



**The Human Rights Situation
in the
EASTERN PROVINCE**
(December 2003)

The report of a fact- finding mission undertaken by
The Human Rights Commission of Sri Lanka.



HUMAN RIGHTS COMMISSION OF SRI LANKA

THE HUMAN RIGHTS SITUATION IN THE EASTERN PROVINCE (December 2003)

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THE HUMAN RIGHTS SITUATION IN THE EASTERN PROVINCE

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PREFACE

The Human Rights Commission made a fact finding visit to the Batticaloa and Ampara districts from the 1st of December 2003 to the 3rd of December 2003. The Commission had been receiving a large number of complaints, both oral and written, under signature and anonymous about the human rights situation in the eastern province. The Commission therefore decided to make a visit to the Batticaloa and Ampara districts to meet with members of the communities to ascertain the true nature of the human rights problems in the two districts.

The Commission had formal meetings with the NGO Consortium, religious leaders, the Peace Committee, the Regional Committee of the HRC, the Bar Association, international NGOs, the security forces and the police, government officials, the SLMM, the business community, and students and professors at the Oluvil University.

The Commission invited the political office of the Liberation Tigers of Tamil Eelam (LTTE) to make its representations to The Commission but was informed that they were still awaiting instructions and therefore would not attend the sessions reserved for them. The HRC hopes to discuss the findings of this report with the LTTE leadership and to initiate a process where there could be an on going dialogue between the LTTE and the Human Rights Commission. The Commission will also forward the findings of the report to the Government of Sri Lanka (GOSL), the LTTE, and the Norwegian facilitators.

Many individuals and groups approached the HRC informally and anonymously. Though some people spoke freely about the human rights situation in the eastern province, others were far more apprehensive and asserted that true information could only be given in privacy and secrecy. The Commission was distressed to note that their investigations

had to be conducted in what appeared to be a climate of fear, especially in the town area of Batticaloa, where even prominent persons indicated to members of the Commission that they were not able to speak freely. Given this context, The Commission is aware that the evidence given to us had to be dealt with prudently and with consideration for the safety of the individuals. As a result, we have refrained from mentioning the sources of our evidence in the context of the report. This has been done to protect individuals from what they felt would be adverse consequences.

Many individuals approached the Commission about terrible events that had taken before the ceasefire. The Commission is aware that during the war acts of unspeakable violence took place. However, for the most part we have confined ourselves to the issues of human rights that have emerged since the Ceasefire Agreement of February 2002 as the present Commission was constituted in April 2003 and the current members took office in May 2003. However, we are of the view that any final settlement to the ethnic conflict must also include an arrangement that will deal with the violations of the past emphasizing issues of truth, justice and reconciliation. The Commission in its strategic plan hopes to begin a programme of work on transitional justice to ensure that the data for such a process is comprehensively collected. Unless mechanisms for justice are instituted as part of the peace process, there will be no closure to events of the past and no healing of the wounds that continue to tear this country apart.

Since the fact finding took place and the release of the present report- a great deal has happened in the Eastern province. The LTTE military commander of the eastern province has broken away from the LTTE leadership in the Vanni and there had been a return to armed conflict in the eastern province between the factions of the LTTE. This has had dire consequences for the people in the region and events are still unfolding. This report, however, is only the report of the fact finding mission in December and speaks to the facts and events recorded by the Commissioners during that mission. The Commission did receive allegations against the LTTE but they were directed at both the LTTE leadership in the Vanni and the LTTE leadership in the eastern province. The Commission feels that both must be held jointly responsible in investigating allegations made against the LTTE.

INTRODUCTION

Batticaloa and Ampara are two of the three administrative districts of the Eastern province of Sri Lanka. The Census of 2001 could not be conducted effectively in the North and the East. In the Batticaloa district five divisions were enumerated completely, but six divisions were only partially enumerated. In Ampara all districts were enumerated. According to the census, the estimated population for Batticaloa was 486,447 with a growth rate of 1.9%, in Ampara a population of 388,970 with a 2% growth rate. In Trincomalee, the population is 340,00 with a 1.4% growth rate. This must be contrasted with the Jaffna peninsula where the estimated population fell dramatically to 490,000 with a negative 2% growth rate. The war has greatly affected the eastern province but the population statistics do not show the dramatic displacement that is evident in the Northern Province.

The ethnic composition of the eastern province has not been enumerated by the Census and Statistics department for the 2001 Census. Mr. Nanayakkara, the surveyor-general in his preliminary findings points out that there was just not enough data. Due to the exigencies of the armed conflict, officials of the census department were unable to carry out their survey in important parts of the East. Therefore there are no final statistics with regard to a statistical breakdown according to ethnic affiliation. Though there has been speculation about the actual figures, they are not seen as conclusive. The 1981 census, which is now out of date, points to 243,701 Sinhalese living in the Eastern Province, 399,299 Tamils and 315,436 Muslims.

It is therefore evident that the eastern province is a multi ethnic, multi religious province with a different social composition from the rest of the country. It is a province where the majority- minority dynamics are significantly different from the rest of the country. Given the intensity of the ethnic conflict, the population statistics point to a volatile mix that must necessarily form the backdrop for any assessment of the human rights situation in the Eastern province.

In addition to a different social composition, the eastern province also has some of the lowest physical quality of life figures and some of the worst social and economic indicators for the whole country. For example though the national maternal mortality indicator is 2.3/10,000births the maternal mortality rates for Batticaloa are 5.1, for

Ampara 9.8 and for Trincomalee 4.1.¹ Though the national female literacy rate is 83.2%, the female literacy rate is 61.9% in Batticaloa, 66.7% in Ampara and 73.1% in Trincomalee, the lowest in the country.

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While the eastern province has a heterogeneous mix of communities, it also lays claim to a cultural distinctiveness that has been chronicled by anthropologists from all over the world. Bryan Rice and Dennis McGilvray for example have written about the rituals and practices of the Mukkuwa people who are both Tamil and Muslim and who formed the majority in the Eastern province with their own legal system and a matrilineal system of inheritance. Organized into matrilineal groups called Kudis, they are still recognised in Temples and Mosques and each Kudi has a leader called Thalaivar for the Tamils and Maraikayar for the Muslims. Cattle registers, village leadership, and many other practices relied on the Kudi system. Marriage customs and other rituals are also governed by the Kudi system though under increasing challenge from more dominant ideologies such as a pan Tamil nationalism and growing Islamic awareness. This shared Mukkuwa history among both Tamils and Muslims of the eastern province is rarely mentioned in the current crisis and now there are many efforts to erase this commonality between the communities. The eastern province also has a special place in Sinhalese history as “Vellassa” the Sinhalese territory that resisted the colonisers.³

The political history of the eastern province has also been extremely complex. Initially much of the politics was subsumed within the politics of the north with parties such as the Tamil United Liberation Front receiving large number of votes in the eastern province. Since the mid-eighties and with the escalation of the ethnic conflict, the commonality of interest between the north and the east is under challenge. At present, the following political groupings appear to share political power in the East. The first are the parties that claim to represent the Tamil community

¹ Registrar General Department, Annual Health Bulletin-2000,

² Department of Census and Statistic, Statistical Abstract, 1999

³ For a comprehensive description see McGilvray, Dennis, (19882) “Mukkuvar Vannimai: Tamil Caste and Matriclan Ideology in Batticaloa, Sri Lanka” in Dennis B. McGilvray ed Caste Ideology and Interaction, Cambridge, Cambridge University Press.

