

Written evidence from Global Tamil Forum (GTF) to the Foreign Affairs Select Committee inquiry into the Foreign and Commonwealth Office's human rights work in 2013

Introduction

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 across five continents. GTF is committed to non-violence and seeks a lasting peace in Sri Lanka based on justice, reconciliation and a negotiated political settlement.

Executive summary

GTF welcomes the opportunity to present written evidence to the Foreign Affairs Select Committee inquiry into the Foreign and Commonwealth Office's (FCO) human rights work in 2013, taking as a starting point the Department's 2013 Report on Human Rights and Democracy, published on Thursday 10th April 2014.

GTF's submission focusses upon Sri Lanka – one of the FCO's 'countries of concern' – and, in particular, the plight faced by the Tamil people on the island. The submission provides information on and recommendations to Her Majesty's Government regarding:

- general human rights issues in Sri Lanka, particularly those affecting women's rights and the freedom of religion or belief;
- sexual violence and insecurity faced by Tamil women;
- matters relating to the latest UN Human Rights Council (UNHRC) resolution on Sri Lanka, which mandated the Office of the UN High Commissioner for Human Rights (OHCHR) to launch an independent inquiry into allegations of war crimes and human rights violations;
- the political situation in the country and the need for a negotiated, political settlement to the Tamil national question.

Main submission

1. Human rights issues, particularly in Tamil areas, and those affecting women's rights and the freedom of religion or belief

1.1 GTF supports the decision by the FCO to keep Sri Lanka as a 'country of concern' and notes, in the FCO's latest quarterly update, published on 31st March 2014, the further crackdown on the activities of human rights defenders in the Tamil majority North of the island.

1.2 The issue of militarisation of Tamil areas is of particular concern to the Tamil people and is a key hindrance to reconciliation. GTF believes that this matter could be given greater prominence in the FCO's analysis of the situation in Sri Lanka. Studies have indicated that the Northern Province alone has one of the highest military personnel to civilian ratios in the world and senior Government figures, including President Mahinda Rajapaksa and his Secretary, Lalith Weeratunga, have provided conflicting information on military numbers in the region.¹ Militarisation by state security forces, who are almost entirely ethnically Sinhalese, has displaced civilians, restricted economic opportunities and seen an undermining of human rights throughout the areas affected. According to a statement by the Tamil National Alliance (TNA), in March 2014, *"the Government of Sri Lanka with the support of the Armed Forces is aggressively engaged in a programme to alter the demographic*

¹ International Crisis Group, 'The Forever War?: Military Control in Sri Lanka's North', 25th March 2014, <http://www.crisisgroupblogs.org/srilanka-lastingpeace/2014/03/25/the-forever-war-military-control-in-sri-lankas-north/#more-262>

composition of the Northern and Eastern provinces, predominantly Tamil-speaking and to changing the linguistic and cultural identity of these areas."²

1.3 The Government asserts that a sufficient military presence is required in order to stop attempts to revive the Tamil Tigers (LTTE) in the region. However, no one wants to return to armed conflict and the Government has been unable to provide any credible evidence to support this accusation. As the Chief Minister of Sri Lanka's Northern Province, Hon. Mr Wigneswaran, states, this claim is a "witch hunt"³ used for political purposes and as a cover to continue the militarisation and repression of the area. In relation to this issue, a number of women have been detained in inhumane conditions, under the draconian Prevention of Terrorism Act (PTA) which allows for arbitrary arrest and detention, for the alleged illegal actions of their male family members. They have also been denied access to medical facilities.⁴ As the Women's Action Network (WAN) – a collective of 11 women's organisations from the North and the East – has said in response to these cases, "the war in Sri Lanka and the decisions regarding it were made by men. The war was concluded by men. However, women have borne the brunt of the effects of the war and continue to do so even five years after the end of the armed conflict."⁵

1.4 The denial of women's rights in the North and East also means that they are often excluded from decisions made regarding the rehabilitation and reconstruction processes. This is a serious issue for the estimated 89,000 war widows and tens of thousands of female headed households, who live in these areas. Whilst the Government may claim that progress has been made in terms of peace and development, according to Minority Rights Group (MRG), "women are not benefiting from the peace dividend, are marginalized from development programmes, and struggle to access basic livelihoods to support their families."⁶ Given Her Majesty's Government's support for UN Security Council resolution 1325 on women, peace and security, which calls for women's full and equal participation in post conflict governance and reconciliation measures, GTF urges the UK to challenge the policies of the Sri Lankan authorities in this regard.

