
Situation Report:

North and East Sri Lanka

21 October 2011

1. INTRODUCTION

On 7th July 2011 I tabled a report in Parliament detailing the situation in the North and East, highlighting a series of urgent concerns. The following is an update to the previous report and discusses some of the most serious issues that have arisen since or continue to take place in these areas.

2. MILITARIZATION

2.1 Statistics and impact of military presence - Out of a total land mass of 65,619 sq km, Tamil people inhabited 18,880 sq km of land in the North and East, but after May 2009, the defence forces have occupied more than 7,000 sq km of land owned by Tamil people. There is one member of the armed forces for approximately every ten civilians in the Jaffna Peninsula. The heavy presence of the military continues to be the most serious concern in the North and East. More than two years since the conclusion of the war, the government has still failed to facilitate the proper transition of these areas from a situation of conflict to a 'normal' environment. As evident in the following sections of the report, the high level of militarization in the North is directly linked to most of the other problems prevalent in the area such as the breakdown in the social fabric, state brutality including sexual assault, land grabs and occupation, problems relating to livelihoods of the people in the area and illegal intrusion into the role of government including administration and dispute settlement.

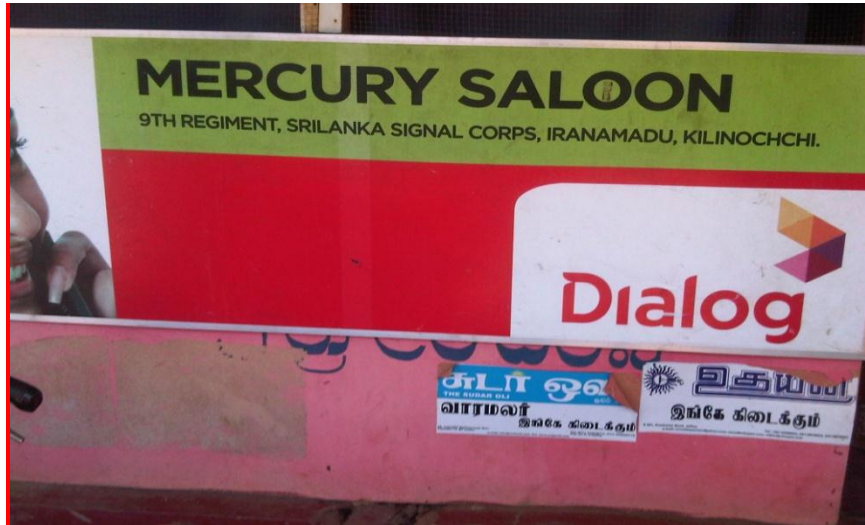
2.2 Impunity – The prevailing culture of impunity has been a long-standing concern. This is even more so in relation to the issue of state brutality including sexual assault as described later in this report. When an incident is reported and allegations are made against the armed forces, state officials or private persons who are clearly acting under the direct or indirect acquiescence of state officials, it is usually the case that no investigations are carried out. For example, there has been

no progress on investigations pertaining to the attack in Alavetti previously tabled. Similarly no progress has been made in investigations over the attack on the editor of the Uthayan newspaper, or the many attacks by 'grease yakas' in the North and East. No progress has also been made regarding the assault on residents whose houses were burnt by an armed group almost a year ago.

2.3 Dispute settlement – The military is involved in the settlement of disputes with respect to land in the Northern and Eastern provinces. The Land Circular No. 2011/04 issued on 22nd July 2011 establishes certain Committees of Inquiry responsible for resolving disputes regarding state land in the North and East. The committees include in their membership the Area Civil Coordinating Officer and a representative of the relevant Security Commander. Military personnel are also members of an Observation Committee, which is established to assist the Committees of Inquiry.

2.4 Encroachment into economic activity – The military is increasingly involved in economic activity in the North and East. Through its system of checkpoints, the military ensures that its proxies control the transportation of fish from the Northern coastal areas. Large sections of beach front land in the Eastern province have been parceled out to companies which are headed by military officers. The military has established a string of restaurants along the main Jaffna highway. An entire military tourism industry catering to Southern visitors is run by the military establishment. The Navy uses state resources to run ferry services for the Southern tourist industry. Military personnel also run various quasi-commercial enterprises such as shops and salons that are highly irregular and impact negatively on the local economies. By appropriating the limited economic opportunities that might otherwise be used by local residents to bring income and revenue to the fragile local communities, the military is sustaining and reinforcing the cycle of poverty. With the access and advertising support of corporate entities in the South and the unfair benefits of highly subsidized cost structure through the use of state infrastructure the military is distorting and suppressing any attempt at economic recovery in the

North. In addition the military has taken several thousands of acres in Killinochchi, Mullativu and Vavuniya for cultivation without due process.



