



SOCIETY FOR
THREATENED
PEOPLES

STP-Report

Minority Rights in Sri Lanka: Progress or blind spot?

REVIEW OF MAITHRIPALA SIRISENA'S
100 DAY WORK PROGRAMME >>>

EXECUTIVE SUMMARY

The unexpected victory of Maithripala Sirisena in the presidential election brought hope to the Sri Lankan communities. Sirisena promised in his manifesto to ensure protection of human rights and pledged to implement a 100-day reform program. Some achievements regarding human and minority rights have been made in the first 100 days of the new Sri Lankan government. People are able to make demands and protest freely and the national anthem can be sung in Tamil. Furthermore, formerly banned websites can now be accessed in Sri Lanka. The replacement of the military governors in the North and East with civilian governors is an important step towards decreasing militarization.

Still many problems exist regarding human rights and minorities. The Government of Sri Lanka (GoSL) has not abolished the draconian Prevention of Terrorism Act (PTA) which allows people to be arrested without charge. The investigation on disappeared people does not focus on truth and justice but on compensation. The resettlement process is deceptive because the inhabitants are being subjected to military encampment. The militarization will remain high because the military troops and camps will not be withdrawn from the North. Tamil journalists who criticize police and security forces are still being disrupted in their work. Furthermore, access to land and sea is not ensured for the rural community.

The Society for Threatened Peoples (STP) urges the GoSL to repeal the PTA and to ensure the protection of civil, political, social, economic and cultural rights for all citizens. The STP demands that Switzerland and the European Union adhere to a reluctant repatriation policy and fully respect the UNHCR Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka.

BACKGROUND

«Yahapalanaya» means good governance. This is what Maithripala Sirisena wants to establish after winning the election in Sri Lanka. What does that mean for human rights and minorities? This report shows whether the new government respects minority rights and human rights. On 8th January 2015 Sirisena unexpectedly won the presidential election.¹ He replaced former President Mahinda Rajapaksa, who led the country in an authoritarian direction. The human rights record and the situation for minorities were very alarming during Rajapaksa's regime and there was no reconciliation process after the war.² Under the former regime many people were tortured, killed or disappeared and many cases of sexual abuse were reportedly committed by security forces.³

Sirisena promised to tackle corruption, ensure protection of human rights, restore the rule of law, end attacks on freedom of speech and abolish the executive presidency. The improvement of minority rights and the support of an international investigation into the war crimes committed by all sides during the civil war were not given priority.⁴ After winning the election he pledged to implement a 100-day reform-program. This is based on his manifesto with the aim of putting a parliamentary system in place. According to the program the parliament will be dissolved after 100 days and a general election will be held.⁵ There have been some changes after the new government came into power.

The new government proposed the 19th amendment which will strengthen the judiciary and the independent commissions.⁶ There have been many investigations into corruption after the regime change.⁷ This led to the arrest of the former president's brother Basil Rajapaksa.⁸ The Victim and Witness Protection Act was introduced. The act recognizes the rights of victims and reflects positively on the willingness of victims and witnesses to fearlessly come forward to find justice.⁹ The new government also extended the controversial detention law by two more years which allows the police to detain for up to 48 hours persons arrested without a warrant on charges of murder and other serious crimes.¹⁰

1 Cf. <http://www.news.lk/news/sri-lanka/item/5621-maithripala-sirisena-officially-announced-as-new-president> (accessed on 13.04.2015).

2 Cf. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13673> (15.04.2015).

3 Cf. Yasmin Sooka, *An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009 – 2014*, March 2014.

4 Cf. <http://www.president.gov.lk/wp-content/uploads/2015/01/Manifesto-EN.pdf> (13.04.2015).

5 Cf. <https://www.colombotelegraph.com/index.php/maithripala-sirisenas-100-day-work-programme-detailed-diary-description/> (13.04.2014).

6 Cf. http://www.colombopage.com/archive_15A/Apr21_1429602422CH.php (22.04.2015).

7 Cf. www.ibtimes.co.uk/sri-lankas-new-government-investigate-mahinda-rajapaksa-corruption-allegations-1483812 (22.04.2015).

8 Cf. <http://www.bbc.com/news/world-asia-32410003> (23.04.2015).

9 Cf. http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=120448 (22.04.2015).

10 Cf. <http://www.sundaytimes.lk/150208/news/govt-to-extend-controversial-detention-law-by-2-more-years-134978.html> (22.04.2015).

