



Global Tamil Forum's (GTF) 'Ground Realities' paper on Sri Lanka

Introduction

The on-going perpetration of human rights violations, the lack of accountability for alleged war crimes and crimes against humanity arising from the end of the armed conflict in 2009, and the authoritarian actions of the Government of Sri Lanka continues to undermine reconciliation and the chances of a sustainable peace. The focus on Sri Lanka and the awareness of the ground realities has increased, despite the intensive efforts of the Government to hide its behaviour from the world.

Accountability

- **On Thursday 27th March 2014, the UN Human Rights Council adopted a resolution on Sri Lanka, its third since 2012, which initiated an independent, international investigation into alleged war crimes and crimes against humanity perpetrated by the Government and Tamil Tiger (LTTE) forces during the final years of the country's armed conflict.** In June 2014, the Office of the UN High Commissioner for Human Rights (OHCHR) appointed three distinguished experts, Mr. Martti Ahtisaari, former President of Finland, Ms. Silvia Cartwright, former High Court judge of New Zealand, and Ms. Asma Jahangir, former President of the Human Rights Commission of Pakistan, to play a supportive and advisory role to the inquiry, as well as independent verification throughout the investigation.
- **President Rajapaksa's administration is set on wilfully obstructing the investigation and in August 2014 the President announced that visas will be refused to the UN team.** The Minister for Mass Media, Keheliya Rambukwella, has 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."*
- **In addition, President Rajapaksa is intent on undermining the UN investigation, by expanding the remit of the domestic 'Commission of Inquiry on Disappearances' to also consider war crimes allegations.** In July, he appointed a council of international legal experts to *"advise"* the ongoing commission on these matters. However, this move has been criticised by human rights groups as a means to subvert the UN's efforts and Keheliya Rambukwella, has said that the council of experts will only operate *"in an advisory capacity"* and *"that does not mean that we have to take their advice."*
- **The Government's decision to proscribe 16 Tamil diaspora groups, days after the UNHRC vote, is an attempt to intimidate and silence those calling for truth, justice and accountability.** 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. This is a blatant measure to attack freedom of expression. It will further undermine the human rights situation on the island and will do yet more damage to the accountability and reconciliation processes. This action underlines the importance of an international investigation.
- **A culture of impunity exists in Sri Lanka.** Along with many other cases of unresolved human rights abuses, there has been no accountability for the murder of 17 Action Against Hunger aid workers in Muttur or for the deaths of 5 Tamil students in Trincomalee, both in 2006.



Mounting evidence of war crimes

- **In March 2014, the team behind Channel 4's 'Sri Lanka's Killing Fields' films revealed new evidence of abuse by the Sri Lankan military towards the bodies of female Tamil fighters.** Their previous footage has been described as *"crimes of the highest order – definitive war crimes"*, by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns.
- **In February 2014, the International Crimes Evidence Project found there was an "evidentiary platform for an international investigation into war crimes".** Evidence of Government culpability for extensive human rights abuses has, allegedly, *"been covertly destroyed"* by the Sri Lankan military.
- **Mass grave sites continue to be uncovered in Sri Lanka.** In November 2012, a mass grave with over 150 skeletal remains was uncovered in Matale, central Sri Lanka. In December 2013, another gravesite with over 80 skeletal remains, including of children, was discovered in Mannar, northern Sri Lanka. In February 2014, bodies were discovered at a site in Trincomalee, in the North.

On-going human rights violations

- **In June 2014, Sri Lanka suffered some of the worst inter-communal violence it had seen in decades.** Terrible violence was committed against Muslims in the south-west of the country, by members of the radical, Buddhist nationalist group Bodu Bala Sena (BBS). Four are killed in the towns of Aluthgama and Beruwela and over 100 are injured. Muslim businesses, houses, and three mosques are destroyed or damaged.
- **Reports released in 2014, by the Sri Lanka Campaign for Peace and Justice, the International Truth & Justice Project and others have revealed the extent of post armed conflict human rights abuses committed against Tamils.** Rape and gender based violence, torture, enforced disappearances, murder and other inhumane acts are commonplace. As Archbishop Desmond Tutu states in the foreword to 'An Unfinished War: Torture and Sexual Violence in Sri Lanka, 2009-2014', *"the evidence presented 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, five years after the guns fell silent. Shockingly, more than half of the abductions in the report took place as recently as 2013-2014."*
- **Tamil women in Sri Lanka are facing increasing levels of sexual violence and insecurity.** There are an estimated 89,000 war widows and tens of thousands of female headed households in the North and East. *"The government is actively contributing to the insecurity of minority women through the militarization of the north and east and by maintaining a climate of impunity where human rights violations continue"*, Minority Rights Group have said.
- **Serious concerns have been raised that deportations to Sri Lanka result in torture.** In 2013, the UK Border Agency's assessment of risk to Sri Lankans on being returned from the UK was found by the courts to be flawed; in the same year Human Rights Watch released a report on the rape and sexual abuse of Tamil detainees in custody; and in September 2013 Sri Lanka became Freedom from Torture's top country of origin for referrals for clinical services.
- **The religious freedoms of Tamils and others are under threat.** According to the Tamil National Alliance (TNA), the democratically elected voice of the Tamil people in Sri Lanka, *"attacks on places of religious worship and cultural importance of minority peoples have been a continuing phenomenon and the offenders act with impunity and in the belief that the arm of the law will never reach them. Inaction on the part of the Government and law enforcement authorities has given them this confidence."*



