

Introduction

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1. Recommendations supported by Sri Lanka Status in second cycle of UPR

1.1. Recommendation: strengthen efforts to prevent torture, ensure safeguards against torture, enforce zero tolerance policy of torture.

a. Torture in police custody/police brutality

The systemic incidence of police brutality continues in Sri Lanka, unabated and with limited consequences for alleged perpetrators.

While there exists no central database or record of the total number of cases of police brutality, at least 88 incidents of violence involving police officers were reported between 2020 and 2022 by the media, with many instances of violence being filmed and published on the internet. However, this number is presumed to vastly underrepresent the actual number of violations; in 2017, 2018 and 2019 (since the previous UPR cycle) the Human Rights Commission of Sri Lanka (HRCSL) received at least 400 complaints each year related to torture in custody (updated statistics from the HRCSL are not available).¹

Due to incidents being reported on social media and video footage generating public outcry against police brutality, national authorities respond by interdicting police officers found responsible and in some cases, arresting them. However, no follow up action is taken with regards to such incidents, and the status of the case is not reported after the social media frenzy dissipates.

The state has committed to uphold the rights against torture by enacting the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment Act, No. 22 of 1994, which criminalises torture and has maintained the non-derogability of Article 11 against torture in the Constitution of Sri Lanka. However, this position has not trickled down to law enforcement institutions where torture is still practiced widely. Instances of police committing torture in public places during day time, in full view of other people and while being filmed, indicates that the use of violence is not considered shocking or unlawful within the institution, but rather, behaviour expected of the police in order to be able to complete their duties.

The use of violence by the police is symptomatic of deeper shortcomings within the police system, which include the lack of oversight and accountability mechanisms as well as policies that enable corruption and malpractice. For instance, the police's practice of falsifying arrest and detention reports, and concocting stories as evidence that later turn out to be inaccurate or completely false have been documented not only by research, but

¹ <https://www.hrsl.lk/reports/331/>

also pointed out in several court cases.² Particularly in the case of drug related arrests, the phenomenon of police “planting drugs” on persons to frame them has also been documented, and in a recent video that circulated on social media, STF officers were captured threatening to plant drugs on a person³.

In July 2020, several officers of the Police Narcotics Bureau (PNB) the specialised police unit for drug related arrests and investigations, were arrested for allegedly operating in a drug trafficking ring with links to international drug trafficking groups. The prosecutor in the case alleged that the officers were suspected to have resold the drugs seized by police during raids and also to conduct fake raids and investigations. Numerous undisclosed assets held by the police officers in question were uncovered during the investigation⁴.

These issues indicate that torture in police custody cannot be prevented through the use of departmental policies asserting zero tolerance policy of torture and training programs and/or the use of CCTV cameras in police stations or body cameras. The institution has enjoyed the exercise of unchecked power under the guise of protecting society from crime and disorder, to the extent that malpractice has become an entrenched facet of its administration from falsifying evidence to using torture as a means of eliciting confessions.

b. Extrajudicial killings

Since 2020, there has been a significant increase in number of persons allegedly involved in drug trafficking or organised crime being shot by the police. The reports of such deaths usually follow one of two patterns - either a person is killed during a police raid where the deceased is allegedly engaged in a shootout with the police to resist arrest, or the arrested person is in police custody and is thereafter taken to a certain location “in order to retrieve evidence” where they are allegedly shot while trying to escape. At least ten deaths have been reported in the former category and five in the latter.⁵

Since May 2022, a series of shootings by unidentified persons have also been reported, and many of the victims in the cases are allegedly found to be linked to the drug trade⁶.

c. Torture in prison

o Prison conditions

In 2020, the HRCSL released the report on the national study of prisons in Sri Lanka, a study conducted between 2018 and 2020 which is a comprehensive record of treatment and conditions of persons in prison, the first of its kind.

² https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf

³ <https://www.tamilguardian.com/content/stf-threatens-plant-drugs-and-frame-civilians>

⁴ <https://www.newsfirst.lk/2020/07/08/18-narcotic-bureau-officers-arrested-so-far-for-operating-drug-trafficking-ring/>

⁵ https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf

⁶ <https://www.newsfirst.lk/2022/06/06/young-man-gunned-down-in-mutuwal-sixth-shooting-victim-in-a-week/>

The HRCSL found that conditions of living in prison are inhuman and constitute torture. Prison facilities were found to be severely overcrowded with persons have limited space to occupy, and reports of persons taking turns to sleep at night and sleeping in the toilet/corridors were common. Prison structures are outdated and dilapidated posing a serious risk to persons detained and rife with pests such as mosquitoes and rats. Most prison cells don't contain toilets and so when the cells are locked at night, persons are required to use a plastic bag/bucket as a toilet since they cannot access the toilet outside the cell, and many occupants of a cells have to use the same vessel as a toilet which then remains inside the cell for the duration of the night.

Persons in prison complained of suffering severe mental distress and experiencing feeling of depression and anxiety that interfered with their daily functioning. The highest levels of mental distress were reported by persons on death row and persons who were detained under the PTA for prolonged periods of time.

Convicted persons are required to engage in rigorous labour, either in the form of jobs at the prison or "vocational skills training" and are paid less than one rupee per day for their labour, as the rates of remuneration for prison work have not been revised in the last 30 years. Fruits of their labour, including agricultural produce, handicrafts, furniture and vehicle service/repair, are income generating ventures for the prison based on the exploitation of their labour.

Persons on death row were found to be one of the most vulnerable groups in the prison system. As they serve sentences without an end date, persons on death row suffer inhuman prison conditions without any indication of when the sentence will come to an end, while engaging in limited meaningful activities throughout the day, which causes tremendous mental distress.

Prison officers themselves were found to be overworked and undercompensated, often covering several consecutive shifts without a break and without overtime payments. Officers expressed frustration at their conditions of work, lack of job satisfaction, distance from family members and the dilapidated state of their living quarters, which reportedly leads to high levels of stress, anxiety and feelings of depression.

Link to full report: <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

- Violence

The use of violence to implement discipline and punishment was reported from virtually every prison visited during the study, leading to the conclusion that the use of violence is systemic and commonplace.

Violence would be used at the point of entry, where persons who were returning to prison or were being detained on charges related to drugs or sexual offences would be assaulted. Violence would be used as a punishment for the entire spectrum of prison demeanours, from being found in possession of contraband to simply not standing properly in line during the morning count.

There is minimal external oversight of the prison system – persons in prison are not able to make calls to the HRCSL to report complaints about violence as phones are only available for persons in prison to use in one prison. Although the area magistrate may make sporadic visits to the prison, persons are not offered privacy or confidentiality when speaking to the magistrate and so would not be inclined to complain. Even where complaints against lower ranking officers are made before the Superintendent of Prison, complainants are at the risk of suffering reprisals as the complaints process offers little confidentiality⁷.

