



SRI LANKA

Recurring Nightmare

State Responsibility for “Disappearances”
and Abductions in Sri Lanka

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Map of Sri Lanka



I. Summary

His father opened the door, and the men pushed him aside and then forced us and the children into one of the rooms. Junith Rex came out of his room, covering himself with a bed sheet, and the men grabbed him by the bed sheet and seized him. They wore black pants, green T-shirts, and their heads were wrapped with some black cloth. Later I found out that they arrived in a van, but they parked it on the main road. They smashed the lights bulbs in the room and dragged him away. They told him “Come,” in Tamil. He cried, “Mother!” but we couldn’t help him.

— Family member describing the abduction of Junith Rex Simsan on the night of January 22, 2007, following an army search of the house earlier that same day. At this writing, despite repeated inquiries by his family, his whereabouts remain unknown, his fate uncertain.

For instance, take the missing list. Some have gone on their honeymoon without the knowledge of their household is considered missing. Parents have lodged complaints that their children have disappeared but in fact, we have found, they have gone abroad.... These disappearance lists are all figures. One needs to deeply probe into each and every disappearance. I do not say we have no incidents of disappearances and human rights violations, but I must categorically state that the government is not involved at all.

— Sri Lankan President Mahinda Rajapaksa, in an interview to Asian Tribune, October 4, 2007.

The resumption of major military operations between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) in mid-2006 has brought the return of a haunting phenomenon from the country’s past—the widespread abduction and “disappearance” of young men by the parties to the conflict. With the de facto breakdown of the 2002 Norway-brokered ceasefire between the parties, and its formal dissolution in January 2008, it is likely armed conflict will intensify in the

coming year. Unless the Sri Lankan government takes far more decisive action to end the practice, uncover the fate of persons unaccounted for, and prosecute those responsible, then 2008 could see another surge in “disappearances.”

Hundreds of enforced disappearances committed since 2006 have already placed Sri Lanka among the countries with the highest number of new cases in the world. The victims are primarily young ethnic Tamil men who “disappear”—often after being picked up by government security forces in the country’s embattled north and east, but also in the capital Colombo. Some may be members or supporters of the LTTE, but this does not justify their detention in secret or without due process. Most are feared dead.

In the face of this crisis, the government of Sri Lanka has demonstrated an utter lack of resolve to investigate and prosecute those responsible. Families interviewed by Human Rights Watch all talked about their failed efforts to get the Sri Lankan authorities to act on the cases of their “disappeared” or abducted relatives.

The cost of this failure is high. It is not only measured in lives brutalized and lost, but in the anguish suffered by the survivors—the spouses, parents, and children who may never learn the fate of their “disappeared” loved one. And it is felt in the fear and uncertainty that remains in the communities where such horrific, unpunished crimes take place.

This report provides extensive case material and data about enforced disappearances and abductions since mid-2006. It details the Sri Lankan government’s response, which to date has been grossly inadequate. The government shows every sign of repeating the failures of past administrations, making lots of noise—including launching a spate of new mechanisms to investigate “disappearances”—but conducting little actual fact-finding and virtually no prosecution of perpetrators. The report concludes with specific recommendations on how authorities and concerned international actors can respond more effectively. The appendix to this report contains a detailed description of 99 cases documented by Human Rights Watch. A list of 498 additional cases documented by Sri Lankan

human rights groups is available at:

<http://hrw.org/reports/2008/srilanka0308/srilanka0308cases.pdf>.

* * *

Under international law, an enforced disappearance occurs when state authorities detain a person and then refuse to acknowledge the deprivation of liberty or the person's whereabouts, placing the person outside the protection of the law.

In Sri Lanka, “disappearances” have for too long accompanied armed conflict. Government security forces are believed to have been responsible for tens of thousands of “disappearances” during the short-lived but extremely violent insurgency from the left-wing Sinhalese nationalist Janatha Vimukthi Peramuna (JVP) from 1987 to 1990, and the ongoing two-decades-long civil war between the government and the Tamil-nationalist LTTE.

Enforced disappearances have again become a salient feature of the conflict. Figures released by various governmental and nongovernmental sources suggest that more than 1,500 people were reported missing from December 2005 through December 2007. Some are known to have been killed, and others have surfaced in detention or otherwise have been found, but the majority remain unaccounted for. Evidence suggests that most have been “disappeared” or abducted. The national Human Rights Commission (HRC) of Sri Lanka does not publicize its data on “disappearances,” but Human Rights Watch learned that about 1,000 cases were reported to the HRC in 2006, and over 300 cases in the first four months of 2007 alone.

“Disappearances” have primarily occurred in the conflict areas in the country's north and east—namely the districts of Jaffna, Mannar, Batticaloa, Ampara, and Vavuniya. A large number of cases have also been reported in Colombo.

Who Is Responsible?

In the great majority of cases documented by Human Rights Watch and Sri Lankan groups, evidence indicates the involvement of government security forces—army,

navy, or police. The Sri Lankan military, empowered by the country's counterterrorism laws, has long relied on extrajudicial means, such as "disappearances" and summary executions—in its operations against Tamil militants and JVP insurgents.

In a number of cases documented by Human Rights Watch, family members of the "disappeared" knew exactly which military units had detained their relatives, which camps they were taken to, and sometimes even the license plate numbers of the military vehicles that took them away.

In other cases, groups of about a dozen armed men took victims from their homes, located near army checkpoints, sentry posts, or other military positions. While eyewitnesses could not always identify the perpetrators beyond doubt, they suspected the military's involvement, as it seemed inconceivable that large groups of armed men could move around freely during curfew hours and get through checkpoints without the military's knowledge.

Relatives frequently described uniformed policemen, especially members of the Criminal Investigation Department (CID), taking their relatives into custody before they "disappeared." The police claimed that these individuals were needed for questioning, yet did not say where they were being taken and did not produce the required "arrest receipt." After these arrests, the families did not manage to obtain any information on the detainees' fate or whereabouts.

The involvement of the security forces in "disappearances" is facilitated by Sri Lanka's emergency laws, which grant sweeping powers to the army along with broad immunity from prosecution. Several provisions of the two emergency regulations currently in force create a legal framework conducive to "disappearances." People can be arrested without a warrant and detained indefinitely on vaguely defined charges; there is no requirement to publish a list of authorized places of detention; and security forces can dispose of dead bodies without public notification and without disclosing the results of the post-mortem examination, thus preventing proper investigations into custodial deaths.

Also implicated in abductions and “disappearances” are pro-government Tamil armed groups acting either independently or in conjunction with the security forces. Relatives of the “disappeared” have often pointed to the Karuna group, which broke away from the LTTE in March 2004 and operates primarily in the east and in Colombo. In Jaffna, eyewitnesses to several abductions have implicated members of the Eelam People’s Democratic Party (EPDP), a Tamil political party that has long been targeted by the LTTE.

Both groups cooperate closely with Sri Lankan security forces. The military and police frequently use native Tamil speakers, often alleged to be Karuna group or EPDP members, to identify and at times apprehend suspected LTTE supporters. In several cases reported to Human Rights Watch, families said that they were first visited and questioned by the military, and then, usually several hours later, a group of Tamil-speaking armed men came to their house and took their relatives away. On other occasions, the Karuna group and EPDP seemed to be acting on their own—settling scores with the LTTE or abducting persons for ransom—with security forces turning a blind eye.

The LTTE has been implicated in abductions in conflict areas under the government’s control, though the numbers reported to human rights groups and the Human Rights Commission are comparatively low. This is not cause for complacency about LTTE practices which, as Human Rights Watch and others have documented elsewhere, include bombings targeting civilians, massacres, torture, political assassinations, systematic repression of basic civil and political rights in LTTE-controlled areas, and other serious abuses. In part, the LTTE abduction numbers are low because it is not the LTTE’s primary tactic; the LTTE prefers to openly execute opponents, perhaps to ensure a deterrent effect on the population. LTTE abductions may also be under-reported because the family members of the victims and eyewitnesses are often reluctant to report the abuses, fearing LTTE retribution.

Who Is Being Targeted?

No matter who is responsible for the “disappearances,” the vast majority of the victims are ethnic Tamils, although Muslims and Sinhalese have also been targeted. The security forces appear to target individuals primarily because of their alleged

membership in or affiliation with the LTTE. Young Tamil men are among the most frequent targets, including a significant number of high school and university students. In other cases, the “disappearances” of clergy, educators, humanitarian aid workers, and journalists not only remove these persons from the civil sphere but act as a warning to others to avoid such activities.

In the north and east, many arrests leading to “disappearances” have occurred during or after military cordon-and-search operations following an LTTE attack. During such operations, the military either has detained people or seized their documents and requested that they report to the army camp or another location to collect them. In both scenarios, some of these people have never returned, and the relatives’ efforts to obtain any information on their whereabouts from the military have proved futile.

Particularly in Jaffna, individuals often have been “disappeared” after being stopped by military personnel at checkpoints, or as a result of targeted raids that sometimes followed claymore mine attacks or similar security incidents. In several cases in Jaffna, family members believe that EPDP cadres participated in the raids—judging by the perpetrators’ native Tamil speech, appearance, and cars leaving in the direction of EPDP camps.

In the east, Human Rights Watch received credible reports from eyewitnesses and humanitarian aid workers of “disappearances” that took place when thousands of people fled LTTE areas during fighting in late 2006 and early 2007. The army and the Karuna group reportedly screened displaced persons entering government-controlled territory to identify suspected LTTE members. In a number of cases, young Tamil men detained as a result of such screenings then “disappeared.”

Particularly in Colombo, and in the eastern districts of Batticaloa, Trincomalee, and Ampara, the lines between politically motivated “disappearances” and abductions for ransom have blurred since late 2006, with different groups taking advantage of the climate of impunity to engage in abductions as a way of extorting funds. While criminal gangs are likely behind some of the abductions, there is considerable

evidence that the Karuna group and EPDP have taken up the practice to fund their forces, while the police look the other way.

Human Rights Watch has previously reported on abductions by the Karuna group in the east for the purpose of forced recruitment, including of boys. In many such cases, while the families knew that their husbands or sons were taken away to be used as soldiers, they subsequently received no information on their fate or whereabouts.

Unpunished Crimes

Enforced disappearances are a continuing offense—meaning the crime continues to be committed until the whereabouts or fate of the victim becomes known. The continuing nature of the crime takes a particularly heavy toll, with family members left wondering for months or years or forever whether their loved one is alive or dead. Some of the “disappeared” reappear as corpses showing signs of execution or torture, or turn up alive in detention in police custody or army camps, or simply turn out never to have been disappeared after all. But the great majority never turn up again and are presumed dead, victims of extrajudicial execution or other death in custody.

A critical factor contributing to continuing “disappearances” in Sri Lanka is the systemic impunity enjoyed by members of the security forces and pro-government armed groups for abuses they commit.

Police still do not investigate most of the cases and rarely follow up with families on the progress of cases, claiming they lack sufficient information to identify perpetrators and locate victims. As detailed in this report, however, family members say that even when they provide details to the police that should at least give a start to an investigation—such as the license plate numbers of the vehicles allegedly used in the abductions and the names of people or military units the family believes were involved—police do not follow through.

Figures on accountability released by the government show how little has been done to bring perpetrators to justice. A document provided to Human Rights Watch by the Sri Lankan government in October 2007 mentions only two pending cases against

army personnel for unspecified human rights violations committed in 2005-2006, and refers to a recent indictment served on an unspecified number of army personnel for the killing of five students in Vavuniya in 2007. None of the indictments for abductions and “wrongful confinement” mentioned in the document appear to be for abuses committed since mid-2006.

The only known arrests for recent abductions were of former Air Force Squadron Leader Nishantha Gajanayake and another two policemen and an air force sergeant in June 2007. Although Sri Lankan authorities widely publicized these arrests as proof of their resolute action against the abductors and promised to promptly bring the perpetrators to justice, in early February 2008 the suspects were released; it is unclear whether charges against them were dropped.

The Government’s Response

Instead of making a diligent effort to investigate and prosecute enforced disappearances, the government of President Mahinda Rajapaksa continues to downplay the scope of the problem. Many official statements suggest there is no “disappearance” crisis at all or, if there is one, the sole perpetrators are LTTE fighters and common criminals. While the government has set up various mechanisms to address abductions and “disappearances,” all have lacked the independence, power, resources, and capacity necessary to conduct effective investigations.

Sri Lanka has a long history of setting up mechanisms to address “disappearances” but not following through. Four official commissions of inquiry set up by then President Chandrika Kumaratunga in the 1990s established that more than 20,000 people “disappeared” during armed conflicts in the 1980s and 1990s. Human rights groups believe that the actual figure may be two to three times higher. These commissions identified suspected perpetrators in more than 2,000 cases, but few have ever been prosecuted, and only a handful of low-ranking officers were convicted. Nor have successive governments meaningfully implemented the commissions’ recommendations for legal and institutional reforms aimed at preventing “disappearances” in the future.

The Rajapaksa government's response to the surge in "disappearances" starting in mid-2006 appears to be following this pattern. First, the independence of existing government bodies, the Human Rights Commission and the National Police Commission, has been significantly undermined by decisions by the president to bypass constitutional requirements and directly appoint commissioners to these bodies.

Despite the hundreds of alleged "disappearances" reported over the last two years to the Human Rights Commission, it has issued no public reports on the matter, has refused to provide statistics on the complaints it has received, and has tried to downplay the scale of the problem. The monitoring and investigative authority of the Human Rights Commission has also been effectively negated by the obstructive attitude of the security forces and lack of support from the government. As a sign of the HRC's failings, in December 2007 the international body that regulates national human rights commissions downgraded the HRC's status to "observer" because of government encroachment on its independence.

Second, while the government has created at least nine other special bodies to address "disappearances" and other human rights violations—all of them described in the report—as yet none of them have yielded concrete results.

Aside from periodic announcements on their establishment, the government rarely has provided any information regarding the mandate of such bodies, or the progress made in the investigations. The government also has not explained whether it continues to create new bodies because of the inability of previously established mechanisms to deal with the problem, or whether it is simultaneously correcting flaws in existing mechanisms.

Many observers believe that most of these bodies have been established to give the impression the government is taking seriously reports of widespread "disappearances" by security forces even as officials dither in initiating investigations into the cases. The government's continuing dismal record in prosecuting perpetrators lends credence to such beliefs.

The lack of progress in investigations and the failure to halt the abuses is hardly surprising given that, at the highest levels, the Sri Lankan government continues to deny any new “disappearance” crisis or that its security forces are responsible for any significant portion of the violations. Typical in this respect are claims made by Judge Mahanama Tillekeratne, who stated that the abductions were “the result of personal grudges,” and that the majority of the missing persons have returned, neither of which claim is substantiated by the evidence.

President Rajapaksa, government ministers, and the government’s Secretariat for Coordinating the Peace Process (SCOPP) also have repeatedly dismissed reports of widespread “disappearances” as LTTE propaganda aimed at smearing the state’s image. They have claimed that most of the missing individuals have returned, left the country, went into hiding to escape criminal charges, or simply left home and failed to inform their families of their whereabouts—without providing facts to support these contentions.

These claims contradict statements made by some Sri Lankan law enforcement officials, such as the inspector general of the police, and information, albeit limited, that has been released by the governmental commissions, as well as facts and figures publicized by the media and NGOs. Such claims also invite the obvious question of why the government has felt the need to establish so many different mechanisms to look into an allegedly non-existent problem. High-level attempts to dismiss the problem of “disappearances” send a signal to security forces that the government does not take the allegations of their involvement in human rights abuses seriously.

International Response

Various United Nations mechanisms and some of Sri Lanka’s key international partners have raised concerns about the high number of enforced disappearances since mid-2006. Senior UN officials visiting Sri Lanka such as the High Commissioner for Human Rights, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Advisor on Children and Armed Conflict, have all noted the alarming prevalence of impunity and the failure of law enforcement bodies and

national human rights mechanisms to establish accountability. Foreign governments such as the United States and United Kingdom have also spoken out.

Sri Lanka's response to the growing international criticism has taken two forms. The government has intensively lobbied international organizations and bilateral partners, emphasizing improvements in the human rights situation and its willingness to cooperate with UN officials and human rights specialists. At the same time it has fiercely attacked its critics, including the very same UN representatives, accusing them of being, at best, ignorant of the situation and, at worst, LTTE sympathizers.

The continued refusal of the Sri Lankan government to acknowledge and adequately address the wide range of human rights violations has led to growing national and international support for the establishment of a UN human rights monitoring mission to investigate and report on abuses by government forces and the LTTE throughout the country.

The European Union and more recently the US government have joined the calls of domestic and international NGOs for establishing an international monitoring mission under the auspices of the Office of the High Commissioner for Human Rights. During her October 2007 visit to Sri Lanka, UN High Commissioner for Human Rights Louise Arbour expressed the willingness of her office to work with the Sri Lankan government toward establishing such a presence.

The Sri Lankan government has thus far rejected the proposals for any international monitoring mechanism. This response belies the government's claims that it is taking the measures necessary to protect the rights of all its citizens.

Key Recommendations

- The Sri Lankan government should publicly acknowledge the scope of “disappearances” in the country and the continuing role of security forces in committing such abuses.

The Sri Lankan government will not make meaningful progress in ending “disappearances” until it takes the problem seriously and is seen to be taking it seriously. However many new mechanisms the government creates, their efforts cannot be expected to succeed when senior officials deny there is a serious problem. An essential starting point is unambiguous acknowledgment of the problem, and of the role of security forces and pro-government, non-state armed groups in perpetuating the practice.

- The Sri Lankan government should reform detention procedures to ensure transparency and compliance with international due process standards.

In order to stop the spree of new “disappearances,” the government should ensure that all persons taken into custody are held in recognized places of detention, and each facility maintains detailed detention records. Detained individuals must be allowed contact with family and unhindered access to legal counsel; they should promptly be brought before a judge and informed of the reasons for arrest and any charges against them.

- The Sri Lankan government should vigorously investigate and prosecute perpetrators of “disappearances.”

Lack of accountability for perpetrators is one of the key factors contributing to the crisis of “disappearances.” The authorities must vigorously investigate all cases of enforced disappearances and arbitrary arrests, including those documented in this report—until in each case the fate or whereabouts of the person is clearly and publicly established. Those responsible for “disappearances” and abductions, be it members of government security forces or members of non-state armed groups, must be disciplined or prosecuted as appropriate.

- The government and the LTTE should cooperate with the UN Office of the High Commissioner for Human Rights to establish and deploy an international monitoring team to report on violations of international human rights and humanitarian law by all parties to the conflict.

Deployment of an experienced international monitoring team would save lives, curtail abuses, and promote accountability. Here, the burden rests not only with the Sri Lankan government and LTTE, but also with concerned international actors. The latter should make it clear that they view the Sri Lankan government's position on deployment of such a team as an important test of its commitment to human rights and its willingness to take real, rather than feigned, measures to address continuing problems. Sri Lanka's international partners, in particular India and Japan, should make further military and other non-humanitarian assistance to Sri Lanka contingent on government efforts to halt the practice of "disappearances" and to end impunity, including its acceptance of an international monitoring team.

International monitoring has proven particularly effective in dealing with the problem of large-scale "disappearances." With sufficient mandate and resources, the monitoring mission could achieve what the government and various national mechanisms have failed to do—establish the location of the detainees through unimpeded visits to the detention facilities; request information regarding specific cases from all sides to the conflict; assist national law enforcement agencies and human rights mechanisms in investigating the cases and communicating with the families; and maintain credible records of reported cases.

Detailed recommendations to the Sri Lankan government, the LTTE, and the international community are found in the closing chapter of this report.

Note on Methodology

This report is based on field research carried out in Sri Lanka in February, March, and June 2007, and follow-up research through January 2008. Human Rights Watch conducted over 100 interviews with families of the "disappeared," as well as dozens of interviews with human rights activists, lawyers, and international agencies working in Sri Lanka. Human Rights Watch visited Colombo and its environs, and the districts of Batticaloa and Jaffna.

Following the visits, Human Rights Watch communicated closely with local NGOs and international organizations working in Sri Lanka to update the information and obtain new data.

Human Rights Watch has raised its concerns in various meetings with the president of Sri Lanka, the foreign minister, and the minister for disaster management and human rights, among other Sri Lankan officials. Human Rights Watch sent inquiries to various Sri Lankan authorities—the Ministry for Disaster Management and Human Rights, the Inspectorate General of the Police, the Defense Ministry, the Human Rights Commission, and the Presidential Commission on Abductions, Disappearances, and Killings—requesting information related to the issues raised in this report. Human Rights Watch also sent an inquiry to Eelam People’s Democratic Party (EPDP).

Human Rights Watch received responses from the Human Rights Commission of Sri Lanka and the Sri Lankan police. The EPDP also responded to the inquiry. Their responses are incorporated in the relevant sections of this report. Other officials mentioned above did not respond to Human Rights Watch inquiries. Human Rights Watch letters of inquiry and responses we have received are appended to this report (Appendix II).

Appendix I of this report contains detailed descriptions of 99 cases of “disappearances” and abductions documented by Human Rights Watch. A list of 498 additional cases reported to Sri Lankan human rights groups is available at: <http://hrw.org/reports/2008/srilanka0308/srilanka0308cases.pdf>.

While all efforts were made to ensure that information in Appendix I is up to date, given the challenge of obtaining information from some parts of Sri Lanka, especially the north, it is possible that new developments may have occurred in some of the cases before the report went to print.

Human Rights Watch also notes that in some of the documented cases there were no eyewitnesses to the abduction or arrest, and such cases may not technically qualify as “disappearances.” Most such cases were excluded from this publication; where we have included such cases it is because there is other evidence, set forth during our discussion of the case, suggesting the victim was abducted by a pro-government armed group, the LTTE, or government security forces.

II. Background

The armed conflict

In July 1983, an attack on government troops by the Liberation Tigers of Tamil Eelam (LTTE) sparked riots in Colombo and elsewhere causing several hundred Tamil deaths, now referred to as Black July. The ensuing civil war between the government and the LTTE has been marked by gross violations of international human rights and humanitarian law by both sides, and has claimed over 60,000 lives.

The LTTE, in its struggle for an independent Tamil state, has been responsible for untold human rights abuses. It has repeatedly targeted civilians in its military operations, and assassinated leaders and members of rival Tamil parties, journalists, and human rights activists. The LTTE has engaged in massacres, retaliatory killings, and “ethnic cleansing” of Sinhalese and Muslim villagers. Since the late 1980s, the LTTE has controlled significant areas of north and east Sri Lanka, collecting “taxes” and administering justice. It has imprisoned, tortured, and executed thousands of Tamil dissidents and their family members. In areas under its control the LTTE tolerates no freedom of expression, association, or assembly, and it has recruited thousands of children for use as soldiers, many of whom have died in combat.

Government security forces have likewise been responsible for numerous serious violations throughout the two decades of fighting. The Sri Lankan armed forces have carried out massacres of Tamil civilians and engaged in indiscriminate aerial and artillery bombardment of populated areas, including medical facilities and places of worship where civilians have taken refuge. Suspected sympathizers with the LTTE and other Tamil groups have been subject to mass arrests, prolonged detention without trial, torture, enforced disappearances, and extrajudicial executions. Government forces have displaced hundreds of thousands of Tamil civilians, often in an apparent attempt to deprive the LTTE of local support.

For 20 years the civil war was punctuated by large-scale and bloody military operations, short-lived ceasefires, and the 32-month presence in the late 1980s of an Indian Peace Keeping Force. In February 2002, under the auspices of the

Norwegian government, the Sri Lankan government and the LTTE signed a ceasefire agreement (CFA).¹ The ceasefire brought a respite from hostilities, but not an end to serious abuses.

From February 1, 2002, through December 31, 2006, the Nordic-led Sri Lanka Monitoring Mission (SLMM), established to monitor compliance with the CFA, reported over 4,000 violations of the agreement. These included targeted killings and other acts of violence and intimidation against civilians, committed predominately by the LTTE.²

While the Sri Lankan government did not formally withdraw from the CFA until January 2008, full-fledged fighting between the government forces and the LTTE resumed in mid-2006. The LTTE launched unsuccessful attacks against government-controlled Mutur and Jaffna, and attacked Sri Lankan military bases and convoys in different parts of the country—from Palaly airbase in the north to Navy headquarters in southernmost Galle.

In 2006 through early 2007, the government concentrated its military offensive in the east, which was already considerably weakened after the cadre of the LTTE chief military commander there, V. Muralitharan (aka Colonel Karuna), split from the LTTE in March 2004 and began cooperating with government forces. Following large-scale military operations in the Trincomalee, Batticaloa, and Vakarai areas, the government claimed in March 2007 to have cleared the LTTE from the eastern coast.

The fighting is likely to continue. For the past 18 months, both parties have treated the ceasefire agreement as defunct, and the government, inspired by its military successes in the east, has made no secret of its intentions to proceed with a military offensive in the north. Clashes in the northern districts of Mannar and Vavuniya in the second half of 2007 have already inflicted heavy casualties on both sides.

¹ The Agreement on a Ceasefire between the Government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam, signed on February 21, 2002, had the stated objective to “find a negotiated solution to the ongoing ethnic conflict in Sri Lanka.” The agreement set up modalities of the ceasefire, measures to restore normalcy, and the Sri Lanka Monitoring Mission. The agreement can be viewed at <http://www.slmm.lk/documents/cfa.htm> (accessed May 15, 2007).

² According to SLMM, the LTTE committed 3,827 ruled violations; the GOSL committed 346 ruled violations. To view SLMM reports, see <http://www.slmm.lk>.

The resumption of major military operations also triggered a new cycle of human rights abuses, including intentional and indiscriminate attacks on civilians, forced returns of internally displaced people, extrajudicial executions and “disappearances,” arbitrary arrests under draconian emergency laws, and recruitment of children as soldiers. The renewed conflict has also led to renewed government crackdown on dissenting voices, including political opponents, journalists, and human rights activists.³

History of “disappearances” in Sri Lanka

The large-scale enforced disappearances are not a new phenomenon in Sri Lanka. In the past, thousands of people have “disappeared” in the context of the two major civil conflicts that have wracked the country since independence: the insurgency led by the left-wing Sinhalese Janatha Vimukthi Peramuna (JVP) in 1987-90, and the two-decade long armed conflict between the LTTE and the government.

Presidential commissions established during the 1990s found that over 20,000 persons “disappeared” during these two conflicts. Some analysts and domestic human rights groups believe that the actual figure may be two to three times higher.⁴

Between 1983 and mid-1987, Amnesty International documented at least 680 cases of “disappearances” committed in the north and east in the context of the escalating armed conflict between the security forces and militant Tamil groups.⁵ Another 43 cases were reported to the organization from mid-1987 to 1989, when the Indian Peace Keeping Force (IPKF) was responsible for security in the north under the terms of the Indo-Sri Lanka Accord.⁶

³ Human rights violations in the context of the renewed conflict are documented in detail in Human Rights Watch’s recent report on Sri Lanka, see e.g. Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007.

⁴ Priyadharshini Dias, “Involuntary Disappearances and Other Violations of Human Rights—Sri Lankan Experience,” and the figures by Organization of the Parents and Family Members of the Disappeared (OPFMD), cited in: Wasana Punyasena, “The Façade of Accountability: Disappearances in Sri Lanka,” Boston College, *Third World Law Review*, vol. 23, no. 1, 2003.

⁵ Amnesty International “Sri Lanka: Government’s Response to Widespread ‘Disappearances’ in Jaffna,” ASA 37/024/1997, November 27, 1997.

⁶ The Indian Peace Keeping Force was dispatched to the north of Sri Lanka after the conflict between the LTTE and government forces escalated in mid-1987. The IPKF forced the government to accept constitutional amendments that promised a degree of autonomy for the Tamils. The IPKF, however, quickly found itself embroiled in fighting with the LTTE. The Indo-Sri Lanka Accord was unpopular among both Tamils and Sinhalese, and in 1989, under pressure from the Sri Lankan government, India

In the south, from 1987 to 1989, the security forces “disappeared” and extrajudicially executed thousands of people while suppressing an armed insurgency within the majority Sinhalese community.⁷ Many of these abuses were perpetrated by plainclothes death squads which also regularly displayed mutilated bodies of the executed insurgents and their supporters in public.⁸

This brutal counter-insurgency campaign was then transferred to the east when the military returned there after the resumption of hostilities between the government and the LTTE in June 1990. The number of those reported to have been “disappeared” or deliberately killed in the custody of the Sri Lankan security forces reached thousands within months.

The majority of victims were young Tamil men suspected of belonging to or associating with the LTTE. Most of them “disappeared” after being detained in the course of cordon-and-search operations conducted by the army, often in conjunction with the police, and particularly the elite Special Task Force (STF).⁹

A new wave of “disappearances” engulfed the north in 1996-1997 after the army succeeded in regaining control of the Jaffna peninsula from the LTTE as a result of several large-scale military operations. The UN Working Group on Enforced and Involuntary Disappearances received reports of 622 new cases in 1996, and another 92 in 1997—the highest number of “disappearances” reported from any country in

had to pull out its troops. The IPKF is believed to have been responsible for a number of human rights violations, including enforced disappearances.

⁷ According to the WGEID, 145 cases were reported in 1987; 182 in 1988; 5,027 in 1989; and 4,777 in 1990; although the majority of cases reported in 1990 occurred in the north, after the resumption of hostilities between the government and the LTTE. See UN Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/Add.1/2000/64 (1999).

⁸ The uprising was led by Sinhalese nationalist group, Janatha Vimukthi Peramuna (People's Liberation Front, or JVP). Initially Marxist in orientation, the group emerged increasingly as a Sinhalese nationalist organization opposing any compromise with the Tamil insurgency. The 1987 uprising was largely fueled by the Indo-Sri Lankan Accord when the prospect of Tamil autonomy and the presence of Indian troops stirred up a wave of Sinhalese nationalism. During the uprising the JVP committed numerous abuses, including the use of violence to enforce general strikes (*hartals*), assassinations of civilian officials, and targeting family members of police and army personnel. In recent years a revamped JVP has been involved in electoral politics, winning sizable minorities of seats.

⁹ The Special Task Force (STF) was formed within the police in 1983 as a paramilitary unit specializing in counterterrorist and counterinsurgency operations.

those years.¹⁰ Most of the victims “disappeared” after they were taken into custody during round-up operations or at military checkpoints set up throughout the peninsula.¹¹

In response to international criticism and public pressure, in the 1990s, successive Sri Lankan presidents set up commissions to investigate the countless “disappearances.”

The first Presidential Commission of Inquiry into the Involuntary Removal of Persons, set up by President Ranasinghe Premadasa in January 1991, was a specious exercise. Its mandate did not even cover the entire period of the JVP uprising when thousands of “disappearances” took place.¹²

In 1994 President Chandrika Kumaratunga set up three linked commissions of inquiry, each named a “Presidential Commission of Inquiry into Involuntary Removal or Disappearance of Persons,” to investigate abuses that occurred in different regions of the country from 1988 to 1994. The commissions began their work in January 1995.

Each commission, composed of three members, was assigned a specific geographical area of the country. After the commissions’ mandate expired, the government appointed a fourth commission of inquiry, known as the “All Island Presidential Commission on Disappearances,” to inquire into some 10,000 remaining complaints. This commission functioned from 1998 to 2000.

¹⁰ UN Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/Add.1/2000/64 (1999).

¹¹ Amnesty International “Sri Lanka: Government’s Response to Widespread ‘Disappearances’ in Jaffna,” ASA 37/024/1997, November 27, 1997.

¹² United National Human Rights Committee, Fourth periodic report, Sri Lanka, CCPR/C/LKA/2002/4, October 18, 2002. See also Amnesty International, “Implementation of the Recommendations of the UN Working Group on Enforced or Involuntary Disappearances following their visits to Sri Lanka in 1991 and 1992,” ASA 37/004/1998, February 1, 1998.

The four commissions analyzed tens of thousands of complaints and established that over 20,000 cases of “disappearances” had occurred, most at the hands of security forces.¹³

Upon completion of its work, the All Island Commission referred 16,305 complaints which it could not review (due to the limitations of its mandate) to the Sri Lankan Human Rights Commission. In 1994 the HRC started processing these complaints, and the commission’s Disappearances Data Base Project eventually identified 2,127 cases to be further investigated by the commission. In July 2006, however, the HRC reportedly decided not to pursue the investigations into these complaints “unless special directions are received from the Government.”¹⁴

Uncovering evidence of systematic state-sponsored violence, the three regional commissions identified suspected perpetrators in 1,681 cases, and the All Island Commission identified another several hundred individuals responsible for “disappearances.”¹⁵

These findings, however, led to few prosecutions and only a handful of convictions. According to the government, following the commissions’ recommendations, in 1997 a special “Disappearances Investigations Unit” was established under the deputy inspector general of the police, which by the end of 2000 had completed investigations into 1,175 of the 1,681 cases identified by the commissions. These

¹³ The first three commissions analyzed 27,526 and established 16,742 cases of “disappearance;” the All Island Commission investigated another 10,136 complaints and established evidence of 4,473 cases of “disappearance.” See “Final Report of the Commission Of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island),” 2001, http://www.disappearances.org/news/mainfile.php/frep_sl_ai/ (accessed November 4, 2007); “Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Western, Southern and Sabaragamuwa Provinces,” 1997, http://www.disappearances.org/news/mainfile.php/frep_sl_western/ (accessed November 4, 2007); “Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Northern and Eastern Provinces,” 1997, http://www.disappearances.org/news/mainfile.php/frep_sl_ne/ (accessed November 4, 2007).

¹⁴ Namini Wijedasa, “No Investigations ‘Without Special Directions from Government’ – HRC dumps 2,000 Uninquired Complaints,” *Sunday Island*, July 16, 2006. See also, “Sri Lanka: The Human Rights Commission of Sri Lanka Has Stopped Investigations into 2000 Disappearance Cases to Avoid Having to Pay Government Compensation to the Victims,” Statement by the Asian Human Rights Commission, AS-169-2006, July 18, 2006. When WGEID asked Sri Lankan authorities to clarify these reports, the government said that the HRC is “an independent body,” and the government can only transmit to the HRC “any representations forwarded, with the request for appropriate action.” See United Nations Human Right Council, Fourth session, Item 2 of the provisional agenda, “Report of the Working Group on Enforced or Involuntary Disappearances,” A/HRC/4/41, January 25, 2007.

¹⁵ See United National Human Rights Committee, Fourth periodic report, Sri Lanka, CCPR/C/LKA/2002/4, October 18, 2002; Final Report of the Commission Of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island),” 2001, http://www.disappearances.org/news/mainfile.php/frep_sl_ai/ (accessed November 4, 2007).

cases were then transferred to the newly established “Missing Persons Commissions Unit” in the Attorney General’s Department to consider instituting criminal proceedings against the perpetrators. As a result, criminal proceedings were instituted against 597 members of the security forces.¹⁶ Very few of those cases, however, seem to have proceeded to trial, and only a few junior officers were convicted.¹⁷

While no independent commission was established to look into the “disappearances” committed in Jaffna in 1996, the Sri Lankan secretary of defense created a special Board of Investigation consisting of high-level officials of the armed forces and the police to examine these cases. Having investigated 2,621 complaints, the Board of Investigation concluded that 378 persons had “disappeared” in the Jaffna peninsula in 1996. It is unclear whether any members of the security forces were ever indicted based on the Board of Investigation’s findings—according to the government, the Disappearances Investigation Unit had not completed any investigations into these cases by the end of 2002;¹⁸ more recent information on these investigations is not available.

The only two noteworthy cases where the investigations into “disappearances” have led to prosecutions and convictions are the Embilipitiya killings and the murder of Krishanthi Kumaraswamy, described immediately below.

Following years of investigation into the 1989 abduction, torture, and murder of more than 50 high-school students in an army camp in Embilipitiya, nine suspects were brought to trial in 1994. In February 1999, five military personnel, including the local brigadier, as well as the principal of the high school, were convicted of abduction with the intent to commit murder and wrongful confinement and sentenced to 10

¹⁶ United National Human Rights Committee, Fourth periodic report, Sri Lanka, CCPR/C/LKA/2002/4, October 18, 2002.

¹⁷ Kishali Pinto Jayawardena, “A Critical Look at the Relevant Legal Context Pertaining to Sri Lanka’s Commission of Inquiry to Investigate Grave Human Rights Violations,” advisory opinion for Action Contre La Faim, February 1, 2007, cited in: International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

¹⁸ UN Human Rights Committee, Fourth periodic report, Sri Lanka, CCPR/C/LKA/2002/4, October 18, 2002.

years in prison.¹⁹ The brigadier was later acquitted on appeal for lack of direct involvement.

In the other case, nine soldiers were arrested for the 1996 abduction and murder of an 18-year-old Tamil student, Krishanthi Kumaraswamy, and her mother, brother, and a friend in Jaffna. In 1998 five of the soldiers were convicted and sentenced to death.

The five convicted soldiers revealed the existence of mass graves in the town of Chemmani, which allegedly contained the bodies of up to 400 persons “disappeared” and killed by security forces in 1996, when government troops recaptured the Jaffna peninsula from the LTTE.²⁰ Subsequent investigations initially fed hopes that this would be a first significant step toward ending impunity for “disappearances.” Ultimately, however, only 15 bodies were discovered because of “unfinished exhumations, inconclusive DNA tests, and political resistance.”²¹ Initial arrests of several members of the security forces led to no indictments, and by early 2006 the investigation had come to a standstill.²²

As the above description makes clear, the work of the various commissions of inquiry and the investigative bodies ultimately failed to bring about a meaningful accountability process.

The commissions did make detailed recommendations for legal and institutional reforms to prevent “disappearances” in the future. Most of these, however, were either completely ignored by successive governments, or were introduced only on

¹⁹ For more details, see Amnesty International, “Sri Lanka: Judgment in Landmark Case -- Another Step against Impunity,” ASA 37/05/99, February 10, 1999.

²⁰ As mentioned above, numerous setbacks stalled the exhumation and the investigation process. Only 15 bodies were discovered, and while initially a handful of security personnel were arrested, no indictment followed. See, e.g., University Teachers for Human Rights (Jaffna), “Gaps in the Krishanthi Kumarasamy Case: Disappearances and Accountability,” Special Report No 12, April 28, 1999; Celia W. Dugger, “Graves of the Missing Haunt Sri Lanka,” *The New York Times*, August 29, 2001. In January 2006, police told the Colombo magistrate that they were unable to proceed in the absence of instructions from the attorney general, despite having handed over the findings of their investigations. See “No Instructions on Chemmani” – CID,” *BBC Sinhala News*, 4 January 2006.

²¹ International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

²² In January 2006, police told the Colombo magistrate that they were unable to proceed in the absence of instructions from the attorney general, despite having handed over the findings of their investigations. See “No Instructions on Chemmani” – CID,” *BBC Sinhala News*, January 4, 2006.

paper, with no genuine effort made to implement them.²³ For example, the commissions determined that the Emergency Regulations created a legal framework conducive to “disappearances,” and called for “the utilization of the powers under the Emergency Regulations [to] be minimized.”²⁴ However, as this report shows, the current government has continued to rely heavily on emergency laws, which remove basic constitutional safeguards and grant sweeping powers to the security forces.

One important step taken by the Kumaratunga administration in pursuance of the commissions’ recommendations was the simplification of the system for paying compensation and issuing death certificates to the families of the “disappeared.” On the basis of new legislation, some 15,000 death certificates were issued between 1995 and 1999,²⁵ and by 2002, compensation had been paid to families of 16,324 victims.²⁶

However, the 2006 decision of the HRC to drop the investigation into the 2,127 complaints of “disappearances” in its database was reportedly due to HRC concerns that “the findings will result in payment of compensation” to the families, suggesting that the one area in which progress was being made—compensation—actually may have led to the curtailment of essential investigations. The decision also casts doubt on the extent to which the government would be willing to pay compensation in the future.²⁷

²³ A good example of such a nominally implemented recommendation is the requirement that members of the armed forces and police inform the Human rights Commission of arrests or detentions within 48 hours. This provision, incorporated into the Human Rights Commission Act, has been routinely ignored by the security forces.

²⁴ Final Report of the Commission of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island),” 2001, http://www.disappearances.org/news/mainfile.php/frep_sl_ai/ (accessed November 4, 2007).

²⁵ In 1995, the government enacted the Registration of Deaths (Temporary Provisions) Act No. 2 in order to simplify and expedite the process of issuing death certificates in respect of persons who are presumed dead. The procedure was further simplified by the Registration of Deaths (Temporary Provisions) Act No. 58, enacted in 1998. In May 1999, a special “Unit for the Clarification of Cases of Alleged Forced or Involuntary Disappearances,” which was set up by the cabinet ministers as part of the Rehabilitation of Persons, Properties and Industries Authority (REPPIA), started to operate a special computer program relating to all cases of “disappearances” submitted by the WGEID to the government of Sri Lanka. See UN Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/Add.1/2000/64 (1999).

²⁶ United National Human Rights Committee, Fourth periodic report, Sri Lanka, CCPR/C/LKA/2002/4, October 18, 2002.

²⁷ Namini Wijedasa, “No Investigations ‘Without Special Directions from Government’ – HRC dumps 2,000 Uninquired Complaints,” *Sunday Island*, July 16, 2006. See also, Sri Lanka: The Human Rights Commission of Sri Lanka Has Stopped Investigations into 2000 Disappearance Cases to Avoid Having to Pay Government Compensation to the Victims,” Statement by the Asian Human Rights Commission, AS-169-2006, July 18, 2006.

In the 1990s the large-scale pattern of “disappearances” in Sri Lanka was repeatedly addressed by the UN Working Group on Enforced and Involuntary Disappearances. The UN Working Group undertook field missions to the country in 1991, 1992, and 1999. Between 1980, when the UN Working Group was established, and 2006, the Working Group transmitted 12,319 cases to the government—of those, 5,749 cases remain outstanding.²⁸

Following its visits to Sri Lanka, the UN Working Group made a number of recommendations to the government for the prevention and proper investigation of “disappearances.” However, many key recommendations have not been implemented. For example, the Prevention of Terrorism Act and the Emergency Regulations have not been abolished or brought into line with internationally accepted human rights standards; the central register of detainees has not been set up; and enforced disappearance has not been made an independent offence under the criminal law. Nor did the government, as urged by the UN Working Group, establish an independent body with power to investigate all cases of “disappearance” since 1995, or accelerate its efforts to bring the perpetrators to justice.

During its visit to Sri Lanka in 1999, the UN Working Group expressed its serious concern about the lack of progress in investigations and prosecutions, and the government’s failure to implement many of the Working Group’s recommendations.²⁹ The failure of successive Sri Lankan governments to seriously consider and implement the recommendations of the national commissions of inquiry and the UN Working Group has considerably contributed to the current crisis.

²⁸ “Report of the Working Group on Enforced or Involuntary Disappearances,” A/HRC/4/41, January 25, 2007, <http://daccessdds.un.org/doc/UNDOC/GEN/G07/105/30/PDF/G0710530.pdf?OpenElement>. In 6,570 cases the fate of whereabouts of the “disappeared” were established due to information provided by the Government, through inquiries by nongovernmental organizations, fact-finding missions by the Working Group or by human rights personnel from the United Nations or from other international organizations operating in the field, or by the search of the family.

²⁹ UN Commission on Human Rights, Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances, E/CN.4/Add.1/2000/64 (1999).

III. Legal Framework

Sri Lanka's obligations under international law

Sri Lanka is party to the major international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR)³⁰ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.³¹

Sri Lanka is also obliged to abide by international humanitarian law (the laws of war), which regulates the conduct of hostilities and protects persons affected by armed conflict, including civilians and captured combatants. The hostilities between the Sri Lankan government and the LTTE meet the criteria of a non-international armed conflict under the 1949 Geneva Conventions, and Sri Lanka and the LTTE thus are required to adhere to Common Article 3 of the 1949 Geneva Conventions which applies to internal armed conflict and customary international humanitarian law.³²

In addition, Sri Lanka should follow the standards set out in the 1992 UN General Assembly's Declaration on the Protection of All Persons from Enforced Disappearances (the "Declaration on Enforced Disappearances").³³ Although a non-binding standard, the Declaration reflects the consensus of the international community against this type of human rights violation and provides authoritative guidance as to the safeguards that must be implemented in order to prevent it.

³⁰ International Covenant on Civil and Political Rights, G.A. res. 2200A (XXI), U.N. Doc. A/6316 (1966), entered into force Mar. 23, 1976. Sri Lanka acceded to the ICCPR on June 11, 1980.

³¹ Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. Res. 39/46, U.N. Doc. A/39/51, entered into force June 26, 1987. Sri Lanka ratified the Convention against Torture on February 2, 1994.

³² Sri Lanka ratified the four Geneva Conventions in 1959. The official commentary to the Geneva Conventions of 1949 by the International Committee of the Red Cross (ICRC) lists a set of conditions that provide guidance in defining a non-international (internal) armed conflict, foremost among them whether the insurgent party "possesses an organized military force, an authority responsible for its acts, [is] acting within a determinate territory and [is] having means of respecting and ensuring respect for the conventions." Another important indication of the status of a given conflict is whether the government has deployed its regular armed forces against the insurgency. See International Committee of the Red Cross, *Commentary, I Geneva Convention* (Geneva: International Committee of the Red Cross, 1958), pp. 49-50. In Sri Lanka, the LTTE has an identifiable and organized command structure, is in de-facto control of part of the territory, and Sri Lankan armed forces have been deployed against the insurgency.

³³ United Nations Declaration on the Protection of All Persons from Enforced Disappearances (Convention against Enforced Disappearances), adopted December 18, 1992, G.A. res. 47/133, 47 U.N. GAOR Supp. (No. 49) at 207, U.N. Doc. A/47/49 (1992).

The prohibition against enforced disappearances has recently been reinforced by the adoption of the International Convention for the Protection of All Persons from Enforced Disappearance (Convention against Enforced Disappearances).³⁴ This multinational treaty was open for signature on February 6, 2007, and at the time of writing, 71 countries had signed the convention.³⁵ Sri Lanka has not signed the Convention.

Since 1984 the Sri Lankan government has repeatedly declared a state of emergency in the country. Under the ICCPR, states are allowed to suspend temporarily (or derogate from) certain provisions during an officially proclaimed “public emergency which threatens the life of the nation,” but only to the extent strictly necessary under the circumstances.³⁶ However, certain rights, including the right to life and protection from torture, are considered non-derogable and thus can never be suspended.³⁷ The Declaration on Enforced Disappearances unequivocally states that “no circumstances whatsoever, whether a threat of war, a state of war, internal political instability or any other public emergency, may be invoked to justify enforced disappearances.”³⁸

Prohibition of enforced disappearances

The UN Declaration on Enforced Disappearances describes “disappeared” persons as those who are “arrested, detained, or abducted against their will or otherwise deprived of liberty by government officials, or by organized groups or private individuals acting on behalf of, or with the direct or indirect support, consent, or

³⁴ International Convention for the Protection of All Persons from Enforced Disappearance, adopted September 23, 2005, E/CN.4/2005/WG.22/WP.1/Rev.4 (2005).

³⁵ The Convention against Enforced Disappearances will come into effect one month after 20 ratifications. Albania on November 8, 2007, became the first country to ratify the convention. See <http://www.ohchr.org/english/bodies/ratification/16.htm>. Sri Lanka has not yet signed the Convention against Enforced Disappearances. A number of nongovernmental organizations have called on Sri Lanka to do so in order to demonstrate its commitment to ending and preventing the “disappearances.” See e.g., “Sri Lanka - ICJ urges Sri Lanka to ratify Convention against Enforced Disappearances,” International Commission of Jurists, press release, January 24, 2007, http://www.icj.org/news.php?id_article=4096&lang=en (accessed May 15, 2007).

³⁶ ICCPR, Article 4(3). The rights under the ICCPR can be derogated from only where the signatory state has informed other member states through the auspices of the secretary-general of the United Nations. Sri Lanka has formally derogated in 1984, 1989, and 2000.

³⁷ ICCPR, Article 4 (2).

³⁸ Declaration on the Protection of all Persons from Enforced Disappearances, Article 7.

acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or by a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law.”³⁹

Enforced disappearances constitute “a multiple human rights violation.”⁴⁰ They violate the right to life, the prohibition on torture and cruel, inhuman, and degrading treatment, the right to liberty and security of the person, and the right to a fair and public trial. These rights are set out in the ICCPR and the Convention against Torture.⁴¹

The UN Declaration on Enforced Disappearances recognizes the practice of “disappearance” as a violation of the rights to due process, to liberty and security of a person, and to freedom from torture. It also contains a number of provisions aimed at preventing “disappearances,” stipulating that detainees must be held in officially recognized places of detention, of which their families must be promptly informed; that they must have access to a lawyer; and that each detention facility must maintain an official up-to-date register of all persons deprived of their liberty.⁴²

International humanitarian law also provides protection against enforced disappearances by prohibiting acts that precede or follow a “disappearance.”

³⁹ Declaration on the Protection of all Persons from Enforced Disappearances, Preamble.

⁴⁰ United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission Resolution 2001/46” (New York: United Nations, 2002), E/CN.4/2002/71, 36.

⁴¹ Under the ICCPR, no one should be subjected to arbitrary arrest or detention. An arrested person should be informed, at the time of arrest, of the reasons for his arrest and is to be promptly informed of any charges against him. Anyone arrested or detained on a criminal charge must be brought in a timely fashion before a judge or other officer authorized by law to exercise judicial power, and every person deprived of his or her liberty by arrest or detention has the right “to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.” ICCPR, Article 9(4). Further protections are offered by Article 6 (the right to life), Article 7 (prohibition of torture), and Article 17 (protection from arbitrary interference with privacy, family and home). The rights under articles 9 and 17 are derogable during public emergencies, but even then the derogation should be proportional and subject to judicial control. States must provide careful justification for any specific measures based on a proclamation of a national emergency. The principles of legality and the rule of law require that the fundamental requirements of a fair trial be respected even under Emergency Regulations. UN Human Rights Committee, General Comment 29, States of Emergency (article 4), U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001), reprinted in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.6 at 186 (2003).

⁴² Declaration on the Protection of all Persons from Enforced Disappearances, Article 10. These provisions are further reinforced in the Article 17 of the Convention against Enforced Disappearances.

