



# Tamil Information Centre

தமிழ் தகவல் நடுவம்

Committed to Human Rights and Community Development

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**Submission by the Tamil Information Centre on Sri Lanka**

<b>Name of stakeholder:</b>	<b>Tamil Information Centre (TIC), London</b>
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The Tamil Information Centre (TIC), established in 1981, is a non-profit community organisation based in London, UK. The TIC works to address the challenges that face the Tamil speaking community in Sri Lanka to ensure that their rights are protected and promoted and their freedoms are recognised and respected. TIC's mission is to empower people, particularly those suffering persecution and subjected to human rights abuses, by valuing the distinct identities and differences among them and improving the quality of life through access to knowledge.

The TIC assists victims, mobilizes public opinion, supports initiatives to assist the victims, brings pressure on perpetrators to stop violations and seeks improved standards and obligations to provide care and protection to the people. It also promotes people's institution-building and management and helps to strengthen advocacy and lobbying. TIC's concern with the current state of human rights and fundamental freedoms in Sri Lanka has prompted the development of a new programme of activity: the Human Rights Defenders Programme.

### **Methodology**

Through its extensive network of contacts, both individuals and organizations, within and outside Sri Lanka, the TIC compiles information. The TIC is in regular contact with them. The TIC has special procedures to ensure authenticity of information. In the preparation of this submission, the TIC interviewed or consulted many individuals and organizations within Sri Lanka and outside. The TIC has received first-hand information on the matters referred to in the report, and the end notes are included as additional information.

### **Theme**

The theme of the TIC submission is "**Human Rights Defenders in Sri Lanka**".

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**Human Rights Defenders in Sri Lanka**

**1.0 Introduction**

**1.1** The period since the last Universal Periodic Review in 2007 has witnessed grave violations of the human rights of civilians in Sri Lanka, particularly in the north-east zone, by state authorities and security forces, culminating in the killing of thousands of Tamils. Although large-scale attacks on civilians have stopped since the end of the war in May 2009, violations have continued and human rights defenders (HRDs) have been particularly targeted by the state in all parts of Sri Lanka.

**2.0 Sri Lanka's Human Rights Defenders**

**2.1** HRDs work unrelentingly and many media members have also adopted the role of investigating abuses. The space for civil society and human rights work in Sri Lanka is severely limited by fear and the threat of punitive action. The limited space for activists is further eroded by government measures: grievous hurt, murder and disappearances. Many HRDs have fled Sri Lanka fearing for their lives. Despite official complaints and reports by domestic and international organisations, abuses are not investigated by police. Court cases fail due to imposed procedural difficulties and political or police interference. This means neither the perpetrators are held to account nor victims remedied.

**3.0 Failure of institutions and judiciary**

**3.1** The Sri Lanka Human Rights Commission (SLHRC) has received more than 8,000 complaints since 2009.<sup>i</sup> Earlier, SLHRC failed to provide protection to the people and lacked transparency and accountability. The situation has hardly changed.

**3.2** Under the 2001 Seventeenth Amendment to the Constitution, the President could not make appointments to the independent commissions, including the SLHRC, except on the recommendations of the Constitutional Council.<sup>ii</sup> Appointments to the higher courts, the Judicial Service Commission and to positions such as the Attorney-General and the Inspector General of Police (IGP) could be made only with the approval of the Council.<sup>iii</sup> Under the September 2010 Eighteenth Amendment, however, the President is able to make these appointments after merely seeking the observations of a Parliamentary Council.<sup>iv</sup> The Eighteenth Amendment undermines the independence of the commissions and the police and facilitates political appointments. This Amendment and other laws have made the judiciary incapable of protecting the rights of the individual as against the power of the state.<sup>v</sup> Former judge W.M.P.B. Warawewa said on 4 April 2012 that the executive has destroyed the supremacy of the judiciary and the Attorney-General's Department has been politicized.<sup>vi</sup>

**3.3** Thousands of individuals submitted evidence of violations by both the Liberation Tigers of Tamil Eelam (LTTE) and the government to the 2009 Lessons Learnt and Reconciliation Commission (LLRC). The LLRC, headed by C. R. de Silva, included those who defended Sri Lanka against charges of war crimes. The International Independent Group of Eminent Persons (IIGEP), which observed the work of the 2006 Commission of Inquiry into Serious Violations (COI), accused the Attorney-General's Department headed by C. R. de Silva at the time, of playing an inappropriate and impermissible role, advising the COI on the conduct of its proceedings while being the chief legal adviser to the government, thus giving rise to a conflict of interest. The role of the AG's Department was a primary reason that motivated the IIGEP to terminate its mission before the completion of the COI's proceedings.<sup>vii</sup>

**3.4** The inability or the inadequacy of these bodies has made the task of the HRDs much more difficult and placed them in a dangerous situation.

