

## Sri Lankan Tamils tortured on return from the UK

Briefing, 13 September 2012

### Introduction

This briefing relates to a group of cases identified by Freedom from Torture of Sri Lankan Tamils tortured in Sri Lanka after they have returned voluntarily from the UK following the end of the civil war in May 2009. Our evidence relates to 24 victims of torture in these circumstances who have managed to escape and return to the UK and is based either on forensic reports prepared by our Medico Legal Report Service or on referrals to us for treatment made in most cases by NHS and other health and social care professionals.<sup>1</sup>

The UK recommenced forcible removals to Sri Lanka shortly after the civil war ended. This policy has been highly controversial in light of the culture of repression and impunity which continues to prevail in Sri Lanka. Citing 'reports of torture in custody' and other serious human rights abuses, the Foreign and Commonwealth Office identified Sri Lanka as a 'country of concern' in its latest *Human Rights and Democracy* report.<sup>2</sup>

On 25 February 2012, Freedom from Torture called for a suspension of forcible removals to Sri Lanka after Human Rights Watch began to publish information about Tamils who were tortured after forcible return to Sri Lanka, including from the UK.<sup>3</sup> Freedom from Torture has since become involved in a number of cases involving harm following forcible removal to Sri

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<sup>1</sup> In the absence of accurate statistical or other data about the fate of all those returning to Sri Lanka from the UK, a number of other contextual factors should be born in mind when assessing the significance of these cases. These include: the limited capacity of Freedom from Torture to accept referrals for treatment or medico-legal reports services; the fact that many torture survivors in the UK will not be referred to our services; the fact that many torture survivors may not have the means to escape detention in Sri Lanka or to flee Sri Lanka or to return to the UK; the fact that others may have fled to other countries; finally the ongoing problems of repression in Sri Lanka which mean that few cases of torture are reported from inside the country.

<sup>2</sup> Foreign and Commonwealth Office, *Human Rights and Democracy: The 2011 Foreign and Commonwealth Office Report* (April 2012) at page 318, available at <http://fcohrdreport.readandcomment.com/read-and-download-the-report/>

<sup>3</sup> Human Rights Watch, 'UK: Halt Deportations of Tamils to Sri Lanka', 25 February 2012 available at <http://www.hrw.org/news/2012/02/24/uk-halt-deportations-tamils-sri-lanka>. See also Human Rights Watch, 'UK: Suspend Deportations of Tamils to Sri Lanka', 29 May 2012 available at <http://www.hrw.org/news/2012/05/29/uk-suspend-deportations-tamils-sri-lanka>. Freedom from Torture's call for a suspension of removals of Tamils is available at <http://www.freedomfromtorture.org/news-blogs/6133>

Lanka from the UK. One of these cases recently made headline news<sup>4</sup> and another is the subject of proceedings in the European Court of Human Rights.<sup>5</sup>

**Freedom from Torture's concerns have been heightened significantly by the cases in this briefing of Sri Lankan Tamils experiencing torture after returning *voluntarily* to Sri Lanka in the post-conflict period.**

**In light of these cases, Freedom from Torture considers that the UK's removal policy for Sri Lanka is based on a flawed assessment of risk. Specifically, the cases examined in this briefing reveal that Sri Lankan Tamils who in the past had an actual or perceived association *at any level* with the LTTE but were able to leave Sri Lanka safely now face risk of torture on return. The cases demonstrate that the fact the individuals did not suffer adverse consequences because of this association in the past does not necessarily have a bearing on risk on return now. It is a *combination* of both residence in the UK and an actual or perceived association *at any level* with the LTTE which places individuals at risk of torture and inhuman and degrading treatment in Sri Lanka. We are repeating our calls for the UK government to halt forcible removals of Tamils to Sri Lanka while the UK Border Agency's policy on removals to Sri Lanka is changed to properly reflect this mounting evidence.**

## **Background**

Over the past year, Freedom from Torture has been closely tracking and analysing the forensic documentation of torture of Sri Lankans by our Medico-Legal Report (MLR) Service.<sup>6</sup> The impetus for this work was the UN Committee against Torture examination of Sri Lanka's compliance with its obligations under the UN Convention against Torture which took place in November 2011. Freedom from Torture submitted detailed evidence to the Committee of 35 cases involving torture committed in Sri Lanka following the end of the civil war in May 2009.

**Our evidence demonstrated that torture continues to be perpetrated in Sri Lanka following the conflict and that those at particular risk include Tamils with an actual or perceived association with the LTTE, including those returning from abroad.<sup>7</sup> In its concluding observations, the UN Committee against Torture emphasised its concerns about *'the continued and consistent allegations of widespread use of torture and other cruel, inhuman or degrading treatment of suspects in police custody'* and *'reports that suggest that torture and ill-treatment perpetrated by State actors, both***

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<sup>4</sup> Guardian, 'Tamils deported to Sri Lanka from Britain being tortured, victim claims' 5 June 2012 available at <http://www.guardian.co.uk/uk/2012/jun/05/tamils-deported-sri-lanka-torture?INTCMP=SRCH>

<sup>5</sup> *N and others v United Kingdom*, Application No. 16458/12. Statement of Facts and Questions to the Parties available at <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-112188>

<sup>6</sup> Freedom from Torture's medico-legal reports (MLRs) are detailed forensic reports which document physical and psychological consequences of torture. They are prepared by specialist clinicians – who act as independent experts in this task to assist decision makers in the context of asylum and other legal proceedings – according to standards set out in international guidelines for the documentation of torture called the Istanbul Protocol, and each is subject to a detailed clinical and legal review process. The possibility of fabrication of evidence is explicitly considered.

