

## Sri Lanka

The information below is based on the Concluding observations of the Committee against Torture on the fifth periodic report of Sri Lanka (CAT/C/LKA/CO/5), issued on 27 January 2017<sup>1</sup>

9. The Committee remain seriously concerned over consistent reports from national and UN sources, including the UN Special Rapporteur on torture, indicating that torture is “a common practice carried out in relation to regular criminal investigations in a large majority of cases by the Criminal Investigation Department of the police,”, regardless of the nature of the suspected offence, The Committee is concerned that the broad police powers to arrest suspects without court warrant has led to the practice of detaining persons while conducting the investigations as a means to obtain information under duress. The Committee notes allegations that police investigators often fail to register detainees during the initial hours of deprivation of liberty or to bring them before a magistrate within the time-limit prescribed by law, during which time torture is particularly likely to occur. [...]

11. The Committee expresses concern at credible reports indicating that the practice of so-called “white van” abductions of Tamils has continued in the years following the end of the armed conflict. The Committee notes allegations of such practice documented by the Office of the United Nations High Commissioner for Human Rights (OHCHR) Investigation on Sri Lanka (OISL) during the period 2002-2011 as well as by non-governmental organisations, which have identified 48 sites where torture allegedly occurred or which were used as transit points to torture locations, between 2009 and 2015. The Committee notes the information received that numerous individuals suspected of having a link, even remote, with the Liberation Tigers of Tamil Eelam (LTTE) have been abducted and then subjected to brutal torture, often including sexual violence and rape of men and women. According to the information received, such practices are carried out by both military and police in unacknowledged places of detention, which have included law enforcement headquarters, army and IDP camps, and “rehabilitation centres.” While noting the State party’s position that no secret torture camps or detention centres exist at present, the Committee regrets the failure of the State party to clarify whether it investigated these recent allegations of torture (arts 2, 12, 13 and 16).

13. Bearing in mind the findings of the OISL that the Sri Lankan security forces committed widespread or systematic torture, enforced disappearances, and other serious human rights violations during and in the aftermath of the internal conflict, the Committee is seriously concerned at the failure of the State party to carry out an institutional reform of the security sector. In this regard, the Committee was alarmed by the presence of the Chief of National Intelligence, Sisira Mendis, as part of the Sri Lankan delegation, since he was the Deputy Inspector General of the Criminal Investigations Department (CID) from March 2008 to June 2009. The Committee observed that Mr. Mendis is named in the OISL Report, which notes that the CID’s “4<sup>th</sup> Floor” facility at police headquarters in Colombo was known as a notorious site of torture. The OISL report also recounts allegations of widespread torture, including sexual violence, perpetrated against individuals detained at Manik Farm camp and

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<sup>1</sup> Full text available [here](#)

elsewhere in the aftermath of the conflict by personnel of the CID and the Terrorism Investigation Department (TID) over which Mr. Mendis also allegedly exercised supervisory authority until June 2009. In this connection, the Committee deeply regrets that neither Mr. Mendis nor any other member of the delegation provided information in response to the many specific questions raised by the Committee on this subject during the dialogue with the State party and in its written additional information provided to the Committee.

15. [...] Additionally, while noting that severe punishments have been imposed in the Vishwamadu case concluded in October 2015, the Committee regrets the failure of the State party to provide the requested information on the progress of the 39 investigations it has reportedly initiated with regard to the acts of rape and sexual violence allegedly committed by security forces in the aftermath of the conflict. In this regard, the Committee shares the view expressed by the UN High Commissioner for Human Rights during his February 2016 visit to the State party that relevant criminal investigations currently pending before the courts should not be put on hold while transitional justice mechanism are developed (arts. 2, 12, 13).

**The information below is based on the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment on his mission to Sri Lanka (A/HRC/34/54/Add.2), issued on 22 December 2016<sup>2</sup>**

20. During his visit, the Special Rapporteur conducted numerous interviews with both male and female torture survivors, including former and current detainees, from various periods during and after the conflict, as well as recent cases (2015-2016). The forensic expert accompanying the Special Rapporteur conducted medical examinations in a number of these cases, which confirmed physical injuries consistent with the testimonies received. He also spoke with relatives of torture survivors.

21. Following his visit, the Special Rapporteur analysed some 40 additional cases, most of them recent ones, that were extensively documented with testimonies, photographs and forensic medical evidence. The physical injuries documented in those cases were also consistent with the victims testimonies.

22. While the practice of torture is less prevalent today than during the conflict and the methods used are at times less severe, the Special Rapporteur concludes that a culture of torture persists; physical and mental coercion is used against suspects being interviewed, by both the Criminal Investigations Department in regular criminal investigations and by the Terrorism Investigation Division in investigations under the Prevention of Terrorism Act. In the latter case, a causal link seems to exist between the level of real or perceived threat to national security and the severity of the physical suffering inflicted by agents of the Division during detention and interrogation.

26. The Special Rapporteur interviewed current and former suspects detained under the Prevention of Terrorism Act and received well-documented accounts of extremely brutal methods of torture, including burns; beatings with sticks or wires on the soles of the feet (falanga); stress positions, including suspension for hours while handcuffed; asphyxiation using plastic bags drenched in kerosene and hanging of the person upside down; application

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<sup>2</sup> Full text available [here](#)

of chili powder to the face and eyes; and sexual torture, including rape and sexual molestation, and mutilation of the genital area and rubbing of chili paste or onions on the genital area. In some cases, these practices occurred over a period of days or even weeks, starting upon arrest and continuing throughout the investigation.