Name board of a Salon managed by 9th Regiment, Sri Lanka Signal Corps, Iranamadu, Killinochchi

This has caused a significant negative impact on the already impoverished civilian population by depriving them of jobs. Army Commander Lieutenant General Jagath Jayasuriya is reported to have said that steps are being taken to establish permanent Army formations in the North and East with troops on duty even being given permanent houses in those areas. He is reported to have said “Army personnel arriving in those areas for duty are to be provided permanent houses and allowed to engage in cultivation work if they so desire.”

2.5 Intrusion into private lives – Most disturbing is the level of control the military wields over the private lives of the communities in the North and East. Families must inform the army of the guests they receive, their relationship, and the reason and duration of their visit. Any family gathering to celebrate the birth or naming of a child, attainment of puberty of a girl, a wedding or even a death, requires prior permission from the nearest police post. Every village has a “Civilian Affairs

Counter” managed by the armed forces where anyone entering a village is required to register themselves. The army must be informed even of community activities such as sports meets. In a recent incident in Chavakachcheri youth participating in a football match were brutally assaulted by the army as they had played on a field without the permission of the army. Moreover the military is now involved in aspects of primary education in Jaffna. The security forces in Jaffna even organized an award ceremony for students obtaining high marks for the Grade 5 scholarship examination. The Civilian Military Co-ordination in Jaffna in its website discusses the very active role it has in civilian life in the North.

- 2.6 Intrusion into social life** – It is common to see the presence of soldiers in all civilian activities including village, temple or church meetings. Churches are required to inform the army of all meetings conducted for its members and a military representative is generally present at meetings as an observer. The military is also involved in deciding on beneficiary lists and taking part in all activities at the community level including meetings to discuss local issues.

3. STATE BRUTALITY

- 3.1 The ‘Grease Yaka’ phenomenon** – There have been several incidents recently in the North, East and other areas of Sri Lanka where ordinary citizens have faced threats to their safety by unidentified individuals who have injured and murdered civilians, and who have commonly come to be known as ‘Grease Yakas’ (Grease Devils). These attacks resulted in mass paranoia, fear and outrage in the North and East including in Jaffna, Puttalam, Mannar, Trincomalee, Batticaloa and Ampara. Public protests erupted in response to the widely believed involvement of the police and the armed forces in the ‘grease devils’ phenomenon. In Muttur, on 13th August 2011, a woman was attacked in her own kitchen. The attacker escaped but villagers followed him until he disappeared into a Navy camp. In Batticaloa on 17th August 2011, a girl was attacked and her finger was cut by an unknown man. In Pottuvil, in

August 2011 there were similar attacks on several women. There were complaints of similar attacks in Muttur and Kinniya. Protests erupted over the refusal of the police and other authorities to apprehend the suspects. The protests were met with violent retaliation from the authorities, with the military and police arresting and detaining scores of these individuals. In addition to this, the police and military also carried out brutal, humiliating and degrading attacks against these people. The severe brutality with which these assaults were carried out have resulted in serious injuries and even in death. Often, individuals who were not even involved in the protests were arrested and assaulted. The incident in Navaanthurai is the most blatant example of such attacks. Over one hundred and fifty young Tamil men were brutally assaulted, arrested and detained in a night time operation by the army. Twenty of them were very seriously injured as a result of these attacks. Over fifty cases have been filed in the Supreme Court with regard to the attacks carried out in Navanthurai.

- 3.2 Assault in court premises** – The shocking impunity with which members of the police force act is reflected in the brutal assault of an individual that took place recently just outside a court room in the precincts of the court premises in Jaffna, sparking protest by members of the Jaffna Bar. This individual was stripped half naked, dragged out and mercilessly assaulted in the presence of lawyers and members of the public, while judges presided over proceedings nearby.
- 3.3 Violent suppression of dissent** – Other attacks carried out with impunity in the North by several ‘unidentified’ groups is also a cause of serious concern. The most recent attacks include those against Thavapalan, the leader of the students union of the Jaffna University, and Kuganathan, editor of the Uthayan newspaper. Thavapalan was recently involved in the mobilization of students in democratic protests against the grease-devil threat. The Uthayan newspaper is widely perceived to be critical of the State. Previously a similar attack was carried out against the secretary of TNA

MP, Suresh Premachandran. Thus, these attacks are widely seen as attempts to stifle dissent and freedom of expression in the North and East.

- 3.4 Sexual violence** – Most disturbing are the increasing number of sexual assaults carried out against women and girls in the Jaffna, Mullaitivu and Kilinochchi districts, often by government officials and the military. The brutality with which these assaults are carried out is especially disturbing.

Women and girls also face a serious threat due to the labour force from the South being brought in for work on projects taking place in the North. Incidents are reported of women being raped by soldiers, and the victims and their families being too ashamed and afraid to make complaints or file charges. Doctors are being forced by the army to record that perpetrators are ‘unknown’ or ‘unidentified’ persons even though complainants have identified perpetrators, often where the involvement of army personnel is alleged.

