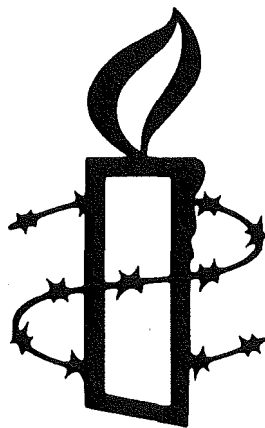

amnesty international

SRI LANKA

**Correspondence with the
Liberation Tigers of Tamil
Eelam on human rights abuses**



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தமிழீழ விடுதலைப் புலிகள் *Liberation Tigers of Tamil Eelam*

LTTE International Secretariat,
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10 - 07 - 1995.

The International Secretariat of the LTTE has taken note of the concerns expressed by Amnesty International at the attack on the Kallarawa settlement and army camp near Trincomalee in the East of the island of Sri Lanka. We would, at the outset, reiterate that which we said in an open letter to the Sinhala people in October 1991:

"The Tamil national liberation struggle is the armed struggle of an oppressed people against the tyranny of a Sri Lankan regime which has sought to subjugate them. Nothing can be further from the truth than to suggest that our struggle is directed against the Sinhala people. We have no hatred towards the Sinhala people. It is one of the fundamental principles of our struggle that we respect and safeguard the rights of every individual, irrespective of creed, religion, sex or ethnic origin."

We, therefore, welcome Amnesty International's recognition of the existence of an armed conflict in the island and the need for the parties to the conflict to comply with common Article 3 of the Geneva Conventions of 1949 which prohibits "violence to life and person, in particular murder of all kinds" against persons taking no active part in hostilities.

In February 1988 the LTTE publicly declared its commitment to act, at all times, in accordance with the humanitarian law of armed conflict and the LTTE has taken care to instruct its cadres accordingly.

We regret that in its haste to issue an Urgent Action Bulletin on the Kallarawa attack (within a couple of days of the attack), Amnesty has failed to consider the background of armed Sinhala settlements in the East and take care to sift the truth from the partisan assertions of so called "survivors". This was all the more necessary, where, given the short time frame, Amnesty's sources of information may well have had their own hidden agenda to advance the cause of the Sri Lanka government. Amnesty states: "According to survivors, between 200 and 300 members of the LTTE approached Kallarawa around 9.30pm on 25 May. They first attacked a small local army camp situated in the hamlet. However, the army camp was deserted as the 55 soldiers present had reportedly gone out on operations."

But what are the facts? The Sinhala Defence Correspondent of the Sinhala owned Sri Lanka Sunday Island (who is no friend of the Tamil cause) wrote on 28 May 1995:

"The military has said that almost all the soldiers had been manning strategic locations in the jungles. This is correct. At the time only five soldiers had been in the camp itself. But the rest had all been within a mile of the area, covering the various approaches to the village, to attack any Tigers on their way to assault either the camp or the fishing community....The people of

this village were mostly Sinhalese....they were almost all migrant fishermen from the Negombo area (in the West of Sri Lanka) who had settled here."

The Sinhala Defence Correspondent of the Sinhala owned Sri Lanka Sunday Island added:

"The 65 families of migrant fishermen had recently gone to the east coast village 50 kilometres north of Trincomalee from Negombo and Puttalam."

The true nature of Sinhala armed settlements such as these will appear from a statement made by Mr.Vasantha Raja, the former Chairman of the Sri Lanka Rupavahini T.V.Corporation on 18th June 1995. Mr.Vasantha Raja who was an appointee of the Sri Lanka President Chandrika Kumaratunga, and who resigned after the recent breakdown of the peace talks said:

"(The Sri Lanka Government) launching a new military recruitment campaign and ceremoniously opening up new settlements in Trincomalee did much to further undermine the trust that was imperative to any successful outcome of the talks."

The ugly fact is that the Sri Lanka government has for a number of years used 'Sinhala settlements' in the East, sometimes as a buffer, and sometimes as a cutting edge, in its war of aggression against the Tamil nation. The Sri Lanka government has armed these settlers - some of them ex-convicts - and often uses them to attack Tamil villagers in the surrounding areas. The Sri Lanka government has used these settlers as expendable pawns in its war of aggression against the Tamil nation and as a recruitment base for its para military forces called Home Guards. The additional longer term purpose of these 'settlement schemes' was to change the demography of the Tamil homeland and in this way, make the Tamils a manageable minority in their own land.

As long ago as 1979, Walter Schwarz pointed out in the Minority Rights Group Report on the Tamils in Sri Lanka: ".....Tamil spokesmen complained that the momentum of colonisation was greater than ever. They referred in particular to the Mahaveli Diversion project, supported by the World Bank, in the Eastern Province, under which Sinhalese families were being brought in from the South. They pointed out that the Maduruoya Scheme in the Eastern Province, backed by Canadian assistance, was having the same effect."