:- the TNA, and its present day allies, the LTTE with some of the other militant groups also having a limited following. The second are the parties that claim to represent the Muslim community, the Sri Lanka Muslim Congress (SLMC) and National Unity Alliance (NUA) as well as more militant formations that have emerged in recent times. The two major national political parties the United National Party (UNP) and the Sri Lanka Freedom Party (SLFP) also have a presence in the area.

In December 2003, the situation in the eastern province had changed dramatically since the signing of the ceasefire agreement between the LTTE and the GOSL in February 2002. The majority of people we met were happy that the ceasefire had been signed. They pointed to the resumption of normalcy in economic and social life, the halt to the destruction that had taken place and the decline in the number of deaths since February 2002. However a significant number were of the opinion that the situation was actually worse, that there was greater insecurity, uncertainty and abuse after the signing of the ceasefire agreement. Many of the people who were of this view were from the Muslim community and Tamils living in the so called "cleared areas".

Though the ceasefire agreement has withstood the test of time, many groups were of the view that article 2, which prohibits assassinations, abductions and hostile acts against the civilian population was often observed in the breach. The Sri Lanka Monitoring Mission that monitors the ceasefire agreement informed us that all allegations relating to Article 2 are recorded but they had limited capacity to investigate the crimes independently. However where they are certain of the facts, they do approach the military and political leadership of the LTTE and where relevant the GOSL. In some cases their requests are complied with but in many instances there has been no follow-up to their recommendations. They were of the view that if the police are unable to be effective then some alternative mechanism must exist for the protection of human rights which has full powers of investigation and inquiry.

The human rights situation in the eastern province must be understood in the context of rising tension between the Tamil and Muslim communities as well. Despite the statement made by the LTTE chief negotiator Mr. Anton Balasingham, that the LTTE "recognizes the Muslims living in the North and East as our brothers", the relationship

between the two communities since the signing of the ceasefire agreement has continued to decline. This tension forms the backdrop for many human rights violations and a climate of unease and fear that pervades life in certain parts of the province.

One reason for the uneasy relationship is the non-contiguous nature of the geographic distribution of the communities. For example in the Batticaloa district, the Muslim areas of Kathankudy, Eravur and Valaichenai are not contiguous and there is no collective representation at the political level. The other reason is the mutually suspicious perceptions that the average member of the community entertains toward the other. From the point of view of many Muslims, the Tamils are asserting their dominance through the LTTE and by the power of the gun. Tamil interests they claim are unashamedly protected by the LTTE and this is often at the expense of individual Muslims. They also point out that they are not allowed to work in their lands in the so-called "uncleared" areas. Land is the central issue since agriculture is the primary means of livelihood. A Muslim registry of land recently compiled points to 490 locations in the North and East and over 100,000 acres of paddy lands that are affected by LTTE control of territory. They also argue that over 30,000 Muslim families are affected by the loss of this ability to cultivate land.⁴ Many Muslims openly articulated their fears stating that they feel the strategy of the LTTE is to forcibly evict them from the north and the east as part of an exercise to change the demographic pattern.

Many Tamils, though in the majority in many of these areas, also perceive themselves as victims. Many appeared to be suffering from a sense of relative deprivation. They, too, articulated their perceptions. It is their belief that during the war, the Muslims through the SLMC inherited a privileged situation in the East, getting state patronage and many of the government jobs and resource allocations. It is their belief that Tamils who were victimized during the war had to sell their lands and their movables to more secure Muslim families at low cost. Whatever the truth of these assertions, these perceptions prevent the Tamils from dealing with the Muslim community in the spirit of generosity and goodwill that a majority must display toward a minority if there is to be long term peace and security.

⁴ Document prepared by The Muslim Rights organization in response to a request made by the LTTE to identify the lands and their locations.

These perceptions have sometimes led to escalating situations of violence where passions are inflamed and terrible acts of violence take place. The Muttur and Valaichenai “riots” of 2002 and in Muttur 2003 respectively, point to violence at a collective level where the entire security of the eastern province is placed at risk. The possibility that perception, rumour and insensitivity will snowball into crises of unmanageable proportions is always present in the eastern province where suspicion, gossip and undercurrent play a stronger role than in most other provinces.

Whatever the perceptions that motivate the political articulation of grievances, the human rights implications of the tension between these communities have to be assessed in light of the fact that there are armed groups that will assert their will through the use of violence. The Commission has been inundated by cases of violence recorded against individual Muslims. Grenade attacks, abductions, firing into buildings and crowds, using the sword, robbery, arson, intimidation, harassment are alleged to be widespread. The sheer numbers of Muslims that have been affected since the signing of the CFA as reflected in the documents presented to the Commission point to a serious crisis that will not be resolved easily. Many of the perpetrators have been identified by the victims as members of the LTTE who are prominent in the areas where the victims live. The fact that one community has its interests backed by the power of the gun greatly changes the dynamics of the region and has major implications for any future framework for security envisioned by the peace process. There is talk of Muslim armed groups that will defend Muslim interest but our inquiry has pointed to the fact that this is overstated and that the groups such as “The Osama group” or “The Muttur Jetty Group” or “The Knox Group” consist of just a handful of members who are incapable of asserting their dominance and imposing their will on the whole community. However, experience from every conflict-ridden country in the world suggests that continued suppression of minority rights eventually ends up in violent conflicts. Thus it is imperative that for a just and permanent peace, a solution encompassing the rights and security of all communities is reached. The Commission is aware that there have been some acts of violence against Tamil civilians by some of these groups and this too needs to be addressed in an effective framework for security.

Since the Commission made its visit to the eastern province, the Foundation for Co-existence has made representations to the Commission about improving conditions for Muslim security in the east. According to representatives from the Foundation, since the meeting between the LTTE leaders of the East and the North East Muslim People's Assembly on 20th September 2003, there has been an improvement in the ground situation for Muslim communities. During the three hour meeting, the LTTE leaders, including the military commander Karuna, agreed to the following

- To waive all hitherto prevailing restrictions on paddy cultivation, fishing and movements in LTTE controlled areas in the East
- To form Zonal Committees in all villages consisting of Muslim civil society leaders and LTTE representatives.
- To do away with taxes on traders, both Tamil and Muslim, when its various economic ventures in fishing and agriculture begin to yield profits.
- Restoration of paddy lands to the Muslims in time for the Maha season, 30,000 acres to be handed over immediately

Since the Commission concentrated its fact finding mission in the Batticaloa district and some parts of Ampara, it did not receive any specific grievances from members of the Sinhala community living in the East. However, the Ampara office of the HRC reports that, despite certain benefits emanating from the peace process, there is a rise in tension and uncertainty among the Sinhalese living in the Ampara district since the signing of the ceasefire agreement. There is fear of LTTE intimidation and grievances with regard to the inability of Sinhalese farmers to farm their land in the so-called "uncleared" areas. There is also fear of extortion and violence.

Given the tension between the communities, it is absolutely necessary that the political leadership on all sides of the ethnic divide come up with creative political and administrative arrangements that will protect the security of all the communities living in the north and the east.⁵ This security is paramount if there is to be human rights protection

⁵ For a discussion of these issues please see S. Nanthikesan, lines-magazine.org (Nov 2002)

in these areas. Many of the problems highlighted below, the lack of a rule of law, impunity, abuse and harassment take place because of a lack of an adequate security arrangement that truly reflects the concerns of all parties living in the north and the east. Any final or interim solution must ensure that appropriate political and or administrative arrangements must be creatively imagined and implemented so that all communities can live without fear, in safety and security.

