

Submission to the Universal Periodic Review of the UN Human Rights Council

Fourteenth Session

Tamils Against Genocide, April 2012



ABOUT TAMILS AGAINST GENOCIDE

Tamils Against Genocide Inc [TAG] is a non-profit litigation advocacy organization incorporated in the United States. TAG is involved in evidence gathering and in bringing litigations on behalf of victims of war crimes, crimes against humanity and genocide against perpetrators from Sri Lanka under universal jurisdiction provisions in countries including the United States .

TAG's mission statement is on its website at <http://www.tamilsagainstgenocide.org/AboutTAG.aspx>.

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Executive Summary

1. Sri Lanka continues to violate its obligations under both international Human Rights instruments and international humanitarian law. In particular, by targeting Tamil civilians during the final stages of the war in 2009, by interning them in camps for months, and by continuing to engender a climate of fear among the Tamil population of the Northeast of Sri Lanka, the government creates and reinforces the idea that Tamils are of ‘no value’ to society in Sri Lanka. This genocidal targeting of a particular group is contrary to a number of international human rights laws and conventions.

Introduction

2. In March 2011, the UN Panel of Experts warned that “By denying that tens of thousands of lives were lost in the Vanni, the Government sends the message that the lives of those ... Tamils, were of no value to society.”¹ This devaluation of Tamil life by the Sri Lankan government was amply demonstrated during the final months of the war against the Liberation Tigers, in the months immediately after and continues to this day. This paper sets out the evidence for the deliberate targeting of Tamil civilians and the manner in which Tamil life is being construed as being valueless to society in Sri Lanka. This course of action in Sri Lanka is contrary to Article 3 of the Universal Declaration of Human Rights.^{2,3}

Deliberate targeting of Tamil civilians during the war

3. The UN Panel of Experts found that the credible allegations against the government of Sri Lanka constituted Crimes Against Humanity, including specifically the persecution and extermination of the Tamil population of the Vanni region.⁴ Witness testimony provided to TAG substantiates the view that the government of Sri Lanka through its actions construed the lives of Tamils as being ‘of no value’.

4. A number of witnesses⁵ to the events in Mulliyavaikkal, Sri Lanka in the early months of 2009 have testified to TAG researchers on the deliberate targeting of civilians by the Sri Lankan armed forces during the last stage of the conflict. “I think there was a clear mission to destroy all of us because we were Tamil,” said one witness.⁶ “The Army was deliberately targeting civilians and were hitting them indiscriminatorily (sic), which is why so many more civilians died than actually combatants,” another noted.⁷ “We were treated as guilty until proven [otherwise],” said another.⁸

¹ Paragraph 403 of the Report on Accountability in Sri Lanka by the Panel of Experts to the UN Secretary-General, delivered on 12 April 2011.

² Article 3 reads: “Everyone has the right to life, liberty and security of person.”

³ These acts by the Sri Lankan government are also contrary to the Convention on the Prevention and Punishment of the Crime of Genocide, which Sri Lanka acceded to on October 1950., as the “killing of members of the group” ... “committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group” is genocide under Article 2.

⁴ Paragraph 251 of the Report on Accountability in Sri Lanka by the Panel of Experts.

⁵ All witnesses were interviewed in April 2011 as part of the ongoing TAG project to gather evidence of the events that occurred during the final stages of the war.

⁶ Witness II

⁷ Witness IV

⁸ Witness III

5. The witnesses also comment on the targeting of civilian infrastructure, including the No-Fire-Zones, especially after they had been identified. “Even after giving those coordinates of the civilian buildings and also after telling people to go to the No Fire Zones [the Army] attacked these places. It was intentional to attack them. We followed everywhere they told us to and we still were attacked.”⁹ “The Government was hitting all No-Fire Zones ... They called them [supposedly] to protect civilians, but they killed them,” said another witness.¹⁰

