



# *Sri Lanka*

The Case for Suspension from the Commonwealth

## Contents

<b>Introduction</b> .....	<b>3</b>
<b>Human Rights</b> .....	<b>5</b>
Freedom of Movement.....	5
Food and Medicine .....	6
Security .....	7
Rape and Torture.....	9
<b>Democracy</b> .....	<b>10</b>
Media Suppression .....	10
Murder of Tamil Members of Parliament .....	12
Election Farce .....	13
<b>Rule of Law</b> .....	<b>14</b>
Well-cited failure of "internal investigations" .....	14
<b>Support for United Nations</b> .....	<b>15</b>
<b>Government Corruption</b> .....	<b>15</b>
Sri Lanka's Duplicity.....	15
<b>Conclusion</b> .....	<b>17</b>

## Introduction

For centuries, Sri Lanka was divided into two nations, which themselves were separated into three kingdoms. The two nations were differentiated by their ethnic majorities, culture, language and religion. It consisted of the Sinhalese, who lived in the central and south western parts of Sri Lanka and the Tamils, who lived in the north and east. In 1833 the British bought the two nations together, for civil administration purposes.

In 1948, the British granted independence to Sri Lanka and provided constitutional protection to the minorities, including the Tamils. However, this was disregarded by the majority Sinhalese government. A significant portion of the Tamil population lost their voting rights; Sinhala was made the official language; and 'Ethnic Standardization' was introduced, requiring Tamils to score higher marks to enter university.

For 30 years the Tamils struggled for equality through democratic and peaceful means which were continually met with violence at the hands of the Sri Lankan Government. Having witnessed the broken promises of successive Governments, some Tamils felt they were left with no choice, resorting to an armed struggle with the formation of the Liberation Tigers of Tamil Eelam (LTTE).

The armed conflict between the LTTE and the Government of Sri Lanka lasted nearly 30 years. The government's military were responsible for over 100,000 deaths, the destruction of hospitals, libraries, schools and thousands of properties through aerial bombardment and the disappearance of thousands of Tamil civilians. Although the conflict ended in early 2009, the humanitarian crisis continues.

Reports indicate that more than 20,000 Tamil civilians were killed during the final assault by the Sri Lankan forces.<sup>1</sup> However, UN sources have indicated to the UK Times Newspaper that the figures are much higher. According to human rights activists, these photos will constitute the strongest evidence of violations of international humanitarian law and war crimes.<sup>2</sup>

According to the New York-based Genocide Prevention Project, Sri Lanka is one of eight "Red Alert" countries in which genocide is underway or breaking out.<sup>3</sup> Sri Lanka has also been denied a seat at the UN Human Rights Council. Brad Adams, Asia Director for Human Rights Watch (HRW), explains that "We pushed very hard to have Sri Lanka defeated because their human rights record is bad and getting worse."<sup>4</sup> Archbishop Desmond Tutu echoed this condemnation: "With a terrible record of torture and disappearance, Sri Lanka doesn't deserve a seat on the UN human rights council."<sup>5</sup> Former U.S. President Jimmy Carter's concurred by citing Sri Lanka's "deteriorating human rights record" and highlighting that "Sri Lanka has one of the highest rates of enforced disappearances in the world, with little or no discernable commitment to accountability."<sup>6</sup> A third Nobel Peace laureate, Adolfo Pérez Esquivel, joined the chorus of condemnation and "compared the routine torture and the hundreds of 'disappearances' and extrajudicial killings committed by Sri Lankan government forces to the 'dirty wars' waged by various Latin American governments against their own citizens in the 1970s and 1980s."<sup>7</sup> Moreover, Sri Lanka is now ranked 162nd out of 175 countries with regards to media freedom, according to Reporters Without Borders.<sup>8</sup>

Clearly, Sri Lanka is a rogue nation. What is striking, however, is that these statements were made as early as 2008. Condemnations for killing thousands of Tamil civilians in the Vanni region, and for the continued interment of 300,000 in barbed-wire camps, were yet to come. Kate Allen, UK Director for Amnesty International, has now issued perhaps the most stinging rebuke: "The largest camp - Menik Farm - is horrendous. It holds about 160,000 people in an area smaller than one square kilometre."<sup>9</sup> Amnesty International is now urging the United Nations and Sri Lanka's donors to call for the "immediate release of 285,000 innocent Tamil civilians - including an estimated 50,000 children - being held in cramped and squalid camps." HRW has joined in urging Western governments "to send a clear message to the Government of Sri Lanka that continued detention of the displaced will have serious consequences for Sri Lanka's relationship with the international community."<sup>10</sup>

