

Joint Submission from
International Truth
and Justice Project Sri
Lanka (ITJP-SL) and
Journalists for
Democracy (JDS) to
Fourth Cycle of
Universal Periodic

Submission to the Human Rights Council to the Universal Periodic Review

Country: Sri Lanka

Submission by the International Truth and Justice Project - Sri Lanka (ITJP) and Journalists for Democracy in Sri Lanka (JDS)

Topic: Ongoing Violations in Sri Lanka in the period of 2009- 2021

Date of submission: 14 July 2022

Section A: Introduction

1. This submission is made by the International Truth and Justice Project Sri Lanka (ITJP) in partnership with Journalists for Democracy (JDS), under the Universal Period Review process adopted by the Human Rights Council.¹

International Truth and Justice Project Sri Lanka

Description of the ITJP

2. The ITJP is an independent, international, non-profit organisation established in 2013 to promote justice and accountability in Sri Lanka. The ITJP operates from London in the United Kingdom. The ITJP's Executive Director is Yasmin Sooka, a transitional justice expert, with operations led by an award-winning journalist Frances Harrison and a number of human rights lawyers, journalists, researchers and trauma experts who collectively document ongoing human rights violations in Sri Lanka.
3. The ITJP's mission is to pursue justice and accountability on behalf of Sri Lankan victims, through documenting, collecting and safeguarding evidence of serious international crimes. The ITJP utilizes its documentation in pursuit of universal jurisdiction cases, sanctions, vetting and screening processes as well as making submissions to various UN bodies including Special Procedures. Its website and reports that have been published can be accessed at <https://itjpsl.com>.
4. Having worked on the Sri Lankan civil war for the last 8 years, the ITJP has the most significant repository of evidence on the final phase of the civil war and its aftermath.

Support to the OISL Inquiry

5. The ITJP assisted the Office of the High Commissioner for Human Rights Investigation into Sri Lanka (OISL) inquiry in 2015 by securing access to victims and witnesses. In 2018, at the instigation of the ITJP, who raised the issue of ongoing violations perpetrated during the period of the "Good Governance" government of President Sirisena, the OHCHR conducted a 3-month independent investigation into allegations of ongoing abduction, unlawful detention, torture and sexual violence by Sri Lanka security forces². The independent OHCHR investigation found the allegations to be credible, resulting in para 56 in the High Commissioners report on Sri Lanka to the Human Rights Council in February 2019.

ITJP Archive

6. The ITJP archive includes evidence of serious international crimes, implicating the members of the Sri Lankan security forces, on the basis of command and superior responsibility. The archive made up of victims' and witness testimony (including insider witnesses from the Sri Lankan security forces) is corroborated triangulated by linkage and context evidence. Sources also include digital evidence, phone records and extensive

¹ The participation of the two organisations listed above, is in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996.

² UN Human Rights Council, *Promoting reconciliation and accountability in Sri Lanka : Report of the Office of the United Nations High Commissioner for Human Rights*, 8 February. 2019, **A/HRC/40/23**

photographic footage.

7. The ITJP has filed a number universal jurisdiction cases pertaining to the situation in Sri Lanka and has worked with national authorities in other jurisdictions on other possible strategies. In 2017, the ITJP filed universal jurisdiction cases in 5 Latin America and then a criminal complaint in Australia³ against the former Army Commander of Sri Lanka.
8. In 2019, the ITJP, supported by Michael Hausfeld Attorneys, assisted 11 victims in the United States to file a case under the Torture Victims Protection Act of 1991 against Gotabaya Rajapaksa, the former Secretary of Defense of Sri Lanka (outgoing President as of writing).⁴ The case had to be withdrawn, when Gotabaya Rajapaksa was elected President of Sri Lanka. Given the current political crisis in Sri Lanka which has seen the President flee Sri Lanka, the ITJP is considering re-instating the case once it is clear that he has resigned as President and no longer enjoys immunity.
9. The ITJP supports a psychosocial support project, for victims of torture and conflict related sexual violence (which includes male victims). The project is survivor-led, and is well established to continue to support witnesses and victims and their families. The ITJP has entered into a partnership with the Global Survivors Project to document appropriate reparations for survivors of conflict-related sexual violence.
10. The ITJP has since 2014, published a number of reports on white van abductions, unlawful detentions, torture and sexual violence in Sri Lanka.⁵
11. The ITJP's most recent report on torture titled: ***Sri Lanka: Torture & Sexual Violence by Security Forces 2020-21*** (released in 2021) documents more than 15 cases of abductions, unlawful detention, torture and sexual violence that occurred between 2020 to 2021.⁶ The survivor testimonies include testimonies from male victims and 1 woman, with 13 survivors having been former members of the Liberation Tigers of Tamil Eelam (LTTE), with many forcibly recruited as child soldiers; and the remaining number civilians. The youngest victim was 19 years old and the oldest was 48 at the time of the last abduction.⁷