In February 1985, Robert Kilroy-Silk, M.P. and Roger Sims, M.P. who visited Sri Lanka as members of a United Kingdom Parliamentary Human Rights Group, reported:

"Witnesses also confirmed allegations made to us that whole villages (of Tamils in the Eastern Province) have been emptied and neighbourhoods have been driven by the (Sri Lanka) army from their homes and occupations and turned into refugees dependent on the government for dry rations.....The human rights transgressed in such a course of action do not need to be detailed here.....More important is that rightly or wrongly it tends to lend credibility to the view so frequently put to us that it is the sufficient numbers so as to reduce their majority in the north and in the east, a process that would be aided by the government's announced policy of settling armed Sinhalese people in former Tamil areas.....or to drive the Tamils out altogether.."

That these efforts at Sinhala colonisation were the outcome of a strategy carefully planned by the Sinhala government, was established beyond doubt by the frank statements of the Sinhala Mahaveli Ministry Official, Herman Gunaratne in the Sinhala owned Sri Lanka Sunday Times on 26 August 1990:

"All wars are fought for land...The plan for settlement of people in Yan Oya and Malwathu Oya basins was worked out before the communal riots of 1983. Indeed keenest minds in the Mahaveli, some of whom are holding top international positions were the architects of this plan. My role was that of an executor....We conceived and implemented a plan which we thought would secure the territorial integrity of Sri Lanka for a long time. We moved a large group of 45,000 land hungry (Sinhala) peasants into the Batticaloa and Polonnaruwa districts of Maduru Oya delta. The second step was going to be a settlement of a number of people, opposed to Eelam, on the banks of the Malwathu Oya. By settling the (Sinhala) people in the Maduru Oya we were seeking to have in the Batticaloa zone a mass of persons opposed to a separate state....Yan oya if settled by non separatists (Sinhala People) would have increased the population by about another 50,000. It would completely secure Trincomalee from the rebels...."

We regret that Amnesty did not consider it necessary to point out in its Urgent Action Bulletin that the Kallarawa settlement was a recent Sinhala settlement intended to be part of Sri Lanka's 'war for land' in the East. We believe that Amnesty should have examined the extent to which such an armed settlement was protected by Common Article 3 of the Geneva Conventions of 1949. Again, if as the evidence shows, the Kallarawa settlers were part and parcel of Sri Lanka's war for land in the East, Amnesty should have been more cautious in relying on statements made by the so called 'survivors' as to the details of the attack.

Amnesty cannot be unaware of the disinformation campaign carried on by the Sri Lanka government and its agencies in the past. For instance, an Associated Press Report in the London Times on 23 June 1990 declared:

"Tamil guerrillas hacked to death 62 Muslim villagers in eastern Sri Lanka yesterday, accusing them of being government informants, the Defence Ministry and an opposition Muslim leader said. The massacre at Nintavur came on the eleventh day of war between Tamil separatists and Sri Lanka forces for control of the northeast....The Defence Ministry said troops found the bodies of Muslim men, women and children in Nintavur. Military officials said rebels used knives to kill the villagers. **Survivors** said the Liberation Tigers of Tamil Eelam raided the village early yesterday because they feared the residents would reveal their jungle hideaway, according to Mahroof Gani of the Sri Lanka Muslim Congress an opposition party. He said that the rebels set fire to a mosque, looted and burnt down houses and left placards warning Muslims not to work for the government...."

But within a couple of days, the Sri Lanka military admitted that this report was false and an AP report in the London Sunday Times on 24 June 1990 said: "The military admitted yesterday that its report that Tamil Tiger separatists had hacked to death 62 Muslim men, women and children was false...They claimed their earlier report was based on faulty information from residents. The allegation was reported by international news agencies and appeared in newspapers around the world."

The graphic details of mayhem and murder turned out to be fabricated and the Defence Ministry passed the buck to 'faulty information from residents'!

During the past several years the Sinhala dominated Sri Lankan government has attempted to put down the armed resistance of the Tamil people and has sought to conquer and control the Tamil homeland. The record shows that in this attempt, Sri Lanka's armed forces and para military units have committed increasingly widespread violations of the rules of humanitarian law.

In the East whole villages of Tamils have been attacked by the Army and by the so called Home Guards. Many Tamil residents in these villages were killed. Others have been tortured. Those Tamils who were detained by the Sri Lankan authorities have had little or no hope of coming out alive. The attacks on the Tamil homeland have been coupled with the declared opposition of the Sri Lankan Government to the merger of the North and East of the island into a single administrative and political unit.

However, despite the sustained attacks of Sinhala dominated governments over a period of several decades, the territorial integrity of the Tamil homeland in the North and East of the island has remained. The Tamil population in the North and East, who have lived for many centuries within relatively well defined geographical boundaries, share an ancient heritage, a vibrant culture, and a living language which traces its origins to more than 2500 years ago.

