

TAMIL CENTRE FOR HUMAN RIGHTS - TCHR/CTDH
CENTRE TAMOUL POUR LES DROITS DE L'HOMME
(Established in 1990)
(UN accredited NGO to the World Summit on Information Society and the Warsaw Conference)
www.tchr.net

Ref : QJ052/PR/2009

22 July 2009

**SRI LANKAN WAR CRIMINALS SHOULD BE CHARGED
LOCALLY AND INTERNATIONALLY**

“WE SEEK THE TRUTH AND WILL ENDURE THE CONSEQUENCES”

*American academic, historian and President of Yale University -
Charles Seymour (1 January 1885 – 11 August 1963)*

While discussing this press release, some of our colleagues predicted possible reactions of the Sri Lankan government. One said it may be the routine intimidation and harassment; another said that as usual they will target certain individuals through their state media and Embassies. But on the whole everyone said TCHR should be prepared for the worst.

Let us look at the current realities and the facts regarding the Tamils in the North East – the Tamil homeland. The Sri Lankan government is celebrating military victory over the Liberation Tigers of Tamil Eelam – LTTE. In the vocabulary of the Sri Lankan government, the majority of the people in the South and certain States and individuals in foreign countries, it was a victory against Terrorism.

However, do the majority of people in the North East or the Tamil diaspora and Tamils in general accept or agree with this vocabulary? This is an important question and the government of Sri Lanka can neither put words into the mouths of the Tamils nor can it force its ideas and dreams onto the people.

For anyone who is really for human rights, good governance and democracy, it is understandable how and why the current situation is misrepresented by the Sri Lankan government. This is a strategy for survival rather than a representation of reality. In other words it is a massive build up of lies and deceptions with no foundation, waiting to collapse in a storm of truth and reality.

PAST THREE DECADES

The birth of the LTTE in the North East in 1970s came from the ashes of the several Sinhala riots against the Tamils; Sinhala colonisation and Buddhisisation in the North East; violent responses to the Tamils non violent struggle; unilateral abrogation of pacts and contempt for the democratic mandate voted by the people of the North East in the free and fair elections in 1977, in exercise of their right to self-determination.

During several Sinhala riots against the Tamils - thousands were killed, raped, displaced and their properties were looted. Two important pacts signed in 1957 and 1965 between then Sinhala Prime Ministers and then Tamils leaders were unilaterally abrogated by the Sri Lankan government. The Tamils' non violent struggle since 1948 for their fundamental political rights and aspirations was violently suppressed by the Sri Lankan government and its security forces. This led to the birth of the LTTE and then its rapid development over the years, with massive support of the people. Eventually the LTTE established a successful de-facto government in the North East. This existed for nearly two decades with all infra-structures in place - this is history.

It cannot be denied that there were some mistakes made on the part of the LTTE. There were occasions when even the LTTE acknowledged these. But the majority of the people in the North East still accepted and endorsed the LTTE administration, right until 18 May 2009.

During the same thirty years, every Sri Lankan government which negotiated, signed agreements and fought with the LTTE - committed massacres, caused disappearances, raped Tamil women, starved people to death, aeri ally bombed and shelled Tamil areas destroying hundreds and thousands of schools, churches, temples and other public and private buildings. The catalogue of suffering of Tamils at the hands of every government is long.

While waging war, Sri Lankan governments engaged in smart international propoganda campaigns, cleverly blaming and recognising each others' predecessor's violations against the Tamils at least in part. However, the ultimate conclusion of every government was that they were fighting a war against terrorism. To some extent this

version was accepted by the international community without taking into account the history of the island and the fact that the LTTE was being punished disproportionately by the mighty powers of the world.

