

One year on: counter-terrorism sparks human rights crisis for Sri Lanka's minorities

Introduction

On 6 December 2006 the Sri Lankan government promulgated a set of tough new laws to counter terrorism. The laws define a 'terrorist' in very broad terms, giving wide powers to the police to arrest and detain on suspicion of terrorism. In the last 12 months the Sri Lankan government has not hesitated to use these laws, and the country's human rights situation has severely deteriorated. Under a general climate of impunity, 2007 has largely been marked by intense warfare, mass displacement, killings, abductions and torture in Sri Lanka. In all of this it is the country's minorities – Muslims, and to a much greater extent, ethnic Tamils – who have been the worst affected.

Armed groups continue to kill, attack, abduct, torture, harass and extort from innocent people, mostly minorities.¹ Meanwhile, counter-terrorism laws are used to arrest and detain hundreds of Tamils, to cordon, search and harass minorities, and to create High Security Zones (HSZs) claiming vast areas of minority lands, thereby affecting livelihoods. Counter-terrorism laws are also used to gag the media and suppress aid agencies and human rights organizations.

The Sri Lankan government has justified its actions as part of a global commitment to fighting terrorism – this is its 'war on terror'. Twelve months after the government introduced these tough new counter-terrorism laws, this briefing paper will look specifically at violations committed by the government in this 'war on terror', at crimes committed by the Tigers and other militant groups during this period and the impact of both sides' actions on Sri Lanka's minorities.

The specific emphasis in this paper on militant action and the government's response to it. This is not to deny the existence of several other types of violations and humanitarian issues that exist in Sri Lanka. But the government's continuing violations of human rights in the guise of a 'war on terror' deserves serious attention, particularly on the manner in which the government's position has turned into a war against minorities. The counter terrorism climate and the violent response of the rebels has defined much of 2007. Terrorism is a pressing aspect of the country's current predicament, while counter terrorism has international justification. Both are heavily and negatively affecting minority populations – often the most vulnerable people in society.

This paper's focus on minorities does not nullify the effects of renewed conflict, and human rights violations, on the majority Sinhalese. However it is undeniable that the impact of recent events on the two minority communities has been highly disproportionate to their population ratio. In almost every identifiable mass human rights violation, Tamils and Muslims constitute the largest number of victims; in some cases the majority community is unaffected.

The events of this year sit in the context of more than two decades of violence, where Sri Lanka's largely Sinhala Buddhist military has been battling one of the world's deadliest

militant groups, the Liberation Tigers of Tamil Eelam (LTTE) or Tamil Tigers. The Tigers are known as the pioneers of modern day suicide bombing and are infamous for child conscription. They have been fighting for a separate state for ethnic Tamils² in the north and east of Sri Lanka, but a mass of human rights abuses including the killing of moderate Tamils and political opponents, and child abductions and extortions, have isolated them from the political mainstream both at home and abroad and even from sections of the Tamil population they claim to be fighting for. In 2002, a cease-fire agreement was signed, but a few years later began to erode.

The downward spiral that has marked 2006–7 intensified in August 2006 when Tamil Tiger rebels closed the sluice gates in a small town called Maawil Aru in north-eastern Sri Lanka, blocking off water supplies to rice farmers in nearby villages. The Government (dominated by the majority Sinhalese) responded by sending the army in to flush out the rebels and recommence water supplies. In the ensuing fighting – dubbed a ‘humanitarian battle’ by the government – at least 50 people were killed and some 40,000 displaced. Sri Lanka’s stuttering four-year cease-fire agreement, internationally hailed for putting an end to two decades of bloodshed and conflict that claimed more than 65,000 lives, was over.

The battle for a waterway expanded into a war for territory in which the government emerged as victor. In July 2007, government forces celebrated the capture of the Eastern Province (a significant land mass and an ethnic minority power centre) from the Tigers. But the price was high: there were heavy death tolls, mass displacement and soaring human rights violations, including arrests and detentions. Next year, Sri Lanka marks 60 years of independence from colonial rule. But today, the country faces a severe human rights crisis.

War on terror

‘The world has joined together to denounce terrorism and [in] accepting the need to counter it. Sri Lanka is totally committed to the elimination of terrorism. Zero tolerance in terms of terrorism in Sri Lanka.’ –

Rohitha Bogallagama Sri Lankan Foreign Minister, August 2007

July is considered a deadly month in Sri Lanka. Bloody attacks on military and civilian targets by the Tamil Tigers mark the anniversary of the State-backed pogrom of July 1983. That month is considered a black mark in Sri Lanka’s post independence history. Sinhalese mobs, allegedly with State patronage, systematically burnt, smashed up and looted Tamil businesses and homes in Colombo (Sri Lanka’s capital) and in other major cities. There has never been an official death toll, but hundreds of Tamils were killed, several thousands lost their homes and close to half a million left the country as refugees.³

But July 2007 was different. There was no major rebel attack; instead, the Sri Lankan government celebrated a significant military victory. After months of fierce fighting, the Sri Lankan forces captured large areas of land in the east that for most of the nearly 25-

year conflict had been under rebel control.

Sri Lanka's Eastern Province has always been a hotbed of ethnic tension as it is the only area in the entire country that has equal numbers of Sinhalese, Tamils and Muslims. In some towns the minority community forms the majority. The victory celebration was held in Colombo with full military honours, and was attended by the country's President. But in the eastern towns and villages few were celebrating what was hailed as their 'liberation'.

At what cost?