Suspicions of civilian massacres by the Sri Lankan military in early 2009 have even compelled the traditionally reticent United Nations to become vocal. The spokesperson for the U.N. High Commissioner of Human Rights, Rupert Colville, has stated that "something like the Gaza fact-finding mission is certainly warranted given the widespread concerns about the conduct of the war in Sri Lanka." <sup>11</sup> A coalition of human rights organizations, including the Carter Center, American Jewish Council, Physicians for Human Rights, International League for Human Rights, Freedom House, and Amnesty International, has affirmed this: "to address abuses associated with the recent fighting, there is an urgent need for an independent, international commission of inquiry into many credible allegations of laws of war violations, including possible war crimes..." <sup>12</sup>

In light of this extensive list of human rights violations, the true degree of which may only be known following international investigation, it is evident that Sri Lanka has broken numerous principles of the Commonwealth's Harare Declaration. Three principles of particular relevance are shown below:

"Fundamental human rights, including equal rights and opportunities for all citizens regardless of race, colour, creed or political belief"

"Democracy, democratic processes and institutions which reflect national circumstances, the rule of law and the independence of the judiciary, just and honest government"

"Support of the United Nations and other international institutions in the world's search for peace, disarmament and effective arms control; and in the promotion of international consensus on major global political, economic and social issues"

Therefore, we call for Sri Lanka's standing in the Commonwealth of Nations to be re-evaluated. In particular, the Commonwealth Ministerial Action Group, which acts as the guardian of the Commonwealth's basic values, should formally put the country under scrutiny. The Sri Lankan government should be suspended from the Commonwealth unless:

- 1) The nearly 300,000 Tamil civilians detained in barbed-wire camps are resettled in their original homes
- 2) Media freedom is reinstated
- 3) An independent, international investigation into 2009's war atrocities is permitted

To highlight in greater detail the degree to which Sri Lanka is violating the norms of the Commonwealth, we highlight below Sri Lanka's many abuses of the Harare Declaration<sup>13</sup>. Since this declaration embodies the basic pillars of human rights that all Commonwealth nations must uphold, such violations only reinforce the need to suspend Sri Lanka.

## Human Rights

Amnesty International, Human Rights Watch, the UN, EU, Reporters without Borders, and the International Committee of the Red Cross have all expressed deep concern over the culture of impunity and the lack of human rights in Sri Lanka. The legal system is such that influential members of Sri Lanka's society have long been flagrantly exploiting the flaws in the existing judicial system. Far from being a new phenomenon, these abuses have characterized Sri Lanka's government for nearly 60 years. The Asian Human Rights Commission<sup>14</sup> concluded that "Sri Lanka's members of parliament are no longer engaged in the issue of protection of their constituents."<sup>15</sup>

A report released by Human Rights Watch outlines a "shocking increase in violations by government forces. It continues to say that "Ethnic Tamils have borne the brunt of these violations"<sup>16</sup>

The decades of Sri Lanka's civil war has seen countless human rights and humanitarian abuses such as rape, torture, disappearances, unlawful detention, starvation, restricted access to water and medicines, and the obstruction of humanitarian assistance.

The Sri Lankan armed forces have been accused of serious human rights violations such as extra-judicial killings, with the blessing of their government. Brian Adams, Asia Director explains "The Sri Lankan government has apparently given its security forces a green light to use 'dirty war' tactics"<sup>17</sup>

Amnesty International's seminal report '20 Years of Make Believe' states that "Sri Lanka's human rights record remained among the worst in the world." It concludes that there are "serious human rights violations" which include rape, arbitrary arrests, torture and violations of the right to life, and that "perpetrators continue to be protected from prosecution by a government that is more concerned with pleasing its narrow political constituency than in protecting the citizens' human rights and ensuring equal access to justice."<sup>18</sup>

## Freedom of Movement

On the 18th of May Sri Lanka declared that its long-standing war had ended, but the suffering of Tamils continues in what are, essentially, internment camps. These military-run camps are over-crowded; there is inadequate food water, medical aid, sanitation. The Sri Lankan government has systematically and comprehensively restricted the access of independent media, NGOs, UN organizations, and other international aid agencies, into the camps.<sup>19</sup>

Reports of sexual harassment, including the rape of young Tamil women and girls, by military personnel, as well as torture and extrajudicial killings regularly emerge from the camps. There are also continual reports of forced "disappearances," and the fate of thousands of disappeared Tamils remains unknown. Human Rights Watch succinctly describes the genesis of these camps: "Civilians who escaped the combat zone were herded into squalid military-run internment camps and allowed no freedom of movement."<sup>20</sup>

An eye witness account reports that tents which should house around 10 people are holding 40 or more and in one camp at Vadyala, there are only 20 toilets for around 4000 IDPs, which estimates to one toilet per 190 IDPs.<sup>21</sup>

One may recall that in May, the government proposed detaining the displaced in camps for up to three years, however after unprecedented international pressure, it pledged to resettle 80 percent of the civilians by the end of 2009.<sup>22</sup>

It is no secret that the Sri Lankan government's imprisonment of Tamils has unlawfully deprived