Common Article 3 of the Geneva Conventions requires that persons taken into custody, whether civilians or captured combatants, be treated humanely in all circumstances. Such persons may never be subjected to murder, mutilation, cruel treatment or torture, or the passing of sentences and carrying out of executions, without a proper trial by a regularly constituted court.⁴³ Enforced disappearances are considered a violation of customary international humanitarian law.⁴⁴

An enforced disappearance committed as part of a widespread or systematic practice constitutes a crime against humanity, a term that refers to acts which, by their scale or nature, outrage the conscience of humankind. This has been recognized under the Rome Statute of the International Criminal Court, the Declaration on Enforced Disappearances, and the Convention against Enforced Disappearances.⁴⁵

Abductions perpetrated by the LTTE, which are often followed by summary executions, would also qualify as enforced disappearances under international human rights law if carried out in the areas where the LTTE has effective control and acts as de facto government authority. While in government-controlled areas these LTTE crimes would not technically qualify as “disappearances,” this should not lead to any confusion about their nature; abductions are serious human rights abuses and violate the LTTE’s obligations under international humanitarian law, specifically Common Article 3 of the Geneva Conventions.

⁴³ Geneva Conventions of 1949, Common Article 3. Further protection is provided by the Protocol II to the Geneva Conventions which sets out the minimum standards for treatment of persons deprived of their liberty during a conflict, which include access to relief and communication with relatives. It also details the due process requirements that apply to all persons detained in connection with offenses arising from a conflict, which include being charged without delay, the presumption of innocence, the prohibition on forced confessions, and the right to an adequate defense. Sri Lanka has not signed Protocol II, but many of its provisions are recognized as customary international law and are therefore also applicable. See Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, adopted June 8, 1977, Article 5(2), Article 6.

⁴⁴ See International Committee of the Red Cross (ICRC), Henckaerts & Doswald-Beck, eds., *Customary International Humanitarian Law* (Cambridge: Cambridge Univ. Press 2005), rule 98.

⁴⁵ Rome Statute of the International Criminal Court, U.N. Doc. No. A/CONF. 183/9 (July 17, 1998), 37 I.L.M. 999, Article 7(1). Sri Lanka is not a signatory to the Rome Statute, but many of the definitions of crimes contained in the ICC are considered reflective of customary international law.; Declaration on the Protection of all Persons from Enforced Disappearances, Preamble; Convention against Enforced Disappearances, Article 5.

Duty to investigate and to establish accountability

Under international law, Sri Lanka has a duty to investigate serious violations of human rights and to punish the perpetrators.⁴⁶ States are obliged to ensure that enforced disappearances are considered crimes by law, and to prosecute any person who commits, orders, attempts to commit, or otherwise participates in an enforced disappearance, or has responsibility as a superior.⁴⁷

The Declaration on Enforced Disappearances emphasizes that it is the state's obligation to ensure that persons having knowledge of an enforced disappearance have the right "to complain to a competent and independent State authority and to have that complaint promptly, thoroughly and impartially investigated by that authority." Even in the absence of a formal complaint, the state should promptly refer the matter to the appropriate authority for investigation whenever there are reasonable grounds to believe that an enforced disappearance has been committed. When the facts disclosed by an official investigation so warrant, any person alleged to have perpetrated an act of enforced disappearance is to be brought before competent civil authorities for the purpose of prosecution and trial.⁴⁸

International law considers a "disappearance" to be a continuing offense so long as the state continues to conceal the fate or the whereabouts of the "disappeared" person. The perpetrators of "disappearances" should not benefit from any special

⁴⁶ The duty to try and punish those responsible for grave violations of human rights has its legal basis, inter alia, in the International Covenant on Civil and Political Rights (Article 2); and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (Articles 4, 5, and 7).

⁴⁷ Independent expert Manfred Nowak in his 2002 report on "disappearances" to the UN Commission on Human Rights stated: "As the [UN] Human Rights Committee rightly concluded, in the case of particularly serious human rights violations, such as enforced disappearances, justice means criminal justice, and purely disciplinary and administrative remedies cannot be deemed to provide sufficient satisfaction to the victims. Perpetrators of enforced disappearance should, therefore, not benefit from amnesty laws or similar measures." United Nations Commission on Human Rights, "Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46" (New York: United Nations, 2002), E/CN.4/2002/71.

⁴⁸ Declaration on the Protection of all Persons from Enforced Disappearances, Articles 13 and 14. These provisions are reinforced in Articles 4, 6 and 12 of the Convention against Enforced Disappearances. The Convention also specifically provides that competent authorities examining the allegations of disappearances must "have the necessary powers and resources to conduct the investigation effectively, including access to the documentation and other information relevant to their investigation," and "[h]ave access, if necessary with the prior authorization of a judicial authority, which shall rule promptly on the matter, to any place of detention or any other place where there are reasonable grounds to believe that the disappeared person may be present." Ibid. article 12(3). The Convention against Enforced Disappearances also obliges states to take the necessary measures to prevent and punish delaying or obstructionist tactics by government officials; the failure to record information on detainees; and the refusal to provide information as required by law on detainees. Ibid. article 22.

amnesty or other measures that might exempt them from a criminal proceeding or sanction.⁴⁹

The Convention against Enforced Disappearances calls on states to investigate abductions and other acts that fall into the definition of a “disappearance” committed by non-state actors and to bring those responsible to justice.⁵⁰

In cases where “complaints by relatives or other reliable reports” suggest that a “disappearance” has resulted in the unnatural death of the individual in state custody, Sri Lankan authorities—in accordance with the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions—should launch a thorough, prompt, and impartial investigation to “determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death.” The investigation should result in a publicly available written report.⁵¹

In its resolutions, the UN General Assembly has repeatedly called on governments to devote appropriate resources to searching for the “disappeared” and to “undertake speedy and impartial investigations.”⁵² It has urged states to ensure that law enforcement and security authorities are fully accountable in the discharge of their

⁴⁹ Declaration on the Protection of all Persons from Enforced Disappearances, Article 18.

⁵⁰ Convention against Enforced Disappearances, Article 3.

⁵¹ Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, E.S.C. res. 1989/65, annex, 1989 U.N. ESCOR Supp. (No. 1) at 52, U.N. Doc. E/1989/89 (1989). Provision 9 of the Principles states:

There shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances. Governments shall maintain investigative offices and procedures to undertake such inquiries. The purpose of the investigation shall be to determine the cause, manner and time of death, the person responsible, and any pattern or practice which may have brought about that death. It shall include an adequate autopsy, collection and analysis of all physical and documentary evidence and statements from witnesses. The investigation shall distinguish between natural death, accidental death, suicide and homicide.

Provision 17 of the Principles states:

A written report shall be made within a reasonable period of time on the methods and findings of such investigations. The report shall be made public immediately and shall include the scope of the inquiry, procedures and methods used to evaluate evidence as well as conclusions and recommendations based on findings of fact and on applicable law. The report shall also describe in detail specific events that were found to have occurred and the evidence upon which such findings were based, and list the names of witnesses who testified, with the exception of those whose identities have been withheld for their own protection. The Government shall, within a reasonable period of time, either reply to the report of the investigation, or indicate the steps to be taken in response to it.

⁵² Resolution on Disappeared Persons, adopted by the General Assembly during its 33rd session, UN G. A. Res. 33/173, adopted December 22, 1978.

duties, and emphasized that such accountability must include “legal responsibility for unjustifiable excesses which might lead to enforced or involuntary disappearances and to other violations of human rights.”⁵³

Redress for victims

Under international human rights law, Sri Lanka is obliged to provide reparations to victims of serious human rights violations. The ICCPR requires states to provide an “effective remedy” for violations of rights and freedoms and to enforce such remedies.⁵⁴ The UN Human Rights Committee has noted that “reparation can involve restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices, as well as bringing to justice the perpetrators of human rights violations.”⁵⁵

Guidance on reparation to victims can be found in the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law. The Principles reaffirm that a state should provide adequate, effective, and prompt reparation to victims for acts or omissions constituting violations of international human rights and humanitarian law norms.⁵⁶

The right to reparation is of particular importance as a way of establishing truth and responsibility in the case of enforced disappearances, which are “continuing human rights violations committed with the very intention of evading responsibility, truth and legal remedies.”⁵⁷

⁵³ Ibid.

⁵⁴ ICCPR, Articles 2(3) and 9(5).

⁵⁵ U.N. Human Rights Committee, General Comment No. 31 on Article 2 of the Covenant: The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, U.N. Doc. CCPR/C/74/CRP.4/Rev.6 (2004).

⁵⁶ U.N. Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, G.A. Res. 60/147, U.N. Doc. A/RES/60/147 (December 16, 2005).

⁵⁷ United Nations Commission on Human Rights, “Report submitted January 8, 2002, by Mr. Manfred Nowak, independent expert charged with examining the existing international criminal and human rights framework for the protection of persons from enforced or involuntary disappearance, pursuant to paragraph 11 of Commission resolution 2001/46” (New York: United Nations, 2002), E/CN.4/2002/71. Nowak further emphasizes that in the case of disappearances the reparation is of utmost

The Declaration and the Convention against Enforced Disappearances specifically reaffirm the right of victims—defined in the Convention as “any individual” who has suffered harm as the direct result of an enforced disappearance—to obtain reparation and compensation in the form of material and moral damages as well as restitution, rehabilitation, satisfaction, including restoration of dignity and reputation, and guarantees of non-repetition.⁵⁸

The Convention against Enforced Disappearances also establishes the responsibility of the state to “take all appropriate measures to search for, locate and release disappeared persons and, in the event of death, to locate, respect and return their remains,” and recognizes the right of victims “to know the truth”—regarding the circumstances of the enforced disappearance, the progress and results of the investigation, and the fate of the disappeared person.⁵⁹ This right was reaffirmed in a 2005 resolution by the UN Commission on Human Rights.⁶⁰

Sri Lankan national law

In line with international standards, Sri Lanka’s constitution guarantees fundamental human rights, including the right to life, liberty, and security of person, the right to a fair trial, and the prohibition against torture. However, emergency rule has been in place with only short intervals of constitutional rule since 1971, and these guarantees have been superseded by emergency laws and regulations.

National and international legal experts have repeatedly criticized the Public Security Ordinance (PSO) of 1947 and emergency laws enacted by various Sri Lankan

importance “not only as a matter of redress for the individual victims, but also as a pre-condition for establishing truth, justice and peace in the societies affected by such practices.”

⁵⁸ Declaration on the Protection of all Persons from Enforced Disappearances, Article 19; Convention against Enforced Disappearances, Article 24.

⁵⁹ Convention against Enforced Disappearances, Article 24.

⁶⁰ The resolution, entitled “The Right to the Truth,” stresses “the imperative for society as a whole to recognize the right of victims of gross violations of human rights and serious violations of international humanitarian law, and their families... to know the truth regarding such violations, including the identity of the perpetrators and the causes, facts and circumstances in which such violations took place.” The resolution goes on to recognize “the importance of respecting and ensuring the right to the truth so as to contribute to ending impunity and to promote and protect human rights.” U.N.C.H.R. Resolution 2005/66, adopted April 20, 2005.

governments in pursuance of powers granted by the ordinance.⁶¹ These laws not only contradict international standards and undermine the rights enshrined in Sri Lanka's constitution,⁶² but essentially create a legal framework conducive to a wide range of human rights violations, including enforced disappearances.⁶³

The two Emergency Regulations currently in force—the Miscellaneous Provisions and Powers of August 2005 and the Prevention and Prohibition of Terrorism and Specified Terrorist Activities of December 2006—are no exception in this respect.

Human Rights Watch's 2007 report on the conflict in Sri Lanka, *Return to War*, provides a detailed analysis of these regulations, which grant security forces sweeping powers of arrest and detention, unnecessarily restrict freedom of movement, criminalize a range of peaceful activities protected under Sri Lankan and international law, and introduced a wide immunity clause shielding members of the security forces from criminal prosecution.⁶⁴

⁶¹ See for example, N.Mahoran, *Counterterrorism Legislation in Sri Lanka: Evaluating Efficacy* (Washington DC: East-West Center Washington, 2006); Abizer Zanzi, "Sri Lanka's Emergency Laws," presented at States of Insecurity: A Symposium on Emergency Laws, Human Rights and Democracy, April 2002, <http://www.india-seminar.com/2002/512/512%20abizer%20zanzi.htm> (accessed August 15, 2007); "Sri Lanka Laws: Legislation and Emergency," Report by the Centre for the Independence of Judges and Lawyers, September 9, 1998; "War, Peace and Governance in Sri Lanka," Report by Center for Policy Alternatives, December 2006.

⁶² The emergency regulations have consistently deviated from international standards, such as the ICCPR and the Convention against Torture. Specifically, on their face and in practice the emergency regulations are in conflict with article 2(3) of the ICCPR, article 6 of the ICCPR on the inherent right to life and freedom from arbitrary deprivation of life, article 7 on the prohibition of torture and cruel, inhuman or degrading treatment or punishment, article 9(1) of the ICCPR on the rights of liberty and security and the prohibition of arbitrary arrest and detention, article 9(2) ICCPR on the right to be informed on the reason for one's arrest, article 9(3) of the ICCPR on the right to be promptly produced before a judge, article 9(4) on the right to take proceedings before a court, article 9(5) of the ICCPR on the entitling of a victim of a human rights violation to compensation and article 14 on the right to a fair trial. While, as mentioned above, Sri Lanka on several occasions submitted its derogations from ICCPR to the UN Secretary-General, it often failed to indicate the specific provisions from which it has derogated and the reasons for the derogation. See "The State of Civil and Political Rights in Sri Lanka," Asian Center for Human Rights, December 2003.

⁶³ Reports by the Sri Lanka Commission of Inquiry into Involuntary Removal and Disappearance of Certain Persons and by the UN Working Group on Disappearances concluded that emergency laws were among the key reasons contributing to the spree of disappearances in the 1990s. See "Final Report of the Commission Of Inquiry into Involuntary Removal and Disappearance of Certain Persons (All Island)," 2001, http://www.disappearances.org/news/mainfile.php/frep_sl_ai/ (accessed August 15, 2007); UN Commission on Human Rights, "Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances," E/CN.4/Add.1/2000/64 (1999).

⁶⁴ See Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007. For further analysis of the Emergency Regulations see Saliya Edirisinghe, "Emergency Rule 2005," in *Sri Lanka: State of Human Rights 2006* (Colombo: Law and Society Trust, 2007); International Crisis Group, "Sri Lanka's Human Rights Crisis," Asia Report no 135, June 14, 2007.

Several provisions of the Emergency Regulations are of particular concern in relation to the issue of enforced disappearances. In its June 2007 report, the International Crisis Group noted that “arrests under the Emergency Regulations are sometimes hard to distinguish from enforced disappearances, as when non-uniformed government agents arrest people without announcing under what authority they are acting, the reason for the arrest or where the arrested person is being taken.”⁶⁵

Indeed, the 2005 Emergency Regulations enable security forces to arrest without a warrant any person “acting in any manner prejudicial to the national security or to the maintenance of public order, or to the maintenance of essential services.” The term “prejudicial to the national security” is not further defined.⁶⁶

The detention period following arrest under the regulations is limited to 90 days, yet in practice suspects may be detained indefinitely, as the police can get remands from magistrates and keep the detainees in custody without bail. In addition, the defense secretary can issue “preventive detention” orders to hold suspects for up to one year—no evidence is required, so long as the secretary is “of the opinion” that a preventive detention order is needed.⁶⁷

Another key factor directly contributing to widespread “disappearances” is the lack of public information on detention facilities, which facilitates secret detention and prevents monitoring. The 2005 Emergency Regulations do not require officials to publish a list of authorized places of detention, in violation of international standards.⁶⁸

⁶⁵ International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

⁶⁶ Emergency (Miscellaneous Provisions and Powers) Regulations, *The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary*, No.1405/14, August 13, 2005. Regulation 19.

⁶⁷ Emergency (Miscellaneous Provisions and Powers) Regulation, Article 19 (1). In this respect, the current Emergency Regulations go even further than the earlier ones. Earlier versions stated that preventive detention was possible when the defense secretary is “satisfied upon the material presented to him, or upon such further additional material as may be called for by him” that it is necessary to detain the person in order to prevent him or her from committing certain kinds of acts. In its analysis of Sri Lanka’s emergency laws, Amnesty International noted that “this new wording will enable detention orders to be made in an even more arbitrary and capricious manner than was previously the case.” See Amnesty International, “Sri Lanka – New Emergency Regulations: Erosion of Human Rights Protections,” ASA 37/019/2000, July 1, 2000.

⁶⁸ The UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (principle 12) and the UN Standard Minimum Rules for the Treatment of Prisoners (rule 55), provide that “all detainees should only be kept in recognized places of detention.” Such places of detention should be visited regularly by qualified and experienced persons appointed by, and responsible to, a competent authority distinct from the authority directly in charge of the administration of the place of detention. See Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment

The absence of this legal requirement in effect negates the ability of the Human Rights Commission to monitor the detention facilities. The Human Rights Commission Act requires the commission to be notified of every arrest and detention, but according to nongovernmental organizations and the UN Working Group, in practice, this requirement has been routinely ignored.⁶⁹

The problem of secret detention is exacerbated by the fact that under the emergency laws, arrest and detention can be carried out by police, the armed forces (army, navy, or air force), or jointly. Given that security forces have conducted operations with non-state armed groups (see below), it is often impossible to establish which unit was responsible for the arrest and to which detention facility the individual apprehended was taken. This recreates the conditions under which widespread abuses went unchecked in the 1990s when, according to one report on Sri Lanka's counterterrorism legislation, "disappearances became normal, because nobody knows who the arresting person is and where the victim is taken to."⁷⁰

In a number of cases documented by Human Rights Watch, family members of the "disappeared" stated that in response to their inquiries, the army and the police kept referring them from one to the other, each refusing to acknowledge responsibility for the arrests. In a June 2007 letter, Human Rights Watch asked the Sri Lankan government how many people it had arrested under the 2005 Emergency Regulations and where they were being held. The government did not provide a response, saying that these figures were being tabulated by the police.⁷¹ In November 2007, Human Rights Watch again asked the Sri Lankan police to provide statistics on the number of people detained under the two Emergency Regulations,

(Body of Principles), adopted December 9, 1988, G.A. Res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49) at 298, U.N. Doc. A/43/49 (1988); United Nations Standard Minimum Rules for the Treatment of Prisoners (Standard Minimum Rules), adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolution 663 C (XXIV) of July 31, 1957, and 2076 (LXII) of May 13, 1977.

⁶⁹ UN Commission on Human Rights, "Report of the Working Group on Enforced or Involuntary Disappearances: Civil and Political Rights, Including Questions of Disappearances and Summary Executions: Report on the Visit to Sri Lanka by a Member of the Working Group on Enforced or Involuntary Disappearances," E/CN.4/Add.1/2000/64 (1999). The UN Working Group report noted that the requirement to notify the Human Rights Commission "seem not to be widely known by the law enforcement bodies and are often disregarded in practice."

⁷⁰ N. Mahoran, *Counterterrorism Legislation in Sri Lanka: Evaluating Efficacy* (Washington DC: East-West Center, Washington DC, 2006), p.33.

⁷¹ Sri Lankan government response to Human Rights Watch, July 12, 2007.

charges brought against them, the number of cases that proceeded to trial, and the number of people released following the arrest. In a January 2, 2008, response to Human Rights Watch the national police repeated that “response will be submitted once statistics are compiled.”⁷²

The delegation of broad powers of arrest and detention to the military—by the Emergency Regulations and by an April 2007 presidential “notification” issued pursuant to the terms of the Public Security Ordinance—raises serious concerns.⁷³ Sri Lankan lawyers and human rights organizations as well as international groups have warned that in the country’s recent past, the granting of policing powers to the military led to widespread abuses, including torture and “disappearances.”⁷⁴

The 2005 Emergency Regulations also re-introduced provisions allowing the disposal of dead bodies without public notification.⁷⁵ In clear derogation from the procedures on inquests into deaths specified in the Sri Lankan Code of Criminal Procedure, the regulations give wide discretion to the deputy inspector general of the police to decide when an inquiry into a death caused by security forces takes place, and to dispose of bodies without disclosing the results of the post-mortem examination.⁷⁶

⁷² Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

⁷³ See Order of the President Mahinda Rajapaksa under Chapter 40 of the Public Security Ordinance, *The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary*, No. 1491/18, April 6, 2007. For a further discussion of the powers granted to the military under emergency laws, see Chapter IV, which addresses the responsibility of the military for enforced disappearances.

⁷⁴ See for example, Saliya Edirisinghe, “Police Power to the Armed Forces under Emergency Law: Reflections on Recent Protests,” *The Island*, May 11, 2007; “Sri Lanka: Giving Police Powers to the Military Will Pave the Way to Torture Chambers in Military Camps,” Statement by the Asian Human Rights Commission, April 26, 2007, <http://www.ahrchk.net/statements/mainfile.php/2007statements/1005/> (accessed August 20, 2007).

⁷⁵ The provisions had been removed from the previous set of regulations on May 3, 2000.

⁷⁶ Emergency (Miscellaneous Provisions and Powers) Regulations, *The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary*, No. 1405/14, August 13, 2005. Regulation 56 of the Emergency (Miscellaneous Provisions and Powers) Regulations No. 1 of 2005 published in Gazette Extraordinary 1405/14 of August 13, 2005, states:

(1) The Magistrate shall, upon receipt of the report of the facts by the Inspector-General of Police, or the Deputy Inspector-General of Police as the case may be under regulation 55: (a) direct the Government Medical Officer to forthwith hold a post-mortem examination of such body and may direct that the dead body if it has already been buried, be disinterred; and (b) make an order that at the conclusion of the post-mortem examination that the dead body be handed over to the Deputy Inspector-General of Police for disposal. (2) The Deputy Inspector-General of Police to whom the body is handed over the dead body [sic] to any relations who may claim the dead body, subject to such conditions or restrictions as he may deem necessary in the interest of national security of [sic] for the maintenance or preservation of public order; Provided, however, that the Deputy Inspector-General of Police may in the interest of national security or for the maintenance or preservation of public order, authorize the taking possession of and effecting the burial or cremation of the dead body in accordance with such steps as he may deem necessary in the circumstances.

These provisions effectively prevent proper investigations into custodial deaths and shield security forces from accountability for torture, disappearances, and extrajudicial executions.⁷⁷

Further obstacles to accountability are created by the immunity clause contained in the Emergency Regulations (Prevention and Prohibition of Terrorism and Specified Terrorist Activities) of 2006. Regulation 19 prohibits legal proceedings against a government official who commits a wrongful act while implementing the regulations—as long as he or she acted “in good faith and in the discharge of his official duties.”

The 2006 Emergency Regulations give security forces a wide range of powers and leave victims of violations with virtually no opportunity for redress. Sri Lankan NGOs have noted that in the absence of independent review and given the notorious history of abuse and lack of accountability of security forces, this regulation “could easily become one that promotes impunity rather than providing for immunity for bona fide actions.”⁷⁸

The Emergency Regulations contain several provisions that in principle are intended to prevent abuses, including the risk of “disappearances.” Persons arrested shall be turned over to the police within 24 hours and their family provided with an “arrest receipt” acknowledging custody.

However exceptions undermine the scope of these protections. Rather than 24 hours, Regulation 68 allows a member of the armed forces, authorized by his commander,

⁷⁷ The United Nations Special Rapporteur on extrajudicial, summary or arbitrary executions found these provisions (which appeared in earlier Emergency Regulations) “wholly inadequate for the full and impartial investigation of a death caused by security forces,” and added that they “could be used to cover acts of extrajudicial execution committed by the security forces.” See “Report of the Special Rapporteur, Mr. Bacre Waly Ndiaye, submitted pursuant to Commission on Human Rights resolution 1997/61 - Visit to Sri Lanka,” Doc. E/CN.4/1998/add.2, March 12, 1998. In respect to these provisions, an author of a comprehensive study on Sri Lanka counterterrorism law, N. Mahoran, quotes his August 2005 interview with a Sri Lankan army official who said that the provisions were inserted to avoid “unnecessary legal complications to the security forces that arise if inquests were conducted by medical practitioners.” See N. Mahoran, *Counterterrorism Legislation in Sri Lanka: Evaluating Efficacy* (Washington DC: East-West Center Washington, 2006), p.36.

⁷⁸ “Statement on the Introduction of the Emergency (Prevention and Prohibition of Terrorism) Regulations 2006,” Center for Policy Alternatives, December 2006.

to keep a person in custody for up to seven days at a time for the purpose of questioning or for any matter connected to such questioning.⁷⁹

The requirement to issue an “arrest receipt” does not apply to cases of preventive detention or arrests carried out by those authorized directly by the president.⁸⁰ Failure to provide a receipt, or to explain why it was impossible to provide one, is punishable by fine and imprisonment. However, there is no indication that any members of the security forces have ever been charged with or prosecuted for this offense.⁸¹ Notably, in his response to Human Rights Watch’s inquiry, the national police stated that if the police officers fail to issue receipts they are “liable for disciplinary action.” The police did not specify what such disciplinary action could involve, but claimed that no instances of the police’s failure to issue an arrest receipt “have been reported so far.”⁸²

Presidential directives to the security forces initially published in July 2006 and re-circulated in April 2007 instruct the security forces to respect basic human rights, including by providing information on the reasons for arrest, identifying themselves while carrying out the arrests, and allowing the arrested persons to inform the family members of their whereabouts. The directives also instruct the security forces to inform the Human Rights Commission within 48 hours of any arrest and allow the commission unimpeded access to all detainees.⁸³

However, these directives remain largely declarations on paper—with no legal force and no penalties for non-compliance. Research conducted by Human Rights Watch

⁷⁹ Emergency (Miscellaneous Provisions and Powers) Regulations, *The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary*, No.1405/14, August 13, 2005. Regulation 68.1 and 68.2.

⁸⁰ See Saliya Edirisinghe, “Emergency Rule 2005,” in *Sri Lanka: State of Human Rights 2006*, Law and Society Trust (Colombo, 2007).

⁸¹ For example, the 2002 US Department of State country report on Sri Lanka mentioned that no security personnel have been fined or imprisoned for failure to comply with the safeguard provisions embedded in the Emergency Regulations. See U.S. Department of State, Country Reports on Human Rights Practices for 2001: Sri Lanka, March 4, 2002, <http://www.state.gov/g/drl/rls/hrrpt/2001/sa/8241.htm> (accessed August 20, 2007). See also International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

⁸² Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

⁸³ “Secretary of Defense Re-circulates Presidential Directives on Protecting Fundamental Rights of Persons Arrested and/or Detained,” Statement by the Ministry of Defense, Public Security, Law and Order, April 25, 2007, http://www.defence.lk/new.asp?fname=20070425_02 (accessed August 16, 2007).

and other organizations demonstrates that the security forces routinely ignore the instructions and face no consequences for doing so.⁸⁴

In many of the cases documented in the Appendix to this report, police or army personnel conducting unlawful arrests that led to “disappearances” failed to introduce themselves or provide the families with any information regarding the whereabouts of the detainees. An HRC representative also told Human Rights Watch that it is always family members or human rights groups who inform his office about such “arrests” rather than the security forces themselves.⁸⁵

⁸⁴ See, for example, International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

⁸⁵ Human Rights Watch interview, name and place withheld to protect the witness, February 28, 2007.

IV. Perpetrators and Victims

The phenomenon of enforced disappearances that has haunted Sri Lanka since the 1980s has now returned. With the resumption of major military operations between government forces and the LTTE, a new wave of enforced disappearances and abductions engulfed the country in 2006-2007. With the end of the ceasefire, it is likely to accelerate.

While the exact number of “disappearances” perpetrated over the last two years remains unknown, data from local organizations and the UN Working Group, as well as information collected by Human Rights Watch, suggests that the problem has reached crisis proportions.

In 2006 the UN Working Group transmitted more cases of “disappearances” as urgent appeals to the Sri Lankan government than to any other country in the world. At the conclusion of its session in March 2007, the UN Working Group again expressed “deep concern that the majority of new urgent action cases are regarding alleged disappearances in Sri Lanka.”⁸⁶

Judging by various figures on “disappearances” released by government and nongovernmental sources, more than 1,500 people have been reported missing from December 2005 through December 2007, and the majority of them are still unaccounted for.

On June 28, 2007, the chairman of the Presidential Commission on abductions, disappearances, and killings, Judge Tillekeratne, told the media that 2,020 abductions and “disappearances” were reported to his commission between September 14, 2006, and February 25, 2007 (1,713 cases of “disappearances” and

⁸⁶ “Working Group on Enforced or Involuntary Disappearances Concludes Eighty-First Session,” United Nations press release, HR/07/44, March 22, 2007, <http://www.unhchr.ch/huricane/hurricane.nsf/view01/7601FF7596243906C12572A7002D0348?opendocument> (accessed April 22, 2007).

307 abductions). According to Tillekeratne, 1,134 persons were later “found alive and reunited with their families,” but the fate of the rest remains unknown.⁸⁷

Although Judge Tillekeratne presented the figures as proof that the majority of the “disappeared” had returned to their homes, it shows in fact that at least 886 people “disappeared” without a trace in less than 12 months.

The national Human Rights Commission of Sri Lanka does not publicize its data on cases submitted to its review. According to credible sources interviewed by Human Rights Watch, as well as press reports, the commission recorded about 1,000 cases in 2006 and over 300 cases in the first four months of 2007.⁸⁸ The commission refused to provide any data in response to Human Rights Watch’s letter of inquiry.⁸⁹

On October 31, 2007, a credible Sri Lankan NGO, the Law and Society Trust, in collaboration with four local partners, including the Civil Monitoring Commission⁹⁰ and the Free Media Movement, submitted the details of 540 alleged “disappearances” perpetrated between January and August 2007 to the Presidential Commission of Inquiry (Col).⁹¹

While “disappearances” have occurred all over the country, certain regions have been particularly affected.

⁸⁷ Official website of the Government of Sri Lanka, “Majority of ‘Disappeared’ Had Returned—Commissioner,” June 29, 2007, http://www.priu.gov.lk/news_update/Current_Affairs/ca200706/20070629majority_of_disappeared_had_returned.htm (accessed September 22, 2007); “US Concerned about Disappeared,” BBC Sinhalese.com, June 28, 2007, http://www.bbc.co.uk/sinhalese/news/story/2007/06/070629_uscondemn.shtml (accessed July 2, 2007).

⁸⁸ Human Rights Watch interviews (names and place withheld to protect the witnesses), February 20, 22, and 28, 2007. See also Simon Gardner, “Abductions, Disappearances Haunt Sri Lanka’s Civil War,” *Reuters*, March 5, 2007, and “Sri Lanka Police, Soldiers Arrested over Abductions,” *Reuters*, March 6, 2007. According to PAFFREL (People’s Action for Free and Fair Elections), 245 disappearances and abductions were reported to HRC in March and April 2007. See, People’s Action for Free and Fair Elections, “Program on Interventions by PAFFREL on Abductions, Disappearances and Killings,” June 2007.

⁸⁹ Human Rights Watch sent a letter to the national Human Rights Commission of Sri Lanka on November 14, 2007. The chairman of the Commission responded to Human Rights Watch by e-mail on January 24, 2008. In the response, the chairman did not provide any data on cases reported to the Commission, explaining that “no information is given to those media or NGO’s who consider us [the Commission] as not lawfully appointed by H.E. President.” The Human Rights Watch letter to the HRC and the Commission’s response can be found in the Appendix II to this report.

⁹⁰ The Civil Monitoring Commission was founded in November 2006 by four members of the Sri Lankan parliament to address the crisis of abductions and “disappearances.”

⁹¹ “Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007,” joint report by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, October 31, 2007.

The majority of cases are reported from the Jaffna peninsula—according to HRC figures published in the media, at least 835 persons were “disappeared” or abducted there between December 2005 and May 2007.⁹² A respected Sri Lankan group, University Teachers for Human Rights (Jaffna), reported in December 2007 that out of 948 individuals reported missing in Jaffna from December 2005 to October 2007, 684 remain unaccounted for.⁹³

Since late 2006, “disappearances” and abductions have also become a widespread practice in Colombo, as well as in the districts of Mannar, Batticaloa, Ampara, and Vavuniya. Out of 540 cases submitted to the Col by the Law and Society Trust, 271 were from Jaffna, 78 from Colombo, 40 from Mannar, 39 from Batticaloa, 15 from Ampara, and 14 from Vavuniya.⁹⁴

Since its formation in November 2006, the Civil Monitoring Commission (CMC) has recorded details of dozens of cases of “disappearances” and abductions in Colombo, at the same time acknowledging that this reflects only a fraction of the total.⁹⁵

Human Rights Watch’s research in Sri Lanka in February, March, and June 2007, examined in detail 99 cases out of the hundreds of people believed to have been “disappeared” or abducted in 2006 and 2007. These include cases from Colombo, Jaffna, Vavuniya, Mannar, Tricomalee, and Batticaloa.

While the government claims that the number of “disappearances” and abductions has dropped dramatically since June 2007, available evidence shows a high number of new “disappearances.”

In August 2007, the International Committee of the Red Cross (ICRC) stated it had received reports on 34 abductions in three weeks,⁹⁶ and the HRC recorded 21

⁹² “Ease Emergency Laws, Media Rights Group tells Sri Lanka,” *Agence France Press*, August 24, 2007.

⁹³ University Teachers for Human Rights (Jaffna), “Slow Strangulation of Jaffna: Trashing General Larry Wijeratne’s Legacy and Enthroning Barbarism,” Special Report No. 28, December 4, 2007.

⁹⁴ “Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007,” joint report by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, October 31, 2007.

⁹⁵ Human Rights Watch interview with the Commission’s convener, Mano Ganesan, Colombo, February 20, 2007. Statistical data of the Civil Monitoring Commission, April 11, 2007, on file with Human Rights Watch.

“disappearances” in Jaffna alone.⁹⁷ Weekly reports published by the Sri Lanka Monitoring Mission (SLMM) suggest that in September and October 2007 abductions in the east continued almost on a daily basis, and, for example, in the week of December 3 – December 9, 2007, 22 abductions were reported to the SLMM in the east.⁹⁸ The Law and Society Trust report also shows that the number of reported “disappearances,” which had been gradually decreasing in April-July 2007, rose sharply again in August.⁹⁹

Perpetrators

“Disappearances” by their nature are abuses perpetrated with the very intention of evading responsibility. In conflicts throughout the world the perpetrators often try to conceal their identity and ensure that there are no direct witnesses. This makes establishing accountability challenging and allows the parties to a conflict to blame the abuses on each other. Sri Lanka is no exception in this respect.

The Sri Lankan government routinely denies the responsibility of its security forces for “disappearances” and dismisses the allegations of eyewitnesses as unreliable because they cannot point indubitably to the identity of the perpetrators. In a number of cases documented by Human Rights Watch and others, eyewitnesses were unable to clearly identify the perpetrators, describing them as a “group of armed men” arriving in a “white van,” on motorcycles, or on foot.¹⁰⁰

⁹⁶ “Sri Lanka: Latest Report on ICRC Activities in the Field, July 7th to August 31st,” ICRC Bulletin No. 16, September 3, 2007, <http://www.icrc.org/Web/Eng/siteeng.nsf/htmlall/sri-lanka-news-30907> (accessed October 30, 2007).

⁹⁷ The figure was cited in: “Sri Lanka: Amnesty International calls on the United Nations Human Rights Council to address violations, Statement by Amnesty International,” ASA 37/019/2007, September 4, 2007.

⁹⁸ Sri Lanka Monitoring Mission, Weekly reports for September, October and December 2007, <http://www.slmm.lk/> (accessed January 28, 2007).

⁹⁹ “Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007,” joint report by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, October 31, 2007.

¹⁰⁰ As discussed above (see subchapter on Sri Lanka’s obligations under international law), it is still the responsibility of the government of Sri Lanka to investigate and prosecute abductions perpetrated by individuals or groups not affiliated with the government and to provide redress for victims.

However, in the majority of cases documented, there is sufficient evidence to suggest the involvement or complicity of the Sri Lankan security forces—army, navy, or police—in the “disappearances.”

Witnesses in some cases also pointed to members of pro-government non-state armed groups, acting either in conjunction with the security forces or independently, as the perpetrators. These are Tamil groups that are in conflict with the LTTE—and whose members have frequently been targets of LTTE attack—specifically the Karuna group in the east and Colombo, and the EPDP in the northern Jaffna peninsula.

In its first submission to the Col in August 2007, the Law and Society Trust noted that out of the 396 cases of alleged “disappearances,” 352 were perpetrated by “government agents,” and in 44 cases the perpetrators were unknown.¹⁰¹

Undoubtedly, the LTTE is also responsible for “disappearances” and abductions. The numbers are comparatively low, however, in part because “disappearance” is not a prime tactic of the LTTE and in part because cases may be underreported due to the fear instilled in victim’s families and eyewitnesses.

Sri Lankan armed forces

In the absence of a significant external defense mission throughout Sri Lanka’s modern history, the armed forces have primarily focused on internal security and counter-insurgency warfare.

During the country’s internal conflicts, the government has frequently applied laws conferring additional powers on the armed forces. Since 2001, successive Sri Lankan presidents have invoked the powers under section 12 of the Public Security Ordinance (PSO), allowing them to heavily rely on the armed forces “when public security is endangered and the President is of the opinion that the police are inadequate to maintain public order.”¹⁰²

¹⁰¹ “First in a series of submissions to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka,” joint submission by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, August 23, 2007.

¹⁰² Public Security Ordinance No. 25, 1947. Section 12 as well as other related provisions in Part III of the PSO were introduced as an amendment to the PSO way back in 1959. An order under Section 12 of the PSO has to be published in the gazette, is valid only for a period of one month at a time, and has to be approved by Parliament.

The powers granted to the military under the PSO are limited to standard search and arrest procedures; dispersal of unlawful assemblies; seizure and removal of offensive weapons and substances from unauthorized persons in public places; seizure and removal of guns and explosives (when written authority is granted by the president or an authorized person). Section 12 also specifically prohibits the armed forces from exercising powers under Chapter XI of the Code of Criminal Procedure Act, such as investigating crimes and bringing suspects before magistrates.

The 2005 Emergency Regulations, however, go far beyond the PSO; Regulation 52 confers broad policing powers onto officers of the armed forces, when so authorized by the respective commander.¹⁰³ Under Regulation 68, members of the armed forces, when authorized by the respective commander, can question any person in custody, and hold him in the custody of the authorized member of the armed forces for a period not exceeding seven days at a time for the purpose of questioning, or for any matter connected to such questioning.¹⁰⁴

Commenting on the regulations granting broad policing powers to the armed forces, a prominent Sri Lankan lawyer noted that this is “an exercise fraught with danger” as the military forces “lack the proper training, experience and investigative skills to engage in such an exercise, and considering the nature of the training they undergo and the experiences of the battlefield, their psychological make-up may not be conducive to the conducting of an effective investigation within the confines of the law.”¹⁰⁵

The involvement of the army and navy in “disappearances” is particularly evident in the Jaffna peninsula.¹⁰⁶ Historically, much of the heaviest fighting between the LTTE

¹⁰³ Emergency (Miscellaneous Provisions and Powers) Regulations, *The Gazette of the Democratic Socialist Republic of Sri Lanka Extraordinary*, No.1405/14, August 13, 2005. Regulation 52.

¹⁰⁴ Ibid. Regulation 68.

¹⁰⁵ Saliya Edirisinghe, “Police Power to the Armed Forces under Emergency Law: Reflections on Recent Protests,” *The Island*, May 11, 2007.

¹⁰⁶ In 2007, more than 40,000 troops were deployed on the Jaffna peninsula, which remained subject to LTTE attack and for which some areas are under LTTE control. See Simon Gardner, “Abductions, Disappearances Haunt Sri Lankan Civil War,” *Reuters*, March 4, 2007. Since 1997, the Sri Lankan navy has taken a land-fighting role as well, deploying troops to man the Forward Defense Lines on the peninsula. So-called Naval Patrolmen outnumber Seamen. There is a significant LTTE naval presence around the peninsula, which conducts attacks on civilian shipping and boating, as well as on military targets.

and the Sri Lankan armed forces has occurred on the peninsula, evident in the war-torn appearance of its major town, Jaffna. The peninsula is dotted with a number of Sri Lankan military bases—land, naval, and air—whose presence often is a factor in “disappearance” cases. In 21 out of 37 cases of “disappearances” documented by Human Rights Watch in Jaffna, evidence strongly suggests that the perpetrators were members of the armed forces. In some cases, individuals “disappeared” after being detained during large-scale cordon-and-search operations. In such cases, family members knew exactly to which military camps their relatives were taken, and sometimes even wrote down the license plate numbers of the military vehicles that took them away.

For example, in one of the cases documented by Human Rights Watch, two women witnessed the arrests of their husbands on December 8, 2006, after the men came to retrieve their IDs seized during cordon-and-search operations by the military in Navindil. The women managed to write down the license plate numbers of the vehicles that took their husbands away (40041-14 and 40032-14) and later saw the vehicles at the Point Pedro military camp where they went looking for their husbands. Despite these details, the military denied ever arresting the men and at the time of writing their fate remains unknown.¹⁰⁷

In other cases, the families’ suspicion of the military involvement in “disappearances” was reinforced by subsequent inquiries in army camps. For example, after 26-year-old Thavaruban Kanapathipillai and 30-year-old Shangar Santhivarseharam went missing on August 16, 2006, on the way to Kachai in eastern Jaffna district, their families made inquiries with the Kodikamam military camp located near their place of residence. While the military denied having detained the men, the relatives saw Kanapathipillai’s bicycle—that the two men rode on the day of their “disappearance”—parked near the camp, in the area controlled by the military. The camp commander eventually returned the bicycle to the relatives, yet denied having any knowledge of the men’s fate.¹⁰⁸

¹⁰⁷ Human Rights Watch interviews, Jaffna, February 28, 2007. For more information, see Appendix I, “Disappearance” of Thilipkumar Ranjithkumar and Ganesh Suventhiran (case Nos 14-15).

¹⁰⁸ Human Rights Watch interview with relatives of Thavaruban Kanapathipillai, Jaffna, February 28, 2007. Human Rights Watch interview with a relative of Shangar Santhivarseharam, February 28, 2007, Jaffna. For more information, see Appendix I, “Disappearance” of Thavaruban Kanapathipillai and Shangar Santhivarseharam (case Nos 27-28).

In a number of cases in Jaffna, victims of “disappearances” were taken away by large groups of armed men from houses located in the immediate proximity of military checkpoints, sentry posts, or other military positions. While the witnesses could not positively identify the perpetrators, they had a well-grounded suspicion that the military was either directly involved or was complicit in such “disappearances.” These incidents usually occurred during curfew hours in areas of government control, and, according to witnesses, it is inconceivable that large groups of armed men could move around freely and pass through checkpoints without endorsement from the military.

Sri Lankan police

The blurring of the mandates of the military and police forces through extraordinary laws also has a corrosive effect on Sri Lankan police forces.¹⁰⁹

The militarization of the Sri Lankan police dates back to the 1970s, when insurgents targeted many police stations, and the government realized the “need to train and equip the police for duties over and above normal police functions.”¹¹⁰ In 1983 the government formed a Special Task Force (STF) within the police as a paramilitary unit specializing in counterterrorist and counterinsurgency operations.¹¹¹

Heavily involved in the fighting against the LTTE, the Special Task Force over the years became notorious for its human rights violations, including “disappearances” and extrajudicial killings. The Sri Lankan Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Northern and Eastern Provinces concluded in 1997 that the STF was the arresting agency in 5 percent of 1,219 reported cases of “disappearances” in the Batticaloa district in North Eastern

¹⁰⁹ The dangers of blurring the mandates of the military and the police in the context of counterterrorism have been extensively analyzed by international scholars. See, e.g., Ronald D. Creisten, “The Discourse and Practice of Counterterrorism in Liberal Democracies,” *Australian Journal of Politics and History*, 44 (3), 1998, pp. 389-413; Jennifer Holmes, *Terrorism and Democratic Stability* (Manchester: Manchester University Press, 2001).

¹¹⁰ The official website of the Sri Lankan Police Service, <http://www.police.lk/divisions/stf.asp> (accessed September 15, 2007).

¹¹¹ The force was trained by the Sri Lanka military as well as British Special Air Service (SAS).

province between 1988 and 1996.¹¹² The UN Special Rapporteur on extrajudicial, summary or arbitrary executions also reported that individuals allegedly died “while in the custody of the Special Task Force of Sri Lanka in Colombo.”¹¹³ Despite well-documented allegations of abuse, STF members have managed to avoid accountability for their actions and continue to function with impunity.¹¹⁴

In addition to the STF, the Criminal Investigation Department (CID), which is responsible for routine police operations, is also implicated in abuses, including the spree of abductions and “disappearances” in Colombo in 2006-2007. In a number of cases documented by Human Rights Watch, eyewitnesses said that their relatives had been taken away by uniformed policemen who introduced themselves as representatives of the CID, and even produced relevant IDs. In some cases, they told the families that their relatives were needed for questioning, yet failed to inform them where they were being taken or to produce an arrest receipt as required by law. When the families later tried to inquire with the police, police denied any knowledge of the persons’ whereabouts.

In an illustrative case, on February 1, 2007, four men who identified themselves as police, two of them in uniform, came to the house of 22-year-old Suresh Palanisamy in Colombo 13 (sections of the capital are identified by number). The police said they needed Palanisamy at the Eheliyagoda police station in relation to a complaint and took him away. Palanisamy’s father, informed by his daughter-in-law, immediately rushed to the police station, but the police denied ever bringing Palanisamy there. The family went to other police stations and filed a complaint with the HRC, but, at

¹¹² Final Report of the Commission of Inquiry into Involuntary Removal or Disappearance of Persons in the Northern and Eastern Provinces, September 1997, http://www.disappearances.org/news/mainfile.php/frep_sl_ne/ (accessed December 6, 2007).

¹¹³ UN Commission on Human Rights, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacre Waly Ndiaye submitted pursuant to Commission on Human Rights resolution 1997/61 - Visit to Sri Lanka,” E/CN.4/1998/68/Add.2, March 12, 1998.

¹¹⁴ In a highly reported case from January 2006, several STF members were arrested on suspicion of summarily executing five Tamil students on a crowded beach in Trincomalee. A witness to the killing who was willing to come forward was seriously threatened. Charges were never brought against any of the alleged perpetrators, and a senior official implicated in the killings was promoted. For more details, see Human Rights Watch, *Improving Civilian Protection in Sri Lanka: Recommendations for the Government and the LTTE*, No 1, September 2006.

this writing, has received no further information about Palanisamy's fate or whereabouts.¹¹⁵

Police involvement in abductions was also confirmed in an unexpected admission made by police inspector general Victor Perera in March 2007. Perera announced that police had arrested a “large number” of police officers, as well as members of armed forces, on charges of abduction and extortion, although he never provided any details.¹¹⁶ Attempts by Human Rights Watch to learn more from the police regarding this assertion have proved fruitless. In response to Human Rights Watch's inquiry, national police responded on January 2, 2008, that “since 2004 a total number of 31 Police officers have been arrested for violations of Human Rights.”¹¹⁷ His letter did not specify how many of these officers have been arrested since the resumption of hostilities in 2006; what were the specific charges against the officers; and the current status of their cases.

Pro-government armed groups

Human Rights Watch obtained significant evidence of the involvement of pro-government Tamil armed groups in enforced disappearances, acting either on their own or alongside the Sri Lankan security forces. Implicated were the Karuna group, operating mostly in the east and in Colombo, and the EPDP in the Jaffna peninsula in the north.

Both groups closely cooperate with Sri Lankan security forces. The Sri Lankan security forces are primarily Sinhalese and as a result have few native Tamil speakers. Both the military and police use EPDP and Karuna cadres—who are native Tamil speakers—to identify and often apprehend suspected LTTE members or supporters.

¹¹⁵ Human Rights Watch interview with a relative of Suresh Palanisamy, Colombo, March 4, 2007. For more information, see Appendix I, “Disappearance” of Suresh Palanisamy (case No 47).

¹¹⁶ “Sri Lankan Police, Troops Involved in Abductions: Police Chief,” *AFP*, March 6, 2007.

¹¹⁷ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

In a number of cases documented by Human Rights Watch, witnesses described the perpetrators as a joint group of Tamil and Sinhala speakers, or mentioned the presence of at least one native Tamil speaker whom the soldiers used to identify the individuals apprehended. When not identified, these may have been local residents acting independently as government informants. In several cases, families also said that they were first visited and questioned by the military, and then, usually several hours later, a group of Tamil-speaking armed men came to their house and took their relatives away.

On other occasions, the Karuna group or EPDP seemed to be acting on their own—seeking to settle scores with the LTTE or abducting persons for ransom—with security forces turning a blind eye to their activities.

Reports by local media and human rights groups describe the two groups' involvement in “disappearances” and killings, and their close cooperation with the security forces. A November 2006 report by the University Teachers for Human Rights (Jaffna) detailed a number of murder cases perpetrated by “hybrid killer groups” that were “made up of elements from intelligence divisions of the various arms of the security forces (especially Army and Navy) together with Tamils who serve the security forces in their individual capacity or from groups such as the EPDP and Karuna faction.”¹¹⁸ In a comprehensive “Overview of the Enforced Disappearances Phenomenon,” journalist D.B.S. Jeyaraj noted that the actual abductions are generally done by the Karuna or EPDP group, “while some top ‘security’ guy is usually at hand to help out if something goes wrong.”¹¹⁹

Karuna group

Vinayagamoorthis Muralitharan (a.k.a. Colonel Karuna) was the senior LTTE military commander for the eastern districts until he split from the LTTE with his forces in March 2004. The LTTE largely destroyed his group in fighting in April 2004, but he continued to control several hundred armed supporters opposed to the LTTE until he

¹¹⁸ University Teachers for Human Rights (Jaffna), “The Choice between Anarchy and International Law with Monitoring,” Special Report No. 23, November 7, 2006.

¹¹⁹ D.B.S. Jeyaraj, “An Overview of the Enforced Disappearances Phenomenon,” April 13, 2007, <http://transcurrents.com/tamiliana/archives/311> (accessed September 17, 2007).

lost a power struggle to commander Pillaiyan and his leadership position in the group by September 2007.¹²⁰ Through cooperation with Sri Lankan security forces the Karuna group has exerted de facto authority over parts of the eastern districts of Ampara, Trincomalee, and Batticaloa, and extended its operations in the northern Vavuniya district.

Previous reports by Human Rights Watch have extensively documented the group's involvement in human rights abuses, particularly large-scale recruitment of child soldiers and the government's complicity in these violations.¹²¹ Despite international criticism and the government's repeated pledges to investigate and address the violations, in late 2006 and 2007 Karuna cadres were still responsible for continued forced child recruitment and abductions and murders of suspected LTTE supporters.

