



Tamil Information Centre

தமிழ் தகவல் நடுவம்

THULASI

Bridge End Close (Off Clifton Road)
Kingston Upon Thames KT2 6PZ, (UK)
Telephone: + 44 (0) 20 8546 1560
Fax: + 44 (0)20 8546 5701
E-Mail: admin.tic@sangu.org

Committed to Human Rights and Community Development

TIC Press Release

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Abduction of Sinhalese Journalists: The Sri Lankan government urged to fully enforce domestic and international legal norms.

The Sri Lankan government has admitted that the abduction of three Sinhalese journalists was carried out by the army. M. A. Sisira Priyankara, trade union activist and editor of the monthly newspaper *Akuna*, Nihal Serasinghe, member of the railway trade union Dumriya Kamkaru Ekathuva and Lalith Seneviratne were abducted on 5 February 2007 in Colombo. The Tamil Information Centre (TIC) issued a press release about the abductions on 6 February. We are pleased to hear that they are alive. TIC has repeatedly condemned censorship, and harassment, intimidation, arrest, torture, imprisonment and killing of journalists and writers who had peacefully expressed their views.

The government claims that the three journalists were arrested, but the procedures laid down by law for the safety of the people were not observed, and the arrests are illegal. If they were arrested, it is unclear under what law they were arrested and under what law they are being held. The TIC along with other international and national human rights agencies has urged the government to respect the rule of law which is an essential and important component of democratic rule.

At a press conference on 6 February, military spokesman Brigadier Prasad Samarasinghe said that the three men had confessed about their collusion with the Liberation Tigers of Tamil Eelam (LTTE) to carry out attacks in southern Sri Lanka and about receipt of weapons from the LTTE for the purpose. It is most likely that the confessions had been obtained under duress. It must be reminded in this connection that the security forces have obtained confessions of collaboration with the LTTE from thousands of Tamils under torture or threat of torture or death. It is for the reason to provide protection to citizens against criminal behaviour of the authorities that the normal law in Sri Lanka prohibits the use of confessions in custody as substantive evidence in courts. However, the draconian Prevention of Terrorism Act (PTA) and the Emergency Regulations (ER) allow admission of confessions in courts, encouraging torture in custody. In many cases under these laws, the confession is the only evidence against the persons accused of links with the LTTE. Abduction and disappearance of people are taking place in Sri Lanka for many years but safeguards against such criminality have been gradually removed by governments, and today the abductors within the security establishment feel completely safe to carry out these crimes with impunity.

Within the last year, hundreds of people have been abducted in "white vans" without number plates, which has been the hallmark of security force death squads. Many of those abducted have disappeared, but some have been released after relatives paid huge sums of money as ransom. The Vice Chancellor of the Eastern University S Raveendranath was abducted in the heart of Colombo on 15 December 2006. His whereabouts are still unknown. Vijayakumar was abducted in a white van in the Colombo suburb of Wellawatte on 31 January 2007. Sathiyasorubam Sivapatham, who had arrived from Britain, was abducted in a white van on 1 February 2007. Mathanaraj had been arrested by police and was released on bail. When he was returning home from Kotahena police station on 31 January, he was abducted in a white van (See Annex 1 for list of some of the abductions in Colombo and other southern parts of Sri Lanka). The Sri Lanka Human Rights Commission received 4,787 complaints of human rights abuses in 2006, including 3,128 regarding illegal arrests, torture and disappearance.

The PTA and ER are currently used by security forces for arrest and detention. Every day hundreds of people, almost all Tamils, are rounded-up and many are detained. Arrests are taking place in the north-east as well as in southern Sri Lanka, including Colombo and many parts of the hill country (See Annex 2 for a list of some of the arrests in southern Sri Lanka) Several hundred Tamils have been sent to the Boossa camp in Galle District, which is

notorious for torture and disappearance. Under the PTA, a person can be detained for 18 months without charge or access. The ERs introduced in August 2005 contain more draconian regulations than the earlier ERs, and give the authority to the security forces to arrest on mere suspicion, without warrant. The person arrested can be detained without access and without charge, and the ERs do not limit the time period of detention. The ERs also give wide powers of preventive detention to the Defence Secretary of the Defence Ministry. Under such preventive order, a person can be held for a period of one year and need not be produced before a Magistrate for 30 days or in some cases 90 days, and the Magistrate has no authority to release the person on bail without written permission from the Attorney General (For more details about the ERs, please see TIC Press release titled *Presidential Directives inadequate for safety of people in custody of law enforcement agencies* dated 19 July 2006 – Annex 3)

