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Written statement* submitted by Tournier la page, a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

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* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Land-Grab and Militarization in the Tamil Homeland (North and East)*

Introduction

The heavy militarization of the North and East of the island of Sri Lanka has not only impeded the Tamil people inhabiting the region from recovering and returning to a normalcy, but it has been actively used as a tool by the Sri Lankan State to execute a far more sinister agenda of erasing the Tamil identity itself from the regions concerned. *Land-grabbing* leads to the fact that present and future generations of Tamils cannot meet their needs and livelihood requirements.

Land Acquisition/ Land-Grab

Heavy militarization has been made possible through structural and legal defects in the State system, namely the very problematic issue of unlawful land acquisition, rather described as *land-grabbing*, which provides an environment and physical infrastructure for military presence and building of permanent military camps. Therefore, understanding of the process of land acquisition is essential in order to deal with the effects of militarization on the livelihood of those affected by it.

The main statute in Sri Lanka which governs the acquisition of private land, the *Land Acquisition Act, No. 5 of 1950*, allows State Acquisition only for “public purpose”. Therefore, creation of a few jobs and development of infrastructure benefiting the country as a whole cannot suffice, and benefits must also be directed at the local community. It is vital to illustrate the legal opinion of the Supreme Court, which is binding, in order to comprehend the present critical situation in the North and regarding land-grab and militarization, and its implications for the Tamil people’s right to their land, as well as other civil and political rights. Effects of land acquisition, which currently does not seem to serve any “public purpose” as demanded by the Court, will be explained further below.

The act of land acquisition can be put into a larger political framework. The local community is to be the main beneficiary of the conducted land acquisition. However, the acquired land is being used by the State for alleged military and security purposes. In the present context, the courts seem not to follow the above-mentioned established case law and construes “public purpose” broadly in order to accommodate the State’s agenda.

Analysis of control of land acquisition by the State gives further insight into how the State is able to execute its sinister agenda.

The Supreme Court in its recent judgment of SC Appeal No. 21/13 stated the Provincial Council powers over land were limited, with the extent of control over land to be determined by the central government. Politically, this issue also challenges the functioning of devolution of powers as it diminishes the powers of the local representatives of the Tamil community.

In fact, power is shared between various other actors who are involved in the overwhelmingly unlawful act of land acquisition in the island of Sri Lanka. Firstly, the President himself is involved in land issues as he has relevant power over land. Additionally, it is he who appoints judges for all courts, and hence the outcome of cases concerning land issues.

Various ministries such as the Ministry for Lands and Land Development, the Ministry for Defense and Urban Development and the Minister for Finance, also have powers to deal with land issues¹.

In addition to the the Mahaweli Authority², which provides expansive powers to the Minister in charge, the Presidential Task Force (PTF) was created in 2009, which is mandated to “prepare the strategic plans, programs for resettlement of

¹ Bhavani Fonsenka and Dharsha Jegatheeswaran, Policy brief, Politics, Policies and Practices with land Acquisition and related issues in the North and East of Sri Lanka, Centre for Policy Alternatives, November 2013

internally displaced persons, economic development and social infrastructure of the Northern Province”³. Approval from PTF is needed for all activities in the North. Thus it is unambiguously evident that the activities in the North are centralized, affecting collective and individual civil and political rights of the Tamil people given democratically elected representatives of the Northern Province Council have lesser power to determine the future of their Tamil constituents and owners of the tradition Tamil homeland.

A major actor involved in land issues and whose role will be examined in detail is the military. The purpose of military presence in the North and East is not only for “security” reasons and it has been observed that the military is increasingly obtaining control over administrative duties as well.

Effects of Military Presence in North and East (Tamils’ Homeland)

The Sri Lankan military presence in the North and East has had an enormous impact on the livelihood of Tamil people. Not only have various civil, political as well as individual and collective rights been infringed upon but the militarization is being used by the State as a tool to execute structural genocide against the Tamil people.