- 3.5 Harassment of communities** – Former LTTE cadres are threatened by the army to reveal the identity of those who supported the LTTE. In fear or panic, these former cadres identify individuals with no links to the LTTE, merely to stop being questioned by the army. The newly identified family is then subjected to harassment by the Army. Thus, people in these communities have lost trust in one another as they do not know which of their neighbours is an informer of the police or army. This has led to deep suspicion, destroying close-knit relationships within the community.

- 3.6 Election related violence and intimidation** – Election crimes that took place in Jaffna in the lead up to the recently concluded local authority elections created fear among voters there. Both the TNA and the JVP complained that they were being prevented from carrying out election related activities. Allegations relating to these election crimes were leveled against the government and civil armed forces. Some of

the most blatant displays of intimidation were carried out against the TNA. The report tabled by me in July this year documented in detail the attack carried out by a group of military personnel during a meeting in Alavetti, at which 5 TNA MPs were in attendance. Despite the MPs who were present having repeatedly declared both publicly and to the relevant authorities to whom they complained of the incident, that they are able to identify the perpetrators, no progress has been made regarding investigation into this matter. Another disturbing incident was that of the head of a dead dog being fixed onto the gate of one TNA election candidate, and the dog's body laid out at his doorstep. In addition to this incident, a TNA organizer's front yard was flooded with sewage water.

4. LOSS OF LIVELIHOOD

Communities of Tamil people returning to their homes and attempting to rebuild their lives after the war now find themselves being prevented from pursuing their traditional means of livelihood. In the report tabled by me in July this year, the TNA highlighted several matters of concern relating to livelihood issues.

- 4.1 Unemployment and resource allocation** – Job creation and income generation has received minimal attention from the State despite its central importance to the restoration and sustainability of family and community life. According to the Sri Lanka Central Bank Chairman, a minuscule US\$2 million was allocated by the government for livelihood development, much of it in the form of cash for work programmes. Much of the government and donor focus on infrastructure projects do nothing to assist local communities. The limited opportunities available are consistently given to individuals of the labour workforce from the South. Estimates suggest that unemployment in the Northern Province is between 20% to 30% in the Northern Province, compared to a National average of 4.3%.

4.2 Restrictions on Tamil fishing communities in Mullaitivu – Severe restrictions are placed on members of Tamil fishing communities, resulting in a drastic impact on their means of livelihood. The report tabled by me in July of this year detailed the restrictions placed on members of the fishing community in Mullaitivu, especially in the areas of Kokkilaai to Chundikkulam in Kilaakaththai, Maathirikkiraama, Uppumaaveli, Thoondai, Alambil, Semmalai, Naayaaru, Kokkuththoduvaai, and Karunaattukkernee. These restrictions are still in place and of serious concern is the fact that several Sinhala fishermen in the area have received direct permission to fish in this area from the Ministry of Defence. Sinhala fishermen are also permitted to fish for prawns in Nanthikkadal. In addition to such restrictions faced by Tamil individuals in fishing communities in the North and East, these individuals have received no reciprocal permission to engage in fishing in the South. Resentment over such incidents are now becoming apparent, with recent objections from fishing unions in Vadamaarachchi over fishermen from the South occupying their property and also over their fishing practices which adversely impacted fishing in the area. People returned by the government to Uduththurai in Maruthenkerny (Vadamarachchi East), were soon after evicted from their houses along the coast and placed in transit camps on the other side of the coastal road. These houses are now being occupied by people brought from the South who are permitted by the Ministry of Defence to engage in diving for coral and star fish. Therefore, in addition to the forced eviction from their homes, local members of the fishing community are also unable pursue their traditional livelihood of fishing as the sea bed is being disturbed as a result of diving activities. At a meeting in the Maruthenkerny District Office on the 15th of June 2011 at which Minister Douglas Devananda, and four TNA Members of Parliament were present, members of fishing unions complained that they had been threatened and their consent forcibly obtained for the evictions. They also complained that they had no access to the buildings that had been built for their use.



Diving equipment belonging to people brought from the South in Maruthenkerny

4.3 Raigam saltern – Vehement protests were made by the TNA against the implementation of the Raigam saltern project as far back as 2009. This project was started in September this year in Kuchchaveli, Trincomalee covering 1805 acres of land, despite Hon. Sampanthan raising the issue as far back as December 2009 with the President in the presence of the Hon. Basil Rajapaksa, and being assured then that no such proposal was entertained and no such proposal would be implemented. Hon. Sampanthan raised concerns that the proposal was being entertained without any consultation with him – the MP of the area. In 2010 Hon. Sampanthan again wrote to the President raising concerns that the project would adversely affect livelihoods of over 2500 families, lead to changes in the demographic composition of the area, create resentment among the people in the area and thus detract from reconciliation amongst different peoples. This is especially so as the Kuchchavelli DS division is now the only predominantly Tamil speaking division of the four DS divisions from the predominantly Tamil Kaddukulampattu DRO (Vanniyar) Division that existed when the country gained independence. The other three are Sinhala speaking divisions, two of them becoming such by reason of demographic changes through land settlement.

