

## **Sri Lanka Project Briefing**

### **12 December 2003**



This briefing is further to the briefing on Sri Lanka published on 12 November 2003, which is available on the Refugee Council website at [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk).

## **Peacemakers retreat amidst power struggle**

### **Withdrawal of Norway**

The troubled peace process in Sri Lanka suffered a further set-back when Norwegian diplomats suspended their participation in peace efforts on 14 November 2003. The decision followed meetings of Norway's Deputy Foreign Minister Vidar Helgesen and special envoy Erik Solheim with President Chandrika Kumaratunge and Prime Minister Ranil Wickremasinghe in Colombo. The Norwegians also met Liberation Tigers of Tamil Eelam (LTTE) leader V Prabhakaran at Kilinochchi in the Vanni.

President Chandrika took over three ministries from the control of Prime Minister Wickremasinghe's government and suspended Parliament in early November.

Mr Helgesen declared that there is no space for further efforts by the Norwegian government until clarity is established as to which leader held political authority to ensure continuation of the ceasefire and resumption of peace talks. He expressed concern that although the parties were committed to maintaining the ceasefire, it will be much more difficult to sustain in a political vacuum and if progress in political negotiations is made impossible, the ceasefire will become increasingly fragile.

Norway became involved in the Sri Lankan peace process in January 2000, on an invitation by the President Chandrika. But since the defeat of her party the People's Alliance (PA), at parliamentary elections in December 2001, she has increasingly become hostile to the Norwegians, accusing them of infringing sovereignty of Sri Lanka and supporting the LTTE. A ceasefire agreement between the Tigers and the government led by Prime Minister Wickremasinghe was signed on 22 February 2002 and peace talks began in Thailand on 16 September the same year. After six rounds, the LTTE pulled out of the peace talks in April 2003, blaming the government of neglecting the needs of the people of north-east Sri Lanka devastated by war.

### **Chris Patten in Vanni**

In the aftermath of the Norwegian withdrawal, European Union External Relations Commissioner Chris Patten arrived for talks with the Sri Lankan government and the LTTE to urge them to resume negotiations. The decision by Mr Patten to meet LTTE leader V Prabhakaran led to harsh criticism by sections of the Sri Lankan media. The Patriotic National Movement marked his arrival in Colombo on 25 November by burning his effigy. Mr Patten promised continued European Union (EU) support to all

parties in finding a lasting and durable political solution without damaging the sovereignty of the country. Reports say that the LTTE leader had pledged at the meeting with Mr Patten in Kilinochchi on 26 November, that the Tigers would not resort to war, but noted that the responsibility of ensuring non-return to violence was on the southern Sinhala polity. Patten is said to have urged the Tigers to end child recruitment, abduction, extortion and elimination of political opponents.

### **European Parliament resolution**

Six days before the visit of Chris Patten to Sri Lanka, the European Parliament adopted a resolution expressing deep concern about developments which threaten the internationally supported peace process, notably the decision by President Chandrika to sack the ministers of Defence, Interior and Information and to prorogue Parliament. The 19 November 2003 resolution says that the adverse comments made by the President on the validity of the ceasefire agreement, signed by Prime Minister with the LTTE, is also a matter of concern. It expressed deep regret that the 'current political crisis and the lack of clarity as to who has political authority have obliged the Government of Norway to suspend its mediation role'.

The European Union is a major donor to Sri Lanka and jointly chaired the Tokyo aid conference with the US, Japan and Norway in June 2003. The European Parliament acknowledged the bold steps taken by the government and the LTTE to create the conditions in which talks may lead to a solution and a lasting peace, and urged the President to work in the national interest with the democratically elected government.

### **National government**

The exchanges between the President and the Prime Minister caused confusion and led to fears that the country faced a protracted political battle or an undesirable general election. The Prime Minister rejected a call by the President for the formation of a national government, which would include all the major political parties. According to a statement issued by the President's office on 14 November, President Chandrika had asked Prime Minister Ranil to continue the peace process. But the Prime Minister told his United National Front (UNF) parliamentary group on the same day that he had urged the President to take charge of the peace process.

