

## Fourty-Eights Session of the Commission on Human Rights of the United Nations

# SRI LANKA HUMAN RIGHTS SITUATION

Memorandum prepared on behalf of the European NGO-Forum on Sri Lanka by the Country Working Group on Sri Lanka (Geneva), January 1992

### 1. INTRODUCTION

The record of human rights violations including arbitrary arrests, detention without trial, deaths in custody, "disappearances", arbitrary killings and disregard for the norms set by international human rights and humanitarian law continue to be matters of grave concern deserving serious attention by all those who are concerned about the situation in Sri Lanka.

The fighting that broke out in June 1990 between government forces and the Liberation Tigers of Tamil Eelam (LTTE - Tamil Tigers) has resulted in incalculable death and destruction, and the displacement of an estimated one million people.

International and local non-governmental organisations have documented gross violations of human rights including "disappearances" and summary executions running to tens of thousands.

### 2. EMERGENCY RULE

Sri Lanka has been under a State of Emergency since 1983 except for a brief period of five months: Emergency proclaimed: 18 May 1983, Terminated: 11 January 1989. Emergency reintroduced: 20 June 1989, Continues: To date.

Many of the normal safeguards in regard to democratic and human rights and fundamental freedoms have remained suspended and the security forces have been invested with extraordinary powers under the Emergency Regulations and the Prevention of Terrorism Act (PTA) which has been described as "an ugly blot on the statute book of any civilised country" (1).

The PTA, *inter alia*, (a) provides for arrest without warrant and to be detained until conclusion of

trial, and the courts have no power to grant bail;

(b) empowers the Minister of Defence to detain a person incommunicado for up to 18 months, and the courts have no power to determine the legality of such detentions;

(c) empowers the Minister to restrict or prohibit a person from taking part in any political activity for up to 18 months, and the courts have no power to question the legality of such prohibition orders;

(d) provides for a maximum prison term for life and forfeiture of property;

(e) empowers the Minister to impose censorship of news and prohibit the distribution of newspapers;

(f) enables confessions made orally or in writing to a police officer while held in custody or detention to be admitted in evidence - the burden of proving that the confession was caused by duress, threat, inducement or promise is upon the defendant.

Additional draconian powers are conferred by the Emergency Regulations under which persons can be held in incommunicado detention for an indefinite period without trial.

### 3. DETENTION WITHOUT TRIAL

Tens of thousands of persons were held in detention without trial during the period 1988-90 and at present (January 1992) an estimated 11.000 persons are reported to be held in detention. While theoretically there are legal provisions to refer the matter to the courts by way of habeas corpus applications, in practice it has proved that these provisions do not provide an effective and speedy means of redress against arbitrary and unacknowledged detentions. Hundreds of habeas corpus applications made to the courts in respect of detained persons have remained unresolved for months and in many cases for more than a year.

There have been reported cases where

persons have been held even without a formal "Detention Order" or after the order had lapsed. In one case which was taken up recently before the Supreme Court, W.M.Seetha Weerakoon, a high school girl student, was arrested along with her younger sister on 12 August 1989 by army personnel and were handed over to the Galagedera police station. Her sister was released within 14 days. But Seetha was detained until 27 August 1990. The evidence led in the case established that she was held for over a year without any detention order, and therefore had been held illegally.

### 4. TORTURE

The use of torture in Sri Lanka is routinely practised against persons in custody or detention. The practice is so widespread that it can no longer be regarded as the result of individual excesses or simply as an over-reaction by enthusiastic officers.

Prolonged police and military custody, incommunicado detention in unknown places without any form of independent supervision or control, the denial of visits by lawyers or relatives, and the enabling of confessions to be admissible in evidence provide a ready context for torture and ill-treatment. Reliable reports have confirmed "that torture is used extensively by the Sri Lankan security forces, and that several people have died as a result of injuries incurred through torture". (2) "Local human rights groups and some Government security officials acknowledge that Sri Lankan security forces commonly used torture to elicit information and cooperation from suspected members of the JVP". (3)

In January 1989, three police officers were charged with the murder of a lawyer, Mr. Liyanarachchi. He was abducted in September 1988 by police officers, taken to an unknown destination and later transferred to the



residence of a senior police officer where he was held in secret. He was badly tortured and when his abduction became publicly known, he was taken to the hospital where he died within a few hours after admission. Medical evidence showed that the victim had sustained more than one hundred serious internal injuries. In the course of the trial, in a plea bargaining exercise with the Attorney General, the police officers concerned pleaded guilty on a charge of "wrongful confinement" in return for dropping the charge of murder.

The October 1991 Amnesty International Report states: "Torture and ill-treatment appear to have been commonplace at Sevana Camp (an army camp from which large numbers of persons held in detention 'disappeared' - see Section 13 below). One prisoner who was released from the camp told Amnesty International that he had been kept for about a month in a communal bathroom, where he got wet from the showers, and that he had been blind folded for several weeks. He had also been subjected to several forms of torture: he had been beaten with bottles, rubber hosing and cricket stumps; he had been suspended from a bar, and burnt with cigarettes. Loops had been tightened around his ankles causing great pain, and electric shocks had twice been applied to his genitals. Marks remain visible on his body which are consistent with the forms of torture described. This young man had been abducted by men in plain clothes, and the security forces had denied for some time that they held him. In his account, which is supported by the account of another prisoner released from Sevana camp whom Amnesty International has interviewed, torture and ill-treatment were widespread at the camp. He once claimed to hear a prisoner being beaten to death".

## 5. JVP VIOLENCE

The period covering 1988-1990 was characterised by unprecedented violence both on the part of government forces and the Janatha Vimukthi Peramuna (JVP), an extremist political group based mostly in south Sri Lanka. Adopting a violently antagonistic position against the Indo-Sri Lanka Agreement of July 1987, which sought to provide a framework for devolution of powers for the Tamil areas, and to the presence of the Indian Peace Keeping Force (IPKF) in the northeast of the island, the JVP engaged in a campaign of unmitigated violence including widespread assassinations of not only members of the security forces, Members of Parliament and leading members of the ruling party, but also those belonging to

the opposition parties. It also targeted individuals connected with human rights organizations, academics etc. Through a sustained campaign of enforced work stoppages, burning down government installations etc., the JVP was seeking to bring about the administration of the country to a grinding halt. In an attempt to prevent the parliamentary elections being held in February 1989, the JVP having called for a boycott of elections killed several candidates belonging to all political parties, election agents, officials and even ordinary persons who chose to vote at the elections.

"The JVP and the associated Deshapremi Janatha Viyaparaya, Patriotic People's Movement, continued a campaign of violence and intimidation and were widely believed responsible for thousands of murders. The victims included people perceived as 'traitors' to the groups, prisoners, security forces personnel and their families, members of the ruling UNP, senior public officials, broadcasters and left wing opposition activists, including some Buddhist monks. Members of the two groups reinforced their calls to strike and to demonstrate against the government by threatening to murder those who refused to participate. They also destroyed government offices, post offices, tea plantations and other state property". (4)

According to government figures, the JVP murdered 6517 people between late 1987 and March 1990. There were markedly fewer reports of killings by the JVP in 1990 than in 1989. However, 15 members of a village 'vigilance committee', which had reported on suspected subversives to the security forces, were murdered in Matara District in July 1990. The government attributed the killings to the JVP. (5)

## 6. GOVERNMENT'S VIOLENT RESPONSE, ARBITRARY KILLINGS AND "DISAPPEARANCES"

Government forces responded with counter-violence which was characterised by unmitigated repression and brutality. Anyone suspected of JVP membership or sympathy was shot dead and in many cases burnt alive. Their homes were set on fire. Death squads sponsored by the security forces went about the country in unmarked vehicles summarily executing anyone with suspected JVP connections. An estimated 60.000 persons "disappeared" between 1988-90.