In the east, Karuna cadres were operating in close tandem with the security forces—primarily the army, navy, and STF. Examples of such cooperation are cited in previous reports by Human Rights Watch and by Sri Lankan human rights groups. For example, the August 2007 report of the University Teachers for Human Rights (Jaffna) described a spree of abductions in Thiriyai, a village about 25 miles north of Trincomalee, in October 2006, after a checkpoint jointly manned by the navy and the Karuna group was set up there.¹²²

In Colombo and other districts the Karuna group also engaged in kidnappings of wealthy Tamil businessmen, what journalists dubbed “an industry” of raising money through kidnappings for ransom.¹²³ The International Crisis Group noted that the government's “reliance on paramilitaries to fight the government's war, while refusing to pay them for it, has blurred the lines between political and criminal

¹²⁰ In September 2007, Karuna traveled to the United Kingdom, apparently to be with his family. In late October, British immigration authorities arrested him for immigration violations, and on January 25, 2008, he was sentenced to nine months in prison for identity document fraud. See Peter Apps, “UK Jails Ex-S.Lanka Tiger Karuna for ID Fraud,” *Reuters*, January 25, 2008.

¹²¹ See Human Rights Watch, *Sri Lanka – Complicit in Crime: State Collusion in Abductions and Forced Recruitment by the Karuna Group*, vol. 19, no. 1(c), January 2007; Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007.

¹²² University Teachers for Human Rights (Jaffna), “Can the East be Won through Human Culling?” Special report No 26, August 3, 2007.

¹²³ D.B.S. Jeyaraj, “An Overview of the Enforced Disappearances Phenomenon,” April 13, 2007, <http://transcurrents.com/tamiliana/archives/311> (accessed September 17, 2007).

violence. What may have started out as an attempt to establish an extra layer of militant taxation or undermine LTTE taxation networks, has descended into increasing lawlessness and insecurity for all minority businessmen.”¹²⁴

An October 2007 media article on the situation in the east suggested that the Karuna group has taken “effective control of wide swaths of the east, employing many of the same rackets they ran when they were Tigers, but now with the tacit support of a government.” The article cited a Muslim community leader saying, “Earlier they operated from jungles with fear. Now they are in the open with government license.”¹²⁵

Human Rights Watch interviewed several persons who had been released after paying a ransom or who had to flee after receiving threats allegedly from the Karuna group, as well as relatives of people who “disappeared” after being taken away.

For example, after men in a white van abducted 29-year-old Sakthivadivel Rajkumar on October 23, 2006, in Vavyniya, his family received a phone call from the kidnappers. A person who said he was from the Karuna group requested a ransom for Rajkumar’s release. After the family deposited the money into the specified banking account, the caller, who introduced himself as “Robert,” informed the family that Rajkumar had been injured during torture, and that he would be released upon recovery. Yet at the time of this writing, he still had not returned home.¹²⁶

Rajkumar’s relatives also told Human Rights Watch that the caller threatened them not to report the abduction to any authorities.”¹²⁷

¹²⁴ International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007. In October 2007, a journalist reported that in the east “businessmen say they have to pay massive ‘taxes’ to the Karuna group for everything from building a house to selling liquor,” and that the Karuna group “charged Muslim truck drivers about \$1.30 a day to operate in Tamil areas.” See Ravi Nessman, “In East Sri Lanka, Victory but No Peace,” *Associated Press*, October 6, 2007. This is similar to tactics long used by the LTTE in areas it controlled or had an influence. See Human Rights Watch, *Funding the Final War: LTTE Intimidation and Extortion in the Tamil Diaspora*, vol. 18, no. 1(C), March 2006.

¹²⁵ Ravi Nessman, “In East Sri Lanka, Victory but No Peace,” *Associated Press*, October 6, 2007.

¹²⁶ Human Rights Watch interview with the relatives of Sakthivadivel Rajkumar, Colombo, March 4, 2007. For more information, see Appendix I, the “disappearance” of Sakthivadivel Rajkumar (case No 43).

¹²⁷ *Ibid.*

Most of the family members of victims interviewed by Human Rights Watch said they feared reporting the abductions to the authorities, referring to the Karuna group's close affiliation with the security forces. A lawyer from Vavuniya, who had to flee the town with his wife after the Karuna group started demanding money from them, said, "We are afraid to go to the police. The police are attached to this. If we file a case in court the Karuna group will throw a grenade at my house."¹²⁸

A Colombo businessman who was released after paying a ransom said that his kidnappers, who spoke Tamil with a particular Batticaloa accent (where most Karuna group members originate), moved easily through checkpoints as they were taking him away. According to the man, the kidnappers warned him not to report the abduction to anyone. "They said, 'Do not convey this information to anyone: the media, the police, or human rights groups,'" the man told Human Rights Watch. "We have connections at each organization, so we will not allow you to live."¹²⁹

While the witnesses were able to provide specific details—including names, cell phone numbers, and bank accounts numbers—that could allow the identification of the perpetrators, the government continues to turn a blind eye to crimes allegedly perpetrated by the Karuna group, and to deny the complicity of its security forces. In its July 2007 response to Human Rights Watch's letter of inquiry, the government provided no information on the status of the government's highly publicized investigation into abductions by the Karuna group, stating that it "has no complicity with the Karuna group in any allegations of child recruitment or abduction."¹³⁰

In response to a follow-up inquiry sent by Human Rights Watch in November 2008, the national police reiterated government denials of state complicity in the abductions perpetrated by the Karuna group and added that "no complaints have been received by the Sri Lankan Police implicating Karuna group in abduction of boys."¹³¹ At the same time, a note from the National Police Commission attached to

¹²⁸ Human Rights Watch interview with couple from Vavuniya, Colombo, March 4, 2007.

¹²⁹ Human Rights Watch interview (name withheld), Colombo, October 2006.

¹³⁰ Sri Lankan government response to Human Rights Watch, July 12, 2007.

¹³¹ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

the deputy inspector general's response, mentions the Karuna group (along with the army, "unidentified men," and "paramilitary elements") as one of the alleged perpetrators of "several" cases of abductions and "disappearances" reported to the commission.¹³²

Eelam People's Democratic Party (EPDP)

In the Jaffna peninsula, the Eelam People's Democratic Party (EPDP) has been in active alliance with the military against the LTTE. This is in part a reaction to the LTTE's intensification of killings of EPDP members and supporters following the EPDP's disarmament under the ceasefire agreement in 2002. Accounts obtained by Human Rights Watch as well as reports by local human rights groups point to the involvement of EPDP cadres in a number of abuses, including enforced disappearances.

The EPDP has a long history in northern Sri Lanka. It was formed in 1987, with most of its leadership and members previously involved in the Tamil armed struggle in the north and east.¹³³ After the party entered into mainstream politics, it officially renounced violence, yet until the 2002 Ceasefire Agreement continued to maintain a military wing.¹³⁴

Over the past decade, the EPDP has been a political option, alongside several other small parties, for citizens who wish to vote for a Tamil political party other than the pro-LTTE Tamil National Alliance. Its leaders have been elected repeatedly to the

¹³² "Report on the action taken by the National Police Commission on allegations of the police involvement in the abduction and enforced disappearances," attached to the response of the national police to Human Rights Watch, January 2, 2008.

¹³³ The leader of EPDP, Douglas Devananda, has years of experience as a revolutionary fighter. In late 1970s, after becoming the founding member of Eelam Revolutionary Organizers (EROs), he received military training with Al Fatah of the Palestinian Liberation Organization. Later he became a member of politburo of the Eelam People's Revolutionary Liberation Front (EPRLF), and the commander of its military wing, the People's Liberation Army (PLA). In 1984, Devanda, along with other EPRLF members, received advanced military training with the Democratic Palestine Liberation Front (DPLF) and upon his return to Sri Lanka was in charge of all political and military activities of the EPRLF in the North and East of Sri Lanka. "Profile of Kathiravelu Nithyananda Douglas Devananda—Leader of the EPDP," <http://www.epdpnews.com/history-new.html> (accessed March 16, 2007). Since becoming head of the EPDP, he has been the target of more than a half dozen LTTE assassination attempts.

¹³⁴ The decision to enter mainstream politics was made by the party leadership after in July 1987 the government signed the Indo-Lankan peace accord, which promised a degree of autonomy to Sri Lanka's Tamils. According to the EPDP, it then disavowed the armed struggle for an independent state and decided to work towards autonomy for the North-East Province within a united Sri Lanka, "achieved through asymmetric devolution of powers." "Birth of EPDP," <http://www.epdpnews.com/history-new.html> (accessed March 16, 2007).

parliament and have held cabinet posts.¹³⁵ The party maintains a significant presence in Jaffna district.¹³⁶

In the early years of the Sri Lankan Tamil armed struggle for independence, the EPDP fought alongside other Tamil groups, including the LTTE. After the LTTE began to systematically eliminate or absorb the other Tamil groups, the EPDP became one of the LTTE's most determined rivals.¹³⁷ The government actively allied with the EPDP and other Tamil groups opposed to the LTTE, and armed them.¹³⁸

The EPDP criticized the 2002 Ceasefire Agreement, in which only the government and the LTTE were allowed to participate, and specifically the provision that required "Tamil paramilitary groups"—but not the LTTE—to disarm, because it placed them at risk of LTTE attack.¹³⁹ According to knowledgeable sources, the party leadership in large measure "cooperated in the process" of disarmament, as the EPDP claimed, and was compelled to rely on the police and military to guard party offices. However, individual members did continue to maintain weapons.¹⁴⁰

¹³⁵ At the 2004 parliamentary elections, EPDP won one seat in the 225-member parliament. The EPDP is a coalition member of the present UPFA government, with its leader, Douglas Devananda, serving as a Minister of Social Services and Social Welfare.

¹³⁶ The EPDP has its headquarters in Colombo and has branch offices in all the districts of the north and east except in the Mullaitivu and Killinochchi districts, which are in LTTE-controlled territory. There are party offices in Jaffna town, Chavakachcheri, Karavetty, Point Pedro, Chunnakam, Manipay, Achchuvely, Changanai, Karainagar, Kayts, Velanai and Delft in the Jaffna district, in Vavuniya town in Vavuniya district, in Mannar town in Mannar district, in the Trincomalee town in Trincomalee district, in Batticaloa town in Batticaloa district, at Karaitivu in Ampara district, and also in Puttalam town.

¹³⁷ According to the official EPDP website, the party considers LTTE a "liberation movement that had with time degenerated into a terrorist movement" and a "fascist organization which has done harm to the Tamil cause by its actions over the past 15 years." See "Birth of EPDP," <http://www.epdpnews.com/history-new.html> (accessed March 16, 2007).

¹³⁸ In a public speech in February 2007, EPDP leader Devananda stated that in the late 1980s the government was arming the Tamil groups, including EPDP—ostensibly for "self-defense purposes." Devananda said that the "government of Sri Lanka provided arms to other Tamil political parties, which emerged from the status quo of militant groups to political parties after the Indo-Lanka accord, in order to protect their members from the LTTE atrocities," and added that EPDP members also had been receiving "arms from the government solely for self-defensive purpose." Speech of Hon. Douglas Devananda, MP, Secretary General of EPDP and Minister of Social Services and Social Welfare, Sri Lanka Government at the Seminar on "Sri Lanka: Quest for Peace," New Delhi, February 3, 2007, <http://www.epdpnews.com/Media%20Release/SG%20Speech%20New%20Delhi%2003.02.2007.html#DD Speech New Delhi03.02.2007> (accessed March 15, 2007).

¹³⁹ Devananda repeatedly criticized various provisions of the CFA for "enhancing the LTTE's military capacity while depriving even the basic protections the other alternate Tamil political parties had for their self defence." See, e.g., Speech of Hon. Douglas Devananda, MP, Secretary General of EPDP and Minister of Social Services and Social Welfare, Sri Lanka Government at the Seminar titled "Sri Lanka: Quest for Peace," New Delhi, February 3, 2007, <http://www.epdpnews.com/Media%20Release/SG%20Speech%20New%20Delhi%2003.02.2007.html#DD Speech New Delhi03.02.2007> (accessed March 15, 2007).

¹⁴⁰ Reports by international and local groups refer to EPDP as an "armed group" or "paramilitary group." A May 2006 statement by the co-chairs of donor states for Sri Lanka (the European Union, Japan, US and Norway) mentioned that the government of Sri Lanka "has failed to prevent attacks of armed groups, including Karuna and violent elements of EPDP." See

While the LTTE had long targeted EPDP leadership and members, its attacks on the EPDP intensified after the signing of the Ceasefire Agreement, as the LTTE expanded and strengthened its presence and influence on the Jaffna peninsula. The LTTE not only sharply curtailed EPDP political activities in Jaffna,¹⁴¹ but also committed numerous killings of the party's members and supporters. The EPDP website contains a list of 48 party activists killed and abducted since the signing of the Ceasefire Agreement in February 2002.¹⁴² While this information is hard to verify, Human Rights Watch and others have reported on LTTE attacks on members of EPDP members and other Tamil political parties during the ceasefire.¹⁴³

The situation changed in 2006, as Sri Lankan government forces reestablished their presence in Jaffna town and some other parts of the peninsula. The EPDP then began to support the government in its anti-LTTE operations, as well as to initiate its own attacks against suspected LTTE cadres, supporters, and former EPDP loyalists who switched their allegiance to the LTTE.

While the EPDP has denied having armed cadres and conducting security operations, several independent observers have concluded otherwise. For example, after a mission to Sri Lanka in late 2005, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, mentioned in his report the "continuing operation of armed EPDP cadres in the islands off the Jaffna

"The Tokyo Co-Chairs appeal to Sri Lanka to pull back from crisis," the Tokyo Co-Chairs press-release, May 30, 2006, <http://www.norway.lk/press/press+release/appeal.htm> (accessed April 16, 2007). The LTTE has repeatedly criticized the government for what it claims is its failure to disarm paramilitary groups, including the EPDP, as a major violation of the CFA. See, e.g., V.S. Sambandan, "Colombo, LTTE Take Opposing Positions," *The Hindu*, February 23, 2006.

¹⁴¹ After the signing of the CFA, the LTTE actively sought to strip EPDP of its political support and influence in Jaffna and the northern islands, engineering a massive "popular protest" aimed at pushing the EPDP out. For more details, see D.B.S. Jeraraj, "Indirect attack," *Frontline*, November 10, 2002. During parliamentary elections in 2004, the LTTE prevented EPDP and other Tamil parties from holding political rallies and other campaign activities both in Jaffna and in the so-called uncleared areas in the north and east officially under LTTE-control.

¹⁴² "Killing / Abduction / Attempt to Murder Causing Injuries to EPDP Members by LTTE since Signing of Ceasefire Agreement on 23rd February 2002 until September 2004," EPDP news service, <http://www.epdpnews.com/Old%20archive/Killings....html> (accessed April 15, 2006).

¹⁴³ See, e.g., Human Rights Watch, *Sri Lanka: Political Killings During the Ceasefire*, August 7, 2003. Reports by the University Teachers for Human Rights (Jaffna) detail many cases of killings and other attacks perpetrated by the LTTE against EPDP members and their families in 2004-2005. See, e.g., University Teachers for Human Rights (Jaffna), "Political Killings and Rituals of Unreality," Information Bulletin No. 38, July 21, 2005, <http://www.uthr.org/bulletins/bul38.htm> (accessed April 16, 2007); University Teachers for Human Rights (Jaffna), "Political Killings and Sri Lanka's Stalled Peace," Special Report No. 18, March 28, 2005, <http://www.uthr.org/SpecialReports/spreport18.htm> (accessed April 16, 2007); University Teachers for Human Rights (Jaffna), "The Meaning of the Killing Spree," Information Bulletin No. 39, November 1, 2005, <http://www.uthr.org/bulletins/bul39.htm> (accessed April 16, 2007).

peninsula.”¹⁴⁴ Amnesty International stated that it had received “credible reports” of the involvement of EPDP armed cadres alongside Sri Lanka navy personnel in the killings of 18 civilians on northern Kayts Island on May 13-14, 2006. Local groups and media also believed that EPDP cadres alongside the Sri Lankan navy were responsible for the killings.¹⁴⁵

Reports by credible local human rights groups referred to specific incidents of attacks by armed EPDP cadres—for example, a May 2006 attack on the office of the pro-LTTE newspaper, *Uthayan*, which left two staff members dead and three injured.¹⁴⁶

In at least two “disappearance” cases documented by Human Rights Watch in Jaffna, the families strongly believed that the perpetrators were members of the EPDP—based on their accents, appearance, and vehicles leaving in the direction of EPDP camps.

The family of 25-year-old Thiyagarajah Saran said that on February 20, 2007, a group of men they believed to be from the military and the EPDP took him away from his residence in East Puttur, a village 13 kilometers from Jaffna town. The relatives said that some of the perpetrators spoke Sinhala, and some were native Tamil speakers. They all wore military pants and T-shirts and were armed with AK-47 assault rifles and pistols. As the perpetrators were leaving the house, the family said, part of the group left in the direction of the Puttur army camp, while others moved in the direction of the Achchuveli EPDP camp.¹⁴⁷

¹⁴⁴ The rapporteur said that this information had been confirmed by a “government official.” See UN Commission on Human Rights, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to Sri Lanka,” E/CN.4/2006/53/Add.5, 27 March 2006, <http://daccess-ods.un.org/TMP/6402584.html> (accessed April 16, 2007).

¹⁴⁵ “Sri Lanka: Amnesty International condemns killings of civilians,” Amnesty International public statement, ASA 37/014/2006, May 16, 2006, <http://web.amnesty.org/library/Index/ENGASA370142006?open&of=ENG-351> (accessed April 17, 2006). University Teachers for Human Rights (Jaffna), “From Welikade to Mutur and Pottuvil,” Special Report no. 25, May 31, 2007; D.B.S. Jeyaraj, “Navy-EPDP Kill Thirteen Civilians in Allaipiddy-Velanai,” May 16, 2006, <http://transcurrents.com/tamiliana/archives/167> (accessed April 17, 2006).

¹⁴⁶ On May 2, 2006, five gunmen attacked the office of pro-LTTE newspaper, *Uthayan*, killing two and injuring three staff members. After conducting an investigation into the case, UTHR() concluded that EPDP should be deemed the prime suspect in the case. See University Teachers for Human Rights (Jaffna), “When Indignation is Past and the Dust Settles-Reckoning Incompatible Agendas,” Special Report No. 21, May 15, 2006, <http://www.uthr.org/SpecialReports/spreport21.htm> (accessed April 16, 2007).

¹⁴⁷ Human Rights Watch interview with the relatives of Thiyagarajah Saran, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Thiyagarajah Saran (case No 1).

A number of other witnesses also referred to EPDP “camps” in Jaffna as places where they went to search for their missing relatives. At a meeting with Human Rights Watch in April 2007, EPDP leader Douglas Devananda said that the EPDP does not have any “camps,” just “offices,” one of which is indeed located in Achchuveli.¹⁴⁸

The EPDP leadership is undoubtedly aware of the allegations against its cadres. A number of witnesses told Human Rights Watch that they approached EPDP offices while searching for their “disappeared” relatives and tried to inquire within EPDP camps. A relative of Sivasothy Sivaramanan, a man who “disappeared” after he had been taken away by a group of armed men, some of whom spoke Sinhala and some spoke Tamil, said that he met with Douglas Devananda three times. Each time, the EPDP leader promised to find his son, yet the young man remains missing to date.¹⁴⁹

In August 2007, in Jaffna, Devananda met with the families of the “disappeared” who, according to the EPDP website, “expressed their tales of woes and broke down out of grief in front of the Minister.” Devananda reportedly told the families that such matters cannot be “settled at an instance” and asked for time, and then communicated with President Mahinda Rajapaksa about his meeting with the families.¹⁵⁰

In a meeting with Human Rights Watch, Devananda dismissed allegations of the EPDP’s involvement in abductions and blamed them exclusively on the army and the LTTE. He noted, however, that he has only “98 percent control over his people”—suggesting, apparently, that the 2 percent he says he does not have control of, may be responsible for violations outside of his knowledge.¹⁵¹

In response to Human Rights Watch’s letter of inquiry, the EPDP insisted that its members never participate in joint operations with the army or police, do not

¹⁴⁸ Human Rights Watch meeting with Douglas Devananda, New York, April, 2007.

¹⁴⁹ Human Rights Watch interview with relatives of Sivasothy Sivaramanan, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Sivasothy Sivaramanan (case No 21).

¹⁵⁰ “Minister Confers about Disappearances in Jaffna with the President,” EPDP News Flash, August 1, 2007, <http://www.epdpnews.com/Archive/2007/2007-August-English/news-english-2007-08-01.html> (accessed September 15, 2007).

¹⁵¹ Human Rights Watch meeting with Douglas Devananda, New York, April 1, 2007.

collaborate with any agencies “in arresting or detaining any person,” and do not bear arms.¹⁵² The party also said that whenever their representatives receive complaints regarding abductions or disappearances from the families, they approach relevant authorities in order to establish the whereabouts of the missing individuals and to ensure their release. In the letter, the EPDP mentioned that during a visit to Jaffna in August 2007, the party representatives managed to trace three missing persons—however, the letter did not provide any details and did not specify whether the party has any information on the identity of the perpetrators in these or other cases reported to its offices.¹⁵³

Liberation Tigers of Tamil Eelam (LTTE)

Both during the ceasefire and since the resumption of hostilities, the LTTE has continued to be responsible for massive human rights abuses and violations of international humanitarian law. The group has carried out landmine attacks targeting civilians, murdered Tamils deemed political opponents or suspected of cooperating with government forces, prevented civilians from fleeing areas of active fighting, interfered with the delivery of humanitarian aid, and forcibly recruited people, including many children, into its ranks. In the areas under its control in Sri Lanka’s north and east, the LTTE represses the rights to free expression, association, assembly, and movement.

Human Rights Watch has long documented abuses by the LTTE, particularly the systematic recruitment and use of child soldiers, the targeted killings of political opponents, and abusive fundraising tactics abroad.¹⁵⁴

Despite claims of the Sri Lankan government to the contrary, “disappearances” do not appear to be a tactic widely used by the LTTE. In order to achieve the maximum deterrent effect on the population in areas under its control, the LTTE much more

¹⁵² EPDP response to Human Rights Watch letter of inquiry, signed by Ms. Maheswary Velautham, November 26, 2007. Human Rights Watch’s letter of inquiry and the response from the EPDP can be found in Appendix II to this report.

¹⁵³ Ibid.

¹⁵⁴ See Human Rights Watch, *Funding the Final War: LTTE Intimidation and Extortion in the Tamil Diaspora*, vol. 18, no. 1(C), March 2006, <http://hrw.org/reports/2006/ltteo306/>; Human Rights Watch, *Living in Fear: Child Soldiers and the Tamil Tigers in Sri Lanka*, vol. 16, no. 13(C), November 2004, <http://hrw.org/reports/2004/srilanka1104/>; “Sri Lanka: New Killings Threaten Ceasefire,” Human Rights Watch news release, July 28, 2004, <http://hrw.org/english/docs/2004/07/27/slanka9153.htm>.

commonly publicly executes its victims, or publicly displays the bodies following executions.¹⁵⁵

At the same time, the LTTE is clearly responsible for abductions for the purposes of forced recruitment. Media reports suggest that since June 2006, the LTTE intensified its conscription efforts, recruiting as many as 10,000 people in eight months. Although the recruitment efforts are broadly unpopular in LTTE controlled areas, it is difficult to know how many of these individuals, ages 17 to 35, were taken against their will. However, in some cases where people tried to go into hiding to avoid recruitment, the LTTE took other family members, often children, to pressure them into joining the ranks.¹⁵⁶

Most of the abductions for recruitment took place in Kilinochchi and Mullaitheevu districts—territories controlled by the LTTE—although the LTTE has also reached Mannar, Vavuniya, and certain areas in Jaffna. According to media reports, LTTE cadres who possess detailed information about households in the territories under their control start by pressuring men and women to join. However, according to one informed journalist, “if unsuccessful at daytime the Tigers return at night” to take the recalcitrant recruits away by force.¹⁵⁷

In February 2007, a Sri Lankan Tamil residing in Canada made a rare public appeal for international assistance to release his niece abducted by the LTTE in Kilinochchi. The man stated that on February 9, 2007, LTTE cadres came looking for his 23-year-old niece, Thenuga, in order to recruit her for military training. The young woman, however, had gone into hiding before they arrived. After they realized that Thenuga was missing, the LTTE men demanded that her older sister, 27-year-old Pathmaseeli

¹⁵⁵ For numerous examples of killings perpetrated by the LTTE in 2007, see University Teachers for Human Rights (Jaffna), “Slow Strangulation of Jaffna: Trashing General Larry Wijeratne’s Legacy and Enthroning Barbarism,” Special Report No. 28, December 4, 2007.

¹⁵⁶ D.B.S. Jeyaraj, “People perturbed as Tigers intensify conscription,” February 20, 2007, *Transcurrents.com*, <http://transcurrents.com/tamiliana/archives/290> (accessed December 6, 2007).

¹⁵⁷ D.B.S. Jeyaraj, “People Perturbed as Tigers Intensify Conscription,” February 20, 2007, *Transcurrents.com*, <http://transcurrents.com/tamiliana/archives/290> (accessed September 17, 2007).

Kanagarajah, join them. When the woman refused, they dragged her out of the house, kicking the relatives who tried to prevent the abduction aside, and took her away.¹⁵⁸

In a case documented by Human Rights Watch, the families believed that their relatives had been taken away by the LTTE. Three young men—21-year-old Padmanathan Rajendran, his 18-year-old brother Sureshkumar Rajendran, and 21-year-old Nishanthan Tharmakulasingam—went missing on September 28, 2006, in Irupalai, Jaffna district after going to a sports field. While there were no eyewitnesses to the alleged abduction, the families said that they suspect the LTTE as no army or other security forces were present in the area, while the LTTE was known to have a strong presence there. Had the sons voluntarily joined the LTTE, that message would likely have been conveyed to their families.

The abduction might have been retaliatory, because, according to the families, the Rajendran brothers used to be “friends” with the military, spoke good Sinhala, and used to tell people in the village that they would be able to help them out should they have any problems with the military. The families said that other villagers also believed the three men were abducted by the LTTE because of presumed connections to the military, yet everybody was too scared to share any specific information with the families.¹⁵⁹

Human Rights Watch believes that the actual number of “disappearances” and abductions perpetrated by the LTTE may be significantly underreported as many relatives may choose not to relate such cases to the authorities or human rights groups, fearing retaliation or considering such efforts to be of no avail.

However, repeated statements by the Sri Lankan government blaming the upsurge in new “disappearances” exclusively on the LTTE and “criminal gangs” are not credible or convincing. In hundreds of well-documented cases, eyewitness accounts

¹⁵⁸ Letter by Gajan Kanagarajah, February 17, 2007, cited in: D.B.S. Jeyaraj, “People Perturbed as Tigers Intensify Conscription,” February 20, 2007, *Transcurrents.com*, <http://transcurrents.com/tamiliana/archives/290> (accessed September 17, 2007).

¹⁵⁹ Human Rights Watch interview with the relatives of Padmanathan Rajendran and Nishanthan Tharmakulasingham, Jaffna, February 28, 2007. For more information, see Appendix I, the abduction of Padmanathan Rajendran, Sureshkumar Rajendran, and Nishanthan Tharmakulasingham (case Nos 22-24).

compellingly point to the responsibility of the Sri Lankan army, navy, or police, or pro-government armed groups. In other cases circumstantial evidence suggests military involvement—the victims were taken away by large groups of men during curfew hours, often in the immediate proximity of government checkpoints or other military installations. It would be hard for the government to explain how in such instances the LTTE could have been the perpetrator.

Victims

The vast majority of victims of the “disappearances” and abductions have been young Tamil men, although some Sinhalese and Muslims have also been targeted. Statistics presented by the Civil Monitoring Commission, Free Media Movement, and Law and Society Trust suggest that of the cases where the ethnicity of the victim was known (85.3 percent of all documented cases), approximately 80 percent of the “disappearance” victims were Tamils, 1.8 percent were Sinhalese, and 3.5 percent Muslims.¹⁶⁰ Men represented 98 percent of all missing persons.¹⁶¹ Most but not all of the reported “disappeared” were young—according to Law and Society Trust, 60 percent of the victims were 30 years old or younger.¹⁶²

Some of the victims, especially in Jaffna, were clearly targeted because of their alleged affiliation with or support for the LTTE. The cases documented by Human Rights Watch indicate that this “affiliation” seems to be vaguely defined and could include anything from receiving training in the LTTE camps years earlier (something that many Tamils were forced to do in the territories within the LTTE’s reach), to running a small shop where LTTE cadres might have entered as customers.

For example, the relatives of 28-year-old Sivasooriyakumar Tharmaratnam believed that his “disappearance” on November 17, 2006, might have been linked to the opening of a small shop shortly before then. The shop, which sold car parts, was located inside the military’s high security zone. The family thought that since

¹⁶⁰ In about 15 percent of the cases the ethnicity of the victims was not specified. See “Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007,” joint report by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, October 31, 2007.

¹⁶¹ Ibid.

¹⁶² Ibid.

Tharmaratnam used to spend a lot of time outside of the shop, the army might have suspected him of being an LTTE spy observing the military positions.¹⁶³

A father of another “disappeared” man told Human Rights Watch that he believed the army abducted his son because the army might have suspected that he had close connections to the LTTE. The family used to run a tea shop in Urumpirai, north of Jaffna town, which served lunch to local people, of whom any could have been LTTE members. According to the father, when he went to inquire about his son’s fate at a nearby checkpoint, the soldiers there told him casually, “Oh, that’s because you were feeding the LTTE.”¹⁶⁴

Security forces reportedly identify many of their targets by examining video and photographic materials from the ceasefire period, when many people openly participated in LTTE-organized demonstrations and parades in the north.¹⁶⁵ In the north and east, a significant number of victims of abductions and “disappearances” are students. Since the LTTE recruits children for its forces in various capacities,¹⁶⁶ security forces are particularly likely to target students as suspected LTTE supporters.

One Sri Lankan NGO provided Human Rights Watch with a detailed report on student abductions in the north and east, listing dozens of alleged cases that occurred from December 2005 to May 2007. The report includes copies and English translations of “death threat” flyers that unknown persons distributed at the University of Jaffna, a site under the control of the security forces.

¹⁶³ Human Rights Watch interview with the relatives of Sivasooriyakumar Tharmaratnam, Jaffna, February 27, 2007. For more information, see Appendix I, the “disappearance” of Sivasooriyakumar Tharmaratnam (case No 19).

¹⁶⁴ Human Rights Watch interview with relatives of Sivasothy Sivaramanan, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Sivasothy Sivaramanan (case No 21).

¹⁶⁵ D.B.S. Jeyaraj, “An Overview of the Enforced Disappearances Phenomenon,” April 13, 2007, <http://transcurrents.com/tamiliana/archives/311> (accessed September 17, 2007); University Teachers for Human Rights (Jaffna), “Disillusionment with the State and the Perils of Unity in Grievance,” Bulletin No 24, December 13, 2007.

¹⁶⁶ According to UNICEF, from the start of the ceasefire in 2002 to January 2007, there have been 6,241 cases of child abductions for recruitment—6,006 by the LTTE and 235 by the Karuna faction. UNICEF estimates that only a third of the cases of child recruitment are reported by the families. For more information on child recruitment by the LTTE and the Karuna faction, see Human Rights Watch, *Sri Lanka – Complicit in Crime: State Collusion in Abductions and Forced Recruitment by the Karuna Group*, vol. 19, no. 1(c), January 2007; Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007.

The true source of the flyers is unknown but they contribute to an atmosphere of fear at the university. One of the flyers states that 323 students and university staff from different faculties “were acting closely with Tiger terrorists” and received arms training from the LTTE. The flyer adds that they have identified these students and employees as “punishable criminals” and were “awaiting proper opportunity to punish all of them.”¹⁶⁷

The NGO report also contains detailed complaints from family members of abducted students received by the NGO and filed with the Human Rights Commission. One such complaint was submitted by the relatives of 18-year-old Yasotharan Suntharaliningam, a Jaffna Hindu College student. The relatives said that at midnight on May 4, 2007, during the local curfew, a group of armed men on motorbikes, some of whom were wearing army uniforms and some wearing civilian clothes, abducted Suntharaliningam from his house in Kokuvil, Jaffna. According to the complaint, the house is located 100 meters away from an army sentry post.

Acting on the complaint, the Human Rights Commission in the Jaffna region inquired with the commander at Palaly military camp in Jaffna and the assistant superintendent of police, and forwarded the complaint to the HRC in Colombo. At the time of this writing the whereabouts of the student remains unknown.¹⁶⁸

Other discernible categories of persons subjected to “disappearance” include religious leaders, humanitarian workers, and journalists. In a joint submission to the UN Human Rights Council in September 2007, a coalition of Sri Lankan NGOs drew special attention to the patterns of killings and enforced disappearances of religious leaders and attacks on places of worship.¹⁶⁹

¹⁶⁷ The report and the copies of the flyers are on file with Human Rights Watch. Name of the NGO withheld for security reasons.

¹⁶⁸ Ibid.

¹⁶⁹ “Killing and Enforced Disappearances of Religious Leaders and Attacks on Places of Religious Worship in Sri Lanka,” Joint written statement submitted by the Asian Legal Resource Centre (ALRC), a nongovernmental organization in general consultative status, the Congregation of Our Lady of Charity of the Good Shepherd, an NGO in special consultative status, and the International Movement Against All Forms of Discrimination and Racism (IMADR), Human Rights Council, Sixth Session, A/HRC/6/NGO/45, September 5, 2007.

Among the most highly publicized “disappearance” cases in Jaffna is that of Reverend Fr. Thiruchchelvan Nihal Jim Brown, a parish priest in the village of Allaipiddy on Kayts Island. He was known to have helped many civilians move from Allaipiddy to the town of Kayts during fighting in the area between Sri Lankan Navy forces and the LTTE in 2006. The priest went missing with another man, Wenceslaus Vinales Vimalathas, on August 20, 2006. The two men left Allaipiddy in the early afternoon for the nearby village of Mandaithivu, but the Sri Lankan military did not allow them to enter. On the way back to Allaipiddy they were stopped at a navy checkpoint, and they have not been seen since then.¹⁷⁰

The navy denied having detained the men, and the investigation into the “disappearance” has so far produced no results.

In August 2007, a year after Fr. Jim Brown’s “disappearance,” the Christian Alliance for Social Action and the Law and Society Trust addressed President Mahinda Rajapaksa with an open letter expressing deep regret and concern that “for a whole year, domestic human rights protection mechanisms, including the Commission of Inquiry... have failed to find out what happened to Fr. Jim Brown and Mr. Vimalathas and prosecute those accountable.”¹⁷¹

In a case documented by Human Rights Watch, eight people “disappeared” on May 6, 2006, from a Hindu temple in Kodikamam where they were spending a night for holiday celebrations. The families of the men said that the military was conducting a search operation in the village that night, and that they heard gunshots and saw army vehicles approaching the temple. When the families were able to get to the temple in the morning they found the men’s sleeping mats, one of their ID cards, and blood stains on the floor, as well as bullet cartridges. The families reported the case

¹⁷⁰ For more details, see Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007; Amnesty International, “Further Information on UA 230/06 (ASA 37/023/2006, 29 August 2006) Fear for Safety/Possible ‘disappearance’: Reverend Fr. Thiruchchelvan Nihal Jim Brown and Wenceslaus Vinales Vimalathas,” ASA 37/025/2006, 12 September 2006.

¹⁷¹ Christian Alliance for Social Action and the Law and Society Trust, “One Year after the Disappearance of Rev. Fr. Jim Brown and Mr. Vimalathas: Open letter to President Mahinda Rajapaksa to Establish Truth and Justice,” August 21, 2007.

to the Kodikamam police, SLMM, the HRC, and the ICRC, and inquired at the Varani military camp, yet to date the fate of the men remains unknown.¹⁷²

On September 6, 2007, a Hong Kong-based NGO, the Asian Human Rights Commission, published a list of 57 humanitarian workers allegedly killed or “disappeared” since the beginning of the year. Among the 14 “disappeared” were persons working for the HALO Trust, the Danish Demining Group, the Methodist Community Organization for Refugees (UMCOR), the Sri Lankan Red Cross Society, and the pro-LTTE Tamil Rehabilitation Organization.¹⁷³

One of the cases documented by Human Rights Watch concerns 37-year-old Charles Caston Raveendran, an employee of the HALO Trust, a de-mining organization. According to his family, on the night of November 15, 2006, a group of eight heavily armed men broke into the family’s house on Old Park Road in Jaffna. The men arrived in a white van and a jeep, were wearing civilian clothes and bandanas, and spoke a mixture of Tamil and Sinhala.

Pushing the other family members into one of the rooms, the intruders searched the house, took Raveendran’s documents, cell phone, watch, and work boots, and took him away with his hands tied. The family and the HALO Trust filed a complaint with the police and raised the matter with the SLMM, the HRC, and the ICRC. So far they have not been able to locate Raveendran.¹⁷⁴

The Free Media Movement reported continuing harassment and attacks on journalists and media workers throughout Sri Lanka. The Law and Society Trust

¹⁷² Human Rights Watch interview with the families of the eight men, Jaffna, February 28, 2007. For more information, see Appendix I, Case Nos 35-42.

¹⁷³ Law and Society Trust, “Working document on humanitarian workers killed, disappeared and abducted 1st Jan 2006 – 22nd Aug 2007,” August 23, 2007, www.humanitarianinfo.org/iasc/_tools/download.asp?docID=2416&type=any (accessed December 17, 2007).

¹⁷⁴ Human Rights Watch interview with the relatives of Charles Caston Raveendran, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Charles Caston Raveendran (case No 20).

submission to the Presidential Commission of Inquiry detailed the cases of five media workers abducted or “disappeared” in 2007.¹⁷⁵

In Colombo and to a lesser extent in other districts, many victims have been business owners. These abductions, usually followed by ransom demands, have been widely reported in the Sri Lankan media.¹⁷⁶ The nongovernmental CMC reported that in late 2006 and early 2007, 78 Tamil businessmen were abducted from Colombo. According to the CMC, 12 of them have been murdered, five released after paying large ransoms, and 51 are still missing.¹⁷⁷

Journalists and members of the CMC believe that the actual number of abducted businessmen is much higher, as many families and victims themselves choose not to report the cases, believing that acting on their own will bring the safe return of their relative or fearing that reporting the case will make matters worse.

Initially business owners victimized in the abductions were predominantly Tamil, but in 2007 Muslim businessmen were also targeted. According to media reports, in May 2007 more than a dozen Muslim businessmen were abducted. Some were released after paying ransoms ranging from 30 to 100 million SLR (US\$ 300,000-1,000,000).¹⁷⁸

These abductions have created an atmosphere of fear and panic among the Tamil and Muslim business communities. Many families had to sell their businesses to be

¹⁷⁵ “Second submission to the Presidential Commission of Inquiry and public on human rights violations in Sri Lanka: January-August 2007,” joint report by Civil Monitoring Commission, Free Media Movement, and Law and Society Trust, October 31, 2007.

¹⁷⁶ See, e.g., D.B.S. Jeyaraj, “Dear Ones of “Disappeared” in depths of Despair,” *Transcurrents.com*, April 12, 2007, <http://transcurrents.com/tamiliana/archives/310> (accessed April 15, 2007); “Sri Lanka: Spectre of abductions by the security forces officially admitted,” *Asian Center for Human Rights Weekly Review*, 157/2007, March 7, 2007, <http://www.achrweb.org/Review/2007/157-07.htm> (accessed April 20, 2007); Chris Kamalendran, “The Terror of Abduction and Ransom,” *The Sunday Times*, June 3, 2007.

¹⁷⁷ “Abductions spread to Wellawaya,” *LeN*, April 10, 2007, <http://www.lankaenews.com/English/news.php?id=4016&PHPSESSID=44f6794ad7ada4b4dd9ee826d35c2f9c> (accessed September 17, 2007).

¹⁷⁸ “Muslim Businessman Abducted,” *The Nation*, May 27, 2007; “400 Million Ransoms Paid by Abducted Muslim Businessmen,” *LeN*, June 7, 2007, http://www.lankanewspapers.com/news/2007/6/15692_space.html (accessed September 17, 2007).

able to pay the requested ransom, or decided to sell them after securing release to avoid being victimized in the future. Others have reportedly fled abroad.¹⁷⁹

¹⁷⁹ D.B.S. Jeyaraj, "An Overview of the Enforced Disappearances Phenomenon," April 13, 2007, <http://transcurrents.com/tamiliana/archives/311> (accessed September 17, 2007); Chris Kamalendran, "The Terror of Abduction and Ransom," *The Sunday Times*, June 3, 2007.

V. Patterns of “disappearances” and abductions

Northern Sri Lanka

In the north, many individuals “disappeared” after security forces conducted large-scale cordon-and-search operations in a particular village or several villages. During such operations, the military either detained people or seized their documents and requested that they report to the army camp or another location to collect their IDs. In both scenarios, some people never came back after they went to collect their documents.

For example, on December 6, 2006, soldiers conducting a cordon-and-search operation in the Navindil area in Jaffna seized the ID card of 23-year-old Rasiharan Somalinghan. The soldiers told him to report to Uduppiddy military camp to retrieve his ID. When he went to the camp with his relatives the same day, the military officials ordered him inside, telling his relatives they would release Somalinghan shortly. He never returned home.

The relatives returned to the camp and saw Somalinghan’s bicycle parked inside, yet the military denied ever arresting him. Another man, detained together with Somalinghan, was dumped at a junction, blindfolded, with his legs and hands tied, three days after being detained. According to relatives, the man was so scared that he refused to talk to them. The family reported the case to the Human Rights Commission, the SLMM, and the ICRC. To date they have received no information about Somalinghan’s whereabouts.¹⁸⁰

Human Rights Watch documented a case in which the military may have had legitimate grounds to detain a suspect during a search operation, yet instead of handing the man over to the police as required by law, he “disappeared” without a trace. The family told Human Rights Watch that on January 23, 2007, 21-year-old Rajkumar Nadesalingam was staying with his friends in the village of Kerudavil, in

¹⁸⁰ Human Rights Watch interview with a relative of Rasiharan Somalinghan, Jaffna, February 28, 2007. For more information, see Appendix I, the “disappearance” of Rasiharan Somalinghan (case No 17).

Chavakachcheri. The villagers later informed the family that military personnel from Kanagampelli camp conducted a cordon-and-search operation in the village and detained a number of young men, including Nadesalingam. During the arrest, he reportedly showed them ammunition depots in the village. The military also reportedly found cyanide on him and Wanni numbers in his cell phone.¹⁸¹

Nadesalingam's relatives were too scared to inquire directly with the military fearing that they too would be arrested. They went to the Chavakachcheri police who said that they had no knowledge of the arrest and the military had not handed any detainees over to them. The family said that when, at the family's request, the ICRC inquired with Kanakampuliyady camp, the military said they had released everybody they had arrested in Kerudavil.¹⁸²

A number of witnesses from the Jaffna peninsula told Human Rights Watch that their relatives "disappeared" after they had been stopped by the army at checkpoints or on the road. For example, on May 11, 2006, 24-year-old Tharmakulasingam Kuruparan went from his home town of Chavakachcheri to Jaffna on a motorbike. He never returned home. His relatives heard from eyewitnesses that the army arrested Kuruparan at Kaladdy junction.

That day, an army motorized unit known as a "field group," consisting of five or six motorcycles accompanied by a Powell military vehicle, closed the road and soldiers were checking the documents of those traveling on the road. According to eyewitnesses, after checking Kuruparan's documents, the soldiers handcuffed him, pulled his T-shirt up around his head, and forced him into their vehicle. The eyewitnesses said three or four other people were similarly arrested at the junction. Kuruparan's family suspected that he could have been detained in the Urelu army camp as they believed only this camp had "field groups." Yet efforts to find him in this and other army camps proved futile.¹⁸³

¹⁸¹ LTTE cadres frequently carry cyanide capsules to commit suicide in the event they are captured. The LTTE is based in the Wanni and the phone numbers could have been linked to known LTTE contacts.

¹⁸² Human Rights Watch interview with the relatives of Nadesalingam, Jaffna, February 28, 2007. For more information, see Appendix I, the "disappearance" of Nadesalingam (case No 9).

¹⁸³ Human Rights Watch interview with the relatives of Tharmakulasingam Kuruparan, Jaffna, February 26, 2007. For more information, see Appendix I, the "disappearance" of Tharmakulasingam Kuruparan (case No 34).

Two other men “disappeared” in a similar incident on February 17, 2007. Pathinather Prasanna, 24-years old, and Anton Prabananth, 21-years old, were cycling home from the fish market east of Jaffna town, when, near the village of Nayanmarkaddu, within municipal limits, a Powell military vehicle overtook them. Eyewitnesses later told the men’s families that the vehicle suddenly stopped, reversed, and several soldiers jumped out and ordered the two men to stop. Prabananth’s father told Human Rights Watch:

The villagers told me they saw Pathinather and Anton being interrogated by the military. The military held them at gunpoint. Then the military put them into the Powell, and also loaded their bicycles into their vehicle. The villagers could not see much because the army ordered them to disperse, and now they are too afraid to talk to anybody about what they saw.¹⁸⁴

Prabananth’s father said that the witnesses believed they recognized the Powell vehicle as it used to be parked at a nearby Thapal Kadai junction and was used to patrol the road on a regular basis. Yet when the family inquired at Thapal Kadai, the military denied carrying out the arrest.¹⁸⁵

The army also has detained a number of individuals in the course of targeted raids that sometimes follow LTTE claymore landmine attacks or similar security incidents.¹⁸⁶ In one of the cases documented by Human Rights Watch, a woman said that on July 22, 2006, there was a claymore attack in her village in Meesali that killed three military personnel and injured several others. The same morning, a large group of military personnel came to the house where she was staying with her husband, 26-year-old Shanthakumar Palaniyappan. Palaniyappan’s wife said that the soldiers neither introduced themselves nor produced any documents, but immediately started questioning her husband about the attack. She said:

¹⁸⁴ Human Rights Watch interviews with the relatives of Pathinather Prasanna and Anton Prabananth, Jaffna, February 26, 2007. For more information, see Appendix Part 1, the “disappearance” of Pathinather Prasanna and Anton Prabananth (case Nos 2-3).

¹⁸⁵ Ibid.

¹⁸⁶ Claymore landmines are anti-personnel or anti-vehicular mines that can be detonated by remote control or tripwire. The LTTE has frequently made use of them to attack military targets and civilian vehicles.

They just took him away—I kept asking where they were taking him, but they said they would inquire and bring him back. When they left, I followed them. They took him to a place not far from where we live. There was a house there, and for a while they kept him there; he was just standing near the wall and I could see him. The military then chased me away, and I don’t know where they took him from there.¹⁸⁷

Palaniyappan’s wife looked for him in nearby army camps and launched a complaint with the Chavakachcheri police station. She said that several days after the “disappearance,” the Chavakachcheri magistrate who was investigating the claymore attack summoned her and informed her that her husband had not been arrested by the army. The court told her that she would be notified if any information came to light, yet to date her husband’s fate and whereabouts remain unknown.¹⁸⁸

Even where the identity of the men participating in raids resulting in abductions cannot be conclusively determined, circumstantial evidence often points to the participation or at least acquiescence of the security forces. Such raids usually happen at night during curfew hours, yet the groups of a dozen or so heavily armed men seem to have no problems moving through the numerous government checkpoints and sentry posts in Jaffna. Nor do they hesitate to invade houses located in government high security zones, or right next to army camps or other military positions.

In an illustrative case, on September 11, 2006, around midnight, a group of about 15 men arrived in a van and on motorcycles to the house of 32-year-old Irageevant Sathiyavagiswaran. The family started shouting for help as they watched the men jumping over the fence and breaking the door. A relative who was present said that most of the men spoke accented Tamil and one spoke Tamil as a native speaker. He explained what happened next:

¹⁸⁷ Human Rights Watch interview with the wife of Shanthakumar Palaniyappan, Jaffna, February 28, 2007. For more information, see Appendix I, the “disappearance” of Shanthakumar Palaniyappan (case No 32).

¹⁸⁸ Ibid.

We were 11 people in the house. We were all begging them to take anything they wanted but not to hurt us. They told us to shut up and pushed us into a corner. They asked our names, and one of them went and checked other rooms in the house. They then asked for our IDs, but as my sister went to get the documents, they grabbed Sathiyavagiswaran. He tried to resist, but they knocked him down and just dragged him out by his feet, like a dog. His mother was trying to grab him, but they hit her with a gun butt on the head and punched his sister who was in their way. He just kept shouting, “Mother! Mother!”¹⁸⁹

The relatives tried to follow the men as they were dragging Irageevant out of the house but the perpetrators put him into a white van and drove away. The family said that there is a military checkpoint only 25 meters away from their house, and the military there could easily see what was happening. However, when they inquired at the checkpoint the next morning, a soldier there told them that he just thought they were shouting and crying because “someone got sick in the family,” and so the soldiers did not think they should intervene.¹⁹⁰

The family also launched a complaint with the Kopay police station and inquired at the Urelu military camp, but the military there said they had no knowledge of the incident. When they inquired at the EPDP camp in the area some 20 days after the “disappearance,” one of the officials there said he believed Sathiyavagiswaran “must still be alive” and suggested that otherwise the family would have found the body.¹⁹¹ The family also reported the case to the ICRC and SLMM, and a number of organizations made inquiries on their behalf. As of this writing, the family has received no further information on Sathiyavagiswaran’s fate or whereabouts.

¹⁸⁹ Human Rights Watch interview with the relatives of Irageevant Sathiyavagiswaran, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Irageevant Sathiyavagiswaran (case No 25).

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

In at least two of the cases documented by Human Rights Watch, night raids by “unknown perpetrators” took place after the army had visited the families earlier the same day.

