



## THE SITUATION OF HUMAN RIGHTS DEFENDERS

# SRI LANKA

### Human Rights Committee Briefing Paper - September 2014

In the context of seeking truth, justice and accountability for alleged violations of international humanitarian law and gross and systematic human rights abuses perpetrated by the government of Sri Lanka and the Liberation Tigers of Tamil Elam (LTTE), human rights defenders and other individuals (including victims, journalists and members of political parties) have faced systematic patterns of threats, harassment, intimidation and violence. Such threats and attacks range from excessive restrictions on the right to freedom of expression, to enforced disappearance and murder. In particular, those seeking to cooperate with the UN human rights system are subject to regular and routine harassment by both State and non-State actors. Violations to date have been perpetrated with impunity.

### RISKS FACING HUMAN RIGHTS DEFENDERS

#### Arbitrary arrest and detention

- On 13 March 2014, Ms Balendran Jayakumari, a human rights activist working on the issue of enforced disappearances in Sri Lanka, and her 13-year-old daughter Vibooshika, were arrested in Kilinochchi by soldiers on suspicion of sheltering a fugitive. A 16-day detention order was subsequently issued against Ms Jayakumari under the Prevention of Terrorism Act (PTA), and her daughter was handed to a childcare institution. Ms Jayakumari was reportedly assaulted physically by the soldiers. She continues to be detained even with no evidence against her.<sup>1</sup>
- On 16 March 2014, Mr Ruki Fernando and Father Praveen Mahesan, two human rights defenders, were arrested by officers from the Terrorist Investigation Division in Kilinochchi while looking into the arrest of Ms Jayakumari. They were detained and questioned under the PTA and subsequently transferred to Vavunia, and then Colombo, for further questioning. On 19 March, both men were released without condition, presumably due to the international outcry to secure their release. Reportedly, the police announced that Mr Ruki, and possibly Father Praveen, will be the subject

of further investigations. Serious concerns are expressed that the arrest and detention of Ms Jayakumari, Mr Ruki and Father Praveen may be linked to their legitimate human rights activities.<sup>2</sup>

#### Intimidation and harassment

- On 4 November 2013, the Sri Lankan Broadcasting Corporation broadcast a radio programme in which serious threats were made against the life of Ms Nimalka Fernando. The programme was entitled 'Stoning the Sinner Woman' and featured a voice cut given by Ms Nimalka that had been broadcast the day before on Hiru TV. Offensive and derogatory statements were made against Ms Nimalka by callers to the show. It is further reported that the presenters of the radio show endorsed and encouraged the threats being made against her.<sup>3</sup>
- Dr Nirmal Dewasiri, President of the Federation of University Teachers Unions and Secretary of the Arts Faculty Teachers' Association of the University of Colombo, has been subjected to repeated acts of surveillance and intimidation. On 22 June 2012, he was called by a person who identified himself as from the Ministry of Defence. During the call, the man reportedly threatened to harm Dr Nirmal's family if he did not cease his trade union activities.<sup>4</sup>

- On 5 July 2012, two unidentified persons in a white van attempted to abduct prominent Sri Lanka X News journalist Mr Shantha P. Wijesooriya in the Colombo suburb of Nugegoda. The journalist managed to escape. Sources indicate that Mr Shantha and other Sri Lanka X News journalists have been repeatedly subjected to threats and intimidation since 2008. On 25 April 2011, Mr Shantha was arrested and detained for seventeen days on charges of contempt for an article published by Sri Lanka X News. Since September 2011, Mr Shantha and members of his family have reportedly received visits from military intelligence and CID officials, while unidentified individuals have asked about the journalist near his home.<sup>5</sup>
- On 4 August 2014, a mob disrupted a peaceful meeting of the families of the disappeared at the Centre for Society and Religion in Colombo. The mob threatened organisers and accused them of collecting evidence for the UN investigation, even though this meeting was not organised in this connection at all. Police inaction during attacks and their failure to hold accountable those responsible are of immense concern.<sup>6</sup>