The acquisitioned land for purposes other than what the law permits, is being used to build new Sinhala settlements. This act, called *Sinhalization*, is an act of structural genocide. This has been the case of the town *Weli Oya*⁴, which has not only had a demographic change through the act of government backed Sinhalization, but has also had its name changed from a Tamil name of Manalaaru to a Sinhala name, an act of erasing the Tamil identity in the region.

Acquisitioned land is also being used for commercial purposes for private and government agencies over the alleged development projects, in breach of the Land Acquisition Act. Such a process of land acquisition for commercial purposes can be observed in the case of Sampur⁵.

The acts of land-grabbing, done against the will of the Tamil people and for “military purposes”, is a government sanctioned act to increase Sinhala presence in the Tamil homeland through resettlement schemes and other programs, leading to demographic changes. In this process, militarization is being used as a tool by the Sri Lankan State to execute structural genocide against the Tamil people.

Considered an act of aggression, the Sri Lankan State has gone a step further by destroying war memorials, building military camps on cemeteries of Tamil cadres and replacing Tamil memorial structures with that of the Sri Lankan army.

The military has simultaneously engaged in actively promoting war tourism, reminding the Tamil community of the ethnic divide and projecting the Sinhalese as the victors and the Tamils as the vanquished. To the Tamil people, this tourist enterprise exposes the Sri Lankan State’s true feelings on ‘reconciliation’ within the island.

Military interference in the local economy is rife. Involvement in converting many of coastal areas, in particular in the Esat, into tourist attractions has deprived local fishing communities of their livelihood. Acres of fertile land belonging to the Tamil people have been taken over for cultivation by the military. The military has also taken control of the civil administration in the North and East. Depriving a community of their right to livelihood forces them to relocate, and given these measures are executed on a mass scale, amounts to structural genocide.

Many new legislations and gazette notifications of acquiring lands for military infrastructural purposes have taken place in direct violation with Sri Lankan common law, known as *Thesavalamai Dasa Valami Law*.

² Mahaweli Authority of Sri Lanka, <http://www.mahaweli.gov.lk>

³ Bhavani Fonseka and Mirak Raheem, *Land in the Northern Province: Post-War Politics, Policy and Practices*, Centre for Policy Alternatives, December 2011

⁴ Bhavani Fonseka and Dharsha Jegatheeswaran, *Policy brief, Politics, Policies and Practices with land Acquisition and related issues in the North and East of Sri Lanka*, Centre for Policy Alternatives, November 2013, p. 44

⁵ Ibid.

Large swaths of Tamil-owned land surrounding military camps have been declared High Security Zones (HSZ), out of bounds to civilians, since the 1980s. The evicted Tamil residents of these areas have been internally displaced since. Almost five years since the Sri Lankan government's declaration of an end to the war, these HSZs continue to exist and the rightful owners are still unable to return to their traditional land.

Tamil places of worship in the North and East have been actively destroyed and replaced with Buddhist temples and stupas. These constructions, a serious threat to the Tamil cultural identity is an act of structural genocide, given Tamil people are not Buddhist while the overwhelming majority of Sinhala people are, and as is the State religion. Furthermore, constructed as monuments of conquest rather than for worship alone, these constructions also stand as permanent reminders to the Tamil people of the Sinhala-dominated Sri Lankan government's priorities.

Conclusion

Unlawful land acquisition in combination with militarization has accelerated the agenda of structural genocide through demographic change, replacing traditional names of villages from Tamil to Sinhala names, active land-grabbing and re-colonization schemes benefiting the Sinhala community, destruction of traditional Eelam Tamil structures and replacing them with Sinhala monuments and acts depriving the Eelam Tamil people of their livelihood.

*Collectif La Paix au Sri Lanka, Swiss Council of Eelam Tamil (SCET), NGOs without consultative status, also share the views expressed in this statement.