



Tamils of Sri Lanka: The quest for human dignity

Summary of the report

After a four-year ceasefire between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), the failure of the government to effectively address the substantive political issues such as devolution that would smooth the way for a peaceful settlement to the conflict, its preoccupation with retaining power and undermining any measure that will recognize the rights of the Tamil people, are leading the island dangerously close to resumption of war.

The objective of the Tamil struggle is based on the concept of self-determination as articulated in the UN Charter and other instruments and as a distinct people, the Tamils are entitled to the right to self-determination. Tamil homeland, Tamil nationality and Tamils' right to self-determination are the fundamentals underlying of the Tamil political struggle. The Tamils would favour a political framework that offers substantial regional autonomy and self-government in the Tamil homeland on the basis of the right to internal self-determination. The genuine grievances, legitimate rights, aspirations, and the position held by the Tamil people of Sri Lanka, unfortunately have never been understood and addressed by successive Sinhalese governments. It was this course of conduct which led eventually to the rise of Tamil militancy in the mid 1970s. The root causes were not addressed, but the militancy was met by wide ranging retaliatory attacks on increasingly large sections of the Tamil people with clear intent on subjugation.

The Tamils of Sri Lanka are severely marginalised and feel that they are losing their place irretrievably. The Sri Lankan parliamentary system has legitimised the marginalization. Consequently, Tamils are unable to develop themselves as full citizens. In addition to constitutional manipulation and blatantly discriminatory legislation and administrative action, violence has been perpetrated systematically against the Tamil community, threatening their very existence as a people.

Tamils see youth militancy as the inevitable result of political mismanagement. The youth correctly argued for secession if the legitimate rights of the Tamils are not recognised within a united Sri Lanka and their human rights are not protected by the rule of law. The Liberation Tigers of Tamil Eelam (LTTE) has emerged as the main voice for Tamil grievances. If there are indications of inflexibility, it is because of a lack of trust in Sri Lankan governments that have reneged on negotiated agreements. Successive governments have continued to pander to the designs of racist elements bent on the destruction of the Tamils.

The LTTE has been criticized for many years for failing to put forward its own proposals for a solution to the conflict and rejecting all seemingly good proposals. The implementation of political arrangements made out in the District Development Council system and the Thirteenth Amendment to the Sri Lankan Constitution show clearly that Tamil fears are genuine. The LTTE put forward its proposals in October 2003, but the government refusal even to discuss these proposals has accentuated Tamil fears.

The Tamil struggle must not be seen in terms of "terrorism" and "military campaigns", but as fears of a community, which has been at the receiving end of political discrimination and persecution for the last fifty years and has never been able to realise its just demands or its aspirations. The LTTE has also been blamed of gross violation of human rights. There could be no doubt about the Tamil

community's concern over this issue, and as far as possible, the community is engaging the LTTE to address these concerns and to make them accountable to the people whom they represent. The international community must also realize the urgent need to solve the Sri Lankan conflict satisfying the aspirations and the just demands of the Tamils and that delay would inevitably lead to disappointment, frustration and undesirable consequences.

A political solution must be based on principles that have been accepted by all sides. The Sri Lankan government, the LTTE and the international community accepted the principles in the Oslo Declaration of December 2002. The parties agreed to explore a solution founded on the principle of internal self-determination in areas of historical habitation of the Tamil-speaking peoples, based on a federal solution within a united Sri Lanka. The Oslo principles were reiterated in the Tokyo Declaration of June 2003 and since then the international community has emphasized that any solution should be based on these principles. But the government of President Mahinda Rajapakse has moved away from these principles. He signed electoral agreements with political parties, which virulently oppose not only these principles but also peace talks with the LTTE or recognizing the rights of the Tamil people.

After election as President of Sri Lanka, in the first policy statement in Parliament on 25 November 2005, Mr Rajapakse reiterated his opposition to the concepts of the homeland and self-determination and vowed to safeguard the unitary nature of the Sri Lankan state. He signalled that the present Constitution would not be amended for the purpose of devolution, despite the fact that under the current Constitution, there can be hardly any devolution of power. He also declared that he would embark on a new peace process implying that the progress made in the last five years would not be taken into consideration. In addition, Mr Rajapakse has initiated measures that may destroy important democratic institutions, which were created for the purpose of transparency and accountability and for the protection of people's rights.

Former presidents J R Jayewardene and R Premadasa were involved in peace processes, but their priority was consolidation and centralization of power and maintenance of the existing political system. Chandrika Kumaratunge was elected President by an overwhelming majority on a peace ticket with broader objectives, but was constrained by the political system. President Rajapakse must realise that as long as the present political system remains on force, he will have no room for manoeuvre. If he wishes to achieve a solution to the conflict and guide the country to peace and prosperity, his task should be to change the political system to ensure that all people are treated equal and each individual has the opportunity for development.

