Home Office

Country Information and Guidance

Sri Lanka: Tamil Separatism

28 August 2014

Preface

This document provides guidance to Home Office decision makers on handling claims made by nationals/residents of - as well as country of origin information (COI) about – Sri Lanka. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether - in the event of a claim being refused - it is likely to be certifiable as 'clearly unfounded' under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Within this instruction, links to specific guidance are those on the Home Office's internal system. Public versions of these documents are available at https://www.gov.uk/immigration-operational-guidance/asylum-policy.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the Common EU [European Union] Guidelines for Processing Country of Origin Information (COI), dated April 2008, and the European Asylum Support Office's research guidelines, Country of Origin Information report methodology, dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please email: CPI@homeoffice.gsi.gov.uk.

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at http://icinspector.independent.gov.uk/country-information-reviews/

It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Contents

Preface

	Paragraphs
Guidance	
Basis of claim	**1.1**
Specific issues	**1.2**
Consideration of issues	**1.3**
Policy summary	**1.4**
Information	
End of the civil war	**2.1**
Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE)	**2.2**
UNHCR Guidelines	**2.2.34**
Tamil Diaspora	**2.3**
Proscription of Diaspora Organisations	**2.3.6**

Context

Annex A: Map of Sri Lanka	**3.1.1**
Annex B: Examples of Tamil organisations operating in the UK	
The British Tamils Forum	**3.2.1**
The Global Tamil Forum (GTF)	**3.2.2**
The Tamil Youth Organisation United Kingdom (TYO UK)	**3.2.3**
The Transnational Government of Tamil Eelam - USA (TGTE)	**3.2.4**
Annex C: Caselaw	
MP (Sri Lanka) & Anor v Secretary of State for the Home Department [2014]	
GJ (post-civil war: returnees) Sri Lanka CG (Rev 1) [2013] UKUT 319 (IAC) (5 July 2013)	
Annex D: Correspondence from British High Commission (BHC), Colombo	

1. Guidance

Updated: 27 August 2014

1.1. Basis of claim

1.1.1 Fear of persecution by the Sri Lankan authorities due to the person's perceived support for the Liberation Tigers of Tamil Eelam (LTTE) or involvement with Tamil separatism, including membership of or participation in Tamil separatist movements whilst in the UK.

See Asylum Instructions on Considering the asylum claim and assessing credibility; Internal Relocation; and, where appropriate Gender Issues in the Asylum Claim

1.2. Specific issues

- Is the person perceived as having supported the Liberation Tigers of Tamil Eelam (LTTE) or being involved with Tamil separatism?
- Is the person likely to be considered a security risk and at real risk from the Sri Lankan authorities due to their perceived support for the LTTE or involvement with Tamil separatism?
- Is there effective protection for a person in fear of persecution by the Sri Lankan authorities due to the person's perceived support for the LTTE or involvement with Tamil separatism?
- Is the person able to internally relocate within Sri Lanka to escape that risk?

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE)

1.3. Consideration of issues:

Is the person perceived as having supported the Liberation Tigers of Tamil Eelam (LTTE) or being involved with Tamil separatism?

1.3.1 Decision makers must consider whether the person's account of their involvement in Tamil separatism is both internally consistent and credible as well as being externally credible (i.e. consistent with the objective country information).

See Asylum Instructions on Considering the asylum claim and assessing credibility and also the process guidance on interviewing/assessing the claim

1.3.2 Decision makers should research the issues raised in a claim and ask relevant questions to ascertain whether their ethnicity, perceived political opinions or affiliations, or past activities mean they are likely to be perceived as being involved in Tamil separatism or perceived of past involvement with the LTTE on return to Sri Lanka. Supporting documentation and correspondence must also be taken into account if submitted.

See Annex A: Map

Is the person likely to be considered a security risk and at real risk from the Sri Lankan authorities due to their perceived support for the LTTE or involvement with Tamil separatism?

See country information

1.3.3 The Court of Appeal in the case of MP (Sri Lanka) & Anor (18 June 2014) upheld the country guidance case of GJ & Others

See Caselaw

(post –civil war: returnees) Sri Lanka CG [2013] UKUT 00319 (IAC) (5 July 2013).

1.3.4 The Upper Tribunal in GJ & Others considered country information from, amongst others, Human Rights Watch, Freedom from Torture and Tamils against Genocide, all citing evidence that varying numbers of individuals had been ill-treated on return to Sri Lanka. The UT did not accept that low level membership, or participation, such as attendance at demonstrations in the diaspora alone was sufficient to create a real risk or a reasonable degree of likelihood that a person would attract adverse attention on return to Sri Lanka (paragraph 336) and did not accept therefore accept that all Tamils are at risk on return to Sri Lanka (paragraph 337).

See Asylum Instruction Considering the asylum claim and assessing credibility and, where appropriate, Gender Issues in the Asylum Claim

1.3.5 Consequently, being of Tamil ethnicity does not in itself warrant international protection. The absence of any anti government activity pre and post flight will mean that any enquiry made by the Sri Lankan authorities on the person's return is not reasonably likely to crystallise into concern about the person being a security risk.

1.3.6 The Tribunal in GJ & Others concluded that:

- 'The focus of the Sri Lankan government's concern has changed since the civil war ended in May 2009. The LTTE in Sri Lanka itself is a spent force and there have been no terrorist incidents since the end of the civil war.' (paragraph 356 (2)).

- 'The government's present objective is to identify Tamil activists in the Diaspora who are working for Tamil separatism and to destabilise the unitary Sri Lankan state enshrined in Amendment 6(1) to the Sri Lankan Constitution in 1983, which prohibits the 'violation of territorial integrity' of Sri Lanka. Its focus is on preventing both (a) the resurgence of the LTTE or any similar Tamil separatist organisation and (b) the revival of the civil war within Sri Lanka.' (paragraph 356 (3)).

- 'If a person is detained by the Sri Lankan security services there remains a real risk of ill treatment or harm requiring international protection.' (paragraph 356 (4))

See Caselaw

1.3.7 The Tribunal then identifies amongst its four 'categories at risk of persecution or serious harm' :

(i). 'Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post-conflict Tamil separatism within the Diaspora and/or a renewal of hostilities within Sri Lanka' (paragraph 356 (7a)); and

(ii) 'A person whose name appears on a computerised "stop" list accessible at the airport, comprising a list of those against

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE)

whom there is an extant court order or arrest warrant. Individuals whose name appears on a "stop" list will be stopped at the airport and handed over to the appropriate Sri Lankan authorities, in pursuance of such order or warrant.' (paragraph 356 (7d)).

1.3.8 Government forces continue to detain suspected LTTE sympathisers. The threat of a revived LTTE is also used to justify militarisation in the north. NGOs recorded incidences of sexual abuse to Tamil men and women. Tamil women, especially ex-LTTE cadres, widows and the wives of disappeared or 'surrenderees' are vulnerable to sexual harassment, exploitation or assault by army personnel or other militias. The government has claimed that people who criticised Sri Lankan government policy or called for human rights accountability are somehow in league with pro-LTTE forces within the Sri Lankan Tamil diaspora and engaged in a 'hate campaign' against Sri Lanka. Persons accused of trying to revive the LTTE or commemorate LTTE cadres have been arrested as have persons calling for investigations into alleged government perpetrated war crimes. The government has also prohibited Tamil communities from holding commemorative services for their dead.

Return to contents

Diaspora groups/ Tamil separatist movements

1.3.9 The Upper Tribunal added in its general findings that 'The GOSL is reasonably confident that there is a low risk of resurgence of the internal armed conflict from within Sri Lanka. Its concern is with the risk of resurgence coming from the Diaspora, of which London, Paris, Toronto and Oslo are major centres ("the Diaspora hotspots").' (paragraph 303).

1.3.10 On 21 March 2014 the Sri Lanka authorities proscribed as terrorist organisations a number of individuals and Tamil groups (including some in the UK, not considered as terrorists by the UK government, such as the British Tamils Forum and the Global Tamil Forum). Concern has been raised over using vague counter-terrorism regulations to tie the major diaspora Tamil groups to the LTTE and that it might be used to punish local Tamil activists and politicians with international ties. There is however no evidence as yet as to how the provisions are being implemented.

1.3.11 In addition to proscription of organisations on 21 March 2014, the Sri Lanka authorities also proscribed over 400 named individuals. Decision makers should check identity of claimant against that list and must proceed on the basis that these individuals appear on a computerised 'stop' list accessible at the airport and therefore fall with the relevant risk category identified in GJ & Others.

See list of Proscribed Organisations

See Annex B: Examples of Tamil organisations operating in the UK

See Caselaw

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE)

1.3.12 As regards Diaspora organisations, in GJ & Others the Upper Tribunal found 'Our overall conclusion regarding Diaspora activities is that the GOSL has sophisticated intelligence enabling it to distinguish those who are actively involved in seeking to revive and re-fund the separatist movement within the Diaspora, with a view to destabilising the unitary Sri Lankan state. Attendance at one or even several demonstrations in the Diaspora is not of itself evidence that a person is a committed Tamil activist seeking to promote Tamil separatism within Sri Lanka. That will be a question of fact in each case, dependent on any Diaspora activities carried out by such an individual.' (paragraph 351). Therefore, a person claiming to have attended demonstrations led by a proscribed group is not necessarily enough to cause a risk in itself. Simlarly mere membership alone (past or present) of a proscribed group will not of itself necessarily give rise to a need for international protection. Each case should be carefully considered on their individual merits.

1.3.13 The Upper Tribunal in GJ & Others also stated as part of its general findings that:

- 'During the re-documentation process in the UK, or at the airport on return, a forced returnee can expect to be asked about his own and his family's LTTE connections and sympathies.' (paragraph 308)
- 'The government's concern now is not with past membership or sympathy, but with whether a person is a destabilising threat in post-conflict Sri Lanka. (paragraph 311).
- 'It is not established that previous LTTE connections or sympathies (whether direct or familial), are perceived by the GOSL as indicating now that an individual poses a destabilising threat in post-conflict Sri Lanka.' (paragraph 325).
- 'We do not consider that post-rehabilitation monitoring alone rises to the level of persecution.' (paragraph 319).

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE). which includes information on Tamil women being vulnerable to sexual violence.

See Caselaw

1.3.14 Decision makers must be satisfied that persons claiming to be involved in Tamil separatist movements are able to produce sufficient detail to demonstrate that their activities would have brought them not only to the adverse attention of the Sri Lankan Government, but also that they are perceived to be a present risk to the unitary Sri Lanka state or the Sri Lankan Government. Mere membership, either past or current, of a proscribed organisation will not on its own necessarily give rise to a protection need. As the Tribunal identified in GJ & Others attendance at demonstrations in itself is not adequate evidence.

1.3.15 Decision makers must also note that the LTTE have been responsible for serious human rights abuses and acts of terrorism some of which amount to war crimes or crimes against humanity. If there are serious reasons for considering that a person was involved in the LTTE, decision makers must consider

See asylum instruction on Exclusion: Article 1F of the Refugee Convention

whether one of the exclusion clauses is applicable, seeking advice from a Senior Caseworker if necessary.

Return to contents

Scarring

1.3.16 The Tribunal in GJ & Others indicated that it 'had not considered whether asylum claims are being asserted in the United Kingdom based on self scarring, or scarring inflicted at an appellant's request, in the UK, Sri Lanka or elsewhere and being purported to have been caused as a result of torture by the Sri Lankan authorities.

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE), which refers to medical evidence.

1.3.17 The Tribunal in GJ & Others did note 'there was only one case in the press reports in which a person with an LTTE tattoo came to harm. A tattoo is a form of scarring; Dr Smith's evidence was that scarring was relevant only when a person was detained for other reasons, when they would be stripped to their underwear during interrogation and scarring might increase suspicion. We do not consider that there is sufficient evidence to support having an LTTE tattoo as a risk factor.' [paragraph 267].

1.3.18 The Upper Tribunal subsequently heard the reported case of KV (scarring - medical evidence) Sri Lanka [2014] UKUT 230 (IAC) (23 May 2014) on the more general matter of scarring and gave guidance on medico-legal reports in such cases and the reaching of conclusions about the causation of scarring

See Caselaw

1.3.19 In considering scarring, decision makers should take full account of the medical evidence produced. However as the Upper Tribunal found in KV that whilst if best practice is followed medico-legal reports will make a critical evaluation of a claimant's account of scarring said to have been caused by torture, such reports cannot be equated with an assessment to be undertaken by decision-makers in a legal context in which the burden of proof rests on the claimant and when one of the purposes of questioning is to test a claimant's evidence so as to decide whether (to the lower standard) it is credible.

Is there effective protection for a person in fear of persecution by the Sri Lankan authorities due to the person's perceived support for the LTTE or involvement with Tamil separatism?

1.3.20 As this category of claim concerns a person's fear of ill treatment by the state authorities, they would be unable to apply to these authorities for protection.

See country information on Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE).

Is the person able to internally relocate within Sri Lanka to escape the risk?

1.3.21 As this category of claim concern's a fear of ill treatment by the state authorities, relocation to a different area of the country to escape this threat is not viable.

See Annex A: Map

1.3.22 The Tribunal in GJ & Others found that 'Internal relocation is not an option within Sri Lanka for a person at real risk from the Sri Lankan authorities, since the government now controls the whole of Sri Lanka and Tamils are required to return to a named address after passing through the airport.' [paragraph 356 (5)].

