

Tamil Information Centre Briefing Note for UK MPs prepared on behalf of the Solidarity for Peace in Sri Lanka

1 May 2007

Emergency Rule

The people of Sri Lanka have been ruled by Emergency Regulations for almost 30 out of the 58 years of independence and their rights have been systematically crushed. The land is now under Emergency rule, and the current draconian Emergency Regulations, which are primarily used against the Tamil community, have removed every tenet of democratic governance.

Emergency Regulations (ERs)

The ERs have the effect of removing judicial oversight in relation to arrest and detention, and suspend the relevant provisions of the normal law. They give authority to security forces to arrest on mere suspicion, without warrant. The person arrested can be indefinitely detained without access and without charge. The ERs also give wide powers of preventive detention to the Defence Secretary. The ERs allow confessions to the police or any other person admissible as evidence in court and suspend the relevant provisions of the normal law. The ERs also erode the powers of the courts in relation to deaths in the custody of the security forces. Under the ERs enquiries into deaths in custody can take place only on application by the police.

The Judiciary

The judiciary is a vital institution of any democracy. The UN Special Rapporteur on Extra-judicial Executions says that in Sri Lanka, an ineffective justice system creates a climate of public opinion conducive to condoning police torture and summary execution of suspects. The Emergency Regulations erode, and in many instances remove, the powers of the judiciary.

The International Bar Association (IBA) on Judiciary: In August 2001, the IBA concluded that there was ‘an overwhelming need for an independent credible judicial system’ in Sri Lanka. It detailed instances of lack of accountability, breach of natural justice and potential for undue interference, and pointed out that institutions which should be protecting the rule of law, including the President, the government and the Chief Justice, were acting to undermine it. The situation has hardly changed in the last six years.

The UN Special Rapporteur on the Independence of Judges and Lawyers on Judiciary: The UN Special Rapporteur on the Independence of Judges and Lawyers on Judiciary said in July 2003 that corruption in the judicial system is on the increase. Up to now, no action has been taken to address these concerns.

Arbitrary Detention: Tamils are being rounded up en masse. The notorious “Boosa camp” has been reopened, following the reinstatement of the draconian Prevention of Terrorism Act (PTA), and Tamils are sent there with no charges, no right to counsel, or any other of the minimum procedural rights. Boosa camp is Sri Lanka’s Guantanamo. As of 25 January 2007, there have been over 350 Tamils sent to Boosa, and at least 116 are known to still be there. The PTA allows detention without charges or right to counsel for eighteen months.

Working Group on Disappearances: The UN Working Group on Disappearances said in its report in December 2005 that of more than 12,278 cases of disappearances in Sri Lanka submitted to the government, 5,708 remain un-clarified and this is the highest number of disappearances in the world next to the case of Iraq with 16,517 disappearances.

In Sri Lanka, four Presidential Commissions inquired into 37,662 of the 54,404 complaints of disappearances, which took place between January 1988 and December 1995 and found evidence of disappearance in 21,115 cases. No enquiries have been conducted into another 16,742 cases of disappearances. No further action has been taken in the 21,115 cases where the commissions have recorded the names of the security force personnel responsible for the disappearances. Most of them continue to hold positions in the forces. No true democratic nation would allow its citizens to disappear in this manner and fail wilfully to bring those responsible to justice.

According to the records of the Civil Monitoring Committee (CMC), which is engaged in monitoring involuntary disappearances, abduction, extra judicial killings and arbitrary arrests and detentions in Sri Lanka, 88 persons have been either abducted or gone missing since August 2006 up to 9 April 2007. This announcement was made at an event organised by them on 9 April 2007, where family and friends of the disappeared gathered to express their grief.

Sri Lanka Human Rights Commission (SLHRC): The Sri Lanka Human Rights Commission decided in mid-July 2006 that it will not hear 2,127 cases of disappearance passed on to it from the presidential commissions, ‘unless special directions are received from the government, as findings will result in payment of compensation’. It is an appalling state of affairs that an “independent commission” with constitutional powers, appointed for the protection of the people, is taking instructions from the executive, completely contrary to the purpose for which the 17th Amendment to the Constitution was introduced.

Since December 2005, the number of disappearances has increased dramatically in the north-east. Between December 2005 and August 2006, 368 complaints were made to the SLHRC regarding missing persons or disappearances. In 74 cases, arrests were witnessed by people, but security forces later denied the arrests or the relatives have not been able to find the place of detention. In most cases where people have been traced to security force detention centres or prisons, the relatives have not been issued with arrest receipts as required by the Presidential Directives. On 10 September 2006, the SLHRC announced that it had received 419 complaints of disappearances in the Jaffna peninsula alone since December 2005.

