



CHOGM 2013

The alternative
People's Forum

Joint Civil Society Memorandum to Commonwealth Heads of States

7th November 2013 – Colombo, New Town Hall

We the undersigned civil society organizations who made joint submissions to the Universal Periodic Review on Sri Lanka in the UN Human Rights Council in November 2012, will not be participating in the November 2013 Peoples' Forum at the Commonwealth Heads of Government Meeting (CHOGM) to be held in Sri Lanka. We are firmly of the opinion that the November 2013 CHOGM should not be held in Sri Lanka and that the Government of Sri Lanka (GOSL) should not hold the chair of the Commonwealth for the next two years, as per precedent.

Our position is based on a number of factors which together demonstrate that the GOSL is in violation of a host of international covenants and instruments on human rights to which it is a signatory including the Commonwealth Charter and the preceding declarations of the Commonwealth on which the Charter is based.

We firmly believe that allowing the GOSL to host the November summit and hold the chair of the organization for the next two years is an egregious affront to Commonwealth values and principles and to the numbers of our fellow citizens who are victims of the culture of impunity in our country in respect of serious human rights violations, the near collapse of the Rule of Law, institutionalised militarization, growing religious intolerance, the shrinking of the space for civil society and widespread corruption.

We note with deep disappointment, that the decision to go ahead with CHOGM in Sri Lanka comes at a time when the powers and functions of the Commonwealth Ministerial Action Group (CMAG) have been augmented to deal with the upholding of Commonwealth principles and values now enshrined in the Commonwealth Charter and when the UN Human Rights Council in Geneva has passed two resolutions on Sri Lanka in 2012 and 13 respectively, pointing out a number of these sad facts enumerated above. These are reinforced by the remarks made by the UN High Commissioner for Human Rights at the conclusion of her visit to Sri Lanka (25 -31 August) and in her oral remarks to the Human Rights Council in September as per the requirements of the 2013 Council resolution on Sri Lanka.

We strongly believe that the status of our country, Sri Lanka, as a formal functioning democracy is under serious threat from the aforementioned challenges.

In the last year alone, the military has acquired thousands of acres of private land in the north and east of the country, the Chief Justice of the country was impeached through a process universally condemned by national and international judicial bodies and organizations including the apex court of Sri Lanka, the Commonwealth Association of Judges and Magistrates and the International Commission of Jurists. There have been a series of attacks on Christian, Muslim and Hindu places of worship and Muslim retail outlets without a single perpetrator being brought to justice- 35 attacks on Christian places of worship have been recorded in the period January- September 2013 and over 150 against Muslim places of worship and retail outlets in the period January – June 2013.

No substantive measures have been taken to address the issue of disappearances and detainees, sexual violence and torture or the overwhelming military presence in the north. It remains to be seen as to whether the recent election of the Northern Provincial Council will result in a reduction of military involvement in the economy and civilian administration of the north. Hitherto it has exercised a veto over all development activity in the province. The military is involved in the economy in the rest of the country and in the education sector as well.

A number of civilians in the north and east who met with the UN High Commissioner for Human Rights have been intimidated and in the course of the recently concluded Northern Provincial council election monitors have recorded instances of voter intimidation by the security forces. The Commonwealth's own Election Observer Mission noted in its preliminary findings that:

- *The heavy presence and influence of the military, including persistent reports of overt military support for particular candidates, reported cases of the military actually campaigning for selected candidates, and military involvement in the intimidation of the electorate, party supporters and candidates. The role of the military in the electoral campaign was consistently described to the mission as a significant obstacle to a credible electoral process.*

- *The fundamental freedoms of association and assembly were constrained in the pre-electoral period. We learned that opposition candidates and their supporters, as well as voters at large, faced instances of intimidation and harassment, and that the freedom to hold campaign meetings and openly interact with the electorate was restricted. We particularly noted the reports of attacks on one of the few female candidates in this campaign.*

Before the High Commissioner's visit, in its wake and in the countdown to the CHOGM, the GOSL has announced a number of steps which it hopes will deflect if not answer criticisms made of it in respect of the culture of impunity and the collapse of the Rule of Law. The reference point for this is the recommendations contained in the Final Report of the Lessons Learnt and Reconciliation Commission (LLRC) Report, the speedy implementation of which is one of the two key clauses of the UNHRC resolutions on Sri Lanka in 2012 and 2013, respectively. The other key clause relates to additional measures on accountability.

The GOSL has announced that it will include an additional 53 LLRC recommendations to its Action Plan to implement LLRC recommendations. There is no indication however as to whether the original number of recommendations included in the Plan have been implemented. As per the LLRC recommendation, the Police no longer come under the ministry of defence but under a new ministry for Law and Order. The president who is the minister of defence is also the minister for law and order and the secretary to the ministry is a former army officer. The LLRC recommendation regarding an independent commission to oversee the police amongst other state institutions, however, remains unimplemented.

There has also been initial action in cases of violence and sexual assault involving politicians from the ruling coalition. In the past this was not forthcoming and it therefore, remains to be seen as to whether the full force of the law will be applied in these cases without fear or favour or as to whether the sole purpose is to answer critics in the short term in the context of the High Commissioner's visit and the CHOGM.