- Prison riots (ACP, ARP, MCP)

Agunukolapelassa Prison

Persons held at the Agunukolapelassa Prison undertook a rooftop protest in October 2018 against the officers of the Special Task Force (a specialised police unit) being allowed inside prisons to conduct prison searches and conducting searches of persons upon entrance and exit to the prison. On 22 November 2018, the persons who engaged in the protest, primarily remanded persons, were beaten by prison officers as a form of reprisals. CCTV footage from the prison was leaked to the media and showed persons in prison being asked to kneel/crawl while being beaten.⁸

Anuradhapura Prison

Persons held at the Anuradhapura prison reportedly engaged in a protest following the suspension of visitation rights of detainees to prevent the spread of COVID-19 in the prison. Two persons succumbed to the injuries sustained after prison officers opened fire to quell the protest⁹.

Mahara Prison

In November 2020, a riot took place at the Mahara Prison after a surge of COVID-19 cases in prisons resulted in persons in prison protesting against the lack of PCR tests being conducted and basic necessities being provided to them. Prison officers opened fire to control the riot and this led to the deaths of eleven persons in prison and over 120 persons being injured.

Findings of the report by the committee appointed to inquire into the incident revealed that the prison was overcrowded to three times its capacity, inmates were being served poor quality food and the prison was severely short-staffed, and prisoners were suffering

⁷ <https://www.hrsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

⁸ <https://www.colombotelegraph.com/index.php/cctv-footage-of-torture-at-angunakolapelessa-prison/>

⁹ <https://www.newsfirst.lk/2020/03/22/update-shooting-at-anuradhapura-prison-2-dead-6-hospitalized/>

from psychological distress due to their living conditions and the fear of a COVID outbreak in prison. The Committee recommended that criminal proceedings are pursued against officers found to have used excessive force to quell the riot, however till date it has not been reported whether any prison officers were arrested.¹⁰

d. Violence by armed forces

Reports of armed forces engaging in acts of violence against civilians has increased over the last few years, primarily due to increasing militarisation that has followed the election of President Rajapakse. While militarisation in the North has continued since the conclusion of the war, and calls to remove soldiers from these areas were not heeded to even during the “Good Governance regime” between 2015-2019, the military has become further empowered under the present government. Since his election, President Rajapakse had consistently issued a gazette each month calling for armed forces to be deployed in the maintenance of public order under Section 12 of the Public Security Ordinance¹¹.

In November 2021, army soldiers reportedly assaulted freelance journalist Vishwalingam Vishwachandran, with a palm stick wrapped in barbed wire and tried to grab his camera to demand he delete his footage, while he was covering commemoration activities in Mullivaikkal during Maaveerar Naal (Martyrs Day). The military initially issued a statement claiming the allegations were “unverified, exaggerated and factually incorrect” but later issued an apology to the journalist¹².

In July 2022, a soldier was videoed kicking a civilian in the chest at a filling station in Kurunegala¹³ while another incident of a civilian being assaulted at a fuel station in Trincomalee was reported¹⁴, after the armed forces were deployed to monitor fuel distribution at fuel centres and ensure peace¹⁵. Video footage has also been circulated on social media of army officers assaulting and dispersing protestors in instances where they

¹⁰ http://www.colombopage.com/archive_21A/Jan08_1610129592CH.php

¹¹ Gazettes issued each month since November 2019, can be extracted from the government information website: <http://www.documents.gov.lk/en/exgazette.php>

¹² <https://srilankabrief.org/sri-lankan-soldiers-apologise-to-attacked-tamil-journalist-after-initially-denying-the-assault/>

¹³ <http://www.adaderana.lk/news/83426/army-launches-probe-over-officer-who-kicked-civilian-at-fuel-station>

¹⁴

<https://www.tamilmirror.lk/%E0%AE%A4%E0%AE%BF%E0%AE%B0%E0%AF%81%E0%AE%95%E0%AF%8B%E0%AE%A3%E0%AE%BE%E0%AE%B2%E0%AF%88/%E0%AE%8E%E0%AE%B0%E0%AE%BF%E0%AE%AA%E0%AF%8A%E0%AE%B0%E0%AF%81%E0%AE%B3%E0%AF%8D-%E0%AE%A8%E0%AE%BF%E0%AE%B2%E0%AF%88%E0%AE%AF%E0%AE%A4%E0%AF%8D%E0%AE%A4%E0%AE%BF%E0%AE%B2%E0%AF%8D-%E0%AE%A8%E0%AE%AA%E0%AE%B0%E0%AF%8A%E0%AE%B0%E0%AF%81%E0%AE%B5%E0%AE%B0%E0%AF%88-%E0%AE%A4%E0%AE%BE%E0%AE%95%E0%AF%8D%E0%AE%95%E0%AE%BF%E0%AE%AF-%E0%AE%87%E0%AE%B0%E0%AE%BE%E0%AE%A3%E0%AF%81%E0%AE%B5%E0%AE%A4%E0%AF%8D%E0%AE%A4%E0%AE%BF%E0%AE%A9%E0%AE%B0%E0%AF%8D/75-298796>

¹⁵ <https://island.lk/army-deployed-to-maintain-peace-at-fuel-filling-stations-across-the-country/>

have been deployed to maintain public order.¹⁶ In a few instances, security forces have also opened fire against protestors¹⁷. In May 2022, following incidents of attacks and burning of the homes of several public officials, armed forces were given the order to shoot persons causing harm to human life or property¹⁸.

e. Violence against protestors/freedom of assembly

Over the last several months, Sri Lanka has been embroiled in a political and economic crisis that has sparked mass protests across the island. Many of the protests have occurred spontaneously, for instance by persons standing for prolonged periods of time in queues to purchase fuel, only to be told that fuel will not arrive, or see fuel being distributed on a preferential basis.

While the protests have been largely peaceful, the government has consistently responded with the use of disproportionate force by deploying tear gas and water cannons against protestors, and conducting arrests of peaceful protestors.

Several incidents have been recorded where police and army officers have responded with the use of violence by assaulting protestors and in some cases, firing live ammunition. At a protest in the town of Rambukkana, where protestors had blocked the road for several hours when they learnt that fuel was being withheld from distribution, police officers responded by shooting at protestors leading to the death of one person. Several incidents of use of force against protestors and media personnel covering the protests were recorded and footage uploaded on social media¹⁹. During this incident police were also reported to have chased and shot a 15 year old school boy, who was injured in the arm and back and suffered a broken bone in his arm.²⁰

On 9 May 2022, a group of pro-government protestors stormed the Galle Face Green protest site where anti-government protest had built a “village” at a permanent protest site consisting of several tents for food and amenities, art display and political discussions. Pro-government protestors were seen dismantling tent and assaulting anti-government protestors; video footage from the scene showed police officers in the area acting as bystanders and not taking action to prevent the violence.