*Vague promises about the future release of the people illegally locked up in detention camps are no justification for keeping them there. Every day in the camp is another day that the government is violating their rights."*<sup>22</sup>

Brad Adams, Asia Human Rights Watch Director

them of their fundamental liberty and freedom of movement. The Sri Lankan government has not only broken international law, but also its own constitution through this act. We know that according to the International Covenant on Civil and Political Rights, 'Freedom of Movement' provides Tamils the right of to leave the camps and choose where to live. Amnesty explains that in denying the civilians both this rights, the Sri Lankan government is in effect detaining them "without charge or trial"<sup>23</sup>

These Internationally Displaced People (IDPs) are subjected to the "most appalling conditions" as described by UN Secretary General Ban Ki Moon on his recent visit Sri Lanka to view the camp conditions first hand. He commented that he had never seen such awful conditions, despite having visiting many similar "hot zones" around the world.

Death befalls the most vulnerable - one month after the end of the war, there were 30 cases of elderly men and women passing away due to starvation and malnutrition without any care. This is in addition to the death toll of at least five Tamil civilians every day due to starvation and malnutrition.<sup>24</sup>

The prevalence of orphans and other civilians who are unaccounted for allowed the government to mislead the international community by stating that there were no more than 100,000 civilians at risk during the war; a stark contrast to UN's estimate of 250,000.<sup>25</sup>

Such attempts at deception, in the broader context of Sri Lanka's long history of human rights violations, have raised fears that the Tamil civilians could be in camps for years.<sup>26</sup>

## Food and Medicine

Denial of adequate food or medicine ranks among the most severe forms of human rights violations. The elderly, the unwell, the disabled, and children suffer the most from such policies, and they are consigned to slow, painful, and inhumane deaths. This is particularly true for civilians that have escaped from warzones.

Denial of food and medicine violates Article 3 of the 1949 Geneva Convention - "Conflicts not of an international character". Under Article 3 includes language stating that governments must "humanely" treat all those "taking no active part in the hostilities."

During armed conflict, Article 3 dictates the minimum standard required by a government.

The denial of freedom from arbitrary and inhumane detention and controls is also outlined in Article 3 and Articles 16, 23, and 24, as well as in various articles in Protocol II of the Geneva Convention.<sup>27</sup> These violations amount to the crime of genocide.

Food distribution centres in the government-assigned safety zone were also subjected to heavy shelling from the Sri Lankan Army. Text messages from the conflict zone indicated the dire situation "with civilians lacking water, food, medical supplies and other necessities."<sup>(29)</sup>

NGOs and the International Community of the Red Cross launched the 'Sphere Project' to improve the situation in disaster areas. The program outlines steps to ensure adequate food, aid, health, water and sanitation in disaster areas. Oxfam reports that the internment camps in Sri Lanka fall short of the "sphere standards by a long way, particularly in the WASH [water, sanitation and hygiene] cluster," and complains of situations where people lack water for multiple days.<sup>30</sup>

Even the United States has documented these types of abuses from years past. In the 1997 and 1998 US State Department Country Reports on Human Rights Practices in Sri Lanka, there are confirmations of war crimes. (32) Specifically, the State Department recognised that "the [Sri Lankan] government refused to permit relief organisations to provide medical attention to wounded LTTE fighters", which is a violation of

*"We don't have medicine; we don't have surgical items... Three of those wounded Wednesday needed abdominal surgery and a fourth needed a leg amputated, but without the needed supplies, there could be no operations, and they all died."*<sup>28</sup>

Dr. Thurairaja Varatharajah, senior Government Health Official

Article 3 of the 1949 Geneva convention which states that "the wounded and sick shall be collected and cared for."<sup>27</sup>

In an armed conflict, Article 38 of the Geneva Civilian Convention recognises the right to protected persons "if their state of health so requires, [to] receive medical attention and hospital treatment." Moreover, Article 23 adds the general duty of parties to the Geneva Convention to allow, the free passage of all consignments of medical and hospital stores." Article 55 also dictates that there is a "duty, of ensuring the food and medical supplies to the population" and, "in particular, [to] bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate." Article 56 adds: "To the fullest extent of the means available to it . . . [there is a] duty of ensuring and maintaining . . . the medical and hospital establishments and services, public health and hygiene in the occupied territory."<sup>27</sup>

*"MSF is not allowed to enter camps where we do not work and we have not been able to carry out an independent assessment of the needs of the displaced people in the camps.*

*"MSF has the capacity to scale up activities and provide medical and mental health care for the people inside the camps. So far, the authorities have not accepted this proposal for assistance."*

- Médecins Sans Frontières (Doctors Without Borders)<sup>31</sup>

However, doctors in the warzone often described the closures of hospitals due to lack of medical supplies and the amputation of limbs (even in infants) without antibiotics. Doctors explained that "most hospital deaths could have been prevented had basic infrastructure facilities and essential medicines been made available."<sup>33</sup> Even with World Health Organisation and UN recommendations, medical assistance and medical supplies were denied to civilians in the war zone. The International Community of Red Cross unsuccessfully urged the government to protect the civilians that were sick and wounded in the conflict area, and to allow more food and medicine to the area.<sup>35</sup>

