



# வடக்கு கிழக்கு மனித உரிமைகள் செயலகம் North East Secretariat on Human Rights - NESoHR

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## Annual Report on Human Rights – 2007

While submitting the annual report on human rights for the year 2007, the North East Secretariat on Human Rights (NESoHR) solicits the undivided attention of human rights bodies all over the world in disseminating the HR violations documented herein and the message conveyed through this document on behalf of the Tamil people. There was high expectation among the Tamil people when the UN High Commissioner visited Sri Lanka that such a visit would bring positive changes of attitude. That change of attitude has not taken place and HR violations continue unabated. It is often argued that the government has adequate mechanism to deal with HR violations. If what is meant by this mechanism is the government human rights commission and the guarantee provisions in the constitution, it is of course a sad commentary on human rights for the Tamil people. Based on the poor deterrent-oriented performance and the impunity with which perpetrators of human rights violations, especially the government's armed forces and the para-militaries working for and with them continue to commit gross violations, we strongly reiterate the necessity to establish a UN's Human Rights monitoring mechanism in the island. This is an absolute necessity, at least until such time a just political resolution acceptable to the aggrieved party, the Tamil people finds its place in the country's statute.

We emphasize an early political resolution because we find that it is the absence of a political arrangement for the Tamil people to look after their own affairs that has made them a subject people under military occupation in their natural habitats. Tamil bashing started when the Tamil people asked for equality and no amount of moderate parliamentary protests by the Tamil representatives could bring about a change. Sinhala polity always found race hatred against the Tamil people as a handy instrument to whip up passion and ensure electoral victory. This pattern commenced as early as 1948 with the disenfranchisement of the up-country Tamils followed by denial of Tamil language rights in 1956 and discriminatory legislations one after the other against the interests of the Tamil people. Thereafter the politics of this island saw a series of communal riots targeting the Tamil people from 1958 onwards. A people who believed in moderate parliamentary democracy were pushed to the brink of political frustration and militancy caused by regular breach of agreements and pacts unilaterally by successive governments.

Communal riots against the Tamil people in 1958 can be described as the beginning of the process of forced eviction wherein the Tamil people started fleeing for safety culminating in the mass exodus which reached its peak in 1983. Risking a hazardous sea passage across the Palk Strait, the Tamil people sought asylum in India. In spite of the poor conditions in the refugee camps in India, people continue to seek refuge there. UNHCR's intervention to help these refugees to return to the island was a welcome turn, but those who returned were forced to flee again because of the military atrocities. For more than 25 years since 1983, Tamil habitats have been systematically militarized making normal life intolerable for civilians.

A highly polarized communal politics and the resultant communalized military tend to perpetuate the occupation and deny basic human rights to a people they consider as a subject race. Military supremacy overrides humanitarian norms and one finds an adamant refusal to bring about attitudinal change. It is the military that calls the shots when it comes to the administration of Tamil people. All HR violations documented by NESoHR speak of a definite pattern wherein the perpetrators are the state armed forces and the victims are selectively the Tamil people. Every violation tells us that it is the military and the para-military groups that are 'kept' by the military for its clandestine activities against Tamil civilians that perpetrate the violation.

NESoHR wishes to present its documented summary of HR violations that the Tamil people have been subject to during the year 2007 and drive home the message that Human Rights bodies including the UN and the international community have a role to play in putting an end to this abuse of a people, an abuse that has taken genocidal proportions.

### **Forced eviction**

Unlike the forced evictions of Tamil people during the race riots of 1958, 1961, 1977 and 1983 wherein the offenders were said to be 'mass gangs of Sinhala hoodlums', forced evictions of Tamil people from their natural habitats are now done by the government military. Positioning itself in vantage points in the occupied Tamil habitats, the SL military terrorizes the people in the unoccupied parts by artillery shells and aerial bombings. A people thus terrorized flee for safety to further interiors leaving all their belongings and becoming refugees overnight. Over ambitious to bring more and more Tamil territory under occupation, the SL military is committing this crime of forcibly evicting innocent Tamil civilians. Following the pattern of 2006 in Vakarai, Kokkatticholai and Karadiyanaru in Batticaloa and Sampur in Trincomalee, the SL military targeted many parts of unoccupied Mannar during the latter half of 2007 and evicted 5965 families comprising 22,433 persons according to the statistics given by UNHCR and the Government Agent, Mannar.

