

Torture once again rampant in the Sri Lanka conflict



MEDICAL FOUNDATION
for the care of victims of torture

The Medical Foundation for the Care of Victims of Torture, a registered charity established in 1985, is the only human rights organisation in the UK dedicated solely to the treatment and rehabilitation of survivors of torture and organised violence.

The main treatment centre is in London, with branches in Manchester, Newcastle and Glasgow. Two more are planned for the West Midlands and Yorkshire.

The MF offers medical consultation, examination and forensic documentation of injuries, psychological treatment and support, and practical help. Its clinical services include counselling, individual and group psychotherapy, psychiatry, clinical psychology, physiotherapy and specialist child and family therapies. It has a team of doctors who provide medico-legal reports documenting injuries from torture.

Alongside its clinical work, the MF seeks to raise public awareness about torture and organised violence. Its archive of reports documents the systematic use of torture and the consequences for those who survive.

Since its inception, more than 45,000 people have been referred to the MF for help. In 2006, the London centre received 2,145 new referrals. Clients came from nearly 100 countries, foremost amongst which were Iran, Democratic Republic of Congo, Eritrea, Turkey and Sudan.

More information about the MF's work and recent campaigns from: www.torturecare.org.uk

© Medical Foundation for the Care of Victims of Torture, 2007

This report is not for publication without prior MF consent. For further details contact Aliya Mughal, Press Office, 111 Isledon Road, London, N7 7JW, 020 7697 7783

Contents

Introduction	4
Who are the victims and where are they from?	4
Who are the perpetrators?	5
What were the torture methods used?	5
Where was the torture carried out?	6
Difficulties with UK immigration authorities	6
What can be done & what is being done	8
Five case studies	9

Introduction

The scale of the resumption of torture in Sri Lanka following the breakdown of the cease-fire between Tamil insurgents and government forces is revealed in the growing number of cases seen recently by the Medical Foundation.

A survey of 130 Sri Lankans referred to the MF in the past year, of whom 41 received MF services, shows that all parties to the conflict have reverted to human rights abuses after a lull of several years in which torture was reported to be largely confined to police investigating criminal matters.

The MF findings discredit assurances by the Sri Lankan authorities that it is committed to protecting human rights despite the conflict. They also challenge the UK Government's readiness to return unsuccessful asylum applicants to Sri Lanka where they might face further abuse.

The Medical Foundation, in a report entitled *Caught in the Middle: A study of torture survivors coming to the UK from Sri Lanka*, published in 2000, documented a number of torture methods in use during the conflict's earlier years. New arrivals of Sri Lankan asylum seekers point to the re-emergence of the techniques we highlighted at that time.

Who are the victims and where are they from?

The overwhelming majority of Sri Lankan clients seen by the Medical Foundation in the past year were Tamil, with just three giving their ethnicity as Sinhalese. This accords with findings by Amnesty International and Human Rights Watch (HRW) who in recent country-specific reports have highlighted the Sri Lankan government's strategy of targeting members of the Tamil community suspected of being members or sympathisers of the Tamil insurgent group, the Liberation Tigers of Tamil Eelam (LTTE).

The majority of clients referred to the MF were fleeing areas where fighting between Sri Lankan authorities and the LTTE has been fiercest, including around the town of Trincomalee in the east and the Kilinochi district in the north which is under the control of the LTTE. Thirty one came from Jaffna, where the government retains control but where much of the human rights violations have been centred.

The majority of clients (85) were male. However, a third (45) were female. Most were captured and detained at a relatively young age. Sixty clients were aged between 20 and 29, while 57 were aged between 30 and 39. Only one client was below 19 and 15 were over 40. Of the 49 cases examined for the MF's 2000 study, the majority – 42 – were aged between 21 and 35.

Where religion was specified, 61 clients declared themselves as Hindu, 14 were Catholic, and five were Muslim.