40. The Special Rapporteur is concerned that rehabilitated persons continue to be kept under surveillance by government agents years after their release, and are frequently harassed and threatened. They are often still forced to report to a police station or military post at regular intervals, where they are frequently threatened and ill-treated and, in some instances, arbitrarily detained and subjected to torture, including sexual torture. Harassment sometimes extends to civil society organizations that provide counselling and other services to rehabilitated persons.

43. The Special Rapporteur received credible testimonies from men, women and juveniles of torture of a sexual nature in custody, many of them supported by medical forensic evaluations. These abuses are not investigated or prosecuted, and may remain underreported owing to stigma. An example of a tragic testimony received by the Special Rapporteur was that of a young woman who spoke credibly of having spent 3 1/2 years in sexual slavery at various military camps.

110. Torture and ill-treatment, including of a sexual nature, still occur, in particular in the early stages of arrest and interrogation, often for the purpose of eliciting confessions. The gravity of the mistreatment inflicted increases for those who are perceived to be involved in terrorism or offences against national security. The police resort to forceful extraction of information or coerced confessions rather than carrying out thorough investigations using scientific methods.

**The information below is based on the Report of the Secretary-General on conflict-related sexual violence (S/2016/361), issued on 20 April 2016<sup>3</sup>**

The 30-year civil war in Sri Lanka disproportionately affected women, who continue to face sexual abuse and threats. The results of an investigation by OHCHR that covered the period from 2002 to 2011 highlighted the extent of the sexual violence committed in detention by the security forces against both women and men (see A/HRC/30/CRP.2). These were not isolated incidents, but rather part of a policy. Nevertheless, accountability has been limited. The conviction of four soldiers in October by the High Court of Jaffna for the rape of two women in 2010 is the first of its kind. The report further states that women living in the militarized north continue to be vulnerable to sexual violence committed by members of the armed forces. In Tamil communities, lone women who head nearly 60,000 households describe an ever-present threat of sexual exploitation by the military. In 2015, the new Government adopted an act on the protection of witnesses and victims and a set of recommendations on preventing sexual and gender-based violence.

**The information below is based on the Report of the OHCHR Investigation on Sri**

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<sup>3</sup> Full text available [here](#)

## Lanka (OISL (A/HRC/30/CRP.2), issued on 16 September 2015)<sup>4</sup>

One of the most disturbing findings of the OISL investigation has been the extent to which sexual violence was committed, often extremely brutally, by the Sri Lanka security forces, with men as likely to be victims as women. The prevalence of rape, often on repeated occasions, was particularly shocking. OISL did not find any information to suggest that the LTTE was responsible for sexual violence, and different sources indicated that anyone found responsible for sexual abuse or violence risked harsh punishment by the LTTE.

Prior to OISL's investigation, a growing body of evidence had been emerging about the use of sexual violence by the Sri Lankan security forces against individuals they suspected of links with the LTTE.<sup>5</sup> In the context of its mandate, OISL focused primarily on allegations of sexual violence committed during the final phase and aftermath of the armed conflict. The sections below describe the sexual torture which occurred during interrogation sessions, and also patterns of rape, much of which appeared to occur outside of interrogation sessions. This chapter also looks into reports of sexual abuse committed during the various screening processes as civilians and LTTE cadres who had laid down their arms crossed over into Government-controlled territory, as well as reports of such abuse inside the IDP camps making up Manik Farm. A final section also examines justice and accountability for sexual violence.

OISL received some allegations of sexual violence beyond the period of its mandate. There have been numerous allegations that after the conflict, even up to this day, women living in the militarised north have been vulnerable to rape and other forms of sexual violence or exploitation by the military. Investigating and addressing such allegations is extremely delicate, particularly without access to Sri Lanka, and because of the serious risk of reprisals to women who may report such cases. These should be part of a broader investigation into sexual violence allegedly perpetrated by security forces in order to identify and punish the perpetrators, and to take preventive measures.

OISL interviewed a number of former detainees who stated they were subjected to sexual violence between 2005 and 2008. One witness who had worked closely with torture victims prior to 2004, told investigators that he had documented numerous cases of sexual violence committed by security forces, including burns on the genital areas of male and female detainees, insertion of thin rods into the penis of male detainees, objects inserted into the anus of male and female detainees, and bottles into the vaginas of women detainees, as well as chilli powder sprayed onto or inserted into genital organs. All of these are methods which OISL has documented in the more recent cases it has examined, indicating a continuation of such practices.

Allegations of sexual violence in the years before OISL mandate period have been documented in other reports both by NGOs and by United Nations Special Mandate holders, such as the Special Rapporteur on Violence against Women. In the time available, OISL was

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<sup>4</sup> Full text available [here](#)

<sup>5</sup> See for example: "We will teach you a lesson" - Sexual violence against Tamils by Sri Lankan security forces, HRW, February 2013; "An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009-2014", Yasmin Sooka, Bar Human Rights Committee of England and Wales, and the International Truth and Justice Project, Sri Lanka, March 2014; Freedom from Torture up-dated submission to the Human Rights Committee for the 5th periodic review of Sri Lanka in October 2014; "Women's Insecurity in The North and East", ICG, 20 December 2011; "Island of Impunity," International Crimes Evidence Project, February 2014; "Crimes Against Humanity in Sri Lanka's Northern Province," Sri Lanka Campaign for Peace and Justice, 4 March 2014.

not able to investigate earlier patterns of sexual violence, nor did it assess whether detainees not held in connection with the conflict were subjected to such treatment. These should also be part of a broader investigation into sexual violence perpetrated by security forces.