<sup>7</sup> Freedom from Torture, 'Submission to the Committee against Torture for its examination of Sri Lanka in November 2011', available at [http://www2.ohchr.org/english/bodies/cat/docs/ngos/FFT\\_SriLanka47.pdf](http://www2.ohchr.org/english/bodies/cat/docs/ngos/FFT_SriLanka47.pdf).

***the military and the police, have continued in many parts of the country after the conflict ended in May 2009 and is still occurring in 2011.***<sup>8</sup>

It was during the course of preparing this evidence for the UN Committee against Torture that Freedom from Torture first began to identify Sri Lankan Tamils, lawfully present in the UK with student or other visas, who were tortured after visiting Sri Lanka, usually for family reasons. We have continued to monitor our Sri Lankan MLRs for the purposes of providing an update to the Committee for its 12 month follow-up with Sri Lanka at its forthcoming 49<sup>th</sup> session and have noted the growing volume of cases fitting this profile. In addition, Freedom from Torture clinicians have noted a similar profile among Sri Lankans referred to our organisation for clinical treatment services.

We have set out in this briefing detailed aggregated evidence<sup>9</sup> of the following three groups of cases involving 24 Sri Lankan Tamils tortured after voluntarily returning to Sri Lanka from the UK in the post-conflict period:

- Group 1: 6 cases forensically documented via our MLR Service included in Freedom from Torture's original submission to the UN Committee against Torture and the public report *Out of the Silence – New Evidence of Ongoing Torture in Sri Lanka 2009-2011* based on this submission;<sup>10</sup>
- Group 2: 6 additional cases forensically documented via our MLR Service since these publications; and
- Group 3: 12 cases referred to Freedom from Torture for clinical treatment services mainly by health and social care professionals in the NHS or voluntary sector.

**This rate of referrals involving torture following return from the UK to a particular country is, to the best of our knowledge, unprecedented since Freedom from Torture was founded in 1985.**

**In at least 12 cases, 10 of which were forensically documented by our MLR Service (Groups 1 & 2), the victim reported that they were interrogated about their own activities or the activities of other Tamils in the UK.**<sup>11</sup>

<sup>8</sup> UN Committee Against Torture, CAT/C/LKA/CO/3-4 available at [http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4\\_en.pdf](http://www2.ohchr.org/english/bodies/cat/docs/co/CAT.C.LKA.CO.3-4_en.pdf)

<sup>9</sup> In a letter dated 29 August 2012, the Immigration Minister wrote to Freedom from Torture asking that we provide identifying details including the Home Office reference number for each of the cases we have reviewed for these purposes. However, in accordance with our standard practice, the findings of our research are presented in an aggregated format including because: (1) it would be inappropriate for Freedom from Torture to share details with the Agency about individual cases given that we are instructed as an independent expert witness, or may be so instructed, in most of these cases; (2) we are concerned to protect the individuals whose cases are included in the research and who may be easily identified if evidence is provided on a case by case basis; and (3) the objective of our research is to investigate patterns emerging from our evidence.

<sup>10</sup> Freedom from Torture, *Out of the Silence: New Evidence of Ongoing Torture in Sri Lanka 2009-2011*, available at <http://www.freedomfromtorture.org/document/publication/5857>

<sup>11</sup> This is revealed in the documents relating to the victim's asylum claim provided to Freedom from Torture as part of our instructions when preparing an MLR or those accompanying a referral to Freedom from Torture for clinical treatment services, or via disclosures made directly by the victim to Freedom from Torture. Note that according to our methodology when preparing MLRs, our doctors ask strictly clinically relevant questions germane to the documentation of torture according to the guidelines in the Istanbul Protocol and in line with their expert duties to the court and so do not stray into the arena of taking complete accounts of any client's asylum claim. In relation to Group 3 cases, it would be unusual for a referrer to include details of the content of interrogations as part of a referral to Freedom from Torture for treatment services and, therefore, we cannot rule out that a higher proportion of cases in this group involved interrogation about UK activities.

## **Group 1: Cases forensically documented by Freedom from Torture's Medico-Legal Report Service, January 2010 – October 2011, reported in *Out of the Silence* (November 2011)**

**Total: 6**

Of the 35 cases included in Freedom from Torture's original submission to the UN Committee against Torture and our subsequent report *Out of the Silence*, 9 had been lawfully present in the UK on a student or other type of visa, before returning to Sri Lanka where they were subsequently detained and tortured. Of these 9, 6 returned voluntarily to Sri Lanka following the end of the civil war (4 in 2009, 1 in 2010 and 1 in 2011), in all cases for what was intended to be a short term visit.<sup>12</sup>

### **Ethnic profile and immigration history**

Five of these cases are of Tamil ethnicity, the 6<sup>th</sup> being of mixed ethnicity, having Tamil antecedents and other Tamil extended family members; both male and female with ages ranging from 24-34. In 4 cases, their place of origin in Sri Lanka is either the Eastern or Northern Provinces - both areas heavily affected by the civil war and either controlled or largely controlled by the LTTE for many years - while 1 is from the Central Province and 1 is from Colombo.

