

# Briefing Notes

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*Peace is a blessing, August 2016: an elderly mother who survived the 30 years war is now a vegetable vendor in Kilinochchi market.*

## **TRANSITIONAL JUSTICE & RECONCILIATION: VOICES OF THE AFFECTED**

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## EXECUTIVE SUMMARY

A number of positive measures have been taken by the current Government of Sri Lanka (GoSL) to further reconciliation and to facilitate transitional justice in Sri Lanka. The most far reaching democratic achievement under the new Government was the establishment of a number of institutions<sup>1</sup> which exercise checks and balances on the State power. The most recent but also the most important such institution in terms of transitional justice is the Office of Missing Persons (OMP). The consultation process conducted by the Consultation Task Force on Reconciliation Mechanisms (CTF) is another welcomed development. On the top of all this, the democratic space created by the current regime remains the most beneficial factor in campaigning for and achieving rights.

Despite these efforts, many issues are unresolved and demand the Government's attention:

Many issues have not been addressed sufficiently so far, such as: continued militarization and surveillance, as well as land occupation in the North; non-implementation of the bi-lingual language policy; failure to repeal the Prevention of Terrorism Act (PTA); issues of political prisoners; and challenges faced by former LTTE combatants, war widows, and people living with disability. All these issues hamper building the trust among the population. Trust, however, remains the prerequisite to enable lasting reconciliation and democratization.

In addition, many challenges that people in the North face in their day-to-day life have not been resolved. Allegations of State-sponsored Sinhala

settlements and the establishment and/or expansion of Buddhist temples in areas where there is no civilian Sinhala population continue to surface. A disproportional number of huge military cantonments still exist in the North and East. The insensitivity and inertia in regard to these burning issues of the Tamil people put in question the genuineness of the Government's commitment towards the transitional justice process.

Currently, the GoSL's efforts concerning transitional justice appear to polarize the Sri Lankan society. The Tamil community, especially in the North, seem to favour an international involvement to resolve these issues while the majority Sinhala community rather want a domestic investigation.

The Government's commitment to Resolution A/HRC/RES/30/1 has been criticized by the former President and his supporters as acts that endanger national security and seek revenge from war heroes. Extreme nationalist media aggravates this situation by campaigning against transitional justice and propagating hate along racial and religious lines. The Government has so far not given enough attention to the issues of a polarized public opinion and of hate-inciting extremist forces. Furthermore, the GoSL has been lethargic not only in countering Rajapaksa's triumphalist war propaganda but also in raising awareness among the people on its own transitional justice process. Even the country-wide consultations carried out by the CTF have not been publicly supported by the Government.

## 1. TRANSITIONAL JUSTICE PROCESS: PROGRESS & CHALLENGES

In May 2016, Sri Lanka ratified the International Convention for the Protection of All Persons from Enforced Disappearance (ICAPED).<sup>2</sup> The Secretariat for Coordinating the Reconciliation Mechanisms and the Office of National Unity and Reconciliation,

which is coordinating efforts to ensure non-recurrence, have been established. A National Policy on Durable Solutions for Conflict-Affected Displacement was approved by the Cabinet in August 2016.<sup>3</sup>



*A mother in Nedunkerny is waiting for her disappeared husband and two sons to come back.*

The Bill to set up the Office on the Missing Persons (OMP) was passed on 11 August 2016<sup>4</sup>. In regards to this Bill, the Human Rights Commission of Sri Lanka (HRCSL) expressed concern over the lack of public consultation prior to its enactment<sup>5</sup> and many of the written submissions to the CTF voiced disappointment and concern about the lack of transparency and consultation in the drafting of the OMP Bill.<sup>6</sup> Furthermore, the HRCSL urged the GoSL to: create public awareness regarding the OMP; ensure accessibility, diversity, gender-sensitivity, and competency of the staff; provide psycho-social support to violence survivors; ensure transparency; and establish an internal mechanism to address grievances flowing from the shortcomings in the functioning of the Office.<sup>7</sup> Almost all war-affected persons to whom the Sri Lanka Brief team spoke in August 2016 emphasized the need for full-pledged offices of the OMP in war-affected areas.

In early August 2016, the Consultation Task Force on Reconciliation Mechanisms (CTF)<sup>8</sup> released its

interim report which provided a summary of written submissions related to the missing, the disappeared and surrendees.<sup>9</sup> The CTF's public consultations will finish by the end of August 2016 and the final report is to be published before the end of September 2016.

