

**Report to the President of the Human Rights Council
Office of the High Commissioner for Human Rights
United Nations**

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**Sri Lanka: The Human Rights and
Humanitarian Crisis in the
North-East**

Submitted by



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Sri Lanka: The Human Rights and Humanitarian Crisis in the North - East

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A. Introduction

1. In recent statements of the UN High Commissioner for Human Rights (HCHR), the UN Special Rapporteurs and major international human rights NGOs including Amnesty International, Human Rights Watch, ICJ, Humanitarian Law project and others have identified Sri Lanka as a 'hotspot' in the map of the international human rights and humanitarian crisis.
2. In the North-East of Sri Lanka, nearly 1500 Tamil civilians were killed within the past 15 months, including two Tamil parliamentarians, with state complicity; Over 900 disappearances were reported including a vice chancellor of a Tamil University and a Christian priest. The military and para-military violence and retaliatory violence produced tensions between the parties and among the population.
3. At the 2nd session of the Human Rights Council (HRCouncil) in Aug.2006, the HCHR and others raised the alarm at the increased level of serious violations. Many western countries compare the situation to 'Darfur'. The EU proposed a motion on Sri Lanka. But reasons beyond concerns for human rights and humanitarian crisis, prevented the 2nd session of the HRC from acting on this alarming situation. Again, the 3rd session of the HRC postponed the EU motion to the subsequent session. The UN and member states supported the SL's yet another promise of investigations with international observers. Further, the International Community (IC) expressed the wish that the international concerns would reduce the level of violations in the Island.
4. Contrary to this expectation, the human rights situation and the breaches of the International Humanitarian Laws (IHL) are mounting without any serious attempts by the SL state to prevent them. The extra-judicial killings, arbitrary arrests and detentions, involuntary disappearances and other forms of violations including threats to the media are now rampant. The ex-foreign minister of the current government has described this situation as 'one disappearance in every 5 hours'.
5. This report briefly examines the situation and submits recommendations.

Conflict background

6. The conflict in SL is nearly 50 years long, including 30 years of armed conflict. The Tamil people claimed themselves as a nation of people who lost their sovereignty under the European colonial rule. The British Colonial rulers unified the two major people of the island under a single unitary rule in 1883. In 1948 the British left the Island without addressing the concerns of the people except for a constitutional guaranty which was removed later by the Sinhala state. The Sinhala nation, due to its numerical majority, took control of the state power. The 'disenfranchisement' of a million of up-country Tamils in 1949 and the 'Sinhala only act' in 1956 and other forms of structural discrimination and oppression have created a Sinhala-Tamil national conflict in the Island.

7. The Tamil leadership resisted these structural oppression in non-violent modes of protest . After a period of resistance, the Sinhala government signed two pacts with the Tamil leadership (in 1956 and 1967) to provide political space for Tamil people in state power. But these pacts were unilaterally abrogated by the same governments under the pretext of Sinhala political opposition.
8. Since then, Tamil people were subjected to various forms of violent oppression including frequent riots. In 1958, 1977 and 1983 large levels of violence were recorded against Tamil people. In 1979 the Prevention of Terrorism Act (PTA) was introduced. Further, the Emergency Regulations and special provisions have given powers to the armed forces to suppress Tamil agitation. In 1983, the 6th amendment of the SL constitution stripped the Tamil people of their democratic right to seek a solution to there political aspirations based on self-determination.
9. In 1977, the united Tamil leadership decided to explore the option of freedom from the Sinhala State. This declaration was overwhelmingly voted by the Tamil people in the 1977 general election.
10. The North-East of the island is the Tamil homeland with historical existence. The Indo-Lanka pact signed in 1987 recognized this ‘fact on the ground’, irrespective of the planned colonization of Sinhala settlements in the Tamil homeland and forcible removal of Tamil people from the eastern part of the Island.
11. In the mid-70s, the Tamil armed resistance movement, Liberation Tigers of Tamil Eelam (LTTE), was formed with the objective of a solution based on self-determination. In the 80s, the LTTE grew into a national liberation movement. It participated in negotiations with the GoSL and regional/international players. In the 90s a de-facto state started to evolve in the LTTE-controlled areas. In 2002, the GoSL and LTTE signed a Cease-Fire Agreement.

The Pre-CFA Human Cost of the War

12. In this six decade-long national oppression and conflict, 65000 deaths have been reported. The economic cost and other lost opportunities have been estimated by different agencies. A recent study (released in 2005) by the North-East Secretariat On Human Rights (NESOHR) records 35323 civilian deaths in the North-East alone between 1974 and 2004. This report does not include the Tamils killed in other parts of the island or the victims who did not have relatives to report the death. In this survey, nearly half of the victims were shot dead. Another 25 percent were killed by indiscriminate shelling. Nearly 3500 civilians were killed in the SLAF’s direct air attacks on the civilian population.