CIVIL AND POLITICAL RIGHTS: - ALLEGATIONS AGAINST THE GOSL

Perhaps the greatest achievement of the ceasefire agreement has been the dramatic decline in the allegations of human rights abuses by the Sri Lankan security forces. In our visit to the East and in complaints made to the Commission, the allegations of serious human rights abuses such as torture, disappearances, arbitrary detention etc...have been minimal. The Commission is aware that the whereabouts of ten persons who were picked up in white vans in different parts of the east in the early days after the ceasefire agreement was signed are still unknown. Tamil parliamentarians have attributed this "white van" phenomenon to state security forces and have brought the matter to the attention of the Prime Minister. There are also 65 Tamil political prisoners held under the PTA and this is receiving the attention of the Attorney General. The Human Rights Commission has also intervened in this matter and written to the Attorney General urging his immediate attention to these issues. In addition, in representations made to the HRC in the east, the Bar Association in Batticaloa was of the firm view that torture was routine in many police stations. The Commission itself has not received many allegations of torture in the eastern province since the CFA but is aware that many cases go unreported.

Some of the allegations against the state security forces related to a breakdown in discipline in their behaviour with members of the public. Isolated cases of robbery by security force members have been reported to the police. On the 27th of April 2003 in Batticaloa, members of The Special Task Force allegedly attacked and injured two people after losing to a civilian sports team. Again, on 12th June 2003, members of The Special Task Force injured two Tamil youths who refused to do work for them. There were also complaints that the armed forces did not

display sensitivity to the local population. In one case Hindu residents had complained of the disposal of cattle bones by some Muslim villagers near their homes in the vicinity of an army camp but the army had not responded to these complaints.

The major complaints against the Sri Lankan Army related to issues concerning public convenience, freedom of movement and property rights. The closure of roads at 6:00 pm on the northern outskirts of Batticaloa town, for example, was seen as creating major hardship for the general public. The Commission urged the Army representatives who came before the Commission to allow people the freedom to return home from work without hindrance and to close the roads after 8:00p.m. The Army representative undertook to consider the matter. The occupation of public buildings and private lands by state security forces was also a matter of contention. Many schools, government buildings- many of them the best buildings in the area and in close proximity to schools and temples are occupied by the security forces. In addition The Commission is in receipt of complaints by private people who argue that their homes are in "high security zones" and are therefore inaccessible. The Commission has had many frank discussions with The Army Commander on matters related to High Security Zones in the north and the east. The Commission has raised certain legal concerns with both the army commander and secretary, Ministry of Defence. It has also pointed out that though the national government reserves the right to take over private buildings when it comes to matters of security, it has the duty to follow due process and to pay adequate compensation or find alternative accommodation. Forced eviction from private homes is now a matter of international concern. Though issues of national security may seem paramount in certain instances, it is also important to protect the property rights of local people by ensuring that they are adequately compensated and do not have to suffer unnecessary hardship.

Other complaints against the security forces related to the fact that there are very few Tamil speaking officers who can interact with the population. In response to our request, the SSP in charge of the Batticaloa district sent us a list of Tamil speaking police officers in the police force in the Batticaloa district. Though all police stations seem to have some officers, the numbers are still very small. Members of the public also point out that many of these so-called Tamil speaking officers have some knowledge of spoken Tamil but are incapable of taking down

a complaint effectively in Tamil. There is some move to recruit Tamil speaking members from the local Muslim community, especially given the insecurity of the Muslim population. The danger of that type of recruitment is that the police force will be identified with one community and therefore become a factor of contention in the struggle between the communities. Unless the police force is representative and able to converse with the local population, its effectiveness as a police force will be greatly diminished.

The major complaint made against the GOSL and the security forces of the area was that they were not able to provide effective security for members of the public. Impunity for every type of crime and the breakdown in the rule of law was seen as the most pressing problem facing the district. The police in their representations stated that they have begun to increase patrolling as a preventive measure. They also argued that it is difficult to solve crimes because victims and witnesses do not come forward. They are also prevented from going into the "uncleared" areas and if the perpetrator came from that area there was nothing they could do. In recent times a few arrests have been made, but given the number of complaints given to the Commission in the form of petitions and documents, the vast majority of the cases are not dealt with effectively. There is little investigation, prosecution or punishment. There is public perception that the police and the security forces are hesitant to act because they do not want to upset the ceasefire agreement. However, since the agreement in article 2 makes it clear that hostile acts against the civilian population are prohibited during the ceasefire, there should be no excuse for effective police work.

The problem of impunity for crime is seen as an important human rights issue. It is a well settled doctrine of international law, that states have a due diligence duty to investigate, prosecute and punish those responsible for crimes that affect the right to life and liberty. The failure to prevent such crimes or punish people responsible for crimes that deny people their right to life and liberty is a breach of international human rights obligations.⁶ The current situation in the eastern province raises questions as to whether the GOSL is in breach of its obligations in allowing for such impunity and a breakdown of the rule of law. The ceasefire agreement may be seen as an opportunity rather than an

⁶ See for example Velasquez Rodriguez, Inter American Court of Human Rights, Judgment of July 29th 1988.

obstacle to effective prosecution of crime. As one of the young people who came before us said, "surely the combined intelligence of the Sri Lankan security forces and the LTTE can easily identify and prosecute perpetrators of crime."

Sociologists have often said that for security to be effective, the state must have a monopoly on the legitimate use of force. It is true that the Sri Lankan state does not have the monopoly on the legitimate use of force in many parts of the country. In the north and east there are two systems of crime investigation, crime prosecution and crime punishment one in the cleared areas and one in the uncleared areas. Moreover, both sides do not want to affect the ceasefire by prosecuting individuals close to the other side. There are also too many people with too many guns. This situation leads to a great deal of uncertainty and insecurity. The peace negotiators must ensure that an interim arrangement comes into place that acquires "the monopoly on the legitimate use of force" and becomes a central authority for security, law and order. However, such arrangement must have the full support and representation of all the communities and all the independent groupings of the eastern province. Unless such an arrangement enjoys widespread legitimacy and generates confidence, a strong authority with monopoly over law and order will actually only make matters worse. Negotiators on both sides must address their mind to the central question of a security framework for the east that will protect the interests of all communities and parties.

Another complaint leveled against the GOSL was that there was discrimination against Tamil speaking people in general and in the eastern province in particular. Government servants pointed out that all letters and circulars from the central government still come only in Sinhala and it takes time to have them translated. In addition, government officials from the eastern province send their responses in English after which they rarely get an answer. Language discrimination that was one of the initial root causes of years of conflict has not fully been overcome. Whether in government offices or police stations, the complaints about language discrimination persist. The lack of sensitivity to these issues and refusal to effectively tackle these problems in a systematic and comprehensive way, despite years of conflict, were disheartening. It is imperative that the central government learn to communicate effectively with the Tamil speaking regions and thereby set up the necessary

apparatus to allow for such effective communication. These measures could involve the training of government officials in bilingualism and a system of effective translation that will allow all government communications to the north and east to be in Tamil without too much of a time lag.

Another complaint of discrimination was the general perception among members of the public that the eastern province receives far fewer resources and facilities than other provinces. A cursory glance of some of the indicators seem to confirm this allegation. The Commission is unable to ascertain all the figures to make a judgment accordingly but there is no doubt that the eastern province has some of the worst social and economic indicators in the country. There is a shortage of teachers, doctors and all manner of skilled personnel. There are other reasons for these shortages than active discrimination. The eastern province was a theatre of conflict and very few skilled personnel wished to be stationed there. In addition, there is a fear that their salaries may be "taxed" or their children recruited into an armed group. However, there is a widespread belief in the eastern province that they are discriminated against not only by the Sinhalese majority governments of the south but also the Tamil dominated political groups of the north. This sense of discrimination is pervasive and needs to be addressed if the eastern province is to be brought back into the mainstream of Sri Lankan economic and social life.