The President is also said to have informed the Norwegian delegation a day earlier that the LTTE proposals for an Interim Self-Governing Authority (ISGA), the PA's draft constitution of 2000 and the government's proposals of July 2003 could together form the basis for peace negotiations.

The President has been continually criticizing the ceasefire agreement, but now says she will fully honour the agreement. Earlier, she also attacked the Sri Lanka Monitoring Mission (SLMM) and demanded, in a letter to the Norwegian Prime Minister in October, the removal of the head of the ceasefire monitoring body, Triggve Teleffsen, accusing him of partiality and supporting the LTTE. In an apparently contradictory move, she has now issued an order to the armed forces that the rulings of the SLMM should be respected. After taking over the Defence Ministry, she has not taken any action regarding the LTTE military camp at Kurangupanchan in Trincomalee District, although she ordered Defence Minister Tilak Marapane in



October to have the camp removed, alleging that it was a security threat. Press reports say that after taking over the Media Ministry she has also ordered the state media not to criticize the LTTE.

### **Consensus committee**

The President and the Prime Minister held discussions on 18 November and jointly appointed a four-member committee to explore ways to reach consensus. The main issues for committee discussions are, sharing of responsibilities relating to Defence, taking the peace process forward and participation of a presidential representative in the peace talks. The President nominated presidential advisor and businessman Mano Tittawella and her Secretary WJS Karunaratne, while the Prime Minister's nominees were his Secretary Bradman Weerakoon and United National Party (UNP) Chairman Malik Samarawickreme. A senior advisor to the South African Vice President, I. Ibrahim, is said to be advising the committee.

Speaking to diplomats on 25 November, Constitutional Affairs minister GL Peiris explained the Prime Minister's position and indicated that it is quite impossible to carry on a peace process to any degree of effectiveness or acceptance with the entire security apparatus outside the control of the Prime Minister and his Cabinet.

However, on 26 November, the President pre-empted the committee by announcing proposals for cohabitation between the two parties. Under the proposals, the Prime Minister will be entrusted with the peace talks with LTTE and may appoint a minister to assist the President in security matters related to the peace. The appointed minister will oversee the ceasefire agreement and the SLMM and co-ordinate activities pertaining to the peace process. The President also suggested a joint peace council to provide guidance and to carry forward the peace talks. The Prime Minister's rejection of the proposals came as no surprise.

The President and the Prime Minister also met on 3 December and again on 10 December, but no agreement was reached on any of the issues under discussion. The President has set 15 December as the deadline for any agreement on consensus. But on 7 December, presidential spokesman Harim Peiris said that the President 'does not intend to and will not hand over defence responsibilities to anyone'.

### **JVP-SLFP alliance**

People's Alliance ally, the Marxist People's Liberation Front (JVP) has expressed strong opposition to the establishment of the consensus committee. JVP's Propaganda Secretary Wimal Weerawansa says that agreement between the opposition PA and the ruling UNF will pave the way for the LTTE to establish a separate state in the north-east. He also alleges that committee member and businessman Mano Tittawella is promoting links between the PA and UNF, not in the national interest but to boost the stock market.

According to Mr Weerawansa, a memorandum of understanding for cooperation between the PA's main constituent, the Sri Lanka Freedom Party (SLFP), and the JVP has been finalised and is ready for signature. Negotiations between the two parties have continued for several months. A group within the SLFP, led by President

Chandrika's brother Anura Bandaranaike is strongly in favour of an alliance agreement with the JVP. But others such as Parliament Opposition leader Mahinda Rajapaksa believe that any link with the JVP will damage the credibility of the SLFP.

On 17 November, the SLFP's Central Committee agreed to a JVP-SLFP work plan, after the JVP dropped its demand for a lion share in the control of the Defence Ministry should the alliance form a government. Two other PA constituents, the Trotskyist Lanka Sama Samaja Party (LSSP) and the Communist Party (CP) have not concealed their displeasure at the prospect of an alliance between the SLFP and the JVP. Observers say that such a coalition would be disastrous for the peace process, as the JVP is opposed to devolution of powers to the Tamil regions and international involvement and advocates military action against the LTTE.