Cease-Fire Agreement (CFA)

13. The prelude to the cease-fire and peace talks facilitated by Norway commenced in the late 1990s. In the Year 2000, the LTTE leader received the Norway representatives in Vanni and unilaterally declared a cease-fire, thus creating an atmosphere conducive to peace talks. Sri Lanka refused to accept this cease-fire. In 2001, after some military disasters at the Northern war front and Katunayake Air Force base, the GoSL agreed for a cease-fire. In February 2002, both parties signed a Cease-Fire Agreement.

14. The parties engaged in direct peace talks in different world capitals. But the disagreement and different agendas of the Sri Lankan State, International Community and LTTE, led to a collapse of these talks.
15. In 2005, a 'hardliner' president Mahinda Rajapaksa won the election on a Sinhala nationalist agenda and this has contributed to the serious collapse of the CFA.
16. In April 2006, the SL air force grossly breached the CFA and started to attack LTTE-controlled areas by air. In July 2006, the SL armed forces started the first military offensive action against LTTE forces in Mavilaru under the pretext of water supply, which was later declared by the former Head of the SLMM as 'not the true reason'.

The General Situation in SLAF Occupied territory

17. Parts of the districts of Jaffna, Mannar, Vavauniya, Trincomalee, Batticalao and Amparai, are SL military-occupied parts of the Tamil homeland. The SLAF captured new territories in Trincomalee -east and Batticalao /Vaharai.
18. It has been estimated that over 100 000 Sri Lankan armed forces are occupying these regions. The Police and para-military forces are part of this military occupation. The Tamil para-military arm of the SLAF is very active in these occupied territories: the Karuna group in the east, PLOTE in Vavuniya and EPDP in Jaffna.
19. The Emergency Regulations, with the recently added provisions of the PTA have been extensively used in these territories. The courts and police system have been weakened owing to control by the SLAF. This has led to a serious human rights crisis in these occupied areas.
20. About 600 000 people who are living in Jaffna district have been denied the freedom of movement owing to the closure of the A-9 land route by the SLAF. The Tamil parliamentarians accused the state of using the people as human shields. This closure is a gross violation of the CFA and other international treaties to which SL is a signatory.
21. The Sri Lankan Defense Ministry and Military heads of the SLAF have promised to continue their offensive actions in North East of the Island, irrespective of the concerns of CFA and IDP crisis.

The General Situation in the LTTE Administrated 'De facto Tamileelam State'

22. The CFA recognizes (under the section "Separation of Forces") the LTTE-controlled territory, with line of control. This territory includes Mullitivu and Killinochi districts, part of the Jaffna peninsula, Mannar, Vanni (in the North); and Trincomalee, Batticalao and Amparai (in the East).
23. In this territory, a separate civil administrative structure has been put in place under the political direction of the LTTE leadership. Kristian Stokke, a Norwegian scholar, examines this situation and remarks that "Sri Lanka's third Eelam War created a political-territorial division of the island with a resultant dual state structure in the North-East. In the context of the 2002 Ceasefire Agreement and based on earlier institutional experiments, the LTTE is currently engaged in a comprehensive process of state building within the areas they control."

24. A member of an Australian local parliament, Ms Virginia Judge, who visited this de facto entity stated, “ I observed that in a remarkable three-year period the Tamils developed a virtual state within the north and north-east of Sri Lanka. I visited their judiciary and court, school of law, police station, police academy, medical and technical colleges and small industries, a community bank plus a children's home housing 278 children left orphaned by the war and the recent tsunami. The Tamil Rehabilitation Organization (TRO) runs a variety of development, relief and reconstruction projects as well as assisting several non-government organizations with their projects. All this is a tribute to the spirit and resilience of the Tamil people. ” (interview dt.sept.2005)

Tamileelam Penal Code

25. The head of the judicial department Mr.Pararajasingham offers the following explanation: “Distinguished Tamil jurists, legal experts and leading lawyers studied the British, Indian and Sri Lankan criminal justice systems before formulating the Tamil Eelam Penal Code. We have identified 439 types of crimes. Some crimes considered liable for punishment in the Sri Lankan Penal Code are treated less harshly in our Code. We are in the process of reviewing provisions in the penal code that permit capital punishment in the light of the increasing international trend against it. However, until such time anyone sentenced to death can petition the Review Committee seeking pardon. “There are six district courts – in Kilinochchi (Jaffna and Kilinochchi Districts), Mallavi (for the Vavuniya District), Jeyapuram (Mannar District), Puthukkudiyiruppu (Mullaithivu District), Trincomalee and Batticaloa. Each court has a Family Counselling Unit. There are two high courts – one in Kilinochchi and the other is Mullaithivu. The Tamil Eelam courts have heard 24000 cases and delivered judgments on 20000 so far – that is since they were first established ten years ago. There is an appeal court in Kilinochchi and we have created a ‘Special Bench’ to hear cases rejected by the Appeal Court. We have also established a Review Committee on Appeal for Pardon to which those who have been sentenced to death can have recourse.” He further explains: “We are endeavouring to introduce progressive laws relating to women. We brought an amendment to the penal code in connection with abortion. Earlier it was permissible on medical or other reasonable grounds only with the consent of both husband and wife. Under the said amendment a woman can take the decision on her own to abort her pregnancy within five months of conceiving on medical or other reasonable grounds”. (Interview with Pararajasingham dt.30.10.2003).

