

SRI LANKA
TAMIL CENTRE FOR HUMAN RIGHTS – TCHR
UN UNIVERSAL PERIODIC REVIEW 3rd CYCLE
28TH SESSION OF THE UPR WORKING GROUP, 16 Nov – 17 Nov 2017

This submission is presented by the Tamil Centre for Human Rights – TCHR under the UN Human Rights Council resolution 5/1, in accordance with General Assembly resolution 60/251 of 15 March 2006 and Economic and Social Council resolution 1996/31 of 25 July 1996.

SUMMARY

Universal Periodic Review - Summary of views - A/HRC/8/L.10/Add.1 - 26 June 2008
Universal Periodic Review - Summary of views – A/HRC/22/16 – 18 December 2012

According to the Working Group on the Universal Periodic Review (A/HRC/8/46 -13 June 2008) and A/HRC/22/16 – 18 December 2012 the views of Sri Lanka, concerning the recommendations and conclusions, as well as voluntary commitments presented before the adoption of the outcome by the plenary, did not sufficiently address several important issues *during the interactive dialogue in the Working Group* (A/HRC/8/LKA/Add.1 and Add.2) and A/HRC/WG.6/14/LKA/3.

SESSION OF THE UPR in 1st and the 2nd Cycle

During its first review in 2008, 95 recommendations from 39 countries were made to Sri Lanka. It accepted 52 recommendations and rejected 25 others, with no clear position on 8.

In the second review in 2012, 208 recommendations from 86 countries were made to Sri Lanka. It accepted 114 recommendations and rejected 94.

In the last two UPR processes, many states reminded Sri Lanka about several important matters, including the need to: investigate and prosecute all allegations of extrajudicial, summary or arbitrary killings and bring the perpetrators to justice in accordance with international standards; ensure the adequate completion of investigations into the killings of aid workers, human rights defenders and other violations; to prosecute and punish those responsible for serious human rights crimes.

In Sri Lanka, abductions, torture, and assassinations of civilians, media personnel, social workers and human rights activists continue to date. The government has not arrested, investigated and punished anyone involved in those crimes. The security forces and intelligence services continue to be a threat to the public.

Sri Lanka's voluntary pledges in the 1st Cycle of UPR

These consisted of: Witness and Victim Protection Bill to be introduced in Parliament and measures taken to implement legislation including establishment of the necessary institutions; Sri Lanka was to take measures for effective implementation of the 13th Amendment to the Constitution and to improve and upgrade detention facilities.

13th Amendment to the Constitution

Every government in power in Sri Lanka agreed that the 13th Amendment, a product of the Indo-Sri Lanka accord of 1987 to devolve some powers to the provinces, would be fully implemented. For three decades the matter of full implementation has been totally ignored. This was raised by many countries in both UPR reviews.

Ethnic and Religious Pluralism

Whichever Sri Lankan government has been in power, their policies are always based on promotion of the Sinhalese identity—religion - Buddhism, culture, and language – Sinhalese. The Sinhalese language and Buddhism were given the foremost place in the 1972 constitution.

Since the independence of Ceylon (present Sri Lanka), Sinhala Buddhist nationalism has become increasingly violent. In the recent past, a Buddhist extremist group known the Bodu Bala Sena – BBS (Buddhist Force) has carried out violent campaigns against Christians, Muslims and also Saivites (Hindus).

Buddhist nationalists attacked Muslims in many parts of the country including in South Eastern parts Aluthgama and Beruwala in 2014 which killed four people, injured 80, and displaced thousands. Attacks were also targeted at Mosques, Muslim businesses, Christian churches and Saivite (Hindu) Temples.

Cases of threats, physical attacks and restrictions on the practices of Christians and Saivite (Hindu) temples have been reported from the Tamils' hereditary regions in the North and East - also in the South and in the up-country area. This practice is part of ethnic-cleansing.

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|---|------|
| Since 2009 - No. of Christian churches damaged/destroyed | +250 |
| Since 2009 - No. of Savite (Hindu) temples damaged/destroyed | +50 |
| Since 2009 - No. of Mosques damaged/destroyed | +50 |

In Trincomalee Agasthyar Sthapanam Shiva temple is reported to have been extensively damaged by Buddhist extremists. The historical Saiva (Hindu) temple in Konneswaram is gradually becoming a Buddhist temple. Many Buddha statues have been planted in the surroundings of this important temple. In Kanthalai, Thampalagamam in Trincomalee district many statues in Saiva Temples have been stolen and the government has not taken any action to find the thieves.

In June 2012, Saiva temples' statues were damaged in Puthukkudiruppu in Mullaitivu district by unknown people. This area is fully under military occupation.

Non-Implementing recommendations of LLRC / Reconciliation

Every government comes to power in Sri Lanka introducing a new mechanism on reconciliation and accountability, making excuses to buy time to work on the government agenda of Colonisation, Buddhisiation, Sinhalaisation and Militarisation in the North and East.

