

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Abuses under Sri Lankas Prevention of Terrorism Act

The Sri Lankan government has failed to fulfill its pledges to abolish the abusive Prevention of Terrorism Act (PTA). For decades, the PTA has been used to arbitrarily detain suspects for months and often years without charge or trial, facilitating torture, and other abuse. Drawing on interviews with former detainees, family members, and lawyers working on PTA cases, Human Rights Watch found that the PTA is a significant contributing factor toward the persistence of torture in Sri Lanka. The 17 accounts documented in the report represent only a tiny fraction of PTA cases overall, but they underscore the laws draconian nature and abusive implementation.

Sri Lankan police stand guard at a protest calling for the release of Tamil activists being held under the Prevention of Terrorism Act in Colombo, Sri Lanka, October 14, 2015. 2015 Ishara S. Kodikara/AFP/Getty Images

The Sri Lankan government has failed to fulfill its pledges to abolish the abusive Prevention of Terrorism Act (PTA). For decades, the PTA has been used to arbitrarily detain suspects for months and often years without charge or trial, facilitating torture, and other abuse. Drawing on interviews with former detainees, family members, and lawyers working on PTA cases, Human Rights Watch found that the PTA is a significant contributing factor toward the persistence of torture in Sri Lanka. The 17 accounts documented in the report represent only a tiny fraction of PTA cases overall, but they underscore the laws draconian nature and abusive implementation.

In August 2008, Sri Lankan police were searching for Malathi's son, Kanna, whom they accused of aiding and abetting the insurgent Liberation Tigers of Tamil Eelam (LTTE). Malathi, who asked that her real name not be used, believes Kanna escaped abroad, as she has not heard from him since. However, when the police could not find Kanna, they arrested his 37-year-old wife, Durga (also a pseudonym). Malathi says that Durga was detained for nearly a year before being produced before a magistrate. It was a further six years before any charges were filed against her. Durga was eventually acquitted of all charges in 2015.

Durga has received no apologies, compensation, or answers for her seven years in detention. She remains psychologically and physically impaired because of her long incarceration. Her three young children were raised during those years by her mother-in-law. Malathi says it has been difficult:

\* \* \*

Hundreds of people like Durga have been arbitrarily detained in Sri Lanka under the Prevention of Terrorism Act (PTA), which was enacted in 1979 to counter separatist insurgencies, notably the LTTE. The law allows arrests for unspecified unlawful activities without warrant, and permits detention for up to 18 months without the authorities producing the suspect before a court pre-trial.

While other insurgent groups proved short-lived, the LTTE sustained a 26-year-long civil war in Sri Lanka that involved horrific abuses by both LTTE and government forces. The LTTE carried out targeted killings, suicide bombings, and torture, among other abuses. Military abuses included arbitrary arrests, summary executions, and forced disappearances, as well as indiscriminate attacks in the war's final months. Government forces defeated the LTTE in May 2009.

Nearly nine years since the end of the fighting, the PTA has remained in effect, and has been used to arrest and hold people without charge or trial for months, even years. Many PTA detainees have been tortured in custody, and others have been among those forcibly

disappeared. Those released have suffered psychologically as well as physically.

In October 2015, following elections in August, the Sri Lankan government under President Maithripala Sirisena agreed to a consensus resolution at the United Nations Human Rights Council under increasing diplomatic pressure. The resolution committed the government to ensure accountability for conflict-related abuses by enacting several transitional justice mechanisms. Along with other human rights related reforms, the government also pledged to repeal the PTA, but has not yet done so.

This report, based on interviews with 34 former detainees or their relatives, documents serious human rights violations under the PTA including severe torture and sexual abuse, as well as systematic denials of due process. While the cases detailed here address the experiences of only a tiny fraction of the hundreds of people who suffered under the PTA, the accounts underscore the need to ensure that any new counterterrorism legislation is rights-respecting and does not replicate past abuses.

Protests calling for the release of PTA detainees have increased in recent years. In October 2017, students at Jaffna University began a protest against the PTA that led to a brief shutdown of the campus. A hunger strike by PTA detainees has reportedly led to one prisoner being released and a second hospitalized.

The PTA has been used to arbitrarily detain an unknown number of people without access to legal recourse. One former detainee, held without trial from 2007 to 2010 at the Welikada prison in the capital, Colombo, told Human Rights Watch that there were at least 800 PTA prisoners detained with him, many of them held without any credible basis.

A few years after the war ended, some were charged, some were sent for rehabilitation, some signed confessions and were given short sentences, he said. In my experience, they just use the PTA to keep you locked up with no evidence.

The PTA has also been used for politically motivated arrests of peaceful activists. In March 2014, prominent human rights campaigners Ruki Fernando and Father Praveen Mahesan were arrested while attempting to assist a 12-year-old girl whose mother, Jeyakumari Balendran, had been arrested under the PTA. An international outcry quickly led to Fernando and Father Praveen's release on bail. The charges have yet to be dropped, and they continue to occasionally face harassment by immigration authorities when they are leaving the country for travels abroad.

Human Rights Watch and other organizations have long documented widespread torture of individuals in custody, particularly of ethnic Tamils detained under the PTA for suspected involvement with the LTTE. Ben Emmerson, then the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, said after his July 2017 visit to the country: The use of torture has been, and remains today, endemic and routine, for those arrested and detained on national security grounds. He noted that the PTA was used disproportionately against members of the Tamil community, and that the community has borne the brunt of the state's well-oiled torture apparatus.