Artillery shells in the military offensive in Mannar killed three Tamil civilians and injured nine who were already in a refugee camp in Periyamadu having been displaced during earlier offensives. A group of Tamil civilians who were in the high seas of Mannar trying to escape to India were also killed by SL Navy in spite of their raising white flags and identifying themselves as refugees. This is a repetition of the pattern of killing of fleeing civilians that took place in Vakarai.

### **Killing of Tamil civilians in aerial bombing**

The year 2007 began with a bang on 2 January, the day on which 15 peasants who got displaced from Jaffna and were refugees in the fishing village of Padahuththurai in Mannar were killed and 34 injured destroying extensive fishing gear in an aerial attack. Indiscriminate aerial bombings killed 38 innocent civilians and injured 157 in five instances. Civilian property destruction was extensive. The terrorizing noise of the bomber jets causes mental trauma and psychological impact to pregnant mothers, infants and school children. Incidence of pre-matured child birth has been on the increase during this period, a phenomenon medical authorities attribute to the terrorizing noise impact of Kfir and MIG bombing jets. The tail end of the year was marked by the bombing of the Voice of Tigers Radio station on 27 November 2007 killing three media personnel and seven civilian pedestrians on the A-9 highway. Many private dwellings adjacent to the radio station too were severely damaged.

Vicinity of schools closer to locations targeted for aerial bombing is never taken for consideration and as a result school children are subject to injuries, deaths and severe psychological strain. Aerial bombings were carried out in the vicinity of schools even during times when public examinations were taking place.

### **Denial of livelihood - Fishing and Farming**

Ad hoc ban on fishing depending on the whims and dictates of the military and the Navy in the area continues to be a serious problem faced by the fishing population. Time to go into the sea, the quantum of fuel to be taken to the sea, the type of fishing gear to be taken, the number of fishermen in a particular boat and even the food that the fishermen take with them are things that the local military or the Navy personnel decide without recourse to any standard criteria but just the mood of the official involved. While in the sea, fishermen are subject to threat, assault, plundering or destruction of the days catch along with the fishing gear by the Navy personnel. Fishermen are arrested by the Navy while in the sea and nothing is heard of them until their bodies are washed ashore at a later date. Navy patrol boats positioned in the high seas target coastal fishing villages with cannon fire at random. While several fishing families are killed or injured in these attacks, whole villages are frequently displaced seeking shelter in safer places.

In Trincomalee, Tamil and Muslim fishermen are not allowed to go deep sea fishing and are limited to 2 nautical miles, that too without fishing gear. In Gurunagar, Jaffna the fishermen are forced to do menial cleaning program of the military complexes before going into the sea and those who are reluctant to do such menial jobs are arbitrarily detained and physically abused.

Fishing is the primary livelihood of a majority of people in the coastal villages in the NorthEast and the arbitrary bans and restrictions imposed by the military and the navy seriously impacts the day to day life of this community. Transport of fish from the Jaffna peninsula to the South was a big financial boost to the fishing population in the days when the A-9 was re-opened and this facility is no more available since the closure of this thoroughfare.

Major parts of fertile farm lands in the Jaffna peninsula are in the Valikamam division and are now inaccessible to the owner peasants due to its classification as 'High Security Zone' since the SL military and the Air Force took over Palaly and areas surrounding it in 1990. A similar militarization has taken over parts of Kilali, Usan and Mirusuvil with coconut estates and paddy fields. These peasants are forced to live as refugees in welfare camps or with relatives elsewhere. Depriving these peasants of their farmlands has not only made them refugees, but has largely contributed to the shortage of grains and agricultural produce for the entire population of the peninsula. In areas other than the High Security Zone, farmers face the problem of fertilizer inputs that are restricted due to closure of A-9 and the dependency on sea transport. A curfew that is in force for more than one year now in the Jaffna peninsula is seriously impacting on the livelihood pattern of both the farmers and the fishermen.

