

Ceasefire MOU discussions

Norwegian Deputy Foreign minister Vidar Helgeson and Special Advisor Erik Solheim arrived in Colombo on 10 January for talks with Prime Minister Ranil Wickremasinghe. Reports say that the talks were about the draft memorandum of understanding (MOU) on ceasefire between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE).

While the Norwegian ambassador Jon Westborg continued to hold discussions with various political parties, the delegation met LTTE advisor Anton Balasingham on 15 January in London, to finalise the terms of the MOU. Mr Balasingham has indicated that the MOU may be signed in late February.

While in Colombo, the Norwegian team also met members of the Tamil National Alliance (TNA) who told them that the ban on the Tigers should be lifted. The LTTE, banned under Emergency regulations in January 1998 and then under the Prevention of Terrorism Act (PTA) in July 2001, have been demanding the removal of the proscription before peace talks could commence. LTTE's political leader Thamilselvan told foreign reporters in the Vanni on 16 January that the removal of the ban will create a climate conducive for peace talks.

Although the Prime Minister has indicated that the government would seriously consider the request, observers say that the task is difficult. President Chandrika Kumaratunge and the opposition People's Liberation Front (JVP) have made it clear that they would oppose such a move unless the LTTE publicly makes a declaration renouncing the objective of creating *Eelam* or separate state in north-east Sri Lanka.

Pledging the opposition People's Alliance's fullest co-operation in the peace efforts of the government, former Foreign minister Lakshman Kadirgamar said in Parliament on 23 January that deep thought is necessary on the question of removal of the ban and that precipitate action should be avoided.

We will gain strength if we act with united aim. If we allow ourselves to be divided on petty political aims, we would be defeated in the face of international opinion.

*Prime Minister Ranil Wickremasinghe
Parliament 22 January 2002*

The problem is made more difficult by the Sixth Amendment to the Constitution which provides that 'any person' may apply to the Supreme Court for the proscription of an organisation which has as its objective the establishment of a separate state within the territory of Sri Lanka [Article 157A (4)]. Unless consensus is obtained or the Constitution amended, the possibility of some person petitioning the Supreme Court will remain.

In early January, the LTTE requested the Indian government to allow peace talks to be held in India and permit the LTTE delegation, led by Anton Balasingham, to reside in Chennai during the negotiations. Although there was no immediate response from the Indian central government, the government of the southern state of Tamil Nadu made clear its opposition.

On 10 January, current Tamil Nadu Chief Minister Panneerchelvam wrote to Indian Prime Minister Atal Bihari Vajpayee indicating that LTTE's presence in the state would not be tolerated. Ms J Jayalalitha, who is expected to win the by-election in Andipitty electorate in February and return as Chief Minister of Tamil Nadu, is also a well known opponent of the Tigers.

The LTTE were prime suspects in the assassination of former Prime Minister Rajiv Gandhi, who was killed by a suicide bomber near Chennai in May 1991.

The Tigers were banned in India in May 1992 under the Unlawful Activities (Prevention) Act. The ban has been renewed every two years and should come up for renewal on 14 May. Meanwhile, the LTTE has been declared a terrorist organisation under the Indian Prevention of Terrorism Ordinance (POTO) of 2001, which empowers the government to impose an indefinite ban.

Both the LTTE and the Sri Lankan government took measures to encourage the peace process. In mid-January Prime Minister Ranil appointed two committees to study the problems of the civilian population in the north-east, including restrictions on fishing, and violations of human rights in the region.

A statement by the Norwegian government on 20 January says that the Sri Lankan government had reciprocated the announcement by the LTTE extending the ceasefire for another month from 24 January. The government also took action to ease restrictions on movement into the Vanni. Rehabilitation minister Jayalath Jayawardena personally supervised the despatch of food to the Vanni in mid-January and pledged that regular supply will be maintained. Following a visit of the Organisation for the Parents of Soldiers Missing in Action, led by EB Nanayakkara, to the Vanni region, the LTTE released ten prisoners on 21 January. Some of the soldiers had been held by the Tigers since July 1993.