"In the south extrajudicial executions were carried out by uniformed members of the security forces and by 'death squads' believed to be associated with them. Many hundreds of people were

killed, because they were suspected of supporting or sympathising with the JVP, but it was impossible to establish the true total. The identity of many victims was not known because bodies were mutilated beyond recognition, burned in heaps of tyres or thrown in rivers. Some bodies were dumped long distances from the scene of the execution. Some victims had been taken by uniformed police or army officers; others had been abducted by unknown armed men in civilian clothes, some of them travelling in unmarked vehicles. Security force spokespersons said many victims were JVP sympathisers or collaborators. Other people killed were from villages believed to be collectively sympathetic to the JVP" (6).

Several people who complained of or witnessed human rights violations by the security forces have reportedly been killed.

Human rights activists in Sri Lanka point to the "Vavulkele Murders" as typical of the innumerable cases of deliberate killing by members of the security forces after persons have been taken into custody. In this incident, police officers belonging to Nittambuwa area took into custody 13 persons of whom one escaped but the other 12 were shot, killed, bodies burnt and then buried on 27 February 1990. The following are excerpts from the account of the incident given by the person who escaped: "On that day, 27 February 1990 at about 2.30 in the early morning, I heard the sound of banging on the door. When I opened the door, I saw a group of persons in masks and dressed in army and police uniforms. There was a white van and a jeep parked near the house. They ordered me to get into the van. I did so, clad in my sarong. It was quite dark at the time, so I was not able to recognize anybody else who was within the van at the time. But because the masked men would occasionally shine their torches on to us, I gathered that there were about 7 persons in the van along with me. The jeep drove in front of the van in which we were. These vehicles stopped at several more points along the route; more people were put into the vehicles at each stop. As soon as I was inside the van, they stripped me of my sarong. I was naked. Then they tore strips off my sarong and tied my hands and feet with them. The torch light showed me that the others in the van too were in this same situation, naked with their hands and feet bound. When there were about ten of us in the van, they brought in a 11th person. This was a small and pretty girl. At the time she was put into the van she was wearing only a nightdress. After putting the girl into the van, one of the masked men



asked me to rape her. When I refused, they pushed her onto the floor of the van and pushed me on top of her. When I proved unamenable to their demand, they asked the others in the van to rape her. By this time, there was an electric bulb burning inside the van. When all the other prisoners also refused to rape the girl, they scolded us asking us if we were 'men'. They used a lot of obscenities. Then they began to molest that girl in front of us in a very bestial manner. Even though the girl cried out when they were molesting her, we were helpless, and we could do nothing. As the van moved forward, I slowly loosened the bonds on my wrist, without them noticing what I was doing. By the time we reached the spot where the killing was to take place, I had freed my hands completely. By about 3 a.m., the vehicles came to a stop near Vavulkele Estate. Two of the armed men stood near the door of the van. They took one person out, and shot him. Then the next, the next and so on. I was fifth in line. They took the third out and shot him too. As they took the fourth person out, I jumped out and struck a vigorous blow at one of the other men who was standing near the door of the van. I pushed that man aside and ran away into the dark. It was due to some luck that I was able to avoid the shot they fired at me as I was running. I felt the bullet whiz past me. I managed to clamber up a cadju tree nearby with great difficulty. From the top of that tree, I watched the bodies of companions being burned. When the next day dawned I came down off the tree and ran to the temple that was nearby. There I asked for a glass of water from a person who was there, and told him what had happened. He gave me a sarong. After that I went around to the homes of the people that I had recognised in the group, and gave them the information about what had happened and then went home". (7)

Because of the public outrage at these killings and the resulting wide publicity they received, the incident could not be covered up as in many other similar cases. At an identification parade, 11 police officers were identified as being involved and 8 of them are facing murder charges. Among those charged are two senior police officers, the Officer-in-Charge of the Weerangula Police Station and the Officer-in-Charge of the Ganemulla Police Station and other junior police officers.

## 7. HUMAN RIGHTS LAWYERS & ACTIVISTS KILLED

Lawyers pursuing human rights cases were among those who were extrajudicially executed. Charitha

Lankapura and Kanchana Abhayapala, two lawyers, had filed hundreds of habeas corpus applications with courts on behalf of 'disappeared' prisoners and others arrested in the south. The former was killed by unknown armed men in July 1989 and the latter in August 1989. At least 20 other lawyers were reportedly threatened with death in attempts to prevent them from working on such cases. Many lawyers have gone into exile in fear of being killed.

Richard de Zoysa, a journalist who had reported on human rights issues, was among those killed in February 1990. He was abducted by gunmen from his home in the capital, Colombo. The following day his naked body was found in the sea with bullet wounds in his neck and head. Although his mother identified one of the alleged killers as a senior police officer, a magisterial inquiry into his death was discontinued in August 1990 and no action was taken against the police officer allegedly involved. Richard de Zoysa's mother and lawyer both received death threats in May 1990 when they pressed for a full inquiry into his murder.

Other human rights defenders were also at risk: at least five members of parliament who had raised human rights cases received death threats. In September 1990 Kumaraguru Kugamoorthy, a radio producer and human rights activist, 'disappeared' after being abducted in Colombo by an armed group believed to be connected with the security forces.

## 8. "DISAPPEARANCES" AFTER ARRESTS

Information was received by Amnesty International during 1989 about over 2000 'disappearances' after arrests by security forces in the south. Most victims were young men, many from socially depressed areas, but included some Buddhist monks and students. Some people who reportedly 'disappeared' were later released after being held in unacknowledged detention by the authorities. Other 'disappeared' people were believed to have been killed, and the fates of many remain unknown.

The authorities arbitrarily arrested thousands of people on the basis of anonymous denunciations and suspected links with the JVP. Detainees were commonly held incommunicado. Many reportedly were tortured and died in custody. Relatives of suspects were also held as 'hostages' in the absence of the wanted person. Many of the relatives were apparently beaten in custody and some were killed. The brother of an army deserter was reportedly arrested in

Kandy district in place of his brother in July 1989. Next day his body was found in a nearby reservoir. (8)

Suspects' relatives were at times detained in place of the wanted person. In one reported case a six-year old child was detained in October by Kuliypitiya police who had sought the father as a JVP suspect. The child was later released and the father arrested. The father spent one month in detention before his arrest was acknowledged.

## 9. ABDUCTIONS WHILE IN CUSTODY

There have been several instances of persons being abducted while in custody of the security forces, or soon after their release from custody.

In August 1990, an opposition MP (a Joint Secretary of the Committee of Parliamentarians for Human and Fundamental Rights) raised in parliament a case in which a youth, suspected of being a member of the JVP, had been detained at the Police Station in Badulla. He was released on 10 August 1990. No sooner had the released youth started walking towards the clock tower with his mother on their way home, a jeep with no number plates arrived and some persons who had their faces covered alighted from the jeep, dragged him into the jeep in spite of the struggle put up by the boy and the mother. In the course of the struggle, the face covering of one of the persons was displaced and those who saw the incident have identified him as a member of the "platoon" of a Police Unit of the Badulla area. A few days later, the boy's body was found burning along with two other bodies at the 13th milepost in Meeghakivula.

