



Tamil Information Centre

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Sri Lanka: Human rights defenders need stronger international support and protection

The Tamil Information Centre (TIC) is extremely concerned over the plight of human rights defenders in Sri Lanka, who are facing persecution and threats to life from government authorities. In recent years, the number of reported attacks on human rights defenders has increased dramatically in the island, requiring urgent intervention by the international community. The latest victims are three Members of Parliament – Mano Ganeshan, leader of the Western People's Front (WPF), N Sri Kantha, MP of the Tamil National Alliance (TNA) and T Maheswaran, MP of the United National Party (UNP). Mr Ganeshan is also a founder member of the independent Civil Monitoring Commission (CMC), which has been actively campaigning against government-inspired abductions, killings and disappearances. The Ministerial Security Divisions, which assigns security to MPs comes under Defence Secretary Gotabhaya Rajapakse, the President's brother. Mr Ganeshan has been receiving death threats for several months. The Chairperson of the CMC Siritunga Jayasuriya narrowly escaped physical injury when government inspired armed thugs attacked a peace rally organized in Colombo by the CMC in January 2007. Sri Lanka Muslim Congress (SLMC) leader Rauf Hakeem's security was removed after he blamed the police Special Task Force for the massacre of eleven Muslims in Pottuvil in September 2006.

Reduction of security

The Sri Lankan government has drastically reduced the number of security personnel provided to these three MPs, exposing them to danger. This is not the first time the government has taken such a measure. It has reduced the security of others opposing government measures or exposing government corruption, so that its own henchmen or agencies could deal with them easily. When the Ceylon Workers Congress (CWC) withdrew support in Parliament in August 2007, the government withdrew the security provided to the CWC members. In the same month, the government reduced the security of *Sunday Times* journalist Iqbal Athas after he exposed high-level corruption in government involving defence purchases.

Shrinking liberal space

Human rights defenders, journalists and even MPs have been threatened with death or other physical harm to force to keep quiet or abandon the cause they are pursuing. "The threats and

pressure come from government ministers and from persons linked to high government authorities” says a Tamil MP, who has been subjected to threats, intimidation and false allegation by senior government and security force officers.

Sri Lankan human rights defenders say that liberal space for expression of opinion has shrunk substantially and they are increasingly exposed to death threats and attacks. They are facing severe retaliatory measures over struggle against abuse of authority, breach of the rule of law, corruption and impunity. These human rights defenders include journalists, writers, academics, NGO staff, religious leaders, lawyers, members of professional bodies and MPs. They include women and men in rural or urban areas and from various social backgrounds. They have been actively involved in highlighting human rights violations, including arbitrary arrest and illegal detention, torture, disappearance, murder, as well as repression of women and the minorities.

Information received by the TIC indicates that the persons most at risk of abuse in Sri Lanka are human rights defenders who:

- persistently criticize the warring parties for human rights violations;
- reveal the links of politicians with the police officers and armed gangs who are involved in human rights abuses;
- reveal corruption involving members of the ruling administration and law enforcement officers;
- reveal abuses against minorities;

Government responsibility and defenders’ role

Governments have responsibility for ensuring the promotion and protection of human rights. Domestic implementation of human rights standards largely depends on the ability of individuals and groups to promote and protect human rights and to pressure their governments to live up to their legal obligations. By documenting and exposing human rights violations and holding governments accountable, by seeking remedies for victims and educating populations on their human rights, these individuals - the human rights defenders - play a crucial role in combating violations and improving human rights situations.

The international community has repeatedly acknowledged the vital role of human rights defenders in the implementation of human rights on the domestic level. International monitoring mechanisms, such as the Special Procedures of the Human Rights Council and the UN Treaty Bodies, often rely heavily on the findings of local and national human rights activists in their assessment of domestic human rights conditions. Both the UN Secretary General and the High Commissioner for Human Rights have repeatedly expressed their strong support and admiration of the work of human rights defenders.