The previous government introduced a mechanism known as the "Lessons Learnt and Reconciliation Commission – LLRC". Many resources were spent on the LLRC and their report in December 2011 was taken seriously by many institutions.

In the last UPR on Sri Lanka many spoke about it and proposed that the government implement the LLRC's recommendations. The then government in power used all sorts of delaying tactics. The new government which came into power in January 2015 promised to fully implement those recommendations. However, now they have set them aside and started a new mechanism known as CTF to find justice on reconciliation and accountability.

Consultation Task Force on Reconciliation Mechanisms (CTF)

In January 2016 the Consultation Task Force on Reconciliation Mechanisms - CTF was appointed by the Prime Minister. The mandate of the CTF was to carry out public consultations on mechanisms to advance truth, justice, reparations and non-recurrence of conflict in Sri Lanka.

On 3rd January 2017, the CTF published a report with their findings covering more than 700 pages. As soon as this report was handed over, the Minister of Justice told reporters that he has "no confidence" in its findings.

While the High Commissioner and the Members states continue to call on Sri Lanka to establish a hybrid court with international judges, defence lawyers, prosecutors and investigators, there are no positive signs from the Sri Lankan government that this will happen.

As soon as the present government in Sri Lanka came into power in January 2015, it requested the High Commissioner to delay his report on Sri Lanka, which he did in good faith.

However, due to lack of positive outcomes, a resolution, (HRC/30/1), was put forward in the 30th session of HRC in September 2015. As usual, the deadline for the implementation of this resolution HRC/30/1 became overdue. Now members of council are giving another two years. We appeal to the UN member countries to see that this extension of two years will not meet the same fate as before.

Detainees

According to statistics collected there are more than 200 persons imprisoned for political reasons. Sri Lanka refuses to inform family members about the whereabouts of the hundreds of detainees who surrendered to military personnel at the end of the war.

We have established with a few released detainees that there are secret detention centres run by the Sri Lankan intelligence service.

Women & violence against women

An unknown number of rape and sexual torture incidents are still taking place in the North and East part of Sri Lanka. As part of ethnic cleansing, the soldiers carry on raping, committing sexual assaults and harassing Tamil women with impunity. In certain instances women were gang-raped and killed in North and East.

Still people remain displaced and there are 95,000 war widows reported in the North and East of Sri Lanka. More than 50,000 families are headed by single women.

Even though soldiers rape Tamil women because of their ethnic identity, the government of Sri Lanka always denies the accusations and remains reluctant to bring any soldier to justice.

State Minister Rosy Senanayake said that in Sri Lanka, "A woman is raped every 90 minutes and out of 300,000 cases, only 600 perpetrators are remanded"

Only 5% of the perpetrators in such cases were punished.

Enforced disappearances

Sri Lanka has the highest number of disappearances and is the world's worst perpetrator of enforced disappearances. This constitutes a crime against humanity.

Out of the total number of enforced disappearances; approximately *15% to 20% of victims were children* below the age of 18.

Freedom of opinion and expression & Impunity

We have grave concerns about the prevailing climate of impunity in Sri Lanka.

The Sri Lankan government has systematically failed to investigate security personnel and the paramilitary groups, even though there is strong supporting evidence of torture and other violations.

Over 30,000 cases of disappearances have been reported to state-appointed commissions of inquiry, yet only about 500 cases have been prosecuted and even these, have in most cases been conducted negligently.

Sri Lanka is one of the countries where impunity is entrenched and endemic. This is now widely known. The security forces are never punished if they committed violations against the people in the North and East.

The Judiciary in Sri Lanka promotes impunity. It is the saviour of those who violate human rights in Sri Lanka.

This is exemplified by the case of the five students in Trincomalee. On January 2nd 2006, five students were shot dead at the Trincomalee Beach. STF – Special Task Forces security personnel carried out this killing. The culprits continue to enjoy impunity. The five student victims were:

**(1) Manoharan Ragayar (2) Shanmugarajah Sajendran (3) Thangathorai Sivanandan
(4) Lohithadasan Rohan (5) Yogarajah Hemachandran**

Impunity reigns also regarding the killing of 17 aid workers of Action Contre de Faim –ACF (a French International NGO) in Muttur in August 2006, by Sri Lanka Army soldiers.

Many Massacres and killing of Human Rights Defenders are completely set aside by every government in Sri Lanka.

Only in the North and Eastern part of Sri Lanka 41 journalists had been killed or disappeared. Until today nobody has been indicted for those killings/disappearances.

Indian fishermen killed by the Sri Lankan Navy

For many years, hundreds of Indian fishermen from Tamil Nadu have been killed by the Sri Lankan Navy in the Palk Straits in a brutal manner, whenever they fish near the International Maritime Boundary Line (IMBL). Fishermen and their boats have been taken into custody in a threatening and violent manner by Sri Lankan Navy.

Civil Society sources in India claim that over 700 fishermen were killed in the last 30 years.

Brief summary of fishermen and boats apprehended by the Sri Lanka Navy.