The STP is an international human rights organisation that supports minorities and indigenous peoples. With this current briefing, we intend to analyse the first 100 days of the new GoSL from a human rights perspective. We aim to find out if the situation for minorities and the human rights record has improved under the new regime. We have therefore analysed nine areas of conflict. In this report we were, of course, unable to include everything that has happened in the last 100 days. Still it gives a first impression of the performance of the new government and its commitment to improve Sri Lanka's human rights record

HUMAN RIGHTS FRAMEWORK

Sri Lanka is encouraged to respect the Universal Declaration of Human Rights of 1948¹¹ and has ratified the following UN human rights conventions¹²:

- International Covenant on Economic, Social and Cultural Rights (ICESCR)¹³
- International Covenant on Civil and Political Rights (ICCPR)¹⁴
- Convention against Torture¹⁵
- Convention on the Elimination of All Forms of Discrimination against Women¹⁶
- International Convention on the Elimination of All Forms of Racial Discrimination¹⁷
- International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families¹⁸
- Convention on the Rights of the Child¹⁹

11 Cf. Universal Declaration of Human Rights (Can be accessed at: http://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf (26.11.2014).).

12 Cf. http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=164&Lang=EN (14.1.2015).

13 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ICESCR.aspx> (15.12.2014).

14 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (15.12.2014)

15 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (14.1.2015).

16 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> (14.1.2015).

17 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (14.1.2015).

18 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx> (14.1.2015).

19 Cf. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx> (14.1.2015).



AREAS OF CONFLICT
>>>



«Many of the 100-Day promises have not been achieved except the battle against corruption. I must say Lawyer Welliamuna has done a great deal of work as presidential advisor on exposing the previous regime on corruption. There are many big names that are being probed by the institutions established to fight corruption. Possibility of an order issued to bring Basil Rajapaksa to the courts and Gotabaya Rajapaksa's bank accounts are being probed on court orders. These are actually big steps. Then the 19th Amendment to the Constitution, which is now tabled in Parliament. Some look at this as the emergence of an executive PM instead of a President. Anyhow the 100 day did not deliver anything to the war-affected specifically. The President has asked the Maxwell Paranagama Commission (appointed by the previous President) to continue with its investigation on disappearance irrespective of the protests and demands by the seriously affected that this commission hearing has been flawed and focused on compensation rather than truth and justice. Then there is no sign of releasing the political prisoners even though it was talked about. As a token they released Jeyakumari and few others but there are many locked up for a long time without any charges using PTA. Justice Minister now says not to talk about PTA until a new parliament is elected. PM has officially said there are no secret detention centres and so far no-one high up in the government has bothered to speak to the families who are protesting all over in the North and East on the disappearance issues (even though the government keep setting up special task forces and committees to look into reconciliation). No list of detainees has been released. President says he will set up a commission once the parliament is resolved. There have been few improvements on the releasing of the land captured by military but not much has been done on demilitarization (military is running farms, cultivating people's land and running businesses and hotels in the North). Surveillance on activists and former carders continues but not as aggressive as it used to be.»

1. EXTRA-JUDICIAL KILLINGS AND DISAPPEARANCES

Human rights affected: right to life, liberty and security of person; freedom from arbitrary arrest, detention or exile; right to access to remedy.

Conclusion: Fresh investigations into extra-judicial killings and disappearances have been launched. Civil society groups claim that the investigation relating to missing persons cannot be trusted. The new government has not brought an end to the culture of impunity in the local police forces.

+ Positive:

- A new investigation has been launched into the murder of Sunday Leader founder/ editor Lasantha Wickrematunge.²⁰
- Three former Navy members have been arrested over the murder of Tamil National Alliance (TNA) Parliamentarian Nadarajah Raviraj.²¹
- A fresh investigation has been opened by the GoSL regarding missing persons.²²

- Negative:

- Prime Minister Ranil Wickremesinghe is denying the existence of the detention camps and that most disappeared people have either perished or are outside of the country.²³ There is evidence that secret detention camps exist.²⁴
- There has been no official information after 100 days on the progress of the investigation regarding missing persons.²⁵
- Civil Society organizations claim that the Presidential Commission on Missing Persons (which was appointed by the former regime) cannot be trusted. The Commission focuses on compensation and tries to avoid investigations.²⁶
- President Maithripala Sirisena approved recommendations made by the Presidential Commission despite the criticism that the commission is more focused on compensation than on truth and justice.²⁷
- No independent investigation into the death of a 39 year old man in police custody in Ja-ela who was arrested on 17th March 2015.²⁸

20 Cf. <https://www.colombotelegraph.com/index.php/fresh-investigation-begins-into-lasantha-murder/> (08.04.2015).

21 Cf. <http://newsfirst.lk/english/2015/03/breaking-three-arrests-made-in-nadaraja-raviraj-killing/86711> (08.04.2015).

22 Cf. <http://www.ft.lk/2015/03/28/probe-on-missing-persons-will-be-completed-within-6-months-pm-says-in-jaffna/> (08.04.2015).

