

# **Association Bharathi Centre Culturel Franco tamoule (Bharathi CCFT)**

**(NGOs in Consultative Status with ECOSOC)**

## **SHADOW REPORT TO THE UNITED NATIONS COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**Joint written statement\* submitted by :**

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**Association Bharathi Centre Culturel Franco-Tamoul,**

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**Association Mauritanienne pour la promotion du droit,**

**Association Solidarité Internationale pour l'Afrique (SIA),**

**Society for Development and Community Empowerment,**

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## Introduction

This Report to the United Nations Committee on Economic Social and Cultural Rights focuses on the socioeconomic and cultural status of the war affected Tamil community in the North and East especially in the setting of the two parallel developments in Sri Lanka—constitutional reform and transitional justice processes by the newly elected government where the civil society and affected communities feel that the government lacks commitment and political will to see the process through.

The above process came about when a comprehensive account of serious violations and abuses of human rights and related crimes covering the period from 21 February 2002 to 15 November 2011 was released in September 2015, following the OHCHR Investigation on Sri Lanka (OISL)<sup>i</sup> which was mandated by the Human Rights Council in March 2014 after the 30-year long civil conflict ended with a legacy of human rights abuses.

Consequent to the election of a new President and a national government soon after, which bragged of upholding democracy, rule of law and good governance when ahead and co-sponsored resolution 30/1 at the UN Human Rights Council in September 2015 mandating reconciliation and transitional justice mechanism as result of the OISL report which put mounting pressure on the government promote reconciliation, accountability and human rights.

It is apt to mention that the government of Sri Lanka since inception of resolution 30/1 has clearly stated that they will not abide by those obligations that they undertook as a co-sponsor knowing it was a promise that it could not keep. For example 18 had passed, none of the 41 commitments of the Resolution was fulfilled by the government. The victims and war affected communities continued to be ignored in the process. At the request of the Government of Sri Lanka, a two year extension was granted at 34<sup>th</sup> Human Rights Council session in March 2017 to carry out work on implementing the commitments of the Resolution. Human rights activists deem that requesting for an extension is meaningless on the part of the government, if it had no intention nor political will to fully establish the four reconciliation mechanisms pledged to the UNHRC.

The ruling government has made this a political issue in order to win support chauvinist Sinhala majority in the South. There is no realistic expectation that the government will ever fulfil its commitments given to the international community with a racist public administration, highly biased judiciary a police – military force whose only objective is to push war crimes investigations under the carpet by buying more time for the purported implementation of its obligations

In the meantime, the Tamil community who suffered the brutal war and continue to be hit by poverty, heavy militarization, displacement and land grabbing have lost faith in the government's political will and ability to bring about a lasting solution.

Years of discriminatory political economic development have produced a setting of marginality and instability in the war ravaged North and East which is well evident in areas such as Kilinchchi, Mullaitivu, Batticaloa and Ampara where deep rooted poverty exists as a result. This is a due to displacement, land grabbing and militarization etc., which were the outcome of the three decade old war. In the post war context, the war affected Tamil people continue to suffer due to military occupation in the North and East,

It is in this backdrop that our organization is attempting to shed light on the plight faced by the war affected communities in the North and East who have been denied enjoying their economic social and cultural rights just as they are denied from practicing their civil and political rights. The existence of a draconian national security law—Prevention of Terrorism Act (PTA), heavy militarization, land grabbing and plundering natural resources has been the main cause for violation of the international covenant of the economic social and cultural rights of the Tamil people who live way below the poverty line.

The only realistic way to ensure that the affected communities too could enjoy the economic social and cultural rights is for the Committee on Economic Social and Cultural Rights is to call on the government of Sri Lanka to release the lands occupied by the military and allow the Tamil people of the North and East to realize their inalienable right to self-determination which is emphasized in Article 1 of the International Covenant on Economic Social and Cultural Rights, which intern will provide the right freely determine their political status and freely pursue their economic, social and cultural development. This is also underlined in the Vienna Declaration and Durban Declaration and Programme of Action as well as the Durban declaration where it states that the World Conference on Human Rights recognizes the right of peoples to take any legitimate action, in accordance with the Charter of the United Nations, to realize their inalienable right of self-determination.

Further it goes on to stress that the World Conference on Human Rights considers the denial of the right of self-determination as a violation of human rights and underlines the importance of the effective realization of this right.

Therefore, we are determined outline the issues faced by war affected Tamil community in the military occupied North and East, under Article 2.2 Non-discrimination, Articles 2.2 and 3 Equality, Article 9 Poverty and Right to Social Security, Nondiscrimination and Women's Rights and Article 15 Language, Religious and Cultural Rights in order to make stronger emphasis on

the need for demilitarization, release of lands, resettlement and last but not least the right to self-determination of the Tamil people.

