

21st December 2008

Shri L.K. Advaniji
Leader of the Bharatya Janatha Party (BJP)
New Delhi

Dear Sir,

A MEMORANDUM

On the tragic situation of Tamils in Sri Lanka and on India's role

On behalf of the Tamils of Sri Lanka, we submit this Memorandum and seek your indulgence to address the matters which we have raised herein.

1. On 4th Feb. 1948, Sri Lanka (then, "Ceylon") was granted independence by the British as a corollary to the freedom struggle and independence of India. Ever since, the majoritarian Sinhala regime started introducing legislative, executive and administrative measures aimed at politically debilitating the Tamils. Successive Sinhala leaders have manoeuvred to dispense with the Tamil element from the body politic of the country.

2. In 1948 Prime Minister D.S. Senanayake's United National Party (UNP) govt. enacted the *Indian Citizenship Act* of 1948, stripping 1 million "Indian" Tamils of their citizenship rights and franchise. As a concomitant blow, 7 M.P.s representing these Tamils of Indian origin in Parliament lost their seats overnight. The "Indian" Tamils are the descendents of indentured labour brought to Sri Lanka by British govt. (in mid-1800s) from South India to work on tea, rubber plantations of the Hill country, promising them permanent residence and perks.

3. It was in protest against this cruel move by the UNP, targeting the Tamil plantation workers and also to express our affinity and empathy that

(the late Tamil leader) Mr. S.J.V. Chelvanayagam M.P., ("Chelva") and his colleagues in Parliament, voted against them and in 1949, formed the Federal Party (FP, officially, "Ilankai Thamil Arasu Kadchi") to protect Tamil interests. The FP demanded a federal structure of government in which Tamils living in their traditional "Homeland" of North and East Provinces of Sri Lanka could have their own autonomous unit. It was intended that the "Indian" Tamils, facing persecution in the hill country areas could move and safely settle in the Tamil North-East.

4. In 1956, Prime Minister S.W.R.D. Bandaranayake enacted the "Sinhala Only" Act in Parliament, making Sinhala the only official and administrative language to the exclusion Tamil language. In protest, the Federal Party organized a peaceful Satyagraha campaign at the Colombo-Galleface maidan, situated across the parliament building. Instigated and encouraged by Sinhala politicians of the governing party, Tamil Leaders Chelvanayagam, Amirthalingam and hundreds of other Satyagrahis were set upon and beaten up by Sinhala goondas and gangs, under the watchful eye of the police. The language policy of successive governments had deprived Tamils of their employment opportunities.

5. With a view to defeating the Tamils' claim to preserve their traditional homeland, under the guise of promoting development projects, successive governments have systematically planted - and continue to plant - Sinhala colonies in Tamil areas. These state-sponsored colonization schemes have altered the demographic structure of the North-East, to the detriment of the Tamils. The planted Sinhala colonies have since diluted Tamils' electoral strength. Today, they are able to elect, at least, five Sinhala M.P.s. from the traditional Tamil areas, especially in the Eastern Province.

6. In the context of the ongoing war, having randomly demarcated high-security zones in Tamil areas, security forces have not only prevented displaced Tamils from reclaiming and returning to their own lands, but have also arbitrarily established Sinhala colonies on these lands.

7. The majority of the Tamils in Sri Lanka (85%) are Hindus. Because of the war and displacement of the local population, Hindu temples in the affected areas have been neglected. Members of the security forces are entirely Sinhalese and are mostly Buddhists. They have erected Buddhist viharas within the security zones and in other areas affected by displacement.

8. Seeking to resist and protest the various discriminatory policies pursued by different governments, Tamils had, from time to time, launched non-violent Satyagraha struggles and civil disobedience campaigns under the sagely leadership of Chelvanayagam (Chelva). In the wake of such campaigns, Sinhala leaders had entered into solemn accords with Chelva. Banda-Chelva Accord (1957), Sirima-Chelva accord (1960), Dudley-Chelva Agreement (1965) are only a few instances. These agreements were later unilaterally abrogated by different Prime Ministers under pressure from Buddhist clergy and Sinhala chauvinists.