Moreover, the Sri Lankan Government have imposed a 0.9 per cent tax on all funding for aid groups, severely limiting the aid into camps.<sup>36</sup>

Under Article 56 of the U.N.Charter, members have a legal obligation to respect and ensure respect for human rights such as the rights to food and basic medical care. Similarly under the Article 1 of the Geneva Conventions, parties are obligated to respect and ensure respect for Convention precepts "in all circumstances".<sup>27</sup>

## Security

The Security Council on many occasions voiced "grave concerns" over the situation in Sri Lanka.

As well as denying NGOs and the media access into the camps, the Sri Lankan government also placed many restrictions on the small number of humanitarian organisations working in the camps, such as limiting the number of vehicles inside the camps.<sup>37</sup> Moreover, The Sri Lankan Government justified their removal of aid workers' visas by branding them as Tamil Tiger sympathizers. Reports indicate that by October, at least 60% of all NGOs had left the camps<sup>38</sup>

Furthermore, the Sri Lankan government also created a situation in which the "screening" process and overall camp conditions are non-transparent - private consultations with civilians, cameras and other video equipment are now allowed in the camps.<sup>39</sup>

Eyewitness accounts indicate rape, denial of food, torture, and killings in camps.<sup>40</sup> In light of

*The military does not allow organizations into the camps to conduct protection activities, and a ban on talking to the camp residents leaves them further isolated. The military has also barred journalists from entering the camps except on organized and supervised tours.*

Human Rights Watch Report: Sri Lanka - End Illegal Detention of Displaced Population<sup>37</sup>

this, there is a clear need to have independent investigators inside the camps. However this has not been allowed and the camps are managed purely by the Sri Lankan military. This is despite repeated calls by the UN for the camps to be managed by civilians, female police and police from the Tamil community.<sup>41</sup>

Inside the camps, the security forces have established a regime of harassment and intimidation.

The Government's 'Tiger screening process' has resulted in young people being interrogated on a daily basis and thousands of "LTTE suspects" being held without charge or legal representation.

Human rights organisations have condemned the non-transparency of the interrogation: "the authorities have failed to inform relatives remaining in the camps about the fate and whereabouts of those removed, raising concerns of possible ill-treatment or enforced disappearance".<sup>42</sup> The inability of the independent investigators such as ICRC or UNHCR to monitor 'Tiger screening' procedures is a cause for grave concern. Furthermore, the Government of Sri Lanka did not consult human rights organisations in implementing a registration process of the arrived displaced persons during the war which would have helped ensure all displaced persons remain accounted for. To add to the list of failings, the war-zone to camp transit sites used by the military were not the ones "agreed upon and assessed by the humanitarian community" and as a result, there was a lack of sanitation facilities and inadequate water.<sup>42, 37</sup>

These concerns are clearly warranted in light of a study by the UN Working Group on Enforced or Involuntary Disappearances which listed Sri Lanka as having the "second highest number of disappeared people in the world". The study reported that from 1980 to 1999, 12000 Sri Lankans have gone missing after being detained by security forces.<sup>43</sup>

Rewinding back to the final stages of the war, the leaked confidential UN satellite photographs linked below prove the Sri Lankan Army's use of illegal weapons and the bombardment of safety zones.<sup>44</sup>

A violation of particular severity is the Sri Lankan government's attacks on hospitals. Information compiled by Human Rights Watch from interviews with aid agencies and eye witness reports details at least twenty attacks on hospitals in the Vanni region from December 15 2008 to February 10 2009.<sup>29</sup>

At times, hospitals were directly attacked by the Sri Lankan Army, even after doctors provided co-ordinates of hospitals in the conflict zone to avoid bombing.<sup>45</sup>

Amnesty International reports that Puthukkudiyiruppu Hospital in the Vanni region was hit by cluster bombs and bombarded by shelling for 16 hours.<sup>46</sup>

To make matters worse, five doctors who worked in Sri Lanka's conflict zone and provided rare insight into the violence, were eventually paraded in front of international journalist by the Sri Lankan government to "recant" their accusations and admit to "exaggerated" figures for civilian casualties. However Amnesty International questioned these claims: "There are very significant grounds to question whether these statements were voluntary, and they raise serious concerns whether the doctors were subjected to ill-treatment during weeks of detention,"<sup>47</sup>

*"During the fighting in 2009, the few hospitals that exist in LTTE-controlled areas have repeatedly come under artillery attack. We gathered information from aid agencies and eyewitnesses on more than two dozen incidents of artillery shelling or aerial bombardments on or near hospitals. Deliberately attacking a hospital is a war crime.*