See Caselaw

Return to contents

1.4 Policy summary

The LTTE in Sri Lanka itself has not held any military power or political authority since the end of the civil war in 2009.

A person being of Tamil ethnicity would not in itself warrant international protection. Neither would a person who evidences past membership or connection to the LTTE unless they have or are perceived to have a significant role in relation to post-conflict Tamil separatism or appear on a 'stop' list at the airport.

Persons accused of trying to revive the LTTE or commemorate LTTE cadres have been arrested as have persons calling for investigations into alleged government perpetrated war crimes.

Participating in Diaspora activities such as attending demonstrations in itself is not considered evidence that a person is a committed Tamil activist seeking to promote Tamil separatism within Sri Lanka. Each case should be considered on the evidence.

A person perceived to be a threat to the State through having or being perceived to have a 'significant role in relation to post-conflict Tamil separatism within the Diaspora and/or a renewal of hostilities within Sri Lanka' are considered at risk and a grant of asylum will normally be appropriate.

A person who is known to the authorities, such as having their name on a 'stop' list or having a court order or an outstanding arrest warrant against them would be considered at risk and a grant of asylum will normally be appropriate.

In accordance with the KV caselaw, when considering scarring said to be the result of torture, decision makers must have regard to the medical evidence produced, but such medico-legal reports do not replace the need for an assessment to be undertaken by the decision maker in a legal context in which the burden of proof rests on the claimant and when one of the purposes of questioning is to test a claimant's evidence so as to decide whether (to the lower standard) it is credible.

The presence of an LTTE inspired tattoo on a person is not in itself considered a risk, unless a person is likely to be detained and stripped during interrogation for 'other reasons'.

The LTTE were involved in serious human rights abuses during

the conflict and as such, there may be serious reasons for considering that Article 1F applies.

Where a claim based on the person supporting or being involved with Tamil separatism is refused, it is unlikely to be certifiable as 'clearly unfounded' under section 94 of the Nationality, Immigration and Asylum Act 2002.

See asylum instruction on Exclusion: Article 1F of the Refugee Convention

See asylum process guidance on Non suspensive appeals certification under section 94 of the NIA Act 2002

Return to contents

2. Information

Updated: 6 July 2014

2.1 End of the civil war

As a general reference for further sources and background information, users should refer to the Home Office Country of Origin Information (COI) Report on Sri Lanka, 7 March 2012. The information in this module should also be read against the sections of the July 2013 Operational Guidance Note (OGN) on 'Opposition Politicians and Political Activists' (Section 3.11), 'Women' (Section 3.13), 'Prison Conditions' (Section 3.16) and 'Returns' (Section 6).

2.1.1 Sri Lanka's population was estimated to reach 21,866,445 in July 2014. Accordng to the 2001 census, 73.8% were from the Sinhalese Ethnic group. While other groups included the Sri Lankan Moors at 7.2%,, Indian Tamil at 4.6%, Sri Lankan Tamil at 3.9%, Others at 0.5% and those unspecified at 10%.[1]

2.1.2 In 1983 ethnic rivalry between the majority Sinhalese and the Tamil minority in the northeast escalated into a civil war. 26 years later the conflict finally came to an end in May 2009, when government forces seized the last area controlled by Tamil Tiger rebels. The UN found credible allegations that both sides committed war crimes against civilians.[2] [3]

2.1.3 The International Crisis Group (ICG) report entitled 'The Sri Lankan Tamil Diaspora after the LTTE', published on 23 February 2010 observed that, 'Watching the devastation of the final months of the war and the seeming indifference of governments and the United Nations, many Tamils, particularly the younger generation born in the West, grew deeply disillusioned. Governments with large Tamil communities have been worried this might lead to new forms of militancy. In the last months of the war and months immediately following, there were self-immolations by Tamil protestors, vandalism against Sri Lankan embassies, and increased communal tensions between Tamils and Sinhalese abroad. While such events have grown less frequent, risks of radicalism in the diaspora cannot be dismissed entirely.' [4]

2.1.4 The South Asia Terrorism Portal (SATP), Sri Lanka Assessment 2014, recorded:

'The peace that was established with the defeat of the Liberation Tigers of Tamil Eelam (LTTE) in May 2009 prevailed uninterrupted through 2013. As in 2012, not a single terrorism-related incident was reported from the Island Nation. The last such fatality was recorded on October 2, 2009, when an unidentified gunman killed two Army soldiers and injured another at Paranthakadathan in Mannar District. Moreover, while several

[1] CIA World Factbook, Sri Lanka, People and Society, updated 23 June 2014, https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html, date accessed 2 May 2014
[2] For the full report, see UN, Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 31 March 2011, date accessed 2 May 2014
[3] BBC, Sri Lanka Profile:Overview, updated 23 September 2014, http://www.bbc.co.uk/news/world-south-asia-11999611, date accessed 2 May 2014
[4] International Crisis Group (ICG), The Sri Lankan Tamil Diaspora after the LTTE, Asia Report Nº186, 23 February 2010, Executive Summary, http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/186-the-sri-lankan-tamil-diaspora-after-the-ltte.aspx, date accessed 2 May 2014

concerns remain to be addressed, the country made dramatic progress in terms of post-war reconstruction, and also witnessed some positives in terms of reconciliation.

'Crucially, on September 21, 2013, amid heavy security historic elections were conducted in the five Districts of the Northern Province - Jaffna, Vavuniya, Mullaitivu, Kilinochchi and Mannar - for the first time since the establishment of the provincial council system in 1987. The Tamil National Alliance (TNA), the largest Tamil party in the country, secured a landslide victory, winning in all five Districts, securing 28 of the 36 seats for which elections were held. The TNA also secured two bonus seats on the basis of its percentage of votes in each District. Along with the Northern Provincial Council (NPC) elections, polls were also conducted on September 21, 2013, for the North Western Provincial Council (NWPC) and Central Provincial Council (CPC). Here, unsurprisingly, the United People's Freedom Alliance (UPFA) secured a convincing victory in both the Councils, securing 34 of 52 seats in the NWPC, and 36 of 58 seats in the CPC.' [5]

2.1.5 The ICG report, Sri Lanka's Potemkin Peace: Democracy Under Fire, 13 November 2013, stated:

'The Tamil National Alliance (TNA) won a landslide victory in September's long-awaited northern provincial council elections. Yet, President Mahinda Rajapaksa's administration is reluctant to allow devolution to begin, preferring to maintain de facto military rule in the north. It faces increasing social and communal pressures elsewhere, too. Journalists, human rights defenders and critics of the government are threatened and censored. With opposition parties weak and fragmented, continued international pressure and action are essential to stem the authoritarian turn and erosion of rule of law, realise the devolution of power promised in the constitution and start a credible investigation of alleged war crimes by government forces and the Tamil Tigers (LTTE). […] Despite systematic harassment of TNA candidates and their supporters by the troops stationed in the northern province, voter turnout – some 68 per cent – increased considerably over previous post-war elections. The TNA won 78 per cent of the vote and 30 of 38 council seats. The voting generated unexpected enthusiasm, but also a strong outpouring of Tamil nationalism that Colombo was quick to use in mobilising its own supporters in the rest of the country. […] The TNA will have to navigate a political terrain made challenging not only by Sinhalese nationalist attacks on it as untrustworthy separatists, but also by Tamil nationalists, especially but not only within the diaspora. Since the end of the war, the alliance leadership has faced an ideological challenge, mostly from outside its membership, from Tamils who favour a more confrontational approach and criticise any willingness to work within the constitutional order's constraints, especially as regards the provincial councils'.[6]

2.1.6 The US State Department's 2013 Country Report on Human Rights Practices (USSD Report 2013), Sri Lanka, published on 27 February 2014, noted that:

'Many international and national observers criticized the LLRC [Lessons Learnt and Reconciliation Commission] report for not adequately addressing accountability for alleged war crimes committed by the government and the LTTE during the final months of the conflict and for exonerating the government of any wrongdoing. Such observers

[5] The South Asia Terrorism Portal (SATP),Sri Lanka Assessment 2014, http://www.satp.org/satporgtp/countries/shrilanka/index.html, date accessed 9 May 2014

[6] International Crisis Group, Sri Lanka's Potemkin Peace: Democracy Under Fire, 13 November 2013, Executive Summary p.i, II. Northern Province Elections and the Future of Devolution p. 2 and p.9, http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/253-sri-lankas-potemkin-peace-democracy-under-fire.pdf, date accessed 9 May 2014

noted that the report found no systematic government wrongdoing in connection with incidents, such as the alleged killing of surrendering LTTE fighters, extensive shelling of no-fire zones, systematic shelling of hospitals, and withholding humanitarian supplies from civilians entrapped by the LTTE.' [7]

2.1.7 The ICG report further added:

'For the past quarter-century the Tamil diaspora has shaped the Sri Lankan political landscape through its financial and ideological support to the military struggle for an independent Tamil state. Although the May 2009 defeat of the Liberation Tigers of Tamil Eelam (LTTE) has dramatically reduced the diaspora's influence, the majority of Tamils outside Sri Lanka continue to support a separate state, and the diaspora's money can ensure it plays a role in the country's future. The nature of that role, however, depends largely on how Colombo deals with its Tamil citizens in the coming months and on how strongly the international community presses the government to enact constitutional reforms to share power with and protect the rights of Tamils and other minorities. While the million-strong diaspora cannot regenerate an insurgency in Sri Lanka on its own, its money and organisation could turn up the volume on any violence that might eventually re-emerge.' [8]

2.1.8 The Human Rights Watch (HRW) World Report 2014: Sri Lanka, covering events of 2013, published 31 January 2014,

'The Sri Lankan government of President Mahinda Rajapaksa made little progress in 2013 in addressing accountability for serious human rights abuses committed during the country's nearly three-decades-long civil war, which ended in 2009. In March [2013], the United Nations Human Rights Council (HRC) adopted a second resolution in as many years that called on Sri Lanka to implement the recommendations made by its own Lessons Learnt and Reconciliation Commission (LLRC) and provide accountability for alleged war crimes committed by both sides in the civil war. The government claimed it was implementing the LLRC recommendations, but its claims were difficult to verify and accountability efforts lacked credibility.' [9]

2.1.9 In March 2014, the UN Human Rights Council adopted a resolution in which it requested the Office of the High Commissioner for Human Rights to undertake a comprehensive investigation into alleged serious violations and abuses of human rights and related crimes by both parties in Sri Lanka.[10] Human Rights Watch stated that 'the Sri Lankan government has failed to seriously respond to two previous Human Rights Council resolutions seeking national investigations into violations of international human rights and humanitarian law during the last stages of fighting with the Liberation Tigers of Tamil Eelam (LTTE), which resulted in the deaths of as many as 40,000 civilians. Instead of investigating those responsible for atrocities, the Sri Lankan government has cynically

[7] US Department of State, 2013 Country Report on Human Rights for Practices: Sri Lanka, 27 February 2014, (Section 5 - Government Human Rights Bodies), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220404#wrapper, date accessed 2 May 2014

[8] International Crisis Group (ICG), The Sri Lankan Tamil Diaspora after the LTTE, Asia Report Nº186, 23 February 2010, Executive summary http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/186%20The%20Sri%20Lankan%20Tamil%20Diaspora%20after%20the%20LTTE.pdf, accessed 2 May 2014

[9] Human Rights Watch (HRW), World Report 2014 (Events of 2013), 21 January 2014, p387, http://www.hrw.org/sites/default/files/wr2014_web_0.pdf, date accessed 7 May 2014

[10] Office of the High Commissioner for Human Rights (OHCHR), Human Rights Council adopts a resolution on reconciliation, accountability and human rights in Sri Lanka, 27 March 2014, http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14447&LangID=E, date accessed 30 May 2014, date accessed 30 May 2014

absolved its forces of any wrongdoing and lashed out at those seeking accountability. Passing this resolution will send a strong message to all victims of Sri Lanka's war that they have not been forgotten'.[11]

Return to contents

2.2 Tamils suspected of links to separatist movements/the Liberation Tigers of Tamil Eelam (LTTE)

2.2.1 The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, dated March 2014, stated that:

'The end of the conflict in 2009 saw the Government of Sri Lanka's determination to separate LTTE suspects from the civilian population emerging from the conflict zone. LTTE members were ordered to identify themselves on the assurance that no harm would come to them and informers assisted in pointing out those suspected of being LTTE, which led to their incarceration in "rehabilitation" centres at Maruthamadu, Welikanda, Kadakadu and Poonthottam, Nellukulam Technical College, and Pampaimadu.' [12]

2.2.2 The BHRC report added:

'The Government of Sri Lanka's extensive intelligence system, shared by the security forces and immigration officials, benefited from the extensive documentation of Tamils by security forces at the end of the war. They recorded details of all IDP's [Internal Displaced Persons] such as names, locations, addresses, details of family members, including their locations and also took photographs.

'Intelligence is gathered from both the Karuna faction and the EPDP [Eelam People's Democratic Party] as well as from former members of the LTTE recruited as informers through torture, or threats of torture or rape of their loved ones. The focus of the intelligence gathering is on the identities of former cadres, their roles and place in the command structure and hierarchy of the LTTE as well as their family connections. Witnesses interviewed by us confirm that under torture they have been forced to name and identify other LTTE cadres. The supply of intelligence to the security forces and immigration department may extend to the Tamil Diaspora given allegations that members of the Karuna faction and embassy employees in the European Union continue to supply photographic and video evidence of Sri Lankans engaging in protest action...