23 Cf. http://www.island.lk/index.php?page_cat=article-details&page=article-details&code_title=120666 (08.04.2015).

24 Cf. <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/523-proof-of-secret-camps-pm-ranil-denies-exist> (08.04.2015)

25 Cf. <http://www.ft.lk/2015/03/28/probe-on-missing-persons-will-be-completed-within-6-months-pm-says-in-jaffna/> (08.04.2015).

26 Cf. http://srilankabrief.org/wp-content/uploads/2015/02/English_Translation_Missing_persons_Commission.pdf (13.04.2015).

27 Cf. <http://www.thesundayleader.lk/2015/04/12/recommendations-approved/> (13.04.2015).

28 Cf. <https://www.colombotelegraph.com/index.php/ahrc-launches-urgent-appeal-calling-for-an-independent-probe-into-an-extra-judicial-killing-in-ja-ela/> (08.04.2015).



2. WAR CRIMES

Human rights affected: right to life, liberty and security of person; freedom from torture; right to access to remedy

Conclusion: The new Sri Lankan government wants to investigate the alleged war crimes in Sri Lanka and United Nations (UN) representatives were able to enter the country. Still it remains unclear how international standards will be implemented in the domestic investigation process.

+ Positive:

- The GoSL made statements about investigating war crimes committed during the civil war.²⁹
 - The United Nations Under-Secretary-General for Political Affairs Jeffrey Feltman was able to visit Sri Lanka.³⁰
 - The United Nations Assistant Secretary-General Haoliang Xu was able to visit Sri Lanka.³¹
 - The United Nations Special Rapporteur on Truth, Justice, Reparations and Guarantees of Non-Recurrence, Pablo de Greiff, was invited by the GoSL to visit Sri Lanka.³² He was briefed by TNA representatives on war crimes.³³
-

- Negative:

- GoSL dismissed Channel 4's Sinhala version of "No Fire Zone". The government has no intention to contact Channel 4 to access the information from the video.³⁴
- It remains unclear how the international standards will be applied to the domestic war crimes investigation.³⁵
- The release of the UN-Report was postponed, even though the GoSL did not say that they will cooperate with the investigation and that Sri Lankans are free to cooperate with the investigation. GoSL also refused to invite the UN-investigation team.³⁶

29 Cf. <http://www.bbc.com/news/world-asia-31844796> (09.04.2015).

30 Cf. <http://www.un.org/apps/news/story.asp?NewsID=50232> (08.04.2015).

31 Cf. <http://www.news.lk/news/sri-lanka/item/7013-un-assistant-secretary-general-extends-support-to-sl-on-a-wide-range-of-issues> (08.04.2015).

32 Cf. <http://www.news.lk/news/sri-lanka/item/6859-un-special-rapporteur-pablo-de-greiff-arrives-in-sl> (13.04.2015).

33 Cf. <http://www.thesundayleader.lk/2015/04/05/tna-briefs-un-on-war-crimes/> (13.04.2015).

34 Cf. <http://www.thesundayleader.lk/2015/03/15/government-snubs-c4/> (09.04.2015).

35 Cf. <http://www.bbc.com/news/world-asia-31844796> (09.04.2015).

36 Cf. <http://www.ucanews.com/news/un-deferral-must-be-used-to-make-sri-lanka-war-crimes-report-stronger/73047> (22.04.2015).



«Some positive approaches full of limited facilities and gaps of the present government, as others mentioned have to be encouraged. Only some changes have been seen on the ground in view of freedom and release of lands. However these are not enough to win the hearts of minorities. For 60 years whoever came to power forgot to find solution for the issue of the minorities and the ethnic problem. Innocent Sinhala civilians are not considering the minorities especially Tamils including the Indian Tamils and Muslim as their enemies. The main root costs of the problems are the politicians and religious fundamentalists including educated fundamentalists. They misguided the people for their own existence and to hold power for them and their generations like the previous President and his family ruling system. Defeated, the past government is a kind of relief. But the minorities still are thinking that only the man changes. To avoid this concept the present government has the need to prove with their work. The 100 days of work could not bring changes or any primary steps in the very important areas of resolving problem except the 19th amendment that is also not being fully accepted for implementation. Still people who go abroad and are deported, are being arrested and investigated. So it must be considered by any country. No political solution given, not any settlement reached so far. No steps have been taken to find out the truth and justice. No personal security ensured in North and East. So, unless the government of Sri Lanka finds the political solution for the 60-year conflict, no country can deport asylum seekers from their own country. If they do so that particular country is violating the rights of the asylum seekers. It is also a crime if they fail to guarantee the personal security of the person.»

F. Michael Duitor, Tamil Human Rights Defender

3. MINORITY RIGHTS

Human rights affected: freedom from discrimination; equality before the law; right to fair trial; right to freedom of movement

Conclusion: GoSL has taken very few steps towards the Tamil minority. For the reconciliation process it is important that minority rights are implemented and that Tamils are no longer attacked, arrested and harassed.