Most recently, two years after the crimes, the Attorney General is to directly indict the suspects in the murder of British humanitarian worker Khuraim Shaikh and the assault on his partner. A key suspect in this case is a chairperson of a ruling party local government authority, said to be close to a member of the ruling family. Investigations have been reopened into the murder of 05 students in Trincomalee and the 17 aid workers in Muttur as well as military courts of inquiry into allegations of the killing of civilians. In the Trincomalee case, 12 Special Task force personnel who were arrested in August 2013 were released on bail in October; there has been no progress in the case of the Muttur massacre and in respect of the prison massacres, reports of investigations have not been made public. Leave to proceed was not granted in a Fundamental Rights case

filed by the parents of Ganesan Nimalaruban, a prisoner in the Vavuniya jail who died in custody following the riot. The Chief Justice was reported to have made controversial remarks from the bench at this hearing. No substantive progress has been made in respect of accountability for the serious allegations of violations in the last phase of the war.

There is also to be yet another commission of inquiry into disappearances. Media reports indicate that this will only deal with disappearances over thirty years in the north and east and not cover the notorious “white van” disappearances of the last eight years. Long - standing requests from the Working Group on Enforced and Involuntary Disappearances (WGEID) to visit Sri Lanka continue to fall on deaf ears. It should also be noted that the reports numerous commissions on disappearances in the last eight years have yet to be made public.

Whilst media institutions in the main practice self -censorship, given the past record of direct attacks on the media, and dissent is to be found largely on the web, physical attacks on institutions and individuals continue. In the course of this year a distribution centre of the principal regional newspaper in the north, the Uthayan was attacked and its printing press in Jaffna destroyed. In response to the latter, the Media Centre for National Security (MCNS) pronounced within hours of the attack that it was self-inflicted. In the south, a veteran print media journalist Mandana Ismail Abeywickrema had her house broken into and was held hostage. There was a repeat attack following which she fled the country with her family.

The Commonwealth Charter recognizes:

..... the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including the freedom of association and peaceful assembly, and in achieving development goals.

In Sri Lanka there has been a systematic shrinking of the space for civil society through threat and intimidation, surveillance and a persistent campaign against human rights defenders in the state -controlled media, their vilification as “traitors” and even calls for their extermination. It has become common practice to call out the army to deal with popular demonstrators and for the army to use live ammunition resulting in civilian deaths. This was the case in 2011 and 12 and this year, the official death toll of the army being called out to quell a demonstration in Welliwariya demanding clean water was 03, with hundreds brutally assaulted. There was a Board of Inquiry set up by the Army Commander to investigate the allegations against the military in this incident and there is an ongoing magisterial inquiry into it.

In addition, there is the constant threat of punitive legislation to control civil society organizations working in the areas of human rights, governance and transparency in particular.

We note that the theme of the CHOGM and especially of the Peoples’ Forum is the post 2015 agenda for Millennium Development Goals (MDGs).

The strategy of development has a particular pertinence to contemporary Sri Lanka as it seeks to secure its position as a middle-income country and move from a post-war to post-conflict situation, defined in terms of the roots of conflict not being sustained or reproduced. The development debate in theory and practice is most acutely expressed and demonstrated in the north and east of Sri Lanka, four years after the military defeat of the LTTE.

We note that in terms of overall country statistics, Sri Lanka is one of the better- placed Commonwealth countries to meet MDGs and has made considerable progress in infrastructural development. We wish to point out though that a provincial and district-wise disaggregation of countrywide figures provides a far less favourable but yet more realistic picture of the developmental challenges faced in our country. This is most certainly the case in the war ravaged north and east where there are an estimated 89,000 widows out of which

40,000 head households in the northern province and face considerable hardship and insecurity on a daily basis in pursuing a livelihood, taking care of children and securing living space.

Moreover, over 20% of the population nationally, according to a senior politician responsible for national health care, could be malnourished. Sri Lanka's score in the 2013 Global Hunger Index is 15.6, it's highest since 2007. In 2012 it was 14.4. Other statistics indicate that 4 million people are anaemic, 1 million are unable to consume three meals a day and that 0.4 million or one in five children are underweight.

The model of development applied by the GOSL in the north and east in particular, is highly centralized. It is underpinned by institutionalized militarization and a triumphalist, majoritarian and populist ideology, which see rights – civil and political especially – as irrelevant at best and subversive at worst. The two mega development projects the Eastern Revival and the Northern Spring have been designed and implemented by Presidential Task Forces with minimum local input, consultation and participation. Consequently, local inhabitants complain of being hapless bystanders in the making and implementation of decisions that affect their daily lives.

There is another, crucially important dimension to this. Given the demands for truth telling and accountability, psycho-social healing and trauma counseling and the restoration of dignity as integral to the sense of equal citizenship in an united country, the GOSL message that economic development is the panacea for human pain and suffering and loss of dignity, that forgetting and moving forward is the way of the future and that in effect the hardware of infrastructural development can replace the software of governance and investment in human resources with economics trumping politics, has sustained and reproduced conflict.

In robust opposition to this, the people of the north provided a stinging rebuke to the GOSL in the recently concluded provincial council election.

We salute this victorious exercise of the franchise of the people of the northern province in the face of grave challenges to the integrity of the electoral process and see it as a historic reminder of the crucial complementarity between governance and development, political and civil rights and socio-economic ones.

We call on our fellow civil society colleagues to join us in our boycott and send a cogent and coherent message to the GOSL and world at large that human rights protection and democratic governance are the urgent need of the hour in post-war Sri Lanka. To the heads of government attending the CHOGM in Sri Lanka we pose the question of as to whether they take the values enshrined in the Harare Principles, the Latimer House Principles and the Commonwealth Charter seriously?

WE DO and this is why we are boycotting the CHOGM and events associated with it.