'Since 2009, the Sri Lankan government's security policy has become increasingly sophisticated and is based on intelligence and the comprehensive surveillance of its Tamil citizens as well as the monitoring of the Tamil Diaspora. ' [13]

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[11] Human Rights Watch, UN Rights Council: Crucial Vote on Sri Lanka Inquiry, 26 March 2014, http://www.hrw.org/news/2014/03/26/un-rights-council-crucial-vote-sri-lanka-inquiry, date accessed 30 May 2014

[12] Bar Human Rights Committee, An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014 The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, by Yasmin Sooka, (p21), March 2014, https://barhumanrights.org.uk/sites/default/files/documents/news/an_unfinihsed_war._torture_and_sexual_violence_in_sri_lanka_2009-2014_0.pdf, date accessed 30 May 2014

[13] Bar Human Rights Committee, An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014 The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, by Yasmin Sooka, (p22,63), https://barhumanrights.org.uk/sites/default/files/documents/news/an_unfinihsed_war._torture_and_sexual_violence_in_sri_lanka_2009-2014_0.pdf, date accessed 30 May 2014

2.2.3 A Swiss Refugee Council report dated 15 November 2012 stated that, 'Although the LTTE may have been defeated and there is not the slightest sign that this organisation has survived, the State machine of Sri Lanka is extremely paranoid and is trying to contain any resurgence of this group, or the germination of tendencies of independence alongside the Tamils. This concern has direct repercussions on all of the Tamils in the North and East because their ethnicity could indicate possible proximity to the LTTE. There are even suspicions directed at Tamils with a low profile, who do not escape surveillance. The authorities check whether these people may be in contact with the diaspora. This is especially the case of those who were recruited, whether or not by force, by the LTTE. The authorities also extend their suspicions to acquaintances and relatives of former members of the LTTE. According to several reports, people who return from abroad are often suspected of maintaining links with the LTTE and are particularly threatened'. [14]

2.2.4 On 16 April 2014 The World Socialist Website (WSW) reported that

'The Sri Lankan military claimed last week to have killed three alleged "LTTE leaders," saying they were trying to "revive" the separatist Liberation Tigers of Tamil Elam, which was militarily crushed in May 2009.

'On April 11, Sri Lankan defence spokesman Brigadier Ruwan Wanigasooriya told the media that the military killed Kajeepan Ponnaiah Selvanayagam, alias Gopi, in overnight skirmishes in the jungle near Nedunkerni in the northern Vavuniya district.

'Gopi, Wanigasooriya claimed, was the leader of an attempt to "revive the LTTE within the pro-Tiger Tamil diaspora." Others killed were Sundaralingam Kajeepan, alias Thevihan, and another man believed to be Navaratnam Navaneethan, alias Appan. The military said the operation involved hundreds of soldiers.

'The military has provided no evidence for any of its claims. The killings occurred amid intensified propaganda by President Mahinda Rajapakse's government that the LTTE is being resuscitated. Since early March, the military has unleashed a terror and intimidation campaign in the north, detaining over 60 people, including 10 women, under the draconian Prevention of Terrorism Act.' [15]

Return to contents

2.2.5 The Human Rights Watch (HRW) World Report 2014: Sri Lanka, covering events of 2013, published 31 January 2014, noted that:

'Sri Lanka's Prevention of Terrorism Act gives police broad powers over suspects in custody and is the law most commonly invoked by officials to justify prolonged detention without trial of security suspects. It is still in regular use. Torture and other ill-treatment of persons in custody by the security forces has been a widespread problem both during and since the armed conflict. Human Rights Watch published new evidence in February [2013] that rape and sexual violence has been a key element of broader torture of suspected LTTE members and supporters even since the war's end. The torture is used

[14] Swiss Refugee Council: Adrian Schuster: Sri Lanka- current situation, 15 November 2012, 4.4 Profile of at risk groups, 4.4 Tamils in the North and East, http://www.fluechtlingshilfe.ch/sri-lanka-current-situation-update, date accessed 30 May 2014
[15] World Socialist Website, Sri Lankan military kills alleged "LTTE suspects", 16 April 2014, http://www.wsws.org/en/articles/2014/04/16/sril-a16.html, date accessed 28 July 2014

to obtain “confessions” of LTTE involvement, and to instill terror in the broader Tamil population to discourage involvement with the LTTE.

‘The government rejected these findings and claimed they were fabrications by individuals seeking to embellish their overseas asylum claims. Human Rights Watch is unaware of any government investigations into the reported sexual abuse.’ [16]

2.2.6 The BHRC report stated: ‘The alleged perpetrators responsible for the torture, rape and sexual violence and cruel and inhumane treatment, extend to a broad range of Sri Lankan security organisations including the military, military intelligence, and the police with many witnesses naming the Criminal Investigation Department (CID) and Terrorism Investigation Division (TID) as key to their initial abduction. The majority were male but women did assist during interrogation and also acted as guards.’ [17]

2.2.7 HRW World Report 2014 noted that, ‘By September [2013], the government was detaining 230 of the estimated 12,000 members and supporters of the defeated Liberation Tigers of Tamil Eelam (LTTE) held at the end of the civil war for “rehabilitation.”’ [18]

2.2.8 A security update by the BHC in Colombo, dated 16 April 2014, stated:

‘The increased military presence, arrests and killings have been widely reported in local press, with some coverage also in the international media.

‘There have been reports that some of those arrested have been subjected to ill-treatment in detention. Women’s Action Network released a statement detailing the arrest and ill-treatment of 6 women whose male family members or associates were claimed to be linked to the LTTE, five of whom were linked to ‘Gobi’. It is claimed that one of the women was pregnant when arrested and miscarried during questioning. It is reported that she was denied medical treatment and transferred by train to a detention centre 60 miles away the same night. A police spokesperson, Ajith Rohana, said he would investigate allegations of medical care being denied to the detainees.

‘In addition to the arrests and claims of ill-treatment, there are reports of widespread cordon and search operations, restrictions on movement in some areas and increased surveillance and harassment of rehabilitated ex-combatants. Two staff members of the British High Commission (BHC) visited Jaffna on 9 April 2014 and saw that little visible sign of an increased military presence in the town itself.’ [19]

2.2.9 The Report of the Secretary-General on Conflict-related sexual violence, 13 March 2014 stated:

‘In my previous report on sexual violence in conflict, I noted that the action plan launched in August 2012 to respond to the recommendations made by the Commission of Inquiry on Lessons Learnt and Reconciliation included no action directly providing redress for those affected by sexual violence during the conflict... I also noted the continued

[16] Human Rights Watch (HRW), World Report 2014 (Events of 2013), 21 January 2014, http://www.hrw.org/world-report/2014/country-chapters/sri-lanka,
[17] Bar Human Rights Committee, An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014 The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, by Yasmin Sooka, (p31), https://barhumanrights.org.uk/sites/default/files/documents/news/an_unfinihsed_war._torture_and_sexual_violence_in_sri_lanka_2009-2014_0.pdf, date accessed 30 May 2014
[18] Human Rights Watch (HRW), World Report 2014 (Events of 2013), 21 January 2014, http://www.hrw.org/world-report/2014/country-chapters/sri-lanka,
[19] British High Commission (BHC), Colombo, letter providing a security updated, 16 April 2014, (See Annex: D)

vulnerability of women and children in areas formerly affected by conflict, partly due to the continued militarization of those areas. These issues remained pertinent during 2013, as women and girls, especially in female-headed households, continued to be vulnerable to sexual harassment and abuse, including at the hands of military personnel. The Government reports that the military has taken strict action in such cases. The United Nations High Commissioner for Human Rights, however, continued to voice concerns in 2013 with regard to accountability in Sri Lanka, stating that the Government has taken limited and piecemeal steps towards investigating serious allegations of violations of international human rights and humanitarian law, and none of these have had the independence or credibility required. Efforts to investigate such allegations fully and to bring justice to victims of the civil conflict, including those reporting sexual violence crimes, thus remain a priority.' [20]

2.2.10 The Human Rights Watch (HRW) report, "We Will Teach You a Lesson", published on 26 February 2013, stated:

'Rape appears to have been a key element of broader torture and ill-treatment of suspected LTTE members and others believed linked to the LTTE. This torture was intended to obtain confessions - whether accurate or false - of involvement in LTTE activities, obtain information on others including spouses and relatives, and, it appears, to instill terror in individuals and the broader Tamil population...

'The 75 cases investigated by Human Rights Watch cannot be said to represent a random sample of individuals subjected to sexual violence while in the custody of Sri Lankan security forces. However, the findings do permit some broader conclusions to be drawn. The perpetrators of rape and sexual violence covered a range of Sri Lankan security Organizations - the military, military intelligence, and the police, the last including the Criminal Investigation Department (CID) and Terrorism Investigation Department (TID). Frequently members of more than one state agency would work together...

'The perpetrators of sexual abuse were male, but uniformed female police officers assisted in the torture and rape of both men and women. For example, women police officers tied up and shackled detainees to expose them, stripped them of their clothes, threw chili powder in their faces, and participated in their near asphyxiation with petrol-infused plastic bags.' [21]

2.2.11 The HRW report further added:

'Sexual abuse as a form of torture or ill-treatment does not appear limited to particular areas or detention centers, but appears to have occurred in all the places that suspected LTTE members and supporters were subject to custodial abuse. Many of those mistreated were held in unofficial places of detention or places they could not name, including in Puttulam and Anuradhapura cities north of Colombo. Some former detainees told Human Rights Watch about unofficial detention sites run by the EPDP [Eeelam People's Democratic Party]. Two women interviewed were raped during interrogations at their homes.

'But much of the mistreatment reported to Human Rights Watch occurred in official detention centers, indicating that senior commanders knew or should have known of the

[20] United Nations (UN), Report of the Secretary-General on Conflict-related sexual violence, 13 March 2014, (p23-24), http://www.ecoi.net/file_upload/1930_1399456345_n1426364.pdf, date accessed 18 June 2014
[21] Human Rights Watch (HRW), "We Will Teach You a Lesson", 26 February 2013, (p29-30), http://www.hrw.org/news/2013/02/26/sri-lanka-rape-tamil-detainees, date accessed 18 June 2014

abuses taking place. In the conflict areas in the north these included various sites in Vavuniya, on the Jaffna peninsula, and in Vanni, and victims in most of these cases identified Sri Lankan army personnel as the perpetrators. Among the "known" sites in Vavuniya were: Vavuniya police station, Chettikulum police station, Arunachalam camp, an army-controlled detention site at Omanthai, and the Nelukulam, Joseph, Ramanathan, and Veppankulam military camps.' [22]

2.2.12 A letter dated 25 July 2014 however, from the British High Commission (BHC) in Colombo, noted that Officials had consulted with the Ministry of External Affairs (MEA), the Department of Immigration and Emigration (DIE), the State Intelligence Service (SIS) and an international Non-Government Organisation (NGO) who specialise in migration, as well the Australian High Commission, Canadian High Commission, Swiss Embassy and Dutch Embassy, and reported that:

'There have been no reports in local press of anyone being arrested because of their membership of, or association with, one of the proscribed Tamil Diaspora organisations. Members of civil society have not raised this as an issue with the High Commission.

'The spokesperson from the MEA stated that no returnees from any country have been arrested yet because of their association with one of the proscribed groups.

'The spokesperson from the DIE also confirmed that no returnees had been arrested on arrival for this reason.

'The spokesperson from the SIS also stated that no returnees have been arrested yet due to involvement with one of the organisations.

'The spokesperson from the international NGO stated that he was not aware of any returnees being arrested because of their association with one of the proscribed groups.

'Contacts from the Australian High Commission, the Canadian High Commission, the Swiss Embassy and the Dutch Embassy all stated that they had not received any reports, or were aware, of any arrests of returnees solely because of their association with one of the proscribed groups. There is no awareness of any members of the groups being returned however.' [23]

2.2.13 In September 2012, Freedom from Torture issued a briefing on 24 cases it had identified of Sri Lankan Tamils tortured in Sri Lanka after they had returned voluntarily from the UK following the end of the civil war. The report noted that 'It is a combination of both residence in the UK and an actual or perceived association at any level with the LTTE which places individuals at risk of torture and inhuman and degrading treatment in Sri Lanka.' [24]

[22] Human Rights Watch (HRW), "We Will Teach You a Lesson", 26 February 2013, (p30-31), http://www.hrw.org/news/2013/02/26/sri-lanka-rape-tamil-detainees, date accessed 18 June 2014

[23] British High Commission (BHC), Colombo, letter providing an update on Proscription of Tamil Organisations and Risk to Family Members, 25 July 2014 (See Annex: D)

[24] Freedom From Torture, Sri Lankan Tamils tortured on return from the UK, 13 September 2012, http://www.freedomfromtorture.org/sites/default/files/documents/Freedom%20from%20Torture%20briefing%20-%20Sri%20Lankan%20Tamils%20tortured%20on%20return%20from%20the%20UK_0.pdf, date accessed 30 May 2014

2.2.14 The letter from the BHC dated 25 July 2014, noted that the spokesperson with whom they had consulted from the SIS stated that 'family members of wanted individuals are never arrested, but they may be monitored and questioned about the individual.' [25]

2.2.15 UNHCR revised its guidelines on assessing asylum claims in December 2012, and recommended that persons with certain links to the LTTE be regarded as being at risk on return [see section on UNHCR Guidelines]. In 2013, several European countries suspended deportations of Tamils with connections to the LTTE, finding them to be at risk of torture on return. [26]

2.2.16 The US State Department's 2013 Country Report on Human Rights Practices (USSD Report 2013), Sri Lanka, published on 27 February 2014, also noted that:

'In the east and north, military intelligence and other security personnel, sometimes allegedly working with paramilitaries, were responsible for the documented and undocumented detention of civilians suspected of LTTE connections. Detention reportedly was followed by interrogation that sometimes included mistreatment or torture. There were reports that authorities released detainees with a warning not to reveal information about their arrest or detention, under the threat of re-arrest or death...