9. In 1970, Prime Minister Srimavo Bandaranayake, while replacing the Soulbury constitution with a new Republican Constitution, conveniently got rid of two entrenched provisions of the Soulbury Constitution which had provided, though meekly, for protecting the rights of racial and religious minorities. She did so, notwithstanding the pleadings and protests from the Tamil leaders.

10. Periodically, Tamils have been the victims of large-scale anti-Tamil violence and organized pogroms instigated and indulged in by Sinhala racists, thugs and hoodlums with the connivance of security forces. Their experiences in the years 1958, 1961, 1970, 1977 are too painful to recall. The holocaust of July 1983 has inflicted physical, emotional and psychological injuries which remain festering. The genocidal killings in 1983 had claimed over 3000 Tamil lives, who were murdered and maimed, besides hundreds of incidents of arson, looting and sexual violence against Tamil women and destruction of property worth millions.

11. Discriminatory practice against Tamil students, designed to deny them university education, particularly to the more coveted courses of Medicine

and Engineering was introduced by Srimavo govt. through a device, ostensibly called "standardization". In plain words, Tamil students were required to obtain more marks than Sinhala students and meet a higher threshold to enter university for these courses. Thus, Sinhala leaders had left no option for the young Tamils, but to fight back, tooth and nail.

12. In these circumstances, in the face of Sinhala intransigence, on 14 May

1976 the Tamil political leaders united under the new banner of Tamil United Liberation Front (TULF) at Vaddukoddai in Jaffna. Under the stewardship of the octogenarian Chelva, they proclaimed the Vaddukoddai Resolution to establish a separate Tamil state for the Tamils, as the only way to live in dignity. They realized that Federalism would not work in the face of hostility from the Sinhala leadership. The recent outburst by the Sri Lankan army chief Sarath Fonseka that Sri Lanka belonged only to the Sinhalese and that Tamils could not claim any rights here may justify the Tamil resolve. In fact, before the arrival of imperial powers – the Portugese, the Dutch and the British – the Tamils had their sovereign kingdom. Thus, they are now seeking restoration and not separation !.

13. Chelva died in 1977. The TULF which contested the 1977 General Elections on the basis of the Vaddukoddai Resolution opting for separation, obtained an overwhelming mandate from the Tamil people.

14. In the wake of the July 1983 genocidal killings, dubbed as "Black July", Tamil moderate leadership had lost its clout and the Gandhian methods of struggle lost their credibility. Thus, Tamil militancy gathered momentum.

15. Commencing with the "Black July" and continuing through to this day, more than a 100,000 lives, mostly of innocent Tamil civilians, have been lost. The current scenario is a sad saga of deaths, destruction and devastation spawn by the ongoing war and the horrific abuses and atrocities committed by security forces and armed groups and gangs associated with them, operating

mostly in govt.controlled areas. There are no safe spots for Tamils in any part of Sri Lanka.

16. The deadly dimensions of the risks that Tamils face and the harassment and hardships they endure in Sri Lanka are manifest in different forms :

- (1) Sri Lanka Air Force continue to attack civilian settlements in Vanni and indiscriminately bomb and shell shelters occupied by the displaced. Contrary to the ostensible assurances given to the Indian govt. by Rajapakse, civilian targets, including a hospital in Mullaitivu, have not been spared. The victims include young children, the aged and the infirm and medical staff, besides those affected by monsoon rain.
- (2) Besides deaths, destruction, devastation and displacement caused by incessant aerial and artillery attacks, flooding has displaced thousands of others;
- (3) Killings, Abductions, "disappearances", extortion etc., by gangs/groups associated with the security forces and targeting Tamils have created a climate of terror and fear;
- (4) Regularly, hundreds of Tamils in govt.-controlled areas, specially in Colombo and the South, face arbitrary arrests, incommunicado detention and torture.
- (5) Human rights abuses and atrocities against Tamils are rampant.
- (6) Tamil Refugees fleeing to India precariously by boats, seeking safety.

