

**Briefing No.1**

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**University Teachers for Human Rights (Jaffna)**

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**HUMAN RIGHTS  
AND THE  
ISSUES OF WAR  
AND PEACE**

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## PREFACE

The issues we have raised for more than 3 years are interspersed with accounts of incidents in 9 reports and 3 special reports. An activist or a journalist not wanting too much detail would find it daunting to go through all these reports. Others, too, would find it useful to have the issues concerning the present conflict brought together in compact form. We also seek to reiterate that the human rights issues cannot be resolved without tackling head on with a principled approach, the self-destructive politics the reports have exposed. There is no short cut to peace without doing the hard work of understanding and fully facing up to the human rights issue.

The current war in the country involves a state whose ideology resulted in mass murder and endemic violence. Having presided over the killing of over 40,000 youths from its electoral base - the Sinhalese - even the passage of two years has not led to a politics of reconciliation. The grieving families are still being met with a stony arrogance. It is also a state with its international credibility in tatters. Discrediting explanations by the state, the UN Working Group on Human Rights in its report of January 1992, has expressed its conclusions in strong terms. The Canadian Human Rights Mission to Sri Lanka, not only recommended a leading role for Canada in passing a 'strong resolution' at the UN Commission on Human Rights (UNCHR); but further recommended a suspension of Canadian bilateral assistance to government projects and a reallocation of funds to other programmes in Sri Lanka. The latter policy is already being followed by countries in northern Europe.

Going to war against such a state should not have been enterprised lightly by any party mindful of the security and well being of Tamils. As our evidence strongly suggests, the war was imposed on the civilians by the political bankruptcy of both sides. The ideologies of both sides rendered it a war against civilians.

The war now seems set to enter a desperate stage. The LTTE may lose some influence in terms of absolute territorial control, but the war would then only reach another bloody phase, with no-man's land extending over the whole North-East. Given the responsibility of government forces for the mounting toll of disappearances in the East, the fate of civilians in Jaffna must now be a matter of deep concern. The current bombing and shelling may be just the tip of the iceberg.

This briefing also summarises information about the LTTE's detainees published in the reports. Little public attention has so far been drawn to this problem of considerable magnitude, involving much of the Tamils' democratic potential. Those who see the problem casually through Western eyes, including most Tamil expatriates, may see it as a war-time aberration. After all the US interned its citizens of Japanese origin during the last world war. So did Britain a number of German refugees from Nazi rule, whose cause was championed by the much-pained Rt. Rev. George Bell, Bishop of Chichester. Such casual judgement must necessarily involve an ignorance of the rich history of the Tamil struggle and thus pass lightly over a matter at the core of the tragedy of Tamils. Sadly, such ignorance remains widespread. To start with, nearly all the 4000 or so Tamils now detained by the LTTE are committed Tamils. And hardly had any of them worked actively against the struggle. One prominent section of them is made up of intellectuals, students and former grassroots activists. Most of them believed that the struggle of the Tamil people had been misdirected, but stayed on in Jaffna and helped with keeping civilian life going. They were involved in such work as providing infrastructure for survival, visiting hospitals and donating blood, and in the general



care of those who needed comforting and medical attention. It is significant that the LTTE has hardly dared to charge them publicly.

Another important category consists of those who had belonged to less known, but politically articulate, militant groups before 1987. They did not work against the LTTE even when the IPKF was present. On the other hand, until the politics took a totalitarian turn, they had been willing to die for the Tamil cause. One section of them had even prophetically warned that the involvement of the leading groups, including the LTTE, with external powers rather than basing their strength on the people, would only result in tragedy.

Influential leaders in some of the other groups had as early as 1986 asked the LTTE for terms on which they could work together for the common cause. Such overtures were brutally spurned. Similar readiness was forthcoming again in 1990 from sections alienated by the LTTE, but who regarded the Sri Lankan state as the main enemy. The leading group thus spurned every opportunity to unify the Tamils. In consequence of its politics which branded a large section of conscientious Tamils as traitors, it was led into the most abject of deals with the Sri Lankan state in 1989, with terrible consequences for the people. Therefore what these prisoners represent is not an aberration, but the tragic and inevitable bankruptcy of the dominant strand in Tamil politics. Indeed, the ironic significance of the struggle began for the rights of Tamil speaking peoples viciously turning upon a minority subgroup - the Muslims - appears to have been largely missed.

The reports of the UTHR(J) have constantly tried to address the pathological nature of Tamil politics which came to be characterised by self destruction, character breakdown and mass suicide. The flower of our youth angered by the utter brutality of the Sri Lankan state, went into several groups. But they were tragically misled and were made to betray their own people. Ironically the Sri Lankan state which from April 1989 - June 1990 helped the LTTE to hunt down its perceived Tamil enemies, is now using a section of the remnants of other groups in atrocities against fellow Tamils. It is those who kept their sanity through all this utter waste who are now being victimised.

This briefing constantly alludes to patterns of human rights violations by the state and allied social and political issues. It tries also to bring out the unrepresentative nature of the politics in conflict. This is something rooted in historical development, going beyond dominant power groups. People have come to be treated with contempt rather than as beings, the flowering of whose individual abilities, are to be channelled towards the common good. This has a two way link with current patterns of global oppression. Owing to their weak position in the prevailing economic order, third world countries are being forced to accept 'economic assistance' from their 'betters'. In return an economic orthodoxy is being imposed that undermines even basic welfare benefits for an already impoverished and hardworking people, while enormously benefitting a small elite. The economic orthodoxy itself imposes a new culture on academic institutions, politics, the media as well as religious institutions. It breeds cynicism towards ordinary people who are now depersonalised and have to be managed rather than taken into partnership. (See Hensman (5)).

On the other hand a failed nation whose politics has turned brutal due to internal conflict and where people are treated with contempt, becomes an ideal protegee for global power brokers. The economic ideas of elite backers of the two parties at war in Sri Lanka are not insignificant to the drama being enacted.



# 1. THE WAR OF JUNE 1990

## 1.1 Origins of the War

The coming of the Indian Peace Keeping Force in August 1987 was a watershed. It represented the terminal failure of brutalised manifestations of the politics of Sinhalese and Tamil chauvinism as represented respectively by the government and the LTTE. Even after the communal holocaust of July 1983 which brought the government worldwide infamy, it failed to address the urgent need to give confidence to the Tamils. It had instead relied on a barbaric military policy to subdue the Tamil insurgency, resulting in more than 20,000 civilian deaths.

The LTTE in its bid for domination had crushed other militant groups by fratricidal attacks and had brought the moral strength of the Tamil militancy to a low ebb. This resulted in a breakdown of morale and community feeling among Tamils and had given the government forces the initiative for a series of successful offensives in early 1987. Indiscriminate attacks on Sinhalese civilians, particularly by the LTTE and EROS, had also placed the Tamil militancy on the same moral footing as the government.

Both parties had the option of telling the people the truth and taking honest steps to reform themselves, and thus remove any pretext for the presence of the IPKF. In combatting the virulent JVP insurgency which was challenging the government on its failure as the champion of Sinhalese chauvinistic claims, it had the means for a bold option. It could have challenged the prevailing chauvinistic ideology as the cause of loss of sovereignty and exposed the JVP's bankruptcy. But there was neither remorse for the past nor a sense of responsibility for a public reappraisal. The government instead relied on an immoral and even more virulent counter insurgency, visiting on tens of thousands of ordinary people the sins of the ruling elite, its cowardice and cupidity. It was under these circumstances that the government and the LTTE came together formally in April 1989.

The relationship was thus based on the negative reason of both sides wanting to shore up their waning hold on power. Both sides played ball until the IPKF left as requested in March 1990. The LTTE, who had killed hundreds of others as traitors the separatist cause, even boasted of themselves as Sri Lankan patriots. Indeed, in concert with the Sri Lankan forces they had killed or imprisoned hundreds of armed and unarmed Tamil rivals, including conscripts of the hapless Indian sponsored Tamil National Army (TNA). The conscription for the TNA had been done by parties to the EPRLF dominated - provincial government through mass abductions.[3:5] The duration

of the provincial government (late 1988-89) had been marked by large scale killings of civilians by rival groups.

With the departure of the IPKF, the LTTE tried to assert total armed control of the North-East, ever wary of questions about the past and of the gulf between its rhetoric and actual performance being raised. To keep its hold on legitimacy, its past had constrained it to a process of militarisation helped by violent rhetoric. Although peace was thought to be at hand, the LTTE continued to recruit children in large numbers. The mood of intolerance was reflected in increasing friction between the LTTE and the Muslims of the East.

The government, though embarrassed and uncomfortable, found itself constrained by its chauvinism from stealing a march on the LTTE by unilaterally announcing a devolved democratic package which would be favourable to Tamil opinion. It instead found itself indulging in endless secret talks with the LTTE, mainly about deployments of their respective forces and numbers. Neither wanted democracy for the Tamil people.

Hostilities on 11 June 1990 marked an ending of this state of instability. They were preceded by minor incidents in Vavuniya and Batticaloa. On 11 June the LTTE surrounded police stations in the East and killed 10 soldiers who had been buying provisions in Kalmunai. Up to a thousand policemen surrendered to the LTTE on orders from the government, mostly without resistance. Having been disarmed, several hundred Sinhalese and Muslim policemen were subsequently murdered. The LTTE then withdrew into the jungles after giving the people the impression that they would stay and fight. [4, 5:2, S3: 2.5, 7: 2.9]

## 1.2 The Sri Lankan Forces' Response

Following failed attempts to end the war by negotiation, President Premadasa declared on 18th June that the LTTE would be dealt with in the same manner as the JVP. When the Sri Lankan forces went into the Eastern province, it was mostly a war against unarmed Tamil civilians. The diabolical frenzy in which the Sri Lankan forces moved out of camps in the South was marked by the killing of JVP suspects held, to facilitate evacuation. During this period, Lakshman Kiriella, MP for Kandy District, told a meeting of the SLFP parliamentary group that bodies were appearing by the roadside in his district at the rate of about 40 a day ([4:5] & Sunday Times 22 July 1990).

For the next 2 months, while the government trumpeted



the triumphal march of the disciplined forces of law and order, the East witnessed mass slaughter. In border areas like Amparai town and Inginiyagala, police assisted by Sinhalese hoodlums killed and burnt Tamils in large numbers. About 70 sanitary workers of Indian Tamil origin were killed in their quarter of Amparai town. [7:2.10]

In Kalmunai the LTTE leader Castro told the people that nothing would happen to them and then suddenly pulled out, leaving the bodies of the 10 soldiers where they were killed. The bodies were later removed by the health authorities. When the army moved in about 20th June, it set about the largest bout of slaughter a single town in the island had witnessed in such a short time. Civilians were rounded up, brought in by the hundreds, bayoneted and burnt. Gutted shops and roadsides were left smouldering with unnumbered skeletal remains. Gangs of local Muslims angered by the killing of Muslim policemen sometimes accompanied soldiers, pointing out Tamils.

Death came to villages in the Southern sector of the Eastern province in such frightening numbers as to touch nearly every family: Pottuvil:200; Karaitivu:59; Veeramunai Refugee camp:About 250 arrested and missing; Valaichenai : A large number of persons stabbed at the bridge and thrown into the river; Kiran:50; Eastern University Refugee camp:179 taken by the army during September 1990 and now missing; Sathurukondan:150 in a single massacre; Savukaddy:31 missing; Siththandy:44 taken from the refugee camp and missing..... and so on went the sordid tale.

