

*Sri Lanka: "Disappearance" and murder as techniques of counter-insurgency*

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**"DISAPPEARANCES" AND POLITICAL KILLINGS:  
HUMAN RIGHTS CRISIS OF THE 1990s**

**A MANUAL FOR ACTION**

**Chapter C-2**

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as techniques of counter-insurgency**

**Pre-Publication Version  
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## **Chapter C-2**

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This is a pre-publication version of Chapter C-2 of the Amnesty International report *"Disappearances" and Political Killings: Human Rights Crisis of the 1990s - A Manual for Action*.

## Chapter C-2

# Sri Lanka: "Disappearance" and murder as techniques of counter-insurgency

"Disappearances" and political killings had reached tragic proportions in Sri Lanka by the late 1980s, after several years of increasing numbers of people falling victim to these gross violations of human rights. In the northeastern part of the country, government forces confronting an armed Tamil separatist movement evolved tactics of "disappearance" and political killings to sow terror and avoid accountability. In the south, where the security forces sought to suppress an armed insurgency within the majority Sinhalese community, tens of thousands of people are believed to have been murdered under the cover of "disappearance" between 1987 and 1990.

Resort by government security forces to widespread extrajudicial executions and "disappearances" in confronting armed opposition is not new in Sri Lanka. But in recent years such violations escalated almost beyond measure, and armed opposition has intensified. Over the years, a progression is evident from the blatant commission of these violations by uniformed personnel to more sophisticated, systematic methods that provided a means of covering-up far more widespread abuse of human rights.

Sri Lanka has retained a system of parliamentary democracy throughout the troubles of the 1980s and 1990s. Its normal legal system contains safeguards which should prevent "disappearances" and extrajudicial executions, but these provisions have been undermined by the fact that the country has been under an almost continuous state of emergency since May 1983. Official emergency measures override the safeguards contained in the normal law and have granted sweeping powers to the security forces. In addition, there has been blatant intimidation of lawyers, relatives and others attempting to take remedial action.

The massive spate of "disappearances" and extrajudicial executions in the south in the late 1980s were illegal and clandestine elements of a counter-insurgency campaign which many in government appear to believe to have been necessary and effective. In 1990 the violence by the armed opposition in the south subsided. The insurgent leaders, together with many thousands of other people, had been wiped out. In the northeast, however, the campaign against Tamil separatists has been markedly unsuccessful. Far from the number of armed separatists falling over the years, the government has lost control of large areas entirely and the main separatist movement, the Liberation Tigers of Tamil Eelam (LTTE), has grown from a small group of armed men in the late 1970s to a fighting force of many thousands of men and women.

## The emergence of killings and "disappearances"

In northeastern Sri Lanka, where most people belong to the Tamil minority, Tamil separatists have fought

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since the late 1970s for secession from the Sinhalese dominated state. Conflict escalated in mid-1983 after Tamil separatists in the north ambushed and killed 13 government soldiers. There was a wave of retaliatory violence against Tamil people living in the south, and in the north security forces were reported to be killing unarmed Tamil civilians at random, apparently in retaliation for the deaths of their colleagues. Over the next years, further reprisal killings were committed by army and police officers after members of their own forces had been killed by Tamil militants. The reprisal killings were committed openly by men in uniform; "disappearances" were almost unknown at first.

One response of the government forces to the activities of armed Tamil groups was to arrest many young Tamil men. Some were released within a few weeks, and although relatives were not normally informed where the arrested person was being held, many families were able to establish their arrested relatives' whereabouts. However, by late 1984 a new tactic of the security forces was evident: in an increasing number of cases where a person had been arrested by the security forces in front of witnesses, those forces denied holding the prisoner and their relatives were never able to establish their whereabouts. Whole groups of young men, who had been arrested together, simply "disappeared".

This new tactic of "disappearance" developed in Sri Lanka soon after the creation of a new police commando unit, the Special Task Force (STF). Members of this unit, as well as members of the army, were frequently seen taking into custody young men who then "disappeared". Testimony after testimony by witnesses described how the "disappeared" had been rounded up in groups by the army or the STF and taken away. Less frequently police, air force and navy personnel were described as the arresting authority.

Testimonies from released prisoners described the torture and killing of many prisoners in army or STF detention camps, and the secret disposal of bodies, often by burning. "Disappearance" appeared to be used for two purposes: it facilitated torture without accountability, and it concealed the killing of prisoners.

