

Submission for the Second Universal Periodical Review (UPR) May 2008, Sri Lanka

Submitted by IMADR Asia Committee, Human Development Organization and Other Civil Society Organizations¹ in Sri Lanka on
Minority Rights of the Up-Country Plantation Tamil People in Sri Lanka.

Section 1. Introduction

a. Consultative session and methodology

HDO and IMADR Asian Committee and co-facilitated the consultative session which focused the Human Rights problems and discrimination against the Up-Country Plantation Tamil Community in Sri Lanka. The session was attended by civil society organizations which are concerned with the UPR in Sri Lanka, IMADR Asian Committee, HDO, Satyodaya Centre, Citizen's Watch, University Students, HEARTS, Human Power Foundation, Up-Country teachers and other concerned individuals. The report was based on the information and views imparted and exchanged between the participant representatives of the session and it was forwarded to the participants for their perusal and review. This final report is based on the constructive proposals they have forwarded to be incorporated in to this report.

- In the 2nd section of this report concerns on human rights problem and discrimination against Up-Country Plantation Tamil community and
- In the 3rd section the report concerns on recommendations based on national and international standards.

Section 2: Issues and conciseness of legal and normative frame work :

2. The Up-country Plantation Tamil People from a minority community that consists of about 5.4 % ² of the population in Sri Lanka. The Plantation people originally brought from Southern India to Sri Lanka as semi slave labours to work on the plantations during the British colonial period in 1820s³. This system has undergone change, in ownership with the nationalization of plantations and subsequent privatization and in system of management with the growth of trade unions. Totally the people living in the Sri Lankan plantations have been subjected to various discriminations concerning their civil, political, economic, social and cultural rights and the right to development continuously.
3. Although there are various means such as the constitution and legal frame work to enhance and protect the Human Rights benefiting the Sri Lankan people generally, they are not adequate to strengthen the Human Rights and protect people from incidents of human rights violation.

¹ Styodaya Centre for Social Encounter Kandy, HEARTS Society Maskeliya, Plantation Women's Development Society Deriniyagala, Human Power Foundation Galle, Teachers Group Ratnapura, Citizen's Watch Network Nuwara Eliya, Women & Development Centre, Up-Country University Students, Peradeniya, Teachers from Deniyaya, Badulla, Ratnapura, Kegalle and Kandy districts.

² Sri Lanka Censes and Population 2001, Department of Censes, Colombo

³ Nadesan S. (1993), A History of the Up-country Tamil People in Sri Lanka, Hatton, Sri Lanka

4. As per 2001 census the plantation people are 5.4 % of the total population of Sri Lanka, and with those out side the plantation it is over 6%. This report refers to the Human Rights situation of the Up-Country Tamil people who are both within and out side the plantation sector.
5. Although the Citizenship Act 35 of 2003 to grant citizenship to stateless persons of Indian origin (Plantation Tamils) is a step forward, many of about 200,000 persons⁴ who were registered citizens under this Act and those who were granted citizenship under other Acts face difficulty with the respective Authorities starting from the Grama Seva Officer denying them the right to have their names registered in the voters list. These Officers demand the applicants to produce citizenship certificates. While many of those who were registered under the previous Acts lost their citizenship certificates during the 1983 ethnic riot, under Act No 35 of 2003 certificate of citizenship was not granted. In nature it was a general declaration. This is violation of their fundamental Human Rights.
6. In the context of the on going ethnic conflict the Up-country Tamil youths being arrested and detained under the Prevention of Terrorism Act continues. Many of those arrests and detentions are attributed to the arrested persons' inability to prove their identity by producing their National Identity cards. In the meantime the problem faced by these people has its root in the absence of a proper mechanism in the plantation where most them were born. This situation leads to their inability to freely move about even to get a job out side the plantation. This is denial of their right to free movement and employment.(*Virakesari News Paper 01/12/2007, 05/12/2007, Sudar Oli News Paper 05 /12/2007, Thinakaran NewsPapper 05/12/2007*)
7. Tamil though has been recognized as an official language in Sri Lanka and implemented in the northern and eastern provinces, in the Up-country plantation areas where Tamils live, the departments and other government institutions including the District Secretariats, Divisional Secretariats, post offices and police stations, do not have adequate Tamil Officers. As a result of this the Tamil People experience difficulty in complain in police, having their births, deaths or marriages registered or obtaining certificates as well as having their other day today business transacted. Officers who know only Sinhalese are unable to understand the Tamil names and therefore they write the Tamil names incorrectly. This leads to the people's difficulty in applying for refund of their EPF and ETF benefits. This situation raises a serious question about the respect to their language right.
8. There is growing poverty among the plantation people. The year 2002 recorded it to be 7% above the national level in the plantation sector where 5% of the total population of Sri Lanka live. Their development has been frozen and their welfare has been neglected for a long period of time (World Bank - 2007)⁵. While 30% of those in the plantation sector are poverty stricken on 13% are in receipt of state welfare assistance. Sri Lanka is a partner of the Millennium Development Goals relating to poverty alleviation targets. Therefore an inclusive and transparent program is essential. Right to Up-country plantation people as well for development and in the general institutional structure under Millennium Development Goal is undeniable.

