State-sponsored torture of Tamils 'routine and endemic' in Sri Lanka, reveals UN fact-finding missio

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Torture is "routine and endemic" in Sri Lanka and the Tamil community in the country has taken the brunt of it, a UN expert has concluded at the end of a fact-finding mission to the island-nation.

Representational image. Reuters

â€œThe Tamil community has borne the brunt of the Stateâ€™s well-oiled torture apparatus, as the law is used disproportionately against them,â€• said Ben Emmerson, special rapporteur on human rights and counterterrorism, on Tuesday.

"The use of torture is deeply ingrained in the security sector. I heard deeply disturbing, first-hand accounts of brutal torture," Emmerson added.

About a dozen prisoners had been detained without trial for more than 10 years under the â€œdeeply flawedâ€• Prevention of Terrorism Act (PTA), and 70 others for more than five years. Eighty percent of suspects arrested under the anti-terror legislation in late 2016 had reported torture and other physical ill-treatment.

In spite of its widespread prevalence, there is a lack of effective investigation into such cases, the UN expert observed.

Meanwhile, reforms promised by Sri Lanka two years ago through a United Nations Human Rights Council (UNHRC) resolution remains woefully slow.

"Yet, two years on, and already four months into a two-year extension granted to the government by the UNHRC, progress in achieving the key goals set out in the resolution is not only slow, but seems to have grounded to a virtual halt,â€• Emmerson says in a statement.

All the measures adopted so far to fulfill Sri Lankaâ€™s transitional justice commitments are inadequate to ensure real progress, and there is little evidence that the perpetrators of war crimes (from the Sri Lankan armed forces) are being brought to justice, he added.

In 2015, a framework for promoting reconciliation, accountability and human rights in Sri Lanka, was adopted by the UNHRC â€” which was co-sponsored by the Government of Sri Lanka â€” and was taken to be indicative of the governmentâ€™s commitment to heal the country.

For almost 26 years, Sri Lanka dealt with violent acts of terrorism committed by the Liberation Tigers of Tamils Eelam (LTTE), including suicide bombings and political assassinations, which resulted in a civil war that ended in 2009.

The resolution aimed at taking a series of specific steps to end the culture of impunity for crimes committed by public officials while ensuring accountability, peace and justice. The goal was to achieve durable reconciliation and prevent a recurrence of the human rights violations committed by both sides during the conflict.

The significance of the systemic use of torture â€” that includes using stress position, asphyxiation using plastic bags drenched in kerosene, pulling out of fingernails, insertion of needles beneath the fingernails, various forms of water torture, suspension for several hours by the thumbs, and mutilation of the genitals â€” to obtain confessions needs to be seen against the "deplorable delays" that are built into the framework for the handling of cases under the PTA.

The PTA was temporarily enacted as an emergency measure in 1979 but was made permanent in 1982 and remains on the statute books even today. It admits the use of uncorroborated confessions made to police officers as the sole basis for convictions â€" that have fostered the endemic and systematic use of torture in the country. Sri Lanka, in the UNHRC resolution, had also committed to a draft legislation which would replace this dreaded anti-terror law.

"The most senior judge responsible for PTA cases in Colombo informed the special rapporteur that in over 90 percent of the cases he had dealt with so far in 2017, he had been forced to exclude the essential confession evidence because it had not been given voluntarily â€" that is that it had been obtained through the use or threat of force," said Emmerson, who specialises in European human rights law.

Though the UN is encouraged by Sri Lankaâ€™s recent adoption of a 'zero tolerance policy' towards the use of torture and by the appointment of a committee to eradicate torture by the police in July 2016, anti-terror legislation is still used disproportionately against Tamilians.

"These staggering figures are a stain on Sri Lankaâ€™s reputation," Emmerson said, urging the immediate release of the 81 suspects.

In his five-day mission between 10 July and 14 July, the UN expert met with representatives of the government, including the ministries for foreign affairs, law and order, justice, defence, finance, media, prison reforms, rehabilitation, resettlement and Hindu religious affairs.

He will submit his full report with findings and recommendations to the UNHRC in March 2018.

A UN Committee had also recently pulled up Sri Lanka asking its military to end its interference in civilian and commercial activities.

Since the end of the civil war, the military has used various laws to bring land under its control and away from the local Tamil population, the UN Committee for Economic, Social and Cultural Rights (UNCESCR) had concluded after its review of the country in June. The Land Acquisition Act allows the government of Sri Lanka to seize lands for â€œpublic purposesâ€•, but the law has a blurry definition of a public purpose.

The committee was also "concerned" that although significant areas of land have been released since 2015, the military still controls substantial areas of private and public land in the north and east of the country and continues to engage in commercial activities, including farming, tourism, setting up of coffee shops and hotels, the UN had said.

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