## **4.0 Draconian laws**

**4.1** The Emergency Regulations (ER) and the Prevention of Terrorism Act (PTA) have been used to intimidate and detain journalists and other HRDs. 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.

**4.2** HRDs detained or prosecuted under these laws are likely to be subject to indefinite and extra-legal detention, an unfair trial and torture. Lawyers defending PTA clients are often unable to continue because of death threats.<sup>viii</sup> The TIC has received information regarding cases in which former members of the LTTE and others have been forced to declare that the Sri Lankan state was not involved in attacks on or abuses of civilians. Five Tamil doctors who publicized the killing of civilians in military attacks in the Vanni were arrested in 2009, held in custody and forced to retract their statements on the killings.<sup>ix</sup>

## **5.0 Targeting NGOs**

**5.1** The government has fostered an atmosphere of mistrust towards international agencies, thereby undermining their work. In June 2010, the government transferred the NGO Secretariat, which supervises work of NGOs, from the Social Services Ministry to the Defence Ministry. Since then, several NGOs have been denied access to the north.<sup>x</sup> NGOs are allowed only to build infrastructure and launch income-generation projects, but are not permitted to undertake counselling, capacity building and empowerment projects. Under a NGO Secretariat circular of July 2010,<sup>xi</sup> all NGOs, local and international, must obtain approval to work in the north and abide by the rules of the Northern Province Task Force for Resettlement headed by the President's brother Basil Rajapaksa.<sup>xii</sup> NGOs in the north have been instructed to invite the military for all their events. After the disappearance of Pattani Razeek, the Managing Trustee of Community Trust Fund (CTF), Puttalam, on 11 February 2010,<sup>xiii</sup> the NGO Secretariat took control of CTF in June 2011 alleging corruption. The NGO was placed under a three-member body, which included local army commander Jayashantha Gamage.<sup>xiv</sup>

**5.2** The Sri Lankan government, including the President, has continued a public campaign of vilification of NGOs and HRDs. Criticism of the war effort or police operations are viewed as traitorous. The President in a November 2011 statement accused human rights groups of "misinformation campaigns and conspiracies aimed at destabilizing the country", and claimed they were funded by terrorists. The office of the NGO Viluthu in Colombo was ransacked on 24 January 2012. On 24 March 2012, Public Relations Minister Mervyn de Silva threatened to break the limbs of three activists campaigning at the March 2012 sessions of the Human Rights Council.<sup>xv</sup>

## **6.0 Abductions**

**6.1** Abductions of critics of the government in white vans continue in many parts of Sri Lanka. Sri Lankan MP Anura Kumara Dissanayake said on 8 March 2012 that 29 abductions were reported in the previous two months, and that 'white van culture had become a law'.<sup>xvi</sup> Tamil businessman Ramasamy Prabakaran was abducted on 11 February 2012 from his Colombo home after filing a case against police for torture and detention.<sup>xvii</sup> Sagara Senaratne who was abducted in Kotte on 26 March 2012 was released within a few hours after his brother-in-law and Postal minister Jeevan Kumaratunge complained to the President. Mr. Senaratne had earlier crossed over from the ruling Sri Lanka Freedom Party to the opposition United National Party.<sup>xviii</sup> Australian national

Premakumara Gunaratnam and Frontline Socialist Party leader Dimuthu Attigala were abducted on 6 April 2012, but were released on 10 April after protests from the Australian government.<sup>xxix</sup> Mr. Gunaratnam says that the operation suggested the abductors were part of government security services.<sup>xx</sup> According to Ms. Attigala in a press interview, the captors were concerned during questioning that she might later implicate Gotabaya Rajapaksa as being behind her abduction, and attempted to convince her that the Defence Secretary was not involved.<sup>xxi</sup> Despite these statements, no inquiry has been initiated by the authorities and no one has been arrested.

**6.2** The people abducted and released and human rights organizations are aware of the identities of the authorities behind the abductions and the places where abducted persons are held, but are unable to speak out for fear of reprisals. The TIC understands that even the SLHRC is aware these details.

## **7.0 Attacks on Journalists**

**7.1** During the civil war, journalists were threatened into silence, killed or disappeared. This situation continues after the end of the war. The government has instilled fear within the media resulting in unprecedented levels of self-censorship.<sup>xxii</sup> Killings and disappearances function not only to remove the persons from the civil sphere but act as a warning to others.<sup>xxiii</sup> The Committee to Protect Journalists (CPJ) has recorded the killing of 11 journalists since 2007.<sup>xxiv</sup> In March 2012, CPJ reported that there was a rise in threats for journalists.<sup>xxv</sup>