After a two-week country visit in December 2017, the UN Working Group on Arbitrary Detention called for the immediate repeal of the PTA, referring to it as one of the key enablers of arbitrary detention for over four decades.

In a positive step, the Sri Lankan government announced it would adopt the UN Optional Protocol to the Convention against Torture during its Universal Periodic Review in November 2017.

Many of those detained under the PTA said that they were tortured to extract confessions or intelligence. Of the 17 individuals whose cases are detailed in this report, 11 reported beatings and torture. A senior judge responsible for handling PTA cases said in July 2017 that he was forced to exclude confession evidence in over 90 percent of the cases he had heard in 2017 because it had been obtained through the use or threat of force.

Sahan Kirthi, then 21, was arrested under the PTA in February 2007. He remained in detention without charge for five years. He ultimately confessed to a criminal offense, he said, because security forces threatened to rape his sister. In 2012, he was finally charged with conspiring against the government. Security forces did not have evidence to convict him, and the courts acquitted him two years later, in 2014. Kirthi had by then spent nearly a decade in prison, and still has injuries, including loss of hearing, from the torture that he endured.

As noted above, other former PTA detainees who spoke to Human Rights Watch described severe torture including sexual abuse. Several, including those interviewed for the 2013 Human Rights Watch report *We Will Teach You a Lesson*, said that security forces raped them, burned their genitals or breasts with cigarettes, and caused other injuries through beatings and electric shocks. Noting an open door policy for routine use of torture by security forces, Juan Mndez, then the UN special rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, described the use of sexual abuse after his 2016 visit to Sri Lanka:

Former detainees and their family members said that despite coerced confessions, they agreed to plead guilty simply to end the indefinite detention.

Vivodhani Givoshan described the case of his brother, Soriyamoorthy Givoshan, who became trapped in the war zone and eventually surrendered to the army in Mullaitivu in 2009, during the final days of the war. Soriyamoorthy was initially detained in a military-run displacement camp in Vavuniya with others who had fled or surrendered to the government. In August 2009, members of the Sri Lankan police Terrorist Investigation Division (TID) notorious for torture in custody arrested him and took him from the camp. He was secretly detained for a year until he was finally produced before the Kandy Magistrate Court in August 2010. Vivodhani said his brother faced a range of charges and decided to plead guilty to end the indefinite detention:

After the end of the armed conflict with the LTTE in May 2009, the government relaxed some of its emergency regulations, which had given the security forces wide-ranging search, detention, and arrest powers, and in 2011 it allowed most of the measures to expire. Government directives issued in June 2016 require security forces to ensure that the fundamental rights of persons arrested or detained are respected, but the PTA remains in force, although it has not been used in 2017.

There is still no clarity on the number of people held under the PTA. In August 2017, the government released a list of 84 people in custody under the PTA and facing trial, and 12 others who had not been charged. A month earlier, the government had told Special Rapporteur Ben Emmerson that of the prisoners currently in the judicial phase of their pre-trial detention, 70 had been in detention without trial for over five years and 12 had been in detention without trial for over 10 years.

While the government has taken some steps to charge or release PTA detainees, lawyers working on these cases believe that the numbers are not accurate given the discrepancies in official numbers. This is not the first time the government's information on the number of PTA detainees has shown discrepancies. In a meeting with Human Rights Watch in October 2015, Prime Minister Ranil Wickremesinghe admitted that getting an accurate count of PTA detainees was difficult because the various security agencies all had different numbers.

Since the 2015 Human Rights Council resolution, the government has made little progress on security sector reform, and in 2016 continued to use the PTA to arrest and detain supposed counterterrorism suspects. One significant act of compliance with its security sector reform pledge was the government's establishment of a separate Ministry of Law and Order, removing the police and related agencies from the purview of the Ministry of Defence. However, other reforms within the security sector have yet to be enacted or implemented.

In June 2016, the government adopted directives recommended by the Human Rights Commission of Sri Lanka to protect detainees from abuses, particularly at the time of arrest and ensuing detention. These include guarantees of medical and legal assistance, registration of arrest, the right to be addressed in the language of the detainees' choice, security from torture and other ill-treatment, and special protection for women and children. The directives also reassert the commission's mandate to be promptly informed of all PTA arrests, to access any person arrested or detained under the PTA, and to access any place of detention at any time. These directives are meant to be an interim measure until the PTA is repealed and replaced with rights-respecting legislation.

Although several drafts of a new counterterrorism law have been floated, none have complied with international human rights standards. The government has not discussed these draft laws with human rights or affected victim groups. In March 2017, Ravinatha Aryasinha, Sri Lanka's permanent representative in Geneva, told the Human Rights Council that the government was drafting a law that seeks to effectively and comprehensively respond to contemporary manifestations and threats of terrorism, consistent with principles of democracy, good governance and the rule of law.

In May 2017, the cabinet approved with little public consultation a draft Counter Terrorism Act (CTA), intended to replace the PTA. In the face of severe public criticism, the government has not, as it was expected to do, moved forward with outlining its plans for the new law. The bill falls far short of the government's pledges to the Human Rights Council to end abusive detention without charge, and it remains unclear whether the government has taken on board recommendations from the UN Counter-Terrorism Committee Executive Directorate and other UN agencies.