In the northeast the number who have "disappeared" or been extrajudicially executed to date runs into the thousands. From 1984 to mid-1987, Amnesty International recorded over 680 "disappearances" in the northeast. From mid-1987 to March 1990 the Indian Peace Keeping Force (IPKF) was responsible for the security of the northeast under the terms of the Indo-Sri Lanka Accord. During this period Amnesty International recorded 43 "disappearances" there for which the IPKF were believed responsible. After armed conflict resumed between government forces and the LTTE in the northeast in June 1990, the numbers reported to have "disappeared" or been extrajudicially executed reached thousands within months.

After the IPKF took control of the northeast in mid-1987, the Sri Lanka army and the STF were redeployed in the south, where the government was increasingly concerned about mobilization by the *Janatha Vimukthi Peramuna* (JVP), People's Liberation Front, a Sinhalese militant party. The accord between the governments of India and Sri Lanka - which provided for some devolution of power to provincial councils and brought the IPKF to the northeast - provided new momentum for the JVP, which had for years expressed a fear of Indian imperialism. The JVP began to target for assassination members of the ruling party, members of leftist parties which had supported the accord, members of the security forces and others, including relatives of targeted individuals. As their campaign of terror gradually mounted, they were able to command widespread strikes and stoppages, enforced by threats to kill those who refused to obey the strike call.

It was in this context that tactics of counter-terror, mirroring those of the JVP, were increasingly used by the security forces and other groups aligned with the government, and that there was such a massive rise

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in the numbers of extrajudicial executions and "disappearances". As the number of reported "disappearances" soared, bodies - mutilated or burned beyond recognition - began to be dumped in public places, by roadsides, in cemeteries or in rivers, or burned on pyres of rubber tyres. Some of these bodies may have been those of the "disappeared", but their identities usually could not be established.

Plainclothes pro-government death squads appeared under various names, echoing the JVP in issuing death threats to individuals and putting up threatening posters in public places. Like the JVP, they sometimes placed posters by dead bodies, claiming responsibility for the deaths of those whose bodies were dumped.

The government consistently claimed these groups were "pro-government vigilantes" over whom they had no control, and some of the killings were attributed to the JVP. But gradually evidence emerged indicating that, in many cases, the perpetrators were police or military personnel operating in civilian dress.

In addition, the government decided to distribute weapons to a range of civilian groups - including home guards, bodyguards for politicians, as well as members of militant groups with no more than a common enemy to link them to the government - to fight at one remove from direct governmental responsibility. The government provided no measures to ensure adequate control over these forces, and it has failed to hold members of these groups accountable for abuses they have committed. Such proxy forces have thus had much the same degree of immunity from prosecution as that enjoyed by the regular forces of the military and police with which they collaborated.

As in the northeast, many of the southern "disappeared" must be presumed to have been killed in custody. However, whereas in the northeast bodies of the victims were rarely found in the period from 1983-1987, in the south unidentifiable bodies, and sometimes severed limbs or heads, were regularly displayed in public as part of the campaign of counter-terror. This pattern of mutilation and display, together with the use of plainclothes squads, was transferred to the east when the military returned there from the south after the resumption of hostilities between the government and the LTTE in June 1990.

A staggering number of people were extrajudicially executed or have "disappeared". Tens of thousands - just how many tens of thousands is not known - "disappeared" in the south between 1987 and 1990, almost certainly the victims of extrajudicial execution, while others are known victims of extrajudicial execution. This period of violence was the most extreme in Sri Lanka's 20th-century history to date, and it was in this period that the so-called vigilante groups appeared. Since June 1990, however, when direct conflict resumed between Sri Lanka government forces and the LTTE over 3,000 people are estimated to have "disappeared", as practices of government forces in the south between 1987 and 1990 were transferred to the east in the initial months of the fighting.

## **The destruction of domestic safeguards and remedies**

Over the years a climate of impunity appeared to develop within the security forces, reinforced by the fact that the government took no action to make security forces personnel accountable for human rights violations. Normal legal safeguards to protect against "disappearances" and extrajudicial executions were eroded by the granting of special powers to the security forces, and many victims and their relatives who attempted to seek redress found themselves intimidated. The government appeared unwilling to prosecute members of the security forces responsible for gross human rights violations, even after an inquiry had been held,<sup>1</sup> and introduced indemnity legislation.

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In the face of armed opposition by Tamil secessionists in the late 1970s the Government of Sri Lanka gave extraordinary powers to the security forces. The Prevention of Terrorism Act (PTA) was introduced in July 1979, initially for a period of three years. It was later amended and incorporated into the normal law of Sri Lanka. In addition, a nationwide state of emergency has been in force since 18 May 1983, apart from nearly six months (January to June 1989) when it was lifted by President Ranasinghe Premadasa following his election as President. During a declared state of emergency, which has to be renewed monthly by parliament, the Emergency (Miscellaneous Provisions and Powers) Regulations are in force. These regulations are issued by the President under the Public Security Ordinance.