As part of its investigation, OISL interviewed 30 survivors of sexual violence which occurred during OISL's mandate period. Eighteen were men and 12 were women. OISL also received detailed information on cases from other sources, which corroborated much of the information gathered in the course of its own interviews. OISL also interviewed a dozen other sources who had indirect information about such incidents, either because they had witnessed them, because of their work documenting such cases, or because of their alleged involvement with the security forces. In addition, OISL was given access to medical reports (with the consent of the victims concerned) which corroborated the allegations of sexual violence.

Collecting information about cases of sexual violence is always particularly challenging because of taboos related to discussing such issues, the stigma and shame experienced by the victims, as well as the trauma of the events themselves. The witnesses and survivors interviewed by OISL were without exception profoundly affected by their experiences and were being treated for post-traumatic stress. Some broke down at the point where they began to describe the sexual abuse, and expressed feelings of humiliation, embarrassment and utter degradation. One witness stated that "the sexual torture was the most painful psychologically: it was worse than the beating".<sup>6</sup>

An expert working for an organization which supports victims of torture told OISL that "the experience that seems to produce the most severe and persistent psychological damage as related by male and female survivors, is the sexual violence inflicted in detention", and stressed that it can have longstanding physical and psychological effects. "It is clear that the damage from sexual violence is great and permeates everything" in their everyday life.<sup>7</sup>

The trauma of the sexual violence was often compounded by fears for family members who remained in Sri Lanka, some of whom had subsequently suffered threats and harassment. OISL is also aware that in several cases, victims of sexual violence have reportedly committed suicide or attempted to commit suicide.<sup>8</sup>

In spite of the challenges to gather information, the following sections demonstrate the widespread and brutal nature of the sexual violence which was inflicted.

### **Government's responses to allegations of sexual violence**

Instead of ensuring that allegations of sexual violence are fully investigated and any perpetrators brought to justice, as required under international law, the Government has consistently sought to deny or play down the gravity of the allegations of rape and other forms of sexual violence by its security forces.<sup>9</sup> While acknowledging it was aware of allegations of sexual abuse, it denied large-scale abuse and even discredited and demeaned the victims. In December 2009, Rajiva Wijesinha, the Permanent Secretary to the Ministry of

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<sup>6</sup> WS on file

<sup>7</sup> WS on file

<sup>8</sup> WS on file

<sup>9</sup> As one example, "Sky News has been told women are being raped in Sri Lankan camps set up for Tamils who have fled the country's war zone. There are numerous reports of sexual assaults in the government-run camps, and claims that groups of young men are being rounded up and taken away." <http://news.sky.com/story/694545/claims-of-abuse-in-sri-lankan-refugee-camps>.

Disaster Management and Human Rights was quoted as saying that "there was a lot of sex going on" inside the camps, but he claimed that most reports involved abuse by fellow detainees. "I can't tell you nothing happened because I wasn't there" he said. "Individual aberrations could have happened but our position is 'Please tell us and they will be looked into'." Wijesinha said he was aware of one report from a United Nations agency but claimed that establishing the facts was very difficult. "We received a report that a soldier went into a tent at 11 p.m. and came out at 3 a.m. It could have been sex for pleasure, it could have been sex for favours, or it could have been a discussion on Ancient Greek philosophy, we don't know."<sup>10</sup>

Several years later, in February 2013, the Ministry of Defence stated that "What the Government can prove is that between 19 May 2009 and 31 December 2011, out of a total of 210 cases of rape and sexual offence, only 20 cases have been committed by Sri Lanka armed forces including police and CDS with cases against these members already in process and under investigation."<sup>11</sup> However, this contradicts figures given in a report by the Ministry of Defence<sup>12</sup>, which shows in tabulated form that only four cases of rape and one of sexual abuse by members of SLA had been either dealt with in the courts or by SLA disciplinary proceedings for the same period (see section below on judicial investigations into sexual violence).

In an interview with Al Jazeera TV on 27 December 2013, viewed by OISL, Major General Mahinda Hathurusinghe, the Commander of the Security Forces in Jaffna, laughed off reports of abduction, torture and rape. "I suppose my smile tells the story," he said. "They are all fabricated, no base at all, all stories. Because they just want to stay in UK. They want to continue in other countries. These are all lies. These are all lies."<sup>13</sup>

The Government, in its statement to the 24th session of the Human Rights Council, highlighted that a survey covering the period 2007-2012 had revealed that of the reported incidents of sexual violence in the North a large majority were carried out by close relatives/ neighbours and only a very few could be attributed to the Security Forces. It again claimed that in all cases involving security forces personnel disciplinary and legal action has been taken. "The military has taken strict action to either discharge or award other punishments to these personnel. Furthermore, cases have been filed in civil courts, some of which are pending in Courts and with the Attorney-General's department....." In its response to the High Commissioner's report to the Human Rights Council in March 2014, the Government reiterated that "there exists no basis for concerns as expressed by the High Commissioner with regard to presence of the security forces contributing to the vulnerability of women to sexual violence in the North. The Government deplors all acts of violence against women and girls and has taken concrete action against reported cases and will continue to do so".<sup>14</sup>

In its response to concerns raised by the Special Rapporteur on the Human Rights of IDPs, Chaloka Beyani, about continuing allegations of sexual violence in the North, the

<sup>10</sup> <http://www.theguardian.com/world/2009/dec/20/tamil-tigers-sri-lanka-refugees>.

<sup>11</sup> Ministry of Defence Website, February 2013.

