

Sri Lanka: Human Rights and the Peace Process

Human Right Watch Background Briefing July 2002

The Sri Lankan government and the Liberation Tigers of Tamil Eelam are preparing for negotiations aimed at resolving more than two decades of conflict over political control of the island's Tamil-dominated north and east. Talks are to be held in Thailand, possibly as early as July. The first round of negotiations is likely to focus on the establishment of an interim administration for the north and east. If talks are successful, the LTTE is expected to take a leading role in civil administration of those areas. To date there has been little formal attention to human rights concerns in the context of peace process, although the conflict has been driven by grave abuses of human rights on all sides.¹ State forces and armed groups have engaged in large-scale "disappearances" and massacres, torture and harassment of civilians. The LTTE in particular has used these tactics to control the social and political space of the Tamil community.

After two decades of violence, intimidation and corruption by parties to the conflict, civil society in the north and east is in disarray. A cease-fire since late December has given civilians a much-needed respite from war-related violence and security restrictions that have inhibited their freedom of movement, crippled the local economy and promoted abuse. The lull had also encouraged cautious new demands for democratic openness within the Tamil community -- long dominated by the LTTE's political agenda. But the initial hope that international involvement, especially Norway's role in monitoring the cease-fire would guarantee space for independent activity in the Tamil community is beginning to evaporate. The LTTE's recruitment of children for military service and extortion continued unabated. Hundreds of Tamil suspects arrested under the Prevention of Terrorism Act remain in detention without trial. Abuses by both sides underline the need for human rights protection as a core component of the peace process. Close observers of the Sri Lankan situation -- human rights defenders, peace activists, clergy, and academics among them -- believe that the time has come to demand formal human rights commitments from both parties, and to devise a system of independent human rights monitoring now, before discussions of administrative arrangements get underway.

Civil society demands for human rights mechanisms within the peace process

In January, the Peace Support Group, a committee of prominent Sri Lankans, called for explicit inclusion of human rights and humanitarian considerations in either the permanent cease-fire agreement under discussion or in a separate Memorandum of Understanding between the two parties. They urged both parties to make a formal commitment to human rights at the outset of

¹ As discussed below, a cease-fire agreement signed in February does contain some provisions that seek to protect civilians from abuse. Article 2.1 is the most clearly aimed at civilian protection. It states: "Parties shall in accordance with international law abstain from hostile acts against the civilian population, including such as acts as torture, intimidation, abduction, extortion and harassment. Article 2.5 requires the Parties to "review the security measures and the set-up of checkpoints, particularly in densely populated cities and towns, in order to introduce systems that will prevent harassment of the civilian population." Article 2.12 prohibits search operations and arrests under the Prevention of Terrorism Act and the following article (2.13) guarantees family members of detainees access to the detainees within thirty days of the signing of the agreement.

the peace process and listed a number of specific issues to be included, based on the past experience of civilians harmed by the Sri Lankan conflict:

- Freedom of expression, association and movement.
- Freedom of movement of food and other essential items.
- Release of detainees and prisoners.
- End to extra-judicial killings, including political assassinations
- End to torture.
- Protection of the civilian population and prevention of attacks on civilian targets.
- Prevention and investigations into rape in custody.
- Prevention of the recruitment and deployment of child combatants.
- Strengthening of independent judicial processes.
- Strengthening of democratic institutions at the national and local levels.
- Respect for the independence and integrity of civil society organizations and groups.
- The establishment of a mechanism of independent, international human rights monitoring with the help of the Office of the High Commissioner of Human Rights.
- Respect for international humanitarian norms applicable in situations of internal armed conflict.
- Immediate halt to the laying of antipersonnel land mines. Clearing of such mines already laid.²