'That this operation against terrorism was concluded with minimum harm to the people and least harm to the Security Forces stands out as an example of such action to all armies of the world that battle terrorism' –

Mahinda Rajapakshe, President of Sri Lanka – 19 July 2007 victory day parade

Since early 2006, during fighting largely confined to eastern Sri Lanka, at least 3,500 people are believed to have been killed and nearly 290,000 were displaced, causing a humanitarian crisis of epic proportions.⁴ The excessive human cost of the latest military offensive was a result of markedly different tactics used by the Sri Lankan forces.

Weapons such as multi-barrel rocket launchers were used to clear areas before the army marched in.⁵ Civilians who fled their villages to seek refuge in temples and mosques spoke of shells raining on them causing injury and damage to their homes.⁶ In November 2006, 62 people were killed and 47 injured in eastern Vaharai when government shelling hit a school that was housing displaced people.⁷ International organizations and local human rights groups at the time warned that fighting had occurred with blatant disregard for civilian populations.⁸

As fighting intensified, thousands of families fled their homes. They had to be put up in temporary shelters. The outskirts of the main towns in eastern Sri Lanka were dotted with white tents as far as the eye could see, each one housing families, some with four or five children. As aid agencies struggled to cope with soaring numbers in the camps, and under mounting international criticism, the government decided to return the displaced to towns that the military had taken under their control.⁹

In the immediate aftermath of the capture of the east, the government began returning some displaced Tamil families to their homes. Contravening international law, the displaced were packed in busloads and forced back to damaged homes in deserted villages with no means of supporting themselves and amidst huge security concerns.¹⁰ Local human rights groups have been heavily critical of the forcible return that occurred whilst, in some cases, the military offensive was ongoing, and shelling in nearby villages could still be heard.¹¹ Nearly four months later, in November 2007, according to a UNHCR statement, forcible return is continuing in the east with local authorities threatening to withdraw their assistance if people do not go back to their homes.¹²

But the human rights abuses do not end with forced return. They continue, deeply woven into the everyday lives of minority Tamils and Muslims in the east – carried out by government security forces in the name of fighting terrorism. Returnees are put through intense security measures and face routine checks by the Sri Lankan military. Large chunks of minority owned land have been blocked out as High Security Zones (HSZs) by the government. In Sampur, close to the north-eastern port city Trincomalee, the military has taken over a 35 square mile area of land, covering 15 villages, barring 15,000, mostly Tamil civilians, from their homes.¹³

Military HSZs are not uncommon in Sri Lanka's war-torn areas. But none in recent times has caused such a huge scale of eviction and displacement in a largely civilian area, an area that the government claims is returning to normalcy. The government has identified a new site to resettle people whose homes have been claimed for the HSZ, but this has been done without proper consultation. Those evicted have told human rights activists that they strictly oppose being settled in another location.¹⁴

The military has allowed Muslims to return to their homes adjoining these security zones, but returnees continue to face numerous severe restrictions to pursuing their livelihoods. For example, in small coastal towns like Muttur (which adjoins the Sampur HSZ, and was the initial battleground in 2006), fishermen who traditionally make their best catch at night are not allowed to fish except at specific daylight hours. The military permits them to access a zone that only reaches up to 2km off the coast. Muslims and Tamils have lived together in these areas for centuries and function with a great deal of interdependence – hence restrictions on one community have a serious impact on trade and living of the other.

Security issues have affected Muslims too. 67 families of the Arafa Nagar village, close to Muttur, were given an hour to leave by the military on 10 August 2007. They have subsequently been allowed to cultivate paddy fields but cannot stay in their village due to security restrictions.¹⁵

Special ID cards and security checks

Another aspect of the government's counter-terrorism strategy has been to provide Identity Cards (ID) to all the people who have returned to their homes. This is in addition to the national identity card that all Sri Lankans carry. This new ID has a photograph and basic details of the person including their ethnicity. The ID is meant to prevent rebel infiltration into the villages. However, villagers have expressed their nervousness about the system, fearing it would restrict family visitors, mobility and schooling of children who travel out of their neighbourhood.¹⁶

Another visible feature of the 'liberated' areas in the east is heavy militarisation. In the main cities of Trincomalee and Batticaloa, the civil administration has been de facto superseded by the military. Two of the most senior civil positions in the area, Governor of the Eastern Province and the Government Agent of the eastern town of Trincomalee, are both held by military personnel.¹⁷ Military checkpoints have mushroomed across the east and the security forces play an active role in most of the civil administration,

including the process of resettlement and development of newly captured areas. Many of the predominantly Tamil and Muslim villages in these areas fear this move as they see the military as being dominated by Sinhalese.¹⁸ Most Tamils also have historically negative perceptions of the military having faced previous human rights violations including killings and rape.¹⁹

This is not a phenomenon only seen in the east of Sri Lanka. New reports emerging from the northern Tamil city of Jaffna indicate that a military ID card system is being adopted here too.²⁰ A record is kept of every person entering into and/or leaving the city. Jaffna has been militarised since it was taken over from rebel control in 1995. During the four-year cease-fire, towns such as Jaffna in northern Sri Lanka and Trincomalee and Batticaloa in eastern Sri Lanka showed some signs of a return to normalcy, with less security checks and military scrutiny. However the past year has seen a complete reversal of this.

