



தமிழ் இளையோர் அமைப்பு
Tamil Youth Organisation

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Submission to the Universal
Periodic Review of the UN
Human Rights Council

14th session: Sri Lanka

Summary of Main Concerns

1. The Government of Sri Lanka maintains that it respects the rights of human rights activists and political activists, and has called for further time and space to enact reforms. At Sri Lanka's previous Universal Periodic Review (UPR) in 2008, the government supported several recommendations¹ to enact such reforms, including recommendation 17 which called on Sri Lanka to "ensure a safe environment for human rights defenders' activities and that perpetrators of the murders, attacks, threats and harassment of human rights defenders be brought to justice."
2. Yet three years since the end of the armed conflict, the threats, harassment and attacks on human rights defenders and political activists have continued with impunity. In particular, the international calls for accountability, justice and a lasting political settlement, overwhelming endorsed by the Tamil diaspora worldwide since 2009, have led to growing reports of diaspora activists being vilified as "terrorists", intimidated through verbal threats and attacked both inside and outside Sri Lanka.

Background

3. The armed conflict between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) ended in 2009, amidst allegations of war crimes and crimes against humanity committed by all sides². However, the government continues to reject calls by international human rights organisations, foreign governments and Tamil activists to have these allegations credibly investigated, calling them "treacherous"³ and "extremist"⁴. Demands by Tamil political parties and civil society groups in the North-East to recognise the Tamil people's political rights and aspirations have been condemned as "terrorist".
4. Human rights activists and government critics are at risk of violence by the government⁵ and pro-government paramilitaries⁶. Intimidation, arrests⁷, indefinite detention⁸, attacks on journalists^{9 10} and extrajudicial killings of activists¹¹ are widespread, and occur with impunity¹³. Crimes against activists are inadequately investigated and perpetrators continue to evade justice.
5. Largely based in Western Europe, North America, Australia and New Zealand, the Tamil diaspora was mainly formed after the anti-Tamil pogroms of 1983. Since then, waves of refugees and

¹ http://lib.ohchr.org/HRBodies/UPR/Documents/Session2/LK/A_HRC_8_46_SriLanka_E.pdf

² http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf

³ <http://www.tamilguardian.com/article.asp?articleid=4129>

⁴ <http://www.thehindu.com/news/international/article2729067.ece>

⁵ <http://www.state.gov/j/drl/rls/hrrpt/2010/sca/154486.htm>

⁶ <http://www.amnesty.org/en/region/sri-lanka/report-2011>

⁷ <http://www.minorityrights.org/?lid=10458> (page 13)

⁸ <http://www.amnesty.org/en/library/info/ASA37/003/2012/en>

⁹ http://en.rsf.org/sri-lanka-opposition-newspaper-editor-badly-30-07-2011_40720.html

¹⁰ http://www.unhcr.org/refworld/category_COI_RSFLKA_499d20545_0.html

¹¹ <http://cpj.org/2011/06/tamil-journalist-bound-shot-during-sri-lankan-civi.php>

¹² <http://www.amnesty.org/en/region/sri-lanka/report-2011>

¹³ <http://www.amnesty.org/en/for-media/press-releases/sri-lanka-urgent-need-prosecute-security-agents-involved-torture-2011-11-07>

asylum seekers fled to escape the violence. Despite migration over several decades, the diaspora maintains close links with relatives and the wider community in the North-East¹⁴ and share their demands for the right to self-determination through the establishment of a separate Tamil state and support of the armed struggle.

6. The events of 2009 saw political activism in the diaspora rise sharply, with organisations and activists advocating accountability and justice through an international mechanism of inquiry, and a lasting political settlement that acknowledges the right to self-determination.

Vilification of diaspora activists as ‘terrorists’