Of the 6 cases, 5 were students and 1 was a dependent spouse on her husband's student visa. All had been in the UK for 1-4 years prior to their return visit to Sri Lanka. The reasons for the visits to Sri Lanka are reported as follows:

- short term visits for a variety of family reasons including family sickness and other family crises and to attend family celebrations
- the disappearance/abduction of immediate family members

As far as is known, 5 of the 6 cases had current visas when they left the UK; the visa of one individual had recently expired - they had been unable to renew it due to the disappearance of their father who had been paying their student fees. In one case there was a visa extension application in process when the individual left for Sri Lanka.

All 6 individuals have claimed asylum in the UK following their return from Sri Lanka and the outcomes of these asylum claims, according to the legal representatives, is as follows:

- **2 have been granted refugee status**, one of them granted on appeal; both cases were decided following the submission of medical evidence
- 1 case has been awaiting a decision from the UKBA for over 6 months
- in 1 case Freedom from Torture is waiting for information from the legal representative and in 2 cases we have no information because the then legal representatives has ceased trading

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<sup>12</sup> The other 3 cases returned voluntarily to Sri Lanka before the end of the conflict, although all were detained and tortured following the ceasefire in 2009, hence their inclusion in *Out of the Silence*.

## **Real or perceived association with the LTTE in Sri Lanka**

**All but 1 of this group of cases had an association with the LTTE in Sri Lanka (actual or perceived) in their own right and/or through immediate family members before they came to the UK.** The other case had an association via an immediate family member with an active opposition politician who had been targeted by the Sri Lankan authorities since the end of the civil war. These associations, recorded by the clinical examiner in the MLRs, were explicitly identified by the individual as part of their pre-detention history and/or were inferred by them as a result of the specific questions they were asked by the Sri Lankan authorities during interrogation.

It is not known with certainty whether the association had or had not come to the attention of the authorities prior to the individual coming to the UK, though it is known that none of the 6 had been previously detained. The means by which the association with the LTTE was subsequently established or became known by the Sri Lankan authorities is also not possible to establish with certainty, though informants are known to have been used to identify the individuals in 3 cases. Other potentially relevant factors are as follows:

- in 2 cases, an immediate family member was abducted by the Sri Lankan authorities while individuals were in the UK
- in 3 cases, all of whom had lived in areas affected by the civil war, they or their family members had, or were perceived to have, provided some support or service to the LTTE or to LTTE members, either voluntarily or under varying degrees of duress, prior to them coming to the UK<sup>13</sup>
- 1 case had been a supporter of the LTTE while in Sri Lanka and had also attended demonstrations while in the UK; this individual was shown photographs of their attendance at the demonstration in London during their interrogation and the same individual was later detained and tortured for a second time when identified by an informant as an LTTE supporter

## **Detention**

In all of the 6 cases the individual was detained within a month of their return and in some cases within days. All were arrested by the Sri Lankan police or military and they were picked up either from their home or at checkpoints. Two of the 6 cases were detained twice; on the first occasion they were interrogated and then released within 2 days with no ill-treatment. Both were, however, subsequently detained again for several months and tortured. The length of detention across the 6 cases ranged from 2 days to 3 months, with 4 being detained for less than a month.

All cases reported escaping from detention when a family member paid a bribe for their release, which raises serious concerns about other victims without the necessary funds or connections to secure release.

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<sup>13</sup> Association with the LTTE, voluntary or under duress, should be understood in the context in which Tamils have lived in the Northern and Eastern Provinces of Sri Lanka - in a conflict zone and in areas controlled by the LTTE where people were typically drawn into an involvement with the LTTE at one time or another in their lives, by persuasion or by force and intimidation or a combination of both. See for example United Nations Secretary General, Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka, 2011, [http://www.un.org/News/dh/infocus/Sri\\_Lanka/POE\\_Report\\_Full.pdf](http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf), p. 8-9

## Interrogation patterns

As well as being interrogated about their associations with the LTTE in Sri Lanka as described above, **5 of the 6 cases were interrogated during their detention specifically about their activities or contact with and/or knowledge about the LTTE in the UK.**

Individuals reported being interrogated about:

- LTTE contacts in London
- the whereabouts of named LTTE members or supporters in London
- LTTE fundraising activities in London and their involvement in this or other forms of work for the LTTE
- anti-government demonstrations and protests in London; who the organisers were and their participation in these events

**Three of these 6 individuals had attended at least one demonstration while in the UK, though only one as a supporter of the LTTE. One individual reported that she was accused during interrogation of going to London not to study but to help the LTTE. Another reported that during interrogation the perpetrators had said that having killed most of the 'big people in LTTE' they were now 'killing the supporters' and that since 'all Tamil supporters are LTTE, if we kill them we will not get this problem again'.**

## Torture disclosures

All 6 cases involved torture in detention. Perpetrators were identified as non-uniformed security personnel, prison guards and police and army officers. All cases were tortured repeatedly and in 3 cases daily throughout their detention.