Successive governments against defenders

Successive governments in Sri Lanka, however, have encouraged, instigated or directly involved in abuses against human rights defenders. Sri Lankan governments have usually dismissed any criticism of their human rights record as an attempt by the opposition and foreigners with ulterior

motives to discredit them. In this manner, they have not only conveniently sought to absolve themselves of their responsibility to address human rights violations, but have also become the biggest violator of human rights. In the case of the current Rajapakse administration, despite the fact that President Mahinda Rajapakse himself was a human rights defender at one time, there seems to be a planned and coordinated offensive against human rights defenders. The incident involving Mr Ganesan is a clear demonstration of the systematic failure of the State to protect human rights defenders and to prevent abuses against them.

The chronic deep-rooted political polarisation in the island is the matrix for human rights violations, which has split the society into various factions, such as, pro-government, anti-government, pro-LTTE and anti-LTTE. This division has had deep deleterious impact on the civil society and has particularly affected human rights defenders. Poor governance, corruption, nepotism, severe political tension in the country and lack of accountability remain the main facilitators of human rights abuses.

Threats and intimidation

Hundreds of human rights defenders have received death threats and many of them have been attacked. Many have left their homes and localities in the face of continued threats and many others have fled the country. Agents of the State including the police, army, and other law enforcement agencies, for whom successive governments of Sri Lanka have been directly accountable, have continued to perpetrate violations against human rights defenders. Human rights defenders in the north-east are often followed everywhere for many days by black uniformed masked persons on motorcycles without number plates. These masked persons also hang around the officers and homes of human rights defenders, sometimes for several days. Often relatives of the human rights defenders are arrested or abducted. In Jaffna, the freedom of movement of human rights defenders is extremely restricted. They are often denied travel permits and forced to stay indoors.

TIC has received reports that New Left Front leader Dr Wickramabahu Karunaratne and veteran film maker Dharmasiri Bandaranayake have been subjected to threat and intimidation for their forthright and unswerving stand on the conflict in Sri Lanka.

Methods against defenders

The intelligence services and other shadowy groups operated by senior government officers are also responsible for abuses. These violations are mainly arbitrary arrest, torture, disappearances and murder. They also include the following:

- Continued harassment of human rights defenders through the filing cases against them on unsubstantiated criminal accusations;
- Visiting them at night and threatening them with death or serious bodily harm;
- Telling them that their spouse and children will be killed or abducted;
- Using abusive language against them;
- Telephoning spouses and threatening them;
- Following them in unmarked motorcycles to work and other places;

- Arriving in vehicles and waiting outside the home or office, sometimes for several days;
- Sending them death threat letters and parcels containing bullets;
- Policemen from the Criminal Investigation Department (CID) ransacking the house on the pretext of search;
- Denying human rights defenders access to scenes of incidents;
- Publishing inflammatory messages in newspapers;
- Making spouses to attend enquiries by providing false information;
- Forcing human rights defenders or spouses to attend enquiries repeatedly;
- Withholding identity cards, thus preventing their movement and forcing to remain in their homes;
- Phone tapping
- Demanding them to provide their mobile telephone numbers;
- Withdrawing or reducing the number of security officers for MPs and others, making them vulnerable to attacks.

Other perpetrators of abuses against human rights defenders are the LTTE, paramilitary groups operating with the security forces, individuals or groups linked to armed criminal gangs, parties of the ruling coalition or the opposition, and mercenary gangs hired by local politicians to suppress revelations about their unlawful activities. Abuses committed by these groups include death threats and physical attacks against human rights defenders.

Humanitarian workers under attack

Between January 2006 and September 2007, at least 57 humanitarian workers were killed in Sri Lanka, including 17 workers of the French agency Action Contre la Faim in Trincomalee in August 2006. In many of the killings, government agencies, security forces or government-aligned paramilitaries are suspected to be involved. The government has failed to carry out proper investigations in any of the cases. In some cases such as the Action Contre la Faim killings, regarding which the Sri Lankan Monitoring Mission (SLMM) said that the ‘Security Forces of Sri Lanka are widely and consistently deemed to be responsible for the incident’, the government actively sought to prevent any investigation. After these killings, three UN experts said as follows:¹