5. RESETTLEMENT

5.1 Progress on resettlement – Progress in the resettlement of Tamil communities displaced due to the war has been extremely slow. According to the government's own figures as at 1st July 2011, 258,446 had been 'returned' or 'resettled' from welfare camps, leaving 12,661 in the Kadirgamar, Anandakumarasawmi (Zone 1), Arunachalam (Zone III) IDP camps. The most current figures suggest that only 7,440 persons remain in these camps, insinuating that all others have been returned or resettled. What the statistics do not reveal is that over 200,000 persons in the North and East have not been returned to their places of origin. These persons either continue to be confined in transit camps or have been compelled to take shelter with

host families. Such persons include those displaced from Valikamam North in the Jaffna Peninsula, Sampur in the Trincomalee District, and several other areas in the Vanni. It was indicated in the previous report tabled by me in July that several families are unable to return to their homes as large areas of land have been taken by the military for camps and ad hoc 'High Security Zones' in Thirumurigandi, Shanthapuram and Indupuram, covering the districts of Mullativu and Killinochchi. These families have not yet been able to return to their homes and continue to live in camps, without the most basic facilities.



Houses in which people have been resettled in the Vanni



Conditions of houses in which people have been resettled in the Vanni

5.2 Move to Kombavil – Even the 7,440 persons who remain in the Menik Farm camps are scheduled to be moved to Kombavil, in the Puthukudiyiruppu Divisional Secretariat, instead of their places of origin. Kombavil is a remote area which lacks adequate infrastructure. The fact that it is located far from the sea affects the livelihoods of the relocated families as the majority of these families are engaged in fishing. The government has suggested that the reasons for this is that those places of origin are either being utilized for business and military purposes or that de-mining activities are still taking place in some areas, such as Puthumaththalan and Mullivaikkal.

5.3 No basic facilities – Communities that have been returned or resettled now find themselves without basic facilities such as housing, sanitation, healthcare and education. Examples include Kokkilai in the Mullaitivu District, and Krishnapuram and Vinayakapuram in the Killinochchi District. In the latter two villages, as many as 170 out of 658 families still live in temporary shelters. The government has also failed to provide food rations to a significant portion of families in need of

assistance. Conservative estimates reveal that at least 242 families are in need of assistance, as only 416 persons are currently employed amongst 658 families. However, shockingly, only 128 families receive food rations. Hence at least 114 families who are in dire need of assistance do not receive any assistance. This is only a snapshot of the ground situation in the North and East with respect to newly returned or resettled communities.

5.4 No access to proper health and education – The situation with regard to health and education in these areas is just as appalling. For example, medical officers are known to visit the two villages in Krishnapuram and Vinayakapuram merely once every two weeks. This inadequacy has in fact resulted in avoidable patient deaths, such as the death of a girl on 7th October 2011 as a result of untreated rabies. Another matter of serious concern is the fact that the children of these villages are deprived of secondary education. Such deprivation is completely inconsistent with national standards and is a reflection of the socioeconomic discrimination faced by the people of the North and East.

5.5 Uninhabitable housing in Vadamarachchi East – In Vadamarachchi East, the Government commenced a ‘resettlement’ just before the elections. Previous housing in the area was demolished and the stones obtained from the demolished houses were used in the reconstruction of the new houses. The new constructions were mere shells of houses, where walls were erected and painted, but there were no floors or any facilities within the constructions.

6. SYSTEMATIC EVICTIONS, LAND GRABS AND OCCUPATION

6.1 Land grabs and forced evictions – Members of armed forces are forcibly, and often without any explanation, taking over public or private property and land, in areas to which Tamil people are returning after being displaced due to the war. E.g. the Army has closed off the post office, a school and the medical dispensary in the town of Kokkilai in the Mullativu district; the Navy is in occupation of land in the village of Mullilukulam in the Mannar district.

Earlier this month, former residents of Sampur received a letter from the District Secretary's office stating that under Extraordinary Gazette No. 1538/08 dated 29.01.2008 Sampur East, Sampur West, Soodaikkuda, Sampukkali Kadatkaraichchenai, Kooniththivukkaadu, and Navaraththinapuram, were declared to be 'Special economic zones'. Accordingly, the people who lived there would have to be relocated in the areas of Seethanavedi, Vembadiththottam, Ilankkanthai, Veeramaanahar (North), Thangapuram and Kuravan Vettuvaan. These residents were asked also to fill out a form sent to them with this letter. The form required the residents to furnish personal information about themselves, supposedly for the purposes of relocation and awarding of compensation.

The Air Force without any authority whatsoever is taking steps to extend the Outer Circular Road, via Thampalakamam, destroying private paddy land belonging to residents of the Grama Niladhari Division of Koyilady in the Thambalagama Divisional Secretariat in the Trincomalee District.

