



General Assembly

Distr.: General
22 February 2017

English only

Human Rights Council

Thirty-fourth session

Agenda item 2

Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General

Written statement* submitted by the Association Bharathi Centre Culturel Franco-Tamoul, 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.

[14 February 2017]

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

GE.17-02887(E)



* 1 7 0 2 8 8 7 *

Please recycle



Tamil Rights to Development*

Main issues of concern

The IDP due to Land grabbing the government equates return with an end to displacement. However, the mere physical movement of IDPs back to their homes does not mean that return is sustainable. In Sri Lanka the infrastructure, assistance and administrative conditions needed to achieve durable solutions have not always been in place.

Land issues

Circular 2013/115 reinforces the country's Prescription Ordinance by giving secondary occupants priority over original owners. This contradicts the right to restitution as expressed in the Guiding Principles on Internal Displacement (GP30) and the Pinheiro Principles (PP 17.2). The government's Lessons Learnt and Reconciliation Commission thus recommended that the ordinance be suspended for the duration of the armed conflict in the areas it affected. The recommendation has not been implemented.

In addition, a mechanism to deal with conflicting claims on land is needed if tensions such as those between returning Tamils and Muslims over rival claims to the same land in Mannar district are to be addressed. IDPs in some relocation sites have been provided with housing but not with documentation nor compensation for their original land and property. Many staying with host communities had been tenants and became homeless as a result of their displacement, but have not been compensated. Loss of land and homes is also an issue for internally displaced property owners. Second and third generation IDPs, including northern Muslim IDPs, are particularly vulnerable to being left without land.

The Tamil people in the North-East face genocide. That rape, sexual assaults, land grabs, and military interference in the economy were destroying the everyday lives of Tamil people in the North-East. Condemning the state destruction of Tamil identity, religious and cultural sites for Tamils in the North-East were being destroyed and replaced by religious sites that were relevant to the military that was stationed in the area.

Commenting on allegations that he had prevented the Northern Provincial Council from passing a resolution calling for an end to the genocide of Tamils, the Northern Provincial Council chief minister, said, "I was accused of preventing NPC members from passing a motion regarding genocide, but the reason for that is not that I deny that it is happening." "I feel that the brutal war that our people faced in North East provinces has buried our people's identity, environment, family units, cultural and religious norms," he added.

Wigneswaran warned that under the guise of development the government was carrying out a plan to militarily control the North-East by integrating military in to economic, public, cultural and religious lives of the Tamil people. Eight years after the end of the war, the government and military have not allowed the Tamil people to continue their lives normally.

Weak and ineffective property rights pose many problems in post-conflict situations. Secure property rights are needed to revitalize an economy after a volatile period. For many workers, especially farmers and fishermen, their very livelihoods are dependent on secure rights and access to land. In addition, reliable property rights encourage investors to take more financial risks and invest in a post-conflict country. Unfortunately, the impacts of a conflict including displacement and resettlement of people; secondary occupation of land by state and non-state actors; and loss or invalidation of property and other legal documents, such as death certificates, which affect succession make land issues difficult to resolve.

In the Sri Lankan civil war, which lasted almost 30 years and was only recently resolved in 2009, land was a central issue. Over the past three decades, the country in particular the northern and eastern provinces has been wrecked by man-made and natural disasters, leading to innumerable deaths and displaced people. The Sri Lankan government's Commission of Inquiry on Lessons Learnt and Reconciliation declared in 2011 that ensuring land rights is a necessary step in the restoration and reconciliation process. However this finding has not been acted on.

Since the civil war, the Sri Lankan military has seized land under the pretenses of security and development. A circular released in January 2013 declares that land lost during conflict will be used for security purposes and vaguely-defined “development activities.” The act claims that the original land claimants are not traceable. Inhabitants of the Valikamam North region of the Jaffna Peninsula, a hotbed of conflict during the civil war, have been greatly affected by these policies.

The region’s Myliddy Harbor, said to be one of the highest yielding and most important fish harbors in the country, is now under military control as part of the ad-hoc High Security Zone: A swath of land that takes up 15 percent of the peninsula and was established 24 years ago to secure restricted, strategic military bases and industries. Meanwhile, the harbor’s original fishermen have struggled to resettle in areas such as Point Pedro and Valikamam East.

The government plans to turn the land it has grabbed into economic zones for the military and navy by constructing coal power stations, factories and hotels, in addition to using the land for typical agricultural and fishing activities, but conducted by government workers instead of by the region’s original labor force. In areas neighboring the HSZ, government surveyors are assessing where military barracks might be constructed. These “land alienation” policies are meant to boost investment, tourism, and production, but in reality they hinder poverty-reduction measures and post-conflict reconstruction.

To be sure, the military may have the resources and technology to make more optimal use of the land, but their actions undermine the post-war demilitarization and recovery process and threaten already unstable livelihoods that depend on restoration of private and public lands. In order for Sri Lanka’s development and peace-building process to succeed, property rights must be protected and local populations should be consulted in order to resolve land disputes and move the country forward.

Militarisation

The Sri Lankan military continues to maintain a significant presence in the north, including through occupying private land, which prevents the return of over 26,000 IDPs. In 2013 the government began acquiring some of this land under the Land Acquisition Act. Acquisition notices state as “public purposes” the establishment of military bases and the creation of a military-run holiday resort, and more than 2,000 IDPs have challenged the government in court. No rulings have yet been made. The military presence in the north and its monitoring of civilians has contributed to feelings of insecurity. With numbers of female-headed households being high, there are reports that women and girls are increasingly vulnerable to gender-based violence, by members both of the security forces and their own communities. Current and former IDPs have also experienced restrictions on their freedom of peaceful assembly, freedom of movement and other civil rights. The military’s involvement in agriculture and tourism has hampered returnees’ livelihood efforts because they find it difficult to compete.

Recommendations

The Sri Lankan government should take the following key steps to ensure that current, returned and relocated IDPs can find solutions to their displacement. They will also help address the grievances that lie at the root of the country’s civil war:

1. ***Adopt an IDP policy which meets international standards.*** The current draft policy should be revised so that it addresses not only conflict-induced displacement, but also that caused by natural disasters and development projects, as well as all phases of displacement up to and including the achievement of durable solutions. It should be developed with the consultation and participation of stakeholders including IDPs, host communities, civil society organizations, and local authorities; and it should facilitate the implementation of the Guiding Principles and other relevant international standards in the Sri Lankan context. Both the stalled Sri Lankan draft bill of 2008 and the recommendations of the 2008 national consultation on the status of IDPs and durable solutions are still relevant and should be built upon.
2. ***Defuse tensions between different ethnic communities.*** Building on the recommendations of its Lessons Learnt and Reconciliation Commission, the government should initiate a meaningful reconciliation process between the country’s Sinhala, and Tamil communities to prevent further tensions between them, in particular

those who have been displaced. This should include the setting up of a mechanism to resolve complex land issues.

3. Restore land to IDPs and reduce military presence. A true post-war transition will require a reduction in the military presence in the north and east and for military occupied land to be returned to IDPs. Where this is not possible, adequate compensation must be given. The local administration needs to be fully controlled by civilian officials instead of the military
4. ***Reinvigorate employment.*** Instead of spending its resources on large infrastructure projects, the government must reinvigorate employment levels by fostering small businesses and support the creation of long-term employment for current, returned and relocated IDPs.

Source : NRC-IDMC, Sri Lanka

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