'NGOs and individuals complained that the armed forces and their paramilitary allies detained suspected LTTE sympathizers and did not surrender them to police, blurring the line between arrests and abductions.[27]

2.2.17 It further reports that, 'The law provides for the right to privacy, but the government infringed on this right, particularly when conducting cordon and search operations in Tamil neighborhoods. Security forces conducted searches of property and engaged in wiretapping and surveillance of private citizens with little judicial oversight. Seizure of private lands by various actors remained a problem across the country. There were reports of government-aided resettlement of Sinhalese families from the south into traditionally Tamil areas... Both local and Indian-origin Tamils maintained that they suffered longstanding, systematic discrimination in university education, government employment, and other matters controlled by the government. Tamils throughout the country, but especially in the north and east, reported that security forces and paramilitary groups frequently harassed young and middle-aged Tamil men'.[28]

2.2.18 The Freedom from Torture report, Out of the Silence: Ongoing torture in Sri Lanka 2009-2011 observed that, 'Through the production of medico-legal reports, Freedom from Torture has used forensic methods to document shocking evidence of ongoing torture in Sri Lanka – continuing for more than two years after the end of Sri Lanka's decades-long

[25] British High Commission (BHC), Colombo, letter providing an update on Proscription of Tamil Organisations and Risk to Family Members, 25 July 2014 (See Annex: D)
[26] Human Rights Watch (HRW), World Report 2014 (Events of 2013), 21 January 2014, http://www.hrw.org/world-report/2014/country-chapters/sri-lanka, date accessed 30 May 2014
[27] US Department of State, 2013 Country Report on Human Rights Practices for 2013: Sri Lanka, 27 February 2014, (Section 1c - Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment and Section, 1d - Arbitrary Arrest), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220404#wrapper, date accessed 30 May 2014
[28] US Department of State, Country Report on Human Rights Practices for 2013: Sri Lanka, 27 February 2014, (Section 1f - Arbitrary Interference with Privacy, Family, Home, or Correspondence and Section 6, National/Racial/Ethnic Minorities), http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2013&dlid=220404#wrapper, date accessed 30 May 2014

civil war between government forces and the Liberation Tigers of Tamil Eelam (LTTE).' Adding that:

'The 35 individuals whose medico-legal reports were reviewed come from a range of areas around the country and all report being targeted due to an actual or perceived association with the LTTE, often through family members, or an opposition political party. It has been widely reported that the LTTE forcibly recruited Tamils into membership and other support roles during the civil war, suggesting that a very large proportion of the Tamil population is at risk of being targeted on this basis.' [29]

See Guidance Section on 'Scarring', which addresses medical evidence.

2.2.19 The Freedom House report, Freedom in the World 2013 – Sri Lanka, January 2013, stated that:

'The last years of the war featured a sharp rise in human rights abuses by security forces, including arbitrary arrest, extrajudicial execution, forced disappearance, custodial rape, and prolonged detention without trial, all of which predominantly affected Tamils. Torture occurred in the context of the insurgency but also takes place during routine interrogations. Abusive practices have been facilitated by the emergency regulations, the PTA [Prevention of Terrorism Act], and the 2006 antiterrorism regulations. Under the PTA, suspects can be detained for up to 18 months without trial. These laws have been used to detain a variety of perceived enemies of the government, including political opponents, critical journalists, members of civil society, and Tamil civilians suspected of supporting the LTTE. The government allowed the emergency regulations to lapse in August 2011, but shortly thereafter authorized the expansion of law enforcement powers under the PTA. Several thousand remained in detention without charge at the end of 2012, according to Human Rights Watch. Separately, of the roughly 11,000 Tiger cadres who surrendered in the war's final stages, fewer than 1,000 remained in military-run "rehabilitation" programs during 2012.' [30]

2.2.20 The Amnesty International report, Sri Lanka's Assault on Dissent, 30 April 2013, stated:

'After the armed conflict ended in 2009, Sri Lankan authorities scrutinized residents of newly captured territory for signs of dissent or disloyalty, taking steps to consolidate their political power throughout the island and to counter political challenges. Authorities began taking on old enemies and identifying new pockets of opposition. They began mapping relationships within Sri Lankan civil society as well as alleged connections to international NGOs [non-governmental organizations] and agencies in order to advance the government's claim that people who criticized Sri Lankan government policy or called for human rights accountability were somehow in league with pro-LTTE forces within the Sri Lankan Tamil diaspora and engaged in a "hate campaign" against Sri Lanka.' [31]

2.2.21 The report further added:

'Advocates for the human rights of women and minorities (including Tamils and Muslims), student leaders and university lecturers, clergy, trade unionists and other advocates for

[29] Freedom From Torture, Sri Lanka - Out of the Silence 2009-2011, http://www.freedomfromtorture.org/sites/default/files/documents/Sri%20Lanka%20Ongoing%20Torture_Freedom%20from%20Torture_Final%20Nov_07_2011.pdf, date accessed 3 June 2014
[30] Freedom House, Freedom in the World 2013 – Sri Lanka, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/sri-lanka, date accessed 2 May 2014
[31] Amnesty International, Sri Lanka's Assault on Dissent, 30 April 2013, (p27), http://www.amnestyusa.org/sites/default/files/asa370032013en.pdf, date accessed 2 May 2014

workers' rights, political party activists, judges and lawyers, and journalists, as well as the staff of Sri Lankan policy and human rights organizations, have been subjected to intimidation, vilification, and physical attacks for their comments or actions deemed critical of the government. In Sri Lanka's north and east, where much of the armed conflict played out and where large concentrations of Tamils live, the army remains vigilant against even minor acts of dissent. Human rights defenders there report heavy police surveillance and repeated interrogation about their activities, international contacts and donors. Many victims of this new repression are not prominent activists engaged in advocacy at the international level, but local community workers providing assistance to people struggling to recover from decades of armed conflict.' [32]

2.2.22 The Report of the Office of the High Commissioner for Human Rights (OHCHR) on promoting reconciliation and accountability in Sri Lanka, dated 24 February 2014 observed that during the visit of the High Commissioner, the Government informed her that:

'... more than 11,758 former combatants had been rehabilitated and reintegrated into society, 234 detainees were undergoing rehabilitation, and 91 detainees were facing legal proceedings. The Government also reported that the files of 977 detainees who had been held for long periods of time without charge had been opened, and that 160 files were pending a decision by the end of January 2014.' [33]

2.2.23 The Freedom House report added:

'Human rights groups have claimed that insufficient registration policies in the postwar IDP [Internal Displacement] camps contributed to widespread disappearances and removals without accountability, and the status of hundreds of Tamils who disappeared during the war's final phase remains unclear. In September 2012, the Menik Farm displacement camp, which had once housed 300,000 people displaced by the civil war, was officially closed. While more than 480,000 IDPs have returned to their home districts, in many cases they were unable to occupy their former property due to land mines, destruction of their homes, or appropriation of their land by the military or government. According to the Internal Displacement Monitoring Centre, as of December 31, 2012, over 93,000 people remained displaced, the vast majority of whom were residing with host families. Muslims forcibly ejected from the north by the LTTE in the early 1990s noted during the course of LLRC hearings in 2010 that many were unable to return to their homes, as their land was still being occupied by Tamils. In general, there are few official attempts to help this group of returnees. Other former residents of the conflict area live as refugees in India.' [34] The Norwegian Refugee Council reports in March 2014 that 'Current, returned and relocated IDPs are still discriminated against as a result of their displacement. Challenges include the military occupation and state acquisition of land, the militarisation of civilian life, and gaps in the areas of housing, water and sanitation, livelihoods and food'.[35] Bertelsmann Stiftung reports that 'The threat of a revived LTTE is

[32] Amnesty International, Sri Lanka's Assault on Dissent, 30 April 2013, (p8), http://www.amnestyusa.org/sites/default/files/asa370032013en.pdf, date accessed 8 May 2014
[33] Office of the High Commissioner for Human Rights (OHCHR), Promoting reconciliation and accountability, Report of the OHCHR on promoting reconciliation and accountability in Sri Lanka, (A/HRC/25/23), 24 February 2014, (paragraph 16 - Former combatants and detainees), http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-23_en.doc, date accessed 8 May 2014
[34] Freedom House, Freedom in the World 2013 – Sri Lanka, January 2013, http://www.freedomhouse.org/report/freedom-world/2013/sri-lanka, date accessed 2 May 2014
[35] Norwegian Refugee Council, , Written statement* submitted by the Norwegian Refugee Council, a non governmental organization in special consultative status to the UN Human Rights Council, 5 March 2014

also used to justify militarization and the military's continued presence in the Northern Province'.[36]

2.2.24 The Central Intelligence Agency (CIA) World Factbook, updated 23 June 2014, accessed on 25 July 2014, stated:

'... the government has resettled more than 95% of those civilians who were displaced during the final phase of the conflict and released the vast majority of former LTTE combatants captured by Government Security Forces. At the same time, there has been little progress on more contentious and politically difficult issues such as reaching a political settlement with Tamil elected representatives and holding accountable those alleged to have been involved in human rights violations and other abuses during the conflict.' [37]

2.2.25 In a report in November 2013, reflecting on living conditions for Tamils in the northern region since the war ended, Channel 4 news (online) cites the President as stating that there had been rapid progress in 'the fields of economic and infrastructural development, human rights and tourism'. Channel 4 news also reported that there had been concerns raised by charities about the human rights situation in that region, especially towards groups such as former LTTE members and also women. The report stated:

'Alan Keenan, Sri Lanka project director at the International Crisis Group, told Channel 4 News that the situation in the area has improved "in some ways" through the major investment in infrastructure in the Vanni (Sri Lanka's northern province). However, he said: "There are a lot of economic and humanitarian problems still there. The argument that many make, that I would agree with, is that the government has made too much of large infrastructure and development projects, which it is able to show off to the international community, and not enough of the situation on the ground."

'One group under threat is the Tamil population, which makes up the vast majority of people living in northern Sri Lanka. There are concerns from some members of the Tamil community that the government is undertaking a practice of "Sinhalisation" of the area. Many Sinhalese fled the north due to the atrocities being carried out by the Tamil Tigers during the civil war, and some have now returned. But, as Mr Keenan says, there are concerns about the number of Sinhalese coming into the area. "A lot of Tamils think, let alone that the government is overly concerned with the rights of the Sinhalese, but that it is also bringing in new Sinhalese. The numbers and evidence are not there, so we can't judge the scale, we don't know if we are talking a few thousands, or a few tens of thousands. What is worrying is statements from senior government officials, including the president's brother Gotabaya, who said it was 'unnatural' for the north to be majority Tamil."... Mr Keenan adds that Tamil women are vulnerable to sexual violence, but are also coerced into sexual relationships with Sinhalese soldiers, sometimes for the promise of marriage and sometimes for money.' [38]

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http://www.ecoi.net/file_upload/1930_1395668521_g1411776-1.pdf, date accessed 29 May 2014

[36] The Bertelsmann Stiftung's Transformation Index (BTI), BTI 2014 — Sri Lanka Country Report. Gütersloh: Bertelsmann Stiftung, 2014, http://www.bti-project.de/fileadmin/Inhalte/reports/2014/pdf/BTI%202014%20Sri%20Lanka.pdf, date accessed 29 May 2014

[37] The Central Intelligence Agency (CIA) World Factbook, updated 23 June 2014, (Introduction), https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html, date accessed 25 July 2014

[38] Channel 4, Sri Lanka: grim up north for the Tamil community, 15 November 2013 http://www.channel4.com/news/sri-lanka-tamil-north-vanni-human-rights-chogm-rajapaksa, date accessed 7 May 2014

2.2.26 The Society of Threatened Peoples reported in March 2014 that, 'Several journalists and activists note that rape is a continual concern, especially prevalent against ex-LTTE cadres, and seldom reported' and that 'While the GoSL has highlighted marriages between army soldiers and Tamil women as evidence of reconciliation, direct interviews and other sources maintain that these unions are formed under duress and occur through a spectrum of coercive mechanisms (use of force, threats, assurances of protection)'. [39] In an October 2013 report, the Minority Rights Group noted that, 'Four years after the end of the armed conflict, the situation for minority women in the north and east of Sri Lanka remains deeply insecure. Thousands of women have lost husbands and other family members to death or disappearance, while human rights abuses and violations ranging from sexual violence to land grabbing continue.' [40]

2.2.27 The Minority Rights Group report added, 'The militarization of the north and east from 2009 has contributed to continued insecurity for minority women. Many, especially widows and the wives of disappeared or "surrenderees", are vulnerable to sexual harassment, exploitation or assault by army personnel or other militias.' [41] According to Human Rights Watch, 'Women and girls in the north and east remained especially vulnerable to sexual harassment and violence that the army neither prevented and may have contributed to. Women's rights groups working in Tamil areas reported particular difficulty documenting abuses because of an oppressive military presence'.[42]