Moreover, no one has been allowed to resettle or cultivate land in Ragamwela, and the only presence in the village is a police checkpoint. People in Panama allege that officials from the Amparai Divisional Secretariat have forcibly taken over 850 acres of land belonging to the Panama villagers. The inhabitants of this village comprise

both Sinhala and Tamil communities and their main source of income is derived through farming and fishing.

The issue of Tamil farmers in Muttur, having lands in Paddukadu, Ottu and Muthalaimadu has been previously raised by Hon Sampanthan and also included in the report tabled by myself in July this year. These farmers have lost approximately 1,630 acres of paddy land. Sinhalese farmers with the assistance of home guards have claimed these lands and further claimed that these lands were identified for their use by the Ministry of Defence. There are allegations that certain members of the Buddhist clergy in the area are involved in these incidents. The Tamil farmers have lost yet another season severely impact their livelihoods and has increased levels of poverty. Some farmers have attempted to make police complaints but the police stations in Kanguveli and Muttur are refusing to take their complaints.

6.2 Occupation of schools by army – Several schools are currently under army occupation, including the Keppapilavu GTM school in Keppapilavu, Mulliyawalai, Mullaitivu, the Maththalan R.C.G.T.M. School in Mulliwaikkal, Mullaitivu, Mullivaikkal West K.S.V Mullivaikkal, Mullaitivu Mulliwaikkal East GTM School, Mulliwaikkal Mullaitivu, Vikneshwara Vidiyalayam Pooneryn, Arasaratnam Vidyayalam Manthuvil Puthukkudiyiruppu, Sivanagar Tamil Vidyayalam Puthukkudiyiruppu Mullaitivu, Myliddy, R.C.T.M.S Mylidy, Kankesenthurai.

6.3 Access to irrigation stopped – An irrigation facility from Inginiyagala tank has been denied to more than 2000 acres of paddy cultivated in the Yala season in Tamil areas in the 13th and 14th colony located on the border of the Batticaloa district for the last one month. According to complaints made by farmers at the coordinating meeting of the Vellaave'li Divisional Secretariat, one-month-old crops are facing destruction due to lack of water.

6.4 Tourism Development in Kuchchavelli – There was a proposal to allocate fifty-one blocks of state land for Tourist Development in Kuchchavelli, Trincomalee. By letter dated 16th May 2010 to the President, Hon. Sampanthan stated that he was informed that steps were being taken by the Central government officials to allocate land as per the above proposal. He expressed concerns that no public notification was made of this and the process adopted deliberately attempts to circumvent constitutional provisions pertaining to state land. All persons chosen to receive such valuable state land are from the majority community, while over 95% of the population in the Kuchchavelli DS division, who are Tamil speaking, have long been requesting that these lands be made available to them to facilitate their own residence and occupation. Many of these people are landless. Despite Hon. Sampanthan having expressed such concerns, and despite the issue being raised in the previous report tabled by me, twenty-five blocks of this land has already been allocated to companies all being run by Sinhalese individuals from the South. Two blocks of this land have already been handed over to these individuals.

6.5 Jaffna lagoon and impact on ground water table – The government has taken over three hundred and fifty acres of coastal marsh land along the Jaffna Lagoon in Kaarainakar, Mandaitheevu and Araali for prawn culture with a Sinhalese workforce brought from the South. Even though this land is claimed to be developed for freshwater prawn culture, the project will ruin the groundwater table in the above places.

7. CREATION OF SINHALA SETTLEMENTS

- 7.1 Creation of Weli Oya DS Division** – Tamil communities in the town of Kokkilai in the Mullaitivu District continue to lose their land to groups of Sinhala people being settled there. Steps are being taken to divide the District of Mullaitivu and create within it the new District Secretariat division of ‘Weli Oya’. Seventy-five houses have reportedly been built exclusively for Sinhalese families who have been settled in the village of Chettikkulam.
- 7.2 Systematic removal of Tamils from the civil service** – Orders have been issued by authorities to have Tamil civil servants removed or transferred from the North and to fill the vacant posts with Sinhala trainee civil servants. One hundred and forty Sinhala civil servants have been relocated to the North as part of this initiative and Tamil civil servants have been ordered to go on compulsory leave. These drastic measures must be viewed in the backdrop of systematic deliberate exclusion of Tamils in the civil service in selection processes, promotions, trainings and development opportunities.
- 7.3 Places of worship** – The rapidly changing demography of the North of Sri Lanka is escalating. The number of Buddhist statues, viharas and stupas on the A9 highway have increased rapidly. A Buddhist Vihara named Mahatota Raja Maha Vihara has come up within 50 meters of the famous Thirukethiswaram temple in Mannar district. Also the armed forces are preventing people from rebuilding original Christian and Hindu places of worship that have been damaged or destroyed. A Buddhist temple is being erected on the site of the Arasadi Pillayar Hindu Kovil. In Kokilai district, Mullaitivu a Hindu Kovil (temple) which was damaged during the war is being demolished and a Buddhist Temple is being erected in that place. Part of the land of the Hospital in Kokilai and part of the land of a post office are being used to construct this Buddhist Temple. Earlier, it was the Pillayar Kovil that was

there in that place. The previous report tabled by me in July also highlighted plans to install a statue of the Lord Buddha in Kinniya at a place where seven hot wells and a Pilliyar temple is situated where, for centuries, Hindus have performed certain religious ceremonies. The report also highlighted that Hon. Sampanthan had made a complaint regarding this this issue. The Hindu temple is now destroyed, and a Buddhist statute has been erected in the vicinity on the other side of the hot wells.