Complaints of abductions and extortion against the LTTE, particularly in the east, continued to persist. In mid-January, Sri Lanka Muslim Congress (SLMC) leader Rauf Hakeem wrote to LTTE chief V Prabhakaran deploring that since August 2001 the Muslim community is in the grip of fear following a spate of abductions by the LTTE for ransom and the seizure of movable property of the Muslims. Mr Hakeem also says that Muslims are not being allowed to cultivate thousands of acres of land belonging to them. The SLMC called for an end to these atrocities and for discussions between the LTTE and his party.

The Vanni

Clash over food aid

REHABILITATION minister Jayalath Jayawardena and Essential Services Commissioner (ESC) S Sooriyachchi clashed in early January over food supply to the Vanni. The minister disputed the ESC claim that sufficient food is sent to the region and declared that many people in the Vanni faced starvation. Mr Jayawardena announced that henceforth his ministry would supply food.

On 15 January, Mr Jayawardena supervised the dispatch of 30 lorryloads of food at Pramanalankulam, the crossing point in Vavuniya between LTTE-controlled and Army-held areas. The minister has pledged that 600 lorryloads of food will be sent every week. After the Health Ministry said that the Ministry of Defence (MOD) refused permission to send adequate medicines to the Vanni, Mr Jayawardena also decreed that such permission was not necessary hereafter.

Kilinochchi District Medical Officer Vigneswaran says that there are no medicines for heart disease, diabetes and children's ailments. The Mallavi hospital in Mullaitivu District, treated 132,800 patients in 2001, over 11,000 for malaria and 2,100 for diarrhoea. One hundred and seventeen people died in the hospital and nearly 16% of the 1,670 children born in the hospital were underweight.

The Vavuniya District secretariat announced that with effect from 15 January, 600 people will be allowed each day, five days a week, into the Vanni from Vavuniya. People arriving from the

Vanni into Vavuniya, will be able to use the permit issued at Pramanalankulam to travel, and registration with the security forces would not be necessary.

Vavuniya residents may go to the Vanni, after obtaining a permit from the police by producing the residence permit. A person travelling to the Vanni from a southern area of Sri Lanka must obtain a permit at Vavuniya, by submitting an application form, two copies of his/her photograph, national identity card, the permit issued at Eeratperiyakulam railway station and current police registration. Visitors from abroad must have permits from the MOD. Restrictions imposed by the LTTE on people, particularly youth, from leaving the Vanni, continue to be in force.

According to reports, computers and other educational equipment for Vanni schools, worth Rs 10 million (\$104,000), remain in an Army warehouse in Vavuniya, under an order issued by the MOD. Local education officers say repeated appeals to the MOD for the release of the equipment have been turned down.

S Rajaratnam was seriously wounded by a landmine on 6 January at Thiruvayaru in Kilinochchi District. Reports say that 7,000 of the 24,000 residents have returned to Kilinochchi town. It is estimated that there are 300,000 landmines in the area and the LTTE say Tiger landmine clearing units have already removed 80,000 mines.

Appeal refused

The Court of Appeal rejected an appeal in the Embilipitiya murder case in early January. School principal Dayananda Lokugalahpathy and six soldiers were sentenced to ten years imprisonment in February 1999, for the abduction and murder of 25 students in August 1989, during the JVP uprising.

Navy arrest

The Navy arrested 113 people attempting to travel to Italy illegally in two boats, near the north-western coast of Sri Lanka on 11 January. Another 200 were taken into custody on 18 January.

Probe order

Reports say that on the request of the Cabinet, the Attorney General has directed the police to re-investigate the murders of Tamil Congress leader Kumar Ponnambalam, Jaffna journalist Mylvaganam Nimalarajan and Rohana Kumara, editor of the journal *Satana*.