2.2.28 In early April 2014, 60 people accused of trying to revive the LTTE were arrested.[43] The BBC reports that the army also shot dead three men it claims were trying to revive the LTTE and that 'There has been a notable increase in arrests and security searches in northern Sri Lanka and some detentions in Colombo'.[44] On 18 May 2014, several hundred soldiers and members of the intelligence service surrounded the headquarters of the Tamil-language daily Uthayan in Jaffna. According to Reporters Without Borders, 'The military operation appeared to be a response to Uthayan's publication yesterday of a supplement entitled 'Mullivaikkal Thuyar Malar - May 18,' consisting of poems and accounts by survivors of the Sri Lankan army's massacre of thousands of Tamil civilians in 2009, in the final stages of the civil war between the government and Tamil Tiger rebels'.[45]

2.2.29 In the build up to the UN resolution vote, Agence France-Presse reported on 19 March 2014 that, 'Father Praveen Mahesan, a Catholic priest who heads the Peace and Reconciliation Centre in the war-torn Jaffna region, and Ruki Fernando of the Colombo-based INFORM advocacy group were detained on Sunday [16 March 2014] as they met

[39] Society for Threatened Peoples, Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status, to the UN Human Rights Council, 4 March 2014, http://www.ecoi.net/file_upload/1930_1395331870_g1411718.pdf, date accessed 29 May 2014

[40] Minority Rights Group International, Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka, 16 October 2013, (p2), http://www.minorityrights.org/12119/reports/living-with-insecurity-marginalization-and-sexual-violence-against-women-in-north-and-east-sri-lanka.html, date accessed 29 May 2014

[41] Minority Rights Group International, Living with insecurity: Marginalization and sexual violence against women in north and east Sri Lanka, 16 October 2013, (p3), http://www.minorityrights.org/12119/reports/living-with-insecurity-marginalization-and-sexual-violence-against-women-in-north-and-east-sri-lanka.html, date accessed 29 May 2014

[42] Human Rights Watch, World Report 2014 (Events of 2013), 21 January 2014, (p3), http://www.hrw.org/world-report/2014/country-chapters/sri-lanka?page=3, date accessed 29 May 2014, date accessed 30 May 2014

[43] Agence France-Presse, Sri Lanka police arrest 60 on fears of renewed conflict, 10 April 2014, http://reliefweb.int/report/sri-lanka/sri-lanka-police-arrest-60-fears-renewed-conflict, date accessed 30 May 2014

[44] BBC, Suspected Tamil rebels shot dead in Sri Lanka, 11 April 2014, http://www.bbc.co.uk/news/world-asia-26984716, date accesed 30 May 2014

[45] Reporters Without Borders, Army surrounds Tamil daily's headquarters in Jaffna, 20 May 2014, http://en.rsf.org/sri-lanka-army-surrounds-tamil-daily-s-19-05-2014,46308.html, date accessed 30 May 2014

relatives who lost loved ones during the Tamil separatist conflict'.[46] Amnesty International noted that they were released on 18 March after being detained without formal charges under Sri Lanka's Prevention of Terrorism Act (PTA). In a diplomatic note circulated to UN member states' permanent missions in Geneva on 18 March, the Sri Lankan government sought to portray the two as engaging with people who were trying to revive the LTTE in Sri Lanka. Reports also cite Sri Lankan officials as saying that the two men were arrested for supplying 'false information' about the human rights situation in northern Sri Lanka to damage the country's reputation at the UN. Amnesty Interntional further stated that, 'The Sri Lankan government's ongoing dirty tactics to silence and smear dissidents are a brazen attempt to deflect criticism as the country faces fresh scrutiny at the United Nations Human Rights Council in Geneva. [47]

2.2.30 The Foreign and Commonwealth reported that on 5 March 2013 that, '... police prevented hundreds of family members of disappeared persons from travelling to Colombo to hand over a petition to the UN'. [48] In February 2014, Amnesty International noted that '... in the past year the Sri Lankan government has continued to pressure its critics, especially those advocating for the human rights of victims of the conflict, as well as those it suspects of supporting calls for an international investigation into alleged war crimes'. [49]

2.2.31 In May 2014, Human Rights Watch reported that 'Government rhetoric and arbitrary arrests against Sri Lankan activists who advocate for accountability have increased in recent years. The government has also widened its crackdown against the independent media and human rights defenders. There have been further reports of abuses, including torture and sexual violence, against suspected LTTE supporters in custody. While various government development, resettlement, and reconstruction projects have been undertaken in former warzones in the north and east, government pledges to address the concerns of the ethnic Tamil population have gone largely unfulfilled. The government has also prohibited simple gestures, such as allowing Tamil communities to hold commemorative services for their dead, or to sing the national anthem in Tamil'.[50]

2.2.32 It was reported by the Hindu at the end of April 2014 that as part of Sri Lanka's strategy 'to combat terrorism and to control terrorist financing', the Sri Lankan government proscribed at least 15 Tamil diaspora organisations across the world, besides the Liberation Tigers of Tamil Eelam (LTTE), under a United Nations resolution adopted in 2001, soon after the September 11 attacks in the United States. Included in the proscribed list of organisations are the Global Tamil Forum (GTF), the British Tamil Forum (BTF) and the Trans-national Government of Tamil Eelam (TGTE). [51]

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[46] Agence France-Presse, Sri Lanka releases rights activists after outcry, 19 March 2014, http://reliefweb.int/report/sri-lanka/sri-lanka-releases-rights-activists-after-outcry, date accessed 30 May 2014

[47] Amnesty International, Sri Lankan government amplifies its 'dirty tactics' during UN session, 19 March 2014, (p6-7), http://www.amnesty.org/en/news/sri-lankan-government-amplifies-its-dirty-tactics-during-un-session-2014-03-19, date accessed 30 May 2014

[48] UK Foreign and Commonwealth Office: Human Rights and Democracy Report 2013 - Section XI: Human Rights in Countries of Concern - Sri Lanka, 10 April 2014, https://www.gov.uk/government/publications/sri-lanka-country-of-concern/sri-lanka-country-of-concern, date accessed 30 May 2014

[49] Amnesty International, Sri Lanka: Suppressing calls for justice, 26 February 2014, http://www.amnesty.org/en/library/info/ASA37/003/2014/en, date accessed 30 May 2014, date accessed 30 May 2014

[50] Human Rights Watch, Sri Lanka: Comply with Rights Council Investigation, 20 May 2014, http://www.hrw.org/news/2014/05/19/sri-lanka-comply-rights-council-investigation, date accessed 30 May 2014, date accessed 30 May 2014

[51] The Hindu, Sri Lanka bans 15 Tamil diaspora organisations, 2 April 2014 http://www.thehindu.com/news/international/south-asia/sri-lanka-bans-15-tamil-diaspora-organisations/article5860193.ece, date accessed 30 May 2014

2.2.33 Human Rights Watch reported in April 2014 that, 'The Sri Lankan government's decision to label 16 overseas Tamil organizations as financers of terrorism is so broad that it appears aimed at restricting peaceful activism by the country's Tamil minority'. Chief Military spokesman Brig. Ruwan Wanigasuriya was reported to have stated that under the order, legal action would be taken against anyone having links with the listed groups. This would place local activists and alleged group members visiting the country at risk of being detained and held without charge under Sri Lanka's Prevention of Terrorism Act. "The Sri Lankan government is using vague counterterrorism regulations to tie the major diaspora Tamil groups to the ruthless but defunct LTTE," said Brad Adams, Asia director. "This broad-brush sanction could then be used to punish local Tamil activists and politicians with international ties." [52]

For further information on the organisations proscribed, see 'Proscription of Diaspora Organisations'.

Return to contents

UNHCR Guidelines

This Section should be read in conjunction with the information in the Section on Proscription of Diaspora Organisations.

2.2.34 The UNHCR Eligibility guidelines, 'Assessing the International Protection Needs of Asylum Seekers from Sri Lanka', dated 21 December 2012, stated that:

'At the height of its influence in Sri Lanka in 2000-2001, the LTTE controlled and administered 76% of what are now the northern and eastern provinces of Sri Lanka. Therefore, all persons living in those areas, and at the outer fringes of the areas under LTTE control, necessarily had contact with the LTTE and its civilian administration in their daily lives. Originating from an area that was previously controlled by the LTTE does not in itself result in a need for international refugee protection in the sense of the 1951 Convention and its 1967 Protocol.' [53]

2.2.35 The UNHCR Eligibility guidelines, include in its risk categories, 'persons suspected of Certain Links with the Liberation Tigers of Tamil Eelam (LTTE)'. Previous (real or perceived) links that go beyond prior residency within an area controlled by the LTTE continue to expose individuals to treatment which may give rise to a need for international refugee protection, depending on the specifics of the individual case. The nature of these more elaborate links to the LTTE can vary, but may include people with the following profiles:

'1) Persons who held senior positions with considerable authority in the LTTE civilian administration, when the LTTE was in control of large parts of what are now the northern and eastern provinces of Sri Lanka.
'2) Former LTTE combatants or 'cadres'.

[52] Human Rights Watch, Sri Lanka: Asset Freeze Threatens Peaceful Dissent, 7 April 2014, http://www.hrw.org/news/2014/04/07/sri-lanka-asset-freeze-threatens-peaceful-dissent, date accessed 30 May 2014
[53] UNHCR Eligibility Guidelines for assessing the International Protection Needs of Asylum Seekers from Sri Lanka, 21 December 2012, Risk Profiles A.1: Persons suspected of certain links with the Liberation Tigers of Tamil Eelam (LTTE), http://www.refworld.org/pdfid/50d1a08e2.pdf, date accessed 7 May 2014

'3) Former LTTE combatants or 'cadres' who, due to injury or other reason, were employed by the LTTE in functions within the administration, intelligence, 'computer branch' or media (newspaper and radio).
'4) Former LTTE supporters who may never have undergone military training, but were involved in sheltering or transporting LTTE personnel, or the supply and transport of goods for the LTTE.
'5) LTTE fundraisers and propaganda activists and those with, or perceived as having had, links to the Sri Lankan Diaspora that provided funding and other support to the LTTE.
'6) Persons with family links or who are dependent on or otherwise closely related to persons with the above profiles.' [54]

2.2.36 The same Guidelines noted:

'Information has been published documenting cases of mistreatment and torture of women and men in detention (police custody or other forms of detention), for reason of their or their family members' alleged former links with the LTTE. Killings have been reported which appear to be politically motivated, targeting persons believed to be LTTE sympathizers. Sexual violence, including but not limited to rape, against Tamil men in detention has also been reported recently, including reports of cases perpetrated in the post-conflict period. Sexual harassment of former LTTE combatants in rehabilitation centres has also been reported.' [55]

2.2.37 The Guidelines added:

'Former "rehabilitees" reportedly face problems reintegrating upon release. Many are visited by military and intelligence agents, or are required to report regularly to local military "Civil Affairs Officers", local police and military camps. Many are believed to have been put under pressure to act as informants. Should the individual fail to report to the military authorities on a regular basis, family members are directly questioned by the military on their whereabouts. Additionally, relatives of former LTTE fighters who did not surrender continue to face interrogation by the authorities. The issuance of ad hoc "release certificates" by these authorities, including with expiration dates, reportedly creates confusion as to the status of those who are released. "Rehabilitees" report that they self-limit their movements within and outside their immediate community, which also has a negative impact on certain livelihood opportunities.

'The Presidential Task Force for Resettlement, Development and Security in the Northern Province reportedly discourages the provision of humanitarian support to former "rehabilitees" and their family members. Reportedly, this is the case even if those concerned may have specific needs following release, based on humanitarian criteria, such as belonging to a single-headed household.'

2.2.38 UNHCR concludes that 'Persons of the above profile are, depending on the individual circumstances of the case, likely to be in need of international refugee protection on account of their (perceived) political opinion, usually linked to their ethnicity. The same is likely to apply to family members and other dependants of individuals with the above

[54] UNHCR Eligibility Guidelines for assessing the International Protection Needs of Asylum Seekers from Sri Lanka , 21 December 2012, Risk Profiles A.1: Persons suspected of certain links with the Liberation Tigers of Tamil Eelam (LTTE), http://www.refworld.org/pdfid/50d1a08e2.pdf, date accessed 7 May 2014
[55] UNHCR Eligibility Guidelines for assessing the International Protection Needs of Asylum Seekers from Sri Lanka , 21 December 2012, Risk Profiles A.1: Persons suspected of certain links with the Liberation Tigers of Tamil Eelam (LTTE), http://www.refworld.org/pdfid/50d1a08e2.pdf, date accessed 7 May 2014

profiles. Asylum claims by persons suspected of certain links with the LTTE, in particular former cadres, whether or not they have engaged in military operations, may, depending on the individual circumstances of the case, need to be examined for possible exclusion from refugee status'.[56]

2.2.39 UNHCR's position regarding refused asylum seekers suggest that some sources have reported recent cases of former Sri Lankan (in particular Tamil) asylum-seekers who were allegedly detained and ill-treated or tortured after having been forcibly returned to Sri Lanka upon rejection of their asylum claims or who voluntarily returned to Sri Lanka. There is no systematic monitoring after arrival in Sri Lanka of the treatment of Sri Lankans who were forcibly returned.[57]

The UNHCR Eligibility guidelines, 'Assessing the International Protection Needs of Asylum Seekers from Sri Lanka', dated 21 December 2012, additionally refers to other risk categories.

