



HUMAN RIGHTS VIOLATION IN SRI LANKA: (*DURING CIVIL WAR*)

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ABSTRACT:

This Article provides an assessment of Civil War and Violation of Human Rights. In accordance with the United Nations Universal Declaration of Human Rights, it is stated that *'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.'* Nevertheless, brotherhood isn't a word one would associate with the tension in Sri Lanka. *The UNHRC passed a resolution and it allows the United Nation to collect, consolidate, analyse and preserve information, evidence and possible strategies for future accountability process for Violation of Human Rights. UNHRC provided budget \$2.8 million to hire investigator to work on collection of evidence. But, the foreign minister of Sri Lanka rejected this proposal of UNHRC.*

Keywords: *Human Rights Violations, UNHRC Role, War Crimes, Pro-LITE Government, Civil War.*

INTRODUCTION:

Human rights in Sri Lanka provides for Fundamental rights. The constitution states that every person is entitled to freedom thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice. And, that every person is equal before the law.

Major human rights groups such as Amnesty International and Human Rights Watch, as well as the United States Department of State and the European Union, have expressed concern about the state of **human rights in Sri Lanka**. British rule in Ceylon, the government of Sri Lanka and the separatist Liberation Tigers of Tamil Eelam (LTTE) as well as various other paramilitaries and Marxist Janatha Vimukthi Peramuna (JVP) rebels are accused of violating human rights Although Sri Lanka has not officially practiced the death penalty since 1976, there are well-documented cases of state-sponsored 'disappearances' and murders.

The horrors of the three decades of Lankan Civil War are revisiting the Government. The two brothers — Mahinda and Gotabaya — are holding the two crucial posts, Prime Minister and President, respectively. Earlier, Mahinda served as the President from 2005 to 2010, when Gotabaya was the Defence Secretary. During this period, both the brothers crushed the Liberation Tigers of Tamil Eelam (LTTE) and put an end to the longest Civil War in the country.

SRI LANKAN CIVIL WAR:

Government

On April 19, 1986, Ramanujam Manikkalingam, an MIT physics graduate, was arrested by government security forces in his native country of Sri Lanka under the provisions of the Prevention of Terrorism Act. Family and friends said that he was arrested while walking home from the local post office and that he was tortured in custody. The Eastern province of Sri Lanka was taken over by Sri Lankan Forces after heavy fighting in 1990. Even after government forces moved in early 1990 large number of disappearance and extrajudicial execution were continued. By October 1990, 3,000 people were estimated to have been killed or to have disappeared in the Ampara district. Further many of the disappeared people were believed to have been killed as a result of extrajudicial execution. Likewise, in Batticaloa another 1,500 people were reported to have disappeared. The LTTE terrorists continued to kill innocent people in the Eastern Province. They killed Muslims gathered in two mosques, for Friday prayers. Also, more than 700 unarmed policemen were murdered, cold blood. A bus full of Buddhist monks were killed at Aranthalawa. The European Union also condemned Sri Lankan security forces in the year 2000 concerning human rights, after fighting displaced 12,000 civilians. The US State Department stated that "The civilian authorities generally maintained effective control of the security forces, although some members of the security forces committed serious human right abuses". During President Mahinda Rajapaksa's reign White vans started to be associated with abductions and disappearances both during and after the war. Most disappearances of various critics, journalist and others who had disputes with members of the Rajapaksa government as well as kidnapping for ransom has been associated with the "White vans" which were believed to be operated by Military personnel. *Sahathevan Nilakshan*, also spelt *Sahadevan Nilakshan* a Sri Lankan Tamil student journalist and the head of the Chaalaram magazine. Sahadevan was shot dead inside his house during nighttime curfew in an area heavily guarded by the Sri Lankan Army. Sahadevan was part of a series of killing of Tamil media workers particularly those seen supporting the Tamil nationalist cause as Chaalaram magazine for which he worked was linked to the Federation of Jaffna District Students was seen supporting Tamil nationalism. It was seen as part of the intimidation of Tamil media.

Post-War

People who were previously in, or who assisted, the Tamil Tigers have alleged that the government has been continuing to torture them after the formal end of hostilities. Human Rights Watch has said that 62 cases of sexual violence have been documented since the end of the civil war, though the government says that there have only been 5. Similarly, the government asserts that these are isolated cases, while those making the allegations believe that this is a part of an organized government campaign.

