

உலகத் தமிழர் பேரவை
Global Tamil Forum



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GLOBAL TAMIL FORUM (GTF)

www.globaltamilforum.org

Introduction

This individual submission by the Global Tamil Forum (GTF)¹ will focus on the current situation for civilians in the Tamil majority areas of the North and East of Sri Lanka, as well as the key concerns of GTF. It will highlight how current Government policy is undermining human rights and the prospects of ensuring long-lasting peace on the island.

Militarisation

The North and East of Sri Lanka are under military occupation. The influx of army personnel, since the end of the war, continues and in areas such as the Jaffna Peninsula the estimated ratio of soldiers to civilians is 1:10.

According to Tamil National Alliance (TNA), the democratically elected representative voice for the Tamil people in Sri Lanka, the military has seized, without any legal basis, up to 37% of the land in the North and East formerly inhabited/cultivated by Tamils, prior to May 2009². The establishment of military cantonments, as well as 'High Security Zones', has displaced many civilians.

Through its vast network of checkpoints, between and within villages and towns, the security services are able to restrict the movement of residents and monitor their activities. Their actions only serve to exacerbate tensions between them and the Tamil people in the region.

The presence of the military has undermined the civilian administration of the area. The provincial governors of the North and East are retired, senior military officers and the current armed forces commanders wield great influence over many aspects of civilian's lives. In 2010, the Government's NGO Secretariat was brought under the auspices of the Ministry of Defence. NGOs have found their movements in the North and East heavily restricted as a result, which has hindered access to people in need of assistance.

The Sri Lankan armed forces have established many commercial enterprises along the A-9 Highway, the major arterial road leading into the North, and throughout other areas of the region. The army run restaurants, hotels and shops and have appropriated farmland for the cultivation of crops. The Airforce and the Navy are involved also in the tourism industry, providing commercial flights and ferry services throughout the region, respectively.

This pervasive encroachment has seriously restricted economic opportunities for Tamil individuals and businesses. Given the high levels of unemployment in the region and the need for growth and prosperity, the military must desist immediately from these activities.

Sri Lanka's 'Lessons Learnt and Reconciliation Commission' (LLRC) report criticised the manner in which the Tamil majority areas have been militarised. The assertion made by Sri Lankan Minister Mahinda Samarasinghe, at the 19th Session of the UN Human Rights Council (UNHRC), that "*the*

¹ Global Tamil Forum (GTF) was established in 2009 by a number of grass-roots Tamil groups following the end of the armed conflict in Sri Lanka. It is the largest Tamil diaspora organisation with members drawn from fifteen countries on five continents. GTF is committed to a non-violent agenda and seeks a lasting peace in Sri Lanka based on justice, reconciliation and a negotiated political settlement.

² M.A. Sumanthiran MP, Tamil National Alliance, *Situation In North-Eastern Sri Lanka: A Series of Serious Concerns*, October 2011, <http://dbsjeyaraj.com/dbsj/archives/2759> [accessed 12/04/2012]

*military has been withdrawn from aspects of civilian life, and are now confined to security-related matters*³ is misleading, in light of the above.

Sinhalisation

*“The government is engaged in irreversibly altering the demographic composition of the North and East through the establishment of Sinhala settlements, the entrenchment of the military, and the systematic exclusion of Tamil people from the civil service”*⁴, the TNA has said.

As a direct consequence of the increased military presence in the region, a process of Sinhalisation is under way.

The armed forces are comprised almost exclusively of Sinhala speaking Buddhists. There has been the systematic removal of Tamils from the civil service in the region, in favour of Sinhalese, since 2009. This means that the Tamil community is often denied the opportunity to influence or help implement policies which have a direct impact on Tamil majority areas. This marginalisation is exemplified by the fact that Tamils only constitute 2% of the police in Sri Lanka and 6% of the civil service⁵, despite comprising almost 20% of the country’s population.

Land seized by the military has been provided also to Sinhalese settlers from the South of the country, including families of military personnel. The Catholic Diocese of Mannar in the North raised alarm about land colonisation and Government sponsored demographic change, in its submission to the LLRC. They stated that *“such efforts [of colonisation and demographic change] in the past have been a key factor that led to the conflict, war and violence and as we try to move towards reconciliation, it is crucial to learn lessons from the mistakes made in the past and not repeat such mistakes.”*⁶ The realities on the ground indicate that this is exactly what the Government is doing.

Some Hindu temples, which are the places of worship for the majority of religious Tamils, have been desecrated and destroyed, whilst a number of Buddhist structures have been built in the region. Tamil names for towns and roads have been changed into Sinhalese, with, for example, the village of Kokachankulam in the Vavuniya district of the North of the country being renamed Kolobaswewa.