In February, the Civil Rights Movement of Sri Lanka was among the first organizations to suggest that the parties should look to the example of the El Salvador peace process of 1990 for guidance. In that case the state and rebel groups first reached agreement on human rights protection and the establishment of system of UN monitoring, which improved the conditions in the country sufficiently to pave the way for agreement on other issues. “It has always been the firm conviction of the Civil Rights Movement (CRM) that the proper securing of human rights throughout Sri Lanka, both in law and as a practical reality, must be an integral part of any political settlement of the conflict.”³

Demands for democratization in the Sri Lankan peace process also gained support. A public appeal that began circulating internationally in February called on the parties to ensure space for dissent, broader civil society participation in the peace process and democratic accountability. It attracted more than two hundred signatures of eminent persons worldwide, including Archbishop Desmond Tutu of South Africa. The influential Bishop of Mannar, Rayappu Joseph, a signatory to that appeal, has joined the call for a second MOU on human rights protection.⁴ The Sri Lanka-based National Peace Council has proposed that human rights protection arrangements should be built into any treaty with the LTTE. The University Teachers for Human Rights (Jaffna) (UTHR (J)) has suggested that international NGOs be invited to monitor human rights compliance in the northern and eastern provinces. Others have recommended a UN or Commonwealth role.

² Peace Support Group, “PSG Stresses Pivotal Importance of Human Rights,” January 16, 2002.

³ Civil Rights Movement of Sri Lanka, “Human Rights and the Peace Process,” February 21, 2002.

⁴ Human Rights Watch interview with Bishop of Mannar Rayappu Joseph, Mannar, April 20, 2002.

Human Rights Watch supports calls for the creation of a human rights mechanism to be agreed upon early in the Sri Lankan peace process. Independent monitoring of its provisions is also crucial; responsibility for human rights monitoring should not be left in the hands of those with a political interest in the outcome of negotiations.

Certain long-standing human rights problems should to be addressed in the context of the peace process. Any mechanism put in place to monitor and promote human rights in the midst of the peace process must demand an end to the recruitment of children for military purposes or their use in hostilities, and begin the process of demobilizing child soldiers. The peace process should also explicitly address the issue of child soldiers and ensure that all children who have been recruited are released from military service immediately and assisted in safely returning to their communities.

Also critically important is the need to eliminate or reform the Prevention of Terrorism Act and to release the hundreds of detainees held without trial under its draconian provisions. Most of these detainees are Tamils arrested on suspicion of links to the LTTE (now operating openly in a political capacity throughout the country). Many were arrested months or even years ago pending investigation, with no evidence to support police suspicions beyond their own confessions – often extracted under torture.

Accountability for abuses is a critical component of human rights protection. The PTA has contributed to a climate of impunity in Sri Lanka where custodial abuse and thousands of “disappearances” have gone uninvestigated and unpunished. Sri Lankan human rights defenders expressed alarm in May at news that the government planned to wind up the missing persons unit of the Attorney General’s office and the “disappearance” investigation unit of the Criminal Investigation Department (CID).

Besides ensuring that all parties responsible for abuses of human rights and humanitarian law are held accountable for their actions, the release of prisoners, and an end to abuses such as child recruitment and extortion – which have placed an enormous burden on families already ground down by years of war, effective international monitoring could also help protect and nurture efforts to rebuild civil society in the north and east. Local efforts to open up democratic space in the Tamil community are already emerging. Civilians in Batticaloa have grown increasingly vocal in their condemnation of LTTE abuses and frustration over the state’s and Norway’s failure to adequately address them. According to a May 22 press report, Jaffna mothers are considering forming a Mothers' Front against forcible recruitment to combat the LTTE’s child recruitment there.⁵ All parties interested in promoting peace would be well advised to take such events seriously; they represent a public that has become desperate for change. They also represent a crucial component of the peace process, and the international community must find a way to protect them.

The human rights implications of the cease-fire agreement

⁵ The Lanka Academic, “Tamils get restive as LTTE continues to recruit and extort,” Roy Mendis in Colombo, 7.31 PM SLT Wednesday May 22, 2002
http://www.lacnet.org/the_academic/archive/2002_05_22/stories/10220742010/story.s...

