

Paper 5

Life of Tamil People under Civil Administration and Army Occupation

by Mr. Joseph Pararajasingham

This conference takes place at a time coinciding with the fifth anniversary of the first attack launched on civilian targets on May 21, 1995 by the Sri Lankan security forces, following the breakdown of talks between the Chandrika government and the LTTE, which resulted in the killing of five innocent Tamil civilians and injuring 32 others in the heart of the Batticaloa town.

5.1 ARMY OCCUPATION OF NORTH AND EAST

The last five years have witnessed the cruelest and the most brutal phase of the conflict. The ongoing war was intensified when huge military offensive was launched against the heartland of the resistance movement in Jaffna. This offensive resulted in one of the biggest displacements of the civilian population seen in South Asia since the partition of India. The entire Jaffna peninsula was almost evacuated and the fire power that was destructively employed to accomplish this military objective further ravaged and destroyed houses, school buildings, shops and even the places of worship. Today, Jaffna remains in effect, an area under army occupation with a heavy military concentration of almost

45,000 heavily armed personnel, about 40% of Sri Lanka's entire army.

Similar military incursions into Vavuniya and Mannar have caused again immense civilian dislocation, displacement and property destruction. The economic life of an essentially agrarian society has been brought to a standstill, with thousands of farmers and fishermen deprived of their subsistence, livelihood and compelled to eke out a life from the meager handouts of the state. Relief organizations and humanitarian bodies have consistently complained of unreasonable and cruel embargoes being placed on the delivery of food, medicine and similar essential items. Levels of malnutrition and deprivation that women and children are subjected to have reached appalling magnitude. Those who moved out of the LTTE controlled areas were compelled to live in relief and refugee centres with bare facilities and denied freedom of movement. The indignation that was heaped on ordinary people has outraged the most impartial of observers. Some of them are on the edge of emotional and physical breakdown having been exposed to multiple displacements. The hope of an early resolution to this problem soon yielded to despair,

anguish and frustration.

These people remain the forgotten suffering people. Little or no international attention has been devoted to the predicament of these miserable people. Their suffering is no less than that of those in Bosnia, Kosovo, Afghanistan and Czechia. In these other areas, at least, the international community is kept informed by a vibrant international and domestic electronic and print media. The north-east of Sri Lanka is not only forgotten in terms of the people who inhabit the whole geographical area, it also is a desolate scene of war and destruction, left to languish unnoticed.

My focus in the discussion this afternoon will be primarily on the life of the Tamils who live in areas under civil administration and arm occupation. Some Muslims, too, share the fate of the neglected Tamils as they do live in the eastern part of the island, which is in a large way subject to military administration and curiously enough also subject to civil administration of a dubious and ambivalent nature in some parts definitely in the east.

One of the consequences of the conflict is that the Tamils are treated as suspects and as captives with a biletted army borne by people in many parts of the North-East. The rule in these parts is that military and democratic institutions do not exist. It is an imposition of power and force and the Tamils remain under the majority-run army as hostages in a state of siege. These areas are under the direct administration of the Sri Lankan security forces. In some areas, they bear the administrative responsibilities for managing civilian tasks such as food distribution, relief and get the civilian authorities virtually to work under their control. The prevention of Terrorism Act (PTA) and the Emergency Regulations (ER) provide a legal framework by

which the military severely regulates civilian life in these areas. This is nothing new in the Island. These areas are analogous to occupied areas in West Asia in the Gaza Strip and the West Bank. There are some civilian institutions like the Police, the Courts, the Kachcheries, but the overall and binding authority is that of the security forces. This is a situation that creates human rights abuses to be suffered by the civilians. They are subjected to many forms of restrictions with regard to freedom of movement where certain areas cannot be visited. They are also exposed to arbitrary search, arrest and detention. The situation in the civilian administrative areas is somewhat different but the distinction is blurred by the presence of large number of military personnel, even though it is considered to be civilian administrative areas. The presence of security forces adversely affects and cripples the quality of life.