On January 22, 2007, an army unit from the Colomthurai army camp conducted a search in the house of 28-year-old Junith Rex Simsan. According to family members, the soldiers checked Simsan’s ID and asked him about his connections with the LTTE and what arms he possessed. Upon completing the questioning they left, telling him everything was in order.¹⁹²

The same night, however, at about 12:30 a.m., another group of armed men came to the house. A relative said:

His father opened the door, and the men pushed him aside and then forced us and the children into one of the rooms. Junith Rex came out of his room, covering himself with a bed sheet, and the men grabbed him by the bed sheet and seized him. They wore black pants, green T-shirts, and their heads were wrapped with some black cloth. Later I found out that they arrived in a van, but they parked it on the main road. They smashed the lights bulb in the room and dragged him away. They told him “Come,” in Tamil. He cried, “Mother!” but we couldn’t help him.¹⁹³

Relatives informed the Jaffna police of the abduction and visited various military camps in the area. The family said that in one of the camps the military looked through “a big list of detainees” in their presence, but told them that Simsan’s name was not on their list.¹⁹⁴ The family also appealed to the Human Rights Commission, ICRC, and SLMM. To date they have received no further information.

¹⁹² Human Rights Watch interview with the relatives of Junith Rex Simsan, Jaffna, February 25, 2007. For more information see Appendix I, the “disappearance” of Junith Rex Simsan (case No 10).

¹⁹³ Ibid.

¹⁹⁴ Ibid.

In October 2006, soldiers from Urumpirai army camp started visiting the house of 28-year-old Sivasothy Sivaramanan. On November 4, 2006, three uniformed soldiers also visited the tea shop run by the family. The soldiers were looking for Sivaramanan, but when his father informed them that he had not arrived yet, they left, reassuring the father that it was “nothing special.”¹⁹⁵

The same night, however, a group of armed men speaking a mixture of Tamil and Sinhala burst into the family’s house, found Sivaramanan, and dragged him away handcuffed. They ignored his father’s effort to inquire where they were taking him. Subsequent efforts by the family to locate Sivaramanan so far have proven futile.¹⁹⁶

Eastern Sri Lanka

Politically motivated “disappearances”—some followed by executions—and abductions for ransom have also occurred in the eastern districts of Batticaloa, Trincomalee, and Ampara. As mentioned above, the Karuna group appears to be the main perpetrator in such cases, often with the complicity of government security forces.

The family of Abdul Wahid Muhammad Fawzal Ameer, a beedi leaves supplier, told Human Rights Watch that on July 22, 2006, he left for Batticaloa in his van, and that was the last time they saw him. The beedi factory owner then received a call from Ameer’s abductors requesting 300,000 rupees (about US\$ 2,700) for his release. He took the money to the place designated by the callers, but could not find them.

Ameer’s relative told Human Rights Watch:

All signs are that the people who took him belonged to an armed group which is operating in the east. The area where they asked his employers to bring the money is controlled by Karuna.¹⁹⁷

¹⁹⁵ Human Rights Watch interview with relatives of Sivasothy Sivaramanan, Jaffna, February 25, 2007. For more information, see Appendix I, the “disappearance” of Sivasothy Sivaramanan (case No 21).

¹⁹⁶ Ibid.

¹⁹⁷ Human Rights Watch interview with the relatives of Abdul Wahid Muhammad Fawzal Ameer, Colombo, March 4, 2007. For more information, see Appendix I, the “disappearance” of Abdul Wahid Muhammad Fawzal Ameer (case No 96).

He added that the people on the phone spoke Tamil with a northeastern accent, and Ameer's van was spotted two months after the abduction in the Batticaloa area.¹⁹⁸

Human Rights Watch received credible reports from witnesses and international aid groups about the “disappearances” of people suspected of being LTTE supporters in the east. As thousands of people tried to leave the areas of intensified fighting in late 2006 and early 2007, the army and the Karuna group were screening displaced persons fleeing into government-controlled territory.

In a number of cases, these screenings resulted in detentions and “disappearances” of young Tamil men. For example, on February 19, 2007, 20-year-old Danesh Amarthalingam from Kiliveddi, Trincomalee, was traveling with his aunt by bus south to Batticaloa, trying to leave the area before the fighting intensified. His aunt told Human Rights Watch that as the bus made a lunch stop near Welikanda town in Polonnaruwa district, two men who sat next to Amarthalingam on the bus started making frantic calls on their cell phones, pointing at the young man. As passengers boarded the bus, the two men were joined by a third one in a T-shirt and army trousers.¹⁹⁹

Amarthalingam's aunt told Human Rights Watch:

We all got back on the bus. The bus drove for about 10 kilometers from our lunch stop when a white van coming from the opposite direction swerved and blocked the bus. The bus came to a halt. One man came out of the van and stood outside the van, blocking the registration number from view. About nine men got into the bus. They told the driver, “Don't shout,” and “Keep quiet.” At this point, the three men who had kept an eye on my nephew once again pointed towards him and got off the bus.

¹⁹⁸ Ibid.

¹⁹⁹ Human Rights Watch interview with the aunt of Danesh Amarthalingam, Batticaloa, February 25, 2007. For more information, see Appendix I, the “disappearance” of Danesh Amarthalingam (case No 98).

One of the men was masked. He grabbed another boy, who was traveling with us, and my nephew by the collar and dragged them out of the bus. The boys were very scared. They did not say anything. I kept quiet because I was also very afraid they would shoot my nephew. They all had weapons. They said, “If anyone shouts, we will kill these two boys.” The other boy’s mother managed to be dragged outside along with her son. She was shouting and screaming but nobody helped her. The van sped off.

The bus driver stopped the bus at a police check point and told the policemen about the incident. The policemen told the bus driver, “We can’t open a file here. Go and tell Valachchenai police station.”

The woman said that the incident took place in a government-controlled area where the Karuna group operated freely.²⁰⁰ She reported the abduction to the ICRC. To date, she has not received any information about Amarthalingam.

Two other women told Human Rights Watch that their sons, aged 24 and 18, similarly went missing in late 2006 as they were traveling by bus from Vaharai to Batticaloa.²⁰¹

Abductions for the purpose of forced recruitment constitute another large category of cases perpetrated in the east. In many such cases, while the families knew that the Karuna group was taking away boys and young men to be used as soldiers, they had no exact information of their whereabouts and were not able to meet or contact them. United Nations agencies and mechanisms have voiced strong concerns about this ongoing practice.²⁰²

²⁰⁰ According to information collected by Human Rights Watch during its research in Sri Lanka, the Karuna group used to have at least four bases and camps in the Welikanda area.

²⁰¹ Human Rights Watch interview with the mother of Karalasingham Kantharoopan, Batticaloa, February 25, 2007. For more information see Appendix I, the “disappearance” of Karalasingham Kantharoopan (case No 99); Human Rights Watch interview with the mother of Shanthakumar Thirukumaran, Batticaloa, February 25, 2007. For more information see Appendix I, the “disappearance” of Shanthakumar Thirukumaran (case No 94).

²⁰² See “UNICEF Condemns Abduction and Recruitment of Sri Lankan Children by the Karuna Group,” UNICEF news note, June 22, 2006, http://www.unicef.org/infobycountry/media_34677.html (accessed September 17, 2007); and “Statement from the Special Advisor on Children and Armed Conflict,” <http://www.un.org/children/conflict/pr/2006-11-13statementfromthe127.html> (accessed September 17, 2007); “Statement by the Chairman of the Security Council Working Group on Children and Armed Conflict,” April 11, 2007, http://www.franceonu.org/article.php3?id_article=1460 (accessed September 17, 2007).

As the Working Group of the UN Security Council was considering the report by the United Nations advisor on children and armed conflict, Allan Rock, Sri Lanka's Permanent Representative to the UN said that "as a responsible member of the international community, the Government has decided to adopt necessary measures to cause an independent and credible investigation into these allegations."²⁰³

Despite the government's pledges to carry out investigations and take action, abductions in the east continued throughout 2007. In February 2007, parents of one abducted child and two abducted young men told Human Rights Watch how Karuna cadres had taken away their sons. The mother of one of the young men said that Karuna cadres abducted the two on the A11 road between Welikanda and Valachchenai in February 2007. When the relatives complained at the nearby Karuna camp in Karapola, Karuna cadres told them not to report the case—or else to say the LTTE took their sons.²⁰⁴

In 2007, UNICEF documented 252 cases of child recruitment by the Karuna group.²⁰⁵

The actual number is likely to be higher because many parents are afraid to report cases. These numbers also do not reflect the forced recruitment of young men age 18 or over. Young adults among the internally displaced in the east have been especially vulnerable to abductions and forced recruitment.²⁰⁶

Reports of the Sri Lanka Monitoring Mission also do not support the government's claim that it has taken action to restore stability and halt abductions in the east. Every weekly report by the SLMM in September and October 2007 contained descriptions of new abduction cases reported in the east. In one week alone, from October 1 to October 7, the SLMM registered 13 abductions; two of the victims were children allegedly abducted by the Karuna group. The SLMM report for the week of

²⁰³ "Lanka to UN Security Council: Child abduction allegations based on hearsay material," *Sunday Times*, 11 January 2007.

²⁰⁴ Human Rights Watch interview with mother of abducted young man, Batticaloa, February 27, 2007.

²⁰⁵ UNICEF, "Analysis of Case Load for 2007, as of December 31, 2007: TMVP," on file with Human Rights Watch.

²⁰⁶ See, e.g., Internal Displacement Monitoring Center, "Children and Adults Vulnerable to Forced Recruitment," Special Report 2007, [http://www.internal-displacement.org/idmc/website/countries.nsf/\(httpEnvelopes\)/7209ABCFE147F70CC12573610045AC36?OpenDocument#top](http://www.internal-displacement.org/idmc/website/countries.nsf/(httpEnvelopes)/7209ABCFE147F70CC12573610045AC36?OpenDocument#top) (accessed October 15, 2007); "Armed Groups Infiltrating Refugee Camps," statement by Amnesty International, ASA 37/007/2007, March 14, 2007.

December 3–December 9, 2007, mentioned 22 cases of abductions, in seven of which the victims were children. The SLMM noted that the police took little action to address the abductions, while the heavily armed Karuna cadre continued to move freely through government checkpoints.²⁰⁷

Colombo

Abductions and “disappearances” in Colombo appear to fall into two general categories. First are those cases involving Tamils, often from outside of Colombo, who are picked up as part of government counter-LTTE efforts. Second are cases of abduction for ransom, in which the victims are usually Tamil businessmen, and in which there is evidence of involvement by non-state armed groups and local security forces.

A clear target of “disappearances” in Colombo is people who come to the capital to apply for visas to travel abroad. Human Rights Watch documented at least 13 such cases, while the media and local groups have reported on many more.²⁰⁸

In May 2007, President Rajapaksa told the media that extortionists use visa applications to choose their targets. He mentioned that the government is aware of cases in which personal financial data, provided to foreign embassies as part of visa applications, was leaked to criminal elements who then targeted the applicants for extortion.²⁰⁹

This may be a plausible explanation for some of the abductions. For example, in one case documented by Human Rights Watch, 26-year-old Sivathasan Kugathasan came to Colombo in June 2006 after making contact with an agent who was helping him apply for employment abroad. His family stayed regularly in touch with him for about 10 days, until on June 22 they missed a call from his mobile phone, and any efforts to contact him afterwards failed. His wife said:

²⁰⁷ Sri Lanka Monitoring Mission, Weekly reports for September, October, and December 2007, <http://www.slmm.lk/> (accessed January 28, 2007).

²⁰⁸ See, e.g., PK Balachandran, “Lanka Extortionists Use Visa Applications to Choose Targets,” *Hindustan Times*, May 17, 2007.

²⁰⁹ PK Balachandran, “Lanka Extortionists Use Visa Applications to Choose Targets,” *Hindustan Times*, May 17, 2007.

I kept trying to call him but his phone was dead. He had carried 100,000 rupees (about US\$ 900) with him and we found that there were cash withdrawals amounting to 300,000 rupees since the time he went missing. The agent told me that my husband had given him 200,000 rupees and his passport, but so far the agent has not returned the money. I went to the place where he was staying but nobody had any information. I went to 18 police stations to check if they were holding him but had no luck.²¹⁰

While in this case and some others the families could not claim with certainty that the perpetrators were government agents, they were devastated by the lack of efforts by the police to find their missing relatives or to identify the perpetrators.

In many other cases, however, the witnesses were adamant that at least some of the perpetrators were the police. For example, in August 2007, 21-year-old Ramakrishnan Rajkumar was staying at the AKB Lodge in Colombo with his wife, waiting for his work visa for Saudi Arabia. According to Rajkumar's wife, on the night of August 23, police conducted a raid in the lodge, arresting her husband and some others. She said:

It was 12:30 a.m. We were all sleeping. The police came in uniform and we were all there. They asked for our ID cards. When they asked, I saw there were two boys taken from the room next door. They threw my card away and grabbed my husband's card, and they took him.²¹¹

The woman said that when she tried to ask where the police were taking her husband, a man in civilian clothes who was with them showed her a gun, threatening her.

The police station located across the street from the lodge refused to take the woman's complaint, and after searching for her husband in many other police stations she managed to lodge a complaint with the Kotahena police station.

²¹⁰ Human Rights Watch interview with Sivathasan Kugathasan, Colombo, March 4, 2007.

²¹¹ Human Rights Watch interview with the wife of Ramakrishnan Rajkumar, Colombo, March 4, 2007. For more information, see Appendix I, the "disappearance" of Ramakrishnan Rajkumar (case No 76).

The woman told Human Rights Watch that a week after the abduction, two men in civilian clothes came to the lodge. They told her that the other two men arrested along with her husband were found guilty, but Rajkumar was not. They promised they would release him a week later, but at the time of this writing he still has not returned.²¹²

In another case, five men from Batticaloa “disappeared” in January 2007 after they came to Colombo to apply for work in the Middle East. Two of them were seized on January 10, 2007, when they were traveling back to Batticaloa by bus after their visa interviews. Men traveling in a white van stopped the bus and said they were from the Criminal Investigation Department (CID) of the police. They took the two men away, along with one other person who was later released, and informed their families.²¹³

Three others stayed in Colombo at the South Asia lodge. The lodge owner informed their families that on the night on January 12, a group of men arrived at the lodge in a white van (license plate 253-0467) and, showing CID identity cards, took the three men away.

The efforts of the men’s families to locate them so far have proven futile.²¹⁴

In another group of cases in Colombo, police detained people allegedly for questioning in relation to criminal cases, yet did not provide the families with an “arrest receipt” as required by law, and did not notify them as to where they took the suspects. Following the arrests, the individuals disappeared without a trace.

In an illustrative case, around midnight on January 7, 2007, a group of uniformed policemen came to the house of 40-year-old Vairamuththu Varatharasan in Colombo. His wife told Human Rights Watch that one of the policemen came inside and requested their identity papers. She went to one of the rooms to get the documents, but by the time she came out the policemen and her husband were both gone. She

²¹² Ibid.

²¹³ Human Rights Watch interviews with the relatives of Subramaniam Jeshuthasan, Alakaiya Logeshwaran, Raveendran Ranjith, Kanapathipillai Puvaneshwaran, Thavapalan Krishnakaran (conducted separately), Colombo, March 4, 2007. See Appendix I, case Nos 52-56.

²¹⁴ Ibid.

ran out of the house and saw a van parked on the street, but by the time she got there the vehicle started and left.²¹⁵

The next day, a group of army personnel conducted a search of the house, telling Varatharasan's wife that because she was Sinhalese she had to help the law enforcement agents by handing over weapons they believed were hidden in the house. Their search, however, produced no weapons. Varatharasan's wife said that prior to her husband's "disappearance," the CID used to come to their house regularly to question her husband. After the assassination of Sri Lankan Foreign Minister Lakshman Kadirgamar by the LTTE in Colombo in August 2005, the CID arrested and held Varatharasan for two days.²¹⁶

She registered a complaint with the Grandpass police station, as well as with the HRC, but so far has received no information on her husband's whereabouts.

A significant number of cases in which the victims have "disappeared" are abductions for ransom. These cases seem to be the least reported category as victims' families usually try to pay the requested sums of money in the hope of getting their relatives released, rather than filing a complaint with the police or human rights organizations.

In a typical scenario, a group of perpetrators, often seen traveling in a white van, abduct Tamil or, more recently, Muslim businessmen and take them to undisclosed locations in Colombo or elsewhere. The families then receive phone calls with requests for large sums of money (usually millions of rupees) that they are supposed to deposit in a specified bank account or bring to a place designated by the perpetrators.

When the ransom demands are not met the abducted individuals remain missing, and in some cases are believed to be killed. But even meeting the request does not

²¹⁵ Human Rights Watch interview with the wife of Vairamuththu Varatharasan, Colombo, March 4, 2007. For more information, see Appendix I, the "disappearance" of Vairamuththu Varatharasan (case No 62).

²¹⁶ A Tamil politician, Kadirgamar had long been critical of the LTTE. He was foreign minister from 1994 to 2001, and again from 2004 until his death. His assassination is being investigated by the Presidential Commission of Inquiry.

guarantee the release of the victim. In some such cases, the perpetrators release the victim, warning him and his family not to report the cases to any authority. In other cases, however, the families do not get their loved ones back even after delivering the requested ransom to the perpetrators.

In one case documented by Human Rights Watch, on July 7, 2006, four men in a white van abducted 27-year-old Ariyadas Pushpadas from a lodge that he owned in Colombo. The men said they were from the CID, but when the family made inquiries, the CID denied ever arresting him. On the night of the abduction, the perpetrators called Pushpadas' brother on his cell phone, requesting ransom for his release. His mother told Human Rights Watch:

They demanded 10 million rupees. They told my second son, "If you give that money, we will release your brother." I was on the road from Jaffna to Colombo at that time. When my son called me to tell me about this ransom demand, I told him that we didn't have this much money and he would have to tell them to wait till I got back. After I got back to Colombo the following day, the same men kept calling and negotiating on the phone. They told us that if we complained to anybody, they would shoot us.²¹⁷

By July 19 Pushpadas' mother collected the money and handed it over to a Tamil person in Dematagoda, Colombo. She said the man told her to go back home and wait for her son to return. However, he did not come back. At the time of the interview, more than six months after her son's abduction, the mother had heard nothing about his fate. She said that she had been talking to her son before she handed over the money, but after the ransom was paid her efforts to contact him were unsuccessful. Eventually the family reported the case to the local police which referred it to the CID. So far, however, there has been no progress in the investigation.²¹⁸

²¹⁷ Human Rights Watch interview with the mother of Ariyadas Pushpadas, Colombo, March 4, 2007. For more information, see Appendix I, the "disappearance" of Ariyadas Pushpadas (case No 87).

²¹⁸ Ibid.

In several statements made in 2007, Sri Lankan authorities addressed the ongoing spree of abductions, acknowledging that the groups perpetrating them included acting and ex-servicemen, as well as criminal elements.

In March 2007, police chief Victor Perera and top police detective Asoka Wijetilleke talked about “police, soldiers, and deserters” working together with “underworld gangs” to carry out abductions, extortion of money, and killings.²¹⁹ In July, the government announced that the police had arrested a former air force officer, a serving airman, and four police officers for their alleged involvement in abductions and extortion cases.²²⁰ In none of these cases were charges filed against the alleged perpetrators, though they reportedly remain in custody.

The number of reported abductions for extortion in Colombo dropped in the latter half of 2007, though they are still occurring. Unless perpetrators are held responsible for such abductions, including any public officials involved, however, there is every reason to believe the incidence of such abductions will return to previous levels.

²¹⁹ “Sri Lankan Police Track Killer Groups and Kidnappers,” *Lanka Business Online*, March 6, 2007, http://www.lankabusinessonline.com/fullstory.php?newsID=1423406050&no_view=1&SEARCH_TERM=33, (accessed May 17, 2007).

²²⁰ “Ex-Air Force Officer among 6 Arrested over Sri Lanka Abductions,” *Daily Times*, July 5, 2007, http://www.dailytimes.com.pk/default.asp?page=2007%5Co7%5Co5%5Cstory_5-7-2007_pg4_16 (accessed September 26, 2007).

VI. Fate of the Missing

While the families of those abducted and “disappeared” share the hope that some day their relatives will return home, Sri Lankan human rights groups are pessimistic, especially in cases where victims have been missing for many months.

Some victims of abductions for ransom are released after the ransom is paid, but this usually happens shortly after the abduction. Many such cases are never reported to the authorities or human rights groups, and thus are not reflected in overall statistics on the missing.

A number of those who “disappear” may be detained in army camps and official detention facilities, such as the high-security Boosa prison in Galle. Others may be held in camps operated by the Karuna group or the EPDP. The LTTE also has its own detention facilities in the areas under its control.

Many families shared with Human Rights Watch information, sometimes well substantiated, that their loved ones had been taken to specific camps, at least initially.²²¹ In none of these cases did the military or an armed group admit to the families they were holding their relative.

In one case documented by Human Rights Watch, the family found the name of their “disappeared” relative on the list of Boosa prison detainees published in *Thinakaran* newspaper on February 8, 2007.²²² However, when the family came to Boosa prison to look for their son the prison officials could not produce him.²²³

Those abducted for the purpose of forcible recruitment by either the Karuna group or the LTTE are likely to be held at the groups’ military bases or training camps and

²²¹ All of the camps referred by witnesses as facilities where relatives might at some point have been detained are mentioned in the case descriptions in the Appendix I to this report.

²²² “A List of People in Prison under the Prevention of Terrorism Act,” *Thinakaran* (Colombo), February 8, 2007.

²²³ Human Rights Watch interview with the relatives of Sivakumar Jathavakumar, Colombo, March 4, 2007. For more information see Appendix I, the “disappearance” of Sivakumar Jathavakumar (case No 64).

participate in military operations. Their relatives, however, do not have an opportunity to see them or maintain any contact, and have no clarity on their fate.

Sadly, in the great majority of “disappearance” cases, the victims are presumed to be dead. Sri Lankan human rights defenders and journalists believe that many of the “disappearances” result in extrajudicial executions, while some may die as a result of torture during interrogations while arbitrarily detained.

As explained above, the existing legal framework and the history of mass graves discovered in Sri Lanka in the past add credence to such somber conclusions.²²⁴

In January 2008, the bullet-riddled bodies of 15 men and one woman were found in shallow graves in a government-controlled area of Anuradhapura district. Local officials reported that the victims had been tied up, blindfolded, and shot.²²⁵ Sri Lanka's Defense Ministry said the victims were civilians who had been searching for their cattle and were killed by the suspected LTTE. But local residents told the media that there had been no reports of such a large group going missing in the area.²²⁶

Many other bodies showing the marks of torture and execution have been found in different parts of the island throughout 2007. Some of these people had been reported missing, while others were never identified.

For example, on February 3, 2007, the *Virakesari* newspaper reported the discovery of a dead body showing “assault injuries” in Raja Veethy, Kopay. The victim was identified as 21-year-old Jeyakumaran Mayoora from Mootha Vinayagar, Jaffna.²²⁷ According to a report by a Jaffna-based NGO, 15 army personnel accompanied by two EPDP members had arrested Mayoora at his home on January 31, 2007. His family

²²⁴ For a detailed discussion on the Emergency Regulations and their role in the crisis of “disappearances,” see Chapter III. For information on mass graves discovered in Sri Lanka, see Chapter II.

²²⁵ Amal Jayasinghe, “Sri Lanka Probes 16 Bodies in Shallow Graves,” *AFP*, January 25, 2008.

²²⁶ “Sri Lankan Bodies in Mass Graves Hard to Identify: Hospital,” *AFP*, January 26, 2008.

²²⁷ Reproduced by HHR-Sri-Lanka, February 2007 Newspapers Summary, <http://hhr-srilanka.org/hhr/publications/monNews/2007/Feb.pdf> (accessed October 15, 2007).

inquired about Mayooraan at the Nelliady camp, but the military denied holding him.²²⁸

According to a January 28, 2007, report in the *Asian Tribune*, the bodies of five victims who had previously “disappeared” were discovered in the course of a week. Two of the victims, 23-year-old Selliah Janachchandran and 24-year-old Selvarajah Sriskantharajah, were found dead in Thalavai, in Batticaloa district. Both men reportedly had been abducted by Sri Lankan army soldiers on the previous day.²²⁹

In its January 2, 2008, response to Human Rights Watch’s inquiry on the status of investigation into this case, the national police confirmed that these two persons were found dead on January 23, 2007.²³⁰ According to the police, the bodies had gunshot wounds, but “there was no evidence to substantiate that the deceased have been abducted by the Sri Lankan army the previous day.”²³¹ They added that “further inquiries are being conducted by Eravur Police.”²³²

The other three corpses were discovered in Jaffna. In Inuvil local residents found the burnt remains of 32-year-old Nagenthiram Arumaithasan, who, according to his wife, had been abducted by what she believed to be government soldiers the previous week. Police discovered another body, with hands bound and cut wounds, in Pannakam, Jaffna. The body was that of 35-year-old building contractor Veerasingham Ratnasingham, who had gone missing on January 22, after he left home for the Agriculture Department in Nallur.²³³

The same week, according to the newspaper, local residents saw people in a white van dumping a body in Chunnakam, Jaffna.²³⁴ On January 22, 2007, this body was

²²⁸ The report is on file with Human Rights Watch. The name of the NGO is withheld for security reasons.

²²⁹ “Over a Dozen Civilians Killed in Past Seven Days,” *Asian Tribune*, January 28, 2007.

²³⁰ Response of the national police to Human Rights Watch, January 2, 2008. In the letter, the names of the dead are spelled as Selvarasa Sri Skandarajan and Selliah Janachchandran. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

²³¹ Ibid.

²³² Ibid.

²³³ “Over a Dozen Civilians Killed in Past Seven Days,” *Asian Tribune*, January 28, 2007.

²³⁴ “Over a Dozen Civilians Killed in Past Seven Days,” *Asian Tribune*, January 28, 2007.

identified as Daniel Santharuban. The victim's parents had earlier registered a complaint with the Jaffna Human Rights Commission stating that their son had been abducted on January 16, 2007, by a group of men in a white van near Chunnakam junction.²³⁵

In its January 2, 2008, response to Human Rights Watch's inquiry regarding these cases, the national police confirmed that Kopai police discovered the body of Nagenthiram Arumaithasan (spelled *Nagendran Arumathas* in the police response) on January 25, 2007. According to the deputy inspector general, the Kopai police questioned "the relatives and the persons in the vicinity, but could not gather any valuable information," and inquiries "are being continued."²³⁶

Regarding the case of Veerasingham Ratnasingham, the national police responded that Ratnasingham had been reported missing to Manipar police on January 24, 2007. Vaddukoddai police then discovered his body on January 26, 2007. According to the response, the police "are conducting investigations to arrest the persons responsible for this murder."²³⁷

In its response to Human Rights Watch, the national police also stated that on January 15, 2007, Chunnakam police received a complaint regarding the abduction of Daniel Santharuban committed by "unidentified persons who came in a van." After his body was discovered by the police on January 22, 2007, police officers "visited the scene and conducted appropriate investigations to identify the persons responsible but without success due to lack of evidence."²³⁸

The police also noted in its response to Human Rights Watch that while these murders have taken place in government-controlled areas, "every now and then the LTTE cadres infiltrate the area under cover and disguise," and thus it is possible that

²³⁵ Report by a Jaffna-based NGO, on file with Human Rights Watch. Name of the NGO withheld for security reasons. The case was also reported on the EPDP web-site, see "Dead Body of an Abducted Person Found," EPDP News Flash, January 23, 2007, <http://www.epdpnews.com/Archive/2007/2007-January-English/news-english-2007-01-23.html> (accessed October 15, 2007).

²³⁶ Response of national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

²³⁷ Ibid.

²³⁸ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

these attacks have been carried out by the LTTE “to wipe out the informants of the Government and members and sympathizers of other Tamil groups opposed to the LTTE.”²³⁹

In June 2006, at least four bodies were discovered in Kopay, Jaffna, in the area controlled by government security forces. Authorities identified two of the bodies. One belonged to Vaitheesvarasarma Vengada Krishna Sharma, a Hindu priest who had been reported missing since May 26, 2006. At that time, his wife submitted complaints to the SLMM and the Jaffna Human Rights Commission. She suspected the army’s involvement, as her husband sometimes had confrontations with local military officials after his daughter was injured by a grenade attack. Sharma had earlier registered a complaint with the Jaffna HRC regarding death threats to him by the army. The other body belonged to Visuvalingam Paranitharan, who had reportedly been abducted a month earlier while he was riding on a motorbike on the Kopay-Neerveli road.²⁴⁰

In many other cases, however, the “disappeared” individuals have never been found either alive or dead. Some believe that, after the revelations of mass graves in Chemmani and Sooriyakanda, perpetrators are now more careful to dispose of the bodies. “Abducted people are killed, body parts severed and then taken to the sea and flung overboard with stones attached,” wrote one highly regarded Sri Lankan journalist.²⁴¹ Local human rights activists interviewed by Human Rights Watch also believed that perpetrators now dispose of many bodies at sea.²⁴²

This scenario received support in March 2007, when the pro-LTTE website TamilNet reported that a mutilated male torso—with head, hands, and legs severed—was caught in a fishing net along the coast in Punguduthivu. The body was packed in a

²³⁹ Ibid.

²⁴⁰ Information on the Kopay exhumations was provided to Human Rights Watch by a Jaffna-based NGO. Name of the NGO withdrawn for security reasons. It was also reported in the Sri Lankan media.

²⁴¹ D.B.S. Jeyaraj, “An Overview of the Enforced Disappearances Phenomenon,” April 13, 2007, <http://transcurrents.com/tamiliana/archives/311> (accessed September 17, 2007).

²⁴² Human Rights Watch interviews, Jaffna, February 26, 2007, and Colombo, February 19, 2007.

green plastic bag filled with stones and tied around with barbed wire.²⁴³ Two months later TamilNet alleged that the body belonged to the “disappeared” priest Fr. Jim Brown (see above).²⁴⁴

On June 15, 2007, the Embassy of Sri Lanka in the US disputed the TamilNet allegations regarding the identity of the body, stating that postmortem and DNA examinations proved that the remains did not belong to Fr. Jim Brown. The statement, however, did not dispute other details of the Tamilnet accounts and provided no further information on the authorities’ efforts to establish the identity of the dead person and the circumstances of the killing.²⁴⁵

In response to Human Rights Watch’s inquiry regarding this case, the national police stated that “DNA tests have proved that the torso is not that of Fr. Jim or his aide” and “further inquiries are being conducted to identify the victim.”²⁴⁶ They did not explain, however, what investigative steps have been taken by the police in this case in the course of more than nine months since the discovery of the body.

Human Rights Watch is not aware of any recent cases where the discovery of bodies of people previously reported as abducted or missing has led to the identification and prosecution of the perpetrators.

²⁴³ “Mutilated Body Caught in Fishing Net in Punguduthivu,” *TamilNet*, March 15, 2007, <http://www.tamilnet.com/art.html?catid=13&artid=21568> (accessed October 15, 2007).

²⁴⁴ “Pungkudutheevu Body Identified as Belonging to Fr. Brown,” *TamilNet*, May 31, 2007, <http://www.tamilnet.com/art.html?catid=13&artid=22321> (accessed October 15, 2007).

²⁴⁵ “DNA Tests Prove the Human Remains Are Not of Fr. Jim Brown or His Aide,” Statement by the Embassy of Sri Lanka, Washington DC, June 15, 2007, http://www.slembassyusa.org/archives/main_index_pages/2007/dna_tests_prove_15juno07.html (accessed October 15, 2007).

²⁴⁶ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

VII. State Response to the Crisis of “Disappearances”

Failure to investigate and establish accountability

Despite the thousands of “disappearances” that have occurred all over Sri Lanka during the course of the last 20 years, just a handful of perpetrators have been brought to justice.²⁴⁷ Faced with a new crisis of “disappearances,” the Rajapaksa government has demonstrated an absolute lack of resolve to investigate and punish those responsible. Over 100 families of the “disappeared” interviewed by Human Rights Watch all talked about their failed efforts to get the authorities to act. The impunity enjoyed by violators is undoubtedly one of the main factors driving continued “disappearances.”

In cases where the security forces carried out arrests which then resulted in “disappearances,” there appears to be a concerted effort to disguise the identity of those responsible and to hamper future inquiries into the fate of the “disappeared.”

In blatant disregard of Sri Lankan law and presidential directives, the security forces have repeatedly failed to provide the families with arrest receipts, to identify themselves, or to inform the families of either the reasons for arrest or the location where the detainee was being taken. A number of family members told Human Rights Watch that when they tried to ask the security officials where they were taking their relatives, the security force personnel never responded. Instead, they threatened the family members with guns and kept them inside to prevent them from seeing the vehicles that took their relatives away.

For example, in August 2007, Ramakrishnan Rajkumar was taken away from a Colombo lodge by uniformed policemen accompanied by some men in civilian clothes. His wife told Human Rights Watch:

²⁴⁷ The failure of the Sri Lankan authorities to establish accountability for “disappearances” that occurred in the 1980s and 1990s is discussed in Chapter II.

I asked where they were taking him. The person in civilian clothes showed me a pistol. I asked where they were taking him again and he showed me the pistol again and then they took him away.²⁴⁸

The wife of Thilipkumar Ranjithakumar saw the military put her husband in their vehicle when he came to retrieve his ID card after a cordon-and-search operation in their village, in Valvettiturai in Jaffna, in December 2006. She told Human Rights Watch:

It all happened in front of my eyes—I stood with the kids some 10 meters away. I ran there, screaming, “Where are you taking him? Please, let him go!” In response, one of the soldiers unfastened a strap from his gun and lashed me, saying, “Go away, he is not here; if you lost your husband, go and ask the police.”²⁴⁹

In Jaffna, where the military was the suspected perpetrator in most of the cases reported to Human Rights Watch, families usually tried to search for their “disappeared” relatives in nearby military camps. In all of these cases, however, the military denied holding the detainees and apparently did nothing to check the families’ allegations of the military’s involvement. This happened even where families had sufficient information to suspect that their relatives had been taken away by the military unit from a particular camp.

In the above-cited case of the “disappearance” of Thavaruban Kanapathipillai and Shangar Santhivarseharam, military officials at Kodikamam camp first asked Santhivarseharam’s relatives questions that suggested they knew about the two men. Kanapathipillai’s family also went to the camp and his father told Human Rights Watch:

²⁴⁸ Human Rights Watch interview with the wife of Ramakrishnan Rajkumar, Colombo, March 4, 2007. For more information, see Appendix I, the “disappearance” of Ramakrishnan Rajkumar (case No 76).

²⁴⁹ Human Rights Watch interview with the wife of Thilipkumar Ranjithkumar, Jaffna, February 28, 2007. For more information, see Appendix I, “Disappearances” of Thilipkumar Ranjithkumar and Ganesh Suventhiran (case Nos 14-15).

When we came to the camp, I saw my nephew's bicycle parked there. They left on this bike the day they went missing. It was parked near the camp, in the military-controlled area. When we asked the military, they denied arresting them, and when I said we had seen the bike, they got very angry, and started yelling, "Who told you to go and look there?! We'll shoot you if you ever approach that place again!"

We asked the GS [village official] and the police to get the bike back, but they couldn't. Eventually, the commander in the camp returned the bike to us. He said that the people who had arrested our men were no longer there, so we should just take the bike and go.²⁵⁰

In some cases, military officials took statements from the family members yet never followed-up. One family member told Human Rights Watch that a military official recorded her statement about the "disappearance" of her husband in Sinhala, a language she cannot read. She did not want to sign it, but the official forced her to.²⁵¹

The wives of Thilipkumar Ranjithkumar and Ganesh Suventhiran wrote down the license plate numbers of the military vehicles that took their husbands away. However, when they tried to present this information to the military at the Point Pedro camp the officials there dismissed it as irrelevant. Suventhiran's wife said:

We gave them the vehicle numbers we wrote down, but they said, "We have hundreds of vehicles with the same numbers, so it is childish of you to expect us to find them by these numbers." The next day, when we came back, we saw both vehicles leaving the camp and coming back.

We told the policeman and also talked to a female military officer who wrote something down. Then a commander—he had stars on his

²⁵⁰ Human Rights Watch interview with relatives of Thavaruban Kanapathipillai, Jaffna, February 28, 2007. Human Rights Watch interview with a relative of Shangar Santhivarseharam, February 28, 2007, Jaffna. For more information, see Appendix I, "disappearances" of Thavaruban Kanapathipillai and Shangar Santhivarseharam (case Nos 27-28).

²⁵¹ Human Rights Watch interview with the wife of Thiyaganagalingam Sundaralingam, Jaffna, February 26, 2007. For more information, see Appendix I, the "disappearance" of Thiyaganagalingam Sundaralingam (case No 18).

epaulets and a red band on his arm—came. He talked to us and to the female officer, but never returned to us. They said they did not know anything and sent us to the Valvettiturai police station.²⁵²

The regional office of the Human Rights Commission in Jaffna said that it meticulously records every complaint of abduction or “disappearance” and in every case informs the Jaffna district military commander and the assistant superintendent of police. The commission staff also often makes inquiries in particular military camps on families’ behalf, yet usually receives nothing but denials.

In the majority of cases documented by Human Rights Watch across Sri Lanka, the families also registered the “disappearances” or abductions of their relatives with the local police and received a case number. In none of these cases, however, has the investigation produced any tangible results.

Accounts from family members indicate that the police failed to take even the most basic investigative actions to search for the victim or identify the perpetrators. They did not visit the place of the abduction, did not question eyewitnesses, and did not follow the leads provided by the families.

In response to Human Rights Watch’s inquiry, the national police stated that once a complaint of an abduction or “disappearance” is launched with the police, “the formal prosecution focused investigative steps required by the law will be taken.”²⁵³ The police did not provide any further details.

While the authorities often claim that they do not have sufficient information to identify the perpetrators and locate the victims, in many cases documented by Human Rights Watch, the family members provided sufficient details at least to start an investigation: family members knew the license plate numbers of the vehicles—white vans, police jeeps, or military vehicles—that took their relatives away; the

²⁵² Human Rights Watch interview with the wife of Ganesh Suventhiran, Jaffna, February 28, 2007. For more information, see Appendix I, “Disappearance” of Thilipkumar Ranjithkumar and Ganesh Suventhiran (case Nos 14-15).

²⁵³ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

phone numbers from which the calls with ransom demands were made; the numbers of bank accounts to which the abductors instructed them to transfer the ransom money; and in some cases the names of the people or military units involved in the abductions. Whether this information was provided to the authorities or not, it seemed to make no difference whatsoever, as the police routinely failed to inform the families of progress in the investigations for many months, if ever.

The convener of the Civil Monitoring Commission and a Member of Parliament, Mano Ganesan, said that his organization's efforts to motivate the police to act largely proved futile. He told Human Rights Watch:

The government initially complained that they never get leads. So, in one of the abduction cases we arranged with the local police and the family to get the perpetrator arrested. Another woman identified the same man as the abductor. The police then was under pressure to release him—we intervened and he remained in custody, but it was in September [2006] and until now we have not heard of any progress in the case.²⁵⁴

In another case, the victim was abducted in the south and taken to the east, and kept in one of Karuna's camps. The family immediately informed the police, but they took no steps—they could have tapped the phone to locate the abductors, but they didn't.²⁵⁵

Beyond failing to act, in a number of high-profile cases the police seemed also to actively obstruct the judicial process in order to shield government forces from accountability. Such allegations appeared in the media as well as in reports by local and international rights groups regarding the case of 10 Muslim laborers killed in

²⁵⁴ As of November 2007, the alleged perpetrator remains in custody but charges have yet to be filed against him.

²⁵⁵ Human Rights Watch interview with Mano Ganesan, Colombo, February 20, 2007.

Pottuvil;²⁵⁶ the case of the killing of five students in Trincomalee, allegedly by the STF;²⁵⁷ and the execution-style murder of 17 ACF aid workers in Mutur.²⁵⁸

Throughout 2007, the Rajapaksa government made a number of statements calling on the police to adequately respond to the wave of violent crimes, including abductions. In March, President Rajapaksa said he expected “a more responsible intervention from the police to prevent the current wave of crime, the violence, extortion, human rights violations.”²⁵⁹

In a media briefing on June 28, 2007, the chairman of the Presidential Commission on abductions, disappearances, and killings, Judge Tillekeratne, said that he recommended the government take strong action against policemen who had failed to investigate complaints of abductions and “disappearances.”²⁶⁰

In the absence of any real effort to hold the police accountable, however, these statements remain mere declarations and have not prompted a more effective response to the ongoing abuses. For example, in August 2007, University Teachers for Human Rights (UTHR) reported that the police were still failing to take any action in cases of extrajudicial killings and abduction. In a report describing “disappearances” and killings in the Mutur area, the group noted that “witnesses in Mutur identified to the local magistrate most of the perpetrators of more than 20 incidents of murder and abduction,” yet “the police in Mutur arrested no one.”²⁶¹

²⁵⁶ See, e.g., “Summary of Issues Arising from the Killing of Ten Muslim Villagers at Radella in Pottuvil Police Area on 17th September 2006,” Report by Law and Society Trust, INFORM and Rights Now, May 2007.

²⁵⁷ University Teachers for Human Rights (Jaffna), “Flight, Displacement and the Two-fold Reign of Terror,” Information Bulletin No. 40, June 15, 2006. See also D.B.S. Jeyaraj, “STF Suspects in Trinco Youth Murder to be Released,” May 3, 2006, <http://transcurrents.com/tamiliana/archives/143> (accessed September 15, 2007); D.B.S. Jeyaraj, “The terrible truth of the Trincomalee tragedy,” January 23, 2006, <http://transcurrents.com/tamiliana/archives/34> (accessed September 15, 2007).

²⁵⁸ See, e.g., “Sri Lanka: ICJ Calls for Justice as Inquest into Killing of 17 Aid Workers Concludes,” Statement by International Commission of Jurists, March 9, 2007; “Sri Lanka: ICJ Inquest Observer Finds Flaws in Investigation into Killing of ACF Aid Workers,” International Commission of Jurists press release, April 23, 2007, http://www.icj.org/news.php?id_article=4151&lang=en (accessed September 15, 2007). All three cases are also discussed in: International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

²⁵⁹ “Sri Lanka President blasts police dept for handling of abductions and killings,” *ColomboPage*, March 11, 2007, http://www.colombopage.com/archive_07/March11175225JV.html, accessed May 15, 2007.

²⁶⁰ Susistha R. Fernando, “Majority of ‘Abductees’ Found to Have Returned,” *Daily Mirror*, June 29, 2007.

²⁶¹ University Teachers for Human Rights (Jaffna), “Can the East be Won through Human Culling?” Special report No 26, August 3, 2007.

Government promises to address abuses by the Karuna group also remain unfulfilled. In response to international criticism, the government repeatedly claimed it would investigate the allegations against the Karuna group and announced in May 2007 that anyone found carrying guns would be arrested and dealt with according to the law.²⁶²

However, as mentioned above, the SLMM weekly reports from June to December 2007 contain numerous references to continued abductions allegedly perpetrated by the Karuna faction, and state that armed Karuna cadre continued to operate freely in the east, moving through government checkpoints unhindered.²⁶³

Statistics on accountability of the security forces released by the government are inconclusive and hardly convincing. On March 6, 2007, Police Inspector General Victor Perera announced that the police had arrested a “large number” of police officers and troops on charges of abduction and extortion. He said that among the 433 people arrested since September 2006, a large number were either police, soldiers, or deserters from the police and armed forces, but did not provide any details on those arrests.²⁶⁴

Two days later, the government’s cabinet spokesman on defense, Minister Keheliya Rambukwella, announced that of the 452 persons in detention under the Emergency Regulations, there were 15 soldiers, five policemen, and one former policeman, but he also did not give any specifics about the acts for which they were being held or what charges, if any, were pending against them.²⁶⁵

²⁶² Easwaran Rutnam, “Only Government Forces Can Carry Weapons: FM,” *Daily Mirror*, May 25, 2007.

²⁶³ In the weekly report for October 8-14, 2007, SLMM monitors noted:

On 10 October SLMM monitors witnessed TMVP members passing check points unhindered. Close to Kappalthuray SLMM monitors saw a convoy of five vehicles – three white vans, one white pick-up and a sedan. At the back of the pick-up two boys, about 15/16 years old, in military-like clothing were lying, partially covered by a tarpaulin. Inside one of the vans there were up to eight armed civilians. The SLMM witnessed the convoy traveling through check points.

See Sri Lanka Monitoring Mission, Weekly Reports, <http://www.slmm.lk/> (accessed January 28, 2007).

²⁶⁴ “Sri Lankan Police, Troops Involved in Abductions: Police Chief,” *AFP*, March 6, 2007; “Sri Lanka Police, Soldiers Arrested over Abductions,” *Reuters*, March 6, 2007.

²⁶⁵ International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007, with a reference to INFORM and Law and Society Trust, “Sri Lanka Human Rights Update,” March 15, 2007.

As mentioned above, in response to Human Rights Watch's attempts to clarify these figures, the police mentioned the arrest of 31 police officers since 2004 without providing further details. It did not provide any information on the overall number of individuals arrested in 2006-2007 on charges of abductions, extortion, and involvement in enforced disappearances. The police said that the response to this inquiry will be provided upon receipt of information from police divisions across the island.²⁶⁶

In June 2007, the authorities finally revealed the details of at least one arrest. After allegations made by a member of parliament, police arrested former Air Force Squadron Leader Nishantha Gajanayake—"the mastermind behind the spate of abductions, ransom demands and killings."²⁶⁷ During the investigation, Gajanayake reportedly revealed his involvement in the abductions of businessmen for ransom as well as the connections of his gang to the CID and an "anti-Tamil Tiger armed group."²⁶⁸

In July 2007, defense spokesman Rambukwella promised that "the suspects will be brought before the courts soon."²⁶⁹ It is unclear, however, how much progress has been made in the investigation since then. In October 2007, an article in the Sri Lankan newspaper *Daily Mirror* noted:

Investigations into the abductions and killings have also not yielded results with no one being brought to book over the abductions drama that haunted Colombo as well a few months back. Little have been heard of the investigations following the arrest of former Air force officer Nishantha Gajanayake and several others in connection with the abductions and disappearances.²⁷⁰

²⁶⁶ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

²⁶⁷ Sunil Jayasiri, "Ongoing Abductions Probe: Gajanayake Arrested," *Daily Mirror*, June 22, 2007.

²⁶⁸ "Sri Lanka's Abduction Investigations Take a New Turn," *Colombo Page*, June 23, 2007, http://www.colombopage.com/archive_07/June23141431SL.html (accessed October 16, 2007).

²⁶⁹ "Media is Commended for Highlighting HR Violations; Government Sets Up a Special Center to Avert Abductions," Ministry of Defense news release, June 28, 2007, http://www.defence.lk/new.asp?fname=20070628_01 (accessed October 22, 2007).

²⁷⁰ Kesara Abeywardena, "Patriots and Traitors in a Shadow War," *Daily Mirror*, October 10, 2007.

On January 2, 2008, in response to Human Rights Watch's inquiry regarding the status of this case, the national police provided the names of four policemen and an air force sergeant arrested in the Gajanayake case. The police mentioned that at the moment "investigations are being continued and action will be taken to consult the Attorney General on completion of investigations to file indictments."²⁷¹

According to some media reports, in January 2008, Gajanayake and three other suspects in the case were released on bail.²⁷² It is unclear whether the charges against the suspects have been dropped.

Official figures on accountability provided to Human Rights Watch by the Sri Lankan government in a three-page document in October 2007 demonstrate how little has been done to bring the perpetrators of serious abuses to justice.²⁷³

The document shows that since 2004, 29 police and military personnel have been arrested in seven cases of human rights violations—murder, torture, conspiracy to commit murder, and criminal trespass. It also mentions the Gajanayake case, adding that in June 2007 two other policemen and an air force sergeant were arrested for abductions, yet does not provide any details regarding the current state of the investigations.

According to the document, in the 10 years from 1998 to 2007, 27 police, military personnel, and civil administrative staff were convicted for abductions and "wrongful confinement," and another 52 police and military personnel were indicted since 2004 (14 were acquitted and other cases are pending in courts).

All of these indictments and convictions seem to be for abuses committed before 2005, as the same document mentions that there are only two pending cases against

²⁷¹ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch's letter of inquiry and the response from the police can be found in Appendix II to this report.

²⁷² "Main Suspect in Abductions and Extortions Released on Bail in Sri Lanka," *Colombo Page*, January 19, 2008, http://www.colombopage.com/archive_08/January19124246IV.html (accessed January 28, 2008).

²⁷³ The three-page document with statistics was given to Human Rights Watch by Palitha Kohona, the foreign secretary who heads the inter-ministerial working group set up to address human rights abuses during a meeting in Washington, DC, in October 2007.

army personnel for human rights violations committed in 2005-2006. The document states that “indictments were recently served on the persons, including army personnel, suspected in the killing of 5 students in Vavuniya,” yet it does not provide any dates or further details of the case.²⁷⁴

The document mentions that the National Police Commission received 1,216 complaints from the public against police officers between January and June 2007. According to the document, however, only in four cases the suspects were formally charged with crimes, and seven policemen were given warnings.²⁷⁵

The document refers to three specific incidents—the “disappearance” of Father Jim Brown, the killing of 12 civilians in Kayts, and the killing of six persons in Pesalai. Reports by human rights groups and the media strongly suggest that navy personnel were involved in all of these cases. Without further explanation, the document maintains, however, that the Navy Inquiry Board “concluded that there is no direct or indirect involvement of naval personnel in any of these incidents.”²⁷⁶

It is unclear how the figures in the document provided by the government correspond with the above-cited statements by the police chief and the defense spokesperson regarding the number of policemen and soldiers arrested over the last year. They do show, however, that the response of the law enforcement agencies to hundreds of cases of abductions and “disappearances” has been completely inadequate.

The failure of the Sri Lankan authorities to properly investigate serious human rights violations has been harshly criticized by various UN experts.

In 2006, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, noted in his report that “the criminal justice system, police investigations,

²⁷⁴ The reference here is apparently to the November 2006 arrests of a police officer and army soldier in relation to the killing of five students from the Thandikulam Agricultural College near Vavuniya. See Ministry of Disaster Management and Human Rights, “Government to Prosecute Army and Police Personnel Indictment to Be Served on Thandikulam Killings,” July 5, 2007, http://www.slembassyusa.org/backup/PR_July_6_2007.dwt (accessed October 18, 2007).

²⁷⁵ The document states that 382 or 31% of the complaints have been investigated by the Commission. It is unclear whether investigations will be carried out into the remaining 69% of the complaints.