<sup>12</sup> Humanitarian Operation Factual Analysis, MOD, Op.cit.(p.79)

<sup>13</sup> Scars of Sri Lanka, Al Jazeera report, December 2013

<sup>14</sup> Comments received from the Permanent Mission of Sri Lanka on the draft report of the Office of the United Nations High Commissioner for Human Rights on promoting reconciliation and accountability in Sri Lanka (A/HRC/25/23), para 14.

Government stated that such violence was “a relic of the conflict”: “The references in the (Special Rapporteur’s) report to the alleged gross violations of human rights of internally displaced women including sexual violence is unsubstantiated and incorrect. Strict legal action has been taken to combat sexual violence. There have been no allegations of gross violations of human rights of Internally Displaced women.”<sup>15</sup>

## **Patterns of sexual violence documented by OISL**

### **Sexual violence following individual targeted abductions or mass detention**

As indicated above, OISL gathered overwhelming information, through direct interviews with victims and from other credible sources of information, showing that sexual violence was used against detainees, either as a very brutal form of torture or ill-treatment and as a form of sexual exploitation, at times involving gang-rape. Male detainees were as likely to be subjected to sexual violence as female detainees. In many cases, the attitudes of the alleged perpetrators described by the witnesses highlighted a persecutory and degrading behaviour towards the victim, often referring to them as “Tamil dogs”, the intent clearly being to break down that person emotionally and physically. Most of the reported cases occurred in 2009 and 2010. Testimonies of former detainees held between 2005 and 2008 described the same patterns and methods of sexual violence as cases reported later.

Those cited as being responsible for sexual violence included the whole range of security forces: police (CID, TID); the National Intelligence Bureau, Military Intelligence, SLA soldiers and Navy personnel. The grades of alleged perpetrators ranged from low level guards to individuals believed to be senior officers given the way other military staff reported to them. Though most of the alleged perpetrators described were male, in some cases witnesses described female officers being involved in the sexual abuse.

The previous chapter has listed places of detention where torture took place. Places of detention where sexual violence occurred included official gazetted detention centres and detention centres not officially recognized, such as those inside military bases – for example Joseph Camp, the Security forces HQ in Vavunya commanded by Major General Jagath Jayasuriya (where Military Intelligence was based but where CID and TID also reportedly took part in interrogation and torture sessions) was the place most commonly indicated. Other places included TID and CID facilities in Colombo and Veppankulam, Boosa Detention Centre, Omanthai Central College, Poonthoddaam Camp, Pulinerwa Camp, Welikanda Rehab centre.

Some people were subjected to sexual violence and other forms of torture after being arrested individually as part of the white van pattern. Others were subjected to sexual violence following the mass detentions at the end of the armed conflict, either after being separated at screening points or taken away subsequently from camps where the displaced were interned. Some individuals who had surrendered at the end of the conflict and had subsequently been released were later re-arrested and subjected to torture and sexual violence during the second detention <sup>16</sup>

All of the information gathered by OISL indicates that incidents of sexual violence were not isolated acts but part of a deliberate policy to inflict torture (to obtain information, intimidate,

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<sup>15</sup> A/HRC/26/33/Add.6, Comments by the State on the Report of the Special Rapporteur, para 36-37.

<sup>16</sup> WS on file. Former detainees were required to report regularly to military camps, CID or TID and/were kept under surveillance as police and intelligence services continued to pursue anyone they thought had links or information about LTTE activities.

humiliate, inflict fear). The practices followed similar patterns, using similar tools over a wide range of detention locations, time periods, and security forces, reinforcing the conclusion that it was part of an institutional policy within the security forces.

### **Sexual violence as a form of torture or cruel, inhuman and degrading treatment or punishment during interrogation**

Whether or not they were subjected to sexual violence, most of the former detainees interviewed by OISL described how they were subjected to forced complete or partial nudity, sometimes on arrival at a detention centre, often during interrogation sessions. According to one detainee who was held blindfolded and naked in an area of jungle, “I could hear women pleading not to be attacked; that they would rather die. I believe the women were sexually assaulted. I cannot imagine one human being doing this to another.” Another survivor told OISL he was suspended naked and beaten with a stick until he bled.<sup>17</sup>

Forced complete or partial nudity can be considered humiliating and degrading treatment. The impact of this treatment was exacerbated by derisive comments from the members of the security forces present. In addition, OISL received allegations that military personnel photographed or videoed the naked female and male detainees. Some described being touched inappropriately on the breasts or genitals. A former detainee described being made to lie naked and beaten on the genitals while his captors laughed. Another described being forced to somersault while naked, another that detainees had to dance with chairs above their heads while naked.<sup>18</sup> A number of former male detainees also reported seeing naked or semi-naked female detainees, in some cases in extreme distress, leading to speculation as to other kinds of abuse they may have been subjected to.

Former detainees described to OISL being subjected to methods of sexual violence during interrogation sessions which caused excruciating pain: genitals crushed under the weight of feet stepping on the detainee; beating and kicking of the genitals and inner thighs; chili powder placed on the genitals; metal or wire inserted in the penis, burns on the breasts; pliers used to squeeze breasts; ice cubes inserted in the anus, male genitals squeezed by the hands of the perpetrators. In several cases, witnesses said they fell unconscious because of the pain.<sup>19</sup> One man described having his penis put in a drawer which was then slammed shut.