5.2 ECONOMY

Problems arise in regard to initiation and conduct of developmental projects. There are artificial distinctions sought to be placed between the so called army controlled areas and areas not under the control of the army. These are called 'Cleared' or 'Uncleared' areas in the terminology of the government. An attempt by the Defense Ministry to suspend the Rural Electrification Scheme funded by the Asian Development Bank in the so called "Uncleared" areas or areas described to be under the control of the LTTE in the Batticaloa District was resolved in consultation with the LTTE. Controversy with regard to these issues resulted in the disruption of the electricity supply in the entire district including the army controlled areas for three months. Subsequently this matter was resolved when the Defense Ministry finally agreed that the Asian De-

velopment Bank and World Bank aided projects can also take place in the LTTE controlled areas.

In regard to the Norwegian government aided "DERBA" project, this problem remains unresolved as the Defense Ministry had refused to grant permission for such development and reconstruction projects to be implemented in the LTTE controlled areas. The Norwegian government granted Rs. 500 million during the last five years under the "NORAD" project and pledged another RS. 500 million under the "DERBA" project for the rehabilitation and reconstruction of the conflict devastated Batticaloa district. This programme was implemented without any restriction during the last five years. When this programme was to be implemented for the current year a new classification of the district was declared by the Defense Ministry and the government of Sri Lanka, thus arbitrarily discriminating against a section of the people of the district. At not time any parts of the country was such a distinction made even during the worst JVP insurrection in the south of Sri Lanka, except now in relation to the North-East. Similar distinction between army controlled and non-army controlled areas apply to the Vanni also. In these areas the distribution of food, clothing and other essentials like medicine lies with the controlling decision, which is in the hands of the military superiors. Peculiarly there is no direct road link between metropolitan Colombo and the Northern areas and it is by courtesy of the military and by their grace that anything that is required by the people could ever reach the Northern province. Under the cover of security, various unjustifiable restrictions are imposed to control the movement of the people, transport of goods, including import of raw materials from Colombo, involvement in income generation activities, social and educational activities, etc.

This situation is not conducive to the peaceful living of the common people. It is a ruse to drive the people to subjugation or abject surrender hoping to get them to rebel against the militants or the LTTE or to starve them into submission.

The output of production in the various income generating sectors are blocked at various stages due to security restrictions both in the cleared and uncleared areas. Agriculture and fishing which comprise the main source of economic activities of the North-East have been severely affected. This has resulted in chronic under-employment and the people are driven into abject poverty. It is estimated that more than 80% of the Tamils living in the North-East are below the poverty line when the national average is around 65%.

Batticaloa district which produced 12% of the country's total paddy production prior to 1980 has now dropped output to 6% or approximately half. The annual production of fish in the North-East was 80,000 metric tons which was 40% of the total production in Sri Lanka before 1980. The present production is estimated at 10,000 metric tons. 13% of the Islands livestock production was from Jaffna district. Now its about 1%. The Kankesanthurai cement factory and Lanka Cement produced about 500,000 tons per year. Now they are not functioning even under security cover. The Elephant Pass Saltern that produced 100,000 tons of salt annual remains closed. The Paranthan Chemical Corporation which produced 1700 tons caustic soda, 1200 tons of chlorine and 1000 tons of hydrochloric acid annually is not functioning ostensibly because of security reasons. The Valaichenai Paper Mills in Batticaloa is the only largest manufacturing organization still remaining as an enterprise in the whole of the North-East. It too is at

present struggling for its survival. A portion of the mill complex including some buildings is occupied by the First Brigade Army headquarters of the Valaichenai area at their whim.

In the guise of security large areas of land are gazetted for acquisition under the Emergency Regulations for military and airport extensions in Palaly, Valligamam, Vavuniya and Batticaloa. Thousands of residential houses, schools, churches, temples and a public cemetery are being taken over by the government for the expansion of security zones in the North-East. The famous and old Catholic Madhu shrine is now under the occupation of the Sri Lankan army, against the wishes of the Catholic church.