The bill would in some ways improve upon the previous law, but it would still allow arbitrary and abusive detention. Some provisions provide potential safeguards against abuses, but as long as prolonged detention without charge is permitted, the likelihood of abuse remains high. Ultimately, the proposed law does not comply with security sector reforms sought by the Human Rights Council and required by Sri Lanka's international obligations, and suggests that the government does not intend to fully relinquish the broad and too easily abused powers available to it under the PTA.

Among his concerns with the draft law, Special Rapporteur Emmerson noted that the broad definition of torture in the law poses a real risk that the legislation could be used in circumstances very far removed from acts of real terrorism, or against minorities or human rights defenders in a discriminatory and sectarian manner.

The Sri Lankan government should not enact any law that will perpetuate the wrongs committed for decades under the PTA or provide room for other abuses. The government should consult with Sri Lankan victim groups, human rights organizations, the Human Rights Commission of Sri Lanka, and international experts to draft a law that protects both national security and human rights. It should also seek technical assistance from the UN Counter-Terrorism Committee Executive Directorate and the Office of the United Nations High Commissioner for Human Rights.

Human Rights Watch conducted research for this report between April and May 2017. We interviewed 27 former PTA detainees and family members of seven current detainees, and spoke with lawyers and human rights defenders working on these cases.

The individuals whose cases we investigated were initially detained in locations across Sri Lanka. Although we spoke with victims from both Sinhala and Tamil speaking communities, the majority were ethnic Tamil. Due to security concerns, a few interviews were conducted over Skype. Most former detainees interviewed agreed to have their names made public, but we have withheld names where there was a legal case pending or concern for the security of the detainee. In some cases pseudonyms have been used to conceal the identity of interview subjects.

The findings of this research are consistent with what we found in previous research, including in our interviews with Sri Lankan victims of torture and sexual violence in custody in 2011 and 2012 in Sri Lanka, Australia, the United Kingdom, Germany, India, Malaysia, and Indonesia.<sup>[1]</sup> In research we conducted in 2015, moreover, we found torture to be common in police stations across Sri Lanka, involving regular criminal suspects as well as terrorism-related cases.<sup>[2]</sup> Many of the former detainees we interviewed for this report recounted torture practices similar to those previously reported, suggesting little has changed in the methods of Sri Lanka's law enforcement forces.

Many former detainees remain fearful of government surveillance and re-arrest, and are thus reluctant to draw attention to themselves. We worked with local nongovernmental organizations and defense lawyers to meet PTA detainees who were willing to provide accounts of their treatment. Sometimes we spoke only with lawyers or family members of current or former detainees, but with the consent of the detainees.

Human Rights Watch provided no remuneration or other inducement to the interviewees. In some cases, funds were provided to cover immediate food and travel expenses incurred for the interviews. Interviews were conducted in Sinhala or Tamil through independent interpreters.

In May 2009, Sri Lanka emerged from three decades of civil war that left several hundred thousand people dead or forcibly disappeared, destroyed property and livelihoods, and displaced whole communities.<sup>[3]</sup> For much of the duration of the armed conflict, even during lulls for peace talks and ceasefires, Sri Lankan security forces and opposition armed groups were responsible for widespread human rights abuses and violations of the laws of war.

Despite repeated government claims that it would address those abuses, including public pledges from successive Sri Lankan governments to the United Nations, impunity for serious abuses has been nearly complete.<sup>[4]</sup>

An uprising by the Sinhalese Marxist Janatha Vimukthi Peramuna (Peoples Liberation Front, or JVP) between 1987 and 1989 in the south of the country involved political assassinations, blockades, and mass strikes that crippled the economy. The government responded by first deploying the police and then the military in joint operations. The security forces were implicated in thousands of deaths of JVP suspects and tens of thousands of enforced disappearances, many of which have never been resolved. As an armed insurrection, the JVP was defeated in 1990 after security forces captured and killed its leader, Rohana Wijeweera, and his deputy in November 1989.<sup>[5]</sup>

The armed conflict with the Tamil secessionist Liberation Tigers of Tamil Eelam (LTTE), which lasted from 1983 to 2009, included numerous violations of the laws of war and egregious human rights abuses by both sides. The LTTE committed a range of atrocities including suicide bombings and other indiscriminate killings of civilians, torture, the use of child soldiers, forced displacement of ethnic populations, targeted killings and summary executions, and the use of human shields. Abuses by government forces included arbitrary arrests and detention, extrajudicial killings, rape and other sexual violence, enforced disappearance, torture and other ill-treatment, and indiscriminate attacks on civilians. Thousands remain disappeared. The conflict ended in May 2009 with the government forces decisive defeat of the LTTE, and the death of its leader, Velupillai Prabhakaran, along with many other senior LTTE leaders.<sup>[6]</sup>

Calls for accountability for war crimes by both sides to the conflict were made during the conflict and since its conclusion. At least nine commissions of inquiry have been established, but successive governments showed little interest in providing accountability.<sup>[7]</sup> As a result, the commissions yielded no justice or answers for victims or their families.