Some said they were targeted by the Sri Lankan authorities as LTTE suspects, often because of the activities of spouses or relatives. Several women who were detained by security forces or paramilitary groups while seeking to find their husbands were raped by the very authorities they had sought help from. Others reported being coerced into working for the LTTE as an alternative to having family members "conscripted".

According to the United Nations High Commissioner for Refugees (UNHCR) in 2006: “Individuals suspected of having (rebel) Tamil Tiger affiliations are at risk of human rights abuses by the authorities or government-sponsored paramilitary groups.” The report acknowledged that even Tamil Tiger sympathisers who were not active with the LTTE were in danger.

The MF caseload suggests that in fact it is increasingly civilians with no real political connection who are the targets of all parties to the conflict, the Sri Lankan security forces, the LTTE and state-sponsored paramilitaries such as the breakaway Tamil group led by Colonel Karuna Amman (the *nom de guerre* of Vinayagamoorthi Muralitharan), the President of the Tamil Eelam Makkal Viduthalai Pulikal (TMVP).

Who are the perpetrators?

Out of 115 where the perpetrator was named, in 79 cases the perpetrators were the Sri Lankan Army, with the Sri Lankan navy named in a further 14. The Karuna group was named in 11 cases, and the LTTE implicated in 15. In a number of cases, once targeted by one faction, victims reported that they subsequently fell under suspicion from other groups because of speculation about what they might have said while being held.

A significant number of clients were reportedly detained on more than one occasion, often by different factions. Where the number of detentions was detailed, 31 were detained twice or more. Fifty-six were detained once. Seventeen were detained three or more times. Drawing comparisons with the MF's 2000 study, 22 of the 49 clients examined were arrested once, 18 had been arrested twice and seven had been arrested three times.

What were the torture methods used?

Out of the 130 cases reviewed, 55 clients reported being beaten with implements ranging from truncheons to electric cable, 30 reported being burnt with cigarettes, and 20 said they were partially suffocated by a plastic bag soaked in petrol being placed over the head. Suspension by the ankles was also common, with 22 reported incidents. At least 12 clients said they were held naked in their cells and there were 14 incidents in which clients were held in solitary confinement.

Falanga, the beating of the soles of the feet, occurred in 10 incidents, with a number of clients reporting that they were bound by the feet and arms and laid face down on a bench during the torture.

The prevalence of rape as a method of torture was widespread among the recent group of arrivals to the UK, with at least 24 female clients and 22 male clients reporting they were raped. In 2000, the Medical Foundation made similar findings. Thirteen of the 41 men included in the study described being sexually assaulted by soldiers, generally while being beaten. Seven of them were raped in detention. Six of those men were repeatedly raped and made to perform other sexual acts by soldiers.

Patterns of abuse catalogued by the MF in 2000 also noted that Sri Lankan torture survivors reported being slapped, kicked and pushed around on arrest and were hit with rifle butts. Victims also recalled seeing other detainees suspended or unconscious when they were detained. A

common form of torture was beatings with sand-filled pipes ('c-lon pipes'), electrical flex, burning with cigarettes, hot metal rods and cutting with knives. The majority of detainees said they were suspended upside down from a rope tied around the ankles.

Cataloguing evidence of torture in its March 2007 Country of Origin report, the UK Government's Border and Immigration Agency (BIA) refers to the findings of the US State Department in which the Sri Lankan Human Rights Commission (SLHRC) reported that 433 individuals were tortured in police custody in 2006. The methods of torture noted match exactly those reported by MF clients – beatings with sticks, iron bars and hoses; electric shocks; suspension by the wrists or feet in contorted positions; burning; genital abuse.

Forced labour was also a common form of persecution used by the government and non-state agents, with 13 incidents reported by MF clients.

Where was the torture carried out?

Currently, the UK Home Office states that Colombo is a viable location for returning failed asylum seekers, although the latest travel advice issued by the Foreign and Commonwealth Office reports "widespread disruption" in the capital, and "continuing human rights abuses" throughout the country.

