

# **THE HUMAN RIGHTS SITUATION OF THE TAMIL SPEAKING PEOPLE OF SRI LANKA**

Memorandum Prepared for the 50th Session of the  
United Nations Commission on Human Rights

Geneva, February 1994

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suspended. Draconian provisions of the Prevention of Terrorism Act investing the executive and security forces with extraordinary powers, including those relating to arrest and detention also remain in force.

## **INTRODUCTION**

At its forty-ninth session the UN Commission on Human Rights, Geneva, 1993, expressed concern in regard to the human rights situation in Sri Lanka. The UN Commission acknowledged the statement of Mr. Tilak Marapana, the representative of Sri Lanka, in which he outlined a programme of measures to be implemented during 1993. These included: taking appropriate measures to ascertain the whereabouts of alleged missing persons; prosecution of those found responsible for disappearances and other human rights violations; a comprehensive review and revision of emergency legislation relating to arrest and detention; compilation and publication of a consolidated version of all current emergency regulations; continued efforts to explore all avenues with a view to arriving at a negotiated political solution to the problems related to the North and East; continued implementation of the recommendations of the Working Group on Disappearances.

One year later however, it is clear that the expectations of the UN Commission have not been realised. Sri Lanka continues to be ruled for the twelfth successive year under a State of Emergency under which many of the normal safeguards concerning democratic and human rights and fundamental freedoms have remained

## **ARRESTS AND DETENTION**

Despite promises by the Sri Lankan government to safeguard Tamils from arbitrary arrest and detention/a large number of Tamils have been arrested and detained in prisons, detention centres, police cells and military camps throughout the island since the last Commission sessions. Indiscriminate roundups have also led to disappearances. Since June, 1993, well over 10,000 Tamils have been arbitrarily arrested in Colombo and its suburbs, regardless of whether they could demonstrate long-standing residence and employment in Colombo and regardless of whether they were in possession of identity documents. Latest reports suggest that over 2,000 Tamils have been arrested in January 1994.

Some of those recently arrested have been taken away by men in police or military uniform, others by officers wearing civilian dress, often in the middle of the night. Large sums of money are being demanded from relatives for the release of detainees. In some cases the arrests had still not been acknowledged by the police three or four days after the arrest and despite the explicit promise made in June 1993, that relatives of detainees would be informed of where prisoners were being taken, relatives often do not know where they are held. In a new practice from January 1994, security forces are arresting Tamils who come out of

cinemas showing Tamil films. Fourteen Tamil youths employed in a Greek ship were arrested on 22 January 1994 by police when the ship docked in Colombo.

A number of arrests of Tamils have also taken place in the Hill country and according to the plantation trade union and political party the Ceylon Workers Congress (CWC) no action has been taken regarding disappearances. CWC President and government Minister S Thondaman wrote recently to President Wijetunge protesting over arrests of youths in the plantations, and the crowded and insanitary conditions in which they are held.

In the Hill country Tamil houses and shops have been selectively targeted for searches and Tamils arrested despite possessing identity documents. A number of Tamils have also been detained for not possessing identity cards, whereas the government has not issued identity cards to over 60% of the Hill country Tamils despite application.

The frequent use of arbitrary arrest and lengthy isolation in detention camps also mean that practically all are at risk of being tortured and in a number of cases even “disappeared.” People are seized on the streets, in their homes, in their work places, while shopping and put in detention centres, where they risk being held for years without coming before courts. Many detainees have been exposed to torture or have been kept under humiliating conditions or even completely cut off from contact with the surrounding world.

#### *Amnesty International's Concerns*

Amnesty International has expressed concern that the way in which people are being taken into custody, without valid grounds for arrest, is reminiscent of the manner in which thousands of people were detained in the South between 1988 and 1990, when the

government was seeking to suppress an insurgency by the People's Liberation Front (JVP). The lack of proper procedural safeguards on arrest and detention enabled tens of thousands of people to “disappear” in custody during that period.