A Buddhist flag on the foundation of the Hindu Temple that has now been destroyed



The Buddha statue erected close to where the Hindu temple once stood

7.4 Bringing in a Southern labour force – The government claims that the programme being implemented in the North titled Vadakkin Vasantham (Northern Springs) will result in exceptional progress in the North in the areas of infrastructure development, electricity, water supply and sanitation, agriculture, irrigation, livestock development, inland fisheries, health, solid waste disposal, education, sports, cultural affairs and transportation. However, it is widely believed that the real beneficiaries of this programme will not be the Tamil community living in the North but unemployed Sinhalese youth who will be employed in the projects under this programme that have been handed over to Sinhalese contractors. For example, the reservoir bunds repair and road construction of the A9 road and the secondary road have been handed over to Sinhalese contractors from the South who bring in their own labour force. Only an insignificant number of Tamil labourers are employed by them despite the fact that there are numerous Tamil youth and men who are unemployed in the Vanni.

7.4 Houses and school given to Sinhala communities – The section discussing land grabs and forced evictions undeniably reflects a clear trend of land in Tamil areas being handed over to members of the majority community. The allocations of state land in Kuchchavelli, and land grabs from Tamil farmers in Muttur are stark examples of this. Additionally, houses and other buildings in Tamil areas are also being given to members of the Sinhala community. For example, thirty Sinhalese families have been allocated lands under the Mahaweli Development Land Distribution Scheme in a traditional Tamil village Oamadiyaamadu located in Koa'ralaippattu North DS division in Batticaloa District. A Sinhala medium school was built along the Madhu road, while hundreds of schools for Tamil children in the vicinity are in a state of disarray. Also project to build new houses along a section of the Madhu road was launched with the assistance of state commercial banks. The beneficiaries of these houses are predominantly Sinhalese settlers, as only two houses out of approximately 80 houses proposed under the project are to be given to Tamil families.



Houses built along the Madhu Road by Bank of Ceylon, 50 houses of which 45 are allocated to Sinhala families and 5 to Tamil families



Houses along the Madhu road

7.6 Name boards – The trend of changing Tamil names of roads and towns to Sinhala names continues to be observed. There were several instances of complete removal of Tamil name boards and replacement with name boards only in Sinhala. This practice continues to concern local Tamil communities who view such acts as deliberate attempts to erase their identity. For example, three roads close to the A9 highway in Kanakarayankulam have been given Sinhala names - Kosala Perera road, Anura Perera road, and Rev Yatiravana Vimala Thero Street. The first two names are those of soldiers who took part in the war and the last one is the name of a Buddhist priest. Another example is the renaming of the Omanthai checkpoint as ‘Omantha’. The checkpoint is manned by Sinhala speaking soldiers. The Tamil name boards put up by the Municipal Council of Batticaloa along the border of Kattankudy have been

allegedly removed by the police. This has resulted in tension between the Tamil and Muslim communities in the area. Several other examples of such incidents were previously highlighted in the report tabled by me in July this year.

8. SOCIAL ISSUES

- 8.1 Psychological trauma** – Reports indicate that the heavy military control and presence in the North has resulted in psychological stress on local communities. The mental trauma experienced during the war thus continues to impact on the community psyche. Reports from mental health workers indicate that not only is the treatment of post-traumatic stress is not a priority for the government. Distressingly, these reports cite some cases where the military has refused to allow counsellors in to reach affected people. Reports even indicate that clear instructions have been received from the government to churches and non-governmental organizations prohibiting the provision of any kind of counseling to those suffering psychologically and emotionally as a result of the war.
- 8.2 Harassment and molestation of women and girls** – There are complaints of harassment and molestation of local women and girls. Many projects employ Sinhalese contractors from the South, who bring in their own labour force. The labour force generally stays near the site next to the villages and has proven to be a threat of molestation and harassment to the local women and girls. Reports also indicate that when such complaints of harassment or molestation are made the complainants are often threatened and sometimes abused by the military personnel concerned. There are also reports of complaints to the police being generally met with inaction when the alleged perpetrators are either the security forces or labourers or workmen from the South.
- 8.3 Hunger and malnutrition** – With soaring levels of unemployment concerns of hunger and malnutrition has become a serious issue. The World Food Programme reflects national assessments of dangerously low levels of food security faced by the

population in the North. It is estimated that 60% of the households in the Northern Province are facing food insecurity. Half the households have income of less than USD 1 per day. This is in stark contrast to the Sri Lanka GDP per capita of USD 2399.