Return to contents

2.3 Tamil Diaspora

2.3.1 The South Asia Terrorism Portal (SATP), Sri Lanka Assessment 2014, recorded:

'The remnants of LTTE, though miniscule, continue to pose a limited challenge. Through 2013, there were reports of the activities of cadres and sympathizers, within and outside Sri Lanka. In one incident in support of LTTE, Tamil activists in Tamil Nadu, India, assaulted a Sri Lankan Buddhist monk, identified as Bandara, at the Central Railway Station in Chennai, on March 18, 2013. Further, nine persons who were attempting to commemorate slain LTTE cadres on May 18, 2013, were arrested in Colombo. On September 5, 2013, a man, believed to be an LTTE supporter, committed self-immolation in front of the United Nation's Human Rights Committee building in Geneva, Switzerland. Again, eight persons were arrested on September 13, 2013, in the Kodikarmam area in Jaffna District on charges of having in their possession posters containing the picture of slain LTTE leader Vellupillai Parabhakaran. Police said this was the first time such posters had been found in the Northern Province since the war ended in 2009. Acknowledging LTTE's surviving presence, President Mahinda Rajapaksa in another media interview on August 31, 2013, observed, "The LTTE (Tamil Tigers) sympathizer networks have been in this business for a long time. It was their big money-raiser. They are still doing it today."' [58]

2.3.2 The International Crisis Group (ICG) report on 'The Sri Lankan Tamil Diaspora after the LTTE', dated 23 February 2010, stated:

'Aside from the southern Indian state of Tamil Nadu, which is home to nearly 200,000 Sri Lankan Tamil refugees, there are substantial diaspora populations in Canada (200,000-300,000), Great Britain (180,000), Germany (60,000), Australia (40,000), Switzerland

[56] UNHCR Eligibility Guidelines for assessing the International Protection Needs of Asylum Seekers from Sri Lanka , 21 December 2012, Risk Profiles A.1: Persons suspected of certain links with the Liberation Tigers of Tamil Eelam (LTTE), http://www.refworld.org/pdfid/50d1a08e2.pdf, date accessed 7 May 2014
[57] UNHCR Eligibility Guidelines for assessing the International Protection Needs of Asylum Seekers from Sri Lanka, 21 December 2012, II. Main developments in Sri Lanka (since July 2010), A.2 Return of Refugees and Failed Asylum-seekers, http://www.refworld.org/pdfid/50d1a08e2.pdf, date accessed 7 May 2014, date accessed 7 May 2014
[58] The South Asia Terrorism Portal (SATP),Sri Lanka Assessment 2014, Undated, http://www.satp.org/satporgtp/countries/shrilanka/index.html, date accessed 9 May 2014

(47,000), France (40,000-50,000), the Netherlands (20,000), the U.S. (25,000), Italy (15,000), Malaysia (20,000), Norway (10,000), Denmark (7,000), New Zealand (3,000) and Sweden (2,000). There are also smaller communities in South Africa, the Gulf States, and in several South East Asian countries.' The ICG report highlighted that 'The diaspora is not a monolithic entity that acted solely as the fundraising and political wing for the Tigers as is commonly believed, particularly in Colombo. As one Tamil politician explained, "It [the diaspora] is certainly not the LTTE's Sinn Féin". Not every diaspora Tamil donated funds to the Tigers, not everyone supported them politically, and countless people were their victims'.[59]

2.3.3 The same ICG report added:

'Pro-Tiger elements in the diaspora continue to raise funds in order to carry forward the struggle for a separate state in new, non-violent forms. Several new organisations are fundraising for this purpose. It is fair to assume, however, that most of the money collected in the diaspora since May 2009 has been for humanitarian and relief efforts. A number of organisations such as the International Medical Health Organisation (IMHO), a U.S.-based NGO comprised of mostly Tamil physicians have raised over $500,000 to build health-care facilities and provide basic health care in Sri Lanka. A Western development official said, "It's absurd that diaspora has to fund things like basic health care, when it is clearly the government's responsibility".' The ICG report also highlights the continued interest of the Sri Lankan authorities in the diaspora activities: 'Embassy and consular staff, often with the assistance of Sinhalese diaspora groups, report back to Colombo on suspected pro-Tiger individuals and organisations. Some Tamils allege that information has been used to identify and harass their relatives in Sri Lanka'.[60]

2.3.4 The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, entitled 'An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009 - 2014', stated that thare was evidence that, 'Tamil protests in the diaspora have been monitored. In London, Sri Lankan embassy staff were observed photographing protestors. It is not known what happens to the photographs but it is probably reasonable to assume that they are sent to the relevant intelligence section of the State Intelligence Service (SIS).' [61]

2.3.5 The Human Rights Watch (HRW) report, "We Will Teach You a Lesson", published on 26 February 2013, cited reported instances of torture to Tamils returning to Sri Lanka. The report stated that:

'Since the end of the armed conflict, other Tamils, living abroad, returned to Sri Lanka only to be arrested immediately or soon after arrival, and they too have been subjected to torture, including rape, while in custody. A number of these were questioned about alleged activities abroad, including peaceful criticism of the Sri Lankan government. For

[59] International Crisis Group (IGC), The Sri Lankan Tamil Diaspora after the LTTE, Asia Report N°186, 23 February 2010, II. The emergence of the Tamil Diaspora (p2), http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/186%20The%20Sri%20Lankan%20Tamil%20Diaspora%20after%20the%20LTTE.pdf, date accessed 9 May 2014

[60] International Crisis Group (IGC), The Sri Lankan Tamil Diaspora after the LTTE, Asia Report N°186, 23 February 2010, II. The emergence of the Tamil Diaspora, E. Money and weapons (p7), http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/186%20The%20Sri%20Lankan%20Tamil%20Diaspora%20after%20the%20LTTE.pdf, date accessed 9 May 2014

[61] The report of The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, by Yasmin Sooka, (p19), https://barhumanrights.org.uk/sites/default/files/documents/news/an_unfinihsed_war._torture_and_sexual_violence_in_sri_lanka_2009-2014_0.pdf, date accessed 30 May 2014

instance, YN, 46, was deported to Sri Lanka in January 2010. He told Human Rights Watch he was picked up by CID officials as soon as he cleared immigration at the Colombo's international airport, and taken to the fourth floor of CID headquarters where he was detained for two or three days before being transferred to Joseph camp in Vavuniya. He said he was repeatedly beaten, tortured, and raped at Joseph camp.' [62]

Return to contents

Proscription of Diaspora Organisations

This Section should be read in conjunction with the information in the Section on UNHCR Guidelines.

2.3.6 A letter from the British High Commission in Colombo dated 16 April 2014, stated:

'On 1 April 2014, the government of Sri Lanka announced the designation of 16 Tamil Diaspora organisations and 424 individuals under the UN Security Council resolution 1373 on counter-terrorism. The order was issued by the Secretary of Defence. The government asserts that this action has been taken to stop attempts to revive the LTTE. The BHC has asked the government of Sri Lanka to provide evidence to support this decision.

'Among the organisations proscribed are the Transnational Government of Tamil Eelam (TGTE) and the UK-based Global Tamil Forum (GTF) and British Tamil Forum (BTF). When making the announcement on 1 April, Brigadier Ruwan Wanigasooriya said that individuals belonging to these organisations would face arrest under anti-terrorism laws when travelling to Sri Lanka. This has not yet been tested in practice; to date, there have been no known arrests based on membership of one of the newly proscribed groups.' [63]

2.3.7 As reported in the Government official gazette on 21 March 2014, the Sri Lankan Ministry of Defence and Urban Development proscribed the following alleged front organizations of the LTTE:

'01. Liberation Tigers of Tamil Eelam a.k.a LTTE a.k.a Tamil Tigers.
'02. Tamil Rehabilitation Organization a.k.a TRO.
'03. Tamil Coordinating Committee a.k.a TCC
'04. British Tamil Forum a.k.a BTF
'05. World Tamil Movement a.k.a WTM
'06. Canadian Tamil Congress a.k.a CTC
'07. Australian Tamil Congress a.k.a ATC
'08. Global Tamil Forum a.k.a GTF
'09. National Council Of Canadian Tamils a.k.a NCCT
'10. Tamil National Council a.k.a TNC
'11.Tamil Youth Organization a.k.a TYO
'12. World Tamil Coordinating Committee a.k.a WTCC.
'13. Transnational Government Of Tamil Eelam a.k.a TGTE
'14. Tamil Eelam Peoples Assembly a.k.a TEPA
'15 .World Tamil Relief Fund a.k.a WTRF

[62] Human Rights Watch (HRW), "We Will Teach You a Lesson", 26 February 2013, http://www.hrw.org/news/2013/02/26/sri-lanka-rape-tamil-detainees, date accessed 3 June 2014
[63] British High Commission (BHC), Colombo, letter providing a security updated, 16 April 2014, (See Annex: D)

'16. Headquarters Group a.k.a HQ Group' [64]

See also Annex B: Examples of Tamil Organisations operating in the UK

2.3.8 On 2 April 2014 Sri Lanka's national newspaper, the Daily News, reported that:

'The order effectively forbids Sri Lankan nationals to maintain contact or links with members of the proscribed organisations. This would prevent Sri Lankan political parties and leaders from obtaining funds from such entities for undertakings in Sri Lanka. This move is likely to affect several members of Tamil political parties in Sri Lanka. It would also forbid Sri Lankan politicians and Non-Governmental Organisation (NGO) activists being in contact with representatives of such entities either in Sri Lanka or during trips abroad.' [65]

2.3.9 It further added:

'A media release issued by the External Affairs Ministry yesterday [1 April 2014] stated: "An order, designating persons and entities in terms of the United Nations Security Council Resolution 1373 which sets out strategies to combat terrorism and to control terrorist financing has been signed by Prof. G.L. Peiris, Minister of External Affairs, and will be published in the Government Gazette shortly.

'"This order is based on the recommendation by the Secretary, Ministry of Defence and Urban Development, as the Competent Authority regarding the identification of persons, groups and entities, believed on reasonable grounds to be committing, attempting to commit, facilitating or participating, in the commission of acts of terrorism.

'"The substantial effect of an order under this Regulation is that all funds, assets and economic resources belonging to or owned by the designated persons or entities remain frozen until they are removed from the designated list. Moving, transferring or dealing with frozen assets without the permission of the Competent Authority is prohibited. In terms of the Regulation, any person who fails to comply with an order to freeze assets is liable to heavy penalties."' [66]

2.3.10 Recent events that specific elements of the diaspora who support the LTTE have been reported as being involved in, as cited on 16 November 2013 by The Diplomat, an international current-affairs magazine for the Asia-Pacific region, included 'campaigning, sometimes through LTTE organizations such as the Global Tamil Forum, the Transnational Government for Tamil Ealam and the British Tamil Forum, encouraging calls for a boycott of CHOGM [Commonwealth Heads of Government Meeting] 2013' [67] The article added that:

'Their efforts have embarrassed Sri Lanka before. For instance, in December 2010, the Oxford Union canceled [sic] an address by Sri Lankan President Mahinda Rajapaksa, fearing massive protests on the university premises. The then President of the Oxford

[64] The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary, Part I: Section (I) – General, Government Notifications, The United Nations Act. No. 45 of 1968, List of Designated persons, groups & entities under paragraph 4(2) of the United Nations Regulations No. 1 of 2012, 21 March 2014, http://colombogazette.com/wp-content/uploads/2014/04/1854_41-E.pdf, date accessed 30 May 2014
[65] Daily News, Banned! No fronting for LTTE. 2 April 2014, http://www.dailynews.lk/?q=local/banned-no-fronting-ltte, date accessed 20 May 2014
[66] Daily News, , Banned! No fronting for LTTE. 2 April 2014, http://www.dailynews.lk/?q=local/banned-no-fronting-ltte, date accessed 20 May 2014
[67] The Diplomat, Sri Lanka: Engaging the Diaspora, 16 November 2013, http://thediplomat.com/2013/11/sri-lanka-engaging-the-diaspora/, date accessed 7 May 2014

Union, James Kingston, explained: “I was advised there was a serious public order risk, and a serious risk of major disruption to the activities of the local community. At 5000 protestors, it would have been the largest demonstration seen in the history of Oxford, and the risks would have increased accordingly.”

‘The ability of the Sri Lankan Tamil diaspora to potentially generate the largest demonstration in the history of the Oxford Union is noteworthy, as is its ability to alter the presidential itinerary. The most worrying aspect, however, is the intensity of the passion it reveals in certain segments of the Tamil diaspora abroad.

‘That intensity was revealed again in June 2012, once more derailing the presidential itinerary in the U.K., this time when an invitation to deliver the keynote address at the Commonwealth Economic Forum organized by the Commonwealth Business Council was cancelled on the morning of the event. The Forum was one of the events marking the Queen’s Diamond Jubilee Celebrations in London. As many as 2000 protestors had gathered at the Mansion House where the event was to be held, with some reportedly traveling from France and Germany.