According to Amnesty International the government has failed to honour agreements with Tamil leaders in June 1993 and “since June, there have been several waves of such arrests forming a pattern of human rights violations directed at the Tamil community, in which thousands of people appear to have been arrested solely on the basis of their ethnic origin”. (ASA 37/WU/04/93; 27 October, 1993)

#### *HRTF and Detentions*

Human rights organisations have stated that the Human Rights Task Force (HRTF), set up on 10 August 1991 has been unable to compile a complete list of either the detainees or the places of detention, and thus has been unable to fulfil the primary function for which it was set up. In its report for 1992/1993, the HRTF revealed that there were 2,224 detainees, mainly Tamils, held in military camps in the North-East. In addition, 960 Tamil detainees have been listed as being held at the Kalutara and Magazine Prisons. The report also revealed that of the reported 2,351 missing persons, HRTF has been able to trace only 114.

The HRTF has also admitted to the particular practice of “mobile detention”, in which detainees are continually transferred from place to place. This has enabled the security forces to prevent detection of a large number of Tamils taken into custody, particularly in the North-East, despite the regional offices of the HRTF set up with the assistance of Western nations.

Human rights agencies remain equally sceptical regarding the Sri Lankan government's measures to deal with human rights violations by the security forces. A

Special Presidential Commission was set up to investigate into the Kokkaddicholai case, in which 186 Tamil civilians were massacred in June, 1991. Whilst Captain Kudaligama was found guilty of the massacre, he was punished only on the grounds of failure to control his subordinates and of the disposal of dead bodies. He was subsequently dismissed from service. The seventeen soldiers implicated in the massacre, were acquitted. The case relating to the Mylanthanai massacre, in which 31 Tamils were killed by soldiers, has been transferred from Batticaloa to the Sinhalese area of Polonnaruwa thus making it difficult for Tamil witnesses to give evidence without fear. Such events continue to encourage the security forces to further violate human rights with impunity.

#### *Examples of Detention*

##### CASE 1.

Puvilingam Suguneswaran (age 29) and Krishnarajah Vimalenthiran (age 17) were arrested in Negombo on 7 June, 1993. They were detained at the Negombo Police Station for two weeks and handed over to the Crime Detention Bureau (CDB). They were held in the sixth floor of the Police headquarters in Colombo until 25 July 1993 and are currently detained in the Magazine Prison under Emergency Regulation 17(1). Suguneswaran came to Colombo from Atchuveli in Jaffna to go abroad. No reasons have been given for their arrests and they have not been produced before a court, their parents have filed habeas corpus applications.

##### CASE 2.

Muthukumar Gunasingam (age 40) a farmer from Mallavi in Vavuniya and father of five children, came to Colombo on 25 June 1993 after obtaining permission from Army Officers in Vavuniya to see his sister who is married to Thillainathan, a former Member of, Parliament. He was

staying at Sri Siddharththa Place at Kirillapone and was arrested during a police round-up on 26 June 1993. He is currently detained at the Magazine Prison. He has not been produced before court and the reasons for his arrest have not been given. His wife Kanapathipillai Malini has filed a habeas corpus application.

##### CASE 3.

Joseph Panimayam, a mother of five children and her son LMV Joseph are currently being detained by the Chilaw Police. Panimayam's husband works abroad. She was arrested by Chilaw Police on 13 June 1993. No reasons have been given for her arrest. LMV Joseph a student of St. Anthony's College, Wattala was arrested on 14 June 1993 when he went to visit his mother in Chilaw. Both persons have not been produced before court. Habeas corpus application's have been filed by Panimayam's niece Mary Rita Argus.

##### CASE 4.

Sabastianpillai Ravi Sankar (age 23) was rounded up by the Modem Police at 12 midnight at his home in the presence of his cousin B R Mammatharajah on 17 August 1993. Ravi Sangar fled to India as a refugee in August 1990 and remained in a refugee camp until August 1992. He returned to Sri Lanka on a request by his father Swampillai Sabastiampillai on 14/8/1992 by plane and stayed in Mount Lavinia from 14/8/92 to 23/11/92. Thereafter he moved to Colombo and stayed there until he was rounded up. During his stay in Colombo, he underwent a driving course and obtained a bus licence from the Registrar of Motor Vehicles. He was working as a driver transporting goods to UNHCR while he was arrested.

