

## **Surveillance, Harassment and Intimidation of Disappearances' Activists in the North-East<sup>1</sup>**

August 30, 2018

### **I. Background**

Over the last two years, the issue of enforced disappearances has become an increasingly central topic in the conversation around human rights and transitional justice in Sri Lanka, largely due to the efforts of families of the disappeared from the North-East who have taken to actively protesting the issue.



*Kilinochchi Families of the Disappeared Protest, May 2017*

On February 19, 2017, Tamil families of the disappeared in Kilinochchi, frustrated with the lack of action on the issue of disappearances, began a continuous roadside protest calling on the Sri Lankan government to meet certain demands including releasing a list of surrendees, a list of past and present surrendees, a list of secret detention centres and a list of all detainees under the draconian Prevention of Terrorism Act (PTA).<sup>2</sup> The protest began a few weeks after families of the disappeared had staged a hunger strike in Vavuniya, which ended when government

officials promised to meet their demands, only to subsequently renege on them.<sup>3</sup>

<sup>1</sup> This brief was researched and written by Dharsha Jegatheeswaran with research assistance from Anushani Alagarajah and Tharshan Selvanathan and with inputs from Guruparan Kumaravadivel.

<sup>2</sup> "Families of missing protest in Kilinochchi" (20 February 2018), *Tamil Guardian*, accessed here: <<https://www.tamilguardian.com/content/families-missing-protest-kilinochchi>>; Association for Relatives of the Enforced Disappearance Kilinochchi District, "Letter in advance of Day 100 Protest: Hundred Days of the Campaign for the Forcefully Disappeared" (30 May 2017), accessed here: <<https://solidaritytamilfod.wordpress.com/more-on-tamil-families-of-disappeared-protest/>>.

<sup>3</sup> Dharisha Bastians and Geeta Anand, "Give Us Our Children Back': Hunger Strikers in Sri Lanka Demand Answers" (26 January 2017), *The New York Times*, accessed here: <<https://www.nytimes.com/2017/01/26/world/asia/sri-lanka-hunger-strike-missing.html>>; "Families of missing resume Vavuniya hunger strike" (24 February 2017), *Tamil Guardian*, accessed here: <<https://www.tamilguardian.com/content/families-missing-resume-vavuniya-hunger-strike>>.

Following the Kilinochchi protest, Tamil families of the disappeared in Trincomalee, Mullaitivu, Marunthankerny and Vavuniya also began their own continuous roadside protests, all with the same aim of finding truth and justice.<sup>4</sup>

As a result of these protests, the conduct and response of the Sri Lankan Government to the issue of enforced disappearances has come under the spotlight.<sup>5</sup> Conversely, the families themselves and activists working closely with them have also seen increasing surveillance, harassment and intimidation by Sri Lankan security forces or individuals suspected to be linked to them.

**This brief seeks to provide an outline of the security situation facing families of the disappeared in the North-East and the civil society activists linked to them, and thereby draw attention to the urgent need to consider credible victim protection measures and a process to dismantle and hold accountable Sri Lankan intelligence structures.**

## II. Surveillance Of Families Of The Disappeared' Protests In The North-East



*100<sup>th</sup> day of Kilinochchi Families of the Disappeared*

Since the protests began in February 2017, families of the disappeared' at the five protest sites have been under constant surveillance from Sri Lankan security forces and individuals suspected to be working alongside them. This surveillance has taken several different forms including photography, videography, telephone calls and questioning.

In some instances it is blatantly apparent with uniformed police officers and military officers who take photographs and try to interrogate protestors.<sup>6</sup> On the 100<sup>th</sup> day of the protest in Kilinochchi for example, there were at least three uniformed police officers with professional photography equipment taking photos and videos of everyone present at the protest site.<sup>7</sup>

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<sup>4</sup> For more information about the specific dates for the protest starts at the different sites see "Detailed Timeline of Protests across the North-East" at: <<https://solidaritytamilfod.wordpress.com/more-on-tamil-families-of-disappeared-protest/>>, citing *Tamil Guardian*.