Currently journalists and left wing activists are being targeted under these laws. Reports and newspapers which criticize the government have come under sustained attack. President Rajapakse, Defence Secretary Gotabhaya Rajapakse and army commander Lieutenant General Sarath Fonseka have summoned meetings of media representatives on several occasions to warn them against criticising the war on the grounds that it will affect national security and the morale of the security forces. Mounasamy Parameswary, a journalist working for the Sinhala journal *Mowbima*, was arrested by police on 24 November 2006 and held without charge or trial. The police obtained a court order on 23 January 2007 which extended her detention by another 90 days. Relatives have no access to her and lawyers have had only limited access. As pointed out by the TIC earlier, it is clear that the Presidential Directives of 5 July 2006 issued for the stated purpose of safety of people arrested under the ERs are not being followed by the security forces.

The TIC does not deny that state authorities may need to take measures in furtherance of ensuring safety and security. But these measures must conform to international law, and there cannot be any justification for retaining any national law that clearly breaches international law. Several UN bodies, including the UN Human Rights Committee have urged the Sri Lanka for the more than 20 years to amend the PTA and the ERs to bring them in line with international norms. But Sri Lanka has consistently ignored the UN demands and not only continues to act in breach of international human rights law but has so far failed to take any action to remedy the situation created by a ruling of the Supreme Court that effectively denies Sri Lankan citizens' access to the Human Rights Committee. The position of Sri Lanka in the Human Rights Council has become untenable.

It is essential that investigations into any alleged criminal activity is carried out in a thorough, impartial and transparent manner. The family of the arrested person must know the reasons for the arrest, under what law the person is held and where the person is held, so that proper measures can be taken for defence or release.

The TIC is calling on the Sri Lankan government to take urgent action to -

- amend the PTA and the ERs to bring them in line with international norms as demanded by the UN and provide for proper procedures in the case of arrest and detention;
- introduce legislation, to ensure that Sri Lankan citizens have unhindered access to UN mechanisms in case of human rights violations, including the Human Rights Committee;
- produce all the people in the custody of the security forces before the courts and make public the names of all those in detention;
- file charges against those people in custody, including the journalists where appropriate or release them immediately;
- ensure that the security forces follow the law, including in the case of arrest and detention, and where abductions have taken place, take immediate and adequate measures against the perpetrators and for the prevention of abductions by security forces.

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Annex 2

Sri Lanka

Arrests and search operations in the southern Sri Lanka under the Prevention of Terrorism Act or Emergency Regulations

(Please note that this list includes only some of the arrests)

27.08.2006 – The security forces launched a major search operation in Colombo. Bambalapitiya, Wellawatte, Kollupitiya, Borella, Maradana, Peliyagoda, Havelock Town were searched from 3pm to 6pm. They arrested 76 people and released them after inquiry.

03.09.2006 – The army and police conducted a joint search operation in Kuhuvela from 1am to 6am. Sixty nine Tamils were arrested, including 11 women, and taken to Kohuwela police station.

08.09.2006 – In a search operation by police and army in Anuradhapura, Eight Tamils and two Muslims were arrested.

07.09.2006 – Ten Tamils were arrested in a search operation in Kandy by police. The arrested people are from Batticaloa, Trincomalee, Vavuniya, Jaffna.

04.10.2006 – Wennappuwa, Srigampola, Vayagala, Dambarawila and Bogahawatte were searched by police. Twenty three Tamils including a woman were arrested. They are from Nuwara Eliya, Vavuniya, Pussellawa and Hatton.

09.10.2006 – Four Tamils youths were arrested on St James Estate in Badulla District by police.

11.10.2006 – Hendane Estate, Kahawatte, Ratnapura District was searched by the police and army, and 63 Tamils including 7 women were taken into custody. These arrests took place because of Prime Minister Ratnasiri Wickremanayake was visiting Kahawatte the area on 14.1.06. Fifteen were further detained.

