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**PRELIMINARY FINDINGS OF
ASIA WATCH MISSION TO SRI LANKA**

**Government's Commitments Welcomed
Implementation to be Monitored**

In recent months the government of Sri Lanka has announced a number of measures designed to meet charges of serious human rights violations in that country. These charges, made by Asia Watch¹, Amnesty International, Lawasia, International Alert, and many other groups, have aroused international concern for years. They include reports of a large number of disappearances of suspects after arrest by the security forces or abduction by vigilante groups linked to the security forces (a common estimate is 40,000 since 1983). They also include killings of civilians in reprisal for killings of members of the security forces in several domestic armed conflicts and insurrections. Torture of detainees in police stations and army camps is pervasive.

Two primary conflicts have defined the context of these human rights violations: that between the predominantly Sinhalese government and Tamil guerrilla groups (militants) demanding a separate state (notably the Liberation Tigers of Tamil Eelam, or LTTE), which became intense during 1983-1987 (Eelam War I) and June 1990 to the present (Eelam War II); and the insurrection by the mainly Sinhalese Marxist-nationalist JVP (Janatha Vimukthi Peramuna, or People's Liberation Front), which began in 1987 and became most violent in 1989-1990. Both the LTTE and the JVP have committed serious and systemic violations of humanitarian law, including killing and torture of prisoners and political assassination. While the JVP has now been effectively destroyed (the government captured and summarily killed all of its major leaders), the LTTE today controls the Jaffna peninsula, where it continues to terrorize sectors of the population. This bulletin concentrates on performance by the government, which, unlike the LTTE, continues to receive support from the international community.

In December 1991 an Asia Watch mission visited Sri Lanka to evaluate the Sri Lankan government's attempts to meet these charges. While a detailed report on the very complex situation is in preparation,

¹See *Human Rights Watch World Report 1992: An Annual Review of Developments and the Bush Administration's Policy on Human Rights Worldwide*, December 1991, pp.459-470. See also, "Human Rights in Sri Lanka: an Update," *News From Asia Watch*, March 12, 1991.

this bulletin summarizes our major findings.

FINDINGS

1. The human rights performance of the security forces has improved but continues to fall far short of international standards. As the JVP challenge in the South is over, the massive campaign of disappearances, burning bodies on the roads, dropping bodies into the sea from helicopters, cremating bodies with no investigation, and so on, is over. Nonetheless, despite the lack of any armed insurrection, intermittent disappearances continue in the South. During our visit an opposition member of parliament provided us with details of two disappearances that had occurred in December. In November a supporter of dissident members of the ruling party who had tried to impeach the president was abducted by armed men in an unmarked vehicle and tortured; he was released after pressure on the government from local human rights groups and foreign diplomatic missions.

In eastern Sri Lanka, where the government still faces the LTTE in a largely Tamil area, disappearances have decreased. According to information we received, disappearances in this region were occurring in the latter part of 1991 at less than half the rate of the earlier part of the year. The total may now be on the order of 20-30 per month. This partial reduction appears to be due to certain policies adopted by the security forces. A report from Batticaloa indicated that the police and army had taken certain measures to reduce vigilante killings and end reprisals against civilians. Nonetheless, these still occur. A Commission of Inquiry into what appear to have been reprisal killings of civilians in the village of Kokkadichcholai last June issued its preliminary report on January 30. The commission found army personnel guilty of massacring 67 civilians.

2. Measures announced by the government to prevent current and future disappearances and arbitrary killings have not become fully effective, although they have the potential to do so if implemented firmly. As some of these (the acceptance of 30 of 32 recommendations of Amnesty International)² were announced only during our visit, it is too early to evaluate their implementation.