The Tamil way of life is being threatened by the actions of the Sri Lankan authorities.

³ Ministry of External Affairs – Sri Lanka, *Statement by the Hon Mahinda Samarasinghe M.P. Minister of Plantation Industries and Special Envoy of the President on Human Rights Leader of the Sri Lanka Delegation to the 19th Session of the UNHRC High Level Segment*, February 2012, <http://tinyurl.com/d9je8z9>, [accessed 11/04/2012]

⁴ Tamil National Alliance, *Broken Promises: TNA response to the position of the Government of Sri Lanka at the 19th session of the UN Human Rights Council*, March 2012, http://www.sangam.org/2012/03/TNA_BrokenPromises.php?uid=4650, [accessed 01/04/2012]

⁵ *Ibid.* Broken Promises.

⁶ Catholic Diocese of Mannar, *Submission to the LLRC*, January 2011, <http://www.srilankaguardian.org/2011/01/llrc-submission-by-catholic-diocese-of.html>, [accessed 26/03/2012]

Return and Resettlement

In the country's first UPR in 2008, Sri Lanka accepted a number of recommendations to support the rights of internally displaced people (IDPs). The Government agreed to take measures necessary to ensure the return and restitution of housing and lands in conformity with international standards for displaced people, to facilitate the reintegration of IDPs in areas of return and to safeguard their human rights. However these commitments, in many instances, have not been fulfilled.

Sri Lanka has sought to emphasise the success of its return and resettlement programme. Speaking at the 19th Session of the UNHRC, Minister Samarasinghe stated that of the over 290,000 IDPs held in camps at the end of the armed conflict *"only 6,647 IDPs remained to be resettled by the end of 2011."*⁷ Media reports in September of the same year indicated that Sri Lanka was considering closing the Ministry of Resettlement, thus implying a Government view that internal displacement was no longer a serious concern.

What these Government statistics do not reveal is whilst IDPs have been allowed to return to areas of the North and East, many have not been resettled properly and, instead, live in dilapidated huts, in transit situations or in camps. International Crisis Group has stated that the total IDP population, a figure which constitutes those held at the end of the war and others displaced earlier, still totals over 138,000⁸.

Displaced people have often been returned and/or resettled to areas in the North and East without basic infrastructure in place. Access to humanitarian support, medical assistance, housing, sanitation and education as well as livelihood opportunities has been limited.

The continued displacement of civilians is, in part, a result of the militarisation of the region. For example, thousands of the former villagers of the Mullaitivu region, where the final fighting of the conflict took place, will not be allowed to return due to the occupation of their land by the armed forces. Instead, a new village has been established called Kombavil, which is some distance inland from their place of origin. It offers only rudimentary infrastructure and no access to the coast for many of the inhabitants who used to be engaged in the fishing industry. Those affected are desperate to return to their land, but have been given no indication from the Sri Lankan authorities when, or indeed if, this will ever take place. This contravenes Principle 6.1 of the Guiding Principles of Internal Displacement - *"Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence"*⁹.

⁷ *Op. cit.*, Minister Samarasinghe statement

⁸ International Crisis Group, *Sri Lanka's North II: Rebuilding Under the Military*, Asia Report No. 220, March 2012, <http://www.crisisgroup.org/~media/Files/asia/south-asia/sri-lanka/220-sri-lankas-north-ii-rebuilding-under-the-military.pdf>, page 5, [accessed 06/04/2012]

⁹ United Nations Office for the Coordination of Humanitarian Affairs, *Guiding Principles for Internal Displacement*, September 2004, <http://ochanet.unocha.org/p/Documents/GuidingPrinciplesDispl.pdf>, page 3, [accessed 20/04/2012]

Human Rights Abuses

In its 2008 UPR, the Government of Sri Lanka made a number of commitments to improve the human rights situation on the island and to enhance the capacity building of its national human rights institutions. They accepted recommendations to implement human rights at all levels of society; to ensure a safe environment for human rights defender's activities; to investigate, prosecute and punish those responsible for human rights crimes; to address torture; to strengthen legal safeguards for eliminating ill treatment in prisons; and to take measures to safeguard the freedom of expression.

Four years on from these assurances being given, human rights abuses are rampant. Many people, particularly in the Tamil majority areas, live in fear for their safety and their lives. Violence against women is a serious concern. With almost 90,000 war widows and tens of thousands of female headed households, in the North and East, many are struggling to cope with increased insecurity and cases of rape and sexual abuse perpetrated by members of the military are increasing.

