

Submission by the Catholic Diocese of Mannar to the Lessons Learnt and Reconciliation Commission

8th January 2011

A. Introduction:

This is a presentation on behalf of the people of Mannar district by the Roman Catholic Bishop and Priests of the Diocese of Mannar¹ to the Lessons Learnt and Reconciliation Commission (LLRC).

At the outset, we must express our disappointment that previous Commissions of Inquiry have failed to establish the truth into human rights violations and extrajudicial killings they were inquiring and bring justice and relief to victims and their families. For example, the attack on the Pesalai Catholic Church while civilians were taking refuge and the disappearance of Fr. Jim Brown, both in 2006, were amongst the 16 cases that the Presidential Commission of Inquiry to Investigate and Inquire into Alleged Serious Violations of Human Rights was mandated to look into, but we have not heard of any progress. It is also disturbing that reports of these Commissions have not been made available to those who came before the Commission, victims, their families and general public.

However, we believe the appointment of the LLRC by His Excellency Mahinda Rajapakse is an opportunity for all Sri Lankans to move towards reconciliation. We recognize the importance of learning lessons from our history, in order to move forward as well as prevent further conflict and violence. Thus, our willingness to come before the LLRC and assist the LLRC by working with the Kacheri and Grama Sewekas to make it better known amongst our people.

We appreciate the positive response of the LLRC to our request to visit Mannar district and meet people here who have been seriously affected by the war, especially the last phase of war from 2006-2009. However, Mannar being a district that tens of thousands of people have been affected by war for 3 decades, we are disappointed that the time allocated to listen to our people is very small. We request that special period of time be allocated for further submissions by the public even after the formal sessions of the LLRC are completed.

We also believe that it is crucial for any serious effort towards reconciliation to go back into our history beyond February 2002, as roots of the conflict and reasons for the war that caused so much pain, destruction and polarization dates much further. Infact, the LTTE, other armed Tamil groups and the war are not the cause, but only results of the conflict. Although LTTE and other Tamil armed groups have caused much suffering, their actions were prompted by the failure of successive governments to respond favorably to Tamil's efforts to resolve their problems through peaceful and political means. While acknowledging the part played by LTTE and other armed groups in the suffering of the people, we wish to point out that the state military and their secret agents are feared more by the people and are held responsible for much of their woes.

In order to achieve genuine and lasting reconciliation, we believe it is crucial to address roots of the conflict and war, primarily issues affecting Tamils such as recognition of their political reality, language, land, education and political power sharing.

¹ The Diocese of Mannar comprises the administrative districts of Mannar and Vavuniya. For the purpose of this submission, only the Mannar district is covered

B. Importance of truth:

We are convinced that recognizing in public the objective truth of the events of destruction that has taken place during the decades of war and violence is indispensable for any attempts at reconciliation. Although establishing the truth is not explicitly mentioned in your mandate, we believe you will share our conviction that there can be no genuine and lasting reconciliation without truth. In particular, the truth about violations of international human rights and humanitarian law, such as enforced disappearances, extrajudicial killings, arbitrary detention, torture, bombing and shelling of civilian's spaces including hospitals and religious institutions etc. must be publicly acknowledged bearing also in mind the principle of "Command Responsibility". We note that except in one case (rape and murder Krishanthi Kumarasami) no perpetrators have been convicted for numerous crimes such as extrajudicial killings, disappearances, torture, arbitrary detention, rape and sexual abuse. It is our belief that this culture of impunity over the years, led to more and more crimes against Tamil civilians during the course of the conflict. Measures such as forgiveness, amnesty are only possible when there is genuine acceptance and repentance of wrongs done and the truth is acknowledged.

It is our earnest appeal that the LLRC will give high priority to establish in public the truth of what has happened in the course of conflict and war.

C. Importance of political solution:

It should be recognized that Tamil people along with other inhabitants are part of one Sri Lanka, while having their own identity, culture, language, religion and traditional habitation. This reality in Sri Lanka has to be duly recognized by the government, considering also international law and practices in resolving conflict through political processes. Basic principle of power sharing and rights of minorities must be legally entrenched in the Constitution. The constitution and legal system must not favor and should not leave any room to be even perceived as favoring majority or any one community or religion.

We believe that this process should be done with full participation of all communities, with the assistance of Sri Lankan experts as well as drawing on relevant international experience.