“The deliberate targeting of humanitarian workers is a serious violation of the basic principles of international human rights and humanitarian law and the Declaration of Human Rights Defenders. Humanitarian workers serve every day as implementing partners for UN agencies. They deliver and distribute food, water, medicine, clothing and other material assistance. They provide medical care and psychological support for victims of sexual violence and other trauma. They help transport people when they are ready to return home. Humanitarian workers are, without question, human rights defenders who help people stay alive during times of conflict. Without them, especially in

¹ *Independent experts express serious concern over the escalation of violence in Sri Lanka*, Statement of the Special Representative of the Secretary-General on Human Rights Defenders, Hina Jilani; the Special Rapporteur on extrajudicial, arbitrary and summary executions, Philip Alston; and the Special Rapporteur on the Right to Food, Jean Ziegler, 11 August 2006, UN Office at Geneva - <http://www.unog.ch/unog/website>

times of conflict, many more civilians would be vulnerable to violations of their civil, cultural, economic, political and social rights such as their right to life, physical integrity, liberty, food, health and adequate housing. In the face of that reality, the responsibility of the Government to extend effective protection to humanitarian workers is heightened.”

Sri Lanka Red Cross Society worker S Thavarajah (43) was abducted by unidentified gunmen from his home in Jaffna town and his body was found on 16 December 2007. The offices of the Tamils Rehabilitation Organization (TRO), in Colombo and government-controlled areas of Vavuniya and Trincomalee in the north-east were searched in January 2007 by the police and all documents, project files and computers were seized. The Trincomalee office was also attacked and ransacked. Seven TRO workers were abducted and murdered by paramilitaries working with army on 29 and 30 January 2006 near government-controlled Welikande in the eastern province. Filipino aid worker Antonio Villeomour of the US agency Mercy Corps, was shot and wounded in Trincomalee on 14 June 2007 in an area heavily guarded by the Sri Lankan navy. A Tamil staff member of the Danish Demining Group (DDG) in Jaffna was shot dead in August 2007. Steen Wetlesen, country programme manager of the DDG said that four staff members travelling to work motorcycles were chased by three people also on motorbikes and fired upon. He also said that four other DDG staff had disappeared in the past two years.

NGOs under attack

NGOs maintaining a position independent of the government in defense of human rights have also been frequently harassed and attacked. They have come under severe pressure from the Sri Lankan government as well as the LTTE and the paramilitary groups. After fighting resumed between government forces and the LTTE, the Sri Lankan government enforced new controls on foreign aid workers and ordered all local and foreign non-government organisations immediately obtain permits. In October 2006, the government decided to withdraw the visas issued to members of four international NGOs – MSS France, MSS Spain, MDM France and Doctors of the World USA – on the recommendations of the Parliamentary Select Committee, alleging that they supported the LTTE. Government members and government allies such as the People’s Liberation Front (JVP) are continue verbal attacks against NGOs alleging that they are a threat to national security. The Parliamentary Select Committee was mandated to investigate activities of NGOs ‘inimical to the sovereignty and integrity of Sri Lanka’ and “that adversely affect Sri Lanka”, despite the statement of the UN Special Representative on Human Rights Defenders that ‘only an independent judicial body should be given authority to review an organization’s purpose and determine whether it is in breach of existing laws’.²

French medical agency, Medecins Sans Frontieres (MSF), working in the north-east for the past 17 years, withdrew from Jaffna in October 2006. MSF took the decision after the Sri Lankan media referred to MSF as a ‘threat to national security’ and on receiving letters from the government cancelling visas of staff saying that the agency was under investigation. Defence Secretary Gotabhaya Rajapaksa, allegedly threatened *Daily Mirror* editor Champika Liyanarachchi on 17 April 2007, after the newspaper published an article accusing the Tamil Makkal Viduthalai Pulikal Party (TMVP) of operating with weapons in government-controlled

² Report of Hina Jilani, UN Secretary General’s Special Representative on Human Rights Defenders to the 59th session of the UN General Assembly, 1 October 2004, A/59/401 – <http://daccessdds.un.org>

areas while law enforcement authorities turned a blind eye. On 20 April 2007, the Colombo-based Consortium of Humanitarian Agencies (CHA) received a threat from TMVP.

