



Flygtningenævnets baggrundsmateriale

Bilagsnr.:	312
Land:	Sri Lanka
Kilde:	Amnesty International
Titel:	"Sri Lanka - A climate of fear in the east"
Udgivet:	26. april 2006
Optaget på baggrundsmaterialet:	26. april 2006

Previous

Sri Lanka

A Climate of Fear in the East

The human rights situation in eastern Sri Lanka has deteriorated dramatically over the last two years, as levels of violence have escalated, resulting in widespread human rights abuses and a climate of fear and insecurity. Ever since the signing of the 2002 ceasefire agreement (CFA) between the government and the Liberation Tigers of Tamil Eelam (LTTE) there have been large numbers of reported ceasefire breaches⁽¹⁾, including armed ambushes, abductions and intimidation, as well as human rights abuses under international law, such as politically motivated killings, torture and the recruitment of children as soldiers. Although such ceasefire breaches and human rights abuses have been regularly reported since the signing of the CFA in 2002, since February 2005 they have escalated in number and are now taking place on an unprecedented scale. While all communities are affected, the majority of the violence has been against Tamils.

While the east has always been volatile, the relative calm that followed the CFA was broken when the LTTE's eastern commander, known as Colonel Karuna, split from the LTTE in April 2004, taking with him thousands of cadres. Following the split, LTTE troops moved from the north into the east to engage Karuna and his cadres in battle, resulting in substantial casualties. Although Karuna disbanded his cadres and went into hiding after four days of fighting, this split has profoundly altered the political and military situation in the east. Since the split, the remaining elements of the Karuna group have continually ambushed and attacked the LTTE and those affiliated with it, while the LTTE has sought to regain control of the east through a violent crackdown, not just on Karuna supporters, but on any dissent within the Tamil community. The LTTE has accused the Sri Lankan Army (SLA) of providing support to Karuna's group, in the same way as the SLA has reportedly supported other Tamil armed groups opposed to the LTTE.

Initially following the breakaway of the Karuna faction in April 2004, the post-split violence was confined largely to the Batticaloa district. However, in 2005, it increasingly spread to Ampara and Trincomalee districts, where it has added to existing tension between ethnic communities. Tensions in the north and east escalated still further following the killing of Foreign Minister Lakshman Kadirgamar on 12 August and the state of emergency that was declared as a result. Towards the end of 2005 there was also a dramatic increase in violence in the north, with numerous killings and armed clashes between the LTTE and Sri Lankan security forces prompting fears of a return to war.

The December 2004 tsunami has further fuelled tensions in the east as tens of thousands of people have been displaced and many are living in temporary camps awaiting permanent relocation. Long-standing conflicts over land have been exacerbated by the mass displacement and displaced people are particularly vulnerable to the violence. Moreover, independent civil society representatives and organisations, which are so urgently needed at this time, are facing intimidation by both the LTTE and the Karuna faction, as both groups seek to strengthen their control over civil society.

None of the established human rights mechanisms have been able to effectively investigate human rights abuses, let alone facilitate justice or redress for victims of human rights abuses. The Sri Lankan Monitoring Mission (SLMM), established to monitor the CFA and composed of representatives from five Nordic countries, has been unable to effectively address the worsening human rights situation in eastern Sri Lanka. The SLMM is mandated to receive and enquire into complaints about breaches of the CFA, including killings and abductions, with parties to the CFA. However it does not have a mandate to independently investigate these breaches and can therefore do little more than raise the complaint with the allegedly responsible party. Likewise, international agencies with monitoring or protection mandates, including The United Nations Children's Fund (UNICEF), The Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Committee of the Red Cross (ICRC) receive complaints of human rights abuses in relation to their areas of competence, but are also in practice restricted to raising these concerns with the allegedly responsible party. The National Human Rights Commission (NHRC) is mandated to monitor and investigate violations by state actors only, although it does register complaints about abuses by the LTTE.

This was the situation found by an Amnesty International delegation when it visited the east of Sri Lanka in August 2005. During this mission the delegates travelled to Ampara, Batticaloa and Trincomalee districts and met with victims of human rights abuses, community representatives, civil society organisations, local and international NGOs, UN agencies and representatives of the police and local government. During their visit to Sri Lanka Amnesty International delegates also met with central government representatives in Colombo and LTTE representatives in their political headquarters in Kilinochchi.

Political killings

The current spate of politically motivated killings is among the most serious and widespread human rights abuses in the east. The majority of these unlawful killings are reportedly committed by the LTTE, although the Karuna group is also apparently responsible for a large number. Some killings also appear to be committed by other Tamil armed groups. The security forces have reportedly carried out a number of killings. During Amnesty International's visit to the east the organisation documented a number of alleged killings by the LTTE, the Karuna group and the Sri Lankan

Army. However, details of these killings are not provided in this report in order to protect the security of the victim's families.

Although the LTTE had reportedly continued to kill those it viewed as opponents since the signing of the CFA, the scale and scope of these killings has risen dramatically since the April 2004 split, with killings reported almost daily towards the end of 2005. According to the SLMM over 200 people were killed in 2005, although local organisations in the east believe that many killings go unreported and the actual figure is far higher.

