



SRI LANKA - UPDATE ON TORTURE SINCE 2009

Introduction

Ahead of the joint visit to Sri Lanka by the UN Special Rapporteurs on Torture and the Independence of Judges and Lawyers (29 April - 7 May 2016) and the oral update from the UN High Commissioner for Human Rights to the 32nd session of the Human Rights Council (HRC) (June 2016), this paper provides a short summary of referrals to Freedom from Torture of people tortured in Sri Lanka since the end of the civil war in May 2009. This builds on the data and analysis provided in our 2015 report [Tainted Peace: Torture in Sri Lanka since May 2009](#).

Freedom from Torture is one of the largest torture treatment centres in the world. Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us for rehabilitation or forensic documentation of their torture injuries. In 2015, for the fourth successive year, Sri Lanka was the top country of origin for those referred to us.

Freedom from Torture strongly welcomes the commitment by the government of Sri Lanka to the October 2015 [Human Rights Council resolution](#)¹ on promoting reconciliation, accountability and human rights in Sri Lanka but remains concerned by the high number of cases of recent torture referred to us, including torture in 2015 after the change in government.

In addition to accountability for torture and other serious human rights abuses which took place during and after the civil war, we are calling for greater political commitment and a credible and effective plan by the Sri Lankan government to dismantle the torture machinery used by the military, police and intelligence services, which continues to cause horrific injury to Sri Lankans and undermines the government's credibility on peace and reconciliation.²

The visit of the Special Rapporteurs and the upcoming HRC update are essential to hold the Sri Lankan government accountable for delivery of its commitments and to reassure survivor communities inside and outside the country that impunity for torture and other human rights abuses will be addressed as a core element of transitional justice processes. These communities hope for confirmation from the government to the Special Rapporteurs that commitments made in the October HRC resolution will be honoured, particularly the commitment to an internationalised justice model. This is crucial in light of the [contradictory statements](#) issued by Sri Lankan leaders on this point.

The figures contained in this update reflect referrals to Freedom from Torture - for Medico-Legal Reports (MLRs) and therapeutic treatment services, with the relevant data source clearly indicated. As not all referrals are for MLRs, and some requests for MLRs fall outside our remit and may not be accepted on grounds including our limited capacity, the difference between referral rates and report numbers is not a reflection on whether a claim of torture in the initial referral was credible. A further point to note on the number

¹ A/HRC/RES/30/1.

² Our specific recommendations for the Sri Lankan government on torture prevention and accountability are set out in our *Tainted Peace* report available at <http://www.freedomfromtorture.org/features/8481>, pages 67-8.

of MLRs relates to the use of MLRs in our detailed research reports. We only include MLRs in these reports if we have client consent. Therefore the number of MLRs included in a study does not necessarily equal the total number of reports created for Sri Lankan clients in this period.

Referral rates between May 2009 and April 2016

For many years Sri Lanka has been one of our top three countries of origin for referrals to our services. Since 2012 it has been the top country of referral and even with the end of the conflict in 2009 we have seen a general increase in the number of Sri Lankan referrals.

The year listed in the table below is not an indication of the year or years in which torture took place. There is frequently a significant time difference between the incidence of torture and the referral date. This is due to the time it takes for a torture survivor to escape or otherwise secure release from detention, leave the country, arrive in the UK and be referred to us.

Figure 1: Sri Lankan referrals to Freedom from Torture between May 2009 and April 2016³

Referral Year	Number of Sri Lankan referrals
2009	99
2010	135
2011	233
2012	228
2013	307
2014	341
2015	327
2016	80
TOTAL	1,750

Torture since May 2009 (end of the civil war)

Tainted Peace is a study of 148 Sri Lankan torture cases forensically documented by expert doctors in our MLR service, in accordance with the standards set out in the UN Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the “Istanbul Protocol”). Since August 2014 when the research for our report was completed, in the first instance to provide evidence to the UN OHCHR [Investigation on Sri Lanka](#) (OISL), we have completed a further 100 MLRs for people who experienced torture in Sri Lanka since 2009. The combined total of cases of post-conflict torture documented by Freedom from Torture is 248. In *Figure 2* we provide a breakdown of this figure by year of detention and torture.

³ Additional information on referral numbers can be found in our Annual Reviews: <https://www.freedomfromtorture.org/about>

Figure 2: Total number of completed MLRs for Sri Lankans tortured since the end of the civil war in May 2009, by year of detention and torture⁴

Year of torture	Number of MLRs
2009	75
2010	33
2011	36
2012	36
2013	46
2014	20
2015	2
TOTAL	248

As previously highlighted, there is in most cases a significant time lag between the incidence of torture and referral to us. In the case of MLR referrals this delay can also occur because of the additional time it takes a survivor to find legal representation in the UK and be referred to us for an MLR, and for us to complete the documentation process. On this basis we expect to see an increase in the number of completed MLRs over the next year for those tortured in 2014 and 2015.

Torture since 2015

There have been a number of encouraging developments since the election of President Maithripala Sirisena on 8 January 2015. The new government's co-sponsorship of the Human Rights Council resolution referred to above, [endorsement of the Declaration of Commitment to End Sexual Violence](#) and current consultation process on transitional justice mechanisms indicate increased willingness to address the legacy of conflict-related human rights abuses.

Our clients from Sri Lanka tell us that their confidence in these measures is slim. This is based on their direct experience of torture and the reports of ongoing intimidation and harassment from family and friends who remain in Sri Lanka. Our [briefing](#) earlier this year described the views of our clients on 'what success looks like' for the internationalised justice process promised by the government in the Human Rights Council resolution.