As a first step in the peace process, Prime Minister Ranil Wickremasinghe and LTTE head Vellupillai Prabhakaran signed a Memorandum of Understanding (MOU) on a permanent cease-fire on February 22. The MOU is not a human rights agreement; its purpose is to discourage renewed hostilities between the warring parties in hopes of facilitating peace talks. But the parties are bound by their international obligations, and even if the MOU is read very narrowly, it contains basic prohibitions against harming civilians and provides some foundation for monitoring compliance. The MOU obliges the parties to undertake “confidence building measures” designed to restore “normalcy.” Government forces and the LTTE are required to “abstain from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment” in accordance with international law.⁶

Human rights defenders in Sri Lanka, who had long sought a way to convince both sides to uphold human rights and to permit independent monitoring were disappointed that the MOU failed to acknowledge key human rights problems faced by civilians, such as the LTTE’s aggressive recruitment of child soldiers. Also missing was any mention of the continued detention of Prevention of Terrorism Act prisoners, although new arrests under the PTA were banned. Even more troubling, however, were early indications that the Sri Lankan Monitoring Mission or SLMM (the body put in place to monitor compliance with the cease-fire agreement) was not aggressively pursuing complaints.

Norway’s General Trond Furuhoide heads the mission and appointed its foreign representatives; the LTTE and the Sri Lankan government chose its local monitoring committee members. At the start, all three parties soft-pedaled discussion of “sensitive” human rights concerns and discouraged human rights advocacy by others in the interest of promoting negotiations. But slowly, and after substantial criticism from human rights defenders the SLMM has begun to acknowledge abuses against civilians. It remains unclear, however, how much the SLMM can actually do to stop them short of declaring the cease-fire a failure – something no one wants.

Evidence of continuing abuse

On May 29, 2002, the SLMM reported that of 197 complaints it had received to date 58 were judged to be violations of the cease-fire. The largest number of admissible complaints (30) was from Batticaloa, where civilians have complained for months about increased LTTE harassment, including recruitment of child soldiers, abductions for ransom and extortion. Ten of the complaints from Batticaloa involved abductions. In one such case, two LTTE members Kannan and Illamaran forcibly conscripted fifteen-year-old Sangarapillai Perinpan, of Vipulanantha College, Kallady. His mother, Ponnammah Luuthamma complained to the SLMM, which wrote to LTTE representative Visu on May 13, 2002 saying that the incident was a violation of article 2.1 of the MoU. The boy later escaped and returned home. The mother informed the local monitoring committee, which promised to look after his security.

Critics say that fear of retaliation meant many abduction and extortion cases may not have been recorded. “A possible interim administration headed by the LTTE as the future scenario without any guarantee for civilian rights would mean many people would not dare to take a risk in

⁶ Agreement on a ceasefire between the Government of the Democratic Socialist Republic of Sri Lanka and the Liberation Tigers of Tamil Eelam, signed February 22, 2002, article 2.1.

complaining to the monitoring mission,” said one Tamil observer contacted by Human Rights Watch. In fact, residents of Batticaloa say that pressure from the LTTE has grown noticeably since the cease-fire began, particularly after the MOU allowed the group to open political offices in government-controlled areas. Similar complaints were received from Trincomalee.⁷

The Optional Protocol to the Child Rights Convention on the involvement of children in armed conflict prohibits the compulsory recruitment and the deployment in hostilities of children under 18 years of age.⁸ Sri Lanka ratified the Optional Protocol on September 8, 2000. The LTTE in May 1998 informed the United Nations Secretary-General's Special Representative for Children and Armed Conflict that it would not use persons under the age of 18 in combat, and would not recruit anyone under age 17. Human Rights Watch opposes the participation in armed conflict of anyone under the age of 18, whether with government forces or armed opposition groups.