²⁷⁶ Ibid.

prosecutions, and trials have utterly failed to provide accountability,” and that it is “an enduring scandal that convictions of government officials for killing Tamils are virtually non-existent.”²⁷⁷

Allan Rock, a United Nations advisor on children and armed conflict faulted the police in November 2006 for their failure to investigate and prevent abductions of children by the Karuna group.²⁷⁸

Following her visit to Sri Lanka in October 2007, UN High Commissioner for Human Rights Louise Arbour noted the “prevalence of impunity” in the country. Raising her deep concerns about the large number of reported killings, abductions, and “disappearances” which remain unresolved, Arbour said:

There has yet to be an adequate and credible public accounting for the vast majority of these incidents. In the absence of more vigorous investigations, prosecutions and convictions, it is hard to see how this will come to an end.²⁷⁹

Inadequacy of national mechanisms

Rather than making a diligent effort to investigate and prosecute the abuses, various Sri Lankan governments over the years have responded to international criticism by setting up different mechanisms ostensibly intended to address human rights violations.

These mechanisms have demonstrated differing degrees of independence, power, resources, and capacity to conduct effective investigations that could hold the perpetrators accountable. The creation of these mechanisms allowed the

²⁷⁷ UN Commission on Human Rights, “Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to Sri Lanka,” E/CN.4/2006/53/Add.5, 27 March 2006, <http://daccess-ods.un.org/TMP/6402584.html> (accessed April 16, 2007).

²⁷⁸ Office of the Special Representative of the Secretary-General on Children and Armed Conflict, “Allan Rock, the Special Advisor to the United Nations Special Representative for Children and Armed Conflict on Sri Lanka, has concluded his 10 day mission to the country,” statement, November 13, 2007, <http://www.un.org/children/conflict/pr/2006-11-13127.html> (accessed December 6, 2007).

²⁷⁹ “Press Statement by High Commissioner for Human Rights on Conclusion of Her Visit to Sri Lanka,” Colombo, October 13, 2007, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/2Co7EE5600DE5B19C12573750034C474?opendocument> (accessed October 20, 2007).

government to claim it is taking action, while in reality, to date, all of them have failed to halt the crisis of “disappearances.”

Human Rights Commission

Sri Lanka’s national Human Rights Commission (HRC), established in 1997, is granted significant powers to conduct public inquiries into gross violations of human rights; inquire and resolve complaints brought by the public concerning alleged human rights violations; initiate litigation when investigations disclose an infringement of fundamental rights; recommend other corrective action for individual rights violations; and make recommendations for the improvement of human rights within the country.²⁸⁰

In practice, throughout the commission’s existence, it has rarely used these powers due to lack of resources, obstruction by the security forces, and insufficient support from the government.²⁸¹

There was some optimism that the HRC’s performance might improve after the appointment in 2003 of the first commissioners nominated by the Constitutional Council, an independent and non-partisan body.²⁸²

However, after the HRC members’ terms of office expired in April 2006, the president appointed the new members directly, explaining his decision by the non-functioning status of the Constitutional Council.²⁸³ Without the independence provided for under

²⁸⁰ Human Rights Commission Act, No. 21, § 14 (1996). See also Mario Gomez, “Sri Lanka’s New Human Rights Commission,” *Human Rights Quarterly* 281, 284-5 (1998).

²⁸¹ The HRC’s Annual Report 2003, the last one to have been made public, stated that “owing to the heavy cuts imposed on the HRC budget in terms of the government’s budgetary policy, HRC was severely constrained during this period in carrying out its routine duties such as visiting police stations and this often hampered the Commission in performing this deterrent role as efficiently as it would have.” The HRC recommended that the Human Rights Commission Act of 1996 should be amended to make the recommendations of the Commission enforceable but no action was taken by the government. “Sri Lanka: Spectre of abductions by the security forces officially admitted,” *Asian Center for Human Rights Weekly Review*, 157/2007, March 7, 2007, <http://www.achrweb.org/Review/2007/157-07.htm> (accessed April 20, 2007).

²⁸² The Constitutional Council was created by the 17th Amendment to the Sri Lankan Constitution passed in 2001. See the full text of the 17th amendment at <http://www.priu.gov.lk/Cons/1978Constitution/SeventeenthAmendment.html> (accessed October 20, 2007).

²⁸³ In March 2005 the terms of six of the 10 council members expired, and the Constitutional Council lost its necessary quorum. Months later, following the election of President Rajapaksa, the prime minister and leader of the main opposition party finally made their recommendations for appointment to the council. The president, however, argued that the council could not function without the tenth member, who had to be nominated by a majority vote of the smaller parties in parliament.

the constitution, the current commission has been less effective in raising human rights concerns than its predecessor.

Characteristic in this regard is the above-mentioned decision of the HRC to drop investigations into 2,127 complaints of past allegations of “disappearances” which remained uninvestigated by the All Island Commission of Inquiry.²⁸⁴ Referring to this decision, the UN Working Group noted in its report that the board of the commission had reportedly “completely abdicated” from its responsibility to “inquire into infringement of fundamental rights and to make appropriate redress, including the granting of compensation to the victims.”²⁸⁵

Despite the spiraling human rights crisis in the country and hundreds of “disappearances” reported to the commission over the last two years, the HRC has issued no public reports on the matter.

In November 2007, Human Rights Watch submitted a detailed letter of inquiry to the HRC asking for statistics on cases reported to the commission, the existing procedures for investigating such reports, action taken by the HRC upon receipt of the complaints, and other related matters. In an e-mail response to Human Rights Watch the chairman of the commission refused to provide any information, saying that “no information is given to those media or NGO's who consider us as not lawfully appointed by H.E. President.”²⁸⁶

Regarding the investigation into 2,127 complaints of past “disappearances,” the HRC chairman stated that a “Committee appointed by this Commission has completed investigation into said complaints and submitted the report to this Commission,

To date, the smaller parties have been unable to decide on the name of their recommended appointee, ostensibly due to disagreement over the proper process of selection. Lawyers and human rights activists in Sri Lanka view the president's decision as a way to keep the council from operating.

²⁸⁴ United Nations Human Right Council, Fourth session, Item 2 of the provisional agenda, “Report of the Working Group on Enforced or Involuntary Disappearances,” A/HRC/4/41, January 25, 2007.

²⁸⁵ Namini Wijedasa, “No Investigations ‘Without Special Directions from Government’ – HRC dumps 2,000 Uninquired Complaints,” *Sunday Island*, July 16, 2006. See also, Sri Lanka: The Human Rights Commission of Sri Lanka Has Stopped Investigations into 2000 Disappearance Cases to Avoid Having to Pay Government Compensation to the Victims,” Statement by the Asian Human Rights Commission, AS-169-2006, July 18, 2006.

²⁸⁶ Response to Human Rights Watch from the Human Rights Commission of Sri Lanka, by e-mail, January 24, 2008. The Human Rights Watch letter to the HRC and the Commission's response can be found in the Appendix II to this report.

which report is now being studied by the Commission.”²⁸⁷

The International Crisis Group (ICG) in its June 2007 report said that, according to staff at the HRC Colombo head office, “the Commission statistics on complaints of abductions, disappearances and political killings will no longer be provided to NGOs,” while staff based in the HRC’s 10 regional offices said they had been instructed not to provide such information without written approval from the head office. ICG’s requests for statistics from regional offices were denied, with the exception of March 2007.²⁸⁸

Human Rights Watch is aware that staff in some regional HRC offices do effective and courageous work, trying to assist the families of the “disappeared” and making inquiries with the security forces. Their work, however, gets little support from Colombo. Moreover, recent media reports suggest that in October 2007, the HRC Head Office in Colombo sent specific instructions to its Jaffna office ordering it to refrain from releasing information on human rights violations to the media and other public interest groups.²⁸⁹

In response to Human Rights Watch’s inquiry, the chairman of the commission confirmed this policy, saying that “in view of incorrect and conflicting data furnished by the regions it is now decided to furnish any information by the Head Office only.”²⁹⁰

HRC staff told Human Rights Watch that security personnel frequently fail to cooperate with the commission and have often denied commission staff access to detention facilities. As a result, the commission’s ability to investigate the allegations of “disappearances” is significantly hindered.

²⁸⁷ Ibid.

²⁸⁸ See International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

²⁸⁹ Ranga Jayasuriya, “Jaffna Ordered to Blackout News,” *Lakbima*, October 21, 2007.

²⁹⁰ Response to Human Rights Watch from the Human Rights Commission of Sri Lanka, by e-mail, January 24, 2008. The Human Rights Watch letter to the HRC and the Commission’s response can be found in the Appendix II to this report.

Even more worrisome are HRC statements aimed at downplaying the scale of the crisis. According to the International Crisis Group, HRC staff have argued that in the majority of cases “disappeared” persons have returned, and that media reports are “highly exaggerated, unfounded, and malicious” and are “being made to tarnish the image of the country.”²⁹¹

Such statements reinforce the allegations that the HRC is more interested in supporting the government’s line than in conducting independent and thorough investigations.

In October 2007, following her visit to Sri Lanka, UN High Commissioner for Human Rights Louise Arbour was sharply critical of the HRC:

[T]he failure to resolve the controversy over the appointment of commissioners has created a crisis of confidence in the HRC both locally and internationally. The HRC’s failure to systematically conduct public inquiries and issue timely public reports has further undermined confidence in its efficacy and independence.²⁹²

The high commissioner warned that the continued failure of the HRC to perform duties in accordance with its mandate may cause the loss of its accreditation to the international body governing these institutions.

In December 2007, the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights—the international body that regulates national human rights institutions—reduced Sri Lanka’s NHRC to the status of an “observer”—the commission no longer has the right to vote in international meetings and is not eligible to stand for election to the international coordinating committee.

²⁹¹ See International Crisis Group, “Sri Lanka’s Human Rights Crisis,” Asia Report no 135, June 14, 2007.

²⁹² Press Statement by High Commissioner for Human Rights on Conclusion of Her Visit to Sri Lanka, Colombo, October 13, 2007, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/2Co7EE5600DE5B19C12573750034C474?opendocument> (accessed October 20, 2007).

The international coordinating committee downgraded the Sri Lankan NHRC on two grounds: first, because of concerns that the appointment of its commissioners was not in compliance with Sri Lankan law, which meets international standards; and second, because of concerns that the commission's practice was not "balanced, objective and non-political, particularly with regard to the discontinuation of follow-up to 2,000 cases of disappearances in July 2006."²⁹³

*Presidential Commission on Abductions, Disappearances, and Killings
(Tillekeratne Commission)*

Following the practice of previous Sri Lankan administrations, in September 2006, President Rajapaksa set up a Presidential Commission on Abductions, Disappearances, and Killings, headed by former Judge Mahanama Tillekeratne. Judge Tillekeratne submitted interim reports to the president on December 12, 2006, and March 23, 2007. The government has not made either report public.

Tillekeratne has been cited in the media downplaying the scope of the problem and the involvement of the security forces in "disappearances."²⁹⁴

In May 2007, describing his visits to Jaffna and Batticaloa, Tillekeratne claimed that "some invisible hand" is responsible for abductions, and "no one said a single word against anyone in the army or police."²⁹⁵ Given numerous accounts collected by Human Rights Watch and other organizations, it is surprising that Tillekeratne did not hear any allegations of the security forces' involvement in abductions during his trip. Based on information Human Rights Watch obtained about his fact-finding in Batticaloa, the commission apparently took inadequate care to ensure that families of the "disappeared" felt safe providing information.

²⁹³ For more information, see "Sri Lanka: Human Rights Commission Downgraded: UN Human Rights Monitoring Urgently Needed to Stem Violations," Human Rights Watch press release, December 18, 2007.

²⁹⁴ See, e.g., Official website of the Government of Sri Lanka, "Majority of 'Disappeared' Had Returned—Commissioner," June 29, 2007; Somini Sengupta, "Specter of kidnappings returns to torment Sri Lanka," *The International Herald Tribune*, October 31, 2006, <http://www.iht.com/articles/2006/10/31/news/lanka.php> (accessed March 17, 2007).

²⁹⁵ International Crisis Group, "Sri Lanka's Human Rights Crisis," Asia Report no 135, June 14, 2007.

According to an international aid worker with knowledge of Tillekeratne's visits to Batticaloa, families of the "disappeared" were informed about the commission's arrival via the police. At times, police and soldiers from the area warned parents that they should say their sons were taken away by "unidentified groups."²⁹⁶

In August 2007, Tillekeratne was again cited saying that "the incidents are not as bad as projected," and referred to the existence of an "invisible hand" to discredit the Sri Lankan government through wide publicity to alleged rights abuses on the island.²⁹⁷

The greatest weakness of this commission, as with the presidential commissions established in the past, was that its findings are not public nor are they used as the basis for genuine investigations by the criminal justice system. Past experience does not provide for much optimism. The recommendations of the previous commissions remain largely unimplemented, and so far no government action following Tillekeratne's findings have been reported.

Presidential Commission of Inquiry and International Group of Eminent Persons

Another step widely advertised by the Rajapaksa administration as proof of its commitment to accountability was the creation of the Presidential Commission of Inquiry (Col) to investigate serious cases of human rights violations since August 1, 2005. The Col is purportedly assisted by an international group of observers, called the International Independent Group of Eminent Persons (IIGEP), however, the IIGEP has not been permitted to play a significant role in the commission's work.

In its previous report on Sri Lanka, Human Rights Watch provided a detailed analysis of factors that render the Col an inadequate tool for addressing the widespread

²⁹⁶ Human Rights Watch interview with international aid worker, Batticaloa, February 27, 2007.

²⁹⁷ "Disappearances, Abductions Recede: Sri Lankan Government," *PeopleDaily.com*, August 31, 2007, <http://www.google.com/search?hl=en&q=Disappearances%2C+abductions+recede%3A+Sri+Lankan+gov%27t&btnG=Search> (accessed October 15, 2007).

human rights violations in the country.²⁹⁸ Since the publication of that report, the Col has done nothing to contradict that analysis. Similar concerns have been echoed by several Sri Lankan and international organizations.²⁹⁹

The commission remains an advisory body that investigates cases and makes recommendations, but there is no guarantee that relevant government bodies will act on them. The involvement of government agencies such as the Attorney General's office in the work of an ostensibly independent commission also raises serious concerns about potential conflicts of interest. Efforts to establish a witness protection program have been inadequate, significantly limiting the Col's ability to conduct investigations.

With respect to "disappearances" and abductions, it is unrealistic to expect that the Col could ever address hundreds of reported cases. The only "disappearance" case that the commission decided to look into is that of Fr. Jim Brown and Wenceslaus Vinales Vimalathas. So far, however, there has been no progress in the investigation—which is true for most of the cases currently within the commission's mandate.

In September 2007, the IIGEP noted in its interim report to the president that since the inception of the commission, "no substantial progress has been made into any of the mandated cases," and that the Col "is unlikely to have completed any case before the expiry of the commission's mandate in early November 2007."³⁰⁰

²⁹⁸ For a detailed analysis of the inadequacy of the Col, see Human Rights Watch, *Sri Lanka – Return to War: Human Rights under Siege*, vol. 19, no. 11(c), August 2007.

²⁹⁹ See, e.g., Centre for Policy Alternatives, "Commission of Inquiry and the International Independent Group of Eminent Persons: Commentary on Developments," January-April 2007, CPA Policy Brief no. 2, 2007; International Crisis Group, "Sri Lanka's Human Rights Crisis," Asia Report no 135, June 14, 2007; "Sri Lanka: Why a Presidential Commission Cannot Ensure Protection of Human Rights and Why Foreign Observers Cannot Play a Positive Role in Such a Commission? The Case for an International Monitoring Mission," Statement by the Asian Human Rights Commission, AS-233-2006, October 4, 2006; http://www.cpalanka.org/research_papers/Policy_Brief_2_2007.pdf (accessed October 10, 2007).

³⁰⁰ "The IIGEP Reiterates Concerns over the Work of the Commission of Inquiry," Statement by the International Independent Group of Eminent Persons, IGEP-PS-003-2007, September 19, 2007.

Addressing the Human Rights Council in December 2007, High Commissioner for Human Rights Louise Arbour noted that “despite high expectations,” the Col “has yet to complete any of its cases.”³⁰¹

Families of the “disappeared” have criticized both the Tillekeratne Commission and the Col. In April 2007, a group of relatives supported by the Civil Monitoring Commission petitioned the government, expressing despair at the government’s unwillingness to investigate “disappearances” and its rejection of efforts by the families, as well as local and international groups, who are trying to help the relatives.

On the ineffectiveness of the Tillekeratne Commission and limitations of the Col and IIGEP mandate, the relatives complained that “none of these mechanisms have helped to bring back our loved ones and to know the fates of them. Setting up of these two commissions and group did not prevent disappearances.”³⁰²

National Police Commission and Special Police Unit

The creation of the National Police Commission (NPC) initially raised hopes that this body would address long-standing problems associated with the police force, including abuse and impunity.

The NPC was granted the power of appointment, promotion, transfer, disciplinary control, and dismissal of police officers other than the inspector general of Police. It was also supposed to investigate public complaints against police officers and provide redress in accordance with the law.

Even during its first term, however, the NPC’s functioning has been hampered by lack of financial resources, inadequate investigative powers, and lack of cooperation

³⁰¹ Address by Ms. Louise Arbour, High Commissioner for Human Rights, on the occasion of the resumed 6th session of the Human Rights Council, Geneva, December 11, 2007.

³⁰² Petition by relatives of the disappeared persons adopted at the first meeting of the Civil Monitoring Commission. D.B.S. Jeyaraj, “Dear Ones of “Disappeared” in depths of Despair,” *Transcurrents.com*, April 12, 2007, <http://transcurrents.com/tamiliana/archives/310> (accessed September 15, 2007).

from the police department.³⁰³ According to a leading Sri Lankan lawyer, the commission “has been cribbed, cabined and confined in respect of many aspects of the fulfillment of its constitutional duty.”³⁰⁴

The situation has hardly improved since April 2006, when new commissioners were appointed directly by the president, and not by the Constitutional Council as required by the 17th amendment to the constitution. The independence of the current NPC, as well as its willingness to address numerous allegations of the police involvement in abductions and “disappearances” is highly questionable.

In response to Human Rights Watch’s inquiry, the NPC stated that it had received “several complaints” on abductions and “disappearances,” but “most of these abductions and disappearances are allegedly by paramilitary elements, Karuna group, the army or unidentified men or cases of missings.”³⁰⁵ The NPC maintained that “there are no specific allegations about police involvement” in these crimes. The NPC also mentioned that when the commission receives reports of police inaction in response to such complaints, it refers such cases to senior officers “concerned to expedite inquiries,” and monitors the progress in such cases.³⁰⁶ The NPC, however, did not provide any statistics or further details regarding such instances.

In addition to the existing National Police Commission, in September 2006 the government announced the creation of a “special police unit to investigate into the incidents of kidnappings, abductions, disappearances, and ransom demands,” in response to the wave of abductions in Colombo.³⁰⁷

³⁰³ “Sri Lanka: Spectre of abductions by the security forces officially admitted,” Asian Center for Human Rights Weekly Review, 157/2007, March 7, 2007, <http://www.achrweb.org/Review/2007/157-07.htm> (accessed April 20, 2007).

³⁰⁴ Kishali Pinto-Jayawardena, “The National Police Commission in Sri Lanka: Squandering a Golden Opportunity,” *Commonwealth Human Rights Initiative Newsletter*, Vol.12, No 4, New Delhi, 2005.

³⁰⁵ “Report on the action taken by the National Police Commission on allegations of the police involvement in the abduction and enforced disappearances,” attached to the response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

³⁰⁶ Ibid.

³⁰⁷ “Special Police Unit to Probe Incidents of Killing,” Office of the President media release, September 15, 2006, http://www.slembassyusa.org/archives/main_index_pages/2006/sl_govt_takes_18sep06/pr_presi_secre_15sep06.pdf (accessed October 20, 2007).

The government has not reported publicly on the activities of this unit, yet it is clear that the abductions in Colombo have continued since its creation—dozens of such cases were reported in late 2006 and early 2007. Moreover, the only arrests for these abductions were made only after the key suspect’s name had been mentioned in parliament (see above).

Judging by the accounts collected by Human Rights Watch, neither the NPC nor the newly established Special Unit seem to have made significant progress in supporting the families’ efforts to locate their missing relatives and identify the perpetrators.

Perhaps the greatest indicator of the ineffectiveness of the two bodies is that in 2007 the government kept establishing additional mechanisms within the national police to address the same issue. In June 2007, government defense spokesman, Minister Keheliya Rambukwella, said the government set up “two special operation cells to collect information and take immediate action on complaints of abductions and extortions take place in Colombo and suburbs.” The units, according to the minister, were “functioning round the clock” under the supervision of the Presidential Secretariat and the police.³⁰⁸

The round-the-clock functioning of these units apparently also failed to bring results, as on October 29, 2007, CID Chief D.W. Prathapasingha announced the opening of a “police information centre for disappeared persons” to accept complaints from the public regarding abductions and disappearances.³⁰⁹ Prathapasingha did not comment as to why the government believed there was a need for establishing yet another body in addition to other police mechanisms.

In response to Human Rights Watch questions regarding the functioning of these mechanisms, the national police mentioned that there are no “operational relations” between the information center and the Special Units “other than sharing and exchanging information.”³¹⁰ The police added that as of January 2, 2008, the

³⁰⁸ “Media is Commended for Highlighting HR Violations; Government Sets Up a Special Center to Avert Abductions,” Ministry of Defense news release, June 28, 2007, http://www.defence.lk/new.asp?fname=20070628_01 (accessed October 22, 2007).

³⁰⁹ Supun Dias, “Many Abducted People Found: CID,” *Daily Mirror*, October 30, 2007.

³¹⁰ Response of the national police to Human Rights Watch, January 2, 2008. Human Rights Watch’s letter of inquiry and the response from the police can be found in Appendix II to this report.

information center received 20 complaints of disappearances, “and investigations into these cases are being continued.”³¹¹

Ministry of Disaster Management and Human Rights

The Rajapaksa administration repeatedly portrays the establishment of the Ministry of Disaster Management and Human Rights in February 2006 as an indicator of the government’s serious approach to human rights. The ministry runs a Permanent Standing Committee on Human Rights and its implementing body, the Inter-Ministerial Committee on Human Rights. According to the ministry, the latter holds meetings with key officials of the armed forces, the Defense Ministry, and the Police Department, and may, among other things, “direct relevant law enforcement authorities to investigate alleged violations of human rights and call for reports on such investigations.”³¹²

The minister has also created an Advisory Board, consisting of civil society representatives, “to advise the minister on prevention, mitigation, and taking immediate action” in respect of human rights violations.³¹³

On the eve of Louise Arbour’s visit to Sri Lanka the ministry announced the appointment of “a high level committee to inquire into allegations of Abduction and Recruitment of Children for use in Armed Conflict in 2007.” The Committee is supposed to monitor investigations made in connection with the abduction and recruitment of children by the LTTE and the Karuna group, and monitor the released children and facilities to ensure their rehabilitation and reintegration.³¹⁴ It is too early to say whether this body has had any impact in preventing child abductions, but optimism is elusive when so many previous mechanisms have failed.

³¹¹ Ibid.

³¹² Information available on the website of the Ministry of Disaster Management and Human Rights, <http://www.dmhr.gov.lk/hr/english/committees.html> (accessed October 22, 2007).

³¹³ Ibid.

³¹⁴ “Special Committee on Abduction and Violation of Child Rights,” *The Official Government News Portal of Sri Lanka*, October 8, 2007, http://www.news.lk/index.php?option=com_content&task=view&id=3647&Itemid=44 (accessed October 20, 2007).

The Ministry of Disaster Management and Human Rights could play an important role within the administration to press the government to address key human rights concerns through the relevant ministries. However, its lack of assertiveness on key issues and with respect to other government agencies has meant that the results of its work in this sphere have been hardly visible. Instead of confronting abuse, Minister Mahinda Samarasinghe has increasingly sought to downplay allegations of government violations, including the extent of the problem of “disappearances,” and to dismiss criticism as the LTTE “propaganda strategy” used to “paint a bleak picture internationally to bring pressure on the government.”³¹⁵

The ministry’s standing among Sri Lanka’s human rights community was best illustrated by the October 2007 resignation of four prominent members of its Advisory Board. The human rights activists on the board resigned to protest the government’s continued lack of willingness to address ongoing extrajudicial killings, abductions, and arbitrary arrests. They submitted their resignation after Minister Samarasinghe rejected a proposed UN monitoring mission supported by the UN High Commissioner for Human Rights.³¹⁶

Monitoring Committee on Abductions and Disappearances

This committee appointed by the president oversees a “special center for gathering information on abductions allegedly happened in the Colombo and Suburbs.” According to Minister of Media Lakshman Yapa Abeywardena, it commenced operations on June 28, 2007. Reportedly, the center “sits 6-7 hours a day at Bandaranaike Memorial International Conference Hall” and accepts complaints from the public.³¹⁷

At an October 9, 2007, media briefing, committee member and Minister for Building and Engineering Services Rajitha Senarathne announced that since the appointment of the committee “complaints of abductions are now nil in Colombo and in the

³¹⁵ “You cannot expect everything to be normal,” Interview by Human Rights and Disaster Management Minister Mahinda Samarasinghe, *The Nation*, March 18, 2007.

³¹⁶ “Sri Lanka Rights Activists Quit Panel in Protest Over Killings,” *AFP*, October 15, 2007.

³¹⁷ “Media is Commended for Highlighting HR Violations; Government Sets Up a Special Center to Avert Abductions,” Ministry of Defense news release, June 28, 2007, http://www.defence.lk/new.asp?fname=20070628_01 (accessed October 22, 2007).

Eastern Province,” and that “the government has looked into many of the cases and 141 cases are still to be looked into.”³¹⁸ Given the scarcity of information it is hard to access the committee’s work, but the publicly available evidence gives no reason to accept the minister’s claims.

As mentioned above, Sri Lankan human rights groups and international organizations continue to document abductions and “disappearances” in Colombo and the east, as well as the continuing high levels in the north.³¹⁹

Moreover, it is unclear what the minister meant when he said that the government “looked into” most of the cases. Since the arrest of Nishantha Gajanayake and several of his accomplices, there have been no reports of progress with “disappearances” investigations anywhere in the country.

Notably, the focus of the minister’s speech, delivered during Louise Arbour’s visit to the country, was indignation at the international community which “singles out” Sri Lanka with its “mere 1,200” cases of enforced disappearances instead of focusing on “violations in Kashmir or Iraq.”³²⁰

These defensive, misguided statements suggest that both the center and the committee, its supervising body, are focusing at least as much on rhetorically countering international pressure as on uncovering the truth, holding perpetrators accountable, and providing information and, where appropriate, reparations to victims and their families.

³¹⁸ See, e.g., “Sri Lanka Upholds the Value of Human Life,” *The Official Government News Portal of Sri Lanka*, October 9, 2007, http://www.news.lk/index.php?option=com_content&task=view&id=3658&Itemid=44 (accessed October 20, 2007); SLMM weekly report for September and October 2007.

³¹⁹ See, e.g., “Sri Lanka: Latest Report on ICRC Activities in the Field, July 7th to August 31st,” ICRC Bulletin No. 16, September 3, 2007, <http://www.icrc.org/Web/Eng/siteeng.nsf/htmlall/sri-lanka-news-30907> (accessed October 30, 2007). SLMM weekly report for December 3 – December 9, 2007, mentioned the abduction of 22 persons, seven of them children, in the Eastern region. See Sri Lanka Monitoring Mission, Weekly reports for December 2007, <http://www.slmm.lk/> (accessed January 28, 2007).

³²⁰ Sandun A Jayasekera, “Abductions: Government Tells West to Heal Itself,” *Daily Mirror*, October 10, 2007.

Official denials

The failure of the authorities to establish accountability and stop the abuses is not surprising given that at the highest levels the Sri Lankan government continues to deny the continuing crisis of “disappearances” and the involvement of its security forces in these violations.

The president, government ministers, and the government’s Secretariat for Coordinating the Peace Process (SCOPP) have repeatedly attacked those who have raised concerns, whether domestically or internationally, dismissing the allegations of widespread “disappearances” and other abuses as LTTE propaganda aimed at marring the state’s image internally and abroad.³²¹

A strongly worded statement by the SCOPP in March 2007 rejected all allegations and accusations against the government for complicity in abductions and “disappearances” as “unfounded.” It said that police investigations “substantiate the fact that neither the Security Forces, nor the Police, have been involved, directly or indirectly, in the alleged abductions and disappearances” and led “to the inescapable conclusion that much of the accusations were stage managed for mere propaganda purposes.” The statement further alleged that many of the reported “disappearance” cases “were clearly and intentionally manipulated, with the ulterior motive of gaining some personal advantage.”³²²

President Rajapaksa also stated on several occasions that the reports of numerous “disappearances” are inaccurate, citing cases where people reported missing later turned out to be abroad, or went into hiding to escape criminal charges.

³²¹ See, e.g., “You cannot expect everything to be normal,” Interview by Human Rights and Disaster Management Minister Mahinda Samarasinghe, *The Nation*, March 18, 2007.

³²² “Baseless Allegations of Abductions and Disappearances,” SCOPP Report, March 8, 2007, <http://www.lankamission.org/other%20pages/News/2007/Mar/2007-03-11Baseless%20Allegations%20of%20Abductions%20and%20Disappearances.htm> (accessed April 17, 2007).

In an October 4, 2007, interview, the president said that “these disappearance lists are all figures” since in many cases children have simply “gone [on] their honeymoon without the knowledge of their household.”³²³

Similar claims have been made by the Minister of Disaster Management and Human Rights³²⁴ and the director general of the government's Media Centre for National Security. The latter suggested that many of the “disappeared” are simply “girls going away with a boy.”³²⁵

Government officials have repeatedly claimed that most of the missing individuals have returned or have been found. One such allegation was made on October 29, 2007, by the CID Chief D.W. Prathapasingha who claimed that “many believed to have disappeared or were abducted by unidentified groups have been found.”³²⁶ Just like the president, the SCOPP, and the Tillekeratne Commission, the CID chief has not provided any facts to substantiate the claim.

The government also insists that Sri Lankan security forces are “a very disciplined force” that do not violate human rights, and the abductions are the doing of the LTTE. In an *Al Jazeera* interview on May 30, 2007, President Rajapaksa said, “Definitely, I don't refute the fact that the LTTE is abducting people. The LTTE has abducted people and killed them. The state forces do not have to abduct people, because we have a law.”³²⁷ In October 2007, the president said, “I do not say we have no incidents of disappearances and human rights violations, but I must categorically state that the government is not involved at all.”³²⁸

³²³ Daya Gamage, “Western Powers Despise My Non-Elitist Leadership in Sri Lanka - Mahinda Rajapakse,” *Asian Tribune*, October 4, 2007.

³²⁴ See, e.g., “An unwavering commitment to protect people's fundamental rights,” interview by Disaster Management and Human Rights Minister Mahinda Samarasinghe, *Daily News*, March 2, 2007.

³²⁵ Simon Gardner, “Halt Abductions, Sri Lanka and Tigers Urged,” *Reuters*, April 5, 2007.

³²⁶ Supun Dias, “Many Abducted People Found: CID,” *Daily Mirror*, October 30, 2007.

³²⁷ Teymoor Nabili, Interview with Mahinda Rajapaksa, the President of Sri Lanka, *101 East, Al Jazeera*, May 30, 2007, for the transcript see <http://www.lankanewspapers.com/news/2007/6/15481.html> (accessed October 20, 2007).

³²⁸ Daya Gamage, “Western Powers Despise My Non-Elitist Leadership in Sri Lanka - Mahinda Rajapakse,” *Asian Tribune*, October 4, 2007.

Even putting aside facts and figures collected by human rights organizations and widely publicized in the media, such statements do not correspond with other reports by the government and by various monitoring bodies it has set up. As mentioned above, Judge Tillekeratne and Minister Senarathne, both representatives of the bodies appointed by the president, cited the figure of over 1,000 “disappearances” and abductions, while the police chief and the defense spokesperson have said that large numbers of security force personnel have been arrested for their role in abductions and enforced disappearances.

It is also unclear why the government has felt the need to establish so many different commissions and committees if, as alleged by the president, the “disappearances” lists were merely unsubstantiated figures.

While these high-level statements are neither credible nor consistent, they send a message to members of security forces and bodies charged with investigating their conduct. In essence, the government’s rhetoric implies that the widely advertised measures to address the “disappearances” are not intended to genuinely address the issue. The security forces are in effect being told that they can continue to act with impunity, assured that the government will not take the allegations of their involvement in human rights abuses seriously.

VIII. Sri Lanka and the International Community

Position of the international community

The Sri Lankan government's unwillingness to seriously address the problem of "disappearances" has come at increasing cost to its relations with concerned foreign governments. The United States and European Union governments have raised concerns about the deteriorating human rights situation in an increasingly forceful manner, but the Sri Lankan government has to date spent more energy dismissing their concerns than taking action to put them to rest. Ultimately, more concerted action is needed by the international community, particularly the Indian and Japanese governments, to respond to the crisis and help bring about tangible improvements on the ground.

In 2007, US public criticism of the Sri Lankan government's human rights record, as well as that of the LTTE, was bolstered by the threat of financial and military sanctions and calls for a UN monitoring mission in the country.

A number of US congressmen have also addressed the human rights crisis in Sri Lanka, highlighting the issue of large-scale abductions and killings and urging the US government to take action to address the situation.³²⁹

The State Department also took a stronger stance. During his visit to Sri Lanka in May 2007, Assistant Secretary of State for South and Central Asian Affairs Richard A. Boucher voiced his concerns about the worsening human rights situation in the country, and specifically about the growing number of abductions and killings.³³⁰

At meetings with leading Sri Lankan human rights activist Sunila Abeysekera in late

³²⁹ See, e.g., "Ackerman Calls for Increased U.S. Efforts in Sri Lanka," press statement by House Committee on Foreign Affairs, Subcommittee on the Middle East and South Asia, July 10, 2007; "Lantos Calls for Calm, Return to Negotiations in Sri Lanka," press statement by House Committee on Foreign Affairs; "the Honorable Frank Pallone, Jr., "Political Crises in South Asia: Pakistan, Bangladesh, Sri Lanka and Nepal," written testimony, House Committee on Foreign Affairs, Subcommittee on the Middle East and South Asia, August 1, 2007.

³³⁰ "Remarks By U.S. Assistant Secretary of State for South and Central Asian Affairs Richard A. Boucher at the Press Conference in Colombo," transcript by the Embassy of the United States in Sri Lanka, May 10, 2007, <http://srilanka.usembassy.gov/bouchermay07.html> (accessed October 28, 2007).

October, Under Secretary of State for Political Affairs R. Nicholas Burns and Under Secretary of State for Democracy and Global Affairs Paula Dobriansky also expressed “great concern about the human rights situation in Sri Lanka.” They added that “the Sri Lankan government needed to work far more intensively to end such grave human rights violations as extrajudicial killings, forced disappearances, and torture, as well as on-going media censorship by government security forces.”³³¹

The suspension of military assistance has been the most significant demonstration of US concern about the developments in Sri Lanka.

The US suspended the issuance of licenses for the sale or transfer of military equipment and services to Sri Lanka in accordance with the Consolidated Appropriations Act, 2008, signed into law in December 2007. The Act provides that no military assistance, including equipment or technology, will be made available to Sri Lanka unless the government brings to justice members of the military responsible for gross human rights violations; provides unimpeded access to humanitarian organizations and journalists; and agrees to the establishment of a field presence of the OHCHR “with sufficient staff and mandate to conduct full and unfettered monitoring throughout the country and to publicize its findings.”³³²

In support of the legislation, Senator Patrick Leahy emphasized the gravity of the human rights problems in Sri Lanka and dismissed efforts by Sri Lankan authorities to belittle these concerns. Addressing the Senate on November 2, 2007, he stated:

We have been increasingly concerned with reports of abuses by Sri Lankan Government forces—not from the LTTE or their supporters as some have inaccurately claimed but from the United Nations, the Department of State, and international human rights organizations. These reports are not “disinformation” or “misinformation” as some Sri Lankan officials have alleged. Rather, they contain specific, documented, consistent information indicating a steady increase in

³³¹ “Under Secretaries Burns and Dobriansky Meet With Human Rights Defenders,” media note, Office of the Spokesman, US Department of State, 2007/946, October 30, 2007.

³³² H.R.2764, Consolidated Appropriations Act, 2008 (Enrolled as Agreed to or Passed by Both House and Senate).

serious human rights violations by both Sri Lankan Government forces and the LTTE since the collapse of the ceasefire.³³³

In December 2007, the Millennium Challenge Corporation (MCC), a US government corporation that provides assistance to developing countries, “deselected” Sri Lanka as a country eligible for funding because “of concerns about the escalating conflict and significant human rights problems such as forced disappearances, extra-judicial killings and challenges to media freedom.”³³⁴

Following the visit of the UN High Commissioner for Human Rights to Sri Lanka in October, the US government expressed its strong support for the expansion of the OHCHR office in Sri Lanka as an international monitoring mechanism (see below).

The European Union has also repeatedly voiced concern about human rights violations by both the government and the LTTE, including widespread enforced disappearances. In April 2007, the EU stated:

In recent years, Sri Lanka has seen a gradual erosion of human rights standards and a systematic increase of abuses and human rights violations. The human rights and humanitarian situation in Sri Lanka has deteriorated drastically since April 2006. Credible sources - including the UN and reputable Human Rights advocates and organizations - reported growing human rights problems, including unlawful killings, high profile killings by unknown perpetrators, child soldiers, politically motivated killings and disappearances.³³⁵

At the 6th Session of the UN Human Rights Council, an EU representative emphasized that the EU is “very concerned with the serious and continuous violations of human

³³³ “Sri Lanka,” *Congressional Record*, November 2, 2007, <http://thomas.loc.gov/cgi-bin/query/D?r110:16::/temp/~r110HqiyAL>: (accessed November 3, 2007).

³³⁴ “Ambassador Blake’s Remarks at the International Seminar on Human Rights in Conflict Situations,” January 11, 2008, website of the Embassy of the United States: Sri Lanka & Maldives, <http://colombo.usembassy.gov/ambsp-11jano8.html> (accessed February 27, 2008).

³³⁵ “The EU’s Relations with Sri Lanka,” April 2007, website of the European Commission, http://ec.europa.eu/external_relations/sri_lanka/intro/index.htm (accessed October 30, 2007).

rights and international humanitarian law in Sri Lanka,” and specifically mentioned the high number of abductions and enforced disappearances and extrajudicial executions.³³⁶

The efforts of the US and the EU to press for improvements in the human rights environment in Sri Lanka have been undermined by the inaction of the Indian and Japanese governments. India, while having a complex relationship with its far smaller neighbor, is well positioned to play a positive role. Japan is Sri Lanka’s largest bilateral donor and one of the co-chairs of the Tokyo donors’ conference.

To date India has refrained from publicly criticizing Sri Lanka over human rights and at this writing still has not supported any international action to address the human rights situation there, including UN human rights monitoring. Responding to Louise Arbour’s September 2007 address to the Human Rights Council, the representative of India welcomed the “positive attitude” of the Sri Lankan government to the high commissioner’s visit rather than enunciate genuine human rights concerns.³³⁷

Media reports on the Sri Lankan president’s October visit to India gave no indication that human rights issues were discussed in a serious way.³³⁸

Notably during Louise Arbour’s visit to Sri Lanka, the president’s brother and senior advisor, Basil Rajapaksa, cited India as an example of a power, which, unlike the UN, “was not acting as the policeman of the South Asian region, but was helping Sri Lanka solve its problems.”³³⁹

Japanese officials have made some statements calling for an improvement in the human rights situation in Sri Lanka, but as the single largest donor to Sri Lanka the Japanese government should speak out more often and more clearly, and do more to

³³⁶ United Nations Human Rights Council, 6th Session, Statement by H.E. Ambassador Francisco Xavier Esteves, Permanent Representative of Portugal on behalf of European Union, Item 2, Annual Report of the United Nations High Commissioner for Human Rights, September 13, 2007.

³³⁷ Statement by H.E. Mr. Swashpawan Sinhg, Ambassador/Permanent Representative of India at the General Debate following the Address by the UN High Commissioner for Human Rights, September 13, 2007.

³³⁸ PK Balachandran, “Lanka Asks UN to Emulate India,” *The Hindustan Times*, October 14, 2007.

³³⁹ PK Balachandran, “Lanka Asks UN to Emulate India,” *The Hindustan Times*, October 14, 2007.

back up general statements of concern by pressing the Sri Lankan authorities toward greater accountability and expressing support for a UN human rights monitoring mission.

In June 2007, the Japanese special envoy to Sri Lanka, Yasushi Akashi, said during a visit that he “was aware that President Mahinda Rajapaksa was determined to safeguard human rights,” and pledged Japan’s continued assistance.³⁴⁰ Remarks from Japanese Foreign Minister Taro Aso just weeks later were less praising, but nonetheless were unlikely to elicit changes from Colombo. Following a Japan-Sri Lanka foreign ministerial meeting, Aso said that “he expected an improvement of the human rights situation in Sri Lanka,” and added that the deteriorating security situation “could affect economic cooperation.”³⁴¹ In January 2008, Yasushi Akashi also took a stronger position, noting that Japan “could be forced to review” its aid policy “if military action keeps escalating.”³⁴² Yet, so far, this cautious expression of concern has not translated into any change in Japanese policy.

Since October 2006, the position of Sri Lanka’s Asian partners has helped to thwart attempts to pass an EU-sponsored resolution on the human rights situation in Sri Lanka at the United Nations Human Rights Council.

In particularly critical commentary on the performance of the UN from a UN human rights envoy, Philip Alston, the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, noted in his report to the 62nd Session of the General Assembly that while the situation in Sri Lanka has “erupted into crisis” since 2006, “neither the [Human Rights] Council nor the [General] Assembly have seen fit to take any action” to address the “spate” of human rights abuses, specifically extrajudicial executions, being reported.³⁴³

³⁴⁰ Ananth Palakidnar, “Akashi Commends President for Safeguarding Human Rights,” *Sunday Observer*, June 10, 2007.

³⁴¹ “Japan-Sri Lanka Foreign Ministerial Meeting and Working Lunch,” press release of the Ministry of Foreign Affairs of Japan, June 28, 2007, http://www.mofa.go.jp/announce/announce/2007/6/1174268_828.html (accessed November 1, 2007).

³⁴² “Japanese Envoy Warns Sri Lanka of Aid Cut,” *AFP*, January 31, 2008.

³⁴³ United Nations General Assembly, 62nd session, Item 72 (b) of the provisional agenda, “Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms,” Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary executions, A/62/265, August 16, 2007.

In addition to Alston, a number of UN representatives and special mechanisms, as mentioned above, have expressed their grave concerns about the developments in Sri Lanka and called for urgent measures to address the situation. Some have specifically referred to the ongoing abductions and enforced disappearances and the failure of the government to bring the perpetrators to justice.

At the end of her October 2007 visit to Sri Lanka, Louise Arbour stated:

There is a large number of reported killings, abductions and disappearances which remain unresolved. This is particularly worrying in a country that has had a long, traumatic experience of unresolved disappearances and no shortage of recommendations from past Commissions of Inquiry on how to safeguard against such violations.³⁴⁴

She called for an adequate accountability process and urged the government to consider an early ratification of the new International Convention for the Protection of All Persons from Enforced Disappearance.³⁴⁵

The UN Working Group on Enforced and Involuntary Disappearances has raised the issue of continuing and new cases of “disappearances” with the Sri Lankan government, but with little meaningful response from the government. As mentioned above, the UN Working Group reported in January 2007 that it transmitted more cases of “disappearances” as urgent appeals to the Sri Lankan government in 2006 than to any other country in the world.³⁴⁶

The Working Group continues to name Sri Lanka specifically in its press statements, but with little meaningful response from the government. In March 2007, the Working Group expressed its worry over the large number of “disappearances”

³⁴⁴ “Press Statement by High Commissioner for Human Rights on Conclusion of Her Visit to Sri Lanka,” Colombo, October 13, 2007, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/2Co7EE5600DE5B19C12573750034C474?opendocument> (accessed October 20, 2007).

³⁴⁵ Ibid.

³⁴⁶ Human Right Council, Fourth session, Item 2 of the provisional agenda, “Report of the Working Group on Enforced or Involuntary Disappearances,” A/HRC/4/41, January 25, 2007.

reported from Sri Lanka.³⁴⁷ Following its June 2007 session, the Working Group noted that its members “expressed deep concern that the majority of new urgent action cases are regarding alleged disappearances in Sri Lanka.” It reported that the government had yet to schedule a Working Group to visit the country, requested in October 2006 – though it is unclear to what extent the Working Group has followed up on its request.³⁴⁸ In a November 2007 statement, the Working Group named Sri Lanka as one of two countries with an “important number” of new cases of enforced disappearances.³⁴⁹

The government response to the international criticism

In dealing with the international community, the Sri Lankan government has engaged in both subtle diplomacy and public bluster. While conducting careful diplomacy with foreign governments and international institutions, it has publicly launched vicious personal attacks on respected international civil servants and others.

For example, in response to findings by Allan Rock, the UN Special Advisor on Children and Armed Conflict, that the pro-government Karuna group was abducting children into its forces with state complicity, the Sri Lankan government accused Rock of being an LTTE sympathizer.³⁵⁰

After John Holmes, the UN undersecretary-general for humanitarian affairs, said that Sri Lanka was for humanitarian workers “among the most dangerous places in the world,”³⁵¹ several government officials angrily rejected his remarks with personal

³⁴⁷ “Working Group on Enforced or Involuntary Disappearances Concludes Eighty-First Session,” United Nations press release, HR/07/44, March 22, 2007, <http://www.unhchr.ch/huricane/hurricane.nsf/view01/7601FF7596243906C12572A7002D0348?opendocument> (accessed April 22, 2007).

³⁴⁸ “The United Nations Working Group on Enforced or Involuntary Disappearances concluded its 82nd session,” press statement, June 29, 2007, <http://www.unhchr.ch/huricane/hurricane.nsf/view01/67FA6318F09F13EAC125739B004D114A?opendocument> (accessed December 17, 2007).

³⁴⁹ “UN Working Group on Enforced or Involuntary Disappearances Concludes Its 83rd Session, Revises Methods of Work and Adopts Annual Report,” press statement, November 30, 2007, <http://www.unhchr.ch/huricane/hurricane.nsf/view01/0300FB5BD28C6E2FC12573A300741BC3?opendocument> (accessed December 17, 2007). The other country mentioned by the Working Group was Pakistan.

³⁵⁰ “Allen Rock’s Report Looks Like a Mere Calumniation - Defense Spokesman,” Statement by the Ministry of Defense, January 20, 2007, http://www.defence.lk/new.asp?fname=20070118_05 (accessed October 17, 2007).

³⁵¹ Simon Gardner, “Sri Lanka Rebukes Aid Chief Over Safety Fears,” *Reuters*, August 10, 2007.

attacks. “We consider people who support terrorists also terrorists,” said Cabinet Minister Jeyaraj Fernandopulle. “So Holmes, who supports the LTTE, is also a terrorist. This person tries to tarnish the image of Sri Lanka internationally.”³⁵² When UN Secretary-General Ban Ki-moon called such comments “unacceptable and unwarranted,” Fernandopulle was quoted in *The Nation* (Colombo) as saying that he “didn’t give a damn” what the UN secretary-general had to say.³⁵³

More recently, after UN High Commissioner for Human Rights Louise Arbour visited Sri Lanka and called for a UN monitoring mission to the country, the head of the government’s Peace Secretariat described her as having become “a football, to be kicked about at will, to score goals for terrorists and others who do not mind sharing a terrorist agenda provided it gets them their goals too.”³⁵⁴

Despite these remarks, the government repeatedly sought credit for its willingness to cooperate with UN human rights mechanisms.³⁵⁵ Sensing increased international dissatisfaction with the human rights situation in Sri Lanka, in 2007 the government engaged in a vigorous campaign to persuade various UN mechanisms and donor governments that the situation had substantially improved.

At the UN Human Rights Council in Geneva, the government left no stone unturned to block the EU-proposed resolution on the human rights situation in Sri Lanka. In the words of Human Rights Minister Samarasinghe, the Sri Lankan delegation had “to go the extra mile” and was “even out of breath” by the time it had concluded

³⁵² “Sri Lankan Minister Brands U.N. Official Who Questioned Aid Workers’ Safety a ‘Terrorist,’” *International Herald Tribune*, August 15, 2007.

³⁵³ Rathindra Kuruwita, “Jeyaraj Slams Ban Ki-moon,” *The Nation*, August 19, 2007, http://www.lankanewspapers.com/news/2007/8/18409_space.html (accessed October 20, 2007).

³⁵⁴ “Kicking Facts Around,” SCOPP Report, October 16, 2007, http://www.peaceinsrilanka.org/peace2005/Insidepage/SCOPPDaily_Report/SCOPP_report161007.asp (accessed October 25, 2007); “Louise Arbour as a Political Football,” SCOPP Report, October 12, 2007, http://www.peaceinsrilanka.org/peace2005/Insidepage/SCOPPDaily_Report/SCOPP_report121007.asp (accessed October 25, 2007).

³⁵⁵ See, e.g., “Sri Lanka is open to Rational Persuasion. It is not Open to Pressure—Ambassador Dayan Jayatilleka,” press release by the Permanent Mission of Sri Lanka to the United Nations Office at Geneva, September 13, 2007; “Geneva Report: NGO Allegations of Human Rights ‘Crisis’ refuted,” statement by the Permanent Mission of Sri Lanka to the United Nations Office at Geneva, September 17, 2007.

discussions with all the countries, which they “approached individually, collectively and went also to regional groups.”³⁵⁶

Government advocacy at the Human Rights Council sought to discredit reports by Sri Lankan and international rights groups without a sound factual basis for doing so. Officials portrayed allegations of widespread abuses as unfounded and exalted the various internal mechanisms the government has set up to address them.³⁵⁷

Also illustrative in this respect was the government’s response to proposed US legislation imposing human rights conditions on military assistance to Sri Lanka. In a letter to the US Senate Appropriations Committee, the Sri Lankan ambassador to the US insisted that Sri Lanka had already met all of the human rights conditions mentioned in the bill. On the issue of impunity, he argued that the government has “consistently taken action to bring the offenders to justice.” In fact, statistics attached to the letter demonstrate that since 2004 not a single member of the security forces has been indicted for an abduction or “disappearance.”³⁵⁸

In November, US Senator Patrick Leahy responded to the personal attacks as well as criticisms of the need for the proposed legislation:

It is regrettable that rather than explain why the Sri Lankan Government should not meet such reasonable standards when it is seeking millions of dollars in U.S. taxpayer assistance, some Sri Lankan officials have attacked our motives and falsely attributed our actions to LTTE propaganda. Others have insisted that they are

³⁵⁶ Uditha Jayasinghe and Ravindu Peiris, “UNHRC Resolution a Dead Letter-Minister,” *Daily Mirror*, October 5, 2007; “Sri Lanka: Government will Continue to Protect Human Rights-Minister Mahinda Samarasinghe,” *Sunday Observer*, October 8, 2007.

