



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

Statement

22 February 2007

Ceasefire Agreement completes its fifth year

On February 22, 2002, the Liberation Tigers of Tamil Eelam (LTTE) and the Government of Sri Lanka (GOSL), entered into the Ceasefire Agreement (CFA) with facilitation by the Royal Norwegian Government. Five years have passed since the signing of this historic agreement by the leader of the Liberation Tigers of Tamil Eelam (LTTE), Vellupillai Pirapaharan, and the then Prime Minister of Sri Lanka, Ranil Wickremasinghe. Even though today it exists only on paper, it remains a unique document in the search for an end to the national conflict in the island Sri Lanka. Unprecedented in peace efforts in the island, the CFA was formulated with the full support of the international community, transcended the parameters of Sri Lanka's majoritarian constitution created by the Sinhala people for the Sinhala people which had effectively marginalized the other communities in the island. It recognized Tamil Eelam's *de facto* existence, with its unique characteristics: a distinct population; a government comprising a defense force, a police force, a judiciary, a civil administration and other institutions for effective governance of a people, and capability of entering into agreements with other governments with a line of control reflecting the ground reality of the existence of the Tamil homeland demarcated with recognized borders. The CFA recognized the balance of power between the GOSL and the LTTE and was premised on this balance of power.

Since the island gained independence from British colonial rule, the Tamil nation has been subjected to chauvinistic and oppressive rule by successive Sinhala governments. For the first three decades after independence, the Tamil nation's non-violent resistance to this oppression was met by state violence. Thus, the Tamils' peaceful struggle was transformed into armed struggle. In all that time, leaders and representatives of the Tamil nation held numerous talks and even signed agreements and pacts with successive Sri Lankan governments. Due to the lack of a balance of power between the two sides and the absence of international participation, all such negotiations failed and the successive Sri Lankan governments unilaterally abrogated all agreements reached. Repeatedly the Tamil people were victims of state deception and duplicity.



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

It was in the context of the bitter history that the CFA came into being in 2002 with Norwegian facilitation. It was the strong support shown by the international community for this peace effort that gave the confidence to the Tamils in this process. But the international community's unhelpful engagement in the peace effort has had the effect of encouraging the Sri Lankan state to pursue a military solution to the national question. The international community's unwillingness to take concrete measures and exert pressure on the Sri Lankan government to abandon its aggression in its pursuit of the military option has contributed to rendering the CFA defunct.

Despite serious and provocative breaches by the Sri Lankan armed forces, the LTTE has exercised considerable patience. During this period of ceasefire, we lost hundreds of our cadres to Sri Lankan military attacks. Throughout the Tamil homeland and in the other parts of the island, civilians, including elected Tamil Parliamentarians, Tamil journalists, Members of Tamil intelligentsia and community activists, are being murdered and have disappeared due to the activities of the State armed forces and state-backed paramilitary forces. In spite of this ground reality, the international community chose to unfairly take punitive measures against the LTTE, seriously undermining the LTTE's status as an equal party in the negotiation process and thereby weakening the peace process itself. This international bias against the LTTE further strengthened the government's intransigence and encouraged it to adopt even more hard line positions. The international community's failure to take concrete action against the Sri Lankan state to stop serious breaches of the CFA or its widespread and systematic human rights violations has contributed to war like conditions in the Tamil homeland.

The failure of the peace process despite the international participation deeply frustrated the Tamil people. To their bitter disappointment, the CFA and the internationally facilitated peace process have, as in all previous peace efforts, failed again. Against this backdrop, over the past five years, the LTTE, heeding the requests of the international community to be patient and flexible, has remained restrained while repeatedly calling for the full implementation of the CFA. Six years ago, in December 2000, the LTTE declared a unilateral ceasefire. It was rejected by the state and the war continued. Five years ago, in December 2001, the LTTE again declared a unilateral ceasefire, which paved the way for the CFA after concerted efforts by the Royal Norwegian government.