Another witness, describing the torture he was subjected to in Joseph Camp over a period of months said: “They would tell me to remove my clothes. They would tell me to put my genitals on top of the table and then beat my private parts with sticks”. He reported being subjected to sexual abuse again after his transfer to the 4<sup>th</sup> floor CID facility in Colombo where he was also subjected to other methods of torture as they tried to get him to confess to being involved in LTTE.<sup>20</sup>

After being stripped naked and forced to lie on his back on the floor, another detainee described being held down by two captors while another squeezed his genitals. After this they turned him over and inserted an object into his anus, pushing it in and out.

One of the most barbaric methods of sexual torture described in a number of different

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<sup>17</sup> WS on file

<sup>18</sup> WS on file

<sup>19</sup> WS on file

<sup>20</sup> WS on file

testimonies involved the insertion of barbed wire through a pipe inserted into the anus. The pipe was pulled out first and then the barbed wire, causing “unbearable pain and bleeding”.<sup>21</sup> One witness described being subjected to this treatment when he tried to refuse to have sex with his captors<sup>22</sup>. “He pushed the pipe in again with the barbed wire inside. He pulled the pipe out and left the barbed wire in me. I had a lot of heavy pain and bleeding.” He said he was forced to have oral sex and gang-raped several times while in detention. OISL was also informed of a similar case by a credible source which allegedly occurred in Joseph Camp. A medico-legal report taken outside of Sri Lanka recorded that he had anal bleeding and ongoing pain symptoms due to sexual torture. Another source told OISL that cases had been documented where the victim’s intestines were pulled out as a result, but that the victims did not survive<sup>23</sup>.

Several former detainees described their captors proudly showing them photos or videos of naked or semi-naked LTTE cadres, in some cases dead, in others still alive by their captors. One witness said he was shown a video of a group of naked and crying LTTE cadres. A soldier laughingly told him that they had been executed. In another case, the source also described being shown a video of naked females alive and subsequently a video of naked dead Tamil females.<sup>24</sup> At least two former detainees were reportedly shown videos of sexual abuse, in one case of a naked Tamil woman being held by soldiers and raped; in another, the victim herself being abused. Another detainee described how one of his captors “showed a lot of pictures of dead naked women lying on the ground and bloody, often with close-ups of breasts and vaginas. There were also photos of female LTTE cadres alive sitting on the ground in LTTE combat pants but with naked upper bodies. Their hands were tied behind their backs...”<sup>25</sup>

OISL has not seen these videos and therefore cannot confirm their existence but believes that the use of mobile phones by security forces personnel to take images could amount to degrading treatment. Furthermore showing such videos and photographs to detainees could amount to psychological torture.

### **Allegations of widespread rape**

Eighteen out of 30 victims of sexual violence (eight male and 10 female) told OISL that they were raped, by bodily parts and/or by objects inserted into the anus. Statements taken by other sources also indicate high rates of rape in detention. Much of the rape described did not appear to take place in the context of interrogation sessions. According to a number of consistent testimonies, detainees, both male and female, were also forced to perform oral sex on their captors and sperm ejaculated in the mouth or over their bodies.

Sometimes the detainees were raped over period of weeks or months by the same perpetrators...in one case at least, reportedly by a senior commander. “During my four years in detention, I was raped on several occasions; I cannot recollect the number of times I was raped, four or five times a week for several months. I am still suffering and undergoing treatment. It was the same officer who raped me each time... The attacker wore military uniform. I think he was quite a senior officer, as he had status: other soldiers would salute

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<sup>21</sup> Source on record

<sup>22</sup> WS on file

<sup>23</sup> WS on file

<sup>24</sup> WS on file

<sup>25</sup> WS on file

him. The attacks were very violent. I was weak and helpless. I did not tell anybody what was happening. Other inmates would ask me why I was bleeding from the back passage – I would say that I was hit with a pole.”<sup>26</sup>

Interviewees, male and female, reported being raped in their cells, or taken out in the night to other rooms where they would be raped, sometimes repeatedly and by more than one perpetrator. In some cases, witnesses described the perpetrators as having the smell of alcohol on their breath. One individual close to the SLA told OISL that often they were instructed to fetch girls from Manik Farm and bring them to Joseph camp, where the women would then be raped.<sup>27</sup>

Many of the former detainees interviewed who had been subjected to some kind of sexual violence during interrogation were also raped. The purpose of the actual rape was not directly to obtain information in many of these cases, but a combination of sexual gratification, degradation and humiliation of the victims, and the instilling of fear through degrading abuse of the detainees who were at the mercy of their captors and had no power to protect themselves. The humiliation element was compounded by the fact that detainees were constantly treated in a derogatory manner, such as being called “Tamil dogs” during the acts of sexual violence. The rape also added to the pressure constantly exerted over the detainees to provide information and/or sign “confessions”.

In at least three cases, which occurred in three different detention centres, the interviewees – one male, two female – were raped while they were unconscious. They described individually how they woke up in great pain around the genital area. One of them reported having been made to drink alcohol until he passed out. When he eventually woke up he could barely walk. The second witness reportedly woke up partially undressed, bleeding from the vagina and had teeth marks on her breast.