Both the PTA and the Emergency Regulations give the security forces wide powers to arrest suspected opponents of the government and detain them incommunicado and without charge or trial for long periods - conditions which provide a ready context for deaths in custody, "disappearance" and torture. Many thousands of people have been detained under these provisions. During some periods, Emergency Regulations have also been issued to permit the security forces to dispose of bodies without post-mortem or inquest, thereby enabling them even more readily to cover up their commission of deliberate and unlawful killings. Even when this provision has not been in force, the regulations have provided a special, secret inquest procedure which could be used to facilitate the cover-up of deliberate killings in custody.

The government's willingness to condone the actions of the security forces and government officials, even when they have committed gross abuses, was underlined in December 1988 when the Indemnity (Amendment) Act was passed days before a presidential election was to take place. This act gives immunity from prosecution to all members of the security forces, members of the government and government servants involved in enforcing law and order between 1 August 1977 and 16 December 1988 provided that their actions were carried out "in good faith" and in the public interest. The act also indemnifies any other person who can use the defence that he or she acted "in good faith" under the authority of a government official during this period.

The government's failure to prosecute members of the security forces responsible for human rights violations has contributed to a climate of impunity. Amnesty International does not know of a single case in which a member of the security forces was prosecuted for human rights violations committed in the northeast in the 1980s. In the south after mid-1987, a few cases of torture and extrajudicial execution received widespread publicity and provoked a public outcry; investigations were held and the alleged perpetrators prosecuted, but none of these cases has yet reached a conviction for murder. One of these trials - for the killing of a schoolboy in Teldeniya in June 1989 - was discontinued, and the charges withdrawn, after witnesses failed to appear for the prosecution. Material collected by Amnesty International indicates that they had been murdered or threatened with death if they gave evidence, but no official investigation was held to establish why they failed to appear in court. Only after the international community began to put more pressure on Sri Lanka for its human rights record did the government institute an independent Commission of Inquiry into a massacre by soldiers at Kokkadichcholai in the east in June 1991 - the first inquiry of its kind ever held in Sri Lanka. A military tribunal found the commanding officer guilty of failure to control his troops and illegal disposal of the bodies, and he was dismissed from service. The other 19 soldiers under trial were acquitted. At the time of writing, 23 soldiers had been charged for murdering villagers at Mailanthanai in August 1992, and were being tried by a civilian court. However, the case had been moved to a court some distance from where the killings took place, making it very hard for witnesses to attend.

Victims and their relatives have faced enormous difficulties in seeking redress. No effective legal remedy exists to trace a person who has "disappeared". Hundreds of relatives have filed *habeas corpus* petitions

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in attempts to trace "disappeared" prisoners, but the procedure has proved slow and ineffective. Lawyers and witnesses in these cases began to be murdered or threatened with death in 1989, and access to *habeas corpus* was effectively closed for many months as lawyers were reluctant to risk taking on such cases.

During the purge of the JVP in the south, the government appeared to become more directly involved in security forces strategies. Some "death squads" were apparently associated with senior members of the ruling party, for example. In the south, the subversive threat came from within the majority community itself: it was close to home and threatened the lives of ruling party politicians and their families. The Tamil separatists, in contrast, did not pose so direct a threat as the JVP to the continuing power of the government and to the lives of ruling party politicians and their families. Similarly, families of members of the security forces came under threat from the JVP.

It was in this context that the government and its security council appears to have encouraged counter-terrorism - state terror to fight opposition terror - as the way to destroy the JVP. There were different phases, with "political" as against "military" approaches predominating at different times. Emergency law was already in place to be applied, and extended, in this new situation.

The fact that such unprecedented numbers of people were victims of "disappearance" and extrajudicial execution in the south between 1987 and 1990 carries various implications, both for the domestic response to the tragedy and for the response of international agencies. Local and international human rights organizations have been overwhelmed by the numbers involved: thorough documentation of the full number of individual cases has so far proved impossible, although details have been recorded in thousands of cases. Pressing for accountability also becomes problematic: what kind of investigation is sought? How can the fate of so many individuals be clarified in practice? And from the government's point of view, the sheer scale of abuse increases the necessity for impunity to be maintained for acts committed in this period, both because such a large proportion of the security apparatus is likely to be implicated and because politicians themselves may be implicated. Indeed, when Amnesty International submitted 32 recommendations for human rights safeguards to the Sri Lankan Government in 1991, the two which the government rejected were both concerned with impunity: the government refused to permit a Presidential Commission of Inquiry into Involuntary Removals to investigate "disappearances" which occurred before 11 January 1991, and it refused to repeal the Indemnity Act.<sup>ii</sup>