Ravi Sankar was subjected to severe torture by CDB Officers at Gregory's Road, Borella and was forced to sign documents under duress. According to Ravi

Sankar's statement, he was subjected to torture after telling them that he had stayed in India as a refugee in the refugee camp.

#### **CASE 5.**

Sundaramoorthy Mahathevan (age 26) went to Saudi Arabia for employment on 22/5/1990 from Colombo. He returned to Sri Lanka on vacation on 30/5/1993 and as he could not proceed to Jaffna due to military operations he stayed in a lodge in Colombo. He was arrested by the Pettah Police while returning from a temple. He had produced all evidences required to establish his identity and his whereabouts to the police since he arrived from Saudi Arabia, but the police refused permission and detained him at the Welikade prison. He was produced before the court on 22/6/93 and was released and allowed to go. He was again arrested by the same Pettah Police at the Court premises and taken to Pettah Police and detained from 22/6/93 to 18/8/93. He was released due to the intervention of his uncle. Mahathevan accuses the police of causing mental and physical pain, harassment and extortion.

#### **TORTURE**

Torture of Tamils in custody is a common occurrence and a number of cases alleging torture were filed in the Supreme Court in 1993. Torture is carried out in the name of 'justice' or 'finding out the truth' or 'maintaining peace and national security' or 'supporting the cause of Tamils' or 'supporter or member of LTTE'. Torture methods commonly used include beating and kicking, suffocation under water, suffocation in a plastic bag, burning with cigarettes, forcing water mixed with chillies into the victim's nostrils, suspension in distorted positions,- electric shock to the most sensitive parts of the body.

#### **Testimony of Veerasingam Maheswaran**

I am an inmate of the Kalutara Prison. I am 30 years old. My dependents are my wife, two children aged 7 and 4 and my aged mother. I was on a daily wage for tending the cattle of the villagers. I studied only up to the 4th Standard in the village school. Like the other houses in the village my house too was reduced to rubble as a result of an army operation. I was forced to seek refuge with my family at the Clappenburg refugee camp in China Bay in Trincomalee. Due to the inadequate food at the camp, I used to join the menfolk looking for some odd jobs during the mornings.

#### **Policemen's Visit.**

Returning to the refugee camp on the evening of 25/3/92 I learnt from my wife that Police who visited the camp that day had wanted me to appear at the Police Station.

On 26/3/92 I went to the Orr's Hill Police Station in the company of my wife. I was directed to the Seven Island army camp where I was detained for 7 days.

#### **Terrifying Torture.**

"I was subjected to terrifying torture during this detention. On the first day itself I was beaten with batons and iron bars by Sub-Inspector Faiyathulla and constables Rajakanma, Kariyawasam and Seelan. I was bleeding due to the blows dealt on the head and found it difficult to walk. I had to seek support to move anywhere including the toilet. I was suspended over a fire which burnt my skin.

#### **Injured Forehead.**

I had an injury **due** to blows dealt with an iron bar on my forehead. Inspector Faiyathulla poured petrol on to

this wound which worsened it. All these acts were carried out within the CID Section in the Seven Island Army Camp. All those detained here were subjected to similar torture by day and night. These acts were carried out under the direction of Sub-Inspector Faiyathulla Muthukumar Vellikumar and Kailayapillai from Alamkemi in Kinniya too underwent the same torture as I was subjected to. They witnessed my torture too.

I was transferred to Trincomalee prison where on 1/4/92 I was produced before a doctor. Soldiers who took me warned me not to divulge the torture if I wanted my life spared. Therefore I did not mention it to the doctor.

Due to the torture inflicted at Seven Island Army Camp I could not walk properly for two months. I have frequent pains in the 'head and body. My sight has deteriorated and I cannot read. Sleeplessness and watering eyes are my present conditions.

I know no reason for my arrest. After several days detention they asked while assaulting me whether I supplied food and milk to terrorists. I denied this.