According to former Foreign Minister of Sri Lanka (November 2005 to January 2007), Mr. Mangala Samaraweera, the US Secretary of State Condoleezza Rice lobbied many EU states to ban the LTTE, in June 2006. This implicitly shows that many EU states did not want to ban the LTTE but due to a request from Condoleezza Rice, they felt obliged to do so. (*Daily Mirror, 26 June 2009*)

<http://video.dailymirror.lk/videos/19/hard-talk-with-mangala-samaraweera>

The LTTE participated in negotiations with at least four Presidents – President J. R. Jayawardena in 1986 in Bangalore-India; President Ranasinghe Premadasa in 1989; Prime Minister and later President Chandrika Kumaratunga in 1994; and President Mahinda Rajapaksa in 2005. When these negotiations failed, loud and clear statements by the LTTE argued that the Sri Lankan government leaders were not interested in finding a negotiated settlement to the Tamils' long standing grievances. But this was not accepted by the international actors, possibly because of the LTTE's military structures having a Navy as well as an Air Force and their track record of military victories.

If any of these Presidents had felt that the LTTE had played a foul game in the negotiations, one after the other, four Presidents would never have invited the LTTE for further peace talks. Now the objective of the Sri Lankan governments becomes very clear, it was purely to buy time until they had fully prepared for a war of victory.

GOVERNMENT POSES - 'NATIONAL UNITY'

Anyhow, as said and predicted by the party to the conflict, the LTTE, - the present Sri Lankan government with the help of other political parties including the UNP in the South, has systematically found a military solution with the wider help of many other States.

One should not forget that the present government is trying to pose as a '*government of National Unity*'. Many members and ex-Ministers of the UNP, JVP, JHU, part of the NSSP and also non grata and non elected Tamils make up the present government. It is a hidden fact that the unity of the SLFP, UNP and JVP is an exhibition or facade – a drama. Unity and disunity among them are staged as appropriate to suit the questions and queries of outsiders.

It must be remembered that the present Mahinda Rajapaksa government has antagonised not only the LTTE and its sympathisers, but generally every Tamil locally and internationally. Tamils are unable to believe in a future solution because the Sri Lankan government has not learned anything from the past. All successive governments believe in one mantra – that is the *Sinhalisation and Buddhisiation* of the whole island, especially the North East.

Every Sri Lankan government lives in the present and is not bothered about the future. This is one of the reasons the Island has seen so much bloodshed. The President and his family may be today's heroes for the South but the future could brand them as the worst warmongers, traitors who caused disunity in the island. There is no doubt that after a couple of years, the International propagandists of the Sri Lankan government are going to tell the world, "*yes it was a mistake made by Mahinda Rajapaksa's government, but now we have a different government which is ready to look into the grievances of the Tamils*". During that time, as there will be a different government and different officials in other countries, it is easy to predict that such statements would even be believed. But Tamils will remain victims and half of the population will no longer be alive.

The way the government handled the war, it has sown seeds for more violence in the future, rather than eradicated terrorism, as they have claimed.

ARMENIAN GENOCIDE

Today, the President and others may be escaping international punishment for war crimes - crimes against peace, crimes against humanity, traditional war crimes and genocide. But history has taught us that when there is a change of certain governments, the very countries which came to the rescue of violating countries facing indictment for war crimes may eventually bring the same countries to the international court. The denial of systematic destructions of today will be rectified tomorrow.

A good example is the Armenian genocide during Ottoman Empire in 1915-1917. While Turkey resisted widespread calls for it to recognise the genocide, after several years many countries did accept it. Some Turkish individuals who denied the genocide ended-up in a court in a foreign country and were found guilty. Even though it is not a pre-condition for Turkey to accept the genocide to enter the European Union, Turkey still faces difficulties.

We presume that the Sri Lankan authorities will remember what happened with the Nuremberg Trial and ad hoc tribunals for the former Yugoslavia and Rwanda. Not forgetting of course, the recent indictment of the President of Sudan. It is true that Sudan is not a signatory to the Rome Statute of the International Criminal Court – ICC, but there are mechanisms which can be utilised by mighty powers, as and when determined.