In September 1990, W.L.Palitha, a suspect in a murder case, was abducted from the premises of the Hambantota Magistrate's Court in the presence of police officers and other security service personnel and taken away in a white coloured van which had no number plates, and thereafter he had not been seen.

## 10. JVP LEADERS KILLED

In November 1989 and the following months, government forces succeeded in taking into custody many of the leaders of the JVP, including its leader Rohana Wijeweera and General Secretary Upatissa Gamanayake, most of whom were summarily executed without any trial. "In the south, the government said in January (1990) that it had destroyed the armed opposition Janatha Vimukthi Peramuna (JVP), People's Liberation Front" (9).



## 11. DEATHS IN CUSTODY

There have been many cases of persons having suffered death while in custody. In January 1991, an opposition Member of Parliament complained that two persons, Jayantha Welagedera (19) and Gamini Fonseka (15) had "disappeared" after being taken into custody by the police on 13 January 1991 and there was reason to believe that they had been killed by the police. The police had apparently told the relatives that the two boys had escaped from custody. At a Magisterial inquiry subsequently held, K.A.Tikiri Banda, a minor employee who was working at the Kadawatha Police Station during the period in question, in his evidence said that he had seen both boys in the custody of the police and that they had been severely assaulted. On the night of 15 January 1991 the older boy died and his body vanished. The younger boy was alive until 17 January and then he too "vanished". The witness also said that he had been threatened by police officers to deny having seen the incident.

In another case, four policemen and a "home guard" are facing murder charges for having beaten to death while in custody a person named P.Siripala who was arrested on 12 June 1991.

## 12. KILLINGS AND "DISAPPEARANCES" IN ARMY CAMPS

In June 1990, scores of corpses were found near former army camps, apparently the bodies of prisoners killed at the camps before troops were redeployed to the northeast. Bodies of suspected victims of extrajudicial execution continued to be found in the following months.

"Disappearances" continued to be reported from the south following detentions by uniformed police officers and abductions by plainclothes squads believed to be attached to the security forces. The victims included former JVP suspects who had previously been detained but then released, and young Tamil men apparently suspected of links with the LTTE. (10)

In its report October 1991 on the "Unresolved 'Disappearances' in the period 1987 - 1990: The Case of Sevana Army Camp", Amnesty International has documented details of 46 cases of "disappearances" from the Sevana Army Camp in late 1989 and early 1990. All of them were detained at this Army Camp situated in the Ratnapura district at the time they "disappeared". (11)

"In several cases relatives had received information from witnesses or military officers that the missing person was

indeed detained there. At the time these youths were detained, the Sixth Artillery Unit was stationed at Sevana Camp. According to the relatives, when the Sixth Artillery Unit moved out of this camp in late January 1990, these and other prisoners held there simply vanished. No prisoners remained at the camp, and the relatives have been unable to trace them elsewhere. The relatives do not know the fate of the youths. They fear they may have been extrajudicially killed and their bodies secretly disposed of in hours before the camp was handed over to soldiers belonging to the Fourth Gemunu Regiment... Amnesty International does not know the total number of prisoners who 'disappeared' from Sevana Camp. The cases included in this paper exemplify aspects of the pattern of 'disappearances' during this period, and demonstrate the continuing plight of relatives of the 'disappeared' who have so far had no clarification from the authorities of the fate of the youths, and have no means of redress through official channels". (12)

## 13. ARREST OF TAMIL YOUTH

Random and indiscriminate arrest of Tamil youth residing in the south of the island, particularly in Colombo and adjoining areas continued following the outbreak of fighting between government forces and the LTTE in June 1990 in a hunt by security forces for those allegedly with LTTE connections. Although many were reportedly released after 'interrogation', they were subjected to torture while in custody. Following the assassination of State Minister of Defence Ranjan Wijeratne in a bomb attack in May 1991 allegedly by the LTTE and the bomb attack by the LTTE upon the Joint Operations Command Head Quarters in Colombo in June 1991, hundreds of Tamil youth were rounded up and detained.

## 14. GOVERNMENT - LTTE TALKS

In April 1989, the LTTE accepted an invitation from President Premadasa who assumed office on a promise to secure the departure of the IPKF. Talks between the government and the LTTE commenced shortly thereafter with both parties declaring a cessation of hostilities. However the fighting continued between the LTTE and the IPKF together with its allied Tamil groups who constituted the Northeast Provincial administration which had come into being following the elections in November 1988. Shortly after government-LTTE talks commenced, President Premadasa called for the pull-out of the IPKF. After some unseemly

diplomatic wrangling between Delhi and Colombo, by the end of December 1989 IPKF had withdrawn from all districts in the Northeast except Trincomalee and Jaffna from where the departure of the IPKF was completed in March 1990.

## 15. MURDER OF TULF LEADERS

While the LTTE delegation was in Colombo negotiating with the government, on 13 June 1989 three LTTE gunmen who had gained access to the residence of the leaders of the moderate Tamil United Liberation Front (TULF) on the pretext of negotiating with them assassinated the Front's General Secretary and Member of Parliament A.Amirthalingam and a former Member of Parliament V.Yogeswaran. Mr. M.Sivasithamparam, the Front's President, escaped with serious gunshot injuries. Having initially denied any involvement in the assassination, the LTTE leadership later announced that the TULF leaders were executed because they were "traitors".

## 16. FIGHTING BETWEEN TAMIL GROUPS

Indian troops, who had been responsible for the security of the northeast since July 1987, completed their withdrawal by late March 1990. Following heavy fighting with rival Tamil groups, the LTTE took control of the Northeastern Province and continued negotiations with the Sri Lanka Government about the future administration of the province. Members of the Eelam People's Revolutionary Liberation Front (EPRLF) and allied groups, who had controlled the provincial council under Indian patronage, fled the area. (13)

The Tamil groups forming the provincial administration led by the EPRLF, in anticipation of the IPKF withdrawal, had forcibly conscripted thousands of young Tamils for training and to constitute a Tamil National Army (TNA). The TNA was obviously formed with the hope of withstanding any military challenge from the LTTE following the withdrawal of the IPKF. As the IPKF withdrew from each district in the northeast, fighting broke out between the LTTE and the TNA. The fighting in the eastern Batticaloa district was particularly fierce and the LTTE emerged victorious with hundreds of TNA (described as the boys-brigade) cadres being killed.

It has emerged that, after President Premadasa came to power and commenced negotiations with the LTTE, the government of Sri Lanka supplied



weapons, vehicles and other material help to the LTTE to fight against its rival Tamil groups and the IPKF. (14)

In May 1990, Mr. Sam Thambimuthu, a well known human rights activist, a member of the Batticaloa Citizens Committee and Member of Parliament of the Batticaloa district, was shot dead with his wife in front of the Canadian High Commission in Colombo allegedly by the LTTE.

