

DOCUMENTS

I. Reproduced below is the concluding section from the latest Amnesty International Report on Sri Lanka. It is entitled *Sri Lanka; Wavering Commitment to Human Rights*

HUMAN RIGHTS SAFEGUARDS AND INSTITUTION BUILDING

During meetings with government officials, the Amnesty International delegates discussed various initiatives in progress aimed at strengthening human rights protection in the country. Among them were ratification of outstanding human rights standards, amendments to the fundamental rights chapter of the Constitution under consideration by a Parliamentary Select Committee, a Bill for the establishment of a National Human Rights Commission and reform of police training.

The amendments to the fundamental rights chapter of the Constitution as currently before a Select Committee of parliament provide for the inclusion of a number of rights currently not guaranteed including the right to life, liberty and security of person, to own property and to freedom of unlawful interference with one's privacy. Amnesty International was however informed that the government did not intend to take on its recommendation for the abolition of the death penalty in a constitutional provision.

The Bill for the establishment of a National Human Rights Commission was referred to a standing committee of parliament following an initial debate in late February 1996. Several opposition members of parliament put forward amendments aimed at strengthening the Bill. The government indicated that it hoped to come to a consensus in the Standing Committee. A revised Bill was subsequently tabled in Parliament on 7 June, and unanimously passed on 9 July 1996. It incorporated several of the recommendations to strengthen the Bill outlined by Amnesty International in its documents *Sri Lanka: The National Human Rights Commission Bill* of December 1995 (AI ASA 37/35/95), including with regard to the criteria for selection of members, the procedure for selection and removal of members and the opening of regional offices. In addition, it incorporated Amnesty International and local human rights organizations' recommendations to provide financial assistance to witnesses. However, recommendations for the extension of the mandate of the Commission to include not only the investigation of violations of fundamental rights guaranteed in the Constitution, but also violations of those rights laid down in international human rights treaties currently not protected in the Constitution of Sri Lanka were not taken on although amendments were made to broaden the institution's mandate in the field of human rights education, human rights awareness and research.

The government also informed Amnesty International that it was actively considering acceding to the Optional Protocol to the ICCPR,

which enables individuals who claim their rights protected by the Covenant have been violated and who have exhausted all available national remedies to submit communications to the Human Rights Committee.

The delegation also met relevant police officials of human rights education and was informed of plans to incorporate human rights education in the training programs for officers of all ranks. At the time, a programme to provide training for trainers was being designed.

Safeguarding the rights of detainees

At the time of the Amnesty International visit, nearly 10 months after the presidential directive to safeguard the right of detainees were announced (as outlined on pages 12-13), there was clear evidence that they were not being fully adhered to by the security forces. Several high-ranking officials in the Ministry of Defence argued with the Amnesty International delegates that the directives were not practical. The Secretary, Ministry of Defence, who according to the directives had to design an "arrest receipt" stated he had not done so. Human rights lawyers in Colombo maintained they have never even seen such an "arrest receipt". In the past, a few "receipts" had been issued in an ad hoc way by local members of the security forces, such as by some army officers in Batticaloa.

Whereas in the directives and regulations, the onus of informing the HRTF of arrests is on the security forces, in practice regional managers of the HRTF often have to ring around various police stations and army camps to trace the whereabouts of people taken into custody. At the national level, notification seems to work although not in a systematic way. According to the Secretary, Ministry of Defence, the responsibility for notification is at the operational level with the police. According to the STF, the communications go through the Secretary, Ministry of Defence. According to the IGP, communications are consolidated in the Colombo area; in other areas they are initiated by individual stations.

After the security forces took control over Jaffna peninsula, there were reports that the HRTF was not being informed about the arrest and detention of suspects taken into custody in those areas. As no regional office of the HRTF covered the area and communications

between the peninsula and other parts of the country remained difficult, the access to HRTF or indeed to legal remedies such as *habeas corpus* or fundamental rights petition for those arrested or their relatives was extremely limited.