Since October 1989 the government has permitted the International Committee of the Red Cross (ICRC) to carry out its work in Sri Lanka. The ICRC has been granted the opportunity to pursue its mandate on the protection of prisoners and non-combatants in armed conflict without interference. We believe that

²In its report, *Sri Lanka - the Northeast*, ASA 37/14/91, Amnesty International made thirty-two recommendations to the Sri Lankan government designed to "create a climate in which human rights violations are less likely to occur," "put a halt to disappearances," "promote respect for the rights of detainees and their families," and "bring a halt to extrajudicial executions." The Sri Lankan government has accepted, or partially accepted, some thirty of these recommendations. They include suggestions for better control and instruction of army personnel and police officers and prompt prosecution of criminal cases against members of the security forces, better protections for detainees, and the strengthening of new human rights initiatives such as the Presidential Commission of Inquiry into the Illegal Removal of Persons and the Human Rights Task Force.

The government failed to adopt recommendations to extend the mandate of the Presidential Commission of Inquiry into the Illegal Removal of Persons to cover disappearances which occurred before January 11, 1991 and to repeal the Indemnity Act. The Indemnity Act of 1982 protects government personnel from prosecution for acts "legal or otherwise" committed for the purpose of restoring law and order. The original Act permitted extensions -- the latest of which extended the deadline to December 17, 1988. Between 1983 and 1989 tens of thousands of deaths and disappearances were reported which cannot be investigated or prosecuted under the current laws.

the actions of the ICRC have significantly contributed to the improvements that we observed, and we welcome the government's full cooperation with it.

In August 1991 the government established the Human Rights Task Force (HRTF), chaired by Supreme Court Justice (retired) Soza, with the mandate of protecting detainees. The HRTF has compiled a register of detainees in permanent places of detention (all in the South) and provided some protection to detainees. However, in the present situation the main violations of human rights occur before the transfer of detainees to permanent places of detention, in army camps in the northeast³ and in police stations throughout the country. When our mission spoke to Justice Soza in December, the HRTF had no plans as yet to monitor these locations.

According to the Amnesty International recommendations accepted by the government, all security forces must immediately report any detention to the HRTF as well as issue receipts for prisoners to family members. Justice Soza himself, however, expressed the greatest skepticism that they would actually carry out these recommendations, as did many others. At present the HRTF waits for reports from the security forces or complaints from the public rather than actively intervening at the point of greatest danger to detainees. During our mission we recommended to the HRTF that each of its 15 proposed regional offices (planned as part of the implementation of the Amnesty International recommendations) include a small task force engaged in full-time visits to police stations and army camps.

3. The government has taken halting steps toward accountability for some human rights violations, but adamantly refuses any accountability for the massive violations that occurred before 1991. The message the government is sending to the security forces is that they should try to refrain from such violations for now, but that such actions were understandable in the trying circumstances they encountered in the past. The inevitable conclusion is that such violations would be tolerated again should similar conditions recur.

The government has established a Commission of Inquiry into the Involuntary Removal of Persons (that is, disappearances), as well as a Commission of Inquiry into the events at Kokkadichcholai (see above). The Commission on disappearances has the mandate of investigating reports of disappearances occurring since 11 January 1991. Originally its mandate expired after a year, but pursuant to the Amnesty International recommendations, it has now been extended forward in time. Also pursuant to those recommendations, the government has agreed to make the Commission's findings public. The Commission's mandate precludes its consideration of the vast majority of the tens of thousands of disappearances, which occurred before 1991. Furthermore, its method of work is such that it cannot possibly carry out even the task assigned to it. It treats each reported disappearance as if it were a criminal investigation, with modifications in procedure to speed it up slightly. Since beginning work in August it has completed work on two cases and was taking public testimony on a third when our mission observed its operation in December. By contrast, in countries with a comparable (though smaller) number of disappearances, such as Argentina or Chile, the government has appointed commissions consisting of

³ In December 1988 the Northern and Eastern Provinces were merged into the Northeastern Province as provided by the Indo-Sri Lanka Accord of July 1987. This merger is subject to approval by the electorate of the three districts formerly comprising the Eastern Province, but a referendum has not yet been held. Asia Watch refers to this area as the "northeast" (rather than "north and east") because of its current legal status. Asia Watch takes no position on what this area's future status should be.

individuals with records of human rights activities who considered the practice and policy of the government and security forces during the period in question. This has led to publications such as *Nunca Más* (*Never Again*) in Argentina, which details the practice of abduction, torture, killing, and so on, even if they are unable to account for the particulars of every case.

