

Submission to the UN Universal Periodic Review on Sri Lanka

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1. After the first UPR review of Sri Lanka in 2008 the country has experienced extreme human rights violations, including substantiated allegations by UN Panel of Experts on Accountability in Sri Lanka (POE) of targeted killing of civilians on large a scale by the Sri Lankan forces, persecution of Tamils, targeted shelling of hospitals, summary executions of the surrendeeds, inhumane treatment of Internally Displaced People (IDP), sexual violence, torture and continued abuses of the IDPs. Post war conditions of mass detentions, militarization, summary executions of captives, and political oppression continue unabated.

2. In the first recommendations of UPR of Sri Lanka in 2008 Sri Lanka accepted 52 recommendations, rejected 25 and expressed no clear position on balance 8. Sri Lanka has failed to implement or show progress on a vast majority of the recommendations which were accepted. Sri Lanka increasingly uses sophisticated human rights language and masking mechanisms that yield no actual change or prosecute any offenders at the ground level. In this submission we will address six key areas where Sri Lanka promised to make substantial changes in 2008, yet totally failed to implement.

Forced Disappearances

3. In 2008 Sri Lanka accepted to prevent “cases of kidnapping, forced disappearances and extrajudicial killings” and to “ensure that all perpetrators are brought to justice” (Accepted Recommendation# 18). The Sri Lankan Red Cross had stated that 11,000 complaints of disappearances cases remained unresolved in 2003. According to the Catholic Bishop of Mannar, Rt. Rev. Dr. Rayappu Joseph in his submission to Lessons Learned and Reconciliation Commission (LLRC) stated that 146,679 people from the Vanni region need to be accounted. He made this accusation based based on government population statistics.[1] *Groundviews* has reported 29 cases of disappearances just in the span of two months from Feb to Mar 2012.[2] Many white van abductions are linked to the security forces. They are responsible for many recent cases of forced disappearances. Even though there are tens of thousands of disappearances cases Human Rights Commission of Sri Lanka (HRCSL) claims to have received only a handful of complaints. No perpetrator has been brought to justice for any of the disappearance or abduction cases.

4. Many cases of forced disappearances are part of a wider pattern of arbitrary arrests and detentions carried out by the Sri Lankan forces. Sri Lankan forces armed with Prevention of Terrorism Act (PTA), Emergency Regulations, Indemnity Act and other regulations have sweeping powers to arbitrarily search, arrest and detain anyone without charges for up to 18 months. Although the emergency laws were allowed to expire in 2011 after 30 years, PTA and other draconian laws are still in force. Under PTA the government need not charge the person with an offense while he/she is in detention. The act provides immunity from prosecution for

government and security officials who commit wrongful acts such as torture. Legal proceedings are prohibited if an official acted “in good faith” or in “pursuance of any order made or direction given under this Act”. This has led to horrendous human rights violations where people are abducted in white vans, arbitrarily detained indefinitely, tortured and made to disappear. Several thousands of people are being held without charges or legal proceedings under these regulations. Sri Lankan government refuses to provide any statistics or updates with regards to persons being held, charges against them or legal avenues available to them.

Lack of Due Process, Rule of Law and Justice

5. Historically Sri Lanka has not respected or implemented agreements (Bandaranaike–Chelvanayakam Pact - 1957, Dudley-Chelvanayakam Pact - 1965, Indo-Sri Lanka Accord - 1987) signed with Tamil leaders to resolve minority issues. Various commissions established after each pogroms (1977, 1981, 1983) never resulted in punishing any offenders, resolving any areas of conflict or establishing any credibility. Nevertheless, Sri Lanka accepted several recommendations that urged for due process, rule of law and justice (Accepted# 2, 15, 17, 26-28).

6. Sri Lanka accepted to implement “the 17th amendment at the earliest” (Accepted# 2), which is a constitutional amendment seeking to establish independent commissions to run public service, judiciary, elections, police and bribery department. Sri Lanka has consistently failed to apply the rule of law and due process in conducting the war, in prosecuting war crimes on both sides and in legal proceedings on the prisoners. This is due to politicised, weak and corrupt police, public service and judiciary. Yet, Sri Lanka has failed to implement the 17th amendment that would have given these branches of government a certain degree of autonomy, checks and balances. On the contrary, it nullified the 17th amendment proving a pattern of promising one thing at UPR and implementing the opposite at home.

