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**LKA103663.E**

Sri Lanka: Treatment of suspected Liberation Tigers of Tamil Eelam (LTTE) members or supporters, including information about how many are in detention; whether the government continues to screen Tamils in an attempt to identify LTTE suspects (January 2010 - 21 January 2011)

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### Screening of Tamils

The nearly 300,000 people displaced during the last year of the war between the Sri Lankan armed forces and the Liberation Tigers of Tamil Eelam (LTTE) were held in military-run camps (UN 14 July 2010, 2; Human Rights Watch Feb. 2010, 2; International Crisis Group 1 Oct. 2009), called "welfare centers," by the government (ibid.), where they were screened and separated into special detention centres if found to have any association with the LTTE (ICJ Sept. 2010, 8; Human Rights Watch Feb. 2010, 3; International Crisis Group 1 Oct. 2009). Minority Rights Group (MRG) International reports that the military asked people to surrender if they had had any involvement with the LTTE, even if that involvement had lasted no more than a day (Jan. 2011, 26).

Both Human Rights Watch and the International Commission of Jurists (ICJ) report that the screening and arrests of these internally displaced persons (IDPs) continued up to December 2009 (Human Rights Watch Feb. 2010, 6; ICJ Sept. 2010, 8). However, two independent research fellows and two academics maintain, in their correspondence with the Research Directorate, that the government continues to screen for suspected LTTE members among the Tamil population (Professor 20 Jan. 2011; Senior Research Fellow 28 Dec. 2010; Adjunct Professor 13 Jan. 2011; Research Fellow 30 Dec. 2010).

### Purpose of the screening process

The process used to screen persons for LTTE affiliation, contends the International Commission of Jurists (ICJ), not only lacks "accountability" and "transparency," but, because it relies on "allegations made by fellow IDPs and paramilitary groups in the internment camps," it also lacks "credibility" (ICJ Sept. 2010, 9 - 11). As recently as January 2011, the Norwegian Refugee Council's Internal Displacement Monitoring Centre (IDMC) was saying much the same thing when it noted that the screening process "remains unclear," as do the criteria for detention and release (14 Jan. 2011, 5). In fact, three international human rights organizations point out that some of the separated IDPs were actually forced to fight for the LTTE (ICJ Sept. 2010, 9; MRG Jan. 2011, 26; Radio Australia 9 Dec. 2009), while the MRG notes that some IDPs "had only marginal involvement with the rebels, such as building bunkers in the last stages of the war, cooking, nursing the wounded, etc." (Jan. 2011, 26).

Moreover, writes one of the research fellows -- this one from the Center for Asia Studies in Chennai, India -- who corresponded with the Research Directorate, "[i]n the worst cases," the government uses the screening process as a means of silencing its critics, including journalists and human rights activists (Research Fellow 30 Dec. 2010). *The New Yorker* reporter Jon Lee Anderson, who has reported on the conflicts in Afghanistan, Angola, Lebanon and Sri Lanka, has also noted that the government has "acted unsparingly against journalists, human-rights activists, civic leaders, and others" (17 Jan. 2011, 54).

One of the two academics contacted by the Research Directorate -- an adjunct professor of political science at Philadelphia's Temple University -- sees the screening process as a kind of pre-emptive strategy, one used to discourage Tamils from pursuing "a new wave of Tamil radicalization" (Adjunct Professor 13 Jan. 2011), while the other fellow -- a senior fellow at the New Delhi-based Center for Land Warfare Studies -- describes it as a means to cleanse the Tamil population of any remaining LTTE cadres (Senior Research Fellow 28 Dec. 2010). Interviews with a senior Sri Lankan army officer and the Jaffna security commander by *The New Yorker* reporter support these viewpoints (*The New Yorker* 17 Jan. 2011, 49). According to the security commander, because LTTE "'inculcation of the youth" remains "'a big problem"' for the army, it is taking steps to make sure that "Tamil radicalism" does not regain a foothold in the north (ibid.).

### Screening methods

The methods for purging the "hidden" LTTE members who the government believes are still at large consist of "surveillance, arbitrary arrests and random check [s]," explains the Adjunct Professor (13 Jan. 2011). The second academic contacted by the Research Directorate, a York University law professor who is also a member of the advisory council of the Sri Lanka Campaign for Peace and Justice, somewhat similarly reports that Tamils throughout the country, particularly young Tamil men in the north or east, are being arrested and detained on suspicion of LTTE affiliation, a practice he describes as akin to "'ethnic' or 'racial' profiling" (Professor 20 Jan. 2011). The senior army officer reportedly told *The New Yorker* reporter that the army is building large military camps in the north and gathering intelligence with the help of spies in the Tamil population and electronic surveillance systems (*The New Yorker* 17 Jan. 2011, 49).