³⁵⁷ See, e.g., “Geneva Report: NGO Allegations of Human Rights ‘Crisis’ refuted,” statement by the Permanent Mission of Sri Lanka to the United Nations Office at Geneva, September 17, 2007.

³⁵⁸ The letter contains a list of 84 members of the police or armed forces who have been indicted for abductions, “disappearances,” and, in some cases, murder, before 2004. Notably, only one of these led to a conviction so far—the accused received two years’ imprisonment and had to pay compensation. Eighteen members of the security forces were acquitted, and the rest of the cases are pending in courts. The letter also lists 40 indictments served since 2004 pertaining to investigations into allegations of torture, yet none related to abductions or “disappearances.” See Letter from the Embassy of Sri Lanka to the Senate Appropriations Committee and Subcommittee on State and Foreign Operations, Re: Amendment relating to Sri Lanka, proposed under the Foreign Military Financing Program of the Senate Appropriations for the Department of State, Foreign Operations and Related Programs FY 2008, October 24, 2007.

meeting these standards already, when the facts clearly indicate that far more needs to be done.³⁵⁹

Instead of addressing the concerns expressed by foreign governments, the Sri Lankan government has persistently tried to create an impression that its aggressive advocacy is indeed winning over the international community. Following the 6th session of the UN Human Rights Council in October, Minister Samarasinghe triumphantly reported that the government was “finally successful in convincing the member States that the human rights reports released on Sri Lanka were factually incorrect and the allegations are baseless.”³⁶⁰

Overall, the Sri Lankan government puts enormous resources into challenging the reputations and motivations of its international critics, while demonstrating little willingness to listen to the substance of their concerns and to take real measures to address them.

The need for a UN human rights monitoring mission

The failure of the Sri Lankan government to adequately address widespread human rights and humanitarian law violations has prompted growing national and international support for a human rights monitoring mission under the auspices of the UN Office of the High Commissioner for Human Rights.

Since 2006, Sri Lankan and international human rights groups, including Human Rights Watch, have sought the establishment of a UN monitoring mission. In 2007, some of Sri Lanka’s key international partners joined these calls, dissatisfied with the measures taken by the Sri Lankan government.

At the 6th Session of the UN Human Rights Council, the EU representative Ambassador Francisco Xavier Esteves encouraged the UN High Commissioner for Human Rights and the government of Sri Lanka to “agree on the establishment of an

³⁵⁹ “Sri Lanka,” *Congressional Record*, November 2, 2007, <http://thomas.loc.gov/cgi-bin/query/D?r110:16::/temp/~r110HqiyAL>: (accessed November 3, 2007).

³⁶⁰ “Sri Lanka: Government will Continue to Protect Human Right-Mnister Mahinda Samarasinghe,” *Sunday Observer*, October 8, 2007.

OHCHR field presence” in the country. Esteves noted that while the government has taken certain steps to address the situation, more effective measures are necessary to “put an immediate end to all human rights and international humanitarian law violations.”³⁶¹

In October, the US State Department stated that “an international human rights presence in Sri Lanka would be an important step in improving human rights, accountability, and the rule of law, and ultimately resolving the conflict in Sri Lanka,” and called on the government to “reconsider its opposition to expansion of the OHCHR office and mandate in Sri Lanka.”³⁶²

During her October 2007 visit to Sri Lanka, UN High Commissioner for Human Rights Louise Arbour made it clear that the cooperation between her office and the Sri Lankan government should go beyond training and capacity-building programs for national institutions. Emphasizing the “need for independent information gathering and public reporting on human rights issues” and the lack of progress made in this area by national bodies, such as the Presidential Commission of Inquiry and the

³⁶¹ United Nations Human Rights Council, 6th Session, Statement by H.E. Ambassador Francisco Xavier Esteves, Permanent Representative of Portugal on behalf of European Union, Item 2, Annual Report of the United Nations High Commissioner for Human Rights, September 13, 2007. A copy of the statement is on file with Human Rights Watch. The European Commissioner for External Relations reiterated the EU’s position, emphasizing that “in the dramatic context of Sri Lanka, a forward-looking UN human rights field operation, which can monitor, investigate and report on abuses by all parties to the conflict and deter further violations, is clearly justified.” Answer given by Ms Ferrero-Waldner on behalf of the Commission, E-4193/07EN, E-4194/07EN, September 28, 2007.

³⁶² “Government of Sri Lanka’s Reaction to High Commissioner Arbour’s Visit,” press statement by the US Department of State, 2007/904, October 22, 2007. US Senator Patrick Leahy argued that an international monitoring mission is essential to put an end to human rights violations and ensure impartial investigations into abuses committed by both sides of the conflict. In his November 2007 statement to the Senate, he said:

An international human rights field presence, under the auspices of the United Nations, could do much to improve the situation. Given the gravity and scale of the violations witnessed in Sri Lanka, and particularly the inability of the Sri Lankan Government to monitor the abuses taking place in areas held by the LTTE, such a presence would help protect lives, document abuses by all sides, and support the Government and civil society in protecting the civilian population. The Department of State has publicly endorsed such a role for the United Nations....

A field presence of the Office of the High Commissioner for Human Rights, with sufficient mandate and capability to conduct full and unfettered monitoring throughout the country, communicate its findings to all sides of the conflict and the public, and provide advice and technical assistance, is overdue.

“Sri Lanka,” *Congressional Record*, November 2, 2007, <http://thomas.loc.gov/cgi-bin/query/D?r110:16:./temp/~r110HqiyAL>: (accessed November 3, 2007).

Human Rights Commission, the high commissioner expressed her willingness to support the government in this task.³⁶³

Referring to “the gravity of the reported ongoing abuses, and in particular of threats to life and security of the person,” she called on the government to “urgently resolve” the ongoing discussions “about the future of a productive relationship between OHCHR and the Government of Sri Lanka.”³⁶⁴

The Sri Lankan government has thus far rejected the proposals for an international monitoring mechanism, including the expansion of the OHCHR’s field presence. The arguments have ranged from polite assurances that international involvement is not necessary because national institutions are capable of addressing the problems, to indignation with the OHCHR and foreign governments for trying to “police” Sri Lanka and undermine its sovereignty.

In December 2007, in her address to the Human Rights Council, the high commissioner noted that her office has “reached no agreement on a formula by which independent, public reporting by OHCHR could be ensured.”³⁶⁵

The Sri Lankan government’s opposition to the establishment of the international human rights monitoring mission is unfortunate. Instead of viewing the creation of such a mission as pointing to failings of the government, it should recognize that UN monitors would report on abuses by all parties to the conflict, including the LTTE. If the LTTE is the primary perpetrator of abuses, as the government has stated repeatedly, and the government indeed has “nothing to hide,”³⁶⁶ the government should welcome the role international monitors could play.

³⁶³ “Press Statement by High Commissioner for Human Rights on Conclusion of Her Visit to Sri Lanka,” Colombo, October 13, 2007, <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/2C07EE5600DE5B19C12573750034C474?opendocument> (accessed October 20, 2007).

³⁶⁴ Ibid.

³⁶⁵ Address by Ms. Loiuse Arbour, High Commissioner for Human Rights, on the occasion of the resumed 6th session of the Human Rights Council, Geneva, December 11, 2007.

³⁶⁶ “Sri Lanka: Government will Continue to Protect Human Right-Mnister Mahinda Samarasinghe,” *Sunday Observer*, October 8, 2007.

A team of experienced UN monitors based throughout the country could prevent the further deterioration of the human rights situation, deter abuses from taking place, and promote accountability.

International monitoring has proven particularly effective in dealing with the problem of large-scale “disappearances” and abductions. With a sufficient mandate and resources, the monitoring mission could achieve what the government and various national mechanisms have not been able to do so far—establish the location of “disappeared” persons through unimpeded visits to government and LTTE detention facilities; request information regarding specific cases from all sides to the conflict; assist national law enforcement agencies and human rights mechanisms in investigating the cases and communicating with the families; and maintain credible records of the reported cases.

The mission, despite the claims of some critics, would have nothing to do with a military intervention or peacekeeping, as it would consist of civilian monitors charged with investigating and deterring abuses by all parties to the conflict. At the same time it would be able to play a more effective role than the existing tiny OHCHR office, with a handful of professional staff or any of the national institutions.

Ultimately, the Sri Lankan government should not view the proposal for a UN human rights monitoring mission as a burden to be avoided, but as an opportunity. Continuing “disappearances” attributed to Sri Lankan security forces will only damage the government’s standing at home and its reputation abroad. By accepting and fully participating in the development of a monitoring proposal and putting it into effect, the Sri Lankan government will be sending a powerful message that it is serious about accomplishing what previous Sri Lankan governments have not done: putting an end to Sri Lanka’s scourge of “disappearances” once and for all.

IX. Recommendations

To the government of Sri Lanka

- Acknowledge state responsibility for large-scale “disappearances” and take all steps necessary to stop the practice. Ensure that the military and police fully comply with the requirements of international human rights and humanitarian law.
- Repeal or revise laws that undermine constitutionally guaranteed protections against human rights violations.
- Repeal or revise the Emergency Regulations that allow arrest and detention on vaguely defined charges, grant sweeping immunity to the security forces, and allow the disposal of bodies without public notification and without disclosing the results of the post-mortem examination.
- Take measures to promote transparency on detention:
 - Ensure that all persons detained by security forces are held at recognized places of detention, and that arresting officers identify themselves and present official identification.
 - All places of detention should be required to maintain records regarding every detainee, including the date, time, and location of arrest, the name of the detainee, the reason for detention, and the specific unit or agency responsible for the detention. The records should be available to detainees' families, counsel, and other legitimately interested persons. All transfers of detainees should be reflected in the records.
 - Detainees should promptly be brought before a judge and informed of the reasons for arrest and any charges against them. The family should be informed promptly of the arrest and location of the detainee. Any persons detained by the security forces must be allowed contact with family and unhindered access to legal counsel.
 - Agree to accept and fully cooperate with an international human rights monitoring mission under the auspices of the UN.

- Take all necessary steps to investigate and establish accountability for those who order and carry out arbitrary arrests and “disappearances.”
 - Make “disappearance” a criminal offense that is punishable by sanctions commensurate with the gravity of the crime.
 - Investigate all cases of enforced disappearances and arbitrary arrests, including those documented in this report. Ensure that each case is investigated until the fate or whereabouts of the person is clearly and publicly established.
 - Discipline or prosecute as appropriate all those implicated for participation in abuses in accordance with international due process standards.
 - Hold superior officers, whether civilian or military, criminally accountable if they knew, or should have known, that forces under their command had committed or were about to commit criminal acts, and nothing was done to prevent such commission.
 - Bring to justice members of non-state armed groups, including the Karuna group and the EPDP responsible for abductions and “disappearances,” and investigate security forces’ complicity in these cases.
- Empower national mechanisms, including the Human Rights Commission and the Presidential Commission on Abductions, Disappearances and Killings, to conduct effective investigations into allegations of “disappearances” and abductions.
 - Make public the reports of the Presidential Commission on Abductions, Disappearances and Killings (Tillekeratne Commission);
 - Restore, in accordance with the Sri Lankan constitution, the structural and operational independence of the Human Rights Commission. Instruct all governmental agencies, including the military and the police, to cooperate with the Human Rights Commission’s investigations and establish accountability for non-compliance.
- Promptly extend an invitation and schedule a visit for the UN Working Group on Enforced and Involuntary Disappearances.

- Sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance and enact national legislation that gives force to its provisions.

To the Liberation Tigers of Tamil Eelam (LTTE)

- Cease abductions and extrajudicial executions. Discipline any member who commits human rights abuses, including abductions and forcible recruitment of children and adults for forcible recruitment.
- Allow international bodies, including UNICEF, access to LTTE camps to ascertain the fate and whereabouts of the detainees and to identify children for demobilization.
- Pledge support to and full cooperation with an international human rights monitoring mission under the auspices of the UN.

To donor governments

- Ensure strong and coordinated response to the crisis of “disappearances” in Sri Lanka. Continue to publicly denounce human rights abuses committed by all parties to the conflict.
- Urge the government to put an end to the widespread practice of “disappearances,” to seriously investigate pending cases, and to discipline or prosecute the perpetrators.
- Donor states that have not done so, primarily India, should communicate to the Sri Lankan government their concern about the deteriorating human rights situation and join the international effort to address it.
- Governments that provide financial assistance to the government or military aid should make such further assistance contingent on the Sri Lankan government taking genuine steps to investigate and prosecute alleged “disappearances” and agreeing to a UN human rights monitoring mission.
- Extend full and active support to the international human rights monitoring mission under UN auspices. Urge the government and the LTTE to accept and cooperate with such a mission.

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Appendix I: “Disappearances” and Abductions Documented by Human Rights Watch

Northern Sri Lanka

1. Thiyagarajah Saran



On the night of February 20, 2007, 25-year-old **Thiyagarajah Saran**, an employee at a private bus company, was at home with his wife and daughter. At about 9 p.m. two men arrived in their village in East Puttur, Jaffna, on a motorcycle. They stopped near Saran’s neighbors’ house and told the neighbors to call Saran and his wife. By the time the two came out of the house, another seven or 10 men had arrived on motorcycles.

According to Saran’s relatives, the men were wearing military pants and T-shirts, and their faces were painted with black stripes. They were armed with AK-47 assault rifles and pistols. Some of the men spoke Sinhala and some “bad” Tamil as if it was not their native language, while others were fluent and swore in Tamil a lot.

Saran’s relative told Human Rights Watch:

They started beating Thiyagarajah. They took his T-shirt off and stuffed it into his mouth. The neighbors came out to help, but they pushed them away. His wife was crying and shouting, and they hit her with a gun butt. She was nine months pregnant. They were accusing Thiyagarajah of having bombs in the house, and forced him to dig the ground around the house. They searched the house, turning everything upside down, but didn’t find anything. They beat him so badly that he couldn’t walk—they had to carry him away. They took him away on a motorcycle.

While the family has no clear information about Saran's whereabouts, they believe that he was taken away by a joint group of the military and EPDP members. They made this assumption based on the mixture of languages the perpetrators spoke. Witnesses also told the family that two of the motorcycles left in the direction of Puttur army camp, and others went to the Achchuveli EPDP facility.

The morning after Saran had been taken away, his family started searching for him. They filed a complaint with local police, and visited various camps, including Achelu military camp, Puttur military camp, and Atchuvely EPDP camp. They visited the EPDP office in Jaffna town. The military and EPDP members everywhere told them that they were not holding Saran, but would inquire and let them know. The family also submitted a petition to the Human Rights Commission (HRC). As of this writing Saran's whereabouts remain unknown.³⁶⁷

2. Pathinather Prasanna



3. Anton Prabananth



On February 17, 2007, 24-year-old **Pathinather Prasanna** and 21-year-old **Anton Prabananth** were returning home from the market in Kalviankadu in Nallur, Jaffna district, where they used to sell fish. About four kilometers from the market, near the village of Nayanmarkaddu, a Powell military vehicle was patrolling the road. Local

³⁶⁷ Each of the case descriptions in this Appendix is based on Human Rights Watch interviews with family members of the "disappeared" or abducted person. These interviews were conducted by Human Rights Watch researchers in March, February, and June 2007 in the districts of Jaffna, Batticaloa, and Colombo. Wherever possible, Human Rights Watch sought to obtain up-to-date information on individual cases through subsequent communication with NGOs in Sri Lanka.

villagers later told the families that the two men on their bicycles did not stop as the vehicle passed them. The Powell then stopped, reversed, and several soldiers got out of the vehicle and ordered the two men to stop. Prabananth's father told Human Rights Watch:

A friend of mine, who was also coming back from the market at the time, saw what happened and informed us. I came to Nayanmarkaddu the same day. The villagers told me they saw Pathinather and Anton being interrogated by the military. The military held them at gunpoint. Then the military put them into the Powell, and also loaded their bicycles into their vehicle. The villagers could not see much because the army ordered them to disperse, and now they are too afraid to talk to anybody about what they saw.

The villagers also told the families that this Powell vehicle had been parked at Thapal Kadai junction, not far from the village, and was used to patrol the road during the day, usually accompanied by an army field group on motorcycles. But when the family inquired at Thapal Kadai, the military personnel there denied having any knowledge of the incident and said they did not have the two men.

The families filed a complaint with the Jaffna police and also went to the military Brigade 51 in Jaffna. When they filed a complaint with the military commander, he told them that "if the army arrests somebody, they have to hand the person to the police in 72 hours," and suggested that the families should inquire with the police stations instead. The families visited several police stations without success. As of this writing their efforts to find their relatives have proved futile.

4. Sathees Sabaratnam

Sathees Sabaratnam, age 27, worked as a driver in a grocery shop in Jaffna. On February 13, 2007, Sabaratnam accompanied his friend to a pawn-broker in Jaffna to redeem the friend's pawned jewelry. Sabaratnam had 20,000 rupees (about US\$180) to secure the release of his friend's jewelry.

After he failed to get in touch with Sabaratnam, his brother contacted the friend he left with. The brother told Human Rights Watch that Sabaratnam left his friend after they secured the jewelry, saying he would go back to work. Nobody has seen him since. The brother said he also learned from the friend and other people he had spoken to in Jaffna that the police had inquired about Sabaratnam several days before he went missing. He said:

I have no idea why anyone would want to take him. But everyone in the community knew that our parents had now moved to Germany and were in a position to send us money. However, there was no ransom demand and no unexpected withdrawals from the bank.

The family has filed a complaint with the police and reported the case to the HRC, the International Committee of the Red Cross (ICRC), and the Sri Lanka Monitoring Mission (SLMM).

5. Krishnabhavan Kanapathippillai



The family of 36-year-old **Krishnabhavan Kanapathippillai** used to live in front of a large military camp in Thondaimanaru in Jaffna district. As the camp expanded its territory, the families living nearby were leaving the area. Kanapathippillai's family moved to an abandoned house nearby. The family members frequently visited their old residence, for instance, to take baths and look after their garden. They used to leave the keys with their neighbors, the only family that continued to live in front of the camp.

Kanapathippillai's relatives told Human Rights Watch that on February 11, 2007, he left home at around 11 a.m. on his motorbike, and went to their old house to take a bath. The neighbor who kept the keys to the house told the family that Kanapathippillai had stopped by to pick up the keys only at 2 p.m. because, in the interim, military personnel from the camp had borrowed Kanapathippillai's bike and

he had to wait till they returned. The family said it was a usual practice for soldiers to borrow his bike. Kanapathippillai was the president of the fishing society, and the military knew him well.

The neighbor said that after taking the key at 2 p.m. Kanapathipillai went to his house. She heard the sounds of bathing, and saw his bike parked in front of the house. Later in the afternoon she got worried and at around 4:30 p.m. went to the house to check. The door was closed, but she saw that the bike was still there and in front of the door somebody had left the keys, a water pump, and a lamp—she believed these were things Kanapathippillai was planning to take to his new residence. Concerned, the neighbor then informed Kanapathippillai's brother and other relatives.

The family immediately went to the Thondaimanaru camp, but the military personnel there claimed to have no knowledge of Kanapathippillai. Kanapathippillai's relative said:

We kept asking them, “How can it be that you don't know anything? You are right here, the door [to the house] is locked from outside—somebody must have locked it, and somebody must have seen him and what happened to him!” But they just responded that they were new, and that only the old battalion would know where Krishnabhavan was. We actually noticed some of the officers from the old battalion in the camp, but they kept hiding from us. And when we requested to talk to them, the military told us that they were not there, that they couldn't find them, etc. They must know something—the lane where the house is located is blocked on both sides, there is a sentry point, and only the people who live there are allowed in.

Next morning, the family filed a complaint with the Valvettiturai police, and also reported the incident to the HRC. The police, however, never visited the family, or the neighbor to collect additional information. At the time of this writing the family had no information on Kanapathippillai's fate or whereabouts.

6. Balendran Cruz

7. Satish Kumar Cruz

Balendran Cruz, age 29, had been working in Saudi Arabia for four years. He came back home to Sri Lanka to visit his mother in January 2007. On the morning of February 6, 2007, Balendran and his friend, 31-year-old **Satish Kumar Cruz**, went from Pesalai to Mannar town, on Mannar island.

According to Balendran Cruz' mother, the families kept waiting for them, intermittently trying their mobile phones to establish contact. There was no response on either phone, and the men never returned. Later, their relatives found out that the two were last seen at around 2:30 p.m. near a place called Tharapuram.

Balendran Cruz' mother told Human Rights Watch:

There are six checkpoints manned by the army, navy, and police between Mannar and Pesalai. There is a checkpoint every two kilometers and heavy patrolling throughout. It is very improbable that two persons can just disappear from such a heavily patrolled place. The [local Catholic] bishop sent us to the navy camp to check if they had been picked up by the navy but the navy denied arresting them.

She added that one of their relatives claimed he had seen Balendran in an armored vehicle near Pesalai, but the family was unable to confirm it. The family also got in touch with an EPDP representative from Mannar to raise the matter. The EPDP representative went to the Navy checkpoints and inquired about the two men, but did not get any information.

The family lodged a complaint at the Thalaimannar police station, and registered statements with the HRC, ICRC, and SLMM.

8. Luis Moris Satkunanathan

On February 6, 2007, 54-year-old **Luis Moris Satkunanathan**, a former village administrator (GS) from Mannar, went to work on a construction site in Thalaimannar on Mannar island.

His wife told Human Rights Watch that he left on his motorbike at 6 a.m., planning to come back at 11 a.m., but he never returned home.

The family did not have enough information to say what happened to Satkunanathan. They said on February 24 they got a phone call and heard a crying voice and then someone cursing. “We think it was him,” the wife said, but the person who had been cursing did not demand money and nobody has called since.

Satkunanathan’s relatives filed a complaint with the police in Mannar and reported the case to the HRC, but to date have received no further information on his fate or whereabouts.

9. Rajkumar Nadesalingam

On January 23, 2007, 21-year-old **Rajkumar Nadesalingam** was staying with his friends in the village of Kerudavil, in Chavakachcheri, Jaffna district. At around 6 p.m. villagers from Kerudavil informed Nadesalingam’s family that he had been taken away by the military.

The family learned that at around 2 or 3 p.m. soldiers from Kanakampuliyady camp conducted a cordon-and-search operation in the village and arrested a number of young men, including Nadesalingam. Some men managed to escape, others got released after their families’ intervention, yet Nadesalingam apparently remained in military custody. The military apparently arrested him, after beating him, for involvement with the LTTE. A relative told Human Rights Watch:

Villagers from Kerudavil said that the military severely beat him, and then he showed them places in the village where weapons were

hidden—the military dug there and found weapons. He must have had connections with the people in Wanni [that is, the LTTE]—during the arrest, the military found cyanide on him [LTTE cadres frequently carry cyanide capsules to commit suicide upon capture], and some Wanni phone numbers in his cell phone.

Nadesalingam's father said he was too afraid to go to the military camp to search for his son as he thought the military may detain him also because of his son's alleged connection to LTTE. However, he inquired with the Chavakachcheri police who said that they had no knowledge of the case and that the military had not handed any detainees over to them. He also reported the case to the HRC and ICRC. According to the father, the ICRC inquired with the Kanakampuliyady military camp, yet the military said they had released everybody they arrested in Kerudavil village.

To date, the fate and whereabouts of Rajkumar Nadesalingam remain unknown.

10. Junith Rex Simsan



28-year-old **Junith Rex Simsan** used to earn his living by providing huts and furniture for rent for holiday celebrations. At about 2:45 p.m. on January 22, 2007, an army group of about 35 men conducted a search in the area where he lived with his family. His relative told Human Rights Watch that when the military personnel came to his house they initially told Simsan that they wanted to rent some furniture. They then proceeded to question him about any arms he might posses as well as alleged connections with the LTTE.

The soldiers searched the family's house, including the attic area, and dug up the ground around the house looking for hidden ammunition. According to the family, the group was from the nearby Colombothurai military camp in Jaffna district. The military then checked his ID and left, saying that everything was in order.

The same night, at around 12:30 a.m., several other men came to Simsan's house. They jumped over the gate and knocked on the door. One of Simsan's relatives told Human Rights Watch:

[Simsan's] father opened the door, and the men pushed him aside, and then forced us and the children into one of the rooms. He [Simsan] came out of his room, covering himself with a bed sheet, and the men grabbed him by the bed sheet and seized him. They wore black pants, green T-shirts, and their heads were wrapped with some black cloth. Later I found out that they arrived in a van, but they parked it on the main road. They smashed the lights bulbs in the room, and dragged him away. They told him, "Come!" in Tamil. He cried, "Mother!" but we couldn't help him.

The family informed Jaffna police of the abduction. The police promised to make inquiries but never visited the family. The family also visited various military camps in the area. The family said that in one of the camps the military looked through "a big list of detainees" in their presence, but told them that Simsan's name was not on their list. The family also filed reports with the HRC, ICRC, and SLMM. To date the family has received no further information on Simsan's whereabouts. The ICRC informed the family that the army denied having arrested Simsan.

11. Emil Pramittan Velautham



On the night of January 22, 2007, 25-year-old **Emil Pramittan Velautham** was sleeping in his house in Jaffna town, along with eight other family members. One of the relatives told Human Rights Watch that at around 1:20 a.m. they heard the dogs barking and thought that somebody was trying to break into the house.

The family cried for help, thinking the perpetrators were thieves, but the men outside said in Tamil, "Are

we thieves?” as if denying it. Then they tried to break the gate, but the family opened it. Two men then came in, in civilian clothes, armed with assault rifles, and their faces covered with dark scarves.

Velautham was sleeping in the adjacent house. The men then took Velautham’s father and two brothers outside. The family saw that they were showing them to someone who had been waiting outside. Then they asked, “Is that all?” and one of the brothers responded that they had another brother. The men then went to the room where Velautham was sleeping. His relative told Human Rights Watch: “He was sleeping, and they started dragging him away in his nightclothes. We all shouted, and cried, and tried to follow them, but they started shooting in the air to scare us off, and left.” The perpetrators did not take the other two brothers or the father.

The family filed a complaint with the local police, who said that they would contact the family if they received any information, but never did. The family also inquired about Velautham in the Colombbothurai military camp, Passaiyoor military camp, and the main EPDP camp in the area. The military personnel denied holding Velautham, and EPDP members repeatedly told the family to come back later.

The relatives filed the case with the HRC, SLMM, and ICRC.

12. Kajendran Kanapathippillai

On January 18, 2007, 21-year-old **Kajendran Kanapathippillai** returned home in the morning after spending a night in a shop in Jaffna town where he used to work. At around 2 p.m. he left home and went back to Jaffna.

Kanapathippillai’s relative told Human Rights Watch that at around 3 p.m. he called home and said that he had reached Jaffna. However, an hour later, when his daughter tried to reach him on his cell phone, nobody picked up the phone. Kanapathippillai did not return home that day.

The next day Kanapathippillai’s family inquired at the shop, but his co-workers said they had not seen him since he left the shop on January 17.

The family started searching for Kanapathippillai, checked in the hospitals, and filed complaints with Jaffna and Chavakachcheri police stations, yet all their efforts proved futile. They also registered the case with the HRC and ICRC.

While the family found no witnesses to Kanapathippillai being arrested or taken away, they believe he was seized by the military. His father explained that in 2003 Kanapathippillai, who was then 17 years old, spent a year in the Wanni, at an LTTE training camp. The father said that his son had no continuing involvement with the LTTE but, a week before he went missing, several military personnel stopped the father on the road not far from his house and started interrogating him about his son. The military asked whether Kanapathippillai had been in the Wanni and seemed to know much about him. Family members also note that, on his way to Jaffna, Kanapathippillai would have passed the Varani military camp.

13. Kandayiah Latheeswaran



At 8 a.m. on December 22, 2006, 20-year-old student **Kandayiah Latheeswaran** left his house in Mavady, Vaddukkoddai, western Jaffna district to attend classes in a college in Jaffna town. He never returned home.

The family inquired with the college, and found out that he had not come to the classes that day. They learned that he had been last seen at Anaicoddai area, on the outskirts of Jaffna town.

The family inquired at the local police station in Vaddukkoddai, and at the Mavady military camp, but both the police and the military denied arresting Latheeswaran. They also registered reports with the HRC, ICRC, SLMM, and local NGOs.

One of Latheeswaran's relatives told Human Rights Watch that she had seen him in the Kaladdy military camp several weeks after he went missing. She said:

On January 9, 2007, I was on my way to the university in Jaffna—there were no classes but I was going to the bank in the university—and passed by Kaladdy military camp, located near the university. Suddenly, through a gap in the fence I saw [Kandayah]. The fence was high and I could only see his face, but I immediately recognized him. He was just five meters away. He was talking to an army person; there were just two of them. He looked tired and had a bruise on his nose.

The relative said she had reported the encounter to the ICRC. To date she has not received any information regarding Latheeswaran's fate.

14. *Thilipkumar Ranjithkumar*



15. *Ganesh Suventhiran*



On the morning of December 8, 2006, the military conducted large-scale cordon-and-search operations in several villages in Valvedditturai area in northern Jaffna district, including Samarapaku, Naachchimaar, Navindil, Illanthaikkadu, and Mavadi. According to eyewitnesses, the group conducting the searches consisted of personnel from Point Pedro camp, Polikandy camp, Valvedditturai camp, Uduppiddy camp, and another camp locally known as “Camp David.”

The wife of 25-year-old **Thilipkumar Ranjithkumar** told Human Rights Watch that in the morning four soldiers searched their house and checked the ID cards of the family members. They returned her card, but seized Ranjithkumar's and told him to come later that day to Navindil to collect it.

Ranjithkumar's wife took their two children and accompanied her husband to Navindil. She said there were almost 2,000 people at the area where the military told them to come—men with their families who had come to collect their IDs. The military personnel were calling out people's names, asking some questions, and returning their ID cards. She said that they also called Ranjithkumar, checked his documents again, and let him go. However, he never left the area. Ranjithkumar's wife said:

He got his card back, and was making his way through the crowd. There were two Powell vehicles parked there, and as he was passing in between them, several military personnel jumped off the vehicle, picked him up and pushed him inside. It all happened in front of my eyes—I stood with the kids some ten meters away. I ran there, screaming, "Where are you taking him? Please, let him go!"

In response, one of the soldiers unfastened a strap from his gun, and lashed me, saying, "Go away, he is not here; if you lost your husband, go and ask the police." I kept crying, asking them to either release him or take me and the kids as well, "because we wouldn't survive without him anyway." One of the soldiers, moved by my tears, got inside the vehicle and I heard him talking, but he did not come back to us.

Ganesh Suventhiran, age 23, also had his ID card confiscated on the morning of December 8, 2006, in his home village of Naachchimaar, northern Jaffna district. He also went to Navindil to pick up his card.

His wife told Human Rights Watch that she came there some time later and although she had to wait behind the fence, she saw her husband, who waved to her. She said that the military personnel checked his ID again and returned the card, allowing him to leave. However, as he was leaving two soldiers picked him up and put him into one of the Powell vehicles. Suventhiran's wife said she then immediately ran to the vehicle, and, along with Ranjithkumar's wife started begging the soldiers to release the men. She said that the soldiers kept pushing the women away, saying they would hit them if they came closer.

The women said that some 15 minutes after their husbands had been put into the Powell, the vehicles quickly drove off, and other personnel followed them. The two women told Human Rights Watch that they managed to write down the license plate numbers of the two Powell vehicles, 40041-14, and 40032-14.

The wives of Ranjithkumar and Suventhiran immediately went to file a complaint at the Point Pedro police station located inside the Point Pedro military camp. Suventhiran's wife said:

We gave them the vehicle numbers we wrote down, but they said, "We have hundreds of vehicles with the same numbers, so it is childish of you to expect us to find them by these numbers." The next day, when we came back, we saw both vehicles leaving the camp and coming back. We told the policeman, and also talked to a female military officer who wrote something down. Then a commander—he had stars on his epaulets and a red band on his arm—came; he talked to us and to the female officer, but never returned to us. They said they did not know anything and sent us to the Valvettiturai police station.

The Valvettiturai police registered the complaint, but advised the women to search for the men in the forest; they mentioned that previously a man taken away by the military had been dumped in the forest, blindfolded, yet alive. The families, however, did not find their husbands there.

The two women told Human Rights Watch that they kept visiting Point Pedro and Polikandy military camps, and that on Christmas day 2006 the military personnel from the Polikandy camp came to verify the places of residence of the two men with their village leaders. The soldiers, however, kept denying having any knowledge of the men's whereabouts. The women also reported the "disappearances" to the HRC, ICRC, and SLMM. The ICRC inquired with the military, the women said, but received the same response.

To date the fate and whereabouts of the two men remain unknown.

16. Kajenthiran Sivasubramaniam

Kajenthiran Sivasubramaniam, age 29, used to work in a bakery owned by his family in Kalviyankadu, Jaffna district. At about 10 p.m. on December 6, 2006, he delivered baking supplies for overnight baking to the bakery and went to his uncle's house nearby. According to his family, that had been part of his daily routine since 2000 when he started working in the bakery: he used to come home before 6 p.m. to have dinner, return to the bakery with supplies, and then go to his uncle's house for the night.

According to information relatives later received from the workers at the bakery and the uncle's family, at about 1:30 a.m. a group of about 40 or 50 armed men came to the bakery. They asked for "Jegan"—Sivasubramaniam was locally known by this name. The bakers told his family that the assailants wore military pants and civilian T-shirts, and had masks on their faces. They arrived in a Powell military vehicle and a white van. Those speaking spoke Tamil.

Sivasubramaniam's relative told Human Rights Watch:

The workers were very scared—there were so many armed men they thought the military was cordoning the entire area. Initially they told the armed men that that they did not know where Jegan was, and that he should come in the morning. But the men then turned everything upside down in the bakery, and seized one of the workers. They told him they would put him into the oven if he didn't tell them. So he had to say where Jegan was sleeping.

The armed men then went to the house of Sivasubramaniam's uncle, breaking the kitchen door and pushing away the uncle and his wife who tried to prevent them from entering. They did not search the house and did not ask the family to produce their identification documents, but seized Sivasubramaniam and took him away in his bedclothes.

Eyewitnesses to the incident believe that the perpetrators were from the military, and so Sivasubramaniam's family started searching for him in the army camps. They went to the Irupalai army camp, but military officials there said they had not conducted operations in the area and did not know anything about the abduction. They also approached military personnel in the Urelu camp, the main army camp in the area. Military officials there said they did not know anything about the incident but took testimony from the family.

Sivasubramaniam's relatives also submitted a statement to the Kopai police station. The police contacted the Urelu camp but said they received no response and did not proceed with the investigation. The family reported the case to the HRC and ICRC.

17. Rasiharan Somalingam



On December 6, 2006, 23-year-old **Rasiharan Somalingam** was on his way to his mother's house in the village of Samarapaku, in Valvedditturai, Jaffna district. In Navindil area, the military was conducting a cordon-and-search operation. Somalingam told his family that soldiers stopped him and seized his ID card, saying he should come to Uduppiddy military camp to get it back. Somalingam returned home and then the same day went to the camp accompanied by his wife and sister. The military personnel ordered

Somalingam inside but told his relatives to leave, saying they would release him shortly.

The two women left, but when Somalingam did not return home they came back and asked the military about him. They saw Somalingam's bicycle parked inside the camp, yet the military officials denied they had arrested him.

Somalingam's relative told Human Rights Watch that one other man from the area had been detained in the Uduppiddy camp along with Somalingam, and many

people witnessed him being taken inside. Three days after his detention, the other man was dumped at a junction, away from his village, blindfolded, with his legs and hands tied. Somalingam's relative said that the man was very scared and was not willing to talk to anyone about the circumstances of his detention or about other detainees he had seen in the camp.

The family reported the case to the HRC, ICRC, and SLMM. To date they have not received any information about his fate or whereabouts.

18. Thiyaganagalingam Sundaralingam



On the night of December 3, 2006, at around 11 p.m., the family of 50-year-old **Thiyaganagalingam Sundaralingam** heard a vehicle stopping near their house in Tellippalai, Jaffna district. Sundaralingam's wife and his oldest son went to wake him up. The men outside told the family to open the door, and when they refused, they broke the kitchen door and burst inside.

Sundaralingam's wife told Human Rights Watch that there were nine men, all wearing T-shirts, but the family members couldn't see much as the men shone a light in their eyes. The men spoke badly accented Tamil. Later the family saw the vehicle they arrived in, and learned from neighbors that two other vehicles were parked at a nearby junction. Sundaralingam's wife said:

We all gathered in the hall around my husband. We were nine people altogether. The men told my oldest daughter, who was carrying a baby in her hands, to go away so that the child wouldn't get scared. Then they sent us all to another room, and only my husband and the oldest son stayed. The men then ordered my husband to go with them. We all started shouting, but they told us to stop and said they would just question and release him. They took him out, and I just saw their vehicle leaving.

The family filed a complaint with the local police who promised to look into the case, but they never provided them with any information. They also went to the Uduvil military camp, but the military officials there denied having Sundaralingam. The family said that on December 13, 2006, the military police from Uduvil camp came to their house and told them to come to the camp. Sundaralingam's daughter was crying, and one of the soldiers told her so that others could not hear, "Don't cry, your father is in the camp, so go and cook your food." When the family went to the camp, the military officials took a statement from them, recorded in Sinhala, and asked Sundaralingam's wife to sign it. She did not want to sign something in a language she couldn't read, but the official ordered her to do so.

The family later found out that the night Sundaralingam had been taken away the military had picked up another man from the area who was beaten and then released. This man told the family that the people who had detained him wore military uniforms and drove a military truck, and that he had seen Sundaralingam on another military truck.

The family home is one of only two inside a high security zone near two military camps, Tellippalai and Kollankaladdy. Family members say that military personnel from Tellippalai camp used to conduct weekly checks in the area, and knew the family very well. In response to the family's inquiries, military officials said that Sundaralingam was a "good man" but claimed to have no knowledge of his whereabouts.

The family also reported the case to the HRC, ICRC, and SLMM. They have received no further information on Sundaralingam's whereabouts. The relatives suspect that Sundaralingam might have been taken away because he used to take undeveloped rolls of film from local people and take them to Colombo to develop and print the photos. The family thinks that the military might have wanted to interrogate him about the photographs to which he had access.

19. Sivasooriyakumar Tharmaratnam



On November 17, 2006, 28-year-old **Sivasooriyakumar Tharmaratnam** went with his wife and infant child to obtain permission from the local authorities to travel to Colombo at the Travel Clearance Civil office at Hospital Road, Jaffna, located inside a military camp. Along with other petitioners he was waiting at the checkpoint near the office, and at around 12:30 p.m. the military staff told him to come in. His wife gave him her ID card, and went to a nearby church to breastfeed the baby.

When she came back about half an hour later and asked about her husband, the officials told her that he had received his permission and left. She saw that her husband's bicycle was still parked at the place where he left it earlier and decided to wait for him. She told Human Rights Watch:

I kept waiting because he had to take us home. At around 5:30 p.m., an official came out and showed me his application form with his signature certifying that he had received his permission. But when I started asking people who were still waiting at the checkpoint, they told me he had not come out. They knew him because we all made friends while we were waiting. There is only one way out of that office, through the checkpoint so they would have seen him if he had left.

The family immediately went to the Jaffna office of the HRC, located nearby, and the HRC contacted the Travel Clearance office. The military staff said again that Sivasooriyakumar had left.

Sivasooriyakumar's family told Human Rights Watch that shortly before his "disappearance" he had opened a small shop to sell car parts. The shop was located inside the high security zone, and Sivasooriyakumar used to spend time outside the

shop. The family believes that the military might have suspected him of spying on them.

The family reported the “disappearance” to the Jaffna police, SLMM, and ICRC. The ICRC inquired in the Palali camp and Nallur military camp, but military personnel there claimed to have no knowledge of Sivasooryakumar’s whereabouts. At this writing the family has received no further information about his fate.

20. Charles Caston Raveendran



At around 11:30 p.m. on November 15, 2006, 37-year-old **Charles Caston Raveendran** and his family were sleeping in their house in Chundikuli, Jaffna, when they heard knocking on the door. Raveendran worked for Halo Trust, an international mine-clearing organization operating in Jaffna. They did not open the door, and when Raveendran’s wife looked out of the window, she could not see anything as the men outside shone a flashlight into her eyes. She said that when she asked the men who they were, they answered, “police.” Raveendran, who thought the perpetrators were thieves, called for the neighbors, but the men broke the front door and burst in.

According to Raveendran’s wife, the assailants were eight men, all dressed in civilian clothes, some wearing bandanas, and all armed with AK-47 assault rifles or pistols. They spoke a mixture of Tamil and Sinhala, but she thought most of them were Tamil. The neighbors later told her that the men had arrived in two vehicles—a white van and a green jeep—which they parked on the main road. She told Human Rights Watch:

They took him out of his room into the hall, and pushed me, our son and two daughters, and his aunt into another room. He was wearing his sarong, and they allowed him to tie it and then tied his hands. I couldn’t see much from another room, but he yelled, “They are tying

my hands!” I heard a slap, and then he didn’t say anything else. They took him out of the house and then came back to do a search. They asked us where the person who worked for Halo Trust was—I didn’t realize they were asking about [my husband] Charles Caston, and thought they were looking for his former colleague who is now living abroad. They searched my husband’s room and took away his mobile phone, his watch, his work boots, and his documents. We were too terrified to ask any questions.

The family told Human Rights Watch that, judging by the perpetrators’ accents, appearance, and bearing, they were Tamils from the area.

The family inquired with the Jaffna police, but the police said they had not come to the area. According to Raveendran’s wife, when she asked the police how it was possible for such a big group of men to break into their house during the curfew time, the police said, “if it’s the army, we cannot discuss it.” They also reported the case to the HRC, ICRC, and SLMM.

On behalf of the family the village headman inquired about Raveendran in the Passaiyoor military camp, but the military staff there denied arresting him. Halo Trust also informed the Palali military camp about the abduction, and the military personnel there said they had not arrested him, but added that “if it was the army intelligence unit, they could not interfere.” The family has not obtained any further information regarding his whereabouts.

21. *Sivasothy Sivaramanan*



Sivasothy Sivaramanan, age 28, ran a small teashop in Urumpirai, Jaffna district, together with his father. In the beginning of October 2006, an army unit on motorcycles (a so-called “field group”) came to the family’s house in Urumpirai West. Sivaramanan was not at home at the time. The military searched the house, checked his father’s ID, and left.

Sivaramanan’s father told Human Rights Watch that on November 4, 2006, at about 6 a.m., another three soldiers in uniform came to the family’s teashop and asked him in Sinhala about his son’s whereabouts. He answered that his son had not yet come to the shop and asked why they were inquiring. The military officials responded that it was “nothing special,” and left.

The same night at around 9 p.m., after both the father and the son returned home, they heard a noise of a vehicle stopping near their house and of people running. According to Sivaramanan’s father, male voices called Sivaramanan by name from the street, and then about 15 men, fully armed and wearing loose pants and T-shirts, jumped over the gate and broke down the door into the house. They mostly spoke to each other in Sinhala, but some spoke Tamil as well. The men smashed the light bulbs in the house, pulled the drawer out of a desk, took out a photo album, and started asking the family about the people in the photos. The father told Human Rights Watch:

The armed men then woke our cook who was sleeping outside. The cook was drunk, and when the men started beating him up and questioning him, he showed them the room in the adjacent house where my son was sleeping. They went to that room, and I followed them. My son was hardly awake, and the men just put handcuffs on him, and started dragging him away. I asked, “Where are you taking

my son?” but they just kicked me and pushed me aside. They took him outside, put him in a van, and drove away.

The family filed a complaint with the local police, who promised to make inquiries but did not come back to the family with any information. The relatives also inquired at the Kondavil and Thavady military camps, but military personnel in both places denied having Sivaramanan in custody. Sivaramanan’s father also met with the leader of the EPDP, government Minister for Social Services and Welfare Douglas Devananda, who said he would find his son. According to the father, he went to the EPDP office three times, and every time Devananda said he would get back to him in 10 days, but never did.

The family believes that the army might have taken Sivaramanan because the teashop used to serve lunch to many local people, and the military might have suspected that LTTE members were among them. Sivaramanan’s father told Human Rights Watch that when he asked about his son and complained at a checkpoint not far from the shop, the military personnel there told him casually “Oh, that’s because you were feeding LTTE.”

The family also reported the case to the HRC, ICRC, and local NGOs. At this writing the family had no additional information on Sivaramanan’s fate or whereabouts.

22. Padmanathan Rajendran

23. Sureshkumar Rajendran

24. Nishanthan Tharmakulasingam

On September 28, 2006, 21-year-old **Padmanathan Rajendran** and his brother, 18-year-old **Sureshkumar Rajendran**, who was staying with him in Irupalai, Jaffna district, went to play sports at a local sports ground and invited 21-year-old **Nishanthan Tharmakulasingam** to join them.

None of the three ever returned home. When their families started searching for them the same day, they only managed to find out that local residents had seen all three

at the sports ground at around 4:30 p.m. However, nobody saw them being arrested or taken away, and no army or other security forces were present in the area.

The families believe that the three men were abducted by the LTTE. They said that the LTTE had a strong presence in the area. The relatives said that Padmanathan and Sureshkumar Rajendran spoke good Sinhala and were “friends” with the army, and used to tell the people in the village that they would help them out should they have any problems with the military. Their connection with the military was apparently well known in the village, and could have been the reason for their abduction by the LTTE. The families said that their fellow villagers also believed that the LTTE was involved in the men’s abduction, although people were too scared to share any specific information with the families.

Relatives with close connections in the military said that their military contacts were adamant the army was not responsible for the abductions.

The families of the three men filed a complaint with the Kopay police. They also reported the case to a local human rights group. To date they have not been able to obtain any information regarding the fate or whereabouts of their missing relatives.

25. Irajeevan Sathiyavagiswaran

On the night of September 11, 2006, 32-year-old **Irageevant Sathiyavagiswaran**, an information technology officer with the government, was sleeping in his family home in Tirunelveli, Jaffna district, when at about 12:15 a.m. the family heard the sound of motorcycles and a van stopping near the house. The family saw about 15 men jumping over the fence into the yard, and shouted, “Robbers!” as they were aware of a spree of robberies in the neighborhood. The men then broke the door and burst into the house.

According to Sathiyavagiswaran’s relatives, the men were in civilian clothes, but they could hardly see them as they were blinded by a flashlight. They said that most of the men spoke accented Tamil, though one spoke Tamil as a native speaker. They were armed with AK-47 assault rifles and other guns. One of the relatives told Human Rights Watch:

We were 11 people in the house. We were all begging them to take anything they wanted but not to hurt us. They told us to shut up and pushed us into a corner. They asked our names, and one of them went and checked other rooms in the house. They then asked for our documents, but as one of the women went to get the documents, they grabbed Sathiyavagiswaran. He tried to resist, but they knocked him down, and just dragged him out by his feet, like a dog. His mother was trying to grasp him, but they hit her with a gun butt on the head, and punched his sister who was in their way. He just kept shouting, “Mother! Mother!”

The relatives tried to follow the men as they were dragging Sathiyavagiswaran out of the house, but the assailants put him into a white van and drove away. The family said that there is a military checkpoint only 25 meters from their house and the soldiers there could easily see what was happening. However, when they inquired at the checkpoint, a soldier told them that he just thought they were shouting and crying because “someone got sick in the family,” and so did not think the soldiers should intervene.

The family filed a complaint with the Kopai police station and inquired at the Urelu military camp, but the military staff there said they had no knowledge of the incident. When they inquired at the EPDP camp in the area some 20 days after the abduction, one of the EPDP officials there said he believed Sathiyavagiswaran “must still be alive,” and suggested that otherwise the family would have found the body. The family also reported the case to the ICRC and SLMM, and a number of organizations made inquiries on their behalf.

At this writing the family has received no further information on Sathiyavagiswaran’s fate or whereabouts.

26. Iyngaran Selvarasa

On September 3, 2006, at around 3 p.m., three soldiers came to the house of 24-year-old **Iyngaran Selvarasa** in Kopai, Jaffna district. Members of his family said they

knew these men well, as they were from the nearby Irupalai camp and frequently stopped by the house while on patrols in the village. Military personnel had previously searched the house twice, but never found anything. That day the soldiers just talked casually to Selvarasa, and then left.

A few hours later, a group of about 10 or 15 fully armed men arrived at the house in a white van. The family said they spoke unaccented Tamil and were in civilian clothing. Selvarasa's relative told Human Rights Watch:

They told him, "You thought you could escape from us?!" and then just started dragging him out. I kept asking why they were taking him away, but they said nothing in response and just put him in a van. They kept the rest of the family at gunpoint. I ran to the van, but one of them pushed his gun into my chest, then raised the barrel and shot into the air.

One relative said there is a military checkpoint some 200 meters away from the house, but the soldiers did not come when she was crying for help. She said she also saw the van passing the checkpoint without being stopped. Later, when the family tried to inquire at the checkpoint, the soldiers advised them to go and ask about Selvarasa at the Irupalai camp, but the family was too scared to go there.

The family filed a complaint with Kopay police, and inquired at the Srithar EPDP camp. They also reported the abduction to the HRC, ICRC, and SLMM. To date they have not received any information on Selvarasa's fate or whereabouts. They said that after Selvarasa had been taken away, the soldiers stopped coming to their house.

27. Thavaruban Kanapathipillai

28. Shangar Santhivarseharam

On August 16, 2006, at around noon, 26-year-old **Thavaruban Kanapathipillai** went to Kachai, in eastern Jaffna district, to buy some items for his shop, and invited 30-year-old **Shangar Santhivarseharam** to accompany him. The two men rode a bicycle together. They never returned. Their families told Human Rights Watch that they

waited for the men, but could not go out to search for them the same day because a curfew was imposed in the area.

The next day, Santhivarseharam's mother went to Kodikamam military camp located near her house to inquire about her son. She said she was surprised when the military officials asked her whether her son used to work for a bus company, the Ceylon Transport Board, because Thavaruban Kanapathipillai had worked there and the detail suggested the military might have some knowledge of the two men's whereabouts, although the officials denied it.