TRIAL SUIT IS WAITING

We assume that the President and other violators of war crimes in Sri Lanka are aware of what happened to President Chandrika Kumaratunga, when she visited the Netherlands in the late 90s. Under local law, a suit was filed against her by a Lawyer in the Netherlands and the judge could not find enough evidence to proceed with that case. This allowed Chandrika to fly out of the Netherlands. If enough evidence had been filed, today Sri Lankan history would have been written differently. As far as Sri Lanka is concerned, presently, the lack of evidence is not an issue – on the contrary, evidence is overflowing. Filing a suit in a democratic country is not limited to the President of a violating state. It is applicable to anyone representing the violating country, other than the Ambassador of that state.

This is why Sri Lanka has recently appointed a notorious **military commander as their Ambassador to Germany**. In fact, they are testing the pulse of the West regarding their violations. Germany was one of the countries that took a serious initiative in the Special session of the Human Rights Council on Sri Lanka, in last May.

Excerpt from the TCHR Urgent appeal of 28 June 2001 - Ref : AC/16/01 “Justice has no Border”

“.....Under the International legal framework of human rights, Sri Lankan political leaders, along with their security counterparts can be held to account for their war crimes, crimes against humanity and genocide in Sri Lanka.

Those of us who live in democratic and civilised countries should make use of the law of these countries and bring the Sri Lankan war criminals to account, who freely come and go on holiday.

The case filed against President Chandrika Kumaratunga in Netherlands has showed us the path.....! (end)

It cannot be denied that the armed struggle supported by the majority of the Tamils in the North East, has come to an end - maybe permanently or maybe temporarily – with a massive number of killings and deaths, disappearances, casualties and displacements. The survivors of the Vanni war find themselves in places which are worse or equal to the Nazis' Auschwitz & Buchenwald extermination camps and concentration camps. Half the cadres who were carrying out this struggle are dead, many are in custody of the Sri Lankan security forces undergoing various harassments and torture, some have been disappeared and some of them may be alive.

Those who are in the camps, where inhumane conditions are rife, are killed and disappeared every day. The women are raped, the children harassed, families' members are separated and there is no proper shelter, food or medical facilities. The hygiene conditions are horrendous. Recently there has been serious outbreak of meningitis and encephalitis.

International NGOs, Social Workers, Media personnel and others are not allowed to visit these camps.

This is what is happening to the victims of war and their families who fought for their fundamental political rights and aspirations for the last six decades through non violent and other means.

The government has to admit that it treats Tamils differently to the Sinhalese. A comparison between the military victory over the JVP in 1989 and the Vanni war is a good example. When the JVP was decimated by the Sri Lankan security forces - how many Sinhalese in the South became IDPs and how many IDP camps existed in the South? Were any people in the South kept in camps for months in the name of screening?

This is where one has to seriously think of the true nature of the LTTE's struggle for the right to self-determination of the Tamil people. If the LTTE is not fully supported by the majority of the Tamils, then why is this so-called screening process going on? Here the logic put forward in the past that **“the LTTE is the Tamils and Tamils are the LTTE”** is proven to be accepted by the government itself.

The banning, unbanning and eventual banning of the LTTE is a clear indication that the government doesn't want the outside world to realise the support that the LTTE enjoyed among the Tamils in North East. The government fears that the LTTE may become a political force in the North East.

PLIGHT OF THE IDPs

On 19 May 2009, President said in the parliament that, “...***There are only two peoples in this country. One is the people that love this country. The other comprises the small groups that have no love for the land of their birth. Those who do not love the country are now a lesser group.***” He continues, “***No longer are the Tamils, Muslims, Burghers, Malays and any others minorities.***”

What does he mean? Is he saying that “***those who do not love the country are traitors?***” or “***Tamils, Muslims, Burghers, Malays and any others minorities are now Sinhalese?***” The message has a double meaning.

We are sure that the President is well aware that 300,000 victims of the Vanni war have been incarcerated in forty odd inhumane extermination camps and concentration camps for more than two months.