Given the nature of the struggle between the LTTE and Karuna group to control the Tamil community in the east, it is inevitable that most of the victims of killings have been Tamil, although there have been some killings of Muslims and Sinhalese. However, the range of people being targeted by both sides appears to be expanding. While most of those killed immediately following the split had clear links either to the LTTE or the Karuna faction, increasingly many of those killed are civilians with little or no evident connection to armed activity, including journalists, academics, teachers and farmers, as well as former members of Tamil armed groups who have not been involved in armed activities for a long time. As the killings escalate, civilians are increasingly trapped between the two sides. They are often forced to cooperate with one group and then seen as complicit with them and targeted by the other.

Since the research for this report was carried out there has been a further escalation in killings, both in the east and north. Examples of recent killings include:

- On 24 December 2005, Tamil National Alliance MP and North East Secretariat on Human Rights (NESOHR) member Joseph Pararajasingam was shot and killed at a midnight church service in St Mary's Church, Batticaloa by unknown assailants
- On 2 January 2006 five high school students were killed in Trincomalee. Although the Sri Lankan army first claimed they were killed by a grenade that the students were carrying, following a post mortem it was revealed that the students had been shot, three of them in the head. The President ordered an inquiry into the killings.
- Three women from the same family, Bojan Renuka, Bojan Shanuka and Bojan Arthanageswary were shot and killed in their home in Manipay, Jaffna district on 15 January 2006 by unknown assailants.

Deliberate killings of civilians are breaches of international humanitarian law. The rules contained in Article 3 common to all four Geneva Conventions ("Common Article 3"), which apply in any situation of non-international armed conflict, represent a minimum standard that those engaged in conflict should never depart from and are considered customary law binding on all parties, including armed groups. Common Article 3 prohibits "violence to life and person, in particular murder of all kinds" against "persons taking no active part in hostilities" – including members of armed forces who have surrendered, been captured or are not taking part in hostilities because they are sick or wounded. Civilians lose this protection only if, and for such time as, they take a direct part in hostilities. While the LTTE often claims that those killed are spies or otherwise engaged in hostilities, this does not always appear to be supported by the facts.

Not only is the number and range of people being killed expanding, but so also are the areas in which killings are taking place. Initially following the split the killings were mainly in Batticaloa district, but in 2005 killings were reported from Ampara and Trincomalee districts, as well as from Jaffna and other areas in the north.

People interviewed by Amnesty International in the east said that the widespread political violence is increasingly fusing with criminal violence, further confusing the situation and heightening the population's sense of insecurity. For example, it is reported that people are using the split between the LTTE and the Karuna group to settle personal grudges, by accusing each other of involvement with one or the other side. The killings are creating a climate of fear and insecurity and many of those who can afford to do so are leaving the east in order to escape the violence.

On 3 August 2005, an unidentified woman's body was found raped and strangled in a locked hall at the Central College, Batticaloa. The judicial inquiry into the woman's death showed that she had been tortured and raped before being killed by a blow with a blunt object to her head. Police informed Amnesty International delegates that they believe that the woman was an LTTE member who was gathering information on the Karuna group's activities. If this is the case, it is the first case known to Amnesty International where rape has been used in the context of the recent political killings.

The vulnerability of civilians to this violence has been increased by the huge displacement following the tsunami. Those living in internally displaced persons (IDP) camps have little security or opportunity to escape and go into hiding if they are threatened by an armed group and are therefore extremely exposed⁽²⁾. Some of those living in tsunami IDP camps have been killed, reportedly by the LTTE. Moreover, the Deputy Inspector General of Police (DIG), Eastern Range, told Amnesty International that tsunami IDP camps are becoming a common site for armed attacks on security forces. Accordingly the security forces have reduced their presence in some of the camps, resulting in the withdrawal of state protection for this vulnerable population.

For the families of those killed by armed groups, there is no possibility of redress or reparation. Many of them are too afraid to report the killings and are themselves living in fear of further attacks. Although the police have responsibility for investigating the killings and arresting the suspected perpetrators, the DIG Eastern Range told Amnesty International that the police cannot effectively investigate political killings and that "we have no way of catching those responsible and we cannot provide special protection to individuals who are at risk unless they are politicians or other important people". When families report killings to the SLMM, the SLMM can only make enquires of the Sri Lankan

state and LTTE. The SLMM has no mandate to address the Karuna group, which is not a party to the ceasefire.

Under international human rights law Sri Lanka has an obligation to protect all those within its jurisdiction (which includes those in the areas of the country under LTTE control) from abuses by armed groups or other non-state actors. This obligation of "due diligence" requires the state to take steps to prevent the killings and to ensure that those who commit them are brought to justice and that the families of those killed are able to obtain redress. While Amnesty International acknowledges the difficulties of the Sri Lankan context, the authorities do not appear to have made sufficient efforts to do this, despite the fact that the majority of killings have taken place in government controlled territory.