#### **Clandestine claymore mine attacks that kill Tamil civilians**

More than thirty claymore mine attacks have been carried out by the Deep Penetration Units of the SL military, killing 60 civilians and injuring 84. Those killed and injured include school children, Public officials and clergy men and NGO workers involved in humanitarian service. On 1 September 2007, 13 civilians who were displaced from Mannar during a military offensive were killed while moving for safety by a claymore mine attack carried out by the SL military's deep penetration unit. On 27 November 2007, seven students who were travelling in an ambulance for a first aid program were killed in a similar claymore mine attack at Iyankankulam in the Mullaittivu district. This clandestine activity of the SL military and its para-military units is causing panic and alarm among the civilian population that make use of public thoroughfares in the deep interior.

#### **Denial of access to Tamil peoples' natural habitats in the name of 'High Security Zone' from 1990 onwards in many parts of the Jaffna peninsula**

Apart from the major chunk of fertile farm lands in Valikamam surrounding the Palaly airport, many other locations in the Jaffna peninsula have been arbitrarily designated as High Security Zones. Hundreds of families have been deprived of their dwellings and farm lands and there is no freedom of movement. In Sampur, Mutur in the Trincomalee district, about 52,000 Tamil peasants have been forcibly evicted by military shelling and the village declared a High Security Zone by a subsequent government gazette notification. These peasants sought legal remedy through the Supreme Court to go back to their homes, but have been denied access citing reasons falling under national security.

#### **Closure of entry/exit to the Jaffna peninsula**

The A-9 highway remains closed for more than one year now and the entire Jaffna peninsula with its population of 500,000 people remains cut off from the rest of the island. The cease fire agreement provided for the re-opening of this entry/exit point in February 2002 and this was considered as a major achievement of the CFA. But this highway remains closed now for reasons unknown to the people.

#### **A curfew that has become a permanent feature in the life of the people in Jaffna peninsula**

The curfew promulgated in the Jaffna peninsula during the latter part of 2005 when military confrontations resurfaced, is still operative and is retarding day to day civilian activities. There is no justification for a curfew to continue indefinitely in a district that is under full military occupation for more than eleven years now. This hampers fishing, agriculture and other livelihood activities and seriously interferes with school children's extra classes prior to public examinations.

#### **Disappearances and Extra Judicial Killings**

A total of 486 disappearances that include 46 students and 755 killings that include 65 students have been documented during the year under review. These disappearances and killings have been mostly in military occupied areas. When Human Rights organizations expressed alarm over the increasing number of disappearances and killings, the Sri Lankan Military Commander has said that this cannot be helped in a war situation.

#### **Restriction on free movement of goods including medicines**

Military stipulates arbitrary restrictions on free movement of goods through the check point at Omanthai. Free flow of any goods other than that approved for the Government Agent's convoy is not allowed and nobody is told as to why such a restriction is enforced. Nobody is allowed to bring in any kind of fuel and motor cyclists are allowed only five liters of petrol in the tank. Sentry personnel measure the tank and return the passenger to Vavuniya to off-load anything more than five liters. No building material is allowed to be brought in by individuals. Medical supplies from the government to hospitals in Mullaittivu and Kilinochchi are subject to very stringent cuts and unnecessary delays.

Ambulances that take patients from the Wannu to Vavuniya are not allowed to pass through the check point, but patients transferred to military ambulances instead.

### **Refuge with Human Rights Commission in Jaffna**

People seek refuge with the Human Rights Commission in Jaffna on a daily basis for fear of military harassment or physical threats by armed groups. A total of 247 people sought refuge with the HRC in Jaffna during the year under review and were provided judicial protection in government prisons. Increasing number of people seeking refuge is an indicator to the poor law and order situation in the military occupied areas and the complicity of the military with the armed groups that threaten the civil society.

### **Mass round ups and arrests of Tamil civilians in Colombo**

Tamil civilians who are permanent residents of Colombo and who go to the capital city for various needs are rounded up during nights and taken to prisons on the pretext of security threat. Being a Tamil is enough for one to be picked up by the police and detained. There were occasions of mass arrests of Tamil civilians in boarding houses in Colombo and forcible eviction in military vehicles to Vavuniya.

### **Hostage taking of Tamil members of parliament preventing them from voting against the budget**

Relatives living with the TNA legislators in Colombo were taken hostage with the intention of preventing the TNA members from voting against the last budget in the parliament. Practice of democracy has gone to such low levels that Tamil legislators who are elected by the Tamil people are not even allowed to register their vote of protest against a budget that allocates large sums of money towards the war effort and thereby oppress the Tamil people.