The lack of Government's support towards the consultation process is a widespread criticism among civil society volunteers who have been appointed to the Task Force. This lack of support is evident through the fact that the powerful state media has paid no attention to the consultations, that the local level state machinery has not provided the necessary infrastructure support, and that the GoSL has not created public awareness on the CTF in any form.<sup>10</sup> The written submissions to CTF also refer to the need for a public awareness campaign in the South of Sri Lanka to address the lack of awareness about the Government's intentions as well as to counter the racist rhetoric being used in an attempt to mobilize nationalist forces against transitional justice.<sup>11</sup>



## THE STORY OF SELVARASA RASAMANI'S FAMILY

### 6 FAMILY MEMBERS KILLED BY SHELLS; WAITING FOR THE DISAPPEARED SON TO COME BACK!



*Selvarasa Rasamani is disabled and six members of her family were killed.*

*“When we were displaced in 2009 we went to Pudu-mathalan. My son was 29 and married. They had two children, 6 and 4 years old. His wife was pregnant. My daughter Karunakaran Manjuladevi had also come to the same area to protect her life. She was with her family.*

*It was 10th March 2009. We had planned to move to a more secure place on that day. Around 5 am in the morning - when we were getting ready to leave - I walked to the well about 50 meters away to wash my face. Then there was a shell attack on our tent. First, I thought that my son was only injured, so I kept him on my lap and gave him some water, but he could not drink. Thus, my only son died on my lap. My daughter-in-law and the two grandchildren had died instantly.*

*Dozens died there. I stayed there alongside the four dead bodies until noon. No more shells fell. Then I was sent to my daughter. I have made police complaints on their deaths. I received LKR 100'000<sup>12</sup> as compensation for my son's death. I am a disabled person, so I get LKR 3'000 per month as disability allowance from the Government and Samurdhi programme gives another LKR 1'000 per month. As there is no other income I live from hand to mouth.”*

The daughter, Karunakaran Manjuladevi (42), adds:



*“Until my death, I will wait to find my son”, says Karunakaran Manjuladevi*

*“Selvarasa Rasamani is my mother. We, too, were displaced due to war. As everyone who was on the run in Vanni, we ended up in the Government designated ‘No Fire Zone’ in Pudumathalan.*

*We had 8 children, two girls and six boys. In Pudumathalan, we lived in a UNHCR tent. Shells were raining down and on 10th May 2009, two of our daughters died of a shell attack in front of our eyes. One of our sons, Karunakaran Kanthadas (18) was injured by a shell. He was being treated in a makeshift hospital set-up by the LTTE.*

*As the military was advancing, LTTE retreated. The military separated us from our male children. Uniformed soldiers loaded all the injured civilians in to a tractor and took them away. I saw my son*

*in the tractor. I tried to run towards him but I was stopped. There were about 40 other young people in the tractor. That was the last time I saw my son. The son of my sister-in-law was also there. He too disappeared.*

*We have been to the LLRC, to the HRCSL, to the Paranagama Commission, all without any avail. Now we do not have a radio, so we do not know any new developments. We do not know about anything called the OMP. If such a thing exists, I will go and tell my story. Our only source of information on government action is the Village Officer.*

*For the two daughters who were killed we have received LKR 100’000 as compensation. I do not want compensation for the disappeared son. Until my death, I will wait for him to come back.”*

## 2. THE INTERIM REPORT OF THE CONSULTATION TASK FORCE ON RECONCILIATION MECHANISMS

The Interim Report of the Consultation Task Force on Reconciliation Mechanisms (CTF) presents several concerns regarding the missing, the disappeared and surrendees, as well as other serious challenges linked to the transitional justice process.

One of the issues mentioned in the interim report is that family members have expressed desperation and exhaustion in their efforts to seek redress. Various state agencies have failed to respond to or even acknowledge and record complaints relating to the missing. The Report carries an excerpt from a personal account of a mother who has contacted 20 institutions over the past 9 years, none of which has responded to her queries in any form.<sup>13</sup>

Fear continues to be a factor impacting consultations because families of the missing believe that their missing family members are being held in custody and will be at risk if they speak out.<sup>14</sup>

Despite of their precarious economic situation, family members of the missing appear to be suspicious

of reparation believing that if they would accept compensation, the State will give up searching for the missing persons.<sup>15</sup> The UN Special Rapporteur on torture and other cruel, inhuman and degrading treatment or punishment, Mr. Juan E. Mendez, noted in his conclusion of his official visit to Sri Lanka the prevalence of torture as a common practice in criminal investigations: “A piecemeal approach will not be compatible with the soon-to-be-launched transitional justice process and could undermine it before it really begins”.<sup>16</sup>

Furthermore, the Interim Report states grave concerns about on-going human rights violations in the North and East, including abductions, incidents of torture, harassment, surveillance, intimidation and questioning of members of the Tamil population.<sup>17</sup> It then also expresses disappointment at the unwillingness of the GoSL to condemn or even acknowledge all on-going violations.<sup>18</sup>

### THE STORY OF THIYAGARAJA MARYPUSHPAN’S FAMILY

Thiyagaraja Marypushpan (55) tells the story of her family:

*“We had three boys and a girl. We were in Vallipuram. On 10th January 2009, the government radio asked people to go to Devapuram. After listening to this news, we left in the night itself. By that time, shell attacks had already started. We stayed in Devapuram for 20 days. The radio news again asked us to go to Pudumathalan. So on 20th February 2009, we went to Pudumathalan. We set up huts close to the beach.*