SOURCES VISITED CAMPS

A few of our sources have visited some of these camps. When they entered for the first time, they were surprised to see that the Soldiers at the entrance guarding these camps were wearing masks. Only after they entered inside the camps, did they realise that the camps were full of injured, sick and elders who are left to die. Hygiene conditions are appalling and flies everywhere, hence the masks.

Those whom they have met and spoken with previously were not seen on their next visit. The women whom they met earlier had been raped and harassed by the soldiers. The children have no schooling. The injured have no proper medicine. The hungry have no proper food. The wives, husbands, children pleaded with them to find their parents, sons, daughters, brothers, sisters, and other family members. Those who want to follow their spiritual practices have no place to do so, nor persons to carry out their rituals and rites.

The tyranny and this appalling situation have continued for days, weeks, months and years. Yet the President said in his speech on 19 May, “...***In the past several decades those (Tamils) people did not have the right to a meaningful life. They were denied the right to life, the right to freedom, the right to development. I shall give all of that to those people. I accept that responsibility.***” These words have no meaning other than for international publicity.

Development and Reconciliation may be sweet words for outsiders but not for those who are in the extermination and concentration camps. It is shameful that a government which claims to respect democracy and exists in 21st century, has these camps. The homes of those interned IDPs are almost all looted by the soldiers and the paramilitary working with the government.

It is strongly believed that the IDPs of any part of the North East will be resettled only after the Sinhalese people have been well settled and statues of Buddha have been erected in most of those areas. De-mining is a pretext to prevent resettlement and the government is shedding crocodile tears over it. Do these people face anything worse in their own places of residence than what they are undergoing in the extermination camps and concentration camps? All this is happening behind an iron curtain.

Some victims of the Vanni war are held in incommunicado, undergoing torture and forced to appear to give interviews in favour of the government to the press. The Government uses such sinister acts to hide the truth. Who will consider these interviews seriously?

POLITICAL SOLUTION IS A MYTH

The Secretariat for Coordinating the Peace Process (SCOPP) will be winding up operations with effect from July 31 and the All Party Representative Committee (APRC) has also been asked to wind up its affairs.

Sri Lanka has a history of finding excuses to avoid implementing a political solution for the Tamils.

Please see the sequence in which the present President has talked about this matter : Initially he said that a political solution would be offered once the military operations ended. Then he stated that, the All Party Representative Committee (APRC) was in its final stage and once finalised would be implemented. Now the APRC has been replaced with a new committee, known as the committee for Development and Reconciliation. This committee has nothing to do with a political solution and the latest is that the President wants a new mandate for any political solution to the Tamil question. Now he thinks that his second term in office is the best period for it. In between, there was an occasion when he said in USA : “***there is no ethnic conflict in Sri Lanka, as some media mistakenly high light***”.

These are the new thoughts of the government - as the LTTE is no more in existence in the ground and there is no other Tamil leadership which is in a position to challenge the government, to seriously consider any political solution. At least now the mighty powers will understand why the Sri Lankan government was determined to brand the LTTE as a terrorist organisation and also sought their help to wipe them out.

IS IT DEMOCRACY?

While the government gained a military victory, the independent media in the South was silenced by illegal forces which are working with the government. No media is allowed to report anything about the suffering of the people during the war nor even about the inhumane conditions in the camps nor how the government has achieved this military victory.

Some journalists in the South have been branded as traitors and these journalists and their families are facing various hardships and threats. Some have already left the island for their safety. Many journalists in the North East and in the South have already been killed.

On 19 May 2009, in his speech to the Parliament, the President said, "**.....I will also not permit anyone to destroy democracy in our country...**"

The government which presents itself to the world as democratically elected is now looking for a way of extending the period of the Parliament and the Presidency through a referendum! Sri Lankan governments introduced all their anti-Tamil legislation under the guise of democracy.

In the past, President J. R. Jayawardena had many referendums. If the Sri Lankan leaders think that a referendum would be the best way to show their commitment to democracy, they must courageously hold a referendum in the North East, on the Tamil ethnic question.