7. Sri Lanka accepted to investigate the killing of aid workers (Accepted# 15). The Presidential Commission of Inquiry discredited all of the detailed submissions made by University Teachers for Human Rights (UTHR-J) and other local organizations. These organizations held the government security forces responsible. The final report was never made public and no one was brought to justice.

Militarization, High Security Zones and Colonization

8. Militarization and High Security Zones (HSZ) were major causes of the breakdown of talks that led to the resumption of war between Sri Lanka and the LTTE. In 2008 no recommendation was provided with regards to militarization; however it has become a major issue since the end of war. The majority Tamil Northern province of Sri Lanka is under intense militarization. According to media reports there are 40 000 Sinhala army personnel and 10 000 Sinhala police, in addition to various paramilitary groups and intelligence agencies are stationed. For every five people there is one military personnel. The Governor of the province is a war crimes accused retired major general G.A Chandrasiri. He exercises full power without giving any due respect to elected officials or civil authority. He has an absolute power to dictate terms in every aspect in running the province.

9. Militarization is part of a scheme to control the Tamil population and to alter the demographic and cultural makeup of North. The military is changing the names of streets and villages from Tamil to Sinhala. It is helping to build large Buddha statues and numerous Buddhist shrines, in a traditionally non Buddhist province. The military wields total control over all aspects of people's lives. It is not possible to have a meeting of four or more people without the permission of the military and often the attendance of local military officials is a must. Militarization has limited humanitarian organizations to effectively deliver relief. People are living in fear, especially single Tamil women who lost their husbands during the war.

10. The army is engaged in competitive small businesses including coffee shops, hotels and tourists services. It is illegally farming in farmlands where Tamils have traditionally cultivated.[3] At present more than 1000 private houses are occupied by the military. The military prevents natives from returning to places such as Mathagal, Keppapulavu, Mullikulam while allowing tourists (mainly Sinhalese) to visit there. A large portion of residential areas have been classified as HSZs, and people have been prevented from re-settling in their own home. Many villages do not exist any more owing to military occupation in the name of HSZs. These types of military takeovers are against the national and international laws.

Rights of the Internally Displaced People (IDP)

11. The Sri Lankan state failed to adhere to the accepted recommendations on IDPs (Accepted# 32, 33, 35). The 2008 recommendations enforce "protection and security of IDPs", "safe return and restitution of housing in their original location", "long-term housing and property restitution policies that meet international standards", and "a policy to provide IDPs with adequate interim housing solutions that meets international standards".

12. As a result of the brutal armed conflict, there are many female-headed households (FHH) with widows and abandoned families among IDPs and returned IDP households. The male heads of households had died or went missing during the conflict or in "rehabilitation". One of the major concerns among returning FHH is the high presence of male military personnel in close proximity to residential areas. Women are afraid for their security and safety. Some of them spent the nights with other families in order to be safe. There were many reports of gender-based violence (GBV) in the returned areas.

13. Almost 3 years after the end of the armed conflict around 125,000 people still remain internally displaced, either in camps with host families or in transit situations.[4] Among them, the majority could not return as their areas of origin were still designated as HSZs. These zones cover 15 complete and 8 partial towns and villages in Kilinochchi and Mullaitivu districts and 18 in Jaffna district.

14. The IDPs from the nine village divisions in Mullaitivu were exhausted by the two and a half years of detention in Menik Farm camp. Under intense pressure from the government they have agreed to move to newly constructed 600-acre "village" in the Kombavil jungle, where the housing is semi-permanent with little infrastructure. Arbitrary detention of people under inhuman conditions, refusal to allow them to return to their native homes and lack of compensation and rehabilitation in accordance with international standards, Sri Lanka has disregarded the international and humanitarian laws as well as the UPR recommendations.