A third witness, who was also repeatedly tortured during interrogation sessions, said that one night, after being taken to a room with two uniformed military present she fainted after a plastic bag smelling of petrol was put over her head. When she woke up, she was naked, “there was a lot of blood coming out of my vagina. I felt a lot of pain in my vaginal area both inside and outside.” Several months later, she was raped again at night, by two men in army uniform, as she passed in and out of consciousness. The third occasion she was raped at night, she was burnt repeatedly with cigarettes on both legs before being raped by at least three military one after the other, again causing her to bleed. On each occasion afterwards she washed herself in the toilet before returning to her tent. She reported that she saw other women coming out of the same building at night and going directly to the toilet before returning to their tents. OISL also received other reports of rape in the same camp.<sup>28</sup>

In the case of one former detainee who was re-arrested when he reported to an army camp, he was taken to a secret detention place where he said he was forced “many times” to have oral sex during the three weeks he was held.<sup>29</sup> Another former detainee held by CID said he was raped so many times he could not recall, and that the sexual abuse was accompanied by verbal abuse and racial slurs. Like many victims subjected to sexual violence and other forms of torture, he described having frequent flashbacks, and became very disturbed during

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<sup>26</sup> WS on file

<sup>27</sup> WS on file

<sup>28</sup> WS on file

<sup>29</sup> WS on file

the OISL interview when referring to the sexual violence.<sup>30</sup>

### **Sexual harassment and other forms of sexual violence during screening processes and inside Manik Farm**

During the final weeks of the conflict, tens of thousands of Tamil civilians, as well as LTTE cadres who had laid down their arms crossed over into Government-controlled territories. Chapter XVI describes in more detail the series of screening posts and checkpoints which they passed through between the Vaddukavil Bridge, Mullaitivu and Omanthai.

OISL received allegations of incidents of sexual harassment, humiliation and intimidation at these screening points. While OISL recognises that screening processes may be legitimate for security purposes, they should have been carried out without violating the rights of the individuals passing through. Reports indicate that strip-searching became routine after an LTTE suicide bomber blew herself up at an IDP registration point in February 2009. While strip-searching may have been justified to a certain extent, it is clear from the information gathered by OISL that it provided many opportunities for abuse, particularly of females when they were forced to strip naked or partially naked.

Some IDPs were taken into sentry posts made out of sandbags<sup>31</sup> or enclosures made from palmyra leaves, while others were made to strip in an area where they were visible to others.<sup>32</sup> Several females IDPs reported that they were checked by male soldiers or had male soldiers looking over the top of enclosures while they undressed and recording images of the nude women on their mobile phones. These abuses were also described to OISL by individuals linked to the SLA.<sup>33</sup> The forced nudity, especially of women and girls, went beyond security requirements but was part of a process of ill-treatment and humiliation of the IDPs fleeing the Vanni.

Allegations were also received of male soldiers peering at the women and girls once naked or semi-naked, and touching them inappropriately. One witness described how after being beaten and forced into the screening booth by a female army officer because she was resisting going into the booth, her clothes were forcibly removed. She described her breasts being touched by gun barrels poked in a degrading manner through holes in the sandbag walls by male soldiers.<sup>34</sup> Another said that she felt “like a corpse” when she was stripped naked and checked.<sup>35</sup> A witness said a soldier showed him a video on his cell phone showing him (the soldier) taking videos of totally naked females, with soldiers making sexual remarks about their bodies. Several witnesses said that these incidents took place in the presence of commanding officers who did nothing to stop them.

The strip searches in themselves clearly caused feelings of embarrassment, humiliation and degradation, and were often accompanied by insulting or derogatory comments. This impact was compounded by the vulnerability of a population traumatised by shelling, lack of food and shelter and their fear of the security forces.

Several witnesses spoke of women being taken away “towards the jungle” by soldiers, allegedly for sexual abuse, as they crossed over into Government-controlled territory. Some

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<sup>30</sup> WS on file

<sup>31</sup> WS on file

<sup>32</sup> WS on file

<sup>33</sup> WS on file

<sup>34</sup> WS on file

<sup>35</sup> WS on file

said that they then heard screaming. One witness, for example, described a female cadre being taken behind a sentry post by two soldiers, and was visibly distraught and crying when brought back some 20 minutes later. In another case, the source recounted seeing soldiers dragging young women into the bushes and hearing screams. He said that he could also hear gunshots coming from the area. Another witness stated that she heard four or five “voices of girls screaming in the bushes” and calling to be saved as she approached a sentry point. She feared that they were being sexually assaulted, and initially resisted being strip-searched herself. <sup>36</sup>

Given the extent of the sexual violence documented with regard to detainees, and of sexual humiliation and desecration of bodies at the end of the conflict, OISL believes that the likelihood of sexual harassment and assault at the various screening and checkpoints was considerable, and that such allegations should be further investigated, to establish the extent and nature of the abuses, as well as the responsibilities, including of any commanders present.

A woman who went through the screening in early February 2009, before more systematic strip-searches were introduced, described how, even though she was not made to take off her clothes, a female soldier fondled and squeezed her breasts, and also groped her thighs and buttocks. She described the treatment as “a humiliating and degrading experience”. <sup>37</sup>

It should be noted that civilians were searched at a series of screening posts and checkpoints, even though they had already shown that they were not carrying weapons or bombs at previous ones. This reinforces the conclusion that the purpose of screening was on many occasions to degrade and humiliate, rather than for genuine security concerns. The sexual humiliation that occurred during the screening processes should also be viewed in the broader overall pattern of inhuman and degrading treatment of civilians and LTTE cadres *hors de combat*, including offensive and derogatory remarks based on ethnicity.

OISL also received hearsay allegations from a range of different sources who had either been interned in camps within Manik Farm or visited the camps as part of their work, that they had heard of cases of rape or sexual assault inside Manik Farm, for example as women and girls were bathing or while fetching firewood; of soldiers going into tents at night to abuse the women or of women being taken away by soldiers and returning later in a distressed state<sup>38</sup>. A number of individual testimonies described how the bathing point was quite open and visible to soldiers who would watch the women.