Freedom of expression under attack

During the past two years twelve media personnel have been killed in Sri Lanka. President Rajapakse, Defence Secretary Gotabhaya Rajapakse and the army commander have summoned meetings of media representatives on several occasions to warn them against criticizing the war on the grounds that it will affect national security and the morale of the security forces. The *Uthayan* newspaper which reports the conditions of ordinary people in government-controlled Jaffna has lost five journalists. Sampath Lakmal de Silva, who specialized in defence issues, was abducted and murdered in Colombo on 2 July 2006. An International Fact-Finding Mission to Sri Lanka in June 2007 issued the following statement³:

“Safety issues are more important than at any stage in the last 18 months and there are numerous examples of journalists being killed, arrested, assaulted, kidnapped, denounced as traitors or receiving death threats. LTTE, security forces and paramilitary groups have all been accused of carrying out such press freedom violations. Once again, it is the Tamil media in the north and east that confront the major part of these problems, although there have been increasing instances in Colombo.

Members of Government have endangered the lives of media workers by insulting them or applying other invectives. The Health Minister called the media “rabid,” while other Ministers and the Defence Secretary have insulted and openly threatened media workers.”

Attacks on and harassment of the media have continued despite this observation. Anuruddha Lokuhapuarachchi, *Reuters* photographer and journalist, Rohitha Bhasana Abeywardana, a freelance reporter, and S. Rajkumar, president of the Sri Lanka Tamil Media Alliance have fled the country after receiving death threats. The Karuna group, which operates with the army, has banned the distribution of the Colombo-based Tamil newspapers *Virakesari* and *Thinakkural* in the eastern district of Batticaloa. Following repeated protests by students in Jaffna against abduction of young people, the Sri Lanka army stormed offices of *Thinakkural*, *Uthayan* and *Valampuri* newspapers on 9 January 2007 and ordered staff not to publish reports by the Jaffna University Student Union. K.C. Saranga, a programmer for *Derana TV*, was severely beaten on 15 January 2007 by a mob in the Colombo suburb of Dehiwela and a video film on an operation by STF commandos in the Eastern Province was seized from him. Thanikasalam Sarirooban, a trainee journalist with the *Daily Mirror*, was shot dead by gunmen on a motorcycle on 2 August 2007, a day after journalism student Sahadevan Nilakshan was gunned down inside his home. In August, Nadarajah Kuruparan, a news programmer at *Sooriyan FM* television, was abducted and released 24 hours later. His abductors warned him to stop showing a programme that exposed the abuse suffered by the Tamil minority community. Sinnathamby Sivamaharajah, editor of the

³ The International Fact-Finding and Advocacy Mission to Sri Lanka visited the island from 9 to 11 October 2006. The Mission returned to Sri Lanka from 17 to 23 June 2007 and included the International Federation of Journalists, International Media Support, International Press Institute, South Asia Media Commission and Reporters Sans Frontieres. – www.rsf.org

Tamil-language daily *Namathu Eelanadu* was shot dead by gunmen at his home at Tellippalai, Jaffna on 21 August 2007.

The office of the *Sunday Leader* newspaper which is an outspoken critic of the government was burned on 21 November 2007. The fact that some 15 perpetrators were able to pass security force checkpoints easily and escape, is an indication that they were linked to the government.

Trade unions under attack

Trade unions and trade union rights are also under attack in Sri Lanka. In February 2007, the Sri Lankan government admitted that the abduction of a railway trade union activist Nihal Serasinghe and two journalists Sisira Priyankara and Lalith Seneviratne in Colombo was carried out by the army. The government claimed that they were arrested, but none the procedures for arrests was followed. After the trade unions protested about the arrests, posters depicting trade union leaders as terrorist operatives sprung up in many places calling for their arrest. A campaign in the government media was also launched to discredit trade unionists. After the Sri Lanka Ports Authority (SLPA), which is under the Ministry of Ports, and the Minister of Ports refused to negotiate on wages and benefits, 14 port trade unions representing 14,000 port workers decided to launch industrial action in March 2007. The Supreme Court, on a petition filed by an employer organization Joint Apparel Association Forum (JAAF) claiming that the trade union action constituted an infringement of their right to lawful occupation, issued a restraining order on 25 July 2007 forbidding the trade union actions until 27 November 2007 and ordered the police and military to take immediate steps to ensure the trade unions complied with the decision. The International Labour Organisation (ILO) in its November 2007 Governing Body session held the view that the restriction placed on the port-workers by the Supreme Court is contrary to the principles set out in the ILO Conventions that Sri Lanka has ratified and pledged to uphold.