## **Violence by the armed opposition and human rights**

The context of armed opposition has been crucial in both the northeast and the south. It has provided the government with a rhetorical claim of justification for "excesses in defence of democracy"; it has allowed confusion to be sown over issues of responsibility, particularly within the international community and the media; it has posed problems for local and international human rights organizations, who have been accused of supporting terrorism and of bias when they seek to uphold governmental responsibility under international human rights law.

Violence by the armed opposition has intensified over the years. In the north in the late 1970s and early 1980s, Tamil militants tended to attack a limited range of state targets, as well as other Tamils whom they considered "traitors" by standing as candidates for, or publicly supporting, the ruling party. More generalized attacks against civilian targets by the militants - bombs at bus stands, for example, or attacks on Sinhalese or Muslim communities - came in later years. As the security forces reacted with repressive measures against the Tamil population in general in certain areas, their acts seemed to create more and more of the militants they were ostensibly intended to suppress.

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The LTTE were not the only group of armed Tamil separatists at this time: during the 1980s several militant groups formed, with splits and factions developing, and alliances between them changing. Although they were often thought of collectively from the outside as "Tamil Tigers" or Tamil separatists, hostility between certain groups was intense at times. Abuses committed by Tamil militants within the Tamil community - torture of prisoners from rival militant groups, for example, or as disciplinary action within a group - remained closed to public view.

Today, now that one group - the LTTE - has excluded almost all expression of dissent within the area it controls, and has been publicly exposed as guilty of grave abuses of human rights, a small group of concerned Tamils have asked whether this situation might have been prevented if the international human rights community had begun to address abuse by the LTTE earlier. Local human rights workers who had carefully documented "disappearances" and extrajudicial executions by government forces remained silent about abuse within the Tamil community, perhaps sometimes because it would have been too dangerous for them to speak out, but also, according to some, because of fear of tarnishing their community's international image and cause.

In the south, too, the repressive tactics of the security forces may have encouraged the growth of armed militancy for a time. Certainly the JVP, like the LTTE, campaigned on human rights issues, citing the brutality of government forces in support of its anti-governmental stance.

There are several significant differences between the LTTE and the JVP which have implications both for the nature of the government's response to them, as already described, and for human rights organizations which seek to address their abuses. The LTTE is a secessionist movement: it does not seek to overthrow the Colombo government, but to create a separate state structure within a defined area of the country. The JVP, on the other hand, was "the enemy within", originating inside the majority Sinhalese population and seeking to overthrow the government and take power itself.

Unlike the LTTE, the JVP did not have strong international connections. With many thousands of Tamils living abroad, the LTTE has "front" organizations - promoting Tamil culture, lobbying on human rights issues and other themes, as well as providing funds - in several parts of the world. The JVP had no equivalent to this international Tamil lobby. It appears to have been a remarkably self-contained, local organization, armed largely with weaponry it seized itself. Although it brought the country's economy to a standstill at times, it did not reach a point where it sought international recognition for its cause or for its legitimacy.

## **The international response**

Despite the evident intensification of human rights violations in Sri Lanka during the 1980s, the international community was slow to take action on the matter. To highlight the emergence of a new pattern of abuse, in September 1986 Amnesty International launched an international campaign calling attention to the "disappearance" of Tamil youths in the northeast. In March 1987 the United Nations Commission on Human Rights adopted a weak resolution on Sri Lanka calling on all parties to renounce violence, observe humanitarian norms and reach a negotiated settlement, shortly before the situation in the northeast was dramatically changed by the arrival of the IPKF.

No effective preventive action was taken internationally while tens of thousands of youths in southern Sri Lanka were being killed or "disappearing" in 1989 and 1990. Most concerned foreign ministries appeared

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to prefer quiet diplomacy to public condemnation in this period, and motions on Sri Lanka failed to gain adequate support in UN bodies. But after the events in the south, at least, when the massive and unprecedented scale of gross governmental abuse became clear and some of the webs of official misinformation had been swept aside, the European Parliament (the parliamentary body of the European Community), Western aid donor countries and others were stirred to public denunciation. Western donor countries threatened to withdraw aid on human rights grounds, and this threat in particular has prompted the government to institute various inquiries and procedures concerned with human rights protection. However, the period of greatest abuse remains excluded from the scope of any inquiry so far, and most of the trials and inquiries that are in progress (some after several years) have not reached final conclusions.