In Kalumanai the number of dead is said to be about 300 and 350 in the nearby Samanthurai AGA's division. In the Batticaloa area, the list of missing alone, with the local peace committee, stood at 3400 last February. About 100 had been added to the list every month for the previous 7 months.

The pattern in the Trincomalee District was similar. A bank officer who resided in Trincomalee town reported having seen nearly 40 bodies of persons killed by the forces in his quarter, following their entry on 13th June 1990. Mr. Senathirajah (TULF) told parliament that soldiers who came to Trincomalee town took a large number of women and about 58 men to the Muttaveli esplanade, and murdered several of them. Women with blouses torn and blind-folded were led to the army camp. He added that known figures of persons further killed around Trincomalee were: 23 at Chelvanayakapuram, 42 at Sittur, 25 to 75 around Thambalakamam, 12 at China Bay and that at Kattaiparichchan and Mutur hundreds of Tamils were missing and about 230 burnt bodies were seen.[4, 5:2 & 7:2]

In areas where the forces claimed to have established control, there was no let up in the terror. The proverbial nocturnal white van abducting people who were never seen again, made its appearance in Trincomalee,

Batticaloa and Kallar. In Thirukkivil-Thambiluvil which became the largest refugee concentration in the Amparai District (15 000 in September 1990), the British trained Special Task Force (STF) made regular forays to round up suspects, who were then tortured. Those who survived were hardly normal persons. Many others ended up headless bodies and severed heads, cast adrift in the Indian Ocean and washed ashore for miles along the coast. 40 or so such bodies were counted about late September 1990.[S:3.1]

Although thousands of families of missing persons were kept in hope, the truth as most of these families came to realise was that reports of prisoners in various camps were red-herrings. The taking of prisoners during the second half of 1990, if not for long afterwards, was the exception rather than the rule.

The UTHR(J) has received a number of testimonies concerning the use of civilians as human-shields and mine-detenators. The instances include Komari, Thirukovil, Kiran and Kayts. In all cases senior officers were either present or knew about it.[S2, S3: 2.3 & 3.2, 8: 3.3].

In the North the campaign opened with a renewal of aerial bombing and shelling of civilian areas, similar to that in 1987. Though this once again was ostensibly aimed at LTTE camps, the dead and maimed were nearly always civilians. In August the army invaded the offshore islands to the west of Jaffna in order to gain access to besieged troops at Jaffna Fort. Despite the near absence of LTTE resistance, more than 70 civilians were killed at point blank range, several of them after being taken prisoner and made to do manual labour.[S2 & 9:1.5.1].

With the exception of an advance in the Jaffna peninsula to extend the area of control and secure the army's facilities in Palaly and KKS along the northern coast, the army in 1990 suffered a series of setbacks in the North. Jaffna Fort was evacuated and the army camps at Kokkavil and Mankulam, the first with about 60 men and the second with 250, were overrun with a total of more than 100 losses.

The army's tactics were turning rural village populations into refugees and many of their young into LTTE recruits. With these recruits, many of whom were barely in their teens, the LTTE was able to mount massed suicide attacks on army positions.[8:2.3].

By the end of 1990 the army's prospects in the North were looking bleak. In March and July 1991, the army barely turned the tide in massed LTTE attacks on its concentrations in Silavathurai and Elephant Pass respectively. The second had been elaborately planned and the LTTE has since, to date, abandoned such grand designs, and the initiative appeared to be with the army. [4,5,7,8,S1,2&3].



### 1.3 The LTTE's Strategy

To try to make sense of the LTTE's military strategy in ordinary human terms, as even in some remote sense representing the interests of the Tamils, poses insuperable difficulties, which are thus too often ignored. The LTTE cannot of course be blamed for this confusion. It had made itself very clear as far back as May 1987. Yogi, till now the LTTE's chief of propaganda, then said in his May Day speech that lakhs of Tamils would die, but the soil of Tamil Eelam would be liberated. A small fraction of the Tamils, he said, would suffice to make it a glorious nation. During subsequent wars, the frightened people were repeatedly told by the LTTE that they must die, so that their cause would be given international legitimacy. It became common for the LTTE to provoke reprisals and come back with cameras to photograph the handiwork of state forces, who did their stuff without facing even nominal resistance.[6:2.4 (The general character of the LTTE's military campaigns), 3:3 (Valvettithurai massacre by the IPKF), 3:1 (Mannar & Adampan hospitals), 5:2.5 (Massacre of Tamils in Eravur and Chenkalady by SL forces, following the LTTE massacre of Muslims), S3:2.4, 6:2.1 (Jaffna hospital), 2:4.5, 7:2.2, 8:4.1 & 8.3 (Kokkadichchoalai)].

Thus during the current war, the LTTE created many ugly scenes and vanished after assuring the people that they would be protected. The Tamil and Muslim peasantry of the Eastern province had very real problems with state sponsored colonisation of Sinhalese, backed by state violence. The LTTE's strategy on the other hand did nothing to offer them security or liberation. It rather connived at the Tamils' murder and displacement by state forces, and thus used their anger and helplessness to gain recruits. These recruits were used as cannon fodder largely in the North.[S3:2.5 & 4, 6:2, & 8:2.3]. In the North, the news of the government's massacres in the East and its aerial bombing and shelling played into the LTTE's hands. In addition to the fears the young had

of a possible entry by the Sri Lankan forces, the LTTE further cornered the young by virtually stopping them from leaving Jaffna and bringing education and public examinations to a near standstill. Large numbers of children, schoolboys and schoolgirls joined the LTTE in a mood of suicidal despair. Indeed, suicide in society reached unprecedented levels.[3:5.5:4.4,6:2, 6:4.7.6, 8:5.1.6 & 9:3.0. Also 2:Problems of the Young].

The current LTTE attacks on Muslim civilians in the East as a means of diluting the deployment of government troops in the North clearly exposes its character. It accepts no responsibility for Tamil civilians in the East who are forced to turn to the Sri Lankan army for protection against reprisals, whether or not it is forthcoming. The future of Tamils is made ever bleaker.

Well educated Tamils and even influential journalists often fail to grasp the absurd enormity of the LTTE's strategy on the grounds that it is the Tamils who suffer most as a result. In so refusing to understand and check the LTTE, they would seem to place a considerable onus on the average Sinhalese village boy serving in the army to overcome his prejudices and understand what they cannot. He is being called upon to understand the plight in which the Tamils have been placed by their liberators, and go out on foot patrol to protect them from angry Muslims, which again makes him vulnerable to attacks from the LTTE. Influential Tamils and others who lend even passive complicity to the LTTE's strategy must accept some moral responsibility for the sufferings of Tamils, predominantly in rural areas. It is imperative that the democratic forces in the country and others concerned with human rights should see this clearly and create the political motivation for sanity and humanity to triumph over escalation of brutality. While it is necessary to expose the general callousness of the armed forces, we are also obliged to be responsible on our part, even when the state is so irresponsible.

## 2. WAR, IDEOLOGY AND POLITICS

### 2.1 Sinhalese Chauvinism: A Goal of Irreconcilables

Sinhalese chauvinism as an ideology developed in the course of a quest for dominance by the elite, beginning in the first decade of this century. The elite consisted of the traditional elite and the nouveau riche, both of whom gained influence and prosperity under British colonial rule and its plantation based economy. For the nouveau riche in commercial ventures, the ideological stigma against minorities and the zeal to 'purify' the nation of non-Buddhists and non-Sinhalese coincided with the desire to eliminate business rivals. For the land-owning gentry and the political establishment of which they were a part, chauvinism provided a convenient diversion from the need

critically to examine the cash crop based plantation economy. Large privately owned swathes of land in the South were tied down in cash crops for an export market bringing diminishing returns, against acute land hunger and discontent arising thereof. Convenient thus became an ideology that turned the wretched and dispossessed into an army of crusader-colonists used to erase the Tamil character of the North-East. School children for several decades were steeped in this ideology through official history texts. Leading politicians, civil servants, army and police officers, and Buddhist prelates, drawn from or closely allied to the ruling elite, all became part of this enterprise. Violence against Tamils, particularly in areas such as Trincomalee and the eastern borderlands, from which their imminent displacement was sought, became



endemic.[S3, 5:2.8, 7:8].

The coming of the IPKF in 1987 and the JVP insurgency exposed the ruling classes as irresponsible and their ideology untenable. The deal then entered into with the LTTE signalled the desperation, opportunism and cynicism of the champions of the rival chauvinistic ideologies. But when this arrangement ended with the war of June 1990, the government's war acquired a strong ideological colouring.[1: Appendix; 4:2 & 3].

When the armed forces resorted to massacres of Tamils in the East, they went back to doing what they were geared to do until the arrival of the IPKF in 1987. The initial massacres, it could be argued, were the vindictive outpouring of forces that had in the past two years used similar methods against Sinhalese themselves. But what followed in the succeeding months had the clear markings of the dominant ideology at work.[S3, 5:2.7 & 8:1.6].

## **2.2 Locking in Peace and Throwing Away the Key**

Several incidents resulted in large scale displacement of Tamil populations in Trincomalee and the fertile fringes of the Amparai district. The latter took place when the forces were said to be firmly in control. These incidents took place in the Amparai district during August and September 1990 when the STF had assumed overall control and the LTTE presence was confined to a few small bands mainly picking on Muslim civilians. Muslim homeguards were often used in attacking Tamil refugees and driving them away, using as a pretext LTTE attacks on Muslims. Our special report No.3 closely examined three such incidents of mass displacement following upon massacres of refugees. On 2nd August 1990 Tamil refugees trying to resettle in Pottuvil fled the area after over 100 of their youth taken in by uniformed personnel went up in smoke. The displacement of Tamils from Veeramunai which followed, was preceded by raids of the armed forces on refugee camps, where young persons were taken away and never seen again. The testimony of refugees reveals that in the final assaults on these camps, the government forces were very much involved in the planning, execution and monitoring of progress. This meant that Tamils were effectively displaced from the south of Amparai district and the fertile areas of its west with water resources, such as Veeramunai, Malwattai and Central Camp.[5:2.1.7 & 8, S3:5 & 7:2.10].

Soon after the war broke out, the brigadier in charge of Trincomalee district, reportedly well disposed to the local Tamil population, was removed and another was installed with a record that spoke for itself. Subsequently, displaced Tamils were kept in refugee concentrations such as in a massive hangar at Clappenburg, while arrangements went ahead to settle displaced Sinhalese. Press coverage and government approval in the form of visits by senior government figures showed the government as both insensitive and playing a clearly chauvinistic game.[5:2.8].

This had important consequences for the government's self-perception, its legitimacy and its ability to move creatively to undermine the LTTE, and proceed decisively towards peace. By their massacres in the East in particular and by bombing and shelling civilians in the North, the armed forces conducted themselves once more like a horde of brigands, rather than like a national defence force sensitive to its own people. Indeed even looting became a regularised part of the game. The disavowal of any respect for legality and human rights brought its own nemesis. While the LTTE in the North with its own megalomaniac massed attacks was being treated by commentators as approaching being a state power, the Sri Lankan army was trapped into the psychology of a brigand band. The end of 1990 found its morale at its lowest. It took the narrow defeat of the LTTE's attempt at Elephant Pass in July 1991 for the army to regain some semblance of perceiving itself as an army.[S1 & 8:5.1.1].