Journalists for Democracy

12. The JDS was founded in 2009 by journalists, writers and human rights defenders who were forced into exile. The group was instrumental in exposing some of the gravest mass atrocities committed during the final stages of Sri Lanka's war while constantly monitoring and reporting on rights situation in the island. JDS functions as Sri Lankan partner organization of Reporters Without Borders (RSF). See: www.jdslanka.org

³ https://itjpsl.com/assets/ITJP_JJ_australia_infographic_v9-1.pdf

⁴ <https://itjpsl.com/assets/press/ECF-No.-0066-Pliffs-Motion-to-Proceed-Anonymously.pdf>

⁵ For more information see ITJP website.

⁶ <https://itjpsl.com/reports/torture-2020-21>

⁷ Ibid

Section B: Methodology

13. The ITJP has established a network of independent lawyers and doctors with whom it has built up a relationship of trust over time. The victims and witnesses are identified in the UK and Switzerland and referred to the ITJP, as the ITJP does not solicit witnesses. The ITJP is also supported by independent international investigators who are responsible for obtaining witness statements. ITJP staff and contractors are required to sign confidentiality agreements.
14. The ITJP has taken care to ensure that the interviews are conducted according to best international standards, observing the 'do no harm' principle and the highest levels of confidentiality. The process is victim-centered, with great care being taken not to re-traumatize victims and witnesses during the interview process; where necessary a Tamil speaking counsellor accompany victims during the process. Victims and witnesses are required to sign a consent form regarding how their statements and supporting documentation can be utilized.
15. Each witness is interviewed by an investigator through a trusted Tamil interpreter over a number of days, with a written statement recording their testimonies. Corroborating information is gathered in each of the case files, including medico-legal reports compiled by independent experts confirming torture and sexual torture. Where the victim had not yet seen a doctor, ITJP investigators took photographs of their scars. Victims have also provided copies of complaints made by their families in Sri Lanka to the Human Rights Commission and to the police, or in some cases Tamil media reports about their disappearance. Victims' and witnesses' testimonies are properly recorded and together with supporting documentation are stored in a secured database.
16. The ITJP is supported in its work by JDS who also provide corroboration to the ITJP's work from a domestic Sri Lankan perspective.

Section C: Context

Current Political and Economic Crisis

17. Sri Lanka is mired in a deep political and economic crisis, with the country's president Gotabaya Rajapaksa having fled the country, days after a huge crowd of protesters stormed his residence and occupied it. The island nation of 22 million people has suffered months of lengthy blackouts, acute food and fuel shortages, and inflation in its most painful downturn on record. The current Prime Minister Ranil Wickremesinghe has been appointed as Acting President but the protesters are demanding the resignation of both Wickremesinghe and Rajapaksa.
18. While the current crisis in Sri Lanka is seen mainly as an economic and political crisis, it is also linked to decades of structural impunity for serious international crimes and gross human rights violations and corruption, linked to the JVP Uprisings in 1971 and then between 1987 and 1989, and against the Tamils since the early 1980's as well as the end of the civil war in May 2009. The context in Sri Lanka has been characterized by the past and ongoing war crimes, crimes against humanity and other gross human rights violations.
19. Ongoing human rights violations including white van abductions, unlawful detentions, torture including sexual torture and sexual violence, must be located within the broader continuum of impunity for human rights violations in Sri Lanka, going back decades. Perpetrators have been appointed to senior positions in the security forces despite the periodic investigations, which have identified those responsible. As one of the perpetrators said to his victim, "whatever we do to you, no one is going to ask about it." Perpetrators have perfected a system where they can operate in bloodstained torture chambers in police stations or army camps, leave visible marks on their victims' bodies, keep records of illegal detentions and confessions and never be held accountable.

Past Gross Human Rights Violations: JVP Period

20. White Van Abductions date back to the period of mass atrocities in 1987-90 (known as the second JVP uprising period). The term "white van" abductions comes from the security forces using white unmarked vans to carry out these violations. In those days victims were mainly young Sinhalese who were abducted in white vans by 4-5 plainclothes security officials at night, blindfolded and handcuffed, and taken away. The vast majority of victims were killed or disappeared in custody.⁸ The term coined by the Commissions of Inquiry for the few survivors - 'returned detainees'.⁹
21. The current President Gotabaya Rajapaksa was the District Military Coordinator in charge of the Gajaba regiment stationed in Matale during the JVP massacres. Rajapaksa together with Shavendra Silva, the former Army commander, and Kamal Gunaratne, the current Secretary to the Minister of Defense, all belonged to the regiment and have been implicated in white van abductions and a range of serious international crimes going back to the JVP era in 1989.¹⁰

⁸ https://itjpsl.com/assets/ITJP_1989_mass_grave_report_v6_WEB.pdf

⁹ See 'Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces', 1997; 'Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Northern and Eastern Provinces', 1997; 'Final Report of the Commission of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island), 2001

¹⁰ Ibid

22. A comparison into the patterns and trends of the ongoing violations with the reports of official Commissions of Inquiry into the mass atrocities in 1987-90 reveals that the *modus operandi* of the police and army have barely changed.

