

Schnellrecherche der SFH-Länderanalyse vom 5. August 2016 zu Sri Lanka: Politische Einflussnahme auf die Polizei

Fragen an die SFH-Länderanalyse:

- Gibt es Hinweise auf politische Einflussnahme auf die sri-lankische Polizei?

Die Informationen beruhen auf einer zeitlich begrenzten Recherche (Schnellrecherche) in öffentlich zugänglichen Dokumenten, die uns derzeit zur Verfügung stehen.

1 Gibt es Hinweise auf politische Einflussnahme auf die sri-lankische Polizei?

Massive Missstände innerhalb der Polizei. *Human Rights Watch* hat in einem Bericht vom Oktober 2015 massive Missstände innerhalb der sri-lankischen Polizei dokumentiert. So sei die Anwendung von Folter in Haft durch die Polizei weitverbreitet. Weiter seien Polizei- und Sicherheitskräfte für verschiedene weitere Vergehen verantwortlich, wie zum Beispiel aussergerichtliche Tötungen, Entführungen, Vergewaltigungen und verlängerte Inhaftierungen ohne Gerichtsverhandlungen. Alle diese Vergehen richteten sich zudem überproportional gegen tamilische Personen (*Freedom House*, 2016). Betroffene haben laut *Human Rights Watch* (2015) kaum Möglichkeiten, gegen Misshandlungen und Missstände vorzugehen.

Korruption innerhalb von Behörden und Polizei. Gemäss aktuellem Bericht von *Freedom House* vom Februar 2016 bleibt Korruption in Sri Lanka weiterhin ein Problem und sei insbesondere in unteren Gerichten («Lower Courts») verbreitet. *Human Rights Watch* (2015) weist ebenfalls darauf hin, dass Korruption in der Polizei verbreitet ist.

Berichte von politischer Einflussnahme auf Polizei. Verschiedene Quellen deuten darauf hin, dass Polizeiarbeit weiterhin durch politische Einflussnahme beeinflusst werden kann. *Human Rights Watch* (2015) und *Freedom House* (2016) berichten, dass der politische Einfluss auf das Justizsystem und die Polizei während der Regierungszeit des ehemaligen Präsidenten Mahinda Rajapaksa stark zugenommen hatte. Nach Einschätzung von *Freedom House* habe die politische Einflussnahme zuletzt aber im Vergleich zur Regierungszeit von Rajapaksa abgenommen. Die *International Crisis Group* (2016) weist ebenfalls darauf hin, dass politische Führungspersonen zwar weniger regelmässig auf Fälle, Gerichte und Polizei Einfluss nehmen würden, allerdings seien bisher nur bescheidene Schritte mit sehr begrenzten Auswirkungen getätigt worden, um Veränderungen in Bezug auf die Kontrolle der Exekutivgewalt oder Missbräuche durch den Staat zu institutionalisieren.

Nach Angaben des Meinungsbeitrags eines sri-lankischen Rechtsanwalts in einem Artikel in *Ceylon Today* vom Juli 2015 gehen die meisten Polizeibeamten auf Forderungen von Politikern der Regierungspartei aber auch der Oppositionsparteien ein. Dies fördere die politische Einflussnahme auf die Polizeiarbeit. Der ehemalige «Deputy Inspector General of Police» (DIG) Jayakumar Thangavelu, hochrangiger und

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mittlerweile pensionierter Polizeioffizier, weist in einem Zeitungsartikel von *Ceylon News* vom Januar 2016 ebenfalls auf die politische Einflussnahme bei der Polizei hin. Gemäss seiner langjährigen Erfahrung würden viele Polizeibeamte eine «ehrliche Arbeit» («Honest Job») bei der Untersuchung und Unterbindung von Verbrechen leisten, wenn sie nicht unter dem Einfluss von Politikern und höherrangigen Regierungsbeamten stehen würden, so das Zitat.

ICG, 2016:

«The two 2015 elections gave the government a clear mandate to tackle corruption, end and investigate other abuses of power and pursue reforms to restore rule-of-law. The promises to do so were central to the victory. However, there is growing concern the government may be suffering from traditional Sri Lankan political dysfunctions it campaigned to end: corruption, nepotism, abuse of position and intolerance of criticism.(...) With political leaders no longer regularly interfering in cases, courts and police have been more willing to pursue investigations and make rulings that would have been taboo under the former regime. The challenge now is to institutionalise these changes, so freedom of expression and equal enforcement of laws do not depend on the goodwill of those in power. The modest moves so far to institutionalise checks on executive power and abuses by the state have had limited effect and are not yet backed by a coherent policy.»

Quelle: International Crisis Group (ICG), Jumpstarting the Reform Process, 18. Mai 2016, S. 8: www.ecoi.net/file_upload/1002_1464083543_278-sri-lanka-jumpstarting-the-reform-process.pdf

Ceylon Today, Juli 2015:

«Most of the Police officers, in order to cover up their inefficiency, corruption or to receive non-deserving promotions and other perks in the Police Department bow to the requests from politicians of the ruling party and sometimes even the opposition. Such conduct enhances political interference.» Quelle: Ceylon Today, The need to free police from political interference, 11. Juli 2015: www.ceylontoday.lk/51-97995-news-detail-the-need-to-free-police-from-political-interference.html.

Ceylon News, Januar 2016:

«Contrary to popular perception, it is my experience that the overwhelming majority of the police officers are well-trained, capable and if left free of interference by politicians and senior government officials, would do an honest job in investigating and interdicting crime.» Quelle: Ceylon News, A DIG's perspective on Sri Lanka's investigations into political crimes, 19. Januar 2016: www.ceylonnews.com/2016/01/a-digs-perspective-on-sri-lankas-investigations-into-political-crimes/

Freedom House, 2016:

«Corruption remains a concern, though steps were taken in 2015 to strengthen enforcement of existing safeguards and uphold the current legal and administrative framework.(...) Although the judiciary had become less independent and more politicized under Rajapaksa, the appointment of a new, Tamil chief justice in January 2015 was a positive step taken by the new administration, as was the re-formation of an independent commission to oversee judicial appointments. Corruption remains

common in the lower courts, but the levels of threats and political interference that occurred under Rajapaksa abated under the new government.