MY signature was forcibly obtained on typed forms in Sinhala. They were not read or explained to me. No inquiry was held even though I was produced thrice before the Trincomalee Magistrate's Court.

I have been advised that my arrest, continued detention and the torturing are a violation of Sections 11 and 13 of the Constitution.

In 1985 I was arrested and kept for four days in detention on suspicion at the Seven Island Army Camp but was released as innocent.

I plead for a medical examination to confirm the torture.

I plead for a trial and compensation for my unlawful arrest and torture.

The ICRC or other organisations have no access to prisoners like Veerasingam Maheswaran who are held in army camps and police stations and it is feared torture of Tamil detainees will continue.

## DISAPPEARANCES

Thousands of people have disappeared or been executed without trace in North-East Sri Lanka since the armed conflict between the security forces and the LTTE began in June 1990. Tamils suspected of having contact with the LTTE have been arrested, shot, stabbed to death or burnt alive by government troops. The LTTE have also been accused of the arbitrary execution of people including Tamils who have been labelled as "traitors". Increased pressure on the LTTE by the Tamil community has brought changes and there is no doubt sustained pressure from the Tamil community will improve the situation further.

Whilst the UN Commission recognised that there had been a reduction in disappearances in 1992, the UN Working Group on Enforced or Involuntary Disappearances observed that "the situation regarding disappearances in Sri Lanka continues to be serious" and "the single most important factor contributing to the phenomenon of disappearances is that of impunity". Furthermore, it stated "there is no official mechanism in place in Sri Lanka with the principal task of clarifying the fate of more than 12,000

outstanding cases of disappearances,” and that only a few of the recommendations of the Working Group had been implemented by the Government.

Despite, the fresh warrant issued by President D. B. Wijetunge, empowering the Independent Commission on the Involuntary Removal of Persons, set up in 1991, to cover complaints of involuntary disappearances from 1<sup>st</sup> January, 1991, upto 10<sup>th</sup> January, 1995, human rights agencies remain convinced that the Commission is merely a cosmetic exercise and that the mechanism is inadequate to deal with the number of cases brought before it. The Batticaloa Peace Committee has reported the disappearances of over 5,000 Tamils in the East and a spate of disappearances is reported in the South.

## INDISCRIMINATE KILLINGS

A large number of civilians have been killed in Sri Lankan airforce bombings. The air force has also targeted houses, shops, places of worship, public buildings, schools and community centres. The air force bombed St Theresa Girls School in Kilinochchi on 12 February 1993 injuring several students. On 14 July, seven people were injured in air attacks at Omanthai in Vavuniya and on 16 July a civilian was killed and 15 injured in Kilinochchi. Thurkai Amman Hindu temple was targeted on 25 August and Thavady and Kondavil were attacked on 29 August killing a number of civilians. Omanthai **and** Navatkulam in Vavuniya were targeted by airforce on 26 September causing extensive damage to properties. During operation “Yal Devi” launched on 28 September on Jaffna, over 100 Tamil civilians were killed by bombing and shelling.

Frequent shelling from army camps have caused many deaths and extensive damage to houses, business

establishments, public buildings, places of worship, medical centres, refugee camps and roads. In May several villages in the Jaffna peninsula were attacked by shells in the night and early hours of the morning. A large number of people were displaced when shells were fired continually for two weeks in September 1993 on Kottady, Navanthurai and Araly in Jaffna District. Five civilians were killed in Navakkiri village by shells from Palaly army camp in Jaffna on 30 September.

On 13<sup>th</sup> November, 1993, an aerial bomb attack on St James’ Church, Gurunagar, Jaffna Town, destroyed not only the ancient church, but also the adjacent Mission House, the Parish Hall and the Nursery, killing more than ten civilians, and seriously injuring over thirty people, including women and children. The Jaffna Secretariat was bombed on 16 November injuring the Government Agent K Manickavasagar and 25 others. The Kilinochchi hospital was bombed by the Sri Lankan airforce in November 1993 killing two mothers and a child and completely destroying the hospital. The Jaffna town was attacked by bombers on 5 December killing 43 civilians and wounding 70.