+ Positive:

- The President allows the singing of the Sri Lankan national anthem in Tamil.³⁷
 - GoSL marked Independence Day with a declaration of peace. It was stated that Sri Lanka pays respect to all citizens of Sri Lanka, of all ethnicities, who lost their lives in the last three decades.³⁸
 - GoSL will review the ban on Tamil diaspora groups, but it has still not lifted the ban.³⁹
-

- Negative:

- Nearly ten Tamils have been arrested after returning from abroad to Sri Lanka since January 2015. Due to the change in government they decided to come back.⁴⁰
- Tamil journalists who criticize security forces and police are being attacked, harassed or detained even after the presidential election.⁴¹
- Allegations have been made that former LTTE members and their families are being harassed by the Sri Lankan military even after the regime change.⁴²
- According to TNA politician P. Selvarajah 15 people have been unlawfully arrested in Batticaloa alone since the new government came into power.⁴³
- Nothing has been done for the political solution with Tamils in the last 100 days. There were only statements about it.⁴⁴
- GoSL did not make any announcements about continuing victory monuments for military and the commemorations of deaths of Tamils in May.

37 Cf. <http://www.newindianexpress.com/world/Sirisena-Allows-Singing-of-Lankan-National-Anthem-in-Tamil/2015/03/18/article2719413.ece> (08.04.2015)

38 Cf. <http://news.lk/news/politics/item/6046-sri-lanka-marks-independence-day-with-a-special-declaration-of-peace> (22.04.2015).

39 Cf. <http://www.ft.lk/2015/03/19/govt-to-review-ban-on-tamil-diaspora-groups/> (22.04.2015).

40 Cf. <http://www.ceylontoday.lk/51-86712-news-detail-dont-return-to-sri-lanka-premachandran-warns-tamil-diaspora.html> (09.04.2015).

41 Cf. <http://srilankabrief.org/2015/04/sri-lankan-police-at-war-with-tamil-journalists-in-jaffna/> (10.08.2015).

42 Cf. <https://www.tamilnet.com/art.html?catid=13&artid=37711> (13.04.2015).

43 Cf. <http://ceylontoday.lk/51-90095-news-detail-unlawful-arrests-in-east-continue-tna-mp.html> (16.04.2015).

44 Cf. <http://www.asiantribune.com/node/86668> (09.04.2015).



«Especially, HR activists and generally the public feels the freedom and the fear has gone. Even in North and East people come on their own to protest against disappearances and land grabbing. Government has shown their willingness to work with UN. Still the Government is bit worried to take a firm stand on the solutions to Tamil and Muslim minorities due to the fear that it can be used against them in the South by Sinhala chauvinists. Systems have started to become independent with less political influences.»

Brito Fernando, Sinhalese Human Rights Defender

4. MILITARIZATION

Human rights affected: equality before the law; right to fair trial; right to freedom of movement; right to not be arbitrarily deprived of one's property; right to an adequate standard of living; right to freedom of speech.

Conclusion: Some actions by the new government try to decrease the militarization. However, the presence of the military personnel in Sri Lanka still remains the same and the military is still involved in civil affairs and activities in the private sector.

+ Positive:

- GoSL lifted travelling ban for foreigners to the North.⁴⁵
- The President replaced the military governor in the Northern Province with a civilian governor.⁴⁶
- GoSL is unlikely to continue military-run hotels in the near future.⁴⁷
- According to a Sri Lankan Army (SLA) press release 1000 acres of land from the High Security Zone (HSZ) have been returned to the owners.⁴⁸
- GoSL decided to transfer police powers from the armed forces back to the police.⁴⁹

- Negative:

- Sri Lanka Army Commander, Lieutenant General Crishanthe De Silva, said that military troops and camps will not be withdrawn from the North.⁵⁰
- Sports and Tourism Minister, Navin Dissanayake, wants air travel operations by the Sri Lankan Air Force and whale watching operations by the Sri Lankan Navy to be continued.⁵¹
- Sri Lankan Army organised awareness training on traffic law in a Tamil School.⁵²
- Allegations have been made that former LTTE members and their families are being harassed by the Sri Lankan military even after the regime change.⁵³
- No plans on ending military involvement in private sector.⁵⁴

45 Cf. <http://www.news.lk/news/sri-lanka/item/5764-sri-lanka-lifts-travel-restrictions-in-north> (08.04.2015).

46 Cf. <http://www.news.lk/news/sri-lanka/item/5728-new-northern-province-governor-appointed> (08.04.2015).

47 Cf. <http://www.sundaytimes.lk/150222/business-times/army-run-hotels-may-be-discontinued-136547.html> (09.04.2015).

48 Cf. <http://www.army.lk/detailed.php?NewsId=9551> (08.04.2015).

49 Cf. <http://www.sundaytimes.lk/150405/news/no-police-powers-for-armed-forces-143646.html> (12.04.2015).

50 Cf. <http://www.news.lk/news/related-news/item/6922-troops-camps-remain-in-north-sl-army-commander> (09.04.2015).

51 Cf. <http://www.sundaytimes.lk/150222/business-times/army-run-hotels-may-be-discontinued-136547.html> (10.04.2015).

52 Cf. <http://srilankabrief.org/2015/04/sri-lankan-soldiers-deliver-traffic-awareness-programme-to-tamil-children/> (13.04.2015).