CIVIL AND POLITICAL RIGHTS: - ALLEGATIONS AGAINST THE LTTE

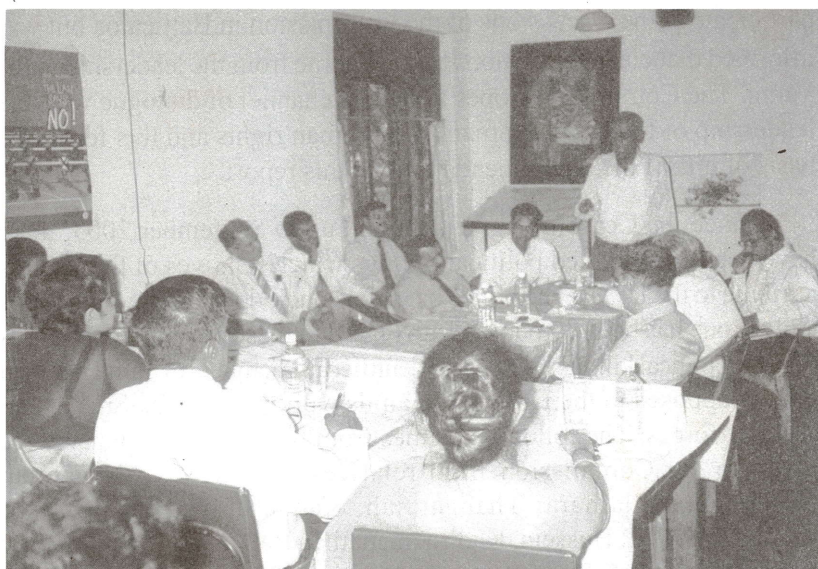
Since the conclusion of the ceasefire agreement, the Commission has received many allegations of human rights violations by the LTTE. In keeping with the ceasefire agreement and in particular article 2, the Commission has referred such matters to the Sri Lankan Monitoring Mission. The Commission realizes that the powers assigned to it under the Human Rights Commission Act cannot be effectively applied with regard to the LTTE. However, the pattern of violations requires that the Commission respond to the concerns of the petitioners who have brought their cases to the Commission. The Commission hopes that this report will provide an opportunity for opening a dialogue with the LTTE on matters concerning human rights. The Commission invited the LTTE to

participate at the discussions of the Commission in Batticaloa but was informed that clear instructions had not come from the leadership in the Vanni. The Commission hopes to open a channel of dialogue with the leadership of the LTTE on matters of human rights and this forms the basis of one of the recommendations of this report.

Since the Ceasefire agreement and up to September 2003, there have been 38 so-called political killings which relatives of the victims attribute to the LTTE. The police have not concluded their investigations and no-one has been convicted with regard to these crimes. The victims of these political killings have been identified as members of Tamil political groups opposed to the LTTE and Tamils working with the Sri Lankan security forces. The following names from the Eastern province were given to the Commission from relatives and friends:- Nagarajah Nesarajah, Sellathurai Thangarajah, Kandasamy Gnanajothi, P. Alahathurai, A.T. Hussein, Kadirgamanathan Ragupathy, Seenithamby Ranjan, Kalirajah Ramanan, S. Kirubairaja, Sinniah Samuel, Raju Wijenathan, Nagamuthu Nagendran, Thambirajah Subathiran, Ponniah Ramachandran, Kumaraswamy Kumarathan, Vairamyththu Mehanathan, Velupillai Paraneetharan, Sambunathapillai Vivekanandan, Arasaratnam Radheeskaran, Sabaratnam Soundaranayagam, Thangathurai Navaneetha, Velupillai Yogendran.

The Ceasefire agreement was supposed to end hostilities between the parties. Therefore, if these killings are indeed political, they are, in addition to being criminal acts, violations of the ceasefire agreement. This situation led one of those who made representations to the Commission to say, "the killings of Sinhalese have stopped but there is no ceasefire for Tamils". The police and the SLMM have pointed out that they cannot do their investigations in areas that are not under their control. The impunity for these crimes following the ceasefire has serious human rights implications. The right to life is the most fundamental of all human rights and if that right is taken away arbitrarily and violently without due process of law, the most basic of all rights is violated. Both the LTTE and the GOSL have a responsibility to ensure that no future political killings take place and that those who committed these crimes be identified, prosecuted and punished.

The Commission has also received complaints with regard to child abductions. Up to September 2003, the Batticaloa office had received 29 cases in 2002 and 57 cases in 2003. The Trincomalee office had



The Presentation by the Bar Association



The Chairperson & the Commissioners at Public hearing



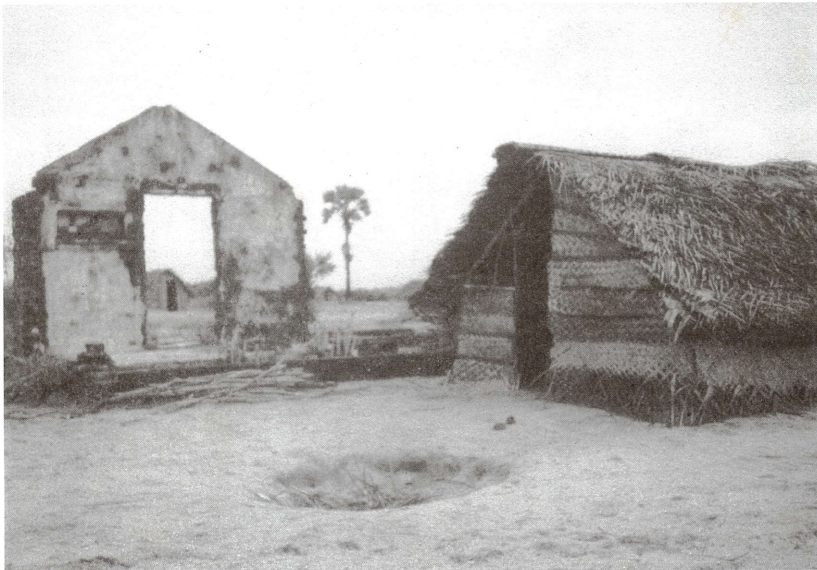
Meeravoodai Resettlement Village - Settlers
Outlining Their Problems



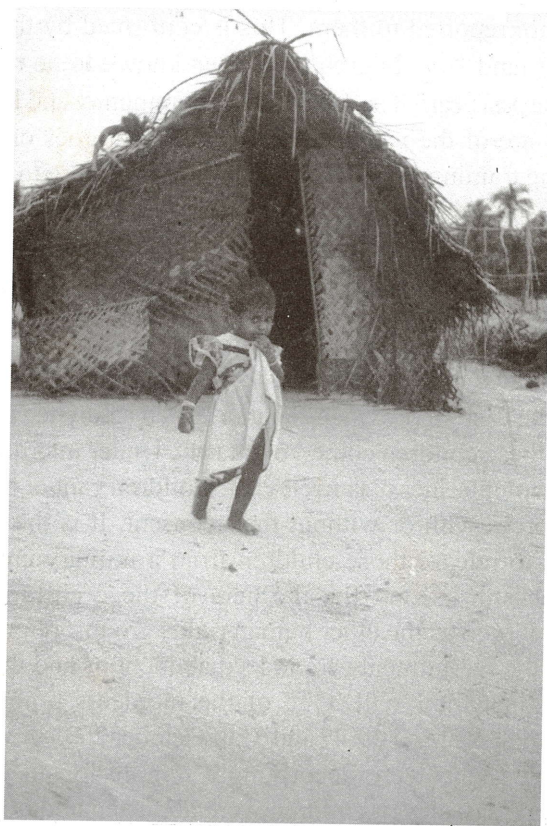
The Chairperson & the Commissioners Listening to the Public