Recent developments

Though there is no more full-scale warfare in the east, it continues to be of serious concern to human rights groups because of the poor security situation and continuing incidents of human rights violations committed in government-controlled areas. In its latest statement, the UNHCR says some 250 returnees left their homes for welfare camps because of rising insecurity in government-held territory. 'UNHCR has received reports of a number of killings, abductions, incidents of harassment and general insecurity in these areas,' a spokesperson said.²¹

Since September 2007, the fighting between the government and Tigers has shifted to the northwest of the country. As in the east of Sri Lanka, the latest fighting in the north and northwest is intense, and with not much regard for civilians. The International Committee of the Red Cross (ICRC) in its November 2007 bulletin says 22,000 people in the Jaffna and Mannar districts have been forced to flee their homes since September.²² Local NGOs say a majority are Tamils but the figure includes a sizable number of Muslims. According to the government Ministry of Resettlement and Disaster Relief, in the recent military operations in south Mannar, 3,109 persons, including 266 Muslims, were displaced.²³ The report of the fact finding mission to Mannar, conducted in October by well known organisations including the Centre for Policy Alternatives, quoted the UNHCR as saying that 15,441 persons had been displaced in the LTTE-controlled areas as a result of incessant shelling by the Sri Lankan forces. The return of the displaced persons of south Mannar has been reportedly postponed to January 2008.²⁴

Tough counter-terrorism laws

'Today, being a member of Tamil community in this country has become a cause for going behind bars at police stations and [being] thrown into detention centres' – Mano Ganeshan, Tamil MP, December 2007

In the Emergency [Prevention and Prohibition of Terrorism and Specified Terrorist Activities] Regulations promulgated by the government of Sri Lanka in 2006, the definition of terrorism has been widened to include acts of 'political or governmental

change.²⁵ The definition immediately caused uproar amongst civil society groups who realized that it could easily lead to the curtailment of any of their work that was critical of the government.²⁶ Regulation 15 of the law also gives wide immunity to members of the police, armed forces or anyone else acting in good faith in terms of the regulations. Since its promulgation, the law has been extensively used by the police to search, arrest and detain; minority Tamils have been the obvious targets. The general mobility of people, particularly Tamils, has become heavily restricted. Records of people entering in and out of the conflict area are meticulously maintained by the military to track possible rebel infiltration.

In June 2007, the government forcibly evicted around 376 Tamils who were temporarily resident in the capital Colombo, attracting outrage from the media and international community. Tamils travel to Colombo from the north and east for varying purposes, including medical treatment, marriage, external travel and business. When staying there they hire out rooms in private lodges in the predominantly ethnic minority areas of the city. In the early hours of 7 June 2007, the army went in to several of these lodges and forcibly drove people into buses, according to some testimonies, at gunpoint, and sent them back to their areas of origin.²⁷

This was the first major case of forcible eviction the country had seen for more than two decades and it raised outrage across the world. The Defence Ministry justified the eviction on counter-terrorism grounds.²⁸ Within 24 hours Sri Lanka's highest court, the Supreme Court, ruled that the evictions were illegal and ordered the military to suspend any further movement of people.²⁹

This, however, was a rare judgement. Challenging such drastic police action is difficult under the new counter-terrorism laws. Using these laws, the military routinely conducts search operations in predominantly Tamil neighbourhoods across the country. These searches involve a number of armed officers cordoning off a particular area, screening ID cards, and intensely searching through personal properties including bedrooms. Women are particularly at risk when such search operations occur. In some cases, the men in a village are first rounded up and then the houses are checked leaving women extremely vulnerable.³⁰ Search operations also occur at specific checkpoints or intermittently at ad-hoc check points across the country.

The counter-terrorism measures are not just limited to the war-torn areas. In the capital, Colombo, Tamil neighbourhoods are often cordoned off for search operations and people are taken in for questioning. Military checkpoints have emerged across all the main roads in the capital, and whilst undergoing checks, Tamils can be subjected to harassment. In such search operations or at military checkpoints it is quite common for people to be taken in for questioning or arrested on suspicion of involvement with the rebels. Following two suicide bomb attacks in late November 2007 the government arrested some 1,000 Tamils in Colombo and other southern towns. According to a statement by Tamil MP Mano Ganeshan, who is also the Convenor of the Civil Monitoring Commission, the military bundled Tamils into busloads regardless of age and sex, and took them for questioning. Some were detained in special counter-terrorism detention

centres.³¹

Figures and details of those arrested are difficult to obtain, and international human rights groups have warned that due process is rarely met when these arrests and detentions occur. In March 2006 Defence Spokesman Keheliya Rambukwella said that 452 persons were in detention under emergency laws, of whom 372 were Tamil and 19 were Muslim.³² But there have been no more up-to-date figures released following the implementation of the latest counter-terrorism laws.

Many of the government detention centres are out of bounds and there is very limited information on the numbers of those arrested and detained under counter-terrorism laws. Information on the status of the detainees is hardly ever made available. The country's forces are also known to use methods of torture against detainees.³³ Recent media reports have quoted a government minister as saying he was trying to get a number of people who were detained without proper charges in a special counter-terrorism detention centre in Boosa, in the southern town of Galle, released as soon as possible. The report estimated that this camp alone, in southern Sri Lanka, had 118 people detained, almost all of whom were Tamils.³⁴

During a mission to Sri Lanka in October 2007, Manfred Nowak, the UN Special Rapporteur on Torture, visited this detention centre amongst several other prisons. Nowak was not allowed by the government to visit Tiger-held territories. He was also told that the armed forces no longer kept detainees. In a strong statement immediately after his visit he said: '...Torture is widely practiced in Sri Lanka. Moreover, I observe that this practice is prone to become routine in the context of counter-terrorism operations.'³⁵

Questionable military tactics

In the past year local human rights groups have accused the military of committing rights violations such as extra-judicial killings and disappearances under cover of fighting terrorism.