<sup>5</sup> For example see: UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, "Opening Statement at the UN Human Rights Council 36<sup>th</sup> Session" (11 September 2017), accessed here: <<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E>>; "Sri Lanka: Little Action on Promised Justice, Reforms" (20 March 2018), *Human Rights Watch*, accessed here: <<https://www.hrw.org/news/2018/03/20/sri-lanka-little-action-promised-justice-reforms>>; "Switzerland calls on Sri Lanka to release list of persons surrendered to armed forces in 2009" (22 March 2018), accessed here: <<https://www.tamilguardian.com/content/switzerland-calls-sri-lanka-release-list-persons-surrendered-armed-forces-2009>>; "Release the List Campaign", *Sri Lanka Campaign*, accessed here: <<https://www.srilankacampaign.org/take-action/release-the-list/>>.

<sup>6</sup> Interviews with and observations of protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018; Interviews with protesting families of the disappeared in Trincomalee, February – July 2017.

<sup>7</sup> Observations by ACPR at 100<sup>th</sup> Day of Kilinochchi protest, May 30, 2017.

In other cases, men dressed in civilian clothing come up to the protest sites and try to take photographs of the families of the disappeared. While sometimes it is discreet, often the men make no attempt to hide their cameras/smartphones, and families of the disappeared feel they are purposefully trying to intimidate them.<sup>8</sup>

The surveillance doesn't stop with monitoring the protests from afar either but also extends to questioning women who participate in the protests. Every woman participating in the protest that ACPR has interviewed over the last two years has received at least one phone call from an intelligence officer in relation to their participation at the protests, though usually more, sometimes on a weekly basis.<sup>9</sup> The phone calls have come from varying levels of seniority, and in the case of protest leaders have sometimes come from senior Sinhala-speaking intelligence officers in Colombo questioning about which civil society actors are supporting their efforts and the protests in general.<sup>10</sup>

*"What can we do but talk to them [CID]? If we pretend to be nice and call them 'mahan' [son] then maybe they'll remember that in the future." – Mother of the Disappeared, Kilinochchi*

Families of the disappeared have developed different coping tactics to handle constant surveillance of their protest sites. As a defence mechanism, early on in the protests families took to directly questioning those who attempted to take photos of the sites in civil clothing in order to ward off suspected intelligence gatherers.<sup>11</sup> While sometimes it works, other times it prompts more aggression from the suspected intelligence person.<sup>12</sup>

In certain instances, particularly with intelligence officers who call over the phones, families of the disappeared have often tried to appear cooperative so as to avoid escalation of intimidation tactics. Unfortunately, this means that they divulge a large amount of personal information to intelligence officers which increases their vulnerability.<sup>13</sup>

The surveillance has also extended to civil society actors who work closely with protesting families of the disappeared. A number of civil society actors reported their phones being tapped and intelligence officers questioning those within their networks about their activities with families of the disappeared and the protests.<sup>14</sup> Families of the disappeared themselves also

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<sup>8</sup> Interviews with and observations of protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018; Interviews with and observations of protesting families of the disappeared in Trincomalee, February 2017.

<sup>9</sup> Interviews with and observations of protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018; Interviews with protesting families of the disappeared in Trincomalee, February – July 2017.

<sup>10</sup> Interviews with protesting families of the disappeared in Kilinochchi, March – May 2018.

<sup>11</sup> Interviews with and observations of protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018; Interviews with and observations of protesting families of the disappeared in Trincomalee, February – July 2017.

<sup>12</sup> Interview with protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018.

<sup>13</sup> Interviews with and observations of protesting families of the disappeared in Mullaitivu, November 2017 – March 2018.

<sup>14</sup> Interview with civil society activist from the North, February 2018; Interview with civil society activist from the North, May 2018; Interview with civil society activist from the North, May 2018; Interview with civil society activist from the East, March 2018.

often get questioned about specific individual names of civil society actors and their relationships to the protests.<sup>15</sup>

The overall impact of this on-going surveillance has been multi-fold, but includes further marginalization of protesting families of the disappeared from their communities who fear any association to them could prompt surveillance, and high levels of distrust within the protests of newcomers and outsiders for fear they are working for intelligence.<sup>16</sup> In one case, a protesting mother of the disappeared shared that she felt that local samurdhi officers in her village were discriminating against her because of her involvement with the protests.<sup>17</sup>

### **III. Reprisals Against Families Of The Disappeared' Following The Un Human Rights Council Session**



*Families of the Disappeared at the UN Human Rights Council in Geneva, March 2018*

Representatives from protesting Families of the Disappeared from the North-East attended the UN Human Rights Council in Geneva in both the March and June 2018 sessions, and were subjected to continued surveillance and even harassment and intimidation upon their return on both occasions.

