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Human rights situations that require the Council's attention

Written statement* submitted by the Association des étudiants tamouls de France, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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PTA detainees without any charges in Sri Lanka

The Prevention of Terrorism Act (PTA) and Emergency Regulations (ER) have resulted in arbitrary arrest, prolonged detention without charges, long drawn out court cases, multiple cases against one suspect, inhumane detention conditions, torture, forced confessions, long years to release those who are innocent, post-release harassment and restrictions, including re-arrests.

Many of the detainees have spent most of their youth behind bars, and their mental and physical wellbeing has been severely affected due to long term detention, and in the case of many, also as a result of rigorous interrogation and torture. There have been many cases too of forced/coerced confessions where the detainee had not even known he was signing a confession as he couldn't understand the language it was written in (Sinhala in most cases.)

Below are some key findings after examination of an official list of 181 persons remanded under the PTA (excluding those already sentenced and presently serving those sentences), as well as interviews with detainees, those released, their families, human rights defenders, lawyers and media reports. All the interviews and research was done in Sri Lanka in 2015.

1. **18-19 years in remand and cases yet to conclude:** five persons have been remanded for the past 18-19 years (one since 1996 and four since 1997) without having their case(s) concluded, neither establishing their guilt nor innocence
2. **17 years of a High Court case without conclusion:** One person's case is still ongoing, after having been charged in August 1998
3. **15 years in remand before filing charges:** One person spent 15 years in remand prison before having charges filed against him. Two persons each were remanded for 10, 8 & 6 years respectively before filing charges.
4. **20 out of 22 remanded last year not charged:** Out of 22 reported as remanded in 2014, 20 had not been charged when the list was prepared
5. **Remanded without charges since 2006:** One person remanded in 2006 has not been charged till 2015
6. **15 months in detention before being produced before a Magistrate and being remanded:** One person was produced before a Magistrate only after more than 15 months in detention. Many others had been detained for many months before being produced before a Magistrate and remanded.
7. **400-500 court hearings without conclusion of a case:** Two of those remanded told us that their cases had come up at courts as many as 400-500 times during their detention
8. **15 cases against one person in 6 courts in 4 districts:** Many others had multiple cases against them, in different courts. 55 of the 181 detainees have more than one case lodged against them, with 36 of them having three or more cases against them. In the case of some detainees, not all the cases lodged against them are mentioned in the list – i.e. although one detainee is charged in 9 cases, only 6 are mentioned on the list.
9. **More than 5-6 years to be released as innocent:** A mother of three was released as innocent in May 2015, after 6 years and 9 months in detention. She had 14 cases against her and was charged in 5 cases, before being discharged from all of them. Another man questioned in 2008, arrested in early 2009 was released in late 2014. This indicates that release of those detained under the PTA and later found to be innocent, could take many years
10. **Re-arrest after years of detention and interrogation:** One person we interviewed was arrested and released after nearly 3 years, but was re-arrested about 6 months after his release. We have heard of others who had faced similar circumstances.
11. **21 (or more) Arrests under PTA Jan-August 2015:** Tamil families have reported to us about persons arrested under the PTA as late as July 2015 and earlier in 2015. (*refer section below*).
12. **Harassments and restrictions after discharge or conditional release:** Those discharged or released conditionally (on bail and without bail) pending investigations and court cases, travel restrictions, speaking retractions, monthly signing at Police stations, surveillance and intimidation etc. and even re-arrest on related matters.
13. **Arrest of former child soldiers under PTA:** Even a child who had joined the LTTE when he was 13 years old was detained under the PTA twice and tortured

14. **Inhumane conditions of detention and torture:** Most of those detained that we spoke to have reported torture and inhumane conditions of detention

Actual numbers of PTA detainees, periods and places of detention

The actual number in detention under the PTA is still unknown. But in January, the list of 182 persons had been compiled. This comprises only those remanded in 11 official remand prisons under the Department of Prisons. This number is definitely more, as this doesn't include those detained at Boossa and at detention in places such as the Terrorist Investigation Department (TID) in Colombo.

Most of those detained under the PTA and ER are transferred to remand prisons after being detained in other places such as those mentioned above, and thus, the actual period of detention can only be longer than indicated in the list we examined. But whenever we were not aware of the date of arrest, we have taken the date of remand as the date of detention.

This indicates 219 persons (134 + 85) are being detained under the PTA who had not been charged or cases were ongoing. This probably includes the ones in the list mentioned above. And it is likely to be more, as further arrests have been reported under the PTA in July and August 2015. It is not clear whether those reported to have been given bail are those who have been charged, not charged or those who are appealing any convictions.

No evidence against top LTTE leader for 7 years, but others detained without charges

The column "allegation" in the list of those detained under the PTA indicates that some persons have been detained since 2006, 2008 and 2009 and afterwards without having charges filed against them, on grounds such as "Encouraging LTTE", "Supporting LTTE" or even just "LTTE Terrorism".

Allegations of Secret Detention Centres

There have been numerous allegations of secret detention centres, notorious for torture, run under the former Rajapaksa Government, where many families of the disappeared claim their loved ones were being held. Both, the Rajapaksa Government and the current government have vehemently denied the existence of such secret camps, with Prime Minister, Ranil Wickramasinghe going on to say, that those "categorized as missing were either dead due to the conflict or living overseas."

However, a recent shocking media exposé revealed information given to Courts by an investigating CID officer and several Naval officers who had spoken to, and served food to detainees held at such secret camps. A camp run by the Navy named 'Gun Side' in Trincomalee was named in particular.

In a report released by the International Truth and Justice Project – Sri Lanka (ITJP) end July 2015, they cite eight cases of white van abduction, unlawful detention, torture and sexual abuse in 2015. We learnt of one case this year, where a man was abducted from off the roadside in the North, detained in a secret detention facility, interrogated and brutally tortured. A few days later, the detainee had been able to escape, was in hiding and managed to flee overseas.

A senior official of the TID had confirmed to a lawyer that 20 persons had been arrested under the PTA during January – August 2015.

Jeyakumary has been a vocal advocate and campaigned against disappearances in the North. As a direct result of this she has been subject to numerous threats and intimidation allegedly by State intelligence forces.

The notorious 'Terrorist' Investigation Division (TID) of occupying Colombo has detained at least 23 Eezham Tamils from North and East at various prisons since 29 March 2016. The arrests have taken place in white-van abduction style and through hostage-taking of family members. One of the victims is a woman, who is detained at Vavuniyaa under the Prevention of Terrorism Act (PTA).

V.S. Sivakaran, the outspoken critic of genocidal Colombo and the secretary of ITAK Youth Wing, who also runs a Tamil weekly from Mannaar, was arrested under PTA and released 24 hours after the notorious ‘Terrorist’ Investigation Division (TID) arrested him at his paper office in Mannaar on Wednesday 23 April 2016.

Collectif La Paix au Sri Lanka Swiss Council of Eelam Tamil NGO(s) without consultative status, also share the views expressed in this statement.