The CFA's overarching purpose was to end the hostilities between the LTTE and the GOSL and to create a conducive atmosphere for peace negotiations by bringing about conditions of normalcy in the war-ravaged Tamil homeland. In every round of the peace talks we emphasized the urgent humanitarian needs of the Tamil people due to three decades of devastating war. We also repeatedly pointed out that the prevailing environment of military occupation and harassment was not conducive to holding talks on resolving the national conflict.



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

After the CFA came into being, the LTTE participated in several rounds of talks with sincerity and total dedication. In these talks, we urged the GOSL to implement the CFA fully and to jointly take steps to alleviate the humanitarian crisis in the Tamil homeland. It was pointed out, that improving the living conditions of the Tamil people and building confidence and trust should precede discussions on political issues. The CFA requires both parties to the conflict to take necessary steps towards normalizing the lives of people in the Tamil homeland. However, GOSL has failed to comply with these provisions and indeed taken actions to make the situation worse. It continues to occupy the civilians' homes, schools, and places of worship, denying hundreds of thousands of people the right to return to their homes. These are not only the violations of the CFA but also violations of international humanitarian and human right laws. At each round we raised the issue of a lack of normalcy in the Tamil homeland. The GOSL failed to live up to its pledge at the negotiating table by delaying the implementation and ignoring its obligations. Meanwhile there was no improvement in the humanitarian crisis of the Tamil people, but rather got worse.

Contribution to the deterioration of the situation was the continued support extended by GOSL to paramilitary groups. Article 1.8 of the CFA required GOSL to disarm all paramilitary groups within a specified period of the ceasefire coming into effect. The existence of paramilitary groups and they operating with the support and sponsorship of the Sri Lankan Government, have repeatedly been confirmed by the Sri Lanka Monitoring Mission (SLMM) and, recently, by several other sources, including reports issued last year by the US State Department. The UN Special Representative Alan Rock has also pointed out the collaboration between the state armed forces and paramilitary groups, even citing evidence of the former forcibly recruiting children as combatants for the latter.

From 2002 to 2006, we were engaged in eight sessions of direct talks with the Sri Lankan state under the facilitation of the Royal Norwegian government. In order to address the significant humanitarian crisis of the people in the Tamil homeland, several proposals were put forward and administrative structures were suggested during the early peace talks. All these proposals were later rejected or abrogated by the GOSL. The initial request was for the establishment of an interim administration for the Northeast and it was rejected by GOSL, which cited Sri Lanka's majoritarian constitution. Subsequently, a purely humanitarian joint structure SIHRN (Subcommittee on Immediate Humanitarian and Rehabilitation in the NorthEast) was created, but was bureaucratically rendered dysfunctional by the GOSL.

Following the failure of the SIHRN, the LTTE submitted a proposal for the Interim Self Governing Authority (ISGA) to the Sri Lankan government in order to resolve the urgent humanitarian needs of our people and take the peace process forward. Unwilling to initiate peace talks based on the ISGA the then President, Chandrika Kumaratunga, dissolved the



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

Parliament. In the subsequent parliamentary election, Tamil people overwhelmingly voted for 22 candidates from the Tamil homeland, who, accepting the LTTE as the authentic representatives of the Tamil nation, contested the election seeking a popular mandate for ISGA. Denying the democratic will of the Tamil people, the newly elected Sri Lankan government also refused to hold talks on ISGA.