The one initiative taken by the authorities to address the killings was the establishment of a Presidential Commission of inquiry into the alleged attacks on LTTE cadres in Batticaloa and Ampara districts. This was in response to LTTE concerns following the killing of the LTTE's eastern commander, Kaushalyan, in February 2005, apparently by the Karuna group. The Presidential Commission was appointed in March 2005 and held hearings in Ampara in March and Batticaloa in April. However, the scope of the inquiry was limited to a small number of killings of LTTE cadres and the only witnesses who gave evidence to the inquiry were members of the security forces and the SLMM. No civilians or civil society representatives appeared before the inquiry, partly due to security concerns. The findings of the inquiry have still not been made public.

It appears that the Presidential Commission was a missed opportunity to comprehensively investigate and address the climate of violence in the east and the spiralling killings committed by all parties. In so severely restricting the scope of the inquiry and failing to facilitate the participation of civil society, including by failing to provide adequate security and confidentiality for civilian witnesses, it will be difficult for the commission's findings to effectively address the complex nature and causes of the violence in the east or make meaningful recommendations to end the violence and protect those most vulnerable.

Recruitment of child soldiers

Agencies working with children reported that, before the April 2004 split between the LTTE and the Karuna faction, there was a real sense that the LTTE might be prepared to end its practice of child recruitment. However, following the split and Karuna's release of an estimated 1,800 child soldiers, there was widespread re-recruitment of these children by the LTTE throughout the rest of 2004.

There was a lull in reports of child recruitment immediately following the tsunami, but reports rose again during summer 2005 as children were recruited at temple festivals. UNICEF reported that in July there were 97 reported cases of child recruitment, 55 from Batticaloa district alone⁽³⁾. It therefore appears that the large international presence following the tsunami has not significantly helped to protect children from recruitment. It is widely believed that the escalation in child recruitment since 2004 is due to the LTTE's attempts to make up for the cadres they lost due to the Karuna split, regain control of the east and ready themselves for any potential return to war. Many of the recruited children are forcibly abducted by the LTTE, while some others do choose to join.

The use of children under 15 years old in armed conflict is prohibited by Article 38(3) of the Convention on the Rights of the Child, to which Sri Lanka is a state party. The practice is also classified as a war crime by the Rome Statute of the International Criminal Court.⁽⁴⁾ The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, to which Sri Lanka is a state party, prohibits states from compulsorily recruiting children under 18 into their armed forces, and places an obligation on states to take all feasible measures to prevent non-state armed groups from recruiting (including voluntarily) and making use of children under 18 in hostilities. Such measures should include the adoption of legal measures to prevent and criminalize such practices.

The Action Plan for Children Affected by War, signed in 2002 by the Government of Sri Lanka, LTTE, UN agencies and NGOs, was intended to provide comprehensive support for conflict affected children and included a framework for the release and re-integration of child soldiers. However, much of the Action Plan has not been implemented and the LTTE has failed to live up to its commitments to end recruitment and release children in meaningful numbers. The transit centres built to house released children have rarely been used and local people Amnesty International met with in the east expressed a sense of frustration and hopelessness at the continued recruitment.

In Batticaloa district, parents told Amnesty International that child recruitment by the LTTE is widespread in government controlled areas and that it is mostly children over 14 years old who are being taken. Local people and agencies working with children believe that less recruitment is taking place in LTTE controlled areas, even allowing for the fact that it is more difficult for families living in LTTE areas to report incidents to UNICEF or other human rights organizations. Parents described how children are being recruited at particular roadside junctions and named the LTTE cadres they believe are responsible. They also reported that the Karuna group is forcibly recruiting children, although there is little concrete information available on this and people appeared afraid to talk about it.

Those with teenage children reported being afraid that their children may be recruited by the LTTE and accordingly some had sent children away to live with relatives in other areas or withdrawn their children from school in the hope of preventing recruitment.

In Batticaloa district, local people told Amnesty International delegates that eight children were abducted by the LTTE from Sittandy, Batticaloa, on the afternoon of 22 August 2005. They also reported that eight children were abducted on the night of 4 August and four children were abducted on the morning of 8 August, from Morakotanchenai, Batticaloa.

Amnesty International delegates raised the issue of child abduction and recruitment with the police in Batticaloa and

asked what measures were being taken to protect children. Police officials agreed that child recruitment is a serious problem, but rebutted the suggestion that it is taking place in any particular location or that increased police presence in any particular area may help protect children against recruitment.

In Trincomalee district, organisations working with children informed Amnesty International that most recent reports of child recruitment were from Trincomalee town, with fewer reports from LTTE controlled areas. As in Batticaloa, it was reported that most children being recruited are in their mid to late teens.