Closely linked to this was the abominable performance of the government. If survival had driven it to embrace the LTTE in the past, the same consideration drove it to play the chauvinist card following the outbreak of war. It thus totally discredited itself as a body with a capacity for responsible government, particularly over the Tamils. Having allowed a chauvinist agenda to come into the conduct of war, the government found itself unable to contemplate or enforce necessary political measures to give the Tamils an alternative to the LTTE. All these had strengthened the LTTE to a point where the military enterprise became a bloody and demoralising stalemate.

The government thus found itself at home offering stimulants to arrest the diminishing self-esteem of the Sinhalese, while in the secrecy of diplomatic briefings to Western powers, making frank confessions of nakedness. Some of the briefings were curious. After complaining disingenuously about the encouragement given by the LTTE to Sinhalese chauvinism, one briefing added: "The European Community may even consider assuring the Tamils of Sri Lanka its complete co-operation and support to enable them to obtain redress of their just grievances, so that they could live in dignity, peace and security and decide on their own destiny". Such assurances could have been given by the government itself by positive unilateral action, and it could have easily explained such action to the Sinhalese. This was also the very task of a sovereign power. Instead, its own deceit and violence had led to an effective loss of sovereignty and powerlessness.

## **2.3 Tamil Politics and the Road to Self-Annihilation**

Tamil politics in the last 35 years developed under the influence of discrimination punctuated by increasing overt violence by the state on the one hand and on the other by an outlook dominated by the educated elite. This outlook going back more than a hundred years to the heyday of British rule, identified the Tamils' interests essentially with secure avenues for education and white collar



employment. It allowed no more than a token interest in the wider problems involving a social and regional diversity of the Tamils. Some of these wider issues are: A social hierarchy and value system based on a small minority of persons successful in education and therefore alienating to a majority whose humanity was devalued (an aspect which made society in Jaffna prominently suicide prone); Building a largely self-contained Tamil community and accommodating those with skills, which, with or without state hostility, needed radical imagination; The main problem of the large number of Tamils living in the Vanni and in the Eastern province, relying on agriculture, which has to do with ideologically motivated colonisation by the state backed by covert and direct violence.

Addressing all these issues and welding the Tamils into a single community required mass mobilisation and political motivation. This task and its conception in such terms was alien to the dominant elite and the value system they presided over, which disdained both the masses and mass politics. Thus the parliamentary politics dominated by the Tamil United Liberation Front (TULF) had this serious intrinsic weakness. Instead of facing this challenge with new ideas and action, the TULF relied for its support on the emotional appeal of its envisaged separate state. This made it both convenient and natural to brand opponents and those who raised awkward questions as traitors. Despite the heavy odds against them, some mass political work was done by Left orientated groups giving a sense of dignity to sections of deprived folk and bringing up persons with leadership qualities from among them. Their influence was however marginal.

During the crucial late 70s and early 80s, Tamil politics developed against this backdrop, influencing the development of the militant movement, whose dominant sections shared the TULF's outlook. The anti-Tamil violence of July 1983 being massive and traumatic, brought tens of thousands of refugees to the Tamil homelands of the North-East. But the morale was high. This was because there was a sense of community and a feeling that all could now work for their collective liberation. A large number of youth went to India for military training in different groups. But without the foundation for a mass political programme, this confidence was quickly dissipated. Emigration became a commonly accepted objective for the more privileged.

The dominant outlook of Tamil politics as represented by the TULF, its fundamental weakness and its associated intolerance, were all translated into militant politics. Those groups that tried a more rational approach rooted in mass politics were marginalised, brutalised by their environment and finally decimated and even criminalised. The LTTE which grasped the initiative and rose to eminence both inherited and refined the legacy of its parliamentary predecessors. With the TULF, the branding of opponents as traitors mainly stifled debate and led occasionally to murder. But the LTTE used the same practice to brazenly

gun down members of opposing groups by the hundreds, to imprison, torture and kill, and in effect stifle all democratic dissent. By December 1986, the LTTE became virtually the sole Tamil militant group.

The LTTE's fratricidal killings of other militants weakened the Tamil struggle to the point of giving the Sri Lankan army a quick series of military advances in early 1987. Membership of militant groups having cut across local communities and even families, the Tamil community as a whole was traumatised. There was a sharp decline of morale particularly among mature persons, who felt that they had no role to play in the struggle except for very cynical reasons.

There was thus a continuity in the dominant trend in Tamil politics, the character of which became transparent, particularly from 1986. This can be described as a descending spiral involving: An assertion of chauvinist ideology as the basis of power and a refusal to face up to the social and material realities of a struggle (already referred to); Branding of dissent as treachery, and general repression; Widespread disillusionment, emigration, and a consequent decline of the material and social fabric of society; Desperate measures to contain dissatisfaction such as engineering a climate of violence and threat to security, such as by worsening a conflict; A more hysterical assertion of ideology.[6:2].

On the surface the struggle came to present an air of strength because of the venal ineptitude of the state powers that came to be involved. But the underlying reality and the tragic desperation of ordinary people, vividly represented a deeply pathological political reality. It was a politics that diminished the general character of the populace and addressed their weaknesses rather than strengths, and depended for its success on tapping the worst instincts of all concerned.[6:2 & 8.1.4].

Three prominent phenomena point to its utter weakness and desperation. These are: The mass mobilisation of children as fighters and torturers by arousing their emotions in a climate of fear [2: Problems of the Young, 3:5,5:4.4, 8:5.1.6 & 9:3.2]; the readiness to swallow past rhetoric and make the most abject accommodations with state powers from time to time; and set against this the merciless persecution of Tamil dissenters by mass imprisonment, torture and killing. The last, in its extent, is almost unique in the annals of liberation struggles.

## 2.4 The Plight of the Muslims

In the Trincomalee and Batticaloa districts relations between Tamils and Muslims (also Tamil-speaking) had been traditionally good. In the Amparai district, where Muslims greatly outnumbered Tamils, there was a greater drive to assert a Muslim political identity. It was here that the Sri Lanka Muslim Congress (SLMC) enjoyed much of its electoral success. Fifty years ago the bulk of Tamils and Muslims in the East were poor labourers working for



a small number of Podiar families owning vast rice fields. As these families declined their fields were bought over by their erstwhile labourers. The Muslims, who were increasingly successful in trade, acquired a considerable proportion of these fields. Their new prosperity also gave the Muslims a push in educational success. All these created tensions between Muslims and Tamils which were well within the means of a healthy Tamil politics to sort out.

The only practical way forward is to accept that the advances made by Muslims have been by fair means. There has been a real sense of injury on both sides and the story is different from area to area. There is a feeling of Tamil insecurity in the Amparai District. But in the Batticaloa District it is the opposite. Both the Tamil and Muslim populations have expanded by natural increase. In the Batticaloa area, Tamil residential areas have correspondingly increased with the creation of new villages. But a similar expansion by Muslims has been fiercely resisted. Consequently at present, a large Muslim population has been boxed into the small villages of Kattankudy and Eravur.

A healthy Tamil politics, instead of fearing the Muslims, would have treated their qualities of hard work as an economic asset. With the advent of an assertive Tamil nationalist politics, the Muslims though understandably uncomfortable, tried largely to maintain good relations with Tamils. The LTTE and other groups did play into the hands of the state by trying to deal with Muslims in the same way that the Sri Lankan state dealt with Tamils. Over an incident in December 1987 where an LTTE member from the Muslim village of Kattankudy was attacked by fellow villagers, the LTTE took severe reprisals. Among those killed were 30 Muslim bus passengers travelling to Kattankudy.

The LTTE's killing of over 100 surrendered Muslim policemen from the Amparai district along with their Sinhalese counterparts, brought out lumpen Muslim elements helping the army to wreak havoc on the Tamil population. But in the Batticaloa (mainly Kattankudy and Eravur) and Trincomalee districts, the Muslims remained calm. Indeed in Eravur, several Muslim youths were members of the LTTE. On 12th July 1990, the LTTE abducted and massacred, over 75 Muslims, including women and children, returning to Kattankudy. This was followed by massacres of worshippers in two Kattankudy mosques and villagers in Eravur during the first fortnight of August 1990. More than 250 Muslim civilians were killed in the two incidents.

These attacks were unprovoked and were based on cynical calculations by the LTTE. From way back in 1984, the government had been cashing in on Tamil-Muslim differences, using Muslim agents in violence against Tamils. This time was no exception. The LTTE, by the act of massacring Muslim policemen, had provided ample grist for the mills of government machinations. The

government's standard response to LTTE attacks on Muslims was to create Muslim homeguard units. The unexceptional record of these homeguards, whether Sinhalese or Muslim, was that they have never protected civilians during an LTTE attack. Under attack they had nearly always run away, with or without their shotguns. Once an attack is over, they, with the help of government forces, take reprisals on the nearest Tamil village - which is nearly always undefended. Furthermore the government media had habitually publicised massacres of Muslims and Sinhalese, while denying the much more frequent and extensive massacres of Tamils.

This in turn provided the LTTE with the opportunity of profiting from the anger of Tamils whose rights as Sri Lankans to security, justice and life were increasingly being violated. It gained both support and recruits from the very Tamils hopelessly cornered by its own machinations, such as by its killing of Muslims. By so playing its cards in a destructive ambience it was able to divert attention from its sins and thus survive. Nevertheless its longterm aims became untenable.

LTTE attacks on Muslims and the reprisals against Tamils populations have remained a regular feature in the East. In the North, where Tamil-Muslim relations had been consistently excellent, the LTTE expelled the Muslims in October 1990 after expropriating their goods, amidst scenes of grief shared by both communities.[6:3 & 9:4.11].

At one level, leaders in both the Muslim and Tamil communities are to blame for not loudly and publicly condemning and stopping such killings by members of their own community. It also reflects the new regime of terror coupled with hatred that envelopes both. At another level, the Muslim community is relatively unsophisticated. They have little access to foreign journalists and Western NGOs. Nor do they have well organised lobbyists putting their case to international bodies like the UN Human Rights Commission. Tamil leaders had far greater opportunity to check such despicable actions done in their name, by using their institutional links. Tamil church leaders for instance have a powerful voice in the World Council of Churches as well as in the Vatican. But has the use they have made of it been truthful and morally correct? Using such authority to propagate half truths, ignoring the enormous suffering of Muslims at the hands of Tamil gunmen, only increases the bitterness. [See for instance, 'Church leader irked by "double standards" on Sri Lankan impasse', Ecumenical Press Service, World Council of Churches, Geneva, 8th July 1992]. The greater responsibility thus lies with the Tamils.[S3:4 & 6; 7:6; 8:4; 9:2.12-15].

## 2.5 Sinhalese in the East

The East like the rest of the country had witnessed changing demographic patterns over the centuries. When



statistics were first taken in the late 19th century,

Sinhalese formed less than 5% of the population in the East. After state-sponsored colonisation which gathered momentum in the 50s, the population percentages in 1981 were Tamils: 42, Muslims: 34 & Sinhalese: 24. Reinforced by state ideology, Amparai Town and Trincomalee became notorious in the use of sections of Sinhalese colonists in violence against Tamils, particularly in 1958 and 1983. This resulted in massive displacement of Tamils and refugees fleeing in terror as far afield as India and elsewhere. On the other hand there were also many Sinhalese who had migrated in the normal course of events, or had from time immemorial lived in border villages, and had been integrated with Tamils for generations.