The families of the disappeared, who have been engaged in protest for more than 2000 days, have also been subjected to intimidation, surveillance and harassment by security

¹⁶ <https://twitter.com/Welikumbura/status/1522626024043089925?t=uXr2WL4v5HURXhjvbbqEsg&s=09>

¹⁷ https://twitter.com/NewsfirstSL/status/1545773285291528193?s=20&t=s_ce5-xR96ja-jxLwgaKmw;

<https://www.tamilguardian.com/content/breaking-sri-lankan-army-opens-fire-visvamadu-petrol-station>

¹⁸ [https://www.thehindu.com/news/international/sri-lanka-opposition-calls-for-mahinda-rajapaksas-arrest-for-
inciting-violence/article65400764.ece](https://www.thehindu.com/news/international/sri-lanka-opposition-calls-for-mahinda-rajapaksas-arrest-for-inciting-violence/article65400764.ece)

¹⁹ [http://www.adaderana.lk/news/81923/rambukkana-protest-one-dead-in-police-shooting-at-least-24-
injured](http://www.adaderana.lk/news/81923/rambukkana-protest-one-dead-in-police-shooting-at-least-24-injured)

²⁰ [https://lankanewsweb.net/archives/9965/terror-at-rambukkana-a-15-year-old-schoolboy-shot-in-the-
police-shooting/](https://lankanewsweb.net/archives/9965/terror-at-rambukkana-a-15-year-old-schoolboy-shot-in-the-police-shooting/)

forces throughout their struggle.²¹ At least 115 family members engaged in the protests have died without receiving answers regarding the whereabouts of their disappeared loved ones²².

f. Violence against persons who use drugs

Due to the “war on drugs” rhetoric being employed by successive governments in Sri Lanka, persons who use drugs are particularly vulnerable to being subjected to violence and torture by police and security forces.

The prison study found that persons who use drugs are likely to be subjected to violence by police during arrest and detention, as well as during their time in prison. Women who were arrested for drug related charges also stated they were subject to forced and invasive body cavity searches by female police officers inside their homes while being arrested.

Former president Maithripala Sirisena attempted to follow the approach of Philippines President Duterte in combatting drug trafficking and attempted to resume executions of persons held in prison for drug trafficking offences. Although this move was stalled by the Supreme Court which issued an interim injunction on the proposal, this set the stage for harsher measures to be implemented for drug control and greater involvement of the armed forces. President Gotabaya Rajapakse, who came to power in November 2019, built a campaign around national security and protection of society from the “drug menace”. Persons who use drugs are demonised by state rhetoric and in the media, and considered to be “undesirables” in society, so a criminal justice approach towards their “treatment”.²³

Persons who are found in possession of drugs and considered to be dependent on drugs can be forced to undergo compulsory drug treatment undertaken by the National Dangerous Drug Control Board (NDDCB), the principal drug control authority that is within the purview of the Ministry of Defence. Persons may also be required to undergo drug rehabilitation at the Kandakadu Detention Centre.

The Kandakadu Detention Centre was formerly used by the military to rehabilitate alleged former cadres, following the conclusion of the armed conflict in Sri Lanka. This program was found to be in contravention of human rights standards, with persons being detained arbitrarily. After this program was concluded, the centre was used to treat persons who use drugs. Although the government denies that the military continues to be involved in daily operations of the centre, a study conducted on drug rehabilitation in Sri Lanka found that drug rehabilitation and control within the centre was indeed undertaken by the military who were responsible for day to day functions. Persons who had been detained at the centre attested to the level of violence used by military officers to maintain discipline and punishment. Examples of the use of violence included being beaten, being handcuffed for several hours, being hung up by their wrists for several hours, being tied to a tree, being

²¹ <https://www.tamilguardian.com/content/vavuniya-families-disappeared-mark-1900-days-continuous-protest>
<https://www.hrw.org/news/2020/02/16/sri-lanka-families-disappeared-threatened>

²² <https://www.tamilguardian.com/content/another-tamil-mother-dies-without-knowing-fate-her-son>

²³ https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf

forced to roll over until one throws up, etc.²⁴

In July 2022, a mass escape from the Kandakadu Detention Centre was reported; according to news reports, a man had died in the centre due to being assaulted by military officers, which had led to unrest among detainees and over 600 persons escaped in the commotion that ensued.²⁵ Video footage from within the centre showed persons speaking about the level of violence at the centre and begging to be sent to prison, instead of back to Kandakadu.²⁶ Majority of the persons who escaped were re-arrested, and four officers of the security forces were arrested in connection with the death and two blunt sticks allegedly used to assault the deceased were taken into custody.²⁷

Deaths of persons who used drugs occurring in prison were seen to follow a pattern. The prison study reported a series of deaths of persons who had been remanded for drug-related offences. These people were suffering withdrawal symptoms during their first night in prison, and prison officers who are not trained in dealing with such persons, would respond by use of force and violence to restrain the person, resulting in their death²⁸.

Rehabilitation is also conducted in private, fee-levying centres in Sri Lanka, where treatment is often conducted on the basis of religious teachings. Use of violence at such centres as part of treatment and punishment was also reported. The NDDCB is responsible for providing a license to such centres and conducting routine inspections and monitoring. However, it was found that the NDDCB maintains poor oversight of private treatment centres, and centres resort to use of violence without any consequences.

Drug treatment in Sri Lanka primarily follows an abstinence based approach. The complete lack of harm reduction methods and science-backed treatment underpinned by a public health approach, rather than a criminal justice approach, can constitute torture and inhuman treatment as well as an impediment to the right to highest attainable standard of healthcare.

g. Impact of COVID-19

The pandemic resulted in persons in custody becoming more vulnerable to use of violence and torture, as the safeguards that are put in place to protect persons in detention were not always operational during lockdowns/curfews. For instance, access to lawyers and legal representatives was severely impacted during lockdowns imposed due to a spike of COVID-19 cases.

²⁴ https://www.hri.global/files/2021/08/03/HRI_Report_-_Sri_Lanka_Drug_Control.pdf

²⁵ http://www.colombopage.com/archive_22A/Jun29_1656488138CH.php

²⁶ https://www.facebook.com/watch/?v=1037625077141804&extid=CL-UNK-UNK-UNK-AN_GK0T-GK1C-GK2C&ref=sharing

²⁷ <https://www.newsfirst.lk/2022/07/06/kandakadu-break-inmates-cause-of-death-revealed-by-post-mortem/>

²⁸ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

Further, following the onset of the pandemic, measures were introduced to produce detained persons in court through virtual trials proceedings, rather than in person. This was introduced to safeguard prisons from a COVID-19 outbreak and also ease the burden of resources required to produce persons in court during a time of lockdowns and austerity. This policy removed the important protection of judicial for persons in detention, as they would no longer be able to complain about ill-treatment to a judge and a judge cannot witness the well-being of the detained person.

h. PTA violations

The national study of prisons comprehensively documents the experiences of persons arrested under the Prevention of Terrorism Act (PTA) during and after the conclusion of the armed conflict in Sri Lanka.