The LTTE's attacks on rival Tamil groups were not confined to Sri Lanka. On June 20 (1990) twenty men armed with AK-47 assault rifles attacked an apartment block in Madras, India, where the exiled EPRLF Secretary-General, Kandaswamy Padmanabha was living. Fifteen were killed including Padmanabha and V.K. Yogasangari, an EPRLF Member of Parliament for Jaffna district and P. Kirupakaran, Finance Minister for North-East Provincial Council". (15)

### 17. FIGHTING BREAKS OUT - JUNE 1990

The government and LTTE had been negotiating for over a year. With the departure of the IPKF in March 1990 and the collapse of the provincial administration in the Tamil areas, the LTTE gained effective physical control of the north east. "Government administrative officers remained in place in the northeast, as did government police officers, but in practice most of their activities were subject to control by the LTTE". (16)

Without any advance warning and quite unexpectedly, fighting broke out between the LTTE and government forces on 11 June 1990 with LTTE cadres surrounding many police stations in the east. The LTTE ordered all police personnel in eastern Sri Lanka and their families to vacate police stations by 2.30 p.m. that day. Hundreds of policemen and their families took refuge in army and air force camps. Most of the police stations surrendered without a fight and by the end of the day, the LTTE had captured most of the police stations in the region. (17)

"The LTTE took captive hundreds of police officers. It appears that most Tamil police officers, as well as some Sinhalese and Muslim officers, were released; however, most of the Sinhalese and Muslim officers held prisoner were summarily executed. The bodies of some of those killed have been found. For example, a police officer from Kalmunai who escaped with injuries was reported in the press as saying that he and 113 of his colleagues had been taken away by the LTTE, lined up and shot". (18) Some of the police personnel are

believed to be still in LTTE custody.

### 18. AERIAL BOMBARDMENT

Since June 1990, Government forces have been engaged in a sustained campaign of indiscriminate aerial bombardment of the north, particularly the Jaffna peninsula. Thousands of homes, school buildings, temples, churches, hospitals, shops etc. have been reduced to rubble. Many hundreds of civilians have fallen victims of bombing raids. By targeting the main power grid in a bombing raid, the northern areas, including the densely populated Jaffna district have been deprived of electricity since mid 1990. Without electricity, essential activities, including storage of medicines and blood for transfusions, have been made virtually impossible.

Despite the claim by the government that the war is directed against the LTTE and not against the Tamil people, it is the civilian population that has suffered most from the bombing raids. "We also had the opportunity, during our stay in Jaffna, to visit senior officials of the LTTE in their well protected camp, with its well-nigh impregnable bunker. It was clear to us that the constant bombing and helicopter strafing would have little impact on the Tamil Tiger soldiers; it was the ordinary citizens, with their simple bunkers, little more than shallow dugouts, often snake-infested, who were constantly vulnerable to air attacks". (19) In carrying out its campaign of indiscriminate bombing and strafing, the Government has displayed utter disregard for the suffering and damage caused to civilians. "Government forces have waged a bombing campaign from the air on the those areas of the north controlled by the LTTE. Damage to property through bombing has been extensive. Residents of the Jaffna peninsula have also complained that civilians have been chased by military helicopters, fired at and sometimes killed. Markets where civilians gather to buy supplies are also reported to have come under attack from the air. For example, about 12 people were reportedly killed at Chavakachcheri market, Jaffna, when it came under helicopter fire on 9 October 1990. Further credibility was given to the repeated allegation that civilians were being targeted from the air when on 3 May 1991 a clearly marked vehicle carrying medical staff from the French non-governmental organization, Medicins Sans Frontieres, was attacked from the air by a helicopter between Madhu and Vavuniya. Four members of the medical team were injured". (20)

### 19. ECONOMIC BLOCKADE

Transport and communications have been almost totally disrupted in many parts of the northeast, especially in many areas in the north. A virtual economic blockade has been imposed against the north and the civilian population has been deprived of essential food and medical supplies. The supplies made available through the good offices of the International Committee of the Red Cross (ICRC) do not meet even a fraction of the needs of the population. The security forces have banned the transport of a large number of items essential to the basic survival of the community in the affected areas. With no electricity, no fuel, no transport, no adequate food or medicines, the civilian population has been pushed to undergo severe hardship and into leading a primitive existence.

The ICRC's capacity to perform its humanitarian functions has been severely curtailed by the widespread and intensive nature of the military conflict between the LTTE and government forces, and the restrictions imposed upon the ICRC by the warring parties.

### 20. EXTRAJUDICIAL EXECUTIONS AND "DISAPPEARANCES" IN THE NORTHEAST

It is reported that since June 1990, seven to eight thousand people have been arbitrarily killed and an estimated six thousand persons have "disappeared" in eastern Sri Lanka. "Those cited as responsible for committing human rights violations on the government side include members of the military, the police and the Special Task Force (STF, a police commando unit). In some areas of the east, members of unidentified groups who wear plain clothes and use unmarked vehicles have also been cited. These people operate in much the same manner as the plainclothes "death squads" linked to government forces which were a feature of the recent counter-insurgency drive against the JVP in the south". (21)

Government forces in the northeast are reported to have extrajudicially executed thousands of defenseless civilians in areas they had regained, using counter-terror tactics similar to those employed in the south in 1989. Killings in the east have also been attributed to paramilitary or vigilante groups which operate in plain clothes and use unmarked vehicles to reduce risk of identification. Such groups are often believed to consist of members of the security forces. Almost all the victims of violations committed by government security forces and allied



groups are members of the Tamil community. (22)

Victims were reportedly shot, bayoneted, stabbed or hacked to death; some were said by witnesses to have been burned alive. Victims' bodies were regularly left in the open. The identities of many remained unknown; others, presumably killed in custody, were identified as people who had been detained by security forces days earlier. Some had been burned beyond recognition or mutilated. In Amparai district, where the Special Task Force, a police commando unit, was especially active, bodies - some without heads - began to be washed on the beaches from September 1990.

"In Amparai district alone at least 3.000 Tamil people were reportedly killed or 'disappeared' between June and October (1990), many of whom were believed to have been victims of extrajudicial executions. In Batticaloa and Vavuniya districts, as well as in other areas, widespread extrajudicial executions were also reported after government troops moved in". (23)

The extrajudicial executions, burning of bodies and "disappearances" started in several towns in the east within days of government forces moving in. Father Eugene Herbert, an American Jesuit priest who had lived in Sri Lanka for 42 years, described the outbreak of killings in Batticaloa as follows in a letter dated 4 August 1990 to his brother-in-law: "When the army first came in on June 25 no shot was fired as the Tamil Tigers had withdrawn to fight first in Jaffna. But then began the arrests of innocent citizens, looting, killings and burning on public roads to terrorise the people, etc. I had to supervise the burial of two, a man and a woman, who had been killed, put into a sack and thrown off the bridge into the lagoon just in front of St. Sebastian's Church. They had been in the water for three days before we were able to get the army to bury them. There has been some improvement lately. The Peace Committee has made many representations to the Army authorities. Their efforts have stopped the burning of bodies on the public roads and there have not been any persons thrown off the bridge for two weeks now. But the arrests of boys, mostly innocent, continue".

In spite of the optimism expressed in Father Herbert's letter about "improvement", extrajudicial executions and disappearances continued to be committed on a large scale in Batticaloa, and Father Herbert himself "disappeared" on 15 August 1990 while travelling on a road which was deserted except for regular army checkpoints. (24)

People have been picked up from their homes and work places, on the streets, while travelling in buses and even from refugee camps never to be seen again. The "disappearances" and killing of people following such arrests have included infants, children - boys and girls - the middle aged and the elderly reaching up to 70 year olds. In many instances whole families have "disappeared". "Victims included babies and their mothers, children and elderly men and women. In Batticaloa town alone over 1.200 people reportedly "disappeared" between June and October (1990)". (25)

On 2 August 1990, 150 men were reportedly taken from Pottuvil refugee camp, only 30 of whom were subsequently released. The police and the STF both denied that they had carried out the detentions, and the whereabouts of the remaining 120 remain unknown. However local citizens reported that in the days following the detentions, smoke was seen rising from the premises of the police station. It is suspected that these prisoners may have been killed and burned.