‘Most recently, sections of the diaspora have been actively lobbying in the wake of the passage of two resolutions on Sri Lanka by the United Nations Human Rights Council in 2012 and 2013. That same disgruntlement and disillusionment have been clear in the run-up to CHOGM, with the calls for boycotts.’ [68]

Return to contents

[68] The Diplomat, Sri Lanka: Engaging the Diaspora, 16 November 2013, http://thediplomat.com/2013/11/sri-lanka-engaging-the-diaspora/, date accessed 7 May 2014

Annex A: Map of Sri Lanka

3.1.1 Map of Sri Lanka, dated 2008, extracted from the United Nations Cartographic Section.[69]

To access additional maps on the humanitarian and security situation in Sri Lanka please consult: Reliefweb, Sri Lanka country page, which is updated regularly

[69] United Nations, Cartographic Section, Department of Field Support, Map No.4172 Rev.3, March 2008, http://www.un.org/Depts/Cartographic/english/htmain.htm, date accessed 9 May 2014

Annex B: Examples of Tamil Organisations operating in the UK

Updated: 6 July 2014

3.2 The British Tamils Forum

3.2.1 The British Tamils Forum, also known as BTF, was formed in 2006. It is 'an umbrella organization of a number of Tamil diaspora organizations in the United Kingdom formed to highlight the humanitarian crises and human rights condition of Sri Lanken (sic) Tamils.' [70]

The British Tamils Forum (BTF) is described on its website as, '... an umbrella organisation by bringing together individuals, and Tamil community organisations to highlight the humanitarian crises and human rights violations perpetrated by the Government of Sri Lanka (GOSL), and to advance the Tamil national cause through democratic means.' [71]

The BFT Mission is:

'To harness the skills and the knowledge of the members of the forum, well-wishers and significant others including the mainstream decision makers in the UK to alleviate the sufferings of the Tamils in the Island of Sri Lanka and to further their right to self determination within the democratic frame work (sic) under pinned by the international law, covenants and conventions.' [72]

The Global Tamil Forum (GTF)

3.2.2 The President of the Global Tamil Forum (GTF) is Prof. Dr. S. J. Emmanuel, born in Jaffna, Sri Lanka in 1934. He was elected as the President of the Global Tamil Forum (GTF) by the member organizations for 2010-2011 term. [73]

The GTF Mission is to:

'Establish an international, grassroots and youth based, Tamil democratic political organization that would generate constructive change through Collective Global Tamils to:

- 'Alleviate the physical and emotional suffering of displaced and distressed Tamil people in the internment camps and to advocate for their freedom of movement and immediate rehabilitation in their homes,

[70] Terrorism Research & Analysis Consortium (TRAC), , British Tamil Forum (BTF), undated, http://www.trackingterrorism.org/group/british-tamil-forum-btf, date accesed 9 May 2014
[71] British Tamils Forum (BTF), About, undated, http://tamilsforum.co.uk/about/, date accessed 9 May 2014
[72] British Tamils Forum (BTF), About, Undated [Last accessed: 22/05/2014], http://tamilsforum.co.uk/about/
[73] Global Tamil Forum (GTF), About Our President, undated, http://globaltamilforum.org/gtf/content/about-our-president, date accessed 9 May 2014

- ‘Bring to justice those who perpetrated genocide, war crimes and crimes against humanity against the Tamil Peoples,

- ‘Campaign tirelessly, locally and internationally, to remove the occupying forces of Sri Lanka out from the traditional homeland of Tamils in the island of Sri Lanka,

- ‘Prevent the colonization of the homeland of the Tamil people by the Sinhala majority community,

- ‘Promote health, education, culture and economic development of Tamils in Eelam and the Tamil Diaspora,

- ‘To use all resources available to the Tamil Diaspora to establish the Tamil people’s right to self-determination and their right to re-establish their nationhood which was taken away by force from them by the succeeding colonial powers including the Sri Lankan government,

- ‘Help empower Tamil people in Sri Lanka to take control of their destiny and clearly formulate and promote the benefits of freedom for all in the pursuit of sustainable growth and prosperity in the self-governing nation of Tamil Eelam.

- ‘Empower the Tamil society around the world through education, cultural and economic growth from the grassroots with youth and women involvement in all aspects of social activities.

‘In pursuit of this Vision and Mission, the Global Tamil Forum will build on the principles of emancipation promoted by Mahatma Gandhi, Nelson Mandela and Martin Luther King to oppose the entire edifice of oppression and discrimination through peaceful means and to champion the rights of Tamil and other communities who have been unjustly deprived of their rights and silenced.’ [74]

In a 2010 report, the International Crisis Group noted the following on the GTF: “The GTF is billed by its founding members as a major new effort by the diaspora to advocate on behalf of Tamils in Sri Lanka. It is a conglomerate of elite personality driven pro-LTTE organisations from fourteen countries that all claim to speak on behalf their respective Tamil populations. The GTF aims to be a quasi-advocacy and humanitarian organisation based in London. It is a markedly less ambitious effort than the TGTE, but equally equivocates on separatism in public. GTF personalities say the organisation will focus Western government attention on the immediate humanitarian concerns of Tamils in Sri Lanka, such as closure of the internment camps, rather than get bogged down in larger political questions. However, hardliners in the GTF, such as the British Tamil Forum (BTF), have reportedly forced out the GTF president, Dr Nagalingam Ethirveerasingam, for moderating his stance on separatism”.[75]

The International Crisis Group reported in November 2012 that the Global Tamil Forum (GTF) “has been the only major diaspora organisation to offer public support to the TNA [Tamil National Alliance; in a press statement released in January 2012], describing it

[74] Global Tamil Forum (GTF), About GTF, undated, http://globaltamilforum.org/gtf/content/about-gtf, date accessed 9 May 2014

[75] International Crisis Group, The Sri Lankan Tamil Diaspora After the LTTE, 23 February 2010, IV. The diaspora in a post-LTTE world, C. Global Tamil Forum (GTF), http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/186%20The%20Sri%20Lankan%20Tamil%20Diaspora%20after%20the%20LTTE.pdf, date accessed 30 May 2014, date accessed 30 May 2014

as “the elected representatives of the Tamil people in Sri Lanka” and approving its attempt to negotiate “a durable, and dignified political solution to the National Question”.[76]

Return to contents

The Tamil Youth Organisation United Kingdom (TYO UK)

3.2.3 On its website the Tamil Youth Organisation (TYO) of United Kingdom, describes itself as, ‘… a non profit organisation established on the 22nd November 2004 and is an establishment that focuses on uniting the Tamil youths across the UK and to help promote & understand our unique language, history, culture and identity.’ Adding, ‘TYO aims to enrich the knowledge of Tamil youths with our ethnic background and to provide a better understanding of both political and humanitarian issues that affect our home land. Through this we aim to make them better identify themselves amongst the multicultural society of the UK. ‘Through our projects and events we aim to help the most disadvantaged communities both locally in UK, as well as overseas in North & East of Sri Lanka, and emphasise the need to contribute back to the wider community. TYO events aim to instil a sense of pride and responsibility with the hope of creating good citizens out of our youth.’ [77]

The Transnational Government of Tamil Eelam - USA (TGTE)

3.2.4 The Transnational Government of Tamil Eelam - USA (TGTE) is contactable through its address in the United States of America (USA). According to TGTE-USA’s website, ‘TGTE-US is one of twelve national TGTE branches. (The other national branches are in Australia, Canada, Denmark, France, Germany, Italy, New Zealand, Norway, Sweden, Switzerland and the UK. The TGTE Secretariat is at Rue de la Servette 1, Geneva, Switzerland)’.[78] Visvanathan Rudrakumaran, re-elected in December 2013, is prime minister in exile of the Provisional Transnational Government of Tamil Eelam and is based in New York. [79]

3.2.5 The TGTE was formed after the mass killing of Tamils in the final months of the Sri Lanka war in 2009. It saw through its first Parliamentary term and began its second Parliamentary term on December 6, 2013. In December 2013 EIN Presswire reported:

‘After completing the first term in office, the Transnational Government of Tamil Eelam’s (TGTE) Prime Minister Mr. Visuvanathan Rudrakumaran, dissolved the Parliament on October 1, 2013.

‘The TGTE Election Commission then took over the responsibility to hold elections for the 2nd term of the TGTE Parliament. The Chief Election Commissioner Mrs. S. Sridas along with her other Commissioners around the world organized elections in twelve countries.’

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[76] International Crisis Group, Sri Lanka: Tamil Politics and the Quest for a Political Solution, 20 November 2012, C. Tamil Nationalist Challenges to TNA and the Self-Determination Question, http://www.crisisgroup.org/~/media/Files/asia/south-asia/sri-lanka/239-sri-lanka-tamil-politics-and-the-quest-for-a-political-solution.pdf, date accessed 30 May 2014, date accessed 30 May 2014

[77] Tamil Youth Organisation United Kingdom (TYO UK), About Us, undated, http://www.tyouk.org/?page_id=2, date accessed 9 May 2014

[78] Transnational Government of Tamil Eelam - USA (TGTE), Contact Us, undated, http://www.tgte-us.org/contact.html, , date accessed 9 May 2014

[79] Inter Press Service (IPS), Four Years after a Tamil Defeat, the Diaspora Regroups, 25 October 2013, http://www.ipsnews.net/2013/10/four-years-after-a-tamil-defeat-the-diaspora-regroups/, date accessed 9 May 2014

[80] In January 2014, EIN Presswire reported that the second term of office for the TGT will be for a period of five years with the following individuals forming the Executive Structure:
Prime Minister: Mr Visvanathan Rudrakumaran
Chief Executive Secretary: Prof. Nadarajah Sriskantharajah
Deputy Prime Minister: Mr. Kanakaratnam Manoranjan
Minister - Finance: Mr. Kanagaratnam Jayanthan
Minister - International Affairs : Mr. Kanagenthiram Manickavasagar
Minister - Homeland Development : Mrs. Balambikai Murugathas
Minister - Diaspora Affairs : Mr. Nimal Vinayagamoorthy
Minister - Media and Public Affairs : Mr. Sutharsan Sivagurunathan
Minister - Youth and Cultural Affairs: Ms. Karthika Vigneswaran
Head: Centre for Prevention and Prosecution of Genocide-Prof. Muthukumarasamy Sornarajah
Head: Center for Refugees Welfare and Resettlement- Mr. Ratnarajah Muthukumarasamy (Santhan)
Head: Center for Women, Children and Elderly Mrs. Rajanithevi Sinnathamby
Head: Centre for Welfare of the Families of Cadres and Martyrs- Mr. Selvarajah Jeyam
Head: Secretariat/United Nation Representative- Mr. Sukinthan Murugiah".[81]

Their Mission statement observes:

'The Transnational Government of Tamil Eelam (TGTE) is a political formation to win the freedom of the Tamil people on the basis of their fundamental political principles of Nationhood, Homeland and Right of self-determination. At present the Tamil people have absolutely no prospect of articulating their political aspirations or of exercising their fundamental rights in their homeland itself. The Sri Lankan government, through legal impediments, military occupation and murder is strangling the Tamil people's aspirations and their political rights.

'In this context, the Tamil Diaspora, an integral part of the nation of Tamil Eelam, utilizing democratic means in their respective countries, establishes the Transnational Government of Tamil Eelam (TGTE) as the highest political entity to campaign for the realization of the Tamils' right to self-determination. Since it is impractical for political leaders and people in Tamil Eelam to participate in the TGTE, only those Tamils in the Diaspora are elected to the TGTE through democratic elections. The TGTE will work hand-in-hand with anyone working for the well-being of the Tamil people in the island of Sri Lanka, including the political and social leaders of the people in Eelam. TGTE undertakes following tasks:

'1. Uniting all Tamil entities and elements who subscribe to the fundamental tenets of Tamil political aspirations proclaimed in the Vaddukoddai Resolution, which was subsequently endorsed and mandated in the general election of 1977 and in the Thimbu Principles in 1985.

'2. Working in partnership with the Tamil leadership in the island of Sri Lanka, considering that the political policies and aspirations articulated by the Tamil leadership at consecutive elections in 2001 and 2004 were strongly endorsed and, thereby

[80] EIN Presswire, Transnational Government of Tamil Eelam (TGTE) Begins its 2nd Parliamentary Term. Inaugural Session on December 6th, 4 December 2013, http://www.einpresswire.com/article/179389897/transnational-government-of-tamil-eelam-tgte-begins-its-2nd-parliamentary-term-inaugural-session-on-december-6th, date accessed 9 May 2014
[81] EIN Pressire, Executive appointments for the 2nd term of the Transnational Government of Tamil Eelam (TGTE), 15 January 2014, http://world.einnews.com/pr_news/188119983/executive-appointments-for-the-2nd-term-of-the-transnational-government-of-tamil-eelam-tgte, date accessed 30 May 2014, date accessed 30 May 2014

mandated, by the Tamil people, and other groups that support and advocate for the realization of the Tamils' legitimate political aspirations to regain their sovereignty and the right to self-determination;

‘3. Articulating positions for negotiations with the Sinhala nation;

‘4. Establishing direct links with foreign Governments and other international organizations;

‘5. Working for the social, economic and cultural well-being of the more than one million members of the Tamil Diaspora;

‘6. Building a political program with the participation of Muslim representatives, taking into account that the diversity of Tamil and Muslim regions has been used as a threat in the past against the realization of the Tamils' right to self-determination; and

‘7. Performing such other tasks as may be necessary to promote the interests of the Tamil people in the North-East of the island of Sri Lanka and the Tamil Diaspora liaising with international nongovernmental organizations and international organizations to ensure that the Tamils' physical survival is guaranteed; to stop the sexual violence against Tamil women; to stop the physical abuse of Tamil children by the Sri Lankan government's mono-ethnic armed forces and ensure their speedy reunification with their families; to ensure the return of the thousands of Tamils held in internment camps to their homes and to bring to justice those who have committed genocide, war crimes and crimes against humanity.’ [82]

Return to contents

[82] Transnational Government of Tamil Eelam - USA (TGTE), Mission Statement, undated http://www.tgte-us.org/mission.html, date accessed 9 May 2014

Annex C: Caselaw

GJ (post-civil war: returnees) Sri Lanka CG (Rev 1) [2013] UKUT 319 (IAC) (5 July 2013)

In this country guidance case the Upper Tribunal stated:

‘1) This determination replaces all existing country guidance on Sri Lanka.