17. In this context, let me briefly refer to the observations made by eminent international human rights advocacy groups: *Amnesty International, Review of Sri Lanka*, June 2008, **(3)** Human Rights Watch, March 2008, **(4)** *U.S. Dept. of State Report on Sri Lanka*, released on 11 March 2008

Amnesty International, June 2008

"Eighth session of the UN Human rights Council"

"Review of Sri Lanka under the Universal Periodic Review: Amnesty International's reflection on the outcome"

Themes raised by member states participating in the review of Sri Lanka under the UPR dialogue included concerns related to the lack of protection of civilians caught in the internal conflict; enforced disappearances, unlawful/extrajudicial killings; torture and other forms of ill treatment, threats to freedom of expression, the need to strengthen national human rights institutions, attacks on dissent and ongoing impunity for human rights violations.

Protection and Promotion of Human Rights

.....Amnesty International is alarmed that extrajudicial, summary and arbitrary killings continue, as illustrated by recent reports of five persons shot dead in the Batticaloa area on 22 May 2008. The Special Rapporteur on extrajudicial, summary or arbitrary executions expressed serious concerns on extrajudicial, summary or arbitrary executions stating that 'the government has relied extensively on paramilitary groups to maintain control in the East and, to a lesser extent, in Jaffna. There is evidence that these groups conduct operations with the Government forces and are responsible for extrajudicial executions'.

Human Rights Watch, March 2008

"Recurring Nightmare"

"State Responsibility for "Disappearances" and Abductions in Sri Lanka"

Enforced disappearances have again become a salient feature of the conflict. Figures released by various governmental and nongovernmental sources suggest that more than 1,500 people were reported missing from December 2005 through December 2007. Some are known to have been killed, and other have surfaced in detention or otherwise have been found, but the majority remain unaccounted for. Evidence suggests that most have been "disappeared" or abducted. The national Human Rights Commission (HRC) of Sri Lanka does not publicize its data on "disappearances," but Human Rights Watch learned that about 1,000 cases were reported to the HRC in 2006 and over 300 cases in the first four months of 2007 alone.

"Disappearances" have primarily occurred in the conflict areas in the country's north and east-namely the districts of Jaffna, Mannar, Batticaloa, Ampara, and Vavuniya. A large number of cases have also been reported in Colombo.

Who is Responsible?

In the great majority of cases documented by Human Rights Watch and Sri Lankan groups, evidence indicates the involvement of government security forces-army, navy, or police. The Sri Lankan military, empowered by the country's counterterrorism laws, has long relied on extrajudicial means, such as "disappearances" and summary executions-.....

U.S. Department of State Report, 11 March 2008

"Sri Lanka: Country Reports on Human Rights Practices – 2007"

The government's respect for human rights continued to decline due in part to the escalation of the armed conflict. While ethnic Tamils composed approximately 16 percent of the overall population, the overwhelming majority of victims of human rights violations, such as killings and disappearances, were young male Tamils. Credible reports cited unlawful killings by government agents, assassinations by unknown perpetrators, politically motivated killings and child soldier recruitment by paramilitary forces associated with the government, disappearances, arbitrary arrests and detention, poor prison conditions, denial of fair public trial, government corruption and lack of transparency, infringement of religious freedom, infringement of freedom of movement, and discrimination against minorities.

There were numerous reports that the army, police, and pro-government paramilitary groups participated in armed attacks against civilians and practiced torture, kidnapping, hostage-taking, and extortion with impunity. The situation deteriorated particularly in the government-controlled Jaffna peninsula. By year's end extrajudicial killings occurred in Jaffna nearly on a daily basis and allegedly perpetrated by military intelligence units or associated paramilitaries.