Water supply to the Settlement



War Ravage and Glimmer of Hope



This is my home!

received 20 cases since the signing of the MOU. The Commission discussed these cases with the Sri Lankan Monitoring Mission. The SLMM provided us with documentation to say that for the period January 1st 2003 to December 12th 2003, they received about 600 complaints with regard to ceasefire violations, 93% of the complaints were against the LTTE. The overwhelming number of cases related to matters concerning the civilian population. Of the 600 cases, 25% of the cases, (around 150) related to child abductions.⁷ The SLMM also pointed out that their investigations lead to the conclusion that only 10% of the actual cases are reported to them. This is confirmed by the UNICEF figures that around 709 children have been known to be recruited by the LTTE in the past year.⁸ The international community and local human rights groups are of the view that the recruitment goes on in cycles, peaking during training periods. For example, according to the figures, the abductions peaked in January and October this year. They also point out that many of the recruitments are invisible, with families in the “uncleared” areas being requested to give one child in the family and if the child leaves, to replace that child with another.

Child abduction/ recruitment, therefore, emerges as a serious problem for the eastern province. There is often a defence put forward that many of these children come voluntarily. Under international law, the issue of “voluntariness” is irrelevant. Children cannot be recruited into armed forces with or without their consent. It is the duty of all armed forces to release those children from a military environment. However, the stories that the mothers of these children tell the Commission as well as the other human rights groups, point to the fact that many of the recruitments are indeed abductions and that children are taken against their will. One of the incidents reported to the Commission took place on the 4th and 5th of October 2003 in Valaichenai. School children who were decorating a temple for an event were abducted. Some say eleven children were abducted and others say up to 24 were abducted. Four families complained and with the intervention of the SLMM the children of those four families were returned. Other

⁷ SLMM – statistics available on their website for December 2003- a hard copy provided to the Commission

⁸ UNICEF, Action Plan for Children Affected by War- Progress report , Colombo, 2003

school children protested against these abductions as did teachers from the school. As a consequence of this protest, the houses of some of the principals, teachers and parents were vandalized and some of them were physically assaulted.

The eastern province and especially the Batticaloa district are the main theatres for child recruitment. The petitions before the Commission and the reports of international agencies such as UNICEF make it clear that the LTTE does engage in child recruitment. The Commission is unaware as to whether these recruitments are sanctioned by the political leadership of the LTTE situated in the Vanni or whether these are local operations by local members of the LTTE. Nevertheless, the LTTE leadership remains responsible for the actions of its cadres at all levels. The recruitment of children into the armed forces is an affront to universally held principles of international law. The Convention on the Rights of the Child as well as jus cogens norms prohibit such action. It is a violation of both human rights and humanitarian norms and goes against some of the cherished values of the international community. The LTTE made a commitment to Mr. Olara Otuno, the Special Representative of the Secretary General that it would release child soldiers. It came to the same agreement with UNICEF and a special action plan was drawn up as part of the peace process. It is therefore imperative that the LTTE leadership take firm and decisive measures to stop this practice and to uphold its agreement with UNICEF to have these children released and reoriented so as to be absorbed into the mainstream of society.

The abduction of children is also augmented by the abduction of adults, either for ransom or punitive treatment. The SLMM records around 130 such complaints of adult abductions for 2003. The Batticaloa office of the HRC received complaints of 58 adult abductions for the year 2003. The abductions of adults are also a serious cause of concern and point to the ineffectiveness of the rule of law in the eastern province. As a result there is a great deal of insecurity and fear among the people living their daily lives, especially if they are from the middle class. Since abductions are often about ransom or even extortion, those with means have expressed grave reservations about the security situation in the east. Many said they would leave the eastern province within the next few months. Adult abductions and other rule of law issues are slowly

chasing away the skilled professionals, businessmen and people with means who may have a great deal to contribute in rebuilding the society.

The other persistent complaints the Commission receives from the eastern province relate to the issue of extortion or "taxation". Until recently government servants allegedly had to pay 5% of their salaries as taxes to the LTTE. As a result government servants did not want to serve in the eastern province and there is therefore a shortage of such personnel. This has been changed since April this year. In their petitions, complainants state that with regard to agriculture, they had to pay between 500- 1000 Rs per acre per season, Rs. 50 to transport paddy and Rs.10-15,000 a month for tractor use during the harvest season. Labourers have to pay Rs. 25/= a month as part of their salary. These rates are also different from area to area. Businessmen and fishermen also have to pay taxes on the goods they transport and on their earnings and fishermen have to pay taxes on their catch. These amounts vary from location to location from businessman to businessman. If the LTTE is to have a ceremony or an event "voluntary" contributions are also elicited from the community. Those who came before the Commission made it clear that under the circumstances it was impossible to say no. If you do, you are victimized in some form. In addition new businesses and government services coming into the area also have to pay "taxes". Again these amounts vary according to location and service.

The arbitrary and unreasonable deprivation of property is a human rights violation. It is argued that these taxes are what are needed for the LTTE to maintain its cadre and to run the services for the community that it provides. The taxes are not promulgated by a democratic authority and vary from place to place from commander to commander. They are also sometimes exorbitant, crippling the economic and social life of the community. Complainants to the Commission point to the arbitrary and unreasonable nature of this "taxation". In recent times, the LTTE has become more lenient with regard to its tax regime, but the hardship continues. The taxation of new ventures also prevents the peace dividend from being felt in the eastern province since new enterprises are reluctant to come and invest. It is imperative that the principle of "no taxation without representation" be upheld and that taxes are imposed by a recognized authority according to due process of law. This must be done as soon as possible, either within an interim framework or some other mechanism.

The Muslim community in the eastern province has given the Commission extensive documentation with regard to violations by the LTTE. With regard to paddy lands, members of the Muslim community have complained to the Commission that nearly 100,000 acres of paddy belong to members of the Muslim community and are located in the LTTE dominated areas. In their petitions, they claim that some of the land has been forcibly taken, that land markers have been destroyed and the land given to the families of LTTE "martyrs". They also claim that the land that has not been taken is vacant and Muslim owners are not allowed to cultivate the land.

With regard to fishing, many fishermen have complained to the Commission through Muslim human rights organizations that their boats and fishing gear and equipment are sometimes taken by LTTE cadre while fishing at sea. They also claim that they have been told that they can only fish in the sea that lies in front of Muslim villages and cannot fish in front of the seas of Tamil villages. Muslim businessmen have complained that handbills have been given out in certain areas asking the Tamils not to patronise Muslim shops or to have transactions with Muslim businessmen. The petitioners have stated that they believe that the LTTE is behind these handbills.