⁴ UNHCR, Focus on Protection, Oct. 2004, Colombo

⁵ World Bank (2007), Sri Lanka Poverty Assessment, Colombo, Sri Lanka

9. Since re-privatization the plantations are being managed by 20 private companies⁶, and the wages and service welfare activities are being determined under a Collective Agreement signed between plantation trade unions and the employers' federation, with the labour department remaining in an approver capacity. It is noteworthy that a low level state intervention is an obstacle to upholding the rights of the workers. This is in contravention of the ILO convention. Due to the Collective Agreement which is operational for 2 years since signed, the workers are unable to have their wage hiked with every point raised in the cost of living in the intervening period. This system does not contain any arrangement for relief in the intervening period either. ICESR rights are observed in breach as far as the plantation sector is concerned. Further, in spite of their century long service they are paid daily wage and there is no action whatever to place them under a monthly wage system.
10. Some estates managed by JEDB and SLSPC are not well maintained. The land on those estates is being given out on sub lease and the social welfare of the workers on those plantations are neglected. This situation poses a substantial threat to the right of the workers and their future generations to life. Such abandonment of the estates and the land being sub leased cause unemployment among the workers and as a result they lose their regular income and pushed in to poverty. This affects their children's right to education and health as well. From this it is apparent that the Millennium Development Goals, fundamental rights and ILO convention are being violated.
11. Compared with the other sectors, there is a low literacy rate in the Up-country plantation sector. In the 2003s and 2004s the rural male literacy rate was 94.7% while it was 88.3% in the plantation sector. While the rural female literacy rate was 91.1% in the plantation sector it was 74.7% (World Bank 2007). Poverty in the plantation sector can be attributed to low or lack of literacy. As per main literacy rate indicators, plantation sector is most backward in this respect. 37% of the plantation children are engaged in child labour and most exploited. But as far as the rural sector is concerned the rate of child exploitation is 14%. These statistics reveal that the education related resources and opportunities are scarce to the plantation community. In the meantime it relates to the shortfall in the implementation of International Covenants such as CRC, ICERC and CERD in relation to child rights.
12. Right to health is another serious problem faced by the plantation community. As per 2003/4 survey done on the plantation health system, 63.4%⁷ of the plantation people continue to live in lines. The way that these lines have been designed does not conform to the requirement where a healthy living is concerned for the inhabitants. 30% of the children have low birth Wight and 40% of them children are stunted and underweight. This unsatisfactory state of affairs bears testimony to the absence or poor basic health facilities in the plantation sector.
13. In the company managed plantations, Plantation Human Development Trust have been established to look into the social welfare condition of the plantation workers. Although various activities of these Trust are efficient, the method adopted in family planning for the plantation women raises doubts about the reproductive rights of the plantation women. It is reported that on many plantations the women are involved in compulsory family planning⁸. The women are taken to the clinics

⁶ Program Support Group, (2004), Status of Workers Housing in Plantations, Colombo.

⁷ Central Bank of Sri Lanka, (2005), The Consumer Finances & Socio Economic Survey Report 2003/04, Colombo.

⁸ Home for Human Rights (2003), Beyond The Wall, Quarterly Journal, Colombo.

for surgery in lorries and brought back also in the lorry after surgery. The officers concerned take advantage of the prevailing low literacy rate among the plantation women, to keep the latter from choosing between a safe and temporary method and sterilization on a permanent basis. It has to be noted that the women's right to reproduction is violated.

Section 3: Recommendations:

14. Constitutional Amendment and administrative reforms are necessary to ensure that the Up-country Tamil people are not discriminated on the basis of citizenship (ICERD Concluding Observation 2001); administrative officers given appropriate instructions on the law governing the aspect of voting rights of the hill country people and the plantation community is meaningfully absorbed into the state administrative system.
15. A separate Minority Rights Commission be established for the minority communities and the Up-Country people with Tamil speaking officers or a separate Unit added to the Human Rights Commission of Sri Lanka with Tamil officers and branches in the Up-Country areas to monitor and resolve the issues of human rights violation of these people.
16. A mechanism be in place for the use of Tamil language in state institutions and other public places.
17. Government of Sri Lanka should give immediate attention to creating a structure which will ensure the development of the plantation community within the Millennium Development Goal target. A speedy development project be Implemented through Up- Country Plantation Development Authority and through the budget and with International Development funding and other agencies.
18. Either a monthly wage system be introduced or Cost Of Living allowance paid to the plantation including private owned estate workers as per increase in the cost of living.
19. An institution be introduced to monitor the efficient and viable functioning of the plantations and share of profit be given to the plantation workers who toil for the development of the industry.
20. Plantation Health service be absorbed into the national stream in order to make it efficient and effective service oriented.
21. Plantation education sector be enhanced with human and physical resources distributed on the basis of Positive Decimation scheme.

Human Development Organization (*Accredited for the WCAR*) &
IMADR Asia Committee, (*IMADR is a Consultative Organization*)
P.O. Box. 171
Kandy 20000
Sri Lanka.

*

*

*