*We were caught between the LTTE and the military. On 20th February 2009, the LTTE forcibly recruited my son Thiyagaraja Prathap, who was 18 years old. 10 days later, the LTTE requested us to come and identify some of their fighters who got killed. My son was among the dead. In just 10 days, without any training, he had to die as a fighter!*

*On 4th April 2009, we organised my husband Navamani Thiyagaraja and my two sons Thiyagaraja Pradeep and Thiyagaraja Praveen to surrender to the military. They walked towards the military and*

*that is the last time I saw them. In our surroundings, about 100 persons died every day.*

*After the war came to an end on 19th May 2009, I joined together with my daughter the people who were going to surrender to the military. The lagoon was so full of dead bodies that I had to walk over them. Bombs had made large holes in the lagoon bed. Some people drowned in those holes. A child shattered into pieces in front of my eyes.*

*Once surrendered, we were sent to camps in Vavuniya. On 5th June 2009, I came out [of the camp] to attend a relative’s funeral and I started looking for my husband. Our Village Officer told me that he saw my husband Navamani in the hospital on 27th May 2009. I looked everywhere, including at the mental patients’ wards, but all in vain.*

*Later I went to the ICRC, to the HRCSL, to the Crime Investigation Division (CID) in Vavuniya, and to the Terrorist Investigation Division (TID) in Vavuniya,*



*Thiyagaraja Marypushpan is a mother and a widow in an unending journey.*

*to the Vavuniya Police and to the Office of the Superintendent of Mannar to find out the whereabouts of my husband and my two sons. In some places like at the TID, they even took statements from me. In 2012, the Mulliyawalai CID Office put up names of surrendees in Boossa camp. One name was Thiyagarasa Pradeep. Although the name was not the same [Thiyagarasa / Thiyagaraja] I went there. I showed a photo and an officer said there was a boy like that and he will check. The officer later said it is not him. I did not understand anything the officer really said in Sinhala. I had to hire a translator and I only know what he translated to me.*

*I also gave a statement to the Paranagama Commission regarding the disappearance of my husband and my two sons.*

*I received LKR 250'000 from the UN Refugee Agency to rebuild the house. I have received no other allowance. I do not want death certificates or compensation. I believe they are alive. I spoke to astrologers and they, too, confirmed that they are alive. We have recently presented a petition asking to establish an OMP office in Kilinochchi. This is important, otherwise people will not be able to provide information. In my opinion, only international participation will ensure justice and credibility.”*

### 3. CHALLENGES BEYOND

This section will present a number of challenges which have not been addressed by the GoSL as of yet. The aspects elaborated here are not only essential to build trust among the war-affected communities but also more generally for a transitional justice process to succeed.

#### 3.1. THE PREVENTION OF TERRORISM ACT (PTA) AND POLITICAL PRISONERS

Despite repeated commitments to repeal the PTA, which enables extended periods of detention without trial and assists the practice of torture, the draconian legislation still remains in force. The oral update of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka<sup>19</sup> draws attention to the fact that the Government released 39 individuals detained without charge on bail in December 2015 and that around 250 detainees are still believed to remain in detention. The release of political prisoners is a small step but goes a long way in building trust among the Tamil population. Sri Lanka has a history of releasing political prisoners<sup>20</sup> and therefore, continued detention of Tamil political prisoners cannot be justified, especially as the military acknowledges that there is no security threat from the LTTE.

The Government, however, continues to rely on the PTA to make new arrests: In the period 2015 – 2016 more than 40 new arrests have been reported under the PTA, including more than 25 arrests during a security operation in Jaffna in March-April 2016. Some of these arrests were allegedly made in an arbitrary manner without regard to due process.<sup>21</sup> Although a special High Court has been established to expedite cases filed under the PTA, there is no progress to date.

Even though the Minister of Foreign Affairs, Mangala Samaraweera, mentioned in his statement<sup>22</sup> at the 32nd UNHRC Session that an Act to replace the PTA is being finalized, there is no official record of its progress. Furthermore, at the examination conducted by the Committee on the Elimination of Racial Discrimination (CERD) on 16 August 2016, the Sri Lankan delegation gave no deadline to repeal the PTA and appeared to justify the continued operation of the PTA.<sup>23</sup> CERD in their Concluding Observations on the combined tenth to seventeenth periodic reports of Sri Lanka not only welcomed the commitment made by the State party to repeal the PTA but also requested Sri Lanka “to expedite the work of the Commission and to enact new legislation”.<sup>24</sup>



Activists in the South campaign in front of the Magazine prison on 8 August 2016.