Dr. Anna Neistat, Human Rights Watch<sup>29</sup>

*"Sri Lanka is one of the latest examples of the World community letting a government get away with denying access for the international community of witnesses, of humanitarian relief and protection for civilians," adding that world governments failed what they swore in 2005 of the "responsibility to protect"*

Jan Egeland, The former UN Humanitarian Affairs and Emergency Relief Coordinator

## Rape and Torture

In 2007, the United Nations sent 108 Sri Lankan Armed Forces personnel, who formed part of the United Nations Peacekeeping Force in Haiti, back to Sri Lanka after reports of sexual exploitation and sexual abuse of minors, including prostitution and rape. In a statement to the United Nations, the World Organization of Torture noted that "Sri Lankan soldiers have raped both women and young girls on a massive scale, and often with impunity, since reporting often leads to reprisals against the victims and their families." This only heightens the fears of what the soldiers are capable of behind the protection of their own country's sovereignty.<sup>48</sup>

According to report by Deirdre McConnel of Women Against Rape, "On average, a Tamil woman is raped by members of the Sri Lankan security forces every two weeks. The real number is inevitably higher since many cases are unreported. Every two months a Tamil woman is gang-raped and murdered by the Sri Lankan security forces..."

Torture is another tool of the state. For years, the torture of Tamil civilians has been carried out in a systematic, deliberate and sustained manner by the Sri Lankan military. It is the most common human rights violation in Sri Lanka, with cases reported on a daily basis. Despite Article 11 of the Sri Lankan constitution<sup>50</sup> and Article 1 of the UN Convention against Torture<sup>52</sup> this violation continues to be committed without any consequences. It is almost unnecessary to point to the Universal Declaration of Human Rights, which states that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"<sup>52</sup>

A major reason for the prevalence of torture in Sri Lanka is impunity. Amnesty International reports that there is a failure to bring perpetrators of torture to justice because of the "power given to the security forces in the Emergency Regulations (ERs) and the Prevention of Terrorism Act (PTA) which allow long-term detention in police and army custody without having to bring detainees before a judicial authority"<sup>53</sup>

Amnesty International has also released a report regarding the ill treatment of one Kumaru Selvaratnam while under police custody. He was suspected for involvement with LTTE, and serves as one example of the countless victims of torture in Sri Lanka. It is reported that in the first 8 days of his detention, he was assaulted viciously with a broomstick. He suffered injury to the testicles as a result of which they had to be surgically removed.<sup>54</sup>

Even the torture of children is evident. Sinnarasa Anthonymala was arrested by the Sri Lankan Navy in July 1995 when she was 15 years old. She reported to Amnesty International that she was held "naked and taken for interrogation by the navy up to three times per day throughout the period of her stay at the Kankesanthurai navy camp". The documentation of such abuses as far back as 1995 only highlights the systemic nature of the violations.

It should be noted, as a sobering point, that "rape has historically been a trademark of genocide, with Rwanda, Darfur and Bosnia being prime examples."<sup>55</sup>

*"The high number of indictments for torture filed by the Attorney General's Office, the number of successful fundamental rights cases decided by the Supreme Court of Sri Lanka, as well as the high number of complaints that the National Human Rights Commission continues to receive on an almost daily basis indicates that torture is widely practiced in Sri Lanka,"<sup>49</sup>*

Manfred Nowak , United Nations Human Rights Expert

## Democracy

It is not widely known that Sri Lanka is listed as having a “Flawed Democracy” in The Economist's index of democracy.<sup>56</sup>

To justify such a label, provided below are some quotations by democratically elected politicians in what is officially known as the Democratic Socialist Republic of Sri Lanka:

“Who attacked you? Sinhalese. Who enslaved you? Sinhalese. It is we who attacked and protected you. They are bringing an army from India. It will take 14 hours to come from India. In 14 minutes the blood of every Tamil in the country can be sacrificed to the land by us”

- Oxford educated Senior Minister Gamini Dissanayake soon after the 1983 Riots

“I am not worried about the opinion of the Jaffna [Tamil] people. Now we cannot think of them, not about their lives or their opinion. The more you put pressure in the north, the happier the Sinhala people will be here. Really, if I starve the Tamils out, the Sinhala people will be happy”

“Only way to root out terrorism was to remove the concept of ‘traditional homelands”

- Oxford educated National Security Minister Lalith Athulathmudali 1985

“If we are governing, we must govern. If we are ruling, we must rule. Do not give into the minorities”

- Wimala Kannangara M.P

“I strongly believe that this country belongs to the Sinhalese but there are minority communities and we treat them like our people. We being the majority of the country, 75%, we will never give in and we have the right to protect this country. We are also a strong nation. They can live in this country with us. But they must not try to, under the pretext of being a minority, demand undue things”

- Lt. Gen. Sarath Fonseka Sri Lankan Army Commander (2008)

“Minorities are like creepers clinging to the Sinhala tree.”