Section D: Ongoing Violations from the End of War May 2009 to 2019

23. The incidence of reported torture peaked in 2009 at the end of the civil war as the security forces detained tens of thousands of former combatants and civilians and interrogated them using torture and sexual violence to extract information or merely punish their 'enemy'.¹¹ The patterns of the violations were also documented in the OHCHR OISL Report.¹² While we reference these earlier periods to highlight the relevant context, our main focus in this submission is the ongoing violations including white van abductions, torture and sexual violence in the period 2019-2022.

No.	Year	Male	Female	Total
1.	2009-2015	26	2	27
2.	2016-2019	145	4	149
3.	2020-2021	15	1	16
4.	2022	2	0	2
Total Number	2009-2022	188	7	194

Cases of Ongoing Violations including White Van Abductions, Unlawful Detentions, Torture and Sexual Violence documented by the ITJP between 2009 and 2022¹³

"Black System" operating in parallel to Legal System

24. The ongoing violations occurring from the end of the war in May 2009 to current date have taken place in the context of a black system¹⁴ that operates outside of the law and works in parallel with the gross human rights violations taking place under the existing legal system. The ITJP has over the last decade interviewed a number of 'returned detainees' in exile, the vast majority of whom are Tamils, building up a unique insight into the practices of the security forces.

25. The ITJP has published multiple reports on abductions and torture in Sri Lanka between 2009 and 2019, which read together with this report will demonstrate that the perpetrators of these violations are the Sri Lankan security forces who have been complicit in serious international crimes during the final phase of the war in Sri Lanka and the on-going violations perpetrated in the aftermath of the war.¹⁵ Those responsible enjoy the protection of their superiors and immediate commanders amounting to total impunity. This submission focusses on the ongoing violations perpetrated between 2019 and 2022.

26. Gotabaya Rajapaksa, the current President was in charge of the police and military during and after the war when white van abductions and enforced disappearances in Colombo and the rest of the island were occurring on a staggering scale.¹⁶ As the Secretary of Defence (2005-15), the police (until 2013) and army reported to

¹¹ https://itjpsl.com/assets/ITJP_ongoing_violations_fact_sheet_v6.1.pdf

¹² https://itjpsl.com/assets/ITJP_ongoing_violations_fact_sheet_v6.1.pdf

¹³ As per the ITJP's record.

¹⁴ The ITJP uses the term 'black system' to describe arbitrary and unlawful detention taking place outside any legal framework, ie PTA, Emergency Regulations and the recent abuses of the ICCPR Act in Sri Lanka. Cases documented under the 'black system' include the notorious 'white van' abductions and detentions, with detainees held in unofficial sites or secret cells as well as hidden cells and chambers in official sites where victims are systematically interrogated, tortured physically and psychologically, endure sexual torture and suffer myriad forms of sexual violence as described in this and other ITJP reports

¹⁵ <https://itjpsl.com/reports/ongoing-torture>

¹⁶ LKA103960.E , 9 February 2012 , Sri Lanka: Treatment of Tamils in Colombo by members of the Sri Lankan security forces and police; registration requirements in Colombo for Tamil citizens (2007- 2008) , Research Directorate, Immigration and Refugee Board of Canada, Ottawa , 2.1 Statistics on Abductions and Disappearances - Some Sri Lankan sources cite 540 cases island-wide from January-August 2007 alone.

Gotabaya Rajapaksa - orders were sent down the chain of command and reported back up to senior authorities. In his official role, Gotabaya Rajapaksa had extraordinary powers because he was ex-military himself, with close ties to his police¹⁷ and army commanders he had served with in the field, and because his brother President Mahinda Rajapaksa had devolved the operational day to day running of the war to him.

White van abductions following the end of the war, have predominantly been of Tamils, who are abducted, detained and then taken to purpose-built detention sites, interrogated by a separate team, fingerprinted, photographed, forced to sign a confession they cannot read, released by another team for ransom money at a quiet spot and often warned to leave the country. The methods of torture are brutal – beatings, whippings, kicking, branding with hot metal rods, asphyxiation with bags soaked in petrol or chilli, burning with cigarettes, water torture, falaka, sexual violence and gang rape.