Whilst wartime emergency laws have been rescinded, the draconian powers of arrest and detention provided by the Prevention of Terrorism Act remain in effect. Thousands of suspected ex-combatants and political prisoners, many of whom are Tamils, are still being detained without trial or access to legal representation. Prisoners who have been released, particularly those alleged to have been involved with the Liberation Tigers of Tamil Eelam (LTTE), have often been placed under close surveillance by the authorities upon their return to their communities and there have been reports of further intimidation and harassment of these individuals by the army.

Sri Lanka has 5,671 outstanding cases currently under review by the UN Working Group on Enforced and Involuntary Disappearances. In Sri Lanka's 2008 National Report to the UPR (A/HRC/WG.6/2/LKA/1), the Government stated that "*Sri Lanka's history of safeguarding fundamental rights can be traced to our longstanding respect for the rule of law*"¹⁰. However, with the prevalence of disappearances, as well as cases of security force complicity in extra-judicial killings and serious concerns regarding the use of torture by Sri Lankan authorities against human rights defenders, journalists and civil society actors, which were raised by the UN Committee Against Torture (CAT) in November 2011, there is little respect for the rule of law. Evidence submitted to CAT suggested that Tamil rights activists, and anyone suspected of involvement with the LTTE, were at particular risk of torture from members of the police and military.

A culture of impunity prevails. Student Union leaders and media workers in Jaffna, including the editor of the Tamil newspaper Uthayan, have been attacked for organising protests against the Government and criticising the actions of the State, respectively. TNA MPs have been harassed and had political meetings broken up by 'unidentified groups' and the security services.

This is taking place against a backdrop of media intimidation, where websites and newspapers critical of the Government are shutdown and Ministers threaten to "*break the limbs*"¹¹ of journalists and human rights activists who oppose the Government.

¹⁰ Government of Sri Lanka, *National Report to the Working Group on the Universal Periodic Review*, (A/HRC/WG.6/2/LKA/1), May 2008, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/132/02/PDF/G0813202.pdf?OpenElement>, page 3, [accessed 20/04/2012]

¹¹ BBC News, *Sri Lanka Minister Mervyn Silva Threatens Journalists*, March 2012, <http://www.bbc.co.uk/news/world-asia-17491832>, [accessed 20/04/2012]

Despite these serious concerns, Minister Samarasinghe said at the 19th Session of the UNHRC that *"very specific measures have been adopted by the Government to safeguard human rights."*¹² However, Sri Lanka's National Action Plan on the Promotion and Protection of Human Rights has been heavily criticised by civil society groups in the country for its failure to provide adequate safeguards.

Many of the interim recommendations made by the LLRC in 2010, which were aimed at improving the human rights situation on the island, have still not been implemented. This lack of political will to promote and protect human rights gives rise to legitimate concerns that the Government has no intention to enact the other recommendations from the LLRC's final report, which was published in December 2011. These fears are supported by the statement made by the Sri Lankan Minister, Nimal Siripala de Silva that *"careful consideration would be given before implementing the recommendations proposed by the LLRC"*.¹³ This statement shows contempt for the Resolution (A/HRC/19/L.2) adopted by the UNHRC on Sri Lanka at its 19th Session and highlights the Government's attitude to human rights, accountability and reconciliation.

Conclusion

The end of the armed conflict in Sri Lanka provided an opportunity to reconcile some of the deep divisions between the ethnic communities on the island. However, reconciliation has failed to materialise.

The militarisation and Sinhalisation of Tamil majority areas have done tremendous damage to the Sinhala-Tamil relationship and have aggravated a victor-victim or ruler-conquered association between the communities in the region. In addition, the poor treatment of IDPs and the on-going perpetration of human rights abuses are undermining the prospects for long-lasting peace.

The Government's failure to address the issues of war crimes accountability arising from the end of the conflict, when as many as 40,000 Tamil civilians were killed¹⁴ with many more remaining unaccounted for¹⁵, is also a significant contributory factor to the current environment in Sri Lanka. Accountability for violations of international human rights and humanitarian law is a duty under domestic and international law. However, Government attempts to provide accountability have been derisory, with the UNHRC Resolution (A/HRC/19/L.2) *"noting with concern"*¹⁶ the LLRC's failure to address the allegations of war crimes and crimes against humanity committed.