- President: D B Wijetunge (1993)

## Media Suppression

Article 14 of Sri Lanka's constitution<sup>50</sup> dictates the freedom of speech and expression, including the freedom of opinion in publications. The freedom of expression is also highlighted in Article 19 of The United Nations Universal Declaration of Human Rights<sup>52</sup> and in Article 19 of the International Covenant on Civil and Political Rights<sup>57</sup> both of which Sri Lanka is a signatory to.

However, Human Rights Watch reports that the Rajapakse government has “increasingly intimidated and tried to silence the media, nongovernmental organizations, and others with independent or dissenting views with regard to the government's military policies and human rights practices.”<sup>58</sup>

In addition, in 2008 Reporters Sans Frontiers (Reports Without Borders) ranked Sri Lanka 165th out of 173 countries in its press freedom index. It highlighted abuses such as murder, physical assaults, kidnappings, threats and censorship of journalists in its justification, and directly accuses the Sri Lankan government of being behind these abuses.<sup>59</sup>

Amnesty International echoes this criticism and has declared that Sri Lanka has the “worst record, with 14 journalists killed since 2006”. Others have been ‘disappeared’ in the custody of security forces, and many have been tortured and detained for long periods. No investigations of these crimes have ever occurred, and so those responsible for the killing of journalist and other media personnel have never been brought to justice.<sup>60</sup>

The recent killing of famed journalist Lasantha Wickremetunga, editor of Sri Lanka's Sunday Leader, was perhaps the most striking example of Sri Lanka's media suppression. Lasantha, who was widely known to be critical of the Sri Lankan government, was undoubtedly assassinated by the Government itself.<sup>62</sup>

*"Sri Lanka prides itself as a functioning democracy. Yet media freedom, a vital pillar of democracy, has increasingly come under attack"*

*Brad Adams, Human Rights Watch Asia Director*  
58

His assassination became known the world over as he had written an editorial in anticipation of being killed, in which he blamed the Sri Lankan Government for his death.<sup>62</sup>

Reporters Sans Frontiers has seconded this direct accusal of the Sri Lankan government, stating that "President Mahinda Rajapaksa, his associates and the government media are directly to blame because they incited hatred against him and allowed an outrageous level of impunity to develop regarding violence against the press."<sup>63</sup>

Another well known victim of the Sri Lankan government is Jayaprakash Sittampalam (JS) Tissainayagam, who was arrested on March 7, 2008 by the Terrorism Investigation Division (TID) of the Sri Lankan police. A High Court in Sri Lanka sentenced journalist (JS) Tissainayagam to 20 years rigorous imprisonment in August 2009, for writing and publishing articles that criticized the government's treatment of Sri Lankan Tamil civilians affected by the war. The court claimed that the articles he published in a North Eastern Monthly magazine in 2006 and 2007 caused "racial hatred" and promoted terrorism. JS Tissainayagam was the first Sri Lankan journalist to be formally charged (and now convicted) under the country's draconian Prevention of Terrorism Act (PTA) for his writing. Amnesty International, expressed dismay over the violation of Tissainayagam's right to freedom of expression.<sup>64</sup>

Acknowledging the singular importance of Tissainayagam's situation, Reporters Sans Frontiers named Tissainayagam the first winner of the Peter Mackler Award for Courageous and Ethical Journalism. The Committee to Protect Journalists (CPJ) also announced that it would honor Tissainayagam with a 2009 International Press Freedom Award.<sup>65</sup>

Cases such as these go to the heart of Sri Lanka's suppression of basic human rights, particularly when it comes to the Tamil minority. Freedom of the press is vital, especially in conflict settings, because without photographic evidence, reports, independent witnesses and video footage of the fighting, the international community is oblivious to human rights violations.<sup>66</sup>

## **Murder of Tamil Members of Parliament**

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In the three year span between 2005 and 2008, five Tamil members of Sri Lanka's parliament were murdered by gunmen alleged to have connections to government officials. Numerous other MPs have been the victims of imprisonment, death threats, and attempted assassination. Not a single person has ever been charged for these crimes<sup>67</sup>

Here we provide brief information on the 5 Tamil MPs who have been murdered:

### **Ariyanayagam Chandra Nehru - February 7 2005**

Mr. A. Chandra Nehru, founding member of North East Secretariat on Human Rights (NESOHR), was killed along with E. Kousalyan, political head of Batticaloa-Amparai district of the LTTE in an ambush at Polonnaruwa near Batticaloa. The LTTE alleged that the killings were done by the Karuna Parliamentary Group.<sup>72</sup>

### **Joseph Pararajasingham - December 25 2005**

A 70 year-old Tamil National Alliance parliamentarian for National List, Joseph Pararajasingham, was shot and killed by two gunmen belonging to a paramilitary group operated by the Sri Lankan Government in the St. Mary's Cathedral in Batticaloa while he was attending the Christmas Eve mass on 24th December 2005.<sup>68</sup>