Against this backdrop, the island suffered national calamity of unimaginable proportion when a Tsunami struck in December 2004. The majority of the victims were people in the Tamil homeland who had already endured the ravages of war. Thousands of Tamil people died and many more lost their homes and all their possession and they were internally displaced. With no assistance forthcoming from the Sri Lankan state, the LTTE's military and civilian structures faced up to this humanitarian tragedy with the assistance of international and local NGOs, addressing the immediate evacuation and rehabilitation needs. Six months after the tsunami, with the facilitation of Norway and the insistence of international donor agencies, the LTTE signed an agreement with GOSL to share aid: the Post Tsunami Operational Management Structure (PTOMS). Yet, to the utter dismay of the Tamil people, the GOSL later nullified this purely humanitarian structure, again citing the Sri Lankan constitution. The international community, rather than providing an alternative framework to address the needs of the tsunami victims, simply walked away, leaving the Tamil tsunami victims in a dire situation.

It was in this context that the current Sri Lankan President, Mahinda Rajapakse, assumed power in 2005. Immediately after his term in office began, the shadow war being waged against the LTTE and the Tamil people by Sri Lankan military intelligence wing using the paramilitary groups intensified. A dark phase has begun to unravel in the Tamil homeland; people are being terrorized by cold-blooded killings and 'disappearances.' Tamil parliamentarians who spoke out against the gross human rights violations of Sri Lankan armed forces were assassinated. Community representatives, journalists, students, academics, human rights activists are being murdered and 'disappeared'. In all parts of the Tamil homeland under Sri Lankan military occupation, all sense of normalcy has disappeared in a reign of military terror.

The situation in the Tamil homeland is deteriorating rapidly and the humanitarian and human rights crises are deepening. People in the Tamil homeland are living in traumatic conditions. The continuing bombardments of densely populated civilian areas, including homes, hospitals and schools, are a violation of the Geneva Conventions 4, Article 147 and are thus war crimes. The Sri Lankan military has conducted unprovoked offensives against our forces and occupied our areas in violation of Article 1.3 of the CFA. Even under such grave circumstances we refrained from launching offensive operations and kept ourselves in defensive positions.

Amid this deteriorating situation in the Tamil homeland, in early 2006, talks were held in Geneva concerning the full implementation of the CFA. At the talks, the GOSL promised to implement the CFA and disarm its paramilitary groups. Instead the Sri Lankan military and the



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

paramilitaries intensified the killing of civilians and stepped up their terror campaign. Although a party to the International Convention on Civil and Political Rights (ICCPR), the GOSL refuses to carry out independent, impartial and effective investigations into the killings and disappearances, despite pleas by former UN Secretary General Kofi Anan, and the UN High Commissioner for Human Rights, Louis Arbour who condemned these crimes. Amnesty International report of the Allaipiddy massacre in May 2006 cited credible evidence that the Sri Lankan navy was responsible. The continued failure of the international community, despite the volume of independently gathered evidence, to take effective steps to curb the state's abuses, is turning the Tamil homeland into an Asian Darfur.

While crimes against humanity are taking place in the Tamil Nation, the LTTE, with immense patience, repeatedly reiterated the need for full implementation of the CFA. At this critical juncture, we accepted the international community's request and participated in a second round of talks with the GOSL in October 2006 under the auspices of the Royal Norwegian Government and hosted by Government of Switzerland. In this second round of talks in Geneva, we demonstrated utmost flexibility and in agreeing to hold talks on the core issues even while the humanitarian crisis of the Tamil people have not been improved.

We pointed out the suffering of the people and humanitarian crisis in Jaffna caused by the closure of A-9 highway, the only land route linking the peninsula with the rest of the island. The LTTE pointed out the closure of A-9 had set up a new 'Berlin Wall' behind which approximately 600,000 Tamil people were under the occupation of 60,000 Sri Lankan troops. The Sri Lankan government's adamant refusal to open the A9 highway under any circumstances led to the failure of the talks. The closure of the A9 is a standing breach of Clause 2.10 of the CFA. The deliberate withholding of food and medicine from the civilian population is also a grave breach of article 147 and also violates articles 55 and 59-63 of Geneva Convention IV.