If this government chooses to ignore the Tamils' grievances, then in another few years, there may be worse incidents, than those experienced in the past. However successive governments have always benefited from the twin agendas of Sinhalisation and Buddhisisation of the North East. The present government is no exception. In fact, this twin agenda is going to be ***its eventual political package to the Tamils.***

The President and his family cannot hang onto power forever, in Sri Lanka. When their period comes to an end, that is the day that they will be answerable for all the heinous mistakes of today.

Even the Tamils who supported the government, miscalculating that the elimination of the LTTE is the only way forward, are now regretting. The Eelam People's Democratic Party - EPDP members and a nominated Minister in the government are being forced to contest the election on the ruling party ticket – they were prevented from contesting through EPDP. Then the TULF President who fully endorsed the war is now complaining that he is unable to carry out his election campaign in Jaffna because government people are obstructing his party's campaign.

The following was said to the IPS, on 17 July 2009, by two Tamil politicians who supported the government in the latest war :

"These elections do not mean anything to the people. The people are undergoing total agony. Every house has a relative who is missing, killed, injured or in IDP camps," said ***V Anandasangaree, the leader of the Tamil Liberation Front.***

Dharmalingam Sidarthan, the leader of the People's Liberation Organisation of Tamil Eelam (PLOTE) said, "Even though these two places (Vavuniya and Jaffna) were not directly affected during the final stages of the war, people had lost many of their kith and kin". "Therefore, we had asked the government not to hold the elections until the people were mentally stable."

The government is testing the ground with Municipality elections in the North, while 300,000 people are kept in the inhumane IDPs concentration camps in Vanni district and another 200,000 in other places. ***They have already hidden the elections results of 1977 and 2004 in the North and East.*** Even if they lose this election, they will have their own explanation. But if they win the election with their routine vote-rigging, the results will be used to further strengthen their appeal to the International Monetary Fund - IMF and to the EU for GSP plus.

SRI LANKA DISCREDITS AND INTIMIDATES AS 'PREVENTIVE MEASURE'

In a joint statement on 23 May 2009, the UN Secretary General underlined the importance of an accountability process for addressing violations of international humanitarian and human rights law in Sri Lanka and he further indicated that the government will take measures to address those grievances. So far, no measures have been taken by the government, but it has used this very statement during the Special session of the UN Human Rights Council on Sri Lanka, to lobby members to vote in its favour. Until now no measures have been taken towards implementation.

The recent statement to the media by Sri Lanka's Ambassador to the EU is a clear indication that Sri Lanka expects all Western countries to create a few camps like those inhumane camps in the Vanni and Vavuniya and herd all the Tamil diaspora into them. The Ambassador has forgotten that these are real democratic governments made up of civilised people. In these countries, the rule of law and good governance prevail.

The Sri Lankan Ambassador to the EU should also remember that being law-abiding citizens of democratic countries, each person has the right to work on human rights, democracy and good governance issues in any country around the world. According to international norms these are fundamental birth rights. This may shock the Sri Lankan Ambassador.

The Tamil diaspora should be alerted to the fact that the Sri Lankan embassies and state media's fiction writers work with the agenda of discrediting and intimidating. This is done with the motive of preventing any pressure being brought to bear on Sri Lanka, for its record of war crimes and genocide, perpetrated against the Tamils in the island.

Any individual for peace, security and human rights should continue to coordinate to find all possible methods to bring these culprits to the local courts of countries they visit, as well as to International courts. Lawyers need to be consulted and the evidence prepared, in case any Ministers or military officials visit democratic countries where they could be indicted.

Nobody should miss a single opportunity arising in democratic countries, to bring the Sri Lankan War criminals to book. They have inflicted massive damage to the community as a whole, now let us find justice wherever it is possible.

Also it is imperative that the diaspora and its organisations continue to work hard on the matters related to the IDPs and the political detainees, who are undergoing severe hardships at the hands of the tyrannical government.

End