The following children were recruited by the LTTE after recent propaganda drives in the Trincomalee area:⁹

- Three boys, L., S. and M. all 14 years old, were recruited from Kalaimahal School, Anbuvelipuram in Trincomalee.
- N.T., female, age 16, from Ward 10, Trincomalee was taken on February 2, 2002, after a propaganda session.
- Fifteen-year-old V.S. from Veeranagar was recruited on March 15, age 17, was recruited by the LTTE after a large *Pongu Tamil* (“Tamil Upsurge”) rally on March 19; he has now been trained and sent back to serve the LTTE in Trincomalee town.¹⁰
- N.R., female, age 17, was recruited from Anathapuri, Trincomalee;
- L.K., male, age 12 and R.S., male, age 16, both from Ward 10, Trincomalee were recruited in January and April respectively.
- A sixteen-year-old boy, Y. and two girls, J.K., age 14, and N.L., age 13, were taken from the Alles Garden IDP camp in Trincomalee after a propaganda session in April. An older girl, P.G., age 16, was also recruited from Alles Garden.¹¹

⁷A local monitoring committee for the SLMM has been established in Jaffna, Mannar, Vavuniya, Trincomalee, Batticaloa and Amparai. Each committee consists of five members, two appointed by the Sri Lankan government, two by the LTTE and one international monitor appointed by the Norwegian head of mission. It is important to note that although the MOU designates a Vanni liaison office for the SLMM, there is no local monitoring committee in either Killinochchi or Mullaitivu – key LTTE bases.

⁸ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, G.A. res. 54/263, Annex I, 54 U.N. GAOR Supp. (No. 49), U.N. Doc. A/54/49 (2000), entered into force February 12, 2002, arts. 1 and 2.

⁹ The initials provided are aliases. Actual names are on file with Human Rights Watch.

¹⁰ Since the cease-fire got underway, Pongu Tamil rallies have been held in major towns throughout the north and east. The LTTE-organized rallies have celebrated the LTTE’s struggle, called for the lifting of the government’s ban on the LTTE and Tamil self-determination.

¹¹ Alles Garden was a transit camp established by the United National High Commissioner for Refugees (UNHCR) in 1990 to house refugees returning from India until they could be resettled. The conflict prevented many from

Schools remain an important source for the recruitment of children. On May 21, the LTTE's Amparai-Batticaloa leader Karikalan addressed the students of Valaichenai Hindu College saying that all students regardless of age must join the final phase of the LTTE's struggle for Eelam. He appointed an LTTE students' wing, with the school's principal as leader, assisted the principal another area school, two teachers and two students. Their role was to distribute notices, decorate the school and its surroundings, and welcome LTTE leaders.

Forced recruitment of children also continues to be reported and has driven families to flee their homes.

- Seventeen year old L.R. of ward 5, Kumburupity, Trincomalee District was also forcibly conscripted by the LTTE in April.
- On June 4, LTTE member Illango reportedly forced his way into the school at Kopa Veli, Batticaloa District, and abducted nine girls and fourteen boys, all around fifteen years old. The children were heard screaming and crying as they were taken away in a tractor. They were taken to Irralaikulam training camp and handed over to LTTE member Gadafi.
- On the afternoon of June 12, 2002, the military reported that twenty-eight people including nineteen children had arrived at the army checkpoint at Mankerny, north of Batticaloa after fleeing their villages. Fourteen children accompanied by relatives from the villages of Kovilkudiyiruppu and Panchchankerni, told a journalist their families had decided to leave after the LTTE in the area demanded that the children join their ranks. Five other children, including two ten year olds, a boy of thirteen and a boy of fourteen traveled without family members, sent by parents who could not themselves leave.

The military recruitment of children can have disastrous results, even during a cease-fire. On May 24 at the LTTE's Vaalaihoddam training camp near Verugal, seventeen-year-old Selvam Ranjan (LTTE alias Umanesan) was reportedly killed when his gun accidentally went off at the ceremony marking the completion of his LTTE training.