Tamileelam Police Force

26. The Police force of TamilEelam is responsible for maintaining law and order in this area. The head of the TamilEelam police state, “Serious crime in areas under our control is low. We mainly deal with complaints of theft, domestic disputes including land, property matters. Enforcing strict traffic laws to contain traffic accidents and fatalities has become a recent priority. As a people’s force we are also interested in social development of our community. Rights of Women and Children are of increasing concern to us and that is why we have opened a special division to address issues related to sexual harassment, domestic violence against children and other related matters. Our zero-tolerance policy on bribery

and corruption has earned the trust and respect of our people, and this has helped in the efficient execution of our duties.” (Interview with Nadesan, Head of the Police force)

27. The ICRC makes regular visits to the 3 prisons and 17 police stations in this de facto state. Local and international human rights advocates and officials engage with the local police and judicial and prison system, to improve the quality of the service.

B. Human Rights and IHL situation in the North-East

Extra Judicial killings: "Alarm Is Sounding For Sri Lanka"

1. Special Rapporteur on extrajudicial, summary or arbitrary executions Professor Philip Alston addressed the United Nations General Assembly (Third Committee, 20 October 2006) on the alarming situation in Sri Lanka. He states, **"Today the alarm is sounding for Sri Lanka. It is on the brink of a crisis of major proportions. Sadly, the world seems to think that the dramatic attacks of recent days and the spiralling number of extrajudicial executions are just one more episode in a long-running saga"**.
2. In SLAF-occupied areas in North-East and Colombo have reported the increasing numbers of extra judicial killings. Since Nov.2005 when the new President took the command, till the end of Jan2006 (pre-talks on Geneva – 1) and from April 2006 to date, large numbers of civilian killings have been recorded by the local and international agencies and the media.
3. The civilian-based organisations in the North-East estimate that over 1500 civilians were killed within the last 15 months. These include two elected Tamil representatives, priests, several journalists and media staffs, academics, children and Women. The SLMM, European monitors to the CFA in Sri Lanka, confirmed this high numbers of civilian killings.
4. The judicial authorities in Vavuniya informed the head of the supreme court of SL that in January and February 2007, 75 extra-judicial killings were reported in Vavuniya district alone and 50 among them were civilians. In Manner civilian sources recorded 55 civilian deaths in the same period.
5. According to the Colombo-based Civil Monitoring Committee, over 24 Tamil civilians were abducted and killed by the SLAF-backed para-military forces in Colombo.
6. The data released by the Peace Secretariat of the LTTE follows;

| | |
|-------------------------------|-------------|
| December 2005 – February 2006 | 103 |
| March - May 2006 | 207 |
| June – July 2006 | 134 |
| August 2006 | 363 |
| September 2006 | 114 |
| October 2006 | 65 |
| November 2006 | 47 |
| December | 83 |
| January 2007 | 86 |
| February 2007 | 66 |
| TOTAL | 1268 |

7. The massacres in Mannar, Trincomalee, Jaffna, Amparai and Batticaloa districts and other places have terrorised the civilian populations. Apart from killings resulting from aerial bombing and shelling, the number of IHL-linked human rights violations have reached the attention of the local human rights groups, including below listed cases.

| | | |
|----------|--|----------------------|
| 23.12.05 | 4 civilians (including a 4 year child) burnt to death , at the “Hundred houses” housing scheme - Mannar | SL Navy |
| 24.12.05 | 5 local night workers shot and killed near Jaffna Fort military zone | SL Army |
| 17.01.06 | 5 Tamil students killed in Trincomalee | SL STF |
| 08.04.06 | 5 civilians shot dead at Puthur Military camp, Jaffna | SL Army |
| 12.04.06 | 12 hacked to death in Trincomalee | Sinhala settlers |
| 07.05.06 | 8 temple workers sleeping overnight at the Kelathu Amman temple in Chavakachcheri in Jaffna were shot and killed | SL Army |
| 04.05.06 | 7 civilians travelling in two three-wheelers were shot and killed at Navindil | SL Army intelligence |
| 13.05.06 | 13 civilians, two of them children, were killed | SL Navy |
| 08.06.06 | Family of 4 hacked to death in Vankalai in Mannar | SL Navy |
| 17.06.06 | 6 civilians shot and killed at Pesalai, Mannar | SL Navy |
| 05.08.06 | 17 ACF French aid agency workers shot and killed in Trincomalee | SL Navy |
| 25.08.06 | 5 mason workers shot and killed at Navatkerny, Batticaloa | SL Task Forces |
| 29.08.06 | 10 civilians killed at Puvarasankulam Vavuniya | SL Airforce |
| 16.09.06 | 10 Muslim workers were killed at Potuvil | SL Airforce |
| 29.08.06 | The SLAF produced 10 bodies and accused that victims were tried to attack the puvarasankulam military base in Vavuniya. The local member of parliament complained that they were missing civilians from that district. | SL Army |