1.5 Since the end of the war in Sri Lanka, there has been a heightened intolerance of non-Buddhist faiths. Christian, as well as Islamic and Hindu, sites and structures have been desecrated and their respective cultural practices insulted. The UN High Commissioner for Human Rights, Ms Navi Pillay, is "deeply disturbed by the significant surge in attacks against religious minorities and the incitement of violence by Sinhala Buddhist nationalist groups."⁷ The fact that the perpetrators of these attacks are rarely, if ever, brought to justice reinforces the culture of impunity that exists in the country.

² TNA, 'Response To G.L. Peiris In Geneva: It Is Necessary The Truth Be Stated', 13th March 2014, <https://www.colombotelegraph.com/index.php/response-to-g-l-peiris-in-geneva-it-is-necessary-the-truth-be-stated/>

³ Lanka Sri News, 'Northern Province Chief Minister refutes LTTE regrouping claim', 31st March 2014, <http://www.lankasrinews.com/view.php?22UMW202IOA4e2BmAca25YAdd2Y5Lac3mBTe43OIHO226AA3>

⁴ The Guardian, 'Sri Lanka accused of ill-treating women it suspects of Tamil Tiger links', 9th April 2014, <http://www.theguardian.com/world/2014/apr/09/sri-lanka-women-tamil-tigers>

⁵ WNA, 'Continuing Detention of Tamil Women and a Girl Child under the Prevention of Terrorism Act', 13th April 2014, <http://groundviews.org/2014/04/13/continuing-detention-of-tamil-women-and-a-girl-child-under-the-prevention-of-terrorism-act/>

⁶ MRG, 'Minority women in Sri Lanka facing increasing levels of sexual violence and insecurity', 16th October 2013, <http://www.minorityrights.org/?lid=12117#sthash.14gsb0DD.KAZ4KRvz.dpuf>

⁷ OHCHR, 'Promoting reconciliation and accountability in Sri Lanka', 24th February 2014, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-23_en.doc

Recommendations to Her Majesty's Government

1.6 Place conditions on aid and investment into Sri Lanka, which call explicitly for the promotion and protection of human rights.

1.7 Impress upon the Sri Lankan authorities the need to demilitarise the former armed conflict areas on the island.

1.8 Call on the Government of Sri Lanka to fulfil its commitments to the 'Convention on the Elimination of All Forms of Discrimination against Women' and support the provisions of Security Council Resolution 1325.

1.9 Urge the Sri Lankan authorities to repeal the PTA.

1.10 Consider implementing specific projects in Sri Lanka which can strengthen and support the work of religious minorities.

2. Issues of sexual violence and insecurity faced by Tamil women

2.1 GTF welcomed the launch of the FCO's Preventing Sexual Violence Initiative (PSVI) in May 2012. In addition, we commend the role the department has taken in initiating the UN's Declaration of Commitment to end Sexual Violence in Conflict, and in co-ordinating the forthcoming global summit on the matter in London in June 2014.

2.2 As of 1st May 2014, three quarters of all UN member states, or 148 countries, had signed the UN's Declaration. However, Sri Lanka is not a signatory. This non-action on behalf of the Government of Sri Lanka is emblematic of their attitude towards preventing sexual violence in conflict and post armed conflict situations and highlights the culture of impunity that exists.

2.3 The Nobel prize nominated work of the 'Sri Lanka Killing Fields' and 'No-Fire Zone' documentaries revealed shocking evidence of systematic murder, abuse and sexual violence from the end of the Sri Lanka's armed conflict. Dead Tamil female fighters appeared to have been sexually assaulted. Witnesses described surrendering to the Sri Lankan military only to be raped, and footage showed Tamil women's corpses stripped of their clothes and dumped into trucks. Within the internal displacement camps, sexual abuse was rife with reports of Tamil female refugees forced into prostitution rings run by officials. No-one has been held accountable for these crimes.