## **1. Women and gender based violence**

Sri Lanka's armed conflict exacerbated the socio-economic and physical vulnerabilities of women, in the North and East. Gender affects the challenges and patterns of violations to which women were subjected to during armed conflict and continue to be subjected to since the end of the armed conflict.

There are more than 40,000 widows including 26,340 in Jaffna District according to Centre for Women and Development. And, there are 89,000 widows in north and east of Sri Lanka according to the Ministry of Child Development and Women's Affairs.

The latest Household Income and Expenditure Survey (HIES) 2009/2010, which was conducted by the Department of Census and Statistics, and the estimates reveal that, out of five million households in Sri Lanka, 1.1 million (23%) households are headed by women. And, most of the women heading households are in 40-59 age group. The high percentage of widows can be attributed to the prolonged war in Sri Lanka.

Some of these women have also lost their husbands, sons, fathers and brothers due to war, and have been pushed to bear the family burden from their childhood. And, some of their husbands and sons have either been killed in war or have been disappeared over the past years or in detention.

There are 40,000-60,000 women-headed households in the former conflict zones.<sup>ii</sup> These households are reported to face a range of specific economic, physical, and psychosocial vulnerabilities. Their economic vulnerabilities are due primarily to: 1) the loss of assets during the conflict and the inability to regain assets due to discriminatory administrative laws, 2) the lack of steady, decently paid employment opportunities, 4) the high cost of educating children, 5) the lack of direct compensation or assistance from the government, 6) increased physical vulnerabilities, particularly, ill health, 7) the fear of leaving children alone to pursue work, and 8) the risk of sexual harassment and abuse by the security forces and intelligence unit.<sup>iii</sup> Some of these vulnerabilities are linked to the government's consolidation of control over the former conflict zones to suppress dissent and to prevent women from taking up arms,<sup>iv</sup>

Women who leave the home for income generating activities or, even basic daily activities, routinely face sexual harassment and abuse, in part due to the pervasive military presence.<sup>v</sup> They elaborated that the reduction in women's agency following the disappearance of the LTTE,

which categorically prohibited sexual and gender-based violence against women, put women at a higher risk of sexual and gender-based violence both by security forces as well as within the community. This has in turn fuelled extreme insecurity amongst women, increased rates of teenage marriage and pregnancy, and escalated coerced and opportunistic transactional sex work.<sup>vi</sup> Reports of violence and harassment against women have been levelled against security forces on a consistent basis.<sup>vii</sup> Within the community, reports suggest that men face increased economic and social disempowerment as a result of a highly militarized and controlled environment.<sup>viii</sup>

These are the very women who face violence and sexual crimes and discriminated in terms of livelihood, land etc.,

The war created a climate of insecurity, which was attributable in part to decades of militarization and the resulting breakdown of democratic norms and the rule of law. During the war and particularly in detention and internment camps, women were subjected to the same patterns of ill treatment as their male counterparts on the basis of their ethnicity, such as torture, extrajudicial killings, and sexual violence.<sup>ix</sup> However, discriminatory attitudes towards women were exhibited in the crimes allegedly committed and subsequently uncovered in various reports, including the OISL report.<sup>x</sup> In particular, activists report that women faced a higher risk than their male counterparts to be subjected to sexual and gender-based violence.<sup>xi</sup> For example, various reports provide evidence that women were subjected to sexual torture on a widespread and systematic basis, alongside their male counterparts.<sup>xii</sup> However, outside of detention, in internment camps and heavily militarized zones, women were targeted for sexual and gender-based violence more than their male peers. In particular, women were being forced to provide sexual favours in exchange for government services or information. Their safety or the safety of their loved ones is also under threat.<sup>xiii</sup> With respect to violence against women, impunity of perpetrators has further entrenched the extreme reluctance of survivors of sexual and gender-based violence to report crimes committed against them by the security forces

There has been a significant increase in violence against women and children in war affected areas in the North and East. School children, especially female children are unable to return home safely without facing various forms of sexual harassments. According to the Police Report released in 2015, a total of 135 female children under the age of 16 were sexually abused in the North and East.<sup>xiv</sup> Incidents of women being attacked and murdered are increasing. A pregnant young mother of seven months was raped and murdered in the Jaffna district at beginning of this year.<sup>xv</sup> Reasons for such increase in sexual crimes is the absence of law and order, failure by the police to take action to produce the perpetrator before the court and lack of protection for victims and witnesses. In addition, unavailability of State sponsored safe houses for women in the in the North and East and lack of documentation and data on incidents of gender based violence and sexual crimes in order to raise wider awareness are also contributing factors for such increase.

Heavy militarization and the function of state intelligence is another reason for the gender based violence. Men attached to state intelligence section make telephone calls to female headed households at late nights and verbally abuse them. A woman attached to the zonal task force of the Consultation Task Force has received several SMSs with abusive messages during her time period in the task force.

Although Sri Lanka has ratified CEDAW, no action has been taken to propose a draft legislation in line with its international obligations.