One woman held in Manik Farm described to OISL how she was queuing for food when she was summoned by five men in green uniforms. Taken into a room somewhere in the camp, she described being violently raped, bitten, kicked and scratched. She was asked if her husband was in the LTTE before being allowed to return to her tent. She said that she thought this happened to other women in the camp but “nobody was talking about it”. She said she had seen two other women being taken away as she had been and returning in a similar state.

In the time available, OISL was not able to obtain direct testimony on cases of systematic rape or other forms of sexual abuse by security forces within Manik Farm itself. However,

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<sup>36</sup> WS on file

<sup>37</sup> WS on file

<sup>38</sup> WS on file

OISL believes that this needs further serious investigation, given the prevalence of rape and other forms of sexual violence by security forces at that time, the militarised nature of the camps inside Manik Farm, with the constant presence of and abuse by security forces and paramilitary forces, and the fact that many households in the camps were headed by women and therefore particularly vulnerable.

The absence of any United Nations staff or NGOs inside the different sections of Manik Farm after dark prevented any kind of independent monitoring and increased the risks that IDPs could be subjected to sexual violence.

As described in Chapter XVI on screening and deprivation of liberty in the camps making up Manik Farm at the end of the armed conflict, access to medical care was severely limited. Furthermore, medical support could reportedly only be given to victims of sexual violence once a report had been made to the police. The extreme fear caused by the constant presence of and abuse by military, police and paramilitary personnel, and the absence of any confidential referral system would explain the lack of reporting of such cases that may have occurred, even to NGOs and others who visited the camps during the day. Humanitarian workers were also prohibited from speaking confidentially with IDPs. Furthermore, the Ministry of Social Services reportedly prohibited non-governmental psychosocial support inside the IDP camps. With time, some mechanisms supported by the United Nations were put in place to provide to victims of SGBV, but these operated with considerable constraints.

### **Judicial investigations into allegations of sexual violence**

In spite of Government assertions either denying sexual violence or alleging that all cases by security forces have been prosecuted, a review of the information supplied by the Government on such cases shows that this is not the case and that perpetrators continue to enjoy impunity. A Government report to the Human Rights Committee in September 2014 refers to 39 cases of sexual violence by the security forces before the courts. Subsequent information obtained by OISL shows that most of these cases involved the sexual abuse of children. While it is positive that such cases are followed up in some way, even in these cases, not one member of the security forces has been convicted.<sup>39</sup>

According to information made available to OISL, 19 cases are before courts in the Northern Province, and 20 in the Eastern Province as of May 2015. According to the information, 31 out of the 40 victims were under the age of 18, the youngest being four, six, eight and 10 years old; most of the others were under the age of 18 being between 13 and 15. The majority of the victims were Sinhala, 12 were Tamil and two Muslim. One of the cases which occurred in 2010, is that of a woman who was reportedly gang-raped, and which has been repeatedly postponed by the courts, in spite of the fact that the alleged perpetrators have been identified.

Fifty-eight alleged perpetrators are accused in the 39 cases, five cases having multiple accused. Thirty-two are members of the SLA; 13 are Police (five of whom were subsequently discharged and acquitted); one is from the police Special Task Force; one is SLN; 11 are Civil Defence Force members (of whom nine were discharged and acquitted).

Only one of the 58 accused is on remand, the rest having either been discharged and acquitted or allowed bail. Only eight out of 39 cases were recorded as being at the trial

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<sup>39</sup> CCPR/C/LKA/Q/5/Add.1, 2 September 2014

stage, all of them in the Northern Province. None of the 20 cases in the Eastern Province was recorded as being at the trial stage. Ten cases, four of them in the Eastern Province, had resulted in the acquittal of the accused (all CDF or police). Others were either reported as unsolved, pending, warranted or at the level of the Attorney General's Office.

Twenty-six of the 39 cases occurred during the period of OISL's investigation mandate: three cases in 2007, nine in 2008, two in 2009, six in 2010 and six in 2011, illustrating once more the slow pace of proceedings. While OISL does not have substantive details of most of the cases other than those provided, these statistics further reinforce conclusions that members of security forces enjoy impunity, even when serious offences against children are concerned, as well as the lack of concerted action to address patterns of sexual violence – both against men and women - by the security forces.

In the report of the UN Secretary General on Conflict-related sexual violence of 23 March 2015, he called on the “newly elected Government of Sri Lanka to investigate allegations of sexual violence, including against national armed and security forces, and to provide multi-sectorial services for survivors, including reparations and economic empowerment programmes for women at risk, including war widows and female heads of household.”<sup>40</sup>

Without a full and comprehensive investigation in which witnesses can give testimony without fear of reprisals, it is impossible to assess the scale of the sexual violence used against those detained, both during interrogation and torture sessions and the rape and other forms of sexual violence which occurred outside of interrogation sessions. However, given the stigma and trauma attached to acknowledging sexual violence, the fact that many were initially held without any acknowledgement of their detention, access to lawyers or, outside monitors and thus highly vulnerable, it is safe to assume that the prevalence of sexual violence was much higher than it was possible for OISL or other organisations to document. Not one single perpetrator of sexual violence in relation to the armed conflict is so far known to have been convicted.