One specific link to a formal government program investigated by the BBC found numerous people who say they were tortured at government rehabilitation camps, run for suspected former rebels. Several of those involved have medical documentation of torture along with documentation of having attended these programmes. Two UN reports have stated that the programme does not meet international standards and that there was a possibility of torture occurring. The government claimed to the BBC that they did not agree with the claims, and asserted that those anonymous people making the reports may have been paid by the Tamil Tigers or tortured by the Tigers themselves.

Abuses by the Liberation Tigers of Tamil Eelam (LTTE)

The Liberation Tigers of Tamil Eelam have repeatedly been accused of attacks on civilians during their separatist guerrilla campaign. The US State Department reported several human rights abuses in 2005, but it specifically states that there were no confirmed reports of politically motivated killings by the government. The report states that, "they [LTTE] continued to control large sections of the north and east and engaged in politically motivated killings, disappearances, torture, arbitrary arrest and detention, denial of fair public trial, arbitrary interference with privacy, denial of freedom of speech, press, of assembly and association, and the recruitment of child soldiers". The report further accused the LTTE of extrajudicial killings in the North and East.

The LTTE committed massacres in the Northern and Eastern provinces of Sri Lanka. The number of civilians massacred in a single incident were as high as 144 (Anuradhapura massacre) in 1985. Some of the major attacks resulting in civilian deaths include

the Kebithigollewa massacre, the Gonagala massacre (54 dead), the Dehiwala train bombing (56 dead), the Palliyagodella massacre (109 dead) and the bombing of Sri Lanka's Central Bank (102 dead). Further a Claymore antipersonnel mine attack by the LTTE on June 15, 2006 on a bus carrying 140 civilians killed 68 people including 15 children, and injured 60 others. Tamil Tigers were also credited by FBI for the invention of suicide bra and suicide belt.

Abuses by other Groups

The Tamil Eela Makkal Viduthalai Pulikal (TMVP), an armed organization led by Colonel Karuna, was accused by many human rights and non-governmental organizations of recruiting children, torture, assassinations and engaging in extortion in its war against the LTTE. The TMVP was also involved in kidnappings for ransom of wealthy, predominantly Tamil, businessmen to raise money in Colombo and other towns. Some businessmen were killed because their family could not pay the ransom.

Investigations

After president Mahinda Rajapaksa was ousted from power, investigations into the disappearances were launched by the new government which revealed a secret unit within the Sri Lankan Navy that was responsible for several disappearances. In March 2015, three navy personnel and a former police officer were arrested in relation to the killing of parliamentarian Nadarajah Raviraj in 2006 and in August 2015, police also announced that they had arrested several military personnel in relation to the disappearance of journalist and cartoonist Prageeth Eknaligoda. On 2015 October 11, Former Eastern Province Chief Minister Sivanesanathurai Chandrakanthan alias Pillayan of the former paramilitary group TMVP was arrested by the Criminal Investigation Department in connection with the killing of former TNA parliamentarian Joseph Pararajasingham who was shot dead on December 25, 2005 in Batticaloa He was allowed to be detained till 4 November for further questioning.

Post-war Ethnic Clashes

The **2014 anti-Muslim riots in Sri Lanka** were religious and ethnic riots in June 2014 in south-western Sri Lanka. Muslims and their property were attacked by Sinhalese Buddhists in the towns of Aluthgama, Beruwala and Dharga Town in Kalutara District. At least four people were killed and 80 injured. Hundreds were made homeless following attacks on homes, shops, factories, mosques and a nursery. 10,000 people (8,000 Muslims and 2,000 Sinhalese) were displaced by the riots.

The riots followed rallies by Bodu Bala Sena (BBS), a hard-line Buddhist group. The BBS was widely blamed for inciting the riots but it has denied responsibility. The mainstream media in Sri Lanka censored news about the riots following orders from the Sri Lankan government. Moderate Buddhist monk Watareka Vijitha, who had been critical of the BBS, was abducted and assaulted in the Bandaragama area on 19 June 2014. Vijitha had been forcibly circumcised. Schools in the riot affected re-opened on 23 June 2014. Sporadic attacks against Muslim targets continued in the days after the riots. The Tamil Tigers had been waging a full-scale war for an independent state of Tamil Eelam in the North and East of Sri Lanka since 1983. After the failure of the Norwegian mediated peace process in 2006 the Sri Lankan military launched offensives aimed at recapturing territory controlled by the Tamil Tigers. By July 2007 the military had recaptured all of the east. The military offensive in the north escalated in October 2008 as the Sri Lankan military attacked the Vanni heartland of the Tamil Tigers. After successive defeats the Tamil Tigers were forced to retreat to the north-east coast in Mullaitivu District. The civilian population of the Vanni also fled. The Sri Lankan government and human rights organisations have alleged that the civilians were forced to do so by the Tamil Tigers. By January 2009 the Tamil Tigers and the civilians were trapped in a small piece of land on the north-east coast.