Specific torture methods disclosed by these individuals follow the pattern identified in *Out of the Silence* and included the following:

- blunt trauma in all 6 cases, including beating with PVC plastic pipes filled with cement, with metal bars, wooden clubs and sticks and whipping with cables
- sharp trauma in one case, where the individual was cut with a metal instrument
- burns in 4 cases with cigarettes or heated metal rods
- sexual assault in all 6 cases and rape in 1 case
- suspension in 3 cases
- partial asphyxiation/suffocation using water or plastic bags containing petrol in 2 cases

The forms of sexual torture perpetrated in these cases included oral rape and sexual assault. Specific forms of sexual assault involving male and female victims included non-penetrative assault in 3 cases, penetrative assault using digits or instruments in 2 cases, being forced to masturbate another in 1 case and violence to the genitals in 1 case. Forced nakedness was reported in half the cases.

One case reported that they were forced to sign a false 'confession' following torture, while others reported being subject to threats of death and ongoing torture and 1 person was subjected to a mock execution.

## Documentation of torture

**It should be noted that according to Freedom from Torture's methodology for the preparation of medico-legal reports, all scars will be examined, recorded and assessed during the clinical examination and documentation process, not only scars attributed to torture. The whole of the subject's testimony is assessed in the light of, among other things: health reported prior to and after torture, the history and detail given of the torture and the subject's affect and behaviour. Doctors specifically consider the possibility of fabrication of the clinical condition and other possible causes of the scarring before making their conclusions about the strength of the evidence of torture.<sup>14</sup>**

Numerous scars are forensically documented in 5 of the 6 cases, with 6-20 scars in each case and an average of 11 scars per case being attributed by the clinical examiner to torture. One case in this group had no scarring, having been subjected primarily to forms of torture that do not leave scars, although he had had physical injury requiring surgery to joints and ligaments as well as other physical and psychological sequelae attributed to torture. Three cases have scars assessed as 'diagnostic' of torture - 2, 6 & 9 scars per individual (though the 9 were assessed as a group) - attributed to bindings used in suspension, burns and blunt trauma respectively. Three cases have scars assessed as 'typical' of torture - 2, 9 & 18 for each individual (in the latter case 16 of the 18 having been assessed in 5 groups) and attributed to burns and blunt trauma including whipping. Across the 5 cases, 15 other scars are documented and assessed as 'highly consistent' or 'consistent' with the attributed cause of torture involving sharp and blunt trauma and burns.<sup>15</sup> Non-scar injury and symptoms documented in the MLRs for these cases includes chronic pain, musculoskeletal problems and damage to joints and ligaments.

The healing rate of scars is determined by a number of variable factors and their appearance seldom changes significantly after 6-12 months when healing has taken place. Therefore, it is not usually possible to accurately determine the exact age of scars after this time. In all of the 5 cases in this group where scars were documented, the scars were 3-5 months old, with an average of 3 months, which enabled a fairly accurate estimate of the specific date of infliction of the injury and a strong corroboration of the specific history of torture in all cases. Two cases were, in addition, photographed within 1 week and 1 month respectively of the injury being inflicted, providing evidence of scarring at an earlier stage of healing, which was then compared with the presentation of the scars on examination, 4 months and 1 month later respectively. It is interesting to note that of the 7 (out of 35) cases reported in *Out of the Silence* where there was scarring less than 6 months old when seen by the clinical

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<sup>14</sup> A detailed description of Freedom from Torture's methodology for preparing medico-legal reports is available at <http://www.freedomfromtorture.org/sites/default/files/documents/methodology%20mlr.pdf>

<sup>15</sup> See the *Istanbul Protocol – Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, paras 187-188 'Examination and evaluation following specific forms of torture', for a description of the terms which indicate the degree of consistency between the lesion and overall pattern of lesions and the attribution given by the subject, available at <http://www.ohchr.org/Documents/Publications/training8Rev1en.pdf>



examiner, 5 are in this group of cases – those who returned voluntarily to Sri Lanka from the UK after the end of the civil war.<sup>16</sup>

As stated in *Out of the Silence*, the extensive use of torture methods that produce distinctive and permanent scarring ‘... could reflect a policy of permanently ‘branding’ victims not only to inflict long term psychological and physical damage but also to ensure that the individual may be easily identified in future as having been suspected of LTTE links. Given that release from detention in each case in this data set occurred only after payment of a bribe, and was otherwise arbitrary, the implication is that those carrying such scars are at risk of detention and possible further torture if returned to Sri Lanka. Beyond the impact on the individual, these enduring signs of torture must be intended to send a signal to the wider Tamil community about the consequences of association with LTTE elements.’<sup>17</sup>

Although not all survivors of torture will have psychological symptoms and diagnoses related to torture, this will be assessed and where applicable documented in every case in the context of the preparation of a medico-legal report. Of the 6 cases reviewed here:

- 3 are assessed as reaching the diagnostic threshold for PTSD related to their torture experience, 2 of which have an additional clinical diagnosis from an external health professional, and 2 others are reported as having some features of PTSD
- 3 are assessed as reaching the diagnostic threshold for depression related to their torture experience, 2 of which have an additional clinical diagnosis from an external health professional; one other case is assessed as having symptoms of depression and 4 cases are reported to be taking medication for depression prescribed by their GP or a mental health practitioner

### **Group 2: Cases forensically documented by Freedom from Torture’s Medico-Legal Report Service, November 2011 – August 2012**

**Total: 6**

Since the publication of our submission to the UN Committee against Torture and *Out of the Silence*, our MLR Service has finished producing MLRs for a further 19 Sri Lankan clients who were tortured following the end of the civil war (in 12 of these cases the torture was committed from 2010 onwards – mostly in 2011 and there is one case from 2012<sup>18</sup>).

**When these cases are added to the 35 cases already reported in our previous publications referred to above, Freedom from Torture has forensically documented a total of 54 post-conflict Sri Lankan torture cases spread across 2009, 2010 and 2011, the most recent of which involved detention and torture in January 2012. We have a further 30 Sri Lankan cases that are still in the process of being documented by our MLR Service, and it is likely that many of these will involve post-conflict torture.**

Of the 12 more recent cases (detained and tortured in 2010-12), half (6) had been lawfully present in the UK on a student or other type of visa prior to returning (or in one case being

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<sup>16</sup> *Out of the Silence, op cit.*, page 14.

<sup>17</sup> *Out of the Silence, op cit.*, page 21.

<sup>18</sup> Survivors may take many months to flee from Sri Lanka and assemble their asylum claim in the UK and it often takes five or more months to finalise an MLR, especially where there are multiple injuries to document or the survivor is highly traumatised.



forcibly removed while en route voluntarily from the UK to a third country) to Sri Lanka, where they were detained and tortured. The profile and history of these 6 cases is reviewed below.

### **Ethnic profile and immigration history**

All cases are of Tamil ethnicity, both male and female. The age range across the cases is 22-35. The place of origin of 5 of the cases is either the Eastern or Northern Province while one person is from Colombo.

In all 6 cases, the individual was resident in London as a student prior to being tortured in Sri Lanka – 5 returned voluntarily to Sri Lanka for family visits, 4 in 2011 and 1 in 2012 and 1 was removed to Sri Lanka in 2011 by a third country while voluntarily en route from the UK to another state.<sup>19</sup> The particular reasons for the family visits to Sri Lanka in these cases include to marry, to visit sick and hospitalised close relatives and to attend the funeral of a family member.

All 6 individuals have claimed asylum in the UK following their return from Sri Lanka and the outcomes of these asylum claims, according to the respective legal representatives, is as follows:

- **3 cases have refugee status;** in 1 case, the client was granted refugee status on appeal; in 2 other cases the UKBA withdrew their decision to refuse asylum just before the appeal hearing; all 3 cases were decided following the submission of medical evidence
- 1 case has been awaiting a decision from the UKBA for over 6 months
- in 2 cases Freedom from Torture is waiting for information from the legal representative

### **Real or perceived association with the LTTE in Sri Lanka**

**All 6 cases in this group had an association with the LTTE in Sri Lanka (actual or perceived) in their own right and 4 had additional LTTE associations through family members before they came to the UK.** As noted above, these associations, recorded by the clinical examiner in the Medico-Legal Reports, were explicitly identified by the individual as part of their pre-detention history and/or were inferred by them as a result of the specific questions they were asked by the Sri Lankan authorities during interrogation. Five of the 6 cases, all of whom lived in the areas most affected by the civil war, reported having provided a variety of services to LTTE members related to their field of work, either voluntarily or under varying degrees of duress.

In 3 cases, it is not known with certainty whether this association with the LTTE had or had not come to the attention of the authorities prior to the individual coming to the UK; the other 3 had been previously detained and tortured in Sri Lanka, two of them prior to coming to the UK and one of them when visiting Sri Lanka, while resident in the UK on a student visa.

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<sup>19</sup> This individual had already returned once to Sri Lanka for a visit and was detained and tortured. They returned to the UK and continued to study. Their visa expired and they were subsequently removed to Sri Lanka en route from the UK to a third country.

The means by which the association with the LTTE was established or became known by the Sri Lankan authorities in the former 3 cases is not possible to establish with certainty, though informants are known to have been used to identify the individuals in 2 cases, prior to their detention.

## **Detention**

Five of the 6 cases involved detention in 2011 and 1 case involved detention in 2012. One person was detained and tortured twice within the space of a week by different branches of the security forces (see below).

The place of arrest was the family's home address in 3 cases while 1 person was arrested when reporting to the local police station following a summons delivered to their home address. One person was detained on the street near their home and 1 was detained at the airport on arrival. In most cases the arresting authorities wore uniforms, though in 2 cases they did not and in 1 case there was a mixed group of uniformed and non-uniformed personnel. Half the cases were transported to their place of detention in the notorious 'white van'.