The government of President Maithripala Sirisena, which replaced the Mahinda Rajapaksa administration in January 2015, has used its parliamentary mandate to bring some positive developments on human rights. Most important among them, Sri Lanka joined a consensus resolution of the UN Human Rights Council in October 2015 to promote transitional justice in the country.<sup>[8]</sup>

As part of its commitment under Human Rights Council resolution 30/1, the government agreed to a comprehensive nationwide consultation with victims and affected communities about what they want and need from transitional justice mechanisms. The Consultation Task Force held hearings throughout the country largely through zonal task forces with members drawn from regional civil society leadership and submitted a report with comprehensive recommendations on how to best implement the specific recommendations of the Human Rights Council.<sup>[9]</sup> The government accepted the report reluctantly, and thereafter largely ignored it.<sup>[10]</sup>

The governments failure to act on the task forces recommendations raised concerns about its willingness to comply with all aspects of its commitments in Geneva. After an official visit to Sri Lanka in July 2017, the UN special rapporteur on counter-terrorism and human rights, Ben Emmerson, highlighted that the continuing influence of certain vested interests in the security sector, who are resistant to change, and above all, to accountability. He said that progress in achieving the key goals set out in the commission resolution had ground to a virtual halt.<sup>[11]</sup>

The Prevention of Terrorism Act (PTA) was enacted by the Sri Lankan government as a temporary measure in 1979 and made permanent in 1982.<sup>[12]</sup> Many of the most serious human rights violations by government security forces were committed when emergency regulations were in force during the armed conflict and, in particular, under the PTA.

The PTA allows arrests without warrant for unspecified unlawful activities, and permits detention for up to 18 months without producing the suspect before a court. People detained under the PTA have been held without charge for years. The law also provides immunity for government officials responsible for abuses if deemed to have been acting in good faith or fulfilling an order under the act, giving broad cover to security forces to engage in torture and other abuses.<sup>[13]</sup> The law was used mainly to target those suspected of involvement with the LTTE or other militant groups, and thus was used primarily against members of the countrys minority Tamil community.

While most of the emergency regulations have since lapsed, the PTA continues to be in effect and used to detain, question, and arrest people. In 2016, the government arrested at least 11 people under the PTA for alleged terrorist activities, rather than using appropriate provisions of the criminal code.<sup>[14]</sup>

In May 2016, the Human Rights Commission of Sri Lanka issued new directives to security forces on using the PTA.<sup>[15]</sup> The directives are intended to protect detainees against the security forces broad powers under the PTA, particularly at the time of arrest and ensuing detention. These include guarantees of medical and legal assistance, registration of arrest, the right to language of the detainees choice, security from torture and other ill-treatment, and special protection for women and children. The directives also reassert the commissions mandate to be promptly informed of all PTA arrests, to access any person arrested or detained under the PTA, and to access any place of detention at any time.<sup>[16]</sup>

Under pressure from victims families and human rights groups, the government has made substantial progress on many cases of earlier PTA detainees. The authorities have released some PTA detainees on bail, rehabilitated others, and promised to charge and prosecute the remainder.<sup>[17]</sup> However, the government has yet to put forward a plan to provide redress for those unjustly detained under the PTA, or address the issue of detainees charged and prosecuted solely on the basis of coerced confessions obtained during detention.

In August 2017, the government released a list of 84 PTA detainees still in custody and facing trial, and 12 others who are yet to face charges.<sup>[18]</sup> Some lawyers and activists working on PTA cases dispute these figures, claiming that the government is downplaying the number. In July, Special Rapporteur Ben Emmerson said that at least 108 individuals were still held under the PTA both pre- and post-indictment.<sup>[19]</sup>

Despite repeated promises, the government has not repealed the PTA or ensured accountability.<sup>[20]</sup> Nongovernmental organizations in

Sri Lanka have long called for the law to be repealed. In May 2013, the Centre for Policy Alternatives said that the PTA should be repealed because it is a law that is wholly inconsistent with contemporary human rights standards and which not merely permits, but also encourages the pervasive violation of fundamental rights otherwise protected by the Constitution of Sri Lanka. Compounded by Sri Lankas endemic laws delays, it has been deployed to deprive the basic civil liberties and inflict physical harm and mental distress on thousands of Sri Lankan citizens of all communities.[\[21\]](#)

Protests calling for the release of PTA detainees have increased in recent years. In October 2017, students at Jaffna University began a protest against the PTA that led to a brief shutdown of the campus.[\[22\]](#) A hunger strike by PTA detainees has reportedly led to one prisoner being released and a second hospitalized.[\[23\]](#)

The call for accountability has not only been domestic. Successive UN high commissioners for human rights have expressed alarm at the scale and level of impunity in Sri Lanka.[\[24\]](#) Following a scathing report by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in September 2015, the government agreed to a resolution at the Human Rights Council in which it made many pledges toward accountability and justice.[\[25\]](#) Paragraph 12 of the resolution committed the government to review and repeal the PTA and enact a law in line with international best practices.

The UN Working Group on Enforced or Involuntary Disappearances has called for a repeal of the PTA since 1999, a call that was reiterated in July 2016 following a 2015 country visit by working group members.[\[26\]](#) A December 2016 report by the UN special rapporteur on torture, Juan Mndez, emphasized the need for a complete overhaul of the PTA and to ensure that any replacement of the law be done in compliance with international law and practices. Mndez noted: Sri Lanka needs urgent and comprehensive measures to ensure structural reform in these institutions to eliminate torture and ensure that all authorities comply with international standards.[\[27\]](#) Two separate reports by the UN have called for urgent replacement of the PTA.[\[28\]](#)

A summary report by Special Rapporteur Ben Emmerson after his July 2017 country visit found that 80 percent of those arrested under the PTA in late 2016 complained of torture and other ill-treatment following their arrest. He added that the most senior judge responsible for PTA cases in Colombo informed him that in over 90 percent of his cases so far in 2017, he had been forced to exclude essential confession evidence because it had been obtained through the use or threat of force.[\[29\]](#)

The UN Working Group on Arbitrary Detention conducted a two-week visit to Sri Lanka in December 2017. They visited more than 30 detention facilities around the country and interviewed over 100 detainees held under various charges, in addition to speaking with government officials, judges, lawyers, and civil society organizations. They reported no impediments to access. The groups preliminary report following the visit found that many detainees were deprived of the most fundamental guarantees of due process, such as immediate access to legal counsel, and made several strong recommendations to the Sri Lankan government for detention system reform.[\[30\]](#)

The group also found that authorities relied on the use of confessions, often extracted under torture or duress. In particular, they called for the immediate repeal of the PTA, referring to it as one of the key enablers of arbitrary detention for over four decades.[\[31\]](#) While the groups full report will only be presented in September 2018, the initial findings and recommendations echo the findings in this report.