On 21 January 2009 the Sri Lankan military declared 32 square kilometres (12 sq. mi) Safe Zone 5 kilometres (3.1 mi) north-west of Puthukkudiyiruppu, between the A35 highway and Chalai Lagoon. According to the Sri Lankan the purpose of the *Safe Zone* was to allow the trapped civilians to cross into territory controlled by the military. However, very few civilians actually crossed into the military territory. The Sri Lankan military, UN and human rights organisations accused the Tamil Tigers of preventing the civilians from leaving. The fighting between the military and the Tamil Tigers continued, causing the civilians to flee from the *Safe Zone* to a narrow strip of land between Nanthi Kadal lagoon and the Indian Ocean.

On 12 February 2009 the military declared a new 10 square kilometres (3.9 sq. mi) *Safe Zone* in this area, north-west of Mullaitivu town. Over the next three months a brutal siege of the *Safe Zone* or *No-Fire-Zones* (NFZ) occurred as the military allegedly blitzed by land and air the last remnants of Tamil Tigers trapped in the *Safe Zone*. Satellite images of the *Safe Zone* publishes by the UN, foreign governments and scientific organisations showed heavy damage that could have only been caused by bombardment. There is credible evidence that the LTTE itself wanted to deliberately create a humanitarian disaster.

Inevitably many thousands of civilians were killed or injured. A United Nations panel in 2011 found that as many as 40,000 Tamil civilians may have been killed in the final months of the civil war.

However, a study by the Sinhalese run Marga Institute of Sri Lanka arrives at a much lower figure, below 10,000. A pro-Sri Lankan government lobbyist Lord Naseby using information obtained using the right to information, British diplomatic cables etc., also claimed that about 7000 deaths could have occurred. However, human rights groups accuse Lord Naseby of purposely distorting a snapshot of figures gathered by the UN in 2009, which contradict the later and more thorough investigation undertaken by the United Nations panel in 2011 which found that as many as 40,000 Tamil civilians may have been killed in the final months of the civil war. As the civil war began to wind down in late April/early May the number of civilians leaving the *Safe Zone* increased substantially. On 19 May the Sri Lankan government declared victory.

After the end of the war a number of countries and human rights organisations called for an independent investigation into the final stages of the civil war, which has been consistently refused by the Sri Lankan government international organisations such as Amnesty International and Human Rights Watch have accused both sides in Sri Lanka's long-running conflict of deliberately putting civilians at risk to pursue military objectives. Nearly 70,000 people were displaced due to aerial bombardment and artillery attacks by government forces in Mullaitivu and Kilinochchi, the organisations said. And in the LTTE-controlled Vanni area, the Tigers have hindered thousands of families from moving to safer places by imposing a strict pass system and, in some instances, forcing some family members to stay behind to ensure the return of the rest of the family. These measures seem designed in part to use civilians as a buffer against government forces - a serious violation of international humanitarian law. "Both sides to this long conflict have again shown that they will jeopardise the lives of thousands of ordinary people in the pursuit of military objectives," said Amnesty International spokesperson Yolanda Foster. "In the absence of independent international monitors, Sri Lankan civilians lack protection and remain at the mercy of two forces with long records of abuse. The Sri Lankan government has furiously rejected all claims that its forces committed war crimes. In a June 2010 speech, President Rajapaksa insisted that his soldiers did not kill a single civilian. "Our troops carried a gun in one hand and a copy of the human rights charter in the other," the president said. These statements are at odds with multiple independent sources; the United Nations itself has said that at least 7,000 ethnic Tamil civilians died in the first four months of last year, just before the government claimed final victory over the Tigers, and high-level United States officials have said, "The US has strong, credible allegations of evidence of atrocities during the prosecution of the war against the Tamil Tigers."