Persons arrested under the PTA reported being subjected to torture while in police custody for several months during interrogation. Methods of torture used included being assaulted with blunt and sharp objects, rubbing chilli powder on genitalia, being hung upside down, having their face covered with a bag laced with petrol, etc.²⁹

The torture would only come to an end where persons agreed to sign a confession that was written down by police, the contents of which were not explained to them. In many cases, the entire evidence is based on confessions obtained under torture, due to which persons have been held in pre-trial detention for decades.

The PTA allowed persons to be held in administrative detention for up to eighteen months, without judicial oversight or assessment of whether continued detention was necessary, a provision which enabled torture to occur. Furthermore, contrary to the national standard for admissibility of evidence where confessions are only admissible as evidence when they are made before a magistrate, under the PTA, confessions made before a police officer above the rank of ASP were admissible. Additionally, where the defendant alleged the confession was made under duress and therefore inadmissible, unlike the national standard, the onus is on the defendant to prove that the confession was made under duress, under the provisions of the PTA.

The prison study also outlined the failure of measures to prevent torture under PTA. For instance, the Judicial Medical Officer (JMO) plays an important role in identifying and recording instances of torture by conducting a physical examination of the detained and undertaking a detailed history. However, police officers were able to circumvent this safeguard by subjecting detained persons to torture and extracting a confession after producing them before a JMO, rather than before. Persons interviewed for the study also reported instances of collusion between the police officer and the JMO, where the JMO would not undertake a proper examination, allow the police officer to be present during the examination or simply not see the detained person at all and only speak to the police

²⁹ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

officer present.³⁰

1.2. Recommendation: ratify second optional protocol to CAT

Despite the HRCSL being named the National Preventative Mechanism (NPM) under the Second Optional Protocol to the Convention Against Torture, the institution was not provided by the government with additional funding or resources to undertake its function as the NPM. In fact, due to the economic crisis that Sri Lanka is presently grappling with, the fiscal budget prioritises management of the crisis and provision of essential needs. Other policies such as the reduction in number of public servants attending office, and a reduction in the number of days for which government offices remain open, also diminishes the efficiency of the Commission to respond to complaints of torture.

1.3. Recommendation: ensure adequate funding and manpower for the Human Rights Commission of Sri Lanka

a. Independence of HRCSL undermined after 20A.

Following the election of President Gotabaya Rajapakse and the appointment of his brother Mahinda Rajapakse as Prime Minister, the ruling government enjoyed a 2/3 majority support in Parliament, which allowed the government to drastically alter the Constitution of Sri Lanka. In August 2020, the 20th Amendment to the Constitution was passed and its provisions led to the separation of powers being significantly curtailed, constitutional checks and balances being minimised and the President being awarded unfettered powers. One such power was the appointment of Commissioners to the independent Commissions, where the former procedure required the president to follow the decision of the Constitutional Council – which comprised of members of the parliament as well as independent external members. The 20th Amendment allowed the president to appoint members to the Commission of his own accord.³¹

The new appointment process under the 20th amendment thereby seriously compromises the independence of the Human Rights Commission of Sri Lanka and raises concerns about the partiality of the institution as well as their daily functions. For instance, the Chairperson of the Commission, who was appointed in 2020, is a known ally of the government. He was appointed a cabinet minister during the previous Rajapakse regime and worked as an area coordinator/organiser for the ruling political party. At the time of

³⁰ Ibid

³¹ <https://www.cpalanka.org/wp-content/uploads/2020/09/Final-doc-Summary-of-Changes-Under-the-Proposed-20th-Amendment.pdf>

his appointment, his son was serving as a state minister.³²

b. GANHRI recommendation to downgrade to B status

Following the passing of the 20th Amendment, which eroded the appointment process of members of independent Commissions, the Global Alliance of National Human Rights Institutions (GANHRI) Sub Committee for Accreditation, in October 2021, recommended that the Human Rights Commission of Sri Lanka be downgraded to a B status NHRI, as it no longer complied with the requirements of the Paris Principles for NHRIs.³³

c. HRCSL has not published quarterly reports, annual report or complaint statistics on website.

The HRCSL website, which continued to published annual and quarterly reports on its website until 2019, has ceased to do so since 2020 and has also not issued reports of complaints statistics on its website. Since 2020, the Commission has not maintained institutional transparency and is no longer accountable by the public.

1.4. Recommendation: consider abolition of death penalty and second optional protocol to ICCPR

a. Update on death penalty

There has been a moratorium on executions in Sri Lanka since 1976, when the last execution took place. Although the death penalty has not been abolished, for some offences, such as murder, which carry a mandatory death sentence, persons continue to be sentenced to death every year. Persons on death row remain in prison until they die, or their sentences can be commuted to life imprisonment and then a fixed term of twenty years, which can be further commuted. Due to the increasing number of individuals being sentenced to death each year, without a proportional release of persons on death row, the detention conditions on death row deteriorate each year due to the limited infrastructure.

In 2018, the former President of Sri Lanka, influenced by the war on drugs policy of the President of Philippines, attempted to revive executions of persons on death row by announcing his intention to commence execution of persons sentenced to death for drug trafficking.³⁴ This announcement was met with an outcry both nationally and internationally, but the president was intent upon proceeding and a list of names of persons to be executed ³⁵had also been reportedly issued. The prison study reports that during this time, the gallows at Welikada Prison were undergoing renovation following the

³² <https://english.theleader.lk/news/979-a-pro-rajapaksa-politician-appointed-to-lead-the-human-rights-commission-of-sri-lanka>

³³ https://ganhri.org/wp-content/uploads/2021/12/SCA-Report-October-2021_EN.pdf

³⁴ <https://www.reuters.com/article/us-sri-lanka-drugs-hangmen-idUSKCN1Q10VM>

³⁵ <https://www.aljazeera.com/news/2019/7/5/sri-lanka-court-suspends-executions-until-october-30>

order of the president, and upon hearing of the announcement for executions to be resumed, persons on death row had fallen sick en masse.³⁶

The Supreme Court issued an interim injunction preventing the commencement of executions due to a fundamental rights petition lodged by persons on death row in July 2019. However, since the death penalty has not been abolished, the risk that a successive president may reverse the moratorium and revive executions persists. For instance, the leader of the opposition Mr. Sajith Premadasa, the candidate who ran against Mr. Gotabaya Rajapakse during the November 2019 presidential elections, has on several occasions stated that the death penalty should be imposed as a punishment for drug and terrorism related offences³⁷.