The militarisation of Tamil majority areas

- **The on-going militarisation of the Tamil majority North and East of the island, by state security forces who are almost entirely ethnically Sinhalese, has displaced civilians, restricted economic opportunities and seen a clampdown on freedom of movement, expression and assembly.** In May 2014, the military in the North banned public Tamil commemorations of the fifth anniversary of the end of the conflict.
- **The Government cannot provide consistent figures on military numbers in the North.** On 19th January 2014, President Mahinda Rajapaksa stated that the Northern Province held only 12,000 military personnel, yet two days later his secretary, Lalith Weeratunga, indicated that army numbers in the north stood at 80,000 toward the end of 2013.
- **However, the military to civilian ratio in the North alone could be as high as 1:5.** This is an even higher than the ratio in Kashmir or during the surge in Iraq in 2007. There are roughly one million people in the Northern Province.
- **The ethnic demography of the region continues to be re-engineered through militarisation.** According to a statement by the 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 composition of the Northern and Eastern provinces, predominantly Tamil-speaking and to changing the linguistic and cultural identity of these areas”*.
- **The Government asserts spuriously that a sufficient military presence in Tamil majority areas is required in order to stop attempts to revive the LTTE.** 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, has said, this claim is a *“witch hunt”* 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 activities of their male family members. They have also been denied access to medical facilities.
- **Due to the militarisation of Tamil majority areas, Internally Displaced People (IDPs) continue to face hardship.** In December 2013, the UN Special Rapporteur on IDPs said *“tens of thousands [...] live in very precarious conditions and need more durable housing, access to social services, and the creation of livelihood opportunities.”* In February 2014, the Internal Displacement Monitoring Centre that as many as 90,000 people forced to flee their homes during the conflict remain displaced and that *“one third of the IDPs cannot return because their homes and land remain occupied by the all-powerful military”*.

Politics

- **Post-war power has been centralised in the hands of the President.** In 2010, the 18th amendment to the Constitution provided him with sweeping jurisdiction over formerly independent authorities, such as the judiciary, the police, the electoral commission and the central bank. In January 2013, Hon. Dr Shirani Bandaranayake, was illegally removed from her position as Chief Justice, on spurious charges, following her decision to question legislation on the centralisation of development funding. It was a move to stifle the independence of the judiciary. She was replaced by the former cabinet legal advisor and close ally of the President, Mohan Peiris.
- **Since the war, no substantial progress has been made on achieving a comprehensive political settlement to address the root cause of the armed conflict – the marginalisation of the Tamil people.**
- **Bilateral discussions on a political settlement, between the TNA and the Government, which were halted in 2012, have not resumed since.** In November 2013, the leader of the TNA, Hon. R Sampanthan MP, reaffirmed his belief that the Parliamentary Select Committee - established as a replacement for the talks - was an attempt *“to scuttle the prospects of a political solution.”*



- **Under intense international pressure, the Northern Provincial Council (NPC) elections were held in September, the first time in 25 years.** Despite efforts to obtain support with gifts, promises and intimidation, President Rajapaksa's Party was defeated by the TNA, who won 78% of the vote and 30 of 38 Council seats. TNA candidates and members were harassed and attacked, by the security forces.
- **Prior to the NPC elections, the Government attempted to strip police and land powers from the prospective Council.** In spite of the 13th Amendment to the Constitution enshrining such devolution, the President declared in July 2013 that *"no one can take land or police powers away from me."* He has since reiterated this point in August 2014.
- **Since the NPC elections, the Government of Sri Lanka has sought to undermine its authority.** Within a week of the election result, the Supreme Court stripped the NPC of power over land rights. The NPC's ability to implement its mandate has been stymied by the Government, particularly in relation to the role of the Government appointed Secretary to the Council and the fact that there is still a former military chief as provincial governor. In July 2014, the President reappointed G.A. Chandrasiri as the province's governor despite giving assurances to the TNA he would be replaced by a civilian. Such is the international concern on this matter that the UNHRC resolution on Sri Lanka urged the Government to allow Provincial Councils to operate effectively.

Freedom of expression and of assembly

- **The Government has undertaken a further crackdown on NGOs.** In July 2014, instructions are issued to civil society organizations to cease media engagement and activities. The NGO Secretariat is not a civilian institution and is under the purview of the Ministry of Defence.
- **In August 2014, a meeting of over 30 family members of disappeared people, taking place in Colombo, was attacked by a mob including Buddhist monks.** It was condemned as an attack on the freedoms of expression and assembly in a joint statement released from the embassies of France, Germany, Great Britain and Switzerland.
- **Sri Lanka ranked 165th out of 180 countries in the 2014 Reporters Without Borders press freedom index – below Burma, Russia and Iraq.** The country was graded 4th worst country in the world by the 2014 Committee to Protect Journalists (CPJ) Impunity Index.

Key Links

- The Office of the UN High Commissioner for Human Rights, **'Report on promoting reconciliation and accountability in Sri Lanka'**, February 2014:
http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-23_AEV.doc
- UN Human Rights Council resolution, **'Promoting reconciliation, accountability and human rights in Sri Lanka'**, March 2014:
<http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/25/L.1/Rev.1&Lang=E>
- Yasmin Sooka, The Bar Human Rights Committee of England and Wales (BHRC) and The International Truth & Justice Project, **'An Unfinished War: Torture and Sexual Violence in Sri Lanka, 2009-2014'**, March 2014:
<http://www.stop-torture.com/>
- Sri Lanka Campaign, **'Crimes Against Humanity in Sri Lanka's Northern Province'**, March 2014:
<http://blog.srilankacampaign.org/2014/03/our-new-report-points-to-ongoing-crimes.html>
- International Crisis Group, **'The Forever War?: Military Control in Sri Lanka's North'**, March 2014:
<http://www.crisisgroupblogs.org/srilanka-lastingpeace/2014/03/25/the-forever-war-military-control-in-sri-lankas-north/>