6. Witnesses also spoke of the targeting of civilian bunkers. “The army was throwing the grenades into the bunkers from the closest proximity with being aware of who they are targeting because they could see them always. They were doing that to every bunker they crossed in Mulliyavaikkal.”¹¹ “When [the Sri Lankan Army] advanced they threw grenades into the bunkers (most people were living in bunkers) and killed so many wounded (sic) elderly, children, mothers, pregnant women and so on. This happened from April to May 18th. ... They didn’t care for the people, they were shooting at them with guns. They were shooting at the remaining tents when they came into the last few stretches and threw also grenades into them. ... They knew of course people were inside of these tents. They just killed them like that though because they intended to kill them no matter if they are LTTE members or civilians. They were Tamils. That was enough,” the witness added.¹²

7. Another witness cited the government’s use of the civilians as shields between the Sri Lankan Army and the LTTE. Referring to the Nandikadal Lagoon, where the civilians were fleeing from LTTE controlled territory to Sri Lankan government controlled territory, the witness said: “Once the civilians surrendered to them, the Army actually abused them as shields in between them and the LTTE. They were squeezed in between the frontlines and the sand and mud bunds of the LTTE. When the LTTE shelled above the people towards the civilians the Army retaliated by shooting and shelling at the people. People were dying in masses like that in between both and the Army made it worse by instead of shooting at the LTTE they were shooting at the people.”¹³

8. All the witnesses were clear that there was no proportionality in the Sri Lankan government’s attacks during the war. “I don’t think it was proportionate at all. It clearly indicated that there was an overall attempt to destroy everything and everyone in the area,” said one.¹⁴ “... the final assault was un-proportional. The last days more people were killed than during the whole beginning of this offensive,” said another.¹⁵ Another witness said “it made no difference between combatants and civilians”.¹⁶ “They also wanted to reduce the Tamil population of the entire country. It was a real chain of actions that indicated the intention to destroy us as a people,” the witness said.¹⁷

Ongoing targeting of the Tamil population

9. Even after the end of the war, the targeting of the Tamil population continues. After leaving the Mulliyavaikkal area, all the witnesses were held in the internment camps for various lengths of time. They mentioned their experiences of the targeting of Tamil civilians continuing in the days after victory was declared by the Sri Lankan government. “There were also so many [Tamil] people who surrendered to the

⁹ Witness III

¹⁰ Witness I

¹¹ Witness IV

¹² Witness IV

¹³ Witness IV

¹⁴ Witness I

¹⁵ Witness III

¹⁶ Witness IV

¹⁷ Witness IV

Army and went missing ever since. Lots of people I knew personally suffered a fate like this. Around 20 of them disappeared, there were women, young girls, children and elderly,” said a witness.¹⁸ Commenting that Tamils were treated as ‘guilty until proven innocent’ another witness added that “everything they have done to us in the camps was rooted in that believe (sic).”¹⁹

10. Since May 2009, even though most of the civilians have been released from the internment camps, more than 6,000 Tamil civilians continue to be held in the Menik Farm camp.²⁰ Though the government had promised to resettle them by June 2012, this is another in a series of promised resettlement dates, with earlier promised dates for closure of the camps including December 2009²¹ and September 2011²² among others. Even if as promised, the camp is closed and the people sent out, this is no guarantee of return to their original homes. “We will get them out of the camp, but resettling people in high security zone is a policy decision that I have no control over”, Gunaratne Weerakone, Minister of Resettlement, told BBC Sinhala.²³ Many others of more than 260,000 civilians who have been released from the Menik Farm camps have not been relocated to their homes but instead languish in smaller, less well equipped, refugee camps.²⁴

11. Separately, many Tamils have disappeared and been killed since May 2009. White van abductions, disappearances off street corners and the discovery of bodies is becoming common-place in Sri Lanka. While all ethnic groups have been victimised by these practices, the Tamil continue to be more heavily targeted than other populations. For example, witnesses²⁵ described the existence of secret detention facilities, where the inmate population was by and large Tamil, while the guards and operators were all Sinhalese, where the Tamils were often subjected to torture. A witness said: “Less than 5 percent of those in secret detention were Sinhala. The majority were Tamil including both LTTE soldiers as well as civilians.” As a Freedom from Torture report in 2011 notes, “Those at particular risk of torture include Tamils who have an actual or perceived association with the Liberation Tigers of Tamil Eelam (LTTE)”²⁶.