### **Speaker's ruling**

Parliament reconvened on 19 November after a 14-day suspension by President Chandrika. Speaker Joseph Michael Perera ruled that the President had acted illegally in arbitrarily suspending Parliament and that, in terms of the Constitution, the President's powers to summon, dissolve and prorogue must always be exercised in consultation with Parliament. Opposition members have demanded a debate on the issue and say only the Supreme Court is vested with the judicial power to interpret the Constitution. As an outcome of this, Opposition Chief Whip Mangala Samaraweera revealed that an opposition committee has been formed to table a no-confidence motion against the Speaker.

Finance minister KN Choksy presented the UNF government's budget for 2004 in Parliament on 19 November. He said that the expected economic growth would be undermined by the political crisis. Government officers will receive a 10% pay hike and Rs 110 billion (\$1.2 billion) has been allotted for improvement of infrastructure. The second reading of the budget was passed on 28 November, with 126 votes, a 38 majority for the government in the legislature.

### **Great Heroes Day speech**

As political turbulence dominated the south, LTTE leader V Prabhakaran declared, in his annual *Great Heroes Day* speech on 27 November, that peace talks as well as the peaceful resolution of the ethnic conflict are threatened by the power struggle, which has destabilised the state and severely weakened the administration and that the resulting frustration and confusion have led to the withdrawal of the Norwegians. He denied President Chandrika's allegations that the LTTE is strengthening its forces and that the Prime Minister has granted too many concessions to the Tigers.

Mr Prabhakaran also assured that the LTTE proposal for an ISGA, which led to President Chandrika taking over three government ministries, does not constitute a framework for a permanent final solution, but a basis for negotiations. Without substantial powers for the ISGA, he emphasized, it would be impossible to carry out the massive programmes for resettlement of hundreds of thousands of people and functions such as law and order, administration of justice, allocation of funds and distribution of land cannot be effectively executed. Mr Prabhakaran warned: '*If the Sinhala chauvinistic ruling elites continue to deny the rights of our people and oppose*



*reconciliation and if the conditions of oppression continue, we have no alternative other than to secede and form an independent state invoking the right to self-determination of our people. We urge the Sinhala political leadership not to create the objective conditions that would drive our people to seek this ultimate option'.*

### **Internally displaced persons**

Development agencies are concerned that the political instability will affect resettlement of internally displaced people (IDP) and reconstruction in the north-east. Rehabilitation minister Jayalath Jayawardena says that the 'current constitutional crisis is a lethal blow to the process of resettlement and reconstruction, initially hampered by the lack of funds'. International aid for reconstruction, in a sum of \$4.5 billion pledged at the Tokyo aid conference in June 2003, would only be forthcoming if there is substantial progress in the peace process.

According to UNHCR, 4,400 IDPs returned to home areas in September 2003 bringing the total of returned IDPs since the ceasefire in February 2002 to 331,400. Some agencies say that the number of IDPs remaining in places of displacement may be as high as 650,000. Those who have returned face huge problems, without proper shelter, infrastructure, livelihood and educational or health facilities. Unreasonable restrictions by security forces and the military high security zones (HSZ) are making day-to-day life of the people miserable. Around 100,000 people are unable to resettle as a result of the HSZs. Military restrictions on fishing have continued.

Landmines and unexploded ordnance also affect resettlement. International and local landmine teams are involved in removing landmines, but reports say that there are four to seven victims every month in the north. Between 1996 and May 2003, 11 people were killed and 431 were wounded by landmines in the Jaffna peninsula. Rasiyah Manonmany and her seven year-old daughter Paiula were killed in an explosion on 24 September near Selvanagar in Vavuniya District. In the east, eight year-old Diloshan Arulananthan died on 30 October of injuries sustained by a landmine in Vellaveli.

According to London-based Landmine Action, many landmine incidents go unreported, so available data does not describe the full extent of deaths and injuries. Landmine Action has recommended that the parties to the conflict should pro-actively provide information expeditiously on the types of munitions used, location, and number at the end of the armed hostilities.

### **Human Rights**

Despite the ceasefire human right violations have continued and the Sri Lankan state has failed to take the necessary steps to end impunity among the security forces. Human rights agencies have expressed fear that without a proper political authority, the situation may deteriorate.