### **Killing and disappearance of Tamil media personnel**

Five Tamil media personnel were killed and three disappeared during the year under review. Two Tamil electronic media institutions were ordered to be closed for mysterious reasons. Tamil media persons who went to collect news of UN's Human Rights Commissioner while she was in Jaffna were denied access and not allowed to report.

**NESoHR's responsibility** as a Human Rights body acting on behalf of the Tamil people is distinct in that, it represents a people who have strived hard for nearly three decades since independence from colonial rule to find their place in the governance of their affairs and repeatedly beaten up and pushed to the fringe of political frustration. A people who are subject to dictates of successive governments that always used the strong arm of law in dealing with them are the easy victims of human rights violations because no military treats occupied people with humane considerations. It is the absence of a political arrangement for the Tamil people to manage their affairs that make them a subject race under a tyrannical military that doesn't treat them as lawful citizens of this island.

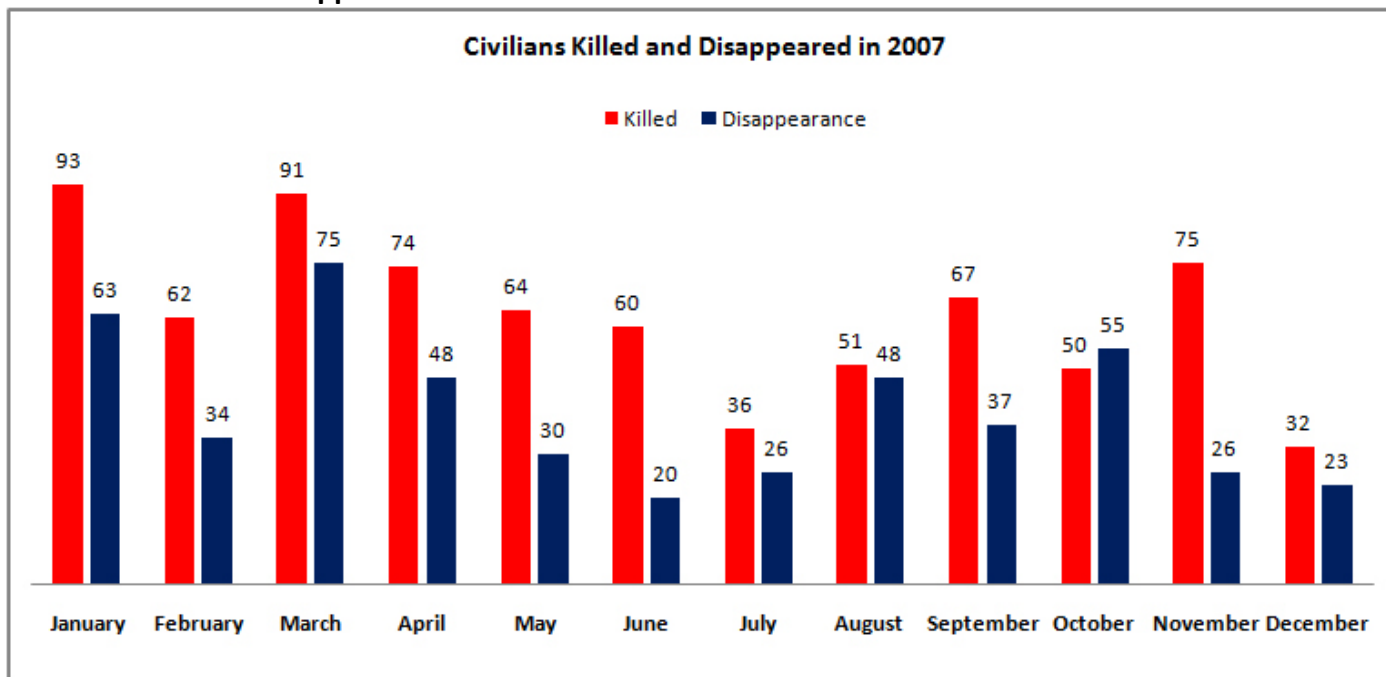
It is this pathetic political plight of the Tamil people that puts them in situations of human rights violations in the hands of the occupying military. Unless political changes are brought about to free the Tamil people from military rule and the whims of extremist elements in the South, they will continue to suffer the humiliations and denial of basic human rights. People in the civilized world who enjoy the benefits of democratic freedom have a duty by the Tamil people who have become victims of a wrongful transfer of power and sovereignty by the colonial rulers when they left the island. It is their advocacy for a just political resolution that NESoHR is soliciting in earnest.

