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Stakeholders Submission for the Universal Periodic Review of Sri Lanka

Land-Grab and Militarization in the Tamil Homeland (North and East)

Introduction

The heavy militarization of the North and East of the island of Sri Lanka has not only impeded the Tamil people inhabiting the region from recovering and returning to a normalcy, but it has been actively used as a tool by the Sri Lankan State to execute a far more sinister agenda of erasing the Tamil identity itself from the regions concerned. *Land-grabbing* leads to the fact that present and future generations of Tamils cannot meet their needs and livelihood requirements.

Under the previous government of Mahintha Rajapakse 69,992 acres of land was under occupation. Only 2,565.5 acres of land has been released since January 2015 by the new Sri Lankan regime. This constitutes only 3.6% of the total land currently occupied by the Sri Lankan military.

Above clearly shows the manipulation of data and deception on the part of the current Sri Lankan government, which came on a promise of change, in releasing the land occupied by its military. Several promises with specific deadlines by the current Sri Lankan president to release all unauthorised land acquisition by the military remains unfulfilled.

Apart from such land acquisition Sri Lankan military has been building Buddhist statues and temples illegally on private and government lands without any permission. This cultural genocide has not stopped even after the change of government. Sri Lankan military is carrying out its genocidal demographic change in the Tamil traditional homeland even under the present government. The current Sri Lankan regime has not stopped such activities and it is hood winking the international community with empty promises.

Following online research based on google street maps and satellites images reveal the extent of land occupation and cultural colonisation in the Tamil homeland.

Land Acquisition/ Land-Grab

Heavy militarization has been made possible through structural and legal defects in the State system, namely the very problematic issue of unlawful land acquisition, rather described as *land-grabbing*, which provides an environment and physical infrastructure for military presence and building of permanent military camps. Therefore, understanding of the process of land acquisition is essential in order to deal with the effects of militarization on the livelihood of those affected by it.

The main statute in Sri Lanka which governs the acquisition of private land, the *Land Acquisition Act, No. 5 of 1950*, allows State Acquisition only for “public purpose”. Therefore, creation of a few jobs and development of infrastructure benefiting the country as a whole cannot suffice, and benefits must also be directed at the local community. It is vital to illustrate the legal opinion of the Supreme Court, which is binding, in order to comprehend the present critical situation in the North and regarding land-grab and militarization, and its implications for the Tamil people’s right to their land, as well as other civil and political rights. Effects of land acquisition, which currently does not seem to serve any “public purpose” as demanded by the Court, will be explained further below.

The act of land acquisition can be put into a larger political framework. The local community is to be the main beneficiary of the conducted land acquisition. However, the acquired land is being used by the State for alleged military and security purposes. In the present context, the courts seem not to follow the above-mentioned established case law and construes “public purpose” broadly in order to accommodate the State’s agenda.

Analysis of control of land acquisition by the State gives further insight into how the State is able to execute its sinister agenda.

The Supreme Court in its recent judgment of SC Appeal No. 21/13 stated the Provincial Council powers over land were limited, with the extent of control over land to be determined by the central government. Politically, this issue also challenges the functioning of devolution of powers as it diminishes the powers of the local representatives of the Tamil community.

In fact, power is shared between various other actors who are involved in the overwhelmingly unlawful act of land acquisition in the island of Sri Lanka. Firstly, the President himself is involved in land issues as he has relevant power over land. Additionally, it is he who appoints judges for all courts, and hence the outcome of cases concerning land issues.

Various ministries such as the Ministry for Lands and Land Development, the Ministry for Defense and Urban Development and the Minister for Finance, also have powers to deal with land issues¹.

In addition to the the Mahaweli Authority², which provides expansive powers to the Minister in charge, the Presidential Task Force (PTF) was created in 2009, which is mandated to “prepare the strategic plans, programs for resettlement of internally displaced persons, economic development and social infrastructure of the Northern Province”³. Approval from PTF is needed for all activities in the North. Thus it is unambiguously evident that the activities in the North are centralized, affecting collective and individual civil and political rights of the Tamil people given democratically elected representatives of the Northern Province Council have lesser power to determine the future of their Tamil constituents and owners of the tradition Tamil homeland.

A major actor involved in land issues and whose role will be examined in detail is the military. The purpose of military presence in the North and East is not only for “security” reasons and it has been observed that the military is increasingly obtaining control over administrative duties as well.

Effects of Military Presence in North and East (Tamils' Homeland)

The Sri Lankan military presence in the North and East has had an enormous impact on the livelihood of Tamil people. Not only have various civil, political as well as individual and collective rights been infringed upon but the militarization is being used by the State as a tool to execute structural genocide against the Tamil people.

The acquisitioned land for purposes other than what the law permits, is being used to build new Sinhala settlements. This act, called *Sinhalization*, is an act of structural genocide. This has been the case of the town *Weli Oya*⁴, which has not only had a demographic change through the act of government backed Sinhalization, but has also had its name changed from a Tamil name of Manalaaru to a Sinhala name, an act of erasing the Tamil identity in the region.