12. Another example of the targeting of Tamils is evident once the ethnic identities of media personnel targeted by the Sri Lankan state are examined. A small sampling of media employees killed in Sri Lanka between 2004 and 2008 showed that thirty-one people were killed in those years²⁷. But closer scrutiny of the data shows that of those, twenty-seven were Tamil.²⁸ With Tamils forming less than twenty five

¹⁸ Witness IV

¹⁹ Witness III

²⁰ <http://www.thehindu.com/news/international/article3328105.ece>

²¹ http://articles.cnn.com/2009-11-21/world/sri.lanka.war.displaced_1_tamil-tiger-sri-lankan-tamil-population?_s=PM:WORLD

²² <http://www.bbc.co.uk/news/world-south-asia-15007375>

²³ http://www.bbc.co.uk/sinhala/news/story/2012/04/120418_manikfarm.shtml

²⁴ Sample testimonies are available at <http://groundviews.org/2009/09/30/two-testimonies-from-families-released-from-menik-camp/>. A sample of the ongoing suffering of Tamils released from Menik Farm is available at <http://tamilnet.com/art.html?catid=13&artid=33658> and <http://tamilnet.com/art.html?catid=13&artid=32328>.

²⁵ Witnesses interviewed between March and April 2012 as part of the ongoing TAG data gathering project.

²⁶ Freedom from Torture (2011) “Out of the Silence: Ongoing torture in Sri Lanka” p2. Report available at http://www.freedomfromtorture.org/sites/default/files/documents/Sri%20Lanka%20Ongoing%20Torture%20Report_for%20release%208%20Nov%20-%20with%20cover.pdf

²⁷ The TAG tally of media personnel killed is higher than the figures of the Committee to Protect Journalists (<http://cpj.org/killed/asia/sri-lanka/>) as it includes all media personnel, not just journalists. But even with the CPJ data for the period between 1999 and 2009, of 25 journalists killed, 17 were Tamil.

²⁸ Table setting out journalists killed by year, compiled by TAG from news sources.

Year	Sinhalese	Tamil	Muslim
2004	1	2	0

percent the population, and an equally, if not smaller proportion of the journalist population, these figures suggest a deliberate ethnically based targeting of the media in Sri Lanka. Media organisations owned by Tamils have been particularly targeted.

Recommendations to the UN

- 13. That the Special Rapporteur on Extrajudicial, Summary and Arbitrary Executions conduct a special investigation into Sri Lanka to identify the ethnical biases in instances of extrajudicial, summary or arbitrary executions in all circumstances and for whatever reason.
- 14. That the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment undertake a fact finding country visit to Sri Lanka to confirm ongoing use of torture in particular against the Tamils, and report to the Human Rights Council for further action to be taken.
- 15. That the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance investigates the ongoing persistent denial of the recognised human rights of the Tamil population in Sri Lanka as he is mandated to do under Resolution 16/33 of 2011.
- 16. That the Special Adviser on the Prevention of Genocide prepares a report on Sri Lanka to collate information on the massive and serious violations of human rights and international humanitarian law of ethnic and racial origin that is ongoing, as he is mandated to do under the 2004 letter (S/2004/567).
- 17. That the Working Group on Enforced or Involuntary Disappearances investigate cases of deprivation of liberty imposed arbitrarily or otherwise with a view to confirming the ethnical biases inherent in these acts and to include these findings in their annual report.

2005	0	6	1
2006	1	8	0
2007	0	10	0
2008	0	1	1
Total	2	27	2