In another incident, 158 people staying at the refugee camp at the Eastern University campus, Vandaramullai, Batticaloa, were taken into custody by the security forces on 5 September 1990. By 20 September, when the local Peace Committee submitted the names of those detained to the authorities who later denied taking the concerned persons into custody. It is presumed that these persons had been killed and their bodies disposed of in secret.

The names of hundreds of people reported to have "disappeared" following round ups in villages have reached Amnesty International. In one incident, over 160 people were reportedly taken into custody from four villages in Batticaloa district: Kokkuvil, Saturukondan, Pannichaiyady and Pillaiyarady, including children and babies, and old men and women. According to reports, armed soldiers in uniform and some in civilian dress, went to these villages at about 5.30 p.m. on 9 September 1990 and ordered all the residents to come out of their homes and gather on the road. Then they were taken towards the Boys Town army camp. None of the persons taken into custody on that day has been seen ever since.

There were reports of killings committed by a so-called vigilante group in Batticaloa in late April 1991. The methods used in the killings were much the same as those used by death squads which operated in south Sri Lanka in the recent past. Headless bodies were reportedly found in the Batticaloa area on several occasions in April 1991.

Notices had been placed near the victims saying that they had been killed by "Black Cobras". On 26 April two headless bodies were found at Iruthayapuram; on 27 April three more were seen at Mandur; and on 28 April two further headless were found near the STF camp near Kallady bridge.

On 12 June 1991, two soldiers were killed and one was wounded in a LTTE landmine attack at Kokkaddicholai, in Batticaloa district. In retaliation, one officer and sixteen soldiers from the local army camp went on a rampage in the villages of Mahiladithivu and Muthalikuda killing dozens of civilians, including women and children. Local Members of Parliament claimed that over 150 civilians were killed, some women raped and dozens of properties set ablaze. 17 villagers from Muthalaikuda, including a 16 year old boy called Suthaharan, were reportedly taken to the place of the landmine explosion, made to circle around the crater three times and then shot. Their bodies were dumped in the crater and burnt. In Mahiladithivu an estimated 50 villagers were killed, including several women and children, one only eight-months old. (26)

## 21. CLASHES BETWEEN TAMILS AND MUSLIMS

One of the tragic features of the latest round of fighting is the internecine clashes between Tamil and Muslim communities in the eastern province which have resulted in the deaths of hundreds and the displacement of thousands. The clashes have been either instigated or retaliatory in character. By mid-July 1990, the security forces appeared to have regained control of the main towns - Trincomalee, Batticaloa and Amparai - in the east over which the LTTE previously asserted control during the period of its negotiations with the government. To begin with, in what was seen as retaliation to alleged collaboration by Muslims with the security forces, Muslim civilians were attacked and many killed by unidentified persons, but the blame was promptly attributed to the LTTE by some Muslim leaders of the area and the government. Following these attacks on Muslims, Tamil people also were attacked allegedly by persons belonging to the Muslim community. It is believed that one of the initial contributory factors for the instigation of attacks on civilian Tamils was the reported killing of Muslim policemen captured by the LTTE.

Following representations from Muslim leaders, the government implemented a scheme to train and arm



Muslim "home guards" with the ostensible purpose of protecting their community. Predictably violence escalated with attacks and counter-attacks, killings and counter-killings between the two communities. "The government policy of arming civilian groups in the east appears to have contributed to an intensification of violence in the area; tensions between and within communities have been exacerbated". (27)

While the LTTE has, since July 1990 been held responsible for a number of incidents in which hundreds of Muslim civilians have been killed, the actions of government-aided Muslim "home guards" have been accused of being responsible for the death and "disappearance" of thousands of Tamil civilians in the Batticaloa, Trincomalee and Amparai districts in eastern Sri Lanka.

## 22. VIOLATIONS BY THE LTTE

Of the many Tamil militant groups, the Liberation Tigers of Tamil Eelam (LTTE - Tamil Tigers) has emerged the most dominant. While it claims to be the "sole representative of the Tamil people" and to have the support of the majority in the community, its rival Tamil groups assert that it achieved its dominance by systematic physical extermination of other groups and political parties.

The LTTE's declared aim is to achieve a separate state of "Eelam" comprising the northern and eastern provinces which are inhabited by the overwhelming majority of the "Tamil speaking people" (Tamils and Muslims). It has conducted an armed struggle to achieve the state of Eelam for over a decade.

The LTTE had held effective territorial control and administered nearly the whole of the northern Jaffna peninsula for a number of years. Following the gradual withdrawal of the Indian Peace Keeping Force (IPKF) in the period December 1989 to March 1990, the LTTE took effective control of almost the whole of the northeast. By this time, it had started negotiations with the government of Sri Lanka and there was a cessation of hostilities between the LTTE and government forces. On the ground, in the northeast, Sri Lankan security forces and the police were confined to their barracks. During this period, the LTTE resorted to widespread arbitrary arrest, incommunicado detention, torture, "disappearances" and extrajudicial executions. (28)

The following are some of the many violations reported to have been committed by the LTTE:

\* LTTE cadres carry out arrests on various grounds, including people's

sympathies for rival Tamil groups, or cooperation with them, sympathy or cooperation with the IPKF in the past, suspicion of providing information to the security forces or refusal to pay contributions to the LTTE. (29)

\* A number of people, particularly businessmen, have been kidnapped and detained for ransom. (30)

\* "The LTTE also tortured and killed prisoners, killed or imprisoned numerous members of rival Tamil groups and imprisoned Tamil civilians for ransom". (31)

\* Victims of extrajudicial executions by the LTTE "include large numbers of Sinhalese and Muslim civilians as well as Tamil people considered 'traitors'". (32)

\* The LTTE has also been responsible for the "disappearance" of prisoners it has taken, including policemen and others in government service as well as those it considers "dissident" Tamils, and is reported to have tortured prisoners. (33)

\* One person interviewed by Amnesty International in June 1991 said that he was taken into "custody for interrogation" by LTTE cadres in April 1991. He was blindfolded and taken in a van to a transit camp and kept there with 40 - 45 others for 9 days. On the ninth day, he was transferred to Tunukkai in the Kilinochchi district where one of the largest detention camps of the LTTE was in place. The majority of the prisoners were held in a large covered area which was divided into individual spaces for prisoners by white lines painted on the ground. Each prisoner was allocated a numbered space of 3 x 2 feet. Prisoners were forced to stay in their allocated spaces. Their feet were shackled together with a rigid nine-inch bar. He estimated that about 800 people were held in this hall at that time. He also alleged that those considered to be "hardcore" prisoners were held separately in eight-foot deep pits surrounded by barbed wire. There were five such pits, each of which, he thought contained approximately 20 - 25 prisoners. (34)

\* Persons held in LTTE camps were subjected to torture. One prisoner who managed to escape described how at a detention camp set up in the Kachchai area in the Jaffna district, he and four others were put into a small room, told to stand with their face towards the wall and were hit several times on the back with a sledge hammer. In Mid- July 1990, he also witnessed at the same camp how 16 soldiers of the Sri Lankan army, who had been taken prisoner during the LTTE attack on Kokkavil army camp in Mullaitivu district, were tortured - nails were pushed under their fingernails, they were forced to eat mud

and sand, stripped naked and forced to roll in the hot sand, hung upside down and beaten, and one by one they were put into a small room in which red chillies were being burnt. (35)

\* Several ex-prisoners of the LTTE have provided Amnesty International with names of the people in LTTE custody, including a number of members of rival groups, journalists, employees of institutions such as banks, civil servants and police officers. (36)

\* Hundreds of Sinhalese and Muslim villagers have also been killed by the LTTE since the outbreak of the fighting in the northeast. On 14 April 1991 at Ethimale in the Moneragala district, 14 Sinhalese villagers were killed among whom there were at least six children.