The disruption largely takes the form of raids and street checkpoints to guard against insurgent infiltration. A significant number of clients seen by the Medical Foundation during 2006/7 also testify that they were held in the Colombo CID headquarters, in the feared "fourth floor interrogation room". Here, clients reported being suspended by chains from the ceiling, were beaten by groups of officers, witnessed others being beaten with implements and saw other detainees bloodied by torture.

Similar methods were used by Sri Lankan authorities in prisons in nearby Negombo, also Kandy police station and Welikade prison, all referred to on a number of occasions by other clients. This matched the findings of the MF's 2000 study which revealed that 14 out of the 49 clients referred to had spent time in one or more prisons in Colombo, mostly in Welikade.

Clients also repeatedly referred to the Palali camp operated by the Sri Lankan army on the Jaffna peninsular as well as a camp run by the LTTE near Batticaloa.

Difficulties with UK immigration authorities

The steady resumption of hostilities between the Sri Lankan Government and LTTE began in 2005 with a spate of armed clashes, ambushes, politically motivated killings and abductions in the north and east of the country. By mid 2006 any pretence of a cease-fire had been abandoned, with several thousand people killed and wounded, and more than 200,000 people displaced.

Those fleeing to the UK to escape the conflict, however, found the British government remarkably slow to accept the dramatic deterioration in the situation.

During the course of 2006, 385 Sri Lankans who had been unsuccessful in claiming asylum were removed¹ – one of the largest numbers of people returned to any one country during the course of the year.

Of particular concern to the Medical Foundation is a 2005 statement from the United Nations High Commissioner for Refugees that: “Tamil asylum seekers with scars, should they be returned to Sri Lanka, may be more prone to adverse identification by the security forces and taken for rigorous questioning and potential ill-treatment.”

Many of the Sri Lankans seen by the MF had spent their time in the UK detained as part of the “fast track” asylum process, which meant their claims were regarded as “straightforward”.

In rejecting asylum claims, it would seem that the Home Office has often relied on a selective interpretation of facts, suggesting, for instance, that as the LTTE was responsible for much of the violence, claimants would therefore be safe in areas outside the organisation’s control.

The Home Office’s Operational Guidance Notes (OGN), which inform immigration decisions, continues to state that “claimants who fear persecution at the hands of the Liberation Tigers of Tamil Eelam (LTTE) in LTTE dominated areas are able to relocate to Colombo or other government controlled areas”.

The latest travel advice issued by the Foreign Office, however, reports “widespread disruption” in the city - disruption that largely takes the form of numerous street check points to guard against insurgent infiltration. Emergency regulations implemented in 2005 permit the detention without charge of anyone suspected of “terrorist activity”.

Reports that Sri Lanka has embarked on a reform programme to address human rights abuses were also used by the Home Office to counter asylum claims, although the Asian Human Rights Commission (AHRC) has described the country’s Human Rights Commission and National Police Commission as “a farce” and accused both of lacking any legitimacy or credibility. Amnesty International and Human Rights Watch (HRW) voiced similar criticisms.

The fact that the LTTE was recently proscribed in Britain as a terrorist group was also a reason for refusal, with the Home Office accepting in a number of cases that the claimant had been tortured, but turning them down on the grounds they were either suspected or imputed LTTE members, and therefore terrorists who could not be given refugee status (but may still be entitled to Humanitarian Protection).

In December 2006 the Home Office withdrew Sri Lanka from the list of countries designated as generally posing no serious risk of persecution. But in 2007 Sri Lankan cases continue to be “fast tracked” and unsuccessful asylum claimants removed.

The Home Office cannot plead ignorance of the above mentioned facts, particularly when those very facts are stated in reports issued by bodies such as the Border and Immigration Agency (BIA).

¹ Source: According to statistics published on 25 June 2007, from the Home Office’s Research, Development and Statistics website: Removals and voluntary departures, excluding Assisted Voluntary Returns, of asylum applicants, excluding dependants, to countries who have not signed the UN Convention Against Torture, in 2006.