07.10.2006 – Kohuwala police division was searched by police. Thirty five Tamils were arrested.

18.10.2006 – A search operation was conducted in Ratnapura town by police and 20 youths were arrested.

19.10.2006 – Kahawatte town in Ratnapura District was searched by police. Forty one Tamils, including two women, were arrested.

20.10.2006 – Matara town was searched by the police and army. Seven Tamils (4 men 3 women) were arrested.

21.10.2006 – Deniyaya town in Matara District was searched and 10 Tamil youths were arrested. They were taken to the police station, interrogated and released.

23.10.2006 – Nineteen people were rounded-up at Nivitigala in Ratnapura District by police.

05.11.2006 – In a search operation by police and army at Kuhuvela and Wattala in Colombo District, 12 Tamils were taken into custody.

07.12.2006 – Five Tamils were arrested by police at Munthal in Puttalam District.

12.12.2006 – Ten Tamil youths were arrested on Moopanaweli Estate in Moneragala District. They were released on bail on 02.01.2007.

06.01.2007 – The police searched the Kotahena suburb in Colombo and arrested 20 young Tamil men and women.

08.01.2007 – In police/army search operations in the night in Negombo and Wattala in Colombo District, 40 Tamils were taken into custody.

08.01.2007 – In a night search operation in Kandy town, the police took into custody 26 people.

09.01.2007 – The police searched Kalutara and Bandaragama in Kalutara District in the night and took into custody 28 Tamil youths.

09.01.2007 – In a night raid at Mt Lavinia in Colombo District, police and army rounded-up 44 Tamils.

11.01.2007 – Two Tamils were arrested by police in Polonnaruwa town.

12.01.2007 – In a night police operation at Nittambuwa and Minuwangoda in Gampaha District, 78 people, including 58 Tamils and eight Muslims, were rounded up.

14.01.2007 – Four Tamils were arrested at Puralagama, Minuwangoda in Gampaha District by police.

14.01.2007 – Twenty young Tamil men and women were arrested during a search operation in Kuhuvela by the army and police from 10pm to 2am. They are from Hatton, Nawalapitiya and Bogawantalawa in the hill country and Batticaloa. All were taken to the Kuhuvela police station.

18.01.2007 - The police carried out a search operation in the Tamil areas of Teldeniya in Kandy District in the night and arrested Velu Thangarajah. The police said that he was from Wattala and did not have documents to prove police registration in Teldeniya.

18.01.2007 – Forty Tamils were taken into custody in the night during a police/army search operation at Wattala in Colombo District.

22.01.2007 – The police arrested 14 Tamils at Pussellawa in Kandy District. They are all workers from tea estates.

24.01.2007 – Eleven Tamils were taken into custody in the Colombo suburb of Dehiwela in a police search operation in the night.

24.01.2007 – Four Tamils were taken into custody by police in Kandy town.

25.01.2007 – S Partheepan and M Navaneethan on Maskeliya were arrested by police at Wennasppuwa in Puttalam District.

26.01.2007 – In a joint search operation by police and the army, 38 Tamils were rounded-up at Hambantota.

29.01.2007 – In a police/army search operation, 18 Tamils were taken into custody at Gampaha and Dompe in Colombo District.

Annex 1

Sri Lanka

Abductions in Colombo and other southern areas

(Please note that this list does not include all the abductions)