The Leader of the opposition and of the Tamil National Alliance (TNA), R. Sampanthan, presented an adjournment motion in Parliament on 23 August 2016 and stated that “[i]t [the PTA] is a law which you say is obnoxious, it has been criticized by everyone, not merely by people in this country, by the international community, and it is a law which has been abused. How can anyone be held legally in custody under that law? How can anyone be charged under that law? How can anyone be convicted under that law? It is our submission that all persons taken into custody under the Prevention of Terrorism Act must be released because your Government concedes that the law is unjust, is obnoxious and is not a law that should remain on statute books in this country. This is a law that must be repealed”.<sup>25</sup>

### THE STORY OF SELLUPULLEI MAHENDRAN

**A human rights activist and former political prisoner tells the story of Sellupullei Mahendran (41):** *“Sellupullei Mahendran, a Tamil person from Vandaramullei, Batticaloa, has been in prison since 27th September 1993, he was arrested and convicted under the PTA. He is imprisoned at Magazine prison in Colombo. He was arrested during a search operation conducted by the military. He was tortured and - in detention- he was forced to sign a confession written in Sinhala, a language he does not understand even after 23 years in prison.*

*Based on the confession allegedly made by him, the Colombo High Court (case number: HC/6894/94) sentenced him to life plus 70 years of rigorous imprisonment. He was charged for sedition and for taking part in LTTE armed attacks on police and military installations. His both appeals against the judgement to the Appeal Court (CA/190/1995) and to the Supreme Court (sc (spl) LA.no. 165/2003) were dismissed.*

*Mahendran was married and his wife was pregnant at the time of his arrest but no one has ever visited him in prison. After leaving the LTTE he had become a toddy trapper. According to Mahendran himself, he has joined the LTTE when he was 16. Two years later, he had escaped but was re-arrested by the LTTE and was assigned to non-military work of the LTTE for a short time. His leader was the second-in-command in the LTTE, Karuna Amman. Karuna Amman later became a Minister under President Rajapaksa. He has never been charged and lives in Colombo.”*

### 3.2. FORMER COMBATANTS AND WAR WIDOWS

While there are no official records of the number of war widows in the North and East, it is estimated that the war left approximately 90,000 women widowed. This number does not capture, however, women whose husbands are disappeared, missing or have not been accounted for.<sup>26</sup> War widows face a number of pressing issues related to poverty, livelihood and social security. Addressing these issues cannot be until complex transitional justice mechanisms are set up or this process is completed. Interviews recently conducted by the Sri Lanka Brief team in Vanni, show that a considerable number of children in single parent households are prone to different forms of sexual abuse, including rape. There exists no mechanism or network aimed at protecting children in war-affected areas.

The situation of former combatants is in no way more favourable. In general, the former LTTE combatants feel that they have been neglected. Continued ill treatment at various levels has prevented them from enjoying life. Furthermore, disability and injuries resulting from the war are common among former combatants and they are in need of medical care.

*“We are not only lacking financial assistance, livelihood facilities or health care, but we also are psychologically disturbed. We do not have security and we are living in fear. We are not accepted by society.”<sup>27</sup>*

At the beginning of the rehabilitation process, livelihood support was promised by the GoSL but has not been fulfilled. Some interviewees stated that they have not received any relief during the past seven years and others expressed disappointment at the lack of support from the Government.

*“We thought the Government would help us live a normal life because we need livelihood facilities to do so.”<sup>28</sup>*

Former women LTTE combatants specifically suffer from caste- and gender-based discrimination re-emerging after the conflict in the North. Divorce, dowry, threats from security personnel, domestic and sexual violence, as well as poverty and lack of livelihood opportunities are frequently faced issues.<sup>29</sup>

## THE STORY OF ASHOK MIDHILA



*Ashok Midhila joined the LTTE when she was 15 and is married to an ex-combatant. She is forced to cut back on food expenses to pay back loans.*

*“I joined LTTE when I was 15 out of my own will. My mother had just died. I wanted to be independent. I stayed with the movement until the end. I fought in the front lines. I was injured several times. Still there are pieces of shells inside my body. My colleagues died in dozens. At some point, in the squad I led 17 out of 21 died.*

*When we surrendered to the military we were treated well. After a few months the military authorities asked whether we had any romantic affairs with other LTTE cadres. I had an affair but I did not say his name because I did not know if he was alive. But he had told them about me and has given my name. Authorities arranged for us to meet and we got married. We were given a bank account with LKR 20’000 when we were released.*

*We came here to my parents’ village and built a little house and started living. Military intelligence officers came almost every month to see my husband. All ex-combatants’ mobile phone numbers are with them [the military]. We collected money and sent my husband to Saudi Arabia to work. We paid LKR 80’000 to an agent. Still he does not have a proper job in that country. Intelligence officers have taken his telephone number in Saudi Arabia also. But this year, the army officers did not come to our house anymore.*

*We, former combatants, were given a loan of LKR 150’000 to start self-employment. Instead, we start-*

*ed to build a house with that money. Now we must re-pay LKR 5’000 a month. The last three months, I could not pay because my husband has left. Life is very hard for my children. We have to save money by reducing food supplies.*