The government of Sri Lanka has delivered an unequivocal message to the international community through its latest announcement relative to the option to terminate the Cease Fire Agreement (CFA). Simply said, the government's option is to resolve the national problem through military means. A full scale war is imminent. Also imminent is the full scale violation of human rights. Both parties accuse each other of violating the CFA. It is not NESoHR's intention to enter into a debate as to who fired the first shot but NESoHR does intend to straighten the record as to the spirit of the agreement and the government's failure to fulfill its obligation from the very beginning itself. The spirit, as far as we could see was to restore normalcy to a people who suffered for 25 years in the theater of war. Alleviation of hardships caused by the war was the underpinning theme of the CFA. Time frames were stipulated with a maximum of 160 days to restore normalcy in the military occupied areas.

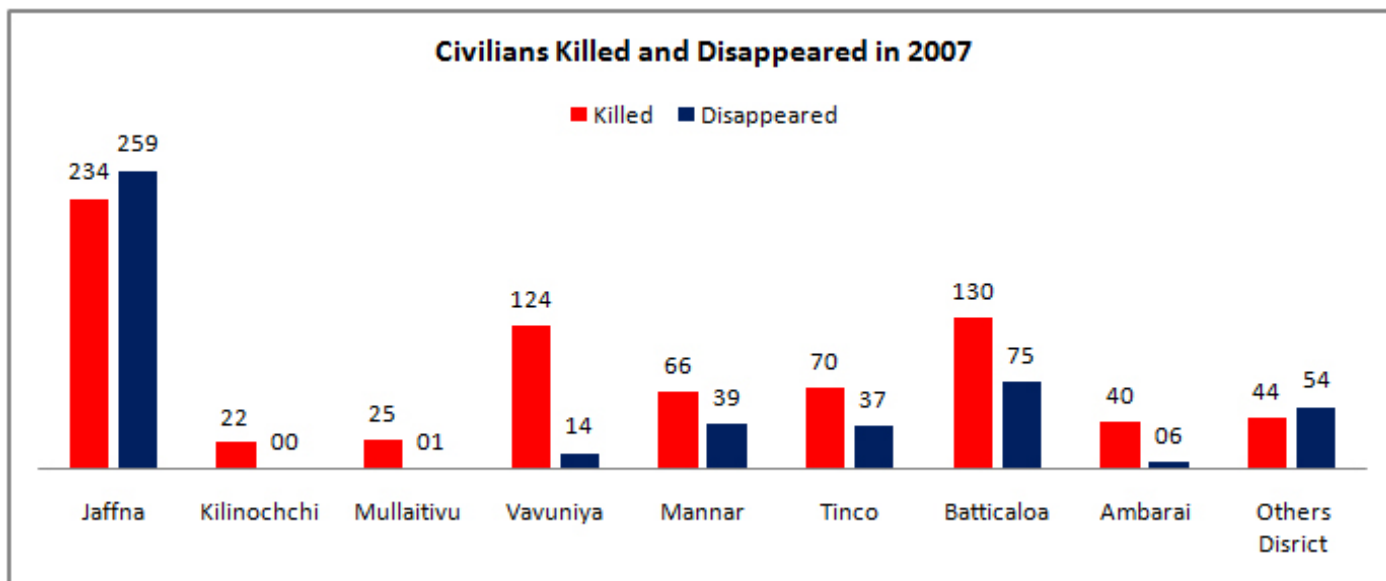
The government that entered into the CFA failed to fulfill its obligations and the government that succeeded aggravated the problem for political expediency, i.e. satisfying extremist elements in the South. Instead of restoring normalcy by a process of resettlement of the displaced persons, the present government has only displaced more people as a result of its military operations and aerial bombing in Vakarai, Sampur and many parts of Mannar. Empty

rhetoric that the door to political negotiations is still open has no meaning for the Tamil people. NESoHR therefore wishes to place the responsibility in the hands of the international community in general and the Human Rights organizations including UN's Human Rights Commission in particular to see the imminent danger in the termination of the CFA and interact effectively using all the HR instruments available.

### Civilians Killed and Disappeared in Sri Lanka - 2007



Source: SNE



Source: SNE

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