8. Several Tamil Political and Civilian Leaders and journalist were killed in this period of the worst human rights crisis. Some of the cases are as follows;

| | | |
|---------------------------|------------------------------------|--|
| Mr. Joseph Pararajasingam | Member of Parliament | 25.12.2005 at the X'mas midnight mass, by the SL assisted military personnel in Batticaloa. (The names of the suspect was given to the President by the TNA parliamentary group, but no actions taken to date) |
| Mr.Raviraj Nadaraja | Member of Parliament | 10.11.2006 Mr.Raviraj was killed in Colombo in broad day light, in a high security zone. |
| Mr. V. Vigneswaran | Member of Parliament | 07.04.2006 – Mr. Vgneswaran, a Tamil leader and newly appointed Member of Parliament was shot and killed in a high Security zone in Trincomalee. |
| Mr. A.Senthilnathan | TNA Political leader | 26.04.2006 – Mr. Senthilnathan, A TNA political leader vavuniya was killed. |
| Mr.K.Sithravadivel | President of the fisheries society | 27.07.2006 Mr.K.Sithravadivel was shot dead by the SLAF |

Perpetrators of the crimes

9. Most of the extra-judicial killings have been committed by the SLAF and its Para military groups like the EPDP (the leader of this group is a cabinet member of the current GoSL) and Karuna Group.
10. The Chief of the Sri Lankan Army (SLA) Lt. Gen.Fonska is one of the 'accused' in the killings in Jaffna in the mid-90s. With absolute impunity, he reached the top job in the SLA . It is widely believed that under his overall command, the SLA intelligence wing took the law into its hands.
11. The dangerous development in this period is the crimes committed by the Tamil para-military forces in the North-East and Colombo. The GoSL refused to acknowledge the existence of these forces in their occupied areas and denied the complicity of the SLAF with the para-military crimes. This poses a serious threat to the security of the people. One MP was shot and killed inside a Church (by the Karuna Group); another was killed in Colombo (by the EPDP); one senior leader was killed in the high security zone (by the karuna group). None of the cases has been investigated and no arrest reported by the SL state agencies.

12. According to a Tamil human rights project done by a US-based researcher, 1198 cases of extra-judicial killings were committed since 19 Nov.2005 till 01 of Dec.2006. 703 crimes were committed by the SLAF, 366 by the para-military groups like Karuna group and EPDP. 23 crimes were against the forces associated with LTTE and the perpetrators of 105 killings were not identified.
13. The LTTE was accused of some retaliatory killings of associates and ‘informants’ of the para-military forces in the SLAF occupied areas.

Enforced or Involuntary Disappearances: “White vans without number plates”

14. Sri Lanka is ‘notorious’ for its records on disappearances since the late 80s. The UN system ranked Sri Lanka after Iraq under Saddam Hussein, in the world list of ‘disappeared’.
15. According to the **Report of the Working Group on Enforced or Involuntary Disappearances (A/HRC/4/41)** “In the past and during the year under review, the Working Group has transmitted 12,319 cases to the Government; of those, 40 cases have been clarified on the basis of information provided by the source, 6,530 cases have been clarified on the basis of information provided by the Government and 5,749 cases remain outstanding”.
16. According to the Jan.2007 report of the Working Group on Enforced or Involuntary Disappearances, ‘it is gravely concerned at the increase in reported cases of recent enforced disappearances occurring primarily in the north-east of the country in the context of renewed fighting in the region’.
17. The Colombo-based Tamil daily Thinakural(13.01.07) published a report obtained from the Sri Lanka national human rights commission (NHRC) sources, that 978 cases of disappearances were reported in the island in the year of 2006, 850 cases being from North East of the Island. In most cases, the victims were kidnapped by un-identified armed persons in SLAF-controlled areas.
18. The AFP report of 03.02.07 reads: ‘Some 75 ethnic Tamils are believed to have been abducted by unknown gunmen from militia groups since January 1, 2007, a Sri Lankan Human Right Commission officer said’.
19. In Jaffna district, the regional branch of the SL national human rights commission released the statistics of 584 disappearances in the year 2006 in the district. The commission could not solve 416 cases. In 128 cases of disappearances, the office has complained of the direct participation of the SLAF.
20. In the 12th Jan.2007 edition, a local Tamil daily in Jaffna, reported that ‘17 are disappeared within 9 days’ in Jaffna. Among them 5 were taken from their homes; one student disappeared on his way back home from private tuition. On 29th of Dec.06, another local daily published a report of 10 youths disappeared within 6 days.
21. On 20 aug.2006, Rev. Fr.Thiruchchelvan Nihal Jim Brown was disappeared at a check point of the Sri Lankan Navy. The Jaffna Bishop and International Christian organisations and human rights organisations pleaded to the SLAF to find out the victim and release them. To date, the SLAF has not produced any reasonable explanation on this disappearance. (ref. with AI index: ASA 37/023/2006).
22. In Dec.2006, the Civil Monitoring Committee (CMC), released a report of 47 cases of disappearances in Colombo within 10 months, the capital of Sri Lanka. In these cases, 12 victims returned home and the rest are still missing.