We acknowledge that this will be a long process. We note that several such processes initiated in the past had been abandoned, including the All Party Representative Committee appointed by the present President. Political solution could be carved out taking into consideration previous attempts at a political solution and relevant amendments made to the constitution.

We believe it is crucial to take initial steps immediately, with a clear time frame for completion of the process and implementation of the final political solution.

D. Immediate issues to be addressed

While a political solution to the conflict is essential, we would like to highlight several immediate issues that need to be addressed to ensure that we move forward on the path to reconciliation. Without addressing these needs, people affected by the war will not be able to move towards reconciliation and neither will they have any confidence or hope in any reconciliation process initiated at macro level.

Below are some such concerns with some practical suggestions:

1. Enforced disappearances:

We are submitting herewith a list of 100 persons that have disappeared as reported by their loved ones. (Annex 1 – parts I and II) The actual numbers would be much more. Existing mechanisms such as the Police, National Human Rights Commission and previous Presidential Commissions that many family members had complained to, have been unable to assist the families of the disappeared people. We are particularly worried that there is no news about two Tamil priests from the North who disappeared in this period, namely Rev. Fr. Jim Brown and Rev. Fr. Francis Joseph, although not from the Mannar diocese. Fr. Jim Brown's case was even part of the mandate of the previous Presidential Commission of Inquiry in 2006.

Suggestions:

- 1.1 *Establishment of a special fast track mechanism that is independent of state institutions and will be perceived as independent by affected families.*
- 1.2 *In cases where it is clearly established that the person cannot be found, processes for death certificates and compensation should be expedited.*
- 1.3 *Procedures for applying for same should be simple, time bound and should be made public.*

2. Remanded LTTE suspects:

We are submitting a list of 274 persons who have been reported to us as being remanded. We are again aware that the actual number of persons in detention is much more than we present. There are thousands of LTTE suspects detained in prisons all over the country, such as in Welikeda in Colombo, Bogambara in Kandy, Jaffna, Batticaloa, Vavuniya, Anuradhapura etc. Almost all are Tamils. Most are detained purely on suspicion of links to the LTTE, with no charges brought for years. Others have been charged, but their trials are going on for years. Some of those, such as those detained in Omanthai under the Terrorist Investigation Department (TID), have been denied access to lawyers, ICRC and National Human Rights Commission and right to participate in religious services. Their relatives face a lot of problems visiting them and are often compelled to talk in inhumane manner through wire mesh, with more than 10 at a time in congested small room. There is no centralized list of detainees in each detention centre that relatives could refer to.

It is very important also to identify and pay special attention to vulnerable groups with special needs, such as those with young children and physically disabled.

Suggestions:

- 2.1 *A centralized, comprehensive list of detainees should be made public – with names, places of detention as well as record of transfers, so families are made aware of the whereabouts of their family members. The list should also provide the reasons for detention and under which legal provision they are being detained.*
- 2.2 *Unhindered access to detainees, by their families, religious leaders, lawyers, ICRC and other statutory bodies and individuals.*
- 2.3 *Release all those who are not charged or detained in accordance with the legal framework and expedite the cases of those who have been charged.*

2.4 A proper screening process should be in place to identify special cases, such as those with young children and with physical disability and provide special assistance they need.

3. Extrajudicial killings:

We present herewith a list of 166 people who had been reported to us as killed during the last phase of the war, from Mannar district. (Annex 3) This number is not complete. Thousands of persons have been reported killed during the three decade old war from the North and East, most of them, since 2007 and particularly in the last five months of war in 2009. This includes a large number from the district of Mannar. Rev. Fr. Pakiaranjith, a priest of our diocese was also killed on 26th September 2007 in Vellankulam Road near Thunnukai, while he was taking assistance to displaced people. Hundreds of civilians from the Mannar district have also been deliberately killed by the military at the beginning of the war in early 1980s, such as the mass massacre at 11th mile post on the Mannar – Medawachiya Road on 4th December 1984.

Based on eyewitness testimonies, we believe thousands of people would have been killed in the last five months of war between January – May 2009 and we believe a large number of these people are also from the Mannar district.