University Teachers for Human Rights (Jaffna) (UTHR(J)), the only independent human rights group that routinely reports on violations in the conflict areas of Sri Lanka, raises some of these cases.³⁶ According to the UTHR(J), in one incident on 19 June 2007, the military gunned down three Tamil fishermen in the eastern village of Kalkudah. When the families of the victims went in search of the bodies, the army and the police said they would be released only if the family members signed a document saying they belonged to the LTTE. Upon refusal, the wives of these fishermen were assaulted by the military. The bodies were finally released by the courts. The following day, the Sri Lankan Ministry of Defence reported on its website that three LTTE cadres attempting to infiltrate Kalkudah were gunned down by the army with the assistance of the police.³⁷

Muslims too have been victims of such state-perpetrated violations. According to a letter sent primarily by Muslim NGOs to the UN High Commissioner for Human Rights in September 2007, four Muslims were killed in Polonnaruwa (north central Sri Lanka)

reportedly by the army on 28 June. First the army claimed that the Muslims were amongst a group of 11 LTTE cadres they had killed. Later, the army said that the four Muslims had been killed by terrorists.³⁸

In counter-terrorism search operations, the military is known to use sinister tactics, such as deploying 'hooded' informants. The Coalition of Tamils and Muslims for Peace and Co-existence (CTMPC) in a statement released in August 2007 describes the practice: In cordon and search operations in Trincomalee there is often a figure, wearing a hood, who accompanies the security force units and whose job it is to identify suspected LTTE members and supporters. With just one nod an individual becomes a suspect.³⁹ Such tactics spread terror among the civilian population.

There have also been several cases of abductions and killings during military curfew hours and in high security zones.⁴⁰ In one of the most notorious cases, the Vice Chancellor of the Eastern University, Professor S Raveendranath, went missing during the middle of the day on 15 December 2006. He was last seen in one of Colombo's high security areas.⁴¹

'You are either with us or against us' – rhetoric of the war on terror

'I would say Holmes is completely a terrorist, a terrorist who supports terrorism. We consider people who support terrorists also terrorists'

– Chief Government Whip Minister Jeyaraj Fernandopulle, referring to UN Under Secretary General for Humanitarian Affairs, John Holmes, August 2007

From 2006 to now, Sri Lanka's 'war on terror' has extended to a war of words against humanitarian and human rights organizations and the media. Any opposition to the government has been viewed in negative terms and the past year has seen increased intimidation and threats against international and local NGOs and media. The last year has also seen increased attacks against humanitarian and human rights workers and journalists by a number of perpetrators. These attacks often go un-addressed (see section on 'Climate of impunity').

According to a recent statement by the Asian Human Rights Commission (AHRC), 43 aid workers have been killed in Sri Lanka since early 2006.⁴² A list available to MRG of the names of 24 aid workers killed in Sri Lanka shows that all were Tamils. More recently, in June 2007, two Tamil Red Cross volunteers, who had come to Colombo for an event, were abducted. Their bodies were found dumped in a town in south central Sri Lanka.⁴³

In a recent visit to Sri Lanka, the UN Under Secretary General for Humanitarian Affairs, John Holmes, said the country was one of the most dangerous places for aid workers.⁴⁴ According to Holmes, up to 30 aid workers were killed in the country since 2006 and this included 17 who were working for the international NGO Action Contre La Faim (ACF). Sixteen of the victims were Tamils and one was a Muslim. All of them were killed in execution style in what Holmes described as a 'single horrifying act'.⁴⁵ The government responded to the accusation by calling Holmes a terrorist and said he

had taken a bribe from the Tigers to make such a remark.⁴⁶ This comment, made by a senior minister was the climax of a long-term assault against humanitarian actors, human rights groups and the media.

During the military offensive in the east, journalists were repeatedly attacked for reporting on the humanitarian situation. Media organizations critical of the government were branded as terrorists. Even Sinhalese who are critical of the government about the way the war is conducted, are dubbed by nationalist politicians as Sinhala Koti or Sinhala Tigers.

Counter-terrorism laws have also been used to threaten media organizations. In April 2007, alleging links with the Tigers, the government froze the assets of Standard Newspapers Private Limited, a newspaper company that runs a Sinhala and English weekly publication.⁴⁷

However, analysis by MRG shows that almost all the journalists killed, attacked or threatened since 2006 have come from minority communities. In August 2007, Nilakshan Sahapavan, 22, a Tamil journalism student in the northern town of Jaffna, was shot dead. This incident took the total number of Tamil journalists killed in Jaffna alone in the preceding 12 months, to eight, according to Sri Lanka's main independent media watchdog, The Free Media Movement.⁴⁸

Two of the most high profile incidents affecting journalists in the past year also involved minorities. The first was the arrest and detention under counter-terrorism laws of Munusami Parameshwari, an ethnic Tamil female journalist at the Sinhala daily Mawbima. In March 2007, after four months of detention, Parameshwari was released without charge.⁴⁹ The second incident was the withdrawal of the security protection given to the country's top defence correspondent, Iqbal Athas, who is Muslim. The international organization Reporters Without Borders in a statement on 29 August 2007 expressed serious concern over Athas's security saying, 'Sectors of the army are trying to gag or kill' him. On 18 August 2007, without warning, police removed the security around Athas's home that was accorded to the journalist when he faced attacks previously.⁵⁰

The government has also tried to proscribe the content of media reports. On 29 October 2007, it suddenly banned aspects of military reporting including on troop deployments, military operations and arms procurement.⁵¹ (Later the international media reported that the government almost immediately dropped the ban.)⁵²

Tamil Tiger (LTTE) abuse

In the past year, the LTTE has been responsible for widespread abuses including killings of opponents and child abductions. The LTTE also has a reputation for using civilians as human shields and obstructing civilians trying to flee battle zones.⁵³ During the fighting in Muttur, the LTTE prevented a group of Muslims from fleeing the town despite previously giving them the go ahead. An unknown number of Muslims were injured, killed and abducted as military shells hit a group that had been detained by the LTTE.⁵⁴