The international community has been outspoken and very critical over violations of the LTTE and has imposed sanctions. But the grave violations of successive Sri Lankan governments hardly have impact on the policies of other governments and international agencies, which often appear to take decisions to please and reward the Sri Lankan government in power. In this light, this report deals with the violations of successive Sri Lankan governments for the consideration of the international community.

The report contains details of the violations of human rights suffered by Tamil people for the past fifty years or more at the hands of the successive Sri Lankan governments and the Sri Lankan security forces. These include discrimination on the basis of race, language and religion in many aspects of national life, including education, employment, culture, electoral and constitutional rights and share of the national wealth. Popular discontent against the unacceptable conditions is usually met by strong military repression constituting massacres of civilians, violence against women and children, torture, disappearances, economic blockade, restrictions on freedoms such as movement and expression, aerial bombardment of populated areas, forcible occupation of land and destruction of livelihood, property and infrastructure on a massive scale. These violations have been well documented by international NGOs such as Amnesty International and bodies of the United Nations such as the Human Rights Committee and the Committee Against Torture. This report provides references to these materials. The

report also contains sections on the peace efforts, peace agreements and the role of the successive governments and opposition parties in wrecking peace agreements and thus denying the rights of the Tamil people. Peace initiatives by the international community are also included in the report.

International action and the role of the International Community

The international community is obliged to address the gross violations of human rights in Sri Lanka. The Tamil cause and situation have received only sporadic attention by governments and the United Nations. Even in these instances governments and agencies seem to exhibit some kind of partiality. Divisions are observable between various governments and international agencies in policy and practice in relation to Sri Lanka. In order to receive results, it is essential that the international community is united in its actions and equally condemns all human rights violations whether they are committed by the Sri Lankan state or the Tamils.

The dishonesty and hypocrisy of successive Sri Lankan governments have led to the current impasse and their repeated promises to improve the human rights conditions of the Tamil people have proven to be empty. Continuing oppression, injustice, corruption, and disrespect for human dignity have characterized successive regimes in Sri Lanka under whom the Tamils have continued to suffer. The Tamil people have not forsaken the path of peace. What the Tamil people want is for the international community to listen to their grievances, recognize and respect their rights and take appropriate action.

While we, the Tamil Information Centre, a non-governmental organization working to promote human rights and community development, acknowledge the efforts taken by the international community in some areas of humanitarian concerns affecting the Tamil speaking people urge vigorous and consistent action for their protection, in taking into consideration the following contexts and principles:

- The contiguous north-eastern province is the homeland of the Tamil people and the Muslim people. They are the rightful owners of the territories, which are essential to the maintenance of the respective social, cultural, spiritual, economic and political distinctions of those who inhabit the contiguous homeland. They will persist in striving for complete legal recognition of this one-ness between land and people.
- The Tamil people believe that any permanent political solution to the conflict in Sri Lanka, whether by international mediation or through political negotiations, must take into consideration the legitimate aspirations of the Tamil and Muslim people to determine their own political, economic, social and cultural destiny. This plea by the Tamil and Muslim people should be respected by the community of states.
- Successive Sri Lankan governments have continued to undermine democratic institutions and democratic processes. An election observer noted in 2000 that the progressive destruction of the political process in Sri Lanka has led to domestic and international tolerance of an enormous amount of violence by the government against its citizens. The observer also said that increasingly it seemed the government of Sri Lanka is accountable to no one – not its citizens, and not its foreign counterparts. The international community must play a positive role and enhance its interventions in safeguarding and strengthening democratic institutions.
- While unequivocally condemning the human rights violations committed by the LTTE, the international community should also publicly and without reservation condemn the barbaric deeds of the Sri Lankan government. The international community should also provide support for the investigation of human rights infringements, maintain a human rights agenda and help to establish appropriate human rights mechanisms.

