



Tamil Information Centre

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Information to Relatives on Detainees: A Welcome Step by Sri Lankan Government

The Tamil Information Centre (TIC) welcomes the Sri Lankan government announcement that information on people detained by the security forces since the end of the war in May 2009 will be made available. The TIC views this as a positive measure towards reconciliation and the first step to accountability in Sri Lanka. According to the Ministry of Defence, information will be provided only to close relatives of the detainees. The Defence Ministry communiqué declared that "A round the clock mechanism has been established by the Terrorist Investigation Division to provide details of the detainees and those who are already released".

Political observers view this move as a response to the report of the Lessons Learnt and Reconciliation Commission (LLRC). The Commission noted in the report that next of kin of LTTE cadres remaining in custody without charge have not been notified of the detention. The Commission also pointed out that no person should be detained outside authorised places of detention. Detention without charge or trial of thousands of Tamils since the end of the war, compounded by lack of any information on the detainees, has been a major cause of concern to the Tamil people of Sri Lanka and the human rights community. The lack of information has caused anguish and extreme distress to family members. This situation was aggravated by some military commanders who declared in public that people detained on suspicion of membership of the Liberation Tigers of Tamil Eelam (LTTE) would never be released.

Towards the end of 2009, human rights agencies estimated that more than 12,000 Tamils suspected of LTTE membership had been detained since May 2009. In January 2011, however, the government said that 11,696 cadres were detained in rehabilitation centres in 2009, and claimed that since then 5,586 had been released. Many such government claims before 2009 about detainee releases have been proved false. Torture, death and disappearance have followed detention in the past 30 years.

The TIC has continued to campaign in collaboration with international and Sri Lankan national organisations and diaspora groups to persuade the Sri Lankan government to release the details of the detainees who have been held incommunicado in violation of national and international law. The TIC has also received information that some of the persons who surrendered to the military at the end of the war have disappeared. Some others under the government's "Ex-combatant Rehabilitation Process" were re-arrested, or abducted and have disappeared. When the TIC raised the issue of detainees with British Foreign Office Minister Alistair Burt at a meeting in London in 2011, he revealed that he took up the matter while on a visit to the island and urged the Sri Lankan government to publish a list of detainees. The Sri Lankan authorities gave flimsy excuses and told him that they could not reveal the names of the detainees because of data protection concerns. It appears that the position of the Sri Lankan government has now changed.

The TIC has received information from people who witnessed arrests, and surrender of LTTE cadres to the security forces at last stages of the war and thereafter. But when these people and spouses of the

arrested or surrendered persons made inquiries, the security forces have denied that the LTTE cadres were in their custody. The position of the government on these matters is unclear.

Following international pressure, emergency, which had been declared under Section 2 of the Public Security Ordinance, was allowed to lapse on 31 August 2011. But on 29 August 2011, new regulations had been promulgated under the PTA, enabling the government to continue to detain suspects previously held under the ER without charge. The PTA regulations allow the continuation of several provisions of the ER notwithstanding the lapse of the emergency. On 6 September 2011, the President invoked Section 12 of the Public Security Ordinance, which permits the President to call out armed forces and declare essential services under circumstances endangering public security in any district. The President went on, in the absence of any such circumstance and having earlier declared that the situation in the country is normal, to call out the armed forces in respect of all the districts on 8 September 2011.

The police and even some of the judges seem to be unaware of the above changes and continued to follow procedures under Emergency Regulations and detain people as though the Emergency had not lapsed. When lawyers pointed this out to the judges, for example in Trincomalee, the judges began rejecting applications by the Terrorism Investigation Division (TID) for detention. The TID have now adopted the tactic of filing detention applications, for arrests made in the north-east, in courts in remote areas in southern Sri Lanka, where the judges are more pliable and issue detention orders without any regard to the changes in the law.

The TIC is also concerned about LTTE cadres in government rehabilitation centres who are being released, after a period of rehabilitation, into the care of the International Organization for Migration (IOM). The TIC understands from local NGOs and local community leaders that the IOM has no proper resettlement strategy or plan to prepare the released persons for life in the community. Reports also suggest that the IOM has a list of the LTTE cadre released by the government. It is our view that the detainees should be released into the care of UNHCR which has a protection mandate, and the government has chosen to release the detainees into the care of IOM, which has no protection mandate, in order to undermine UNHCR and its protection work.

While TIC welcomes the announcement of the release of information on LTTE detainees, it urges the government to take similar measures regarding other Tamil prisoners held without charge or trial under the Prevention of Terrorism Act (PTA), and provide the necessary information to the next of kin. Detainees should be brought before court so that the lawfulness of the detention may be tested. Where evidence is available, they should be charged without any delay or released. The TIC also urges the government to take proper steps to record every casualty of the armed conflict and investigate the circumstances of such deaths, which would be a major contribution to effective and sustainable peace. Reconciliation based on the rule of law will have a lasting and emphatic effect on peaceful progress in post-war Sri Lanka. Thus, it is imperative that reconciliation work is based in local areas and local communities and in villages. Justice must be available for victims at a local level.

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