53 Cf. <https://www.tamilnet.com/art.html?catid=13&artid=37711> (13.04.2015).

54 Cf. Society for Threatened Peoples Switzerland (STP), Dark Clouds over the Sunshine Paradise. Tourism & Human Rights in Sri Lanka, February 2015.



«We, the civil society expected a change in the regime. A change with reforms. Reform of constitution, establishment of rule of law, reinstatement of the independent commissions, economic policies, treatment of ethnic minorities, land reforms and resettlement policies etc. etc. Also, the people who engaged for change expected the military interventions of people's day-to-day life and livelihoods to end. There were various groups and they had various type of expectations. We as working among people expected a better life for the people with some space for livelihood assistance. The GoSL reduced the fuel price up to 59 rupees which is a great support to the fishermen's livelihood. However, the changes we expected never became true during the 100 days. We expected the IDPs would resettled in their places of original. Although there is a promise to release 1000 acre land for the people displaced in Valikamam north has not been properly addressed. While the SL government and the SL military attempt to show that lands are being released to Tamils, the Tamil people are being subjected to military encampment in pockets in Valikaamam North. The situation of Moothoor East in Trincomalee district in the Eastern Province is also the same, they are calling for joint action against the deceptive resettlement of Colombo regime. So, we cannot expect much from the present regime although President Maithripala told "There is no future to the country, without addressing the issues of the ethnic minorities." Again the people of Sri Lanka will face the similar broken promises as it happened since the independence.»

Herman Kumara, Singhalese Human Rights Defender

5. LAND ISSUES

Human rights affected: right to not being arbitrarily deprived of one's property; right to adequate standard of living; right to freedom of speech

Conclusion: The new administration wants to return around 2500 acres of land to its original owners. A lot of land remains illegally occupied⁵⁵ and the resettlement process is deceptive.

+ Positive:

- GoSL will release 500 acres of land which was seized by the military in Panama to its original owners.⁵⁶
 - GoSL released 425 acres of land in Valalai and Vasavilan which was held by the military as part of the HSZ on the Jaffna peninsula.⁵⁷
 - A 570 acre area of land in Valalai and Kankasanthurai South, which was part of the HSZ, was released by the military for resettlement in a second phase.⁵⁸
 - GoSL will return 1052 acres in Sampur to the owners. The process should be completed by the end of April.⁵⁹
-

- Negative:

- In Panama 25 acres of the land which was seized by the military will not be released. In this area, construction work is taking place.⁶⁰
- Still no sign of land being released in Mullikulam⁶¹ and many other occupied places.
- Tamil civic representatives are disappointed about the release of land in isolated pockets which are surrounded by military cantonments. The people are being subjected to military encampment.⁶²
- Cultivation Land in Vasavilan is still occupied by the military.⁶³

55 The Northern Province Council (NPC) claimed in 2014 that 65,000 acres of land in the North alone were occupied by the military as a HSZ (cf. <http://www.jdslanka.org/index.php/news-features/politics-a-current-affairs/518-sri-lanka-idp-displeasure-at-release-of-land-on-eve-of-presidents-india-tour> (10.04.2015)).

56 Cf. <http://www.lankabusinessonline.com/news/sri-lanka-to-return-lands-occupied-by-military-troops/662542784> (10.04.2015).

57 Cf. <http://www.asiantribune.com/node/86638> (08.04.2015).

58 Cf. <http://www.army.lk/detailed.php?NewsId=9551> (08.04.2015).

59 Cf. <http://www.newindianexpress.com/world/Sri-Lanka-Government-to-Return-1052-Acres-as-New-Year-Gift-to-Sampur-Tamils/2015/03/25/article2729851.ece> (10.04.2015).

60 Cf. <http://www.lankabusinessonline.com/news/sri-lanka-to-return-lands-occupied-by-military-troops/662542784> (10.04.2015).

61 Cf. <http://groundviews.org/2015/01/22/will-there-be-maithree-and-yahapalanaya-for-navy-occupied-mullikulam/> (10.04.2015)

62 Cf. <https://www.tamilnet.com/art.html?catid=13&artid=37717> (13.04.2015).

63 Cf. <http://www.ceylontoday.lk/51-90340-news-detail-return-of-the-denied-land-vasavilan-villagers-back-in-action.html> (20.04.2015).