The government announced that it would adopt the UN Optional Protocol to the Convention against Torture during its Universal Periodic Review in November 2017, but the practical effects of that undertaking have yet to be seen.

While the Sri Lankan government has not publicly acted on its pledge to repeal and replace the PTA, there have been some leaked drafts of proposed counterterrorism laws. The lack of government transparency about the process and unwillingness to engage in serious consultations with domestic human rights groups has left much to conjecture.

Responding to the report of the UN special rapporteur on torture following his country visit, Sri Lankas permanent representative to Geneva, Ravinatha Aryasinha, told the Human Rights Council in March 2017 that the legislative framework for a new law had been approved and seeks to effectively and comprehensively respond to contemporary manifestations and threats of terrorism, consistent with principles of democracy, good governance and the rule of law.[\[32\]](#) He acknowledged contributions from UN agencies dealing with counterterrorism, including the OHCHR.

Several provisions of the leaked draft counterterrorism law are genuine improvements, such as those that would provide greater detainee access to counsel, allow entry of magistrates and Human Rights Commission officers to detention facilities, and require regular reporting to help prevent enforced disappearances.[\[33\]](#)

However, key provisions in the new draft seem likely to facilitate human rights abuses. Of particular concern are the bills overbroad and unclear definitions of terrorist acts, which include a wide array of illegal conduct. The suspect needs to have acted with a terrorist purpose, but this term vaguely and broadly includes intimidat[ing] a population and threatening the unity, territorial integrity, sovereignty of Sri Lanka, or the national security or defence of Sri Lankawhich could be found to include peaceful political activity or protest. While the draft law enumerates procedural safeguards, it is weak on demonstrating how they can be effectively implemented.

As with the PTA, under the proposed law police and military officers may make arrests without a warrant. Suspects may be detained without charge for 12 months, a reduction from the 18 months permitted under the PTA. Bail is only to be granted for exceptional reasons.

The bill also prohibits a range of interactions with Proscribed Terrorist Organizations that could violate the right to freedom of association. If enacted, the law would prohibit ordinary dealings with many ethnic Tamil organizations, including those based abroad, that were declared illegal during the armed conflict and remain so, even if during or since the war they never engaged in terrorist activity.[\[34\]](#)

Special Rapporteur Ben Emmerson found central flaws in the draft framework that, if enacted, would guarantee the continued violation of the human rights of terrorism suspects.[\[35\]](#)

Acts of terrorism pose a threat to every country in the world. Sri Lanka, after decades of civil war, has a responsibility to take preventive



measures to protect its populace from future attacks. However, the government also needs to ensure that its counterterrorism laws do not imperil human rights and that they include necessary safeguards to prevent repetition of past abuses.

Recent cases indicate that abuses under the PTA or related criminal law provisions, if not as frequent, continue as they did in the past. Human Rights Watch research found that torture in custody, in some cases resulting in death, is widespread through much of the country.<sup>[36]</sup>

Sri Lanka is a party to core international human rights conventions that prohibit torture and other ill-treatment and ensure due process rights of criminal suspects. These include the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>[37]</sup>

Sri Lankan authorities are empowered to prevent and deter serious abuses. These protections include the right to legal representation of choice, to have access to family members, to be promptly produced before a court of law, and to be informed of any criminal charges.

Recent strengthening of the Human Rights Commission of Sri Lanka has led to many improvements in ensuring access to PTA detainees. President Sirisena has issued directives to end torture, including during arrests under the PTA.<sup>[38]</sup> However, serious shortcomings in the enforcement of the law have meant that few detainees harmed by police have received justice or meaningful redress. Unless the law, policies, and practices are changed, most PTA detainees, including those still awaiting trial, are unlikely to see meaningful redress for sustained unlawful detentions, let alone for torture and other abuses.

Beyond Sri Lanka's obligations under the human rights treaties, UN General Assembly resolution 60/147 of December 2005 recognizes the rights of victims of serious human rights violations, such as those under the PTA, to adequate, effective and prompt reparation for harm suffered.<sup>[39]</sup>

The government has detained people under the PTA with a range of backgrounds and histories. Although the law is specifically intended to prevent terrorism, many people with no connection to terrorism or to groups such as the Liberation Tigers of Tamil Eelam have been arrested under its provisions.

Among those who have been arbitrarily arrested under the PTA are prominent human rights campaigners Ruki Fernando and Father Praveen Mahesan. Although Fernando and Father Praveen were released on bail following an international outcry after their 2014 arrest, they continue at times to face harassment from security forces and immigration authorities when traveling abroad.

But most of those held without charge under the PTA are unknown to the outside world, generate no international outcry, and may languish in prison for years. Human Rights Watch is aware of several cases of people detained for a decade or more, who were subsequently acquitted or released without charge, and who received no compensation, reparations, or apologies from the government.