### **Nadarajah Raviraj – October, 10 2006**

Tamil National Alliance parliamentarian for the Jaffna District, Nadarajah Raviraj, 44, was shot and killed in Colombo by a paramilitary group operated by the Sri Lankan Government.<sup>69</sup>

### **Mr Mashewaran MP – January 1 2008**

Former Tamil cabinet minister and opposition UNP party member, Thiyagarajah Maheshwaran was shot dead in Colombo. He was shot near Sri Ponnambala Vaneswara Hindu Temple in Kotahena, while he was paying homage at the shrine and died upon admission to the Colombo General Hospital<sup>70</sup>

### **Kiddinan Sivanesan - March 6, 2008**

Tamil National Alliance parliamentarian of Jaffna District, Kiddinan Sivanesan, 50, was killed in a Claymore attack carried out by the Sri Lanka Army Deep Penetration Unit on A-9 road. 30 minutes after he crossed into Vanni through the Omanthai/Puliyamkulam entry/exit point. The Claymore attack took place at Kollarpuliyamkulam.<sup>71</sup>

## Election Farce

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While the media, a crucial organ for the functioning of a democracy, is being suppressed in Sri Lanka, the fundamental election process is also in tatters. Sri Lanka's democratic process was highlighted in the April 1999 Asian Human Rights Commission Newsletter, Solidarity: "The people of Sri Lanka can no longer hope for the peaceful exercise of their right to freely elect their representatives at national, or even local, elections...The concept of free and fair elections has become an illusion in Sri Lanka..." (Asian Human Rights Commission, April 1999)<sup>73</sup>

S. Jayanth of the World Socialist Web Site has provided a uniquely insightful explanation of the Sri Lankan government's attitude towards elections: "Having destroyed the last pockets of LTTE resistance, President Mahinda Rajapakse has called the elections for August 8 to provide a democratic façade for a permanent military occupation and deflect criticism at home and internationally of his criminal war. In the final months of the conflict, thousands of civilians were killed and tens of thousands were injured as the army indiscriminately bombarded the remaining LTTE-territory. Up to 300,000 Tamil civilians who fled the fighting are being held in detention centres. The very existence of these huge internment camps near Vavuniya and Jaffna makes a mockery of Rajapakse's claims to be bringing "democracy" to the north. While the government is flouting the constitutional and legal rights of hundreds of thousands of detainees, it will hold an "election" in the nearby towns under the control of the security forces."<sup>74</sup>

The Crisis Group has also recommend that the military should "lift restrictions on political campaigning and pro-government armed groups must be disarmed and prevented from intimidating opposition candidates and supporters" so that elections are run freely without intimidation. They also called for independent election monitors.<sup>75</sup>

## Rule of Law

The gap between the rule of law and human rights is a blurry one in Asia. In countries such as Sri Lanka, the breakdown of the rule of law is evident and it has shown that without it, there is great violence on the island. Even though the 1948 Universal Declaration of Human Rights recognises the rule of law and human rights, this is usually only followed by the western world. Events which occur in countries like Sri Lanka show that the rule of law is malfunctioning. A society's justice system determines the effect of its rule of law. However, when the justice system is compromised by bribery and corruption, it is difficult to mend the problems of the country. This is particularly the case for countries actively preventing "terrorism", or in countries that are under a 'state of emergency' blurred lines between police and security forces occur. The justice system in countries such as Sri Lanka has numerous defects which hinder the protection of human rights.<sup>77</sup>

*In a report, the group [Amnesty International] called for the establishment of an international commission to investigate those allegations because past government probes into abuses have gone nowhere.*

Amnesty Says Sri Lanka Fails to Probe War Abuses, ABC News<sup>76</sup>

## Well-cited Failure of "Internal Investigations"

According to Human Rights Watch, the Sri Lankan Government has "blocked all attempts to establish accountability for violations of international humanitarian law". HRW explains that the government achieves this partly by "limiting their [civilians'] ability to communicate and talk to others about what happened in the final stages of the war". The Government has also prevented aid agencies from speaking about the conditions in camps as international observers are "forced to sign a statement that they will not disclose information about the conditions in the camps without government permission" Furthermore, the government justifies its failure to investigate attacks on journalists by accusing them of being LTTE allies.<sup>78</sup>

In March an international panel of experts declared that the "Government [of Sri Lanka] lacked the political will to properly investigate alleged abuses, including the 2006 execution-style slaying of 17 aid workers from the French organization Action Against Hunger"

Amnesty International has also accused the government of "interfering with past investigations, by using bribes, threats and even murder to eliminate witnesses."<sup>79</sup>

## Support for United Nations

The Sri Lankan government has shown a distinct contempt for the United Nations by rebuffing its calls for war crimes investigations. Sri Lankan Ambassador Dayan Jayatilleka has “declared that it was ‘outrageous’ to suggest the government should be investigated, saying it was like asking the victorious allies of World War II to accept a war crimes tribunal for the atomic bombing of Hiroshima.”<sup>80</sup>

The government has also shown a lack of respect for the United Nations by detaining UN staff members in the concentration camps for Tamils. The UN Staff Union responded to this by stating: “The recent action of Sri Lanka to detain two national staff members appears to be a campaign against United Nations personnel, which is illegal under international law. Authorities have been arresting, without explanation, United Nations staff members, initially refusing to provide access to them by United Nations officials.”