The result of the government's efforts to find suspected Tigers is that screening is not limited to the IDP camps (Senior Research Fellow 28 Dec. 2010; Research Fellow 30 Dec. 2010). As the law professor explains, the government believes that "quite a number" of prominent LTTE figures remain at large and so is "very much on the look-out" for them (20 Jan. 2011). With the government still concerned with separating LTTE cadres from Tamil citizens, says the Senior Research Fellow, it is carrying out its screening in "residential areas all over the country" (28 Dec. 2010). He says that

Tamils living in Sinhala-dominated areas of southern Sri Lanka are required to register themselves at the nearest police stations. And they have to inform of any new guests to their homes. There are also surprise checks without any pre-notification during any part of the day. Suspects are detained under emergency regulations. There are no proper mechanisms to check the whereabouts of those arrested. (Senior Research Fellow 28 Dec. 2010)

The Research Fellow reports that, within Sri Lanka, the army and paramilitary groups are checking vehicles and houses in the Northern Province for LTTE members and supporters (Research Fellow 30 Dec. 2010). The Adjunct Professor likewise

indicates that screening is primarily focused on Tamils in the Northern and Eastern provinces (13 Jan. 2011).

According to the Research Fellow, screening is also being carried out at the airport (30 Dec. 2010). The law professor similarly says that he has it on good authority that the government is using "captured LTTE leaders as spotters at both the passport office in Colombo and at the airport" (20 Jan. 2011). He reports that the government is "routinely 'interview[ing]'" returned Tamil asylum seekers and, on what is "likely minimal standard[s]," arresting and detaining any who are suspected of being affiliated with the LTTE (Professor 20 Jan. 2011). He adds that Tamils flying into the Colombo airport who are not failed asylum claimants or deportees are also being "randomly screened and interrogated" (ibid.). Information corroborating the law professor's statement about the treatment of Tamils at the Colombo airport was not found among the sources consulted by the Research Directorate.

### **Number of Detainees**

The United Nations High Commissioner for Refugees (UNHCR), referring to a government survey, indicates that, as of 1 March 2010, 10,781 LTTE cadres, of which 8,791 were men and 1,990 were women, were being held in 17 detention centres (5 July 2010, 3). Early in January 2011, however, the government released new numbers, saying that, at the end of the war against the LTTE in May 2009, 11,696 former LTTE cadres were being held in what it calls "rehabilitation centres" (Sri Lanka 4 Jan. 2011). Since then, indicates the government, 5,586 LTTE cadres have been released (ibid.).

According to the Commissioner General of Rehabilitation, the army has been releasing the former detainees "in batches" since the start of 2010 (BBC 3 Jan. 2011). On 4 January 2011, he announced that the majority of the remaining 4,761 ex-LTTE cadres, who are in centres in the Northern Province, "could be freed this year" (Sri Lanka 4 Jan. 2011). About two weeks later, the government reported that it had released another 84 ex-LTTE cadres to mark the occasion of the Thai Pongal festival (ibid. 21 Jan. 2011), an important Hindu religious festival celebrated by Tamils around the world (ibid. 15 Jan. 2010).

However, as the British Broadcasting Corporation (BBC) reports, although the government says that about 5,000 former cadres are still being held in the rehabilitation centres, "international human rights groups and the media have not been given access" to them (25 Dec. 2010). The law professor argues in his correspondence with the Research Directorate that it is "impossible" to verify the numbers because "no one outside the Sri Lanka government has the requisite access to the official lists of LTTE detainees" (20 Jan. 2011). Human Rights Watch likewise point out that the government was not permitting "independent observers" access to the rehabilitation centres (Feb. 2010, 1) so that, as the International Commission of Jurists (ICJ) points out, they could provide an "authoritative, independent account of the number of detainees" (Sept. 2010, 10).