*Letters from the bank on loan and interest payments are written only in Sinhala. I do not understand anything. I only look at the amount. Still our rights depend on the willingness of the Sinhalese majority. This is not fair. If we can live as equals, not dominated by the Sinhalese, we can live in one country. If a peaceful movement for the rights of Tamil people emerge, I am willing to join.*

*The OMP is good but we need the truth and reconciliation. Both sides have done wrong things: Accept, apologise, forgive and move on. That is the only way.”*



*The house in which Ashok Midhila lives with her two children.*

### 3.3. DISABILITY

Widespread disability is a distressing result of the thirty years of conflict. According to government statistics, 18,967 persons out of a population of 1.2 million in the Northern Province lived with disability in 2013,<sup>30</sup> including physical and mental disability, as well as visual and hearing impairment. It is estimated that 27.6 % of the population in conflict-affected areas in the North Eastern Province experienced severe post-traumatic stress impairments.<sup>31</sup> Many still live with metal pieces from explosives inside their bodies and government hospitals in the North are without facilities to perform the surgeries required to remove those.<sup>32</sup>

Former LTTE combatants, civilians, as well as military personnel were disabled during the war. However, the post-conflict treatment of these groups drastically vary. Military personnel has been afforded many medical and other facilities. In contrary, former LTTE combatants and civilians in war-affected areas have minimal access to facilities and care. In addition, those who are disabled are unable to engage in an occupation or in travel; they have limited access to public transport and no access to special travel arrangements, for example ambulance service.

### THE STORY OF TWO SIBLINGS DISABLED BY WAR

Sidambarapullai Sinnadorai (44) tells his story:



*Sidambarapullai Sinnadorai was injured by a shell and is bed-ridden since February 2009.*

*“By February 2009, I was in Oddusuddan in the ‘No Fire Zone’. On 1st February 2009 a shell hit us. I was injured. 25 others were also injured. The first aid group of the LTTE took me to Tharmapuram hospital. The Army was closing in and I was transferred to Pudukuduirippu hospital which was also under the LTTE. When the hospital came under shell attacks I was moved to Pudumathalan hospital. From there, during the last weeks of the war, I was moved to Trincomalee to an ICRC ship. My spinal code had been damaged.*

*Since 2009, I do not feel anything under my waist. I have been in the bed for seven years. I cannot go anywhere. I do everything on the bed. This is a special bed with a chain that helps me sit-up. It was provided by MSF.*

*I was with my wife. My wife’s mother and brother were also with us. They were both killed by shell fire. My wife is away looking after her father for some time now. I have an eight-year-old son. He lives with me. My father died on 2nd December 1984 with 32*

*other civilians in a retaliation attack by the Army in Welioya. It is my old mother who is looking after me now. She has to feed and clean me every day.*

*My medicine costs LKR 10'000 per month. I get LKR 3'000 from the Government as disability allowance. Why are we treated differently from the disabled in the military? I am only a civilian caught in the war.*

*There is no proper plan to help those who were disabled during the war. In Nendukerny, there are about 200 people disabled due to the war and there is no ambulance service to go to the hospital. There is no nurse who can come in an emergency. If I want to go to the hospital, I have to pay LKR 2'000 to take a three-wheeler. During the last years, four people in the village have died of bed rash."*

**Vijayakumar Vasanthakumari (35), sister of Sidambarapullai Sinnadorai:**



*"My husband disappeared in 2008. We had no children. I was injured in a shell attack in May 2009. I lost one eye and my arm was injured. One of my legs got shortened. Still, there are a number of shell pieces in my body. I am 90% disabled. I can neither be in the sun nor do physical work. If at least I had a cow, I could have made a living."*

### 3.4. MILITARIZATION AND SURVEILLANCE

The military presence in the North and East has been reduced in public and the military is - more or less - confined to the camps. Military camps of intimidating enormity dominate the landscape along the main roads. In the villages, camps are smaller in size but equally noticeable, unlike in the South of the country. A number of former LTTE camps in villages have been converted to military camps. The military continues to be engaged in civilian activities: for example, they run pre-schools; they are involved in sports events

and prize giving ceremonies in schools. The military intelligence personnel and the police continue to monitor former LTTE combatants as mentioned earlier. Although visits by army personnel are now rare, they still call to keep a tab on former combatants. Jayakumar Mahadevan<sup>33</sup> mentioned in an interview with SLB that some former female combatants still receive calls from intelligence officers in the night and that in a few cases, they have even been visited in the night.