Following a return from the trip to Geneva in March, one mother of the disappeared from the North was subjected to phone calls from individuals claiming to be CID asking her about the visit and who she had gone with.<sup>18</sup> Another mother from the North who had also returned following this trip, received a phone call from a

senior Sinhala official in Colombo asking her about the trip and specifically naming civil society actors who had been involved in organizing the trip.<sup>19</sup>

In June 2018, a group of families of the disappeared from the North-East protests attended the UN Human Rights Council session and were subjected to intimidation by persons suspected to be linked to the Sri Lankan military during a side event who disturbed the event and began shouting at the women.<sup>20</sup> Upon their return, one of the women, a Tamil activist and wife of a disappeared, was reportedly interrogated by intelligence officers at her home.<sup>21</sup> A few days

<sup>15</sup> Interview with and observations of protesting families of the disappeared in Kilinochchi, March – April, 2018.

<sup>16</sup> Interviews with and observations of protesting families of the disappeared in Kilinochchi and Mullaitivu, February 2017 – May 2018.

<sup>17</sup> Interview with protesting families of the disappeared in Kilinochchi, February 2018.

<sup>18</sup> Interviews with mother of the disappeared, Northern province, March - April 2018.

<sup>19</sup> Interviews with mother of the disappeared, Northern province, March - April 2018.

<sup>20</sup> "UN urged to ensure the safety of Tamil Mothers of the Disappeared after they return to Sri Lanka from UNHRC: TGTE" (6 July 2018), *Global Tamil News*, accessed here: < <http://globaltamilnews.net/english/un-urged-to-ensure-the-safety-of-tamil-mothers-of-the-disappeared-after-they-return-to-sri-lanka-from-unhrc-tgte/>>.

<sup>21</sup> "Tamil disappearances activist attacked days after CID harassment" (11 July 2018), *Tamil Guardian*, accessed here: < <https://www.tamilguardian.com/content/tamil-disappearances-activist-attacked-days-after-cid-harassment>>.

later while riding her bicycle with her son an iron rod was thrown at her, but thankfully she sustained no injuries.<sup>22</sup>

### ***Intelligence officers go after family/friends to intimidate disappearances activist***

One of the other women who went on the visit to Geneva also experienced serious harassment and intimidation of her family both before and after her trip to the UN Human Rights Council in June 2018. A few days before her visit to Geneva, one of her immediate family members (a young woman) was stopped on her way home, held for two hours by security forces by the side of the road and questioned about the activist's visit to Geneva.<sup>23</sup> The family member who was stopped was on her way to pick up the activist from a meeting and since she did not show up,

*"A few days before her visit to Geneva, one of her immediate family members (a young woman) was stopped on her way home, held for two hours by security forces by the side of the road and questioned about the activist's visit to Geneva."*

the activist thought something must have happened to her and went to all the hospitals nearby and called all her relatives and started asking around about the family member.<sup>24</sup> It was only 2 hours later that she found out that she was questioned by a few members of the CID. The people who questioned the family member already knew most of the details about the activist's travel and her activism, and the activist feels the purpose of this interrogation was to scare the activist and her family.<sup>25</sup>

After she came back from Geneva, the neighbors noticed a stranger in a motorbike near the activist's house trying to look inside over the wall, who neighbours suspected was an intelligence officer.<sup>26</sup>

The activist's neighbors and her relatives were also asked about her work and her involvement with the issue of disappearances several times and were told to "tell her stop doing all this, it's for her own good."<sup>27</sup> A friend of the activist who lives abroad also got a call from a stranger and was warned to the effect of "tell your friend to stop doing all these, doesn't she want to live long."<sup>28</sup> The activist said that even though she was not personally questioned by CID in the last few months, intimidating her friends, family, neighbors and relatives is a strategy the CID is using to intimidate her. And to date she still gets calls from unknown numbers asking about other meetings and events relating to disappearance and about protests that are happening across North-East.<sup>29</sup> Because of her growing safety concerns for her family she has decided to be less involved around the disappearances issue as she doesn't want anything to happen to the people she loves and doesn't want her children to suffer without any parents if anything happens to her.<sup>30</sup>

<sup>22</sup> *Ibid.*

<sup>23</sup> Interviews with disappearances activist in the Eastern province, July and August 2018.