- The brutality of warfare, oppression and human rights violations including torture, which was to a large degree directed against Tamil civilians, was covered up by control of the media and censorship. The media cover-up continues. The reporting culture of the Sri Lankan mainstream media has had a serious impact on the human rights of the nation's population, communal harmony, and the social and economic stability of the country. Effective international pressure is required to force the government to allow free reporting and access to foreign journalists and fact-finding missions to freely visit the conflict areas.
- International aid is reported to have been channelled for military purposes in Sri Lanka. Before the ceasefire, humanitarian agencies and some foreign governments contributed the National Security Levy, which was a direct financial contribution to the war. While using aid as a lever to make the Sri Lankan government move towards a peace settlement, donor countries and international agencies should investigate the use of aid towards military purchases which fuel the conflict, and ensure that economic aid is used for development.
- The supply of arms by the international community to a conflict region, particularly when grave human rights violations continue to be committed, cannot be justified. It is understood electronic weapons supplied by some countries, are used in Sri Lanka for torture. It is important to realise that increasing the technological capability or the size of the arsenal deployed will not resolve the conflict but will only prolong the war and the suffering of civilians. Other nations should refrain from promoting the war effort and take positive diplomatic measures to discuss with the government and the LTTE, encouraging them to end the conflict and create conditions for sustained peace negotiations.
- The Tamil community welcomes the appointment of a Swede to head the Sri Lanka Monitoring Mission (SLMM). The peace facilitation role of Norway and its position as leader of the SLMM have created more problems rather than providing solutions. The international community must ensure that peace facilitation and ceasefire monitoring remain separate and the SLMM is strengthened with personnel and resources.
- The Tamil and Sinhala communities are polarized in Sri Lanka and increasingly the Muslim community is becoming polarized due to the inability of the LTTE to handle Muslim concerns. The consequences of the prolonged conflict have been devastating. Although the road to peace is long and littered with many obstacles and dangers, there have been positive developments recently towards finding a peaceful settlement to the conflict. The ceasefire agreement continues in force and new peace talks began in February 2006 in Geneva. The international community must ensure that the peace negotiations are sustained, continue to provide the assistance to take the peace process forward and sustain pressure to de-escalate the conflict, promote human rights and observance of international humanitarian law.
- For almost two decades, international and local organisations have responded to the crisis in the Tamil homeland despite enormous government obstacles, providing significant humanitarian assistance, which must be sustained and strengthened. By not taking genuine measures to remove the obstacles in implementing the P-TOMS agreement, the government has failed to alleviate the suffering of the people of the north-east. The international community must realize that although international agencies continue to provide assistance in the north-east, in the prevailing political climate and the existence of physical constraints, the needs of the people will not be satisfied without a joint mechanism for the distribution of aid. A proper joint mechanism, introduced in consultation with the civil society, will avoid failure and promote goodwill, and further address issues such as human rights, good governance, transparency and accountability.

- Insufficient attention has been paid to the development needs of the Tamil speaking people in the north-east. Despite several constraints, civil society and community institutions have undertaken notable initiatives to address the situation. The international community should assist local development initiatives, especially people-focussed development. If local initiatives could be supported, the people trained and educated, community institutions and administrative structures strengthened, then poverty can be reduced.
- Before the ceasefire, although the government claimed that the war was directed against the LTTE, examination of the documented cases of extra judicial and arbitrary killings reveal that the overwhelming majority of the victims have been non-combatants, unarmed and uninvolved Tamil civilians, and frequently women, children and old people. There have also been arbitrary killings of civilians and reprisal attacks by the security forces. Incidents of rape by security forces have also been reported. Search operations and mass arrests of Tamils in the north-east as well as the south have resumed. UN and human rights agencies have expressed concern over disappearances in Jaffna in December 2005 after arrest by the security forces and continuing torture by the police. Thousands of Tamils died as a result of the government economic blockade of the north-east in breach of the Geneva Conventions, and others are still undergoing immense suffering. The international community has the responsibility to ensure that the government adheres to its international obligations.
- Legal provisions introduced to facilitate human rights abuses continue in force. The government should be urged to adopt measures to prevent killings, extra judicial executions, disappearances, torture, rape and arbitrary arrests and detention, particularly repeal of the PTA and the Emergency Regulations and improve judicial remedies available to Tamils targeted by the security forces. The government should also be urged to comply with its obligations under Article I and IV of the Genocide Convention to charge the perpetrators of genocide and try them before competent domestic courts.
- Arbitrary power and absence of democracy have led to human rights violations. The state is accountable to the people of Sri Lanka and the international community. Sri Lanka has signed many international treaties agreeing to abide by their provisions. State-building in Sri Lanka has been a failure. The communities, particularly the minorities, are denied equitable access to resources. The government lacks good governance, transparency and accountability. It has consistently failed to take effective action against corruption and has effectively ignored the civil society. The international community must recognize the need for democratization with improvement of civil institutions, take appropriate measures to strengthen the civil society and ensure that the government is made accountable.



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Published by: Tamil Information Centre (TIC), *Thulasi*, Bridge End Close (Off Clifton Road),
Kingston-Upon-Thames KT2 6PZ, United Kingdom

Tel: + 44 (0)20 8546 1560

Fax: + 44 (0)20 8546 5701

E-mail: info.tic@sangu.org