7. Despite promising reconciliation, senior members of the Sri Lankan government and security forces continue to use inflammatory, defamatory and intimidating language in reference to the diaspora, frequently calling them the “LTTE rump”¹⁵. The juxtaposition of “LTTE”, an organisation proscribed by several countries, with “diaspora”, serves to discredit and criminalise activists, organisations and their work.
8. For instance, the term “LTTE remnants”¹⁶ has been used by President Mahinda Rajapaksa, whilst defence secretary Gotabaya Rajapaksa has stated that those who talk of Eelam are “terrorists”¹⁷ and “threats” to Sri Lanka.¹⁸ Admiral Thisara Samarasinghe, Sri Lanka’s High Commissioner to Australia and envoy to New Zealand, described activists at the 19th session of the UN Human Rights Council (19th UNHRC) as the “pro-LTTE lobby group”.¹⁹ The Ministry of Defence has made repeated accusations against many organisations, stating they are “terrorist fronts”.²⁰ As far as the TYO UK is aware, to date no governments have brought charges against any of these organisations.
9. International human rights organisations, also calling for justice and accountability, such as Amnesty International²¹ and Human Rights Watch²², and foreign governments engaging with diaspora activists who are largely citizens of their respective countries, have also been targeted as ‘terrorist’ supporters.
10. In November 2011, the External Affairs Minister G.L. Peiris accused an unnamed former member of the European Union parliament of receiving a well-paid job from an alleged LTTE front organisation.²³ In another report in The Island newspaper, a senior spokesperson for the Government of Sri Lanka accuses certain British MPs of having been “bought” by the Global Tamil Forum, to “embarrass Sri Lanka”.²⁴

¹⁴ http://www.berghof-peacesupport.org/publications/SL_Diaspora_Papers_Rasaratnam.pdf

¹⁵ <http://transcurrents.com/news-views/archives/7072>

¹⁶ <http://www.asianage.com/interview-week/tamil-diaspora-does-not-want-peace-173>

¹⁷ <http://www.dailymirror.lk/top-story/18071-karunanidhi-can-have-eelam-in-india-gota.html>

¹⁸ <http://www.ft.lk/2012/01/13/sri-lanka-is-still-under-threat-warns-defence-secy-part-i/>

¹⁹ <http://www.sundayobserver.lk/2012/04/01/fea04.asp>

²⁰ http://www.defence.lk/new.asp?fname=20100329_06

²¹ http://www.defence.lk/new.asp?fname=20120228_03FEA_art

²² <http://www.dailymirror.lk/news/16891-hrw-is-promoting-pro-ltte-propaganda.html>

²³ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=39754

²⁴ http://island.lk/index.php?page_cat=article-details&page=article-details&code_title=50126

11. Security forces in the heavily militarised North-East of the country²⁵, such as the military commander in Jaffna, Major General Mahinda Hathurusinghe, and DIG Jayasundara of the Batticaloa police force, have addressed Tamils in Sri Lanka, warning them to be wary of diaspora groups²⁶ and their activities.²⁷
12. It is particularly concerning to note that there is evidence that the government's language and vilification of activists as "terrorists" has been adopted by the Sri Lankan public²⁸ and mainstream press, such as The Nation²⁹, The Island³⁰, The Daily Mirror³¹ and The Sunday Times.³²

Verbal Intimidation and public statements threatening reprisal

13. Over the past year, there have been a number of instances of government ministers and high ranking government officials making intimidating statements, and threatening human rights activists and political activists from the diaspora with reprisals.
14. Addressing students at the General Sir John Kotelawala Defence University in Sri Lanka on 22/11/2011, President Rajapaksa said, "terrorists attack us in the cover of human rights today", and "these attacks are against the motherland. You need to understand that it is a threat posed to national security".³³ The president warned Sri Lankans to "be alert to what is happening in the outside world and stand up to protect the good name of the country."³⁴
15. In an interview with The Island newspaper in 2011, Defence Secretary, Gotabaya Rajapaksa, deemed that any diaspora activists who campaigned for justice and accountability are "traitors", and "should be given capital punishment". He was reported to have asserted "that anyone throwing his or her weight behind an anti-Sri Lanka conspiracy would be considered a traitor and people should be naïve to believe such behaviour could be tolerated."³⁵
16. Cabinet Minister Mervyn Silva, threatened human rights activists from Sri Lanka and the diaspora attending the 19th UNHRC in Geneva. Minister Silva said, **"If you get caught to me in Sri Lanka, I will break your limbs in public. I say this responsibly. No matter who conspires against me."**³⁶

²⁵ <http://www.crisisgroup.org/en/regions/asia/south-asia/sri-lanka/220-sri-lankas-north-ii-rebuilding-under-the-military.aspx>

²⁶ <http://www.tamilguardian.com/article.asp?articleid=4640>

²⁷ http://sundaytimes.lk/110821/News/nws_045.html

²⁸ <http://www.foxnews.com/story/0,2933,520478,00.html>

²⁹ <http://www.nation.lk/edition/todays-news/item/2376-ltte-rump-to-raise-%E2%80%98crimes%E2%80%99-at-unhcr-this-may>