<sup>24</sup> *Ibid.*

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*

Outside of the North-East, a prominent disappearances activist, Sandhya Eknaligoda, who has also travelled to the UN multiple times, has also been the subject of significant harassment and intimidation, particularly through social media.<sup>31</sup> These threats were in particular full force after the arrest of a Sinhala-Buddhist monk, Gnanasara Thero in May 2018 who was responsible for threatening her outside of her court case in 2016.<sup>32</sup>

The intimidation and harassment of families of the disappeared who attend the UN Human Rights Council sessions amount to direct reprisals by Sri Lankan security forces. The current Sri Lankan Government has marketed its engagement with the UN since it came to power in 2015, to make the argument that they are human rights- friendly.<sup>33</sup> But it has done nothing to prevent the security forces from treating activists who engage with the UN as traitors and in this sense are no different from the previous regimes.

#### **IV. Attacks On Civil Society Activists Working With Families Of The Disappeared**

In addition to directly harassing and intimidating families of the disappeared, over the last two years, civil society actors who have been working with families across the North-East have increasingly come under attack from Sri Lankan security forces and/or individuals suspected to be working with them.

As stated above, a number of civil society actors have had their phones tapped, and have had family members, and co-workers questioned about their activities. Some civil society actors upon returning from the UN Human Rights Council sessions have themselves been directly questioned about their activities in relation to the families of the disappeared.<sup>34</sup> Other journalists, have been stopped, harassed and intimidated on their way to cover protests of families of the disappeared.<sup>35</sup>

In Muttur, one disappearances activist has been receiving threats over the phone since April 2017 to stop supporting protests over enforced disappearances.<sup>36</sup> Despite filing a complaint with the police on this matter, there has been no action taken and the police have indicated they

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<sup>31</sup> "Activists threatened and attacked while families of the disappeared protest hearings" (7 August 2018), *CIVICUS*, accessed here: < <https://monitor.civicus.org/newsfeed/2018/08/07/activists-threatened-and-attacked-while-families-disappeared-protest-hearings/>>.

<sup>32</sup> *Ibid.*

<sup>33</sup> See for example: 'Address of Foreign Minister Mangala Samaraweera at the US Institute of Peace' (25 February 2016), *Ministry of Foreign Affairs, Sri Lanka*, accessed here: <<https://www.mfa.gov.lk/visit/address-of-foreign-minister-mangala-samaraweera-at-the-us-institute-of-peace/>>; "Sri Lanka's future lies on good international ties: SL prez Maithripala Sirisena" (14 June 2016), *The Economic Times*, accessed here: <<https://economictimes.indiatimes.com/news/international/world-news/sri-lankas-future-lies-on-good-international-ties-sl-prez-maithripala-sirisena/articleshow/52742560.cms>>.

<sup>34</sup> Interviews with civil society actor, May – July 2017, Northern Province.

<sup>35</sup> See for example: "Tamil journalist harassed by Sri Lankan soldiers en route to disappearances protest" (18 July 2017), *Tamil Guardian*, accessed here: < <https://www.tamilguardian.com/content/tamil-journalist-harassed-sri-lankan-soldiers-en-route-disappearances-protest>>; "Tamil journalists threatened by Sri Lanka soldiers" (30 March 2017), *Tamil Guardian*, accessed here: < <https://www.tamilguardian.com/content/tamil-journalists-threatened-sri-lankan-soldiers>>.