The “white vans” are back - vans that moves around in Tamil areas and capital Colombo whose passengers seize mostly Tamil civilians, primarily youth. The Sri Lanka Human rights Commission offices in the Tamil areas are overwhelmed with cases, and a number of Tamils are now seeking “protective custody” orders from local magistrates to avoid being seized. There are around 122 persons who have sought sanctuary in the SLHRC office in Jaffna were transferred to Jaffna Prison for safety.

The Right to Life: Hundreds of Tamil civilians have been killed when they were targeted by Sri Lanka Air Force planes, heavy artillery, and the like. Bishop Joseph of Mannar called the bombardment of Padahuthurai fishing village a “crime against humanity.” Conservative estimates by the BBC indicate nearly 3500 killings since January 2006: almost all of the civilian casualties in the war are Tamils.

The Right to Food: The government is still clearly using food as a weapon of war by severely restricting access to food by blocking key land routes to Tamil civilians, and forcing Tamils to flee

many areas. The government's policies in this regard violate the Geneva Conventions and customary norms of humanitarian law. Calls from community organisations, other non-governmental organizations, religious personalities and others to prevent starvation of Tamil civilians have gone largely unheeded.

Freedom of Expression: Serious violations of the rights of the media have been reported regularly by Human Rights Organisations. International media watch groups have indicated that Sri Lanka was one the most dangerous place for journalists in 2006. Recent events show that 2007 is also going to be a difficult year: on 9 January, a mob led by a deputy minister attacked journalists in Super Marker Square (Colombo) gathered to cover a peace demonstration. Many Tamil and Sinhalese journalists have been sent death threats. Selvarajah Rajivarman, a journalist working for *Uthayan* newspaper was shot dead by gunmen riding in a motorbike on 29 April 2007 at 10:00 a.m. The journalist was said to be gathering news in Jaffna town.

The Right to Health: The health situation of the people in the northeast Tamil areas has continued to deteriorate due to both lack of food and lack of basic medicines and medical personnel. Hospitals, medical facilities and personnel serving Tamil areas are targeted by government armed forces in direct violation of the Geneva Conventions and customary humanitarian law. Conditions in the numerous camps for internally displaced persons are very difficult, and there are serious health consequences of overcrowding, exposure to the elements, lack of food and medicine, and lack of adequate sleep. Many people have serious mental health consequences of being targeted and deprived.

Medicines too are in short supply in the north. There are no local Pharmacies at all. The main hospitals are functioning, but not all people have access to them due to transport situation. Basic items like Paracetamol, Aspirin are also not available in the market.

The shortage of medicines and food in the open market has led to sharp increases in the price (400%) in the black market where most things can be obtained. People having heart ailments, kidney problems and diabetes are severely affected.

Insecurity of Human Rights Defenders: The international non-governmental organizations, local human rights groups, and individual human rights defenders of and aid providers to Tamils have been attacked. Seventeen workers from *Action Contre le Faim* were assassinated. The whereabouts of the seventeen members of the TRO are still unknown, but presumed killed.) The whereabouts of Allaipiddy Parish priest Rev. Fr. Thiruchchelvan Nihal Jim Brown since 20 August 2006 and Easter University Cice Chancellor, Prof. S Raveendranath, since 15 December 2006 are not yet known. *Medicines san Frontieres*, World Concern and other groups have had their work to aid Tamils severely restricted. The American Red Cross and other donors were not allowed to distribute any of the hundreds of millions of \$US collected to assist Tsunami victims in the Tamil areas. Even former Secretary-General Kofi Annan, the ultimate human right defender, was not allowed to visit the Tamil areas after the Tsunami. His envoys were subsequently also kept from the Tamil areas. Human rights work on behalf of war victims in the northeast Tamil speaking areas is drastically under-funded in relation to the need and those involved are under constant threat.

Internally Displaced Persons (IDPs) and Refugees: The Tamil speaking population in Sri Lanka has, by percentage, one of the highest rates of internally displaced in the world today. Most of them have been bombed out of a number of locations. Most estimates show that more than one third of the remaining Tamil speaking population on the island is displaced and are living in make shift camps and welfare centres. In addition, many others have recently fled to India, which had already had hundreds of thousands of refugees from past periods of the conflict and from the Tsunami. The Tamil Diaspora represents one third of the Tamils from Sri Lanka, and now numbers over 1 million

persons. The camps for the IDPs are in deplorable condition due to lack of food, water, sanitation, medical care, schooling, and adequate shelter. Some of the IDPs are housed in schools, making the schools for those local communities unusable.

