

**INTERNATIONAL
TRUTH
AND JUSTICE
PROJECT**

COVER SHEET: Submission to the Universal Periodic Review of Sri Lanka March 2017

ABOUT THE INTERNATIONAL TRUTH AND JUSTICE PROJECT (ITJP¹)

The ITJP was established in December 2013 in response to emerging evidence regarding war crimes and crimes against humanity committed in Sri Lanka both during the final phase of the civil war in 2009 and its aftermath. The project is administered by the Foundation for Human Rights in South Africa under the guidance of its director, transitional justice expert, Yasmin Sooka. The ITJP team includes former prosecutors and investigators from the Ad Hoc Tribunal for the Former Yugoslavia (ICTY) and Rwanda [ICTR], lawyers who have worked for the South African Truth and Reconciliation Commission, the Timor-Leste Commission, the United Nations, the Special Court of Sierra Leone and the International Criminal Court who collectively have decades of experience in investigation of sexual violence and torture, and in many instances firsthand knowledge of investigations relating to Sri Lanka. The ITJP documents and gathers evidence outside the country from victims who leave Sri Lanka.

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ONGOING ABDUCTIONS, TORTURE AND SEXUAL VIOLENCE

¹ ITJP is not ECOSOC accredited.

1. 48 cases documented from 2015-2017

The ITJP has taken detailed sworn testimony from 48 Tamil survivors of security force torture under the Sirisena Government, the vast majority abducted in “white vans”. These survivors are now in the UK, Switzerland and Holland. Given it can take years for survivors to be released from detention, escape abroad and be located and interviewed by the ITJP, the size of this initial caseload is worrying.

The focus in this submission is on the 2016 cases because the 2015 cases were largely covered in our submission to UNCAT².

Witnesses were adamant they would not be able to give this sort of testimony safely inside Sri Lanka:

“If people were to speak out from Sri Lanka they would be signing their own death warrant. I have an opportunity to do this as I am outside Sri Lanka.”

2. The 2016 cases: 18 cases (16 male, 2 female), 2017 1 male case³

Of the 18 cases from 2016, 8 survivors also report hearing (or in one case seeing) other prisoners screaming while they were detained, from which one infers that they may have been tortured and that the overall detainee numbers may be larger.

The detention periods varied from 3 days to 6 months.

13 of the victims had been members of the LTTE, including some as child soldiers; the remaining 5 were civilians. 3 LTTE members appear to have come to the attention of the authorities as a result of not having been in “rehabilitation”; at least 2 after they returned from periods abroad. Others seem to have been targeted because of their human rights or political work, especially campaigning for the disappeared or campaigning for Tamil politicians, or because they participated in commemorations for the dead on 18 May 2016 or in November 2016. 2 torture victims appear to have come under scrutiny because they’d been in contact with other former cadres who’d been arrested; one more because of suspicion about his access to UXO in his role in de-mining.

Detainees made the following assumptions about the institution responsible for holding them in custody, based on how the perpetrators introduced themselves and what clothing they wore:

TID: 3

Sri Lankan Army (SLA): 3

A mixture of army uniforms and plain clothes: 4

Only plain clothes: 3

Military Intelligence: 1

CID: 4

While Sri Lankans commonly refer to both military and police intelligence officers as CID which makes precise identification difficult, what this does indicate is that both the military and police continue to be involved in abduction, torture and sexual violence throughout 2016. Several witnesses were also adamant that they had been detained in an army camp – some named “joseph camp” in Vavuniya and Kangapuram army camp.

In 4 instances in 2016, witnesses believed senior officers were present during interrogation because the torturers told them an important person was visiting or they saw decorations or stars on the uniforms of officers present, who were also treated with deference by subordinates.

² November 2016, ITJP, <http://www.itjpsl.com/reports/submission-to-un-committee-against-torture>

³ Details not given of the 2017 case lest they identify the individual.

3. 2015: 29 cases (23 male, 6 female).

The ITJP has documented 29 torture cases from 2015⁴ and one additional case of a young man who fled after being detained in 2015 in a known army camp for 2 days and beaten.

4. Abductions

The abductions in 2015-16 follow similar procedures to hundreds of previous security force abductions the ITJP has documented under the Rajapaksa period, though in some recent cases the perpetrators have changed vehicles en route to the place of detention, which is a new procedure. 14 of the 18 victims in 2016 were blindfolded or hooded; one passed out unconscious in the van and cannot recall. 16 had their hands tied; one did not, and one was unconscious for the entire journey. 5 had their mouths gagged in the vehicle to prevent them screaming.

2016 abduction vehicles

White van 15

Van [colour not specified] 3

2015 abduction vehicles

Vans 27

Not applicable 2

Some victims were apprehended on the way to or from work, at bus stops, others at their homes normally at night. The vast majority of cases pertain to abductions in the North of Sri Lanka, though there are a few cases in Colombo and the East. This may reflect who has the money to pay smugglers to flee the country, rather than where violations occur.