\* In apparent retaliation to alleged Muslim collaboration with the security forces, the LTTE reportedly carried out a series of massacres of Muslim civilians: On 13 July 1990, 168 Muslims returning from Colombo to their home village in the east were abducted, robbed, hacked to death and burned. On 24 and 28 July in two incidents four and ten worshippers respectively were killed in a mosque at Sammanthurai, Batticaloa. On 30 July 17 Muslim farmers were killed at Akkaraipattu in the Amparai district. On 3 August in two attacks on two mosques in the village of Kattankudi, 145 worshippers were killed and 125 more injured. On 11 - 12 August, nearly 200 Muslim civilians, including women and children were killed in three villages near Eravur. (37)

\* There are at least five to six thousand persons held in LTTE's detention camps.

In the areas controlled by the LTTE:

(a) The rule of law has disappeared with the forcible dismantling of the established legal system including the courts and the profession of lawyers. Instead the LTTE dispenses "justice" through its own appointed "courts" which are often under the supervision of gun-trotting LTTE cadres.

(b) Freedom of expression has been suppressed; national newspapers have been banned; all newspapers published in the area are under the control of the LTTE. "Newspapers published in Jaffna are closely controlled by the LTTE. The LTTE have silenced dissent within the areas they control by killing, threatening or driving out those who have spoken or written against them". (38)

(c) All political parties and groups have been banned and anyone suspected of belonging to a group unsympathetic to the LTTE is summarily executed. Even civil rights groups and humanitarian and charitable institutions which are regarded as not sympathetic to



the LTTE are not permitted to function.

(d) People of the north have been deprived of the right to freedom of movement; LTTE has imposed a "visa system" which prevents people from escaping from the horrors of the ongoing war. There is a general prohibition on the issue "visas" to those fall between the age group of 10 to 40 years. The prescribed lowest fee for applying for a "visa" is fifteen thousand rupees (\$ 37.50) or three sovereigns of gold which very few people can afford. Anyone attempting to leave the area without a "visa", if caught, faces instant execution.

(e) As a matter of routine, LTTE cadres abduct persons and hold them until the demanded ransom (which is very often very high) is paid by the relatives living locally or abroad. LTTE extorts cash and gold jewellery from ordinary people under the guise of taxes.

(f) As a matter of routine, suspected members of other Tamil groups are picked up by LTTE cadres and very often killed or kept in detention and tortured.

(g) The University of Jaffna has been allowed to function only under the stringent supervision of the LTTE; the Students Union has been disbanded; after the murder by the LTTE of Dr.Rajani Thiraganama, the Head of the Anatomy Department of the University and a human rights activist, many university teachers have fled through fear; university students who do not sympathise with the LTTE are picked up by LTTE cadres from within the University without the permission of the Vice Chancellor or the University Teachers. Two students, union leaders of the Jaffna University, A.Vijitharan and K.Vimalaswaran, were killed by the LTTE. In August 1991, Ms.Selvanithy Thiagarajah, a final year student of drama and theatre at the University of Jaffna and member of the Poorani Women's Centre at Uduvil, Jaffna was forcibly removed from her home by LTTE cadres and has not been seen since. In July 1991, S.Thillainathan, a graduate teacher and theatre artist, and K.Manoharan, final year student, both of the Jaffna University, were abducted by the LTTE and have not been seen since.(39)

(h) LTTE conscripts children as young as 10 to 12 to fight its war. They are given cyanide capsules to wear around their neck to commit suicide at the first sign of danger of being caught and armed with AK-47 Klashnikov assault rifles. They are often sent to the frontline and "suicide missions" in the course of LTTE attacks on Sri Lankan army camps.

(i) Relief food and other essential

supplies sent free through the good offices of the ICRC for the benefit of the civilians and displaced people in northern Jaffna are taken over by the LTTE and sold to the people for cash.

(j) Thousands of people's homes have been forcibly expropriated for use by the LTTE leadership, its cadres and supporters.

(k) Senior government officials and civil servants including the Government Agent of Jaffna V.Panchalingam, the Government Agent of Batticaloa Mr.Anthonimuthu, the Government Agent of Mullaitivu G.Gnanachandran and the Deputy Government Agent of Jaffna Mr.Ramanathan have been assassinated by the LTTE.

### 23. DISPLACED PEOPLE AND REFUGEES

The result of the war has been human suffering of an incalculable scale. It is estimated that between June and September 1990, more than one million people were displaced by the fighting in the Northeast, and as of January 1991 over 210.000 had fled to South India and more than 5400 killed. (40)

By late July 1990, there were a reported 880.000 people displaced taking refuge in some 640 camps. By far the largest number were in Jaffna where 355.000 people were displaced in 352 camps. Batticaloa, Mannar, Mullaitivu and Kilinochchi were also heavily affected with displaced persons averaging about 100.000 per district. By the end of 1990, statistics on displaced persons, counting those inside and outside government welfare centres, exceeded one million. (41)

"While many people have been displaced by the destruction of their homes and loss of livelihood, it is generally agreed that fear has been the driving force behind the internal flight". (42)

Since June 1990, an estimated 100.000 people, mostly from northern Jaffna and less from the east, have abandoned their homes and taken refuge in Colombo and adjoining areas. Besides the continuing aerial attacks and the intensive military encounters that take place almost on a daily basis between government forces and the LTTE, the main causes of the exodus of people from the north have been the harsh living conditions with scarcity of food and other essential supplies, the disruption of normal civilian life, the LTTE's repressive regime, its exorbitant financial and other demands and the forcible recruitment of teenage children to its war effort.

Particularly cruel was the fate of nearly 50.000 Muslims who were forcibly displaced from their homes in

the Jaffna, Kilinochchi, Mullaitivu and Mannar districts where they have lived for centuries. In late October 1990, the LTTE gave them just two hours notice to move out from their homes and districts without taking any of their belongings - their choice was to leave or to be killed. They preferred to leave, and ever since these Muslims have been living in refugee camps in appalling conditions in the Puttalam district.

In addition to the systematic campaign of terror unleashed by the security forces, another important cause for the displacement of people from the east has been the attacks and counter-attacks by the LTTE and Muslim "Home Guards" aided by the security forces.

### 24. GOVERNMENT'S FAILURE TO PROTECT HUMAN RIGHTS

The dismissive attitude of the Sri Lankan government towards reports by human rights organisations of acknowledged credibility reveal its callous disregard for basic human rights. The expulsion last year of the British High Commissioner in Sri Lanka, Mr. David Gladstone, who was known to have been an outspoken critic of human rights abuses in the island, is but one example of the government's hostility to those who are concerned with the human rights situation in that country.

The government has not taken any meaningful and effective steps to investigate the thousands of 'disappearances' reported in recent years. Evidence mounted during 1989 - 1991 of the massive scale of 'disappearances' and extrajudicial executions, believed to number over 60.000 which took place in the country.