8.4 School drop outs – There is a high rate of school dropouts reported in the East, especially in the war affected Vakarai. There are several contributing factors including poverty most likely as a result of loss of livelihoods and also the increase in the number of underage marriages.

8.5 Breakdown of social fabric – There are reports of young Tamil girls becoming pregnant by Sinhalese soldiers. This serious issue is a direct consequence of the high level of militarization. It contributes to the breakdown of the social fabric, whereby young adults are forced to deal with consequent social and economic hardships. A general increase in extra marital affairs, teenage pregnancies, abandonment of children and even suicides are indicators of the social breakdown which will have a long terms impact on the development of communities in these affected areas. The military is also encouraging alcohol abuse and dependency in the community.

8.6 Institutionalization of children – Incidents of infanticide and child abandonment in the North and East were reported throughout 2011. In response to these reports, the government took steps to launch a new programme to ‘assist both mothers and children in the areas.’ However, there have been reports even in the Sinhala media that the new programme intends to remove children from the care of war widows and unwed women in the North and East and institutionalize them. The government is yet to reveal the precise nature and scope of the initiative. However, it is widely accepted that high levels of risk are attached to the institutionalization of children. If there is in fact a covert agenda to arbitrarily and indiscriminately remove children from the care of widows and unwed women in the North and East, the programme

would be unconscionable and would flagrantly violate the law applicable to child care and protection.

8.7 Fear psychosis – The various issues faced by communities described above is quickly creating not only resentment among members of the local Tamil community, but even more sinister fears. For example, it is even widely believed that food products sold at the army welfare stores are mixed with drugs that could cause sterility. Such fear is reminiscent of the widespread belief in the days immediately following the war, that female IDPs in Menik farm were being forcibly sterilized. The rampant spreading of such fear reflects the mindset of a society that has been systematically stifled of all forms of expression. Such fear and paranoia also displace the real concerns and problems faced by the community and may result in extremely volatile situation in the area.

9. LEGAL ISSUES

9.1 Registration of Persons – Five TNA Parliamentarians of the Jaffna district previously filed a fundamental rights application seeking to stop forcible registration of residents of the Jaffna and Kilinochchi districts. In this case, the Attorney General to the Supreme Court in February 2011 to suspend immediately the forcible registration of residents of the Jaffna and Kilinochchi districts by the security forces and Grama Niladharis. Despite this undertaking, registrations of residents are continuing in contempt of Court from as early as 14th March 2011. There are complaints that the Police in Jaffna are circulating forms which require householders to furnish details of persons within their homes. The procedure is now being justified under the Police Ordinance. Grama Niladaris have been instructed to distribute the forms to residents and collect it as soon as possible.

In addition to this, a new registration process is also under way to register and issue entry ID cards for fishermen fishing in the Jaffna Lagoon. All members of families of fishermen have been required to provide photos and personal details to the Navy and Army.

9.2 The land circular – The Land Commissioner General issued a new circular on 22nd July 2011, which exclusively deals with land in the Northern and Eastern provinces. The circular temporarily suspends all distribution of land in the North and East unless lands are distributed for national security and special development projects; provides for the settlement of disputes relating to state land; and most importantly, requires all persons in the North and East, including private land owners to submit ‘ownership application forms’ disclosing all details of their land.

Under the circular, all landowners of the North and East, including private land owners, who do not possess supporting documents, are required to furnish details to the relevant Divisional Secretary or Assistant Government Agent, through the

Grama Niladari, within two months. The consequences of not furnishing such details are unknown. Hence private landowners of the North and East stand to lose title to their lands if they fail to furnish details within two months. The Registration of Title Act No. 21 of 1998 already provides for a process of land registration, which in itself is deeply problematic. However, the circular is presently applied in a manner that circumvents the provisions of even this Act, as no cadastral surveys have been conducted in the Northern Province prior to calling for land claims.

Moreover, competing claims to state lands in the North and East would be decided by two Committees of Inquires and special mediation boards. As mentioned above, military personnel are made part of these Committees of Inquiry. This process for the settlement of disputes clearly violates the Constitution and alienates the judicial power of the people, which is vested exclusively in the judiciary.

The limited information provided to the people regarding the process is another serious concern. The closing date of November 2011 has resulted in confusion and created a sense of panic amongst people in the North and East.

9.3 Prevention of Terrorism Act – On 25th August 2011, H.E. the President declared in Parliament that the state of emergency would be lifted, as terrorism in the country had been eradicated. The President also acknowledged that the ordinary law of the land was sufficient to deal with those who take law into their own hands thereby disturbing peace and stability. These sentiments were repeated at the United Nations General Assembly on 23rd September 2011.