### Impunity

- On the morning of 8 January 2009, Mr. Lasantha Wickramatunge, the former editor of the Sunday Leader newspaper, known for its investigative journalism, was killed during the day near his office in Colombo. Four armed men riding motorcycles broke open his car window and stabbed him in the head and neck. He underwent surgery, but died of head wounds. It has been five years since this incident and yet his killers remain at large; no one has been tried for this murder. In October 2008 President Rajapaksa reportedly called Mr Lasantha a “terrorist journalist” in an interview with Reporters Without Borders. An editorial attributed to Mr Lasantha was published in the Sunday Leader three days after his murder, where it states “*When finally I am killed, it will be the government that kills me.*”<sup>7</sup>
- Mr Poddala Jayantha, a senior journalist and prominent media rights activist, was abducted in 2009 by six men while walking out of a pharmacy.<sup>8</sup> He was severely beaten by the assailants who burnt his right leg, crushed three of his fingers with a wooden block saying he would not be allowed to write with his hand again, and left him with severe face and head injuries.<sup>9</sup> Investigations into this case have not been forthcoming and as a result, Mr Poddala has fled the country.<sup>10</sup>
- In December 2011, the UN Committee Against Torture expressed concern “at reports that human rights defenders, defence lawyers and other civil society actors, including political activists, trade unionists and independent media journalists have been singled out as targets of intimidation,

harassment, including death threats and physical attacks and politically motivated charges.”<sup>11</sup> The Committee noted with regret that, “in many cases, those allegedly responsible for acts of intimidation and reprisal appear to enjoy impunity,” and that the Sri Lankan government was not able provide adequate information on specific cases raised by the Committee, including those of journalists, such as Poddala Jayantha, Prageeth Eknaligoda and J.S. Tissainayagam, and lawyers, such as J.C. Welliamuna and Amitha Ariyaratne. The Committee also expressed concern about information it had received that “the Ministry of Defence has published articles on its website implying that lawyers defending individuals are ‘traitors’ to the nation,” and “about the fact that one of these articles, entitled ‘Traitors in Black Cloaks Flocked Together’, included the names and photographs of five lawyers, putting them at of risk of attacks.”<sup>12</sup>

- Two UN national staff members, working for UNOPS and UNHCR respectively, were abducted by men in civilian clothes who forced them into a vehicle on 13 June 2009 in Vavuniya. The staff were beaten in the car, interrogated and threatened at gun point. The two staff were eventually released with no charge after three months and one year of detention respectively.<sup>13</sup> The perpetrators have yet to be held to account.

### OFFICIAL RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- The government’s National Secretariat for NGOs, in charge of the registration and de-registration of NGOs, together with their “coordination”, was placed under the Ministry of Defence and Urban Development in 2010. It was previously housed in the civilian Social Services Ministry and thereafter the Internal Affairs Ministry. This move also saw tightened restrictions on foreign NGO workers involved in humanitarian activities.<sup>14</sup>
- On 1 July 2014, the Director of the National Secretariat for NGOs issued a circular to all non-governmental organisations in Sri Lanka stating that conducting press conferences, workshops, trainings for journalists, and dissemination of press releases was beyond the mandate of NGOs. The Director of the National Secretariat instructed that all NGOs “should prevent from such unauthorised activities with immediate effect”; a clear breach of the rights to freedom of expression and association.<sup>15</sup>

### INTIMIDATION AND REPRISALS AGAINST DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- In its most recent report of August 2014, the UN Working Group on Enforced and Involuntary Disappearance expressed grave concern as to the alleged “intimidation of and reprisals against human

rights defenders who work on the issue of enforced disappearances”, and recalled that article 13 of the Declaration on the Protection of All Persons from Enforced Disappearance requires that “steps shall be taken to ensure that all involved in the investigation, including the complainant, counsel, witnesses and those conducting the investigation, are protected against ill-treatment, intimidation or reprisal”.<sup>16</sup>