27. Witnesses confirm that from 2006 onwards – separate teams were set up within the Special Task Force (STF) of the police, and military and navy intelligence for abducting opponents, torturing and then killing them and disposing of the bodies:

“From 2006 onwards, special units were set up with 20 specially selected STF men, reporting to a director (named withheld by ITJP) who reported weekly to Gotabaya Rajapaksa to receive orders. These orders were very sensitive and secret and only entrusted to our small specially selected group. When the director returned from his weekly meetings, or otherwise, and had received instructions from Gotabaya, he would give those assignments to my unit. He would always say these were Gotabaya’s orders, or they were from the big man, which was another name for Gotabaya.” (W47).

28. The units responsible included Military Intelligence, the Special Task Force and Terrorism Investigation Division of the police, renamed the Counter Terrorism and Investigation Division (CTUD). the navy and Tamil paramilitaries¹⁸. There was a degree of coordination between different units that speaks to an official plan. The existing evidence indicates that the security establishment, not only knew about the existence of shadowy death/torture squads but actually ran the legal and the illegal systems in parallel. The operations were highly organised and coordinated including compiling lists of names of people to abduct in targeted, not random, operations. The highly organised and coordinated nature of the white van abductions was confirmed by the UN Investigation (OISL §352)¹⁹ which said:

“...the different branches of the Sri Lankan security forces worked together in perpetrating unlawful and arbitrary arrests, demonstrating a high degree of coordination²⁰, joint intelligence and information sharing, as well as joint planning, which continued throughout the period of detention, interrogation, torture and release or transfer to prison.”

29. One of the most striking differences from the 1980s is that the Sri Lankan security forces have learned to monetize their captives, extorting substantial amounts of cash for their release, from their families who are

¹⁷ Noting that from November 2009, the IGP was Mahinda Balasooriya who had served under Gotabaya Rajapaksa in Matale in 1989. Also Ananda College educated.

¹⁸ §353 OISL “Over time, collusion between the Karuna Group, the STF of the police and Military Intelligence in ‘white van’ arrests became more apparent.” And “By 2006, the Karuna Group clearly operated from Welikanda Army camp, alongside or on behalf of SLA and SLN intelligence operatives, conducting ‘white van’ arrests and unlawful killings.” §354.

¹⁹ UN Human Rights Council, *Report of the OHCHR Investigation on Sri Lanka (OISL)*, 16 September 2015, A/HRC/30/CRP.2, available at: <https://www.refworld.org/docid/55ffb1d04.html> [accessed 14 July 2022]

²⁰ See op.cit interviews with police officials in Business Today, April 2009, where they described the close coordination, weekly meetings with the Secretary of Defence to plan counter-terrorism investigations and operations.

compelled to sell their assets, borrow money from the extended family and the diaspora, as well as go into debt with money lenders in order to pay the ransoms for their loved ones.

Torture 2019-2022

White Van Abductions and Torture after November 2019

30. Since Gotabaya Rajapaksa came to power in late 2019, the ITJP has documented 23 cases of abductions, torture and sexual violence perpetrated against victims in Sri Lanka in the period between November 2019 and September 2021. The number of cases documented may be the tip of the iceberg, as the COVID pandemic prevented travel abroad, which is when witnesses feel secure enough to speak.
31. The victims over the last period have mainly been Tamil but the profile has changed quite significantly with victims likely to be shopkeepers, tradesmen, farmers, labourers, construction workers, auto rickshaw drivers and students. The victims are mainly very young and appear to have come to the notice of the authorities because of their participation in Tamil protests and campaigns. Very few were former cadres of the LTTE.²¹ In its 2019 report, the ITJP analyzed 15 cases involving 14 male victims, and one woman. The majority of the witnesses were civilians with only 3 of the victims former members of the LTTE, including those forcibly recruited as child soldiers. The youngest victim was 19 years old at the time of the violations and the oldest was 48. More than half were under the age of 25. In a particular case involving a female victim, the independent medico-legal report corroborates recent torture and rape. The victim attempted suicide three times in Sri Lanka and now in the UK has to be under 24h watch to prevent further attempts. Two of the recent victims had been previously detained in Sri Lanka post-war and were ex-members of the LTTE, but the others were too young to have played a role in the war. The victims were either involved in commemoration events and protests.
32. Since the publication of its report on ongoing torture and sexual violence in Sri Lanka in September 2021, the ITJP has documented a further 8 cases bringing the total number of cases documented for the period 2020-2022 to 23²².