Based on information from the Kacheris of Mullativu and Killinochi about the population in Vanni in early October 2008 and number of people who came to government controlled areas after that, 146,679 people seem to be unaccounted for. According to the Kacheri, the population in Vanni was 429,059 in early part of October 2008 (Refer Annex 4 and 5). According to UN OCHA update as of 10th July 2009, the total number of people who came out of the Vanni to government controlled areas after this is estimated to be 282,380 (Refer Annex 6).

Suggestions:

- 3.1 All killings should be formally acknowledged*
- 3.2 The number of civilians killed during the last phase of the war should be made public*
- 3.3 Due clarification should be made regarding what happened to 146,679 people, which is the discrepancy between the number of people who came to government controlled areas between October 2008 – May 2009 and the population reported to be in Vanni in early October 2008.*
- 3.4 Processes for death certificates and compensation should be expedited.*
- 3.5 Procedures for applying for same should be simple, time bound and should be made public.*

4. Rehabilitation of civilians affected by war

Thousands of civilians have also been injured, some seriously during the course of the war, especially in the last few months of war in the North in 2009. Many suffer permanent physical disability and are unable to get about their daily lives, including education and livelihoods without special assistance. There are also many who are traumatized due to being eyewitness to the war and having family members killed and made to disappear after being detained by the military, being admitted to hospitals etc.

Suggestions:

4.1 All civilians physically affected should be offered needed special care and assistance.

4.2 All those who are in need of trauma counseling should be offered opportunities to receive trauma counseling and psychosocial support.

4.3 Government should facilitate and assist religious groups and NGOs to collect correct data in order to provide these services, including financial assistance where needed.

5. Rehabilitation of ex-LTTE cadres

We welcome the release in batches of ex-LTTE cadres. But there is no clear official number for those being detained and rehabilitated.² There is no transparent classifications and distinctions between those alleged as ex-combatants and others who were not in the frontlines (e.g. cooks, medics, admin staff etc.). There is also no clear indication about how many ex-combatants would be charged, and under what laws, with different Government MPs saying different numbers at different times.³

We have also been told by several ex-LTTE cadres who had been released that they had not received any serious rehabilitation, such as counseling and livelihood skills. Those who have been released after rehabilitation have reported that their freedom of movement has been restricted and several have been reported as threatened and even abducted after release.

Suggestions:

5.1 Ensure freedom of movement and security of those released after rehabilitation

5.2 A comprehensive programme to address the psychological needs of ex-LTTE cadres and those rehabilitated and reintegrated should be implemented by the Government in partnership with agencies who have expertise in the area.

5.3 There should be an independent authority/body to monitor the rehabilitation and reintegration of detainees, so as to ensure that proper rehabilitation is conducted, and if the reintegration process is taking place effectively. (e.g. facilitate family units to re-start their lives etc.,)

6. Permanent housing, Livelihoods, Healthcare, Education and Transport:

We appreciate the fact that most people displaced during the war have been allowed to go back to their villages. We particularly appreciate the efforts made to demine these areas. However, although many people have returned to their villages, they are not able to live in dignity.

² For example, in an interview with the Sunday Observer of 1st August 2010, Minister D. E. W. Gunasekera was quoted as saying there 7000 ex combatants in custody out of an initial number of 12,000 at the end of the war. However, the Minister was quoted in the Divaina of 15th Sept. 2010 as saying 4000 out of 12,000 had been rehabilitated and released implying a number of 8000 that remained detained. On 10th August, Government MP Rajiva Wijesinghe was quoted by IRIN as saying 6900 continue to be detained out of an initial number of 11,000 LTTE fighters that were detained.

³ Minister Gunasekera pointed out in his interview to Sunday Observer of 1st August that about 1100 were “hardcore tigers”. However, the Divaina of 15th September reported the Minister as saying only about 700 could be charged. MP Rajiva Wijesinghe however quoted a different figure of 600 that will face charges and long term rehabilitation in IRIN news of 10th August

Almost 20 months after the end of the war, most of displaced people still have no housing and live under tarpaulin sheets. Others live in makeshift and temporary houses, mainly cadjan and tin sheets. There is no comprehensive housing scheme in place. We are also disturbed that a limit of Rs. 325,000 has been placed as the amount that should be spent for one permanent house for houses being built by The North East Housing Reconstruction Program (NEHRP). Based on present construction costs, it would be difficult to complete a good quality permanent house within Rs. 325,000. Further, we are also concerned that only few agencies are involved in building permanent houses, which we understand is due to undue restrictions and formalities of the government.