During Amnesty International's visit, on 23 August, the LTTE released 21 15-17 year old child soldiers to the NESOHR (5). Since then, there have been some further releases to NESOHR. While these are welcome, such occasional small-scale releases are far from the comprehensive demobilization of child soldiers envisaged in the Action Plan, and required under international law. Likewise, the release to NESOHR does not follow the mechanisms for release laid out in the Action Plan. Local NGOs told Amnesty International delegates that despite the LTTE's reluctance to formally release children, it does allow some children to run away, particularly those whose cases have been repeatedly raised by UNICEF or other agencies. By allowing children to run away, the LTTE is denying them a formal release - including release papers that prove they have been released and help protect them from re-recruitment - leaving open the option to re-recruit them in future if needed.

Amnesty International delegates spoke to one mother who alleged that her underage son had been recruited by the LTTE in July 2005.

Her son had gone to run some errands and then to visit relatives. When he did not return the next day his mother realised that he may have been recruited and went to the LTTE controlled area to enquire about him. LTTE officials reportedly told her that her son had voluntarily joined the LTTE forces and had been sent for training. They asked for her address and requested that she sign a blank piece of paper.

The mother later heard that some other boys who went missing at the same time as her son have since escaped from LTTE forces. She therefore enquired again about her son and an LTTE official told her that her son had also escaped. She still does not know the whereabouts of her son and fears that he may be either still with the LTTE or may have been taken into the custody of the security forces following his escape.

The mother has reported her son's suspected recruitment to the police, UNICEF, NHRC and ICRC.

Throughout the east, Amnesty International heard about new village based military training in LTTE controlled areas, in which all civilians aged 15 to 50 are compelled to participate. They also heard about a new type of six month residential military training, being run by the LTTE, after which people are allowed to continue their civilian lives, but remain available for military duties. It is not clear to what extent children are involved in these types of training, but given the history of child recruitment by the LTTE, there are concerns that these may prove further opportunities for child recruitment.

There is little recourse for families whose children have been recruited. Complaints directly to the LTTE do not usually produce results and where families report to external agencies, such as UNICEF or the SLMM, these agencies can raise the case with the LTTE but are unable to compel the LTTE to release the children. NGO representatives in Batticaloa told Amnesty International delegates that families are threatened by the LTTE not to report child recruitment and are told "if you report to the internationals you will only see the body of your child". Faced with such threats and with the inability of agencies to gain release, it is unsurprising that many cases of child recruitment go unreported.

Amnesty International raised concerns about child recruitment with the LTTE. In response the LTTE denied that it knowingly recruits children and stated that some children do seek to join the LTTE by disguising their age. LTTE officials claimed that once such children come to the notice of the LTTE they are immediately released and returned to their families. This is the answer that the LTTE has consistently given in response to questions about child recruitment; however, it is contradicted by the accounts of many parents and the reports of UNICEF and other organisations working with children.

Abductions

Amnesty International has received regular reports of abductions of adults by the LTTE following the 2004 split. Most of those abducted have reportedly been Tamil civilians whom the LTTE suspects of working against it or whom it wishes to interrogate. Some victims of abductions, who have since been released, have told Amnesty International how they were taken to LTTE camps and subjected to torture and ill treatment.

Local sources told Amnesty International that the actual number of abductions is far higher than reported, as many families do not report the abduction of a family member to any authority, but seek their release directly from the LTTE.

In Batticaloa district, Amnesty International delegates met with five women whose husbands or sons had been reportedly abducted by the LTTE (see Annex 1). All these women had enquired with local LTTE officials, as well as reported the abduction to the ICRC, SLMM, National Human Rights Commission and Sri Lankan police. However, none had received any clarification of their family member's whereabouts from the LTTE, nor had there been any meaningful investigation by the police. The women told Amnesty International that in July 2005 they had made a collective representation to Father Karunaratnam, Chair of the NESOHR, who expressed surprise at the reported abductions and promised to investigate them. However, the women have not received any further information from the

NESOHR. Amnesty International raised these cases with LTTE officials, who promised to investigate. The women have not subsequently received any further information from the LTTE.

Inhumane treatment of persons taking no part in the hostilities is prohibited by Common Article 3 of the Geneva Conventions. Contrary to this prohibition, many of those abducted are held for prolonged periods with no contact with their families. In addition, there are allegations that some of those abducted are subjected to torture and ill-treatment which, in addition to being a breach of Common Article 3, also constitutes a war crime under the Rome Statute(6). Abductions are prohibited under Article 1.2 of the CFA.

It is reported that, in addition to abducting those that it suspects of opposing it, the LTTE also forcibly recruits adults into its forces, with young adults who were disbanded by Karuna following the split being particularly targeted. Local sources reported that young men demobilized by Karuna are leaving the east and many are attempting to travel abroad in order to escape harassment and forced re-recruitment by the LTTE. Local NGOs told Amnesty International that while previously only unmarried people had been recruited, married people are now being forcibly recruited and the LTTE is telling local populations that being married is no protection from recruitment.

Amnesty International heard unconfirmed reports that Karuna's group has also been forcibly recruiting adults but no concrete evidence was available on this. Some agencies in Batticaloa reported that local people are being offered money, both by the LTTE and the Karuna group, to join their respective forces.

While UNICEF is mandated to collect reports of child recruitment and provide protection and support to children and families, there is no agency responsible for supporting adults at risk of forced recruitment and the issue remains largely hidden.