## THE STORY OF PRIYANANTHAN NISHANTHINI



*Priyananthan Nishanthini sent her ex-combatant husband away to escape surveillance.*

*"I was disabled during the war on 3rd August 1997. We were in Mulankavil. We had gone there leaving our villages. In 2004, I married my husband Shanmuganadan Priyanandan. He was an ex-LTTE cadre. We have three children. They are eleven, four, and two years old.*

*My husband was taken to six camps for rehabilitation and was finally released in 2012. He learned masonry work at the rehabilitation camp but could not find much work. The Police used to visit him frequently and questioned him. In that situation, my husband decided to leave the country although I was pregnant with the third child. He left illegally by boat for Australia in 2013. The journey was organised by an agency.*

*I have not heard from him after he left this house to go to Australia. Even after he left the country, the CID used to come and inquire about my husband. But the past year, they did not come anymore.*

*I receive a disability allowance of LKR 3'000. I also get Samurdhi benefits which are also LKR 3'000. Initially, I got LKR 25'000 as disability allowance and an EU agency helped to build the house little by little. They gave LKR 450'000 altogether phase by phase. After rehabilitation, my husband was offered to obtain a loan to start work. So he took a loan of LKR 200'000 and we spent it for completing the house. Now the interest for the loan is piling up. At some point, I had to sell my only cow for LKR 60'000 to pay just the interests of the loan. But the amount due has increased to LKR 240'000. I have no means to pay this amount. So the court referred the case to the Conciliation Board. There [at the Conciliation Board] I was told that because the loan was taken under the joint account, I have to pay even though my husband is not here. The Conciliation Board ordered me to pay LKR 1'000 per month. Once I pay that, the children and I have only LKR 5'000 per month to live. I have no other income and as a disabled person I cannot do any hard work."*

### 3.5. STATE-ABATED CULTURAL DOMINATION



*A soldier is re-painting the outer wall of the Murukandi Kovil on A9 road to Jaffna. The maintenance of the Kovil has been taken over by the Army since the end of the war.*

The military has built several large Buddhist statues in the North and allegations of State-abated-colonization continue to emerge.<sup>34</sup>

For example, the military is building a Buddhist statue in Iranamadu where there are no Buddhist civilians living.<sup>35</sup> The military is also occupying four acres of land which once belonged to the Kananambikai Amman Kovil in Iranamadu. In order to separate the Kovil from the land where the Buddhist statue is built, the Army has constructed in the first week of August 2016 a wall blocking the route which customarily was used by the devotees to perform a religious ritual. At the same time, the Kovil is building a 99 feet structure which costs 150 million LKR. The Kovil staff told SLB that the diaspora groups are donating money for this endeavour.

Tamil politicians in Mullaitivu district have alleged that a Buddhist temple is being built on a Tamil person's private property at Kokkilai. Defending the construction, this charge has been denied by the Sinhalese Governor of the Northern Province.<sup>36</sup>

In recent years, building religious structures have become an expression of ethno-religious identity in Sri Lanka and this has contributed to further the ethnic polarization in the country.

According to social media reports, the Navy acquired 617 acres of land belonging to Tamil people in Vadduvaakal and Mullivaikkal. In another instance, residents of Pallimunai, Mannar, protested in mid-August 2016 against acquiring private land belonging to 25 families for a naval base.<sup>37</sup>

### 3.6. LAND OCCUPATION

Restitution of land is a key element of reparation and land occupation in the North continues to be a problem for returnees, for finding durable solutions and for reparations. A total of 12'751 acres of land continue to be occupied in the Northern Province – in many instances - with no clear information as to whether the acquisition has been lawful.<sup>36</sup> In early August 2016, the Government was accused of newly acquiring private land in the North but the allegations were denied by the Resettlement Minister. Since January 2015, notable progress was witnessed

with regards to land releases in the North and East of Sri Lanka, even though statistics vary according to the source of information. Yet, whole villages in the Northern Province remain still occupied by the military. Official statements indicate that more land is likely to be released, though no information is publicly available regarding details. Furthermore, it has been reported that despite promises to release more land, bureaucratic delays persist impacting the Government's promises.<sup>37</sup>

### 3.7. THE ISSUE OF LANGUAGE



*Strange but true: The notice of the Colombo consultation of the CTF which was held on 1 August 2016 at the Mahaweli Centre was displayed only in Sinhala. Despite the fact that the Zonal Task Force has Tamil and Muslim members and that Colombo is very much a multilingual city. In Sinhala the notice says "Public consultation of the CTF".*

Sinhala language domination and discrimination based on language were root causes of the conflict in Sri Lanka which still have not been sufficiently addressed by the successive governments. Even today, the non-implementation of the official language policy continues to be a serious violation of equal rights in Sri Lanka.