No	Name and Age	Place of Abduction	Date of Abduction	Fate of person abducted
1	Vadivelu Ananthasiva	Wellawatte Colombo	08.02.2006	Released in Borella on 10.02.2006
2	Selvanayagam Shantikumar, 26	Peradeniya, Kandy	13.03.2006	Not known
3	Sivarajah Haran, 22	Wellawatte Colombo	06.04.2006	Not known
4	Sivarajah Sivakenthiran	Dehiwela, Colombo	16.04.2006	Not known
5	Sivalingam Parathan	Dehiwela, Colombo	16.04.2006	Not known
6	Vinasithamby Selvanayagam	Awissawella	02.05.2006	Not known
7	Iruthayasamy Francis	Kotahena Colombo	26.05.2006	Not known
8	Muthiah Sathiyaseelan, 31	Thillaiyady	11.07.2006	Not known
9	Muniyandy Sureshkumar, 22	Thillaiyady	11.07.2006	Not known
10	Balakrishnan Ramar, 24	Thillaiyady	11.07.2006	Not known
11	Sriskandarajah	Colombo	20.07.2006	Not known
12	Ramiah Jeyaraj	Colombo	20.07.2006	Not known
13	Iruthayanayagam Francis, 34	Pettah, Colombo	05.08.2006	Not known
14	Sellaiah Premasiri, 38	Pettah, Colombo	05.08.2006	Not known
15	Pushpadas, 30	Kotahena, Colombo	07.08.2006	Not known
16	Manickam Eeswaran, 30	Wattala	17.08.2006	Not known
17	Mahalingam Suppiah, 44	Pettah	20.08.2006	Not known
18	Shanmuganathan Manivannan, 22	Kotahena, Colombo	21.08.2006	Not known
19	Ms Logendrarajah Komathi, 36	Ratmalana	22.08.2006	Not known
20	Lal Premaratna (Worked for Ms Koamathi)	Ratmalana	22.08.2006	Not known
21	Ms Lal Premaratna (Worked for Ms Komathi)	Ratmalana	22.08.2006	Not known
22	K Sivakanathan, 34	Pettah, Colombo	23.08.2006	Not known
23	Kandasamy Sritharan	Granspass, Colombo	23.08.2006	Not known
24	Gunasekaran Mahinthan	Grandpass, Colombo	23.08.2006	Not known
25	Krishnan Rajakumar	Grandpass, Colombo	23.08.2006	Not known
26	Ramakrishnan Rajkumar, 21	Grandpass, Colombo	27.08.2006	Not known
27	Sellathamby Selvakumar, 38	Thillaiyady	28.08.2006	Not known
28	Nadarajah Kuruparan, 39	Mt Lavinia	29.08.2006	Released at Kohuwala on 30.08.2006
29	Ms Thavarajah Thavamani, 27	Wellawatte Colombo	01.09.2006	Released at Kirillopane on 01.09.2006

30	Reginald Jesudasan, 30	Mattakuliya Colombo	01.09.2006	Killed Body found in Kelani river on 02.09.2006
31	Nadarajah Manivannan, 28	Havelock Town Colombo	02.09.2006	Killed Body found in Colombo
32	W M Sooriyakumar, 26	Dehiwela	09.09.2006	Killed Body found in the Kelani river on 10.09.2006
33	Egamparam Palanirajah, 60	Cinnamon Gardens Colombo	12.09.2006	Released in Polonnaruwa on 14.09.2006
34	Balasarawanan Palanirajah, 23	Cinnamon Gardens Colombo	12.09.2006	Released in Polonnaruwa on 23.09.2006
35	Ganeshan Muhunthan, 21	Cinnamon Gardens Colombo	12.09.2006	Released in Polonnaruwa on 23.09.2006
36	Ratnasingham Thanapalan, 27	Moratuwa	13.09.2006	Not known
37	Thirulogarasa Prabhakaran, 30	Kotahena, Colombo	15.09.2006	Not known
38	Murugesu Gunalan, 63	Kotahena, Colombo	17.09.2006	Released in Dambulla on 19.09.2006
39	Thamotharam Mahendran, 43	Udappu, Puttalam	26.09.2006	Not known
40	Subramaniam Paramasivan, 40	Udappu, Puttalam	26.09.2006	Not known
41	Ramiah Subramaniam, 30	Puttalam	26.09.2006	Not known
42	Sathasivam Kumararatnam	Kotahena, Colombo	28.09.2006	Released at Borella on 29.09.2006
43	Bala Jegatheeswara Sarma, 27	Pettah, Colombo	14.10.2006	Released in Pettah on 16.10.2006
44	Sean George, 15 (Student)	Modera, Colombo	17.10.2006	Released on 01.11.2006
45	David Vigneswaran, 35	Mathegoda	19.10.2006	Killed Body found
46	Regi Balanathan, 30	Ragama	19.10.2006	Killed Body found
47	Jayawardanage Jeyarajah, 46	Moratuwa	19.10.2006	Not known
48	Ms Thirukkeswary Vigneswaran, 30	Colombo	19.10.2006	Killed Body found
49	Maheswaran Theepan, 25	Modera, Colombo	20.10.2006	Not known
50	Ms Priya, 24	Modera, Colombo	28.10.2006	Not known
51	Sathivel Thiyagarajah, 25	Peliyagoda, Colombo	28.10.2006	Not known
52	Marimuthu Sivamani, 55	Kotahena, Colombo	30.10.2006	Released in Panchikawatta, Colombo on 1.11.2006