¹² *Op. cit.*, Minister Samarasinghe statement

¹³ The Hindu, Colombo *changing tack on LLRC?*, March 2012, <http://www.thehindu.com/news/international/article3248382.ece>, [accessed 14/04/2012]

¹⁴ Report of the UN Secretary-General's Panel of Experts on Accountability in Sri Lanka, March 2011, http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf, page 41, [accessed 20/04/2012]. Multiple sources of information given to the Panel of Experts stated that 40,000 lives were lost.

¹⁵ *op. cit.*, Submission to the LLRC. Significantly in the Catholic Diocese of Mannar's submission to the LLRC in 2011, they stated that 146,679 people were unaccounted for, from the area of the Vanni in the North of the country, following the end of the armed conflict.

¹⁶ United Nations Human Rights Council, Promoting Reconciliation and Accountability in Sri Lanka, (A/HRC/19/L.2), March 2012, <http://daccess-dds-ny.un.org/doc/RESOLUTION/LTD/G12/115/97/PDF/G1211597.pdf?OpenElement>, [accessed 20/04/2012]

The initiation of military, rather than independent, courts of inquiry to look into the few cases of alleged army and navy abuses deemed worthy of further consideration by the LLRC will not provide the impartial and credible investigations that are necessary. The Government's lack of commitment to investigate these serious issues is typified by the fact that former, senior military commanders accused of perpetrating war crimes have been given prime diplomatic posts around the world.

Dealing with the underlying reasons for the armed conflict is another intrinsic component to ensuring sustainable peace. The LLRC report, whilst containing many serious shortcomings, does acknowledge that the root cause of the armed conflict was a direct result of *"the failure of successive Governments to address the genuine grievances of the Tamil people"*¹⁷. For a lasting peace to prevail, the Tamils need to have their democratic rights restored through a politically negotiated settlement and their democratic rights must be allowed to be exercised under free and fair conditions and without fear of intimidation or reprisal.

However the treatment of the community since the conclusion of the conflict highlights that the Sri Lankan authorities have learnt nothing from the past.

Sri Lanka promised to implement the 13th Amendment to the Constitution, which would provide the devolution of powers to the North and East, in their 2008 UPR. However 4 years on from this public commitment and 25 years since this Amendment was devised, no devolution has taken place. Powers have, instead, been centralised in the hands of the President.

The local elections held in Sri Lanka's North and East in July 2011 provided a litmus test of the level of support for the post-war policies of the government in the region. The resounding rejection of the ruling United People's Freedom Alliance Party in favour of the TNA, despite major efforts to win Tamil support with gifts, promises and intimidation, underlines the extent of discontent with the Government.

There is a need for serious reform in Sri Lanka, as the human, civil and political rights of Tamils, and others, are under sustained assault.

Recommendations

Global Tamil Forum calls on the Government of Sri Lanka to:

- Demilitarise the Tamil majority areas; disband all paramilitary units; return all seized land to its rightful owners; restore complete civil administration to all militarised government departments and also national institutions, such as the NGO Secretariat and the Urban Development Authority; and ensure that the military desist from involvement in any economic activities which undermine the livelihood opportunities for inhabitants of the region.
- Cease the Sinhalisation of Tamil majority areas, with immediate effect.

¹⁷ Lessons Learnt and Reconciliation Commission, *Report of the Commission of Inquiry on Lessons Learnt and Reconciliation*, November 2011, <http://reliefweb.int/sites/reliefweb.int/files/resources/FINAL%2520LLRC%2520REPORT.pdf>, page 291, [accessed 01/04/2012]

- Ensure the prompt release of all IDPs, who still remain in camps; guarantee that all IDPs who wish to return to their places of origin are allowed to do so; and that the return and resettlement policy conforms to international standards for IDPs.
- End the culture of impunity ensuring that all cases of human right violations, including cases involving enforced disappearances, torture or extrajudicial killings, are investigated in an independent, impartial, prompt and effective manner and take immediate measures to safeguard the freedom of expression and protect human rights defenders.
- Allow the independent monitoring of the detention system by human rights groups.
- Take immediate measures to end detention without trial and publish a detainee database list, containing information on who is imprisoned and where they are incarcerated. This list should be made available as soon as possible to the next of kin of those detained. All detainees should be allowed access to legal representation.
- Accept advice and technical assistance from the Office of the United Nations High Commissioner for Human Rights and all special procedures mandate holders, in order to assist in the full implementation of the UNHRC Resolution (**A/HRC/19/L.2**).
- Ensure accountability for allegations of violations of international humanitarian and human rights law arising from the final months of the armed conflict and invite international support and assistance to ensure that the accountability process is credible and that it has public confidence.
- Take immediate steps to negotiate, in good faith, a comprehensive political settlement that addresses the grievances of the Tamils and other minorities through constitutional reform.