«It was a major achievement of Sri Lankan people to end the authoritarian and majoritarian rule of the Rajapakses through the ballot. Since then, there is less fear, more freedom and some positive measures have been taken in terms of governance, rule of law, dissent and symbolic actions in relation to the North and East, such as removal of governors with military backgrounds, handing over of few of occupied lands and release of few political prisoners. But there are still cases of custodial deaths, torture, restrictions and attacks on activists being reported. And there doesn't appear to be indicators there will be truth and justice for families of disappeared, a political solution that will address root causes of the conflict and an independent accountability process for war time abuses which will pave the way for reconciliation.»

Ruki Fernando, Sinhalese Human Rights Defender

6. PREVENTION OF TERRORISM ACT (PTA) AND POLITICAL PRISONERS

Human rights affected: equality before the law; right to fair trial; right to freedom of movement

Conclusion: The release of Jeyakumari and nine other prisoners of Tamil origin is an important first step but the overseas travel restrictions are a kind of harassment. Tamils are still being arrested for political reasons and nearly 300 political prisoners are still incarcerated.

+ Positive:

- Tamil activist Balendran Jeyakumari and nine other Tamil detainees were released from prison.⁶⁴
-

- Negative:

- As part of the bail conditions, Ms. Jeyakumari cannot leave the country.⁶⁵
- There are around 280 political prisoners still being held under the PTA.⁶⁶
- Nearly ten Tamils have been arrested after returning from abroad to Sri Lanka. Due to the change in government they decided to come back. They have been given access to a lawyer.⁶⁷
- A former Tamil rebel was arrested by the TID on 2nd March.⁶⁸
- According to TNA politician P. Selvarajah 15 people have been unlawfully arrested in Batticaloa alone since the new government came into power.⁶⁹
- No sign that GoSL will repeal the draconian PTA.⁷⁰ Under the PTA an individual can be imprisoned for up to 18 months without charge if they are connected with unlawful activities. Unlawful activities are punishable by death. The minister can impose travel restrictions after the release of the individual.⁷¹
- The case of Ruki Fernando, a Singhalese human rights defender, who was arrested in March 2014 is still being investigated, along with restrictions on his freedom of expression and overseas travel.⁷²

64 Cf. <http://www.bbc.com/news/world-asia-31812030> (08.04.2015).

65 Cf. <http://colombogazette.com/2015/03/10/tamil-activist-jeyakumari-freed/> (08.04.2015).

66 Cf. <http://www.ucanews.com/news/sri-lanka-releases-prominent-tamil-rights-activist-on-bail/73151> (08.04.2015).

67 Cf. <http://www.ceylontoday.lk/51-86712-news-detail-dont-return-to-sri-lanka-premachandran-warns-tamil-diaspora.html> (09.04.2015).

68 Cf. <http://www.ucanews.com/news/sri-lanka-arrests-france-bound-woman-over-tamil-rebel-links/73110> (09.04.2015).

69 Cf. <http://ceylontoday.lk/51-90095-news-detail-unlawful-arrests-in-east-continue-tna-mp.html> (16.04.2015).

70 Cf. <http://www.slguardian.org/?p=27256> (15.04.2015).

71 Cf. Parliament Of The Democratic Socialist Republic Of Sri Lanka, Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979.

72 Cf. <http://www.slguardian.org/?p=27256> (22.04.2015).



«For us Tamils only the regime has changed but the agenda and the policies of the majority Sinhalese remains the same. In the 100 days of his programme he did not speak about the disappearances, war crimes, human rights violations or the massacres during the last war. And also he did not include anything about the political solutions for the minority Tamils. The Tamils expected change of government and cast their votes to Maithri but there was little hope that the present government would bring anything good to the Tamils. The 100 days are ending but the issue of disappearances remains the same. I would like to attach some of the grievances of the families of the disappeared and the shortcomings of the existing commission. The private land occupied by the military is not released, the presence of the military still continues. There is ongoing harassment and intimidation. We have the reports of that nature. 5 years passed since the end of the war there is not any single step taken to address the problems of war widows, war disabled etc.»

Father Emmanuel Sebamalai, Tamil Human Rights Defender

7. RELIGIOUS FREEDOM

Human rights affected: freedom of thought, conscience and religion; freedom from discrimination

Conclusion: There has been progress in religious freedom, even though Buddhist-extremist groups are still active and get a public platform. At least the police try to protect religious minorities and the government tries to act against racism. Still incidents of attacks on religious minorities are being reported.

+ Positive:

- The police prevented an attempt to damage the Islamic holy site in Kuragala.⁷³
 - GoSL wants to ban racist organizations like the Buddhist-extremist group Bodu Bala Sena (BBS).⁷⁴
 - The Cabinet has approved amendments to the penal code to ban hate speech.⁷⁵
-

- Negative:

- Since 8th January 2015, at least 13 incidents of attacks against Christian minorities have been reported.⁷⁶
- The Buddhist-extremist group «Sinhala Ravaya» tried to damage the Islamic holy site in Kuragala and no arrests have been made.⁷⁷
- No arrests or prosecutions have been made for past attacks on Christians and Muslims.⁷⁸

73 Cf. <https://www.colombotelegraph.com/index.php/police-prevents-sinhala-ravaya-attempt-to-damage-kuragala-site/> (10.04.2015).