In December, the now largely defunct Scandinavian-staffed Ceasefire Monitoring Mission (SLMM), which was created to oversee the 2002 ceasefire, said in a statement that the LTTE had failed to protect civilians in the eastern town of Vakarai by restricting their movements.⁵⁵

According to UNICEF, recruitment of child soldiers by the LTTE has declined this year and the rebels in June 2007 released some 137 child soldiers. The UN however says that since 2001, the LTTE had forcibly recruited more than 5,000, of whom only 1958 were released.⁵⁶

On 2 November 2007 the head of the Tiger's political wing and one of its most senior and more prominent leaders, Tamilchelvan, was killed in a Sri Lanka Air Force bombing. The killing was seen as a major blow to the Tigers and Sri Lankan defence officials began bracing themselves for retaliatory attacks.⁵⁷ Since late November the LTTE has stepped up bomb attacks in Colombo and in other parts of the country killing several innocent civilians and sparking condemnation from international and local human rights groups.⁵⁸

The Tigers are not the only militant group engaging in human rights abuses. Other groups, such as the EPDP, EPRLF and EROS⁵⁹ and the Karuna group (a rebel splinter group of the Tigers), have also been accused of large-scale abuses including killings and enforced disappearances.⁶⁰

Karuna group

The Karuna group, in particular, deserves more international scrutiny. In 2004, Karuna Amman, who was the Tiger's eastern commander, broke away, claiming that the rebel group's Northern-Tamil leadership was not concerned about the problems of eastern Tamils. The split was historic, as never before had the Tigers splintered, and the government was quick to make use of the division. Despite continuous government denials, the Karuna group clearly appears to be enjoying State backing. Its cadres are armed and they openly move around the main towns in eastern Sri Lanka. Their offices are often adjacent to police stations or military camps. On 2 November 2007, the leader of the group, Karuna Amman, was arrested in London for immigration offences. According to Sri Lankan media reports, he had arrived in the UK on a forged diplomatic passport provided by the Sri Lankan government.⁶¹ UK officials have neither confirmed nor denied the reports about the passport.

Based on a series of recent reports and civilian interviews, it appears that human rights abuses by the Karuna group are linked to the military in two ways. Firstly, the military turns a blind eye to the abuses perpetrated by the group including killings, abductions and extortions. The Karuna group kills opponents, or in some cases, innocent civilians suspected of supporting the Tigers.⁶² The militants also brazenly engage in extortion, harassment and intimidation in the east. Tamils, mainly those involved in businesses, suffer systematic extortion. In most cases, businesses have to provide a monthly percentage of their income, irrespective of the profit.⁶³ Though most Muslim businesspeople said they did not face routine extortion in the same manner as

Tamils, there were many cases of ad hoc demands for money following abductions and/or threats. The Karuna group has also threatened to take over Muslim land and there are incidents where Muslim civilians are arbitrarily attacked or kidnapped, tortured and released by members of the Karuna group.⁶⁴ All of these abuses occur in government controlled areas.

Secondly, the military supports or colludes with the Karuna group. Following a visit to Sri Lanka, Allan Rock, a special adviser to the UN Representative for Children and Armed Conflict, said he 'found strong and credible evidence that certain elements of the government security forces are supporting and sometimes participating in the abductions and forced recruitment of children.'⁶⁵ In April this year UNICEF said that among the 285 children recruited by the Karuna group there were 194 outstanding cases. It added that the group was 'not serious' about the release of these children.⁶⁶

New militancy?

Muslims in the east have resisted calls for militancy throughout the conflict. But reports of a new and worrying phenomenon are now emerging in Sri Lanka: Muslim armed groups. At present, there is very limited information on these groups. Preliminary research shows that there are two types of Muslim armed groups, the first is largely faith orientated and the second responds to ethnic issues.

Elements within Muslim religious groups are armed, but lack organization and proper leadership, and are mostly found in eastern towns such as Kathankudy.⁶⁷ They take on religious policing, ensuring strict adherence to Islam. Though it is unclear how large these armed groups are, they have conducted serious armed attacks on individuals and properties linked to other branches of Islam.⁶⁸ Muslim women have been targeted by these groups: in some cases they have been forced to adhere to a stricter Muslim dress code, and have had to face restrictions on their freedom of movement.⁶⁹

The second group of militants, reportedly operating in different parts of the east, are engaged in violence including armed attacks, threats and intimidation. The latest UTHR(J) report accused the Sri Lankan military of colluding with these groups in military operations and generally in human rights violations. The phenomenon is still in a very embryonic stage and it is not clear how well organised it is, or in what form it will grow. The Muslim community in the east often denies claims of militancy and is very defensive of such accusations partly because the Tamil Tigers have many times in the past made such claims in attempts to discredit Muslims in the eyes of the international community.⁷⁰ But it is an extremely worrying development, in a country that already has more than enough bloodshed to contend with.

Killings, abductions and disappearances - unknown perpetrators

In a large proportion of the spiralling violations that have occurred in Sri Lanka since December 2006 and continue to take place in the country, including the more high-profile ones such as extra-judicial killing, abductions and enforced disappearances, the perpetrators are unknown. Particularly in the cases of killings and disappearances of Tamils, it is not clear if the crime has been committed by the Tigers, the Karuna group or

other criminal gangs, and how far the State is involved.