In this context, we were relieved and happy to hear about the offer of the Indian government to build 50,000 houses. We believe it is essential that the Government of Sri Lanka cooperates fully with the Indian government to ensure that people without housing can benefit in full from this generous offer.

Newly resettled people also lack assistance to restart livelihood (fishing / farming / shops etc.). The large number of shops runs by the military and businesses started by people from other parts of the country are negatively affecting the ability of local people who are trying to restart their lives through small shops and restaurants.

People also lack water supply, nutritious food – including milk foods for children and education facilities, health care and transport facilities are inadequate.

Although we are allowed to extend our services to affected people at the moment, we have faced restrictions in earlier in our (Catholic Church) attempts to provide some such services and facilities and have received reports from NGOs who are ready to provide such services about restrictions presently in effect by multiple government bodies such as the Presidential Task Force and Ministry of Defense.

Suggestions:

6.1 Government should assume primary responsibility to provide decent permanent housing to displaced people who have now returned to their own villages.

6.2 Government should ensure that religious groups and NGOs who are willing to provide assistance and services are able to do these without long and complicated procedures.

6.3 The Indian government should be given the opportunity to build the 50,000 houses they have committed themselves to build, without leaving space for any local politicians, government officials and middlemen to engage in any corrupt practices.

6.4 High priority should be given to provision of quality healthcare, education and transport facilities to newly resettled areas such as Manthai West, Madhu and Musali divisions.

6.5 Due compensation should be paid to properties damaged, and a simplified, fast and transparent procedure must be put in place for this process.

6.6 No limitation should be placed on the amount to be spent on building permanent houses.

7. Creating a positive environment for displaced Muslims to return:

The forced evacuation of the Muslims in 1990 by the LTTE is a sad event in the conflict and we are happy that good number of them is able to return back to their places of original habitat. All the displaced Muslims of the Mannar district must be allowed to return freely and must be assisted by relevant authorities to be reintegrated into the communities in Mannar. We are relieved that Muslim people were not subjected to extrajudicial killings, disappearances, arbitrary arrests that most others who stayed in Mannar have been subjected to.

Suggestions:

7.1 A favorable environment should be created to ensure the return of Muslims who want to come back and they should be provided all facilities that returning people are entitled to.

7.2 Dialogue between Tamil and Muslim communities as well as community and religious leaders is important to ensure both communities can live in harmony.

7.3 Government must ensure that resettling Tamil and Muslim communities get equal level of assistance and support, and avoid creating situations where one community is seen as the favored community, as this will only cause further tensions.

8. Demographic changes and land colonization:

While we welcome efforts to resettle and assist displaced people to return and resettle, we are alarmed at reports that there are plans to handover land to large number of people from outside the district. We have also received reports that several individuals and groups from outside the district are already occupying lands (E.g. in Musali division) and these seems to be done with blessings of a Government Minister.

There is suspicion amongst historical inhabitants in the district that these are part of a government plan to bring about demographic changes in terms of ethnic and religious composition of the districts and the Northern Province as a whole. Such efforts in the past have been a key factor that led to the conflict, war and violence and as we try to move towards reconciliation, it is crucial to learn lessons from the mistakes made in the past and not repeat such mistakes.

9. Occupation of land by military:

We appreciate the fact that the Government and the military had handed back some of the Church land that had been occupied by the military. However, we are disturbed that civilians in some areas are unable to go back to live in their own lands due to occupation of their houses and land by the military, such as in Sannar and Mullikulam. Land owned and administered by us (Catholic Church) in Mullikulam have also been taken over by the Navy without prior information or consultation with us (Catholic Church) and the people about alternative arrangements. There are no alternative arrangements offered as of now to those evacuated.

Suggestions:

9.1 Priority should be given to allow people to live in their own lands

9.2 Occupation of land by the military should be a last resort only, and in this case, provision of alternative land and in consultation with those affected and due compensation is also essential

10. Militarization and politicization of the civil administration:

Almost 20 months after the end of the war and after more than a year since the resettlement process started, we are disturbed that there is a heavy military presence in Mannar district particularly in recently resettled areas of Manthai West, Madhu and Musali divisions. This is something most Tamil civilians fear and not happy about, due to the many negative experiences they have had in the past. Many activities and decisions that should be attended to by civil authorities are still being handled by the military.

