

**NATIONS UNIES  
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**PROCEDURES SPECIALES DU  
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS  
OFFICE OF THE UNITED NATIONS  
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE  
HUMAN RIGHTS COUNCIL**

**Mandate of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: AL G/SO 214 (53-24) G/SO 214 (89-15)  
LKA 10/2011

14 December 2011

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and Special Rapporteur on violence against women, its causes and consequences pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 16/23 and 16/7.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **Ms. TKP an internally displaced woman of Tamil origin who was resettled from the Ramanathan IDP Camp to V. (Mullaitheevu district) where she was allegedly raped by two military officers in June 2010.**

According to the information received:

Ms. TKP is a 28 year old Internally Displaced woman of Tamil origin who returned from the Ramanathan IDP Camp to her partially destroyed farmland in V. (Mullaitheevu district).

In the night of 6 June 2010, four military men allegedly came to the tent that Ms. TKP shared with her two children (boys aged 6 and 10), her brother (aged 16) as well as her two neighbors (a woman aged 70 and her daughter aged 42). The men allegedly hit Ms. TKP on her head with a pole to stop her from shouting. The four men also reportedly held knives against the children and two military men attacked and chased her brother outside the tent.

It is reported that Ms. TKP managed to escape and run into the direction of her farmland where she fell and was reportedly raped by two of the military men who were chasing her.

Allegedly, the case was reported to the commander of the 12<sup>th</sup> mile post army camp at 2 am on 07 June 2010. The latter allegedly offered Ms. TKP money in order to dissuade her from pursuing her case any further. When the victim refused to accept his offer she was allegedly told to come back and give her statement after bathing herself.

It is also reported that on 07 June 2010, Ms. TKP lodged another complaint with the police who came at the 12<sup>th</sup> milepost army camp and conducted an investigation on the same day. On 08 June 2010, the victim was taken to V. hospital where she was tested including a DNA test and her wounds treated. The medical results reportedly confirmed that she was raped.

It is further reported that the case was taken up by the Kilinochichi district court on 14 June 2010 where the victim gave her testimony reportedly in the presence of more than 100 military men inside the court. Her medical results were also directly submitted to this court. On 16 July 2010, the case was committed to the Jaffna High Court. Ms. TKP's case is reportedly still pending in court.

Concern is expressed that this case does not constitute an isolated event, but represents an ongoing pattern of abuse of sexual character against Tamil women by the military in the Northeast. According to information received, female headed internally displaced households in the North are particularly vulnerable to these human rights violations due to military presence.

Furthermore, it is reported that current legislation, which criminalizes rape in Sri Lanka provides no compensation for the affected women. Raped women are allegedly reluctant to report any instances of abuse, due to the lack of response that the authorities have shown in cases that have been reported. The very few cases brought by Tamil women against military officers on charges of rape take a long time to come to conclusion if they do. The impunity of these cases enhances social perceptions of violence against women as justified and acceptable.

While we do not wish to prejudge the accuracy of these allegations, we would like to bring to the attention of your Excellency's Government General Assembly resolution 48/104 on the Declaration on the Elimination of Violence against Women which provides in its article 4(b) that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women. In connection to this, we would also like to bring to the attention of your Excellency's Government article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, States should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as

provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

In this context, we wish to recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its general recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (ratified by your Excellency's Government on 5 October 1981), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In general recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfill this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

We would also like to refer your Excellency's Government to its obligations under article 2(d & e) of the Convention on the Elimination of All forms of Discrimination against Women, which requires States Parties to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions act in conformity with this obligation; as well as to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

Finally, we would also like to recall the serious concern of the Committee on the Elimination of Discrimination of Women about reports of sexual violence allegedly perpetrated by the armed forces, the police and militant groups during the Committee's consideration of the report of Sri Lanka on 26 January 2011. The Committee urged Sri Lanka to protect women affected by the prolonged conflict, particularly the Tamil minority group, including internally displaced women from any form of human rights violations. The committee further recommended Sri Lanka to promptly investigate, prosecute and punish all acts of violence including acts of sexual violence perpetrated by private actors as well as by the armed forces, the Police and militant groups CEDAW/C/LKA/CO/7 para. 41(a), (b)).

As it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the above summary of the case accurate?

2. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
3. Please provide information on the current status of the case of Ms. TKP pending before the Jaffna high court.
4. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
5. Please indicate if any measures have been put in place to guarantee the safety and integrity of women who have brought cases of rape by military personnel to courts and whether reparation for the harm and suffering caused has been provided.

We would appreciate a response within sixty days. We undertake to ensure that your Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Juan E. Méndez  
Special Rapporteur on torture and other cruel, inhuman or degrading  
treatment or punishment

Rashida Manjoo  
Special Rapporteur on violence against women, its causes and  
consequences