5.3 LAW AND ORDER

If one were to take up the judicial setup for review, there is no effective functioning Judicial authority of the civil government either in Mannar, Mullaitivu, Killinochi or even in cleared Jaffna, and it has been so for the last so many years. In the same vein I may add that there is no civil law and order enforcing authority, namely the police, functioning in any effective manner in the so called Jaffna peninsula and no police at all way in the other areas of the Northern portion of the Island inhabited by the Tamils. With little variation this generalization will hold true of the Eastern parts where Tamils live, particularly in the areas outside the main urban settlements such as Batticaloa and Trincomalee. Normally there may be police stations, but the police have ceased to wield either authority or influence, particularly so in the non-urban authorities of the East occupied by the inhabitants of Tamils. Courts may exist but it is much doubted whether their jurisdiction is wholesome or effectively practical. In other words, force prevails and not law and order or the rule of law or

due process to a large extent even in the Eastern part of the Tamil inhabited section of the Island.

If there is any semblance of justice being meted out it could be called for all purposes military justice. Both in the North and East which are military administered areas for all effective purposes, what happens is that the military decides. This is indeed the reality.

The Jaffna peninsula in the Northern most point of Sri Lanka is said to be curiously enough a cleared area or area under the control of the Sri Lankan security forces. There is a government agent who is a civil administrative officer. But unlike the government agents in Batticaloa or Trincomalee in the East he cannot act independently. He is subject to the decisions of the military major generals who are there in the northern peninsula as much as are the Batticaloa and Trincomalee Government Agents. Civil officers are subject to the directions and controls of the military or security force superiors both in the north and the east. Practically it is military authority and rule.

My position here is that there is no real civil administration except nominally, if any in the Tamil inhabited areas of the north and east. Between Vavuniya, which is the border of the Tamil area and the Jaffna peninsula and on the westward south of the area where Mannar lies, the entire area is under total military administration for all practical purposes. Government agents are functioning in Vavuniya, Killinochi and Mannar, but they do not matter. In reality they mean little in exercising independent civil authority or governance. They are for all practical purposes overshadowed by the military or really non-existent.

5.4 HARASSMENT AND DISCRIMINATION IN SOUTH AND WEST

In the other areas, in capital cities like metropolitan Colombo or Kandy, the Tamils are regularly treated like suspects. They cannot find accommodation because people are afraid to rent out places for them and if they do rent out it is at a price and severely restrictive conditions. Jobs are difficult to come by because Sri Lankan Tamils are again suspected and treated as security risks in the major employment sector of the government. Even private firms are wary of employing Tamils. In employment opportunities the Sri Lankan Tamils who comprise 12.7% of the population of the country occupy less than 4% places in state employment. This number is steadily decreasing.

The Tamils in these areas too where they are not under pronounced military governance, namely in the south and west of Sri Lanka are subjected to severe Security checks from time to time, arrest, torture and detention. It is estimated that almost 1650 Tamils are languishing in prisons and other military and police stations in Sri Lanka without any trial or inquiry. Out of this approximately 300 are in detention for over four to five years without any trial or inquiry. The Tamils feel unwanted, unaccepted and always suspected. They cannot live as normal beings. Their freedom of travel is severely curtailed and they are subject to sudden, constant and repeated security checks. They have to register at police stations and registrations have to be done by those who accommodate them. The Tamil people who move about in the south or the west of Sri Lanka have to justify their presence to the satisfaction of the police or the military. They are thus not free to live here. They are subject to a very repressive regime and, if sus-

pected, can be taken into custody and indicted under the terrifying Prevention of Terrorism Act. Furthermore, a number of irksome and oppressive regulations enacted under Emergency Regulations, have made the Tamils in the South and West of Sri Lanka to be treated like offenders or captives. Sadly, neither in the military administered areas of the north and the east, nor in the so called civil administrative areas in the south or the west can the Sri Lankan Tamils survive except only as aliens at the mercy of the majoritarian authority or the Sinhalese, be it the military or bureaucratic.