More than 80,000 people have been displaced in fighting following an offensive launched on 16 January 2007 in the Vaharai area of Batticaloa District by the Sri Lankan government forces against the Liberation Tigers of Tamil Eelam (LTTE). Parliamentarians say that indiscriminate aerial bombardment and shelling, including the continuous use of multi-barrel rocket launchers, by the security forces in populated areas of Vaharai as well as Paduvankarai area has resulted in the death of some 300 civilians. Over 1,000 others have sustained serious injuries. Homes, public buildings and temples have been damaged or destroyed. The total number of the IDPs in Batticaloa had reached nearly 160,000 by the end of March 2007. More than 20,000 children are unable to attend school as a result of the recent displacement.

TABLE - 1
Internally Displaced People in the Eastern Province
As at 20 March 2007

| Place of Refuge | Number of Families | Number of Persons |
|----------------------------------|--------------------|-------------------|
| Batticalao District | | |
| Koralaipattu North (Vaharai) | 1,282 | 4,278 |
| Manmunai South (Kaluvanchikudy) | 8,190 | 34,080 |
| Porativu (Vellaveli) | 116 | 334 |
| Eravur | 10,513 | 40,563 |
| Manmunai (Arayampathy) | 5,569 | 21,569 |
| Koralai Pattu (Valaichenai) | 3,471 | 12,328 |
| Manmunai North (Batticaloa Town) | 8,462 | 30,090 |
| Koralai Pattu Centre (Kiran) | 79 | 302 |
| Kattankudy | 6 | 26 |
| Oddamavadi | 4 | 7 |
| Koralai Pattu South | 3,139 | 11,888 |
| Total | 40,831 | 155,465 |
| Amparai District | | |
| Addalachenai | 12 | 53 |
| Akkaraipatru | 9 | 34 |
| Alayadyvembu | 239 | 811 |
| Ninthavur | 72 | 261 |
| Kalmunai | 486 | 1,917 |
| Navithanveli | 80 | 340 |
| Sainthamaruthu | 2 | 9 |
| Thirukkivil | 459 | 1,854 |
| Karaitivu | 143 | 553 |
| Pothuvil | 22 | 93 |
| Samanthurai | 48 | 166 |
| Total | 1,572 | 6,091 |
| Trincomalee District | | |
| Trincomalee Town | 290 | 944 |
| Muthur | 239 | 760 |
| Kinniya | 269 | 806 |

| | | |
|--------------------|---------------|----------------|
| Kuchchaveli | 23 | 71 |
| Morawewa | 13 | 44 |
| Thamabalagamam | 78 | 215 |
| Total | 912 | 2,840 |
| Grand Total | 43,315 | 164,396 |

Source: UNHCR

Because of government restrictions, the prices of essential commodities have risen manifold, some even tenfold, compared to other areas. The number of IDPs has also created major water and sanitation problems and the situation is expected to become worse. Healthcare has become a huge problem as there is a lack of medicines or medicines are in short supply. The people in IDP camps as well as others who live in the open are vulnerable and need healthcare programmes. Only a fraction of the fuel needs have been supplied to the LTTE-controlled areas. Electricity is currently supplied only for limited hours and in some areas there is no electricity supply. This has affected businesses, banks, offices, industries and schools. Fuel is needed for machinery in agriculture, for fishing boats and vehicles transporting food and other essential commodities. The restriction on fuel has severely impacted in all livelihood activities. The unprecedented number of IDPs has placed an enormous pressure on the local community and shelter has become a major problem. There is not enough room in the established welfare centres or in the homes of people who are willing to provide accommodation. Many refugees have been accommodated in tents, but these lack basic facilities and recent rains in the district have made life in the tents difficult. Government restrictions on movement and on the transport of building materials have already had an adverse impact on the construction of shelters for war and tsunami victims. Education has been badly affected by the fighting in the Eastern Province and the displacement. School children in some areas have been ordered not to use bicycles, which are the main mode of transport for students.