There was also clear evidence that several of the other directives were not being fully implemented. HRTF regional managers had difficulty in obtaining access to certain places of detention, such as Plantain Point army camp in Trincomalee. The security forces continued to hold detainees at places not authorized as places of detention. Upon arrest, they often failed to identify themselves by name and rank. Similarly, they frequently failed to allow prisoners to communicate with a relative or friend to inform them of their whereabouts. Finally, several Tamil ex-prisoners informed Amnesty International that they were not given a choice as to the language in which to make a statement, nor were they asked whether they wanted to make a statement in their own handwriting. Several prisoners did however acknowledge that a statement taken in Sinhala was read to them in Tamil before they were asked to sign it.

Officials themselves acknowledged these difficulties and attributed them to a shortage in members of the security forces conversant in Tamil. They also admitted that the provisions in the directives in relation to the arrest and detention of women and children were not being adhered to. This, they said, was due to a shortage of female staff.

Investigation of recent human rights violations

The government has taken action to investigate several incidents of human rights violations that occurred since the resumption of the fighting. However, Amnesty International is not aware of any independent investigations being ordered. In most cases, such as the reports of extrajudicial executions in May 1995 documented in Amnesty International's June 1995 report, local police investigations were announced without any independent investigative body being appointed. In other cases, internal army inquiries were ordered. The President assured Amnesty International, in a letter of 5 June 1995 written on her behalf by the Secretary, Ministry of Justice & Constitutional Affairs, that she would "if the circumstances warrant it... have no hesitation in having the specific complaints... referred to the HRTF for investigation and recommendations regarding follow up action such as judicial action against those responsible for human rights violations and the payment of compensation to those adversely affected".

When meeting the Secretary, the Amnesty International delegates requested information about any follow-up action taken and were told that had been none. Letters of September 1995 requesting this information from the Secretary, Ministry of Defence, the Commander of the Army and the IGP remain unanswered.

In some of the incidents described in this report, such as the rape of Lakshmi Pillai and the extrajudicial executions in Colombo in mid-

1995 and at Kumarapuram and Kanniya in February 1996, the alleged perpetrators were arrested and initial charges against them were filed. The accused in all four cases were subsequently released on bail. The case against the two informants accused of raping Lakshmi Pillai was closed after one of the accused was killed by the LTTE and the victim, who had moved to another area of the country, failed to turn up in court, reportedly due to fear for her life. Eight soldiers were identified in an identification parade held after the massacre at Kumarapuram. The magisterial inquiry has been concluded. The case is currently with the Attorney General awaiting a decision on indictment. There are fears for the safety of some key witnesses. Survivors allege that at least one high-ranking officer involved in the deliberate and arbitrary killings of 24 civilians at Kumarapuram has not been arrested and continues to be in charge of an army camp in the area. No action is known to have been taken against the Home Guards alleged to have accompanied the army personnel.

Combined with the government's attitude to the investigations of past human rights violations (see below), Amnesty International is concerned at signs that the government is dragging its feet in bringing to justice the alleged perpetrators. It fears that the government's stated commitment to bringing to justice the perpetrators of human rights violations may not be fully put into practice and that political and military imperatives will override its earlier stated commitment.

Moreover, the way in which the few investigations ordered were selected suggests that the predominant reason is the publicity created at the time. So, where as the CID was entrusted with the investigations into the "disappearances" reported in Colombo in mid-1995, no such resources were allocated to investigate "disappearances" in other parts of the country. Amnesty International's appeals for investigations have apparently been forwarded to the three presidential commissions of inquiry investigating past human rights violations.

Impunity relating to past violations

Impunity for those responsible for human rights violations remains a serious concern. Progress in a few court cases against members of the security forces charged in connection with "disappearances" and extrajudicial executions is slow; as are investigations into many other cases.

According to the CID, approximately 100 cases of "disappearances" are currently under investigation. These are cases referred to the CID after initial investigation by the Presidential Commission of Inquiry into Involuntary of Persons (PCIIRP) after 11 January 1991 recommended prosecution of those alleged to be responsible.¹ The PCIIRP's work concluded in late 1995. Its final report, reportedly submitted to the President in November, has not been made public.