74 Cf. <http://www.thesundayleader.lk/2015/03/15/move-to-ban-racist-groups/> (10.04.2015).

75 Cf. <http://www.srilankamirror.com/news/item/3184-cabinet-bans-hate-speech> (10.04.2015).

76 Cf. <https://slchurchattacks.crowdmap.com/reports> (10.04.2015).

77 Cf. <https://www.colombotelegraph.com/index.php/police-prevents-sinhala-ravaya-attempt-to-damage-kuragala-site/> (10.04.2015).

78 Cf. <http://www.un.org/apps/news/story.asp?NewsID=48188> (22.04.2014).



«According to the Tamils the 100 day work of Maithiri did not make the impact they expected. The minorities, especially the Tamils who were facing all the violations and denials of their rights and freedom during the period of the Mahinda family's domination in the past government, expected a lot, especially the political solution and good governance within the time limit that was proposed by the present government and especially by President Maithiri. But finally it was disappointing, because for the Tamils it is like the small portion of food for the hungry elephant, like the changes of the North and East provincial council commissioners and the changes of secretary of the Northern provincial council. However, some small-scale changes like the release of 1000 acres of land from the High Security Zone that has been handed over to the people. However these settlements were also not fully implemented. So the government are not fulfilling the immediate and the very important expectations of the minorities. So the minorities, especially the Tamils, do not yet fully trust this government.»

Premananth Thevanayagam, Tamil Journalist

8. FREEDOM OF EXPRESSION

Human rights affected: freedom of opinion and expression; freedom of speech; right to life, liberty and security of person

Conclusion: Even though the media (electronic and print) has gained more freedom after the presidential election, journalists in the North are still being harassed, attacked and detained by the police.

+ Positive:

- The President has ordered the ban on all websites blocked under the former regime to be lifted.⁷⁹
- GoSL does not control media to its advantage and the media acts more independently.⁸⁰
- Release of Sinhala version of Channel 4's "No Fire Zone" on the internet.⁸¹ Accessible in Sri Lanka.⁸²
- GoSL wants 'Right to Information' to become a fundamental right in Sri Lanka.⁸³

- Negative:

- Three journalists who were collecting information about a protest against water pollution were attacked by two police officers with knives in Jaffna on 7th April. They lodged a complaint about the assassination attempt. The journalists had been continuously harassed by the police, TID and military intelligence before the attack.⁸⁴
- A Tamil journalist was detained in Jaffna on 8th April in connection with a story he wrote criticizing the police. After one day he was released on bail.⁸⁵
- Sri Lanka Police used tear gas to disperse a student protest march in Colombo.⁸⁶
- The 'Right to Information' contains a long list of grounds which may justify secrecy. The Attorney General seeks to limit its scope to only that set out in law. The scope of the right is limited to an overly small number of public authorities.⁸⁷

79 Cf. <http://economictimes.indiatimes.com/news/international/world-news/sri-lankas-new-government-promises-end-to-repression/articleshow/45847884.cms> (09.04.2015).

80 Cf. <https://www.colombotelegraph.com/index.php/a-preface-to-post-january-08th-media-in-sl/> (09.04.2015).

81 Cf. <http://nofirezone.org/sinhala-version> (09.04.2015).

82 Checked on 10th April in Nuwara Eliya.

83 Cf. <http://www.news.lk/news/related-news/item/6276-right-to-information-to-become-a-fundamental-right-in-sri-lanka> (22.04.2015).

84 Cf. <http://srilankabrief.org/2015/04/sri-lankan-police-at-war-with-tamil-journalists-in-jaffna/> (08.04.2015) or <http://ceylontoday.lk/51-90096-news-detail-civvied-cops-intimidate-jaffna-journalists.html> (16.04.2015).

85 Cf. <https://www.cpj.org/2015/04/journalist-faces-charges-after-publishing-report-c.php> (10.04.2015).

86 Cf. http://www.colombopage.com/archive_15A/Mar31_1427823743CH.php (10.04.2015).

87 Cf. <http://www.sguardian.org/?p=27556> (22.04.2015).



9. LIVELIHOOD

Human rights affected: right to adequate standard of living; right to freedom of movement; right to life, liberty and security of person

Conclusion: The reduction of fuel prices and food prices has had a positive impact on people's livelihood. To ensure their livelihood, rural communities need access to land and sea. GoSL has to consider the needs of the local communities when they start or review development projects.