- Human rights defenders attending the Human Rights Council (HRC) in Geneva have been routinely and systematically targeted for their engagement. In 2012, human rights defenders were directly approached by members of the Sri Lankan delegation and told that “they should not be in Geneva.” They also faced violent threats from government ministers and State media in Sri Lanka.<sup>17</sup> The High Commissioner made a statement expressing her concern at the time.<sup>18</sup>
- Within the context of such forms of reprisals, government officials seeking to engage with the UN human rights system are also reprimanded. The Minister of Justice and leader of the government coalition partner, Sri Lanka Muslim Congress (SLMC), Mr Rauf Hakeem, was chastised by President Mahinda Rajapakse for submitting a report detailing attacks against Muslims in Sri Lanka to UN High Commissioner for Human Rights. The National Freedom Front (NFF) concurred and accused the Minister of subverting the country and justifying an international war crimes investigation over accountability issues. Minister Mervyn Silva warned Mr Hakeem that Prabhakaran’s fate (death) awaits anyone resorting to treacherous activities against the country.<sup>19</sup>
- On 14 March 2014, during the 25th session of the Human Rights Council, the prime time news on the Independent Television Network (ITN), a State-owned and controlled TV station, slandered those who engaged with the HRC. The “Wimasuma” programme accused that international and local enemies against State had helped pass a HRC resolution in Geneva establishing an international inquiry into Sri Lanka. The programme showed well known Sri Lankan HRDs Mrs Nimalka Fernando and Mr Sunanda Deshapriya at the sessions of the UN Human Rights Council. While showing these images, the news anchor said that such people were greedy for “Dollars.” The Sinhala daily “Divaina” newspaper published a number of articles attacking Mr Sunanda Deshapriya and Mrs Nimalka Fernando for their presence at the 25th session of UNHRC.<sup>20</sup>
- Northern Provincial Councilor, Mrs Anandhi Sasthitharan was targeted by negative news headlines after it was known that she would be attending the HRC in 2014. On 13 February 2014, Lanka C News website published news depicting Chief Minister of the Northern Province, Justice C. V. Wignaswaran’s photo, with a heading “I am not going Geneva, but sending Tiger Elilan’s wife”. She is wife of former LTTE leader Elilan who has disappeared after surrendering to the government. She has also been an active in campaigning on behalf of the thousands of Tamil families for truth and justice about their disappeared family members. Mrs Anandhi has also been actively advocating an international investigation to look into allegations of war crimes.<sup>21</sup>
- Sandya Eknaligoda, wife of disappeared journalist Prageeth Eknaligoda, has also been singled out after her visit to Geneva, when she attended the March 2012 HRC. She had attended the meeting to speak about her husband’s case. When her husband’s habeas corpus petition came up for hearing in Homagama Magistrate’s Court later that month, the government counsel responding to the petition questioned Sandya Eknaligoda at length and in a hostile manner about her activities in Geneva and asked how much she had been paid by international NGOs to go there. He reportedly accused her of lobbying against the Sri Lankan government.<sup>22</sup>
- In March 2012, government-affiliated press and television channels in Sri Lanka featured repeated threats against members of Sri Lankan civil society who were attending meetings in Geneva around the HRC session. The targets were Sunila Abeysekera, an activist affiliated with INFORM, Women and Media Collective and the Global Campaign for Women’s Human Rights; Nimalka Fernando, a lawyer and Director of International Movement Against Discrimination and Racism (IMADR); and Paikiasothy Saravanamuttu, Director of the Centre for Policy Alternatives, who participated in an NGO event at the UN; Sunanda Deshapriya, a journalist and media freedom activist who met with the UN Special Rapporteur on the Situation of Human Rights Defenders; and lawyer J.C. Weliamuna. These HRDs were called traitors and accused of receiving funds from the LTTE.
- Minister Mervyn Silva addressed a public rally in Sri Lanka where he threatened to “break the limbs” of Sunanda Deshapriya, Nimalka Fernando and Paikiasothy Saravanamuttu. The Minister went ahead and claimed responsibility for the attack on journalist Poddala Jayantha, who was abducted, tortured and severely injured in June 2009. Silva is reported to have bragged that he had forced Poddala Jayantha to flee Sri Lanka.<sup>23</sup>
- Sri Lankan Working Journalists Association (SLWJA) President, Gnanasiri Kottegoda is another victim of repression against critical journalists. He fled his home in 2012 after his safety was compromised by a State sanctioned smear campaign after the HRC session in March 2012. He told Amnesty International in March 2013: “I have been a journalist for over 20 years. I believe I