Even though the war is over, former conflict zones remain heavily militarized, and this has in turn has left very limited space for local women's collectives and individual advocacy.<sup>xvi</sup>

## **2. Development bill to reduce powers of the provincial councils**

The development bill which has been gazetted by the Sri Lankan government to ensure rapid economic development will limit the economic and development activities of the provincial council.<sup>xvii</sup> Section 12 of the Bill states that the relevant Minister holds the authority to obtain a preferred land through the Chief Minister of the Provincial Council for the purpose of tourism, high-tech agricultural activities and fisheries. Accordingly development activities of the province which is under the control of the provincial council will be transferred to development agencies and thus come into the power of the central government. Therefore, this Bill is a stumbling block to devolution of power in terms of politics and development to the provinces. Basically this Bill is disadvantageous in terms of the aspirations of the minorities in the North and East who have been calling for political, economic and administrative independence since inception.

## **3. Resettlement is not carried out fully in the North and East and Continuation of Military occupation**

### **Northern province:**

Resettlement has not taken place fully in military occupied areas. Areas such as Keppapilavu, Mullikulam is fully occupied by the military and the people of the said areas have been resettled in so called development villages in forest areas.

Movements of security forces and intelligence have increased in the said areas. Similarly, the people who were resettled in areas like Valalai and Mavittapuram of the Vallikamam North are living amidst military camps.

Myliddy harbour and the surrounding 12 km long coastal land spreading across areas such as Palaly, Oorani, and Kankesanthurai have not been released for public use<sup>xviii</sup>

Nearly 100 families who were living in temporary shelters in Jaffna were resettled in a different area called Nallinakkapuram (Reconciliation Village) created by the military. There's heavy military presence in the area.<sup>xix</sup>

A total of 4835 persons of 1224 families are living in temporary camps in the Jaffna district. A further total of 28, 492 persons of 7123 families are living with friends and relatives.

The Navy refused permission for 184 families of Iranatheevu Island in Kilinochchi to resettle in their land. They are running a peaceful protest campaign currently

The military has taken over 39 acres of private land belonging to 23 persons in Neduntheevu (Delft). Further, in the same area they have taken over 05 acres of land belonging to government departments and public and also occupied 20 building belonging to government organizations and public.

There are 12 fresh water wells in the Sarapiddu area of Neduntheevu and the Navy alone is utilizing these wells. 72,000 liters of water is being used for their consumption as they draw water 6 times per day in a bowser that holds 12,000 liters.

Similarly 12,000 liters of drinking water is daily taken by the Sri-Lankan Navy in Karainagar Naval base from a well in Ponnalai village (GN division J/170) of Chankanai area.

Besides, the wells in private lands belonging to the people is also controlled by the military and thousands of liters of water is drawn on a daily basis for the surrounding camps. As a result, people are facing water shortages. The water crisis exists in resettled areas, islands and in various parts of the Jaffna peninsula.

### **Eastern Province:**

People of Sampur fully abandoned their lands when hostilities broke out in 2006. At that point when people were displaced, the government ignoring the legal provisions in the law, went ahead and illegally acquired 818 acres of land owned by the people and later gave the land on long term lease to a private company. When the present National Unity government came into power in 2015, the long term lease agreement with the private company was cancelled. Without providing any basic facilities the displaced people were resettled in two phases in their own lands on 19.08.2015 and 25.03.2015. However, the ownership of the land have not been transferred to the resettled people and continues to be a property of the government. Also, facilities for resettlement were not provided. When the people of Sampur had been displaced in 2006, the navy had put up a training camp in 176 acres of the land belonging to the people. On 25.03.2016 this camp was removed. It was decided at the Trincomalee Development Committee meeting that

40 acres of alternative land will be provided between Sampur Sea and Villukulam to put up the camp. But, in addition to the approved 40 acres, a further 245 acres of land from the Sampur coastal area and 32 acres of people's land including the Neelakerni Sri Murukan Temple land (totaling 277 acres of land) was taken over by the navy for the above purpose. As a result, coastal fishing in the Sakaravattavan area in Sampur and fresh water fishing in the Villukulam area in Sampur has been banned. The 505 acres of land allocated for construction of a coal power plant includes 110 acres of private land. Furthermore, the allocated land comprises 15 water tanks used by public and 395 acres of forest land used by tribal communities for their livelihood purposes.<sup>xx</sup>

#### **4. Issues face by Fishers:**

The traditional harbor of 300 fisher families of Metkuthurai costal village (GN division J/5) of Delft island in Jaffna district is being totally under the control of the Sri-Lankan Navy since 2004. The fishers of this village are unable to place their boats in this location. Therefore, the fishers' daily travel 7 Km from their village to Kilakuthurai for their fishing activities.