Eavesdropping

According to press reports, Defence Minister Tilak Marapane has ordered intelligence services to immediately end tapping of private citizens' telephones. The reports also say that the former PA government imported eavesdropping devices from France.

Hidden arms

Police amnesty for illegal arms from 1 December ended on 16 January without a single weapon being handed over. Special police teams will now look for the estimated 50,000 illegal weapons.

Jaffna Peninsula

HRC visit to Jaffna

THE national Human Rights Commission (HRC) team which visited Jaffna on 26 January, confirmed that there is a shortage of essential food and medicines in the peninsula. The delay of food ships has made the position worse.

On 14 January, the day of the Tamil *Thaipongal* harvest festival, the Jaffna Consortium of Humanitarian Agencies sent a letter to the Trade minister saying that the prices of flour, rice, sugar, fuel, bread, lentils and milk food had risen sharply and calling for his intervention. Hundreds of people demonstrated before the Jaffna government secretariat on 18 January against the price rise.

The delay of food ships to Jaffna has also affected the issue of dry rations to

the internally displaced people (IDP). Nearly 27% of the peninsula's current population of 545,000 are IDPs. Some 8,800 of the 145,000 IDPs are in refugee camps and others live with relatives.

The Sri Lankan Army is occupying many buildings in Jaffna, and military officers have assured the HRC that these would be vacated gradually. HRC chairman Faiz Mustapha says that the issue of identity cards by the Army to Jaffna residents is illegal and that the practice continues despite urging the military on a number of occasions to end the practice.

In the last ten years, northern fishermen have lost equipment worth Rs 550 million (\$5.7 million) due to military operations, including 490 catamarans and

610 boats. Reports say that the number of fishermen in Jaffna has fallen from 30,000 to 6,500 as a result of restrictions on fishing. A large number of fishermen staged a demonstration before the Jaffna secretariat on 30 January demanding the removal of all the restrictions.

Jaffna magistrate RT Vignarajah ordered the military authorities in early January not to allow Tamil group EPDP members Manmatharajah and Napoleon to leave the Jaffna islands. The two men are wanted in connection with the killing of two people during general elections in December. The order came after police told the magistrate that the Navy had prevented them entering the Jaffna islands to arrest the two persons.

Batticaloa, Amparai and Trincomalee

Freedom of movement

FOLLOWING election of the United National Front (UNF) government in December, new measures have been introduced in the Eastern Province, to facilitate freedom of movement. In mid-January, civil co-ordinator Lt. Col. SL Gunasekara announced that essential needs such as food, medicines and fertiliser can be taken into LTTE-controlled areas, west of the Batticaloa lagoon and northern parts of the district.

But permits are needed for cement, barbed wire, petrol and diesel. Heavy vehicles and tractors will also be allowed into Tiger areas without permits. As in the case of the Vanni, a harsh economic blockade of the Tiger-held areas had been in force for many years.

The checkpoint entries into LTTE areas at Paddiruppu, Chenkalady, Valaiyiravu near Batticaloa town, Karuthapalam, Kiran and Mankerni will be open from 6.00am to 10.00pm, for movement of civilians. The Army has also permitted fishing in the Batticaloa lagoon between 6.00am and 8.00pm.

After a police order in Batticaloa, the Tamil groups operating in the region handed over their weapons to the security forces in mid-January. The Eelam People's Democratic Party (EPDP), People's Liberation Organisation of Tamil Eelam (PLOTE), Tamil Eelam Liberation Organisation (TELO) and Eelam People's Revolutionary Liberation Front (EPRLF - Varadarajaperumal

Faction) were armed by the previous government to fight against the LTTE. But the groups have been accused of grave violations of human rights against the civilian population. The new UNF government had pledged that these groups would be disarmed.

The police Special Task Force (STF) imposed a ban on civilians entering the Kanjikudicharu area from 7 January. On the same day, the STF arrested 17 year-old Sangamapody Nithyarajah. Local MPs say the ban has severely affected a large number of families making a living on fishing and collecting firewood in the area. There is already a ban on rice cultivation in 3,000 acres of land.