³⁰ http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=35439

³¹ <http://www.dailymirror.lk/news/17155-govt-rejects-undue-intl-pressure.html>

³² <http://sundaytimes.lk/110911/Columns/Lasandak.html>

³³

http://www.priu.gov.lk/news_update/Current_Affairs/ca201111/20111123terrorists_attack_us_hiding_human_rights.htm

³⁴ <http://www.dailymirror.lk/news/12083-stay-alert-mr.html>

³⁵ <http://www.island.lk/2010/05/06/news2.html>

³⁶ <http://www.adaderana.lk/news.php?nid=17473&mode=beauti>

Acts of intimidation against diaspora activists and media

17. Activists based outside Sri Lanka, who have engaged in protests and human rights campaigns, face intimidation in their respective countries. The Government of Sri Lanka has dispatched a number of high ranking military figures in top diplomatic roles in foreign countries, particularly those with large Tamil communities. The ex-military figures are believed to be engaged in surveillance and intelligence operations against political opponents residing outside Sri Lanka.³⁷
18. Major General Prasanna Silva, the defence attaché at the High Commission in London, who is alleged to have committed war crimes³⁸, stated that his role includes the monitoring of the Tamil community in London, during an interview to adadererana.lk in November 2011.³⁹
19. Major General Jagath Dias, also alleged to have committed war crimes, was the vice-ambassador for Germany, Switzerland and the Vatican until October 2011. In a dossier submitted in January 2011, the European Centre for Constitutional Rights (ECCHR) stated that “Major General Dias has actively collaborated with German security authorities, the intelligence service in particular to observe and investigate the Tamil community in Germany. Similar actions are reported in Switzerland.”⁴⁰
20. A number of activists have reported being photographed at close range whilst engaging in human rights or political work. Tamils, who were detained and questioned by Sri Lankan authorities whilst visiting Sri Lanka, report that they were asked to identify activists in photographs taken in countries such as the UK, Canada and Australia.
21. Mr Roy Manojkumar Samathanam, a Canadian citizen who was arrested and tortured in Sri Lanka, said he was shown pictures of Tamils taken at events in Canada and asked to identify individuals.⁴¹
22. At a rally outside the Sri Lankan High Commission in London on 04/02/11, several individuals, seen to have emerged from inside the High Commission’s premises, took photographs of the demonstrators.⁴²
23. At the 19th UNHRC, a number of Tamil human rights activists reported intimidation and harassment by members of the Sri Lankan delegation.⁴³ Activists were repeatedly photographed

³⁷ TAG Briefing Note Major General Prasanna Silva (April 2012)

³⁸ <http://www.ecchr.de/index.php/sri-lanka.404/articles/the-prasanna-de-silva-case.html>

³⁹ <http://www.youtube.com/watch?v=XMkOp3sR0y4>

⁴⁰ http://www.ecchr.de/index.php/sri-lanka.404/articles/the-jagath-dias-case.html?file=tl_files/Dokumente/Universelle%20Justiz/Sri%20Lanka%20ECCHR%20Dossier%20J%20Dias%200en.pdf

⁴¹ <http://news.nationalpost.com/2011/07/01/canadian-detainee-wants-probe-into-detention-and-alleged-torture-in-sri-lanka/>

⁴² TAG Report on Diaspora Intimidation 2012

⁴³ <http://www.canadiantamilcongress.ca/article.php?lan=eng&cat&id=34>

and videoed at close range,⁴⁴ inside the plenary room and during a side event hosted by the Sri Lankan delegation, despite a formal complaint being made.⁴⁵