Nevertheless, the law professor does acknowledge that the non-governmental (NGO) community generally accepts that "more than 11,000 Tamil people" were detained in the government's rehabilitation camps for suspected LTTE cadres and that about 5,000 to 6,000 remain in detention (Professor 20 Jan. 2011). He is supported in this by the International Crisis Group's Sri Lanka Project Director who, in December 2010, reported figures in keeping with those of the government (6 Dec. 2010). In a presentation to the Subcommittee on Human Rights of the European Parliament, the Sri Lanka Project Director indicated that, of the "estimated 12,000 people who surrendered or were detained at the end of the war on suspicion of involvement with the LTTE," about "5,400 remain in detention, with 600 - 700 of these identified for legal prosecution" (6 Dec. 2010).

However, the law professor reports that the government continues to arrest suspected LTTE members, though in fewer numbers, and points out that it is not clear whether and how these arrests are being factored into the government's numbers of detainees (20 Jan. 2011). He also suggests that there is another class of between 2,000 and 3,000 people -- most of whom are Tamil, some of whom have been detained for years "without charge or trial" -- who are being held on suspicion of ties to the LTTE "outside the ad hoc rehabilitation camp system in "formal and informal detention facilities," such as jails, police lock-ups and paramilitary camps (20 Jan. 2011). The BBC reported something similar when it wrote in December 2010 that "hundreds" of Tamils who had been detained over the years under the country's emergency laws remained in separate jail cells, some for as many as 10 years (13 Dec. 2010).

### **Treatment of Detainees**

Early reports on the detention of the former LTTE cadres without charge or trial focused on the government's failure to "adhere to international law and standards" (ICJ Sept. 2010, 5). Human Rights Watch, for example, accuses the government of violating the detainees' human rights, including

the right to be informed of specific reasons for arrest, the right to challenge the lawfulness of the detention before an independent judicial authority, and the right of access to legal counsel and family members. (Feb. 2010, 1)

The ICJ similarly reports "that the existing detention regime ... creates a legal black hole in which detainees are vulnerable to serious violations" (ICJ Sept. 2010, 12).

Other concerns that have been expressed relate to the possibility that some detainees may have been subjected to enforced disappearance (ICJ Sept. 2010, 5 and 12; Human Rights Watch Feb. 2010, 1 and 10; Professor 20 Jan. 2011). In November 2010, for example, the wife of a former LTTE member complained at a public session of the Lessons Learnt and Reconciliation Commission, an eight-member panel established by the government to look into the war (*Hindustan Times* 16 Nov. 2010), that "several senior LTTE cadres" who had surrendered at the end of the war were still missing (*Sunday Times* 14 Nov. 2010).

The concern was apparently born out of the government's lack of transparency around the detention process and its unwillingness to permit independent monitoring by international organizations, especially the International Committee of the Red Cross (ICJ Sept. 2010, 5; Human Rights Watch Feb. 2010, 1, 10, 13 and 14; Professor 20 Jan. 2011) -- "the organization usually tasked with searching for missing people during and after armed conflicts" (Human Rights Watch Feb. 2010, 13). It was further "aggravated" by what Human Rights Watch terms the government's "appalling record of enforced disappearances" during the 1980s and 90s (*ibid.*, 10), as well as reports that the army had deliberately killed surrendering Tamils as the war ended (Professor 20 Jan. 2011; *The New Yorker* 17 Jan. 2011, 43). The combination of the "extremely fragile state of 'rule of law' mechanisms" in Sri Lanka with the "unfettered exercise of presidential (and associated executive) power," led the law professor, who, in September 2010, published a paper for the Sri Lanka Campaign for Peace and Justice on the breakdown of the rule of law in Sri Lanka, to make a case for exercising caution before completely accepting that the government has ceased the kind of conduct it may have justified as military necessity during the war (20 Jan. 2011).

Conditions in the camps, meanwhile, have been described as "very poor" (Adjunct Professor 13 Jan. 2011). Upon the release of 100 former Tamil Tiger rebels from the camps on 25 December 2010, the BBC reported that "many" of the

former detainees “complained about poor sanitary conditions” (BBC 25. Dec. 2010). Human Rights Watch interviewed family members of detainees in October 2009 and also heard complaints of “ill treatment and poor conditions” (Feb. 2010, 15). The ICJ interviewed humanitarian aid workers in February 2010 and heard that camp conditions were “cramped and unhygienic but not life-threatening” (ICJ Sept. 2010, 12). However, in July 2010, the UNHCR reported that former detainees of the Terrorist Investigation Division at Boosa Prison in Galle allege that authorities torture[d] those suspected of links to the LTTE (5 July 2010, 4 - 5).