#### **5. Militarization**

Military presence can be seen and felt in the people's daily lives in the North and East. The military interference in economic activities, educational activities, cultural events, family events has become a common occurrence.<sup>xxi</sup> The military runs a total of 22 business centres in the Mannar district.<sup>xxii</sup> Such kind of military economic spots are functioning in all districts of North and East areas.<sup>xxiii</sup> The State contracts for infrastructure work in the North and East are being taken by the forces and they involved such construction work. For an example, Navy renovated Navalady – Sampur road with the financial assistance of the Ministry of Resettlement.<sup>xxiv</sup> As a result local construction workers, contractors and the local governments too are affected. A total of 588 preschool teachers are receiving their salaries from the Civil Security Department (CSD) under the Military. In Kilinochch and Mullaitivu districts military run farms (CSD farms) in various locations. More than 3000 civilians including women are working in those farms. Two batches of men who work in the farms were recently given training with armaments too.<sup>xxv</sup> A portion of UN Peace Building Fund has been granted to Sri-Lankan government for the resettlement of IDPs in lands released by the Government from former High Security Zones. The Ministry of Resettlement is responsible for this.<sup>xxvi</sup> But military is responsible to construct the houses for the IDPs of Valikamam North.<sup>xxvii</sup> Nallinakkapuram model village houses were constructed by the military and photographs of the military have been hung in all those houses. Military engage in government administrative activities covertly in North and East.

#### **6. Threats and intimidation to human rights defenders**

The military and State intelligence officers continue monitor and carry out inquiries of human rights activists and representatives of civil society organizations in the North and East to



date.<sup>xxviii</sup> They force the communities to provide information regarding their activities. They have also formed informants amongst the public in order to obtain information on activities carried out by civil society activists. Women human rights defenders who are working at civil society organizations are visited by the intelligence and inquiries are taking place regarding their work. Journalists are threatened and forced to provide information about the programmes of civil society activities. Some human rights activists often receive telephone calls by the intelligence and their movements are closely followed by them.<sup>xxix, xxx</sup>

#### **7. Discrimination in justice mechanisms**

Justice is imperative for reconciliation. However, the Sri Lanka judiciary acts in a biased manner. In the past, perpetrators went scot free and victims of war crimes and extra judicial killings were denied justice due to our justice system. Kumarapuram massacre<sup>xxxi</sup> and the killing of parliamentary member Raviraj<sup>xxxii</sup> went on to prove that although there were credible witnesses, the perpetrators went scot free due to jury trials.

#### **8. Language policy and ethnic discrimination:**

Though the Constitution of Sri-Lanka guarantees the Tamil is the official language in North and East areas, until to date very often official letters are sent to individuals and institutions in North and East in Sinhala language by the government authorities. They receive letters in Sinhala language as a response for their appeals in Tamil. Some of the police stations in North and East take the complaints from Tamil only speakers in Sinhala and give the copy of the Sinhala statements to them. As Most of the time Sinhala speaking police officers and government officers are employed for the service of Tamil only speaking people in North and East so the civilians struggle to understand the language.<sup>xxxiii</sup> In some areas the Tamil names of the villages are changed and Sinhala names are given instead to that ex. In Jaffna, Kantharodai a traditional Tamil village in Chunnakam area has been changed as Kadhurugoda during the period of past regime and still its being continuing with the same name. Similarly in Trincomalee, Ilangai Thurai Mugatthuvaram has been changed as Lanka Patuna.

Threats and hate speech against minorities have been increased in the recent past by the Sinhala Buddhist extremist forces. They do street protest, public meetings and also directly intimidated minority government officials as well.

#### **9. Language policy and ethnic discrimination:**

Ethnic and ethno-religious minorities in Sri Lanka continue to experience discrimination and myriad human rights violations. Religious minorities are particularly susceptible to violations of religious freedom.

It is important to note that ethnic and religious discrimination in Sri Lanka are closely intertwined. As the International Centre for Ethnic Studies recently detailed in a report focused on religion and identity in Sri Lanka: “[b]eing Buddhist...is intimately tied to Sinhala cultural and political identity. Similarly, being Muslim in Sri Lanka is to be both an ethnic category as well as a religious one.”<sup>xxxiv</sup> Moreover, while not all Tamils are Hindu, a significant proportion of Hindus in Sri Lanka are Tamil. Therefore, ethnic and religious discrimination in Sri Lanka are always intersecting, and cannot be seen as independent from one another.

The Government of Sri Lanka in its combined tenth to seventeenth State parties periodic report to CERD submitted in 2015, stated that it is committed to ensuring that all ethnic communities have the right to their chosen faith without hindrance.<sup>xxxv</sup>

In reality however, religious minorities in Sri Lanka have experienced a number of violations, restrictions on their religious practices and observances. Following incidents are some of the incidents recorded by the Centre for Human Rights Development (CHRD).