From the mid 80s, a virulent Tamil insurgency, spawned by a virulently anti-Tamil state policy, began attacking Sinhalese as Sinhalese, without making distinctions of any kind. The attacks in October 1987 on Sinhalese who had long coexisted with Tamils in Batticaloa and Trincomalee,

left even some local LTTE leaders dismayed.

In the course of these attacks several Sinhalese villagers fled from exposed areas and sought refuge in the South. Amidst chauvinistic sentiment which precluded the facing of reality, the human tragedy of the Sinhalese colonists was obscured. Those including women and children who had no option but to flee were treated as deserting frontline troops. Senior army officers threatened to 'arrest' fleeing colonists and take them back. The press in Colombo sometimes published pictures of supposedly patriotic old village women carrying shotguns. The reality however was that young male homeguards regularly deserted under attack.

This is yet another aspect of irresponsible adventurism which revealed the insensitivity of chauvinists to real human needs. Ironically, had chauvinism been kept out of state policy, the migration of Sinhalese to the East in the normal course of economic development, would have taken place under healthy conditions.[4:7, 5:2.3, 6:4.4&7:7]

### 3. THE WAR AND THE CIVIL SOCIETY

What the war, and the events leading up to it, amplified, was the wide gulf between the politics and the aspirations of ordinary people. Although passing for the normal order of things, the lot of ordinary people had for years been one of repression, violence - actual and potential - and humiliation. This came from institutions both social and economic, and was inherent in routine policing even in the best of times. The years leading up to the present war were marked by unprecedented state violence inflicted on both Sinhalese and Tamils. Developments in the 70s made it difficult for the emergence of a political force that could turn the reservoir of despair and resentment into a creative and nationally liberating politics. Economic changes, largely favoured by the elite, were introduced from the late 70s with few checks on rampant corruption and in an atmosphere of repression. This precluded debate to determine the true national interest and allowed few means for accountability. Chauvinism became the opium to soothe the underlying disquiet over growing anti-democratic tendencies, economic hardship and subjection to Western domination.

The elite, increasingly apprehensive of the endemic violence at the grassroots of society, sought mental and physical isolation. A novel solution from their point of view was a populist leadership that would mediate the misty writhing mass called the common people, in a tame and acceptable form. This required co-opting religious leaders and populist politicians drawn from outside the traditional elite, in return for a stake in the state. It also represented a crisis of acute dimensions. This much can be gleaned from the writings of a number of Sri Lankan scholars.

The anti-Tamil violence of 1983 marked a new departure for the Tamil elite who were deprived of the prop of state patronage. As strange as it may seem, the gap was filled by what purported to be a liberation group - the LTTE. Its leadership mostly coming from Valvettithurai, again drawn from outside the traditional elite, brought to bear the formidable social organisation from those parts. As to the interests represented by the LTTE, this has been written about at some length by the late Dr. Rajani Thiranagama in 'The Broken Palmyra'(10). It suffices here to give some pointers:

Prominent among the LTTE's victims (both killed and incarcerated) have been Left-leaning intellectuals and ordinary independently minded persons, with leadership qualities influenced by socialist ideals. Many among the latter were university students and persons from deprived communities drawn from villages with a distinct political identity, resulting from past leftwing activism.[6:2.2, 6:4.7.3, 1:Vimalaswaran]. Leading supporters around the world and lobbyists for the LTTE are members of the Tamil elite subscribing, like the LTTE, to the Singapore model for economic and social management. This group includes academics, executives, professionals and church leaders, several of them with good Oxbridge type connections. The members of this group in Jaffna enjoy top level connections with the LTTE, and receive privileges such as exemption from military service for their children together with the highly prized permission to travel to Colombo, in return for services in legitimising the LTTE.[6:2.5] Several foreign analysts attribute the blunders of the LTTE to its youth. On the contrary, it is a ripe phenomenon with a history tracing more than a



century of social development.

In massacring members of other groups and TNA conscripts, the LTTE showed no sensitivity to the stark fact that its victims were also victims of the same social order to which they belonged. Privileged members of other groups had largely gone to the West by 1987. The TNA conscripts were forced into that position by India and its EPRLF led allies. While the elite were able to talk to the Indian Army or the EPRLF and have their children released, the parents of other children were abused and sent away. Nor did the LTTE, which claimed to liberate the Tamils, heed the tears of these hapless parents. Particularly in the East, these conscripts drawn from the most oppressed of Tamils, were massacred by the hundreds after being disarmed. (See 4.3 of this briefing)

For reasons of propaganda in some circles, the LTTE has sought association with other liberation groups around the world. But it is patently a different kettle of fish. Other groups have held up as their mentors, those who gave leadership in addressing currently experienced oppression - such as Sandino in Nicaragua. The LTTE has in contrast adopted the symbol of the imperial Cholas of Tanjore. Also used copiously in its propaganda exercises have been famous Hindu temples. These are symbols legitimising the traditional social hierarchy and would have been frowned upon by the intellectual forebears of the Dravidian movement in Tamil Nadu. Ironically, the LTTE had arrangements of mutual convenience with leaders and activists of the Dravidian movement in recent times. (See Rajmohan (4) for a discussion of these issues, and also [6:2.9]).

We described this state of affairs as a national crisis of new dimensions, because the intellectuals and leaders of civil society had lost the capacity to understand or address the masses. In the process they have acquired a paranoia which is both morally and intellectually stifling. Whether it is the peace process or dealing with potentially

irredentist phenomena, the initiative has been largely surrendered to the government - which the latter, given its position of weakness, does not always approve of. This situation was reinforced by the JVP's methods of terror.

One sees this to be the case with several shadowy groups that have emerged in the South recently, drawing support from some articulate sections of the middle classes and major opposition parties. While challenging the government over real issues arising from its economic policies, they appeal to xenophobia and Sinhalese chauvinism rather than to reason. [9:4]

Thus life for the elite, whom the open economy has served well, goes on with utter indifference to the unemployed young getting blown up in the battle-field. So inert is the moral state of academia, that one may perhaps more readily find an army officer who, confronted with one aspect of stark reality, could be a fount of considerable wisdom and enlightenment. [6:6, 7:5, 8:1.5, 9:1.4] By failing to take a convincing position on giving confidence to the Tamils, the leading opposition groups have failed the country in its hour of need. Nor have they demonstrated being in possession of the ideas, vision and the will to form a better government. Some of the smaller opposition groups in the South, have, it must be mentioned, played a creditworthy role on the ethnic question.

The politics in the South as well as the North have degenerated to a point where the aspirations of ordinary people fare very low in its preoccupations. This is no where more starkly revealed than in the attitudes to the families of the thousands killed and disappeared, mostly from the lower reaches of society. Neither the government nor the LTTE have shown any sensitivity towards helping these families to come to terms with their grief and re-evaluate their conduct. These families have instead been confronted with a menacing, stony indifference. Only, the government had called its victims 'criminals', while the LTTE has called its victims 'traitors'. [9: Preface & 3.0]

## 4. THE NATURE OF HUMAN RIGHTS VIOLATIONS AND COUNTER MEASURES

### 4.1 State Forces

#### 4.1.1 The Emerging Pattern

We have stated on the basis of our inquiries that where government forces were concerned, in the East in particular, for the latter half of 1990, the taking of prisoners was the exception rather than the rule. Thousands of civilians who had nothing to do with the LTTE were hideously and summarily murdered, simply for being Tamils. The number killed in the Amparai

district is said to be more than 2000. One cannot say with much confidence that the worst was over by the beginning of 1991. The number of disappeared in the Batticaloa area which according to the Peace Committee stood at 2500 in July 1991, has since been rising at the rate of about 100 a month. This figure does not include those confirmed dead. It could be said that the number killed in the Eastern province by government forces is in the region of 6000 and perhaps considerably higher. [S3:2.5; 8:1.2; 8:3.3; & 9:Preface]



One incident that attracted considerable attention was the massacre by the army at Kokkadichcholai in June 1991. Over 100 civilians were killed in a reprisal attack following a landmine explosion. Owing to circumstances which attracted considerable publicity, a presidential commission was appointed to inquire into this. The verdict delivered early in 1992 upheld many of the key charges made against the army. Our inquiries at that time showed that the incident far from being an aberration was one incident in a large continuing pattern that went mostly unreported.[8:2 & 3] Despite the appointment of the committee of inquiry and the government generously acquiescing in demands by international bodies to respect human rights, there does not appear to be a noticeable change. This is suggested by the rising toll of disappeared recorded by the Batticaloa Peace Committee. Our inquiries early this year brought reports of familiar occurrences such as bodies being disposed of in security forces' camps in Batticaloa.[9:2.3 - 11]

There is still a stubborn refusal by the government, despite assurances, to acknowledge responsibility for the disappeared taken away in public view. This happened at several refugee camps. The government's attitude to civilians there continues to be insensitive and insulting.[S3:5, Veeramunai and Sorikalmunai; 7:4.5]

One area where some progress was made was the reduction in the scale of bombing and shelling of civilian areas in the North, at least over much of 1991 and the first few months of 1992. Yet the fact that civilians continued to die as a result of bombing and shelling revealed the absence of real checks. The situation became worse in mid 1992. We also received reports of hideous instances of torture in camps situated in diverse places. Owing to known cases of persons detained being small in comparison with the thousands known to have disappeared or to have been killed in massacres, testimonies from persons detained and then released are few in number. But these few give us vivid insight into the fate of those who are now no more.[4:8; S3: 1.6, 3.1; S3:7; 7:3; 7:7.4; 8:2.3; 8:2.2.1, 7 & 8; 9:4.3]

In the case of the STF the pattern was fairly uniform and depended on the policy pursued at that time. During 1990 torture and the elimination of suspects was blatantly practised. With the army the pattern was non-uniform and depended much on the individual officer in charge. When an officer with a reputation for 'toughness' was given a posting, there had usually been a political agenda.[S3:3 & 7; 7:5 & 9:4.3]

One such area where a political agenda was in operation was the Trincomalee District. When the IPKF arrived in 1987, nearly all Tamil villages in the district had suffered destruction through deliberate policy. Following the outbreak of war in June 1990, the policy defeated in 1987 was resumed. Newspapers in the South came up with articles by propagandists with pet schemes such as sundering the North from the East through settlement of

Sinhalese colonists in Weli Oya (Manal Aru).[5:2.7 & 8; & 8:8.4]

In consequence it is hardly surprising that violations in the Trincomalee District took a sinister turn. We now have testimony that the Tamils known to have disappeared from June - December 1990 in the district number between 400 and 500. Other senior persons who were widely travelled in the Trincomalee district at that time, place the number of disappearances at well above 1000. They refer in particular to one incident at the end of June 1990. They witnessed several hundred prisoners being taken away by the army following mass screening of residents. Only a small number were released after questioning. They say that queries about the remaining detainees over several months bore no fruit(\*see note at the end of this section). Several other sources said that many of these prisoners were taken to Plantain Point camp in Mutur and many dead bodies were disposed of in that area. Cadjan sent by relief agencies for refugees is said to be among the materials used for burning bodies. The scale of the killing here appears to have been lower than in the Batticaloa and Amparai Districts. The emphasis seems to have been more on displacement through terror. Once more those in the villages have become refugees. When such an ideological scheme is in operation, bad officers and the most undisciplined troops tend to be given a free hand. Some violations were the direct consequence of banditry that became inseparable from the army's outlook. There are instances where persons disappeared over matters such as protesting against soldiers taking away cattle.