23. The Vice-Chancellor of the Eastern university, Professor S.Raveendranath was abducted by the suspected Karuna group in broad day light in Colombo on 15 Dec.2006. The family of the victim and International agencies including AI pleaded for his release. The Family approached the diplomatic community in Colombo to put pressure on the state to release the professor. (AI index: ASA 37/035/2006)
24. According to the records of the LTTE peace secretariat, 545 cases of disappearances are reported in this CFA period and most of them are after Nov.2005.
25. 38 US law makers, led by New Jersey Democratic Representative Rush Holt, recently wrote to the US President that, " we are troubled by the large increase in kidnappings across Sri Lanka, most of which remain unsolved".
26. According to the New York times report (Nov.06) "The International Committee of the Red Cross says it received more than 350 reports of disappeared persons through late October. The National Human Rights Commission lodged 419 such complaints between last December and September. A private human rights advocacy group called Home for Human Rights, has documented 203 cases of missing persons in the first nine months of this year, using newspaper clippings and other reports. It lists 965 more extrajudicial killings, some of whose victims might also have been abducted. The victims come from all walks of life: a radio reporter, a university dean, a fish trader. For the most part, they are Tamil, the country's main ethnic minority. Many of the abductions have been carried out in government-controlled territory — sometimes in the heart of this highly fortified capital, at other times in the north and east, close to military installations. Some of those kidnapped have won release only after their families appealed to the highest echelons of the state. A white van appears repeatedly in their recollections: it is the iconic symbol of the late 1980's, when white vans were used in a wave of abductions as the government fought a violent leftist insurrection."
27. The Asian Human Rights Commission in its statement dated 13 Sept. 06 'Sri Lanka White vans without number plates: the Symbol of disappearances reappears' alleged state complicity in these crimes. Further, it stated that 'in Sri Lanka, causing of forced disappearances has been treated by the state as a legitimate means.....'

Perpetrators of these crimes

28. A large number of disappearances have been reported in SLAF-controlled Jaffna, Batticaloa, Amparai districts and Colombo. In SLAF-occupied Tamil homeland, SLAF officials and para-military groups directly involved in these disappearances; and in Colombo, Para military groups and intelligence divisions of the state has been accused of these crimes. According to a Tamil project carried out by a US-based researcher, para-military groups like the EPDP and Karuna group are responsible for over half of the reported cases. Forty percent of the victims have been disappeared in the hands of the SLAF. 32 cases are committed by unidentified forces and in 11 cases, Sinhala home guards are implicated.
29. LTTE-related forces are accused of some disappearances of para-military operatives. But the LTTE has refused to take responsibility for these issues as these are in SLAF occupied areas and LTTE is not operating in such areas. The LTTE argues that the responsibility rests solely on the SLAF and para-military.

Gross breaches of International Humanitarian Law

30. The war in the CFA period is a strange phenomenon in the areas of international conflict resolution process and international humanitarian laws. While neither party has officially withdrawn from the CFA, intense battles are being fought in the North-East of the island.
31. Apart from the above stated human rights violations related with the humanitarian law, the aerial bombings and motor/artillery shelling on Tamil villages and towns have created huge human costs. Attacks on IDPs are another form of breach of IHL. Since April 2006, the SLAF started offensive operations against Tamil areas under the control of the LTTE using heavy artillery and motor fire, aerial attacks in Trincomalee, Batticaloa, and Vanni.

| | | | |
|----------|--------------------------------|--|---|
| 25.04.06 | Aerial and motor attacks | Sampoor, Trincomalee | 18 civilians including 4 year child, were killed |
| 08.04.06 | SLAF penetration team claymore | Akkaarayan, Vanni | Mobile hospital service was attacked. Civilians injured |
| 02.08.06 | SLAF shelling | St. Anthony's Church, Mutur | civilian deaths reported |
| 03.08.06 | SLAF Motor/Artillery Shelling | IDPs centre at the Arabic College, Trincomalee | 10 civilians killed |
| 03.08.06 | SLAF Motor/Artillery shelling | Al Nuriah Muslim Collage Thoppur Trincomalee | 12 civilians killed |
| 06.08.06 | SLAF Motor/Artillery | Civilian villages at Nallur and Upooral / Mutur East | 15 civilians killed |
| 10.08.06 | Aerial attack | Kaithiraveli/Trincomalee village | 50 civilians killed. |
| 14.08.06 | Aerial attack | Sencholai children complex at Mullitivu | 51 School girls killed |
| 13.08.06 | Aerial attacks | St. Philp Neri Church in Allipity/Jaffna | 37 civilians killed |
| 28.08.06 | Aerial attack | Paddalipuram/Trincomalee | 20 civilians killed |
| 08.08.06 | LRRP claymore Attack | Medical service vehicle | 68 years old Doctor and 4 medical personnels killed |
| 10.08.06 | SLAF Shelling | Mavilaru | 15 civilians killed |
| 12.08.06 | SLAF Shelling | Mavilaru | 11 civilians killed |
| 25.08.06 | SLAF Shelling | Mavilaru | 13 civilians killed |
| 29.08.06 | SLAF Shelling | Sampoor | 14 civilians killed |
| 05.09.06 | Aerial attacks | Sampoor | 16 civilians killed |
| 06.09.06 | SLAF Shelling | Sampoor | 14 civilians killed |
| 06.09.06 | SLAF Shelling | Pannichchankern | 2 civilians killed |
| 18.10.06 | Aerial attacks | Karadiyanaru Batticalao | 10 year old and 2 civilians killed |