2.4 On-going cases of abuse and sexual violence, particularly in the Tamil majority areas are rife. Militarisation of these regions means women are facing increasing levels of sexual violence and insecurity. In the UN Secretary-General's latest report on 'Conflict related sexual violence', the *"vulnerability of women and children in areas formerly affected by conflict [...] remained pertinent during 2013, as women and girls, especially in female-headed households, continued to be vulnerable to sexual harassment and abuse, including at the hands of military personnel."*⁸

2.5 Despite the seriousness of these issues and the consequent damage done to the reconciliation process and the advancement of gender equality in the North and East, the Government of Sri Lanka has taken no measures to stop this abuse. They are actively engaged in the on-going perpetration of ill-treatment. As Archbishop Desmond Tutu states in the foreword to 'An Unfinished War: Torture and Sexual Violence in Sri Lanka, 2009-2014', *"the evidence in this report gives the lie to the Sri Lankan government's propaganda that it is reconciling with its former enemies. It shows how anyone remotely connected with the losing side in the civil war is being hunted down, tortured and raped,*

⁸ Report of the UN Secretary-General, 'Conflict related sexual violence', 13th March 2014, <http://reliefweb.int/sites/reliefweb.int/files/resources/N1426364.pdf>, page 24.

*five years after the guns fell silent. Shockingly, more than half of the abductions in the report took place as recently as 2013-2014.*⁹

Recommendations to Her Majesty's Government

2.6 Urge the Government of Sri Lanka to ensure accountability for sexual violence crimes and to provide adequate redress and medical services to all those affected by sexual violence.

2.7 Call upon President Rajapaksa's government to sign the UN Declaration of Commitment to End Sexual Violence in Conflict.

2.8 Invite representatives of the Government of Sri Lanka to attend the 'Global Summit to End Sexual Violence in Conflict'.

3. The UN Human Rights Council: Sri Lanka and the UK's role

3.1 GTF is grateful to Her Majesty's Government's role in building support for and acting as a main sponsor to the latest UNHRC resolution on Sri Lanka, which was adopted in March 2014. GTF also appreciates the part played by the UK Prime Minister, Rt. Hon Mr David Cameron MP, in raising international awareness of the current plight of the Tamil people on the island during the Commonwealth Heads of Government Meeting in Sri Lanka, in November 2013, and since that time.

3.2 The adoption of the UNHRC resolution is a significant and historic step towards achieving truth, accountability and justice for the victims of the armed conflict on the island. Sri Lanka's 'Lessons Learnt and Reconciliation Commission' did not meet international standards for an effective accountability process and international action has become ever more imperative.

3.3 Since its inception, GTF has called consistently for an independent, international investigation into the alleged war crimes and crimes against humanity committed by both sides during the armed conflict. It is of paramount importance that the OHCHR is now given the strongest possible support, by Her Majesty's Government and others, to commence this investigation immediately. We share the TNA's view that an inquiry needs to start as soon as possible to ensure that further evidence of breaches of international law are not erased by the Government of Sri Lanka.

3.4 GTF is disappointed, but not surprised, by the Government of Sri Lanka's decision to reject the resolution and the mandate given to the OHCHR. In light of this intransigence and reluctance to engage with the good offices of the United Nations, it is imperative that the international community is clear to President Rajapaksa what the consequences will be if his government wilfully obstructs the investigation. This is pertinent given that the Minister for Mass Media, Keheliya Rambukwella, has already stated that Sri Lanka *"will take legal action against anyone who testifies before this [OHCHR] commission, if the evidence submitted by them is in violation of the country's Constitution."*¹⁰

3.5 The Government of Sri Lanka's recent decision to proscribe, as 'foreign terrorist entities', fifteen, active Tamil diaspora organisations and a number of prominent Tamil diaspora activists, including GTF and its President Rev. Dr S.J. Emmanuel, as fronts for the defunct LTTE (who are also designated on this government list) is a further attempt to intimidate and silence those who demand truth, justice and accountability and who support the UNHRC resolution.

⁹ Yasmin Sooka, The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, Sri Lanka, 'An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014', March 2014, <http://www.stop-torture.com/>, page 5.

¹⁰ Ceylon Today, 'Govt. warns against testifying before UNHRC inquiry', 7th April 2014, <http://www.ceylontoday.lk/51-61100-news-detail-govt-warns-against-testifying-before-unhrc-inquiry.html>

3.6 By labelling major Tamil diaspora groups as ‘terrorists’, the proscription will forbid Sri Lankan citizens, NGOs and political parties from having any contact with these organisations. Families and friends of representatives who work for these groups will be in even more danger and members of the Tamil diaspora heading to the island will be under closer scrutiny by the state security forces.