In its 19 November resolution, the European Parliament noted that 'expectations remain high that an end to military conflict could improve the problematic human rights situation in Sri Lanka, which was documented again in the fourth periodic report on Sri Lanka by the UN'. The UN Human Rights Committee expressed concern

on 6 November 2003 about persistent reports of torture of detainees by police and armed forces. It regretted that the majority of prosecutions initiated against the police or armed force members on charges of abduction, unlawful confinement and torture have been inconclusive due to lack of satisfactory evidence and unavailability of witnesses. Only a very few police or army officers have been found guilty and punished. The Committee said it notes with concern reports that victims of human rights violations feel intimidated from bringing complaints or have been subjected to intimidation and threats thereby discouraging them from pursuing appropriate avenues to obtain an effective remedy.

The Committee is perturbed about the large number of disappearances during the time of the armed conflict, and particularly about the Sri Lankan state's inability or inaction to identify those responsible and bring them to justice. This situation, taken together with the reluctance of victims to file or pursue complaints creates an environment that is conducive to a culture of impunity.

The Committee welcomed the decision under the ceasefire agreement not to apply the provisions of the Prevention of Terrorism Act (PTA), but is worried that provisions, which are incompatible with the International Covenant on Civil and Political Rights (ICCPR), still remain legally enforceable. These provisions include arrest without warrant, detention for 18 months without court approval, lack of provision to challenge lawfulness of such detention and lack of legal obligation on the state to inform the detainee of the reasons of arrest. The PTA also eliminates the power of courts to order bail or impose suspended sentence and places the burden of proof on the accused that a confession was obtained under duress.

The UN Committee also expressed concern about persistent reports that media personnel and journalists face harassment, and that most violations of the freedom of expression have been ignored or rejected by the competent authorities. The Committee observed that the police and other government agencies frequently do not appear to take the required measures of protection to combat such practices.

### **Child recruitment**

Following a three-day fact-finding mission to the Eastern Province in early December 2003, the Sri Lankan national Human Rights Commission's (HRC) chairperson Radika Coomaraswamy said that numerous complaints from civilians regarding harassment, child abduction and extortion by the LTTE were received and the people were extremely concerned about security since the ceasefire agreement of 2002.

According to reports, 11 children were abducted by the LTTE at Valaichenai in Batticaloa District during a festival in early October. UNICEF, which has set-up transit camps for young people who leave the LTTE, condemned the abductions. The Tigers denied abduction and said that the children joined them voluntarily for administrative work. Some parents demonstrated in Valaichenai for the release of their children on 6 October. Although the LTTE later said that the children had been released, human rights agencies expressed grave doubt over the claim.



## **Tension in the east**

Tension between the Tamil and Muslim communities in the Eastern Province has continued. Violent incidents have taken place in the Kinniya area of Trincomalee District since 22 October and in Muthur since 25 October. Hundreds of Muslims and Tamils have fled their homes.

On 23 November, a Muslim man was murdered at Faizal Nagar and the following day another Muslim named Zakeer was killed in a grenade attack at Kachchaikoditivu. Three others were wounded. In another grenade attack the following day in Trincomalee town, three Muslims and three Tamils were injured. Muslim farmers Nagoor Faleel, Abdul Subair and Mohamed Hussain were killed in Kinniya. Their bodies were found on 29 November. Two Tamil traders were shot dead at Muthur on the same day. The authorities imposed curfew in Kinniya police Division on 29 November, which continued until 7 December 2003. Reports say a joint committee comprising representatives of Tamil and Muslim communities and the LTTE was formed on 2 December in Kinniya to contain the violence.

## **Torture and death in custody**

The Asian Human Rights Commission (AHRC) says illegal detention, torture and death in custody are major concerns in southern Sri Lanka and has listed many incidents. According to AHRC, Padma Kumara, 26, was arrested 26 August 2003 and tortured at Wattegama police station in Kandy District. His mother says her son has since disappeared. Garlin Sanjeeva was arrested by officers from Kadawatte police station in Gampaha District on 27 August. He was found dead at the police station the next day. Sixty year-old Loku Bandara was also found dead after his arrest on 28 August by Maturata police in Nuwara Eliya District. Fourteen year-old Dawundage Pushpakumara suffered torture on 1 September at Saliyawewa police post in Puttalam District. The parents of the boy fled their home following threats from the police, demanding the withdrawal of a fundamental rights case filed in the Supreme Court.