- A land belonging to Thirugnanasambandar Manivannadas in Kokkilai West in the Mullaitivu district (Northern province) He owned the land through his father under Land Development Ordinance (LDO). The area was cleared for resettlement following the 3 decade old war which ended in May 2009. When people commenced resettling in their own lands, Ven. Tissapura Gunaratne Thero (a Buddhist monk) without any ownership, encroached and illegally acquired the land belonging to Thirugnanasambandar Manivannadas. He has been erecting buildings such as a Sambodhi Viharaya (Buddhist temple), a statue of Buddha and a small scale monastery without illegally and without any permission from relevant authorities. The owner of the land had made many complaints to the authorities, especially the divisional secretary of Karathuraipattu Divisional Secretariat. However, the Divisional Secretary failed to take action against the illegal encroachment as required by the 168 Section A of the LDO. Therefore, Thirugnanasambandar Manivannadas—owner of the land approached CHRD for legal action in July 2016 and CHRD panel lawyers will file a petition on 22<sup>nd</sup> at the Mullaitivu Magistrate’s Court. It is apt to mention that the district and the DS division in particular are predominantly Tamil areas where over 90 percent of the communities practice Hinduism or Christianity or Islam. The construction of the Sambodiya Viharaya in the Kokilai area was condemned by many politicians, MPs and provincial council members of the North, calling for its removal. They it was the military who earlier took over the land belong to the minority and now it is being taken by Buddhist groups in order to ensure that the minorities live under suppression. It is important to note a Brigadier rank military officer has been coordinating the construction of the Buddhist Viharaya. It is widely stated that Ven. Tissapura Gunaratne Thero is in the process of colonizing the area with Sinhala families and Sinhala fishermen have put up huts at various places along the coast from Mukathuwaram and North towards Mullaitivu
- On 29<sup>th</sup> October 2016, fairly a large Buddhist statute was illegally placed in the top of rock in the Manikkamadu area of the Irakkamam DS Division in the Ampara district. The Officer

in Charge of the Dhamana police informed that this was illegal and cause tension. He further stated that a Court Order preventing such acts had been handed over to the Buddhist monks who had placed the statue. The OIC also pointed that the Court Order had been obtained prior to the erection of the Buddha statue. The police has also informed that they were not present at place in question to protect the monks but to enforce the law. However, the monks had succeeded in placing the statue. It is a predominantly a minority area where Muslims and Tamils coexist. The Chief Minister of the Eastern province stated that such measures by the Majority communities and monks is a threat to minority communities in under the present government which came into power promising good governance. He further added that these acts are carried out in order to gain political mileage. The District Secretariat Office convened a special meeting on 2 November where a committee to look in to the matter was formed. The meeting was attended by the Chief Minister of the Eastern province, Police representatives and grama niladhari, divisional secretary etc. However, the statue continues to remain in the spot under police protection. Recently this month, Daya Gamage, UNP Parliament Member and Minister of Primary Industries had stated in case the statue is removed or damaged, he would resign for his post and will not responsible for the eruption violence.

- A Buddhist temple was put up in the A9 route of the Mankulam, Mullai veethi area in the Mullaitivu district. The temple is put in front of a military camp there. Six families who had been living in the area were forced to move out as the land around the temple and military camp were being illegally acquired gradually by the majority community constructing the temple, and currently nearly 40 acres of land has been taken over. The CHRD team met with the family members who had left their fertile land to move into lands where cultivation is impossible and the inhabitants even lack basic facilities. The families stated that they were unable to live in the land due to fear and security reasons. The families had complained to the village officer (Grama Niladhari) who had told take the alternative lands which the military is offering. Currently a case was filed by one of the residents of the land in the Mullaitivu Magistrate Court and case is ongoing. The families also stated that the military in the land are cultivating vegetables and are selling at a lower rate while the cultivators in the district are unable to sell for the same rate, and they do have livestock and are economically sustaining themselves

- The Sri Muthumari Amman temple in Thevanambiya Tissapura, Neeraviyadi Anuradhapura district was attacked by men carrying knives and clubs as Tamil devotees celebrated the Hindu festival of Navarathiri. One devotee, a father of one, Prabu was attacked by the thugs and is currently being treated at hospital for lacerations. Temple authorities said six men of Sinhala and Muslim identity together with one Catholic Tamil speaker forcibly entered the temple around 5.30pm on October 10th. The men proceeded to destroy the Karumari Amman statue, followed by the Murugan statue, before desecrating all the pooja items. The attack has left local Tamils in fear of further such incidents. The 520 families, who were evicted from

This sawewa after the area was declared a holy site, currently reside in Thevanampiya Thissapura.