The different types of detention facility included: 'intelligence' facilities, army facilities, prison camps, police cells and 'unknown'. Named detention facilities were Colombo fort, Jaffna army camp, Bossa camp, Vavuniya police station and Negombo police station.

The duration of detention was reported as less than a week in 1 case, less than a month in 3 cases and more than 6 months in 1 case. In 5 cases the individual reported that they escaped from detention when a family member bribed an official and 1 was otherwise released. One person reported their initial detention and torture to their local police station following release. This person was sent to hospital for the treatment of their wounds (arising from burning and blunt trauma) and was then returned to the police station for interrogation about their connections with the LTTE, including in the UK. Although released home, the same individual was then re-arrested the following day by army personnel who detained and tortured him again.

## **Interrogation patterns**

### **(i) Actual or perceived association with the LTTE in Sri Lanka**

In at least 5 of the 6 cases, the individual reported that they were interrogated in relation to their actual or perceived association with the LTTE, as described above. Two people specifically stated that they were identified by informants – former LTTE members or associates – prior to their detention. In these cases, details about their activities had been given to the authorities, who then sought to force a confession and/or to elicit further details and information, including names of other associates and LTTE supporters through further interrogation and torture. Individuals reported being shown photographs of people and being asked to identify them as well as being interrogated about supply lines and other services provided to the LTTE.

### **(ii) Actual or perceived association with and/or knowledge of the LTTE in the UK**

**Crucially, in these 5 cases the individual was also specifically interrogated about their own activities and/or the activities of other Tamils in the UK in support of the LTTE. In**

some cases, the individual had an actual association with LTTE in the UK, while in others this had been perceived by the Sri Lankan authorities. Individuals reported being asked general questions during interrogation including why they had left Sri Lanka, why they had gone to the UK specifically, what they were doing in the UK and why they had returned to Sri Lanka. However, more specific lines of interrogation were also reported in these cases, within the context of repeated episodes of torture, which focused on eliciting an admission of participation in particular activities in support of the LTTE while in the UK and/or eliciting information about the LTTE and its members and supporters in the UK.

Between them, these individuals were specifically interrogated about the following:

- their connections with the LTTE in London
- LTTE members and supporters in the UK; their whereabouts and activities
- their participation in a 'campaign' against the Sri Lankan government in the UK
- their specific participation in demonstrations and protests in London, including 'Heroes Remembrance Days' and demonstrations against the Sri Lankan President and the Sri Lankan government
- raising money for the LTTE in London
- their participation in efforts in the UK to 'revive the LTTE'

Individuals reported being shown photographs and being asked to identify themselves or others. One person described being shown video clips and a photograph of a person on a demonstration and being forced eventually to sign a false 'confession' in Sinhalese (a language he does not speak) that the person was him. Others also reported being forced under torture to sign 'confessions' presented to them as blank documents. One individual reported that his interrogators told him: 'the Sri Lankan authorities know that Tamils who are in the UK support the LTTE'.

### **Torture disclosures**

All 6 cases involved torture in detention. Perpetrators were identified as police and intelligence officers and prison guards as well as non-uniformed personnel. All 6 were tortured on many occasions throughout their detention.

Specific torture methods disclosed by these individuals follow the pattern identified in *Out of the Silence* and included the following:

- blunt trauma in all cases, including beating with metal and rigid plastic pipes
- burns with heated metal objects or cigarettes in 5 of the 6 cases
- sexual assault and/or rape in 4 cases
- suspension in 2 cases
- partial asphyxiation/suffocation using water or plastic bags containing petrol in 2 cases

The forms of sexual torture inflicted on this group of cases included rape and sexual assault. Specific forms of sexual assault included penetration with an object, violence to the genitals and being forced to masturbate the perpetrator. Forced nakedness, or being forced to strip to underwear, during interrogation and torture was reported in all cases.

In addition, 3 cases were subjected to forced confessions following torture, while many reported frequent threats that they would be killed and/or subjected to further torture; that others such as close family members would be harmed and in one case a fellow detainee (a former friend and the person who had identified the individual to the authorities) was killed in front of the individual whilst he continued to be interrogated and the body was left in the cell with him overnight.

### **Documentation of torture**

Numerous scars are forensically documented in the 6 cases, with 5-30 scars in each case and an average of 17 scars per individual being attributed by the clinical examiner to torture. Four cases have scars assessed as 'diagnostic' of torture, ranging from 3-12 scars for each individual and attributed to burns and blunt trauma. Five cases have scars assessed as 'typical' of torture, ranging from 4-30 for each individual and attributed to burns (in one case 21 separate burn scars on one individual), blunt trauma, suspension and sexual torture. Across the 6 cases more than 30 other scars are documented and assessed as 'highly consistent' or 'consistent' with the attributed cause of torture involving blunt trauma and burns. Non-scar injury and symptoms documented in the MLRs for these cases include chronic pain in all cases, soft tissue injury and damage to joints and ligaments, a healed fracture of the patella (x-rayed 10 weeks after the torture) caused by a blow to the knee or a fall and limited mobility of various limbs and joints.