Acquisitioned land is also being used for commercial purposes for private and government agencies over the alleged development projects, in breach of the Land Acquisition Act. Such a process of land acquisition for commercial purposes can be observed in the case of Sampur⁵.

The acts of land-grabbing, done against the will of the Tamil people and for “military purposes”, is a government sanctioned act to increase Sinhala presence in the Tamil homeland through resettlement schemes and other programs, leading to demographic changes. In this process, militarization is being used as a tool by the Sri Lankan State to execute structural genocide against the Tamil people.

Considered an act of aggression, the Sri Lankan State has gone a step further by destroying war memorials, building military camps on cemeteries of Tamil cadres and replacing Tamil memorial structures with that of the Sri Lankan army.

The military has simultaneously engaged in actively promoting war tourism, reminding the Tamil community of the ethnic divide and projecting the Sinhalese as the victors and the Tamils as the

¹ Bhavani Fonsenka and Dharsha Jegatheeswaran, Policy brief, Politics, Policies and Practices with land Acquisition and related issues in the North and East of Sri Lanka, Centre for Policy Alternatives, November 2013

² Mahaweli Authority of Sri Lanka, <http://www.mahaweli.gov.uk>

³ Bhavani Fonsenka and Mirak Raheem, Land in the Northern Province: Post-War Politics, Policy and Practices, Centre for Policy Alternatives, December 2011

⁴ Bhavani Fonsenka and Dharsha Jegatheeswaran, Policy brief, Politics, Policies and Practices with land Acquisition and related issues in the North and East of Sri Lanka, Centre for Policy Alternatives, November 2013, p. 44

⁵ Ibid.

vanquished. To the Tamil people, this tourist enterprise exposes the Sri Lankan State's true feelings on 'reconciliation' within the island.

Military interference in the local economy is rife. Involvement in converting many of coastal areas, in particular in the Esat, into tourist attractions has deprived local fishing communities of their livelihood. Acres of fertile land belonging to the Tamil people have been taken over for cultivation by the military. The military has also taken control of the civil administration in the North and East. Depriving a community of their right to livelihood forces them to relocate, and given these measures are executed on a mass scale, amounts to structural genocide.

Many new legislations and gazette notifications of acquiring lands for military infrastructural purposes have taken place in direct violation with Sri Lankan common law, known as *Thesavalamai Dasa Valami Law*.

Large swaths of Tamil-owned land surrounding military camps have been declared High Security Zones (HSZ), out of bounds to civilians, since the 1980s. The evicted Tamil residents of these areas have been internally displaced since. Almost five years since the Sri Lankan government's declaration of an end to the war, these HSZs continue to exist and the rightful owners are still unable to return to their traditional land.

Tamil places of worship in the North and East have been actively destroyed and replaced with Buddhist temples and stupas. These constructions, a serious threat to the Tamil cultural identity is an act of structural genocide, given Tamil people are not Buddhist while the overwhelming majority of Sinhala people are, and as is the State religion. Furthermore, constructed as monuments of conquest rather than for worship alone, these constructions also stand as permanent reminders to the Tamil people of the Sinhala-dominated Sri Lankan government's priorities.

Military presence can be seen and felt in the people's daily lives in the North and East. The military interference in economic activities, educational activities, cultural events, family events has become a common occurrence.ⁱ The military runs a total of 22 business centres in the Mannar district. The State contracts for infrastructure work in the North and East are being taken by the forces and they involved such construction work. As a result local construction workers, contractors and the local governments too are affected. A total of 588 preschool teachers are receiving their salaries from the Civil Security Forces under the Military. Militarization not only affects daily lives of the people but also it's a hindrance to their independence. Therefore, we emphasize the importance of demilitarization.

Given the above facts, CHRD sees that the Government of Sri Lanka has no intention of releasing occupied lands in the North and East anytime soon. Therefore, based on the Vienna Declaration as well as Durban Declaration and Programme of Action and also having observed that successive Governments have failed to abide by the Geneva Convention and other applicable norms of humanitarian law; Tamil civil society and affected communities feel the only lasting solution to this prolonging issue would be that the relevant agencies within the UN system must call on the Government of Sri Lanka to let the Tamil people of the island to exercise its inalienable right to self-determination.

Fishermen and farmers are the worst affected, Practically all of the fishermen have lost their gear and their boats, so they are unable to restart because to start fishing in a proper way they need boats which they can't afford. Hundreds of acres of land in the north, which is very fertile land, are in the high-security zone. Farmers have been deprived of cultivation because they are unable to go to their land.

The current government has released few occupied land to the Tamil people, But that is not enough, People are still waiting for the day that they get back their land. Even if they go to their land, their houses are gone, they have to start afresh. Water is also a problem because largely people have been depending on ground water wells. Such wells are either damaged or covered with rubble, which means they have to dig new wells.

At same time the new Government continue to Colonizes Eelam Tamil land, and continue to build lot of Buddhist Bihari on Tamils Lands and also military continue to rule the Locale Economie.

The presence of these soldiers are a curse on to the Tamils as the original symbols of the Tamil are now being replaced by the victorious Buddha, dotting all the street corners, new Buddhist temples are a common

sight where only the soldiers re Buddhists. All the Tamil sign boards and directions are replaced by Sinhala boards which can be read only by the soldiers.