Triggers for Latest Abductions and Unlawful Detention in Sri Lanka

33. The trigger for the latest round of abductions and unlawful detentions suggests that most of the witnesses were abducted because they chose to stand up for their democratic rights. The precise triggers for the abductions and unlawful detention of the witnesses include:
- participation in campaigns opposing the election of Gotabaya Rajapaksa
 - participation in campaigns on land rights in Kepapulavu
 - participation in protests on the missing and disappeared
 - participation in commemoration events for the dead
 - participation in protests over the destruction of the Mullivaikkal monument in Jaffna University and the P2P march in February 2021
 - accepting funds from the diaspora to channel humanitarian assistance to charity groups in Sri Lanka
 - potential links to LTTE (this could be old family links).
34. Three of the 13 former LTTE members abducted and tortured, appear to have come to the attention of the authorities, when they returned from abroad, and it was discovered that they had not entered the state's

²¹ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

²² See Table in para

“rehabilitation process” for former LTTE cadres.²³

35. The majority of witnesses appear to have been targeted because of their human rights or political work (see par. 33). In the case of two of the victims, they came under scrutiny because they had been in contact with other former cadres who had been arrested; another because of suspicion about his access to UXO in his role in de-mining. A few were also detained because they had funds deposited in their accounts from the diaspora community intended for charity and development work.²⁴

Case examples

36. *The ITJP has documented the testimony of various witnesses set out below. These are extracts from their testimony.*

W 338

37. W338 had been with the LTTE Police for 15 years before the conflict ended in 2009, when he was detained and tortured in numerous camps including Joseph Camp, Colombo and Boosa. He was then compelled to join the Government’s Rehabilitation programme and forced to do prison labour.²⁵ He was abducted in late 2019, and detained multiple times. In his most recent detention he was beaten with a range of implements, slapped on the ears until they bled, subjected to falaka, cigarette burns, his head put in a petrol bag and then submerged in water.²⁶
38. As a result of multiple detentions and torture W338 suffers from lasting physical damage and post-traumatic stress disorder. He was unable to access treatment for his medical and psychological complaints.

W342

39. W342 was forcibly recruited in 2008 by the LTTE but deserted in March 2009. He did not enter the Government’s ‘rehabilitation’ programme for former LTTE fighters.²⁷ Many years after the conflict had ended, he was randomly stopped at a roadblock and questioned. Some months later, he was abducted in a black HiAce van at night and unlawfully detained and tortured. His family paid for his release and soon after he went abroad where he failed to obtain asylum. He was deported to Sri Lanka and had paid an ‘agent/middleman’ to ensure his safe exit through the airport in Colombo, only to be abducted a second time. He was arrested and taken to a local police station, where he was interrogated and beaten and then released under strict reporting conditions.
40. W342 was abducted and detained again during the Sirisena Government period by army officers in uniform in a green van in the Jaffna Peninsula and driven 20 to an illegal army detention site, also in the Jaffna Peninsula.²⁸ There he was interrogated in a bloodstained room, tortured, photographed, fingerprinted, and forced to sign a confession in Sinhala. Significantly, while in detention the third time, his family tried to report his abduction to the Human Rights Commission, but the staff at the Commission refused to accept the complaint and told the

²³ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

²⁴ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

²⁵ “We were divided into four groups each under the command of an army officer who assigned work to us, such as cutting wood, cutting bushes, making bricks, digging wells, cutting grass, making fencing, collecting firewood for cooking, and other such tasks. I never saw or experienced any rehabilitation activities and I never learned any skills.” W338

²⁶ W_338’s MLR _

²⁷ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

²⁸ Ibid

family members that there were no such incidents (i.e., abductions and unlawful detentions) taking place in Sri Lanka.²⁹ Instead the family were told to go to the police, who refused to take down their complaints also refuting that abductions and unlawful detentions were taking place in the country.³⁰

²⁹ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

³⁰ *Ibid*

Violations of Human Rights

Torture

41. Extensive and compelling evidence exists which confirms that torture has been systematically used by the Sri Lanka Security Forces during the armed conflict and continues to be exercised across Sri Lanka by a number of state security agencies.³¹ Torture in the period 2019-2022 included brutal beatings, whippings, kicking, branding with hot metal rods, asphyxiation with bags soaked in petrol or chilli, burning with cigarettes, water torture, falaka, sexual violence and gang rape.³²
42. During interrogations, victims describe being tortured in multiple ways: kicked with boots, punched, slapped and beaten with heavy pipes and sticks³³, whipped on their backs with wires, subjected to falaka and burned on their flesh with lit cigarettes.³⁴ The perpetrators are not afraid to leave visible scars on their victims, which is indicative of a high degree of impunity.
43. One man describes being kicked so hard that when his head hit the floor he passed out, thus terminating his first interrogation. There were repeated death threats which terrified detainees.³⁵ Victims were asphyxiated by having their heads covered in a plastic bag doused in petrol (a common torture method specific to Sri Lanka) and had their heads submerged in water so they half drowned.³⁶
44. In three cases, the victims were subjected to burning or branding on their bodies. One man describes being tied to rafters in the ceiling for two hours and suspended in a painful stress position and beaten; another says he was suspended from his thumbs, causing permanent damage.³⁷ Another was tortured with an electrical device that might have been a taser or stun gun.³⁸