53	Ms Arockiyarani, 48	Dehiwela	01.11.2006	Killed Body found
54	Duleep Harikumar, 21, Student	Mt Lavinia	28.11.2006	Not known
55	Kanthasamy Chandrakumar, 26	Wellawatte Colombo	07.01.2007	Not known
56	Thomas Jusuthasan, 35	Kotahena, Colombo	07.01.2007	Not known
57	Murugaiah Suvendran, 24	Karambawatte Puttalam	09.01.2007	Not known
58	Sivasubramaniam Sritharan, 24	Karambawatte Puttalam	09.01.2007	Not known
59	Sellathurai Theiventhiran	Aluthmawatha Colombo	09.01.2007	Released on 10.01.2007
60	Kanapathy, 26	Mattakuliya Colombo	10.01.2007	Not known
61	Ketheeswaran, 30	Mattakuliya Colombo	10.01.2007	Not known
62	Vijayakumar, 55	Wellawatte Colombo	31.01.2007	Not known
63	Yogaraj Mathanaraj	Kotahena, Colombo	31.01.2007	Not known
64	Sathiyasoruban Sivapatham (arrived from Britain)	Wellawatte Colombo	01.02.2007	Not known
65	Sivasamy Sugumar, 40	Kotahena, Colombo	Not known	Killed Body found in Awissawella
66	Mahalingam Narenthirakumar, 31	Kotahena, Colombo	Not known	Killed Body found in Awissawella



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Press Release

Date: 19 July 2006

Presidential Directives inadequate for safety of people in custody of law enforcement agencies

Sri Lankan President Mahinda Rajapakse issued directives on 5 July 2006, for the protection of people detained under Emergency Regulations (ERs) of August 2005 or the Prevention of Terrorism Act (PTA).

The Tamil Information Centre (TIC) understands that the Directives (*Presidential Human Rights Guidelines to Security Forces*) were issued following concerns raised by Sri Lankan civil society organizations. The fact that the President has issued these Directives to elaborate some safeguards that are already provided by the ERs [Regulation 20 (9)] is an indication of the serious problem of impunity that permeates the entire security force establishment. Although the Directives may provide some measure of safety for people who are arrested, the TIC wishes to point out that these Directives in no way diminish or rectify the draconian nature of the ERs. Many people say that the Directives are a clear attempt to mislead the public and to divert attention from atrocities that are consequences of the existence of the ERs. The reference to the PTA in the Directives also indicates an intention to use the harsh legislation, despite the provision in the ceasefire agreement that 'search operations, and arrests under the Prevention of Terrorism Act shall not take place'.

It is of grave concern that the ERs have the effect of removing judicial oversight in relation to arrest and detention, and suspend the relevant provisions of the normal law, the Code of Criminal Procedure Act. The ERs [Regulation 20] give the authority to the police, armed forces or anyone authorized by the President to arrest on mere suspicion, without warrant. The person arrested can be detained without access and without charge, and the ERs do not limit the time period of detention. The ERs [Regulation 19] also give wide powers of preventive detention to the Secretary of the Defence Ministry. Under this regulation, a person can be held for a period of one year and need not be produced before a Magistrate for 30 days or in some cases 90 days, and the Magistrate has no authority to release the person on bail without written permission from the Attorney General.