+ Positive:

- GoSL reduced the price of fuel.⁸⁸
 - GoSL reduced the prices of sugar, wheat and milk powder.⁸⁹
 - GoSL increased the salaries of government employees.⁹⁰
 - The Sri Lankan authorities are reviewing the entire Kalpitiya Tourism development project and are planning to call for fresh tenders.⁹¹ The tourism project in Kalpitiya has had a bad impact on livelihoods in the local communities.⁹²
-

- Negative:

- The Sri Lankan authorities have still not ensured access to the sea for all fishermen in the North and East of the country.⁹³
- Cultivation land is still occupied by the military. The inhabitants need access to cultivation land to ensure their livelihood.⁹⁴

88 Cf. <http://www.lankabusinessonline.com/news/sri-lanka%E2%80%99s-new-government-reduces-fuel-prices/1326434860> (11.04.2015).

89 Cf. http://www.colombopage.com/archive_15A/Jan29_1422539898CH.php (11.04.2015).

90 Cf. <http://www.news.lk/news/sri-lanka/item/7058-task-performed-by-govt-in-88-days-is-satisfactory-pm> (11.04.2015).

91 Cf. <http://www.news.lk/news/business/item/6967-fresh-tenders-for-kalpitiya-islands> (11.04.2015).

92 Cf. Society for Threatened Peoples Switzerland (STP), Dark Clouds over the Sunshine Paradise. Tourism & Human Rights in Sri Lanka, February 2015.

93 Cf. *ibid.*

94 Cf. <http://www.ceylontoday.lk/51-90340-news-detail-return-of-the-denied-land-vasavilan-villagers-back-in-action.html> (20.04.2015).



**THE WAY
FORWARD**

>>>

CONCLUSION

The new Sri Lankan government has taken some small steps towards improving minority rights and the human rights record. After the regime change people in Sri Lanka were able to make demands and protest freely in the streets all over the island. There have also been some improvements regarding press and religious freedom. Still many problems exist regarding human rights and minorities. The GoSL did not abolish the draconian PTA which allows people to be arrested without charge. The investigation into disappeared people does not focus on truth and justice but on compensation. The resettlement process is deceptive because the inhabitants are being subjected to military encampment. The militarization still remains high because the military troops and camps will not be withdrawn from the North. Tamil journalists who criticize police and security forces are being disrupted in their work. Access to land and sea is not ensured for the rural community. For the reconciliation process the GoSL has to address all of the problems mentioned in this report.

RECOMMENDATIONS

To Sri Lankan government:

- A credible investigation into the war crimes of all parties following international standards should take place.
- The Prevention of Terrorism Act (PTA) has to be repealed.
- The investigation into missing persons has to focus on truth and justice rather than on compensation.
- Resettled inhabitants should not be subjected to military encampment.
- Military troops and camps need to be decreased in the North and East.
- Journalists should not be disrupted in their work by the police and security forces.
- Access to sea and land needs to be ensured for the rural communities.

To Swiss and European Union authorities:

- Forced deportations of asylum seekers from Sri Lanka should not take place as long as the situation has not fundamentally changed for minorities.
- Switzerland and the European Union have to put pressure on the GoSL to ensure minority rights, address the human rights situation in Sri Lanka and monitor the required improvements.
- Switzerland and the European Union should support the GoSL in the reconciliation process.

To investors and enterprises:

- Investors and enterprises must act with due diligence in their entire value-added chain.
- Investors must make sure that, prior to investment projects, the local population is consulted on an equal footing, has given its approval and that a (binding) agreement has been negotiated with the affected parties concerning mutual obligations.

IMPRINT

Publisher: Society for Threatened Peoples, Switzerland

Schermenweg 154, 3072 Ostermundigen

www.gfbv.ch

info@gfbv.ch

Tel.: 031 939 00 00

Donations: Berner Kantonalbank BEKB / IBAN CH 05 0079 0016 2531 7232 1

Editing, illustrations and layout: Society for Threatened Peoples, Switzerland

Photos: gfbv.ch / Shutterstock

Publication date: April 2015

WITH THE STP FOR HUMAN RIGHTS

The Society of Threatened Peoples (STP) is an international human rights organisation that supports minorities and indigenous peoples. It documents human rights abuses, informs and sensitises the public, and represents the interests of victims against authorities and decision makers. It supports local efforts to improve the human rights situation for minorities and indigenous peoples, and works together, both nationally and internationally, with organisations and people that are pursuing similar goals. The STP has advisory status both at the Economic and Social Council (ECOSOC) of the UN and at the Council of Europe.



WANT TO GET INVOLVED? PLEASE SUPPORT US!

Our engagement is only possible with your support. With your membership or donation, we support minorities and indigenous peoples throughout the world.

Register at: **www.gfbv.ch/aktiv_werden**

Thank you very much!



www.gfbv.ch