Listed below are cases of abuses under the PTA in which we were able to interview the detainee or their relatives. These cases are only a tiny fraction of the cases brought under the PTA in the past three decades, but they highlight the draconian nature of the law and the injustices under it that any new counterterrorism legislation should eliminate. The cases include arbitrary detention, torture and custodial abuse, forced confessions, denial of legal and medical assistance, and other forms of abuse. Frequently detainees suffer from multiple forms of such abuse. As Ben Emmerson, UN special rapporteur on counter-terrorism and human rights, noted in July 2017: Through a combination of extended executive detention, and grossly protracted criminal proceedings, suspects arrested under the PTA have commonly been held in detention, in conditions that amount to inhuman and degrading treatment, for many years without ever having been found guilty of anything, and without any effective judicial review of their detention.<sup>[40]</sup>

Most of the cases we documented reflect practices that have been previously documented by domestic rights groups and lawyers. Countless cases of torture, sexual violence, and other ill-treatment have occurred in various official and unofficial places of detention, including but not limited to the Criminal Investigation Department (CID) and Terrorist Investigation Division (TID) offices in Colombo.<sup>[41]</sup> Detainees have had limited recourse to lawyers or medical assistance, with many complaining that even when produced before a judicial medical officer, they received no assistance or proper examination for injuries.

Vijayakumar Ketheeswaran, a student in auto mechanics in Colombo at the time, was visiting his family in the northern town of Kilinochchi, the unofficial LTTE capital during the war, when he was detained under the PTA in June 2014. TID police came to his family's home and said they needed to question him about a surrendered LTTE fighter who had been through the rehabilitation program and had since gone abroad. Ketheeswaran said that although he was no longer in touch with the person, the TID officials insisted that he had recently received a call. He alleged that after he was taken into custody, the authorities tortured him:

The next morning, he was taken to the TID office in nearby Vavuniya. He said that one day later, he was questioned and beaten by a unit in civilian clothes who said that they belonged to the Colombo office:

After one month, in July 2014, Ketheeswaran was transferred to Boosa near Galle, a maximum security prison in southern Sri Lanka where many PTA detainees have been held. He said he was produced before a magistrate only in March 2015, after 10 months in custody:

Ketheeswaran was released on bail in November 2015, but he still has to report to the magistrate every month. The attorney general has yet to decide whether to file charges, and so Ketheeswaran said he lives in this limbo of not knowing whether I am free or not.

In April 2016, the authorities arrested him again under the PTA, this time because the TID was looking for his brother in connection with a motorcycle incident. He was released only on September 17, 2016. Ketheeswaran said:

Jeyakumari Balendran said that she was detained under the PTA on March 12, 2014, because authorities were suspicious of Appan, a friend of her late husband, who had been living in Kilinochchi with her and her 12-year-old daughter. Balendran, who lost her husband and three sons during the conflict, is a prominent campaigner against enforced disappearances. The Sri Lankan authorities said they had identified an LTTE conspiracy that included Appan and two other men, Gobi and Thevihan, who were all later killed in an April 2014

army operation.[\[46\]](#) Balendran said:

Balendran said that several male officers questioned her, although they later brought in two female CID officers. She and her daughter were later taken to Vavuniya hospital and examined. Her daughter was then taken to Kilinochchi hospital, and lawyers helped get her into child protection services. Balendran said she was repeatedly questioned about Appan and a man she didn't know:

Balendran was first produced before a magistrate in December 2014. She was repeatedly questioned about the same issues. While she received bail on March 10, 2015, her case has yet to be resolved.

Two prominent human rights activists, Ruki Fernando and Father Praveen Mahesan, were detained under the PTA in Kilinochchi on March 16, 2014, while inquiring into the circumstances surrounding the arrest of Jeyakumari Balendran and the welfare of her 12-year-old daughter. During the day, the authorities had followed and questioned them, and the two were eventually arrested and taken to the Kilinochchi police station about 10 p.m. that night. They were questioned intensively until early morning the following day.

Fernando, who is known internationally for his human rights work, managed to send out a text message before his cell phone and other electronics were taken from him. This message proved critical in alerting domestic and international human rights groups, who quickly mobilized to denounce the arrests and call for Fernando and Father Praveen's unconditional release.[\[49\]](#)

Both men were held for nearly 48 hours before they were released. A travel restriction issued on March 20 was later rescinded, but Fernando continues to occasionally face harassment and questioning when leaving the country. His electronic equipment, which contained sensitive information and contact details, has never been returned to him.[\[50\]](#)

Vivodhani Givoshan was arrested on October 1, 2010, by the Kandy TID under the PTA. He was detained for ten months and was eventually produced before a magistrate in August 2011. He said he was never told of the allegations against him:

Vivodhani said his brother, Soriyamoorthy Givoshan, surrendered to the army in Mullaitivu in 2009, near the end of the war. Soriyamoorthy had been trapped in the combat zone along with other civilians in the area. He was detained with others who surrendered at Rambaikulam in Vavuniya camp. In August 2009, the TID came and arrested him, taking him from the camp. He was secretly detained for a year until he was finally produced before the Kandy Magistrate Court in August 2010 and formally arrested under the PTA. Vivodhani said that when he finally managed to speak with his brother, Soriyamoorthy said he had been transferred numerous times during his detention and that he had been tortured. Vivodhani said:

After he was produced before a magistrate, Soriyamoorthy was remanded to Pallekele prison. He faces a range of charges in Matale, Dambulla, Alawathugoda, and Kandy, all for involvement with the LTTE. Vivodhani said that his brother just decided to plead guilty to end the indefinite detention:

In three of the cases where he pled guilty, Soriyamoorthy was given a year of rehabilitation and a year of rigorous imprisonment, running concurrently. He received a seven-year sentence for another case and is still waiting for trial on the remaining cases. Vivodhani said his brother has suffered in prison:

K. Rajeshwari said that in August 2008, when her son Suranjiv Krishantha Fernando was 19 years old and had just taken his A-level exams, the authorities arrested him under the PTA in Matale. She said that the family is unclear about the evidence against him:

Krishantha was kept at the Kandy police TID for six months, and was then transferred to Hanguranketha station for another six months. After one year, he was finally produced before a magistrate and sent for detention at Kandy prison. Rajeshwari said:

The authorities eventually filed three cases against Krishantha. He decided to plead guilty to end the indefinite detention. In two cases, he was sentenced to two years of imprisonment and rehabilitation. The trial is proceeding in the third case. He has so far spent eight years in prison.

Rajalechchami said that her son, Murali Rajalechchami, was 18 years old at the time he was arrested under the PTA. Two police officers from the station in Teldeniya, near Kandy, came to their house on June 25, 2008, and said they needed a statement from Murali. Murali was not at home so she agreed to bring him to the police station. She said that when they arrived, the police tricked Murali to construct a false case against him:

Rajalechchami said that Murali was kept at the police station for three days:

Murali was taken to the Menikhinna police station to record his statement. Three months later he was brought before a magistrate. He was then transferred to Bogambara prison where he was held for five years without charge. He was finally charged in the Jaffna High Court in 2013 with spying for the LTTE.

Murali was acquitted in 2013 after the judge ruled that there was no evidence against him. His mother said the long detention has traumatized her son: He had done well in school, both O and A levels. But now he can't do anything because of this trauma.[\[59\]](#)

Guruparan Gurudharan said that on the morning of June 30, 2008, he was arrested under the PTA by a group consisting of uniformed members of the Special Task Force (STF), an arm of the police specializing in counterterrorism, and some members of the Peoples Liberation Organisation of Tamil Eelam (PLOTE), a Tamil armed group that was opposed to the LTTE.[\[60\]](#) He said he recognized the PLOTE members. Gurudharan said that he was initially detained at a PLOTE camp in Vavuniya, near Kovil Kulam. While it was the STF that had arrested him, it was PLOTE members who questioned and tortured him:

After a couple of nights, the STF took him to Joseph Camp, long notorious as a Sri Lankan navy torture site.[\[62\]](#) He said:

On July 3, 2008, Gurudharan was brought to the CID headquarters in Colombo. He got his first meal on his way to Colombo. He remained there until October when he was finally produced before a magistrate and then transferred to the prison in Boosa:

He said that medical staff and judicial authorities failed to ensure his protection:

Gurudharan remained at Boosa for seven months. On May 25, 2009, he was produced before a magistrate in Vavuniya and shifted to the Anuradhapura prison. He was moved several times after that. The authorities eventually filed six cases against him. He was acquitted and released in February 2017, but said he remains under surveillance:

Angela Croos, who taught English at a school in Kandy, lost her mobile phone in 2007, and a year later the police said her phone had been found in the hands of the LTTE. Angelas mother, Selvarama Croos, told Human Rights Watch that in May 2008 her brother had been arrested for alleged connections to the LTTE. So when the police came to them in August 2008 about Angelas phone, the family went to the Kandy police station because they knew that the police already viewed the family with suspicion. The police then detained Angela under the PTA. Selvarama said:

Eventually, the family sought assistance from their church, and the local priest intervened to help file a fundamental rights case. Angela was released in April 2010, nearly two years after her arrest, and was fully acquitted.

Angela married immediately after her release from detention and gave birth to a stillborn child in September 2010. Her health having worsened, she was hospitalized on October 5 and died on October 24.

Sumanthy Arasalingkam said that after her sister died, she started caring for her nephew, Sachinda Ananda Sudaharan. But she soon realized that he had started working in Kilinochchi as a driver for the LTTE. Later, he was asked by the LTTE if he wanted to work for their intelligence services. When he refused, the LTTE jailed him. He managed to escape from their custody and cross into government-held territory. Arasalingkam said that Sudaharan decided to try and go abroad to escape from the conflict:

Arasalingkam said that while her nephew was waiting for his work permit, militants set off a bomb on a bus in the suburbs of Colombo in April 2008.<sup>[69]</sup> Security forces immediately started rounding up Tamil men there under the PTA. Sudaharan was among them. Arasalingkam said:

Charges were filed against Sudaharan after three years of detention. One of the 12 men arrested with him died from alleged torture. Sudaharan remains on trial, although his aunt said there is no evidence against him:

According to Durga (pseudonym), her husband, Kanna, was possibly involved with the LTTE. Kanna was arrested by the Matale police in 2008 on suspicion of being involved with the LTTE. He was released after a week in custody, and vanished soon after. Durga and her mother-in-law, Malathi (pseudonym), think he may have escaped abroad, as they have had no news of him since. Shortly after Kanna was released and went missing, TID officials came searching for him at his home in Kandy. Malathi and Durga told the officials they did not know his whereabouts. Malathi said the officials arbitrarily decided to detain Durga instead:

Charges were finally brought against Durga only in 2014, and she was eventually acquitted in 2015.

