

Tamil Civil Society Forum

Oral Statement to the Human Rights Committee on Sri Lanka's 5th Periodic State Report on the ICCPR.

07 October 2014

The silence on Article 1 – the right to self-determination of peoples.

The Human Rights Committee in General Comment 12 noted with regard to Article 1 paragraph 1 that “States parties should describe the constitutional and political processes which in practice allow the exercise of this right¹”. Sri Lanka’s 5th periodic report makes no reference to Article 1. Its 4th periodic report while mentioning Article 1 does not provide any description of the constitutional and political processes which in practice allows the exercise of this right. Most regrettably the Human Rights Committee in its concluding observations on the 4th report² or in its list of issues on the 5th report, has not thought it fit to raise issues relating to Article 1. The failure to address Article 1 during the state reporting review process is significant given that the committee does not entertain individual communications on this very important right.

As we noted in our written submissions to this committee the ability of Tamils to enjoy the entire array of rights enshrined in the ICCPR both as individuals and as a collective, rests on their ability to self-determine, the subject of Article 1. The collective human security of the Tamil people in Sri Lanka is dependent on providing them with an opportunity to exercise their right to self-determination. As any honest and serious observer of Sri Lanka will agree the underlying purpose for inflicting serious violations of International Human Rights Law against the Tamil people (during the period under review and well beyond the period of review) has at its foundations the erasure of Tamil identity and its collective existence from the island of Sri Lanka. Indiscriminate arrest and detention made possible by the Prevention of Terrorism Act, was as a matter of historical fact, introduced to contain the Tamil Self-Determination movement and to date is disproportionately used against Tamils. All recent reports on torture and sexual violence³ confirm that in a vast majority of cases that Tamils have been the target. This committee needs to do more than acknowledge the incidence of these violations and point to the need for addressing the structural factors that lead to such systemic violations.

¹ Human Rights Committee, General Comment 12, Article 1 (Twenty-first session, 1984), Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.1 at 12 (1994).

² Concluding Observations of the HRC on Sri Lanka’s 4th Periodic Report, UN Doc CCPR/CO/79/LKA November 2003

³ Yasmin Sooka, ‘An Unfinished War: Torture and Sexual Violence in Sri Lanka 2009—2014’ (2014), Freedom from Torture, ‘Out of the Silence: On Going Torture in Sri Lanka’ (2011)

Illegal appropriation of land

The issue of taking over of private lands for the use of the Sri Lankan Armed Forces is directly linked to the objective of ethnically re-engineering areas that have been historically habituated by the Tamil people. The territory on which such illegal land grab (Northern and Eastern parts of Sri Lanka) is taking place is territory which Tamils claim to constitute their self-determining unit. Hence, the unfair and illegal process of land grab should also be read as aiming at neutralizing the Tamil people's claim to their Article 1 right. The Superior Courts of Sri Lanka have refused to address claims from Tamil petitioners challenging the illegal acquisition of their lands. In 2003 the Supreme Court refused to rule on the illegality of the High Security Zones in Jaffna. In 2008 the Supreme Court refused to hear a petition challenging the conversion of the Sampoor Village in Trincomalee into a High Security Zone. In 2013 more than 2000 petitioners petitioned the Supreme Court and the Court of Appeal for the GoSL's initiated a process of acquiring 6300+ acres of land. The Supreme Court to date has not even granted leave to proceed to the petitioners. These examples confirm that that land grab in the North-East which is connected to the larger project of Sinhala-Buddhisisation of the Sri Lankan state, is a project in which all of Sri Lanka's 'democratic' institutions willingly take part.

Militarisation

Militarisation of the North-East, similarly, has the objective of terrorizing the Tamil population. Restrictions on freedom of speech, expression and collective assembly and the denial of the right to collective memory, in the North East, as detailed with examples in our updated submissions of September 12 are facilitated by the Sri Lankan Armed Forces. We have also in our September 12 submissions provided examples of the direct link between militarization and sexual violence. We urge the Committee to identify the larger aim of the militarization in relation to suppressing peaceful expressions of claims to Tamil self-determination.

The Tamil Civil Society Forum concludes this statement urging the Committee to holistically appreciate and identify the violations against the Tamil community in their appropriate context.