1.5. *Recommendation: ensure that all allegations of arbitrary detention, torture and enforced disappearance are impartially and effectively investigated by an independent body*

a. Police investigation

Complaints alleging torture by state entities have to be made to the police station, and a Special Investigations Unit which functions under the direct supervision of the Inspector General of Police would be responsible to conduct the investigation. In this case of police brutality, this can cause bias and conflict of interest because the Special Investigation Unit functions also within the police department hierarchy. Victims of torture may be discouraged from complaining due to fear of reprisals, as there is no guarantee that the complainant's personal information will remain confidential.

b. NPC

Due to the 20th Amendment to the Constitution, the appointment process of members to the National Police Commission is no longer legally independent, and therefore the NPC cannot be relied upon to take impartial action against police officers accused of committing torture.

c. AG Department

The Attorney General's Department is the primary entity responsible for pursuing charges against under the Torture Act against a state officer. There exists a conflict of interest in the functions of the Attorney General's Department when it comes to cases involving torture, as it is the office responsible for prosecuting persons in cases that are based on investigations conducted by the police officers. The Attorney General's Department would be responsible for prosecuting state officers under the Convention Against Torture Act,

³⁶ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

³⁷ <https://economynext.com/sri-lanka-opp-leader-wants-death-penalty-for-terrorists-drug-traffickers-84353/>

while simultaneously defending the State in fundamental rights petitions at the Supreme Court and even appearing for state officials in various legal proceedings.

In fundamental rights cases where the Supreme Court has found a violation of the right to be free from torture, the Court recommends the Attorney General's Department to take action against the state entity under the Convention Against Torture Act. However, such investigations are rarely initiated.

d. Supreme Court

Article 11 of the Constitution of Sri Lanka recognizes the right against torture, cruel, inhuman and degrading treatment and punishment which is as an absolute and non-derogable right. The Supreme Court of Sri Lanka holds the exclusive jurisdiction for protection of fundamental rights, and fundamental rights petitions regarding the infringement or imminent infringement of the right against torture can be filed at the Supreme Court. However, the 20th Amendment to the Constitution passed in August 2020, undermines the independence of the judiciary as it grants the President unfettered discretion to appoint judges, while only consulting the Parliamentary Council³⁸.

e. Role of courts/magistrates in prevention of torture

Courts and magistrate play a significant role in the protection of persons against torture. By requiring detained persons to be produced in court and inquiring their wellbeing and whether they were subjected to ill-treatment in custody, judges can take immediate action by requiring the detained person to be produced before a JMO and changing the place of detention to avoid the detained person being subjected to reprisals.

However, where persons are held in administrative custody for a prolonged period of time, such as under the PTA, they would be removed from the ambit of this judicial protection against torture. Virtual court trial policies that seek to improve the efficiency of the court process may also have the same effect and render detained persons further vulnerable when they lose access to communicate in person with a judge.

In October 2021, a Bill to amend the Code of Criminal Procedure sought to permit magistrates to dispense the need for in-person attendance in court for reasons including risk of threats to the person's life and health-related reasons, as well as if "The public reaction to the alleged offence is likely to give rise to breach of peace and there is likelihood the person will obstruct proceedings"³⁹. The Bill was met with a backlash from civil society stressing the need for persons deprived of their liberty to be produced in court for their personal protection and the risk of interference with due process rights. The Bill was subsequently withdrawn.

³⁸ <https://www.icj.org/sri-lanka-newly-adopted-20th-amendment-to-the-constitution-is-blow-to-the-rule-of-law/>

³⁹ <https://www.themorning.lk/proposed-amendments-to-the-code-of-criminal-procedure-out-of-sight-out-of-mind/>

1.6. *Recommendation: promote the rights of and compensation for victims of crimes and witnesses*

a. Article 14 of CAT

In cases of torture, redress for victims is primarily available in the form of compensation ordered by the Supreme Court in fundamental rights petitions or as recommended by the Human Rights Commission upon the conclusion of an inquiry. However, in both circumstances, there is no enforcement mechanism to compel respondents to pay the compensation to the victim.

b. Reparation for families of disappeared

Following the presidential elections of 2019, the new government led by President Gotabaya Rajapaksa, the Secretary of Defence during the last phase of the war who had war crimes allegations levelled against him, backtracked on all the commitments made by the government to reconciliation and transitional justice.

The OMP became a near defunct institution and a former Inspector General of Police was appointed as a member of the Commission, thereby seriously compromising the independence of the office⁴⁰. The Ministry of Justice announced it would issue death certificates for persons disappeared during the conflict and offer a one-time payment of Rs. 100,000 (roughly USD 275), a move that was criticized by human rights activists and affected communities as an attempt to override the justice and accountability process which the families of disappeared demand⁴¹.

1.7. *Recommendation: protect rights of human rights defenders, civil society, journalists, and ensure a safe and enabling environment for civil society and human rights defenders*

a. Arrests, arbitrary detention, surveillance and harassment of and attacks on journalists

The election of president Rajapakse and the new government created a chilling effect on freedom of speech and media, and lead to the targeting of journalists who reported on the activities of the government. Reporters and media houses have been subjected to searches,

⁴⁰ <https://www.newswire.lk/2021/05/31/ex-police-chiefs-appointment-to-the-office-of-missing-persons-sparks-concern/#:~:text=The%20appointment%20of%20former%20IGP,Sunday%20Leader%20Editor%20Lasantha%20Wickrematunge>.

⁴¹ <https://economynext.com/sri-lanka-to-issue-death-missing-certificates-to-disappeared-pay-100000-lkr-to-next-of-kin-91667/>

surveillance and harassment almost as soon as Mr. Rajapakse was elected President⁴², leading to a climate of self-censorship and stifled civic space.

In November 2019, soon after the presidential elections, the office of local website News Hub was raided by police, with officers allegedly searching for material related to the Rajapakses.⁴³ The Committee to Protect Journalists has documented incidents of harassment and questioning of Tamil journalists by police that occurred within a few weeks of the president's election: "police questioned Thinappuyal newspaper director Sakthivelpillai Prakash about his outlet's coverage of the Liberation Tigers of Tamil Eelam, Voice Tube editor Thushara Vitharana about a recent broadcast from the outlet, The Leader video manager Sanjaya Dhanushka for several hours, according to news reports, which did not specify the motive for the questioning."⁴⁴ Journalists from the North and East were also subjected to harassment and intimidation by security forces prior to the resurgence of the Rajapakse government, during the "Good Government" regime⁴⁵.

In June 2020, CID officers entered the residence of journalist Dharisha Bastians without a warrant, searched the premises and seized her laptop, thus putting her sources at risk⁴⁶. In November 2021, members of the Sri Lanka army reportedly assaulted freelance journalist Vishwalingam Vishwachandran, with a palm stick wrapped in barbed wire as he was reporting on commemoration activities in Mullivaikkal during Maaveerar Naal (Martyrs Day)⁴⁷.