The same day, both families filed a complaint with the Kodikamam police station, and went to the military camp again. Kanapathipillai's uncle told Human Rights Watch:

When we got to the camp, I saw my nephew's bicycle parked there. It was parked near the camp, in the military-controlled area. When we asked the soldiers, they denied arresting them, and when I said we had seen the bike, they got very angry, and started yelling, "Who told you to go and look there?! We'll shoot you if you ever approach this place again!" We asked the GS [local civilian official] and the police to get the bike back, but they couldn't. Eventually, the commander in the camp returned the bike to us. He said that the people who had arrested our men were no longer there, so we should just take the bike and go.

The families reported the case to the HRC, SLMM, and ICRC, and wrote petitions to various state and military authorities. To date they have not been able to obtain any information regarding the fate and whereabouts of their relatives.

29. Thavavinayagam Anantharasa

30. Selvanathan Kanthy



Selvanathan Kanthy

On August 15, 2006, two men—35-year old **Thavavinayagam Anantharasa** and 22-year-old **Selvanathan Kanthy**—left their home in Velanai, on Kayts island west of the Jaffna peninsula, for Jaffna town, to buy supplies for their shop. They never returned home.

Anantharasa's relative told Human Rights Watch that when the families started searching for the men the next day, they learned that both had been stopped and questioned by the navy at Allaipiddy checkpoint at around 12 p.m. The navy let them pass, but they were stopped again at the Mankumpan checkpoint about half an hour later.

Local residents in Mankumpan told Anantharasa's family that they saw him there at around 12:30 p.m., near the Mankumpan Pillar Hindu Temple. They said he was sitting under a tree surrounded by a group of uniformed navy officers. The people were not sure whether the navy personnel were interrogating him or just talking to him.

When the relative inquired with the navy at the Mankumpan checkpoint, they first told her that Anantharasa had crossed the checkpoint and his name was registered there. Then they added they did not know what had happened to him and suggested that he might have been taken away by the LTTE.

Both families filed complaints with the police. They also filed cases with the HRC. When the HRC inquired at the Mankumpan navy camp, the navy said it had no information about the two men.

Kanthy's relative said that local people at Allaipiddy told them they had seen navy personnel driving Kanthy's motorcycle—the license plate was removed yet they said they recognized the vehicle.

Kanthy's relative informed Human Rights Watch that on August 26, 2006, 11 days after the "disappearance," two bodies were found under the bridge near Mankumpan checkpoint. While the villagers and the families could see the bodies from a distance, the military did not allow them to approach the place and did not provide any information regarding identification of the bodies.

31. Sutharsan Vijayakumar

At around 3 p.m. on August 9, 2006, 19-year-old student **Sutharsan Vijayakumar** left his house in the village of Alady, Jaffna district. He told his family he was going to play sports at a nearby playing field. He never returned home.

When Vijayakumar's family started searching for him they found out he had been detained by the military on his way to the sports ground. A relative told Human Rights Watch:

There is a small checkpoint, a military post about a kilometer away from our house. It's right in front of a shop, and the shopkeepers there saw everything. They said the soldiers beat him and pushed him onto his knees. They kept him on the roadside for awhile and then took him to an abandoned house nearby. Nobody dared to follow them, of course, and so nobody knows what happened afterwards.

The relative said she did not dare to go and inquire at the checkpoint, yet visited two military camps nearby, Manipay camp and Chunnakam camp. Military personnel, however, chased her away saying they had not arrested Vijayakumar.

The relative also mentioned that another young man was arrested together with Vijayakumar, but she did provide Human Rights Watch with his name or further details.

Vijayakumar's family filed a complaint with the Chunnakam police, but did not hear anything back. They also registered the case with the HRC and ICRC. To date the fate and whereabouts of Sutharsan Vijayakumar remain unknown.

32. Shanthakumar Palaniyappan

At around 8:30 a.m. on July 22, 2006, a large group of military personnel came to the house of 26-year-old **Shanthakumar Palaniyappan** in Meesali, Jaffna district.

Palaniyappan's wife told Human Rights Watch that earlier that morning there had been a claymore landmine attack not far from their house which had left three soldiers dead and several injured. She said that the soldiers who usually patrolled the area were from Puttur junction military camp, but was not sure whether this group was from there as well.

Palaniyappan's wife said that the military personnel did not introduce themselves and did not produce any documents, but started questioning her husband about the attack. She said:

They just took him away. I kept asking where they were taking him, but they said they would inquire and bring him back. When they left, I followed them. They took him to a place not far from where we live. There was a house there, and for awhile they kept him there; he was just standing near the wall and I could see him. The military then chased me away, and I don't know where they took him from there.

Palaniyappan's wife inquired about him in the Puttur junction military camp and the Puliayadi military camp, but the military in both places denied having arrested him. She also filed a complaint at the Chavakachcheri police station. She reported the case to the HRC and ICRC.

Three days after the "disappearance," the Chavakachcheri magistrate who Palaniyappan's wife said was investigating the claymore attack summoned her and informed her that her husband had not been arrested by the army. The court told her that she would be notified if any information came to light. To date her husband's fate and whereabouts remain unknown.

33. Maruthai Ajanthan

On June 26, 2007, 17-year-old **Maruthai Ajanthan**, a grade 10 student at Vipulanandan College in Vavuniya, was on his way to Vavuniya town.

His father told Human Rights Watch that while people saw him leaving the village, no one saw him in Vavuniya town. He said:

Since nobody saw him in town, I suspect that he was taken away on his way to town. I went to the LTTE and the [pro-government Tamil group] PLOTE and asked them if they had seen my son or knew about him. They all said that they knew nothing about him. Anything could have happened to him. There are many police checkpoints on the road to town. I don't know who could have taken him.

Ajanthan's family filed a complaint at the Vavuniya police station (Case No MOIB885/298) and followed up their complaint with repeated visits. The family also complained to the village administrator, the HRC, ICRC, SLMM, UNICEF, and the nongovernmental Civil Monitoring Committee (CMC). To date the family has received no additional information about Ajanthan's fate or whereabouts.

34. Tharmakulasingam Kuruparan

At around 2 p.m. on May 11, 2006, 24-year-old **Tharmakulasingam Kuruparan** left his home town of Chavakachcheri in southern Jaffna district, and went to Jaffna town on a motorbike. He intended to return home the same day, but never did. He earned his living by buying and selling motorcycles.

Kuruparan's relative told Human Rights Watch that at 7 p.m. that day he received a call from a friend of Kuruparan who said that Kuruparan had been arrested at Kaladdy junction, near the university there. When the relative went there the next day, eyewitnesses to the incident who knew Kuruparan told him that the previous day an army field group on five or six motorcycles, accompanied by a Powell vehicle, closed the road. Soldiers were checking documents of people traveling on the road.

The people said that after checking Kuruparan's documents, soldiers handcuffed him, pulled his T-shirt up around his head, and put him into the military vehicle. They similarly arrested three or four other people, but Kuruparan's relative did not know their names.

The eyewitnesses believed that those arrested had been taken to the Urelu military camp, as this was the only camp in the area with motorized field groups.

Kuruparan's relative told Human Rights Watch:

Two days after his arrest, we went to the Urelu military camp, but they said they had not arrested anybody. We also went to the Jaffna police station. They did not ask us to produce witnesses, but went to the scene to inquire. They did not tell us what they found but in any case the witnesses would have been too afraid to tell them what they saw. I also wrote letters to the Palali camp, the SLA [Sri Lankan army] commander-in-chief, and the GA [Government Agent—central government official at the local level] also appealed on our behalf, but he also received no response.

The family also filed the case with the HRC, SLMM, and ICRC. They did not receive any reliable information about Kuruparan's whereabouts, although they heard rumors which they were unable to verify that he had been detained in Kankesanthurai military camp near Palali.

35. Rasanvagampillai Sivananthamoorthy

36. Markandu Pushpakanthan

37. Kandasamy Parimelalakan

38. Ramachandran Rasakumar

39. Ponnambalam Parthipan

40. Vaikundavasana Vaikundakumar

41. Selvaratnam Sivananthan

42. Ratnam Thayaroopan

On May 6, 2006, eight men from Manthuvil East in Jaffna district went to spend the night in a local Hindu Temple for holiday celebrations. Their families told Human Rights Watch that around 12:30 a.m. they heard the sound of a vehicle passing through the village in the direction of the temple. About half an hour later they heard seven gunshots. The families were too scared to come out in the middle of the night and decided to wait till morning. At 4:30 a.m. the military started a search operation in the village. The relatives of the eight men said they saw a jeep and a Powell military vehicle approaching the temple.

The relatives convinced their neighbors to join them and went to the temple. One of the mothers told Human Rights Watch:

We wanted to get there before the military vehicles left. When we got to the temple, we saw a guard with a gun at the entrance to the premises, other military personnel around the temple, and the two vehicles parked there. When we approached, the guard blew a whistle, and the soldiers ran to their vehicles and quickly left. We suspect they had put our men in one of the vehicles and drove them away.

When we entered the temple, nobody was there. At the lodging area, we saw their mats, clothes, and one of their ID cards. We saw some blood stains, and collected bullet cartridges from the place.

The relatives believed that the soldiers who conducted the search operation were from Puttur junction military camp—they had often patrolled the village.

The relatives tried to go immediately to the nearby Varani military camp. However, on the way, as they were passing the Iyathalai camp, the soldiers there stopped them, asked for the “disappeared” men’s names, and did not allow the families to proceed to the Varani camp, telling them to report to the Kodlikamam police station instead.

The women filed complaints with the police. They also reported the case to the HRC, ICRC, and SLMM. The police went to the temple three days later, but did not get back to the families with any information.

On May 9, 2006, when the families were finally able to visit the Varani military camp, military personnel there told them that the LTTE had published an online article saying that the eight men had been killed by the security forces and dumped in the forest at Kaputhuveli. They suggested that the relatives should go and search there. The women said that SLMM staff had looked into the case, visited the temple, met with the families, and searched for the bodies in the forest mentioned by the military, yet they were not able to find anything. To date, the fate of the eight men remains unknown.

43. Sakthivadivel Rajkumar

On the morning of October 23, 2006, a group of men abducted **Sakthivadivel Rajkumar**, age 29, in front of a garment school in Vavuniya. His wife, who received the news on his abduction from the garment school employees, told Human Rights Watch that three or four men forced Rajkumar into a white van and drove away.

The same day, Rajkumar's family registered a complaint with a police station in Vavuniya (Case No CIB 200/219), and later also reported the case to the SLMM (Case No VV1428) and the HRC (Case No 394/2006).

One week after the abduction the family received a telephone call from a man who called himself Robert and said he was from the Karuna group. The man demanded two million rupees (about US\$18,000) for Rajkumar's release. The family requested to see Rajkumar before paying the ransom, but the caller refused.

The next day someone left Rajkumar's umbrella in the garden. His wife told Human Rights Watch that "Robert" then called again and said, "If we brought his umbrella then it's not hard to bring a part of his body." She recorded the numbers from which the phone calls were made.

According to Rajkumar's wife, "Robert" told the family to deposit the money in Sampath Bank, and gave her an account number and the name in which the deposit should be made.

On November 3, 2006, the family deposited half of the requested sum, and received a call from a man who confirmed that the money had arrived. During the call the person also said that Rajkumar had been injured during torture and that he would be released upon recovery. At this writing Sakthivadivel Rajkumar has not returned home, and the family has not received any further information from his abductors.

Western Sri Lanka

44. Kirubalan Balasubramaniam

Kirubalan Balasubramaniam, age 23, worked with a NGO called Arbeiter Samariter Bund (ASB) in Jaffna but wanted to go abroad to continue his education. On April 1, 2007, he went to Colombo to get a student visa for Cyprus. He had not been admitted to a university yet but was in the process of preparing his application. While in Colombo, he stayed at the Ramakrishna Mission in Wellawatta.

According to his mother, the last time she spoke to Balasubramaniam was on April 27, 2007. When she tried calling him the following day he did not answer his mobile phone. Her attempts to reach him during the following week also failed. In desperation, the mother called the mission where he was staying. The mission told her that they knew nothing of his whereabouts since April 28, 2007. The mother later discovered that around 40,000 rupees (about US\$360) had been withdrawn from his account a few days after he went missing.

Balasubramaniam's family filed a complaint with the police (case No CIB I 298/19) and also reported the case to the HRC, CMC, and ICRC. At this writing the family has not received any further information regarding his fate or whereabouts.

45. Surendrakumar Puniyamurthi

Surendrakumar Puniyamurthi, age 39, worked as a newspaper delivery man and was fondly called "Paper Suresh" by his clients and friends. On April 20, 2007, at around 8:30 p.m., he went to his mother's house, had dinner, and returned to his rented room in a building occupied by many tenants in Colombo.

According to his mother, Puniyamurthi's cotenants later told her that about six armed med came into the building shortly after he returned from her house asking for "Paper Suresh." People in the building directed them to his room and the armed men entered and took him away. Two days later Puniyamurthi's friends informed his mother of the incident. She told Human Rights Watch:

He had lived in Colombo for six years, his records were absolutely clean. He had never been on the wrong side of law, never had problems with the police. We don't suspect anyone because he was not the kind of person to get into trouble with anybody.

The family lodged a complaint with the police on April 24 (Case No CIB II53/196); they also reported the case to the HRC and CMC. The police came to Puniyamurthi's house to conduct an inquiry but to date have not informed the family of any progress in the investigation.

46. Antony Paul Eldrin Mathew



Antony Paul Eldrin Mathew, age 34, had worked as a crane operator in Colombo harbor for over six years. His wife and 7-year-old son lived in Trincomalee but the family spoke by phone every morning and evening. Mathews's wife told Human Rights Watch that she spoke to him on the morning of February 14, 2007, but when she tried his number at 6 p.m. that evening there was no answer. At around 7:30 p.m. Mathew's wife received a call from his landlady who told her that Mathew had been taken away by four men in a white van. The landlady told Mathew's wife that the men had said that they needed to take Mathew away to question him.

Some of Mathew's neighbors later told his wife that they noticed a small board with the word "police" behind the windscreen of the van. His wife told Human Rights Watch:

On the day of the suicide attack on Defense Secretary Gothabaya Rajapaksa [December 1, 2006], the CID [Criminal Investigation Department of the police] took my husband away to question him. But they released him the same evening when they found no evidence of his involvement. When he was taken away on February 14, I thought they were the same people who had taken him away [in 2006] and would release him.

My husband has no links with any terrorists or militants. There is no reason for the police to be suspicious of him other than that he is Tamil and that he moved from Trincomalee. He is the only Tamil working in crane operations in the port.

The family filed a complaint with the Kotahena police station (case No GCIB 25/192). They also registered information with the HRC and ICRC. To date the family has received no information on Mathew's fate or whereabouts.

47. Suresh Palanisamy

On the morning of February 1, 2007, four policemen, two of them in uniform, arrived at the house of 22-year-old **Suresh Palanisamy** in Colombo. According to information from Palanisamy's family, the police told him that he was needed at the Eheliyagoda police station regarding a complaint, and Palanisamy left with them.

Upon hearing the news from Palanisamy's wife, his father rushed to the police station. The police denied ever bringing Palanisamy there. The father then went to Kotahena police station and filed a complaint. On February 5, 2007, the family also registered the case with the HRC.

48. Kanapathipillai Ravindran



Kanapathipillai Ravindran, age 30, lived in Colombo for over five years. He owned a phone repair shop in Wellawatta and was financially well-off. According to his mother, on the night of January 28, 2007, Ravindran received a call from someone asking him to repair a phone urgently. The caller said he was waiting outside his house and kept ringing the bell.

Neighbors who witnessed the scene conveyed details to the mother. They told her that when Ravindran stepped outside, two or three people were waiting for him near the house, while another couple of men were waiting in the street, near a white van. The men bundled him and pushed him over the wall, put him into the van, and drove away.

Ravindran's mother told Human Rights Watch:

The people who picked him up spoke Tamil. The neighbors said that it was fluent Tamil. However, we have no other information about them. My son had no links with any Tamil groups or the LTTE. We don't know who could have taken him.

Ravindran's landlord reported the abduction to the police (case No GCIB 229/481), yet, so far the fate and whereabouts of Ravindran remain unknown.

49. Ravees Subramaniam



Ravees Subramaniam, age 30, moved to Colombo from Jaffna in 2004, and worked in a jewelry shop.

According to his mother, Subramaniam was going to work as usual on the morning of January 28, 2007, when four unidentified people kidnapped him on Kathiresan Street in Colombo.

Subramaniam's mother told Human Rights Watch that people who witnessed the abduction informed her about it. However, no one could identify the abductors and there was no information on where they had fled with her son.

The family registered complaints with the Pettah police and filed the case with the CMC. At this writing the family has received no further information on Subramaniam's whereabouts.

50. Ramachandran Sivakumar

In December 2006, 43-year-old **Ramachandran Sivakumar**, a trishaw (motorbike taxi) driver from the Wanni moved to Colombo, hoping the city would offer him a better chance to feed his family of six. He stayed in a lodge near Pettah in Colombo, and kept in touch with his family through regular phone calls.

On the evening of January 14, 2007, Sivakumar called his wife to tell her that he had found a job as a driver in a delivery company and would be starting the job the following day. She never heard from him again.

According to Sivakumar's wife, witnesses who saw him in the lodge later told her that he left on the morning of January 15, 2007, and never returned. She received no news of his being abducted, but believes he may have been picked up by the security forces.

She told Human Rights Watch:

Right after he came to Colombo, he was picked up for questioning by the Pettah police station. He told me they had asked him if he was a member of the LTTE. They found no evidence of his involvement with the LTTE and had to release him. I suspect that the security forces may have taken him again. Nobody else knew him in Colombo, and nobody had a reason to target him. He is a poor man.

Sivakumar's family filed a case with the Pettah police station. They also reported the matter to the HRC, ICRC, and SLMM. His whereabouts remain unknown to date.

51. Balendran Ratheeskanth



In December 2006, 27-year-old **Balendran Ratheeskanth** moved from Vavuniya to Colombo in the process of migrating to the United Arab Emirates for work. He obtained the necessary work and travel permits, and had a ticket to fly out of Colombo on January 23, 2007.

According to Ratheeskanth's mother, who had spoken to his landlord, at around 2:30 p.m. on January 13, 2007, six unarmed men arrived in a blue van at his boarding house in Colombo. The men identified themselves as CID officers and presented their identity cards. They said they had to take Ratheeskanth away. The landlord repeatedly asked them why and where they were taking Ratheeskanth, but they did not reply and forcibly took Ratheeskanth away.

Ratheeskanth's mother told Human Rights Watch:

Normally my son called me every evening. But that evening I did not receive a call so I got worried. I called the landlord of the boarding

house and he informed me about what had happened. The same night I got on a bus from Vavuniya and came to Colombo.

Ratheeskanth's mother filed a complaint with the police; she also inquired at the CID office at Dematagoda about her son. The police and the CID denied having any knowledge of the arrest. At this writing, Ratheeskanth is still missing.

52. Subaramaniam Jeshuthasan

53. Alakaiya Logeshwaran

54. Raveendran Ranjith

55. Kanapathipillai Puvaneshwaran

56. Thavapalan Krishnakaran

57. Muhammad Mazeen Muhamed Riyaz



Subaramaniam Jeshuthasan



Alakaiya Logeshwaran



Thavapalan Krishnakaran

On January 10, 2007, five young men from Batticaloa arrived in Colombo to apply for work visas for the Middle East. After their visa interviews, 22-year-old **Subaramaniam Jeshuthasan** and 31-year-old **Alakaiya Logeshwaran** took a bus back to Batticaloa on January 12. An eyewitness told the families that a white van stopped the bus. Men saying they were from the CID took Jeshuthasan and Logeshwaran off the bus and drove them away.

The two men's relatives, interviewed separately, told Human Rights Watch that they had each learned these details from an eyewitness who was arrested with Jeshuthasan and Logeshwaran but was released the same day.

Jeshuthasan's family informed the police in Batticaloa the next day and officers there said they would inform the other stations. The family also got a call from Jeshuthasan's cell phone. The person spoke Sinhala and when the family went to get a neighbor who spoke the language the person on the phone hung up. The family called back Jeshuthasan's cell, and the person who answered said he was with the police and that he would inquire into the family's complaint, but the relatives have not heard anything from the police since.

Logeshwaran's family said they reported the case to the police in Eravur, and officers there said they would inform other stations. They also reported the case to the HRC (case No 026/07/MA).

The three other men from the group stayed in Colombo, at the South Asia Lodge, awaiting their interviews and medical exams. Their relatives told Human Rights Watch that, according to the lodge owner, on the night of January 12, a group of men arrived at the lodge in a white van (license plate number 253-0467) and showed CID identification cards.

The men took away 24-year-old **Raveendran Ranjith**, 33-year-old **Kanapathipillai Puvaneshwaran**, and 20-year-old **Thavapalan Krishnakaran**.

Ranjith's family went to the Pettah police station and filed a complaint, but the police did not provide the family a case number. The family also submitted information to the HRC (case No 024/07/MA).

Krishnakaran's family reported him as a missing person to the police in Pettah, Colombo, and Valaichchenai, the last of which took the case. They also filed a case with the HRC.

Krishnakaran's relatives on January 19, 2007, filed a complaint with the Batticaloa police (case No CIB 130/131). They also reported the case to the HRC (case No 030/07/MA) and SLMM (case No BT-3549).

The employment agent for four of the five men, a 34-year-old named **Muhammad Mazeen Muhamed Riyaz**, also apparently was “disappeared.” A relative of Riyaz’s told Human Rights Watch that after Riyaz learned about the abductions, he went to eight different police stations in Colombo and registered complaints. He also reported the case to the CMC, and took the families of the “disappeared” to the Tamil-owned Shakti TV to publicize the case.

According to Riyaz’s wife, on the morning of January 22, Riyaz left home to go to his office on Messenger Street in Colombo 12. At around 11:15 a.m. other employees informed her that about six armed men in civilian clothes walked into the office. They introduced themselves as CID and said they had come to check Riyaz’s office. They got him outside the office on some pretext and once he came out, they bundled him into a van and sped away.

Riyaz’s family filed a complaint with the Kotahena police and at Boosa prison. They also registered statements with the HRC and ICRC. At this writing the family has received no further information on Riyaz’s fate or whereabouts.

58. Ketheeswaran Sujampu Nadar

59. Kanapathy Sujampu Nadar



Ketheeswaran Sujampu Nadar

Ketheeswaran Sujampu Nadar, age 30, and his brother, 25-year-old **Kanapathy Sujampu Nadar**, owned a bus and provided transportation services in Colombo. Kanapathy was not married and lived with his brother and sister-in-law in Colombo.

According to Ketheeswaran’s wife, on January 10, 2007, she received a phone call asking for a private hire of the bus. The caller spoke Sinhala. She passed on her husband’s mobile number to the callers but also told them that he was at work and would not be free until 9 p.m. that day. Her husband and his brother never returned home.

Ketheeswaran's wife told Human Rights Watch:

We discovered my husband's bus parked in the place where it is normally parked. But the men never came back home. The bus is normally parked at Ellie Lane in Colombo 15, but there was no trace of my husband or his brother.

Six months ago, the police arrested my husband on suspicion but later released him when they found no evidence. I felt maybe this is like that. But till now there is no news of my husband.

The family filed a complaint with the local police who promised to make inquiries but did not come back with any information. The relatives also inquired with the CID chief. They also provided information to the CMC. So far their efforts to find the two men have proved futile.

60. *Varapragasam Morrison*

61. *Natkunam Selvarasa*



Varapragasam Morrison

Varapragasam Morrison, age 35, and **Natkunam Selvarasa**, age 27, shared a house in Colombo.

According to Selvarasa's relative, at around 4 a.m. on January 8, 2007, six or seven armed and masked men in civilian clothes jumped over the compound wall and entered the house. The relative told Human Rights Watch that the men knocked on their door, and when Selvarasa opened they assaulted him and ordered him to hand over all his possessions. The family handed them 10,000 rupees (about US\$90) and a mobile phone. The assailants pushed Selvarasa into a small blue van parked outside and left.

The same men then beat up and took away Varapragasam Morrison. His wife, who was in Jaffna with their children, told Human Rights Watch that she learned the details of the incident once she got to Colombo.

Selvarasa's stepmother told Human Rights Watch:

We suspect the Sri Lankan government. There is a police checkpoint adjoining the boundary of our house; who else could dare to come in with the police on guard next door? My son had no links with any militants. We don't know why anybody would take him.

Selvarasa's family registered a complaint in the Modara police station. They also reported the case to the CMC. Morrison's wife reported the case to the SLMM, ICRC, and CMC.

62. Vairamuththu Varatharasan



For eight months, 40-year-old **Vairamuththu Varatharasan** worked as a truck driver, transporting goods from Colombo to other cities. He moved to Colombo from Jaffna at the age of 20. An ethnic Tamil, Varatharasan married a Sinhalese woman in 1993 and has four daughters and a son.

At midnight on January 7, 2007, a group of uniformed policemen came to Varatharasan's house. His wife told Human Rights Watch that one armed policeman came inside the house and asked for identity papers. Around 20 other people, some in civilian clothes, surrounded the house outside. Varatharasan's wife told Human Rights Watch:

I went inside the house to get the identity card. By the time I came out of the room, my husband was not there; neither was the policeman. I

ran out and spotted a van parked in a dark place on the road. I ran to the road but by the time I got there, the van started and left.

The next night about 20 uniformed army personnel came to my house. They said, “You are a Sinhalese lady. Why don’t you help us? We know you have kept weapons in the house.” I told them there were no weapons in the house. They went around the house, hitting the floor with iron pipes but did not find anything. Before I could ask them any questions, they asked me, “Where is your husband?” I told them that the police had taken him the previous night. They asked me if I had reported the matter to the police.

The woman said that her husband had been arrested previously, and the CID used to visit their house regularly and question him. After the killing of Foreign Minister Lakshman Kadirgamar in August 2005, she said, the CID arrested Varatharasan and held him for two days. The family complained to the police about this constant harassment by the CID, but it did not help.

The family filed a complaint about Varatharasan’s “disappearance” at the Grandpass Police Station (Case No MOIB-355/132). According to Varatharasan’s wife, the police told her she would have to wait for 91 days before they would take any action. The family also reported the case to the HRC, CMC, and Municipal Council opposition leader Vasudeva Nayannakara.

63. Thangavel Mayuran

When **Thangavel Mayuran**, age 23, finished his advanced level studies in Jaffna in March 2006, he and his entire family moved to Colombo because of the rapidly deteriorating security situation in the peninsula. Mayuran’s uncle, who lives in the Netherlands, supported them financially during the move. Mayuran worked evenings in a print shop on Galle Road, Colombo, and on occasion slept in the shop and returned home the next morning.

According to Mayuran's mother, at around 11 p.m. on December 22, 2006, one of Mayuran's colleagues informed her that Wellawatte police had taken her son away. She said:

We immediately went to the police station where the officer-in-charge checked the lock-up and told us our son was not there. The officer asked us to wait, as a police team which had gone for round-ups was to return shortly. But they came back without our son.

According to a statement given by the owner of the shop to the CMC, "five armed persons in civilian clothes entered the shop at around 10:30 p.m. on December 22. They asked all those present in the shop for identity cards. When Mayuran showed his ID card, one of the men started pulling him to take him away." In his statement, the owner says he tried to intervene and asked them which police station they were from. The men replied they were from "Slave Island-CID" ["Slave Island" is an area in Colombo]. The owner said he wanted to check the vehicle they were going to take Mayuran in. In response the men threatened to shoot anybody who came out of the shop.

On the family's request, the Wellawatte police called Slave Island police station to check if anyone who fitted Mayuran's description had been arrested, but they denied such an arrest. The family provided information to the HRC, ICRC, SLMM, and CMC. To date they have not received any further information about Mayuran. Mayuran's mother told Human Rights Watch:

I think they took my son by mistake. They were looking for some other Mayuran because before my son joined the shop, another boy by that name worked there. Till now, there is no news. We just want our son back.

64. Sivakumar Jathavakumar



Sivakumar Jathavakumar, age 23, traveled from Vavuniya to Colombo on November 15, 2006, to get a visa for work abroad. He stayed in the Wellawatte Lodge on Frances Road in Colombo 6 with two friends.

On December 16, 2006, men in civilian clothes arrived at the lodge in a police van and took Jathavakumar away. Jathavakumar's parents learned about the abduction from the friends with whom he was staying.

The family said they filed a complaint with the Wellawatte police station, and several months later they saw a newspaper article that said Jathavakumar was being held in Boosa prison.

The article, viewed by Human Rights Watch, lists 89 people the authorities said were being held in Boosa prison. Based on that information, the parents went to Boosa prison to find their son. His father said, "They took us in and brought five prisoners out, asking them to look for our son. The army then said he was injured. This was last Friday [March 2, 2007]."

The parents left Boosa without any confirmation that he was being held at the prison. It is not known if they reported the case to the police or anyone else.

65. Sivasubramaniam Raveendranath

Professor **Sivasubramaniam Raveendranath**, age 56, Vice Chancellor at Eastern University in Batticaloa, went missing from a high security zone in Colombo on December 15, 2006.

Previously, on September 20, 2006, a group of unidentified armed men had abducted Dr. Bala Sugamar, the dean of the arts faculty at the Eastern University,

saying they would release Dr. Sugamar if Prof. Raveendranath resigned from his post as University Vice Chancellor. According to Prof. Raveendranath's family, the professor and his immediate relatives left Batticaloa for Colombo on the night of October 1, 2006. The next day, he submitted his resignation and Dr. Sugamar was released 11 days later.

Prof. Raveendranath stayed in Colombo, where he worked for the university grants commission. He reported receiving death threats on his cell phone. "The people who threatened him said they would punish him and kill him if he didn't stop working," his son-in-law told Human Rights Watch.

On December 15, Prof. Raveendranath attended a science conference near the BMICH conference hall in Colombo, which is in a high security zone with a large military and police presence. The family expected him back for lunch but he never arrived. His wife tried his cell phone several times but it was turned off.

That same day his family filed a police report with the Dehiwala police (Case No 225/260/CIB2). They also submitted the case to the UN Working Group on Enforced or Involuntary Disappearances (UN Working Group), which sent it under the urgent action procedure to the Sri Lankan government on January 9, 2007. At this writing, Prof. Raveendranath remains missing.

66. Maxi Bolton



Maxi Bolton, age 42, worked for one year in Australia. According to his family, during that time he won 20 million rupees (about US\$180,000) in a lottery. Upon his return to Sri Lanka, he bought land and a house, and opened a grocery and communications shop.

An employee told Bolton's wife that on December 9, 2006, Maxi Bolton was at his shop in Kotahena, Colombo, when five men arrived in a white van (license plate number 250-5669). Two of them came

inside, saying they were from the CID and Bolton was needed for questioning.

One-and-a-half months later, the wife said, the family got information that Bolton was in Welikanda area. A man who identified himself as Jithan called Bolton's sister to say that his questioning was almost done and the family could pick him up. According to Bolton's wife, the caller said, "Go to Welikanda and talk to the people. There is Karuna and an army base there."

In late February 2007, some members of the family went to Welikanda. Bolton's wife told Human Rights Watch:

There's a house in Welikanda that we thought was their [Karuna's] house. They said, "You must go to Batticaloa town." We went. There they said, "We don't do such things, but we can help you look." We also went to the army camp, but they would not speak with us.

The family returned to Colombo without Bolton, and they have not received any phone calls since. "If it's for money, we would have gotten phone calls," the wife said.

It is not known if the family reported the case to the police.

67. Pradeepan Sandirasekaran

Originally a resident of Jaffna, **Pradeepan Sandirasekaran**, age 26, moved to Colombo in 2002. He studied at the Jaffna Open University and then worked as an agent in Ceylinco Insurance Corporation in Colombo. At the time of his "disappearance," he was completing a four-month course at the British College of Applied Studies.

Sandirasekaran's father told Human Rights Watch that his son went missing on November 16, 2006. On that day witnesses saw him coming out of Ramakrishna Hotel in Colombo, which is close to an internet cafe where Sandirasekaran had been working to pay for his education. His father was unable to ascertain with certainty what happened to his son, although he said "Most people said he was arrested."

Sandirasekaran's employers registered a complaint with the Wellawatte police. The family reported the case to the commissioner of police, the HRC, and the chief justice of the Supreme Court. They also reported the case to the UN Working Group. At the time of writing they have received no information on Sandirasekaran's whereabouts.

68. Ramachandra Susilakumar



On November 2, 2006, 36-year-old **Ramachandra Susilakumar** was walking out of the Mayura Café in Kathiresan Street in Colombo, having finished his meal. At around 2 p.m. a white van stopped near him on the road. Some men in civilian clothes jumped out of the van, pushed him inside, and drove away. His mother, who learned about the abduction from one of her son's friends who had witnessed the incident, told Human Rights Watch:

Initially, we thought this was the police or the CID and he would be released, as he had been arrested once before on suspicion in the middle of 2006. He was in custody for a month and then released. But this time he has not been released.

The family filed a complaint with the police. They also registered the case with the CMC. To date they have not received any further information on Susilakumar's fate or whereabouts.

69. Jeyawarthanage Raja

On October 19, 2006, 45-year-old **Jeyawarthanage Raja**, a small trader from Mt. Lavinia, Colombo, was returning home from a work trip to Ratmalana, south of Colombo.

According to information that his wife received from eyewitnesses, at about 10.30 a.m. he stopped at a tea shop to have breakfast close to Ratmalana. Half an hour later, when he left the shop and was walking toward his motorbike, two men stopped him. He did not appear to know them and they spoke for five minutes. Raja then left with the two men; none of the witnesses saw the vehicle in which he left with them.

Raja's wife told Human Rights Watch:

At about 12:30 in the afternoon I got a phone call from my husband. He was calling from his mobile, but did not want to talk much. All he told me was that he was going to come home late and hung up the phone. I got worried and waited for him at our shop till 7 p.m. that evening. But he never came home.

Raja has been missing ever since. His family filed a complaint with the police. They also reported the matter to the HRC and ICRC. To date they have not received any information.

70. Muthaiya Thiruchelvam



Muthaiya Thiruchelvam, age 33, worked as a hairdresser at the New City Salon in the Bastian Mawatha section of Colombo.

According to his mother, who spoke to employees at the salon, after midnight on October 13, 2006, a dark blue jeep with four men, three of them in police uniforms, pulled up to the salon and took Thiruchelvam away.

The family reported the case to the Pettah police, who registered the complaint. The parents also visited Boosa and Kalutara prisons but officials in both places said they had no information about their son. The family has

not received any news about their son, and the police have not provided any information.

71. Ramiah Subramaniam



Ramaiya Subramaniam, age 33, a married carpenter with two young daughters, went missing on September 26, 2006, in the Colombo suburb of Delkanda.

His mother-in-law told Human Rights Watch that he went for a bath in the river with five friends, and on the way back someone came in a white van and took him away. Subramaniam's friends ran away.

Subramaniam's employer filed a complaint with the police in Paduka but the family is not aware of any subsequent progress in the case.

72. Pushpakumar Yoganathan



In September 2006, 26-year-old **Pushpakumar Yoganathan** came to Colombo from Vavuniya to get a visa for India. He obtained the visa and was staying at a friend's house in Colombo 5.

According to Yoganathan's mother, who learned about the abduction from an eyewitness, on September 23, 2006, a police van pulled up to the house and some men asked for Pushpakumar, and took him away.

His mother came to Colombo from Vavuniya and inquired with the Narahenpita police, but the police denied having any knowledge of Yoganathan.

Shortly thereafter, some policemen from the CID went to the Vavuniya police asking about Yoganathan, and the Vavuniya police called the mother. They said they had received a request to search for him, and asked questions, such as why he had gone to Colombo. Since then the police have not provided any information to the family.

73. Thirulogarasa Prabhakaran



Thirulogarasa Prabhakaran, age 30, had lived in Colombo for nearly a decade. At around 9 p.m. on September 12, 2006, he was returning home after buying food at a nearby shop.

As he was approaching the house, a white van stopped near him on the road. Prabhakaran's wife, who witnessed the incident, told Human Rights Watch:

I saw three or four men jump out of the van and approach my husband. My husband started screaming and shouting but the men managed to push him into the van, and drove away. There was nothing I could do. I just watched the whole incident helplessly; it all happened so fast.

The family filed a complaint with the police (case No: CIB 299/118). They also registered the case with the CMC. To date the fate of Thirulogarasa Prabhakaran remains unknown.

74. Muragaiya Suvendran

On the evening of September 1, 2006, 24-year-old **Muragaiya Suvendran** went to bathe at a well near his house in Puttalam, a town 130 kilometers north of Colombo. His mother told Human Rights Watch that people who arrived in a white van abducted her son. She said:



He went out and was abducted. Six to seven people were in the van. One of them was in an army uniform. The others had civilian clothes. I was inside the house. I saw him go out but I didn't see him get into the van. My sister's daughter saw him getting taken into the van.

The family immediately filed a complaint with the Puttalam police. According to Suvendran's mother, the police said they had not taken him but promised to search for him. The family also reported the case to the HRC and ICRC. To date the family has received no information on his whereabouts.

On January 9, 2007, unknown perpetrators in a white van reportedly abducted Muragaiya Suvendran's cousin, 24-year-old Sivasubramaniam Sritharan.

75. Sellathamby Selvakumar



At around 9:30 p.m. on August 28, 2006, a group of five men arrived in a white van at a video shop in Puttalam and abducted the owner, 38-year-old **Sellathamby Selvakumar**.

According to Selvakumar's brother-in-law, who heard the account of the incident from a shop employee, the men, two of them armed with AK-47 assault rifles, asked for the owner. The employees said he was inside, and the armed men then hauled Selvakumar out, asked for his ID card, which he produced. The men then pushed him into their van and drove away.

Selvakumar's family reported the case to the Puttalam police, but the police said they were not holding him. The family also filed a complaint at the police headquarters in Colombo, and the police said they had no record of his arrest. The family reported the case to the HRC and ICRC. Thus far their efforts to locate Selvakumar have borne no results.

76. Ramakrishnan Rajkumar

In June 2006, **Ramakrishnan Rajkumar**, a 21-year-old manual laborer, came from Trincomalee to Colombo with his wife and their two-year-old daughter. Rajkumar had applied through an agency for a work visa to Saudi Arabia. The couple stayed in Colombo until the visa came through, sleeping at the AKB Lodge at Grandpass Road in Colombo 14, across the street from a police station.

Rajkumar's wife told Human Rights Watch that on the evening of August 23, 2006, police came to the lodge and made some arrests, including of her husband. She explained:

That night the police were knocking on all the doors saying they are checking. It was 12:20; we were sleeping. Police in uniform came and we were all there. They asked for our ID cards. When they asked, I saw that two boys had been taken from the room next door. They threw my card down and grabbed my husband's card and took him. Two people came to our door, in uniforms. They were armed. Another man was dressed in an army T-shirt and jeans. They spoke Sinhala. A Muslim guy across the hall translated.

I asked where they were taking him. The person in civilian clothes showed me a pistol. I asked where they were taking him again and he showed the pistol again, and then they took him out. I ran after them, and they had two vans, white and blue.

The next morning at 6 a.m., Rajkumar's wife went to the Armour Street police station across the street from the lodge, but the police refused to accept her complaint. She spent the day searching at other police stations, she said, and returned to the Armour Street station that evening. "I was crying," she said. "Then they took the complaint." The police registered the case (Case No GCIB 19/244).

The woman also reported the case to the HRC (case No 4809/06), CMC, and ICRC.

One week after the "disappearance," two men in civilian clothes came to the lodge to talk with Rajkumar's wife. She said the men told her that they had arrested two other people with her husband, and added that the other two "were guilty," but her husband was not. They promised they would release him in one week and send him by train to Trincomalee. To date, however, Rajkumar has not returned home and his family has no information on his whereabouts.

According to the Civil Monitoring Commission, the two other men "disappeared" on the same night were 24-year-old Gunasekaran Mahindan and 24-year-old Kandasamy Sridharan. Both remain missing to date.

77. Kunjupillai Sivakanthan

On August 23, 2006, 34-year-old **Kunjupillai Sivakanthan** was at his workplace at the Phoenix Complex on Messenger Street in Colombo.

According to Sivakanthan's father, who spoke to witnesses of the incident, at around 1 p.m. six men in civilian clothes arrived and said they needed Sivakanthan for a police investigation. Sivakanthan got into their van and the family has not seen him since.

The family reported the case to the HRC. To date they have received no information on Sivakanthan's fate or whereabouts.

78. Paramjothipillai Navaratna



On the night of August 21, 2006, 30-year-old **Paramjothipillai Navaratna**, a trishaw driver from Colombo, left home to park his trishaw. He never came back, his wife told Human Rights Watch.

Navaratna's wife said that she tried calling his mobile phone at around 11 p.m., but the phone was turned off. She went to the Grandpass police station, and the policemen, whom she knew well, gave her a case number and promised to look for Navaratna.

One week later, the family heard that the police had found Navaratna's trishaw. His wife and brothers saw the trishaw at the Wellampitiya police station—they said it had been found on the street 10 to 15 meters away from the station. Since then, however, the police have not provided any additional information, and have been unresponsive to the family's inquiries.

79. Shanmugalingam Manivannan

Shanmugalingam Manivannan, age 31, sold gift items in an internet café in Colombo. According to Manivannan's mother, at around 8 p.m. on August 21, 2006, six men in civilian clothes came to the shop. Two of them went inside and asked Manivannan to come out. Within minutes, Manivannan was pushed into a white van parked outside the shop. Some bystanders took down the van number (251-7376).

Manivannan's uncle who was helping him in the shop rushed outside when people started shouting, but the van sped away. Manivannan's family said they believe other shopkeepers, jealous of Manivannan's success, might have been complicit in his abduction. His mother said that when the family started the shop, "people made various petitions to the police."

The family filed a complaint with the Kotahena police and also went to the CID. However, the police denied that they were holding Manivannan. They also registered the case with the CMC. There has been no information on Manivannan's fate or whereabouts to date.

80. Mahalingam Subbaiya



Mahalingam Subbaiya, age 45, worked for a truck company for 15 years, and his job involved transporting rice from Vavuniya to Colombo, which he did regularly.

According to his mother, on August 21, 2006, Subbaiya was standing near his truck in front of People's Park, a shopping complex in Colombo. At about 11:30 a.m. a white van (license plate number 251-6843) stopped near him. A fellow truck driver, who later related the incident to the mother, said that four

men jumped out of the van, grabbed Subbaiya and pushed him into the van. The truck driver saw the incident from a distance but he managed to take a picture of the van with his mobile phone camera.

Subbaiya's mother tried to register a complaint with the Grandpass police station and the Pettah police station, but the police in both places refused to open a case. She reported the case to the HRC and the CMC. So far she has received no information about Subbaiya's fate.

81. Manikkan Easwaran



Manikkan Easwaran, age 30, owned a restaurant on Negombo Road in Wattala, outside of Colombo.

On August 17, 2006, at around 9:45 p.m., a white van (license plate number 253-8617) pulled up to the restaurant as the family was closing up for the night. According to Easwaran's relatives, he went outside and armed men pulled him inside the van, and drove away.

Soon thereafter Easwaran's wife received a phone call (from a number that she recorded) and the unidentified caller demanded 50,000 rupees (about US\$450). The same person called again from a different number and demanded that the family deposit 100,000 rupees (about US\$900) into a specific account at the Commercial Bank in Kotahena, Colombo. The relatives said the caller warned them not to inform the police. It is not known if the family paid the requested amount.

The family reported the case to the HRC (case No 4795/06). Easwaran remains missing to date.

82. Ramiah Jeyaraj

83. S. Sriskandarajah

Ramiah Jeyaraj, age 22, worked as a driver with Kala Traders, a business house in Colombo. On July 20, 2006, when Jeyaraj was driving the business owner, **S. Sriskandarajah**, to the shop, unknown perpetrators abducted both men.

Jeyaraj's father, who lives in Badulla, told Human Rights Watch that he learned about the abduction only in September. He said he immediately went to Colombo and tried to get the details from his son's employers, yet had no success. He also registered the case with the Cinnamon Gardens police station.

The father also visited the CID headquarters in Colombo four times, and registered a complaint with an officer from the CID anti-terrorism department in Fort, Colombo. He reported the case to the Presidential Commission of Inquiry into incidents of abductions, disappearances, and attacks on civilians resulting in death through the island, and wrote to the Presidential Secretariat. He also registered the case with the HRC, ICRC, and CMC. He also tried to get the help of some parliamentarians he knew to locate his son, but so far all of his efforts proved futile.

The CMC reported that that Sriskandarajah's family paid over 30 million rupees (about US\$270,000) as ransom for his release. Both men remain missing to date.

84. Muniyandi Sureshkumar

85. Muttiah Sathyaseelan

86. Balakrishnan Ramar



Muniyandi Sureshkumar



Muttiah Sathyaseelan



Balakrishnan Ramar

Muniyandi Sureshkumar, age 22, had a business in Chilaw, Puttalam district. On July 10, 2006, on his way home, Sureshkumar stopped at the house of his friend, 31-year-old Muttiah Sathyaseelan, in Thillaiyadi. Another friend, 24-year-old Balakrishnan Ramar, was staying there as well.

Sureshkumar's wife told Human Rights Watch that, according to eyewitnesses with whom she spoke, at 3 a.m. that night four or five policemen came to the house. Sathyaseelan's wife, interviewed separately, said the men arrived in a white van, armed with AK-47 assault rifles. They conducted a thorough search of the house but could not find what they were looking for. They took the identity cards and mobile phones of all the three men and ordered them to go with them. Sathyaseelan's wife said:

My husband and the other two said they would go and hand themselves to the police station in the morning, if that was what the men wanted them to do. The men insisted that they leave with them. At 4 a.m., I went to the police station to look for them. I thought that was where they had taken my husband. But they were not there. I asked the police station to pass on the message to other police stations but I don't know if they did.

At the families' request, a week later the police registered the case (Case No GUB333/153).

Sathyaseelan's family also visited the CID in Colombo, met parliamentarians from Puttalam, submitted a memorandum to President Mahinda Rajapaksa, and wrote to the HRC. All their efforts have proved futile; to date, the whereabouts of the three men remain unknown.

87. Ariyadas Pushpadas

Ariyadas Pushpadas, age 27, owned and managed a lodge in Colombo for three years. Prior to that he lived in Indonesia and Malaysia but decided to come back to Sri Lanka to run his own business.

Pushpadas' mother, who gathered the details of the incident from eyewitnesses at the lodge, told Human Rights Watch:



On July 7, 2006, at about 1 p.m., four persons in civilian clothes came to the lodge in a white van. They came inside the lodge and said, "We are from the CID," and told my son they wanted to question him. At first, my son refused to go with them but when they tried to handcuff him, he went without protest.

His mother said that Pushpadas' brother immediately went to the Kotahena police station and filed a complaint against the CID. The police inquired with the CID, but the CID denied having arrested Pushpadas.

At about 6 p.m. the same evening, some unknown people called on the brother's mobile phone and demanded 10 million rupees (about US\$90,000) for Pushpadas'

release. The next day, after the mother arrived in Colombo, the same person called again and was negotiating with her on the phone. “They told us that if we complained to anybody, they would shoot us,” she said.

On July 19, Pushpadas’ mother brought the money to a place called Dematagoda in Colombo 8, where she had agreed to meet her son’s abductors. She handed the money over to a Tamil man in civilian clothes who told her to go home and said her son would be released soon.

However, he did not come back. At the time of the interview, more than six months after her son’s abduction, the mother had heard nothing about his fate. She said that she had been talking to her son before she handed over the money, but after the ransom was paid her efforts to contact him were unsuccessful. Eventually the family reported the case to the local police which referred it to the CID. So far, however, there has been no progress in the investigation.

88. Velu Selvaratnam



On the night of July 6, 2006, 31-year-old **Velu Selvaratnam** was staying in Munneswaram, Chilaw, Puttalam district. His mother told Human Rights Watch that on July 7 the family tried to contact Selvaratnam but his mobile phone was off.

The relatives got worried and broke into the house. They said that the van that Selvaratnam owned and rented out was there, but Selvaratnam was missing. His driver’s license, mobile phone, and identity card were also gone.

The family told Human Rights Watch that the Chilaw police had questioned Selvaratnam two months before he went missing, asking why he had undertaken a trip to Jaffna, how he could afford the van, and with whom he worked.

The family reported the case to the police in Chilaw, but the police said they knew nothing about it. In September 2006, the family got a phone call from someone who said “Help me! Help me!” but they do not know for sure if the caller was Selvaratnam. They have not been able to locate him to date.

89. Chelliah Premasiri



90. Sithamparapillai Satkunarasa

In July 2006, 38-year-old **Selaiya Premasiri**, a resident of Jaffna, and his friend, 35-year-old **Sithamparapillai Satkunarasa**, were staying at the Western Lodge on Sea Street in Colombo. Premasiri’s wife told Human Rights Watch that the lodge owners informed her that on July 5 her husband left the lodge to go for lunch and never returned.

She did not manage to collect much information about what happened to her husband. She said that people on Sea Street told her that people in a white van took Premasiri and Satkunarasa away.

Premasiri’s family filed a complaint with the police. They also registered the case with the CMC. To date the whereabouts of the two men remain unknown.

91. Sivarajah Haran



In early 2006, **Sivarajah Haran** was in Colombo looking after his sick mother. When his mother left for Jaffna in April, Haran stayed in Colombo. His father told Human Rights Watch that on April 26, 2006, at around 4 p.m. Haran went out for a drink. A shopkeeper in the area later told the father that as Haran was sitting at a shop, a man approached him, and the two exchanged words. Soon thereafter a trishaw with three men arrived. They took Sivarajah Haran into the trishaw and drove away. Nobody has seen him since.

The father said that several months earlier, a CID officer had visited them in Wellawatta, and asked about one of Haran's aunts. They also had asked Haran's friends about him.

To date the family has received no further information about Haran's whereabouts.

92. Yogarasa Mathanarasa



In January 2006, 33-year-old **Yogarasa Mathanarasa** came to Colombo from Jaffna with his nephew and his sister-in-law. The nephew got a work visa for Qatar and left for Doha in early February.

Mathanarasa and his sister-in-law stayed on in Iswarya Lodge in Colombo. On the evening of February 8, 2006, while they were watching TV, three men in civilian clothes arrived at the lodge in a white van.

Mathanarasa's sister-in-law told Human Rights Watch:

They came to the hall where we were watching TV. Once inside, they just pulled my brother-in-law away. I rushed to show them our ID cards but they dragged him outside. The lodge-owner followed them outside but was sent back in.