‘(2) The focus of the Sri Lankan government’s concern has changed since the civil war ended in May 2009. The LTTE in Sri Lanka itself is a spent force and there have been no terrorist incidents since the end of the civil war.

‘(3) The government’s present objective is to identify Tamil activists in the Diaspora who are working for Tamil separatism and to destabilise the unitary Sri Lankan state enshrined in Amendment 6(1) to the Sri Lankan Constitution in 1983, which prohibits the ‘violation of territorial integrity’ of Sri Lanka. Its focus is on preventing both (a) the resurgence of the LTTE or any similar Tamil separatist organisation and (b) the revival of the civil war within Sri Lanka.

‘(4) If a person is detained by the Sri Lankan security services there remains a real risk of ill-treatment or harm requiring international protection.

‘(5) Internal relocation is not an option within Sri Lanka for a person at real risk from the Sri Lankan authorities, since the government now controls the whole of Sri Lanka and Tamils are required to return to a named address after passing through the airport.

‘(6) There are no detention facilities at the airport. Only those whose names appear on a “stop” list will be detained from the airport. Any risk for those in whom the Sri Lankan authorities are or become interested exists not at the airport, but after arrival in their home area, where their arrival will be verified by the CID or police within a few days.

‘(7) The current categories of persons at real risk of persecution or serious harm on return to Sri Lanka, whether in detention or otherwise, are:

‘(a) Individuals who are, or are perceived to be, a threat to the integrity of Sri Lanka as a single state because they are, or are perceived to have a significant role in relation to post-conflict Tamil separatism within the Diaspora and/or a renewal of hostilities within Sri Lanka.

‘(b) Journalists (whether in print or other media) or human rights activists, who, in either case, have criticised the Sri Lankan government, in particular its human rights record, or who are associated with publications critical of the Sri Lankan government.

‘(c) Individuals who have given evidence to the Lessons Learned and Reconciliation Commission implicating the Sri Lankan security forces, armed forces or the Sri Lankan authorities in alleged war crimes. Among those who may have witnessed war crimes during the conflict, particularly in the No-Fire Zones in May 2009, only those who have already identified themselves by giving such evidence would be known to the Sri Lankan authorities and therefore only they are at real risk of adverse attention or persecution on return as potential or actual war crimes witnesses.

‘(d) A person whose name appears on a computerised “stop” list accessible at the airport, comprising a list of those against whom there is an extant court order or arrest warrant.

Individuals whose name appears on a "stop" list will be stopped at the airport and handed over to the appropriate Sri Lankan authorities, in pursuance of such order or warrant.

'(8) The Sri Lankan authorities' approach is based on sophisticated intelligence, both as to activities within Sri Lanka and in the Diaspora. The Sri Lankan authorities know that many Sri Lankan Tamils travelled abroad as economic migrants and also that everyone in the Northern Province had some level of involvement with the LTTE during the civil war. In post-conflict Sri Lanka, an individual's past history will be relevant only to the extent that it is perceived by the Sri Lankan authorities as indicating a present risk to the unitary Sri Lankan state or the Sri Lankan Government.

'(9) The authorities maintain a computerised intelligence-led "watch" list. A person whose name appears on a "watch" list is not reasonably likely to be detained at the airport but will be monitored by the security services after his or her return. If that monitoring does not indicate that such a person is a Tamil activist working to destabilise the unitary Sri Lankan state or revive the internal armed conflict, the individual in question is not, in general, reasonably likely to be detained by the security forces. That will be a question of fact in each case, dependent on any Diaspora activities carried out by such an individual.

'(10) Consideration must always be given to whether, in the light of an individual's activities and responsibilities during the civil war, the exclusion clauses are engaged (Article 1F of the Refugee Convention and Article 12(2) of the Qualification Directive). Regard should be had to the categories for exclusion set out in the "Eligibility Guidelines For Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka", published by UNHCR on 21 December 2012.'

KV (scarring - medical evidence) Sri Lanka [2014] UKUT 230 (IAC) (23 May 2014)

In this reported case the Upper Tribunal found:

'1. When preparing medico-legal reports doctors should not – and should not feel obliged to - reach conclusions about causation of scarring which go beyond their own clinical expertise.

'2. Doctors preparing medico-legal reports for asylum seekers must consider all possible causes of scarring.

'3. Where there is a presenting feature of the case that raises self-infliction by proxy (SIBP) as a more than fanciful possibility of the explanation for scarring:-

'(i) a medical report adduced on behalf of a claimant will be expected to engage with that issue; it cannot eliminate a priori or routinely the possibility of SIBP; and

'(ii) a judicial fact-finder will be expected to address the matter, compatibly with procedural fairness, in deciding whether, on all the evidence, the claimant has discharged the burden of proving that he or she was reasonably likely to have been scarred by torturers against his or her will.

'4. A lack of correlation between a claimant's account and what is revealed by a medical examination of the scarring may enable a medico-legal report to shed some clinical light on the issue of whether SIBP is a real possibility.

‘5. Whilst the medical literature continues to consider that scarring cannot be dated beyond 6 months from when it was inflicted, there is some medical basis for considering in relation to certain types of cases that its age can be determined up to 2 years.

‘6. Whilst if best practice is followed medico-legal reports will make a critical evaluation of a claimant’s account of scarring said to have been caused by torture, such reports cannot be equated with an assessment to be undertaken by decision-makers in a legal context in which the burden of proof rests on the claimant and when one of the purposes of questioning is to test a claimant’s evidence so as to decide whether (to the lower standard) it is credible.’

Note: The above country guidance case was upheld by the Court of Appeal in the case of MP (Sri Lanka) & Anor v Secretary of State for the Home Department [2014]

Return to contents

Annex D: Correspondence from British High Commission (BHC), Colombo

British
High Commission
Colombo

Country Policy & Information Team
Home Office

25 July 2014

Dear Colleague,

Re: Sri Lanka – Update on Proscription of Tamil Organisations and Risk to Family Members

Following the proscription of 16 Tamil Diaspora organisations, including the British Tamil Forum (BTF) and the UK-based Global Tamil Forum (GTF), and 424 individuals under the UN Security Council resolution 1373 on counter-terrorism on 1 April 2014, you have asked for an update on the current situation, specifically:

1. Whether anyone has been arrested due to being involved with any of the newly proscribed Tamil Diaspora groups

2. Whether returnees are specifically being asked about being a member of a proscribed group on return to Sri Lanka

3. Whether family members of those of interest to the authorities are at risk

Officials at the British High Commission Colombo have consulted the Ministry of External Affairs (MEA), the Department of Immigration and Emigration (DIE), the State Intelligence Service (SIS) and an international Non-Government Organisation (NGO) who specialise in migration, as well the Australian High Commission, Canadian High Commission, Swiss Embassy and Dutch Embassy.

1. There have been no reports in local press of anyone being arrested because of their membership of, or association with, one of the proscribed Tamil Diaspora organisations. Members of civil society have not raised this as an issue with the High Commission.

The spokesperson from the MEA stated that no returnees from any country have been arrested yet because of their association with one of the proscribed groups.

The spokesperson from the DIE also confirmed that no returnees had been arrested on arrival for this reason.

The spokesperson from the SIS also stated that no returnees have been arrested yet due to involvement with one of the organisations.

The spokesperson from the international NGO stated that he was not aware of any returnees being arrested because of their association with one of the proscribed groups.

Contacts from the Australian High Commission, the Canadian High Commission, the Swiss Embassy and the Dutch Embassy all stated that they had not received any reports, or were aware, of any arrests of returnees solely because of their association with one of the proscribed groups. There is no awareness of any members of the groups being returned however.

2. The spokesperson from the DIE stated that returnees may be questioned on arrival by immigration, CID, SIS and TID. They may be questioned about what they have been doing whilst out of Sri Lanka, including whether they have been involved with one of the Tamil Diaspora groups. He said that it was normal practice for returnees to be asked about their activities in the country they were returning from.

   The spokesperson from the SIS said that people being 'deported' will always be questioned about their overseas activities, including whether they have been involved with one of the proscribed organisations. He said that members of the organisations are not banned from returning to Sri Lanka, they are allowed to return, but will be questioned on arrival and may be detained.

   The spokesperson from the international NGO stated that he has not noticed any changes in the airport procedure for returnees. He has not received any reports of changes in the questioning of the returnee.

   Colleagues from other diplomatic missions were not aware of returnees being asked about this specifically.

3. The spokesperson from the SIS stated that family members of wanted individuals are never arrested, but they may be monitored and questioned about the individual.

   However, as outlined in the British High Commission letter dated 16 April 2014, there were widespread reports of arrests and ill-treatment of women whose male family members or associates were claimed to be linked to the LTTE, including those whose relatives were active members of the Tamil Diaspora in Switzerland, during March and April 2014. There were no reports of arrests of family members of those linked to individuals in the UK Tamil Diaspora.

   There have been no reports of arrests or detention of family members of wanted individuals since April 2014.

This letter has been completed by staff of the British High Commission in Colombo entirely from information obtained from the sources indicated. The letter does not reflect

the opinions of the author, or any policy of the Foreign and Commonwealth Office. The author has compiled this letter in response to a request from the Home Office and any further enquiries regarding its contents should be directed to the Home Office.

Return to contents

British
High Commission
Colombo

Country Policy & Information Team
Home Office

16 April 2014

Dear Colleague,

Re: Sri Lanka – Security update

Arrests and killings

On 11 April 2014, a spokesperson for the Sri Lankan military, Brigadier Ruwan Wanigasooriya, said that they had shot and killed three men who were trying to revive the LTTE (Tamil Tigers). He named the three as Sundaralingam Kajeepan alias Thevihan, Selvanayagam Kajeepan alias Gobi and Navaratnam Navaneethan alias Appan. There have been differing reports as to whether the killings happened in Padaviya, just outside the island's northern province, or in Nedunkerni, in the northern Vavuniya district.

An intense manhunt for these suspects had taken place since the alleged shooting of a police officer on 13 March 2014. The security operation in the north and east has seen a significant increase in those detained and questioned, numerous house-to-house searches carried out and 60+ arrests (including in Jaffna and Colombo) under the Prevention of Terrorism Act 1979 (PTA). The arrests include those of family members (or suspected family members) of wanted individuals.

The increased military presence, arrests and killings have been widely reported in local press, with some coverage also in the international media.

There have been reports that some of those arrested have been subjected to ill-treatment in detention. Women's Action Network released a statement detailing the arrest and ill-treatment of 6 women whose male family members or associates were claimed to be linked to the LTTE, five of whom were linked to 'Gobi'. It is claimed that one of the women was pregnant when arrested and miscarried during questioning. It is reported that she was denied medical treatment and transferred by train to a detention centre 60 miles away the same night. A police spokesperson, Ajith Rohana, said he would investigate allegations of medical care being denied to the detainees.

In addition to the arrests and claims of ill-treatment, there are reports of widespread cordon and search operations, restrictions on movement in some areas and increased surveillance and harassment of rehabilitated ex-combatants. Two staff members of the British High Commission (BHC) visited Jaffna on 9 April 2014 and saw that little visible sign of an increased military presence in the town itself.

The government of Sri Lanka claims that the LTTE are trying to regroup and that it is taking preventive measures. However, they have not so far provided substantive evidence of this and some members of civil society are sceptical, claiming that it is an excuse to maintain a high military presence and keep people in fear.

Following the killings of Thevihan, Gobi and Appan, the government of Sri Lanka is seeking assistance from Interpol in locating two men suspected of financing and reorganising the LTTE. The two men, named as Vinayagamoorthy alias Vinayagam and Perinbananayakam Sivaparan alias Nediyawan, are thought to currently be living in Norway and France.

Proscribed Terrorist Groups

On 1 April 2014, the government of Sri Lanka announced the designation of 16 Tamil Diaspora organisations and 424 individuals under the UN Security Council resolution 1373 on counter-terrorism. The order was issued by the Secretary of Defence. The government asserts that this action has been taken to stop attempts to revive the LTTE. The BHC has asked the government of Sri Lanka to provide evidence to support this decision.

Among the organisations proscribed are the Transnational Government of Tamil Eelam (TGTE) and the UK-based Global Tamil Forum (GTF) and British Tamil Forum (BTF). When making the announcement on 1 April, Brigadier Ruwan Wanigasooriya said that individuals belonging to these organisations would face arrest under anti-terrorism laws when travelling to Sri Lanka. This has not yet been tested in practice; to date, there have been no known arrests based on membership of one of the newly proscribed groups.

Sources:

Discussions with members of civil society
BHC visit to Jaffna
BBC News (http://www.bbc.co.uk/news/world-asia-26984716)
The Guardian (http://www.theguardian.com/world/2014/apr/09/sri-lanka-women-tamil-tigers)
Ceylon Today (http://www.ceylontoday.lk/16-61035-news-detail-kp-excluded-from-banned-list-424-natural-persons-banned-with-16-tamil-diaspora-organizations.html)
The Hindu (http://www.thehindu.com/news/international/south-asia/sri-lanka-bans-ltte-15-other-tamil-diaspora-groups/article5858831.ece)
Local news articles

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Return to contents