³¹ Freedom from Torture, *Tainted Peace: Torture in Sri Lanka since May 2009*, August 2015. Available at: https://www.freedomfromtorture.org/sites/default/files/2019-04/sl_report_a4_-_final-f-b-web.pdf; ITJP, *Public Submission to the Committee on the Elimination of Discrimination against Women for its examination of Sri Lanka in February 2017*, 23 January 2017. Available at: <https://itjpsl.com/assets/Part-1-ITJP-Public-Submission-to-CEDAW-2017.pdf>; ITJP, *Unsilenced: Male Survivors Speak of Conflict-Related Sexual Violence in Sri Lanka*, September 2018. Available at: https://itjpsl.com/assets/ITJP_unsilenced_report-final.pdf; ITJP, *A Still Unfinished War: Sri Lanka's Survivors of Torture and Sexual Violence 2009-2015*, July 2015. Available at: https://itjpsl.com/assets/stoptorture_report_v4_online.pdf; ITJP, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014*, March 2014. Available at: https://itjpsl.com/assets/STOP_report.pdf#english; ITJP, *Ongoing Torture*. Available at: <https://itjpsl.com/reports/ongoing-torture-update>. For the UN reports see e.g., UN A/HRC/46/20 para 13 February 2021 or UN A/HRC/40/23 para 56. 2019. Among many.

Freedom from Torture, *Tainted Peace: Torture in Sri Lanka since May 2009*, August 2015. Available at: https://www.freedomfromtorture.org/sites/default/files/2019-04/sl_report_a4_-_final-f-b-web.pdf; ITJP, *Public Submission to the Committee on the Elimination of Discrimination against Women for its examination of Sri Lanka in February 2017*, 23 January 2017. Available at: <https://itjpsl.com/assets/Part-1-ITJP-Public-Submission-to-CEDAW-2017.pdf>; ITJP, *Unsilenced: Male Survivors Speak of Conflict-Related Sexual Violence in Sri Lanka*, September 2018. Available at: https://itjpsl.com/assets/ITJP_unsilenced_report-final.pdf; ITJP, *A Still Unfinished War: Sri Lanka's Survivors of Torture and Sexual Violence 2009-2015*, July 2015. Available at: https://itjpsl.com/assets/stoptorture_report_v4_online.pdf; ITJP, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014*, March 2014. Available at: https://itjpsl.com/assets/STOP_report.pdf#english; ITJP, *Ongoing Torture*. Available at: <https://itjpsl.com/reports/ongoing-torture-update>. For the UN reports see e.g., UN A/HRC/46/20 para 13 February 2021 or UN A/HRC/40/23 para 56. 2019. Among many.

³² Ibid

³³ Ibid footnote 97

³⁴ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

CIGARETTES: "One of the two men who had brought me into the room and the fat man on the chair lit cigarettes and used them to burn them me on my hands, arm, chest and back. I think I was burned four or five times in total. I still have the scars on my skin. I had a strong feeling of burning when they put the cigarettes on my skin. It is like having an electric shock through your body." W342

³⁵ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

³⁶ Ibid

³⁷ Ibid

³⁸ Ibid

Sexual Violence

45. All but 3 of the 15 victims suffered sexual violence in detention during this period of detention. However, of the three who were not sexually violated in 2020-21 period, two had previously been anally raped by the security forces during past detentions. Witness W339 alleges that he was filmed while being sexually violated which indicates the extreme level of impunity. One of the three victim from 2021 did not want to give details of the sexual violence he had experienced but confirmed it had occurred.³⁹

W342

46. Sexual violence continued to be perpetrated against those detainees held in army camps, typically at night in the cell and by groups of two men. W342 was held semi-naked and had his groin kicked and his testicles squeezed by officers in uniform, causing him extreme pain. On another occasion, after signing a confession, two men came into his cell at night and asked him to strip naked and kneel in front of them; they then orally raped him one by one.⁴⁰

W359

47. Another witness W359 was orally raped by two men while in detention, in a place where he was held by a mixed group of plain clothes and uniformed army officers.⁴¹ W341 was also orally and anally raped by two men dressed in army camouflage trousers and green T shirts and gave a detailed account of his ordeal, an excerpt of which is reproduced below. It is worth noting that the victim is extremely young:

“The man who had taken my penis in my mouth began kissing my chest. The other man withdrew from my mouth before he had ejaculated. (...) The other man who had performed oral sex on me and been kissing me was holding my hands down on the floor so that I could not move. (...) The other man (...) put one finger inside my back passage and then two. Despite my opposition he managed to insert his penis into my anus. The other man told me not to move and pinned me down until his companion had ejaculated inside of me and withdrawn. The man who was holding my hands then put his penis in my mouth to get an erection and then swapped position with his friend. (...)” W341

48. Two men recently detained by the counter terrorism police, the TID, were anally raped with a metal rod. W346 testified that “For five or six days I was sexually abuse. Metal rods were inserted in my back passage.”