- Vast areas of land were taken over in the Trincomalee and declared high security zones where the military put up their camps and built their bases. Similarly, huge Buddha statues were erected in various places as the Sri Lankan security forces were largely Sinhala Buddhists. The military camp located in the Nilaveli road (Sambaltheevu) too had a statue of Buddha. Sambaltheevu is largely a Tamil area and Hindu temples such as Iyappan Aalayam, famous Luxumy Narayanan Aalayam, and Sivan Aalayam are located within 100 - 150 meters from the Sambaltheevu junction. In addition, there places of worship in the surrounding villages—like the Maangana Maariamman Aalayam, Salli Maryamman Aalayam, Mottapuliya Vaiyavar Aalayam and the St. Anthony's Church which was built during colonial times. The said military camp which existed for the past 20 years was removed only last month as a step towards reconciliation. The people of the area believed that the military also removed the statue of Buddha when they left the area. It is apt to mention, that the military had planted a sacred Bo tree (Bodhi tree) in the area where the Buddha statue was carved. The tree was cut down by unknown men on July 10, 2016. However, on July 11, 2016 a group of more than 15 young men who were visiting the area along with a Buddhist priest had replaced the tree with a 04 feet high statue of Lord Buddha. The statue is guarded by 04 police officers. This has caused fear amongst the Tamil community and raised concerns regarding government's commitment towards reconciliation. While some claim that the land where the said statute is located is a private land, others state that it belongs to the Uppuveli Divisional Secretariat.

- The Ampitiye Sumanarathana Thera—a Buddhist monk of the Batticaloa's Mangalaramaya from Batticaloa has threatened a Tamil Grama Niladhari (village officer) over a land issue in the Pattipalai area in early November 2016. The monk used offensive language and aggressively accused him of filing several court cases against Sinhalese living in the said area in the Batticaloa district who had encroached the land illegally. Grama Niladhari S. Jeevithan, was accused by the Ampitiye Sumanarathana with racist comments despite the attempts of Police officials who were at the scene trying to control the situation. The incident happened when the Pattipalai Grama Niladhari was at the scene to prevent an attempt by a group of people led by the monk to encroach on a land allocated for cattle grazing. The Grama Niladhari explained to the monk that his attempt to encroach on the cattle grazing land was illegal. The monk who had used offensive language had threatened the Grama Niladhari with death. As far as the demography of the Eastern Province is concerned, all three communities live in the region and many claim such acts has stuck a blow to the efforts taken towards building peace and reconciliation in the country. The video of the incident was widely publicized through and therefore news sites and social media. Thereafter CHRD arranged meetings with the Commissioner of the Sri Lanka Human Rights Commission and with the Minister of Minister of National Co-existence,

Dialogue and Official Language. A complaint was filed SL HRC and the Minister promised to speak with the police regarding the incident.

- A Buddhist temple was put up in the A9 route of the Mankulam area in the Mullaitivu district. The temple is put in front of a Military camp there. Six families who had been living in the area were forced to move out as the land around the temple and military camp were being illegally acquired gradually by the majority community putting up the temple and military, and currently nearly 40 acres of land have taken over. The field coordinators met with the family members who had left their fertile land to move into lands where cultivation is impossible and the inhabitants lack even basic facilities. The families stated that they were unable to live in the land due to fear and security reasons. The families had complained to the village officer (Grama Niladhari) who had told take the alternative lands which the military is offering. Currently a case was filed by one of the residents of the land in the Mullaitivu Magistrate Court and case is ongoing. The families also stated that the military in the land are cultivating vegetables and are selling at a lower rate while the cultivators in the district are unable to sell for the same rate, and they do have livestock and are economically sustaining themselves.

Similarly, the government also mentioned that it remains committed to build a society where the rights of communities will be respected and equal treatment will be provided to all, irrespective of their religion, ethnicity or race<sup>xxxvi</sup> Furthermore, this undertaking is reflected in Article 12(2) of the Constitution of Sri Lanka which provides for the same.<sup>xxxvii</sup>

Incidents of discrimination against religious and ethnoreligious minorities have been on the rise since the conclusion of Sri Lanka's civil conflict.<sup>xxxviii</sup> Local government authorities and law enforcement have played both an active and implicit role in such cases.<sup>xxxix</sup>

## Conclusion

The above incidents once again reiterates the need for demilitarization and release of military occupied lands. Since the government lacks political willingness, ability and commitment to address the above issues in order to ensure that the war effected Tamil communities in the North and East enjoy the economic social and cultural rights is by calling on the government to recognize the inalienable right to self-determination of the Tamil community and pave the way for international investigations for war crimes and crimes against humanity perpetrated by the military. It is important to note that many of such crimes point to genocide. Therefore we recommend the following to the Committee for Economic Social and Cultural Rights not only to ensure that the affected communities enjoy economic social and cultural rights but also civil and political rights.

#### Recommendation 1

Demilitarize North and East with immediate effect and release military occupied lands with and hand it over to its rightful owners.

#### Recommendation 2

Call on the Sri Lankan government to take steps to abide by the Vienna Declaration as well as Durban Declaration and Programme of Action and to let the Tamil people of the island to exercise its inalienable right to self-determination.