The Commission of Inquiry on the incident at Kokkadichcholai, collected detailed testimonies from Tamil villagers, including the village officers appointed by the government, claiming that 67 unarmed villagers were shot or burned to death by soldiers after two of the latter were killed by a mine presumably laid by the LTTE. The Asia Watch mission was able to observe one of the village officers giving testimony to this commission. The commission's preliminary report found that army personnel stationed in Kokkadichcholai were responsible for the retaliatory killings. Military sources reported that five soldiers, including one officer had been placed in military custody in connection with the incident and could face court martial proceedings.⁴ The government will decide what action to take after it has received the full report. Its response to the commission's findings will be one indicator of how serious the government is about accountability in the present.

Government spokesmen are unequivocal in their refusal to permit accountability for prior human rights violations. The two Amnesty International recommendations refused by the government both relate to accountability for the past: the government refused to extend the mandate of the commission on disappearances backward to include the period during which most disappearances occurred, and it refused to repeal a law providing indemnity to the security forces for all acts committed through December 1988. Even the handful of ongoing investigations into specific killings (such as that of the journalist Richard de Zoysa) are stalled in a procedural maze that the government does not appear eager to break out of.

RECOMMENDATIONS

Both the government's ambivalence toward accountability and the lack of clarity on how the many policies announced are to be implemented arouse concern. This is not a solely theoretical concern. Political pressures are building on the government to undertake a military offensive against remaining LTTE strongholds in the north, mainly the Jaffna peninsula. Such an offensive would be likely to occur after the end of the northeast (winter) monsoon, which would also be after the meeting of representatives of Sri Lanka's donor nations, to be convened by the World Bank in Paris on February 7, and the meeting of the UN Human Rights Commission in Geneva, where concerns about Sri Lanka are also to be expressed.

In the past such offensives were accompanied by indiscriminate bombing and shelling of civilian areas; massive cordon and search operations leading to detentions, torture, killings and disappearances of young Tamil males; and reprisals against Tamil civilians for attacks by the LTTE on the security forces. We urge the international community to let the government of Sri Lanka know that concerns for human rights will extend past the meetings of the next few months, and that an offensive conducted in the same way as in the past will decisively signal that the government's practices have not changed.

⁴ *Reuters*, January 30, 1992.

We urge the international community to welcome the improvements; affirm the need for effective implementation of all announced policies; and insist on accountability for past patterns of human rights violations, decisively ending the climate of impunity which has prevailed in the country.

The United States government, in particular, should back up expressions of concern about human rights by exerting economic pressure on the Sri Lankan government. Besides being outspoken at the donors' meeting in Paris, the administration should support human rights conditions on US aid and indicate its intention to oppose World Bank and other multinational loans that do not expressly meet basic human needs if the Sri Lankan government does not fully implement its human rights reforms. The US should encourage Japan and other major aid donors to Sri Lanka to take a similar approach.

In 1991 the Bush administration blocked efforts in Congress to attach minimal human rights conditions on the foreign aid bill for Fiscal Year 1992 and 1993, and voted for World Bank and Asian Development loans of over \$221 million between April and June.

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For More Information

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Asia Watch was founded in 1985 to monitor and promote internationally recognized human rights in Asia. The Chair is Jack Greenberg and the Vice Chairs are Harriet Rabb and Orville Schell. The Executive Director is Sidney Jones and the Washington Director is Mike Jendrzeczyk.

Asia Watch is a division of Human Rights Watch, which also includes Africa Watch, Americas Watch, Helsinki Watch, Middle East Watch and the Fund for Free Expression. The Chair of Human Rights Watch is Robert L. Bernstein and the Vice Chair is Adrian DeWind. Aryeh Neier is Executive Director and Kenneth Roth is Deputy Director. Holly Burkhalter is Washington Director.