The Sri Lankan Constitution guarantees non-discrimination based on language and the freedom to use one's own language as a fundamental right. Both Sinhala and Tamil are national as well as official languages of the country, English being the link language.<sup>40</sup>

Even though it is accepted that all government institutions, particularly in bilingual areas, should have all sign boards, street name boards, and offi-

cial documentation in all three languages, the reality is that a number of government institutions do not display multi-lingual name boards or provide official documents in all three languages. Numerous cases of government officials, including village officers, do not know the language spoken by the people of their own division. This means a resident of that area cannot address themselves to a government official in their own language. Routine procedures from lodging a complaint at a police station, to seeking health care at a government hospital, applying for compensation or pensions, obtaining licenses, registering a birth, a death or a marriage, or traveling, are made experiences of anxiety for any Sri Lankan who does not know Sinhala.<sup>41</sup> Even the offence tickets issued to drivers by police officers mention the details of the offence only in the language of the majority community in

that area. Therefore, very often the Tamil minority is unable to read the offence ticket.<sup>42</sup>

Over 300 complaints have been submitted to the Official Languages Commission and to the HRCSL in regard to infringement of language rights. Many of these complaints refers to print materials on consumer goods. It appears that the Consumer Affairs Authority does not have a mandate to regulate this practice.<sup>43</sup> Another concern is the practice by the pharmaceutical industry, which currently labels almost all drugs, equipment and medications only in English.<sup>44</sup>

Sri Lanka's public education system has included teaching in both Sinhala and Tamil since colonial times. However, in practice, many areas have no school teachers in the relevant language. Letters issued by zonal education offices are only in Sinhala. Tamil teachers have been sent Teaching Guides in Sinhala. Translations are sent very late, often too late to be of any use. In schools in bilingual areas,

such as Colombo, student assemblies are held only in Sinhala. School children often have no access to official translations, and communications from their school are sent to the parents only in Sinhala.<sup>45</sup>

Insensitivity towards language-based discrimination is prevalent even at the highest level of the Government. On 4 August 2016, a meeting was held in the Prime Minister's Office to discuss NGO related regulations. This meeting was convened by the Minister of National Languages assisted by civil society representatives in the Advisory Board of the NGO Secretariat. The Prime Minister's speech was made in Sinhala and no Tamil translation was provided, even after one Tamil female activist raised this issue. The following discussion was also conducted in Sinhala only. Furthermore, the President's policy statements are only made in Sinhala. The website of the Office of the Prime Minister has made available certain circulars only in Sinhala<sup>46</sup> and many Government publications are still found only in English and Sinhala.<sup>47</sup>

## 4. RECOMMENDATIONS

1. Take immediate steps to build and strengthen the trust among the war-affected Tamil community on the commitments of the GoSL to the transitional justice process, among others:
  - Release political prisoners;
  - Repeal the Prevention of Terrorism Act (PTA);
  - Release people's land occupied by the security forces;
  - Expedite the resettlement process;
  - Remove the involvement of the military in civilian affairs in war-affected areas;
  - Remove excessive presence of the military in the North and East and bring it down to a reasonable level; and
  - Address the issue of Sinhala-Buddhist cultural domination in Tamil majority areas.
2. Formulate a national strategy to address the socio-economic problems of war widows, ex-combatants, disabled civilians, and children in war-affected areas and provide livelihood support to these groups.
3. Make quality psycho-social counselling available and accessible to war-affected people, free of charge.
4. Implement the National Language Policy at all levels of the Government and pay special attention to the language used in all official communications addressed to war-affected people.

## LIST OF ABBREVIATIONS

CERD	Committee on the Elimination of Racial Discrimination
CID	Crime Investigation Division
CTF	Consultation Task Force on Reconciliation Mechanisms
GoSL	Government of Sri Lanka
HRC	Human Rights Council
HRCSL	Human Rights Commission of Sri Lanka
ICAPED	International Convention for the Protection of All Persons from Enforced Disappearance
ICRC	International Committee of the Red Cross
LKR	Sri Lankan Rupees
LLRC	Lessons Learnt and Reconciliation Commission
LTTE	Liberation Tigers of Tamil Eelam
MSF	Médecins Sans Frontières (Doctors Without Borders)
OMP	Office of Missing Persons
PM	Prime Minister
PTA	Prevention of Terrorism Act
SLB	Sri Lanka Brief
TID	Terrorist Investigation Division
TNA	Tamil National Alliance
UN	United Nations
UNHCR	The UN Refugee Agency