Harassment and extortion

As well as facing the threat of direct violence, much of the population in the east experience regular intimidation, harassment and extortion, primarily by the LTTE, but also reportedly by the Karuna group. Intimidation, extortion and harassment are prohibited under the CFA.

On 2 August 2005, the LTTE held a rally in Batticaloa town, to which local businesspeople were told to bring their employees, teachers their students, and NGOs their beneficiaries. LTTE members travelled around the area collecting local people for the rally. However, local agencies told Amnesty International that the Karuna group had been spreading a message that anyone who participated in the rally would be killed. While many people did ultimately attend the rally, participation was apparently less than at previous such rallies. This incident is a clear demonstration of how Tamil civilians are trapped between the LTTE and the Karuna group and, in being forced to comply with the demands of one, run the risk of retaliation by the other.

The population in the east also experience extortion by the LTTE. Extortion is prohibited under the CFA. Serious concerns about levels of extortion were raised with Amnesty International by Tamil and Muslim businesspeople. They reported that businesspeople and others with a substantial income are "taxed" 5-10 % of their income by the LTTE and that those who refused to pay face the threat of being harassed or abducted. Businesspeople described the problems that this poses for them, not just through loss of income, but also because they cannot show taxes to the LTTE on their records, causing administrative problems. It was reported that those returning from the Middle East, where many Sri Lankans migrate for work, are particularly targeted for extortion and that some people do not keep bank accounts because they believe the LTTE can access their account details.

Many people interviewed by Amnesty International in Batticaloa reported that the Karuna group is also taxing the local population. The DIG Eastern Range told Amnesty International that the police believe that the murdered woman whose body was found in the Central College Batticaloa may have been sent by the LTTE to collect information on which businesspeople in Batticaloa town are providing money to the Karuna group. This again illustrates the way in which civilians are caught between the two sides and those who experience extortion by the Karuna group may face threats from the LTTE.

The Muslim community

There is a long history of distrust between the Tamil and Muslim communities living in the east of Sri Lanka(7). There has been a partial improvement in the relationship since the CFA as the LTTE has sought to assure the Muslim community that it does not pose a threat to them. As tensions in the east have escalated Muslims have faced serious violence. For example, a grenade attack on a mosque in Akkaraipattu, Batticaloa district, on 18 November 2005 killed four people and injured more than twenty. It is not clear who was responsible for this attack.

The Muslim communities that Amnesty International delegates met with in Ampara and Batticaloa districts all reported incidents of harassment by the LTTE and expressed concern that the insecure security environment following the LTTE split and the deterioration in the peace process have increased their vulnerability. Some Muslims reported feeling threatened by both the government and the LTTE. One man in Kalmunai, Ampara district, told Amnesty International delegates, "In Ampara nobody has security. The Sinhalese are afraid of the LTTE, the Tamils are afraid of the government and the Muslims are afraid of both." In addition, Muslim representatives expressed frustration at their exclusion from the peace negotiations(8) and their lack of equal inclusion in Post-Tsunami Operational Management Structure(9).

Muslim leaders alleged that their communities face a variety of threats and abuses, primarily from the LTTE. They reported that Muslim businesspeople have been warned by the LTTE not to do business in Tamil areas and that, due

to the worsening security situation, Muslim farmers no longer feel safe to spend the night in their paddy fields as they used to. They reported widespread extortion by the LTTE, for example being forced to pay "taxes" on any timber that they cut. However, Muslim communities allege discrimination also by the local government authorities. Some representatives described how in July 2005, when a man from their community died, the district authorities refused to allow them to bury the body in the graveyard that they had previously used, saying that their burial rights had been withdrawn. While Amnesty International is not aware whether the local government had a legitimate reason for withdrawing the burial rights, it is clear that this community believes it to be an act of discrimination.

In Kattankudy, Batticaloa, a Muslim community, displaced to the coast by the conflict in 1990 and displaced again at the end of 2004 by the tsunami, has returned to its original pre-1990 land in Ollikalum, where they have established a tsunami IDP camp and hope to rebuild their original village.

Representatives of this community described to Amnesty International the harassment that they have been facing following their return to their original land. They reported being told by neighbouring Tamil villagers and the LTTE that, if they did not move from the area, their well would be poisoned and they may be killed.

The Muslim villagers described to Amnesty International delegates a number of recent incidents of harassment in their new camp. Recently, some strangers had come to the camp in the night and dug a grave that appeared to be a human grave. When the community saw the grave in the morning, they were very scared. However, when they dug up the body they discovered it was just a cow. Likewise, in August, the loudspeaker from the mosque in their camp was stolen. This loudspeaker is used not just for prayer, but also to call people to collect rations. Immediately before it was stolen there had been an incident in which the neighbouring Tamil population had tried to collect rations but were refused because they were not tsunami IDPs. The Muslim community feel that these acts are intended to intimidate them and drive them away.