<sup>36</sup> Interview with disappearances activist, Eastern Province, March and July 2018.

do not support the activist's complaint.<sup>37</sup> The same activist was assaulted by members of the Sri Lankan Civil Security Force in 2014.<sup>38</sup>

***Civil society actor working on Navatkuli disappearances case is physically assaulted***

In one recent case a civil society activist was brutally attacked in connection to a disappearances case. On July 14, 2018, an assistant to one of the lawyers in a *habeas corpus* case in progress in the Jaffna High Court was assaulted by an assailant with an iron rod while riding her bicycle with her young son in Vaddukoddai, Jaffna.<sup>39</sup> The assailant came up behind her and her son and hit her on the shoulders before hitting her directly on the head.<sup>40</sup> He did not take any of her jewellery or purse, ruling out the possibility of it being a robbery. She was hospitalized with a major concussion and remained unconscious for almost 2 hours before being transferred to the Jaffna Teaching Hospital.<sup>41</sup> Vaddukoddai police initially refused to accept the complaint claiming that the victim had sustained injuries as a result of fainting while riding on her bicycle.<sup>42</sup> It appeared that the police attached to the Hospital police post were also initially reluctant to register the complaint but later did so on the insistence of one of the Commissioners of the Human Rights Commission who intervened on the request of the victim's lawyers.<sup>43</sup>

The young female lawyer's assistant, was assisting on a major disappearance case involving the disappearance of over 24 Tamil youth in 1996, who were disappeared after they had been detained by the Sri Lankan army.<sup>44</sup> It is one of the only disappearance cases filed in Sri Lanka which specifically names a senior army official named as a respondent. The army official in question is in active duty, and was in fact promoted by the government even after the case had been filed.<sup>45</sup>

**The attack came only a few days after lawyers for the petitioners had raised objections to the presence of military intelligence personnel in the courtroom.**<sup>46</sup> The Deputy Solicitor General appearing for the army official had claimed that the military intelligence was present in court for his own security.<sup>47</sup> Prior to the attack, the lawyers' office had received other threats and intimidating calls.<sup>48</sup> To date, there has been no progress in the police complaint. Rather, the victim received a call from the Vadukkoddai police asking why she had approached the Human Rights Commission.<sup>49</sup>

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<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*

<sup>39</sup> Interviews with lawyers associated to the habeas corpus case, July – August 2018.

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> *Ibid.*

<sup>44</sup> *Ibid.*

<sup>45</sup> *Ibid.*

<sup>46</sup> *Ibid.*

<sup>47</sup> *Ibid.*

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

## V. Conclusion

The security situation facing families of the disappeared and associated civil society actors in the North-East is of grave concern. As Sri Lanka inches closer to General Elections 2020 in which it appears that the 'Joint Opposition' will make the return to a strong National Security State one of its campaign priorities, the overall security situation has significantly deteriorated raising questions over whether the incumbent Government is attempting to demonstrate its national security credentials in response to the Joint Opposition's campaign. The increase in security threat is parallel to the incumbent Government's publicly articulated desire to give the security apparatus a free hand over matters of national security. This brief has sought to provide a short outline of this situation and highlights that pervasive surveillance has increasingly been accompanied by physical violence against families of the disappeared and linked civil society activists.

The Sri Lankan state's intelligence apparatus is a sophisticated machine that is capable of many different forms of intimidation and harassment of disappearances activists.<sup>50</sup> It is clear that despite improvements in the functioning of the Human Rights Commission of Sri Lanka, there is still no credible domestic mechanism that can hold Sri Lankan intelligence structures accountable and prevent recurrence of violations.

We are alarmed by the lack of awareness about the risks facing disappearances activists in the North-East and the continued positive engagement by international diplomats with the Sri Lankan government despite these blatant human rights violations. It is imperative that the dismantling of Sri Lankan intelligence structures as part of a larger security sector reform project be made a necessary pre-condition for any type of engagement with Sri Lanka. Without holding accountable these shadowy and deep-seeded structures, a culture of impunity will continue to enable human rights violations to occur, including but not limited to against disappearances' activists.

No mechanism to address disappearances will be able to succeed without this important step to ensuring victim and witness protection and protect the families of the disappeared who still continue to search for their loved ones, in spite of all the risks.

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<sup>50</sup> " 'I live in fear and go to work': Ongoing surveillance, harassment and intimidation in Sri Lanka's North" (February 2018), *Sri Lanka Campaign*, accessed here: <<https://www.srilankacampaign.org/wp-content/uploads/2018/02/I-Live-in-Fear-and-Go-To-Work-Sri-Lanka-Campaign-February-2018-compressed.pdf>>.