"Tens of thousands of people have reportedly 'disappeared' in Sri Lanka after being detained by the security forces in recent years, yet the government has taken few steps to acknowledge responsibility publicly, to investigate the fate or whereabouts of the "disappeared", or to bring those responsible for 'disappearances' to justice. Amnesty International believes that the government's lack of action over the years to curb 'disappearances' and extra judicial executions committed by the security forces has contributed to a sense of impunity among security forces personnel confronting armed opposition, and has given the impression that the government condones these gross violations of human rights in certain situations". (43)

The government's failure to adequately address charges of massive human rights violations became one of the main accusations used by the opposition in its recent bid for the



impeachment of President Premadasa. The impeachment motion, inter alia, charged that the President "failed to protect and intentionally and knowingly prevented the investigations and conduct of inquiries and/or to punish those responsible for the ... murder of the well-known journalist Mr. Richard de Zoysa, the disappearance of Mr. Lakshman Perera, the disappearance of Krishna Hussein and thousands of others including youth who were arbitrarily abducted, tortured, killed and otherwise disposed of by hired killer groups". (44)

In September 1990 the police confiscated details of 533 'disappearances' from an opposition member of Parliament who was about to take them to a meeting of the United Nations (UN) Working Group on Enforced or Involuntary Disappearances in Geneva. The papers were returned to him in October after he filed a petition in the courts alleging infringement of his fundamental rights, and following intervention by the UN Centre for Human Rights.

In fact the government has gone so far as to provide immunity to security service personnel from prosecution for violation of human rights. The Indemnity (Amendment) Act was passed in December 1988, providing immunity from prosecutions for acts done "in good faith" between 1 August 1977 and 16 December 1988 by government and security forces personnel and others involved in enforcing law and order.

The government's lack of commitment to pursue cases of "disappearances" was further reinforced in January 1991, when a Presidential Commission of Inquiry into Involuntary Removal of Persons was created with powers to investigate only new cases of "disappearance": that is only "disappearances" reported to have taken place between 11 January 1991 and 11 January 1992. The Commission is not empowered to investigate the tens of thousands of reported "disappearances" which occurred before January 1991. It thus appears that the government does not intend to provide proper redress for the relatives of those who "disappeared" in earlier years. The substantial majority of cases of "disappearances" reported to this Commission have been held to be outside its terms of reference.

A four member "Human Rights Task Force" appointed by President Premadasa in August 1991 to monitor the observance of fundamental rights of persons detained in custody otherwise than by a judicial order has not, up to now, contributed to the improvement of the human rights situation.

The government's response to widespread criticism of human rights

abuses has been half-hearted, superficial, cosmetic and woefully inadequate. In an obvious attempt to divert criticism, it has appointed many commissions of inquiries, but their results and performance have been disappointing.

## 25. THE NGO COMMISSION

On the other hand, the government seems to be bent on taking steps to make further inroads into the activities of independent

Non-Governmental Organisations. In December 1990, the government appointed a Presidential Commission of Inquiry into NGOs. The six-member Commission is mandated to inquire into (a) the activities and funding of both local and foreign NGOs, (b) the provisions of the law for monitoring and regulating the activities and funding of NGOs, and (c) whether any of the funds received from foreign sources have been misappropriated or are being used for activities prejudicial to the state.

In today's Sri Lanka, the role of the NGO is crucial. "In general, the NGOs are very conscious of the fact that the general political, economic and social climate in the country means that their role in the society at large is of particular importance beyond the specific functions they perform. This is because many of the traditional bulwarks of pluralist and democratic societies are disturbingly weak in Sri Lanka... Most notably, there is little in the way of a vigorous free press. The principal newspapers are widely seen as being under the effective control or at least the strong influence of the government. In addition, the opposition political parties are widely perceived to have little real impact on the way in which the country is governed. The NGOs, accordingly, see themselves very consciously as among the most important guardians of independent activity in Sri Lanka". (45)

The manner in which the Commission's proceedings have taken place so far would appear to confirm the worst fears entertained by some NGOs that the whole exercise is to bring the NGO community into public disrepute, harass and intimidate certain key persons in the NGO community, and shackle the NGOs with stringent legislative controls which will make them subservient to the dictates of the government of the day.

Many of the witnesses who have so far come forward to give evidence have been known to be of hostile to NGOs, and their evidence, given wide publicity in the government controlled media, has been directed mainly at tarnishing the image and reputation of NGOs by portraying them as anti-national, unpatriotic and being agents of "foreigners".

"Much of this testimony has been hostile to NGOs. Some persons in the NGO community frankly regard much of the testimony thus far as consisting of wild, uninformed and unsubstantiated allegations against NGOs by cranks and eccentrics of various kinds. The according of substantial press coverage to testimony of this kind has contributed to a general anti-NGO atmosphere in the country. Some persons from the NGO community consequently take the view that the NGO Commission, even if not ill-intentioned itself, is nonetheless, in effect, being used by the government unwittingly as one component of its orchestrated campaign against NGOs". (46)

## 26. PROMOTION OF PARAMILITARY GROUPS

While the government's own lack of regard for the rule of law and its readiness to employ its security forces to engage in uncontrolled abuses of human rights have served to escalate the violence, its practice of arming and training of extra-military forces in the form of "home guards" and "vigilance units", particularly in the east of the island, permitting the operation of "death squads" associated with the security forces, and its shifting positions towards various Tamil militant groups - at one time supporting and arming the LTTE to attack other Tamil groups, and later arming and supporting anti-LTTE Tamil groups to fight the LTTE - have all contributed not only to the proliferation of the use of weapons, but also to produce a general climate and culture of violence.

In its war against the LTTE, the government has employed LTTE's rival Tamil groups providing them with weapons, training and transport facilities. The government makes no secret of the fact that EPDP, PLOTE and TELO (47) are provided with these facilities and that they are fighting the LTTE along with the security forces.

The government armed hundreds of Muslim home guards following reported LTTE attacks upon Muslim civilians in the east in August 1990. In June 1991, the Secretary for the Ministry of Defence revealed that approximately 2000 Muslims had been provided with weapons by the government. In the Moneragala district, village defence units were set up among Sinhala villagers in April 1991 after attacks by the LTTE in which about 40 were reportedly killed. The number of (mainly Sinhalese) home guards along the borders with the Northeastern province is 23,000, and they are provided with weapons and said to



function under the control of the local police. (48)

## 27. UN WORKING GROUP ON "DISAPPEARANCES"

Large scale "disappearances" in Sri Lanka have been the subject of 8 successive reports of the UN Working Group on Enforced or Involuntary Disappearances. In spite of the thousands of cases referred to the Government of Sri Lanka, only a few cases have been "clarified" and the overwhelming majority remain unaccounted for. It is reported that during the period 1988 - 1991, over three thousand cases of "disappearances" have been brought to the attention of the Working Group.

A three member delegation of the Working Group visited Sri Lanka in October 1991 to carry out their own investigation and gather evidence. A comprehensive report from the Working Group has been submitted to the Forty-Eighth Session of the Commission on Human Rights. The contents of this report confirms that thousands of persons have "disappeared" or have been arbitrarily killed in Sri Lanka in the recent past.

## 28. VIOLATION OF HUMAN RIGHTS AND HUMANITARIAN LAW

In the conduct of the conflict, the warring parties have violated the most fundamental norms set by international human rights and humanitarian law. "International human rights law makes clear that certain fundamental rights - in particular the right to life and the right not to be tortured - must be upheld by governments at all times and in all circumstances. Killings by members of the armed opposition can never provide justification for government forces to deliberately kill defenseless people. Nor can they justify the enforced "disappearances" or torture of prisoners in the custody of government forces". (49) Under Article 4 of the International Covenant on Civil and Political Rights, to which the Government of Sri Lanka acceded in 1980, there can be no derogations from the duty to uphold the right to life and the right to freedom from torture in any circumstances, even "in time of public emergency which threatens the life of the nation".