During 1989 and 1990, and culminating in another international campaign in September 1990, Amnesty International constantly sought to publicize the intensified human rights violations in the south. For the first time in Sri Lanka, thousands of "disappearances" and extrajudicial executions were being committed by people in civilian dress whom the government falsely claimed were either "vigilantes" outside their control or members of the JVP. As noted, these so-called vigilantes imitated methods of the JVP and aimed to create a climate of terror to counter the terror the JVP.

Amnesty International's statements and appeals in this period provoked an angry, confrontational response from the government. The Minister of State for Defence accused Amnesty International of being a "terrorist organization", biased against governments and advancing the cause of terrorists. As time went by, confrontation, denial and a refusal to enter into any dialogue gradually gave way to a more conciliatory position as international opinion mobilised around human rights matters. Particularly because of its linkage to aid, the Sri Lankan authorities recognized that they had to address human rights in some visible way.

This recognition, however, has not been made without continued expressions of grievance. Within the country the debate on human rights remains highly politicized. The linkage of human rights with aid has provoked complaint in Sri Lanka, as elsewhere, of neo-colonialism and interference in the country's internal affairs, and the former President Premadasa repeatedly stated his commitment to "poverty alleviation" over and above civil and political rights.

Since the period of greatest abuse in the south, the problem remains of pressing for accountability after the event. The observance of international human rights law depends upon governments upholding human rights standards and providing remedies when violations have been committed. The difficulties of calling to account a government which appears to believe that its actions were justified and necessary are obvious. So far there has been no movement towards redress for the past - for victims of violations in the northeast over the past decade and in the south more recently. Continuing vigilance and action by the international community may be necessary to ensure that steps the government takes with regard to human rights protection for the future are effectively implemented, and are not permitted to exist merely on paper.

The government's response to international pressure has included a signal to the security forces that restraint is required, and a new acknowledgment that gross violations had indeed been committed by government forces. First, in late 1990, the International Committee of the Red Cross was granted access to the country. Then invitations were issued to the UN Working Group on Enforced or Involuntary Disappearances and to the UN Special Rapporteur on summary or arbitrary executions<sup>iii</sup>. In March 1991 Amnesty International was able to visit Sri Lanka for the first time since 1982, and in December 1991 the government announced its acceptance of 30 out of 32 recommendations for human rights protection offered by the organization. By November 1992, however, when Amnesty International visited again to assess the implementation of the recommendations, very few of them had been implemented, and arrests

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followed by "disappearance" continued to be reported from the east, in particular, although the overall level of "disappearances" was reduced considerably from the previous year<sup>iv</sup>.

Despite these developments there remains a need for caution in assessing the effect of international pressure on the human rights situation. The situation has certainly improved - but it must be remembered that an appalling record set the baseline for improvement, and the numbers of extrajudicial executions and "disappearances" which continued to be reported in 1992 would be considered high in many other countries. In such situations, where there is clear sensitivity to international opinion, the risk is that a government will create mechanisms ostensibly designed to protect human rights as a palliative to what it sees as an international public relations problem, without making underlying structural, institutional or policy changes which address the causes of human rights violations. In Sri Lanka, the government still has to demonstrate that it is genuinely committed to human rights protection by ensuring that the safeguards it has said it will introduce are implemented in practice, and by fully acknowledging and providing redress for past abuses.

## Notes

iIn 1979, for example, there was an isolated incident of killings and "disappearances" days after a state of emergency had been declared in the Jaffna district. The mutilated bodies of two young Tamil men who had been arrested by police the day before were found near a bridge. Three other young men who had also been arrested that day "disappeared".

The government established a Parliamentary Select Committee to investigate. The report, which was only made public four years later, concluded that in at least two of the cases there was evidence that the men had been taken to a police station. The Committee recommended that a special team of investigators be appointed. Instead, the government ordered the police to investigate themselves, and the police found no evidence of the men's whereabouts. One of the police officers named in the inquest into the death of one of the victims was later promoted.

The chairman of the Committee later became Minister of Internal Security. Violations committed during his term of office failed to be investigated.

iiFor the recommendations, see Amnesty International, "Sri Lanka - the Northeast; Human rights violations in a context of armed conflict", AI Index: ASA 37/14/91, September 1991.

iiiThe Working Group visited Sri Lanka in both 1991 and 1992. The Special Rapporteur has yet to take up his invitation.

ivThese findings are documented in Amnesty International, "Sri Lanka; An assessment of the human rights situation", AI Index: ASA 37/1/93, February 1993.