Recent reports by local human rights groups allude to State involvement with these killer gangs. The latest UTHR(J) report states ‘The method common in Trincomalee and elsewhere is that the killers are housed in either security forces’ camps or in places under security forces’ protection.’⁷¹

Since mid 2006 the numbers of killings, abductions and disappearances have shown a phenomenal increase. As it is, there is no concerted organized reporting and data gathering of these incidents by local human rights groups, but the available statistics are shocking. The Law & Society Trust, in collaboration with four partners including the Civil Monitoring Commission and the Free Media Movement, has compiled a working document listing 662 persons killed and 540 persons disappeared during the period January to August 2007. According to this statement, 83 percent of those killed were Tamils and more than six percent were Muslims. 70 percent of those killed were in the north and east of the country. 78 percent of those abducted were Tamils. Again, the largest number were abducted from the northern town of Jaffna, but a sizable 14 percent of the abductions occurred in Colombo.⁷²

There is currently a serious dearth of information on killings and disappearances, largely because of the fear and reluctance of families of victims to report incidents. The available information is usually scattered, but when collated, some idea of the severity of the problem emerges. For instance, the International Committee of the Red Cross reported on 3 September 2007 that in the preceding three weeks alone 34 people were abducted.⁷³ Sri Lanka’s Human Rights Commission received complaints of 186 cases of disappearances in the months of May and June 2007.⁷⁴ Just 23 of these cases were blamed on the Karuna group and seven on the Tigers, while the remaining 144 were classified as unknown. According to the latest Law and Society Trust report, in Trincomalee town alone, there were 24 abductions and disappearances in August and 39 in September 2007.⁷⁵

The government has been largely silent on the figures, but on 9 October 2007, Rajitha Senaratne, a senior minister, referred to a figure of 1100 disappearances in the country. There was no mention of the time frame however.⁷⁶

Not even religious leaders have been spared in the killing spree. A Buddhist monk who preached in Tamil, a Hindu priest and a Tamil Catholic priest, were all shot and killed by unidentified gunmen in the conflict areas during the course of this year.⁷⁷ Father Nihal Jim Brown, a Tamil Catholic priest, also well-known for his social work among people affected by the conflict, has been missing since August 2006.⁷⁸

These reports illustrate a state of widespread violence in Sri Lanka, in which minorities are largely the victims. Based on the figures provided in the report by LST and partners, two to three Tamils or Muslims are killed every day, and this excludes the numbers who are killed in the fighting. At least two people disappear in Sri Lanka every day, and in most cases, they are Tamils. The numbers are likely to be far larger considering many

cases remain unreported.

A wave of abductions, for instance, amongst Muslim businesspeople in the capital city Colombo, has been shrouded in secrecy. In the months of April and May 2007, media reports of abductions and extortions occurring amongst wealthy Muslim businesspeople appeared.⁷⁹ The Sri Lankan Muslim community is seen to dominate trade and plays a significant role in the country's economy. The abductions were generally seen as an attack at the heart of the southern Muslims who until then had largely remained unscathed in the conflict. No official complaints were made to police on the abductions. But a Muslim politician linked to the government said on condition of anonymity, that the incidents showed State involvement.⁸⁰ According to media reports, close to 600 million rupees may have been extorted from Muslim businesspeople.⁸¹ The kidnappings stopped after a high-level delegation of Muslim politicians met with the President.

Climate of impunity

Whilst the government has launched an onslaught against some organizations, accusing them of human rights abuses, little has been done to investigate or prosecute the perpetrators. In September 2006, bowing to international pressure, a Commission of Inquiry (COI) was appointed to investigate 16 major incidents of human rights violations that have occurred since August 2005, including the killing of the 17 aid workers in Muttur.

A group of international observers was also tasked with overseeing the work of the COI. The COI, from its inception, was limited because it was mandated to investigate a specific list of incidents and also because it only had an advisory capacity and could not initiate a prosecution. More recently, a group of international observers said the commission had made no real progress and was 'set to fail'.⁸² In his report to the UN General Assembly in November 2007, UN Secretary General Ban Ki-moon was critical of the limited progress made by the COI. 'Despite the serious nature of these crimes and their repercussions, insufficient attempts have been made to hold perpetrators accountable. In Sri Lanka, there is still little progress in the work of the government-established commission investigating human rights abuses,' he said.⁸³ On 19 November 2007, the Sri Lankan government extended the term of the COI for a further year.⁸⁴ Apart from this commission, there has been no effective mechanism to investigate the surge in human rights violations. The country's human rights commission is under-resourced, and does not have the capacity to deal with the worsening situation. In 2006, the government appointed a one-man commission to look into disappearances but has not made public any of the interim reports of this commission.⁸⁵

In June 2007, in response to the heightened reporting of abductions, a senior opposition MP named the Defence Secretary and two Air Force officers as being involved in some of the most high profile cases. The MP also accused one of the officers of being involved in the killing of the two Red Cross workers.⁸⁶ Subsequently, the police arrested one of the Air Force officers.

In the past six months, international and local human rights groups have joined up to call for international human rights monitoring with a full UN Office of the High Commissioner for Human Rights (OHCHR) field presence in the country. Some EU member states, including the UK, have urged the Sri Lankan government to agree to this. At the conclusion of her recent visit to Sri Lanka, the UN High Commissioner for Human Rights, Louise Arbour, said:

*'I am convinced that one of the major human rights shortcomings in Sri Lanka is rooted in the absence of reliable and authoritative information on the credible allegations of human rights abuses... In light of the gravity of the reported ongoing abuses, and in particular of threats to life and security of the person, I believe that we should urgently resolve our ongoing discussions about the future of a productive relationship between OHCHR and the Government of Sri Lanka.'*⁸⁷