| | | | |
|----------|---------------------------------|---|--|
| 16.10.06 | Aerial attacks | Puthukkudiyiruppu in Mullaithivu | 12 months old baby killed 16 others injured |
| 08.11.06 | Artillery & Multi Barrel firing | Refugee camp in Kathiraveli | 47 civilians were killed and a further 125 civilians were injured. |
| 09.12.06 | Artillery shells fire | IDP camp, school area at Vaharai | 4 civilians killed and injuring more than 10 |
| 10.12.06 | Artillery shells fire | Refugee camp at Kandalady Arunthathy school in Vaharai. | 4 months old baby and 8 children, 19 civilians killed |
| 02.11.0 | Aerial attacks | Hospital, Kilinochchi | 5 family members died in the nearby settlement. |

32. These indiscriminate attacks on Tamil villages and towns and other human rights violations in the context of the war are clear violations of the humanitarian law, which under article 147 of Geneva Convention 4 of 1949 are identified as grave breaches. Wilful killing of the civilian populations, torture, attacks on protected facilities and personnel and wanton destruction of property with no defence of military necessity are a few of these grave breaches.
33. The SLAF closed the A-9 high way linking Jaffna with the other part of the Tamil homeland is a serious threat to the population. The SLAF is keeping this population as human shields to protect itself and its supply lines. Some human rights organisations describe this situation as ‘open prisons where about 600 000 people are detained.

Media under threat

34. According to the annual report (Year 2006) of the Reporters sans Frontiers (RSF), ‘three journalists and four media assistants were killed in 2006. No suspects have so far been arrested. In January, Subramaniyam Sugirdharajan, correspondent for the Tamil daily *Sudar Oli* in Trincomalee, eastern Sri Lanka, was murdered the day after writing an article about excesses committed by pro-government par-military groups in his region. In July, the independent Sinhala journalist Sampath Lakmal was found dead in Colombo. The following month, Sinnathamby Sivamaharajah, politician and editor of a Tamil nationalist newspaper was shot dead at his home in Jaffna...’
35. Media organisations, particularly the Tamil media, are severely threatened by the SLAF and its para-military groups. The distribution of Colombo-based Tamil dailies in Eastern Sri Lanka was banned by the para-military groups operating there. The RSF (Year report 2006) briefed that “ the *Uthayan*, a daily published in Jaffna, had three employees killed in 2006. Its offices came under murderous attack on 2nd May, eve of World Press Freedom Day, celebrated by UNESCO in Colombo on 3 May. Armed men believed to be pro-government militia sprayed its offices with machine-gun fire, killing two staff members on the day after the paper carried a cartoon of Douglas Devananda, leader of the Eelam People’s Democratic Party (EPDP) who is a member of the ruling coalition. A few weeks later, a newspaper vendor selling the daily was killed by soldiers in the streets of Jaffna. In August, armed men threatened fresh reprisals if the paper published any statement from striking students, and then set fire to its presses. At the end of the year, soldiers blocked its news print supply. Tamil media suffered serious interference with distribution also in the east of the country. Distributors were forced on several occasions to stop selling some papers in the face of death threats from pro-government militia

- headed by Karuna. These were *Virakesari*, *Thinakural* and *Sudar Oli*. The state-run Tamil newspaper *Thinakaran* was not interfered with, however. “
36. The Jaffna Tamil dailies have been disabled from continuing their editions as the GoSL and SLAF systematically blocked the supply of printing paper to Jaffna. According to the IPS reporting dated Feb.19, 2007, Sunanda Deshapriya, convenor of the Free Media Movement (FMM), Sri Lanka’s premier media watchdog, says that a few weeks ago a consignment of newsprint was offloaded by the SLAF from a government ship just before it set off from the eastern port town of Trincomalee with supplies for Jaffna.
 37. On the question of state complicity and impunity, the RSF stated “there is total impunity for these killers in Sri Lanka. Investigations into murders of journalists, including that of Dharmaratnam Sivaram, editor of the news website *Tamilnet* and editorialist on the *Daily Mirror*, killed in 2005, have been blocked by the authorities. The suspects - militants in pro-government Tamil militia - have never been troubled by the police, even though some of them were clearly identified by the investigators. For fear of being next on the list of journalists killed, many have stopped working as journalists or have fled the country. In December, photographer Auruddha Lokuhapuarachchi of *Reuters* news agency sought refuge in India after being threatened for his coverage of the plight of Tamil residents in the east and north of the country. A few days earlier, Sinhala journalist Rohitha Bashana Abeywardena, fled to Europe to escape threats.
 38. International federation of Journalist accused ‘the Sri Lankan government has been worryingly inactive in finding the perpetrators of these crimes against press freedom’.
 39. In feb.2007, The IFJ, FMM, and four other journalists’ organisations, including the Sri Lanka Working Journalists Association, the Federation of Media Employees Trade Union, the Sri Lanka Muslim Media Foundation and the Sri Lanka Tamil Journalists Alliance, condemned the statements from the Sri Lankan Environment and Natural Resources Minister, Champika Ranawaka, which basically advocated brutal suppression of democratic dissent, and the use of extra-judicial methods if necessary.

