

Submission to the Universal Periodic Review (UPR)

SRI LANKA

Submitted by Interfaith International and Tamil Centre for Human Rights - TCHR

This submission is presented by the Tamil Centre for Human Rights – TCHR and Interfaith International, under the UN Human Rights Council resolution 5/1, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996.

As various other organisations will have submitted material on the history in detail and the present war situation in Sri Lanka, we prefer to highlight the history in brief and present salient thematic issues in more detail. The history is pertinent to the current situation, since it contains the root causes of the conflict.

History in brief

The bloody conflict in the island of Sri Lanka is an ongoing agony. Since independence from the British (1948), the reluctance of successive Sri Lankan governments to accept the political rights of Tamils, set in motion 35 years of non-violent struggle. As this non-violent struggle was continuously suppressed by the security forces - militancy and armed struggle were born. This eventually led to a conventional war between the Tamil national liberation movement, the Liberation Tigers of Tamil Eelam – LTTE and the Sri Lankan security forces.

In 1957 when the Sinhala only act was introduced by then Prime Minister S. W. R. D. Bandaranayake, the talks between the Prime Minister and the leader of the Federal Party, Mr. S. J. V. Chelvanayagam took place, and an agreement known as the Banda-Chelva pact was signed.

Then again in **1965**, talks between the Prime Minister Dudley Senanayake and the leader of Federal Party Mr. S. J. V. Chelvanayagam took place and an agreement known as the Dudley-Chelva pact was signed. **These two pacts were unilaterally abrogated without any implementation by the Sinhala Prime Ministers.**

Under 60 years of state-sponsored **Sinhala colonisation** in the Tamil homeland (North and East), Sinhala governments and their destructive agents have plundered and robbed 50% of the ancestral land of the Tamils. This was to deliberately change the demography of the Tamil homeland, **one of the many forms of discrimination against Tamils.** (<http://www.tchr.net/colanization.htm>)

Sinhala was made the **official language** of the country in 1956 and made as a compulsory language for the Tamils, a blatant act of discrimination.

Five anti-Tamil programs (1956, 1958, 1977, 1981, and 1983), unleashed by various Sri Lankan governments and Sinhala extremist groups, ruined the socio-economic and the political rights of the Tamil people. Thousands of Tamils were massacred, burnt or hacked to death, women were raped and millions of rupees worth of properties belonging to the Tamils were looted and destroyed. Until today, no proper investigation nor any compensation was paid to the victims.

In 1972, state discrimination against Tamil students' admission to Universities reached the peak with the introduction of "**Standardisation**". University admission based on merit was abandoned deliberately to stop Tamil students entering Universities.

In 1972, the "**Republican Constitution**" was introduced and the Tamils lost even the minimum safe guarding protection that they had under the Soulbury constitution of 1947.

In 1978, another new constitution was enacted, introducing an **Executive Presidency** system and promoting Buddhism as the country's foremost religion. **This was yet another discrimination against Tamils.**

In July 1979, the government enacted the draconian Prevention of Terrorism Act (**PTA**), along with the Emergency Regulations (**ER**). Emergency rule has become the norm - for more than 36 years since independence. Under these conditions minimum international human rights standards are not being met. **Human Rights violations are committed with impunity.**

It is blatantly clear that ethnic cleansing in Sri Lanka has been to some hideous extent successful. **Today, there are about 500,000 Tamils from the North East in Western countries and 153,000 are in neighbouring India, (103,000 housed in refugee camps and another 50,000 live with relatives or on their).**

In the mean time there are more than 500,000 internally displaced people in the North East. It is obvious that since independence the Tamil population has been drastically reduced.

Religious Intolerance

Since independence in 1948, the Sinhala numerical majority in (Ceylon) Sri Lanka, has claimed this island as a Buddhist country.

Sri Lanka's Constitution of 1978 - Chapter II Buddhism , Article 9, says "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana,....."

In the recent past, attacks and vandalism against Christian Churches in Sri Lanka have intensified. Christian Churches have been stoned, burned and vandalised by mobs led by Buddhist monks. Also Pastors' residences have been attacked and worshippers have been beaten.

In many parts of Sri Lanka, anti-Christian demonstrations have been organised by Buddhist Monks and handbills against the Christian Churches have been distributed. Demonstrators have issued an ultimatum to the Churches to cease their activities in those areas.

TCHR has collected information on 89 attacks and arson attacks on Christian Churches in Sri Lanka. http://www.tchr.net/religion_churches2.htm

These attacks on Christian Churches and worshippers were well organised by politicised Buddhist Monks. The Police and other government security forces are turning a blind eye. There have been occasions when attacks have even taken place in the presence of Police and Army personnel. There have been very few incidents where the Police have taken action against mobs and Buddhist Monks.