### **Treatment of female detainees**

Stories of Sinhalese soldiers raping Tamil women and girls have been documented over the years by groups like Asian Human Rights Commission and Amnesty International, writes *The New Yorker* reporter Jon Lee Anderson (17 Jan. 2011, 49). The European Center for Constitutional and Human Rights (ECCHR) similarly reports that, historically, Tamil women and girls have been subjected to sexual assault upon arrest or detention and maintains that the female detainees, whether civilian or former members of the LTTE, remain especially vulnerable because of their gender (ECCHR Jan. 2010, 7, 13). Early in 2010, for example, two international human rights groups reported that female ex-LTTE cadres were being sexually abused or raped (Diakonie et al. Feb. 2010, 3; International Crisis Group 11 Jan. 2010, 5). In March 2010, Tamil news service TamilNet also reported that female detainees in special camps in Vavuniya were being tortured by female Sri Lankan army soldiers (2 Mar. 2010). Information corroborating the TamilNet story could not be found among the sources consulted by the Research Directorate.

Somewhat similar claims are made by the Adjunct Professor, who is also a research fellow for the Sri Lankan Global Vision Center for Knowledge Advancement (Adjunct Professor 17 Jan. 2011; *ibid.* 13 Jan. 2011). The Adjunct Professor contends that Tamil paramilitary groups, such as the one led by the man known as Karuna (a former LTTE commander who broke away from the Tigers in 2004 and became a government minister in 2009 [BBC 9 Mar. 2009]) and the Eelam People’s Democratic Party (EPDP) (which is both a political party and a paramilitary group [TamilNet 22 Dec. 2010]), are continuing to force ex-LTTE women to provide sexual services to the Sri Lankan security forces (Adjunct Professor 17 Jan. 2011), who are mostly Sinhalese (*ibid.* 13 Jan. 2011). However, in October 2010, the Colombo-based *Daily News* reported on the announcement by the Rehabilitation and Prisons Reform Minister that the last of the female ex-LTTE cadres had been released (*Daily News* 26 Oct. 2010).

### **Treatment of child soldiers**

Human rights groups report that over 500 LTTE child soldiers were among those detained at the end of the war (UN 10 Nov. 2010; Human Rights Watch Feb. 2010, 1; ICJ Sept. 2010, 5). However, the ICJ notes that the Sri Lankan government quickly made efforts to separate the children from adult detainees and hold them in separate facilities “freely” monitored by the United Nations Children Fund (UNICEF) (ICJ Sept. 2010, 5 and 10). The former child soldiers were given an education or vocational or technical training to prepare their reintegration into society (UN 10 Nov. 2010; BBC 23 Dec. 2009). The law professor credits the government with “what seems a sincere effort to give these children a chance at a better life,” though he points out that the government’s rehabilitation efforts are not done “without signs of a broader indoctrination agenda (e.g., singing the national anthem in Sinhalese)” (20 Jan. 2011).

According to the UN’s Integrated Regional Information Networks (IRIN), although the last remaining rehabilitation centre for former child soldiers was closed in April 2010, the government continued to work with UNICEF to reintegrate the children into their communities (UN 10 Nov. 2010). The ICJ similarly reports that the children were released from rehabilitation centres by May 2010, but notes that due to a lack of

access, it was impossible to determine whether those held in adult detention centres had been children when allegedly associated with the LTTE (ICJ Sept. 2010, 5 and 10).

### Rehabilitation of Detainees

Under Sri Lanka's *Emergency Regulations 2005* (formally, the *Emergency [Miscellaneous Provisions and Powers] Regulations, No. 1 of 2005* [Sri Lanka 2 May 2010]), the LTTE detainees, termed "rehabilitees" by the government, are required to undergo rehabilitation (ICJ Sept. 2010, 5 and 12). In May 2009, a military spokesman was saying that the majority of the former LTTE fighters would be rehabilitated but that the remaining "self-confessed" cadres would instead be tried (Reuters 26 May 2009). The Commissioner General of Rehabilitation, speaking to the Colombo-based *Sunday Observer* in February 2010, said that the government is basing its efforts on the UN-defined approach to rehabilitation and focusing on rehabilitating and reintegrating the former children and adult LTTE members into society (28 Feb. 2010). He said that the main goal is to provide vocational training to enable the younger of the former LTTE cadres to become "useful citizens" and to dissuade them from engaging in any further violence (*Sunday Observer* 28 Feb. 2010). However, in September 2010, the ICJ said that only about a third of detainees were undergoing rehabilitation and that activities seemed to vary from camp to camp (Sept. 2010, 12). The IDMC, writing in January 2011, said that the rehabilitation process is still unclear (14 Jan. 2011, 5). This, despite the fact that, according to the ICJ, rehabilitation activities have a role to play in strengthening the rule of law and reconciliation providing they comply with human rights standards (ICJ Sept. 2010, 7).