The Muslim community in Kattankudy also described the failure of the police and local government to provide them with protection or support, including adequate government support to resettle on their original land. They reported that their complaints that their land had been encroached were ignored by the local authorities. They believe that this was due to LTTE influence over and threats against local government officials.

By far the biggest concern that the Muslim community expressed was regarding land. The issue of land has long been highly contentious and has fuelled much of the conflict among the three communities in the east. All three communities have in the past experienced displacement and loss of land due to conflict and have had their land encroached by other communities. For example, a substantial Sinhalese population was moved into the east by the Sri Lankan authorities, resulting in others being pushed from their land, while Muslim communities have also been driven away from their agricultural land in the interior and towards the coast by LTTE activities. Each community has deeply felt grievances regarding land.

The existing tension over land has been greatly exacerbated by the tsunami and the government's policy of relocation of all of those who lived within 200 metres from the average high water line⁽¹⁰⁾. Each community told Amnesty International of their concern that others will use the relocation as an opportunity for further "land grabbing". This was most strongly expressed by the Muslim community in Batticaloa district, which was greatly concerned that the LTTE are using tsunami relocation to settle Tamil populations on what they claim is traditionally Muslim land. However, LTTE representatives also told Amnesty International that both Muslim and Sinhalese communities are using the tsunami relocation to settle what they claim is traditionally Tamil land.

Climate of fear

The tense and confused situation in the east, in which it is often unclear exactly who is a supporter of which group or who is responsible for particular human rights abuses, makes the situation very dangerous for local people trying to negotiate these uncertainties.

There have been increasing numbers of armed clashes between the LTTE and Sri Lankan security forces and between the LTTE and the Karuna group. The LTTE have stated that the Karuna group is being supported by the Sri Lankan army, something which appears possible given the Sri Lankan army's history of supporting rival Tamil armed groups. However, there is no information on exactly what form such support might take. Generally, little is known about the structure of the Karuna group and it is unclear whether it is a distinct group with its own camps or a more fluid network.

Other Tamil armed groups continue to be active, although to a far lesser extent than the Karuna group. For example, some recent killings in the north and east have been attributed to the Eelam People's Democratic Party (EPDP), including the killing of a Gramasevaka (local government official) on 19 October 2005 in Vavuniya district.

The LTTE, concerned by the many attacks on its cadres by the Karuna group, has closed many of its political offices in the east. While some local people reported this has provided the local community with more freedom and less scrutiny by the LTTE, others suggested that it has also cut off one of the potential avenues for complaint and redress for those who are the victims of LTTE abuses.

The LTTE has been attempting to regain control of the east since the Karuna split in 2004 and local organisations reported that it is using the tsunami reconstruction process as an opportunity to do this. According to reports, local NGOs in the east are coming under pressure to work with the Tamil Rehabilitation Organisation (TRO)(11) in tsunami reconstruction activities and the LTTE is also seeking to attract more NGOs and development organisations into the areas under its control. Local NGOs told Amnesty International delegates that their activities are increasingly restricted by the LTTE and they are frightened to work in LTTE controlled areas. Local organisations reported that the LTTE/TRO domination of the tsunami response is significantly reducing the space for independent civil society.

The civilian population is suffering the most in this situation, as they come under pressure from all sides and face a continual threat of violence. Families and communities are split as they are caught up in the rivalry between the LTTE and the Karuna group. Moreover, the tsunami has increased the civilian population's vulnerability to the violence and harassment. Families have been separated by the displacement, breaking down existing structures of protection, and people living in camps are highly visible and less able to hide.

Amnesty International delegates found that the civilians and representatives of local NGOs that they interviewed were afraid to speak openly and that most would only talk about the intimidation and violence on condition of anonymity. This silencing of civil society and the local population is extremely problematic, especially given that a large-scale post-tsunami reconstruction process is underway and it is vital that the local community are able to freely participate in consultations and express their views and needs.

Many people reported to Amnesty International that people living in the east are trying to leave the area in order to escape the intimidation and violence. Likewise, local agencies working with conflict IDPs reported that many of those who had been resettled in LTTE controlled areas following the CFA are now leaving their resettlement areas and returning to government controlled areas, as they are afraid of harassment, recruitment and killings. Local NGOs told Amnesty International delegates that people are afraid to participate in development programmes and are increasingly staying at home or within their local area.

The climate of fear was further increased by the declaration of a State of Emergency on 13 August 2005, in response to the killing of the Foreign Minister, Lakshman Kadirgamar, on 12 August. Tamil communities in all three eastern districts told Amnesty International that they had experienced increased harassment by the security forces following the declaration of the state of emergency, while local NGOs reported that increased roadblocks were causing delays in transporting aid and hindering access to LTTE controlled areas.

In Karaitivu, Ampara district, representatives from an IDP camp for Tamils displaced by the tsunami told Amnesty International delegates that they had faced heightened security problems following the declaration of the State of Emergency. In one incident, all the residents had to flee the camp in the middle of the night and hide outside the village because of firing near the camp by the police Special Task Force (STF). They reported that there were increased check points in the area and that they were more frequently being asked to show their identity cards by the security forces. Community representatives said that due to the security situation their children are no longer able to attend evening classes because, when coming home in the evening, they have heard shots or seen activity by the security forces and have had to hide in fields for some time rather than return directly home. A number of Tamil IDP communities reported that they are particularly vulnerable to security force harassment because they are living in temporary camps and that, if there was any incident nearby, the security forces would immediately search their camps.