On 30<sup>th</sup> November, 1993, three bombs were dropped on Chavakachcheri. The first destroyed the hospital, killing eight patients and injuring 58, the second damaged the C.S.I. Church, killing the pastor’s wife, Mrs Indrani Lawrence and the third destroyed the market place.

The recent monsoon floods in Sri Lanka have wreaked havoc in the North and East, destroying homes and crops, and bringing hunger, disease and infection. Jaffna hospital is overflowing as diseases spread. Food convoys have been suspended after an LTTE attack on an army camp in November, 1993. Sri Lanka Red Cross Director, Dr. Hendeniya, says the economic blockade is preventing relief assistance. Over 100,000 people are affected by the recent floods in the Tamil homelands and

15 people have died of disease in Jaffna.

Despite the monsoon conditions, the Sri Lankan airforce has continued its indiscriminate bombing of civilians in the North. Shelling from military camps and the sea, have also continued unabated, causing enormous destruction and hundreds of deaths.

## **DESTRUCTION**

Enormous destruction has been caused by the security forces in the Tamil homelands. Around 150,000 houses have been damaged or destroyed. Over 300 schools have been badly damaged and according to the Hindu Religious Council around 700 temples have been damaged or destroyed and holy icons removed from 63 temples. A number of churches in the North-East also have been damaged by bombing. In occupied areas security forces have completely destroyed villages and towns and have carried away valuables in ships to the South. Security forces have also targeted government buildings, railway and bus stations, banks, hospitals, vehicles and boats, shops and markets. Cement, wooden planks and iron rods are among the banned items to the North and building construction has come to a standstill.

## **ECONOMIC BLOCKADE**

In August 1991, the Sri Lankan Government banned the transportation of forty-two essential items into the North, including medicines, fertilisers, chemicals and fuel under the Emergency (Restriction of Transport of Articles) Regulations No.1 of 1991. Although the announcement was only in respect of the North, the Sri Lankan army has banned several essential items to the East. Restriction on food requirements of the North which has resulted in severe malnutrition among the population continued in 1993. In 1992 over 1,500

Tamils including 200 children died of disease in Jaffna hospitals because of lack of essential medicines. In 1993, 1,949 people admitted to the Jaffi hospital died of wounds caused by shells or bombs or malnutrition or disease. In 1991 and 1992 only around 20% of the food required in the Jaffna peninsula was supplied. The situation did not improve in 1993 and according to the Jaffna Government Agent false figures relating to food supplied to Jaffna have been published in the Colombo media and currently there is an acute shortage of many essential items. There is a total ban on fuel and as a result the transport system has come to a halt. The government has banned coconut oil to the North in January 1994. Coconut oil the only fuel oil now available in the North is used in temples for religious rites and other rites connected with auspicious ceremonies and last rites for the dead. The ban on coconut oil is clearly an assault on Tamil cultural activities. Students also use coconut oil to light their lamps to study and Tamil women use it as a hair oil.

Electricity has been cut off for over three years and all industries and education have been consequently affected. The ban on fertiliser and agricultural equipment has drastically affected agricultural activity in the north. Telephone lines to the North were disconnected in 1986 and newspapers from the north are not allowed into the south and journals and books from the south are prohibited into the north. Radios and televisions cannot be used as a result of lack of electricity. Chemicals are banned affecting industries and laboratories. Ban on paper has affected education and the printing industry. As a result of the economic blockade around 200,000 people have lost their employment. The economic blockade continues even in 1994.

The Sri Lankan Government is clearly in breach of the provisions of the Geneva Conventions, particularly by destroying or rendering useless objects

indispensable to the survival of the civilian population.

Money circulation in the North has been impeded by destruction of financial institutions. All other economic bases have been either destroyed or made effectively redundant to ensure that the North is a cipher in relation to its contribution to the national economy in the long-term. The total destruction of the North would not then have any adverse effect in the South. Starving the people and depriving them of their basic needs for life are also a military and political strategy aimed at turning the people against the LTTE.