As stated above, it is not usually possible to accurately determine the exact age of scars after 6-12 months, when healing has taken place. However, all 6 of these cases had scars that were 3-8 months old, which enabled a fairly accurate estimate of the specific date of infliction of the injury and a strong corroboration of the specific history of torture. Two cases were, in addition, photographed within 3 weeks and 12 weeks respectively of the injury being inflicted, providing evidence of scarring at an earlier stage of healing, which was then compared with the presentation of the scars on examination.

Although not all survivors of torture will have psychological symptoms and diagnoses related to torture, this will be assessed and documented in every case in the context of the preparation of a medico-legal report. Of the 6 cases reviewed here:

- 4 are assessed as reaching the diagnostic threshold for and the other 2 are reported as having some features of PTSD related to their torture experience
- 4 are assessed as reaching the diagnostic threshold for depression related to their torture experience, 2 of which have an additional external clinical diagnosis; the other 2 cases are assessed as having symptoms of depression related to their experience of torture

### **Group 3: Cases referred to Freedom for Torture London Centre for clinical treatment, November 2011 – August 2012**

**Total: 12**

The information for these 12 cases presented in summary below is based on the details provided in referral forms for clinical treatment at Freedom from Torture's London Centre. All referrals are reviewed by a Clinical Intake Panel, which considers if the person falls within the organisation's remit as a survivor of torture or organised violence and if they should be

referred for internal assessment with a view to the provision of clinical services, according to a defined set of criteria for prioritising cases. Reasons for a case not being accepted for assessment include the fact that the individual is sufficiently supported and is already in receipt of appropriate mainstream clinical services or that they are able to access appropriate services elsewhere, in which case an appropriate onward referral is made.

The unusual profile of the cases - all Sri Lankan Tamils who were lawfully present in the UK and who were tortured having returned voluntarily to Sri Lanka for short term visits after the end of the conflict – raised sufficient concerns for our Clinical Intake Panel to forward information about these cases to research and policy staff at Freedom from Torture.

Although referrals to Freedom from Torture for treatment services are accepted from any concerned individual or professional, including torture survivors themselves, it is notable that of these 12 cases 9 were referred by NHS clinicians – 2 by staff (a psychotherapist and a clinical psychologist respectively) at different burns units of NHS hospitals where they were receiving treatment for torture related injuries, 3 by GPs, 2 by mental health professionals in Community Mental Health Teams, and 2 by psychiatrists. The other 3 cases were referred by a social worker, a therapeutic caseworker at the Refugee Council and the legal representative respectively. All of the referrers identified the person as a survivor of torture in need of clinical treatment and support.

The 12 cases were referred to Freedom from Torture between November 2011 and August 2012; 4 of the cases are from 2011 and 8 are from 2012. All of the cases were accepted by the Intake Panel as being within the remit of Freedom from Torture and 2 of the cases in this group have been assessed and are currently in clinical treatment and 1 is on the waiting list for clinical treatment. Three cases are actively engaged in the assessment process and the assessment of 2 further cases is pending more information about the referrer's capacity to provide ongoing services. One case has not been accepted as a priority on the basis that there is appropriate clinical care in place and the other has been dispersed elsewhere in the UK and an onward referral has been made to services in the relevant area. In the remaining 2 cases, the individual was accepted for assessment by the Intake Panel but to date the client has not attended appointments.

### **Ethnic profile and immigration history**

All cases are of Tamil ethnicity; 10 are men and 2 are women. Their age range is 23-41, the average age being 27.

All but 1 of the cases were present in the UK for 1-5 years prior to returning to Sri Lanka where they were tortured - 9 were in the UK on student visas, 2 on dependent spouse visas (their spouse was a student in both cases) and the immigration status of 1 is unknown. The date range of return to Sri Lanka was 2010-2012, although all but 1 returned in 2011 (7 cases) or 2012 (4 cases). The reasons given for the return visit included: to see family and have a holiday; to visit sick or hospitalised family members and to attend a family funeral.

To date, none of the individuals in these cases have been referred by their legal representative to our MLR Service. According to the limited information available to us, the individual in one of these cases has been granted refugee status and 8 others still have undetermined claims. One person is in the process of applying for asylum and the immigration status of 2 others is unknown.

## **Detention**

Most cases (10 out of the 12) were detained within a month of their arrival in Sri Lanka, some within days; however, 1 was detained at the airport on arrival and one was detained after 6 months. The year of detention was therefore 2011 in 8 cases and 2012 in 4 cases.

Except for the case detained at the airport on arrival, the place of arrest or abduction included their home address, checkpoints, in the street in the home area and outside a police station. Five cases reported that they were specifically identified by informants as being associated with the LTTE when they were arrested. Half the cases disclosed to those making the referral to Freedom from Torture that they had an association (actual or perceived) with the LTTE and indicated their view that this was the reason for their detention. The presumed reason for detention was not recorded in the other 6 cases.

Most of the 12 cases (10) involved detention for less than a month, with the length of detention ranging from 2-20 days and an average of 11 days for this group. One person was detained for 3 months and 1 for 10 months. Eight cases reported that they had escaped from detention, 5 of whom specifically mentioned that a family member had bribed the authorities. One case was released on bail with reporting conditions and was ill treated when they reported to the authorities.