Yet the Minister of Defence issued five new regulations under the Prevention of Terrorism (Temporary Provisions) Act No. 48 of 1979 (PTA), which respectively deal with the proscription of the LTTE; the proscription of the Tamil Rehabilitation Organization (TRO); the extension of application of certain emergency regulations; detainees and remandees; and surrendees care and rehabilitation. These regulations

clearly violate the constitution by flagrantly infringing the fundamental rights of the people. The regulations also violate the provisions the PTA, as they fall outside the scope of the Act. Tamil persons from the North and East are the worst affected by the regulations. Hence Hon. Mavai Senathirajah, filed a fundamental rights application before the Supreme Court challenging the latter three regulations in particular. The application, however, was dismissed with no apparent reasons recorded. The Supreme Court had previously held that, unlike emergency regulations promulgated under the Public Security Ordinance No. 25 of 1947, PTA regulations cannot restrict any fundamental right in terms of Article 15(7) of the Constitution.

Regulations No. 1 and No. 2 of 2011, which deal with the Proscription of the LTTE and the TRO establish extremely overbroad offences. The regulations make transacting with any organization that is ‘reasonably suspected of being connected with or concerned in’ unlawful activities, an offence—which may even criminalize the provision of legal services. These regulations also permit the President to arbitrarily seize properties in the possession of persons. An inquiry may be held only if the President himself thinks it fit. Even the PTA does not provide for such powers, as section 4 specifies that properties become forfeit only upon a conviction by a court.

Regulations No. 3 of 2011, extended the application of three previous emergency regulations including two that deal with the appointment of persons to exercise, perform and discharge the functions of twenty two local authorities. Such subjects are clearly not within the ambit of the PTA and brazenly violate the franchise rights of the people.

Regulations No. 4 of 2011 deal with detainees and remandees, and strip Magistrates of all discretionary power to order the release of suspects on bail and converts of detentions under emergency regulations into detentions under the PTA. The

regulations clearly violate the constitution and facilitate the arbitrary arrest and detention of Tamil persons on 'preventive' grounds—which the PTA itself makes no provision for.

Regulations No. 5 of 2011 deals with surrendeeds care and rehabilitation, a subject falling completely outside the scope of the PTA. The regulations affect the rights of scores of Tamil persons from the North and East who sought to surrender to the armed forces for various reasons. Shockingly, even those who surrendered merely 'through fear of terrorist activities' may be detained for up to two years without inquiry. The regulations also compel Magistrates to commit child surrendeeds to a Child Rehabilitation Centre if 'there is evidence' that the child has engaged in armed conflict as a combatant. Such provisions violate the Constitution and Sri Lanka's international obligations.

9.4 Reduction of parliamentary seats – Concerns relating to the decision to reduce the number of parliamentary seats have already been raised by the TNA as a matter of urgent public importance. The total number of members of Parliament elected to the territory covered by the present Jaffna Electoral District in 1977 under the First Past the Post System was eleven. The total number of members of Parliament elected to the Jaffna Electoral District under the proportional representation system at the last General Election was nine. It now appears that this was to further decline to six. This reduction was attributed to the decline in the total number of voters currently registered within the Jaffna Electoral District. In a speech in Parliament Hon. Sampanthan pointed out that this decline was not caused voluntarily, and was in fact a result of the violent and abnormal situation that prevailed within the Jaffna Electoral District due to the war. The TNA also highlighted the fact that the vast majority of the voters within the Jaffna Electoral District are Tamils and that a substantial reduction of their representation in Parliament is not merely a denial of their franchise but also an erosion of their sovereignty.

9.5 NGO secretariat under Ministry of Defence – The NGO Secretariat which was previously operated under the Social Services Ministry and thereafter the Internal Affairs Ministry has been under the purview of the Defence Ministry since mid 2010. Non-governmental organizations are required to submit financial statements, audited reports and work plans on a regular basis the Secretariat. Oversight of a clearly civilian function by the Ministry of Defence is deeply repressive. This is apparent in the restrictions that have been placed on organizations limiting work to specific activities and subject areas. Moreover the monitoring of such organizations mainly working to address human rights and humanitarian concerns, especially in the North and East creates an environment of self censorship and curtails meaningful intervention.

9.6 Death Certificates – A matter of grave concern is the non-issuance of death certificates to many IDPs who have lost relatives and family members in the war. This results in difficulties in relation to title to land and property, and other administrative services. Thus, those who left lost family members and relatives during the war have to, in addition to facing the trauma of such loss, face the additional problems such as the inability to prove title to property. These victims of war, are also compelled to avail themselves of entitlements due to them as a result of having lost such family members or relatives. The Registration of Deaths (Temporary Provisions) Act of 2010 was passed with the intention of simplifying the procedure in relation to issuing death certificates. Its objectives included providing for the registration for the deaths of persons reported missing as a result of terrorist or subversive activity or civil commotion. The Act provides for the issuance of death certificates for those reported missing for at least a year, when the person's disappearance is attributable to such events. It is unclear, however, if the Act is being implemented, and if not, the reasons for such non implementation.