#### Recommendation 3

Having violated international humanitarian law and engaging war crimes the Relevant UN bodies must urge the Government of Sri Lanka to sign the Rome Statute in order to ensure justice and accountability to the victims of such heinous crimes under the International Criminal Court.

#### Recommendation 4

Endorse the Tamil genocide resolution of 2015 passed by the Northern Provincial Council in February 2015. The said resolution clearly points out genocide of Tamils became synonymous with the country's policies since it gained independence, and Tamils across the island, particularly in the North-East have been subject to gross and systematic human rights violations, culminating in the mass atrocities committed in 2009.

Sri Lanka's historic violations shows over 60 years of state sponsored anti-Tamil pogroms, massacres, sexual violence, and acts of cultural and linguistic destruction perpetrated by the state. The resolution alleged that these atrocities have been perpetrated with the intent to destroy the Tamil people, and therefore constitute genocide.

Therefore the acceptance of the Resolution on Genocide of Tamils adopted by the Northern Provincial Council will enable to seek an UN inquiry to investigate the genocide of the Tamil people in Sri Lanka by successive Sri Lankan Governments, and direct appropriate measures at the International Criminal Court outlining the Tamil people had no faith in the domestic commission.

#### Recommendation 5

Take immediate steps to fully implement without delay the Resolution 30/1 and the Recommendations of the OISL Report.

#### Recommendation 6

Measures must be taken to ensure justice for victims of rape and torture which has been the weapon of Sri Lanka's genocide of the Tamil people. Human Rights Watch (HRW) stated such acts of sexual violence perpetrated on Tamil detainees and surrendeeds by Sri Lankan security forces is deliberate and is premeditated. Such acts of abuses is coercive, designed to intimidate, to instill fear, to extract information, sometimes to extract confessions... This is a deliberate policy.

Therefore we urge that an independent international investigation be carried out on Sri Lanka to probe allegations of such abuses.

#### Recommendation 7

The United Nations Committee against Torture (CAT) during its review in early December 2016 has urged Sri Lankan government to establish an independent mechanism to investigate allegations of torture and sexual violence during and after the conflict. In delivering its concluding observations the committee said that torture was a common practice in Sri Lanka. Therefore the government of Sri Lanka must be urged to implement the recommendations of the CAT Committee including ensuring that all allegations of unlawful detention, torture and sexual violence by security forces are promptly, impartially and effectively investigated by an independent body... as well as expedite the establishment of the mechanisms called for in Human Rights Council resolution 30/1 and, in particular, a judicial mechanism with a special counsel to investigate allegations of torture, enforced disappearances and other serious human rights violations. The mechanism should include independent judicial and prosecutorial institutions led by individuals known for their integrity and impartiality at the national and international levels.

#### Recommendation 8

Perpetrators of war crimes and crimes against humanity must be investigated and brought to justice. The government must ensure that military forces who had perpetrated heinous acts of abuses and crimes must be investigated and not be protected or safe guarded to gain political mileage and to win the support of the Sinhala majority.

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<sup>i</sup> See OISL Report

<sup>ii</sup> See Dilrukshi Handunnetti, The man of the house is a woman, Sunday Observer (14 June 2015) available at: <http://archives.sundayobserver.lk/2015/06/14/spe01.asp>.

<sup>iii</sup> See Raksha Vasudaran, Everyday Resistance: Female Headed Households in Northern Sri Lanka, 5.1 (2013) available at: <http://books.openedition.org/iheid/689>.