In the Tamil areas houses, shops and other buildings necessary for the community have been destroyed. The population is deprived of such basic needs as food, shelter and fuel. Communication facilities and transport services have been destroyed and the right to movement greatly restricted. A large number of landmines in the North-East further restrict the movement of the people. Letters are being opened by armed forces and the information obtained is used for persecution. A major section of the Tamil population has lost employment and facilities for agriculture, industries and fishing have also been destroyed. Educational institutions cannot function and educational needs have been denied.

Human rights are recognised to promote the development of the individual to enable effective contribution to the society. The Tamils of Sri Lanka have been denied all that is necessary for the development of the individual and human rights have become a dead letter.

## **HUMAN RIGHTS OF WOMEN AND CHILDREN**

Infant deaths have increased dramatically in the North-East as a direct result of the economic blockade. The rise in

infant mortality rate is due to lack of food or lack of nutritious food for pregnant women. Many children are born prematurely due to shock caused by bombing, shelling and other violent incidents.

Education is the key to the future. But this has been denied to Tamil children. Schools were destroyed and children were scared to attend classes. Thousands of children are living in appalling conditions in refugee camps for years. The war also forces children to take up arms to fight the military.

It has been estimated that at least 20,000 women have been widowed and over 100,000 children orphaned in the Tamil homelands. The government has taken no measures to provide care for widows and orphans who have no source of income. More women have been forced to earn money to support their families on their own. But the ongoing war curtails employment and had made them destitute.

Tamil women are rounded up in the nights by male police and army personnel and are humiliatingly taken away in their night dresses leaving behind wailing children. Many women have been forced to walk to police stations in their night dress. Women are often detained along with males and many women have been tortured and raped in custody by security forces. For cultural reasons most Tamil women do not like to talk about such experiences. Miss Perinpam Pushparani (age 18) says that she was held in custody without access to courts for more than a year and tortured at Kommanthurai army camp in Batticaloa

## **HUMAN RIGHTS OF MUSLIMS**

Tamil speaking Muslims in the North and East of the Island were also affected by the violence. The Tamil speaking Muslims were considered part of

the Tamil community until recently. In recent years it has become ever more apparent that the Muslims constitute a separate community and that they face particular problems. In the Amparai District Sinhalese colonisation had made them an ethnic minority whereas they were in the majority earlier. Though previously, the Muslims and Tamils enjoyed good relationship in the Tamil homeland, in 1990 the relationship deteriorated to such an extent that brutal massacres took place in several villages in the East. Muslims in Jaffna District were ordered to leave the district by the LTTE alleging that some members of the Muslim community were involved in spying for the security forces and it would be safer for Muslims to leave the North. The hostility towards Muslims was also enhanced as the government was using the Muslims in the war against the LTTE.

In the East the Muslims face several difficulties. They were not able to cultivate their fields fearing attacks from LTTE. They have been living in constant fear of attack from Tamil groups and villagers, whom they have come to mistrust. The Muslims in the East also feared that the LTTE may be planning a total expulsion as that carried out in Jaffna and Mannar in 1990, when they were told to leave their villages immediately and to leave behind most of their property.

There have been several discussions between the LTTE and Muslim leaders recently and the relationship between the Tamil and Muslim communities has significantly improved. Reports received by the Tamil Information Centre indicate that many Muslim farmers have returned to their farms and protection to them is now given by Tamil villagers and in some areas even by the LTTE themselves. There is also pressure from the Tamil community on LTTE to continue this dialogue with Muslim leaders and develop understanding and improve relationship. The Tamils believe that the rights and

aspirations of the Muslims should be respected both by the government and the LTTE for peace to prevail in the North-East.