Reports say that the STF have commandeered over 50 tractors belonging to farmers in Batticaloa and Amparai districts. In mid-January Batticaloa MP Joseph Pararajasingham complained to Economic Development minister Milinda Moragoda that the STF is harassing the people, particularly at checkpoints. A number of people had been assaulted by the STF at the checkpoint in Paddiruppu.

In Trincomalee District, the passenger ship *City of Trinco* began services on 21 January for the first time in 2002. The services had been suspended on 11 December. The ship left for Jaffna from the harbour carrying 414 passengers. Over 3,000 people are registered to travel to Jaffna. Further south in Muthur, the ICRC opened its office on the same day. The office was closed following an attack in September.

Human rights

PTA detention

AS the ceasefire between the Sri Lankan government and the LTTE was extended for another month, human rights activists expressed concern over the fate of some 1,700 Tamils held under the Prevention of Terrorism Act (PTA) in prisons, detention centres, police stations and Army camps. Many of them are held without charge or trial. In early January, Chief Justice Sarath Silva urged the Attorney General to expedite the cases against 600 Tamils detained in Kalutara, Anuradhapura, Kandy, and Welikada prisons. Over 120 detainees in Kalutara prison wrote to Prime Minister Ranil Wickremasinghe in late January urging him to take the necessary steps for them to be charged or released. As the Sri Lankan President issued orders to release 2,500 convicted criminals in the run-up to Independence Day celebrations, 473 Tamil detainees in several prisons began a hunger strike on 1 February, demanding release. Over 550 people held under the Immigrants and Emigrants Act in Negombo prison also launched a hunger strike on the same day.

Allegations of torture in security force custody continue to be made. On 7 January, the Supreme Court ordered the government to pay Rs 40,000 compensation to torture victim Gopalapillai Jegatheeswaran. He was arrested in July 2001 in Vavuniya and suffered severe torture at the hands of the police Counter Subversive Unit (CSU). The High court released Batticaloa resident Baliah Pathmanathan in early January. He had been arrested under the PTA in connection with the LTTE attack on the Kandy Buddhist shrine *Dalada Maligawa* in January 1998. The main evidence against him was a confession obtained in custody. The court released him after the Judicial Medical Officer (JMO) confirmed that he had suffered torture while in detention.

Mylanthanai massacre case

Transfer

REPORTS say that the Mylanthanai case will be heard from 6 June in the Colombo High Court. On 8 August 1992, Sri Lankan soldiers from the Punanai Army camp in Batticaloa District massacred 35 Tamil civilians in Mylanthanai village. The attack was suspected to be in revenge for the death of six senior military commanders, including northern commander Major General Denzil Kobbekaduwa and Jaffna commander Brigadier Wijaya Wimalaratne, in a landmine attack at Arali Point on Kayts Island, west of the Jaffna peninsula.

Twenty four soldiers were identified at the Batticaloa magistrate's court. At this stage, the Attorney General (AG) transferred the case to Polonnaruwa

courts, 60 miles north-west, saying that the safety of the accused could not be guaranteed in Batticaloa. The 43 witnesses expressed fear to go to Polonnaruwa and failed to attend courts. Later, police escorted them to Polonnaruwa.

The preliminary inquiry in the Polonnaruwa magistrate's court was concluded in March 1994 and 21 soldiers were committed for trial in the High Court. The AG filed indictment against them in the Batticaloa High Court. After ten years, the AG has again ordered the transfer of the case to Colombo on grounds of safety of the accused. Lawyers say that the case has already been postponed on many occasions and this will cause further delays.

Amnesty International report on rape

Supreme Court orders compensation to victim

Rape in custody

In a landmark judgment, the Sri Lankan Supreme Court awarded Rs 150,000 (\$1,560) as compensation to Velu Arshadevi on 25 January for rape in custody of the Sri Lankan security forces. Ms Arshadevi, a Tamil woman from Badulla in the Hill Country was gang-raped at a security force checkpoint in Colombo on 24 June 2001.