Muslim people displaced by tsunami in the east are particularly at risk of violence and harassment, by the LTTE and Karuna faction. They express fear that the local authorities are not protecting them or their property due to fear of the armed groups. Muslim IDPs in Ampara and Batticaloa are also subjected to threats and intimidation by the armed militant groups and the security forces to move from their land.

There is increasing fear amongst the Tamil and Muslim displaced people that their homes will be given to Sinhala settlers. There are also reports that the government has been conducting forcible returns of IDPs into insecure areas, and has threatened to cut off humanitarian aid to IDPs camps and revoke family cards if they don't follow orders.

Racism and Government: Sinhala Buddhist racism, fostered by sections of the Buddhist clergy and Sinhala leaders supported by successive governments, has overshadowed Sri Lanka's political development. The current administration is both more open and more aggressive in its anti-Tamil position and the ruling coalition government includes some of the most overtly racist parties. These parties are quite open about insisting that the Sinhala majority completely dominates the Tamil speaking people or, even better, drive them out. Race-motivated crimes against Tamils in the Sinhala areas is on the rise as anti-Tamil mobs become emboldened by the rhetoric and by the failure of government authorities to prosecute these crimes. Racism is fanned further by the government's continual mislabelling of the Tamils as "terrorist" and the armed conflict as "terrorism and counter terrorism".

The UN Committee Against torture on Sri Lanka: In December 2005, the UN Committee against Torture expressed its deep concern about continued well-documented allegations of torture and ill-treatment as well as disappearances, mainly by Sri Lanka's police forces. It also said it was concerned that such violations by law enforcement officials are not investigated promptly and

impartially by Sri Lanka's competent authorities. The Committee was also concerned that fundamental safeguards for persons detained by the police, including habeas rights, are not being observed. The Committee further expressed concern about continued allegations of sexual violence and abuse of women and children in custody, including by law enforcement officials, as well as lack of prompt and impartial investigations of these allegations. The Committee said it was further concerned about allegations of reprisals, intimidation and threats against persons reporting acts of torture and ill-treatment as well as the lack of effective witness and victim protection mechanisms. Special Rapporteur Alston in his report of his mission in Sri Lanka in September 2006 to look into summary executions, torture in Sri Lanka says that torture is systematic and death from such torture common. While there is torture of Sinhalese as well as Tamil people, all the persons held in Boosa camp, notorious in the past for torture, are Tamils. Bodies of Tamils tortured to death are found frequently in the North and East.

The UN Special Rapporteur on Extras-judicial Executions: The UN Special Rapporteur on Extras-judicial Executions says in his March 2006 report that the Sri Lankan police are now engaged in summary executions, and in none of the cases of killing by police, had an internal police inquiry been opened. He points out that when grave misconduct such as torture or murder has been alleged, the police Criminal Investigation Department (CID) conducts the investigation, which undermines both its effectiveness and impartiality, and that cases referred to the Attorney General seldom lead to conviction. The Rapporteur says that the 'failure to effectively prosecute government violations is a deeply-felt problem in Sri Lanka', and 'many people doubt that their lives will be protected by the rule of law'.

A large number of killings have taken place in the north-east region since the ceasefire of February 2002 and many killings have also taken place outside this region, including in Colombo. After April 2004, the killings dramatically increased. UN officers estimated the number of killings in 2005 at 500. In 2006, the deaths have risen to more than 1,000 up to end of August. A TIC compilation of killings in the north-east for a period of 36 days between 1 July and 5 August 2006, shows that 187 people, including combatants, were killed and 284 were wounded, many of them seriously. In this period, 79 civilians were killed and 163 were wounded.

UN General Assembly, Philip Alston, 5 September 2006: My findings suggest, however, that many of the killings taking place in Sri Lanka are best characterized as human rights violations and best addressed through human rights implementation and monitoring.

In many cases of civilian deaths, the killings were carried out by unidentified persons arriving at homes and shooting them or taking them away to other places and murdering them. Many people were abducted by unidentified persons, murdered and their bodies dumped in public places. Others were murdered in public places such as bus stations, streets, shops or offices. The phenomenon of civilian killing by unidentified persons is becoming widespread and has led to the belief that a new force is operational in the north-east, creating fear and panic among the people. People have been shot, hacked or battered to death or strangled. Some were killed by grenades and many others were killed by security forces in retaliatory attacks. Some were shot dead at security force checkpoints. Many civilians were also killed in landmine or bomb attacks against security forces. Most of the civilians killed were between the ages of 15 and 35, but some people over the age of 60 were also targeted. They included students, housewives, businessmen, local councillors, fishermen, taxi or three-wheeler drivers or former members of Tamil militant groups. The Sri Lankan security forces, the Liberation Tigers of Tamil Eelam (LTTE) and paramilitary groups aligned to the security forces are accused of carrying out the attacks on civilians.