Attacks on Christian Churches and Hindu Temples are nothing new in Sri Lanka. They have been taking place for decades.

According to the statistics collected by TCHR, in the North-East, 2076 Hindu Temples and 299 Christian churches in the North (<http://www.tchr.net/religion.html>) have been damaged and destroyed in Aerial bombings and shelling. Also many killings and massacres have taken place in Churches, Temples and Schools.

It is deplorable that these attacks and arson attacks on Christian Churches and Temples have neither been investigated, nor even recorded, in the government books !

Since the present President came to power, Sinhalisation and ethnic cleansing has been rampant in the North East. Statues of Buddha are planted everywhere in the Tamil hereditary regions, the names of Tamil villages are renamed with Sinhalese names and the Tamils and Muslims who lived for centuries in the North East are chased away over night, while the Sinhalese are settled, according to an overt plan to change the demography of the North East.

On 15 May 2005, a large **statue of Buddha** was illegally erected overnight in the Eastern town of Trincomalee with the help of the Sri Lanka security forces.

Discrimination against Tsunami victims

A massive human tragedy was caused by the tsunami tidal waves, which devastated much of the coastline of Southern and South East Asia on 26th December 2004. In Sri Lanka, the North East part of the island was the worst affected areas. **But the government of Sri Lanka paid less attention to the devastation and loss of life caused by the tidal waves in the North East.**

On 27 December 2004 the Sri Lankan government appealed through its embassies for international emergency assistance. Countries in the European Union, the USA, India, Russia, Israel and several other countries and international NGOs responded, sending assessment teams and emergency supplies. The international help rendered to Sri Lanka has not reached many affected people in the North East.

Many Tamil parliamentarians have criticised the way the government is handling the situation in the North East, saying that the government is "callously ignoring the plight of thousands in the North East hit by Tsunami".

The international community poured money generously into tsunami relief funds, and rightly insisted that there should be a joint mechanism to distribute relief and funds for reconstruction. Hopes seemed to be fulfilled when eventually on June 24th 2005, the Post-Tsunami Operational Management Structure (P-TOMS) MOU was signed by the government of Sri Lanka and the LTTE.

However, hopes of imminent joint working were soon dashed. The Supreme Court on 15th July 2005 issued a stay order suspending four key provisions of the newly agreed P-TOMS, upholding a petition filed by Sinhala extremists in which they claimed that their fundamental rights enshrined in the constitution were infringed, and that they wanted the P-TOMS declared null and void

Internally Displaced People - IDPs

As there are about 500,000 IDPs living in their temporary camps for more than a decade, a Fundamental Rights Violation application was filed in May 2006 and Sri Lanka's Supreme Court ordered that IDPs to be resettled in their residence. But the Sri Lanka military stationed in Jaffna objected to this decision as the IDPs cannot be resettled in areas known as High Security Zones.

Biased Judiciary

From time to time, the Sri Lankan judiciary serve the needs of the government. It is well known that the judicial system in Sri Lanka is biased. More than 90% of the judges of the Supreme Court are Sinhalese.

The judgement of the Supreme Court in 2005, on the illegally erected statue of Buddha in the Eastern town of Trincomalee and the case against the Tsunami agreement – PTOMS, which aimed to ensure equal distribution of Tsunami aid to the worst affected North East, have proved the biased nature of judgements from the Supreme Court. Both cases denied justice to the Tamils.

For more than a few millennia, predominantly Tamils have lived in the North and East – their hereditary land. The merger of the North Eastern province took place on 8 September 1988, **under an international agreement**, signed between India and Sri Lanka on 29 July 1987. Under this agreement, the North and East were merged by a special decree of the Executive President of Sri Lanka. The Sri Lankan constitution does not require any parliamentary endorsement to any decision made by the Executive President.

Eighteen years after this merger, the demand for the de-merging of these two provinces was filed and on 16 October 2006, the Supreme Court delivered its decision that the merger of these two provinces by the then President was invalid.

In the few cases where security personnel were found guilty in the High court, judgements have been reversed by Sinhala judges in the Supreme Court.

For example,

- (1) On the 25 October 2000, Sinhala thugs stormed a rehabilitation centre in Bindunuwewa with the help of the Police, housing more than 50 Tamil detainees. They hacked and clubbed to death 26 Tamil political detainees with knives, machetes, axes and iron rods and then set fire to the whole centre.

In this case, five accused including two police officers were convicted and sentenced to death by the specially constituted High Court Trial-at-Bar. Later all five accused were acquitted in a five-member bench of the Supreme Court comprised of all Sinhala judges. **Impunity remain a serious problem in Sri Lanka.**

- (2) **On 5 August 2006**, 17 NGO workers of Action Contre La Faim – ACF (Action Against Hunger) a French organisation - were killed by the Sri Lankan army in Muttur. So far, no proper investigation has been held.