## **REFUGEES AND INTERNALLY DISPLACED PEOPLE**

Since mid-August, 1993, the Indian Government has repatriated over 7,000 Tamils from the southern state of Tamil Nadu. Refugees have faced direct and indirect coercion to return home, including arbitrary arrest, withdrawal of stipends and food rations and pressure to sign forms indicating their desire to return without knowing the contents of what they were signing. Local NGOs and international agencies have been denied access to refugee camps in Tamil Nadu to monitor whether the registration of refugees to return is voluntary. Since August, 1992, UNHCR has been able to interview refugees only after they have already registered and been moved to transit camps for repatriation. Refugees have no reliable means of obtaining information about conditions in their home districts on which they can base their decision to return. They are often unaware that bombing and shelling will make it impossible for them to return directly to their own villages and that they will be forced to stay in overcrowded camps. Most Tamil refugees returned from India are unable to go back to their home areas and are housed in crowded refugee camps. Asia Watch and other human rights organisations have called for the suspension of the programme. But reports say the repatriation will resume in February 1994. Until the voluntariness of the refugees' return to Sri Lanka can be assured, any repatriation remains tantamount to refolement. Once they return to Sri Lanka, the returnees, particularly young Tamils face arrest and detention.

### *Insecurity of returnees*

On 4 July, 1993, at Tharapuram,

Mannar District, three men; Ilayanthamby Sithilingam, Armmugam Arasaratnam and Amlanantham Amirthanayagam were taken from a bus by police officers as they were returning to the Pesalai refugee Camp from the Mannar Police station. They were later seen under army custody at Suriyakaddaikadu, Mannar District. The whereabouts of the three Tamil men remains unknown. In August, 1993, the Commission on the Involuntary Removal of Persons informed Amnesty International that the cases of the three men were being investigated by the Commission. In November, 1993, AI was informed by Justice Soza of the Human Rights Task Force that the men had been released to officials of the International Committee of the Red Cross. However, ICRC officials in Mannar District reported that the three men had not been handed over. Mannar District MP, Mr. Emmanuel de Silva, raised their cases with President D. B. Wijetunge. The latter forwarded the inquiry to the army operational headquarters, who replied that the army had no knowledge of the incident. (ASA 37/03/94; 7 January 1994)

### *Implications of UNHCR's statements and actions*

Since the UNHCR's statement in June, 1993, saying that areas in the South are "safe" for the return of refugees, Western and other nations are planning to repatriate rejected Tamil asylum-seekers. The government of Switzerland has entered into an agreement with the Sri Lankan government to repatriate rejected Tamil asylum-seekers.

Whilst, "host" governments are strategically ignoring the situation in the North and East, while emphasising improvements in the South, clearly, such repatriation schemes remain unacceptable, in the light of the continuing uncertain and insecure climate of the South.

UNHCR has suspended its operations in the Madhu refugee camp and

has refused to intervene after the government cut off food aid to 8,000 of the camp's 30,000 population from 1 November, to force them back to army-controlled villages around Cheddikulam where refugees fear to return while the war continues. Over 10,000 refugees fled three years ago, when government forces razed Cheddikulam to the ground, beheading twenty-five people after LTTE attacks in the area Lauded by some as the pioneer of the "safe haven" concept, the Madhu debacle reveals how difficult it is to protect refugees inside a war-zone.

In addition to the 250,000 Tamils who are externally displaced, there remain over 1,000,000 persons internally displaced in Sri Lanka. In November, 1993, Dr. Francis Deng, UN Secretary General's Special Representative on Internally Displaced Persons, visited Sri Lanka and observed that the continuing conflict was a major impediment to the re-settlement process and that for some of the displaced, there appeared to be limited prospects of returning to their original places of residence while the conflict continued.

## **COLONISATION**

The state - planned Sinhalese colonisation of the Tamil Homeland continued in 1993. The Sri Lankan government has sought to drive the Tamils from their homes by intensified Sinhalese colonisation of Tamil areas, particularly in the East, by the involvement of the entire state machinery and the armed forces. Houses and lands belonging to Tamils have been occupied and Hindu temple lands taken over forcibly for colonisation. Many Tamil refugees returned from India have found that their homes are occupied by soldiers or Sinhalese civilians. Five decades of colonisation has resulted in the reduction of parliamentary representation for Tamils. Sinhalese colonists are given preference in **the use** of land and resources and are

provided military protection. They often take part in violence against Tamils. Most Tamils - have been driven out of Amparai District and parts of Trincomalee and Vavuniya and their lands occupied.