The message coming out is that until there is a political will to institute measures giving Tamils a sense of dignity and security, there will be no procedures for accountability. Notwithstanding ritual assurances to the international community, without procedures for accountability, there will be no breakthrough in human rights. Every lull will be temporary. The armed forces will continue to violate human rights as they please and the politicians will cover up for them.[4: 3 & 7; 5:2.2; 9: Preface & 1.5].

The UTHR(J) has documented instances where officers in the forces displayed high standards and have shown commendable concern for civilian welfare. These remain isolated instances in a political vacuum.[7:2.7, 7:2.11, 8:2.2.14, & 9:4.2]

\* NOTE: It has not been uncommon for us to come across large divergences between different sources on numbers of victims. Such discrepancies inevitably occur in trying to provide information under very difficult conditions. A local community leader often needs to give an estimate on the basis of reports and appeals that have actually reached him. This number may eventually diverge widely from the number actually compiled. This compilation has its limitations depending on how closely knit and how geographically widespread the society is. In



many villages, the survivors from an incident may go far away as refugees without having the ability to make reports.

Consequently we have lowered some of our earlier estimates for some areas until a reconciliation of divergences becomes possible. One area where compilation has been more exhaustive is that covered by the Batticaloa Peace Committee. If one is to judge by these figures on the assumption that the conduct of the forces was similar in the three districts of the Eastern Province, the lower estimates have to be treated with caution.

#### 4.1.2 The Situation in mid 1992

Although considerable international pressure has been applied and the government may not want bad publicity, there is no evidence of sincerity on its part. In the resumption of operations in Jaffna high altitude aerial bombing in civilian areas has been resumed. Bombs are aimed at moving vehicles and houses supposedly used by the LTTE. These have taken, as before, a heavy civilian toll.

In Mullaitivu, at least 23 Tamil civilians were killed when shells were fired into a crowd of worshippers at Vathapillai Kannagi Amman Temple on 18th May. According to some reports the army had been informed beforehand by the government agent and the Red Cross of the ceremony at the Hindu Temple. Although there are some questions about this, the army seems to have known about the festival. An official inquiry has blamed the army for the incident.

There have, in the East, recently been serious incidents where groups such as Muslim homeguards and Tamil militants working with the army have been prominently involved. The army and police were in a position to prevent them and did nothing or actually took part. In Mandur during April, members of the TELO accompanied by army personnel killed 8 civilians including an entire family. On 29th April an army contingent moved through the Tamil village of Karapola towards the Muslim village which had been attacked by the LTTE. An officer, apparently of high rank, stopped and made inquiries before moving on. Twenty minutes later attackers from the Muslim village massacred Tamil villagers. The police too were involved in the attacks on Tamils.[ICES(3)]

All this shows that there is no change of heart and attacks on Tamils have only become more devious. While civilians are being attacked with impunity, no one from the armed forces has been punished. The presidential inquiry commission into the massacre at Kokkadichcholai found the army culpable. A year later, none of those believed to be responsible had been tried. A meagre payment of compensation for the victims (£60,000/- to 189 families) had been recommended by the commission's report in January. In June the Ministry of Defence was still in dispute with the Ministry of Rehabilitation on who

was to foot the bill.(Guardian 17th June 1992) Such was the remorse. Payment of compensation commenced in early August.

## 4.2 Violations by the State and Challenges Facing Human Rights Organisations

### 4.2.1 *The rising tide of state violence and the emergence of human rights concerns*

As human rights abuses began to mount, several international human rights organisations began expressing grave concern. Prominent among them was the Amnesty International which had taken a keen interest in the human rights situation in Sri Lanka since the JVP insurrection in 1971, and its increasing concern since 1977 is reflected in its frequent reports in later years particularly after the draconian legislative and security measures adopted by the government since 1979.

In subsequent years many other international human rights organisations such as the International Commission of Jurists, International Alert, Asia Watch, Article XIX, etc. became actively concerned following the growing deterioration and the widespread nature of human rights abuses in the island. This was considered sufficiently serious for even the UN Commission on Human Rights and its subsidiary bodies to involve themselves year after year, so much so, Sri Lanka became the subject of resolutions by the UN Commission on Human Rights and of investigation by its "Special Rapporteurs" on torture and arbitrary killing and of the Working Group on "Disappearances".

The increasing threat to civil liberties, erosion of democratic rights and widespread human rights violations during the 1970s and 1980s gave birth to a number of local organisations whose activities have had a bearing on human rights in the country. These may be divided into three categories. Those involved in the first category mainly belonged to the educated classes - lawyers, journalists, members of the clergy, trade unionists, members of political parties etc. The second category have an organisational structure with a city head office, but with activists involved in socio-economic projects in a number of rural villages. These too have often been led by intellectuals. The third category have been based in provincial towns and are bodies of local citizens, such as citizens' committees. The links between the three categories have been mainly through personal contact. In the case of political parties, several of the Left parties and individuals from the larger parties, have also been interested in human rights, and their contribution has been invaluable. These developments came about because of a strong historical tide leading to large scale violations.

The Civil Rights Movement (CRM) was formed in the early 1970s in the wake of gross abuses by the state and its agencies in suppressing the 1971 JVP rebellion. An SLFP-led left-leaning coalition was then in power. The



state then enacted draconian retroactive legislation for special courts to try alleged JVP offenders and the admission into evidence of confessions extracted under duress. Other matters arousing concern in the early 70s were the takeover of a section of the press by the state, and the furthering of state control over the mass media. The 1972 republican constitution also provided for executive interference in appointments to the judiciary. Many of these features were carried to new lengths by the UNP which has ruled since 1977.

The Movement for Inter Racial Justice and Equality (MIRJE) was formed in 1979 in response to the worsening ethnic conflict and the extraordinary repressive measures adopted by the government to suppress Tamil militancy. The government enacted the Prevention of Terrorism Act, had recourse to emergency powers, deployed its military in the northern Tamil areas, particularly in the Jaffna peninsula, and resorted to the practice of widespread arrest and detention of Tamil youth. The sharp upsurge in state repression was manifested most demonstrably with the burning of the Jaffna Public Library and most of the buildings in Jaffna town by government forces in May-June 1981. During this period and subsequently when uncontrolled mob violence was let loose against Tamils living in the south of the country, the activities of the MIRJE included the investigation and exposure of the acts of violence and injustice that were being committed and also to call for communal harmony.

The period following the communal violence of July 1983 witnessed the escalation of the ethnic conflict, increased militarisation and government intolerance and repression of political dissent and criticism. The fact that documentation and analysis detailing the links between the political establishment and the violence unleashed in July 1983 had to be published abroad, gave a taste of the new situation.

Although there was no direct attack by the state upon human rights organisations, the prevailing climate of violence, militarisation and repression narrowed the space in which human rights organisations and activists could act without fear of adverse consequences.

During this period less detailed information was publicly available about violations by the state. This made comment and exposure a more sensitive matter, particularly where those implicated were to be narrowed down to the point of discomfort. Consequently, in rural areas where people were being victimised, bombed or shelled, there was a feeling of neglect.

In January 1985 the CRM issued a lengthy, comprehensive and reflective statement covering the escalation of violence against civilians. It read, "...*Mass arrests of Tamil youth are being carried out. Detainees in the custody of the state have been killed. Some members of the security forces have carried out massive reprisals*

*against the civilian population and, and in the course of their operations, have killed many people... Peasants in language border areas have been pushed out of their villages. The killing of combatants and non-combatants on both sides has escalated...".*

The statement contained the following prescient observation: "*At such times, when the temptation for the security forces to depart from lawful methods is likely to be great, the monitoring role of the CRM becomes the more difficult and more important to perform. It is precisely at such times that its role is least likely to be heeded or appreciated by the government.*"

The CRM and MIRJE have continued to play a leading role in raising human rights issues in Sri Lanka. 'Yukthiya', a Sinhala language journal founded by the MIRJE in the late 80's to promote intercommunal justice and equality and the recognition of the legitimate rights of the Tamils, has rendered invaluable pioneering service. With its regular statements, often closely analysing the effects of legislation and aspects of the legal process dealing with specific violations brought to public notice, the CRM continued to play the role of a flag ship.

The work done by local organisations played an important part in internationalising the human rights situation in Sri Lanka. The Working Group in its report of January 1992 to the UN Commission on Human Rights has placed the cases of alleged disappearance in Sri Lanka "as the best documented ...from 40-odd countries appearing in the Group's annual reports ...". The constraints on local organisations made it inevitable that in exposing specific violations, the brunt had to be borne by international organisations. Local organisations need to be judged not by what they were seen to do publicly, but by their remarkable achievements in spite of the constraints on them. The singular and sustained involvement of the Amnesty International in Sri Lanka for over 20 years could not have happened without the significant work undertaken by local organisations.

An important contribution in the publication of human rights violations by the state from 1984 to mid 1987 was played by the Jaffna based 'Saturday Review' under the editorship of Gamini Navaratne, a Sinhalese. The weekly was the brainchild of K.Kanthasamy, killed in 1988, ironically, by a Tamil militant group - the EROS. Kathasamy had been closely associated with the CRM.

It must be kept in mind that political parties like the NSSP, with not an insignificant mass base in the south, who have adopted an activist approach, have also observed certain constraints. Through the difficult mid 80s, the NSSP displayed commendable courage to challenge the government and put forward the rights of Tamils in forthright terms. But in challenging individual actions of the armed forces, it has observed caution. Wherever the NSSP, like the SLMP under the late Vijaya Kumaranatunge, has involved itself in mass action by the



opposition, it has continued to play an important role in de-communalising politics.

The trend in legislation was to retrospectively legitimise by granting immunity to offending members of the state forces, the reality of rising state terrorism. Thus the most poignant and widespread violations went beyond the purview of the law. The discourse of lawyers thus came to address a very narrow aspect of living experience, and in a sense dealt with a world of make-believe. To cross over into the real world and enter into its horrors, demanded sacrifices that were dauntingly uncomfortable. It was with this knowledge that several lawyers undertook legal work in connection with disappeared persons and political prisoners. By doing so, they entered the labyrinthine world of 'state security', and some, like the victims they sought to represent, became engulfed, as it were, within its bowels.

In recent times there have emerged organisations such as the Mothers' Front and Mothers of the Disappeared with mass support. From February 1991 they have in the face of official hostility successfully staged mass actions with the help of opposition parties. The two years from the disappearance of journalist Richard de Zoysa have been studded with bizarre events which left the populace in little doubt about the affiliations of death squads together with some of those involved. Repeated government assurances to the international community have not prevented the group Lawyers for Human Rights from recently receiving death threats from persons strongly evincing official links (Amnesty International, 3rd July 1992). Such disregard for human rights and legality have made the government's calls to rebel groups to 'lay down arms and join the democratic process' empty gestures. Possession of arms has come to be seen as necessary for meaningful dissent. In contrast with the treatment of democratic dissent, it is only when rebel groups have matched the government in their destructive approach, that they have been respectfully invited for negotiations. Such opportunism has even been accorded the status of statesmanship.[6: Preface, 6:1, 6:6, & 8:1]

#### 4.2.2 New Directions

Mounting pressure brought to bear by international organisations, together with the threat of isolation, has influenced the government to make some formal concessions. The government accepted most of the 32 recommendations made by the Amnesty International in September 1991. Subsequent reports together with strongly worded recommendations were also issued by the UN Commission on Human Rights, the Canadian Human Rights Mission to Sri Lanka, and by Asia Watch. The last two addressed both the government as well as the LTTE. The government thus needed to put on a conciliatory face as regards human rights activity, at least where prominent organisations were involved.