On June 19, in a meeting with delegates of Amnesty International, the LTTE political section head S.P. Thamichelvan promised that the group would no longer recruit children for military service and said that all children under 18 in their custody had been returned to their parents. On June 30, at least six girls aged between 13 and 14 who had been recruited by the LTTE surrendered themselves to the police at the Mahaoya post post. Press reports citing Sri Lankan police said that the girls told police that they were among some eighty children currently being trained in an LTTE military camp in Sittandy, near Batticaloa.¹²

Extortion

returning home. Alles Garden is now administered by the Sri Lankan authorities as a welfare center for the internally displaced. Most residents have lived there for more than a decade.

¹² "Teenaged girl recruits flee Tamil Tigers," *Agence France Presse*, July 1, 2002 1:36 AM, printed in *The Times of India*, July 1, 2002. http://timesofindia.com/articleshow.asp?art_id=14606147.

Residents of the east have reported heavy financial pressure from the LTTE. Until LTTE leader Prabhakaran signed an MOU with Sri Lankan Muslim Congress leader Rauff Hakeem in April which, among other things, promised that the LTTE would stop collecting money from Muslims, Muslim traders were a major target of LTTE extortion operations.¹³ After the April agreement, the LTTE shifted its attention to the Tamil community, although extortion against Muslims persisted in certain areas, such as Valaichchenai – the scene of communal riots in late June. Sometimes the extortion of money is linked to the LTTE's recruitment drives. Sometimes it is solely a fundraising venture.

On May 21, 2002, M.S. of Illupaddichenai was physically attacked by LTTE members for not paying money the group had demanded. Thirty-five of his cows were confiscated.

On May 25, 2002, local LTTE intelligence leader Nathankumar approached Kommathurai resident T. and demanded his son (T. also has two daughters). T. refused, and Nanthakumar threatened to confiscate his property. His house at Illupadichenai, his shop and paddy fields were confiscated.

On May 31, LTTE member Wilson demanded Rs. 50,000 (US \$519) L.N. of Senaikuddy. L.N. said that he did not have the money. When Wilson threatened to take his son, L.N. promised to find the money. Wilson ordered him to bring the money to the camp at Illupaddichenai, before 10 a.m. the following day. L.N. complied.

Also on May 31, at 9:45 p.m., local LTTE intelligence head Reginald went to the house of R. in Chenkaladdy and demanded Rs. 100,000 (US \$1,037). When R. said that he did not have the money, Reginald pushed R. down, forced his way into the house, broke into a cupboard and took Rs 50,000 and a motorcycle key. Reginald came back again and demanded R's tractor. When R refused, the LTTE men beat him with poles and stole his tractor. He was told to pay them another Rs. 300,000 (US \$ 3,112). This was not the first time the LTTE had demanded money from R. They had reportedly taken Rs. 100,000 from him several months previously.

According to a source in Sri Lanka, at noon on June 5, LTTE member Gadafi reportedly raided all the cooperative stores in Kokkadicholai and stole rations meant for welfare recipients. The supplies were apparently taken into Tharavai in trucks.

On June 8, local businessmen who refused to pay extortion money to the LTTE were reportedly summoned to a meeting in LTTE territory and told to pay a sum of Rs. 50,000 (US \$ 519) each to the organization. When they protested, they were told that the LTTE was prepared to assess each business and impose a monthly tax.