When Amnesty International raised these concerns with the DIG Eastern Range, he stated that the state of emergency had not brought any change in policing or increase in roadblocks. However, the state of emergency, declared in a situation which is already so volatile, has unquestionably resulted in a heightened sense of fear.

Conclusion

It is clear that, as the situation in the east - and now also in the north - deteriorates and civilians are increasingly targeted and caught up in the violence, the improvements in the human rights situation made since the signing of the CFA are being rapidly reversed. Comprehensive and urgent action is needed to address the situation. This must include a renewed commitment by the government and the LTTE to respect human rights and end abuses, as well as strong human rights investigation, monitoring and documentation.

There are a number of existing bodies addressing human rights concerns in Sri Lanka, each of which play an important role, but none of which has the comprehensive mandate or access necessary to effectively carry out human rights monitoring across the north and east. The SLMM is limited to monitoring breaches of the CFA and does not have investigative powers. It also faces heavy criticism from some elements of Sinhalese polity and civil society. The NHRC, which both parties to the conflict identified at the last round of talks as the body that should play the lead role in monitoring human rights throughout the country, has itself acknowledged that this is not possible and that no national human rights entity can effectively monitor human rights in the north and east. In 2004 the LTTE established the NESOHR to monitor the human rights situation in the north and east. However this body has limited autonomy, and capacity and security constraints restrict its access to the east. In addition to these bodies, UN agencies including UNICEF and UNHCR monitor and document human rights abuses, but only in the areas of their mandate.

At the last round of talks in April 2003 the human rights adviser to the peace process, Ian Martin, was asked to draw up a human rights declaration to be adopted by both parties as the basis of further monitoring. However, when the LTTE withdrew from the talks plans for human rights monitoring as part of the peace process did not proceed any further. In the light of the deteriorating human rights situation and the continued failure to restart peace talks, it is clear that new models need to be developed for effective human rights monitoring.

Recommendations

- The LTTE and other armed groups must end all abuses, including, killings of civilians, abductions and torture and ill-treatment, in accordance with their obligations under international humanitarian law.
- The LTTE must immediately demobilise and end the recruitment and use of child soldiers under the age of 18. The government of Sri Lanka should take all feasible steps to ensure that it does so, in line with its obligations as a party to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, including by putting in place legal measures to prevent and criminalise the practice.
- The government of Sri Lanka must take all possible steps to protect the civilian population by doing all it can to put a stop to abuses by armed groups, bring the perpetrators to justice in accordance with international fair trial standards and ensure that the victims obtain reparation and redress.
- An effective international human rights monitoring presence must be established. This should ensure unhindered access by human rights monitors to both government and LTTE controlled areas; facilitate the systematic independent investigation and documentation of abuses; provide support and training to local human rights bodies; and act as a respected, senior interlocutor on human rights with the parties to the conflict.
- There must be an effective independent investigation into all alleged killings by the security forces and armed groups in the north and east. It should be mandated to establish the facts and conduct an analysis within a framework of relevant international law, and its recommendations should include measures to provide redress for past abuses, including bringing perpetrators to justice, as well as measures to prevent such abuses in the future. Its conclusions and recommendations should be made public.
- When peace negotiations recommence, all parties must give priority to including a comprehensive human rights agreement as a key element.

Annex 1 – Alleged cases of abduction by the LTTE reported to Amnesty International in Batticaloa, August 2005

Sabaratham Navaratham

Sabaratham Navaratham, aged 39, a driver and mechanic, was allegedly abducted by the LTTE on 21 June 2003. He was reportedly taken from his home in Batticaloa district by a man who told him that an official from the LTTE intelligence wing wanted his assistance in buying a car. He never returned.

According to his family, Sabaratham had no previous relationship with the LTTE and the family have not experienced any problems with the LTTE in the past.

A month after his abduction, following enquiries by the family, LTTE officials apparently admitted that he had been taken by the LTTE and that he would be released following an inquiry. However, Sabaratham's wife later met with a different LTTE official who informed her that it would take three years to release her husband. Then in February 2004, after many efforts to meet with senior local LTTE officials, Sabaratham's wife was finally told by an LTTE official that her husband is one of a group of 60 people being detained by the LTTE. However, the LTTE official did not tell her where or why he is being held.

Sabaratham's family reported his abduction to the police, the ICRC, SLMM and NESHOR.

Sivasubramaniam Nesarasa

Sivasubramaniam Nesarasa, aged 27, was allegedly abducted by the LTTE on 12 November 2000, from Kaluwankerny, Batticaloa district where he had gone to collect wood. His mother, Kathiramalai Kanmani, was informed of the abduction by a witness, who told her that four LTTE cadres had taken her son away.