It is in these circumstances that the International Centre

for Ethnic Studies (ICES) in Colombo sent a team to inquire into the recent massacres at Welikanda. On 29th April the LTTE attacked a Muslim village killing 64. Then Muslim homeguards and policemen who fled during the attack, went into neighbouring Tamil villages and killed 82. The team's report comes in the genre of earlier reports by the De Kretzer inquiry committee into deaths resulting from police action at the Jaffna International Tamil Research Conference of 1974, the Jaffna University SSU on attacks on Estate Tamils in Delta North and Sanquhar Estates in May 1977, the MIRJE team of inquiry into the burning of the Jaffna Public Library in 1981 and those on the communal holocaust of 1983 published under the names Piyadasa and Arjuna. These reports also reflect the state of human rights at that time together with the corresponding freedom of expression. All these reports were attempts at providing some semblance of an impartial inquiry where none was available that was meaningful. The ones on the 1983 violence had to be done by questioning people discreetly.

The ICES report also raises some of the problems concerning an open inquiry under the peculiar dispensation of terror. Those giving evidence have been reticent about the roles of both the army and the LTTE. Questions pertaining to these have been duly raised in the report's observations. The report also gives substance to our contention that home guards are of no use except as proxy killers for the forces.[5:1.2, 5:2.5, 7: 3.1, 7:4.2]

A consideration relevant to the Welikanda incident is that the army tried to project itself as playing a benevolent role, which is questioned in the report. There are several other incidents following which the government and the forces issued hostile and menacing denials. The disappearance of thousands in the East, including people from several refugee camps; the headless bodies of Thirukkovil [S3:3.1]; the gruesome results attributed to one Captain Munas [8:2]; all remain unprobed. Quite often the units can be traced and the names of commanding officers, such as that of the colonel who presided over the butchery at Kalmunai, are known. [S3:2.5, 7:2.9]

The major general who visited the Eastern University refugee camp on the 8th of September 1990 was, by indications, already aware that 159 persons, now missing, had been taken from the camp three days earlier by troops under his command.[7:4.6]

Unless these atrocities are investigated and those responsible made publicly accountable, such incidents will continue. This point has been stressed by recent reports on Sri Lanka (e.g. Asia Watch (6)).

If there is to be a greater opening for human rights activity, a priority must be to break through the terror and represent the true aspirations of the people. This cannot be done by outsiders. When common people meet visiting delegations, they often come across as obsessed with one



side of the story, undiscerning and obtuse. Circumstances make them go through a ritual. But that is far from what they really are.[see Rohini Hensman -Banaji(2)] Up to now their innermost experiences and fears remain largely unrepresented. The task of representing them would require closer understanding between the three categories of organisations mentioned.

Those who violate human rights are constantly becoming more devious and have made it almost impossible for some gross violations to be contested. Visiting outsiders are often left no wiser on the LTTE's repression. On the part of the government the emphasis is on avoiding bad publicity rather than a change of heart. Otherwise it is business as usual. The deviousness involved in having several categories among the forces to arrest people on suspicion, over offenses insufficiently circumscribed, has been commented on.[eg UNCHR Working Group, January 1992, para 196; AI recommendations of September 1991, 28 & 29] For instance, if the homeguards kill, the forces are not to blame. But when justifying recruiting homeguards, it is said that they are under strict supervision by the forces. If some atrocity can be attributed to the mysterious Captain Munas, then the army brigadier in overall command at Batticaloa displays clean hands.[8:2.2.7] If bodies are burnt at the police station, the local STF command knows nothing.[S3:5.2]. [See also 7:2 & 3, 8:2 & 3, 9:Preface, 9:1.5.1 & 9:2].

The government's response to human rights pressure can be compared to the drama in Lewis Carroll's satirical nonsense verse, 'The hunting of the Snark'. It would be too easy to get lost in semantic rituals with very cultured civil servants, unless the alienation of ordinary people is clearly represented.

### 4.3 The LTTE

For foreign observers this remains an obscure area, seldom reported in the international media. Because of the virtual destruction of civil society in the North-East, particularly in the North, little information comes out on a regular basis. Owing to the ambience of terror, people most often speak "tactfully" to visiting foreign delegations. The information we have accumulated over years when assembled together shows a truly frightening pattern.

From its inception, and more strikingly from 1986, the LTTE has shown that it gave no quarter to those it regarded as a challenge to the ambitions of its leadership. Because it was trying to promote itself as a liberation group, it also took great care to stifle information about its violations. The Brown Road prison massacre in March 1987 in which more than 50 members of the EPRLF were killed gave an indication of the vulnerability of its prisoners. We summarise below the information contained in our recent reports.

### (a) Killings

Although the murder of surrender policemen in the East in June 1990 was highlighted by the state as the first breach of the law, during the preceding 7 months much killing of helpless unarmed and disarmed persons was done by the LTTE and the government in partnership. These killings were even more contemptible because they often involved the families of members of the LTTE's rivals fleeing to India as the IPKF withdrew. Several of them were killed at sea by the Sri Lankan forces and the LTTE, and bodies were washed ashore both in Sri Lanka and India. Dozens of civilian bodies were burnt after being washed ashore in Vadamaratchi during January 1990. Many civilians captured while fleeing were disposed of by the LTTE in places such as the cremation grounds at Vathiri.[4:7.6], (10:Appendix)

In the East, TNA members, mostly conscripts, who surrendered to the LTTE were either murdered or are missing and presumed killed. This was done while the Sri Lankan forces looked on or sometimes helped. At Savalakadai 50 members of the provincial council's Civil Volunteer Force who tried to wade through the lagoon, were mown down by a helicopter gunship. Some known figures of TNA prisoners killed or missing are as follows: Thirukovil:150; Batticaloa:200-300; Kiran:20. The total would be much higher than the sum of these. [S3:2, S3:7.2, 5:2.9, 8:Preface & 2.5]

The number of Muslim civilians killed by the LTTE in the 3 large unprovoked massacres (Kurukkalmadam, Kattankudy and Eravur) during the month commencing on 12th July 1990 was above 300. The total figure for 1990 was put at above 700. Attacks on Muslims as well as reprisals by Muslim homeguards operating with the forces remain a feature of life in the East.[4:9; 5:2.4 & 5; 7:2.2, 5 & 6; & 8:4]

The LTTE had also launched a number of unprovoked attacks on Sinhalese civilians living in border areas. The number killed during these attacks exceeded 200 during 1990. These attacks too have continued on a smaller scale.[4:7;5:2.3;6:4.4;7:7]

Several TNA conscripts who surrendered to the LTTE in the North were released after being ceremonially pardoned.

### (b) Denials by the LTTE

On some occasions, such as the Kattankudy massacre, LTTE spokesmen have contacted the foreign media and issued denials. But for the most part the matter is left to local and expatriate apologists for the LTTE among the elite to offer explanations. Their reasoning hinges on the inconclusiveness of evidence, that any party, such as the government, having an interest in discrediting the LTTE, could have done it, or that it could be a splinter group from the LTTE. These are also sometimes picked up by



influential journalists.[5:2.4 & 5, 7:2.2 & 9; 8:4.1; S3:2.3 & 4]

Legal hairsplitting makes no impression on Tamils who know the LTTE well. The Sri Lankan government well knew long before the recent spate of scandals that there are no secrets in Sri Lanka. The government forces have been known to engineer massacres of Tamils. In these instances there was no doubt. As cynical as the government may be, it was too much a high risk strategy for it to engineer massacres of Muslims and Sinhalese and blame them on the LTTE.

The most crucial consideration is often the singular institutional nature of the LTTE.[6:4.7.10, 9:3.1] This is usually missed by outsiders with only a casual interest. Following the murder of TULF leaders in 1989 and the massacre of policemen in June 1990, the splinter group theory was much talked about. The first was a subject of joint obfuscation by both the government and the LTTE, until the LTTE reversed its earlier denial and confessing to the murder of the TULF leaders, leaving its partner out on a limb.

The important factor is this: no persons who had broken away from the LTTE would ever command organisational facilities such as guns, money, transport, etcetera, to act on their own. A former member of the organisation would be too terrified even to be associated in a leaflet mildly critical of the LTTE or even to become, say, an independent dramatist. This is a dictat imposed by the LTTE on all its ex-members and is observed almost without exception. Moreover the LTTE could have done itself good by publicly dissociating itself from members of its organisation named by witnesses in connection with some of these incidents. This was, as far as we are aware, never done. Moreover as a 'liberation group' the LTTE had everything to gain by projecting a higher moral profile and image than the government. It could easily have made a public commitment to human rights together with a disavowal of methods which harm civilians - Muslims, Sinhalese or Tamil. There are no signs of such a commitment being contemplated.

#### 4.4 The LTTE's Prisoners

##### 4.4.1 Sources of Information

During much of 1990, the taking of prisoners was blatant, ordinary members of the public were aware of it and much information was readily available. During the IPKF's presence in late 1989, the LTTE manned checkpoints on routes to the North-East along with the Sri Lankan forces. Before the war of June 1990, Tamils detained by the LTTE in Colombo were taken to the North chained to their seats in particular night passenger coaches. These went through checkpoints of the Sri Lankan forces. The prisoners were collected at Paranthan by an LTTE pick up in the early hours of the morning and the other passengers proceeded to Jaffna. This was the

time that people became aware of the LTTE's prison complex at Thunnukkai.[4:7.6]

Following the withdrawal of the IPKF from much of Jaffna in February 1990 and before the war of June, the LTTE set up a centre in Jaffna where relatives of those detained could make inquiries. It was widely known at this time that the number of names on the lists at this centre climbed to about 2000.

Following the outbreak of war large scale arrests of passive dissidents began from August 1990. Much information came from sources who pursued these arrests through LTTE contacts. Conditions under which persons were detained came from persons who had met prisoners who were released. One ex-prisoner, a family man, described the routine of torture and said that anyone who went through the works would hardly live a year. This person, once a healthy manual worker, died within a year of his release. A good deal of information came indirectly from LTTE sources.[5:4.3]

All that we had written in reports 5,6 and 8 received vivid corroboration from two detainees who escaped from LTTE custody.[9:3] We stand by our reports not simply because of the integrity of our sources but also due to the consistency of details drawn from wide-ranging accounts.

From May 1991, the LTTE's crackdown on dissent took another turn for the worse. Among those detained were university students and intellectuals who had stood out because of character and personal conviction, but were not actively opposing the LTTE. There have been indications that one of the motives for these arrests was to stifle information on violations.

In early 1992 the LTTE admitted that it was holding prisoners, albeit as part of regular law enforcement. It also did a public relations act in turning on its sweetness towards prospective peace makers. The armed presence on streets was reduced and an effort was made to present Jaffna as a clean well administered city. The process of taking prisoners became much more secretive. A crackdown on any independent manifestation of public spiritedness and any form of human rights activity remains a primary motive. Underground leaflets prepared by small groups of individuals continue to send out news of violations.[6:4.7.3; 6:5; 8:5.2; 9:5.2 & 8]

##### 4.4.2 The Scale of the Problem

Based on a number of sources, including indirectly, persons released, we said in August 1990 that about 2000 detainees were held in LTTE camps.[5:4.3] Salim, the LTTE leader then responsible for surveillance, told a group of relatives of detainees that they were holding 8000 detainees, including 2000 women. This was thought to be an exaggeration.[6:4.7.3 & 4]

A detainee who escaped said that prisoners are referred to



by a letter of the Roman alphabet, followed by a number, each letter being assigned to about 200 prisoners. But it was not known how many letters were in use, and whether the system of indexing was uniform.