*was attacked as the government could not censor me. I was working for BBC Sinhala so was able to get news about the country to the outside world that's why they attacked me.”<sup>24</sup>*

- One hundred and thirty-three supporters of human rights defender, Dr Paikiasothy Saravanamuttu, were investigated by the Sri Lankan Criminal Investigation Division (CID) after they signed a petition that was published in several newspapers on 27 August 2009.<sup>25</sup> The petition condemned the death threats against Dr Paikiasothy Saravanamuttu and called on the State to ensure his safety while they investigate and bring to justice those responsible for the threats. According to Frontline Defenders following the release of this statement, “the President of Sri Lanka, Mahinda Rajapaksa, asked the Defence Secretary, Gotabhaya Rajapaksa, to verify the threat against Dr Saravanamuttu, and stated that he believed this solidarity letter could be part of an international conspiracy against Sri Lanka.”<sup>26</sup>
- 24 civil society organizations (CSOs) became targets of State media for submitting a report to the Human Rights Council. On 6 March 2014 at 9 pm, in its English News Bulletin, the State controlled Sri Lanka Rupavahini (TV) Corporation accused 24 CSOs of having issued the ‘Joint Civil Society Memorandum to the Human Rights Council and the International Community’. As the news item was read, the full names and pictures of the leaders of nine of these organizations were shown on the screen, along with the names of the CSOs that they were affiliated with. Grave concern is expressed that the 24 CSOs might have been targeted due to their legitimate interaction with the United Nations and its human rights mechanisms. Further concerns are expressed regarding the physical and psychological integrity of the persons whose names were listed in the News Bulletin. Concerns are also expressed with regards to the use of media to defame human rights defenders in Sri Lanka.<sup>27</sup>

- Members of the National Fisheries Solidarity Movement (NAFSO) have been the subject of acts of intimidation and reprisals, including in some instances in connection with the visit of the former UN High Commissioner for Human Rights, Ms Navanethem Pillay, to Sri Lanka from 25 to 31 August 2013. Serious concern is raised about allegations that some of the harassment was carried out by self-identified police personnel. Grave concern is also expressed that in some cases, members of NAFSO might have experienced acts of reprisals for cooperating or trying to cooperate with the United Nations, including its mechanisms and representatives in the field on human rights.<sup>28</sup>

## RESPONSES OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- At the second cycle of Sri Lanka’s UPR, the government’s response to recommendations relating to adopting national policies on the protection of human rights defenders was that “human rights defenders and media personnel enjoy every protection of their rights – including the right to thought and conscience, the right to associate with one another, the freedom of expression and the freedom of physical safety and integrity in accordance with the law” and that the recommendations are already catered for by the Constitution and ordinary penal law of the country.<sup>29</sup>