## **8.0 Brief Case Studies**

### **8.1 Case Study 1: J. S. Tissainayagam**

J. S. Tissainayagam, a journalist with North-Eastern Monthly was detained under the PTA on 7 March 2008 and held by the Terrorist Investigation Department for over 180 days without charge.<sup>xxvi</sup> He was convicted of intending to incite violence and sentenced to 20 years rigorous imprisonment. Following international outcry, he was pardoned by President Rajapaksa and freed on the 3 May 2010. Tissainayagam fled to the US on his release.<sup>xxvii</sup>

### **8.2 Case Study 2: Lalith Kumar Weeraraj and Kugan Muruganandan**

HRDs Lalith Kumar Weeraraj and Kugan Muruganandan disappeared in Jaffna on 9 December 2011.<sup>xxviii</sup> Their families suspect they are detained in Jaffna and have petitioned the Court of Appeal.<sup>xxix</sup> The disappearance occurred a day before a press conference which the two men had organised.<sup>xxx</sup> They had been earlier threatened by police for putting up posters relating to disappearances, attacked by a group in the presence of the military, and detained. Their efforts to lodge formal complaints with the police were futile. They had been warned to discontinue their campaigns.<sup>xxxi</sup>

### **8.3 Case Study 3: Fr. Karunaratnam**

The chairperson of the North East Secretariat on Human Rights (NESOHR), Fr. M. X. Karunaratnam was killed in a landmine attack on 20 April 2008. His work included efforts to improve the human rights protection. In the weeks before his death, Fr. Karunaratnam called for a UN body in Sri Lanka to monitor abuses and flayed Sri Lanka's human rights record. He urged human rights agencies to operate pro-actively and extend activities to the North-East. He visited other countries to raise awareness of the situation of Tamils internationally.<sup>xxxii</sup>

### **8.4 Case Study 4: Right to Life, Negombo**

Following death threats to staff in September 2008 and January 2009, the Negombo human rights organisation Right to Life, complained to the IGP. The telephone caller had said, "If you don't stop your work two or three of you will be killed".<sup>xxxiii</sup> Similar calls were received prior to the assassination of Nishanta Fernando on 20 September 2008. Mr. Fernando's widow Padmi Peiris said in an affidavit on 7 December 2008: "...there have been various types of threats ...that me and my children will be assassinated...The reason for the murder (husband's) is complaints I and my family members made ...against a number of police officers ...and because we are to give evidence against them before courts".<sup>xxxiv</sup>

### **8.5 Case Study 5: Ranjith Kumar**

Ranjith Kumar was Inspector at LTTE's Kilinochchi police station between 2002 and 2004.<sup>xxxv</sup> In March 2003, he briefed international delegates, including UN Special Envoy Ian Martin about the police force, and showed human remains recovered in Vanni earlier occupied by Sri Lankan troops. In May 2009, he was arrested and interrogated about the briefing of Ian Martin and the media, but was later released. Following the Channel 4 film Sri Lanka's killing fields in June 2011, former LTTE members who had earlier links with international agencies were re-arrested and forced to counter the allegations made in the film. In the circumstances, Ranjit Kumar fled the country.<sup>xxxvi</sup>

## **9.0 Recommendations**

**9.1** The Tamil Information Centre calls upon the Sri Lankan government to

respect the rule of law and abide by the provisions of international law and the constitution of Sri Lanka, and respect the Sri Lankan people's right to freedoms of expression, assembly and association and the right to a fair trial;

remove all the current impediments to the Sri Lankan people in the enjoyment of legitimate rights and freedoms, including the repeal of draconian laws such as the Prevention of Terrorism Act and the regulations under the Act;

cease all vilification, intimidation, attacks, abductions, illegal arrests, arbitrary detention, torture in custody and other human rights violations against Human Rights Defenders in Sri Lanka and observe the requirements of due process as demanded by international law and the Sri Lankan Constitution in cases of arrest and detention;

release all the people currently held in custody without trial, including Human Rights Defenders, or charge them in courts, allowing them access to families and legal counsel and providing them medical and other essential facilities;

take sincere measures towards reconciliation between communities as permanent peace is the key to prosperity and success of Sri Lanka in the international arena;

**9.2** The Tamil Information Centre urges the UN Human Rights Council and other UN bodies, including the Security Council, to

take effective and sustained measures to restore the rights of the people of Sri Lanka;

work towards a country visit by the Special Rapporteur on the Situation of Human Rights Defenders to Sri Lanka to ensure the protection of Human Rights Defenders in accordance with Resolution 13/13 of 25 March 2010 of the Human Rights Council;

set up a separate and easily-accessible UN human rights unit in Sri Lanka, outside other UN agency offices in the island, with the concurrence of the Sri Lankan government, in order to raise the capacity and effectiveness of human rights bodies, thereby enhancing their credibility nationally and internationally.

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<sup>i</sup> Amnesty International, *UN: Truth and justice needed to resolve Sri Lanka rights crisis*, 12 September 2011, <http://www.amnesty.org/>

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<sup>iv</sup> Article 41A of the Sri Lanka Constitution

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