The best estimate we have is based on putting the number of prisoners once held at Thunukkai at 3000. This figure is based on numbers given by various sources together with an escapee's description of the camp (see below). The total held in other centres, including Chavakacheri, Kachchai and Kopay was put at 1000. It seems to be reasonable to suppose that the total number of prisoners being held is about 4000 with a margin of error of, say, + or - 30%.

That the total is in the thousands can be gleaned from disjointed bits of information. A TULF source in Jaffna said in early 1990 that about 60 persons who had been associated with the TULF, such as former party workers and former MP's secretaries had been taken in. In August 1990, about 40 persons from Karaveddy, several of them with former left-wing connections, were detained. About 50 detainees were killed by the LTTE following the bombing of its camp at Kachchai by the air force in August 1990. During September 1990, over about a week, the LTTE read out a list containing up to 500 names of detainees and claimed that they had been executed.

An escapee was held in a camp containing about 150 detainees. The two escapees who encountered prisoners under a variety of circumstances speak in terms of hundreds on each occasion. An escapee describing one prison camp (Thunukkai) speaks of a big compound surrounded with concentric fences, with 8 watch posts along the first perimeter and 12 along the second, mounted with guns pointing inside. 300 armed men were guarding the place. This has been corroborated by different sources. The last camp described was a centre used before the outbreak of war. Its present status is not known.[6:4.7.3 & 4; & 9:3]

#### 4.4.3 Who is being held ?

An indication of this has already been given. In early 1990, those detained were persons having connections with the TULF, and others who had, owing to circumstances, had contacts with the defunct provincial administration, the IPKF, who were visited by IPKF officers owing to the close proximity of a camp, who used to make representations to the IPKF on behalf of people, or, say as a community leader, shook hands during an official visit with a provincial councillor. Those directly involved in rival groups had mostly fled to India or elsewhere.

Next came those who had been members of other groups before 1987 and had lived in the community, peacefully plying a trade with the knowledge of the LTTE. They had also kept aloof from the IPKF. Some of them had even belonged to groups that had been critical of the main

groups, including the LTTE, that had accepted Indian tutelage.

The quality of those meting out justice, according to LTTE standards, was such that miscarriage was common and there was no appeal. This happened when answers to elementary questions were misunderstood. In the case of one detainee who had not belonged to a militant group, he found himself put through the works on the basis of a photograph taken of himself as a schoolboy several years ago, with a gun borrowed from a friend.

From about May 1991, persons were detained purely as part of a war against dissent as mentioned earlier. Those being held can be broadly described as political detainees and include much of the democratic potential of Tamil society.(See also the preface).[4:7.6; 5:4.3; 6:4.7.3-8, 8:5.1.5; 9:3; 9:5.2 & 8].

#### 4.4.4 The Treatment of Detainees

Reports received suggest that conditions in which detainees are held are most degrading, without medical facilities, with grossly inadequate nutrition, without being allowed visitors, and subject to intense torture, both mental and physical, such as which is generally calculated to dehumanise. We give extracts from testimonies in our reports:

"Ages of detainees 20-70... Held in rooms 6ftx1 1/2ft... Legs permanently chained with no locks... Detainees chained together in the nights... Each person allowed 3 minutes to defecate... Drinking water rationed at half a tumbler a time, sometimes poured into the mouth... Prisoners called by numbers... Prisoners suffering from a variety of illnesses including hernia, diabetes and heart ailments... No medical attention... Some of the physical torture consisted of the detainee being asked to lie flat and given 40-80 strokes with a wooden pole, or being tied and stretched and having a rough piece of wood forcefully dragged over the skin... Detainees at Chavakacheri were taken to dig bunkers in frontline positions... During air raids some of the detainees were sheltered while others were kept in the open...". [5:4.3]

##### \* First Escapee

"I saw the driver lying nude on the floor motionless. I was tied to a pillar and assaulted with batons by 4 boys aged less than 15. I was told that if I did not answer the driver's fate would overtake me.. Assaulted on and off by boys armed with batons... Chained our legs with a chain made of six heavy metal balls using gas welding... Saw 10 naked prisoners hanging from rafters with nylon ropes tied to their hands... Had to defecate in public view... Saw 30 prisoners with long hair and beards, like hunters in the jungle... 35 of us in a section 10ftx10ft... Chained to a wooden slab face downwards and 300lb wooden roller rolled over the body...".[9:3]



## \* Second Escapee

The leader of Charles camp used to enjoy beating detainees... Puts about 100 prisoners in a tiny room and shuts them in over a long period... Then 10 are chosen and chained, for example, hands with legs crosswise, and he makes them walk... Laughs with glee while torturing prisoners... Says he will not get enough sleep unless he cracks someone's skull and starts assaulting prisoners.

Two minutes were given for prisoners to defecate in rows of 100 at a time... Lowered with ropes into bunkers 15 to 20ft deep for the nights... Covered with logs... No ventilation... Guards walk on logs, urinate inside, throw frogs and snakes and laugh as the prisoners scream.[9:3]

Neither the ICRC nor relatives have been given access to prisoners. Torture is normally extended to relatives of prisoners. A relative upon inquiry may be told by the LTTE that the prisoner was executed or was killed during air force bombing. The relative may much later learn from other sources that the prisoner was seen alive. The whole matter is frequently handled with calculated sadism. There are absolutely no checks to guarantee the security of prisoners. It would be no exaggeration to say that an individual prisoner's fate may depend on a mindless lad in his early teens wielding a baton, and free to cause hurt.

### 4.4.5 Uncertainties Confronting Prisoners

In the absence of any accountability, a prisoner's life becomes very uncertain. The 1987 Brown Road camp massacre mentioned is typical of what could happen. The foregoing suggests that prisoners are further exposed because of the war, particularly when used for manual work in forward positions. The projected entry of the Sri Lankan army could only make matters far worse. Two incidents from our report are given below:

On 20th August 1990 the LTTE camp at Kachchai was bombed by the air force. The LTTE claimed that 49 prisoners were killed. A source with inside knowledge confirmed the figure. But added privately to a friend, whom he took aside, that the casualties from the bombing were 3 detainees and 2 LTTE guards. The rest were killed later.[6:4.7.3]

From the testimony of the first escapee above: "On 1st September 1990, about 11am, on hearing the drone of the aircraft, the guards locked the prison gates and went about 330 yards away... 152 of us locked in the prison house screamed for help... The third bomb fell on the prison house... Later we heard shooting noises near the prison... Only 70 of us escaped, 17 with serious injuries... The badly wounded survivors lying near the prison had been killed by the guards..."[9:3]

During the latter part of October 1991 30 to 40 persons were executed by the LTTE at various public places in the Jaffna peninsula following brief confessions. The pallor of

the persons indicated that they had been unexposed to sunlight for a long time. It was felt by local observers that these were prisoners who were being executed as a means of intimidating the public, which was beginning to voice disillusionment in private conversation.[9:5.3]

### 4.5 Other Tamil Groups

Originally these groups too consisted of persons prepared to give their lives for the Tamil cause. Some groups like the PLOTE and TELO had degenerated considerably by early 1985, and with the LTTE, were associated with a large number of internal killings on Indian soil. Others, like the EPRLF, despite pressures of militarisation, maintained some form of internal democracy until decimated by the LTTE in 1986. Most of these groups produced dissidents who left their organisations and campaigned for greater democratic accountability by the militant movement as a whole. These dissidents too later faced persecution from the LTTE from mid 1986.

Enjoying the advantage of a monolithic hierarchical structure, the LTTE branded its rivals traitors and launched military attacks on them, choosing moments when they were most vulnerable. Those who survived faced utter alienation and disillusionment. Among them those who were privileged had mostly gone to the West by the time the IPKF arrived. The rump of these groups with nowhere else to go and mostly from peasant backgrounds, nursed their resentments in India.

The IPKF brought them back with the promise of rehabilitation and used them instead as killers in its dirty war against the LTTE. These killings by all parties have been recorded in our reports 1,2&3.

Subsequently as the IPKF withdrew, the government helped the LTTE, now acting as Sri Lankan 'patriots', to once more decimate the 'traitor' groups. When it fell out with the LTTE, the government had little difficulty in persuading these other groups to serve its needs. They are once more being used in a manner which does them no credit and only increases their alienation. The majority of them are merely trying to survive, often resorting to extortion and rowdy behaviour. A section of them are being used by the Sri Lankan forces to steal, abduct, torture and kill.

We have pointed out that 90% of them are from deprived sections in the Eastern province, are as fatalistic as they are dehumanised, and often live in army camps because they have nowhere else to live.

In well-heeled Tamil elite circles, they are often referred to as 'Quisling' groups. That is a strong indication of why our community is in a self-destructive phase. On the one hand there are the young peasant boys who keenly experienced the Sri Lankan state's oppression in the mid 80's and were prepared to sacrifice their lives for freedom. Such was the tragic course of our political



history, that with their limited backgrounds they were unable emotionally or intellectually to cope with the alienation they faced. Now they are psychiatric patients. On the other hand we have a prominent section of the privileged elite, for whom calling these victims Quislings and indulging their chauvinistic emotions has become an agreeable way of life. They have the means, as well as a duty, to understand the tragedy of their community, but refuse to do so.

The legacy left to us by the late Dr. Rajani Thiranaganama is that these relics of humanity, as much as the young drawn into the LTTE and spiritually maimed, are part of our community, and we have a duty to them all. Rajani had acted on the basis that even at the risk of her life, she needed to trust them for their own sakes and for the sake of the community.

We have also said that the only responsible thing that the leaders of these militant groups could do, for the sake of their cadre and for the sake of their community, is to dissolve their military structures. Then history may treat them more kindly.[3:1 (Tharmarajah); 3:5; 4:7.4; S3:7.2, 8:2.2.5 & 7; 9:3.0 & 4]. (See also reports 1,2 & (10: Appendix))

#### 4.6 The Role of International Organisations

Some important gains have been made by international organisations in the field. The ICRC, MSF and the UNHCR in particular have ensured that civilians in war zones receive adequate food and medicine to survive. International concern, together with sections of local opinion, at least for a time, prevailed on the government with temporary success, to curtail bombing and shelling of civilian areas. When the government chooses to let the ICRC see a prisoner, the family can rest assured that the prisoner is fairly safe. The ICRC has also secured the Jaffna hospital to a point where it could function in reasonable safety.

But to make significant progress it seems evident that some clear thinking and organisational re-adjustment are needed. There is also a sense in which both the government and the LTTE have learnt to live with these organisations while making few concessions in substance. It would appear that whenever the government or the LTTE wanted to violate human rights, they did so, almost with impunity. There has been some despair within these organisations - such as that of a member of the ICRC who inquires after a badly mauled prisoner while the torturer stands by nonchalantly, and then channels the report to the President of Sri Lanka as though it was news to him. The LTTE puts up with the ICRC running the Jaffna hospital, but has evidently not allowed the ICRC a peep at its political detainees. Indeed, the LTTE regime in Jaffna is such that relatives of detainees would hardly find themselves able to talk to the ICRC.