Amnesty International says that this is the first time that the court has awarded compensation to a rape victim, confirming that rape in custody constitutes torture. Amnesty has urged the Sri Lankan authorities to ensure that the criminal prosecution of the three soldiers and three policemen, currently released on bail, will proceed without delay.

In a January report titled *Sri Lanka: Rape in custody*, the agency says that during 2001, Sri Lanka saw a marked increase in allegations of rape in custody, particularly by the Army, Navy and the police. Among the victims of rape by the security forces are many internally displaced women, women who admit being or having been members of the LTTE and female relatives of members or suspected male members of the LTTE. Some reports of rape in custody concern children as young as 14.

Thangiah Vijayalalitha, a 14 year-old Tamil girl was sexually assaulted by more than ten Navy personnel on 20 April 2001, when she was taken into custody during an LTTE operation in the open sea. She is currently held without charge or trial at Welikada women's prison in Colombo.

According to the Amnesty report, complaints of rape, like other complaints of torture, are often not effectively dealt with by police, magistrates or doctors. Deficiencies in the early stages of the criminal investigation process have repeatedly contributed to the ultimate collapse of the investigation and prosecution of alleged perpetrators.

After the UN Special Rapporteur on Violence Against Women expressed grave concern over the lack of serious investigation into allegations of rape, the Sri Lankan government stated that every case of alleged criminal conduct committed by the armed forces and police has been investigated and the perpetrators prosecuted, although there may have been unavoidable legal delays. Amnesty

Under international law, rape committed by government officials or armed political groups during armed conflict constitutes torture.

says, contrary to the government's assertion, not a single member of the security forces has been brought to trial in connection to incidents of rape in custody, although one successful prosecution has been brought in the Krishanthi Kumarasamy case where the victim of rape was also murdered.

The most important reason for the lack of successful prosecution is that those responsible for the investigation are colleagues of the alleged perpetrators. Amnesty points out the following among other reasons: threats by perpetrators against the victim and witnesses, inadequate medical evidence due to poor quality of initial medical examination, lack of independence of the investigating authority, slow action by police to investigate, political pressure on investigators, victim withdraws case in the context of stigma associated with rape, transfer of cases to a court a long distance away from the

victim's home and police fears to act against armed force perpetrators.

According to the election manifesto, the main constituent of the new government, the United National Party (UNP), has pledged to 'enact laws relating to the Women's Charter to safeguard women's rights' and to 'ensure that women's particular requirements and gender-specific concerns are recognized and prioritized in the formulation of state policies'.

Amnesty International welcomes several measures taken earlier, including changes in the Penal Code, to prevent rape and to hold those responsible accountable, but insists that further steps are necessary to ensure change on the ground. The government should set up an investigative body, fully independent of the police, with the necessary powers and expertise required to open criminal investigations, whenever there is reasonable ground to believe that an act of torture, including rape, has been committed.

Amnesty also says that the government should send a clear, public message to all security force personnel emphasizing that rape in custody constitutes torture and that perpetrators will be brought to justice. The government has further been urged to ratify the Optional Protocol to the UN Convention for the Elimination of Discrimination Against Women, to offer women direct means to seek redress at international level.

The government should introduce effective measures to prevent rape and make them legally enforceable, with adequate punishment for non-adherence. The Human Rights Commission or the Women's Committee should assess the practice of confinement of women in police stations and other detention centres. Amnesty has also recommended the review of the role of the medical profession for effective examination of rape victims, and the role of magistrates.

In a letter to the new Defence minister Tilak Marapane, the All Ceylon Public Employees Front says six armed men abducted two married Tamil women at Attalaichenai in Amparai District in early January and raped them. The two sisters who are from Mandur in Batticaloa had gone to Attalaichenai to work in rice fields. Local MP Ariyanayagam Chandraneeru says police have taken no action to apprehend the perpetrators.

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