UN Commission of Human Rights 43rd Session

In March 1987, a draft resolution expressing concern at reports submitted by the United Nations Special Rapporteur on Torture, the Report of the Special Rapporteur on Summary Executions and the Report of the United Nations Working Group on Enforced or Involuntary Disappearances in Sri Lanka was submitted by Argentina to the now defunct United Nations Commission on Human Rights. The resolution admonished Sri Lanka being caught in a spiral of violence and its use of torture against the civilian population. Sri Lanka reacted with shock and anger to the conflict being brought to the agenda. The resolution, calling upon all parties and groups to renounce the use of force and acts of violence and to pursue a negotiated political solution, based on principles of respect for human rights and fundamental freedoms, received wide support from Latin American, African, Western European countries and India. The resolution needed a 12-vote majority to pass. Two detailed reports on Arrest, Detention and Torture in Sri Lanka, and the other on Extrajudicial and Arbitrary Killings were distributed among delegates. Norway, Canada, Belgium and Australia joined Argentina in moving to support the original resolution in private, while thirteen non-governmental organisations in their joint statement to the commission stated "The situation (in Sri

Lanka) is so grave that it warrants exceptional and urgent consideration by this distinguished Commission. We appeal to the conscience of the distinguished delegates and the governments they represent to ensure that all essential steps are undertaken in terms of international human rights and humanitarian law". They deplored the use of foreign mercenaries by Sri Lanka. Sri Lanka sought Britain, France and the United States' support. British mercenaries of the secret KMS unit working in support of the Sri Lankan Government had left the island that year because of atrocities committed against the Tamil population, walking out after complaining that the Sri Lankan Special Task Force "was running out of control and was indiscriminately killing and torturing Tamil civilians".

UN Human Rights Council

At the 11th special session of the United Nations Human Rights Council (UNHRC) in May 2009 seventeen countries attempted to get the UNHRC to investigate war crimes in Sri Lanka. They put forward a resolution that deplored abuses by both the Sri Lankan government forces and the Tamil Tigers, urged the government to co-operate fully with humanitarian organisations and to provide protection to civilians and displaced persons, and made an appeal to the Sri Lankan government to respect media freedom and investigate attacks against journalists and human rights defenders.

The UNHRC instead passed resolution S-11/1 on 27 May 2009 which commended the Sri Lankan government's actions, condemned the Tamil Tigers and ignored allegations of violations of human rights and humanitarian law by government forces. This resolution was passed by 29 votes to 12 votes with 6 abstentions. The UN expert panel report published in April 2011 has, based on its findings, recommended that the Human Rights Council reconsider resolution A/HRC/S-11/L.1/Rev.2.

At the 19th regular session in March 2012, the UNHRC adopted resolution 19/2 on promoting reconciliation and accountability in Sri Lanka by a vote of 24 in favour, 15 against and 8 abstentions. The resolution welcomed the constructive recommendations contained in the Lessons Learnt and Reconciliation Commission (LLRC), a commission of inquiry appointed by the Sri Lankan government to look back at the civil war, and noted with concern that the report did not adequately address serious allegations of violations of international law. It called upon the government of Sri Lanka to implement constructive recommendations made in the LLRC report and to take all necessary additional steps to fulfil its relevant legal obligations to initiate credible and independent actions to ensure justice, equity, accountability and reconciliation for all Sri Lankans. It requested the government to present an action plan detailing the steps that it has taken and will take to implement the recommendations made in the commission's report, and also to address alleged violations of international law. The resolution also encouraged the (OHCHR) to provide advice and technical assistance on implementing the above-mentioned steps; and requested the OHCHR to present a report on the provision of such assistance to the Human Rights Council at its 22nd session in March 2013. Two last-minute changes to the resolution, pressed by India, made it "unobtrusive" in nature and "non-judgemental" in approach. These amendments gave the Government of Sri Lanka, a veto over any future recommendations by the OHCHR. There was no reference to alleged war crimes or an international investigation, as called for by human rights groups.¹ The failure of the Sri Lankan government to comply with resolution 19/2 led to resolution 22/1 being passed in March 2013 at the 22nd regular session of the UNHRC. This resolution called on the Sri Lankan government to carry out an independent and credible investigation into alleged violations. However, the resolution failed to establish the independent international investigation that human rights groups had called for. The Sri Lankan government ignored the resolution and as a consequence in March 2014 the 25th session of the UNHRC passed resolution 25/1 authorising an international investigation into alleged war crimes during the 2002-09 period.

UN Secretary - General's advisory panel

In June 2010 UN Secretary-General Ban Ki-moon appointed a three-member panel of experts to advise him on whether war crimes were committed in the final stages of the civil war. The panel consisted of Marzuki Darusman (Indonesia - chair), Steven Ratner (USA) and Yasmin Sooka (South Africa). The panel looked into "accountability with regard to any alleged violations of international human rights and humanitarian law" and whether the commitment on "human rights accountability" given by Sri Lankan President Mahinda