Despite pressure from various quarters, the Sri Lankan government categorically stated that it would not allow UN monitoring through an office of the OHCHR.⁸⁸ There has also been international pressure on the government of Sri Lanka and the Tamil Tigers to return to the Norwegian brokered cease-fire and restart peace talks. With increased warfare through 2007, both parties have moved further away from the negotiating table. The government-appointed All Party Representative Committee (APRC) aimed at finding a consensual political solution to the conflict, but made poor progress through 2007. The ruling party, in its proposals to the committee, stuck firmly to the concept of a unitary state, which fell far short of minority expectations.⁸⁹

International response

The rise in human rights violations in Sri Lanka in this climate of impunity only underscores the urgency of an international response. In the last year the governments of the UK and US and the European Union have maintained some level of pressure on the Sri Lankan government but it appears to have not had enough impact on the ground situation. The US has made occasional public statements critical of the Sri Lankan government.⁹⁰ But it also seems that the two see each other as allies in the 'war on terror'. In November 2007, the US froze the US held assets of the Tamil Rehabilitation Organisation (TRO), saying that the TRO was a fund-raising front for the Tigers.⁹¹ Britain, together with the EU, has exerted great pressure on the Sri Lankan government on human rights. In May 2007, the British government sent out a strong message to the Sri Lankan government saying it was suspending £1.5m in debt relief because of human rights concerns.⁹² In the same month, the British parliament, following a debate on Sri Lanka, formed an all party Parliamentary Group for Tamils, although the formation of such a group was criticised in Sri Lanka for undermining the multi-ethnic approach to resolving the conflict.

The British government continues to keep up the pressure on the Sri Lankan government through quiet diplomacy as well as public statements.⁹³ Because of its long-standing close ties with Sri Lanka, and its influence in the EU, Britain has significant clout over the Sri Lankan government and it must keep up the pressure. The British government should also meet its international obligations under the UN Convention Against Torture,

and other international instruments in the case of Karuna Amman, who faces serious allegations of torture, abductions, recruitment of child soldiers, and other crimes under international law. Britain should either initiate a criminal investigation into such allegations or transfer Amman to a country genuinely willing to do so.

The EU has also been one of the most vocal critics of the Sri Lankan government's human rights record. Sri Lanka benefits from significant EU funding and trade concessions. This gives the EU much scope to toughen its stance on Sri Lanka. For instance, Sri Lanka has benefited from special incentives as part of the European Commission's General System of Preference (GSP+) programme. The incentives are dependent on a series of factors including implementation of international human rights norms. Sri Lanka's inclusion in this list of countries will be up for review in 2008. The EU has tremendous scope to pressurise the Sri Lankan government to comply with international human rights standards, in order to be kept on the list.

A possible EU sponsored resolution critical of Sri Lanka's human rights record has remained on the sidelines of the UN Human Rights Council (UNHRC) throughout 2007.⁹⁴ Tabling the resolution was deferred through the year for various reasons. While it is disappointing that the matter has not yet been the subject of a discussion in the UNHRC, the fact that the Sri Lankan government is working so hard to block such a discussion is evidence of the government's sensitivity to international censure.

The ongoing discussions about a possible UNHCR resolution on Sri Lanka by the HRC has kept international attention on the country's human rights situation. The EU strongly backed the visit of the UN High Commissioner for Human Rights, Louise Arbour, to Sri Lanka and part of their action at the UNHRC was delayed till after her visit. However, following the High Commissioner's visit, there has been little discussion on what the next course of action can be, and this paper recommends that the EU call a special session of the Council to enable member states to discuss the High Commissioner's report on her visit.

Pressure has to come not just from western states. Sri Lanka's closest neighbour India, which has a population of 60 million Tamils, has remained a largely silent observer. India can play a key role in pressurising the Sri Lankan government to meet international human rights standards and to reduce the impact of warfare on civilians, which would have a direct impact on India through refugee inflows. Sri Lanka's other close neighbour Pakistan, a Muslim majority state, should seriously reconsider its significant military aid to the government.

The pressure on the Tamil Tigers has also had a significant bearing on the organisation. In his annual 'Heroes Day' speech, the Tiger's reclusive leader Vellupillai Prabhakaran made a scathing attack on the international community, accusing it of pandering to the Sri Lankan government's nationalist stance. This level of criticism by the rebel leader towards the international community is unusual. However the Tigers continue to organise events and fund-raise in the UK and in EU member states despite a ban in these countries

on their fund-raising and activities.⁹⁵

Conclusion

The introduction of tough new counter-terrorism laws one year ago by the Sri Lankan government has led to a sharp rise in human rights abuses in the country. Throughout this time, it has been the country's ethnic minorities that have been worst affected. Counter-terrorism has also been used as an excuse to gag the media and clamp down on the work of human rights organisations and aid agencies. Most of the aid workers and journalists killed in the last year have been ethnic Tamils.

These counter-terrorism laws have formed part of the government's 'war on terror' that in the last year was pursued with more vigour. Thousands of Tamils and some Muslims have lost their lives in the recent fighting and hundreds of thousands of people from both communities were displaced.

Minority Tamils and Muslims are also victims of attacks perpetrated by the Tigers and its splinter organisation, the Karuna group, which some evidence suggests is now working with the government. Despite the arrest of the leader of the Karuna group in London, the cadres continue their reign of terror in eastern Sri Lanka, engaging in human rights abuses. The Tigers in the past few months have suffered significant military losses, including the death of their political head, Thamilselvan, in a targeted Air Force bombing. But this has only made the group threaten retaliation, which is likely to result in further bloodshed, death and displacement.

Sri Lanka's human rights situation is deteriorating. There are daily reports of extra-judicial killings, disappearances and abductions. Human rights in Sri Lanka have reached a crisis point and the violations occur in a climate of impunity with little or nothing done by the government.