## ENDNOTES

1. For example, the Independent Commissions established under the 19th Amendment and Right to Information Commission.
2. See the UN Human Rights Office of the High Commissioner's website, <http://www.ohchr.org/EN/HRBodies/CED/Pages/RecentSignaturesRatifications.aspx>
3. See Daily News, 18.08.2016, <http://www.dailynews.lk/?q=2016/08/18/local/90793>
4. See The Indian Express, 23.08.2016, <http://indianexpress.com/article/world/world-news/sri-lanka-speaker-signs-office-on-missing-persons-bill-2992159/>
5. See Sri Lanka Brief, 25.08.2016, <http://srilankabrief.org/2016/08/recommendations-hrc-sri-lanka-re-office-of-missing-persons/>
6. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 9, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
7. Ibid
8. The CTF was appointed by the Prime Minister in January 2016.
9. See Sri Lanka Brief, 12.08.2016, <http://srilankabrief.org/2016/08/the-consultation-task-force-on-reconciliation-mechanisms-releases-its-interim-report/>
10. Based on interviews conducted by the Sri Lanka Brief team in August 2016.
11. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 11, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
12. One US dollar = 148 Sri Lanka Rupees (LKR) according to the exchange rate on 30.08.2016.
13. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 14-15, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
14. See Sri Lanka Brief, 12.08.2016, <http://srilankabrief.org/2016/08/the-consultation-task-force-on-reconciliation-mechanisms-releases-its-interim-report/>
15. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 39, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
16. See the UN Human Rights Office of the High Commissioner's website, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=19943&LangID=E>
17. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 7, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
18. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 8, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
19. See the Oral Update of the United Nations High Commissioner for Human Rights on promoting reconciliation, accountability and human rights in Sri Lanka to the HRC, 28.06.2016, A/HRC/32/CRP.4, page 5.
20. For example, in 1977 and 1990.
21. See the Interim Report of the Consultation Task Force on Reconciliation Mechanisms, August 2016, page 8, [http://media.wix.com/ugd/bd81co\\_1872d48845bd45afaafa7813ce2c89ao.pdf](http://media.wix.com/ugd/bd81co_1872d48845bd45afaafa7813ce2c89ao.pdf)
22. See the Ministry of Parliamentary Reforms and Mass Media, 05.07.2016, <http://www.media.gov.lk/news-archives/575-statement-by-foreign-minister-mangala-samaraweera-to-the-32nd-session-of-the-un-human-rights-council>
23. See the UN Human Rights Office of the High Commissioner's website, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20381&LangID=E>
24. See Sri Lanka Brief, 26.08.2016, <http://srilankabrief.org/2016/08/un-cerd-concluding-observations-on-sri-lanka/>
25. See Sri Lanka Brief, 25.08.2016, <http://srilankabrief.org/2016/08/sampanthan-tells-govt-to-walk-the-talk-re-pta-and-political-prisoners/>
26. See United Nations (2015), Mapping of Socio Economic Support Services to Female Headed Households in the Northern Province of Sri Lanka, page 3.
27. See Sri Lanka Brief, 08.08.2016, <http://srilankabrief.org/2016/08/ex-ltte-cadres-cry-for-relief/>
28. Ibid.
29. Ibid.
30. See Northern Provincial Council (2014), Statistical Information of the Northern Province, page 148, <http://www.np.gov.lk/pdf/CSCluster/Statistical%20Information%20-%202014.pdf>
31. See Law and Society Trust, A Review of Disability Law and Legal Mobilisation in Sri Lanka, in: LST Review, Issue 308, page 4.
32. See Sri Lanka Mirror, 26.08.2016, <http://www.srilankamirror.com/news/item/12291-many-war-affected-people-live-with-shrapnel-in-their-bodies>
33. Jayakumar Mahadevan was married to the former leader of the political wing of LTTE, Sivakami Jeyakumaran alias Thamilini.
34. See for example the twitter feed of @garikaalan.
35. See Wimal Dheeraseskera, in: LankaNews, 21.08.2016, <http://www.lankaenews.com/news/1573/en>
36. See Ada Derana, 19.08.2016, <http://www.adaderana.lk/news/36567/northern-governor-defends-building-places-of-worship>
37. See for example the twitter feed of @garikaalan.
38. See the Centre for Policy Alternatives (March 2016), Land Occupation in the Northern Province: A Commentary on Ground Realities and Recommendations for Reform, page 8, <https://www.cpalanka.org/wp-content/uploads/2016/03/Land-Occupation-in-the-Northern-Province..pdf>
39. Ibid., pages 12-13.
40. See UNESCO's website, <http://www.unesco.org/most/lnsrilan.htm>
41. See Citizens Lanka, <http://citizenslanka.org/language-right/access-to-information/>
42. See Lionel Guruge, in: The Sunday Leader, 27.03.2016, <http://www.thesundayleader.lk/2016/03/27/importance-of-preserving-language-rights-in-sri-lanka/>
43. Ibid.
44. See Citizens Lanka, <http://citizenslanka.org/language-right/access-to-information/>
45. Ibid.
46. See the Prime Minister's Office, [http://www.pmooffice.gov.lk/download.php?d\\_type=Circulars&p=7](http://www.pmooffice.gov.lk/download.php?d_type=Circulars&p=7)
47. For instance, see the website of the Ministry of Mahaweli Development and Environment, [http://www.environmentmin.gov.lk/web/index.php?option=com\\_content&view=article&id=175&Itemid=291&lang=ta](http://www.environmentmin.gov.lk/web/index.php?option=com_content&view=article&id=175&Itemid=291&lang=ta)

## GOOD BYE AND COME AGAIN!



Children at an orphanage in Vanni: They were singing and dancing with the SLB team while visiting. When asked what they wanted to do in future, they were unanimous: “We want to study – that is the only way before us; that is the way to freedom and a good future.” And they said: “Come again!” – this message was also written in their eyes!