To escape from such harassment, intimidation, arrest, torture and detention many Tamils prefer to flee the country for the safety and security of their lives. But some of them are arrested at the airport and indicted under the draconian law "The Immigrants and Emigrants (Amendment) Act No: 42 of 1998." Even Tamil youths returning from abroad to Sri Lanka are sometimes arrested on suspicion and charged under this law. This amendment as presently worded is savage towards the Tamil people who are between the devil and the deep sea. The punishments are mandatorily prescribed. Section 2 (1) of the Act states "shall on conviction be liable to imprisonment of either description for a term not less than one year and not more than five years and to a fine not less than fifty thousand rupees and not more than two hundred thousand rupees." It is made a non-bailable offence. Therefore, the right of the citizen to prepare any process of appeal or re-canvassing of the decision taken is practically prohibited owing to the refusal of bail. This goes against the grain of a fair trial because it becomes restrictive on the discretion of the magistrate. Under this law more than 100 Tamils are convicted and serving imprisonment for one year including the payment of fine. I have

raised this in parliament on 11-02- 1999 during the debate on the extension of Emergency and called upon the government for the reconsideration and revision of this obnoxious act which is aimed at adding misery and more suffering to the Tamil people who are already suppressed under the Prevention of Terrorism Act and the Emergency regulations. I have also raised this matter with the Attorney General of Sri Lanka.

Therefore, it is my considered opinion, that the government of Sri Lanka should consider the real safety and welfare of the Tamil population equal in conjunction with the security of the state. The security measures should not be allowed to override the welfare of the people or make them insecure. At present it is clear that the security measures dominate their lives and are an obstacle towards the welfare, safety and upliftment in the North-East.

5.5 RECOMMENDATION

In conclusion, may I add that the international community therefore needs to take the following steps with regard to ensuring a better recognition of and respect for human rights and humanitarian standards. Firstly, every effort needs to be made, through external mediation or facilitation, to establish direct political contacts between the Sri Lankan government and the LTTE. Secondly, external facilitation should ensure that direct talks result in enduring political solutions and the final satisfactory resolution of the humanitarian crisis. Thirdly, persons displaced, whether in the LTTE controlled or army controlled areas, should have unrestricted access to and receipt of food, medicines and necessities. Fourthly, international and domestic relief agencies should be allowed to provide relief without inhibition to the internally displaced population. MSF, UNHCR and other international agencies

should be freely permitted to provide medicine and medical relief to the affected civilian population. Fifthly, no distinction should be made between cleared and uncleared areas with regard to the implementation of externally funded rehabilitation or improvement projects. In the Batticaloa district, the prohibition on the implementation of the DERBA project in the uncleared or LTTE controlled areas should be lifted. Sixthly, conditions in refugee camps and relief centers should be improved and early steps taken to rehabilitate and re-settle the persons now living in these camps. Seventhly, the international community should launch a programme of rehabilitation and reconstruction to be implemented by community organizations and civil society institutions in the North-East. The local community must play a lead role in the rehabilitation and the reconstruction of the North-East.

About the author: Mr. Joseph Pararajasingam is a Member of Parliament from Batticaloa and is the Leader of the TULF Parliamentary Group. He entered Parliament in 1990 and was re-elected in 1994 with the highest number of Preference Votes ever received by a Tamil candidate in the North and East. He is a member of the Parliamentary Select Committee, Committee on Public Enterprise, Parliamentary House Committee and Parliamentary Consultative Committee on Defense.

His current focus is on receiving, following up and pressing for investigation of cases of detention, disappearances, torture, rape and killing of Tamil civilians in the Eastern and Northern provinces by the Sri Lankan armed forces and police, working towards the relief and rehabilitation of Tamil and Muslim refugees and the displaced, and working toward a political resolu-

tion of the violent conflict.

He is an Executive Member of the Commonwealth Parliamentary Association and the SAARC Parliamentary Association.

He spends the majority of his time in his district dealing with the concerns of his constituents. He also frequently participates in conferences and seminars concerning the problems of the people in his district and those of Tamils in Sri Lanka generally, and concerning conflict resolution.