“The military is preventing humanitarian organizations, including the UN and International Committee of the Red Cross (ICRC), from undertaking effective monitoring and protection in the camps”<sup>81</sup>

## Government Corruption

The Sri Lankan government is no stranger to rampant corruption. The Asian Human Rights Commission has stated that “to keep room available for corruption and even to expand the possibilities of corruption has been one of the features of the governments since the adoption of the 1978 Constitution”<sup>82</sup>

The Corruption Perceptions Index (CPI), which measures the perceived level of public-sector corruption in 180 countries and territories around the world, also has telling conclusions. New Zealand is the least corrupt with a rating of 9.4; other countries in the commonwealth such as Singapore, Australia, Canada and the UK, all have ratings higher than 7. However, Zimbabwe, which has broken the Harare Declaration, has a rating of 2.2. Sri Lanka is not far behind with has a score of 3.1.<sup>83</sup>

## Sri Lanka's Duplicity

The Sri Lankan government has made a comfortable habit of public duplicity. In the final stages of the war, the government claimed that there were only 70,000 civilians in the so-called “safe zone”.<sup>85</sup>

However, the International Committee of the Red Cross had registered exactly 247,908 Tamil civilians. One can only fear that the government deliberately undersold the number to provide cover for civilian deaths.<sup>86</sup>

The Sri Lankan government then dramatically changed their arithmetic when they declared to the UN that they would hold up to 200,000 displaced people from the Vanni region in new camps in Vavuniya district.<sup>86</sup>

*“The blood, blindfolds, and mud of this apparent atrocity makes nonsense of President Rajapaksa’s claims of a clean war against the Tamil Tigers. An international inquiry needs to get to the bottom of this and other war crimes committed during the past year’s fighting.”*

Steve Crawshaw, UN director, Human Rights Watch<sup>85</sup>

Another example of deception is when the government announced that it would release 10,000 displaced persons from the camps, but instead simply moved approximately 3,000 from one camp to another, as reported by UNHCR<sup>87</sup>

On another occasion, the government declared that it would allow 40,000 civilians from ‘Manik Farm’ to return home, but instead moved them to another detention facility or kept them in holding blocks in Vavuniya. Even more recently, the government actually claimed that it had resettled all Tamil civilians from the camps. However, it has become clear that they were simply moved to alternative detention facilities.<sup>88</sup>

Given all of this, it should come as no surprise that Brad Adams of Human Rights Watch calls the Sri Lankan government “untruthful” and warns that its “promises should not fool anybody”. He has repeatedly

called for international intervention and states that “Enough is enough. It is well past time to release civilians detained in the camps. Sri Lanka’s international friends should tell the government that they will not accept any more broken promises.”<sup>89</sup>

A fundamental lack of faith in the honesty of the Sri Lankan government is unavoidable. This is exemplified by the following statement from President Rajapakse, in an interview with the Times: “[During the war] there was no violation of human rights. There were no civilian casualties.”<sup>90</sup>

## Conclusion

The seemingly interminable litany of human rights violations that have been highlighted all lead to one unavoidable conclusion; Sri Lanka is a rogue state. Whether it is denial of freedom of movement, the use of food and medicine as weapons of war, the multifaceted assault on civilians' security, or systematic rape and torture, it is blatantly clear that the Sri Lankan government does not afford equal rights to those of Tamil ethnicity. By virtue of systematic media suppression, through murder, imprisonment, and intimidation of civilians, as well as the assassinations of elected Tamil politicians, the Sri Lankan government has corroded the very fundamentals of democracy in its own country. In its disrespect for the United Nations, revealed in its rejection of the UNHRC's call for war crimes investigations and its internment of UN staff, the government has exhibited an unapologetic contempt for the apex institution of the international community and its norms. Finally, through its widely documented duplicity and self-contradiction regarding the internment of 300,000 Tamil civilians, the Sri Lankan government has lost the faith and respect of NGOs and human rights organizations which embody the principles of the Commonwealth.

For these reasons, we call on the Commonwealth of Nations to threaten suspension of Sri Lanka unless each of the following criteria is rapidly met:

- 1) Immediate resettlement of all detained Tamil civilians in their original homes
- 2) Prompt end to suppression of media by the state
- 3) Allowance of an internationally-mediated war crimes investigation

It is believed that bold action such as this will not only benefit Sri Lanka in the long run, but also ensure that the Commonwealth's core principles are not merely words on a page, but also the means of true accountability for human rights.

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