24. On 05/03/12, the President of the UNHRC, Ms Laura Dupuy Lasserre, raised concerns regarding “threats that have been made to civil society members” and “in particular statements at members who [...] in Room 20 or in other meetings, have been photographed [...] without their consent.”⁴⁶ On 23/03/12, UN High Commissioner for Human Rights Navi Pillay condemned the “unprecedented and totally unacceptable level of threats, harassment and intimidation directed at Sri Lankan activists” and urged that “there must be no reprisals”.⁴⁷
25. Diaspora activists who attended the session reported receiving threatening phone calls and text messages, as well as being approached in corridors by members of the Sri Lankan delegation. The Sri Lankan government’s delegation at the 19th UNHRC included Douglas Devananda, the leader of the Eelam People’s Democratic Party (EPDP), a paramilitary force notorious for its acts of abductions, extortion and murder.⁴⁸
26. Rupert Colville, the spokesperson of the United Nations Office of the High Commissioner of Human Rights said, “They were abused in many way verbally, there were text messages, telephone calls, accosted in corridors...there were even incidents outside the UN premises as well as inside wry intimidating filming and photography taking place...people putting cameras right in people faces...against the rules...I mean that's not supposed to be happening on these events”.⁴⁹
27. During the 19th UNHRC, Tamils in Switzerland reported receiving death threats by post, warning that their “anti-government attitude” would be dealt with severely. The threats also warned that websites and social media accounts with similar views would be monitored and “dealt with”.⁵⁰
28. On 25/02/12, the weekend before the 19th UNHRC, the Tamil diaspora news website TamilNet was hit by Distributed Denial-of-Service attacks⁵¹. The attack was condemned by Reporters Sans Frontieres as another example of the “violence, threats and propaganda aimed at journalists and media defenders seen as government critics”.⁵²
29. It is concerning to note that as warnings and calls to defend the country are made by senior members of the Sri Lankan government, Tamil activists have experienced increased intimidation by the Sinhala expatriate community. In 2009 a peace march by Tamils in Australia was attacked

⁴⁴ <http://www.channel4.com/news/un-human-rights-council-urges-sri-lankan-accountability>

⁴⁵ <http://www.google.com/hostednews/afp/article/ALeqM5g3YcY9nEYiLKtxplfXmM1xlnG-rQ?docId=CNG.4f45fdff3292f10f96f9f9caed149d3e.f1>

⁴⁶ <http://www.unmultimedia.org/tv/webcast/2012/03/presidential-statement-15th-meeting-19th-session-human-rights-council.html>

⁴⁷ <http://www.google.com/hostednews/afp/article/ALeqM5i-zlQEuViR7Gmu3dJ46RX8i1WCfg?docId=CNG.bd15b1abbb014c5d7ae6e1e009b11633.4e1>

⁴⁸ <http://www.tamilnet.com/art.html?catid=13&artid=34862>

⁴⁹ <http://www.ndtv.com/article/world/sri-lankan-delegates-intimidated-activists-says-un-human-rights-chief-189433>

⁵⁰ <http://www.20min.ch/schweiz/news/story/-Dies-ist-unsere-letzte-Warnung--14820842>

⁵¹ <http://www.tamilnet.com/art.html?catid=13&artid=34927>

⁵² <http://en.rsf.org/sri-lanka-sri-lanka-12-03-2012%2c42068.html>

by a Sinhalese mob.⁵³ At a peaceful protest outside Lords Cricket Ground in 2011, demonstrators were sworn at and spat on by Sri Lankan cricket fans, many of whom used their phones to take photographs of protesters.⁵⁴

Human rights abuses against activists and those returning to Sri Lanka

30. Diaspora activists returning to Sri Lanka and deported asylum seekers have been subject to detention, torture and rape by security forces. Suspicion of activism abroad or simply that individuals entering Sri Lanka are of Tamil ethnicity from the North-East of the island is often enough to warrant questioning and detention by officials.

31. A report undertaken by the Foreign and Commonwealth Office Migration Directorate in August 2009 concluded that Tamils arriving at Bandaranaike International Airport, who have roots in the North-East, “were likely to receive greater scrutiny than others” and “involvement with media or NGOs” would increase “the risk that an individual could encounter difficulties with the authorities, including possible detention”.⁵⁵

32. A senior lawyer has described to Tamils Against Genocide (TAG), a US-based human rights organisation, the questioning of persons known to him by Sri Lankan security forces as to his travel plans.⁵⁶

33. The briefing note document by TAG states,

“A senior legal European lawyer stated that persons known to him had been questioned by the Sri Lankan security forces as to his travel plans. He was concerned that the Sri Lanka authorities intended to question him if he visited Sri Lanka.

Other lawyers have declined to be identified on legal briefings they have contributed to for TAG again citing that they feared their ability to visit Sri Lanka without fear of intimidation would be jeopardised.

Lawyers in Western countries have expressed a desire that their involvement in precedent-setting or ‘sensitive’ cases be kept confidential, citing possible harm to relatives in Sri Lanka.

One lawyer cited a decision taken by a Tamil lawyers association NOT to offer pro-bono evidence gathering services for war crimes victims and witnesses, citing that members of the association would fear intimidation on visits to Sri Lanka.”

34. There have been a number of incidents of diaspora Tamils being arbitrarily detained on arrival to Sri Lanka, and being held for indefinite periods without trial under the Prevention of Terrorism Act. Reports have also emerged of Tamils being physically attacked or murdered on return to Sri Lanka.