Maj. Gen. Ulf Henricsson, who headed the unarmed Sri Lanka Monitoring Mission (SLMM) said that "I have experienced this in the Balkans before. When you're not let in, it's a sign that there's something they want to hide. "You have a lot of time to clear it up. If there was clear evidence for the LTTE to have done it, why not let us in to see it? I think the government makes the situation worse for themselves, because the truth will come out."

Colonisation

Since the independence (1948) of this island, the Prime Ministers and the Presidents have had a secret unit for the Singhalisation of the Eastern province. This is not even known to all cabinet Ministers. Sinhala colonisation was the main agenda and in order to achieve this task - Special Task Force (STF), Home Guards, and special units with Island Reconvicted Criminals (IRCs) were created within the Sri Lanka Army. Sri Lanka's Land Development Department, Irrigation Department and Agricultural Department also play a crucial role in this process. Presently the Ethnic cleansing in the East, especially in Trincomalee is in full swing with various programmes - deliberate military attacks, mass murder and the destruction of properties. (http://www.tchr.net/reports_visite_2004.htm)

Conclusion

- *In fact, Sri Lanka has submitted a pledge to the HRC which is a long way from addressing the deteriorating human rights record in Sri Lanka. If it were really committed to human rights, it would pledge to sign and ratify the Rome Statute of the International Criminal Court – (ICC).*
- *Sri Lanka should accept an International Human Rights Monitoring body.*
- *Sri Lanka should accept the Ceasefire Agreement signed on 22 February 2002 and implement it fully.*
- *Should find a durable political solution to the bloody ethnic conflict as soon as possible.*

Annexes

Extra-judicial and Summary executions / Enforced or involuntary disappearances

(Summary with names of victims, place/date of incident and forces responsible for the incident)

- (1) Humanitarian staff killed in Sri Lanka since January 2006
- (2) Journalists and other staff killed, attacked and harassed in Sri Lanka in 2007
- (3) Killing of religious dignitaries and laymen in the recent past by the Security forces and paramilitary
- (4) Recent killing of academics and parliamentarians in the recent past by the Security forces and paramilitary
- (5) Summary of civilians arrested, killed, disappeared and raped/injured in the recent past.
- (6) Attacks on NGO offices in the recent past by the Security forces and paramilitary

http://www.tchr.net/reports_commission.htm

http://www.tchr.net/cp_summary.htm

In 1997, between 24 August to 5 September, Mr. Bacre Waly Ndiaye, United Nations Special Rapporteur, on Extrajudicial, summary or arbitrary executions visited Sri Lanka and submitted a comprehensive report (E/CN.4/1998/68/Add.2 - 12 March 1998) on extrajudicial killings in Sri Lanka to the 54th session of the UN Commission on Human Rights. **He highlighted the culture of impunity.**

Interfaith International

Interfaith International has been closely following the human rights situation in Sri Lanka for more than ten years and makes numerous oral statements to the UN Commission on Human Rights, Sub-Commission on Promotion and Protection of Human Rights and Human Rights Council. Also in the briefings during the Commission on Human Rights and Council, Interfaith International held several round-table discussions about the current situation in Sri Lanka.

Interfaith International has been accrediting many human rights activists to the UN Human Rights Forums and UN Conferences. Also Interfaith International had several discussions with various academics, intellectuals, parliamentarians and others from Sri Lanka who were in Geneva to attend the UN Human Rights Forums.

Tamil Centre for Human Rights - TCHR

Tamil Centre for Human Rights has its representatives in all parts of Sri Lanka, including in conflict areas – North and East.

TCHR has been closely following the human rights situation in Sri Lanka for nearly eighteen years and has produced numerous situation and fact finding mission reports for the information of the participants, mandate holders and various sections in the OHCHR. TCHR representatives have been participating in all UN Human Rights Forums since 1990.

The Tamil Centre for Human Rights (TCHR) officially participated in the United Nations : **(1)** 7th Global Forum, Re-instating good governance, in Vienna, Austria in June 2007 **(2)** Conference on Anti-corruption Measures, Good Governance and Human Rights, in Warsaw, Poland in November 2006 **(3)** World Summit on the Information Society – WSIS in Tunisia in November 2005. **(4)** NGO forum of the UN World Conference Against Racism – WCAR in Durban, South Africa, in 2001.

TCHR representatives also attended the main WCAR conference held in Durban from 31 August to 7 September 2001 and in 1993, held an information stall and a photo exhibition on human rights violations, in the United Nations 2nd World Conference on Human Rights held in Vienna, Austria, from 14-25 June.

TCHR has held meetings in the European Parliament in Brussels, Belgium in March 2006 and October 1998.

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