In recent times there have been efforts at the political level to resolve the tension between the LTTE and the Muslim community in the eastern province. In February 2003, district committees were set up with participation from the LTTE and the Muslim community to mediate on land issues. On 13th April 2003, talks between Mr. Rauf Hakeem, the leader of the SLMC and Mr Prabhakaran of the LTTE led to some agreement with regard to Muslim resettlement, the right of Muslims to cultivate land in the LTTE areas and an end to extortion of Muslim businessmen. There was also a decision to keep the dialogue between the SLMC and the LTTE open and that a joint committee be set up to implement this understanding. Though there is speculation as to whether this MOU is still valid, it was an important moment in the initial phase of the peace process. On 20th September 2003, senior LTTE leaders, Col. Karuna Amman, the Eastern Regional Commander of the LTTE) Mr. Ramesh (Special Commander, LTTE), Kausalyan (Political leader) met with the North East Peace Assembly. After a three hour meeting, it was agreed that there would be no more restrictions on Muslims

cultivating land in the LTTE areas and that the Muslim community should draw up a land register so that the LTTE is aware of the Muslim claims to land. There was also agreement that there would be no restrictions on fishing movements and the LTTE would move toward doing away with taxation of Muslim businessmen.

Though one welcomes the developments at the political level, petitions by Muslim members of the public point to the fact that nothing has changed on the ground even after the above meetings. Muslim landowners, businessmen and fishermen continue to complain of harassment. It therefore becomes important to ask the question whether this is a question of time lag- i.e. a delay in the orders of the political leadership being conveyed to the rank and file- or whether there is no political will to implement these agreements. Given the tension between the communities it is important that the LTTE take special measures to prevent harassment of the Muslim community by its cadres. Such action is not only a violation of the ceasefire agreement but amounts to discrimination against a minority population that is de facto under the control of the LTTE. Given this reality, it is not only imperative to ensure that the LTTE respond to these concerns but that any interim arrangement or a final settlement reflects these realities, entrenching the rights of minorities to representation, participation and non-discrimination.

Finally, complaints to the Commission from the eastern province, both in written form and in oral communication, point to a fear of harassment for voicing independent opinion and asserting one's freedom of speech or association. As pointed out, the principal and teachers who protested against child abductions were physically assaulted and their houses vandalized. NGOs and independent groups met privately with Commissioners to point to the difficult circumstances under which they function. They point to harassment with regard to dissent- newspapers that have critical points of view have been destroyed or vandalized and buses with copies of dissident newspapers waylaid. They also point to elements of surveillance and control both in terms of finances and activities. The LTTE displays a tendency to want to control all activity and programmes in the areas under its authority with a tenaciousness that is very disturbing. This has major implications not only for the human rights of individuals living in these areas.

THE RIGHTS OF THE INTERNALLY DISPLACED

The peace process has resulted in the movement of internally displaced persons, attempting to return to their homes. In 2002, a total of 87,589 families or 335,656 persons returned home. In 2003, a total of 69,927 families or 269,012 persons returned to their homes for a grand total of 157,516 families and 493,172 persons. According the UNHCR statistics, another 100,000 families or 396,076 persons have still to return.⁹

The eastern province is not the main theatre for this IDP movement since most of the returns have been to the northern province. At the end of 2003, a total of 5,537 persons had returned to Batticaloa and 11,182 persons had returned to Trincomalee. There are still 32,215 persons who are displaced in Batticaloa and 21,361 persons displaced in Trincomalee. For some reason, in the eastern province, the IDPs are not returning home. There is a great deal of speculation as to why this is. As outlined above, many IDPs claim that they are afraid to return because they do not know whether war will break out and because of the rule of law situation, particularly those relating to child abductions, extortions etc.. Another reason is that they are not provided with adequate assistance to make the move and to resettle in their homes. The HFC has an IDP project with offices in the north and the east. In the month of October the IDP offices received 783 complaints. In the Batticaloa district, 401 complaints related to "resettlement."

The Commission had the opportunity to visit the Meeravodai resettlement village in the Batticaloa district and the chance to speak with those who were being resettled. Since 1995, people being resettled in any part of the country were given Rs 4,000. However, this year NECORD (North East Community Restoration and Development Project) has begun a new scheme of resettlement. In this scheme, the IDPs are encouraged to go to their villages and begin a process of rebuilding. They receive no assistance for this. Only after they show signs of resettling will they be given Rs 25,000 to settle down. To prevent corruption, the payment is made to a bank account. This is often confusing since many of the villagers had never had a bank account in their lives.

⁹ UNHCR, Statistical Summary as of 31 October 2003, Refugees and Internally Displaced Repatriation and Returns to and within Sri Lanka.

After that initial installment, TRO (Tamil Rehabilitation Organisation) will be given Rs 75,000 on their behalf to build houses for the families in the resettlement villages. TRO is the implementing agency for NECORD. The Resettlers will be given up to six months of dry rations as part of this process.

Meeravodai presented the Commission with the many issues that face the resettlement process in the east. Firstly, the location of the resettlement village becomes an issue of vigorous contention. Meeravodai is located in the vicinity of an army camp and near a Muslim village. The Tamil settlers who are returning owned land in this location over a decade ago. Neither the army nor the Muslim village is happy to embrace the returning settlers. The army told us that security clearance was not given and the Muslim community is of the view that the village encroaches on land belonging to the Muslim village. As a result, there is great insecurity in the resettlement village. The villagers live in fear of both the army and their Muslim neighbours. In this regard, the selection of locations for resettlement must be done with greater sensitivity and consultation. If a tri-partite process involving the LTTE, the Army and local Muslim representatives could work out the location and boundaries of resettlement villages along with the necessary security arrangements, this would go a long way in alleviating the situation. At the moment the villagers at Meeravodai have no sense of security and no incentive to make their home permanently in the village.

The second issue of contention is who is chosen to resettle and who is given the assistance of Rs. 25,000. Many of the complaints before the HRC relate to the fact that many people who initially lived in Meeravodai were not chosen to receive assistance. The choice appears to rest with the divisional secretary along with the village rehabilitation committee. However, the criteria for the choice were not given to HRC and the reasons why some were given assistance and some refused any support. It is imperative that a more open and transparent process be in place with regard to the choice of those who are to receive assistance.

Thirdly, since the villagers were asked to resettle and show their intention, auxiliary services needed for any community to survive are not provided. There is no proper water supply, no proper toilet facilities, there are no medical facilities in the nearby vicinity and the villagers

were adamant that they would not go to the hospital attached to the neighbouring Muslim village. In addition, though the Rs 75,000 going to the TRO may ensure that some houses will be actually built, other NGO agencies have supplied the villages with the materials, expecting them to build their own houses.

Meanwhile, the HRC has received complaints from IDPs about the deteriorating situation in government welfare centres. The peace process appears to have lessened the focus of reconstruction agencies. The IDPs have complained that the toilets, the tube wells and the water supply at these centres are not maintained and never repaired. The substandard situation in many of these centres has already been documented by NGO groups. In addition the IDPs complain that the government bureaucracy is slow to give them essential documents such as ID cards and death certificates. With regard to death certificates, an earlier practice of a less cumbersome procedure for death certificates appears to have stopped, creating hardship for many IDPs and making it difficult for them to return home

SOCIAL AND ECONOMIC RIGHTS

Even without looking at the statistics, it is apparent to anyone who visits the east of Sri Lanka that social and economic rights are observed more in the breach. The long war has contributed to a standard of living that is substantially below that of the other provinces. However, even before the war began, the eastern province had very low social and economic indicators and was one of the most underdeveloped areas in the country.