⁵³ <http://www.nowpublic.com/world/tamil-peace-march-attacked-sinhalese-melbourne>

⁵⁴ <http://www.tamilnet.com/art.html?catid=13&artid=34124>

⁵⁵ <http://www.unhcr.org/refworld/pdfid/4ae066de2.pdf>

⁵⁶ Briefing Note on Government of Sri Lanka Monitoring of International Legal Professionals – Tamils Against Genocide (April 2012)

35. Viswalingam Gopithas, from London has been in Sri Lankan custody since April 2007, accused of trying to supply equipment to the LTTE.⁵⁷ Fair Trials International, a UK-based organisation campaigning for unfairly detained individuals abroad, has filed an application with the UN Human Rights Committee on Mr Gopithas' behalf.⁵⁸
36. Another British Citizen was arrested on the 02/08/11. Mrs Vasugi Karunanithi arrived at Bandaranaike International Airport to return to Britain after a holiday. She was detained at immigration. Sri Lankan media reported that Mrs Vasugi's husband was a member of a diaspora organisation.⁵⁹
37. Kandiah Rajagopal, a British business man was shot and injured in Trincomalee in early 2012.⁶⁰
38. The body of Easwaradasan Kedeewaran, a UK resident, was found in Trincomalee on 18/04/12. Mr Kedeewaran was about to return to the UK after living in Sri Lanka for some time.⁶¹
39. Several international non-governmental organisations (NGOs) have called for a halt in deportations of Tamils to Sri Lanka because Tamils returning from the West are viewed with suspicion and may not be safe. Victims were often targeted due to actual or perceived links to the LTTE⁶².
40. Human Rights Watch, an NGO based in New York, released a report detailing the rape and torture of Tamil deportees in Sri Lanka in 2010,⁶³

“Human Rights Watch has [...] documented cases of Tamil deportees who alleged to have been subjected to rape as a form of torture upon their return to Sri Lanka. In December 2010, CB was arrested at the Colombo airport on his return and was detained for a month by the CID. He said that during this time he was beaten with metal rods and raped four or five times by two men. As he described it, one man would hold him down while the other raped him.

“BK, a Tamil woman, alleges that she was arrested at Colombo airport by the CID on her return in April 2010 and kept in detention. She says was raped by several men many times during the course of her detention. She described profuse bleeding as a result of these rapes. Both CB and BK managed to secure their release after relatives intervened to bribe the officials holding them. Both fled Sri Lanka and are seeking asylum in the United Kingdom.

⁵⁷ <http://www.guardian.co.uk/world/2011/sep/15/british-tamil-held-sri-lanka>

⁵⁸ http://www.fairtrials.net/publications/article/viswalingam_gopithas_vs._government_of_sri_lanka

⁵⁹ <http://www.srilankaguardian.org/2011/09/british-citizens-held-prisoners-by-sri.html>

⁶⁰ <http://www.tamilnet.com/art.html?catid=13&artid=34766>

⁶¹ <http://www.dailymirror.lk/news/18051-man-hacked-to-death-in-trinco.html>

⁶² http://www.freedomfromtorture.org/feature/out_of_the_silence/5979

⁶³ <http://www.hrw.org/news/2012/02/24/uk-halt-deportations-tamils-sri-lanka>

Recommendations to the Government of Sri Lanka and the United Nations

41. The Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression should work with member states to ensure that Tamil activists and organisations are allowed to work in their respective countries without fear of intimidation or reprisal against themselves or their family, inside or outside Sri Lanka.
42. The Special Rapporteur on the Situation of Human Rights Defenders should investigate the intimidation, vilification and attacks on human rights defenders and commit to ensure the rights of human rights activists are protected inside and outside Sri Lanka, as outlined in Recommendation 17 of the previous UPR session.
43. The Government of Sri Lanka must respect the freedom of opinion and expression of Tamil activists, and refrain from using of defamatory or slanderous language that criminalises legitimate political advocacy and human rights work.
44. The Government of Sri Lanka must cease the arbitrary arrest and detention without trial of Tamil diaspora activists on arrival to Sri Lanka.
45. The Government of Sri Lanka must halt the deployment of military and paramilitary figures, alleged to have committed war crimes and crimes against humanity, to diplomatic missions and delegations worldwide.
46. The Government of Sri Lanka must cease using its missions for the purposes of information gathering and surveillance on Tamil diaspora activities, and instead, refer any legitimate concerns to the law enforcement agencies of that respective country.