Impunity and SL’s promise of investigations

40. International human rights agencies and the UN human rights system charged that impunity in Sri Lanka is an important issue needing urgent action. None of the cases against the SLAF and its para-military has been fully investigated since 30 long years of Armed conflict in Sri Lanka.
41. In its report titled ‘Sri Lanka: Miscarriage of Justice: Mass Acquittal in Bindunuwewa Massacre Case’ (2004), the New Delhi-based Asian Centre for human rights concluded: “The ethnic biases have plagued the administration of justice in Sri Lanka. It has been almost impossible for the ethnic minority Tamils to obtain justice. The impunity accorded by the Sri Lankan government to the perpetrators of racial violence has increased the alienation of the ethnic minority Tamils.” The AI, HRW and ICJ raised this issue of impunity in Sri Lanka in several reports. European Union and USA asked the GoSL to address this impunity issue. But, to date, the GoSL has not addressed this vital instrument for the protection of human rights.
42. On the contrary, the GoSL has a ‘set of ideas’ like appointing a commission of investigations on those crimes to deflect immediate international concerns. According to one analysis, nearly 15 commissions related with the human rights violations were formed, but ended without any meaningful activity to address the issue of impunity.

43. The structural nature of the SL constitution and heavily nationalist environment are permanent impediments to any effective national and local investigations. The President, who is the head of the armed forces, has absolute power on all these commissions and investigative mechanisms. In Dec. 2006, the chairman of the Presidential Commission of Inquiry regarding the incidents of abductions, disappearances and attacks on civilians resulting in deaths throughout the island confesses to AHRC that “*..the report regarding this and several other incidents about disappearances were forwarded to His Excellency (the President) by way of an Interim Report with recommendations to take strong action against all the Officers in charge of the police stations and their superior officers for the lapses on the part of their duties, and to pay compensation to the bereaved families, in the event the victims do not return, or traced*”.
44. In the recent surge of human rights crisis, international human rights NGOs and the member states of the UN Human Rights Commission call for an effective international investigative mechanism. To prevent and placard the international call, the GoSL appoints yet another Commission of Inquiry (CoI) with international observation on the CoI. It fell far short of international standards. AI, ICJ and other international organisations express their doubt on the effectiveness of these commissions. The Asian Human Rights Commission stated in its Oct. 2006 report that “a Presidential Commission, by its very nature will be unable to carry out the mission of the monitoring of human rights and international human rights law abuses. International observers attending any such commission will only be able to observe a spectacle of delay, inefficiency and gross incapacity to deal with any of the major problems in the area of human rights and humanitarian law abuses. Given the large scale abductions, disappearances, extrajudicial killings, massacres and violations of humanitarian law with no redress available in the country such a commission cannot be but a cynical mockery of international norms and standards and the principles of justice.”
45. **Reintroduction of PTA and ER** / The PTA, introduced in 1979 despite widespread opposition, is incompatible with basic international human rights laws and practices. It was used to intimidate and harass political opponents, and fostered a culture of impunity. A moratorium was placed on the use of the PTA after the signing of the ceasefire agreement. However, new security laws which came into force in December 2006 appear to condone the use of the PTA.
46. **Unlawful arrest and Torture:** ER and PTA are used by security forces for arrest and detention. Since the reintroduction of PTA and ER, hundreds of Tamil civilians have been detained in South of the island. Within the 4 months between Oct.06 – Jan 07, 34 cases were massive cordon-and-search operations and detentions was recorded in Colombo and surrounding areas. The Asian Human Rights Commission has repeatedly alleged routine torture of the victims in detention and custodial killings by Sri Lanka. The SL authorities have re-introduced the use of -notorious-Boosa detention centre for Tamils.
47. **Attacks on IDPs:**
- According to estimates made in the year 2002, there were about 800,000 IDPs in Sri Lanka. Many of them suffered multiple displacements as a result of the conflict, only to find their situation exacerbated by the 2004 tsunami.
 - In the Vaharai/ Trincomalee east offensive in 2006, the whole population of the region were uprooted as IDPs.