## **Interrogation on actual or perceived association with and/or knowledge of the LTTE in the UK**

Two cases in this group specifically reported to their referrer that, among other things, they had been interrogated about their own or other Tamils' activities in the UK; one was accused of taking part in demonstrations and of raising funds for the LTTE in London and the other was interrogated about who in the Tamil community is conducting meetings and spreading propaganda in the UK. In the remaining cases it is not known whether the individual was interrogated about their activities or the activities of other Tamils in the UK, which is unsurprising given this aspect of an individual's history is not routinely reported in a referral for treatment services.

## **Torture disclosures**

It should not be assumed and would not be expected that a full disclosure of torture would be included as part of a referral to Freedom from Torture for treatment services. In most cases, fuller disclosure would be elicited during our clinical assessment process and over time in the course of therapy. Nonetheless, specific torture methods disclosed to the referrer in these cases follow the pattern identified in *Out of the Silence* and the cases described in Groups 1 & 2, including the following:

- burning with heated metal implements or cigarettes (6 cases)
- blunt trauma, beatings and kicking (9 cases)
- suspension (4 cases)
- partial asphyxiation/suffocation with water or gasoline (4 cases)
- rape and sexual violence (at least 2, 1 on multiple occasions, both male and female victims)

## Physical and psychological effects of torture

The referral form for clinical treatment at Freedom from Torture does not require the documentation of all the physical and psychological sequelae of torture, nonetheless the following physical and psychological findings, in addition to chronic pain, attributed to torture were recorded in summary across the 12 cases:

- Physical marks - extensive burn marks and other lesions and scars on the back, legs, and arms as well as further 'external and internal injuries arising from torture' and injuries and scars on the ankles and wrists of some individuals
- Psychological symptoms - frequent nightmares, insomnia, flashbacks, hyper vigilance, poor concentration and memory, symptoms of depression and anxiety and suicidal thoughts and ideation (3 cases)

## Conclusion

When looked at together, these 24 cases of Tamil returnees from the UK with a real or perceived LTTE affiliation who were targeted for detention and torture in Sri Lanka demonstrate that torture is ongoing despite the conclusion of the civil war. They further indicate that (a) the fact that an individual did not face adverse consequences in the past because of their actual or perceived association with the LTTE *at any level* is not decisive now in assessing risk on return; because (b) return from the UK specifically has been a factor in the Sri Lankan authorities' decision to detain with a view to obtaining further intelligence about historical or current LTTE activity in both Sri Lanka and the UK. They raise the strong concern that Sri Lankan Tamils who have lived in the UK, with a previous or live LTTE association (actual or perceived), are being targeted because they are suspected by the Sri Lankan authorities of (i) being engaged in political activities while living in the UK; and/or (ii) having knowledge about LTTE activity in the UK. There should be a pause in forcible removals of Tamils to Sri Lanka while the UK Border Agency's policy on removals to Sri Lanka is changed to properly reflect this evidence.

The interest in Tamils returning from the UK may be attributable to:

- i. Evidence obtained by the Sri Lankan authorities or assumptions or suspicions about the activities of the particular individual in the UK connected with the LTTE or otherwise considered to be subversive; and/or
- ii. An attempt by the Sri Lankan authorities to acquire intelligence about the activities of the Tamil diaspora community in the UK, including any activities that could facilitate a resurgence of the LTTE or which the authorities consider to be in any other way subversive; and/or
- iii. Suspicions on the part of the Sri Lankan authorities about the Tamil community in the UK in particular, giving rise to additional scrutiny of those who enter Sri Lanka from the UK during routine security screening conducted at the airport or thereafter and a risk of subsequent detention and interrogation about the activities of the individual or other Tamils in the UK; and/or
- iv. An attempt by the Sri Lankan authorities to terrorise the Tamil diaspora community in the UK as a means of punishing it for any past support for the LTTE and/or to



discourage it from any efforts to revitalise the LTTE from the UK or otherwise organise opposition to the Sri Lankan government.<sup>20</sup>

For further information please contact:

Researcher: Jo Pettitt, [jpettitt@freedomfromtorture.org](mailto:jpettitt@freedomfromtorture.org) or +44 207 697 7803

Policy and Advocacy Manager: Sonya Sceats, [ssceats@freedomfromtorture.org](mailto:ssceats@freedomfromtorture.org) or +44 207 697 7766

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<sup>20</sup> See for example the comments of the Sri Lankan delegation during its examination on 8-9 November 2011 by the UN Committee Against Torture. The Committee stated that the allegations of ongoing torture from the 'most reliable sources', including Freedom from Torture, meant that the Sri Lankan government's continued assertion of a 'zero tolerance policy' against torture was not born out in reality. The Sri Lankan delegate stated in reply that host states for Sri Lankans seeking asylum in Europe, which includes the UK, should not create 'nurseries for terrorists' and that the 'Convention Against Torture should not be permitted to be exploited in the hands of terrorists' who seek to use allegations of torture in pursuit of an asylum claim. A live webcast of the UN CAT session is available at <http://www.ustream.tv/recorded/18408192>; these comments were made during day 2 on the 9<sup>th</sup> of November @ 2hrs.08- 09 minutes.