A social group, which shares objective elements such as a common language and which has acquired a subjective consciousness of togetherness, by its life within a relatively well defined territory, and its struggle against alien domination, clearly constitutes a 'people' with the right to self determination.

Today, there is an urgent need for the international community to recognise that the Tamil population in the North and East of the island of Sri Lanka are such a 'people' with the right to freely choose their political status. It is our view that such recognition will prepare the ground for the resolution of a conflict which has taken such a heavy toll in human lives and suffering during the past several years."

The Liberation Tigers are leading a historic and progressive struggle for Tamil national liberation. We reiterate again: we have no hatred towards the Sinhala people. We appeal to the Sinhala people not to become pawns in the 'colonisation schemes' which have been carefully designed by Sinhala chauvinistic forces to sow the seeds of discord and create everlasting enmity between the Tamil people and the Sinhala people. We urge individuals and organisations of goodwill in the international community to support the Tamil struggle for freedom from oppressive alien Sinhala rule and in this way, help to achieve just peace.

International Secretariat,
Liberation Tigers of Tamil Eelam



Ref.: T/ASA37/LTTE/95.01

Mr Lawrence Thilakar
International Secretariat
Liberation Tigers of Tamil Eelam
211, Katherine Road
London E6 1BU
United Kingdom

11 September 1995

Dear Mr Thilakar,

I am writing in reply to a statement of 10 July 1995 setting out observations by the Liberation Tigers of Tamil Eelam (LTTE) on the Urgent Action appeal issued by our organization following the killing of 42 Sinhalese villagers at Kallarawa, Trincomalee District in late May 1995. In the appeal, we had urged for an immediate halt to deliberate and arbitrary killings of non-combatant civilians.

The central issue addressed in the LTTE statement concerns the legitimacy under international humanitarian law of the deliberate and arbitrary killing of people settled in certain areas by the Government of Sri Lanka, some of whom may have been armed. You appear to acknowledge, without explicitly saying so, that the villagers living at Kallarawa were killed by the LTTE. You argue, however, that their killing can be justified under international humanitarian law because they were considered by the LTTE to be actively taking part in the current conflict between the Sri Lankan security forces and the LTTE. We believe these views are misleading, and fail to address the fundamental issue of respect for human rights and basic principles of humanitarian law.

First of all, I must reiterate a point we have outlined in previous communications: by monitoring or addressing political armed groups such as the LTTE, Amnesty International offers no special recognition or status to them. Our appeals and contacts are purely humanitarian in nature. Nor does Amnesty International's intervention imply any judgement about the character of the conflict in question. Amnesty International does not by taking action imply that the situation it addresses necessarily constitutes an armed conflict in terms of international law; it seeks in all situations the observation of minimum humane standards drawn from basic principles of human rights and humanitarian law.

Amnesty International is guided in particular by the protection of the individual enshrined in Article 3 common to the four Geneva Conventions of 1949. Above all, Article 3 common to the Four Conventions of 1949 forbids governments and their opponents alike to torture, to deliberately kill civilians taking no part in hostilities, to harm those who are wounded, captured or seeking to surrender, or to take hostages.

We have noted the LTTE's announcement in February 1988 that it would abide by the

provisions of the Geneva Conventions and its Optional Protocols I and II. Despite the LTTE's continuing pledges, we have received consistent reports that it fails to do so.

Since May 1990, we have repeatedly raised our concerns about reports of gross abuses of human rights with the leadership of the LTTE, conveyed via you or other representatives of the LTTE outside Sri Lanka. They have included the deliberate killing of hundreds of non-combatant Muslim and Sinhalese civilians, the arbitrary killing of civilians in bomb attacks on public buses and trains, the torture and killing of prisoners, and abductions for ransom. We have also expressed concern about reports of execution-style killings of prisoners accused of being traitors and those held for committing crimes in line with our organization's policy of total opposition to the death penalty in any form. In cases where we learned of the imposition of death sentences, we have appealed for their commutation.

We have also appealed for an immediate halt to incommunicado detention and have asked to be informed of the fate or whereabouts of individual prisoners held by the LTTE, some of whom have reportedly been tortured and killed. They include student and writer Thiagarajah Selvanithy and dramatist Thillainathan, who were both arrested on 30 August 1991. I use the opportunity of this letter to appeal that these two prisoners of conscience, if still alive, be released immediately and without conditions. If they have died in detention, we urge the LTTE to reveal their fate or whereabouts.

We have also continually urged that all people held in LTTE custody, including members of the Tamil community seized on suspicion of being sympathetic to other Tamil armed groups or organizations, are seen promptly and regularly by representatives of the International Committee of the Red Cross (ICRC). In relation to members of the Sri Lankan security forces, we have appealed for guarantees for their safety and for them to be seen promptly and regularly by representatives of the ICRC.