The Statistics put out by government departments show this clearly. While Colombo has 4.8 beds in its hospitals per 1000 population, Batticaloa has 2.3, Ampara 2.6 and Trinco 2.4 These are some of the lowest statistics. However it is important to note that Kilinochi only has 1.9 and Hambantota 2.3- pointing to the fact that not all the so called underdeveloped areas are in the eastern province. Another significant indicator is that while Colombo has 98.5 medical officers per 100,000 population and Kandy 50.4, Batticaloa has 28.7. Again it is interesting to note that Kilinochi only has 3.7 and Hambantota 25.1.¹⁰

¹⁰ Annual Health Bulletin-2000

Government servants and petitioners in the eastern province complained about the shortage of ambulances, specialized doctors, and an outdated bloodbank system, lack of scanners and other modern equipment, and very low sanitation standards in the hospitals. The Commission did not have the opportunity to visit hospitals during the visit but had to rely on reports given by government servants and members of the public.

Government agents and members of the public also pointed out that there is absolutely no capacity in the east to deal with issues of mental health and trauma. The GTZ is at the moment training 20 teachers to identify students suffering from mental health problems. Besides some of these small initiatives, there is very little assistance. Given the armed conflict and the possibility of life long trauma, this situation is quite unsatisfactory and undermines the basic right to health. In addition malnutrition figures appear to be very high in the eastern province. Government servants informed us that in a village school at Anapanthya a pilot study was conducted by The Ministry of Health and that 100% of the students at the school were malnourished and not meeting the minimum standards.

With regard to education figures, the situation remains the same. Female literacy figures are low as is general literacy. In Batticaloa, general literacy is 68.3 while the national figure is 87.2. ¹¹ If one looks at university admissions, in the year 2001/2 while 200 students from Colombo got into medicine only 12 got in from Batticaloa, 22 from Ampara. In the same year 27 got in from Hambantota. With regard to engineering, 223 students got in from Colombo only 16 from Batticaloa. In the Arts faculty, however, there is improvement with 115 students getting in from Batticaloa. ¹²

Government servants informed us that there was a 20-30% drop out rate in schools in Batticaloa. The 1992 statistics point to figures of 7.6. ¹³ The government servants also indicated to us that there was a tremendous shortage of teachers especially with regard to English, Science, Maths and Aesthetics - some of the subjects that perhaps give a greater chance to break out of the cycle of poverty.

¹¹ Department of Census and Statistics, Statistical Abstract 1999

¹² University Grants Commission, University Statistics 2002

¹³ Census and Statistics, Statistical Abstract of 1999

The social economic indicators of the eastern province suggest that substantial and accelerated efforts must be made to improve the social and economic conditions of the population in the eastern province. In many ways, the peace process provides an ideal opportunity to dramatically improve the lives of the people in all the eastern districts. This requires that all agencies entrusted with relief, reconstruction and rehabilitation earmark programmes and projects that will have a direct bearing on improving the social and economic conditions of people living in the province. Though infrastructure projects and large-scale investment to provide employment are also essential, it is also necessary that the central government and donors give social and economic rights such as the right to health, education, housing and food their immediate attention.

VIOLENCE AGAINST WOMEN

The Eastern province has some of the worst quality of life indices for women. With a female literacy in the 60% range - twenty points below the national average- and maternal mortality also far above the average, it is imperative that resettlement and rehabilitation initiatives take this into consideration. All reconstruction programmes should be compelled to assess their contribution toward improving the condition of women in the eastern province. In addition, there is a large number of war widows in the eastern province. A special unit has been created for them under the government agent. They receive Rs.20,000 compensation and Rs 100/month public assistance. Given the fact that these women are heading single parent families, this type of reconstruction package will not meet minimum survival needs. It is important that there be a concerted effort to develop programmes and projects to empower these women and to make them and their families self-sufficient. They should not just be given handouts. Reconstruction programmes should make them one of their central concerns. There should be a special unit in the Kachcheris to deal with war widows.

Violence against women is also a serious concern in the eastern province. During the war, many women were victims of custodial rape by the security forces. These cases have been brought to the attention of the government by local and international NGOs along with the UN Special Rapporteur on Violence Against Women. However, with regard

to the eastern province, there have been no prosecution and no convictions. There, therefore, appears to be impunity for these very serious crimes. The Attorney General has stated that police investigations have not produced enough evidence for successful prosecutions. The police may find it difficult to investigate themselves or other security organizations. In this context, an independent prosecutor with investigative powers should be appointed. Prosecutions for these crimes will also go a long way in creating goodwill between the communities since many of these cases formed the basis for a great deal of anger within the Tamil community.

The Commission was disturbed to note that a great deal of violence against women continues at the local level in the east. Though no-one has quantified the levels, women's NGOs have reported high levels of domestic violence, including forced marriage where armed men use the gun to force women to marry them. Research around the world points to the fact that militarization and the use of force in a society dramatically increases the levels of violence at the domestic and personal level. When male models of "masculinity" involve the easy use of violence this has terrible repercussions for women. The eastern province has experienced some of the worst violence over the last two decades. It is therefore not unusual that women complained to individual Commissioners of an increase in violence and coercion against women at the local level. This has also led to high rates of divorce and separation. The social and familial consequences of a lengthy war have yet to be fully ascertained. It will take more than a generation to repair the damage.

CONCLUSIONS AND RECOMMENDATIONS

General-A Human Rights Agreement

1. The human rights situation in the eastern province involves serious issues of human rights awareness, compliance and enforcement. Given the fact that it is a militarised theatre for armed groups, the framework and enforcement mechanism for human rights must be reconstructed to suit the realities of the eastern as well as northern provinces. It is the Commission's belief that no national or regional human rights entity will be able to effectively monitor and implement human rights standards in the north and the east. No organisation or individual enjoys that kind of universal authority and legitimacy. If a national organization is entrusted with this task it must be with substantial international aid and assistance. The Commission believes that the following course of action should be agreed to by the parties to the peace process.

- A Human Rights Agreement or Memorandum of Understanding must be agreed to by all parties to the conflict as soon as possible. It must be recalled that many peace processes and agreements have such human rights frameworks and that Ian Martin, human rights advisor, has been entrusted with this task with regard to the Sri Lankan peace process. According to the Hakone Agreement "The parties (to the peace process) asked their international advisor... to develop...the drafting of a Declaration of Human rights and Humanitarian Principles. This would reflect aspects of fundamental international human rights and humanitarian standards, which both parties would undertake to ensure, are respected by their personnel..." This Declaration must be finalized sooner rather than later.
- A monitoring mechanism must be set up which involves substantial international assistance. The monitoring mechanism must have strong and independent investigating wing which is fully trained and competent. Witness protection schemes and victim protection schemes should also be in operation.
- The parties should agree to abide by the Declaration and the decision of the monitoring mechanism- some punitive or

compensation element could be added so that there is a sense that sanctions will operate.

- Any such Declaration should also make provision for human rights training
2. The tension between the Muslim community and the LTTE that is the cause of a great deal of these violations should be ameliorated by strengthening existing mechanisms and setting up of local and regional level conciliation committees that deal with issues such as land, fishing, extortion etc... LTTE leaders at the local and regional level should be involved in these committees along with Muslim representatives. The zonal committees that have been set up are an important step in that direction. However these committees should be set up under the umbrella of the peace process by local leaders. Some informal committees already exist. They should be strengthened and regularized so that they meet on a weekly basis to iron out issues that face the communities. In this context, one must remember that the State continues to have the primary responsibility with regard to protection and security.
 3. The Commission as a whole along with individual Commissioners are approached by individuals and often told that the Commission should not ignore the excesses that took place in the eastern province during the course of the war. There are many stories and individual cases of extreme brutality and violence by the parties to the conflict. There is a belief that the past must be dealt with in an open and transparent manner if true healing is to take place. Issues of justice are therefore foremost on many people's minds. It is imperative that the peace negotiators think of an arrangement in the future that will deal with issues of truth, justice and reconciliation so that we as a society can bring a sense of closure to the terrible events that took place in the past.