Engaging with survivor groups is not only a commitment that the government has already made in relation to the design and implementation of transitional justice mechanisms, but should also be part of security sector reform and torture prevention efforts to create institutions that all of the communities in Sri Lanka can have confidence in to help secure long-term peace and reconciliation.

In the meantime Freedom from Torture continues to receive referrals for individuals who have been tortured since January 2015. To date **we have received 17 referrals, to our**

⁴ Since many individuals were detained and tortured on more than one occasion the latest year of detention is presented.

Medico-Legal Report Service⁵ or to our therapeutic treatment service⁶. These 17 referrals mention detention by a range of state actors including the Criminal Investigation Department, the Terrorism Investigation Department, the police, “security” and the army. They report torture throughout 2015 including as late as November and in a range of locations including prisons, camps, police stations and army sites.

All 17 referrals detail multiple types of torture including beating, burning with cigarettes and heated objects, being suspended, partial or near suffocation and/or sexual assault including rape.

Both the [US State Department](#) and the [UK Foreign and Commonwealth Office](#) annual human rights reports acknowledge reports of torture in 2015 and other human rights abuses as areas of concern.

Figure 3: Characteristics of 17 referral cases of torture reported to have taken place in 2015

Characteristics	Numbers
Men	15
Women	2
Tamil	15
Sinhalese	1
Unknown ethnic background	1
Minor (under 18)	1

Risk of torture on return from the UK

Tainted Peace identified a significant sub-group of people who were tortured when they returned to Sri Lanka from the UK following the end of the armed conflict (55 of 148 cases). Most of these people had been in the UK on student visas but three claimed asylum and were forcibly removed after their asylum claim was rejected. The majority were specifically interrogated about their reasons for being in the UK, their activities and/or their contacts in the UK. **Since the publication of *Tainted Peace* we have completed a further 11 MLRs involving people tortured after return to Sri Lanka from the UK.**

Of the referrals for torture in 2015, four of the 17 people described torture which took place after returning from the UK. Three of the four were detained on arrival at the airport, following their journey from the UK (in two cases this was via a third country), and two disclosed interrogation about their activities in the UK including participation in lawful protests and who they had met or had contact with. In the fourth case the person was detained the following month. They described a range of torture methods including suffocation, beatings and burning with heated objects.

⁵ These referrals are made by legal representatives seeking forensic documentation of physical and psychological evidence of torture for use in asylum claims.

⁶ These referrals come mainly from doctors and mental health specialists working in the National Health Service.

Association with the LTTE

Tainted Peace also highlighted that the majority of the 148 people in that study had described an association with the Liberation Tigers of Tamil Eelam (LTTE) at some level and/or said they had been associated with the LTTE by the Sri Lankan authorities in some way. This was either directly or through family or other associates' involvement or both. Regardless of whether this association was real or wrongly imputed to them by the authorities, it was reportedly a key factor that led to their eventual detention and torture. This is also a pattern that appears to continue long after the end of the civil war. **Eleven of the 17 people referred to us for torture that took place after the election in January 2015 describe being questioned about reformation of the LTTE**, including two of the four people who were interrogated about their activities in the UK.

Non-refoulement

In light of this evidence from Freedom from Torture and others about torture and persecution of people returning to Sri Lanka after the end of the civil war, the UN has called upon member states to ensure *“a policy of non-refoulement of Tamils who have suffered torture and other human rights violations until guarantees of non-recurrence are sufficient to ensure that they will not be subject to further abuse, in particular torture and sexual violence”*.⁷

Recommendations

For the Government of Sri Lanka:

Freedom from Torture welcomes steps taken by the Government of Sri Lanka to establish credible transitional justice and peacebuilding mechanisms and processes. However, the continuation of torture practices undermines this work and we call on the Government to:

- a) Fully implement the commitments it made at the Human Rights Council in 2015 including ending impunity for torture and other serious human rights violations by delivering an internationalised justice mechanism capable of winning the confidence of survivors and victims; and
- b) The establishment of a credible and effective torture prevention programme for the military, police and intelligence services to address ongoing torture.

For the UK Government:

Freedom from Torture continues to call on the UK in particular to ensure that individuals are not forcibly returned from the UK to a risk of torture in Sri Lanka, including by:

- a) Exercising extreme caution when assessing the international protection implications of recent political developments in Sri Lanka, mindful of:
 - Concerns noted by the State Department and the Foreign and Commonwealth Office about reports of ongoing torture under the new government;

⁷ A/HRC/30/CRP.2 - recommendation 37, page 251.

- Concerns from Freedom from Torture about the entrenched role of torture in the military, police and security services and the failure by the government to date to implement a credible and effective torture prevention programme; and
 - The possibility that torture will be used to silence potential witnesses who might testify in any accountability process.
- b) Ensuring that the Home Office's asylum policy for Sri Lanka is updated to reflect further evidence from Freedom from Torture about (i) torture in peacetime Sri Lanka; and (ii) the particular risk for those returning from the UK with a real or perceived past connection to the LTTE, at whatever level and whether directly and/or through a family member or acquaintance.

For more information please contact:

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4 May 2016

Freedom from Torture is the only UK-based human rights organisation dedicated to the treatment and rehabilitation of torture survivors. We do this by offering services across England and Scotland to around 1,000 torture survivors a year, including psychological and physical therapies, forensic documentation of torture, legal and welfare advice, and creative projects.

Since our establishment in 1985, more than 57,000 survivors of torture have been referred to us, and we are one of the world's largest torture treatment centres. Our expert clinicians prepare medico-legal advice (MLRs) that are used in connection with torture survivors' claims for international protection, and in research reports aimed at holding torturing states to account. We are the only human rights organisation in the UK that systematically uses evidence from in-house clinicians, and the torture survivors they work with, to hold torturing states accountable internationally; and to work towards a world free from torture.