- The UNHCR and other UN agencies and human rights organizations requested the parties not to attack the areas where IDPs are living. IDP camps in Vaharai and Trincomalee east have been repeatedly attacked by the SLAF. In Nov. 2006, 65 civilians taking refuge in a school in Kathiraveli, a coastal hamlet 15 km north of Vaharai in the eastern district of Batticaloa were killed in the offensive by the SLAF. Amnesty International, in a statement released in Nov. 2006, stated: ‘appalled that the military should attack a camp for displaced people... these were civilians who had already been forced from their homes because of the conflict.’
- At present, IDPs are living in camps in the North-East of the island. The closure of A-9 and re-imposed provisions of ER/PTA prevent these IDPS from returning back to their homes or safer areas.
- IDPs are living with frequent threats of (a) aerial and motor shelling towards their camps and residential areas (LTTE-controlled areas); (b) visits of Tamil para-military groups and abduction of children (in the East of the island).
- In a recent report on IDPs, Amnesty International stated that ‘The Sri Lankan government’s reaction to the IDP situation has been insufficient. Its weaker response to the plight of those affected in the island’s north and east has served to prolong suffering and uncertainty. In addition, continued use of land for military and armed operations means that many IDPs still cannot return to their homelands.’

48. **Violence against Children:** Over 200 000 children in the North-East are direct victims of this armed conflict in the island. A US-based research programme identified 115 children killed in the conflict in the SLAF occupied areas between Dec.2005 and Dec. 2006. Apart from the killing and maiming of children, the SLAF’s undeclared economic embargo and denial of humanitarian access are a serious threat to the children in the North-East. The abduction of children in the eastern part of the island is another serious issue need international attention. According to the UNICEF action programme for year 2007, " Conflict and displacement present particular threats for children, such as separation from their families, recruitment by fighting forces and exposure to targeted violence or landmines and unexploded ordnance".
49. **Human Rights Defenders and Humanitarian Agencies:** On 11 August 2006, the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani; the Special Rapporteur on extrajudicial, arbitrary and summary executions, Philip Alston; and the Special Rapporteur on the Right to Food, Jean Ziegler, issued a statement against the increased threat to human rights defenders and humanitarian workers. They stated that, “the deliberate targeting of humanitarian workers is a serious violation of the basic principles of international human rights and humanitarian law and the Declaration of Human Rights defenders... We urge the Government to ensure immediate and independent investigations are carried out into these killings and that the perpetrators of these despicable acts are brought to justice.” But, up to now no serious investigation have been concluded.
50. The ACF (a French international aid group), TRO (a Tamil relief agency) and a few other agencies were attacked by the SLAF and para-military groups. Over 40 workers of these agencies were killed. The US and EU seek explanation from the Sri Lankan government on this hostile behaviour towards humanitarian workers. According to Tamil parliamentarians, these humanitarian agencies have been threatened in-order to obstruct their services to the LTTE control areas. For, the access of humanitarian agencies to these areas has been seen by the SLAF as an impediment to their tactics of driving out the people from such areas.

Recommendations

Concerned about the protection of human rights and implementation of humanitarian law in the armed conflict in the Island of Sri Lanka, the International Federation of Tamils (which represents 240 Tamil Diaspora organisations from North America, Europe and Australasia) submits the following recommendations to the UN and international players in the Sri Lankan peace process.

I. Recommendations to the UN Human Rights Council and Office of the High Commissioner

1. To declare that Sri Lanka's record of human rights violations and war crimes are 'serious violations' of the international treaties and UN Charter.
2. To recognise the need for some form of effective international action against Sri Lanka as an urgent priority to protect the civilians in conflict areas, with a special focus on IDPs, children and women.
3. To appoint special independent experts/special procedures to monitor and report the human rights violations and IHL breaches in the conflict.
4. To urge Sri Lanka to accept an international mechanism to investigate all major war crimes and major human rights violations so as to effectively prevent further erosion of human rights and to put an end to impunity.
5. To urge Sri Lanka to stop the current military offensive on civilian areas in the eastern part of the island.
6. To urge Sri Lanka to stop using the civilians as human shields and reopen the A-9 highway to Jaffna for the free movement of civilians and transport of food and medical supplies.
7. To urge Sri Lanka to stop attacks on IDPs, and to allow them to return to their homes.
8. To urge Sri Lanka to allow humanitarian supplies to all parts of civilian areas in the war zone.
9. To urge Sri Lanka to give full protection to the journalists and media organisations
10. To urge Sri Lanka to stop all extra-judicial modes of abduction and execution.

11. To take appropriate steps to suspend the membership of Sri Lanka from the UN Human Rights Council, until Sri Lanka implements the above recommendations of the Council.

II. Recommendations to the Co-Chairs (on Sri Lankan peace process), India, China and Pakistan and other players in the Sri Lankan Conflict.

1. To condemn expressly the serious crimes against civilian populations committed by the Sri Lankan Armed Forces, and support the above recommendations to the UN Human Rights Council.
2. To announce immediate measures of sanctions against Sri Lanka, attaching priority to military-related sales and assistance until the human rights and humanitarian situation is improved.
3. To stop all aid projects to Sri Lanka until the current blockade of humanitarian supplies to the North-East is removed and free access to the humanitarian agencies ensured.
4. Explore possibilities of introducing a travel ban to on the Sri Lankan government officials and military commanders who participate in and order the war crimes and other human rights violations.