The burial grounds of the LTTE men who had died in action have all been razed to the ground and at many places the army has bulldozed and built its own complex like the one in Koappaay. The war heroes cemeteries located at Kagnchikudichcharu in Ampaarai district, Thaandiyadi, Tharavai, Kandaladi and Maavadi Munmaari in Batticaloa district and Aalangkulam, Iththikkulam, Verukal, Uppaaru and Paalampoaddaaru Trincomalee district were destroyed after the SLA occupied LTTE held areas in the East in 2006 and 2007. In Vanni, there were at least ten War Heroes Cemeteries. The cemeteries were located in Aandaangkulam, Aadkaaddiveli and Pandivirichchaan in Mannaar, Kanakapuram and Muzhangkaavil in Kilinochchi district, Uduththurai in Vadamaraadchi East of Jaffna district, Eachchangkulam in Vavuniyaa and four at Vanni-vizhaangkulam, Visuvamadu, Alampil, and Mulliyavalai of Mullaitheevu district. The Sri Lanka Army bulldozed the Heroes Cemetery at Visuvamadu between March and April 2009.⁶

Conclusion

Unlawful land acquisition in combination with militarization has accelerated the agenda of structural genocide through demographic change, replacing traditional names of villages from Tamil to Sinhala names, active land-grabbing and re-colonization schemes benefiting the Sinhala community, destruction of traditional Eelam Tamil structures and replacing them with Sinhala monuments and acts depriving the Eelam Tamil people of their livelihood.

Recommendation

- a. Take immediate measures to demilitarize North and East and hand over lands (occupied by the military for over 25 years) to their rightful owners without any further delay. Also the Tamil people of the North East must be given access to their residential and agricultural lands to engage in economic and livelihood activities
- b. Having violated international humanitarian law and engaging war crimes the Relevant UN bodies must urge the Government of Sri Lanka to sign the Rome Statute in order to ensure justice and accountability to the victims of such heinous crimes under the International Criminal Court.
- c. Endorse the Tamil genocide resolution of 2015 passed by the Northern Provincial Council in February 2015. The said resolution clearly points out genocide of Tamils became synonymous with the country's policies since it gained independence, and Tamils across the island, particularly in the North-East have been subject to gross and systematic human rights violations, culminating in the mass atrocities committed in 2009. Sri Lanka's historic violations shows over 60 years of state sponsored anti-Tamil pogroms, massacres, sexual violence, and acts of cultural and linguistic destruction perpetrated by the state. The resolution alleged that these atrocities have been perpetrated with the intent to destroy the Tamil people, and therefore constitute genocide. Therefore the acceptance of the Resolution on Genocide of Tamils adopted by the Northern Provincial Council will enable to seek an UN inquiry to investigate the genocide of the Tamil people in Sri Lanka by successive Sri Lankan Governments, and direct appropriate measures at the International Criminal Court outlining the Tamil people had no faith in the domestic commission.
- d. Take immediate steps to fully implement without delay the Resolution 30/1 and the Recommendations of the of the OISL Report.
- e. Measures must be taken to ensure justice for victims of rape and torture which has been the weapon of Sri Lanka's genocide of the Tamil people. Human Rights Watch (HRW) stated such acts of sexual violence perpetrated on Tamil detainees and surrendees by Sri Lankan security forces is deliberate and is premeditated. Such acts of abuses are coercive, designed to intimidate, to instill fear, to extract information, sometimes to extract confessions... This is a deliberate policy. Therefore we urge that an independent international investigation be carried out on Sri Lanka to probe allegations of such abuses.
- f. The United Nations Committee against Torture (CAT) during its review in early December 2016 has urged Sri Lankan government to establish an independent mechanism to investigate allegations of torture and sexual violence during and after the conflict. In delivering its concluding

⁶<http://www.lankasrinews.com/view.php?2b35Q5X4b43z96ae4b43CWdce2bh3CS3cd3XlpG2e0d15MvDce02I2DI0cd3sksBd0>

observations the committee said that torture was a common practice in Sri Lanka. Therefore the government of Sri Lanka must be urged to implement the recommendations of the CAT Committee including ensuring that all allegations of unlawful detention, torture and sexual violence by security forces are promptly, impartially and effectively investigated by an independent body... as well as expedite the establishment of the mechanisms called for in Human Rights Council resolution 30/1 and, in particular, a judicial mechanism with a special counsel to investigate allegations of torture, enforced disappearances and other serious human rights violations. The mechanism should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality at the national and international levels.

- g. Perpetrators of war crimes and crimes against humanity must be investigated and brought to justice. The government must ensure that military forces who had perpetrated heinous acts of abuses and crimes must be investigated and not be protected or safe guarded to gain political mileage and to win the support of the Sinhala majority.
- h. Call on the Sri Lankan government to take steps to abide by the Vienna Declaration as well as Durban Declaration and Programme of Action and to let the Tamil people of the island to exercise its inalienable right to self-determination.

¹ Civil Military Coordination Jaffna, <http://www.cimicjaffna.com/cimicnewsmenuMain.php>