W347

49. Witness W347, who was held by the Terrorist Investigation Division (TID), describes having his private parts painfully squeezed and then being orally raped by a group of four men while forced to kneel in front of them.⁴² After this ordeal was over, they also anally raped him with a metal rod and called him a Tiger. Not long after the first instance of sexual abuse, the exact same thing happened to him, again with the same four perpetrators – oral rape and then anal rape with a metal rod.⁴³

50. Another victim, who believes he was detained by the Criminal Investigation Department (CID), describes having his testicles and penis squeezed in detention.⁴⁴

³⁹ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

⁴⁰ Ibid

⁴¹ Ibid

⁴² Ibid

⁴³ Ibid

⁴⁴ Ibid

51. The impact of the sexual assaults in custody has left many victims suicidal.⁴⁵ W347 says he thought of killing himself in detention but simply did not have the means to do so.

⁴⁵ Ibid

Cruel and Inhuman Treatment

Sleep Deprivation, Kept Naked, Humiliation inflicted

52. Witnesses describe being “softened up” on their first night in detention by having water thrown on them to prevent them sleeping, with another noting the repeated banging on his cell door to prevent his sleeping.⁴⁶ Victims describe being kept naked except for their underpants for the duration of their detention.⁴⁷ When moved from the holding cell or detention room to the interrogation room, Tamil victims describe being forced to kneel in front of the Sinhalese security forces, and being kicked and beaten while doing so⁴⁸..

Perpetrator Units

53. The ITJP has established that white van abductions, detentions, torture and sexual torture appear to be highly coordinated with a great level of cooperation amongst the different perpetrator units involved.⁴⁹ The perpetrators implicated include various units within the security forces including the Navy Special Intelligence Unit, the Special Task Force (STF of the police), the Military Intelligence Corps (MIC), the TID, State Intelligence Services and Tamil paramilitary groups. These operations were systematically coordinated and widespread and certainly not random but carried out in terms of an agreed policy. In four of the recent cases documented by the ITJP, they describe being tortured by the TID in 2020 and 2021. These include the three victims accused of receiving funds sent from abroad and a fourth whose asylum bundle was studied. Though they were detained by the TID they do not appear to have been charged with any offences or put on trial, and their families were able to bribe their way out of detention. In these cases, the victim’s identity cards were taken away. W347 describes his documents being put in a plastic evidence bag, as has occurred in past TID cases documented by the ITJP.⁵⁰
54. According to the most recent gazette, “any member of the security forces” has the power to arrest suspects and keep them for 24 hours before handing them over to the police.⁵¹ Five male victims knew they were detained by the army. In the run-up to his most recent detention, W344 had been questioned at a disappearance protest by a man who introduced himself as ‘Army CID’ (military intelligence).⁵² Later, W344 was abducted in a van by a group of men, one of whom was wearing an army uniform. He describes the men who then interrogated and tortured him as physically fit, clean shaven and wearing army uniforms.⁵³

⁴⁶ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

⁵¹ No. 2218/68 - FRIDAY, MARCH 12, 2021, section 5 (1). THE PREVENTION OF TERRORISM (TEMPORARY PROVISIONS) ACT, No. 48 OF 1979

⁵² Noting that it is common in Sri Lanka for people to use the term CID to denote intelligence, be it military or police.

⁵³ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

Impunity For Alleged Perpetrators

55. The international community including the UN and its various agencies tended to focus on detentions and ongoing violations including torture perpetrated under the Prevention of Terrorism Act of 1979 and the International Covenant on Civil and Political Rights (ICCPR), which has been grossly misused⁵⁴.
56. The ITJP has noted in its successive reports that impunity for gross violations of human rights such as white van abductions, unlawful detention, torture, and sexual violence against the minority Tamil community has become embedded in Sri Lanka, with the security forces emboldened in the full conviction that they are unlikely to be held accountable either domestically or internationally.
57. Successive Sri Lanka governments have made it a practice to reward individuals alleged to have been in command responsibility of sites notorious for torture⁵⁵. This is one of the reasons why there has been no success in tackling the problem of torture in Sri Lanka, despite years of international training of the Sri Lankan Police and Army⁵⁶. Ironically the Coalition Government sent Sisira Mendis - the man the UN had named as in charge of a notorious torture site - to represent Sri Lanka in Geneva at a UN Committee Against Torture meeting; then, when this caused controversy, extended his contract and never answered the Committee's questions⁵⁷. It was also the Coalition Government that promoted wartime 58 Division commander, Shavendra Silva, three times⁵⁸. In 2020 Shavendra was designated by the US Government for gross violations of human rights. Sri Lanka also sent the wartime 57 Division commander Jagath Dias to investigate alleged rape by a Sri Lankan peacekeeper in Haiti; where he exonerated the soldier without interviewing the victim⁵⁹. The Good Governance Coalition Government's diplomatic appointments also included sending the wartime Wannu Security Force Headquarters commander, General Jagath Jayasuriya, to serve as an ambassador in Latin America.
58. Following the election of Gotabaya Rajapaksa as President of Sri Lanka, in 2019, surveillance operations by the intelligence services were stepped up, becoming much more sophisticated, widening the net cast by the security forces both in Sri Lanka and abroad particularly diaspora events⁶⁰.
59. More recently, the security forces have begun to pick up family members of former LTTE cadres abroad who still live in Sri Lanka and interrogate them⁶¹. These interrogations are carefully calibrated to ensure that family members on all sides of ex-LTTE cadres abroad, including in-laws in Sri Lanka, are being questioned on the same days in different parts of the country about their relationships to people abroad. The purpose of this is to create fear amongst those who escaped abroad, as well as those inside the country, ensuring that they are fully aware, that the security forces are keeping tabs on them.
60. President Gotabaya Rajapaksa also appointed a large number of his inner circle to key positions, including several military figures⁶². He has also made a number of problematic appointments to the diplomatic service,