The three presidential commissions of inquiry established in the late 1994 to investigate past human rights violations since 1 January 1988 had initially been given four months to report on their findings. Since then, their mandate has been extended twice for six

months. At the end of March 1996, two of them (those dealing with complaints in the south of the country) were given extension of three months despite not having heard evidence in relation to more than half the complaints put before them. On 20 June, Amnesty International wrote to President Chandrika Bandaranaike Kumaratunga asking for clarification of the nature and the reasons for this decision. At the time of writing, no response had been received. Amnesty International did learn, however, that, amid widespread protests, the commissions were given a further extension until the end of September 1996. The Presidential commission of inquiry investigating complaints in the north and east was not asked to complete its investigations. Due to the ongoing armed conflict in the areas covered by them, progress in their investigations is slow.

When meeting the members of these commissions of inquiry, Amnesty International discussed earlier observations and recommendations it had made with regard to their work.² These had included the investigation of more than 680 cases reported prior to 1 January 1988; the suspension of alleged perpetrators from any official duties

pending investigations; the establishment of a simple, speedy, just and fair procedure for the granting of compensation; protection of witnesses; adequate resources; the use of forensic expertise; and the publication of the final report and its wide distribution.

Amnesty International urges that the work of the commissions, which in many ways provides the linchpin between past, present and future in the current human rights situation, is fully supported by the government and that prompt action is taken to bring perpetrators to justice in those cases in which the commissions have found *prima facie* evidence against those responsible. In addition, victims or their relatives should be granted adequate compensation.

Note

1. The PCIIRP was established 1991 to investigate "disappearances" reported after 11 January 1991.

2. See *Sri Lanka: Time for truth and justice* of April 1995 (AI Index: ASA 37/04/95)

II. Reproduced below is the summary of special report no. 7 issued by the University Teachers For Human Rights, Jaffna issued on 29th August 1996. The report is entitled *Jaffna: The Contest between Man and Beast within*

AFTER THE CONQUEST, A NEW CONTEST

This report mainly covers the situation in Jaffna during the four months following the mass return of refugees to Valikamam. Though the security forces had shown a refreshing level of care in Jaffna, cases of human rights violations continue to be covered up and the Government remains unaccountable for many of their actions. The LTTE remains determined to block any attempt at peace or rebuilding, focusing their efforts on selective assassinations and executions. A political vacuum hence exists, where the people of Jaffna struggle to deal with the past cycle of terror and the resulting present environment of cynicism.

In the 21/2 months following the return of civilians to Jaffna in April 1996, the armed forces had been surprisingly accommodating in their relations with civilians. A concern for civilian safety has been demonstrated and harassment has decreased substantially. When the LTTE has attacked security forces, the traditional knee-jerk reaction of reprisal killings of civilians has largely not occurred. There is concern around the question of how long this restrained behaviour will continue, following the loss of Mullaitivu at the end of July and recognizing the fact that unauthorized arrests increased dramatically in Jaffna after the July 4th incident where the LTTE made an attempt on a minister's life.

Cases of unauthorized arrests, beatings, torture and killings by the security forces continue nonetheless, and have become notably worse after Mullaitivu. Several incidents of rape also have been reported. Arrest receipts are not being issued and the detainment of

prisoners is most often denied. In situations such as the rape and killing of civilians in Manthuvil in May, the Government simply blamed the LTTE. There is a very serious concern that the failed terror methods used in the past as well as the infamous white van abductions and killings are going to be introduced again. Units who were involved in these activities are still at large in the security services and there is strong testimony to the sighting in Jaffna of the white van in recent times. Correspondingly, there is a rising incidence of missing persons.

While the situation in Vadamaratchy remains hopeful, the current physical insecurity reawakens in Valikamam memories of the early days of state repression from July 1979. The level of unchecked indiscipline in Thenmaratchy is substantially worse - 20 homicides, mostly attributed to the Army, having been recorded by mid-August.

Any feeling of security on behalf of the people of Jaffna has been shattered by LTTE assassinations and provocations. Many who have returned gestures of goodwill towards members of the army have met their fate after being labelled as 'traitors' by the LTTE. Civilians continue to be used as cover when LTTE cadres have rolled grenades through food queues, for example, in the direction of security personnel. Extra-judicial executions occur after desperate efforts to gain any form of public support, fail.