5. Sites

Though many torture sites are kept secret from the victim, "Joseph Camp" [also known as the Vanni Security Force Headquarters] is still being used as an illegal place of detention in late 2016 by both the military and TID⁵. Witnesses recently interviewed give detailed descriptions of the holding cells there⁶.

6. Torture and Sexual Violence

The methods of physical torture documented in 2015 and 2016 remain the same as in the Rajapaksa period, namely: falaka, beating normally with pipes and batons, whipping often with cables and wires, kicking, punching, burning with cigarettes, branding with hot metal rods, asphyxiation in polythene bags soaked in petrol or chili powder, submerging heads in tubs of

⁴ 27 of the 29 cases from 2015 are detailed in our submission to UNCAT59 available at <http://www.itjpsl.com/assets/ITJP-Chart-2015-and-2016-cases.pdf> and <http://www.itjpsl.com/assets/ITJP-Submission-to-the-Committee-Against-Torture.pdf> and are therefore not repeated here in detail.

⁵ Witnesses in 2016 also reported hearing other prisoners screaming in "Joseph Camp".

⁶ One 2016 survivor detained in "Joseph camp"⁶ by TID was only handcuffed not blindfolded. He described being taken in to what looked like big school building and led up about five or six steps by armed men, walking straight and up more steps. He was kept in a dark room with no windows or furniture, secured by a solid metal door with no visible lock and lit by a single electric bulb whose switch was outside. The room was so small he could not lie straight. In the corner was a squat toilet but no water and the room smelt very bad. He was brought water twice a day in a dog-shaped dish. This witness described extremely brutal physical and sexual torture here:

"They raped me anally by inserting a metal pipe in my anus on 3 to 4 occasions. I bled extensively at the time after I had been raped and then got an infection. The men also urinated on me and forced me to drink the urine. It was sickening. The pain was unbelievable. I felt extremely ashamed and dirty."

water, hanging upside down, manacled and tying to chairs, and in some instances electrocution. In addition, there is rape and other forms of sexual violence and humiliation⁷.

Detainees were also repeatedly threatened with death; one man remembers being told: *“your family can pick your body up”*.

Male sexual violence in detention is common and often combined with ethnically degrading language. One survivor described being anally raped and then turned over and his penis and testicles pulled very hard in anger. *“We will make sure that you will not create a future Tamil with this,”* his rapist told him.

7. Women Torturers

Testimony reveals female Sri Lankan soldiers have participated in torturing women detainees in 2016, in one case burning the flesh of a victim with a cigarette⁸. Another female victim described a woman soldier being ordered to strip and beat her⁹. Later the same woman soldier escorted a male colleague into the victim’s cell at night so he could rape and further torture her.

8. Interrogation

Several victims now fleeing abroad have been detained or abducted on more than one occasion and are severely traumatised, often suicidal. It emerges from testimony¹⁰ that previous interrogation records are being stored and become available to new teams during subsequent interrogations, indicating a degree of central coordination.

Testimony suggests intelligence gathering about the LTTE is still underway; one 2016 witness described being taken to a room with photographs on the wall of LTTE fighters, some of which had been circled in a red marker and a cross put next to them.

Social media sites like Facebook are being watched, as another survivor found to his cost:

“The man said, ‘Even on your Facebook account we can see that you are connected to many people abroad who are LTTE members and supporters, so clearly you are in communication and in touch with them’. I explained that they were just friends and I had no idea about their LTTE connections – many of them sent me friend requests and I accepted innocently.”

Recent interrogation questions have focused on relationships with Tamil politicians and identifying individuals behind anti government protests in Sri Lanka and abroad. Detainees in 2016 have been shown photographs of Tamils protesting in Europe outside a Sri Lankan Embassy¹¹.

9. Releases

⁷ *“On one occasion, they also put something that burned very badly on the tip of my penis. On two other occasions, they forced a pipe into my anus whilst I was chained from the ceiling.”*

⁸ *“The woman lifted up the blouse I was wearing exposing my back and then pressed burning cigarettes into my back and thigh. I was screaming with pain”.*

⁹ *“He told the female SLA officer to remove my clothes and so she removed almost all my clothes including my bra, leaving me standing in my panties. While she was taking my clothes off I begged her not to and I was crying. Inside the room one of the male SLA officers told the female to hit me. She picked up a wooden stick and hit me on the head and shoulders about 7 or 8 times.”*

¹⁰ *“He knew my background and repeated it back to me, including that I had worked in the XXX [redacted for witness protection] and was in the LTTE.”*

¹¹ *“I was asked to look at the pictures and identify the individuals. I said that I did not know them. One of the men then stubbed a lit cigarette on my back and arm.”*

In almost all the 2015 and 2016 cases, money was paid as a ransom, in many cases to the Eelam People's Democratic Party or EPDP. The sums paid in 2016 varied from 2 lakh Sri Lankan rupees (US \$1,316) for release from detention to 50 lakhs (US \$32,907) for release and smuggling to Europe. In some cases detainees are warned by security officials to leave the country:

"I don't want to see you again, if we see you we will kill you; run away and escape!"

Some witnesses flee by boat from Mannar to India; others leave through Colombo Airport suggesting that immigration officials at the immigration counters are bribed in advance to allow safe passage¹².