### ABOUT THIS BRIEFING PAPER

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## RECOMMENDATIONS TO THE GOVERNMENT OF SRI LANKA

- Remove military oversight from the National Secretariat for NGOs and ensure that registration and reporting processes aim to facilitate rather than restrict the work of NGOs by ensuring that requirements are not time-consuming and arduous and that they do not undermine the independence of NGOs;
- Fully uphold the right of human rights defenders to engage with the UN human rights system, including UN-mandated investigations, and investigate any allegations of reprisals against human rights defenders and other individuals promptly through an independent body, ensuring that perpetrators are held accountable and victims provided with effective remedy;
- Develop and enact, in consultation with civil society, a law on the recognition and protection of human rights defenders and journalists, giving full force and effect to the Declaration on Human Rights Defenders at the national level;
- Strengthen the witness protection laws so as to fully ensure its independence;
- Cease the use of the Prevention of Terrorism Act against human rights defenders and journalists, and repeal the law or bring it in line with international standards;
- Respond positively to the backlog of visit requests from UN Special Procedures, particularly the Special Rapporteur on human rights defenders, and the Working Groups on arbitrary detention and enforced disappearances.

1. Special Procedures Communication Report A/HRC/27/72 - 27th session September 2014.
2. A/HRC/27/72 (March – May 2014), p.18.
3. 3A/HRC/25/74 (June 2013 – Nov 2013), p 134.
4. A/HRC/25/74 (June 2013 – Nov 2013), p 144.
5. A/HRC/25/74 (June 2013 – Nov 2013) p.144.
6. [http://www.ishr.ch/sites/default/files/article/files/sri\\_lanka\\_reprisals\\_letter.pdf](http://www.ishr.ch/sites/default/files/article/files/sri_lanka_reprisals_letter.pdf).
7. “Editorial: And Then They Came For Me,” The Sunday Leader, 11 January 2009, <http://www.thesundayleader.lk/20090111/editorial.htm> and <http://www.amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> p.18.
8. <http://dbsjeyaraj.com/dbsj/archives/710>.
9. Ibid.
10. <http://www.amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> p.19-20.
11. Concluding observations of the Committee against Torture, 8 December 2011, CAT/C/LKA/CO/3-4, page 5, [http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4_en.pdf).
12. Ibid.
13. “Report of the Secretary-General’s Internal Review Panel on United Nations Action in Sri Lanka,” November 2012, pp104-105 and <http://www.amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> p 22-23.
14. <http://www.irinnews.org/report/90133/analysis-ngos-question-tighter-access-to-sri-lanka-s-north>.
15. Sri Lanka Ministry of Defence and Urban Development, MOD/NGO/mon/4, 1 July 2014.
16. A/HRC/27/49, Report of the Working Group on Enforced or Involuntary Disappearances, 4 August 2014, p 21.
17. A/HRC/21/18, Cooperation with the United Nations, its representatives and mechanisms in the field of human rights, Report of the Secretary-General, 13 August 2012, p 10.
18. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12008&LangID=E>
19. INFORM Report, [Repression of Dissent in Sri Lanka](#), January-March 2014, p.9-10.
20. INFORM Report, [Repression of Dissent in Sri Lanka](#), January-March 2014.
21. INFORM Report, [Repression of Dissent in Sri Lanka](#), January-March 2014, p 8.
22. According to the [UN Secretary General’s report on reprisals](#), the Solicitor General justified his comments by saying, “I am entitled to ask any question to find out whether international organizations and NGOs are provoking something against the State,” p 10-11.
23. <http://www.amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> p46-47. Accessed: 3 September 2014.
24. <http://www.amnesty.org/en/library/asset/ASA37/003/2013/en/338f9b04-097e-4381-8903-1829fd24aabf/asa370032013en.pdf> p 47-48. Accessed 3 September 2014.
25. <http://www.frontlinedefenders.org/node/2178>.
26. <http://www.frontlinedefenders.org/node/2178#sthash.CBefdmKPdpuf>.
27. A/HRC/27/72 (March-May 2014), p 18.
28. A/HRC/27/72 (Dec 2013-Feb 2014), p 56
29. A/HRC/22/16/Add.1

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