Political Rights, Self Governance and Land Rights

15. Sri Lanka accepted to fully implement International Covenant on Civil and Political Rights (ICCPR) and Convention Against Torture (CAT), and to “incorporate all substantive provisions of ICCPR into its national legislation” (Accepted# 7-8). Sri Lanka does not respect even the very basic tenets of ICCPR and has not made any effort to incorporate ICCPR into its national legislation. In addition, Sri Lanka had pledged but failed to introduce a human rights charter (Accepted# 12).

16. Article 1 of ICCPR encourages self-governance and right of all peoples to manage and dispose of their own resources. In the discussion on devolution with Tamil parties Sri Lanka categorically denies the rights of Northern and Eastern Tamils for self-governance, land rights and police rights. Article 2 ensures the freedoms of movement, thought, conscience and religion, speech, association and assembly among others. People are not permitted to freely assemble without prior permission from military for non-religious activities in Jaffna. The military continually interferes with, disrupts and threatens events organized by civic groups.

Freedom of Press and Expression

17. Sri Lanka has accepted to “improve safeguards for freedom of the press” and to take “effective measures to ensure the full realization of the right to freedom of expression”, yet it systematically does the opposite (Accepted# 39-41) by prosecuting journalists. Sri Lanka is ranked among the twenty worst countries for press freedom by World Press Freedom Index (163/179, 2012) and fourth worst in the Impunity Index (2012) by Committee to Protect Journalists. Post-war Sri Lanka’s press freedom continues to worsen.

18. Five journalists (Shoba, Puniyamoorthy, Rashmi Mohamad, Paranirupasingam Devakumar, Lasantha Wickramatunga) were killed and one (Prageeth Eknelygoda) went missing between 2008 and 2011. Many were forced to seek refuge in foreign countries owing to threats of violence by the government. Sri Lanka’s Public Relations Minister Mervyn Silva publicly labeled some journalists as “traitors” and threatened that he would break their limbs in the aftermath of 2012 March UN resolution on Sri Lanka.[5] He admitted to chasing “Poddala Jayantha out of this country” and threatened to do the same to others. Sri Lanka’s state television screened “thinly disguised photographs” of journalists and activists labeling them as traitors and leveling warnings against their work. Human Rights Watch report has noted that before “Lasantha Wickramatunga was gunned down in 2009, he received a phone call from President Rajapaksa who threatened to attack him personally in response to articles in the *Sunday Leader* about high level corruption”. [6] No one has been persecuted for the murders of or violence against journalists. The situation for freedom of expression by the general public is even more severe.

19. The Centre for War Victims and Human Rights had arranged a book shipment from Chennai India to Canada . The shipment contained 1000 copies of “What can we do” which describes the events of Mullivaikkal Massacre (2009), 200 copies of the Holy Bible and other Tamil literature including religious books. While on route to Canada, at the Colombo Port, the container was identified and all these books have been taken away by the Sri Lankan Intelligence Service, without the permission of the shipping company or the receiver who has already paid for all those documents. The books were seized in May 2011 and until now, they have not been released nor has any communication been received by CWVHR and its President, Anton Philip. This could be compared to high sea robbery by the State Security Intelligence and by the Sri Lankan state.

Recommendations

- Request to provide a comprehensive list of detainees with names, places of detention and charges against them. Request to provide access to detainees by their families, legal counsel and other statutory bodies and individuals. Demand for an immediate fair, transparent and due process for all political prisoners.
- To allow for an impartial international investigation on crimes committed by the Sri Lankan government as well as by other parties.
- Demand to demilitarize Tamil areas, remove high security zones and to stop immediately government sponsored colonization schemes. To stop the military from interfering with civil matters or heading civil administrations.
- Request to facilitate and ensure that people who want to return to their native places are able to do so. Provide compensation, rehabilitation and long term sustainable development opportunities for all affected people.
- To provide Northern and Eastern people self-governance mechanisms, language rights, land rights and all other political, human and cultural rights.
- Allow for full scope of freedom of the press, freedom of expression and bring to justice the perpetrators of violence against journalists.
- Accept the establishment of OHCHR office with monitoring and investigative powers in Sri Lanka.