Over the last few months, several journalists have been assaulted⁴⁸, detained⁴⁹ and summoned by the CID⁵⁰ while covering mass protests against the government that have sparked due to the present financial and economic crisis. During this period, journalists from the North and East were also subjected to assault⁵¹ and harassment when covering protests, but such incidents received less attention on the media.

b. Threats and harassment of civil society

⁴² http://cja.org/wp-content/uploads/2021/02/2021.02.09-CJA_CPJ-Attacks-against-journalists-in-Sri-Lanka.pdf

⁴³ <https://economynext.com/police-search-newshub-lk-newsroom-47166/>

⁴⁴ <https://cpj.org/2019/12/journalists-beaten-by-unidentified-groups-interrog/>

⁴⁵ <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/sri-lanka/>

⁴⁶ http://cja.org/wp-content/uploads/2021/02/2021.02.09-CJA_CPJ-Attacks-against-journalists-in-Sri-Lanka.pdf

⁴⁷ <https://cpj.org/2021/12/sri-lanka-army-soldiers-attack-tamil-journalist-covering-commemoration-for-civil-war-dead/>

⁴⁸ [https://www.newsfirst.lk/2022/07/10/video-journalists-attacked-during-live-prime-time-news/;](https://www.newsfirst.lk/2022/07/10/video-journalists-attacked-during-live-prime-time-news/)

⁴⁹ <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/sri-lanka-several-journalists-assaulted-and-detained-during-mirihana-protests.html#:~:text=04%20April%202022-,Sri%20Lanka%3A%20Several%20journalists%20assaulted%20and%20detained%20during%20Mirihana%20protests,the%20Nugegoda%20suburb%20of%20Colombo;>

⁵⁰ <https://www.frontlinedefenders.org/en/case/human-rights-defender-tharindu-udawaragedara-summoned-cid>

⁵¹ <https://www.tamilguardian.com/content/why-are-you-laying-your-hands-me-sri-lankan-security-forces-grab-tamil-journalist>

Since coming into power, the Rajapakse government has adopted a rhetoric of national security concerns and the rising threat of extremism as a guise to curb dissent, freedom of association and expression and monitor the activities of civil society, particularly organizations that work on issues of human rights and security.

Although such monitoring practices existed even under the previous, “progressive” Yahapalanaya government between 2015 and 2019, this has increased manifold since the Presidential elections of 2019.

Civil society groups, community organizations and activists working in the North and East of Sri Lanka experienced an increase in surveillance and harassment by security sector entities such as the Terrorist Investigation Division (TID) and the Criminal Investigation Division (CID) of police; although such monitoring practices by intelligence services were also conducted previously, there is a notable increase in harassment of civil society activists in the North and East. Organizations and activists reported their premises as well as personal homes being visited, details of the organization, funding sources and activities being questioned as well as personal details of individual members of the group being recorded.

Present challenges to civil society are also as a result of increased oversight of donor funding sources which affect activities of local groups. The government attempted to create a nexus between NGOs and security threats, claiming that foreign funds are being disbursed to local groups to radicalize ethnic minorities and “ruin the reputation” of the government by pursuing the human rights agenda.⁵²

In February 2022, the Ministry of Foreign Affairs issued a statement against the testimony of human rights activist and lawyer Ambika Satkunanathan before the European Parliament Sub Committee for Human Rights on the situation of human rights in Sri Lanka⁵³. The statement of the Ministry which involved likening her testimony to LTTE propaganda, was viewed as an attempt to stifle dissent, which fell in line with the ongoing climate of shrinking civic space in Sri Lanka.

Over the last few months, citizens of Sri Lanka have been engaging in mass protests calling for the resignation of the president and the prime minister, after the economic mismanagement policies of the present government pushed the country into an unprecedented economic and financial crisis that has pushed millions of citizens into poverty. A mass anti-government collective and ensuing protests have also led to the arrests of activists who have been involved in the movement against the present government.

Social media activist Anuruddha Bandara was reportedly abducted by a group claiming to be from the police and was later found at the Modara Police Station. Bandara was the

⁵² <https://www.dailymirror.lk/hard-talk/Govt-to-introduce-fresh-legislations-to-supervise-NGOs-INGOs-Raja-Goonaratne/334-220774>

⁵³ <https://mfa.gov.lk/fm-refutes-claims-ambika/>

administrator of a Facebook group called 'GoHomeGota2022'.⁵⁴ Other protestors that have been involved in the movement since its inception have been summoned by CID⁵⁵, had travel bans imposed on them⁵⁶ and have also been arrested while engaging in anti-government protest⁵⁷.

c. Arbitrary arrest, detention and torture of Asela Sampath

Asela Sampath is a consumer rights activist and vocal critic of government policies. He was arrested in April 2021, allegedly due to a case filed against him over two years ago by the Consumer Affairs Authority and held in remand prison for two weeks, before being released on bail.

Sampath stated that he was subjected to torture in remand prison and testified to the inhuman treatment and conditions in prison. He reported being assaulted with a wooden pole by three prison officers, being subjected to an invasive body cavity search by officer, that verbal abuse and use of violence for minor misdemeanours in prison is normal and persons are beaten in front of others to set an example. He further reported that access to healthcare, hygienic food basic necessities is limited within prisons.⁵⁸

In June 2021, Asela was subjected to an abduction-style arrest where he was taken away by unidentified persons from his residence and his whereabouts remained unknown, until the CID claimed responsibility for his arrest⁵⁹. The CID clarified that he had been arrested allegedly in connection with a statement he made regarding the Astra Zenica vaccine⁶⁰.

d. Arbitrary arrest and detention of Hejaaz Hizbullah

Hejaaz Hizbullah is a Muslim lawyer and activist who was arrested under the PTA in April 2020 for alleged connections with persons who had orchestrated the Easter Attacks in Sri Lanka. Hizbullah was held in administrative detention for several months and allowed limited contact with his legal representative and family members during this period. The police had constructed a case against him through unlawful and dubious methods,

⁵⁴ https://www.dailymirror.lk/top_story/Go-Home-Gota-FB-admin-and-social-media-activist-Anuruddha-Bandara-arrested-by-Mutuwal-Police/155-234357

⁵⁵ <https://economynext.com/witnesses-in-sri-lankas-may-09-protester-attack-asked-to-surrender-passport-lawyer-94763/>

⁵⁶ <https://economynext.com/witnesses-in-sri-lankas-may-09-protester-attack-asked-to-surrender-passport-lawyer-94763/>

⁵⁷ [https://www.themorning.lk/13-arrested-for-protesting-near-parliament-court-grants-bail/;](https://www.themorning.lk/13-arrested-for-protesting-near-parliament-court-grants-bail/)
<https://twitter.com/IDSLanka/status/1528166745793388544;>
<https://twitter.com/IDSLanka/status/1526178388125306880;>
<https://twitter.com/IDSLanka/status/1526201658161651712>