There are other potential concerns that we are currently investigating. They include reports of unfair trial of members of the Tamil community in contravention of Article 6 of Protocol II as well as of Common Article 3 of the Geneva Conventions. Paragraph 2 of Article 6 states that "[n]o sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality". In this context, I would like to remind you of our request of April 1992 for information about the reported creation of a law enforcement and judicial system in some of the areas of Sri Lanka under control of the LTTE. Other potential concerns that we are currently investigating include abuses in the context of the forcible recruitment of children by the LTTE forces.

Whereas acknowledging several responses from yourself, particularly in relation to concerns expressed about the safety of members of the security forces, we regret that to date have not received a response from the leadership of the LTTE in Sri Lanka. We also regret the lack of response to any of the individual incidents of human rights abuses we have raised with you and which we know you have brought to the attention of the LTTE leadership in Sri Lanka. In the past, you have argued that the lack of response from the leadership in Sri Lanka is due to communication difficulties. However, recently, we have received dozens of press statements purported to have been issued by the leadership in Sri Lanka. We therefore

question the validity of this argument.

Allow me now to come back to the specific arguments put forward in the LTTE statement of 10 July 1995 with regard to the legitimacy of killing people such as the villagers at Kallarawa and the Buddhist priest at Dimbulagala.

Although sometimes difficult, we believe it is an essential obligation under humanitarian law to at all times maintain the distinction between the civilian population and combatants and that in case of doubt regarding the status of any individual, he or she should be presumed to be a civilian. This position is in line with the official Commentary of the International Committee of the Red Cross (ICRC) on the Geneva Conventions which explains that participation in hostilities implies "a direct causal relationship between the activity engaged in and the harm done to the enemy at the time and the place where the activity takes place." (ICRC, Commentary on the Additional Protocols, paragraph 1697).

The ICRC Commentary on Protocol II's Article 13 is of particular relevance too. I quote:

Those who belong to armed forces or armed groups may be attacked at any time. If a civilian participates directly in hostilities, it is clear that he will not enjoy any protection against attacks for as long as his participation lasts. Thereafter, as he no longer presents any danger for the adversary, he may not be attacked; moreover, in case of doubt regarding the status of an individual, he is presumed to be a civilian [Ibidem, para. 4789, emphasis added].

Considering there were no reports of any of the Kallarawa villagers having used arms prior to or at the time of the attack by the LTTE, Amnesty International believes that they could not be considered to be legitimate targets under international humanitarian law. Amnesty International is concerned that the 42 villagers were deliberately and arbitrarily killed in direct violation of the Geneva Conventions.

As explained above, Amnesty International does not take a position on political conflicts or on the legitimacy of resorting to arms to pursue political goals. Nor does it, in the Sri Lankan context, take a position on the issue of settlement of Sinhalese civilians in certain areas of the current northeastern province and its borders. The same policy is maintained when addressing other political armed groups in other parts of the world whatever the political background.

Nevertheless, I wish to point out that Amnesty International has been aware for a long time of the issue of settlement and its particular relevance as a background to the current conflict in Sri Lanka. In 1986, in its report Sri Lanka: "Disappearances" (AI Index: ASA 37/08/86), Amnesty International described the settlement of Sinhalese ex-convicts and members of their families at Kent and Dollar Farms as "part of the government's policy to move Sinhalese into some Tamil areas" (page 34) as part of the context in which "disappearances" in Sri Lanka started to be reported.

Indeed, the same human rights and humanitarian principles underline Amnesty International's appeals to the Government of Sri Lanka about reports of human rights violations. I quote from a recent letter to President Chandrika Kumaratunga Bandaranaike of 15 May 1995 appealing for the investigation of several reports of extrajudicial executions in the east of Sri Lanka: "Amnesty International does not address in a general way the issue of military tactics, nor does it raise as a human rights violation deaths caused involuntarily in the course of combat. The killings which Amnesty International raises with governments are those which appear to be deliberate killings of defenceless people, whether they are civilians or combatants incapacitated by injuries or who have surrendered and offer no resistance."

In this light, I would like to reiterate our concern about the killings at Kallarawa and urge that they be investigated and that all steps be taken to ensure that individual members of the LTTE suspected of having committed or ordered these deliberate and arbitrary killings are removed from any position of authority or duties which bring them into contact with prisoners or others at risk of abuse. We would also welcome any further information you may be able to provide on this incident and on any measures taken by the leadership of the LTTE to prevent such killings in the future.

Finally, I enclose for your information and comment copies of other recent documents issued by Amnesty International on our concerns in Sri Lanka.

I look forward to receiving your response.

Yours sincerely,

Derek G Evans
Deputy Secretary General