In its 2011 Concluding Observations on the fifth, sixth and seventh periodic reports on Sri Lanka, the Committee on the Elimination of Discrimination against Women said that “While noting the State party's explanation that women were not subjected to violence and discrimination during the last stages of the conflict and in the post conflict phase, the Committee remains deeply concerned about reports of gross violations of the human rights of women on both sides, particularly the Tamil minority group, the internally displaced women and the female ex-combatants. The Committee is particularly concerned about reports of sexual violence allegedly perpetrated also by the armed forces, the police and militant groups.” It called on the authorities inter-alia to “promptly investigate, prosecute and punish” acts of sexual violence.<sup>41</sup>

The CAT Committee, in its concluding observations of 8 December 2011, also called on the Government to “provide the committee with information on the investigations of cases of war-time rape and other acts of sexual violence that occurred during the last stages of the conflict and in the post-conflict phase, and the outcome of such trials, including information on the punishments meted out and the redress and compensation offered to the victims.”<sup>42</sup>

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<sup>40</sup> S/2015/203

<sup>41</sup> CEDAW/C/LKA/CO/7, paras. 40 and 41

<sup>42</sup> CAT/C/LKA/CO/3-4, 8 December 2011

OISL believes that an extensive investigation needs to be carried out into the allegations of sexual violence, which it believes are likely to be much more widespread than reported to OISL or to other organisations, and that those responsible, including commanders – whether they were involved, knew of the abuse but failed to act, or did not know of the abuse but should have known – are held to account.

Furthermore, in establishing any investigation – whether judicial, as part of a truth-seeking process or other means – special protection and support measures must be set up for all those who may testify in such cases – women and men - which also must take into account risks of re-traumatisation. Likewise, psychosocial support programmes need to be extended both in Sri Lanka and in countries with a significant population of Sri Lankan refugees who have or may have experienced such abuse. Although OISL did not receive detailed testimonies of sexual abuse of children, given the apparent prevalence, any investigation mechanism set up should also include strong measures to protect children.

**The information below is based on the Report of the Secretary General on conflict related sexual violence (S/2015/203), issued on 23 March 2015<sup>43</sup>**

In the five years since the end of armed conflict in Sri Lanka, the Government has committed to supporting the resettlement and reintegration of civilians displaced by the violence and has made considerable progress in this regard. However, one of the major unaddressed issues is impunity for conflict-related sexual violence. The Government has adopted a zero-tolerance policy on sexual and gender-based violence and committed to take stringent action in response to such crimes, including discharging and prosecuting offenders from the security forces. However, there are indications that abduction, arbitrary detention, torture, rape and other forms of sexual violence have increased in the post-war period. Notably, Tamil women and girls have reported sexual abuse in the context of the ongoing militarization of their areas of residence. Allegations of sexual violence by the Sri Lankan security forces against members of the Tamil community in the closing months of the war and in the post-conflict period have been extensively documented, but rarely addressed. Testimony of women released from detention in 2014 indicates that acts of sexual torture were accompanied by racial insults and specifically directed against individuals perceived as having been linked to the Liberation Tigers of Tamil Eelam.

**The information below is based on the Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak Mission to Sri Lanka (A/HRC/7/3/Add.6), issued on 26 February 2008<sup>44</sup>**

70. In the opinion of the Special Rapporteur, the high number of indictments for torture filed by the Attorney General's Office, the number of successful fundamental rights cases decided by the Supreme Court of Sri Lanka, as well as the high number of complaints that the NHRC continues to receive on an almost daily basis are a clear indication that torture is widely practised in Sri Lanka.<sup>45</sup> During his visits to places of detention in various parts of the

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<sup>43</sup> Full text available [here](#)

<sup>44</sup> Full text available [here](#)

<sup>45</sup>The Government reported that there are two principal standards of proof that are operational in Sri Lanka: proof as to the balance/preponderance of probabilities (civil standard); and proof beyond a reasonable doubt (criminal standard). According to the

country, the Special Rapporteur received only a comparatively low number of allegations of torture from detainees suspected of ordinary crimes. But, in the context of detention orders under the Emergency Regulations and in particular with respect to LTTE suspects, the clear majority of all detainees interviewed by the Special Rapporteur complained about a broad variety of methods of torture, some extremely brutal. In many cases, these allegations were corroborated by forensic evidence. The considerable number of clearly established cases of torture by TID and other security forces, together with various efforts by TID to hide evidence and to obstruct the investigations of the Special Rapporteur, leads him to the conclusion that torture has become a routine practice in the context of counter-terrorism operations, both by the police and the armed forces.

71. Methods of torture reported included beating with various weapons, beating on the soles of the feet (falaqa), blows to the ears (telephono), positional abuse when handcuffed or bound, suspension in various positions, including strappado, “butchery”, “reversed butchery” and “parrot’s perch” (or dharma chakara), burning with metal objects and cigarettes, asphyxiation with plastic bags with chilli pepper or gasoline, and various forms of genital torture.<sup>46</sup> This array of torture finds its fullest manifestation at the TID detention facility in Boosa. The Special Rapporteur is also shocked by the brutality of some of the torture measures applied to persons suspected of being LTTE members, such as burnings with soldering irons and suspension by the thumbs. The latter method was allegedly applied by the army.

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Government, in the so-called “Fundamental Rights” cases, the Supreme Court decides on the basis of documentary evidence and oral pleadings and applies the civil standard. However, for a criminal conviction to be upheld, the court must be satisfied that the offence (including torture) is proved beyond a reasonable doubt - a much higher standard of proof. In fundamental rights cases the liability is primarily on the State whereas in criminal cases penal sanctions are imposed against the individual (most often involving deprivation of liberty).

<sup>46</sup>See also de Zoysa, P., and Fernando, R. (2007), “Methods and sequelae of torture: A study in Sri Lanka”, *Torture*, 17, pp. 53-56.