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- iv *Id* at chapter 5.
- v Tamil Women in Post-War Sri Lanka, *supra* note 14, at 5.
- vi *Id*.
- vii See, e.g., Our Struggles, Our Stories, *supra* note 23, at 43-64.
- viii Tamil Women in Post-War Sri Lanka, *supra* note 14, at 2.
- ix Report of the OHCHR Investigation on Sri Lanka, Human Rights Council, Thirtieth Session, A/HRC/30/61 (16 September 2015)[OISL].
- x *Id*.
- xi See, e.g., Nimmi Gowrinathan and Kate Cronin-Furman, The Forever Victims? Tamil Women in Post-War Sri Lanka, Sexual Violence Initiative (28 August 2015)[Tamil Women in Post-War Sri Lanka] available at: <http://www.deviarchy.com/wp/wp-content/uploads/2015/09/The-Forever-Victims-Tamil-Women-in-Post-War-Sri-Lanka.pdf>.
- xii Evidence collected in OISL suggests that men and women were equally likely to be subject to sexual and gender based violence in detention. See OISL, *supra* note 12.
- xiii For an in depth study regarding the widespread and systematic nature of sexual bribery cases in Sri Lanka, see Shreen Abdul Saroor, Sexual Bribery in Sri Lanka: Legal Framework and Case Studies (January 2016).
- xiv Distribution of Grave Crime Abstract for the Year (2015) by police Division, Sri-Lanka Police, [http://www.police.lk/images/others/crime\\_trends/2015/distribution\\_of\\_grave\\_crime\\_abstract\\_for\\_the\\_year\\_2015.pdf](http://www.police.lk/images/others/crime_trends/2015/distribution_of_grave_crime_abstract_for_the_year_2015.pdf) (the total was calculated by the reporters)
- xv Pregnant woman found dead in Kayts, Times Online, 24 January 2017, <http://www.sundaytimes.lk/article/1015698/pregnant-woman-found-dead-in-kayts>
- xvi See Our Struggles, Our Stories, *supra* note 23, at 11.
- xvii Development (Special Provisions) Bill, The Gazette of the Democratic Socialist Republic of Sri-Lanka, 25 November 2016, Department of Government Printing, [http://documents.gov.lk/files/bill/2016/11/141-2016\\_E.pdf](http://documents.gov.lk/files/bill/2016/11/141-2016_E.pdf)
- xviii Organization for Resettlement and Rehabilitation of Vali North, 27 June 2016, <https://www.facebook.com/notes/groundviews/letter-to-un-from-displaced-in-jaffna-valikamam-north/10157053616935641>
- xix Civil Military Coordination Jaffna, [http://www.cimicjaffna.com/Cimicnews\\_2017\\_03\\_12.php](http://www.cimicjaffna.com/Cimicnews_2017_03_12.php)
- xx Information from Sampur community and civil society organizations, December 2016 – March 2017
- xxi Civil Military Coordination Jaffna, <http://www.cimicjaffna.com/cimicnewsmenuMain.php>
- xxii
- xxiii
- xxiv Community group discussion in Eastern Province, January 2017
- xxv
- xxvi Immediate Response Facility, United Nations Sri Lanka, <http://lk.one.un.org/our-work/peacebuilding/immediate-response-facility/>
- xxvii Civil Military Coordination Jaffna, [http://www.cimicjaffna.com/Cimicnews\\_2017\\_03\\_12.php](http://www.cimicjaffna.com/Cimicnews_2017_03_12.php)
- xxviii <http://groundviews.org/2017/03/10/spiraling-incidents-of-military-intimidation-in-the-north-ruki-fernando/>
- xxix Information shared by activists in North and East
- xxx Ground views, 16 march 2017, <https://www.facebook.com/groundviews/photos/pcb.10158323050715640/10158323050345640/?type=3>
- xxxi Kumarapuram Survivors called to Stop Impunity, 1 August 2016, Ground Views, <https://www.facebook.com/notes/groundviews/kumarapuram-survivors-call-to-stop-impunity/10157204280430641/>
- xxxii Raviraj Murder: All accused released, Lakmal Sooriyagoda, 24 December 2016, Daily News, <http://dailynews.lk/2016/12/26/law-order/102914>
- xxxiii Group discussions with community members in North and East Districts, January – March 2017
- xxxiv Dhammika Herath and Harshana Rambukwella, *Self, religion, identity and politics: Buddhist and Muslim encounters in contemporary Sri Lanka*, November 2015, [http://ices.lk/wp-content/uploads/2016/04/ICES-Self-Religion-Identity\\_-WEB\\_-final.pdf](http://ices.lk/wp-content/uploads/2016/04/ICES-Self-Religion-Identity_-WEB_-final.pdf)
- xxxv Committee on the Elimination of Racial Discrimination, Combined tenth and seventeenth periodic reports of States parties due in 2015 (Sri Lanka)—General Information, comment 6: *The Government has been focusing on engagement with ethnic minorities* as an important aspect in the process of overall national unity and reconciliation. The Government is committed to



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ensure that all ethnic communities are able to practice their chosen faiths without hindrance. In keeping with Sri Lanka's societal, cultural and historical norms, regular dialogue continues to take place at various levels to ensure interethnic harmony and understanding amongst all communities.

<sup>xxxvi</sup> <sup>xxxvi</sup> Committee on the Elimination of Racial Discrimination, Combined tenth and seventeenth periodic reports of States parties due in 2015 (Sri Lanka)—Article 2, Comment 13: The Government of Sri Lanka (GoSL) remains committed to build a society where the rights of all communities are secured and their safety and security is ensured. Thus, human dignity is valued and equal treatment to every person despite their religion, ethnicity or race is an accepted norm of public life.

<sup>xxxvii</sup> <sup>xxxvii</sup> Article 12(2), The Constitution of the Democratic Socialist Republic of Sri Lanka: No citizen shall be discriminated against on the grounds of race, religion, language, caste, sex, political opinion, place of birth or any one of such grounds

<sup>xxxviii</sup> <sup>xxxviii</sup> Refer annexure 1 & 2—NCEASL Incident Reports 2015 & 2016

<sup>xxxix</sup> <sup>xxxix</sup> *ibid*