Durga could keep her youngest child with her in prison while nursing, but all three children were raised by Malathi. Malathi said she found it very difficult, and had to take cleaning jobs to raise the children. Even after her release, Durga is traumatized by her years of detention. Malathi said:

Said Durga:

I was in remand for seven years for a mistake I did not do. My children also suffered. If I try to get justice now, the difficulties which my children faced will not be answered. But it will be a great help if they assure that such a situation does not come to others.<sup>[74]</sup>

Ramesh Kumar was arrested in 2008 under the PTA on suspicion of being involved with the LTTE. Local police arrested him and held him at the Kandy police station under a detention order. A magistrate then transferred him into custody, where he was held for five years without charge. His mother, M. Parameswary, said:

Parameswary said she also filed a fundamental rights case in the Supreme Court, seeking relief. In 2014, the court ordered Kumars release without any charges. She said: We have received no compensation and no justice for his clearly wrongful arrest and detention. He lost much of his youth unjustly in prison.<sup>[76]</sup>

Ramesh Kumars brother, Nanda, was also arrested in 2008. He was kept in police custody under a detention order for three months before being sent to remand custody in prison for five years. Nanda Kumar was released without charge after five years of detention. Parameswary said:

Solomon Caspus Paul was arrested in connection with an August 2006 bombing in Digana, near Kandy.<sup>[78]</sup> Several people from his village were arrested soon after the bombing, but Paul was arrested under the PTA only in June 2007. He said the police tortured him and forced him to sign blank papers that were eventually used as a confession:

He said the next morning the TID put him in handcuffs the normal way:

Paul said that the torture stopped after a few days, probably because a human rights activist intervened. But he still had to sign some blank papers. I dont know what I confessed to, he said. The papers they made me sign were blank.<sup>[80]</sup>

He was produced before a magistrate after six months in detention, and was transferred to custody in Kandy prison. After 18 months, he was charged with aiding and abetting a terrorist organization. During the trial he was transferred to the Anuradhapura prison. He was eventually acquitted of all charges in February 2012. He said he still suffers because of his unlawful detention and torture:

Wellage Sudesh Nandimal Silva, secretary of the railway services trade labor union and an ethnic Sinhalese, said that he was arrested on April 30, 2007, near Colombo. He said he was engaged in left-wing politics and working on protecting Tamil rights, but did not support



the LTTE.

In February 2007, the police began cracking down on a group that they suspected to be Sinhala Tigers, supporters of the LTTE among the countrys majority Sinhalese population. Silva said that he became a suspect after he reached out to the police in search of his colleague, Sisira, who had gone missing. The railway authorities claimed they had found ammunition in Silvas possession, and suspended him. He said he went into hiding until April, when he came home for his sons first birthday. He said:

Silva was put in a dark cell at the Gampaha police station. He said he was repeatedly questioned and tortured:

Because his family had seen him arrested, they persisted in searching police stations:

Silva was transferred to Welikada prison in June 2007 and held without charge for 18 months under the PTA. He was eventually charged with working with a terrorist organization. But there was never a trial; while dates were set for hearings, he said, they were always postponed. After nearly seven years, in 2014, he was finally released, after the prosecutors amended the charges to fall under the Firearms Act, instead of the PTA. He was ordered to pay a fine of 30,000 rupees (US\$230).

Sahan Kirthi, an ethnic Sinhalese, was 21 years old when he was arrested under the PTA on February 12, 2007. He said that soon after three of his colleagues at the Marxist trade union newspaper where he worked were arrested, TID police officers arrived at his home and said they needed a statement from him. When he appeared at the TID office to give his statement, he was arrested. He was produced before a magistrate, who ordered him detained for six months. He said that as soon as his lawyer departed, the TID officials beat him. He said he endured weeks of torture and has lost hearing in his left ear because of the beatings:

He said that he was eventually transferred to Boosa prison, but was then brought back to TID headquarters in Colombo where he was tortured again:

Kirthi said that the TID officers wanted to force a confession, even threatening to rape his sister: My sister was graduating from college, and they had questioned her or at least told me they had questioned her. They threatened to rape her unless I confessed.<sup>[85]</sup>

After his six-month court-ordered detention was over, police officials had to produce him before a magistrate. To cover up their abuses, the police told him to clean up and not complain about the torture. However, Kirthi said that the judicial and medical systems also failed to protect his rights:

Kirthi was transferred to Welikada prison in June 2007, but was only formally charged in 2012, for conspiracy against the state. He was eventually acquitted in October 2014 after seven years in prison.

This report was researched and written by Tejshree Thapa, senior South Asia researcher at Human Rights Watch. It was edited by Meenakshi Ganguly, South Asia director. James Ross, legal and policy director, and Joseph Saunders, deputy program director, provided legal and program review. Production assistance was provided by Shayna Bauchner, Asia coordinator; Madeline Cottingham, photo and publications coordinator; Fitzroy Hepkins, administrative manager; and Jose Martinez, senior coordinator. The multimedia division produced the video component.

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Above all, we thank the victims of abuses and their families who shared their stories with us.

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Failure to Meet Pledges on Accountability, Counterterrorism Reforms

Draft Law Falls Far Short of Colombos Pledges to United Nations

Repeal Prevention of Terrorism Act, Prosecute Torture

Human Rights Watch defends the rights of people in 90 countries worldwide, spotlighting abuses and bringing perpetrators to justice