Fifty year-old OH Jinadasa died on 5 September 2003, following severe torture by paramilitaries attached to the Okkampitiya police post in Moneragala District. On the same day, Pradeep Anthony and Christopher Lafaber suffered torture at Mutuwal police station in Colombo. Police at the Katugastota police station arrested Ramanpillai Asokan on 6 September and subjected him to torture, accusing him of stealing his employer's money. He was also forced to sign a statement. SL Kulatunga, who was arrested on 10 November 2003 by Nivithigala police in Ratnapura District, suffered serious head injuries and died in Colombo general hospital.

World Organisation Against Torture (OMCT) has also listed numerous cases of torture in Sri Lanka. According to OMCT, Mohamed Riswan, 23, Suppiah Ravichandran, 23, and Roshan Latif, 30, were beaten at the Wattala police station on 31 August 2003, north of Colombo and suffered serious injuries. Chamila Bandara, 17, testified before the Human Rights Committee in November, about torture he endured. He had been tortured at Ankumbura police station in Kandy and suffered permanent disability. Meanwhile, the police had threatened his mother with death.



## **Rape and assault**

Two policemen are accused of rape of a woman named Mrs Selvarajah, 32, at Uyilankulam in Mannar District on 23 October. Over a thousand people, led by Mannar Bishop Rayappu Joseph joined a demonstration demanding action against the perpetrators. Allegations of attempted rape of women have also been levelled against soldiers in Jaffna. Three soldiers are alleged to have made an attempt to rape a woman on 26 August at Inbaruty north-eastern Vadamaratchy. Two other soldiers are accused of attempting to rape Anthony Manjula, 19, on 9 October at Point Pedro.

Following an attack on four journalists by the Army at Manipai and Nellyyady, journalists in Jaffna staged a protest on 12 October. Tamil journal *Valampuri* reporter K Ithyapavan was admitted to Jaffna hospital. A *hartal* (general strike) was observed at Kaluvanchikudi in Amparai District on 19 October, after the police Special Task Force (STF) attacked K Amarasingham, seriously injuring him. Twenty people were wounded when soldiers assaulted civilians at Munai near Point Pedro in Jaffna on 22 October. Five civilians, including 14 year-old Mahendran Matheeswaran, were admitted to hospital after an attack by the soldiers in the same area on 29 November. Jaffna came to a standstill by a *hartal* on 11 December, after a soldier shot and seriously wounded a bus conductor on 8 December. The Jaffna Magistrates Court remanded three soldiers in custody over the incident.

## **LTTE attacks**

More than 40 Tamils belonging to militant groups opposed to the LTTE or working with government intelligent services have been killed since the ceasefire of 22 February 2002 allegedly by the LTTE. Pushparajah Sabeshkanth was shot and seriously injured in Batticaloa town on 13 September 2003. Former member of the Tamil group Eelam People's Revolutionary Liberation Front (EPRLF), Velupillai Yogendran was shot dead on 26 September at Pandiruppu in Amparai District. The severed head of S Sunthararajah was found at Akkaraipatru in Batticaloa District on 29 September. He had deserted the LTTE five years ago. Former LTTE member turned military intelligence officer T Vignewaran was killed on 2 October in Trincomalee town. Another military intelligence officer Erambamurthy Sabanayagam was murdered at Kokkaddicholai in Batticaloa District in early October. Former Tamil Eelam Liberation Organisation (TELO) member Subramaniam Kirubakaran was shot dead at Arayampathy in Batticaloa District on 4 October. The Tigers are also accused of shooting and injuring soldier Shantha Jayasinghe at Thoppur in Trincomalee District on 6 December 2003.