We have also seen an alarming level of interference in the civil administration of the Mannar district by politicians of the ruling party. Appointments and transfers to important positions in the civil administration including crucial areas such as healthcare and education etc. are controlled and monopolized by politicians, completely by passing the official procedures.

The culture of political patronage seems to have engulfed the Mannar district as it is in rest of the country. This has also caused a fear and tension amongst the majority Tamil community, who feel they are being marginalized in favour of those known to influential politicians of the government.

In this post war era, it is worrying that Governors to both the North and the East are former military commanders, as it is natural that senior military officers would operate based on military perspective rather than civilian perspectives.

Suggestions:

10.1 Military presence should be minimized and should be to the extent required.

10.2 Military should remain in barracks and camps and not in public places unless it's required for security purposes.

10.3 Government Ministers and the Governor should not exceed powers vested in their office by law and in particular should not interfere in matters that are under the purview of the civil administration.

10.4 Transfers and appointments in the civil service should follow the established procedures devoid of any influence and interference of politicians.

10.4 Civilian administration should be strengthened and administrative, development and rehabilitation functions should be handed over to civil authorities with relevant expertise and experience.

11. Freedom of Religion, Expression, Association and Movement:

Almost 20th months after the end of the war, it is disturbing that restrictions on expression, association and movement that are not in force in other parts of the country and communities are being imposed on recently resettled Tamil people. On several occasions, the military had cancelled religious services to remember and pray for civilians killed or missing and even

some of our priests have been threatened and intimidated for their attempts to commemorate those who were killed during the war.

While celebrations for the war victory had been held under government patronage, no efforts have been made by the government to express solidarity with families of those killed, missing and injured in the war, by observing a National Day of Mourning.

Attempts to protest peacefully about land occupation and lack of basic facilities had also drawn threats and intimidations.

Church organizations and NGOs have been instructed in writing and verbally by the Government Agent of Vavuniya and the Army in Mannar that no events should be organized without inviting the military.

Restrictions on travel still remain and even last month, some overseas visitors were prevented from visiting people in Manthai West division.

Such restrictions make Tamil people in these areas feel that they are living under military rule and cannot enjoy the rights and liberties that people in other parts of Sri Lanka enjoy. Restrictive measures for peaceful and humanitarian activities also create further tensions and distance between the Government and Tamil people, and should be avoided in order to move towards reconciliation. Travel restrictions on foreign nationals who are interested to help resettled people deny these people opportunities to get further assistance.

Suggestions:

11.1 People, community leaders and religious leaders should be free to organize peaceful events and meetings without restrictions.

11.2 The government should declare a national day of mourning, to remember civilians who have been killed in the war.

11.2 Visitors from outside the district and from overseas should be allowed to freely visit their friends and relatives in recently resettled areas without having to obtain prior permission from the Ministry of Defense.

12. Fears of Sinhalese – Buddhist cultural domination:

We are deeply disturbed that some signboards in villages in Manthai West are only in Sinhalese and that some roads names have been given Sinhalese names. These are seen as indicators of “Sinhalization” of traditional Tamil areas and these are things that should be avoided if we are to move towards reconciliation.

Building a Buddhist place of worship (Pansala) in Murunkan Town where there was a Hindu Kovil is something that has caused a lot of concern, particularly as there is no Buddhist population in this area. Erections of Buddhist statues in prominent public places in many new locations in the North have also made our people fearful of Buddhist domination of majority Hindu, Christian and Islamic areas.

While being deeply respectful of Buddhism and believing in religious freedom for all religious communities all over the country, we believe the erection of Buddhist statues and places of worship in public places in the North, will not help in reconciliation efforts and infact, may lead to further tensions and polarization amongst different religious communities.

E. Conclusion:

We hope due notice will be taken of concerns we had raised and practical suggestions made. We reiterate that key three elements towards reconciliation are:

1. Acknowledging the objective and total truth of events that had happened throughout the conflict and war, particularly in the closing stages of the war
2. A political solution to the ethnic conflict, that will also ensure good governance and rule of law, drawn up in a participatory manner within a specified time frame
3. Addressing of immediate concerns (such as of people who had been affected and suffered due to the war

We stand ready to further assist and collaborate with the LLRC and the Government of Sri Lanka towards achieving these goals and offer our prayers and blessings towards the success of such efforts.

Yours sincerely,

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