At the talks the GOSL while refusing to discuss humanitarian plight of the Tamil people, it insisted on discussing the core issues relating to the national question. However when it was asked for its proposal, there was none, claiming that it had only recently signed the Memorandum of Understanding (MOU) between the two main parties in Colombo which it described as a "significant step" to find consensus in southern Sri Lanka. Today this much touted MOU has achieved nothing having been undermined by the GOSL itself.

Today the CFA completes its fifth year in existence. Article 2 of the CFA contains specific provisions barring the harassment of civilians and requiring civilian areas such as residential homes, schools, places of worship and public buildings returned to the people with the objective of normalizing the situation in the Tamil homeland. Yet, at present the Sri Lankan military occupies a third of the residential areas, leaving more than 300,000 people to suffer in



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

IDP camps. This action breaches Article 46 of paragraph 2 of the Hague Convention on Land Warfare, which is considered the customary international law, prohibiting confiscation of private property. Guidance can also be drawn from article 17 of the second Additional Protocol II to the Geneva Convention, which prohibits the forcible movement of civilians. Moreover, in the current international context, no peace agreements whether it be in Kosovo, or Bosnia, or Brundi, or Georgia, or Macedonia deny the right to return of the people in the pretext of military security.

The worsening of the humanitarian and the human rights conditions despite the 5 years of the CFA has pushed the Tamil people to the brink. In these five years more than 1500 civilians have been killed and over 500 'disappeared' and approximately 300,000 people still live in the IDP camps and welfare centres. Another 210,000 people were displaced in Sri Lankan military operations last year.

In this backdrop, only a neutral and constructive role by the international community can contribute to a just and lasting peace. Any involvement that is partial and attempts to marginalize or weaken one side will only lead to an irreversible process of deterioration. The parity of status and balance of forces between conflict parties in a negotiation process is essential for the survival of a peace agreement. In the case of CFA between the LTTE and GOSL, the need to maintain parity of status and balance of power was later ignored, leading to the CFA being undermined and, thereby, resulting in the disruption of the peace talks. Canada and the European Union, at the behest of the Sri Lankan Government, declared the LTTE, which was participating in the peace process as the authentic representative of the Tamil nation, as a terrorist outfit. These actions served to undermine the peace process, encouraging the Sri Lankan Government to take a hard line approach

and to escalate its military offensives. Human rights violations on an unprecedented scale and military assaults and occupation have rendered the CFA meaningless.

The landslide victory of the Tamil National Alliance party, which contested the 2004 general election on the platform that LTTE was the sole representative of the Tamil nation, clearly demonstrated the democratic will of the Tamil people. The LTTE is a national liberation movement, which has a long history of struggle for the Tamil people's right to self-determination. The will of the Tamil people is to determine their own political future. In contrast to current international practice with respect to national conflicts in other parts of the world, the international community's insistence on a solution that does not infringe on the territorial integrity and sovereignty of Sri Lanka is deeply frustrating for the Tamil people. The denial of the Tamil people's will is itself a breach of the law of self-determination. The international community has not rejected, for example, the South Sudan Machkos Protocol facilitated by US, UK, Norway and Italy on the basis it is affecting the sovereignty of Sudan.



தமிழீழ விடுதலைப் புலிகள் Liberation Tigers of Tamil Eelam

Nor has the international community questioned the Serbia-Montenegro agreement and the recent proposal on the future of Kosovo on the basis these contravene Serbian sovereignty. The Papua New Guinea- Bougainville Agreement that was not opposed by the international community on the basis of safeguarding territorial integrity and sovereignty. In all these cases the peoples concerned have exercised their right to self-determination and sovereignty.

The marginalisation of the 2002 CFA, which would have been a step towards just peace, has destroyed the confidence of the Tamil people and their expectations regarding future peace efforts. The Sri Lankan government's ongoing war of aggression, aimed at the subjugation of the Tamil people under the guise of 'war on Terrorism', will add to the bloodstained pages of the island's history. It has also compelled the Tamil people to resume their freedom struggle to realize their right to self - determination and to achieve statehood.