⁵⁴ <https://monitor.civicus.org/updates/2019/07/05/iccpr-act-and-judicial-system-being-misused-stifle-freedom-expression-sri-lanka/>

⁵⁵ ITJP Briefing Note on Institutional Reform, Vetting and Screening, and the Rule of Law; https://itjpsl.com/assets/ITJP_briefing_note4-ENGLISH-FINAL.pdf

⁵⁶ Ibid

⁵⁷ <https://itjpsl.com/assets/press/6-march-press-release-corrected.pdf>

⁵⁸ <https://itjpsl.com/assets/press/SS-Press-Release-final-2.pdf>

⁵⁹ <https://www.justsecurity.org/75138/un-should-suspend-sri-lanka-from-peacekeeping-over-human-rights-abuses/>

⁶⁰ OHCHR March 2021 report speaks of surveillance; Article <https://www.thenewhumanitarian.org/news/2020/06/10/Sri-Lanka-activists-state-of-fear>

⁶¹ Follow-up on the visits of the Working Group on Enforced or Involuntary Disappearances to Peru and Sri Lanka; Report of the Working Group on Enforced or Involuntary Disappearances- A/HRC/42/40/Add.1

⁶² <https://itjpsl.com/assets/2-press-release-inner-circle-english-copy.pdf>

the police and the intelligence. A former naval officer who has advocated violence towards his opponents was appointed the minister in charge of the Police Force and an Army officer facing credible allegations of human rights violations from his role in the war, was appointed Secretary of Defense.⁶³ With appointments like this, no amount of training and capacity building is going to eradicate torture.

61. All of the victims interviewed were released because their families paid bribes to their captors. In most cases the families did not tell victims how much they paid lest it upset them to know the level of indebtedness incurred. W346 said he was told the bribe for his release was 2 million Sri Lankan rupees (approximately US \$10,000), while W347 was told his father paid 1.2 million rupees for his release⁶⁴.
62. Witness W341 was warned on release by the mediator not to contact anyone. Another was told by the person who brokered his release that he would be recorded as an escape. Two victims describe being warned specifically to leave the country. W338 recalled that *“The man with connections in EPDP told us it was not safe for me to remain in Sri Lanka because the security forces might come back for me.”* W 347 testified *“He also said that it would not be safe for me to remain in the country as there was a possibility I would be taken again.”*

United Nations Special Procedures Reporting on Sri Lanka

63. In the last decade, a number of UN Special Procedures Mandate Holders have conducted visits to Sri Lanka and made recommendations to the Government of Sri Lanka⁶⁵. The UN Committee Against Torture also examined the ongoing human rights situation in Sri Lanka at its 1472nd and 1475 meetings and concluded that torture remained a common practice⁶⁶. In addition, the Working Group on Enforced and Involuntary Disappearances have also visited Sri Lanka and made a series of recommendations⁶⁷. The UN recommendations have fallen on the deaf ears.

⁶³ Ibid

⁶⁴ <https://itjpsl.com/assets/ITJP-Torture-report-2021-Sep-ENGLISH.pdf>

⁶⁵ Human Rights Council, [Report of the Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism](#), 23 July 2018 at para 1 [Special Rapporteur on Counterterrorism Report 2018]

⁶⁶ Committee Against Torture, [Concluding observations on the fifth periodic report of Sri Lanka](#), CAT/C/LKA/CO/5, 27 January 2017 at para 9 [Committee Against Torture Report 2017]

⁶⁷ Follow-up on the visits of the Working Group on Enforced or Involuntary Disappearances to Peru and Sri Lanka; Report of the Working Group on Enforced or Involuntary Disappearances- A/HRC/42/40/Add.1

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