The United States extended the designation of the LTTE as a foreign terrorist organisation on 2 October for another two years. The US first designated the LTTE as a terrorist organisation in October 1997. The US says that the LTTE continues to engage in terrorist activities and the US will consider revoking the LTTE designation as a foreign terrorist organisation and will be prepared to deal with the group as a legitimate political entity only after the organisation renounces terrorism and ceases terrorist activities. The LTTE also remains a banned terrorist organisation in Britain since February 2001 under the Terrorism Act 2000.



## Arms in Sri Lanka

Estimates in an October 2003 report by the Graduate Institute of International Studies indicate that there are 355,000 small arms held by the military, 79,000 by Home Guards and National Armed Reserve and 34,000 by police. The LTTE is expected to have 14,000 small arms, but possibly, considerably more weapons. In addition, Sri Lanka could have approximately 1,900,000 civilian firearms.

The report says an estimated 51,000 soldiers have deserted and many of the weapons issued to them, such as guns and grenades, may still be at large, sold or hidden. The deserters tend to link up with organized crime groups, mainly based in and around Colombo or attach themselves to politicians. The number of violent crimes committed using grenades is on the increase and is linked to rising rates of desertion, which in turn is linked to rising rates of violent crime. Politicians often maintain their own security units, often staffed by deserters. The report alleges that with organized crime gangs, many deserters are involved in contract and revenge killings, large-scale robbery, extortion and illegal arms sales. Organized crime networks are used by the business community to 'settle' disputes, eject unwanted tenants, and apply force during the control of government auctions. According to the report, they are protected by politicians, senior police officers - some of whom have been put in place by the gangs themselves - and powerful business interests. The LTTE is also involved in criminal activity, particularly in the east, such as abduction and extortion, targeting rich Muslim businessmen.

## Parliamentary election

In the absence of a sustainable agreement between the President and the Prime Minister, the political problems in Sri Lanka are expected to continue and the parties are unlikely to return to the negotiating table. Without proper political leadership the problems of Sri Lanka such as human rights, resettlement of IDPs and increasing crime cannot be addressed adequately and the situation may deteriorate. Colombo University's Professor of Political Science Jayadeva Uyangoda writes about impending general elections:

*" ....among powerful sections of both camps, there seems to be a preference for fresh parliamentary elections. Mid-term election under normal circumstances would have been a credible option to let a political crisis resolve itself. However, in Sri Lanka's present circumstances, an election campaign is less likely to contribute to political stability. On the contrary, it may escalate political tension amidst much violence. An election campaign will also force the main contenders to defer any serious consideration being given to the next phase of negotiations with the LTTE. Furthermore, in an election defined by utmost hostility between the UNF and the SLFP, the latter is most likely to take a strongly Sinhalese nationalistic stand, in alliance with the JVP, to isolate the former from the Sinhalese electorate. In such a context, the LTTE's ISGA proposals will be transformed into the main criterion of demarcation between the UNF and the PA. Passion and hatred, not reason and moderation, would be summoned to make political judgement."*

Given the volatile situation in Sri Lanka and the ensuing concerns, further briefings will be produced by the Sri Lanka Project.

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**Reading**

*Concluding observations of the UN Human Rights Committee on the fourth and fifth reports of Sri Lanka* - 6 November 2003 at the 2164<sup>th</sup> meeting - [www.unhchr.ch](http://www.unhchr.ch)

*Explosive remnants of war - ERW in Sri Lanka* by Rosy Cave - Landmine Action, London, May 2003.

*In the shadow of a ceasefire: The impacts of small arms availability and misuse in Sri Lanka* by Chris Smith - Occasional Paper No 11, Small Arms Survey, Graduate Institute of International Studies, Geneva, October 2003.

*Sri Lanka: Internally displaced persons and safe returns* - Sri Lanka Project, The Refugee Council, London, September 2003. [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

*Sri Lanka on the brink of political chaos* - Sri Lanka Project briefing, The Refugee Council, London, 12 November 2003. [www.refugeecouncil.org.uk](http://www.refugeecouncil.org.uk)

World Organisation Against Torture (OMCT) - [www.omct.org](http://www.omct.org)

Asian Human Rights Commission (AHRC) - [www.ahrchk.net](http://www.ahrchk.net)

European Union (EU) - <http://europa.eu.int>

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