According to reports from outside observers, rehabilitation includes such activities as education, vocational training (ICJ Sept 2010, 12; Senior Research Fellow 28 Dec. 2010), and job opportunities, including the possibility of drafting some former detainees into the police force (ibid.). A news release issued by the government in late January 2011 similarly indicates, without specifying whether they are former detainees, that "a batch of 336 Tamil police constables, including 16 women officers from the Northern and Eastern provinces" has been admitted into the police force (Sri Lanka 20 Jan. 2011). As further demonstration of the success of its rehabilitation efforts, the government also announced the reintegration into "normal civilian life" of 400 former female LTTE cadres who, in June 2010, "received employment at a garment factory" (ibid. 21 Jan. 2011). However, the law professor counters that "a group of released LTTE cadres together with some people released from the Menik Farm IDP camp were forcibly sent to Southern Sri Lanka to work in the garment factories" (20 Jan. 2011).

The ICJ also identifies Buddhist meditation as part of the rehabilitation activities (Sept. 2010, 12), even though the Tamils are largely Hindu and it is the Sinhalese majority who are primarily Buddhist (*Guardian* 11 Apr. 2010). For his part, the Adjunct Professor describes rehabilitation as "systematic ideological indoctrination in Sinhala nationalism" (13 Jan. 2011). According to him, "[i]nmates" are forced to

express their loyalty to the Colombo regime. Early every morning, detainees must attend a prayer session and the hoisting of the national flag, and recite an oath not to work against the country. Then they start the daily work of cleaning the camp, followed by heavy farm labour. (Adjunct Professor 13 Jan. 2011)

But, as the Commissioner General explains in his *Sunday Observer* interview, the "main issue" in rehabilitating the "hardcore inmates" is to restore their "mental situation" to "normal" (28 Feb. 2010). So, at least with rehabilitation activities aimed at the youth, the government has provided "lots of religious and spiritual activities" and used "[m]editation and music ... to bring them back to normal" (28 Feb. 2010).

### Treatment of Released Detainees

In December 2010, the International Crisis Group's Sri Lanka Project Director expressed worry about reports that some of the suspected LTTE detainees who have been released are subject to "frequent and arbitrary questioning by the police and military" (6 Dec. 2010). However, Sri Lanka's Brigadier Sudantha Ranasinghe, speaking to the BBC in early January 2011, explains that, though the authorities have questioned former Tamil Tiger fighters "in some places," it is because villagers have complained that the released Tigers "have been committing crimes such as stealing or brewing illicit liquor" (BBC 3 Jan. 2011). The Geneva-based International Organization for Migration (IOM), "the only big international agency working to help reintegrate the ex-fighters," reportedly told the BBC sometime in December 2010 that "the former Tigers were being treated quite well" (ibid.). A press briefing note on the IOM's website indicates that the organization has two programs in Sri Lanka, one of which is aimed at "reintegrating former LTTE Tamil Tiger combatants into civil society" (IOM 2 July 2010).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Attempts to contact representatives of the University Teachers for Human Rights (Jaffna) (UTHR(J)), the Centre for Policy Alternatives (CPA) in Colombo and the Asia Foundation were unsuccessful. An academic specializing in Sri Lanka was unable to provide information. Two other academics were unable to provide information within the time constraints of this Response.

**Internet sites, including:** Amnesty International (AI), The Asia Foundation, Asia News Network (ANN), Asian Human Rights Commission (AHRC), Australia - Refugee Review Tribunal (RRT), European Country of Origin Information Network (ecoi.net), Freedom House, Human Rights Watch, Law & Society Trust (LST), National Peace Council (NPC) of Sri Lanka, Social Science Research Network (SSRN), South Asia Analysis Group (SAAG), South Asia Foundation (SAF), United Nations (UN) Refworld, UN ReliefWeb, UTHR(J).

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