The ERs allow confessions to the police admissible as evidence in court and suspend the relevant provisions of the normal law, the Evidence Ordinance. A confession or a statement made to a police officer not below the rank of an Assistant Superintendent of Police (ASP) is admissible as substantive evidence in court [Regulation 63]. A confession or statement made to any person under any circumstance may also be used as substantive evidence against the accused [Regulation 41]. The burden of proving that the confession was made under duress lies on the accused. These provisions have been reintroduced despite the ruling of the UN Committee against Torture, in relation to the previous ERs, that by placing the burden on the accused to prove that a statement was not made voluntarily, the Sri Lankan State violated the provisions of the International Covenant of Civil and Political Rights (ICCPR).

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The ERs also erode the powers of the courts under normal law in relation to deaths in the custody of the police or armed services [Regulations 54-58]. The Magistrate has wide powers under the Code of Criminal Procedure Act to receive information immediately, view the body and hold an enquiry to ascertain the causes of death [Sections 369-373]. But under the ERs enquiries into deaths in custody can take place only on the application of the Inspector General of Police (IGP) or a Deputy Inspector General of Police (DIG). After a post-mortem, a DIG has the power under the ERs to burn the body without handing it over to relatives.

As past experience has shown, there is no doubt that these ERs, which encourage impunity among the security forces, would lead to illegal detention, torture, rape, disappearance and extra-judicial executions and be used exclusively against the Tamil community.

The Presidential Directives are similar to earlier directives. When the latter were in force, the security forces, in most instances, simply ignored the directives, and no security force member was even disciplined. The ERs say that any offence against the ERs including omission or non-compliance shall not be prosecuted, except with the written sanction of the Attorney General [Regulation 61 (1)]. With such open licence and in the absence of any accountability and enforcement mechanisms relating to the norms imposed on the detaining officers, the current Directives are meaningless. It must also be noted that the previous directives did not prevent the occurrence of arbitrary detention, torture, killing and disappearance of hundreds of Tamils.

The Presidential Directives say that a statement of the arrested or detained person should be recorded in the language of that person's choice. But it is well known that there are very few police officers who can record statements in Tamil and little attempt has been made to train officers, provide facilities and equipment so that statements may be recorded in Tamil at police stations. If this problem still persists in the government-controlled areas of the north-east, one can imagine the situation in southern Sri Lanka, where many Tamil victims of the current wave of arrests in the north-east are taken and detained in addition to the Tamils being arrested in the south.

The Presidential Directives also provide for access to places of detention to the Sri Lankan Human Rights Commission (SLHRC) and that information of the arrest should be provided to the SLHRC within 48 hours. But international agencies investigating incidence of torture in Sri Lanka have stated that most torture victims suffer within the first 48 hours of arrest. There are serious problems with the SLHRC itself. International human rights agencies have already pointed out that the SLHRC lacks the power and support needed to carry out its mandate. Furthermore, the current SLHRC lacks credibility and a legal basis, in that it was appointed by the President in the absence of a Constitutional Council, whereas the 17th Amendment to the Constitution requires the appointments to the SLHRC to be made on the recommendations of the Constitutional Council. Sri Lankan agencies have also noted that some of the new commissioners lack human rights experience, commitment and skills needed for the important task. In such circumstances, it is unlikely that the SLHRC would be able to provide adequate relief to the people affected by human rights violations.

The ERs do far more than deny civil liberties. They deny justice. The consequences of the ERs are indefinite detention without access or trial, admission of confessions in trials, the absence of judicial oversight over arrest, detention and enquiry into custodial deaths and the absence of adequate penal provisions for breaches by detaining officers. These are circumstances that are ripe for arbitrary detention, torture, disappearances and executions to be carried out with impunity.

The TIC calls upon the Sri Lankan government to,

- Take cognizance of the concerns of UN bodies such as the Working Group on Disappearances and the Committee against Torture in relation to the previous Emergency Regulations, and remove the current Emergency Regulations or bring them in conformity with internationally accepted standards;
- Take special measures to tackle impunity, paying special attention to the laws and regulations that contribute to impunity;
- Demonstrate commitment to confronting impunity by initiating proper, adequate and impartial investigations into allegations of torture, rape, disappearances and extra-judicial executions, and prosecuting the perpetrators, irrespective of their ethnic origin, position or status.
- Strengthen the Sri Lankan Human Rights Commission with adequate powers to carry out its mandate and ensure that government institutions and the security forces provide full cooperation in the investigation of human rights violations.

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