18. The Rajapakse govt. had deliberately ordered all INGOs and even UN agencies to leave the Vanni area. The idea was to execute its war campaign unmonitored and undeterred by international outcry about civilian deaths and destruction. Carpet bombing and cluster bombs are part of this game plan. It is relevant to mention the killings of humanitarian workers by security agencies.

Human Rights Watch, Jan. 2008

"Country Summary: Sri Lanka"

Human Rights Defenders and Humanitarian Workers

Human rights defenders, community leaders, and humanitarian workers in Sri Lanka have particularly come under attack. The government tries to silence those questioning or criticizing its approach to the armed conflict or its human rights record. It has dismissed peaceful critics as "traitors", "terrorist sympathizers", and "supporter of the LTTE". The Law and Society Trust reported that from January 2006 to August 2007, 40 humanitarian workers and religious leaders had been killed and 20 "disappeared"

19. I may recall that the International Independent Group of Eminent Persons (IIGEP) headed by former Indian Chief Justice P.N. Bhagwati, invited by Rajapakse to oversee the probes into human rights abuses of selected cases, eventually left half-way in disgust. Further, three Nobel Peace

laureates Archbishop Desmond Tutu, former U.S. President Jimmy Carter and Argentina's Adolfo Esquivel, among many other human rights activists campaigned against Sri Lanka's bid for re-election to UN Human Rights council while, to our dismay, India backed Sri Lanka. It is history that finally, Sri Lanka lost.

20. The Inter-Press Service News Agency (IPS), Nov. 26, 2008, reports on the plight of the civilians in the Vanni area:

Inter-Press Service News Agency (IPS), Nov. 26, 2008:

"SRI LANKA: Floods, Fighting, Food Shortages Hit Trapped Tamils"

"Incessant rains and flooding in the Vann, the Tamil rebel stronghold in northern Sri Lanka, are adding to the woes of at least 200,000 people stranded in intensified fighting between the Liberation Tigers of Tamil Eelam (LTTE) and the Sri Lankan army, since mid-September. "

21. You would appreciate Sir, that in the aftermath of the "Black July" 1983, India assumed an active role in resolving the Tamil question in Sri Lanka. In fact, it is no longer a secret that India provided training and propped up the armed struggle of the Tamil rebels. The same generation of militants is still on the battlefield, prosecuting and defending the campaign for which purpose they were groomed and trained. I believe that it is morally wrong for India to cut and run.

22. It is intriguing that Indian Defence Advisor is among a team of Defence Advisors/ Attaches who had visited Vanni three days back along with the Sri Lankan Military leaders. The others were from Pakistan, USA, UK, Japan, Bangladesh and Maldives. It is amusing that India's strategic interests and Pakistani interests converged on Sri Lanka, specifically on Vanni.

23. On behalf of the Sri Lankan Tamils, I respectfully request you to use your good offices to present our case to the Indian government and to urge them to intervene without further delay. The Indian intervention is urgent and essential to address these issues and achieve the following purposes:

- (1) to ensure an immediate a ceasefire on the warfront;

(2) to ensure the survival and safety of hundreds of thousands of civilians in the war-affected areas;

(3) to ensure the return of the INGOs to undertake urgent humanitarian tasks and respond to the crisis ;

(4) to ensure the involvement of UNHCR and other UN agencies to monitor and report human rights abuses, to stop such abuses and to seek sanctions against the abusers ;

(5) to initiate immediate talks between the parties to the conflict and work out formulae for the resolution of the Tamil question.

24. I submit that I would be glad to present supporting documents to substantiate the matters which I have raised and discussed in the foregoing paragraphs.

I thank you Sir, for your time and indulgence.

May I wish you a very productive and successful year 2009.

I remain,

Yours truly,

M.K. SHIVAJILINGAM, M.P.,
Tamil National Alliance (TNA), Sri Lanka.