UN Special Rapporteur on Freedom of Religion and Belief: Following a visit to Sri Lanka in May 2005, the UN Special Rapporteur on Freedom of Religion and Belief said in her report that the

'recent deterioration of religious tolerance and the absence of appropriate action by the government have brought respect for freedom of religion or belief to an unsatisfactory level'. The Rapporteur reminded the government that it has to fulfil its positive obligation to protect the right of freedom of religion on behalf of all its citizens, irrespective of the religious community to which they belong. The Rapporteur also said that these positive obligations include, first and foremost, the prompt investigation of any act of religious violence or intolerance, the prosecution of all perpetrators and the awarding of compensation to the victims of these violations. The government of Sri Lanka has so far done nothing.

UN High Commissioner for Human Rights on Sri Lanka: Louise Arbour UN High Commissioner for Human Rights said in December 2006: "There is an urgent need for the International Community to monitor the Human Rights situation in Sri Lanka as these are not merely ceasefire violations, but grave breaches of International Human Rights and Humanitarian Law....In the latest phase of its ethnic conflict, now more than 20 years old Sri Lanka has witnessed a re-emergence of some of its most frightening ghosts disappearances, abductions, and killings by unidentified gunmen. Nearly 2000 people, majority of them civilians, have been killed since the beginning of the year according to the Nordic Monitoring Team"

The UN Special Rapporteur on the Right to Freedom of Opinion and Expression: Freedom of expression and a free press are essentials in a democratic state. The UN Special Rapporteur on the Right to Freedom of Opinion and Expression said in his report of 27 March 2006 on Sri Lanka that he was seriously concerned, in the light of information that those responsible for attacks and killing of five journalists over the past four years had not yet been apprehended and brought to trial. The Special Rapporteur urged the government to provide protection to journalists and human rights defenders and called on the government to be thorough in investigating and in bringing to justice those responsible in line with international human rights norms and standards.

Currently journalists and left wing activists are being targeted by the authorities under the Emergency Regulations. Reports and newspapers which criticize the government have come under sustained attack. President Rajapakse, Defence Secretary Gotabhaya Rajapakse and army commander Lieutenant General Sarath Fonseka have summoned meetings of media representatives on several occasions to warn them against criticising the war on the grounds that it will affect national security and the morale of the security forces.

The Sri Lankan Free Media Movement (FMM) has pointed out that six people working for the media, including four journalists, have been killed in Sri Lanka in the last 16 months, while not a single crime against a journalist has been solved in the country for the last 20 years.

Freedom of Movement: Although the Sri Lankan Constitution guarantees freedom of movement, the right of Tamils has been extremely restricted through Emergency regulations and security force actions.

Since August 2006 the people living in the Jaffna peninsula live amidst continued curfews. There were times when the curfew was imposed for three to four days continuously and later lifted for a few hours. Some times the curfew is advanced with short notice. People tend to get home by 4.00pm and remain indoors. This affects the all walks of life in the north, particularly the poor daily wage earner. The curfew also facilitates abductions, sexual violence against women, disappearances and robberies in many areas.

Since November 2005, new restrictions were imposed on foreigners travelling to the northeast, which includes foreign staff of diplomatic missions, international organisations and international

NGOs. This has seriously affected the relief and development work and has brought more suffering to tsunami and war affected victims.

Abductions and child recruitment: Within the last year, hundreds of people have been abducted in “white vans” without number plates, which has been the hallmark of security force death squads. Many of those abducted have disappeared, but some have been released after relatives paid huge sums of money as ransom. The Vice Chancellor of the Eastern University S Raveendranath was abducted in the heart of Colombo on 15 December 2006. The Sri Lanka Human Rights Commission received 4,787 complaints of human rights abuses in 2006, including 3,128 regarding illegal arrests, torture and disappearance.

Agencies working with children reports that child recruitment into its forces by the LTTE had resumed following the breakdown of Ceasefire Agreement. Before the March 2004 split between the LTTE and the Karuna faction, there was a sense that the LTTE might be prepared to end this unlawful practice of child recruitment. However, following the split there has been more widespread recruitment across the north and east by both the LTTE and Karuna faction that works closely with the security forces.

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