As a result of colonisation Tamil farmers have become destitute. Colonisation is aimed at dividing the traditional Tamil Homeland of Northern and Eastern Tamils. The government has also striven to drive a wedge between the Tamil and Muslim communities by colonisation.

## **EMERGENCY REGULATIONS**

No effective review of the Emergency regulations has been undertaken by the government and a compilation of the regulations is not publicly available. Instead the government has promulgated new regulations. Emergency regulations by-pass normal legislative procedures and public debate. New Emergency regulations in November 1993 provide for compulsory registration of NGOs and disclosure of sources and disbursement of funds. The Civil Rights Movement of Sri Lanka says the regulations are a serious interference with the freedom of association and expression and are particularly dangerous to human rights organisations. Many ordinary laws and Emergency regulations already exist to investigate and deal with breaches of the laws by NGOs.

The government also promulgated Emergency regulations on sedition and incitement in December 1993 which, according to the Free Media Movement of Sri Lanka, seek to curb every aspect of free expression by their reference to words, whether spoken, written, signs or visible expressions.

## **FREEDOM OF EXPRESSION**

The intimidation, harassment and

attacks on journalists, media personnel, printers and newspaper distributors continued in 1993, serving as a major constraint on the freedom of expression and opinion.

The latest round of threats is alarming both for its severity and its sustained nature. Reports on the military operation, Yal Devi, launched in Jaffa on 28 September, 1993, led to the death threat on the defence correspondent of the Sunday Times, Iqbal Atthas by the then Army Commander Cecil Waidyaratna who has now been appointed ambassador to Thailand. Two other newspapers have also received threats in connection with Operation Yal Devi; the Colombo tabloid, Yukthiya and the LSSP organ, the Sama Samaja. Threats against the media are flagrant violations of the freedom of expression.

## **CONCLUSION**

Dr. Deng clearly acknowledged that the problems of the internally displaced, can only be resolved with the elimination of the root cause of their displacement, i.e., the termination of the war. It is imperative that an attempt be made to re-open negotiations between the LTTE and the Sri Lankan government, possibly with international or third party mediation, to work towards a political solution with adequate redress of Tamil grievances and a sharing of political power.

However, the Sri Lankan government has not made any attempt to explore avenues to solve the national problem, but instead has launched a number of major military operations in which many Tamil civilians have been killed. President D B Wijetunga has clearly expressed the government's intention to pursue a military solution by his statement that Sri Lanka faces a terrorist problem and not an ethnic

problem. The government has also rejected a number of offers for international mediation, including one by four Nobel laureates, and continues to maintain that the problem is an internal one. The government also continues to maintain that peace efforts are continuing through the Parliamentary Select Committee (PSC). The PSC has recommended, by a majority decision and not by consensus, all Tamil parties opposing, the division of the merged North-East province. The Tamil parties oppose the division of the North-East and have left the PSC and thus the problem cannot be solved through the PSC as maintained by the government. The intention of the government to pursue a military solution is also indicated by the allocation of funds for defence for 1994 which currently stands at Rs 27.8 billion (\$556) which represents 65% of the aid granted by the Paris Aid Consortium for 1993/94, and the purchase of massive quantities of arms and military equipment.

**The UN Commission on Human Rights must urge the Sri Lankan government to: -**

**a) end indiscriminate arrests and detention and prevent torture, political killings and disappearances.**

**b) improve conditions of those**

**detained and grant them access to courts and legal assistance;**

**c) lift the economic blockade, restore transport facilities and communication to the Tamil areas and refrain from using starvation and deprivation of essentials necessary for the life of the community as methods of combat;**

**d) end the indiscriminate bombing and shelling of civilians, and respect the international ethics of war and spare hospitals, temples, churches and schools;**

**e) allow local and foreign journalists and reporters to travel freely in the Northern and Eastern Provinces;**

**f) announce a cessation of hostilities and begin negotiations with the LTTE facilitated if necessary by the United Nations or other acceptable third party, towards a lasting solution.**

**g) recognise that the Tamil population in the North and East of the island constitute a “people” with the right to self-determination.**