In all but 2 of the cases in 2016, the victims reported their families had been questioned about their whereabouts by security forces after they fled Sri Lanka; some family members had even been detained in reprisal incidents.

10. Conclusion

The UN Investigation into Sri Lanka¹³ described the modus operandi of "white van" abductions and established that "incidents of sexual violence were not isolated acts but part of a deliberate policy to inflict torture" by the security forces. Nothing has been done by the new Government to break this culture of impunity, even when a torture site first identified by the ITJP was corroborated by a visiting WGEID team¹⁴. After more than 2 years in office, the Government's failure to investigate past allegations makes it complicit in the continuation of the violations¹⁵.

There has also been no attempt to vet public officials despite the commitment in UNHRC Resolution 30/1 to do this¹⁶. As the ITJP's reports show, alleged perpetrators have been sent abroad as diplomats and members of delegations to UN committees¹⁷.

Based on hundreds of detailed witness statements, the ITJP has identified several alleged perpetrators (direct and in positions of command responsibility) and torture sites, but there is still regrettably no credible witness protection mechanism for witnesses and victims inside or outside the country to testify, be it to a truth commission or court¹⁸.

The Government's defence regarding its failure to investigate has been to say wait for the special court to be set up. However it is now clear the Prime Minister and President have no intention of establishing a hybrid court as the Foreign Minister promised in Geneva in September 2015. The President has reassured the security forces in person and in public that not one of them will

¹² "We went to the counter that he had arranged before and the man at the counter scanned the agent's [name redacted] passport but not mine. He just stamped my passport."

"At the counter, nothing was asked, and it was clear to me everything had been arranged."

"He said I should go the third counter of the immigration desk and that he had already sent a message to the immigration officer at that desk containing my details and that I would not face any problems during departure."

¹³ OISL, 2015, para 591.

¹⁴ ITJP Press Release: Trincomalee Secret Torture Site: <http://www.itjpsl.com/assets/press/20.11.15-Press-Release-TIJP-on-Trincomalee-Secret-Site-2.pdf>

¹⁵ <http://www.itjpsl.com/reports/submission-to-cedaw>

¹⁶ In November 2016 the Government of Sri Lanka sent [Sisira Mendis](#) - an alleged perpetrator named in a UN report - to Geneva as part of its delegation to the Committee Against Torture. As he was brought out of retirement by the Sirisena Government and given a very senior intelligence job, he should have been subjected to vetting. Other highly problematic appointments by the Sirisena Government include: Suhada Gamlath, Yasantha Kodegoda and Nandana Munasinghe to the Witness Protection National Authority; General Jagath Jayasuriya as Ambassador to Brazil and other Latin American countries; General Jegath Dias as Chief of Army Staff.

¹⁷ <http://www.itjpsl.com/assets/press/The-case-against-Sisira-Mendis-final.pdf> and http://www.itjpsl.com/assets/press/ITJP_joseph_camp_press_releases_ENG.pdf and <http://www.itjpsl.com/assets/press/Target-perpetrators-not-victims-press-release.pdf> and <http://www.itjpsl.com/assets/Sri-Lanka-Witness-Protection-Report.pdf>.

¹⁸ See ITJP report on witness protection: Putting the Wolves to Guard the Sheep (2017) at <http://www.itjpsl.com/reports/witness-protection>

be charged with human rights violations, which reinforces the culture of impunity. The UN High Commissioner for Human Rights has made it clear another domestic mechanism will not have the trust of victims after so many have failed to deliver justice.

Some Recommendations for the UPR Process to Ask of Sri Lanka:

1. Independent Investigation

Establish an independent credible investigation with international investigators, using best comparative experiences such as CICIG in Guatemala, to assist the Government with investigations of past and current system crimes as well as provide the technical support to establish a new independent investigative unit systematically to investigate, vet and screen alleged perpetrators in the security forces.

2. Vetting and Screening

2.1 Civilian Vetting and Screening Body

Establish an independent credible civilian body to carry out vetting and screening of public employees and security officials, as agreed in Resolution 30/1 in October 2015.

2.2 Recall and investigate diplomats, such as Ambassador Jagath Jayasuriya in Brazil, against whom there are allegations of complicity in torture.

2.3 Suspend and investigate public and security officials named in the OISL report in command of units alleged to have committed violations, such as inter alia Mr. Sisira Mendis [ex CID DIG at the climax of the war], who now holds a senior intelligence position.

3. Witness Protection

3.1 Strengthen witness protection legislation, as agreed in Resolution 30/1, to align with international standards.

3.2 Immediately suspend members of the witness protection National Authority against whom there are allegations of wrongdoing or interference pending an inquiry and replace them with independent figures who have been properly vetted and have demonstrated a commitment to human rights.

4. Testifying from Abroad

Amend the rules for witnesses who would like to testify from abroad either through video or other means such as letters rogatory in order to ensure that key witnesses abroad do not have to enter a Sri Lankan embassy to give evidence and can instead testify to courts and commissions through the aforesaid mechanisms, that do not expose them and their families in Sri Lanka to reprisals.

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