Rajapaksa to Ban Ki-moon has been implemented. The panel examined "the modalities, applicable international standards and comparative experience with regard to accountability processes, taking into account the nature and scope of any alleged violations in Sri Lanka". The Sri Lankan government reacted angrily to the panel's appointment, calling it "an unwarranted and unnecessary interference with a sovereign nation". It stated that the panel would not be allowed to enter Sri Lanka, a move criticised by Darusman. The panel's appointment was welcomed by the United States and EU but criticised by Russia and China. The panel met for the first time on 19 July 2010. On 12 April 2011 the panel handed over its report, the *Report of the Secretary-General's Panel of Experts on Accountability in Sri Lanka*, to the Secretary-General who passed on a copy to the Sri Lankan government. The Sri Lankan government immediately rejected the report as "fundamentally flawed" and "patently biased". The report was not initially made public to allow the Sri Lankan government time to make a formal reply. On 16 April 2011 the report was published in *The Island*, an independently owned nationalist Sri Lankan newspaper. The Sri Lankan government did not make a formal reply and on 25 April 2011 the UN published the full report. The evidence obtained by the panel revealed "a very different version of the final stages of the war than that maintained to this day by the Government of Sri Lanka". The panel found "credible allegations" that the Sri Lankan military/government killed civilians through widespread shelling; shelled hospitals and humanitarian objects; denied humanitarian assistance; violated the human rights of civilians and Tamil Tiger combatants; and it violated the human rights of those outside the conflict zone such as the media.

Specific findings of the panel:

In regard to crimes by the Sri Lankan government:

- The Sri Lankan military used large-scale and widespread shelling causing large numbers of civilian deaths. This constituted persecution of the population of the Vanni.
- The Sri Lankan government tried to intimidate and silence the media and other critics of the war using a variety of threats and actions, including the use of white vans to abduct and to make people disappear.
- The Sri Lankan military shelled on a large scale the three *Safe Zones* where it had encouraged the civilian population to concentrate. It did this even after saying it would cease using heavy weapons.
- The Sri Lankan military shelled the UN hub, food distribution lines and Red Cross ships coming to rescue the wounded and their relatives. It did this despite having intelligence as well as notifications by the UN, Red Cross and others.
- Most of the civilian casualties were caused by Sri Lankan military shelling.
- The Sri Lankan military systematically shelled hospitals on the frontlines. All hospitals in the Vanni were hit by mortars and artillery, sometimes repeatedly, despite the Sri Lankan military knowing their locations.
- Tens of thousands of civilians were killed between January and May 2009. Many died anonymously in the final days.
- The Sri Lankan government subjected the civilians who managed to escape the conflict zone to further deprivation and suffering.
- Screening for Tamil Tigers took place without any transparency or external scrutiny. Some of those separated by the screening were summarily executed whilst women were raped. Others simply disappeared.
- All IDPs were detained in closed overcrowded camps where they were deprived of their basic rights. The conditions in the camps resulted in many unnecessary deaths.
- There were interrogations and torture in the camps. Suspected Tamil Tigers were taken to other facilities where they faced further abuse.

In regard to the crimes of the Tamil Tigers:

- The Tamil Tigers kept hostage 330,000 civilians who were fleeing the shelling and trapped in an ever-decreasing area.
- The Tamil Tigers forcibly recruited members during the whole of the civil war but this intensified during the final stages of the war. Some of the recruits were young as 14.
- The Tamil Tigers forced civilians to dig trenches, risking making them look like combatants.

- The Tamil Tigers kept on fighting even when it became clear they had lost in order to save the lives of its leaders. This futile prolonging of the conflict resulted in many civilians dying unnecessarily.
- The Tamil Tigers shot at point blank any civilian trying to leave the conflict zone.

CONCLUSION:

The end of the war brought the most vital question to the fore — the massive violation of human rights by the Lankan Army. Though the Rajapaksa Government had justified the war, the humanitarian concerns emerging from the number of dead, missing and post-war rehabilitation of the Tamil civilians exposed the extreme level of brutalities that the Lankan forces resorted to.

Both the Rajapaksa brothers turned out to be heroes among the majority Sinhalese population, but questions of the violation of fundamental rights of the Tamils in the North and Eastern part of the country remained unanswered.

And this has been haunting the Rajapaksa Government since the end of the Civil War and now also with the returning of the duo to power. Sri Lanka is facing a new UN Resolution at the UN Human Rights Council (UNHRC), calling on the human rights abusers to account and asking the country's Government to deliver immediate justice to the victims. Britain and others have circulated a draft of the resolution among the members of the UNHRC.

Both the Tamil Tigers and the Lankan Army were accused of massive violations of human rights during the war. Therefore, the UN human rights office blames both for carrying out unparalleled brutalities against the innocent civilians during the war.

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