/sri-lanka-asylumseekers-torture-claims-uk-deportation?INTCMP=SRCH>.

²⁰Freedom from Torture, *Evidence of Ongoing Torture in Sri Lanka Hangs over CHOGM*, 1 November 2013, <http://www.freedomfromtorture.org/news-blogs/7653>.

²¹Tamils against Genocide, *Returnees at Risk: Detention And Torture in Sri Lanka*, 16 September 2012, <http://www.tamilsagainstgenocide.org/Data/Docs/TAG-Report-16-Sep-2012-Returnees-at-Risk.pdf> updated 13 March 2013, <http://www.tamilsagainstgenocide.org/read.aspx?storyid=93>.

²²After the end of the conflict, the Government of Sri Lanka established the “Rehabilitation and reintegration programme” in order to “equip the former LTTE cadres with alternative means to a meaningful existence” (see Ministry of Defence and Urban Development of Sri Lanka, *Rehab and Rejoice*, 30 August 2012, http://www.defence.lk/new.asp?fname=Rehab_and_rejoice_20120828_03). According to the United States Department of State, “[s]everal former LTTE combatants released from rehabilitation centers reported torture or mistreatment, including sexual harassment, by government officials while in rehabilitation centers”; see United States Department of State, *2012 Country Reports on Human Rights Practices - Sri Lanka*, 19 April 2013, <http://www.refworld.org/docid/517e6dd3f.html>. The Government submitted the following consideration to the Human Rights Council: “The Government treated ex-combatants humanely and respected their Civil and Political Rights. This is despite the fact that most of these cadres were involved in attacks against Armed Forces personnel in the battlefield and participated in conducting atrocities against civilians. Due to the Government's deep and abiding commitment to reconciliation and peace, the vast majority of cadres were rehabilitated and released to society in just two years” (see UN Human Rights Committee (HRC), *Consideration of reports submitted by States parties under article 40 of the Convention [i.e. Covenant] : International Covenant on Civil and Political Rights: 5th periodic reports of States parties due in November 2007 : Sri Lanka*, 31 January 2013, CCPR/C/LKA/5, <http://www.refworld.org/docid/52a9a7614.html>).

²³Immigration and Refugee Board of Canada, *Sri Lanka: Treatment of Tamil returnees to Sri Lanka, including failed refugee applicants; information on specific asylum cases, including the Tamil asylum-seeker boat that stopped in Togo, the return of Sri Lankan asylum seekers from Australia in 2012, and any cases of voluntary repatriation (August 2011-January 2013)*, 12 February 2013, LKA104245.E, <http://www.refworld.org/docid/51346a1f2.html>.

According to Minority Rights Group International (MRG), “former women combatants of the Tamil Tigers are facing exceptional difficulties with the end of the conflict”.²⁴In particular, MRG states: “[t]he military continues to monitor former female combatants’ whereabouts, and their freedom of movement and association is significantly curtailed”.²⁵

²⁴Minority Rights Group International, *Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka*, 16 October 2013, ISBN 978-1-907919-43-5, <http://www.refworld.org/docid/528489bf4.html>.

²⁵ A female former combatant denounced the treatment she received from the community: “As soon as I returned people were visiting me as if I was a sick patient. We want to get back into normal life but it is very difficult, people don’t let us. There is a major stigma on former combatants”; see Minority Rights Group International, *Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka*, 16 October 2013, ISBN 978-1-907919-43-5, <http://www.refworld.org/docid/528489bf4.html>.