3.7 This is a blatant measure to attack freedom of expression. It will further undermine the human rights situation on the island and will do more damage to the accountability and reconciliation processes. This cannot be tolerated by the international community, especially since the UNHRC raised these matters as serious issues of concern in its latest resolution.

Recommendations to Her Majesty’s Government

3.8 Provide technical support and assistance to the OHCHR investigation, including the use of the multi-disciplinary Team of Experts which is part of the FCO’s PSVI.

3.9 State what the consequences will be if the Government of Sri Lanka continues to be non-co-operative with the OHCHR and deliberately obstructs the work of the investigation.

3.10 Urge the Government of Sri Lanka to repeal its proscription of Tamil diaspora groups and individuals.

4. The political situation and the need for a negotiated political settlement to the Tamil national question

4.1 A core component of achieving post armed conflict reconciliation would be a comprehensive political settlement that addresses the root cause of the war – the systematic marginalisation of the Tamil people. A genuine state power sharing arrangement, which provides the commensurate level of self-governance aspired to by Tamils in the North-East, arrived at through political negotiations, is required.

4.2 In the days following the end of the armed conflict, a joint statement was issued by President Rajapaksa and the UN Secretary-General, Ban Ki-Moon, in which it was *“agreed that addressing the aspirations and grievances of all communities and working towards a lasting political solution was fundamental to ensuring long-term socio-economic development.”*¹¹

4.3 However, since that time, no progress has been made. The most significant constitutional change, the 18th amendment, has seen powers concentrated into the hands of the President. Bilateral discussions on a political settlement, between the TNA and the Government, which were halted in 2012 when the Government withdrew from negotiations, have not resumed since. The Parliamentary Select Committee - established as a replacement for the talks – is an attempt, according to the leader of the TNA, Hon. Mr Sampanthan MP, and other opposition parties, *“to scuttle the prospects of a political solution.”*¹²

4.4 Whilst the Sri Lankan authorities may have affirmed the Northern Provincial Council (NPC) elections, in November 2013, as an example of their commitment to devolution, the Government has stymied the NPC’s ability to function properly. The elections were held only following international pressure and, in the lead up to the vote, TNA candidates and members were harassed

¹¹ United Nations, ‘Joint Statement – UN Secretary-General and Government of Sri Lanka’, 26th May 2009,

<http://www.un.org/News/Press/docs/2009/sg2151.doc.htm>

¹² Hon. Mr Sampanthan MP, ‘Speech to Parliament’, 29th November 2013,

<https://www.colombotelegraph.com/index.php/we-dont-have-freedom-in-this-house-or-in-this-country-and-i-want-this-message-to-go-to-the-whole-world-sampanthan/>

and attacked by the security forces. Despite this level of intimidation, the fact that the TNA was still able to secure 78% of the vote and 30 of the 38 seats available highlights the strong support for Tamil leadership in the region and the contempt for the tactics and policies of the Rajapaksa government.

4.5 Within a week of the election result, the Supreme Court, whose Chief Justice is a close ally and appointment of the President, stripped the NPC of its power over land rights. The Northern Provincial Governor, also appointed by the President, has *“blocked NPC attempts to appoint key officials and constitute needed administrative departments within its constitutional powers.”*¹³ Despite promises by the President, a new Chief Secretary to the Council - whose present incumbent has caused significant tensions with the NPC’s Chief Minister, has still not been appointed. All this is taking place in an environment where militarisation undermines the rehabilitation efforts of the NPC, NPC representatives and intimidated, the TNA is attacked by the Government for supporting the UNHRC resolution and Government ministers call for the TNA to be banned.

Recommendations to Her Majesty’s Government

4.6 To give a greater focus to and support for the issues surrounding the need for a comprehensive, negotiated political settlement to the Tamil national question.

4.7 Given the experiences of Northern Ireland, offer technical advice and assistance to Sri Lanka on devolution and power sharing systems.

4.8 Continue to urge the Government of Sri Lanka to co-operate with the NPC and allow it to work effectively.

4.9 Call for the restoration of complete civil administration to all militarised government departments and national institutions, including the Office of the Northern Provincial Governor and the NGO Secretariat, which are currently run by an ex-general and the Ministry of Defence respectively.

¹³ International Crisis Group, ‘Reconciliation and Accountability in Sri Lanka: UNHRC action remains crucial’, 28th February 2014, <http://www.crisisgroup.org/en/publication-type/media-releases/2014/asia/reconciliation-and-accountability-in-sri-lanka.aspx>