Civil and Political Liberties:- Recommendations to The Sri Lankan Government

1. The question of impunity for crimes committed in the eastern province was one of the major complaints the Commission received on its visit to the east. It is imperative that the Sri Lankan authorities, especially the police, thoroughly investigate every crime committed in the east, regardless of the perpetrator. Where possible these investigations should lead to arrest and effective prosecution. Where that is not possible, the report of the investigations should be made available to the SLMM, and the Sri Lankan negotiators to the peace process so that the matter can be taken up at the political level. The duty to investigate is a very important part of fighting impunity for crimes. It is an essential part of the international human rights commitments of The Sri Lankan government. Instructions to the police should be clear. Every crime must be investigated thoroughly and the reports of these investigations available to the government the SLMM, and the Human Rights Commission.
2. Tamil speaking officers should be present in large numbers in police stations and government offices. There should be a recruitment drive nationally for Tamil speaking officers and cadres to fill these posts. In the meantime special measures should be taken to ensure that the Tamil speaking public is made to feel at home in government institutions, especially police stations. This could be through the use of translators or local citizens who may wish to help the police and government offices deal with the public in an appropriate manner.
3. The army and the police should use the peace process to lessen the inconvenience to members of the public. Roads should be closed after rush hour- perhaps around 8pm and other measures should be taken to ease the burden on the public without infringing on security concerns
4. High security zones and the use of private buildings by the armed forces is a matter of great concern both in the north and the east. The security forces should examine the legality of these

zones and also consider other alternative ways of respecting the rights of the citizens. Governments retain the right to acquire land for the sake of national security. However alternative accommodation or adequate compensation must be paid for the acquisition to be reasonable and without arbitrariness.

5. Indiscipline among members of the security forces should be addressed and acted upon. Internal procedures for maintaining discipline and punishing errant members should be strengthened.
6. Perceptions about language discrimination remain strong. The Government of Sri Lanka should strengthen The Official Languages Commission to play its important role in protecting the language rights of its minorities. A regional office of The Commission should be established in the east.

Civil and Political Rights:- Recommendations to the LTTE

The LTTE has stated on many occasions both nationally and internationally that it is ready to abide by international human rights and humanitarian standards. It is essential that it implement these commitments in the areas under its control.

- Political killings must come to an end. The right to life is a paramount right and the ceasefire agreement must put an end to all killings that are extra-judicial.
- Child recruitment and child abductions must stop. The LTTE should work with UNICEF to make the action plan a success. Children should be released, educated and trained in skills so that they can be absorbed into society. At the moment there is only a token release of children. A planned and concerted release of children and non-recruitment of new children must be a firm commitment for the future on the part of the LTTE if it is truly respect one of the most fundamental international human rights concerns.
- Adult abductions must also cease. The abduction of adults for intimidation, extortion and coercion can no longer be accepted in the context of an internationally supported peace process.

The LTTE must respect the rule of law and the enforcement of basic principles of legality

- Extortion or “taxation” must be halted.. The arbitrary deprivation of property and the unreasonable imposition of “taxes” again go to the issue of the rule of law. Such extortion is not only a human rights violation in that it compels people arbitrarily, but it also frightens away investors and the middle class who have a great deal to contribute toward the development of the east. It is important to work toward an interim arrangement that ensures that all taxes are transparent, reasonable and subject to a public accounting process.
- The rights of minorities should be respected. In Sri Lanka there are national minorities and then there are local minorities within regions. The LTTE is drawn from the ethnic group that is the majority in the north and the east. The Sinhalese and Muslims are minorities in that region. It is essential that these minorities are treated with respect and dignity. They must not be singled out for discrimination or arbitrary treatment. LTTE cadres should be instructed in human rights and rights of minorities so that they will respect the rights of all citizens when they interact with them on a daily basis. The values of pluralism and diversity should also be cherished and firmly entrenched in any future political arrangement whether at the interim or final stage of the peace process.
- The transformation of LTTE from a military centric organization to a modern political organization that respects the elements of democracy is also an urgent need. Such a transformation will only take place when the LTTE accepts the need for an independent civil society and an independent media to operate in the north and east. The recognition of the right of these organizations to freely function will signal the true transformation of the LTTE into a modern democratic party. In the meantime acts of intimidation, coercion and harassment should be addressed by the peace negotiators, the SLMM and the justice system.

The Rights of the Internally Displaced

1. The IDPs in the eastern province are not returning to their homes. It is important to conduct a survey to understand why this is so and what are the impediments they face in returning home. A survey conducted confidentially may help understand the perceptions of IDPs, especially with regard to resettlement.
2. In the resettlement programmes, the selection processes must be open, reasonable and transparent. The selection of the location for resettlement and the selection of recipients of resettlement packages should be open and transparent and above suspicion. The HRC received many complaints about these procedures. The government agencies and NGOs working with the IDPs should be asked to specify their criteria for selection. In addition the process for selection should be inclusive and consultative including as many interest groups as necessary.
3. The assistance packages should be reasonable and the allocation and distribution should minimize corruption. At present, the requirement of resettlement first and assistance only after the intention to resettle may have to be thought through since many IDPs are unsatisfied with that process.
4. Auxiliary services should be in place before the villagers resettle. Water supply, toilets, health facilities, schools etc should be assessed before resettlement begins. In addition, given the high rates of malnutrition, dry rations should be continued till full settlement takes place- perhaps over a period of a year, rather than the six months currently allocated.

Social and Economic Rights

As the report indicates, the eastern province has some of the worst social and economic indicators for the whole country. The present plans for reconstruction provide an important opportunity to better this situation. In this context, improving the social and economic indicators should be the first priority in reconstruction and rehabilitation programmes. There should be concerted, well thought out plans in the health, education and housing sectors. Without these comprehensive plans and the resources to carry them through, development in the east under the reconstruction programmes may only exacerbate the situation.

Violence Against Women

1. Cases of rapes in custody during the war years continue to be of serious concern for many women's groups in the eastern province. The government should have the political will to bring the perpetrators before the courts and to punish some of the individual concerned. This action will not only be fair but will go a long way in repairing relations between the communities, especially in the east.
2. The eastern province has a large number of war widows who head single parent homes. It is important that a special, comprehensive programme is developed under the reconstruction strategy to ensure that these women are not only given assistance but also given opportunities to develop skills so that they and their families can survive in a post war context. Their concerns should be one of the key priority areas in the reconstruction programme for the east. The Kaccheris in the district should have a special unit to deal with war widows.
3. Years of war and militarization has led to an increase of violence against women in the home and in the community. It has also led to high rates of divorce and cases of forced marriage. A comprehensive study should be made in the east, with the assistance of NGOs and government agencies, to assess this phenomenon and to make recommendations on what could be done to ameliorate conditions for women in the east.
4. The east has some of the worst socio-economic indicators for women- the lowest female literacy in the country and some of the highest rate of maternal mortality in the country. It is important that triple RRR programmes focus on this statistical reality and devise programmes to ensure that these indicators improve.

Dr. Radhika Coomaraswamy
(Chairperson)

Dr. Deepika Udagama	- Member
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