And despite the killing, and the culture of impunity that surrounds agents of the state, Sri Lankan asylum seekers continue to be met with suspicion on arrival in the UK. Nearly 20 of those seen by the MF were detained on arrival in the UK prior to their referral to this organisation.

One glimmer of hope is the recent decision by a UK Asylum and Immigration Tribunal (AIT)² which upheld an appeal based on the grounds that a Tamil applicant would be at risk of torture if returned to Sri Lanka because of his perceived support for the LTTE. Whether that will lead to a significant change in the way the BIA views other similar cases has yet to be established.

What can be done and what is being done?

In September 2007 the Sri Lankan Government offered to halt major military operations against the LTTE in exchange for a resumption of peace talks. It was a major u-turn, as just days earlier Defence Minister Gotabhaya Rajapakse had called for a new offensive to finish off the insurgency.

The Government's change of heart followed warnings from the US, the EU and India, all key foreign backers of Sri Lanka, that there is no military solution to the ethnic conflict which over the past three decades has cost some 75,000 lives as Tamil militants have sought to carve out a homeland against the wishes of the Sinhalese majority. It also followed widespread criticism from international non-governmental organisations about the deteriorating human rights situation in the country.

In August, Human Rights Watch (HRW) accused the Sri Lankan government of unlawful killings, enforced disappearances and other serious human rights violations. Its report, entitled *Return to War, Human Rights Under Siege*, highlighted the failure of successive bodies established in Sri Lanka to investigate human rights abuses.

Amnesty International also urged the UN's Human Rights Council to call on the Sri Lankan government to address the "grave violations of human rights and international humanitarian law by all parties to the conflict" and condemned the impunity afforded to state perpetrators, particularly the police and security forces.

Both organisations called for an international, impartial human rights monitoring mission to record and investigate the human rights abuses, kidnappings and disappearances that are now widespread.

In September, a team of international observers set up to monitor a Presidential Commission of Inquiry into 15 incidents of political killings and disappearances on the island in 2005 and 2006, including the murders of 17 local employees of a French aid agency, warned that the commission was in danger of failing.

The International Independent Group of Eminent Persons (IIGEP) said "no significant progress" has been made. Its report stated that "the investigation and inquiry process to date fails to comply effectively with international norms and standards". Key findings were:

- The Commission is unlikely to have completed any case before the expiry of its mandate in November 2007,

² Judgement in the LP (LTTE area-Tamils-Colombo-risk?) Sri Lanka CG [2007] UK AIT 00076, "country guidance" case, August 2007.

- The exclusion of the public and families of victims from hearings "may undermine the transparency of the Commission's work",
- There are "serious conflicts of interest" in the way the commission was set up,
- The Commission still has no functioning" unit offering witnesses protection.

The Presidential Commission of Inquiry had already been criticised by HRW, which said it "seems more an effort to stave off domestic and international criticism than a sincere attempt to promote accountability and deter future abuse". The Asian Human Rights Commission also described the Sri Lankan government's commitment to investigating human rights abuses at present as no more than "mere words".

Addressing a UN conference in Geneva, Sunila Abeysekera, Executive Director of the Sri Lankan rights group INFORM, said: "We desperately need some outside mechanism that has the agreement of all parties."

It can only be hoped that the visit of UN Special Rapporteur on Torture Manfred Nowak to Sri Lanka, coupled with the visit of UN High Commissioner for Human Rights Louise Arbour, will add weight to INFORM's call.

Five recent case studies

The Medical Foundation provided some 31 medico-legal reports to Sri Lankan clients, extensively documenting the evidence of their claims of torture. At the time of writing, an additional five reports are outstanding.