Mathanarasa's sister-in-law did not know why he had been taken away. The family registered a complaint with the police (Case No: GCIB 286/92) and reported the case to the HRC and CMC. At this writing Mathanarasa's whereabouts remain unknown.

93. Sinnakkili Karunakaran

Sinnakkili Karunakaran, age 35, worked as a travel agent at the Raj Travel Agency in Pettah, Colombo.

According to his brother, on December 27, 2005, Karunakaran was traveling on a motorbike to meet a friend in Bambalapitiya, Colombo 4. At around 6 p.m. a white van stopped near him on the road. A man inside showed an ID card and pulled him into the van. A shopkeeper witnessed the incident and told the family about the incident.

The day after the abduction, the family saw that someone had withdrawn 40,000 rupees (about US\$360) from Karunakaran's Commercial Bank account. No one has called with threats or ransom demands.

Karunakaran's brother told Human Rights Watch that two weeks before his brother's abduction, the military had come looking for him at the Bambalapitya Lodge, where he spent a lot of time.

It is not known whether the case has been reported to the police.

To date, Karunakaran's fate remains unknown.

Eastern Sri Lanka

94. Shanthakumar Thirukumaran

On October 5, 2006, 18-year-old **Shanthakumar Thirukumaran** boarded a bus from Vaharai to Batticaloa. His mother told Human Rights Watch that he was kidnapped on the way and they have not seen him since he boarded the bus.

Thirukumaran's uncle invited him to Batticaloa so that he could pursue higher studies in the relative safety of the town. He left his house unaccompanied, carrying just enough money for his bus fare. Thirukumaran's mother told Human Rights Watch:

My son came out of the LTTE-controlled area to the government-controlled area. His kidnappers took him from the area which was under government control. I suspect the Karuna faction took him; I suspect that he is in Welikanda. If the LTTE wanted to take him, they could have done it freely while he was in their area, they wouldn't take him off a bus.

Thirukumaran's mother reported the case to the police, the HRC, ICRC, and the Karuna group. She went to the Karuna group's camp in Mutugala in the Polonnaruwa area, but was not allowed to enter the camp. According to the woman, members of the Karuna group told her, "We will investigate and inform you. He is not here at this camp."

A knowledgeable local human rights monitor believed that, given the circumstances, the parents had good reason for blaming the Karuna group for their son's "disappearance."

95. Mary Joseph Jugin Premkumar



Mary Joseph Jugin Premkumar, a 39-year-old computer operator with Sri Lanka Telecom (SLT), lived in the workers' quarters above his office in Trincomalee.

At around 12:30 a.m. on September 26, 2006, a group of masked men came to the office and abducted Premkumar. His coworkers later told his mother that the men spoke Tamil and knew Premkumar's name. Family members went to the SLT office to make inquiries.

The family filed a complaint with the Trincomalee police. To date the police have not provided the family with any information. Premkumar remains missing.

96. Abdul Wahid Mohammad Fawzal Ameer

On July 22, 2006, 43-year-old **Abdul Wahid Muhammad Fawzal Ameer**, a beedi leaves supplier, left Mawanalla in Kegalle district to go to Batticaloa with his driver in a Dolphin-IS van (no 251-2729). The family has not heard from him since.

According to his nephew, Ameer's wife called his mobile number on July 23. He said that an unknown man who answered the phone spoke Tamil with a northeast accent.

The nephew said the next day some people called the beedi factory owner demanding 300,000 rupees (about US\$2,700) to release Ameer. The callers asked Ameer's employers to bring the money to Manampetiya in the Welikanda area. The employers took the money to the area, but could not find them. Ameer's van was spotted by his acquaintances in the Batticaloa area two months after he went missing, but there has been no sign of either Ameer or his driver. Ameer's nephew told Human Rights Watch:

All signs are that the people who took him belonged to an armed group which is operating in the East. The area where they asked my uncle's employers to bring the money is controlled by Karuna.

The family reported the case to the CMC. At this writing the family has not received any information on Ameer's fate or whereabouts.

97. Devarajah Jegatheepan

At around 5:30 p.m. on July 4, 2006, 29-year old trishaw driver, **Devarajah Jegatheepan**, parked his vehicle in front of the police station in Batticaloa.

Based on eyewitness accounts, Jegatheepan's relatives told Human Rights Watch that two men who arrived in a white van then approached Jegatheepan and asked him to take them to Urani, just north of Batticaloa. They went in his trishaw, but the van followed. In Urani they stopped and pushed him out of the trishaw and into the van. Witnesses told Jegatheepan's family that they saw an army truck near the place where he was pushed into the van.

Shortly thereafter, the family got a phone call from Jegatheepan's mobile phone. The person on the line said he was Devarajah, but the family did not recognize the voice. The family got three calls, and in one instance Jegatheepan's brother told the caller: "Tell us if you want anything." But the caller did not respond.

The family said that after the abduction someone withdrew 40,000 rupees (about US \$360) from Jegatheepan's account at Ceylon Bank in Polonnaruwa with his bank card.

The family filed a complaint with the Batticaloa police. They also reported the case to the TMVP office. To date they have received no information on Jegatheepan's fate or whereabouts.

98. Danesh Amarthalingam

On February 19, 2007, 20-year-old **Danesh Amarthalingam** from Kiliveddi, Trincomalee district, was traveling with his aunt by bus to Batticaloa, trying to leave the area before ongoing fighting intensified. His aunt told Human Rights Watch that as the bus made a lunch stop near Welikanda town in Polonnaruwa district, two men who sat next to Amarthalingam on the bus started making frantic calls on their cell phones, pointing at the young man. As passengers boarded the bus, the two men were joined by a third one, in a T-shirt and army trousers.

Amarthalingam's aunt told Human Rights Watch:

We all got back on the bus. The bus drove for about 10 kilometers from our lunch stop when a white van coming from the opposite direction swerved and blocked the bus. The bus came to a halt. One man came out of the van and stood outside the van, blocking the registration number from view. About nine men got into the bus. They told the driver, "Don't shout," and "Keep quiet." At this point, the three men who had kept an eye on my nephew once again pointed towards him and got off the bus.

One of the men was masked. He grabbed another boy, who was traveling with us, and my nephew by the collar and dragged them out of the bus. The boys were very scared. They did not say anything. I kept quiet because I was also very afraid they would shoot my nephew. They all had weapons. They said, "If anyone shouts, we will kill these two boys." The other boy's mother managed to be dragged outside along with her son. She was shouting and screaming but nobody helped her. The van sped off.

The bus driver stopped the bus at a police checkpoint and told the policemen about the incident. The policemen told the bus driver, "We can't open a file here. Go and tell Valachchenai police station."

The aunt said that the incident took place in the government-controlled area where the Karuna group also operated freely. She reported the abduction to the ICRC. To date she has not received any information about Amarthalingam.

99. Karalasingham Kantharoopan

On the night of January 3, 2007, 24-year-old **Karalasingham Kantharoopan** fled Vaharai, Batticaloa district, with a group of five other Tamil friends as intense fighting broke out between government forces and the LTTE. The group of six left Vaharai through the jungle route and planned to go to government-controlled territory in the district.

Kantharoopan's parents had moved to Batticaloa town in December and were expecting his arrival. However, he never made it to Batticaloa.

The family believes that the men were taken by government forces, although they also might have been taken by the LTTE. Kantharoopan's mother told Human Rights Watch:

The only armed people on the way from Vaharai are the Sri Lankan army, so I suspect them. Some other villagers told me that after my son left, they heard some firing. I don't know what happened. The Sri Lankan army captured many Tamil youths at that time, that's why I suspect the SLA [Sri Lankan army] much more than the LTTE.

Kantharoopan's mother went to the Kandy army camp in central Kandy district as she had heard that some Tamil youths were being held there, but did not find her son. She also visited the Welikanda army camp where she gave her son's name to the police officer at the gate. The officer checked and told her that nobody by that name was at the Welikanda camp.

Kantharoopan's mother also went to Karuna group camps in Mutugala and Theevuchchenai to inquire about her son, but Karuna cadres denied having him. His family filed a complaint at a police station in Batticaloa.

Appendix II: Correspondence Between Human Rights Watch and Sri Lankan Institutions

Human Rights Watch sent inquiries to various Sri Lankan institutions—the Ministry for Disaster Management and Human Rights, the Inspectorate General of the Police, the Defense Ministry, the Human Rights Commission, and the Presidential Commission on Abductions, Disappearances, and Killings—requesting information related to the issues raised in this report. Human Rights Watch also sent an inquiry to Eelam People’s Democratic Party (EPDP).

Human Rights Watch received responses from the Human Rights Commission of Sri Lanka and the Sri Lankan police. The EPDP also responded. Other officials mentioned above did not respond to Human Rights Watch inquiries. Human Rights Watch letters of inquiry and written responses are included in this appendix.

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November 14, 2007

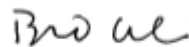
Hon. Minister Mahinda Samarasinghe
Ministry of Disaster Management and Human Rights
383, Bauddhaloka Mawatha,
Colombo 07, Sri Lanka.
Fax: +94 11 269-3284

Dear Minister Samarasinghe,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

As we are committed to producing material that is well-informed, accurate and objective, we undertake to accurately reflect your response in our work. We will appreciate your response by November 30, 2007.

Sincerely,



Brad Adams
Director, Asia Division

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QUESTIONS FOR MINISTER SAMARASINGHE

1. Has the issue of enforced disappearances and abductions been on the agenda of your ministry's Permanent Standing Committee on Human Rights and the Inter-Ministerial Committee on Human Rights? Has the latter, in accordance with its mandate, directed "relevant law enforcement authorities to investigate into alleged violations of human rights"? Could you please specify whether any such directions have been given to the police authorities regarding the cases of "disappearances" and abductions; what action has been taken by the police in response; and whether the Ministry has been satisfied with this response?
2. Do the Ministry and its Committees receive information from the police, the Presidential Commission on Abductions, Disappearances and Killings (Tillekeratne Commission), and the Sri Lankan Human Rights Commission? If yes, could you please provide the responses to the questions 3-14 below? If not, what are the sources of information the Ministry uses to assess the problem of enforced disappearances and abductions in the country?
3. The police have reportedly mounted aggressive operations against a number of criminal groups operating in Colombo responsible for abductions and extortion. What progress has been made in the case of Nishantha Gajanayake and his accomplices arrested in June 2007?
4. In total, how many people have the police arrested over the past year on charges of abductions, extortion, and involvement in enforced disappearances? What is the status of their cases? How many police and members of the armed forces have been arrested on these charges?
5. What is the current status of the government's investigation into state complicity in abductions of boys and young men by the Karuna group? Who is leading the investigation? Has anyone been arrested and charged?
6. Do the police open investigations following the discovery of unexplained dead bodies in various parts of the country? For example, what is the status of criminal investigations into the following cases:

A January 28, 2007 report in the Asian Tribune newspaper described the discovery of five dead bodies in the course of a week. Reportedly, all of the victims had previously “disappeared.” Two of the victims, 23-year-old Selliah Janachchandran and 24-year-old Selvarajah Sriskantharajah were found dead in Thalavai, in Batticaloa. Both men were reportedly abducted by SLA soldiers on the previous day.¹

The other three corpses were discovered in Jaffna. In Inuvil, locals found the burnt-out body of 32-year-old Nagenthiram Arumaithasan, who, according to his wife, had been abducted by SLA soldiers the previous week. Another body, with hands bound and cut wounds, was discovered by the police in Pannakam, Jaffna. It belonged to 35-year-old building contractor Veerasingham Ratnasingham, who went missing on January 22 after he left for the Agriculture Department in Nallur.

According to the paper, local residents also saw a white van dumping another dead body in Chunnakam, Jaffna. On January 22, 2007, this body was identified as belonging to Daniel Santharuban. The victim’s parents earlier registered a complaint with the Jaffna HRC stating that their son had been abducted on January 16, 2007 by a group of men in a white van near Chunnakam junction.²

7. What is the status of the investigation that was opened after in March 2007 a mutilated male torso—with head, hands, and legs severed—was caught in a fishing net along the coast in Punguduthivu (the body was packed in a green plastic bag filled with stones and tied around with barbed wire). The allegations that the body belonged to the “disappeared” priest Fr. Jim Brown were denied in a June 15, 2007 statement of the Embassy of Sri Lanka in the US.³ Since the investigation began, what progress has been made toward identifying the victim and the circumstances of the crime?

¹ “Over a Dozen Civilians Killed in Past Seven Days,” *Asian Tribune*, January 28, 2007.

² The case was also reported on the EPDP web-site, see “Dead Body of an Abducted Person Found,” EPDP News Flash, January 23, 2007, <http://www.epdpnews.com/Archive/2007/2007-January-English/news-english-2007-01-23.html> (accessed October 15, 2007).

³ “DNA Tests Prove the Human Remains Are Not of Fr. Jim Brown or His Aide,” Statement by the Embassy of Sri Lanka, Washington DC, June 15, 2007, http://www.slembassyusa.org/archives/main_index_pages/2007/dna_tests_prove_15juno07.html (accessed October 15, 2007).

8. How many cases of enforced disappearances/abductions have been reported to the Tillekeratne Commission so far? How many of those have been investigated?
9. What investigative authority does the Tillekeratne Commission have? Is it authorized to make unannounced visits to police and military places of detentions? Request information from government officials? Interview witnesses? Subpoena witnesses?
10. Has the Tillekeratne Commission been able to identify the perpetrators in any of the investigated cases or collect sufficient evidence to suspect the involuntary nature of the disappearance? If so, how many of these cases have been handed over to the police for criminal investigation? Are you aware of the subsequent developments in such cases?
11. Has the Commission made any recommendations to the government and have any of those recommendations been already implemented? Aside from the president, which authorities receive the Commission's reports? Will the reports be made available to the public?
12. How many people does the military currently detain? Does the military maintain a central register of detainees and registers of detainees at the detention facilities?
13. What is the procedure for investigating "disappearance" complaints submitted to the military authorities by the Human Rights Commission or by families of the "disappeared"? How many of such complaints have been received since the beginning of 2006? Have any internal investigations been launched into the allegations of "disappearances," and if so, what was the result of those investigations?
14. How many cases have been reported over the last two years to the Sri Lankan Human Rights Commission? How many of those have been investigated? What conclusions has the HRC reached?
15. Could you provide more information on the mandates, responsibilities, current activities, and findings of the following bodies established by the government to address the problem of "disappearances"?

- (a) A Special police unit “to investigate into the incidents of kidnappings, abductions, disappearances, and ransom demands” (September 2006);
- (b) A “Special center for gathering information on abductions allegedly happened in the Colombo and Suburbs” (June 2007);
- (c) A Monitoring Committee on Abductions and Disappearances appointed by the President to supervise the progress of the “Special center” (June 2007);
- (d) “Two special operation cells to collect information and take immediate action on complaints of abductions and extortions take place in Colombo and suburbs” under the supervision of Presidential Secretariat and the Police (June 2007);
- (e) A “Police information centre for disappeared persons” to accept complaints from the public regarding abductions and disappearances (October 2007);
- (f) A “High level committee to inquire into allegations of Abduction and Recruitment of Children for use in Armed Conflict in 2007” (October 2007).

In January 2007, the United Nations Working Group on Enforced and Involuntary Disappearances mentioned in its report that it had requested a visit to Sri Lanka which the government said could not be granted in 2007. Does the government intend to grant the WGEID’s request for a visit and if so, when?

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November 14, 2007

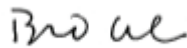
Mr. Victor Perera
Inspector General of Police
New Secretariat
Colombo 1
SRI LANKA
Fax: +94 11 2 440440/327877

Dear Inspector General Perera,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

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Sincerely,



Brad Adams
Director, Asia Division

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QUESTIONS FOR INSPECTOR GENERAL PERERA

1. The police have reportedly mounted aggressive operations against a number of criminal groups operating in Colombo responsible for abductions and extortion. What progress has been made in the case of Nishantha Gajanayake and his accomplices arrested in June 2007?
2. In total, how many people have the police arrested over the past year on charges of abductions, extortion, and involvement in enforced disappearances? What is the status of their cases?
3. On March 6, 2007, the police announced it had arrested “a large number” of police officers and soldiers on charges of abduction and extortion. How many police and soldiers were arrested and on what charges? What is the current status of their cases?
4. What is the current status of the government’s investigation into state complicity in abductions of boys and young men by the Karuna group? Who is leading the investigation? Has anyone been arrested and charged?
5. Do the police conduct joint operations with members of the Karuna group or Eelam People’s Democratic Party (EPDP)? If so, under what circumstances?
6. Since its enactment in August 2005, how many people have the police arrested under the Emergency Regulation No. 7 (Prevention and Prohibition of Terrorisms and Specified Terrorist Activities)? Where are these people held? How many have been charged with offenses? How many have been brought to trial? How many of these people have been released?
7. Since its enactment in August 2005, how many people have the police arrested under the Emergency (Miscellaneous Provisions and Powers) Regulations? Where are they being held? How many have been charged with offenses? How many have been brought to trial? How many of these people have been released?
8. Are you aware of any instances in which police carrying out an arrest have not issues an arrest receipt to the family? Have any police officers been held accountable for not issuing arrest receipts?

9. What investigative steps do the police usually take after a family reports a “disappearance” or an abduction to a local police stations?
10. Do the police open investigations following the discovery of unexplained dead bodies in various parts of the country? For example, what is the status of criminal investigations into the following cases:

A January 28, 2007 report in the Asian Tribune newspaper described the discovery of five dead bodies in the course of a week. Reportedly, all of the victims had previously “disappeared.” Two of the victims, 23-year-old Selliah Janachchandran and 24-year-old Selvarajah Sriskantharajah were found dead in Thalavai, in Batticaloa. Both men were reportedly abducted by SLA soldiers on the previous day.¹

The other three corpses were discovered in Jaffna. In Inuvil, locals found the burnt-out body of 32-year-old Nagenthiram Arumaithasan, who, according to his wife, had been abducted by SLA soldiers the previous week. Another body, with hands bound and cut wounds, was discovered by the police in Pannakam, Jaffna. It belonged to 35-year-old building contractor Veerasingham Ratnasingham, who went missing on January 22 after he left for the Agriculture Department in Nallur.

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11. What is the status of the investigation that was opened after in March 2007 a mutilated male torso—with head, hands, and legs severed—was caught in a fishing net along the coast in Punguduthivu (the body was packed in a green

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² R The case was also reported on the EPDP web-site, see “Dead Body of an Abducted Person Found,” EPDP News Flash, January 23, 2007, <http://www.epdpnews.com/Archive/2007/2007-January-English/news-english-2007-01-23.html> (accessed October 15, 2007).

plastic bag filled with stones and tied around with barbed wire). The allegations that the body belonged to the “disappeared” priest Fr. Jim Brown were denied in a June 15, 2007, statement of the Embassy of Sri Lanka in the US.³ Since the investigation began, what progress has been made toward identifying the victim and the circumstances of the crime?

12. What action, if any, has been taken by the National Police Commission to address the widespread allegations of the police involvement in the abductions and enforced disappearances?
13. In September 2006, the government announced the creation of a “Special police unit to investigate into the incidents of kidnappings, abductions, disappearances, and ransom demands,” in response to the wave of abductions in Colombo.⁴ Could you provide any details regarding the mandate of the unit, and its activity over the last year, i.e. how many cases it has investigated and how many investigations resulted in the identification and arrest of suspected perpetrators?
14. In June 2007, Government Defense Spokesman, Minister Keheliya Rambukwella, said the government set up “two special operation cells to collect information and take immediate action on complaints of abductions and extortions take place in Colombo and suburbs,” under the supervision of Presidential Secretariat and the Police.⁵ Could you provide more information on the relation of the two cells to the above-mentioned special unit and their mandate? How many complaints have they registered since June 2007 and what “immediate action” did they take in these cases?
15. On October 29, 2007, CID Chief D.W. Prathapasingha announced the opening of a “police information centre for disappeared persons” to accept complaints from the public regarding abductions and disappearances.⁶ Could

³ “DNA Tests Prove the Human Remains Are Not of Fr. Jim Brown or His Aide,” Statement by the Embassy of Sri Lanka, Washington DC, June 15, 2007, http://www.slembassyusa.org/archives/main_index_pages/2007/dna_tests_prove_15juno7.html (accessed October 15, 2007).

⁴ “Special Police Unit to Probe Incidents of Killing,” Office of the President media release, September 15, 2006, http://www.slembassyusa.org/archives/main_index_pages/2006/sl_govt_takes_18sepo6/pr_presi_secre_15sepo6.pdf (accessed October 20, 2007).

⁵ “Media is Commended for Highlighting HR Violations; Government Sets Up a Special Center to Avert Abductions,” Ministry of Defense news release, June 28, 2007, http://www.defence.lk/new.asp?fname=20070628_01 (accessed October 22, 2007).

⁶ Supun Dias, “Many Abducted People Found: CID,” *Daily Mirror*, October 30, 2007.

you provide more information on the relation of the center to the “two operation cells” mentioned above, and its mandate? How many complaints have the two operation cells registered since June and what “immediate action” did they take in these cases? What action is the center supposed to take upon receiving a complaint from the public? How many such complaints have been received since its establishment and what action has been taken in these cases?

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 SRI LANKA POLICE

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குற்றவியல் புலனாய்வுத் திணைக்களம்
CRIMINAL INVESTIGATION DEPARTMENT

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 4 ஆம் மாடிக், புதிய செயலகக் கட்டிடம்
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 කොළඹ 01, ශ්‍රී ලංකා කොමන්ඩ් 1, இலங்கை Colombo 01, Sri Lanka

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 Your No. }

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 திகதி }
 Date }

Mr. Brad Adams
Director/Asia Division
Human Rights Watch

Reference is made to your communiqué dated 14th November 2007 addressed to Inspector General of Police with 15 questions on alleged disappearances and abductions in Sri Lanka.

The responses to the questions raised are given bellow;

- 1). In the case of Nishantha Gajanayaka, the under mentioned five members Police/Security Forces have been arrested for their complicity in abductions and extortion.

| | |
|--------------------------|-------------------------------------|
| a) Hemantha Desapriya | - Sergeant Sri Lanka Air Force |
| b) Samanath Dharmapriya | - Inspector of Police (STF) |
| c) Manjula De Silva | - Sub Inspector of Police (STF) |
| d) Indika Daladawatta | - Sub Inspector of Police |
| | (Prime Ministers Security Division) |
| e) Sampath Preethi Viraj | - Police Constable 43557 |
| | (Presidents Security Division) |

Investigations are being continued and action will be taken to consult the Attorney General on completion of investigations to file indictments.

- 2). Reports in this regard have been called from Police Divisions Island wide and response will be submitted on receipt of details.
- 3). Since 2004 a total number of 31 Police officers have been arrested for violation of Human Rights.

- 4) There is no State complicity in the alleged abductions of boys and young men by Karuna Group. No complaints have been received by the Sri Lanka Police implicating Karuna Group in abduction of boys.
- 5) Under no circumstances, the Police conduct joint operations with the members of Karuna Group or Eelam People's Democratic Party (EPDP).
- 6) Response will be submitted once statistics are compiled.
- 7) Response will be submitted once statistics are compiled.
- 8) No such instances have been reported so far. If the Police Officers fail to issue receipts they are liable for disciplinary action.
- 9) Once a complaint of abduction or disappearance is reported to a Police Station, the formal prosecution focused investigative steps required by the law will be taken. Facts of these cases should be reported to the Jurisdictional Magistrate Court and the progress have to be reported periodically as directed by the Magistrate.
- 10) The Police and the Magistrate of the Jurisdiction are legally bound to investigate any discovery of dead bodies to establish the identity and to Ascertain the cause of death and to conduct appropriate investigations.

The status of the cases mentioned is as follows;

- a) On 23rd January 2007 at 15.30hrs on receipt of a telephone message (TM No. 1014) concerning the discovery of two dead bodies, Officer In Charge of Eravur Police in Batticaloa District visited the scene and conducted preliminary investigations. The dead bodies were found in a shrub jungle with gun shot wounds. Three empty casings of T 56 type were recovered from the scene. The dead have been identified as Selvarasa Sri Skandaraman, aged 24 years, of Kirimichchei, Mankerni and Selliah Janachandran, aged 25 years, of Vinayagapuram, Valachchenai. The post mortem examination was conducted by the Jurisdiction Medical Officer at Eravur District Hospital and the cause of death was given as due to hemorrhage following gun shot wounds. It was also established that the deaths have taken place between 08.00hrs on 22/01/07 and 15.00 hrs on 23/01/07. Facts of this case have been reported in the Magistrate Court of Batticaloa under case no.195/2007. There was no evidence to substantiate that the deceased's have been abducted by the Sri Lanka Army the previous day. Further inquiries are being continued by Eravur Police.

- b) On 25th January 2007, the officers of Kopai Police station recovered a partly burnt body on information provided by the public. The dead body was identified as that of Nagendran Arumathas, aged 32 years of Kondam West, Kopai. Police conducted investigations having questioned the relatives and the persons in the vicinity but could not gather any valuable information. The facts of this case have been reported in the Magistrate Court of Jaffna under case no. B/66/07. Inquiries are being continued by Kopai Police.

On 24th January 2007 one Vinayapandi Yanapandinar complained at Mannai Police that Weerasingham Ratnasingham, aged 35 years, is missing. On 26th January 2007, the body of Weerasingham Ratnasingham was found at Sullipuram in Vaddukoddai Police area. Officers of Vaddukoddai Police are conducting investigations to arrest the persons responsible for this murder. Facts of this case has been reported in the Magistrate Court of Mallakam under case no. B 52/07.

One Daniel Sathyaganeshan of Kuppilan South, Kuppilan, complained at Chunnakam Police that Daniel Santharuban, aged 32 years of Ellalai South, Mylankadu was abducted on 15/01/07 by unidentified persons who came in a van. Following this complaint the body of Santharuban was found near his residence on 22nd January 2007. Officers of Chunnakam Police visited the scene and conducted appropriate investigations to identify the persons responsible but without success due to lack of evidence. The facts of this case have been reported in the Magistrate Court of Mallakam under case no. B 30/07. Further inquiries are being continued.

Although these murders have taken place in Government controlled areas every now and then the LTTE cadres infiltrate the area under cover and disguise and mount attacks on the Security Forces and Police. Hence, there is a possibility that LTTE may have carried out these attacks to wipe out the informants of the Government and members and sympathizers of other Tamil Groups opposed to the LTTE.

- 11) The male torso found in Pungudutivu was brought to Colombo and DNA tests have proved that the torso is not that of Fr. Jim Brown or his aide. Further inquiries are being continued to identify the victim. The human remains are at the Medical Faculty of the Colombo University pending identification.

12. The report on the action taken by the National Police Commission to address the allegations of the Police involvement in the alleged abductions is given at "Annex A".
13. Special Units are created in Police Divisions to avert crime considering the urgency and requirement from time to time. These Police units consist of experienced investigation officers from the Police Stations under the respective Police Divisions. These units act under the existing laws of Sri Lanka and no special mandates are required.
14. As mentioned above Special Units were set up in Colombo and suburbs.
15. On 29/10/2007, "Police Information Center For Disappeared Persons" was opened at 33, Police Welfare Building, Colombo 1, to accept complaints of abductions and Disappearances. This unit functions under the supervision of "Disappeared Persons Investigation Unit"(DIU), which comes under the Range of DIG/CID. This unit accepts complaints 24 hours a day. There are no operational relations of this center to the Special Units mentioned above other than sharing and exchanging information.
Once a complaint is received by this center, the relevant inquiry file is called from the respective Police Station. Thereafter officers of the unit conduct appropriate investigations.
The details and photographs of the abducted persons are published in print and electronic media to seek the assistance of the public. The progress of the investigations is informed to the complainants. To date this center has received 20 complaints of disappearances and investigations in to these cases are being continued.

MCW
D. W. Prathapasinghe
Deputy Inspector General

Cc- IG Police
File

D. W. PRATHAPASINGHE
Deputy Inspector General of Police
Criminal Investigation Department

(4)

"ANNEX A"

NPC/PC/PD/COL/188/17

Report on the action taken by the National Police Commission on allegations of the Police involvement in the abduction and enforced disappearances. (Question no. 12 of Human Rights Watch dated 14.11.2007)

Under section 155 G (2) of the 17th amendment to the Constitution of the Democratic Socialist Republic of Sri Lanka, National Police Commission is empowered to establish procedures to entertain and investigate public complaints and complaints of any aggrieved person made against a police officer or the police service, and provide redress in accordance with the provisions of any law enacted by Parliament for such purpose.

Accordingly the Commission has gazetted the Rules of Procedure (Public Complaints) 2007 under gazette extraordinary no. 1480/8 of 2007.01.17 (copy annexed) Acts in violation of Human Rights is categorized under segment 'A' of schedule I of this gazette.

As per the records maintained at the National Police Commission there are several complaints received on abductions and disappearances and most of these abductions and disappearances are allegedly by paramilitary elements, Karuna group, the army or unidentified men or cases of missings. But there are no specific allegations about police involvement in these abductions or disappearances. When complaints of abductions and disappearances are made to this Commission, they are directed to IGP or the Range DIGG concerned for investigation and report. Where complaints of inaction by the Police Stations of the area is made to the Commission in respect of complaints of such nature, action is taken to refer those to the Senior Police officers concerned to expedite inquiries and regular monitoring of these inquiries are carried out by the Commission. In addition to this procedure an independent investigation unit in charge of a Senior Investigating Officer is established to expeditiously investigate into complaints of serious nature made against the Police Officers or the Police Service.

(5)

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November 20, 2007

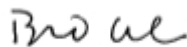
Gotabhaya Rajapakse
Secretary of Ministry of Defence
15/5 Baladaksha Mawatha
Colombo 3, Sri Lanka
Fax: 009411 2541529

Dear Secretary Rajapakse,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

As we are committed to producing material that is well-informed, accurate and objective, we undertake to accurately reflect your response in our work. We will appreciate your response by December 5, 2007.

Sincerely,



Brad Adams
Director, Asia Division

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QUESTIONS FOR SECRETARY RAJAPAKSE

1. How many arrests has the military made in counter-insurgency operations since the beginning of 2006? How many of the arrested individuals have been released? Handed over to the police? How many were held in detention at the military facilities without being turned over to the police? Has the Sri Lanka Human Rights Commission been notified of these arrests? How many people does the military currently detain?
2. Where are the individuals detained by the military usually held? Does every military camp have a detention facility for captured insurgents? Do the Human Rights Commission and the International Committee of the Red Cross have access to these facilities? Does the military maintain a central register of detainees and registers of detainees at the detention facilities?
3. Does the military conduct joint operations, including arrests, with the Karuna group or the members of EPDP? If so, under what circumstances?
4. Do the armed forces conduct joint operations with any branches of the police, specifically the CID, and if so, under what circumstances?
5. What is the procedure for investigating “disappearance” complaints submitted to the military authorities by the Human Rights Commission or by families alleging a “disappearance.”? How many of such complaints have been received since the beginning of 2006? Have any internal investigations been launched into the allegations of “disappearances,” and if so, what was the result of those investigations?
6. Have you received any inquiries from the Presidential Commission on Abductions, Disappearances and Killings (Tillekeratne Commission)? If so, how many? Have responses been provided to the Commission and any internal investigations launched based on those inquiries?
7. On March 6, 2007, the police announced it had arrested “a large number” of police officers and soldiers on charges of abduction and extortion. How many soldiers or officers were arrested and on what charges? What is the current status of their cases?

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November 14, 2007

Justice S. Anandacoomaraswamy

Chairman

Human Rights Commission of Sri Lanka

No. 36 Kynsey Road

Colombo 08

Sri Lanka

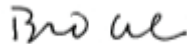
Fax: +94 11 2694924

Dear Chairman Anandacoomaraswamy,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

As we are committed to producing material that is well-informed, accurate and objective, we undertake to accurately reflect your response in our work. We will appreciate your response by November 30, 2007.

Sincerely,



Brad Adams

Director, Asia Division

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QUESTIONS FOR THE SRI LANKAN HUMAN RIGHTS COMMISSION

1. How many cases of enforced disappearances/abductions have been reported to the HRC so far? How many of those have been investigated? What conclusions have the HRC reached?
2. What is the standard HRC procedure for responding to the reported cases of “disappearances” and abductions? Could you please provide specific details on the HRC’s activities in this respect, including the number of visits to police and army detention facilities; the number of requests for information submitted to the police/army and the responses received; and the number of witnesses interviewed? How many investigating officers does HRC have in each of the regional offices, in particular, in Jaffna, Vavuniya, Batticaloa and Trincomallee and what are their qualifications?
3. Has the HRC been able to identify the perpetrators in any of the investigated cases or collect sufficient evidence to suspect the involuntary nature of the disappearance? If so, how many of these cases have been referred to the police? Are you aware of the subsequent developments in such cases?
4. Could you provide any statistics on the cases you have investigated so far (identity of the alleged perpetrators – the army, the police, the Karuna group, the EPDP, the LTTE; profile of the victims; distribution of “disappearances” by district and by year/month)?
5. Were you satisfied with the degree of cooperation you received from the government (police, military, attorney general) during your investigations? What steps could be taken to improve cooperation?
6. How many arrests for enforced disappearances and abductions have been reported to the HRC by the authorities (military and police)?
7. What is the level of cooperation/division of responsibilities between the HRC and the Presidential Commission on Abductions, Disappearances and Killings (Tillekeratne Commission), as well as other mechanism recently established by the government to address the problem of “disappearances” (for example, a “Special center for gathering information on abductions allegedly happened

in the Colombo and Suburbs,” and a Monitoring Committee on Abductions and Disappearances established in June 2007)?

8. In July 2006, media reports (later referred to by the Working Groups on Enforced and Involuntary Disappearances in its report) suggested that the HRC decided to stop investigations into 2,127 complaints into the past cases of “disappearances” which remained unattended by the All-Island Commission of Inquiry. If such a decision has been indeed made by the HRC, could you explain the reasons for it? If the investigations into these cases continue, could you provide information on their status?
9. In October 2006, media reports suggested that the HRC Head Office in Colombo sent specific instructions to its regional offices ordering them to refrain from releasing information on human rights violations to the media and other public interest groups. Were these reports accurate, and if not, to what extent are regional offices allowed to comment on their finding and respond to inquiries by the media and NGOs?

From: Human Rights Commission of Sri Lanka [mailto:sechrc@sltnet.lk]
Sent: Thu 1/24/2008 1:16 AM
To: HRW DC
Subject:

Dear Mr. Brad Adams,

Reference your letter dated 14.11.2007 matters referred to in paras 1 to 7 are being inquired by a Special Presidential Commission and not by this Commission.

Re. Para 8 a Committee appointed by this Commission has completed investigation into said complaints and submitted the report to this Commission, which report is now being studied by the Commission.

Re- Para 9, in view of incorrect and conflicting data furnished by the regions it is now decided to furnish any information by the Head Office only.

No information is given to those media or NGO's who consider us as not lawfully appointed by H.E. President although it is our view that we were lawfully appointed. There is no moral or legal duty to furnish any information by the Commission, which they allege is not lawfully constituted.

As this Commission is now degraded from A to B by ICC the Commission is now reviewing our relationship with NGOs as one of the allegations is that we do not corporate with NGOs although we corporate with those who considered us lawfully appointed and did not corporate with these who considered us not lawfully appointed.

Therefore reply to your letter was delayed.

Chairman
Human Rights Commission of Sri Lanka

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November 26, 2007

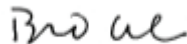
Judge Mahanama Tillekeratne
Tillekeratne Commission of Inquiry
BMICH, Bauddhaloka Mawatha
Colombo 7
Sri Lanka

Dear Judge Tillekeratne,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

As we are committed to producing material that is well-informed, accurate and objective, we undertake to accurately reflect your response in our work. We will appreciate your response by December 5, 2007.

Sincerely,



Brad Adams
Director, Asia Division

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QUESTIONS FOR JUDGE TILLEKERATNE

1. What is the current status and mandate of the Commission? How many staff members does it have and what are their qualifications and responsibilities?
2. What is the time framework of the Commission's mandate? How many cases of enforced disappearances/abductions have been reported to the Commission so far? How many of those have been investigated? What conclusions has the Commission reached?
3. What investigative authority does the Commission have? Is it authorized to make unannounced visits to police and military places of detentions? Request information from government officials? Interview witnesses? Subpoena witnesses? What other investigative activity can the Commission undertake? Could you please provide specific details, including the number of visits to police and army detention facilities; the number of requests for information submitted to the police/army and the responses received; and the number of witnesses interviewed?
4. Has the Commission been able to identify the perpetrators in any of the investigated cases or collect sufficient evidence to suspect the involuntary nature of the disappearance? If so, how many of these cases have been handed over to the police for criminal investigation? Are you aware of the subsequent developments in such cases?
5. Could you provide any statistics on the cases you have investigated so far (identity of the alleged perpetrators – the army, the police, the Karuna group, the EPDP, the LTTE; profile of the victims; distribution of “disappearances” by district and by year/month)?
6. Were you satisfied with the degree of cooperation you received from the government (police, military, attorney general) during your investigations? Please discuss ways cooperation could be improved.
7. Has the Commission made any recommendations to the government and have any of those recommendations been already implemented?

8. Aside from the president, which authorities receive the Commissions reports? Will the reports be made available to the public?
9. What is the level of cooperation/division of responsibilities between the Commission and the Sri Lankan Human Rights Commission, as well as other mechanism recently established by the government to address the problem of “disappearances” (for example, a “Special center for gathering information on abductions allegedly happened in the Colombo and Suburbs,” and a Monitoring Committee on Abductions and Disappearances established in June 2007)?

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November 20, 2007

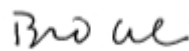
K.N. Douglas Devananda MP
Secretary General, EPDP
Minister of Agricultural Marketing Development, Co-
operative Development and Hindu Affairs
and Minister Assisting Education and Vocational Training
Fax: 011 258 4375/ 011 258 5255

Dear Minister Devananda,

I am writing to solicit your views for research Human Rights Watch is conducting on enforced disappearances and abductions in Sri Lanka. We understand the government has taken some steps in recent months, including setting up various bodies to address the problem of “disappearances” and abductions. In order to accurately reflect those developments, I hope your staff can take some time to answer the following questions.

As we are committed to producing material that is well-informed, accurate and objective, we undertake to accurately reflect your response in our work. We will appreciate your response by December 5, 2007.

Sincerely,



Brad Adams
Director, Asia Division

Questions for Minister Devananda

- (1) Have any “disappearances” or abduction cases been reported to the offices of the Eelam Peoples Democratic Party (EPDP) in the North-Eastern province? If so, how many and what action has the staff taken to address the complaints?
- (2) Have the members of the EPDP participated in joint operations with the Sri Lankan armed forces or police over the past two years? If so, under what circumstances?
- (3) Do any members of the EPDP currently bear arms?
- (4) Does the EPDP currently operate any facilities (military camps, bases, or offices) that function as places of detention? If so, what is the legal basis for the functioning of these facilities? Under what circumstances do the members of the Eelam Peoples Democratic Party carry out the arrests or participate in targeted operations that result in arrests of the suspects?
- (5) If so, how many people have been arrested and detained by the EPDP over the past two years; where and how long have they been held in detention; and were they subsequently released or handed over to the police or the army?
- (6) Do any monitoring or humanitarian bodies (including the Sri Lankan Human Rights Commission, the Sri Lanka Monitoring Mission, and the ICRC) have access to the EPDP offices and other facilities? If so, what are the conditions for their visits?
- (7) Has the EPDP received any inquiries from the Sri Lankan Human Rights Commission, the Presidential commission on abductions, disappearances and killings (Tillekeratne Commission), or any other bodies regarding the alleged involvement of the EPDP members in “disappearances,” especially in Jaffna?
- (8) If so, what action has been taken by the EPDP leadership to investigate these allegations and what results have the investigations produced?

26.11.07

Brad Adams,
Director, Asia Division,
Human rights Watch,
United States

Dear Brad Adams,

Enforced disappearances and abductions in Sri Lanka

We write with reference to your letter of 20 November 2007 addressed to Hon. Douglas Devananda on the above subject. While we appreciate your keenness in ascertaining the truth of violations of human rights, we are a little confused by your questions which give wrong impressions about our party- the EPDP.

Before we answer your questions, we wish to bring to your notice about certain facts which will help to understand our party's commitment towards achieving human rights of our people. After we entered into the democratic mainstream, our party - the EPDP has been striving to improve the human rights situation especially in the North and East. Ms. Ingrid Massag, who was the head of Sri Lanka Desk in the Amnesty International knows how the EPDP helped improve the human rights situation in Sri Lanka until the Ceasefire agreement signed between the warring parties in 2002. Even during the Ceasefire period, over seventy members of our party were killed but, we never resorted to violence and indulged in killing.

Ours is a political party which has been continuously representing the Tamil speaking people in the Parliament since 1994. We have our party offices at Jaffna town, Point Pedro, Atchuvely, Chavakachery, Manipay, Chunnakam, Velanai, Delft and Kayts in Jaffna District, one office in Mannar District and two offices in Vavunia District in the Northern Province, and at Trincomalee, Batticaloa, Chenkalady, Valaichenai, and Amparai in the Eastern Province and in Colombo which are opened to civilian population. People visit our offices daily and request our assistance to solve their problems. Other than these public offices, we do not have any other places.

Even though many questions (except question Nos 1&6) have no relevance to our party, we have come forward to answer your questions in order to clear the misunderstandings caused by disinformation campaign against our Party - the EPDP .

Questions

- 1) Have any "disappearances or Abductions cases been reported to the offices of the Eelam People's democratic Party (EPDP) in the North - Eastern Province?

In Jaffna 136 cases and in Colombo 39 cases has been reported.

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When a person comes and seeks our assistance, we immediately speak to the respective Commanding Officer who is in charge of that particular area and seek his assistance to help trace the victim. If the person is in custody or if we get a positive response from the officer we inform the complainant and follow it up with the officers concerned and ensure their release. If the officers deny the arrest of a person, we request the complainant to make an entry with the human rights Commission and with the ICRC as well. We also compile their names in our list of Disappearances which we wish to submit to the H.E the President.

Whenever we visit Jaffna, families of victims come to our office daily and appeal to us to trace their missing family members. In front of the complainants, we telephone the concerned Authority and give the details of the abductions and request them to trace the missing persons. We also send letters describing the circumstances under which the missing persons were taken away and seek their assistance. Copy of a letter is attached hcrewith for your information. With the official's assistance, three missing persons were traced while we were in Jaffna in the month of August.

In Colombo, we first speak to the officials concerned and then send letters to them. We were able to get some persons released from Judicial custody while we could not do much for the disappeared.

- 2) Have the members of the EPDP participated in joint operations with the Sri Lankan armed forces or police over the past two years? If so, under what circumstances?

Members of the EPDP did not participate in joint operations with the Sri Lankan Armed forces or police over the past two years. Members of the EPDP never took part in any such operations with the armed forces or Police after they joined the political mainstream.

- 3) Do any members of the EPDP currently bear arms?

After militant groups joined the political mainstream, respective Governments of Sri Lanka, gave weapons to Tamil political parties to protect themselves from the LTTE attacks. This practice continued till the Ceasefire Agreement was signed in 2002. After the signing of the Ceasefire Agreement, these weapons were taken away by the Government in the North and East. The Government is now protecting all our offices in the North and East with Police and army personnel and providing security for the key members of our party.

In the North and East, none of our members carry or possess weapons or can go out without the police and army escort from our offices.

- 4) Does the EPDP currently operate any facilities (military camps, bases or offices) that function as places of detention?

The EPDP never operate any facilities (Military camps, bases, or offices) nor collaborate with the armed forces or any other agencies in arresting or detaining any person. Ours is purely a political party committed for a dignified political solution to the ethnic problem. In spite of grave danger to our lives, our members are dedicatedly working for a peaceful solution for our people.

5. If so, how many people have been arrested and detained by the EPDP over the past years; Where and how long have they been held in detention; and were they subsequently released or handed over to the police or Army?

This question has no relevance to us as we only engage in politics while striving for human rights, fundamental freedoms, pluralism and democracy in the country.

6. Do any monitoring or humanitarian bodies (including the Sri Lankan Human Rights Commission, the Sri Lanka Monitoring Mission, and the ICRC) have access to the EPDP offices and or other facilities? If so, what are the conditions for their visits?

The offices of the EPDP are easily accessible to any person. Members of the Monitoring bodies have visited our offices many times and held discussions with our coordinators and with the Minister as well on number of occasions. We too invite them and share our concerns with them and seek their assistance to curtail violations of human rights. All our party offices are well known to local people and monitoring bodies who have easy access to the above mentioned offices. Any monitoring body can visit our offices without any condition after establishing their identity.

Local people in all the districts in the North, East and Colombo are fully aware that we do not operate any facilities nor engage in any unlawful activities.

7. Has the EPDP received any inquiries from the Sri Lankan Human Rights Commission, the Presidential Commission on abductions, disappearances and killings (Tillekeratne Commission) or any other bodies regarding the alleged involvement of the EPDP members in disappearances especially in Jaffna.

We have not received any inquiries from any of the abovementioned bodies or any other agencies regarding the alleged involvement of the EPDP members in disappearances. As our party has been continuously elected from the Jaffna District, we have a keen interest of improving the human rights situation and restore peace in our areas. In fact we are taking up the human rights situation not only with the abovementioned bodies but also with H.E. the President and also with the Cabinet of Ministers.

As mentioned in our answer to question 1, we did whatever possible within our limits and have been bringing it to the notice of H.E. the President. We submitted a Cabinet Memorandum seeking the approval of the Cabinet of Ministers to establish a

Rehabilitation Centre in Jaffna to enable persons to seek protection in a shelter which could offer a better living condition with various rehabilitation programmes till the situation improves in Jaffna. Cabinet has approved the Cabinet Memorandum and we are making arrangements to establish the same.

8. If so, what action has been taken by the EPDP leadership to investigate these allegations and what results have the investigations produced?

There is no necessity to raise this question.

We finally wish to inform you that in Sri Lanka the so called champions of human rights including the media and the NGOs are prejudiced and biased. They have their own vested political interest which they promote subtly through their intellectual maneuvering. They neither visit the North and East nor possess any first hand information about the incidents that occur in the war torn areas. We wish to bring to your notice of the reports of UTHR whose members were recently awarded for their brave writings from far away in America, often contradict their own conclusions about the happenings in Sri Lanka. We attach herewith the UTHR report which contradicts their own earlier reports. UTHR has strong political agenda and they promote the EPRLF Varathar faction. Their source of information is from the EPRLF faction which is anti-EPDP.

Polarized civil society reports have to be verified first with all parties concerned before we come to any conclusion on any violations. In a war ravaged country, irresponsible reporting has become common by politically motivated people.

We request you to kindly read the annual reports of the Amnesty International prior to the Ceasefire agreement which will give a clear picture of our party-the EPDP.

Thanking You,

Yours faithfully

Ms. Maheswary Velautham

FROM : MINISTRY OF HINDU RELIGIOUS AS FRN NO. : 94112385362

Dec. 05 2007 10:44PM P1

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கே. நெ. டிஸ்டர் டேவானந்தா கா.மே.

கே. என். டக்ளஸ் தேவானந்தா பி.உ.

K. N. DOUGLAS DEVANANDA M.P.

தலைவர் டேவா கா.மே. தலைவர் டேவா கா.மே.

சமூக சேவைகள் மற்றும் சமூக நலத்துறை அமைச்சர்

MINISTER OF SOCIAL SERVICES AND SOCIAL WELFARE

உமது எண் / எ.மது இல / Your No:

உமது எண் / எ.மது இல / My No:

திகதி / திகதி / Date:

14th November, 2007

Major General G.A. Chandrasiri
Commanding Officer,
Security Forces Head Quarters,
Jaffna

Dear Major General,

DISAPPEARANCE OF MR. SERIN SITHTHIRANJAN

The family members of Mr. Serin Siththiranjana have made representations to Hon. Minister Douglas Devananda and sought his assistance to trace whereabouts of the above named person.

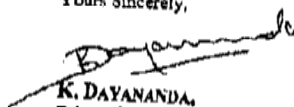
Mr. Serin Siththiranjana (37) was a distributor of Thinakural daily newspaper and he had left home on 04.11.2007 around 7.30 a.m. for his usual work on his Motor Bike No. JB 2129.

According to information received by the OIC of Tellippalai Police he was last seen at Mallakam Junction.

My Hon. Minister directed me to request you to assist the family members of Mr. Serin Siththiranjana to trace his whereabouts.

Thanking You,

Yours Sincerely,


K. DAYANANDA,
Private Secretary to the Hon. Minister
CLV/m

Cc: Dr. Miss. P. P. Thiraviam
Uyarapulam
Anaicodai,
Jaffna

61. இலங்கை மின், எலக்ட்ரிக் 05. 61. இலங்கை மின், எலக்ட்ரிக் 05. 61. இலங்கை மின், எலக்ட்ரிக் 05. 61. இலங்கை மின், எலக்ட்ரிக் 05.

Recurring Nightmare

State Responsibility for “Disappearances” and Abductions in Sri Lanka

The resumption of major military operations between the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) in mid-2006 has brought the return from the country’s past of an abuse in epidemic proportions—the abduction and “disappearance” of individuals by the parties to the conflict. Hundreds of enforced disappearances reported in 2006-2007, primarily of young ethnic Tamil men, have placed Sri Lanka among the countries with the highest number of new “disappearance” cases in the world.

“Recurring Nightmare” documents the ongoing “disappearance” crisis, drawing on more than 100 interviews with family members of victims, analysis of government data, and information from domestic and international nongovernmental groups working in Sri Lanka. Human Rights Watch found evidence of involvement by government security forces—army, navy, and police—in the vast majority of the nearly 100 cases we investigated.

The Sri Lankan government has demonstrated an utter lack of resolve to address the problem. Indeed it is showing every sign of repeating the failures of past administrations, making lots of noise—including launching a spate of mechanisms to investigate the new “disappearances”—but conducting little actual fact-finding and virtually no prosecution of perpetrators.

The report tells the stories of 99 individuals whose whereabouts remain unknown. It provides a detailed assessment of the Sri Lankan government’s response and concludes with specific recommendations for action that the government and the international community should take to put an end to the practice of enforced disappearances and establish accountability for perpetrators.

*A family member holds a photo of a
“disappeared” loved one in Sri Lanka.*

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