Threats against Tamil Parties opposed to the LTTE

According to a Sri Lankan observer, members of opposition Tamil parties and other independent persons in the north and east continue to face threats. On June 8, X, a member of a Tamil

¹³ The agreement also allows the SLMC a role in proposed talks on behalf of Tamil-speaking Muslims, and promises to set up a bilateral committee to examine the resettlement of tens of thousands of Muslims forcibly displaced from the north by the LTTE since 1990.

opposition party, was confronted in public near Batticaloa by two LTTE members who said the LTTE knew his party was working against them, and implied that it had links to the Sri Lankan intelligence services. He was told that if he valued his life he would leave Batticaloa quickly; the war would start again soon and the first people to be targeted would be members of other Tamil political parties -- several potential victims were mentioned by name.¹⁴ Shortly thereafter, according to information received by Human Rights Watch, LTTE members ordered local auto rickshaw drivers in Batticaloa to monitor and report on the movements of members of the Eelam People's Revolutionary Liberation Front (EPRLF) and Eelam People's Democratic Party (EPDP).

Human Rights Concerns in context – a history of abuse and neglect

More than 64,000 Sri Lankans have been killed in fighting since the war erupted in 1983. It is not known how many thousands more have died due to conflict-exacerbated poverty and neglect. Civilians in conflict-prone areas have suffered severe economic deprivation, made worse by security restrictions on their freedom of movement by both state forces and the LTTE that prevented them reaching employment, schools or adequate medical care. The lifting of these travel restrictions has been an enormous relief to residents, who are using the space provided by the cease-fire to rebuild their lives and shore up their families against the possibility of future conflict.

The MOU also required both parties to review security measures to prevent harassment of the civilian population. This was crucial. In government-controlled areas especially, discrimination against Tamils has been rampant. Security personnel who suspected Tamils of loyalty to the LTTE systematically singled them out for abuse, including arbitrary arrest and prolonged detention without trial, beatings and torture, including rape. Members of the military, the police and paramilitary organizations caused the "disappearance" of and extra-judicially executed many thousands of suspected LTTE members and civilian supporters. Children were not exempt, due in large part to the LTTE's recruitment of child soldiers.

The cease-fire has ended, at least temporarily, a cycle of violence and abuse that drove more than a million people to flee their homes. But even if talks are successful, the damage could take years to repair. Shelling and exchanges of gunfire between combatant forces often killed and injured civilians and destroyed homes; this now has stopped. The LTTE has also tortured and executed suspected critics and informers. Pressure on the LTTE's critics and its potential civilian resource base remains a serious problem, but arbitrary attacks on civilians are not being reported. At earlier stages of the conflict the LTTE massacred large numbers of Muslim and Sinhalese civilians in villages bordering their territory; government-linked home guards and security personnel burned homes and massacred villagers in Tamil areas. Such attacks had decreased noticeably even before the cease-fire, but have left a traumatic legacy. The violence and back-and-forth nature of the fighting, as both sides alternated in controlling territory in the north and east, created one of the world's worst displacement crises.

Perhaps most damaging to civil society in the north and east has been the near total abdication of responsibility for civil administration to armed groups' and their patronage networks. Although

¹⁴ Names on file with Human Rights Watch.

the war had its roots in conflict between members of the Sinhalese majority and Tamil minority over economic interests and cultural identity, it soon acquired an economic and political momentum all its own. Enterprising individuals with links to combatant forces--and sometimes several different forces with different ethnic allegiances--carved out niches for themselves that institutionalized abuse. These ventures have more to do with power and money than ethnicity.

For years, extortion and protection rackets run by both the LTTE and pro-government groups have targeted local businessmen and other civilians with financial resources. Tamil paramilitary groups linked to the army and the LTTE “taxed” goods produced by farmers and fisherman. Soldiers and police at local checkpoints confiscated and sold “excess” supplies destined for homes in LTTE-controlled areas. *Grama Sevakas* (local village administrators) charged illegal fees to villagers seeking vital documents necessary to receive relief assistance or to travel out of conflict areas in search of work or safety. They were also accused of cooperating with local military forces in more direct forms of abuse, such as providing household lists to the security forces when villagers were needed for forced labor, or to the LTTE for their conscription drives. The cease-fire agreement and its disarmament of former Tamil militant groups decreased the public profile of the army and police, and removed some of the LTTE’s other competitors, but extortion and protection rackets remain a serious problem.