Police and security forces occasionally engage in abusive practices, including arbitrary arrest, extrajudicial execution, forced disappearance, custodial rape, torture, and prolonged detention without trial, all of which disproportionately affect Tamils, as described in an October 2015 Human Rights Watch report. The London-based NGO Freedom from Torture noted several dozen cases during 2015 in which Tamils were tortured by security forces on suspicion of involvement with the LTTE.» Quelle: Freedom House, Freedom in the World 2016 – Sri Lanka, 27. Januar 2016: www.ecoi.net/local_link/325743/465657_de.html.

ICG, 2016:

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Quelle: International Crisis Group (ICG), Jumpstarting the Reform Process, 18. Mai 2016, S. 8: www.ecoi.net/file_upload/1002_1464083543_278-sri-lanka-jumpstarting-the-reform-process.pdf.

Human Rights Watch, Oktober 2015:

*«In this report, Human Rights Watch investigated allegations of **police torture and other serious human rights violations in various parts of the country** against criminal suspects. We found that **police frequently use torture** to try to obtain confessions rather than undertaking the more difficult and time-consuming process of gathering evidence through investigations. Police also use beatings and other forms of torture to punish suspects they believe are guilty, instead of leaving the matter properly to the courts. Our findings corroborate those of domestic human rights defenders who report that the use of torture and other ill-treatment is common, even for minor offenses.*

*Too often, **crime scenes are not properly investigated as police seek quick confessions through coercive means**; detainees are not brought before a magistrate within 24 hours as required by law; and magistrates do not give serious consideration to allegations of mistreatment, including by ensuring that the detainee receives proper medical attention from a judicial medical officer (JMO). 'Due to lack of time in policing and investigation of crimes,' said J.C. Weliamuna, a prominent human rights lawyer, **'[police] resort to shortcuts.'** (...)*

The Sri Lankan legal system has several **mechanisms available for victims of police abuse. Each routinely fails victims.** As an initial step, victims can file a First Information Report (FIR) with the police. These are almost always unsuccessful, as police either refuse to record the complaint or try to pressure victims not to file the FIR. The police not only reject allegations of torture and other abuse, but often respond to complaints brought by victims or their families with harassment and threats of arrest on trumped-up charges. In some cases they seek to buy off a victim with a quietly paid bribe. Victims can file complaints against police abuse with the local courts, but lawyers and rights activists say that there are several barriers to securing justice through this process, particularly in rural areas where the police engage in intimidation and threats against victims. In addition to court fees, there are regular court appearances and attorney fees for each appearance, and it typically takes years before cases are heard properly, if at all. In many cases Sri Lankan law allows for a direct appeal to the Supreme Court of Sri Lanka if a fundamental right enshrined in the constitution has been violated. However, these 'fundamental rights' applications need to be filed within 30 days of the alleged abuse, a period during which victims are often still traumatized or attempting redress through the FIR system. Complicating matters, fundamental rights applications have to be filed in the Supreme Court in Colombo, which is not easily accessible to most Sri Lankans. Victims can also file complaints with the governmental National Human Rights Commission (NHRC). However, the NHRC has largely been ineffective since it lacks political clout and does not have sufficient capacity for independent investigations. Lawyers usually advise victims to quickly file the NHRC case because it stops the 30-day clock with the Supreme Court on fundamental rights applications; those who do not know the law lose out. **Each of these redress processes, moreover, typically takes years to complete. Lawyers say that many drop their claims due to the expense of legal fees and travel. Nonetheless, even families with the time and resources to pursue a case rarely achieve anything resembling a positive outcome.**

The NHRC and national courts suffered a loss of independence under the rule of President Mahinda Rajapaksa, who was in office from November 2005 until January 2015. Rajapaksa undercut accountability efforts by exerting executive control over previously independent government commissions, including the NHRC. Through the 18th Amendment to the constitution, **Rajapaksa obtained the power to appoint commissioners to the NHRC and the National Police Commission, which is responsible for overseeing appointments, promotions, transfers, discipline and dismissal of police.** He also took steps that **undermined the independence of the judiciary**, such as organizing the impeachment of the chief justice of the Supreme Court. As a result the **commissions and courts became increasingly politicized.** Lawyers and rights activists also emphasized what they see as the **longstanding bias of the criminal justice system and the NHRC in favor of the police**, saying that the occasional small victories do not make up for the overwhelming majority of cases in which both the attorney general's department and the courts block justice or simply drag their heels. They also reported a **vicious cycle of corruption**, as police pay off others to protect them against complaints. **While the level of corruption is hard to determine, it certainly has an impact on those seeking to navigate the system.**» Quelle: Human Rights Watch, 'We Live in Constant Fear', Lack of Accountability for Police Abuse in Sri Lanka, Oktober 2015, S.1-2; 4-6:

www.ecoi.net/file_upload/1002_1445600871_srilanka1015-4up-0.pdf.

USDOS, 2016:

«The law provides criminal penalties for corruption by officials, and the government began to implement the law effectively but remained constrained by a lack of technical expertise and resources. **Officials in various branches of government engaged in corrupt practices, albeit under a heightened level of scrutiny.**» Quelle: United States Department of State, 2015 Country Reports on Human Rights Practices – Sri Lanka, 13. April 2016: www.refworld.org/docid/57161206c.html.