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| 2009 | 127 fishermen with 32 boats were apprehended; |
| 2010 | 34 fishermen with 4 boats were apprehended |
| 2011 | 164 Indian fishermen with 31 boats were apprehended. |
| 2012 | 150 fishermen with 20 boats were apprehended. |
| 2013 | 120 fishermen with 42 boats were apprehended; |
| 2014 | 130 fishermen with 28 boats were apprehended; |
| 2015 | 164 fishermen with 41 boats were apprehended; |
| 2016 | 110 fishermen with 32 boats were apprehended; |

Independent and credible investigation

Allegations of war crimes in Sri Lanka are well known to everyone.

There have been many calls for investigations by many VVIPS and international institutions.

Remarkably, there were three consecutive resolutions on Sri Lanka. The last one, in September 2015, called for international judges, prosecutors and lawyers to be involved in investigations to be conducted by Sri Lankans themselves.

Mass graves

Within the last few years several mass-graves have been discovered by the public, mainly in the North and East, but also in the South. However, no proper investigations have taken place.

Many Tamil civilians murdered in the Jaffna peninsula in 1996 and 1997 were buried in a place known as Chemmani . No government in power seriously investigated mass graves in Chemmani or the other places.

Mass graves have also been found in: Sathurukkondan, Kokuvil, Panichchyadi and Pillaiyarady - three miles north of Batticaloa town in the Eastern province of Sri Lanka. So far there have been no moves to locate and exhume the mass burial place in the Sathurukkondan Kokkuvil area.

Ex-combatants and political prisoners

More than 12,000 former members of the Liberation Tigers of Tamil Eelam – LTTE. Hundreds of them missing/disappeared after they surrender to the Security forces. Others were detained in various detention centres and they were rehabilitated and released.

Even seven years later they still undergo many hardships: disabilities due to battle field injuries, high unemployment, social stigma, poor mental stability and they struggle to earn a living. They are under surveillance of the security personnel. Many of them are obliged to report to the local police at least once week.

Today, there are believed to be more 200 Tamil political prisoners, some of whom have been detained for over a decade. Tamil political prisoners are being held under the draconian Prevention of Terrorism Act – PTA, which operates against all international norms and standards. It condones the use of torture to extract forced confessions, which are admissible in court. The government is unwilling to release the detainees/ political prisoners, whereas they should be charged and put on trial – or released immediately.

Most of these Tamil detainees have spent years in remand prison, but have not been convicted nor brought to trial.

Furthermore, Colombo has not released a full list of political prisoners / detainees.

Corruption

The Presidential Commission on Fraud and Corruption investigated nearly a thousand cases of corruption. It includes many members of the former President's family. Inquiries and investigations on irregularities continue but except for one or two politicians, the former President's family enjoys impunity.

On November 4, 2015 the Minister for Justice told parliament he intervened to prevent the arrest of the former defence secretary who is the main culprit of an investigation known as 'Avan Garde' which involves millions of state funds.

Recommendations

All political detainees to be released or brought to justice without any further delay. Also the list of names of those who surrendered to the military at various check points at the end of the conflict should be released to the public.

Sri Lanka should implement all UN Stake-holders' recommendations on Sri Lanka without any further delay. Also the resolutions passed by the Human Rights Council

Sri Lanka has not delivered on the commitments it made during the 1st and 2nd cycles. For instance, the commitment to take all necessary measures to prosecute and punish perpetrators of human rights violations and violations of international humanitarian law. The government must be held accountable for its failure to deliver on this and other commitments pledged.

The South Indian fishermen, fishing in the International Maritime Boundary Line (IMBL), should not be harassed, arrested or killed by the Sri Lanka Navy.

Sri Lanka should be encouraged to ratify the Rome Statute of the International Criminal Court.

Tamil Centre for Human Rights - TCHR

The Tamil Centre for Human Rights has representatives in all parts of Sri Lanka, including in the North and East.

TCHR has been closely following the human rights situation in Sri Lanka for twenty seven years and has produced numerous situation and fact finding mission reports for the information of the participants, mandate holders and various sections in the OHCHR. TCHR representatives have been participating in all UN Human Rights Forums since 1990.

The Tamil Centre for Human Rights (TCHR) officially participated in the United Nations : (1) In 1993, held an information stall and a photo exhibition in the UN 2nd World Conference on Human Rights held in Vienna, Austria, from 14-25 June. (2) In 2001, officially participated in the NGO forum of the UN World Conference Against Racism - WCAR in Durban, South Africa (3) TCHR representatives also attended the main WCAR conference (4) In 2005, officially accredited by the UN to participate in the World Summit on the Information Society in Tunisia (5) In 2006, officially accredited to participate in the UN Conference on Anti-corruption Measures, Good Governance and Human Rights, in Warsaw, Poland (6) In 2007, officially participated in the UN 7th Global Forum, Re-instating good governance, in Vienna, Austria. TCHR also participates in meetings of Treaty bodies and submits reports to the same.

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