Despite some recent international action Sri Lanka is still low on the international political and media agenda. It seems the severity of the human rights crisis is blocked by fatigue over the protracted 20-year conflict. Sri Lanka is now urgently in need of international attention. 4 February 2008 is the 60th anniversary of Sri Lanka's independence from British colonial rule. Unless Sri Lanka urgently begins to steer out of its human rights crisis, the country's minorities will have little to celebrate.

Recommendations

To the Government of Sri Lanka

- Take all necessary measures to abide by international humanitarian law including by taking proactive measures to protect civilians during military operations and to ensure that any use of force is proportional.
- Guarantee voluntary and safe return of displaced people. Rebuild homes, villages and livelihoods. Implement an effective system of compensation.
- Work with the OHCHR towards setting up a full office in Colombo, with field presences to be able to monitor and document human rights violations.

- Take convincing measures toward changing the current climate of impunity by investigating human rights violations and prosecuting the accused.
- Repeal sections of the current emergency regulations that do not comply with international laws.
- Stop arbitrary arrests and detentions. Ensure due process for those arrested under counter-terrorism laws. List detention centres and open them to human rights groups for inspection.
- Prevent targeting of minorities through counter-terrorism measures, particularly in restrictions of movement, cordon and search operations, arrests, detentions and evictions.
- Take action to stop killings, abductions and disappearances. Investigate claims of the military's complicity in such crimes and prosecute accordingly.
- Take measures to disarm the Karuna group and other armed groups operating in civilian areas and investigate and prosecute crimes committed by these groups.
- Review existing High Security Zones and remedy the problems that arise from these zones, including dislocation of minorities, loss of land and possible demographic changes based on ethnicity.
- Take steps to stop the climate of killings, violent attacks and antagonism towards local and international NGOs, aid agencies and the media.
- Ensure full minority participation and representation in any development projects in the newly-captured areas of the Eastern Province.
- Recommence peace negotiations with the Tamil Tigers and ensure the process is inclusive of other ethnic and religious minority groups.
- Support the work of the APRC and review the proposals put to the committee, making them more acceptable to ethnic minorities.
- Extend an invitation to visit Sri Lanka to the UN Independent Expert on Minority Issues, Gay McDougall, and the UN Expert on Protecting Human Rights While Countering Terrorism, Martin Scheinin.

To the Tamil Tigers and other armed groups including the Karuna group

- Stop the recruitment of child soldiers and return children already recruited to their families.
- Immediately halt killings, abductions, disappearances and attacks on civilians. Stop targeted killings and attacks on political and militant opponents.
- Stop targeted attacks on Muslims, including killings, abductions and extortions.
- Halt extortion and abductions amongst Tamil businesspeople and other civilians.
- Recommence peace negotiations with the Sri Lankan government and enable the negotiating process to be inclusive of other Tamil and Muslim political groups.

To the European Union

- Increase pressure on the Sri Lankan government, both through quiet diplomacy and public statements, to accept UN monitoring in the form of the establishment of a fully-fledged OHCHR office with field presences.
- Call for a special session of the UN Human Rights Council to enable the council to discuss the situation and the report of the UN High Commissioner for Human Rights' October 2007 visit to Sri Lanka.
- Continue to support a UN resolution on Sri Lanka at the UN Human Rights

Council, enabling an active debate on the Sri Lankan human rights situation.

- Put pressure on the Sri Lankan government to ensure compliance with international human rights standards in the context of discussions on the GSP+ programme.
- Hold a parliamentary debate on Sri Lanka to express concern over the rising human rights violations, particularly the targeting of minorities, and to call for urgent action by the Sri Lankan government to put an end to the current climate of impunity.
- Ensure that any funding by the EU or member states for projects in Eastern Province are distributed equally amongst all communities.
- If and when the Sri Lanka peace process recommences, urge all communities to make the process more inclusive of minorities in terms of minority representation. The Muslim community in particular must be included in the negotiations.

To the UK government

- Exert more pressure through strong public statements by asking the Sri Lankan government to accept UN monitoring in the form of a fully-fledged OHCHR office with field presences.
- Back an EU call for a special session of the UN Human Rights Council on Sri Lanka.
- Ensure that any funding for projects in the Eastern Province is distributed equally amongst all communities.
- Ensure that Karuna Amman, the head of the Tiger splinter group, is under no circumstances deported to Sri Lanka, and is tried in the UK.
- As per the UK's proscription of the Tamil Tigers as a terrorist organisation, take tougher action to prevent fund raising for the group amongst Tamils in the country.

Notes

1 Armed groups include the Tamil Tigers, their breakaway faction the Karuna group and other former militant groups that operate as armed groups, mostly in government-controlled areas of Sri Lanka

2 According to the 1981 census, the majority (around 76%) of Sri Lankans are Sinhalese. A large number of these are Buddhists. Tamils make up 18.3% percent of the country's population and Muslims 7.4%. A census was conducted in 2001 but it excluded conflict areas – these are predominantly dominated by minorities. At present the Tamil population is estimated to have dropped because of large-scale migration. The Muslim population is believed to be above 8 percent.

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8 Oral statement made by Sunila Abeysekera on behalf of Forum Asia, Pax Romana, INFORM and Centre for Policy Alternatives, as part of the Inter-Active

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http://www.cpalanka.org/psg/statement_English.pdf

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10 Interviews in Batticaloa, June 2007. IDPs said they feared returning for security reasons but were told by government officials that they had no choice and had heard that in adjoining camps people were forced into buses and sent back to their pillaged villages. As the interviews were conducted, shelling could be heard from nearby areas. The displaced feared it was coming from their villages.

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