⁵⁸ <https://twitter.com/ambikasat/status/1389756439535620097?s=20&t=LOoANZ-Y14BfpDUNmZOslw>

⁵⁹ <https://www.newsfirst.lk/2021/06/26/rights-activist-asela-sampath-arrested-by-cid/>

⁶⁰ <https://www.dailynews.lk/2021/06/26/local/252534/asela-sampath-arrested-cid>

including by allegedly torturing other persons in custody to implicate Hizbullah⁶¹ and coercing children into making statements against him⁶². A national and international outcry was generated against his arrest and the baseless allegations against him; Hizbullah was released on bail in February 2022, after nearly two years in detention.⁶³

1.8. *Recommendation: hold security forces and government officials accountable for human rights violations and abuses, intensify its efforts to investigate allegations of sexual violence by the security forces and ensure that perpetrators are prosecuted and punished*

a. Pardon of Sunil Rathnayake

In March 2020, a few months after winning the election, President Rajapaksa awarded a presidential pardon to former Staff Sergeant Sunil Rathnayake, a military officer who had been sentenced to death by the Supreme Court for the murder of eight Tamil civilians, including three children, in December 2000 during the armed conflict⁶⁴. The pardon was awarded a few weeks after the government had withdrawn as a co-sponsor to the Human Rights Council resolution 40/1 on promoting reconciliation, accountability and human rights in Sri Lanka⁶⁵. In May 2020, the president stated he “will not allow any room for attempts to discredit and destroy the dignity of the war heroes who made countless sacrifices to bring peace to entire Sri Lanka” and that “if any international body or organization continuously targets our country and our war heroes, using baseless allegations, I will also not hesitate to withdraw Sri Lanka from such bodies or organizations.”⁶⁶

b. Emblematic cases updates

There has been no progress on emblematic cases involving members of the armed forces; to the contrary, there have been several regressions.

In August 2017, the former President Sirisena promoted the Ravindra Wijegunaratne to the rank of Admiral and appointed him the Chief of Defence Staff despite the evidence linking his involvement to case of the missing of eleven Tamil youth.⁶⁷

⁶¹ https://www.dailymirror.lk/latest_news/Suspect-tells-Magistrate-he-was-tortured-to-implicate-Hejaaz-Hizbullah/342-223585

⁶² <https://www.ft.lk/news/Magistrate-orders-investigation-into-publicising-%E2%80%9Cconfessions%E2%80%9D-by-children-against-arrested-lawyer/56-702491>

⁶³ <https://economynext.com/sri-lankas-court-of-appeal-grants-bail-to-detained-lawyer-hejaaz-hizbullah-90225/>

⁶⁴ <https://www.newsfirst.lk/2020/03/26/presidential-pardon-to-fmr-army-staff-sergeant-sunil-ratnayake/>

⁶⁵ <https://www.thehindu.com/news/international/sri-lanka-notifies-un-about-rights-resolution-withdrawal/article61626417.ece>

⁶⁶ <https://www.un.int/srilanka/news/full-text-speech-made-his-excellency-president-gotabaya-rajapaksa-national-ranaviru-day>

⁶⁷ ‘Admiral Ravindra Wijegunaratne assumes duties as CDS’ Sri Lanka Navy, August 22, 2017. <https://news.navy.lk/eventnews/2017/08/22/201708221130/>

In March 2019, the Supreme Court issued an order to the Inspector General of Police against the arrest of the former Navy Commander Admiral Wasantha Karannagoda over the abduction and forced disappearance of eleven youth in 2008.⁶⁸ In January 2020, the Presidential Commission on Political Victimization advised the AG to suspend investigations against Karannagoda until his complaint is heard by the Commission. In February 2020, the cabinet spokesperson said that Karannagoda was 'not an ordinary person' and he had the right not to appear in court and consider alternative options considering his services to the country⁶⁹.

In June 2020, the Court of Appeal issued an Interim Order preventing the case proceedings against Wasantha Karannagoda from taking place until a decision was taken by the Court on the writ petition filed by Karannagoda challenging the charges against him⁷⁰. The Additional Solicitor General highlighted before the Court of Appeal that if interim relief was granted to Karannagoda, it would "send a wrong message to the public that he is above the law"⁷¹.

In January 2020, another officer of the Navy DKP Dasanakaye who is alleged to be involved in the case of eleven Tamil youth was promoted to the rank of admiral and the Commission on Political Victimization ordered the AG to halt investigations against him until the hearings of the Commission are concluded.⁷² In January 2021, retired Major Ajith Prasanna was released on bail after he was remanded for almost a year due to the charges against him for attempting to influence witnesses involved with the case of eleven Tamil youth.⁷³

In June 2019, thirteen members of the Special Task Force charged with the killing of five Tamil youth were acquitted and released due to lack of evidence.⁷⁴

The case involving the murder of journalist Lasantha Wickramatunge has been continuing for over a decade. The ongoing trial was also undermined by statements made before the Commission of Political Victimization in 2020 regarding the integrity of the investigation undertaken by the CID. In January 2021, Ahimsa Wickramatunge, daughter of the late Lasantha Wickrematunge, lodged a complaint with the UN Human Rights Committee

⁶⁸ 'SC issues order preventing Wasantha Karannagoda's arrest' Ada Derana, March 7, 2019. <http://www.adaderana.lk/news/53658/sc-issues-order-preventing-wasantha-karannagodas-arrest>

⁶⁹ 'Karannagoda is not a normal person and he has the right not to appear before the court Bandula Gunawardena', Lanka News Web, February 28, 2020 <https://www.lankanewsweb.net/67-general-news/57214-Karannagoda-is-not-a-normal-person-and-he-has-the-right-not-to-appear-before-the-court-Bandula-Gunaw>

⁷⁰ 'CA issues interim order suspending the case against Karannagoda on the abduction of 11 youth' Colombo Page, June 26, 2020, http://www.colombopage.com/archive_20B/Jun26_1593113307CH.php

⁷¹ Ibid

⁷² 'AG ordered to halt investigations into Karannagoda & D.K.P. Dassanayake' News First, January 27, 2020. <https://www.newsfirst.lk/2020/01/27/ag-orderd-to-halt-investigations-into-karrannagoda-d-k-p-dasanayake/>

⁷³ 'Ajith Prasanna released on bail' Lanka News, January 13 2021. <https://www.lankanewsweb.net/67-general-news/76322-Ajith-Prasanna-released-on-bail>