Nor has the gravity of the situation faced by the LTTE's

detainees appear to have been grasped as something of great significance by international organisations. The matter has largely been passed over in silence. Once the democratic potential of the Tamils is interred in the LTTE's prisons, the community will be reduced to a servile mass, only fit to receive rice bags from well-meaning donors, and with little potential for regeneration. NGOs functioning in the knowledge of compromising restrictions face some painful moral questions. These questions in varying guises arise in all conflict situations (prominently at this time in former Somalia and Yugoslavia). There are no straightforward answers. But to avoid getting into a rut, these questions need to be discussed openly. It is often the case that people who are too powerless to question the workings of a particular NGO talk about them in an often speculative and uninformed manner. What results is not a happy image for organisations which are, after all, calling upon states to be accountable to the people.

When it comes to applying pressure on the government to change, the means are well understood by organisations with wide experience with governments. But when it comes to organisations like the LTTE rooted in a very individual historical context, there seems to be much confusion and indecision to the point of prostration. Analysts have compared the LTTE with the Sendero Luminoso (Shining Path) of Peru. Comparisons have even been made between the LTTE and the JVP. Indeed wherever destructive rebel groups use the oppressive nature of the state to stir up resentment, there are bound to be similarities. Like the LTTE's use of landmines in civilian areas, the JVP too used similar methods. It forced people at gunpoint to defy government imposed curfews, calculating that a venal and stupid army would shoot civilians. To dwell on such similarities is to miss the wood for the trees. The LTTE's distinctiveness is that in terms of both ideology and articulation, its crucial social base is the elite. A practical strategy to tackle the LTTE on human rights needs to take this into account. The LTTE's politics caused it to preside over a people dwindling in strength, numbers and resources. It is thus increasingly dependent on its overseas network. Hardly any other group of this nature had the elite back up for regular representation in international fora, to have fairly respectable front organisations in the West, and occasionally even to prevail upon an established NGO to issue a statement in its favour - such as crediting the LTTE with enjoying the confidence of the mass of the Tamil people. The obvious means of pressure have been largely overlooked, because the peculiar character of the LTTE has not been clearly understood.

Through international pressure, the government has been prevailed upon to make formal concessions, without bringing about real change on the ground. The thinking of human rights organisations and the ICRC seems to be that by constant interaction and pressure, the government and the forces can be made to think differently and change their attitudes. But our experience has been that while



these efforts could have a catalytic effect, a real change requires a determined political initiative by the government to give confidence to the Tamils and in general to treat ordinary people with dignity. An armed force demoralised by its own methods and seeing only humiliation, is unlikely to change by mere pressure.

In the case of the LTTE's prisoners, perhaps the ICRC or any other NGO cannot do anything more on its own. This could lead to a sense of fatalism and satisfaction with

what is routinely being done. There is a strong case for the NGOs to pool their resources and adopt a strategic division of labour. The formation of the European NGO Forum is a sign that, at least conceptually, this has got under way. Recently, a group of prominent NGOs has broken new ground in appealing directly to both the Sri Lankan president and the LTTE leader on human rights concerns.[6:1; 9:1.3; 9:1.5.2(general); 3:3; 7:4.3; 9:4.5(MSF); S3:3; 6:4.10; 7:3.4; 7:4.3; 8:2.3; 9:4.3(ICRC); 9:4.2 & 8(UHCR); 7:4.3(SCF)].

## 5. THE UTHR(J)'s POSITION ON PEACE

### 5.1. The Primacy of Human Rights

We have constantly argued that the only viable peace is one where a sovereign people enjoying a regime of human rights, work out their destiny in a complex and often unequal environment. This was the position sketched out by Rajani Thiranagama in her writings in 'The Broken Pamyra'. In practical terms, we have called upon international organisations concerned with human rights to use every opportunity creatively to empower the people. This means, in part, to relentlessly expose those who demean the people by violating their rights. We do recognise that sovereignty is something the people cannot assert adequately after a long period of social conditioning under terror. Following a political settlement, even fair elections could usher in an oppressive regime which we have to live with. But to preserve the possibility of working for change, the rulers must constantly be made sensitive to human rights and the principle that the people are sovereign. This is what we have asked from those committed to human rights. Only this would allow democratic sections space to work for change.

Considerations of realpolitik, it is often maintained, demand a soft pedalling of human rights in the interests of peace. The results of such pragmatism, we have often seen, lead ultimately to insensitivity. The real problems of the people become overlaid with slogans and myths, repeated all over the world. Peace comes to be seen in terms of satiating the appetites of those with the guns and buttressing their power against insecurity. Then complacency and convenience obstruct the probing of rituals which people are made to perform because of terror, and these are put down to some zoological peculiarity. Thus people are ultimately robbed of dignity.

Such pragmatism has failed in the past and few have sat down to ask why. Unless the politics of chauvinism on both sides is constantly challenged by a resort to basic principles of humanity, the underlying dynamic leading to conflict will remain. We have seen that it is the people who did not count in such attempts at peace, who are repeatedly exposed in conflict. A respect for justice and a person's human potential is the essence of peace with dignity. A person suffers the worst kind of trauma when this is denied within that person's immediate social environment. It is this that has compounded the tragedy of

the Tamils.

This brings us to some of the deeper issues of peace. Without primacy being given to human rights, peace often comes to mean a mere ending of hostilities while it serves the dominant interests to hold questions of social and economic justice in abeyance. Does not peace also mean that people cease being refugees and live as free men and women in communities where children develop amidst the affection of uncles, aunts and grand-parents?

Far more importantly, the Muslims have been largely ignored. They have been victims of Tamil chauvinism. Can the Tamils persuade the Muslims to share a political entity with them, unless there is a firm structured commitment to principles of humanity?

We have also pointed out how discredited, oppressive and far removed from the aspirations of ordinary people, both conflicting political tendencies are. Is our imagination so wanting that we can only envisage a dubious peace by giving strength and legitimacy to these tendencies? Have we here a trickle down theory of human rights similar to the arguments for making the rich richer?

Gone are those days when youthful idealists thought that change could come only through violent revolution. The price of violence and the reek of blood weigh heavily on the land. There is a growing disgust with violence. The country deserves better. With greater attention to detail and history and by being clear about principles, we believe that peaceful change is possible. [1:Preface; 3:7; 6:Preface; 6:1; 8:1.6; 9:Preface; & 9:1]

### 5.2 Federalism or a Unitary State ?

In recent times the notion of the unitary state has received a bad name. Further, not all those opposing federalism necessarily do so from dishonourable motives. [See H.L. de Silva, 'An Appraisal of the Federal Alternative for Sri Lanka', address to the OPA, Sunday Observer, mid-1991]. Had the country moved towards federalism before independence as several Sinhalese leaders (e.g. S.W.R.D. Bandaranaike) had once contemplated, we would have had a healthier polity. But as has been pointed out, changing over to a federal structure within a politics of distrust and confrontation does pose dangers, leading to



instability. The ambiguity in fixing blame when things go wrong, often leads to acrimony. The government's behaviour during the life of the North-East provincial council only strengthened the case for the substance of separatism.

The key feature of a unitary state is government by consensus. Although Britain is a unitary state, it has substantial real devolution to local authorities as well as to the Scottish and Welsh offices. The unitary character of the state is being questioned today not because of alleged ethnic discrimination, but because of the breakdown of the broad consensus in British politics. This was brought about by economic changes and the decline of the manufacturing sector together with the welfare state, leading to several regions feeling left out. Sri Lanka on the other hand never had a politics of consensus. The only attempt to forge a politics of consensus was made by S.W.R.D Bandaranaike during his premiership of 1956-59. He tried to take the then Leftwing opposition into confidence and treat them with respect. His signing of the ill-starred Bandaranaike-Chelvanayakam pact was based on the same approach. But his term of office was bedeviled by the forces of Sinhalese chauvinism he had helped to unleash, leading to his untimely death.

To forge a politics of consensus today has become all the more difficult for the years of violence and alienation. A part of the argument for federalism points to the very real problem of violence and discrimination against Tamils having become integral to the state machinery. We have also seen the dominant state ideology at work in colonisation as well as displacement of Tamils by massacre. The insensitivity shown by a number of southern intellectuals and newspapers publishing at this time articles calling for a redrawing of provincial boundaries along allegedly sound economic lines, can only add to Tamil fears. The legacy of a history of state violence, Indian involvement, and diminished sovereignty of the state, cannot be waved away by a narrow appeal to rationality.

On the other hand an argument for federalism based on the premise that the state is fatally flawed cannot lead to a stable state of affairs.

The arguments for and against the notion of a Tamil homeland have also ignored the complexities of Ceylon history. Few in Colombo or Jaffna have appreciated the reality of people in border areas with almost no communal sensibilities. Many victims of murder by both the armed forces and the Tigers have been from families of mixed marriages ([S3:5.2, S3:7.1 & 7], Rohini Hensman-Banaji(2), ICES(3)).

Several erudite Sinhalese who are conscious of Sinhalese links with the North-East are angered at the notion of a Tamil homeland. Many Tamils have also been grieved by official attempts to erase historical Tamil links with the island, including the South. When the late

Mr.S.J.Gunasegaram published researched articles on the Tamil heritage in Ceylon in the 50s, he did so as a patriotic Ceylonese, wanting the Tamils to be recognised as historically an integral part of Ceylon. Neither numerous Hindu shrines in the South nor Buddhist remains in the North tell us anything about ethnic ownership. It only tells us about a complexity that arouses a sense of beauty and curiosity, or poses an unpleasant problem, depending on how we view it.

Refreshingly, the work of several local scholars as well as publications by the Social Scientists Association have thrown light on this. The history of Sri Lanka has been pluralistic in spirit, with constant movements of populations together with their religious and cultural influences, and with several waves of immigration, principally from South India.

Thus we (UTHR(J)) have not seen the solution primarily in terms of giving ethnic titles to pieces of land and freezing the natural and healthy flow of our history for all time. It came to be seen as such only because of the state's misconceived ideological machinations.

Given all these considerations, what we see as important is not the argument between federal and unitary forms of government. The politics of trust and, if possible, consensus must be established. This means the built-in tendencies of the state to work to the disadvantage of the minorities must be reversed and reversed quickly. The only way this can be done, as we see it, is for the state to act decisively and positively to give confidence to the Tamils, especially those who have been the victims of state violence. This must include a readiness to punish officers of the state who have been guilty of violations. (See also Asia Watch (6)).

This building of confidence must be done unilaterally and immediately. To argue that this should form a part of the package of negotiations would be to disown the state's responsibility towards Tamil citizens and make thus, a case for separation. The form of the state and other matters such as land settlement can then be discussed in a rational atmosphere. We have advocated federalism, not in a confrontational sense, but as part of the process of confidence building. In view of the role of the state in violence against Tamils and the use of its forces in attempts at 'ethnic cleansing'\* of certain areas, a federal structure would be an appropriate element in the building of confidence. On the other hand the Tamils must also go to great lengths and make sacrifices to win the confidence of Muslims and bury the legacy of violence wrought on them by Tamils. This is exclusively a Tamil responsibility and an important element in search for peace.[6:Preface; 7:6-8; 9:2.14].

\* Note: Ethnic cleansing is a term that has come into use in the context of the ongoing tragedy in what was once Yugoslavia. For the local context, see [5:2.1, 7 & 8; S3:5, Veeramunai, Sorikalmunai & Pottuvil;8:1.6].



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