Sri Lanka Constitution and international instruments

The Sri Lankan Constitution guarantees the freedom of thought and conscience and religion (Article 10), freedom speech and expression including publication [Article 14 (1) (a)], freedom of peaceful assembly [Article 14 (1) (b)], freedom of association [Article 14 (1) (c)] and the freedom to form and join a trade union [Article 14 (1) (d)]. The Constitution also provides guarantees of equality before the law [Article 12 (1)], prohibition of discrimination on grounds of religion, race, caste, sex or place of birth [Article 12 (2) & (3)], equality of opportunity in public employment [Article 12 (2)], right to protection of the law [Article 12 (1)], personal liberty [Article 13], safeguards with regard to arrest and detention [Article 13], safeguards against unfair trials [Article 13], the right to freedom of movement [Article 14 (h)] and the freedom of profession or occupation [Article 14 (g)].

Sri Lanka is a signatory to a number of international human rights instruments that set out the human rights standards for the protection of the rights of human rights defenders. Some of these are, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the Convention on the Elimination of All forms of Racial Discrimination, and the Convention against Torture and

Other Cruel, Inhuman or Degrading Treatment or Punishment. The Declaration on Human Rights Defenders reiterates safeguards to be implemented to protect the rights of human rights defenders and the following articles are relevant:⁴

Article 1 of the Declaration states that “*Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels*” and Article 9.1 says that “*In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights*”. Article 12 of the Declaration is particularly relevant:

12 (1). Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to states that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Hostile Supreme Court

Human rights defenders are attacked from all sides and they have no one to turn to for protection. The courts, particularly the Supreme Court, are hostile to the defenders. The Chief Justice himself has threatened human rights defenders during court proceedings, that he would suitably deal with them if they brought human rights cases before the Supreme Court against the security forces. As already pointed out by the Tamil Information Centre (TIC) the human rights situation in Sri Lanka has deteriorated to such an extent and the government is unwilling to listen to the international community’s plea to punish offenders, protect defenders and improve human rights in the island, that the Sri Lankan Human Rights Commission was downgraded recently by the International Co-ordinating Committee of National Human Rights Institutions (ICC)⁵ and the International Independent Group of Eminent Persons (IIGEP), invited by the Sri Lankan government to act as observers of the activities of the Presidential Commission investigating

⁴ *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, General Assembly resolution 53/144, 85th plenary meeting, 9 December 1998

⁵ See TIC statement *Sri Lanka: National Human Rights Commission downgraded for failure in human rights responsibilities*, 18 December 2007

alleged abductions, disappearances and extra judicial killings, has decided not to accept the 2008 extension of its mandate to continue operations in Sri Lanka.⁶⁷

TIC urges the Government of Sri Lanka to bring to an end a cycle of cumulative disregard for human rights in general and for abuses against human rights defenders in particular and to accept the offer of the international community to establish a human rights monitoring mechanism. The TIC is also calling upon all political parties and non-state parties in the island to provide active support towards the fulfillment of this goal.

⁶ The International Independent Group of Eminent Persons (IIGEP) consists of Justice P N Bhagwati (India) (Chairman), Professor Yozo Yokota (Japan), Judge Jean-Pierre Cot (France), Arthur E Gene Dewey (USA), Marzuki Darusman (Indonesia), Professor Ivan Shearer (Australia), Dr Kamal Hossain (Bangladesh), Professor Bruce Matthews (Canada), Andreas Mavrommatis (Cyprus), Professor Sir Nigel Rodley (UK) and Professor Cees Fasseur (Netherlands).

⁷ Interview of Devanesan Nesiah, 23 December 2007 -*Deepam* Television