Common Article 3 of the Fourth Geneva Convention of 1949 relating to internal armed conflicts not of an international character stipulates that "Persons taking no active part in the hostilities, including members of the armed forces who have laid down their

arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely...".

## 29. RECOMMENDATION:

Although the government of Sri Lanka is a consenting party to the aforementioned Covenants and Convention, and in spite of the fact that the LTTE notified the United Nations and the International Committee of the Red Cross in February 1988 that it would abide by the provisions of the Geneva Conventions, it is obvious that the warring parties have conducted themselves in gross violation of their obligations.

Taking into account the gross violations of human rights, the continuing armed conflict and the displacement of an estimated one million civilians in Sri Lanka, the Forty-Eighth Session of the Commission on Human Rights of the United Nations is urged to discuss the situation in Sri Lanka and to adopt a resolution along the following lines:

The Commission on Human Rights Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligation to promote and protect human rights and fundamental freedoms and to fulfil the obligations they have undertaken under the various international instruments in this field,

Mindful that Sri Lanka is a party to the International Covenants on Human Rights,

Recalling its resolution 1987/61 regarding the situation in Sri Lanka,

Concerned by reliable reports of the extent and scale of enforced or involuntary disappearances, extrajudicial executions, torture, and arbitrary detention in Sri Lanka as reflected, inter alia, in reports of the Working Group on Enforced or Involuntary Disappearances, the report of the Special Rapporteur on Summary or Arbitrary Executions, and the report of the Special Rapporteur on Torture,

Concerned especially by reports of the existence and operation of "death squads" and "private armed groups" in Sri Lanka and their role in causing enforced or involuntary disappearances, extrajudicial executions and the practice of torture and arbitrary detention,

Concerned by the fact that Sri Lanka has been governed under an officially

proclaimed state of emergency for a prolonged period accompanied by the suspension of the democratic and human rights and fundamental freedoms guaranteed by the Constitution of Sri Lanka and by international law,

Regretting the resumption and continuation of the armed hostilities between the armed forces of the government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE),

Deeply Concerned by the non-observance by the parties to the conflict of internationally accepted norms of humanitarian law as set down in Common Article 3 of the Geneva Conventions of 1949,

Gravely concerned by the displacement of hundreds of thousands of civilians in consequence of the ongoing armed conflict in Sri Lanka,

1. Expresses grave concern at the level of gross violations of human rights in Sri Lanka,

2. Urges the Government of Sri Lanka to ensure full respect for human rights and fundamental freedoms and, in particular

(a) to take positive and meaningful steps to halt the arbitrary and summary executions; (b) to take positive and meaningful steps to put an end to the practices of enforced or involuntary disappearances and torture; (c) to take steps to disband any existing "death squads" and private armed groups and to prevent the formation of such groups in the future;

3. Calls upon the Government of Sri Lanka to appoint appropriate independent judicial commissions or tribunals to investigate all cases of enforced or involuntary disappearances, summary or arbitrary executions, and cases of torture that have already occurred;

4. Urges the Government of Sri Lanka to cooperate with the Commission on Human Rights and, in particular, to help clarify the pending cases of enforced or involuntary disappearances noted in the report of the Working Group on Enforced or Involuntary Disappearances, and to communicate to the Commission new measures the government of Sri Lanka may take in the field of human rights;

5. Calls upon the Government of Sri Lanka and all other parties to the conflict to strictly adhere to the obligations under Common Article 3 of the Geneva Conventions;

6. Calls upon the Liberation Tigers of Tamil Eelam (LTTE) to put an end to summary or arbitrary executions, to the practice of torture, to release all persons arbitrarily detained in areas under its control and to respect fully the



democratic and human rights and fundamental freedoms of the people in the areas under its control;

7. Urges the government of Sri Lanka and other parties to the conflict to seek a cessation of hostilities with a view to achieving a political solution to the conflict through negotiations among all concerned parties and to obtain the assistance of the Secretary General of the United Nations in any mediation that may become necessary.

8. Requests the Chairman, after consultation with the Bureau, to appoint an individual of international standing in the field of human rights as Special Rapporteur of the Commission whose mandate will be to make a thorough study of the violations of human rights in Sri Lanka, based on all information the Special Rapporteur may deem relevant, including information provided by intergovernmental and non-governmental organisations and any comments and material provided by the Government of Sri Lanka, and submit an interim report thereon to the General Assembly at its forty-seventh session and a report to the Commission at its forty-ninth session.

9. Calls upon the Government of Sri Lanka to afford all necessary assistance to the Special Rapporteur of the

Commission;

10. Decides to continue its consideration of the situation of human rights in Sri Lanka under the present agenda item at its forty-ninth session.

#### NOTES

1. Sri Lanka: A Mounting Tragedy of Errors by Paul Sieghart, International Commission of Jurists, 1984.

2. Amnesty International, May 1989.

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4. Amnesty International Report 1990.

5. Ibid.

6. Ibid.

7. "Divayina", a Sinhalese language daily, Colombo, 8 March 1990.

8. Amnesty International Report 1990.

9. Amnesty International Report, September 1991.

10. Ibid.

11. Ibid.

12. Amnesty International Report, October 1991.

13. Amnesty International Report, September 1991.

14. Impeachment motion against President Premadasa submitted by opposition MPs and some former Ministers in his cabinet.

15. Asia Watch, 12 March 1991.

16. Amnesty International, September 1991.

17. Asia Watch, 12 March 1991.

18. Amnesty International, September 1991.

19. World Council of Churches Pastoral Team Visit, November 1990.

20. Amnesty International, September 1991.

21 - 36. Ibid.

37. Asia Watch, 12 March 1991.

38. Amnesty International, September 1991.

39. Bulletin, Article 19, November 1991.

40. Asia Watch, 12 March 1991.

41. US Committee for Refugees, October 1991.

42. Ibid.

43. Amnesty international, September 1991.

44. Asia Watch, 12 March 1991.

45. Presidential Commission on NGOs by Dr. Stephen Neff, International Commission of Jurists, November 1991.

46. Ibid.

47. Three Tamil militant groups: Eelam Peoples Democratic Party (EPDP); Peoples Liberation Organisation of Tamil Eelam (PLOTE); and Tamil Eelam Liberation Organisation (TELO).

48. Amnesty International, September 1991.

49. Ibid.

## COMMISSION ON HUMAN RIGHTS

### Summary of a Report of the UN Working Group on Enforced or Involuntary Disappearances on a visit (7 - 18 October 1991) to Sri Lanka prepared by Centre for Human Rights and Research, London

#### 1. INTRODUCTION

(a) Three members of the Working Group, Mr. Agha Hilaly, Mr. Jonas Foli and Mr. Toine van Dongen, visited Sri Lanka from 7 to 17 October 1991 following an invitation of the government conveyed in its note verbale dated 15 November 1990.

(b) The members of the mission met the President of Sri Lanka, Ministers of

Foreign Affairs, Justice and Home Affairs, Secretary of Defence, Presidential Advisor on International Relations, Attorney General, Chief Justice and other judges of the Supreme Court, numerous parliamentarians of various parties, President of the Presidential Task Force and the Officials' Committee on Human Rights, Secretary and members of the Presidential Commission of Inquiry into Involuntary Removal of Persons,

Director of the National Intelligence Bureau, senior officials of the Executive including the armed forces and the police in Colombo and Batticaloa district and local government officials. The Working Group received full and valuable cooperation from the government, both in the preparations for and during the visit.

(c) The Report comprises five chapters:

Chapter I: Examines the context of