Following Sivasubramaniam's abduction, his mother repeatedly met with LTTE officials to ask about her son's whereabouts, but the officials either denied that he had been taken or told her that they did not know about her son's case. Eventually, she was told by an LTTE official that her son had been charged by the LTTE with beating someone. In April 2004 she was told that her son had been taken to an LTTE controlled area in the north. Sivasubramaniam's mother believes that he was abducted because he had refused to join the LTTE.

Sivasubramaniam's family reported his abduction to the police, ICRC, NHRC and NESHOR.

Ganeshan Vasantha Reuban

Ganeshan Vasantha Reuban, aged 26, was allegedly abducted on the evening of 9 September 2003 from Morakotanchenai, Batticaloa district. He was reportedly taken away on a motorbike by a member of the LTTE intelligence wing.

Following his abduction, Ganeshan's mother, Veerapaththiran Vasantha, was told by the LTTE that that he had been taken to Pangudaveli. When she went there to enquire about him LTTE officials told her that they were holding her son but that they would release him soon. However, Ganeshan has still not been released. His mother has been told by LTTE officials that there is "a problem", but that he will be released following an inquiry.

The family have reported Ganeshan's abduction to the police, ICRC, SLMM and NESHOR.

Alex Christopher Michael

Alex Christopher Michael, aged 32, was reportedly abducted on 23 January 2002 by two members of the LTTE political wing.

The day after his arrest, Alex's wife met with the LTTE political wing officials who admitted to taking him and who reportedly told her that they had handed him over to the LTTE intelligence wing. Following this Alex's wife made repeated attempts to meet LTTE officials about the case, but was consistently told that they would make inquiries and let her know.

In September 2004, a man who had been abducted by the LTTE, but later released, told Alex's wife that her husband was in the Vanni. Alex's wife believes that her husband, who comes from Colombo, is being held as punishment for refusing to help the LTTE in its operations in Colombo.

The family have reported Alex's abduction to the ICRC, SLMM and NESHOR.

Kanapathipillai Devadas

Kanapathipillai Devadas, aged 28, was reportedly taken from his home in Batticaloa district on the night of 19 July 2002 by four LTTE cadres. He had previously been an LTTE cadre for six years before surrendering to the security forces. Following his surrender he had worked for the security forces.

Following his arrest, Kanapathipillai's wife met with local officials from the LTTE political wing who told her that her husband was in Karadiyanaru. However, when she went there to enquire she was told by a member of the LTTE intelligence wing that he was not being held there. Despite persistent enquiries by the family there has been no further information from the LTTE on Kanapathipillai's whereabouts.

Kanapathipillai Devadas's wife reported his abduction to the police, ICRC, SLMM and NESHOR.

Ganeshan Pulainthiran

Ganeshan Pulainthiran was reportedly abducted by the LTTE on 4 May 2004, after he was summoned to attend an inquiry at LTTE offices in Illuppadichchenai, Batticaloa district. His wife was told that he would be released after this inquiry, but he was not.

Since his abduction, Ganeshan's wife has continually visited local LTTE offices to ask about his whereabouts, but has not been given any information.

The family have reported Ganeshan's abduction to the Non-Violent Peace Force, ICRC and NESHOR.

(1) Article 2.1 of the CFA states that "the parties shall in accordance with international law abstain from hostile acts against the civilian population, including such acts as torture, intimidation, abduction, extortion and harassment." Article 1.2 states that parties will not engage in any offensive military operations, including "the firing of direct and indirect weapons, armed raids, ambushes, assassinations, abductions, destruction of civilian or military property, sabotage, suicide missions and activities by deep penetration units", among others.

(2) At the time of Amnesty International's visit in August 2005 approximately 350,000 people remained internally displaced by the conflict, living in camps across the north and east. Approximately 450,000 remained displaced by the tsunami, living in camps along the coast.

(3) UNICEF accepts that only a fraction of cases are reported to it. Therefore the total number of cases of child recruitment is likely to be far higher than these reported figures.

(4) Article 8(2)(c)(vii) of the Rome Statute of the International Criminal Court regarding non-international armed conflicts.

(5) The North East Secretariat on Human Rights was established by the LTTE in July 2004 as a body to promote and protect human rights in the LTTE controlled areas in the north and east.

(6) Rome Statute, Article 8(2)(c).

(7) In the early 1990's the LTTE expelled over 40,000 Muslims from the north, the majority of whom remain displaced.

(8) Peace talks between the government and the LTTE began after the signing of the CFA in September 2002. There were six rounds of talks until the LTTE unilaterally suspended further talks in April 2003.

(9) An agreement between the government and LTTE on the joint administration of tsunami relief funds. This was signed in May 2005, but was never implemented due to a stay order placed on key elements of the agreement by the Supreme Court in July.

(10) This "buffer zone" has been set at 200 metres in the north and east and 100 metres in the south and west. The government's justification for this difference is the more devastating impact of the tsunami in the north and east.

(11) The TRO is a development organisation closely affiliated to the LTTE.

Previous