The following case studies are based on reports from doctors and other clinicians who have a background of expertise in documenting torture and ill-treatment:

1. A Tamil Hindu male was detained and ill-treated a total of six times by the Sri Lankan authorities while living and working in Colombo. He had no connection with the LTTE but was repeatedly targeted by the army and questioned about his political affiliations. After his second arrest, the victim was taken to the "fourth floor", the CID office situated in the police headquarters with a number of other men. Inside, there were 30 detainees in a room smelling of blood, where chains attached to tyres hung from the ceiling. He reported seeing one man suspended upside down from one of the chains. The client was himself tied up and, as documented for the purposes of a medico-legal report by doctors at the MF, was hung upside down for a prolonged period, periodically beaten, kicked and hit with truncheons, rifle butts, cricket bats and sand-filled pipes.
2. A case that typifies the treatment meted out against many victims who were targeted by multiple groups is one of a young Tamil Hindu man from Vannee. Both his brothers were LTTE members and he himself was involved in smuggling goods for the organisation. In 2000 he was stopped by Sri Lankan CID officers and taken to their headquarters before being transferred to a nearby prison. During his two-year detention he was interrogated about his activities, beaten every day by guards, burnt with cigarettes, stripped naked and told the torture would only stop if he provided names of fellow LTTE members. In 2002 he was released after signing something he was unable to read in Sinhalese, and ordered to

leave Colombo. He resumed activity with the LTTE but was later detained by a rival LTTE faction. He was taken to a camp in the jungle and placed in a barbed wire cage for about five hours. He was later transferred to one camp and then another, spending a total of five months in detention. He fled to the UK with the help of an agent in 2006.

3. A Tamil Hindu woman from Jaffna joined the LTTE and with her mother, was paid to prepare food for the organisation after her father was killed by the Sri Lankan Army. In 2005, army officers raided the home and took her to an army camp. She was held in solitary confinement for four days. She was raped twice by two soldiers, who also banged her head against the wall and trampled her with their boots. She was released after admitting to her involvement with the LTTE. She became suicidal after her family felt ashamed of what had happened to her but was unable to seek help for fear of the army taking revenge and her rape becoming public knowledge.
4. Harassment by the Sri Lankan Army was common for women whose husbands, formerly involved with the LTTE, had fled the area. One Tamil Hindu woman was persecuted a total of 12 times from 1998. When her husband left, the authorities began to focus on her. On the first occasion she was arrested and detained at an army camp where she was beaten before being returned home. Soldiers would then come to her family's home every few days and rape her. She was also beaten by groups of soldiers and hit with rifle butts. She was ostracised by her family when they discovered she had been raped. After a failed suicide attempt, a family member arranged for her escape to the UK in 2006. She was referred to the MF suffering with nightmares and panic attacks.
5. In another case, a Tamil Hindu woman was targeted by the Sri Lankan army and the police when her husband, a former LTTE member previously detained by the police and anti-rebel groups, went missing. Police and army officers raided her home when LTTE men were there offering to help the woman find her husband. The LTTE party fled, but she was captured and held in an army camp for five weeks. During that period, she was ordered to identify LTTE members on at least ten occasions when she would be taken from her cell, hooded and driven out of the prison to a location where LTTE suspects were paraded in front of her. She was repeatedly beaten when she was unable to identify any of the suspects. She was frequently raped and sexually assaulted by groups of officers who would ply her with alcohol and on one occasion, administered a drug that rendered her unconscious. Disturbingly, it was a female officer who helped orchestrate the rapes, which were filmed and photographed. She was told she would be shot if she reported the rapes and after her release, became suicidal when she could not talk about her ordeal. She fled to the UK in 2006. Incredibly, in refusing the woman's claim for asylum by discrediting her story, the UK Home Office claimed that "civilians have nothing to fear from routine actions and inquiries made by the authorities in Sri Lanka in pursuance of their efforts to combat terrorism". Successive court hearings in which the client has been forced to relive the traumatic events of her past in a bid to convince the UK government of her need for protection as a refugee have since led her into a suicidal depression.