⁷⁴ 'STF members acquitted over 'Trinco 5' murder case', The Morning, July 4, 2019. <http://www.themorning.lk/stf-members-acquitted-over-trinco-5-murder-case/>

regarding the murder of her father.⁷⁵

In the case concerning the murder of the Tamil MP Mr. Joseph Pararajasingham, one of the suspects in the case who had been in remand since 2015 former Chief Minister of Eastern Province Sivanesathurai Chandrakanthan alias Pillayan contested and won a seat in the general election of August 2020. By November 2020, the confessions that linked Pillayan to the murder were found inadmissible by the court and in January 2021, the case against Pillayan and four other suspects involved in the case was dropped and they were acquitted.⁷⁶

Soon after the Presidential elections, Nishantha Silva, the lead police detective investigating a number of high-profile cases involving the Rajapaksa family and member of security forces left the country and sought asylum reportedly in Switzerland. A member of the Swiss embassy was reportedly abducted and harassed in December 2019 as her abductors demanded to know the whereabouts of the police detective in question. The Swiss embassy employee was subsequently arrested and held in remand prison for a period of two weeks. An indictment was filed by the Attorney-General alleging that she had fabricated evidence regarding her abduction.⁷⁷

2. Updates on voluntary commitments of Sri Lanka

121. Accede to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT), and designate the Human Rights Commission of Sri Lanka as the national preventive and monitoring mechanism to fulfil obligations under OP-CAT.

Can refer to the more detailed sections above.

122. Review and repeal the Prevention of Terrorism Act, and replace it with new counterterrorism legislation compliant with international human rights standards.

a. Update on PTA amendments

Since 2019, numerous persons have been arrested under the PTA for reasons that include sharing photos of the Liberation Tigers of Tamil Eelam (LTTE) and its leader Velupillai

⁷⁵ 'Revisiting Ten Emblematic Cases in Sri Lanka: Why Justice Remains Elusive', Centre for Policy Alternatives, January 2021. <https://www.cpalanka.org/wp-content/uploads/2021/01/Revisiting-Ten-Emblematic-Cases-in-Sri-Lanka-final-draft-1.pdf>

⁷⁶ Ibid

⁷⁷ 'AG indicts Swiss Embassy's Garnier Francis,' Daily News, October 23, 2020. <http://www.dailynews.lk/2020/10/23/law-order/232193/ag-indicts-swiss-embassy%E2%80%99s-garnier-francis>

Prabhakaran on social media⁷⁸ and engaging in commemoration and memorialisation activities of persons killed during the war⁷⁹.

In February 2022, the amendments to the PTA were passed following considerable national and international pressure on the government to repeal the provisions of the draconian legislation. However, new provisions in the amended Act do little to minimise the risk of torture and prolonged detention and while the human rights deficient provision that contribute to the risk of violations, have remained intact.

For instance, the provisions allowing confessions to be admissible when made before a police officer above the rank of Assistant Superintendent of Police (ASP), as opposed to a magistrate, have remained, despite such provisions have enabled severe torture of persons in detention in order to elicit a confession.⁸⁰ Sections 7(3) of the PTA, which allows the police to take persons out of remand prison to another place for interrogation, and section 15A, which allows the Secretary Defence to decide on a place of detention after the person has been remanded to judicial custody, have also not been repealed, despite the documented risk of these provisions opening up detained persons to risk of harm.⁸¹

3. Recommendations

1. The death penalty should be abolished and persons on death row should have their sentences commuted to a fixed term of imprisonment.
2. The 20th Amendment to the Constitution that undermines the independence of judges and independent commissions should be repealed.
3. Action should be taken by the Attorney General's Department under the Convention Against Torture Act against police and security officers alleged to have committed torture and ill-treatment.
 - a. In cases where defendants allege that police officers have framed them/planted drugs on them, the Attorney General's Department must undertake inquiries into the allegations.
 - b. Information on the total number of successful prosecutions under the Convention Against Torture Act should be released to the public.
4. An independent inquiry into the allegations of extra-judicial killings should be initiated and action should be taken to hold officers found engaging in ultra-vires acts accountable.
5. Legislation that encroaches upon the human rights of persons and enables custodial violations – like the PTA and the Drug Dependent Persons (Treatment

⁷⁸ <https://www.tamilguardian.com/content/tamil-journalist-arrested-sri-lanka-s-terrorism-investigation-division>, <http://www.newswire.lk/2020/12/05/youth-arrested-bec-someone-tagged-him-in-a-facebook-post-about-prabakaran-tna-mp-shanakiya-video/>, <https://www.tamilguardian.com/content/tamil-man-arrested-after-sharing-photograph-ltte-leader-facebook>

⁷⁹ <https://www.dailynews.lk/2021/05/19/law-order/249672/ten-arrested-remembering-%E2%80%98prabha%E2%80%99>

⁸⁰ <https://www.hrcsl.lk/wp-content/uploads/2020/01/Prison-Report-Final-2.pdf>

⁸¹ <https://www.themorning.lk/pta-reform-a-farce-in-multiple-acts/>

- and Rehabilitation) Act which allows persons to be sent for compulsory drug treatment, should be repealed.
6. Immediate steps to close compulsory drug rehabilitation centres, such as Kandakadu and Senapura Detention Centres should be taken, and voluntary and evidence and health-based treatment options should be implemented.
 7. Political interference with the progress of emblematic cases must be removed and judicial integrity in cases involving human rights violations should be maintained.
 8. A zero-tolerance policy on the unlawful and excessive use of force which amounts to torture, cruel, inhuman and degrading treatment and punishment should be enforced by the Department of Prisons and Police Department. Strict investigative procedures into allegations of violence received from complainants should be executed in order to change the culture of impunity that reigns.
 9. Judges should be required to ask all persons produced in court whether they were assaulted in custody.
 10. Periodic inspections of police stations and prisons, as well as other places where detainees are held, should be conducted by judicial authorities and findings of the inspection should be made public.
 11. Suspects in police custody should have a series of rights that are strictly enforced by police, such as the right to have an attorney present during interrogation and the confessions made before the police officers to be recorded by video.
 12. Oversight of the functions of the police should be heightened to ensure that malpractice and misconduct is minimized, and CCTV cameras should be installed in all police stations.
 13. The system of witness and victim protection should be reviewed and amended in order to ensure greater protection for persons who complain against police violence or lawyers appearing in such cases are not subjected to harassment and discrimination.
 14. Steps should be taken to reduce overcrowding of prisons and increase the use of non-custodial measures for minor offences.
 15. The capacity of the Human Rights Commission of Sri Lanka to respond to complaints of torture and ill-treatment swiftly should be expanded. The number of competent Investigation Officers should be increased as well as the number of vehicles, etc, that would allow officers to immediately visit detention centres after a complaint is lodged. Further, the number of sub-offices should be increased to more districts and adequate resources and officers must be provided in order to conduct routine visits of prisons around the island.
 16. Rights of persons to freedom of speech and assembly should not only be respected but advanced and promoted by the government, including by law enforcement officers.